



# Salmon and Freshwater Fisheries Act 1975

## 1975 CHAPTER 51

### PART V

#### ADMINISTRATION AND ENFORCEMENT

##### *Powers of water bailiffs etc.*

#### **31 Powers of search etc.**

- (1) Any [<sup>F1</sup>water bailiff appointed by the appropriate agency and] any person appointed by the Minister—
- (a) may examine any dam, fishing weir, fishing mill dam, fixed engine or obstruction, or any artificial watercourse, and for that purpose enter on any land;
  - (b) may examine any instrument or bait which he has reasonable cause to suspect of having been or being used or likely to be used in taking fish <sup>F2</sup>... or any container which he has reasonable cause to suspect of having been or being used or likely to be used for holding any such instrument, bait or fish;
  - (c) may stop and search any boat or other vessel used in [<sup>F3</sup>fishing in the appropriate agency's area] or any vessel or vehicle which he has reasonable cause to suspect of containing—
    - (i) fish <sup>F4</sup> ...;
    - (ii) any such instrument, bait or container as aforesaid;
  - (d) may seize any fish [<sup>F5</sup> (or a sample of any fish) ] and any instrument, vessel, vehicle or other thing liable to be forfeited in pursuance of this Act.
  - [<sup>F6</sup>(e) may disable or destroy any dam, fishing weir, fishing mill dam or fixed engine which he has reasonable cause to suspect of having operated or been used, or of being likely to be used, in contravention of this Act.]
- (2) If any person refuses to allow a water bailiff or a person appointed by the Minister to make any entry, search or examination which he is by this section authorised to make, or to seize anything which he is so authorised to seize, or resists or obstructs a water

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bailiff or person so appointed in any such entry, search, examination or seizure, he shall be guilty of an offence.

#### Textual Amendments

- F1** Words in s. 31(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 143(2)** (with Sch. 7)
- F2** Words in s. 31(1)(b) repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 220(2)(a), 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. paras. 12, 27(b)
- F3** Words in s. 31(1)(c) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 143(3)** (with Sch. 7)
- F4** Words in s. 31(1)(c)(i) repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 220(2)(b), 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. paras. 12, 27(b)
- F5** Words in s. 31(1)(d) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 220(2)(c), 324(3); S.I. 2009/3345, art. 2, Sch. para. 12
- F6** S. 31(1)(e) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 220(2)(d), 324(3); S.I. 2009/3345, art. 2, Sch. para. 12

#### Modifications etc. (not altering text)

- C1** S. 31(1) extended (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(1)** (with art. 2)
- C2** By [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), ss. 32(6)(a), 43(4) it is provided that s. 31(1)(b)(c) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))
- C3** S. 31(2) excluded (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(9)** (with art. 2); S.I. 1998/3178, **art. 3**

### 32 Power to enter lands.

- (1) Subject to <sup>F7</sup>subsections (1A) and] (2) below,—
- (a) any water bailiff or other officer of <sup>F8</sup>the appropriate agency, under a special order in writing from that agency, and]
- (b) any person appointed by the Minister, under an order in writing from him, may at all reasonable times, for the purpose of preventing any offence against this Act, enter, remain upon and traverse any lands adjoining or near to <sup>F9</sup>waters within a water authority area]<sup>F9</sup>any waters] other than—
- (i) a dwelling-house or the curtilage of a dwelling-house, <sup>F10</sup>...
- <sup>F10</sup>(ii) .....

<sup>F11</sup>(1A) The appropriate agency may make an order under subsection (1)(a) for the purpose of preventing any offence being committed in its area.]

- (2) An order under subsection (1) above shall not remain in force for more than 12 months.

#### Textual Amendments

- F7** Words in s. 32(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 144(2)(a)** (with Sch. 7)
- F8** Words in s. 32(1)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 144(2)(b)** (with Sch. 7)
- F9** Words “any waters” substituted for “waters within a water authority area” (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 141, **Sch. 17 para. 7(1)(8)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

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- F10** S. 32(1)(ii) repealed (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 220(3), 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. paras. 12, 27(b)
- F11** S. 32(1A) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 144(3)** (with Sch. 7)

**Modifications etc. (not altering text)**

- C4** S. 32 extended (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(1)** (with art. 2); S.I. 1998/3178, **art. 3**

### 33 Orders and warrants to enter suspected premises.

- (1) Where from a statement on oath of a water bailiff or any other [<sup>F12</sup>officer of the appropriate agency, or any person] appointed by the Minister, it appears to any justice of the peace that the person making the statement has good reason to suspect that any offence against this Act is being or is likely to be committed on any land situate on or near to any waters, the justice may by order under his hand authorise him, during a period not exceeding 24 hours to be specified in the order, to enter upon and remain on the land during any hours of the day or night for the purpose of detecting the persons committing the offence.
- (2) Any justice of the peace upon an information on oath that there is probable cause to suspect any offence against this Act to have been committed on any premises, or [<sup>F13</sup>or an offence against this Act to have been committed in the taking of any fish ], or any illegal nets or other instruments to be on any premises, by warrant under his hand and seal may authorise any water bailiff or other [<sup>F14</sup>officer of the appropriate agency, or any person] appointed by the Minister, or any constable, to enter the premises for the purposes of detecting the offence or the fish, nets or other instruments, at such times of the day or night as are mentioned in the warrant, and to
- [<sup>F15</sup>(a) seize any illegal net or other instrument, or any net or other instrument suspected to have been illegally used, that may be found on the premises;
- (b) seize any fish suspected to have been illegally taken or sold that may be found on the premises; or
- (c) disable or destroy any dam, fishing weir, fishing mill dam or fixed engine suspected to have operated or been used illegally that may be found on the premises.]
- (3) A warrant under subsection (2) above shall not continue in force for more than [<sup>F16</sup>three months ].

#### Textual Amendments

- F12** Words in s. 33(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 145** (with Sch. 7)
- F13** Words in s. 33(2) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 12**; S.I. 2009/3345, art. 2, Sch. para. 15(d)
- F14** Words in s. 33(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 145** (with Sch. 7)
- F15** S. 33(2)(a)-(c) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 220(4), 324(3)**; S.I. 2009/3345, art. 2, Sch. para. 12
- F16** Words in s. 33(3) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 220(5), 324(3)**; S.I. 2009/3345, art. 2, Sch. para. 12

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**Modifications etc. (not altering text)**

- C5** S. 33 extended (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(1)** (with **art. 2**); S.I. 1998/3178, **art. 3**
- C6** By **Salmon Act 1986 (c. 62, SIF 52:2)**, **ss. 32(6)(b)**, 43(4) it is provided that s. 33(2) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

**34 Power to apprehend persons fishing illegally** <sup>F17</sup> ....

If any person, <sup>F18</sup> ..., [<sup>F19</sup> takes or kills any fish where the taking or killing constitutes an offence under this Act, or is found on or near any waters with intent to take or kill any fish where the taking or killing would constitute an offence under this Act, or having an instrument prohibited by this Act in his possession for the capture of any fish, where the capture would constitute an offence under this Act ], a water bailiff or a person appointed by the Minister, with any assistants, may seize him without warrant and put him as soon as may be into the custody of a police officer.

**Textual Amendments**

- F17** Words in heading repealed (12.1.2010) by **Marine and Coastal Access Act 2009 (c. 23)**, ss. 220(6)(a), 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. paras. 12, 27(b)
- F18** Words in s. 34 repealed (12.1.2010) by **Marine and Coastal Access Act 2009 (c. 23)**, ss. 220(6)(b), 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. paras. 12, 27(b)
- F19** Words in s. 34 substituted (12.1.2010) by **Marine and Coastal Access Act 2009 (c. 23)**, s. 324(3), **Sch. 16 para. 13**; S.I. 2009/3345, art. 2, Sch. para. 15(d)

**Modifications etc. (not altering text)**

- C7** S. 34 extended (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(1)** (with **art. 2**); S.I. 1998/3178, **art. 3**

**35 Power to require production of fishing licences.**

- (1) [<sup>F20</sup>A water bailiff or other officer of the agency, or any constable], may require any person who is fishing, or whom he reasonably suspects of [<sup>F21</sup>intending to ] fish or [<sup>F22</sup>of having recently ] fished [<sup>F23</sup>in a water authority area][<sup>F23</sup>in any area],[<sup>F24</sup>in circumstances where the fishing would require a licence or authorisation under this Act or a licence under section 16 of the Wildlife and Countryside Act 1981, ] to produce his licence or other authority to fish and to state his name and address.
- [<sup>F25</sup>(1A) Without prejudice to subsection (1) above, a water bailiff or other officer of the [<sup>F26</sup>appropriate agency] who on any occasion finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, within the meaning of section 37A below, may require that person to state his name and address.]
- <sup>F27</sup>(2) .....
- (3) If any person required to produce his fishing licence or other authority or to state his name and address fails to do so, he shall be guilty of an offence; but if within seven days after the production of his licence was so required he produces the licence or other authority at [<sup>F28</sup>the office of the water authority][<sup>F28</sup>the appropriate office of [<sup>F29</sup>the [<sup>F26</sup>appropriate agency]]] he shall not be convicted of an offence under this section for failing to produce it.

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[<sup>F30</sup>(4) In subsection (3) above, “ the appropriate office of the [<sup>F26</sup>appropriate agency] ” means

- (a) in a case where the person requiring the production of the licence or other authority specifies a particular office of the [<sup>F26</sup>appropriate agency] for its production, that office; and
- (b) in any other case, any office of the [<sup>F26</sup>appropriate agency];

and for the purposes of that subsection where a licence or other authority which any person has been required to produce is sent by post to an office of the [<sup>F26</sup>appropriate agency] that licence or other authority shall be treated as produced by that person at that office.]

#### Textual Amendments

- F20** Words in s. 35(1) substituted (1.4.1996) by 1995 c. 25, s. 104(2) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F21** Words in s. 35(1) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 220(7)(a), 324(3); S.I. 2009/3345, art. 2, Sch. para. 12
- F22** Words in s. 35(1) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 220(7)(b), 324(3); S.I. 2009/3345, art. 2, Sch. para. 12
- F23** Words “in any area” substituted for “in a water authority area” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(9)(a) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F24** Words in s. 35(1) inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 220(7)(c), 324(3); S.I. 2009/3345, art. 2, Sch. para. 12
- F25** S. 35(1A) inserted (1.4.1996) by 1995 c. 25, s. 104(3) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F26** Words in s. 35 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), Sch. 2 para. 146 (with Sch. 7)
- F27** S. 35(2) repealed (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 220(8), 324(3), Sch. 22 Pt. 5(B); S.I. 2009/3345, art. 2, Sch. paras. 12, 27(b)
- F28** Words “the appropriate office of the National Rivers Authority” substituted for “the office of the water authority” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(9)(c) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F29** Words in s. 35(3) substituted (1.4.1996) by 1995 c. 25, s. 105, Sch. 15 para. 18(1) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F30** S. 35(4) substituted (1.4.1996) by 1995 c. 25, s. 105, Sch. 15 para. 18(2) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

#### Modifications etc. (not altering text)

- C8** S. 35 excluded (30.6.1999) by S.I. 1999/1746, arts. 1(1), 8(9) (with art. 2); S.I. 1998/3178, art. 3

### 36 Provisions supplementary to sections 31 to 35.

- (1) A water bailiff and a person appointed by the Minister shall be deemed to be a constable for the purpose of the enforcement of this Act, or any order or byelaw under it, and to have all the same powers and privileges, and be subject to the same liabilities as a constable duly appointed has or is subject to by virtue of the common law or of any statute.

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- (2) The production by a water bailiff or a person appointed by the Minister of evidence of his appointment shall be a sufficient warrant for him exercising the powers conferred on him by this Act.
- (3) A police constable whose services are provided under paragraph 39(1)(c) of Schedule 3 below shall have all the powers and privileges of a water bailiff.

**Modifications etc. (not altering text)**

**C9** S. 36 extended (30.6.1999) by S.I. 1999/1746, arts. 1(1), 8(1) (with art. 2); S.I. 1998/3178, art. 3

**C10** By Salmon Act 1986 (c. 62, SIF 52:2), ss. 32(6)(b), 43(4) it is provided that s. 36(1) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

**Changes to legislation:**

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975, Cross Heading: Powers of water bailiffs etc..