



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

2003 asp 15

## PART 6

### MISCELLANEOUS

#### 64 Power of Scottish Ministers to conduct inquiries and to obtain information

- (1) For the purpose of protecting and developing stocks of salmon and trout the Scottish Ministers may—
- [<sup>F1</sup>(za) require a person having rights in a salmon fishery or freshwater fishery to provide the Scottish Ministers with such information relating to the fishery as they may reasonably request;]
  - (a) conduct inquiries and investigations into questions of practical or scientific importance to salmon and freshwater fisheries, and for such purpose enter on and conduct such operations as may be necessary in any fishery<sup>F2</sup>...
  - [<sup>F3</sup>(b) to make orders requiring any proprietor or occupier of a salmon fishery to furnish them with such statistics relating to salmon or to fishing for salmon as they may specify, in such form and at such times as they may specify; and they may make different provision for different cases, including different provision in relation to different persons, circumstances or areas; and]
  - (c) publish such statistics in such manner as they think fit.
- (2) [<sup>F4</sup>Any person having rights in a salmon fishery or freshwater fishery] who wilfully refuses to comply with any requirement made in pursuance of this section, or makes any statement in relation to such a requirement which is false in a material particular, shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- [<sup>F5</sup>(3) In this section, a “person having rights in a salmon fishery or freshwater fishery” means—
- (a) a proprietor of a salmon fishery;
  - (b) an occupier of such a fishery;
  - (c) an owner of land to which a right of fishing for freshwater fish pertains; or
  - (d) an occupier of such a right.]

**Changes to legislation:** There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Part 6. (See end of Document for details)

[<sup>F6</sup>(3) The power under this section to make orders shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Annotations:

##### Amendments (Textual)

- F1** S. 64(1)(za) inserted (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), **ss. 28(2)(a)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F2** Words in s. 64(1)(a) repealed (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), **ss. 28(2)(b)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F3** S. 64(1)(b) substituted (1.4.2005) by 1989 (c.15), s. 141, Sch. 17 para. 4(a) (as amended by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), s. 71(2), **Sch. 4 para. 3** (with s. 71(3)(4)(6))); S.S.I. 2005/174, art. 2
- F4** Words in s. 64(2) substituted (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), **ss. 28(3)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F5** S. 64(3) inserted (16.9.2013) by Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), **ss. 28(4)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F6** S. 64(3) added (1.4.2005) by 1989 (c.15), s. 141, Sch. 17 para. 4(b) (as amended by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), s. 71(2), **Sch. 4 para. 3** (with s. 71(3)(4)(6))); S.S.I. 2005/174, art. 2

##### Commencement Information

- I1** S. 64 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

#### [<sup>F7</sup>64A Powers in relation to salmon and freshwater fisheries: sampling, etc.

- (1) A person authorised by the Scottish Ministers (an “authorised person”) may—
- (a) for a purpose mentioned in subsection (2)(a) or (b) below, require a person having rights in a salmon fishery or freshwater fishery—
    - (i) to permit the authorised person to take and retain fish from the fishery,
    - (ii) to permit the authorised person to take samples of material from fish in the fishery,
    - (iii) to provide the authorised person with fish, or samples of material from fish, in the fishery,
  - (b) for a purpose mentioned in subsection (2)(c) below, affix a tag of such type and in such a way as the Scottish Ministers consider appropriate to any fish taken from a salmon fishery or freshwater fishery,
  - (c) for a purpose mentioned in subsection (2)(d) below, enter on a salmon fishery or freshwater fishery.
- (2) The purposes referred to in subsection (1) above are—
- (a) carrying out analysis of the fish or samples by any method that the Scottish Ministers consider appropriate,
  - (b) ascertaining whether an offence has been committed under section 33A of this Act,
  - (c) tracking or monitoring the fish,
  - (d) exercising the powers mentioned in paragraphs (a) and (b) of subsection (1) above, or tracking or monitoring fish tagged under paragraph (b) of that subsection.

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**Changes to legislation:** There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Part 6. (See end of Document for details)

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- (3) An authorised person seeking to exercise a power mentioned in subsection (1) above must, if requested, produce evidence of identity and authorisation.
- (4) A person having rights in a salmon fishery or freshwater fishery commits an offence if the person—
  - (a) fails or wilfully refuses to comply with a requirement under paragraph (a) of subsection (1) above, or
  - (b) obstructs an authorised person in the exercise of any of the powers under paragraph (b) or (c) of that subsection.
- (5) It is a defence for a person charged with an offence under subsection (4)(a) above to show that the person had a reasonable excuse for failing or refusing to comply with a requirement as mentioned in that subsection.
- (6) A person who commits an offence—
  - (a) under subsection (4)(a) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale,
  - (b) under subsection (4)(b) above is liable on summary conviction—
    - (i) to a fine not exceeding level 3 on the standard scale,
    - (ii) to imprisonment for a term not exceeding 3 months, or
    - (iii) to both such fine and such imprisonment.
- (7) In this section, references to a person having rights in a salmon fishery or freshwater fishery are to be construed in accordance with section 64(3) of this Act.]

**Annotations:**

**Amendments (Textual)**

- F7** S. 64A inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), ss. 27(2), 66(2) (with s. 65); S.S.I. 2013/249, art. 2

## **65 Additional powers in respect of licensing and regulation of salmon dealing**

- (1) Without prejudice to the generality of section 44 of the Civic Government (Scotland) Act 1982 (c. 45) (power to designate additional activities as subject to licensing and regulation) an order as respects dealing in salmon made under that section may—
  - (a) define dealing in salmon and so define it as to—
    - (i) include such acts preparatory to or connected with dealing in salmon;
    - (ii) exclude dealing in such class or classes of salmon,as may be specified in the order;
  - (b) provide that the offence under section 7(1) of that Act (doing anything for which a licence is required without having one) shall be punishable—
    - (i) on summary conviction, by imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum or both;
    - (ii) on conviction on indictment, by imprisonment for a term not exceeding two years, or a fine or both;
  - (c) provide that it shall be an offence for any person, other than a person holding a salmon dealer's licence, to buy salmon from or sell salmon to a person not having such a licence;

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- (d) provide that the offences under the said section 7(1) and any provision under paragraph (c) above shall be subject to such exceptions as may be specified in the order;
  - (e) provide that a licence shall be required only for such class or classes of dealing in salmon and dealing in such class or classes of salmon as may be specified in the order;
  - (f) provide as to the exercise of powers of entry and search by water bailiffs, but not so as to enable these powers to be exercised in any dwelling house or any yard, garden, outhouses and pertinents belonging thereto or usually enjoyed therewith.
- (2) The Scottish Ministers shall have power by order to prescribe the fees, or the maximum amounts of the fees, which the licensing authority may determine and charge under sub-paragraph (1) of paragraph 15 of Schedule 1 to the said Act of 1982 in respect of the licensing of dealing in salmon; and in that respect the licensing authority's powers under that paragraph shall be subject to the provisions of any such order.

**Annotations:**

**Commencement Information**

**I2** S. 65 in force at 1.4.2005 by [S.S.I. 2005/174](#), **art. 2**

**66 Application of Leases Act 1449**

- (1) Notwithstanding any rule of law to the contrary, any contract entered into in writing for a consideration and for a period of not less than a year whereby an owner of land to which a right of fishing for freshwater fish in any inland waters pertains or the occupier of such a right authorises another person to so fish shall be deemed to be a lease to which the Leases Act 1449 (c. 6) applies, and the right of fishing so authorised shall, for the purposes of succession to that right, be deemed to be heritable property.
- (2) For the purposes of this section “inland waters” does not include the tidal parts of rivers.

**Annotations:**

**Commencement Information**

**I3** S. 66 in force at 1.4.2005 by [S.S.I. 2005/174](#), **art. 2**

**Changes to legislation:**

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Part 6.