



# Aquaculture and Fisheries (Scotland) Act 2013

2013 asp 7

## PART 2

### SALMON FISHERIES, ETC.

#### *Management*

#### **27 Powers to take fish or samples for analysis, etc.**

- (1) The Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 is amended in accordance with this section.
- (2) After section 64 insert—

#### **“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—

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**Changes to legislation:** There are currently no known outstanding effects for the Aquaculture and Fisheries (Scotland) Act 2013, Section 27. (See end of Document for details)

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- (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.
- (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.”.

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**Commencement Information**

**II** S. 27 in force at 16.9.2013 by S.S.I. 2013/249, art. 2

**Changes to legislation:**

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