



Sea Fisheries (Shellfish) Act 1967

1967 CHAPTER 83

Fisheries for shellfish

1 Power to make orders as to fisheries for shellfish.

- (1) Subject to the provisions of this section, the appropriate Minister may, on an application made to him in accordance with subsection (2) of this section, by order provide for the establishment or improvement, and for the maintenance and regulation, of a fishery for [^{F1} shellfish of any kind specified in the order], on any portion of the shore and bed of the sea, or of an estuary or tidal river, above or below, or partly above and partly below, low water mark and within [^{F2}waters adjacent to [^{F3}England and Wales] to a distance of six nautical miles measured from the baselines from which the breadth of the territorial sea is measured] (which shore and bed are in this Act referred to as “the sea shore”) and, if desirable, for the constitution of a board or body corporate for the purposes of the order.
- [^{F4}(1A) Subsection (1) above has effect in relation to Scotland, with the modification that for “waters adjacent to England and Wales to” there is substituted “that part of the Scottish zone within”.]
- (2) An application for an order under this section shall be made in such form and manner as may be prescribed by regulations made by the appropriate Minister; and the provisions of Schedule 1 to this Act shall have effect in relation to the making of orders under this section.
- [^{F5}(2A) In relation to applications to the Welsh Ministers, subsection (2) has effect as if for “prescribed by regulations made by the appropriate Minister” there were substituted “specified by the Welsh Ministers” .
- (2B) The Welsh Ministers may require a person who applies to them for an order under this section to provide them with such further information as they think necessary to enable them to determine the application.]
- (3) An order under this section may confer on such persons as may be specified in the order—

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- (a) a right of several fishery with respect to the whole of the area of the fishery to which the order relates, or
- (b) a right of regulating a fishery with respect to the whole of that area, or
- (c) a right of several fishery with respect to such part of that area as may be specified by or under the order and a right of regulating a fishery with respect to the remainder,

but shall not confer either right for a longer period at one time than sixty years.

^{F6}(4)

- (5) No order under this section shall take away or abridge any right of several fishery or any right on, to or over any portion of the sea shore, being a right enjoyed by any person under any local or special Act of Parliament or any Royal charter, letters patent, prescription, or immemorial usage, except with the consent of that person.
- (6) [^{F7}Any order made under this section may be varied or revoked by a subsequent order made under this section.
- (7) Subject to subsection (8) below, subsections (1) to (5) above shall apply in relation to any such subsequent order and to an application for such an order as they apply in relation to an original order made under this section and to an application for such an order.
- (8) Subsection (7) above does not apply in the case of any order made by virtue of subsection (10) below [^{F8}or by virtue of section 5E of this Act].
- (9) Subsection (10) below applies in any case where it appears to the appropriate Minister that—
 - (a) permission has been granted for the carrying out of any development in, on or over any portion of the sea shore to which an order made under this section relates (the “affected area”), and
 - (b) as a result of the development, it will be impossible or impracticable to exercise any right of several fishery or of regulating a fishery conferred by the order in the affected area.
- (10) In any such case, the appropriate Minister may—
 - (a) vary the order so that the area to which the order relates no longer includes the affected area, or
 - (b) if the affected area comprises the whole or the greater part of the area to which the order relates, revoke the order.
- (11) The provision that may be made by an order made by virtue of subsection (10) above includes—
 - (a) provision requiring the owners of the affected area to pay compensation to any persons who, at the time of the making of the order, are entitled to a right of several fishery in any part of the affected area by virtue of an order under this section;
 - (b) provision for the amount of any such compensation to be specified in, or determined in accordance with provision made by, the order (including provision for or in connection with the appointment of a person to make any such determination).
- (12) Before making an order by virtue of subsection (10) above, the appropriate Minister must consult—

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- (a) any persons who are entitled to a right of several fishery or a right of regulating a fishery in any part of the affected area by virtue of an order under this section, and
 - (b) the owners or reputed owners, lessees or reputed lessees and occupiers, if any, of the affected area.
- (13) The appropriate Minister may require the owners of the affected area to provide him with such information relating to the development as he may reasonably require for the purpose of deciding whether to make an order by virtue of subsection (10) above.
- (14) In this section “ development ” has the same meaning as in the Town and Country Planning Act 1990.]
- [^{F9}(14A) Subsection (14) above has effect in relation to Scotland as if the reference to the Town and Country Planning Act 1990 were a reference to section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8).]

Textual Amendments

- F1** Words in s. 1(1) substituted (12.1.2010 for E.W. and 16.9.2013 for S.) by [Marine and Coastal Access Act 2009 \(c. 23\)](#) , **ss. 202(2)** , [324\(3\)](#) ; [S.I. 2009/3345](#) , [art. 2](#) , [Sch. para. 9](#); [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#) , [ss. 55\(1\)](#) , [66\(2\)](#) (with s. 65); [S.S.I. 2013/249](#) , [art. 2](#)
- F2** Words substituted by [Fishery Limits Act 1976 \(c. 86\)](#) , **Sch. 2 para. 15**
- F3** Words in s. 1(1) substituted (1.7.1999) by [S.I. 1999/1820](#) , [art. 4](#) , **Sch. 2 Pt. I para. 42(2)(a)** ; [S.I. 1998/3178](#) , **art. 3**
- F4** S. 1(1A) inserted (1.7.1999) by [S.I. 1999/1820](#) , [art. 4](#) , **Sch. 2 Pt. I para. 42(2)(b)** ; [S.I. 1998/3178](#) , **art. 3**
- F5** S. 1(2A)(2B) inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#) , **ss. 71(1)** , [88\(2\)\(c\)](#) (with s. [71\(2\)](#))
- F6** S. 1(4) repealed (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#) , [ss. 202\(3\)](#) , [324\(3\)](#) , **Sch. 22 Pts. 5(A)** ; [S.I. 2009/3345](#) , [art. 2](#) , [Sch. para. 9](#)[Sch. para. 27\(b\)](#) and s. 1(4) repealed (S.) (24.2.2011) by [Marine \(Scotland\) Act \(asp 5\)](#) , [ss. 160\(1\)](#) , [168\(1\)](#) (with s. 162); [S.S.I. 2011/58](#) , [art. 2\(a\)](#)
- F7** S. 1(6) substituted for s. 1(6)-(14) (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#) , **ss. 203** , [324\(3\)](#) ; [S.I. 2009/3345](#) , [art. 2](#) , [Sch. para. 9](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#) , [ss. 160\(2\)](#) , [168\(1\)](#) (with s. 162); [S.S.I. 2011/58](#) , [art. 2\(a\)](#)
- F8** Words in s. 1(8) inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#) , **ss. 74(3)** , [88\(2\)\(c\)](#)
- F9** S. 1(14A) inserted (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#) , **ss. 161(2)** , [168\(1\)](#) (with s. 162); [S.S.I. 2011/58](#) , [art. 2\(a\)](#) (with [art. 4](#))

Modifications etc. (not altering text)

- C1** S. 1 amended by [Sea Fisheries Act 1968 \(c. 77\)](#) , **s. 15(1)(3)-(5)**
- C2** S. 1(1) extended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#) , **s. 34 (a)**

Changes to legislation:

There are currently no known outstanding effects for the Sea Fisheries (Shellfish) Act 1967, Section 1.