



*Ornamental Aquatic Trade Association  
(OATA)*

# *Code of Conduct*

Sep 2015



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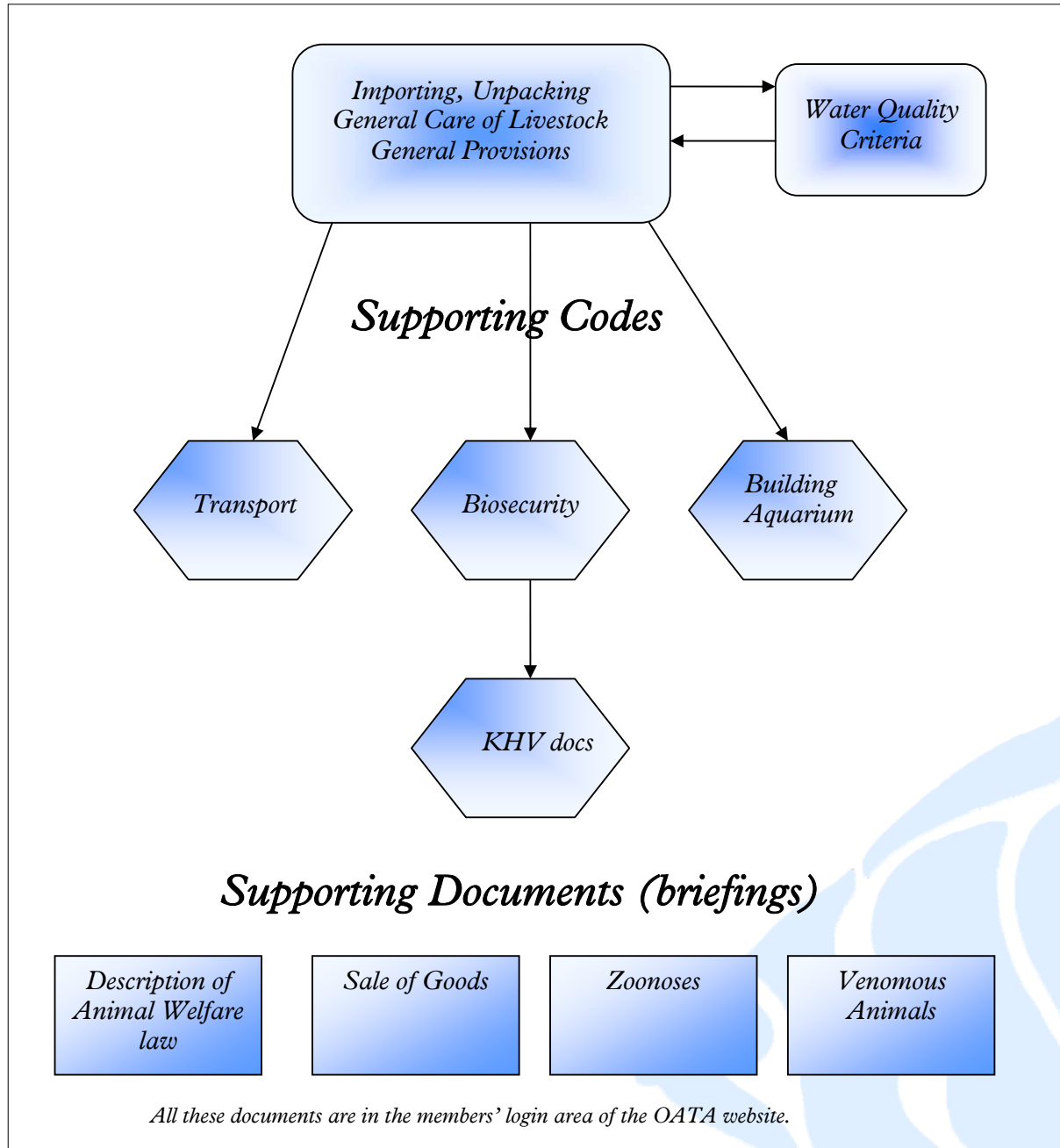
## INTRODUCTION

In this document the term aquatic organisms is used in reference to all species of ornamental fish, crustaceans, molluscs and aquatic plants.

Though specific pieces of legislation are referred to at various places in this code they are for illustrative purposes only and were current at the time this code was completed March 2008. Members should always follow current legislation.

The Water Quality Criteria are integral to the Code. In specialized areas supporting Codes and Documents should be consulted for additional information.

### CODE OF CONDUCT



# 1. THE LAW AND THE WELFARE OF AQUATIC ORGANISMS

The legislation covering cruelty to animals changed in 2006. Though England, Wales and Scotland adopted different laws they contain very similar provisions. Among the key provisions are a list of the needs of vertebrate animals that must be satisfied to ensure their welfare is maintained and a definition of suffering (cruelty). It is an offence to fail to promote the welfare or provide for the “needs” of an animal or to be cruel to animals.

## 1.1. Welfare – The “needs” of an animal that must be met by law

*Duty of the person responsible for an animal to ensure its welfare  
(Animal Welfare Act 2006 – c.45, has the same meaning as Animal Health and  
Welfare (Scotland) Act 2006 – c.24)*

(1) A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.

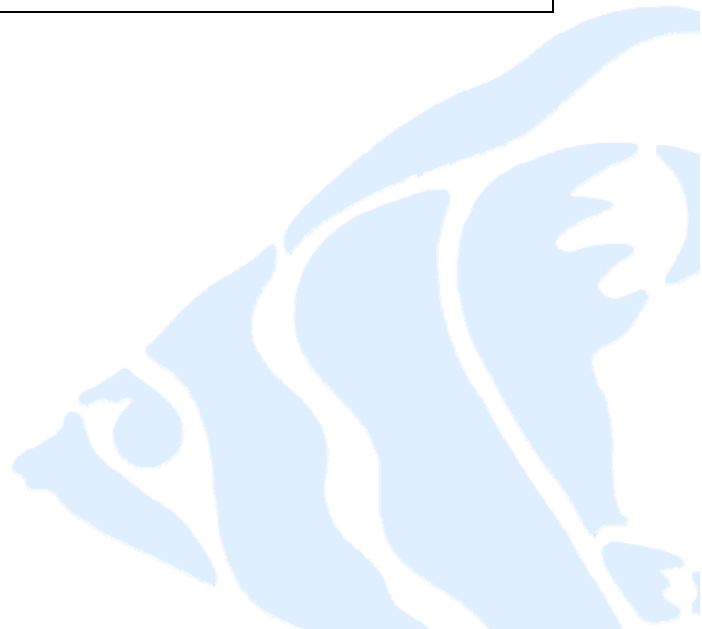
(2) For the purposes of this Act, an animal’s needs shall be taken to include—

- (a) its need for a suitable environment,
- (b) its need for a suitable diet,
- (c) its need to be able to exhibit normal behavior patterns,
- (d) any need it has to be housed with, or apart from, other animals, and
- (e) its need to be protected from pain, suffering, injury and disease.

(3) The circumstances to which it is relevant to have regard when applying Subsection (1) include, in particular—

- (a) any lawful purpose for which the animal is kept, and
- (b) any lawful activity undertaken in relation to the animal.

(4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.



## 1.2. Cruelty or unnecessary suffering

For the purposes of the relevant Acts the following applies:

Causing unnecessary suffering can lead to an allegation of and/or prosecution for cruelty.

“Suffering” includes both physical and mental suffering.

**Unnecessary suffering**  
*(Animal Welfare Act 2006 – c. 4, has the same meaning as Animal Health and Welfare (Scotland) Act 2006 – c. 19)*

### **Unnecessary suffering**

- (1) A person commits an offence if—
- (a) an act of his, or a failure of his to act, causes an animal to suffer,
  - (b) he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so,
  - (c) the animal is a protected animal, and
  - (d) the suffering is unnecessary.
- (2) A person commits an offence if—
- (a) he is responsible for an animal,
  - (b) an act, or failure to act, of another person causes the animal to suffer,
  - (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and
  - (d) the suffering is unnecessary.
- (3) The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include—
- (a) whether the suffering could reasonably have been avoided or reduced;
  - (b) whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a license or code of practice issued under an enactment;
  - (c) whether the conduct which caused the suffering was for a legitimate purpose, such as—
    - (i) the purpose of benefiting the animal, or
    - (ii) the purpose of protecting a person, property or another animal;
  - (d) whether the suffering was proportionate to the purpose of the conduct concerned;
  - (e) whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person.
- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

Pets including ornamental fish are protected animals.

There are many other detailed provisions of these Acts. A summary is included in Appendix C.

## 2. KEY PRIMARY INDICATORS OF AQUATIC ORGANISMS WELFARE

*Aquatic organisms that are well looked after will ordinarily be:*

- i. feeding normally*
- ii. behaving normally*
- iii. of normal appearance including:*
  - normal coloration depending on age, sex, maturity, species*
  - good fin condition: minimal splits or erosion, and*
  - no obvious sign of clinical disease*

*These indicators should take into account the origin and particular characteristics and needs of individual specimens.*

*The water quality should meet OATA maximum levels for Ammonia, Nitrite and Nitrate, minimum levels of Dissolved Oxygen and, in sea water aquaria only, minimum levels of pH.*

*Exceptions might occur e.g. when aquatic organisms are diseased, after transport or other stress. However in these cases appropriate remedial actions e.g. treatment, acclimatisation or isolation should be undertaken.*



### 3. GENERAL POINTS

*3.1. Members should display the OATA Ltd logo and Customers' Charter in an appropriate site on their premises.*

*The Charter should be displayed prominently in the retail sales area but NOT behind the counter.*

*3.2. Arrangements should be made to allow members of the public to view the Code of Conduct by appointment at an agreed time.*

*3.3. Members must be in possession of a Pet Shop Licence or any other permission to trade as required by the current legislation.*

*3.4. Members should ensure that they are aware of the current legislation on the matters relating to their business, including but not limited to non native species, aquatic organisms welfare, import and ownership concerning endangered species and plants and animal medicines. The OATA office will, if possible, be happy to assist members.*



## 4. ROUTINE CARE OF LIVE AQUATIC ORGANISMS

*Advice on the care and maintenance of aquatic organisms must be available at the time of sale (this is a requirement of the welfare legislation). Customers should be advised that aquatic organisms must never be released or disposed of in the wild.<sup>1</sup>*

### 4.1. Aquatic animals

*4.1.1. Aquatic organisms shall at all times be kept in accommodation that is adequate in construction, size, facilities, and position in the premises and appropriate for the species and specimens concerned.*

*No aquatic organisms should be exposed to excessive light or heat, or lack of adequate warmth.*

*No fish or other organism should be subject to rapid fluctuation in light, temperature and chemical composition of their water, other than for the controlled treatment of disease or as part of a controlled breeding programme.*

*All aquaria should be sited so that visual inspections are easily carried out. (This does not necessitate them being wholly visible from the shop floor).*

*4.1.2. Water quality should be assessed regularly and managed so that the criteria outlined in Appendices A and B are satisfied.*

*4.1.3. Aquaria shall be checked daily and cleaned as often as is necessary to maintain good hygiene standards, consistent with the rate of stock turnover and consequent stocking densities.*

*Notes:*

*i. Particular attention should be paid to removal of uneaten food and mortalities, as both of these can release ammonia as they decay.*

*ii. The filtration system, whether internal or external, should be maintained in efficient order. The performance of the filter should be checked by chemical analysis of water quality using commercially available test kits as appropriate.*

*4.1.4. Fish and other aquatic organisms should be displayed in a manner which precludes interference by unauthorised people as far as is reasonably practicable.*

*4.1.5. The care given to aquatic organisms kept in outdoor ponds or aquaria must reflect the climatic conditions.*

<sup>1</sup> See OATA poster at <http://www.ornamentalfish.org/aquanautconservation/invasiveplants.php>



*For instance:*

*i. an air hole should be created in ice.*

*ii. shading might be required in intense summer sun. This may be by planting appropriately.*

*4.1.6. Food should be offered to aquatic organisms on a regular basis taking into account the water temperature and the biology of the species concerned. Food should be stored in appropriate containers which can, if necessary and appropriate, be cleaned easily.*

*4.1.7. Good hygiene in this area will minimise the risk of insect or rodent infestation both of which should be avoided.*

#### **4.2. Care of Plants**

*This Code should apply equally to plants in respect of satisfying import controls (particularly phytosanitary and conservation legislation).*

*Plants should be carried and handled so as to minimise damage.*

*Diseases should be treated as appropriate.*

*Appropriate advice on the choice of plants by customers should be given taking account of the intended use to be made of the plant.*



## 5. RECORD KEEPING

5.1. *A record of all aquatic organisms purchased and sold (except retail sales) including source and destination, should be maintained. This may be achieved by retention of orders and invoices. It is not required that individual specimens be traceable.*

5.2. *Water quality should be assessed regularly, the results recorded and systems managed so that criteria outlined in Appendix A are satisfied.*

5.3. *Water quality testing should be carried out at least once a week in centralised systems. In individually filtered aquaria or holding vats at least 10% of them should be tested in the same way at least once a week. Unsatisfactory results must be recorded in a register together with the corrective action taken. Further tests must be carried out when visual inspection of the tanks indicates the need. While no general rule for the normal behaviour of all fish can be given, if they are gasping at the surface, or normally active species are lethargic, then water quality testing or other investigation may be necessary.*

*Tests should be undertaken at different times of the day to ensure that the readings are representative of normal conditions in the aquarium or pond.*

5.4. *Records of disease outbreaks, treatments and mortalities should be maintained. These should be related to particular batches of aquatic organisms if practicable.*



## 6. **BIOSECURITY**

*This Section applies in all establishments holding aquatic organisms.*

*6.1. All members are expected to be able to practically demonstrate that they operate a biosecurity plan for their business. This may or may not be supported by written plans. Failure to do so may be regarded as bringing the trade into disrepute.*

*6.2. All reasonable precautions must be taken to prevent the import, outbreak and spread of diseases. This may include disinfecting nets, or the use of a specified net for each tank in individually filtered aquaria. In centralised systems it may include efficient UV filtration or tank isolation. (Additional advice can be requested from the OATA office, found in the supporting codes<sup>2</sup> or on the OATA website<sup>3</sup>.)*

*6.3. Materials used in handling aquatic organisms should either be disposed of hygienically or, if they are to be reused, disinfected appropriately.*

*6.4. Aquatic organisms showing overt clinical signs of distress, injury or disease should be treated appropriately:*

*i. This may require the affected individuals or population to be isolated.*

*ii. No sales from these individuals or populations should be made.*

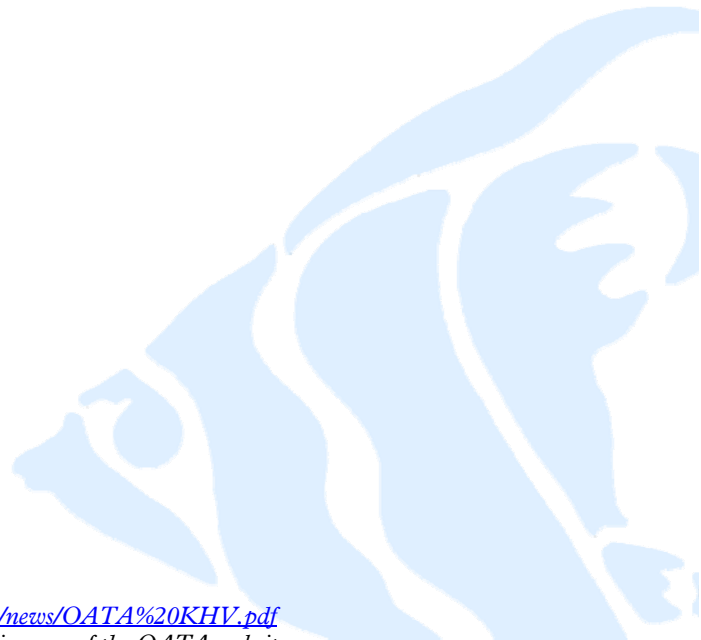
*iii. Veterinary consultation or other relevant expertise may be required.*

*iv. A sign should clearly indicate to the customers that those aquatic organisms are not for sale. This could be used if necessary as evidence that the shop is aware of an issue in a particular aquarium and appropriate actions are being taken.*

*v. Appropriate action could include a range of remedies including euthanasia.*

<sup>2</sup> OATA biosecurity advice on KHV: <http://www.efishbusiness.co.uk/news/OATA%20KHV.pdf>

<sup>3</sup> OATA biosecurity advice on KHV: <http://www.efishbusiness.co.uk/news/OATA%20KHV.pdf>



## 7. **TRANSPORT OF LIVE AQUATIC ORGANISMS**

### 7.1. **International movement of aquatic organisms; Packing and Exporting**

*Importers (i.e. consolidators, wholesalers and retailers importing directly from an exporter) should be able to demonstrate that they have taken positive steps to ensure that packers and exporters follow the guidelines given below:*

*7.1.1. Aquatic organisms must have priority over all other freight and should be transported by the most expeditious means.*

*7.1.2. Aquatic organisms should be packed in a manner which complies with the current legislation. See the current IATA Live Animal Regulations guidelines<sup>4</sup> and where appropriate the UK land transport regulation<sup>5</sup>.*

*7.1.3. Aquatic organisms must be packed so that they will survive at least 48 hours from the time of their acceptance by an airline.*

*7.1.4. No aquatic organisms should be dispatched unless in direct response to an order that has been received. No 'makeweights' are acceptable if covered by any UK import restrictions. Substitutions, if permitted by the regulations current at the time, must be notified at least 24 hours in advance of arrival.*

*7.1.5. 48 hours notice should be given by the consignor to the consignee of the estimated time of arrival of shipment.*

*7.1.6. Aquatic organisms from the wild should have been collected using legal, ethical techniques which do not damage the ecosystem.*

*7.1.7. No aquatic organisms showing overt signs of clinical disease should be dispatched.*

*7.1.8. The importer i.e. the person or business upon whose authority licence registration to import is made (depending on current legislation), must under all circumstances, accept primary responsibility for any consignment ordered after it has been despatched in good faith and left the country of origin. Late arrival of shipments for any reason does not absolve an importer from this responsibility.*

*7.1.9. The importer or his/her representative should make all reasonable efforts to expedite the clearance of the consignment and transport it to its destination.*

*7.1.10. The journey to the destination shall be completed by a means and in circumstances that do not prejudice the well-being of the aquatic organisms.*

*7.1.11. Shipments that have been abandoned should only be 'rescued' when appropriate tanking facilities are available as soon as is reasonably practicable. Aquatic organisms should not be 'rescued' and stored in their transit boxes until sold. Only in exceptional circumstances e.g. flights bound for the continent that become fog bound in the UK, should aquatic organisms be unpacked, water changed and repacked before their final destination is reached.*

<sup>4</sup><http://www.iata.org/ps/publications/lar.htm>

<sup>5</sup>EU Welfare in transport Regulation (EC) No 1/2005 and in England by the Welfare of Animals (Transport)

*Should a shipment be abandoned, then the importers or their freight agent should make him or herself responsible for alerting OATA by telephone, fax or email of this eventuality. Failing that, contact should be made with another recognised OATA importer.*

*7.1.12. Transport packages should not be opened until they have arrived at their destination. An exception may be made when the survival of the aquatic organisms is threatened or if any relevant official services inspect a consignment. In these circumstances the conditions relating to aquatic organisms outlined in Section 8 of this code of conduct should as far as reasonably practicable be applied.*

*7.1.13. Where necessary e.g. for fish health, plant health, endangered species, the importers should obtain the appropriate documents prior to shipping.*

## **7.2. Business to business within UK**

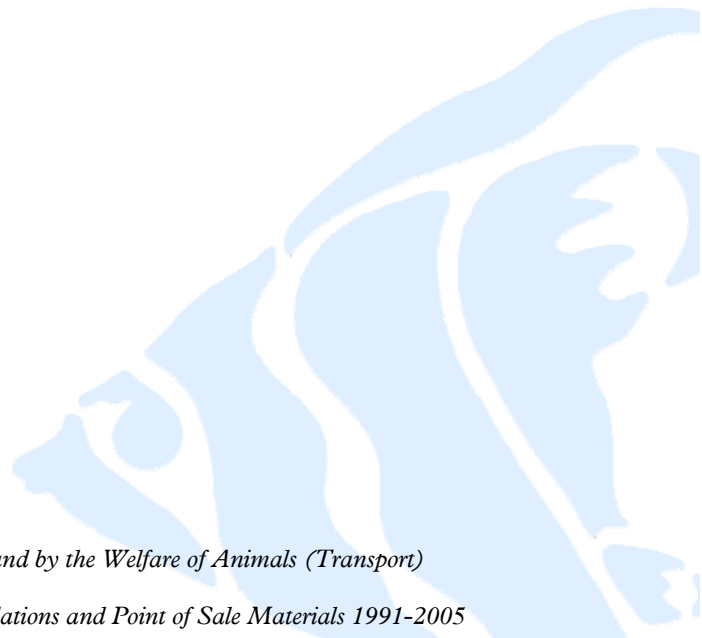
*Aquatic organisms should, if appropriate, be transported to the customer by the quickest means reasonably practical. Any aquatic organisms received or consigned should be transported according to the current regulations<sup>6</sup> and recommendations<sup>7</sup>. For air transportation the latest IATA guidelines must be followed.*

*7.2.1. The animals should be packed to survive at least 150% of the anticipated journey time. The packing must therefore take account of climatic conditions and the behavioural characteristics of the aquatic organisms as well as the travelling time.*

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<sup>6</sup> EU Welfare in transport Regulation (EC) No 1/2005 and in England by the Welfare of Animals (Transport) (England) Order 2006 (SI 2006/3260)

<sup>7</sup> Advice can also be found in the OATA transport brief: Recommendations and Point of Sale Materials 1991-2005



## **8. RECEIVING, UNPACKING & ACCLIMATISING OF LIVE AQUATIC ORGANISMS**

### **8.1 General**

*8.1.1. Suitably trained and/or experienced staff should be available during unpacking at any stage of the supply chain.*

*8.1.2. Aquatic organisms should be promptly and carefully unpacked upon arrival, preferably in dim light and avoiding strong sun or artificial light sources.*

*8.1.3. The aquatic organisms should be acclimatised to the physical and chemical water conditions in the holding facility using all reasonably practicable means to reduce the stress experienced by them during the procedure.*

*8.1.4. During acclimatization particular attention should be paid to those factors which may have altered substantially during transport. e.g. pH, temperature, and ammonia,*

*8.1.5. When tanking aquatic organisms, due regard should be paid to the physical and behavioural needs of each species.*

### **8.2. Unpacking imported aquatic organisms**

*This section of the Code applies on the first occasion aquatic organisms are unpacked following import.*

*Thus it may apply to:*

*i. Traditional wholesalers*

*ii. Retail outlets importing directly*

*iii. Businesses buying aquatic organisms through consolidators in unopened boxes following import*

*8.2.1. The provisions laid out in this section are similar to those applied whenever aquatic organisms are unpacked or handled. However they must be applied bearing in mind the species concerned, their origin and the length of time they have been in transit.*

*8.2.2. Businesses receiving aquatic organisms in the manners described above should be able to provide the additional care and husbandry required by them immediately following import. Particular attention and expertise is necessary when wild caught specimens are concerned.*

*8.2.3. Newly imported aquatic organisms should be separated from previously held stock, clearly marked and rested until normal behaviour, appearance and feeding patterns have been re-established before sale.*

### **8.3. Unpacking live aquatic organisms at retailers purchasing from wholesalers**

*This section (in addition to 8.1.) applies only when aquatic organisms are purchased from a wholesaler's import facility. (Or directly from an aquatic organism farm based in the UK where the aquatic organisms are acclimatised prior to dispatch.)*

*8.3.1. The retailer should accept responsibility for any aquatic organisms ordered once despatched, in good faith, for delivery at a reasonable time or at another pre-arranged time. An out of hours contact should be available so that any delay in delivery can be dealt with promptly.*



## 9. SALE OF LIVE AQUATIC ORGANISMS

### 9.1. General

*This applies to both business to business sales and to sales to retail customers.*

*9.1.1. All aquatic organisms sold should be in good health as far as it can be reasonably determined without veterinary inspection.*

*9.1.2. No aquatic organisms with an obvious significant abnormality, which would seriously reduce its quality of life, should be offered for sale. If in doubt, expert advice, which may or may not be from a vet, should be sought.*

*9.1.3. Aquatic organisms should be caught in such a way as to reduce the stress induced and ensure no physical damage occurs to the animal.*

*9.1.4. No animal should be stocked unless at least one member of staff is familiar with its care and welfare.*

#### *9.1.5. CITES Species*

*The import permit number or a photocopy should be obtained, either when the order is delivered or with the invoice for such an order.*

*9.1.6. EC Wildlife Trade Regulations Wholesalers should satisfy themselves that the necessary import permit (Annex A and B species) or import declaration (Annex D species) has been given or made as appropriate. When supplying Annex A or B species it must be ascertained that the recipient is able to care for them.*

### 9.2. Retail

*9.2.1. Every reasonable effort should be made to ensure that the customer purchases aquatic organisms suitable for the aquarium or pond for which it is intended. When offering advice due regard should be given to the time the aquaria/pond has been established and the stocking, both in terms of species and density.*

*To enable staff to fulfil this requirement a range of reference materials should be available. Less experienced staff should be encouraged to consult a senior member of staff whenever they are uncertain.*

*(Under no circumstances should a brand new aquaria or pond be established and stocked full immediately. If asked to do this the retailer should advise the customer as to the inadvisability of this course of action and explain why he must refuse to do so and if necessary refer to the "Customers' Charter").*

*9.2.2. Particular attention should be paid to informing the customers of the risks associated with any potentially harmful or venomous species. This information should include First Aid procedures.*



9.2.3. *Transport of aquatic organisms sold to customers from a retail outlet: Fish or other aquatic organisms should be sold in containers suitable for the journey to be undertaken and thus ensure they arrive in good health. Special regard should be paid to the climatic conditions and length of journey.*

*The containers should:*

- i. Contain a sufficient oxygen supply for the organisms for the duration of their journey;*
- ii. Contain an appropriate quantity of water;*
- iii. Have sufficient insulation to prevent large fluctuations in temperature;*
- iv. Be covered to exclude light.*
- v. Ensure aquatic organisms which may be aggressive to one another are, as appropriate, packed separately. It may also be necessary to prevent these aquatic organisms from having any visual contact.*

9.2.4. *The new owners of aquatic organisms should be very carefully instructed in the technique required to acclimatise them to their aquaria/pond.*

9.2.5. *'After sales' advice should be offered to customers who purchase aquatic organisms.*

9.2.6. *Accurate instructions on the care and welfare of the animal purchased should be given to the customer at the time of any sale as appropriate.*

9.2.7. *No live animal, with the exception of invertebrate live food, should be sold to any person under the age of 16 years.*

9.2.8. *No live vertebrate animal should knowingly be sold for use as live food.*

### **9.3. Internet**

*If sales are accepted for aquatic organisms via the internet then the following must apply:*

- i. All the current legislation at source and destination.*
- ii. The website must clearly identify the country from which the aquatic organisms are to be delivered to the client.*
- iii. All relevant provisions for transporting the aquatic organisms to a member of the public must be followed.*
- iv. Business supplying aquatic organisms must ensure that they have proof that the customer will be at home when the delivery is scheduled and they are aware that failure to meet his obligation may compromise the welfare of the aquatic organisms concerned.*

## **10. HEALTH AND SAFETY AT WORK**

### **10.1. General**

*10.1.1. It is of the very highest priority that as safe an environment as is reasonably practical is maintained for both staff and customers. Note should be taken of all relevant legislation<sup>8</sup>.*

*10.1.2. Particular care should be taken to ensure that:*

- i Emergency evacuation procedures are known to all staff.*
- ii Fire-fighting equipment is regularly maintained and its location and mode of operation is known to all staff.*
- iii Entrances and exits are kept clear and are clearly and correctly marked.*

### **10.2. Staff**

*10.2.1. Particular note will be taken to the need for care and training in the following areas:*

- i. First Aid and the use of an Accident Record Book, and the requirement to notify the Health and Safety Executive if any staff member is off work for more than three days due to a work related accident.*
- ii. Hazardous and venomous species. Information can also be found in the OATA briefing: Recommendations and Point of Sale Materials 1991-2005 Version 2 or on the OATA website<sup>9</sup>.*
- iii. Zoonoses-diseases which spread from animal to man e.g. Fish TB and Salmonella. Information can also be found in the OATA briefing: Recommendations and Point of Sale Materials 1991-2005 Version 1 or on the OATA website.*
- iv. Safe use and disposal of chemicals.*
- v. Safe installation and working procedures for the use of electrical equipment in damp environments. Any installation of electrical equipment should be carried out by a competent electrician.*
- vi. Fire fighting.*
- vii. Emergency procedures e.g. electric shock, spillage of chemicals, sting by venomous aquatic organisms etc.*
- viii. If there are more than 5 employees OATA Ltd would recommend that these points are recorded in the written Health and Safety policy maintained by the business or as required by current health and safety rules.*

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<sup>8</sup>Health and Safety at Work Act 1974 (HASAWA 1974) and the Management of Health and Safety at Work Regulations 1999 See website: <http://www.opsi.gov.uk/SI/si1999/19993242.htm>

<sup>9</sup>OATA Ltd. "Point of Sale Materials".

## **11. OUT OF HOURS**

*11.1. The licensee or a designated key holder must at all times be within reasonable distance of the premises and available to visit the premises in case of emergency.*

*11.2. A list of key holders with their addresses and telephone numbers must be lodged with the local police and fire brigade or any agency determined locally.*

*11.3. An emergency telephone number must be displayed at the front of the premises. This may be 999.*

*11.4. When retail outlets are sited within other premises, the licensee or key holders must have access at all times to the premises containing the aquatic organisms.*



## 12. USE OF MEDICINES

12.1. Fish are exempt from the provisions of the Veterinary Surgeons Act. Thus anyone may diagnose and treat fish diseases.

12.2. However, fish are not exempt from the Veterinary Medicines Regulations. This means that drugs such as anaesthetics, antibiotics or other controlled medicines should only be used under veterinary direction. Only treatments available under the Small Animal Exemption Scheme are to normally be sold by retailers<sup>10</sup> without further authorization.

12.3. Antibiotics should only be used under the supervision of a Veterinary Surgeon practising in the EC and following the normal practice of the profession in the UK.

12.4. Veterinary Surgeons may only prescribe drugs for aquatic organisms under their care. This must be actual rather than theoretical and will mean periodic on site visits. Failure on the part of the veterinary surgeon to meet this legal requirement may lead to him/her being struck off.

12.5. Material safety data sheets should be available for any treatments used by staff.

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<sup>10</sup> Small Animal Exemption Scheme guidance: [http://www.vmd.gov.uk/Industry/SAES/small\\_animal\\_ex\\_sch.pdf](http://www.vmd.gov.uk/Industry/SAES/small_animal_ex_sch.pdf)



## 13. STAFF TRAINING

### 13.1. Training may be:

- i. *In house: instruction by experienced, preferably qualified, staff.*
- ii. *Home study: providers are:*
  - *Ornamental Aquatic Trade Association (OATA) -*  
*Water Quality and Filtration Advanced Diploma*  
*Fish Biology and Fish Health Advanced Diploma*  
*Water Quality Certificate*  
*Filtration Certificate*  
*Fish Biology Certificate*  
*Fish Health Certificate*

*Further details including current fees, are available online at [www.ornamentalfish.org](http://www.ornamentalfish.org)*

- *Pet Care Trust -*

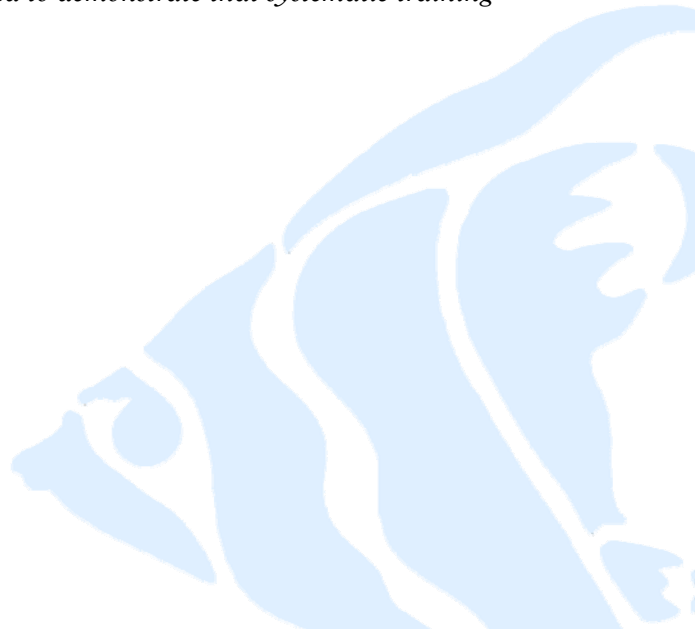
*City & Guilds / NPTC Level 3 Advanced Certificate in Pet Store Management*

- i. *Short courses*
- ii. *Full-time course*
- iii. *Conferences*

*For instance Sparsholt College, Hampshire, and Barony College, Dumfries, offer short courses, full-time courses and conferences.*

*13.2. Staff will be encouraged to increase their knowledge and experience and so enhance the quality of information they may provide to customers.*

*13.3. A written training policy should be formulated to demonstrate that systematic training is taking place.*



## 14. COMPLAINTS

14.1. *The member will make every effort to resolve any dispute between himself and the customer.*

14.2. *All staff must be suitably trained to deal with complaints, but should difficulties arise the matter should be referred to a senior member of staff.*

14.3. *At all times the person dealing with the complaint should adopt a courteous manner, act with tact and handle the problem sympathetically. The problem should be dealt with promptly, courteously and sympathetically.*

14.4. *If the complaint cannot be resolved the following procedures are available:*

### *Local Advice*

*i. Both the member and the customer have the right to contact the Trading Standards*

*ii. Department or the Citizens Advice Bureau*

*iii. Conciliation Service*

*In the event that a dispute cannot be settled then the matter may be referred to the OATA office. OATA can be asked to offer a conciliation service. There is no charge for this service.*



## 15. POND AND AQUARIUM CONTRACTORS

**NOTE:** *This section is relevant to pond and aquarium contractor members. It applies to works conducted on private grounds and will only relate to works on public property as far as applicable and possible, given that a separate contract would most likely be in place for these.*

### 15.1 Work contracts

*Members should not undertake professional work unless the terms and conditions covering such works have been recorded in writing and agreed to with the client. Terms and conditions should, as a minimum, cover:*

*the scope of work,*

*the general terms of pricing and payment of goods and services,*

*the contractor's allocation and limitation of responsibilities and liability*

*the client's rights and obligations*

*terms of applicable warranties*

*provisions for termination*

*special provisions for handling complaints and dispute resolution. Standard guidance on handling complaints and dispute resolution are set forth in Section 14*

*In addition, members should perform work in accordance with an agreed time scale and to cost limits agreed to with the client and confirmed in writing. Any changes to these or any changes that may affect the quality of works should be presented to the client in a timely manner and in writing.*

*Consent must be sought in writing if contractors wish to photograph their work at any stage. The client must agree to photographs being taken and the subsequent use of such material.*

*Contractors should, on request, return to the client all relevant documents such as plans or other property that the customer is legally entitled to.*

*Additionally, members should have arrangements in place for the conduct of their businesses and completion of any works in progress in the event of their death, incapacity, or any other absence from work. Such an arrangement could include a list of known contractors/ sub-contractors who could be contacted as necessary.*

### 15.2 Training , qualifications and competence

*Members must ensure that staff carrying out electrical checks and installations are qualified and authorised to do so. Under the new Part P document (2013 edition) of the Building Regulations (2010)<sup>11</sup>, work regarding the installation of garden pond pumps is considered notifiable work and should be undertaken by a Part P certified electrician who must issue a compliance certificate upon completion of works.*

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<sup>11</sup> Approved Document P (2013), Building Regulations 2010.

*In addition to requirements regarding electrical installations and issuance of a Part P certificate, it is the contractor's responsibility to advise customers on the condition of their electricals and the need to seek qualified professional help, as necessary. Recommendations of this sort should be recorded in writing (e.g. in a feedback or visit record form).*

*Members will also endeavour in updating their employees' knowledge and skills through adequate and relevant training, such as fish health and horticulture courses and others as applicable, as per Section 13.*

### **15.3 Insurance**

*Members are expected to have adequate and appropriate insurance. (i.e. public and employer's liability insurance policies as a minimum.)*

*In addition and as a minimum, contractors are expected to honour warranties for parts (pumps, filters, etc) in accordance with manufacturer warranties.*

### **15.4 Disclosure and Barring Service (DBS) Checks (previously CRB checks)**

*It is the responsibility of contractors to conduct DBS checks on staff as necessary and provide their client with this information (i.e. inform clients that staff have the necessary checks). Guidance on which types of Positions, Professions, Employment, Offices and Works are eligible for DBS checks (taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975) can be found in the following document*

*[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260319/DBSguide\\_to\\_eligibility\\_v2.2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260319/DBSguide_to_eligibility_v2.2.pdf).*

### **15.5 Access to others' property**

#### **15.5.1 Hours and routes of access**

*Access to others' property must be restricted to the working hours previously discussed with the client. Access should also be restricted, in as much as possible, to pre-designated access routes so as to cause minimal disruption to others on site and minimise negative impacts on clients' privacy.*

#### **15.5.2 Staff identification and conduct on site**

*Members must ensure all their staff are clearly identified either by the use of company uniforms, work clothes or photographic identification badges.*

*Furthermore, all staff should act respectfully towards the site owner(s) and any others present; should avoid the use of foul language and must leave premises reasonably clean and tidy at the end of the working day, including tidying up any cables or other trip hazards and setting up safety barriers around excavations.*

### **15.6 Health and Safety**

*Members should keep a written record of all risk assessments undertaken and should follow Section 10 of this code. OATA's relevant form(s)<sup>12</sup> should be used as a guide for conducting risk assessments.*

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<sup>12</sup> Initial Site Risk Assessment Form for Pond Installation or Maintenance Works; Initial Site Risk Assessment Form for Aquarium Installation or Maintenance Works; Risk Assessment Form for Pond Installation Works; Risk Assessment



### **15.7 Aquatic Animal Welfare and Protected Species**

*Members should refer to Sections 4.1.1, 4.1.2 and 4.1.5 on Routine Care of Live Aquatic Organisms and advise clients on adequate feeding and food storage (Section 4.1.6).*

*Great crested newts (GCN) are fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 making it a European Protected Species. It is an offence to deliberately kill, injure, capture or disturb them; disturb or destroy their habitat; and to possess, sell or trade them. This applies to all great crested newt life stages, including eggs. If found guilty, a person could be sentenced to up to 6 months in prison and a fine of £5,000 for each offence.*

*Therefore, every precaution must be taken to avoid any disturbance to GCN habitat or individuals. Further information is available from the gov.uk website<sup>13</sup>.*

*Works involving decommissioning or filling in a pond which is GCN habitat is likely to result in an offence and therefore, members are advised against undertaking such works. Should these works be absolutely necessary, members should seek advice from a registered ecologist on applying for a mitigation licence<sup>14</sup>.*

### **15.8 Water Quality for Temporary Holding Facilities and Partial Water Changes**

*Quality of water for short-term temporary holding facilities and partial water changes should meet OATA's water quality criteria for free ammonia, nitrite, nitrate, dissolved oxygen and pH (as applicable), as set forth in Appendices A and B.*

*For the purpose of the Animal Welfare Act (2006), the owner of an animal shall always be regarded as being responsible for it. Therefore, in the case of fish placed in temporary holding on a customer's property over longer periods of time, the contractor should provide adequate aeration/filtration and instruct the customer on recommended feeding rates but water quality maintenance and animal welfare remains the responsibility of the customer.*

### **15.9 Use of medicine/treatments and disposal of treated waters and "left-over" treatments**

*Please refer to Section 12 of this code. Note that while fish are exempt from provisions in the Veterinary Surgeons Act, they are not exempt from the Veterinary Medicines Regulations. Thus, controlled medicines such as anaesthetics and antibiotics should only be used under veterinary direction.*

*Special care should be taken regarding the disposal of treated waters, ensuring they are not disposed of in natural bodies of water, drains or ditches.*

### **15.10 Care of Plants**

*Members should refer to section 4.2 of this code.*

### **15.11 Biosecurity**

*Members should complete OATA's Biosecurity checklist for Pond and Aquarium Maintenance Works. In addition, they should follow Sections 6.1 – 6.4 of this code and bear in mind the "Check – Clean – Dry" provisions for equipment to reduce the risk of spreading*

<sup>13</sup> <https://www.gov.uk/great-crested-newts-protection-surveys-and-licences#pond-management>

<sup>14</sup> [https://www.gov.uk/guidance/mitigation-licences-for-protected-species](#)

*fish diseases and undesired aquatic plant species.*

*Members must be aware that aquatic organisms should never be released or allowed to escape into the wild and take due care to prevent this. In addition, they need to instruct customers on adequate disposal of dead fish or excess fish and plants.*

### **15.12 Disposal of Dead Fish**

*In accordance with the Derogations from the Animal By-Product controls under Regulation (EC) 1069/2009 and Commission Regulation (EU) 142/2011<sup>15</sup> (Authorisation C2), dead pet animals and equidae can be disposed of by burial on the premises on which such products originate or in an authorised landfill.*

*Alternatively, small businesses can bag and freeze dead specimens, store in a fully dedicated freezer and when a reasonable volume of material has been accumulated, the services of an approved waste disposal contractor can be used.*

*Members may wish to seek further information and advice on adequate disposal by contacting their local APHA office<sup>16</sup>.*

### **15.13 Excess stock and aquatic plant management**

*Clients should be encouraged to find a friend or relative to give their healthy excess fish to, making sure the new owner has full accurate details of the care they require and are aware of any potential biosecurity risks. Euthanasia should only be considered as a last resort and owners should seek veterinary advice.*

*In the case of excess fish, contractor members could seek to re-home healthy specimens, advising the new owner of the origin of the specimens and any risks potentially associated with taking fish from such sources and mixing them with other fish that might be present in the recipient's pond(s). Contractor members should only consider euthanasia of excess fish as a last resort and follow OATA's recommended procedures, disposing of euthanized individuals according to current legislation as indicated in Section 15.12 above.*

*In all cases in which fish are being re-homed, water quality checks should be conducted in the pond of origin as well as the destination pond.*

*Like fish and other aquatic organisms, plants should never be disposed of in the wild. The best way to dispose of excess plants is careful on site composting. Alternatively, plants can be disposed of in the "green waste" bins provided by local authorities. Members are encouraged to follow advice provided by the GB Non-Native Species Secretariat through their "Be Plant Wise" campaign<sup>17</sup>.*

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<sup>15</sup> Department for Environment, Food & Rural Affairs. May 2011 (updated November 2014). Derogations from the Animal By-Product controls under Regulation (EC) 1069/2009 and Commission Regulation (EU) 142/2011. Authorisations by the Secretary of State to enable derogations to be used in England.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/376076/apb-authorisations.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376076/apb-authorisations.pdf)

<sup>16</sup> <https://www.gov.uk/government/organisations/animal-and-plant-health-agency/about/access-and-opening>

<sup>17</sup> GB Non-Native Species Secretariat. "Be Plant Wise".

## 15.14 Waste Management

*It is members' responsibility to dispose of all waste material according to current legislation<sup>18</sup>.*

### 15.14.1 Construction Waste

*Members must handle construction waste appropriately. Persons generating commercial waste (waste that comes from any commercial activity, including those run at domestic premises) will need to classify their waste<sup>19</sup>) and usually get a permit to store, treat, transport or dispose of their waste themselves. Alternatively, they should seek for a licensed waste business to deal with their waste<sup>20</sup>.*

*Under waste exemption NWF3<sup>21</sup>, small business may store at any one time, up to 50 m<sup>3</sup> of solid waste and 1,000 L of liquid waste for a period not to exceed 3 months.*

### 15.14.2 Waste Electrical and Electronic Equipment (WEEE)

*It is members' responsibility to be in compliance with the Waste Electrical and Electronic Equipment (WEEE) regulations. WEEE regulations apply to all retailers regardless of how products are sold – whether direct or by internet, mail order or telephone<sup>22</sup>.*

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<sup>18</sup> The Waste Framework Directive (2008/98/EC)<sup>18</sup> (WFD) (<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008L0098>) defines waste and sets out how it should be managed. According to the WFD, some wastes are considered hazardous if it presents one or more of the fifteen hazardous properties listed in Annex III to the WFD. The application of this is determined by the List of Wastes Decision (2000/532/EC) which provides a List of Wastes (LoW – often called the European Waste Catalogue), the rules for using the list and the criteria used to assess if a waste on the list is hazardous. The WFD and the LoWD are implemented in England, Northern Ireland, Scotland and Wales using different domestic regulations. It is members' individual responsibility to seek further information on each country's regulations from the relevant agencies - Scotland: [http://www.sepa.org.uk/waste/waste\\_regulation/special\\_waste.aspx](http://www.sepa.org.uk/waste/waste_regulation/special_waste.aspx) England and Wales: <https://www.gov.uk/how-to-classify-different-types-of-waste> Northern Ireland: [http://www.doeni.gov.uk/miea/waste-home/regulation/regulations\\_hv.htm](http://www.doeni.gov.uk/miea/waste-home/regulation/regulations_hv.htm)

<sup>19</sup> need to classify their waste

<https://www.gov.uk/how-to-classify-different-types-of-waste/construction-and-demolition-waste>

<sup>20</sup> Section 34 of the Environmental Protection Act (1990) establishes duty of care with respects to waste.

As of January 2014, individuals transporting waste as part of their business need to register as waste carriers. Failure to do so can carry a fine of up to £5,000. More information on how to do this can be found at <https://www.gov.uk/register-waste-carrier>. Information and online registration procedures for Scotland and Northern Ireland can be found at <https://www.gov.uk/waste-carrier-or-broker-registration-scotland> and <https://www.gov.uk/waste-carrier-or-broker-registration-northern-ireland>

<sup>21</sup> Waste exemption: NWF3 Temporary Storage of Waste at a place controlled by the producer.

<https://www.gov.uk/waste-exemption-nwfd-2-temporary-storage-of-waste-at-a-place-controlled-by-the-producer>

<sup>22</sup> If you are a retailer or distributor of electrical or electronic equipment (EEE), you must provide a way for your customers to dispose of their old household electrical and electronic equipment when you sell them the same goods new.

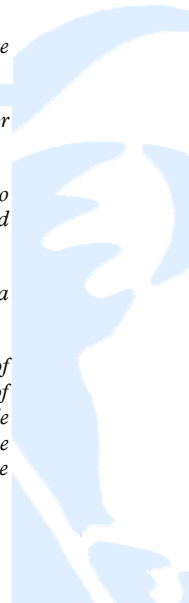
*You have different options regarding disposal of WEEE. You can set up a designated collection facility (DCF), join the distributor take-back scheme or collect WEEE in store for subsequent disposal.*

*If you decide to take WEEE back in store you can contact a Producer Compliance Scheme (PCS) or transport the waste yourself to an Approved Authorised Treatment Facility (AATF). If transporting waste yourself, you will need to register as a waste carrier and check any rules that may apply on transporting hazardous waste, depending on the nature of the waste to be disposed.*

*You will need to keep a record of the number of units of WEEE returned to you from private households and keep these records for a period of four years [Art 45. Waste Electrical and Electronic Equipment Regulations, 2013.*

*In addition, you will need to provide information available in writing to users of EEE in private households on a) the requirement of each Member State of the Directive to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of collection of WEEE for treatment, recovery and environmentally sound disposal; b) the collection and take-back systems available to them; c) their role in contributing to the reuse, recycling and other forms of recovery of WEEE under these regulations; d) the potential effects on the environment and human health as a result of the presence of hazardous substances in EEE and e) the meaning of the crossed out wheeled bin symbol shown in Schedule 6 [Art. 44 WEEE Regulations, 2013].*

*Two templates for distributors to help them fulfil their obligations under the WEEE regulations regarding customer information on distributor takeback obligations and distributor record keeping, are available here:*  
<https://www.gov.uk/government/publications/weee-regulations-distributor-templates>



### 15.15 Hazardous Waste Materials

*WEEE needs to be classified according to its components, as the presence or absence of a hazardous component in the equipment will determine which LoW code is used and thus, how waste must be dealt with<sup>23</sup>.*

*If your business produces or holds hazardous waste in England, you must register your premises unless the volume of waste produced, held or removed in a 12-month period is below 500 Kg. Companies in Scotland and Northern Ireland do not need to register. Find more information at<sup>24</sup>*

*If you deal with hazardous wastes, you will need to classify your waste and store it safely, and use an authorised business to collect, recycle or dispose of your waste. You must meet the requirements for carriers<sup>25</sup> if you transport any hazardous waste from your own business.*

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<sup>23</sup> *A hazardous component is either a component listed in the LoW as hazardous or any other component that would possess a hazardous property if assessed in isolation. Fluorescent tubes and low energy lamps and bulbs (excluding LED), are classified as hazardous waste according to the List of Wastes (LoW).*

<sup>24</sup> <https://www.gov.uk/hazardous-waste-producer-registration>

<sup>25</sup> <https://www.gov.uk/dispose-hazardous-waste/carriers>

## ***APPENDIX A – Water Quality Criteria***

### **STOCKING DENSITIES - ORNAMENTAL AQUATIC ORGANISMS**

*It is virtually impossible to determine the quantity of aquatic organisms to be kept in a system purely on a weight or number of aquatic organisms per unit, volume, or water surface area.*

*The variation in holding system used, the quality of husbandry and the types of aquatic organisms stocked vary so greatly that it would render any such system too complicated to be practical or too simple to be useful.*

*The maintenance of water quality standards can be used to determine working stocking densities.*

### **WATER QUALITY CRITERIA<sup>26</sup>**

#### ***Cold Water Species***

<i>Free Ammonia</i>	<i>max 0.02mg/l</i>
<i>Nitrite</i>	<i>max 0.2mg/l</i>
<i>Dissolved Oxygen</i>	<i>min 6mg/l</i>
<i>Nitrate</i>	<i>max 50mg/l above ambient tap water</i>

#### ***Tropical Freshwater Species***

<i>Free Ammonia</i>	<i>max 0.02mg/l</i>
<i>Nitrite</i>	<i>max 0.2mg/l</i>
<i>Dissolved Oxygen</i>	<i>min 6mg/l</i>
<i>Nitrate</i>	<i>max 50mg/l above ambient tap water</i>

#### ***Tropical Marine Species***

<i>Free Ammonia</i>	<i>max 0.01mg/l</i>
<i>Nitrite</i>	<i>max 0.125mg/l</i>
<i>pH</i>	<i>min 8.1</i>
<i>Dissolved Oxygen</i>	<i>recommended 5.5mg/l (never lower than 4.0mg/l)</i>
<i>Nitrate</i>	<i>max 100mg/l</i>

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<sup>26</sup> P. J. VAN DER MEULEN, *Water Quality Criteria for Ornamental Fish*, p. 11



## ***APPENDIX B – Guide Stocking Densities***

### **GUIDE STOCKING DENSITIES<sup>27</sup>**

*The water quality standards should not be met at the expense of a correct feeding regime.*

#### ***Cold Water Species***

*8kg/1000 litres*

#### ***Tropical Freshwater Species***

*Fish up to 5cm (or 2”) - 1.5kg/1000 litres*

*Fish over 5cm (or 2”) - 2.5kg/1000 litres*

#### ***Tropical Marine Species***

*Fish up to 5cm (or 2”) - 1kg/1000 litres*

*Fish over 5cm (or 2”) - 2kg/1000 litres*

*Guide stockings are ADVISORY only. They may be exceeded if the water quality standards are satisfied. When the water quality standards are exceeded at a lower stocking, this must then be considered as the maximum stocking density permissible.*

*The TOTAL volume of the system must be measured and taken into account in determining actual stocking densities.*

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<sup>27</sup> For additional information, see also the OATA Water Quality Criteria handbook.



## APPENDIX C – Summary of Animal Welfare Legislation

Summary Table Animal Welfare Legislation  
England Scotland Wales

	<i>England &amp; Wales</i>		<i>Scotland</i>
<b>General characteristics</b>	<ul style="list-style-type: none"> <li>• <i>The Acts provide some basic concepts e.g. cruelty and welfare standards.</i></li> <li>• <i>Detailed rules e.g. on pet shop licensing and internet trade in aquatic organisms, will be introduced over the next few years using secondary legislation.</i></li> <li>• <i>Both are “common informer” Acts, which means any member of the public may bring prosecutions. This also means groups like the RSPCA are able to mount private prosecutions.</i></li> <li>• <i>Though different detailed rules might apply in different administrations there are provisions for disqualification orders and other provisions to be applied in all administrations.</i></li> </ul>		
<b>Implementation date</b>	<i>April 6<sup>th</sup> 2007</i>	<i>March 28<sup>th</sup> 2007</i>	<i>Autumn 2006</i>
<b>Links to the Acts</b>	<p><i>Animal Welfare Act 2006</i>  <a href="http://www.opsi.gov.uk/acts/en2006/2006en45.htm">http://www.opsi.gov.uk/acts/en2006/2006en45.htm</a>  <i>including explanatory foreword</i></p>		<p><i>Animal Health and Welfare Act 2006</i>  <a href="http://www.opsi.gov.uk/legislation/scotland/acts2006/60011.htm">http://www.opsi.gov.uk/legislation/scotland/acts2006/60011.htm</a></p>
<b>Helpful sources of official guidance notes etc.</b>	<p><a href="http://www.defra.gov.uk/animalh/welfare/bill/index.htm">http://www.defra.gov.uk/animalh/welfare/bill/index.htm</a></p> <p><a href="http://www.defra.gov.uk/animalh/welfare/pdf/guidance_note.pdf">http://www.defra.gov.uk/animalh/welfare/pdf/guidance_note.pdf</a></p>	<p><a href="http://new.wales.gov.uk/legislation/legislationinforce/210923/AnimalWelfWales/?lang=en">http://new.wales.gov.uk/legislation/legislationinforce/210923/AnimalWelfWales/?lang=en</a></p>	<p><a href="http://www.scotland.gov.uk/Topics/Agriculture/animalwelfare/AnimalWelfare/AHWSAGuidance/guidance.pdf">http://www.scotland.gov.uk/Topics/Agriculture/animalwelfare/AnimalWelfare/AHWSAGuidance/guidance.pdf</a></p> <p><a href="http://www.scotland.gov.uk/Resource/Doc/972/00409.pdf">http://www.scotland.gov.uk/Resource/Doc/972/00409.pdf</a></p>
<b>Who will approve secondary legislation?</b>	<p><i>There will be three sets of secondary legislation (each may be different from the others) decided by the:</i></p>		
	<i>House of Parliament for England</i>	<i>Welsh Assembly</i>	<i>Scottish Parliament</i>

<b>Timetable for secondary legislation</b>	<i>Pet shop licensing conditions are likely to be determined during late 2007 and early 2008. These conditions may be different in England, Wales and Scotland!</i>	
<b>Inspectors</b>	<i>The principle enforcement officers will be Inspectors appointed by the local authority. These can potentially be any suitable qualified person not just an authority employee. RSPCA Inspectors are not Inspectors for this act unless specifically appointed by an authority.</i>	<i>The same as England and Wales except SSPCA Inspectors will be appointed as inspectors for the purpose of the Scots Act.</i>
<b>Care or Improvement notices</b>	<i>These notices may be issued for welfare offences only. They may be of variable length relevant to the problem identified, during that period no prosecution will be instigated as long as the situation of the aquatic organisms concerned does not deteriorate. Prosecution may follow if the conditions in the care notice are not fulfilled. Care or improvement notices do not have to be issued prior to prosecution.</i>	
		<i>Failure to comply with a care notice may be prosecuted in its own right.</i>
<b>Powers of entry and Confiscations</b>	<i>Detailed rules apply to the powers of entry onto domestic and business premises, the seizure, care, costs of care and disposal (including euthanasia) of aquatic organisms by the police and inspectors.</i>	
<b>Disqualifications</b>	<i>Disqualification from keeping aquatic organisms (of a certain sort, for a specified period or up to all species for life) may result from successful prosecution for either a cruelty or welfare offence. The court, at its discretion may choose not to apply a disqualification order but will be required to explain its decision when the judgement is announced.</i>	
<b>Period during which prosecutions can be brought</b>	<i><b>Cruelty and welfare offences</b> -Up to three years after the last offence – if part of a series of offences then all offences in that series can be prosecuted irrespective of time. Once discovered an offence must be prosecuted within 6 months.</i>	<i><b>Cruelty offences</b> -Up to three years after the last offence if part of a series of offences then all offences in that series can be prosecuted irrespective of time. Once discovered an offence must be prosecuted within 6 months. <b>Welfare offences</b>- Up to six months after the offence was committed.</i>



	<i>England &amp; Wales</i>	<i>Scotland</i>
<b><i>Which aquatic organisms are covered by the Acts?</i></b>	<ul style="list-style-type: none"> <li>• <i>“Protected animals” includes all vertebrates except humans that fall into any of the three categories below:</i> <ul style="list-style-type: none"> <li>○ <i>Commonly domesticated</i></li> <li>○ <i>Under the physical control of man</i></li> <li>○ <i>Not yet living in a wild state (wild animals are excluded)</i></li> </ul> </li> <li>• <i>This could be subject to change by order if evidence emerges that invertebrates, especially octopus, can feel pain</i></li> <li>• <i>Does not apply to traditional angling techniques or to the fishing at sea.</i></li> </ul>	
<b><i>Who is responsible for the care and welfare of aquatic organisms?</i></b>	<p><i>Responsibility always rests with the owner of an animal. Responsibility can apply to those to whom “day to day “care of aquatic organisms is passed for a specific purpose e.g. managers and staff in retail outlets, vets, boarding kennels etc. The owner must take care that those to whom care is delegated are capable of ensuring the welfare of any aquatic organisms concerned.</i></p>	
<b><i>Corporate responsibility</i></b>	<p><i>If an offence is committed “with the consent or connivance attributable to any neglect on the part of any director, manager, secretary or other similar officer or any person purporting to act in such capacity” then he/she as well as the body corporate commits the offence and shall be liable to prosecution. Similar provisions apply to partnerships and membership based organisations</i></p>	
<b><i>Cruelty</i></b>	<p><i>Cruelty can be caused by</i></p> <ul style="list-style-type: none"> <li>• <i>An act or failure to act</i></li> <li>• <i>A responsible person who knew or ought to have reasonably known that an act or failure to act would cause unnecessary suffering.</i></li> </ul> <p style="text-align: center;"><i>In this Act “Suffering” means physical or mental suffering</i></p>	

<p><b>Welfare</b></p>	<p>Both traders and members of the public have a <b>DUTY OF CARE</b> towards aquatic organisms.</p> <p>A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure the needs of an animal for which he is responsible <u>to the extent required by good practice</u> established by codes of practice. The needs of an animal are summarised as:</p> <ul style="list-style-type: none"> <li>• Suitable environment</li> <li>• Suitable diet</li> <li>• To exhibit normal behaviour</li> <li>• To be kept with or apart from other aquatic organisms</li> <li>• To be protected from pain, suffering, injury and disease</li> </ul> <p>In the event of a dispute over the care and welfare of any aquatic organisms not meeting the codes of practice will not automatically in an offence has been committed. If a code has demonstrably been followed then there will be a tendency to assume innocence.</p>	
<p><b>Mutilation</b></p>	<p>Mutilation is the interference with “the sensitive tissue or bone structure of an animal”. This covers just about anything but a list of exemptions is being produced in each administration. Veterinary operations and a whole list of procedures will be exempt from the general ban on mutilations. Removing fish scales for ageing them during fishery management will be an exempted or permitted procedure, removing a scale from a koi to improve its appearance will be regarded as a mutilation, which could lead to prosecution. Much publicity has been given to the issue of tail docking – in Scotland this will be outlawed, indeed it will be an offence to take a dog out of the country, dock its tail and return it to Scotland. In England the tails of some working breeds may on veterinary advice be docked.</p>	
<p><b>Sales</b></p>	<p>No pet aquatic organisms may be sold to anyone who you have reasonable cause to believe is under the age of 16. Pet shop licence conditions will be decided by secondary legislation. Inspections in future should be risk based i.e. poor shops will be more often inspected than good ones. Care sheets will need to be made available. However the exact nature of these (species or group specific) and by what means they will be made available will be decided by secondary legislation.</p>	
<p><b>Aquatic organisms as prizes</b></p>	<p>No aquatic organisms may be awarded as prizes to anyone under 16 unless accompanied by someone over 16.</p>	<p>No aquatic organisms may be offered as prizes except within a family context</p>

***APPENDIX D – Quick overview and Cross Reference of the code to the animal needs***

Needs	Cross references	Key points	General
a) Suitable environment	<p>§ 4.1.1. (i. &amp; ii.)</p> <p>§ 4.1.2, §5.2., App. A &amp; B</p> <p>§ 4.1.3.</p> <p>§ 4.1.5.</p> <p>§ 7.1.1. &amp; § 7.1.2.</p> <p>§ 8.1.3. &amp; § 8.1.4.</p>	<p><i>Suitable light, temperature and chemical composition of water without major fluctuations.</i></p> <p><i>Stocking densities guidelines. Water quality criteria. Water quality should be assessed regularly.</i></p> <p><i>Aquaria checked daily and cleaned as often as necessary.</i></p> <p><i>Care given to aquatic organisms must reflect the climatic conditions.</i></p> <p><i>Packing of aquatic organisms for transport complying with current IATA Live Animal Regulations.</i></p> <p><i>Aquatic organisms should be acclimatised to chemical and water conditions (pH, temperature, ammonia).</i></p>	<p><i>Aquatic organisms should be packed so they can survive 48 hours from time of acceptance by an airline.</i></p>
b) Suitable diet	<p>§4.1.6.</p> <p>§ 8.2.3.</p>	<p><i>Food should be offered to aquatic organisms on a regular basis taking into account the water temperature and the biology of the species concerned.</i></p> <p><i>Normal feeding patterns should be re-established before sale for newly imported aquatic organisms.</i></p>	
c) To be able to exhibit normal behaviour patterns	<p>§ 8.1.5.</p> <p>§ 8.2.3.</p>	<p><i>Physical and behavioural needs of each species should be taken into account when tanking new aquatic organisms.</i></p> <p><i>Normal behaviour and appearance patterns should be re-established before sale for newly imported aquatic organisms.</i></p>	

<p>d) To be housed with, or apart from, other aquatic organisms</p>	<p>§ 9.2.1.</p> <p>§ 9.2.3.</p>	<p><i>Ensure that customer purchases aquatic organisms suitable for the aquarium or pond for which it is intended.</i></p> <p><i>Aquatic organisms which may be aggressive to one another are, as appropriate, packed separately. It may be necessary to prevent these aquatic organisms from having any visual contact.</i></p>	<p><i>Depending on stocking density and other species.</i></p> <p><b>§ 8.2.3. Wholesalers &amp; Retailers</b> <i>Newly imported aquatic organisms should be separated from previously held stock, clearly marked and rested until normal behaviour, appearance and feeding patterns have been re-established before sale.</i></p> <p><b>§ 9.2.1. Retailers</b> <i>Ensure that the customer purchases aquatic organisms suitable for the aquarium or pond for which it is intended.</i></p>
<p>e) To be protected from pain, suffering, injury and disease</p>	<p>§4.1.1.iii</p> <p>§ 4.1.3.</p> <p>§ 4.1.4.</p> <p>§ 5.</p> <p>§ 6.1.</p> <p>§ 6.2.</p> <p>§ 6.4.</p> <p>§ 7.1.7.</p> <p>§ 7.1.10.</p>	<p><i>Visual inspection should be easily carried out and regular.</i></p> <p><i>Regular cleaning and maintenance</i></p> <p><i>Protection from interference by unauthorised people</i></p> <p><i>Disease, treatments, and mortalities record keeping.</i></p> <p><i>A biosecurity plan must be in place.</i></p> <p><i>All reasonable precautions must be taken to prevent the import outbreak and spread of diseases</i></p> <p><i>Appropriate treatments to be given to aquatic organisms showing overt clinical signs of distress, injury or disease.</i></p> <p><i>No aquatic organisms showing overt signs of clinical disease should be dispatched.</i></p> <p><i>Transport shall be completed by means and in circumstances that do not prejudice the well-being of the aquatic organisms.</i></p>	<p><i>Material used in handling aquatic organisms should either be disposed of hygienically or, if they are to be reused, disinfected appropriately.</i></p> <p><b>§ 7.1. Transporters, importers and wholesalers:</b> <i>Aquatic organisms must have priority over all other freight and should be transported by the most expeditious means.</i></p>

	<p>§8.1.1. &amp; §8.1.2.</p> <p>§9.2.3., 9.2.4., 9.2.5., 9.2.6., 9.2.7., &amp;9.2.8.</p> <p>§ 9.3.</p>	<p><i>Unpacking done promptly and carefully with trained staff.</i></p> <p><i>Sale regulation, advice and after sale.</i></p> <p><i>Internet sales</i></p>	<p>§ 7.2. <b>Wholesalers:</b> <i>Overland transport</i></p> <p>§8.3. <i>Responsibilities of retailer buying from wholesaler.</i></p> <p>§ 9.1. <b>Retailers:</b> <i>Aquatic organisms sold in good health without obvious significant abnormalities, and should be caught in such a way as to reduce the stress induced and ensure no physical damage occurs to the animal.</i></p>
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