



# Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 2003 asp 15

## PART 5

### ENFORCEMENT

VALID FROM 01/04/2005

#### *Powers of constables and water bailiffs*

#### **52 Grant of warrant to search premises or vehicles**

- (1) Any sheriff or justice of the peace, upon information on oath that there is probable cause to suspect that—
  - (a) a breach of any of the provisions of this Act has been committed; or
  - (b) any salmon or trout illegally taken, or any illegal nets or other engines or instruments are concealed,on any premises or in any vehicle, may by warrant under the hand of such sheriff or justice authorize and empower any constable or water bailiff to enter such premises or vehicle, if necessary by force, for the purpose of detecting such offence, or such concealed fish or instruments, and to seize all illegal nets, engines or other instruments, or any salmon or trout illegally taken, that may be found on such premises or in such vehicle.
- (2) A warrant granted under this section—
  - (a) may specify the time or times in the day or night at which it may be exercised; and
  - (b) shall not continue in force for more than one week from the date on which it is granted.
- (3) A person authorised by a warrant issued under subsection (1) above to search any premises or any vehicle may search every person who is found in, or whom the

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person so authorised has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, as the case may be.

- (4) No person shall in pursuance of any search authorised by this section be searched except by a person of the same sex.
- (5) This section is subject to section 56 of this Act.

### **53 Powers of constables**

- (1) A constable who has reasonable grounds for suspecting that an offence against any of the provisions of this Act has been committed, and that evidence of the commission of the offence is to be found in any vehicle, but who considers that by reason of urgency or other good cause it is impracticable to apply for a warrant to search such vehicle, may stop and search that vehicle and any person who is found in, or whom there are reasonable grounds to believe to have recently left or to be about to enter the vehicle.
- (2) A constable who has reasonable grounds for suspecting that an offence against any of the provisions of this Act is being committed and that evidence of the commission of the offence is to be found in any premises (other than a dwelling house or any yard, garden, outhouses and pertinents belonging thereto or usually enjoyed therewith) but who considers that by reason of urgency or other good cause it is impracticable to apply for a warrant to search such premises, may search them without warrant.
- (3) Any constable may exercise any of the powers conferred on a water bailiff by section 55 of this Act.
- (4) No person shall in pursuance of any search authorised by this section be searched except by a person of the same sex.
- (5) This section is subject to section 56 of this Act.

### **54 Powers of constables and water bailiffs to enter land**

- (1) Any constable or water bailiff may enter and remain upon any land in the vicinity of any river or of the sea coast during any hour of the day or night for the purpose—
  - (a) of preventing a breach of the provisions of this Act; or
  - (b) of detecting persons guilty of any breach of those provisions.
- (2) This section is subject to section 56 of this Act.

### **55 Powers of water bailiffs**

- (1) Any water bailiff appointed by a district salmon fishery board may do within the district of that board all or any of the following things—
  - (a) examine any dam, fixed engine or obstruction, or any lade, and for that purpose enter on any land;
  - (b) stop and search any boat which is used in fishing or any boat which there is reasonable cause to suspect of containing salmon or trout;
  - (c) search and examine nets or other instruments used in fishing or any basket, pocket or other receptacle capable of carrying fish, which there is reasonable cause to suspect of containing salmon or trout illegally taken;

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- (d) seize any fish, instrument or article, boat or vehicle liable to be forfeited in pursuance of this Act.
- (2) A water bailiff appointed by a district salmon fishery board who has reasonable grounds for suspecting that an offence against any of the provisions of this Act has been committed and that evidence of the commission of the offence is to be found in any vehicle on any private land adjoining any water within the district of the district salmon fishery board by which that bailiff was appointed or any adjoining district or in any stationary vehicle on a road within the meaning of the Roads (Scotland) Act 1984 (c. 54) adjoining such water or such land, may search that vehicle.
- (3) Any water bailiff appointed by a district salmon fishery board may exercise in any district adjoining that of the board by which that bailiff was appointed any power which that bailiff may lawfully exercise in the district of such board.
- (4) The production by a water bailiff of the instrument of appointment purporting to be signed on behalf of the district salmon fishery board by which that bailiff was appointed, or of any badge or other device indicating such appointment and purporting to be issued by such board, shall be a sufficient warrant for the exercise of any power conferred on such water bailiff by or in pursuance of this Act.
- (5) The Scottish Ministers may appoint persons as water bailiffs, and any person so appointed may exercise any of the powers conferred by this Act on water bailiffs appointed by a district salmon fishery board, but only in relation to such district or part of a district as may be specified in the instrument of appointment; and the production of the instrument of appointment purporting to be signed by or on behalf of the Scottish Ministers shall be a sufficient warrant for the exercise of any such power.
- (6) It shall be lawful for a water bailiff, without any warrant or other authority than this Act, to seize and detain any person found committing an offence against any provision of this Act and to deliver such person to a constable.
- (7) For the purposes of this section and section 54 of this Act “land” includes land covered by water, but does not include a dwelling house or any yard, garden, outhouses and pertinents belonging thereto or usually enjoyed therewith.
- (8) This section is subject to section 56 of this Act.

**56 General enforcement provisions not to apply in relation to protection orders**

Without prejudice to any other enactment or rule of law, sections 52, 53, 54, 55 and 60 of this Act shall not apply in relation to the enforcement of protection orders made under section 48 of this Act.

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