



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

2003 asp 15

## PART 5

### ENFORCEMENT

#### *Powers of court*

#### **59 Power of court in trial for an offence to convict of another**

If, upon a trial for an offence under section 9, 16 or 20 of this Act, or any rule of law relating to reset, the court is satisfied that the accused is—

- (a) not guilty of the offence charged; but
- (b) guilty of another of those offences,

it may acquit the accused of the offence charged but find the accused guilty of the other offence and the accused shall then be liable to the punishment for that other offence.

#### **Commencement Information**

**II** [S. 59](#) in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

#### **60 Forfeiture**

(1) Any person who is convicted of an offence against any of the provisions of this Act shall be liable to the forfeiture of—

- (a) any fish illegally taken by that person or in that person's possession at the time of the offence;
- (b) any instrument or article by which the offence was committed;
- (c) any vehicle or boat used by that person to assist in the commission of the offence.

(2) Subject to subsection (3) below, anything forfeited under this section shall be disposed of as the court may direct.

*Status: Point in time view as at 01/04/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Cross Heading: Powers of court. (See end of Document for details)*

- (3) Any fish seized under this section as liable to forfeiture may be sold by the person seizing it, and the net proceeds of the sale shall be liable to forfeiture in the same manner as the fish sold.
- (4) No person shall be subject to any liability on account of any neglect or failure to exercise the powers conferred by this section.
- (5) This section is subject to section 56 of this Act.

#### Commencement Information

**I2** [S. 60](#) in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

### 61 Defences

- (1) Subsection (2) applies where in accordance with a provision mentioned in subsection (3) it is a defence for a person charged with an offence to prove a particular matter.
- (2) If the person adduces evidence which is sufficient to raise an issue with respect to the matter the court or jury shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (3) The provisions in respect of which subsection (2) applies are sections 16, 19, 20 and 30 of this Act.

#### Commencement Information

**I3** [S. 61](#) in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

### 62 Jurisdiction in respect of offences committed on sea coast or at sea

Any offence committed under this Act on the sea coast, or at sea beyond the ordinary jurisdiction of any sheriff or justices of the peace, shall be held to have been committed within the body of any sheriffdom abutting on such sea coast, or adjoining such sea, and may be tried and punished accordingly.

#### Commencement Information

**I4** [S. 62](#) in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

### 63 Disqualification of justices

No justice of the peace shall be entitled to hear any case in respect of an offence committed on that justice's own fishery.

#### Commencement Information

**I5** [S. 63](#) in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

**Status:**

Point in time view as at 01/04/2005.

**Changes to legislation:**

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Cross Heading: Powers of court.