



# Salmon and Freshwater Fisheries Act 1975

## 1975 CHAPTER 51

### PART I

#### PROHIBITION OF CERTAIN MODES OF TAKING OR DESTROYING FISH, ETC.

#### 1 Prohibited implements.

- (1) Subject to subsection (4) below, no person shall—
- (a) use any of the following instruments, that is to say—
    - (i) a firearm within the meaning of the <sup>M1</sup>Firearms Act 1968;
    - (ii) an otter lath or jack, wire or snare;
    - (iii) a crossline or setline;
    - (iv) a spear, gaff, stroke-haul, snatch or other like instrument;
    - (v) a light;for the purpose of taking or killing salmon, trout or freshwater fish;
  - (b) have in his possession any instrument mentioned in paragraph (a) above intending to use it to take or kill salmon, trout or freshwater fish; or
  - (c) throw or discharge any stone or other missile for the purpose of taking or killing, or facilitating the taking or killing of any salmon, trout or freshwater fish.
- (2) If any person contravenes this section, he shall be guilty of an offence unless he proves to the satisfaction of the court that the act was done for the purpose of the preservation or development of a private fishery and with the previous permission in writing of the water authority [<sup>F1</sup>for the area in which the act was done].
- (3) In this section—
- “crossline” means a fishing line reaching from bank to bank across water and having attached to it one or more lures or baited hooks;
  - “otter lath or jack” includes any small boat or vessel, board, stick or other instrument, whether used with a hand line, or as auxiliary to a rod and line, or otherwise for the purpose of running out lures, artificial or otherwise;

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“setline” means a fishing line left unattended in water and having attached to it one or more lures or baited hooks;

“stroke-haul or snatch” includes any instrument or device, whether used with a rod and line or otherwise, for the purpose of foul hooking any fish.

- (4) This section shall not apply to any person using a gaff (consisting of a plain metal hook without a barb) or tailer as auxiliary to angling with a rod and line or having such a gaff or a tailer in his possession intending to use it as aforesaid.

#### **Textual Amendments**

- F1** Words repealed (E.W.) by *Water Act 1989 (c. 15, SIF 130)*, s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)

#### **Marginal Citations**

- M1** 1968 c. 27.

## **2 Roe, spawning and unclean fish, etc.**

- (1) Subject to subsection (5) below, any person who, for the purpose of fishing for salmon, trout or freshwater fish—
- (a) uses any fish roe; or
  - (b) buys, sells, or exposes for sale, or has in his possession any roe of salmon or trout,
- shall be guilty of an offence.
- (2) Subject to subsections (3) and (5) below, any person who—
- (a) knowingly takes, kills or injures, or attempts to take, kill or injure, any salmon, trout or freshwater fish which is unclean or immature; or
  - (b) buys, sells, or exposes for sale, or has in his possession any salmon, trout or freshwater fish which is unclean or immature, or any part of any such fish,
- shall be guilty of an offence.
- (3) Subsection (2) above does not apply to any person who takes a fish accidentally and returns it to the water with the least possible injury.
- (4) Subject to subsection (5) below, any person who, except in the exercise of a legal right to take materials from any waters, wilfully disturbs any spawn or spawning fish, or any bed, bank or shallow on which any spawn or spawning fish may be, shall be guilty of an offence.
- (5) A person shall not be guilty of an offence under this section in respect of any act, if he does the act for the purpose of the artificial propagation of salmon, trout or freshwater fish or for some scientific purpose or for the purpose of the preservation or development of a private fishery and has obtained the previous permission in writing of the water authority [<sup>F2</sup>for the area].

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#### Textual Amendments

- F2** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)

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

- C1** S. 2(2)(a) amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(1), **Sch. 4 Pt. I para. 1**  
**C2** S. 2(2)(b) amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(5), **Sch. 4 Pt. II para. 26**

### 3 Nets.

- (1) Any person who shoots or works any seine or draft net for salmon or migratory trout in any waters across more than three-fourths of the width of those waters shall be guilty of an offence.
- (2) Subject to subsection (3) below, any person who, except in a place where smaller dimensions are authorised by byelaw, takes or attempts to take salmon or migratory trout with any net that has a mesh of less dimensions than 2 inches in extension from knot to knot (the measurement to be made on each side of the square), or 8 inches measured round each mesh when wet, shall be guilty of an offence.
- (3) In subsection (2) above “net” does not include a landing net in use as auxiliary to angling with rod and line.
- (4) The placing of two or more nets the one behind the other or near to each other in such manner as practically to diminish the mesh of the nets used, or the covering of the nets used with canvas, or the using of any other device so as to evade subsection (2) above, shall be deemed to be a contravention of that subsection.

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

- C3** S. 3 amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(1), **Sch. 4 Pt. I para. 2**

### 4 Poisonous matter and polluting effluent.

- (1) Subject to subsection (2) below, any person who causes or knowingly permits to flow, or puts or knowingly permits to be put, into any waters containing fish or into any tributaries of waters containing fish, any liquid or solid matter to such an extent as to cause the waters to be poisonous or injurious to fish or the spawning grounds, spawn or food of fish, shall be guilty of an offence.
- (2) A person shall not be guilty of an offence under subsection (1) above for any act done in the exercise of any right to which he is by law entitled or in continuance of a method in use in connection with the same premises before 18th July 1923, if he proves to the satisfaction of the court that he has used the best practicable means, within a reasonable cost, to prevent such matter from doing injury to fish or to the spawning grounds, spawn or food of fish.
- (3) Proceedings under this section shall not be instituted except by the water authority [<sup>F3</sup>for the area] or by a person who has first obtained a certificate from the Minister that he has a material interest in the waters alleged to be affected.

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### Textual Amendments

**F3** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)

### Modifications etc. (not altering text)

**C4** S. 4 amended by [Water Act 1989 \(c. 15, SIF 130\)](#), **ss. 103(1)**, 113(4), 123(1) (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)

## 5 Prohibition of use of explosives, poisons or electrical devices and of destruction of dams etc.

- (1) Subject to subsection (2) below, no person shall use in or near any waters (including waters adjoining the coast of England and Wales [<sup>F4</sup>to a distance of six nautical miles measured from the baselines from which the breadth of the territorial sea is measured]) any explosive substance, any poison or other noxious substance, or any electrical device, with intent thereby to take or destroy fish.
- (2) Subsection (1) above shall not apply to the use by a person of any substance or device—
  - (a) for a scientific purpose, or for the purpose of protecting, improving or replacing stocks of fish; and
  - (b) with the permission in writing of the water authority [<sup>F5</sup>for the area];
 but as respects the use of any noxious substance such permission shall not be given by a water authority otherwise than with the approval of the Minister.
- (3) No person shall, without lawful excuse, destroy or damage any dam, flood-gate or sluice with intent thereby to take or destroy fish.
- (4) A person who contravenes subsection (1) or (3) above or who, for the purpose of contravening subsection (1) above, has in his possession any explosive or noxious substance or any electrical device, shall be guilty of an offence.
- (5) The use of any substance in any waters for a purpose falling within paragraph (a) of subsection (2) above, and with the permission mentioned in paragraph (b) of that subsection, shall not constitute an offence under—
  - (a) section 4 above;
  - (b) any byelaws made under paragraph 31 of Schedule 3 below;
  - [<sup>X1</sup>(c) section 2(1)(a) of the <sup>M2</sup>Rivers (Prevention of Pollution) Act 1951; or]
  - [<sup>F6</sup>(c) section 107(1)(a) of the Water Act 1989;]
  - (d) section 22(1)(a) of the <sup>M3</sup>Rivers (Prevention of Pollution) (Scotland) Act 1951.
- [<sup>F7</sup>(6) On the coming into force of section 31 of the <sup>M4</sup>Control of Pollution Act 1974, subsection (5) above shall have effect as if the following paragraph were substituted for paragraph (c):—
 

“(c) section 31(1)(a) of the <sup>M5</sup>Control of Pollution Act 1974”.]

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### Editorial Information

- X1** S. 5(5)(c) beginning “section 107(1)(a)” substituted for s. 5(5)(c) beginning “section 2(1)(a)” (E.W.) by Water Act 1989 (c.15, SIF 130), s. 141, Sch. 17 para. 7(1)(2) (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)

### Textual Amendments

- F4** Words substituted by Fishery Limits Act 1976 (c. 86), **Sch. 2 para. 20**
- F5** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F6** S. 5(5)(c) beginning “section 107(1)(a)” substituted for s. 5(5)(c) beginning “section 2(1)(a)” (E.W.) by Water Act 1989 (c.15, SIF 130), s. 141, Sch. 17 para. 7(1)(2) (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)
- F7** S. 5(6) repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)

### Modifications etc. (not altering text)

- C5** S. 5(1) amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(1), **Sch. 4 Pt. I para. 3**
- C6** S. 5(4) amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(1), **Sch. 4 Pt. I para. 3**

### Marginal Citations

- M2** 1951 c. 64.
- M3** 1951 c. 66.
- M4** 1974 c. 40.
- M5** 1974 c. 40.

## PART II

### OBSTRUCTIONS TO PASSAGE OF FISH

#### 6 Fixed engines.

- [<sup>X2</sup>(1) Any person who—
- (a) places a fixed engine in any inland or tidal waters; or
  - (b) uses an unauthorised fixed engine for taking or facilitating the taking of salmon or migratory trout or for detaining or obstructing the free passage of salmon or migratory trout in any such waters.
- shall be guilty of an offence.]

- [<sup>F8</sup>(1) Any person who places or uses an unauthorised fixed engine in any inland or tidal waters [<sup>F9</sup>which are within the area of any water authority] shall be guilty of an offence]
- (2) A person acting under directions to that effect given by the water authority [<sup>F10</sup>for the area] may take possession of or destroy an engine placed or used in contravention of this section.
- (3) In subsection (1) above “unauthorised fixed engine” means any fixed engine other than—

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- (a) a fixed engine certified in pursuance of the <sup>M6</sup>Salmon Fishery Act 1865 to be a privileged fixed engine; or
- (b) a fixed engine which was in use for taking salmon or migratory trout during the open season of 1861, in pursuance of an ancient right or mode of fishing as lawfully exercised during that open season, by virtue of any grant or charter or immemorial usage. [<sup>F11</sup>; or]
- [<sup>F11</sup>(c) a fixed engine the placing and use of which is authorised by byelaws made by a water authority under this Act or by byelaws made by a local fisheries committee by virtue of section 37(2) of the Salmon Act 1986.][<sup>F12</sup>; or]
- [<sup>F12</sup>(d) a fixed engine which is placed and used by the National Rivers Authority with the consent of, or in accordance with a general authorisation given by, the Minister or the Secretary of State.]

#### Editorial Information

- X2** S. 6(1) beginning “Any person who places or uses” substituted for S. 6(1) beginning “Any person who — (a)” (E.W. and as mentioned in s. 43(4) of the amending act (border rivers)) by [Salmon Act 1986](#) (c. 62, SIF 52:2), **ss. 33(1)**, 43(4)

#### Textual Amendments

- F8** S. 6(1) beginning “Any person who places or uses” substituted for S. 6(1) beginning “Any person who — (a)” (E.W. and as mentioned in s. 43(4) of the amending act (border rivers)) by [Salmon Act 1986](#) (c. 62, SIF 52:2), **ss. 33(1)**, 43(4)
- F9** Words inserted by [Territorial Sea Act 1987](#) (c. 49, SIF 29:1), s. 3, **Sch. 1 para. 3**
- F10** Words repealed (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F11** S. 6(3)(c) and preceding word “or” inserted (E.W. and as mentioned in s. 43(4) of the amending act (border rivers)) by [Salmon Act 1986](#) (c. 62, SIF 52:2), **ss. 33(1)**, 43(4)
- F12** S. 6(3)(d) and preceding word “or” inserted (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(3)** (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**)

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

- C7** S. 6 excluded by [S.I. 1982/1420](#), **arts. 4, 6** and by [S.I. 1988/1668](#), **art. 2(1)**

#### Marginal Citations

- M6** 1865 c. 121.

## 7 Fishing weirs.

- (1) No unauthorised fishing weir shall be used for taking or facilitating the taking of salmon or migratory trout.
- (2) Where a fishing weir extends more than halfway across any river at its lowest state of water, it shall not be used for the purpose of taking salmon or migratory trout unless it has in it a free gap or opening situated in the deepest part of the river between the points where it is intercepted by the weir, and—
  - (a) the sides of the gap are in a line with and parallel to the direction of the stream at the weir; and

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- (b) the bottom of the gap is level with the natural bed of the river above and below the gap; and
  - (c) the width of the gap in its narrowest part is not less than one-tenth part of the width of the river.
- (3) A free gap need not be more than 40 feet wide and must not be less than 3 feet wide.
- (4) If any person uses a weir in contravention of this section or makes any alteration in the bed of a river in such manner as to reduce the flow of water through a free gap, he shall be guilty of an offence.
- (5) In subsection (1) above “unauthorised fishing weir” means any fishing weir which was not lawfully in use on 6th August 1861, by virtue of a grant or charter or immemorial usage.

## 8 Fishing mill dams.

- (1) No unauthorised fishing mill dam shall be used for taking or facilitating the taking of salmon or migratory trout.
- (2) A fishing mill dam shall not be used for the purpose of taking salmon or migratory trout unless it has attached to it a fish pass of such form and dimensions as may be approved by the Minister, and unless the fish pass is maintained in such a condition and has constantly running through it such a flow of water as will enable salmon and migratory trout to pass up and down the pass.
- (3) If any person—
- (a) uses an unauthorised fishing mill dam as mentioned in subsection (1) above; or
  - (b) uses or attempts to use a dam in contravention of subsection (2) above,
- he shall be guilty of an offence.
- (4) If a fishing mill dam has not a fish pass attached to it as required by law, the right of using the fishing mill dam for the purpose of taking fish shall be deemed to have ceased and be for ever forfeited, and the water authority [<sup>F13</sup>for the area] may remove from it any cage, crib, trap, box, cruive or other obstruction to the free passage of the fish.
- (5) In subsection (1) above “unauthorised fishing mill dam” means any fishing mill dam which was not lawfully in use on 6th August 1861, by virtue of a grant or charter or immemorial usage.

### Textual Amendments

**F13** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, Sch. 27 Pt. I (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), 41(1), 57(6), 58)

## 9 Duty to make and maintain fish passes.

- (1) Where in any waters frequented by salmon or migratory trout—
- (a) a new dam is constructed or an existing dam is raised or otherwise altered so as to create increased obstruction to the passage of salmon or migratory trout,

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or any other obstruction to the passage of salmon or migratory trout is created, increased or caused; or

- (b) a dam which from any cause has been destroyed or taken down to the extent of one-half of its length is rebuilt or reinstated,

the owner or occupier for the time being of the dam or obstruction shall, if so required by notice given by the water authority<sup>F14</sup> . . . and within such reasonable time as may be specified in the notice, make a fish pass for salmon or migratory trout of such form and dimensions as the Minister may approve as part of the structure of, or in connection with, the dam or obstruction, and shall thereafter maintain it in an efficient state.

- (2) If any such owner or occupier fails to make such a fish pass, or to maintain such a fish pass in an efficient state, he shall be guilty of an offence.
- (3) The water authority may cause to be done any work required by this section to be done, and for that purpose may enter on the dam or obstruction or any land adjoining it, and may recover the expenses of doing the work in a summary manner from any person in default.
- (4) Nothing in this section—
- (a) shall authorise the doing of anything that may injuriously affect any public waterworks or navigable river, canal, or inland navigation, or any dock, the supply of water to which is obtained from any navigable river, canal or inland navigation, under any Act of Parliament; or
- (b) shall prevent any person from removing a fish pass for the purpose of repairing or altering a dam or other obstruction, provided that the fish pass is restored to its former state of efficiency within a reasonable time; or
- (c) shall apply to any alteration of a dam or other obstruction, unless—
- (i) the alteration consists of a rebuilding or reinstatement of a dam or other obstruction destroyed or taken down to the extent of one-half of its length, or
- (ii) the dam or obstruction as altered causes more obstruction to the passage of salmon or migratory trout than was caused by it as lawfully constructed or maintained at any previous date.

#### **Textual Amendments**

**F14** Words repealed (E.W.) by *Water Act 1989* (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)

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

**C8** S. 9 excluded (7.3.1995) by S.I. 1995/519, **art. 3(13)**

**C9** S. 9 applied (16.3.1992) by *Avon Weir Act 1992* (c. v), **s. 5(5)**.

## **10 Power of water authority to construct and alter fish passes.**

- (1) Any water authority may, with the written consent of the Minister, construct and maintain in any dam or in connection with any dam a fish pass of such form and dimensions as the Minister may approve, so long as no injury is done by such a fish pass to the milling power, or to the supply of water of or to any navigable river, canal or other inland navigation.



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- (2) Any water authority may, with the written consent of the Minister, abolish or alter, or restore to its former state of efficiency, any existing fish pass or free gap, or substitute another fish pass or free gap, provided that no injury is done to the milling power, or to the supply of water of or to any navigable river, canal or other inland navigation.
- (3) If any person injures any such new or existing fish pass, he shall pay the expenses incurred by the water authority in repairing the injury, and any such expenses may be recovered by the water authority in a summary manner.

## **11 Minister's consents and approvals for fish passes.**

- (1) Any approval or consent given by the Minister to or in relation to a fish pass may, if in giving it he indicates that fact, be provisional until he notifies the applicant for approval or consent that the pass is functioning to his satisfaction.
- (2) While any such approval or consent is provisional, the Minister may, after giving the applicant not less than 90 days' notice of his intention to do so, revoke the approval or consent.
- (3) Where the Minister revokes a provisional approval given to a fish pass forming part of or in connection with a dam or other obstruction, he may extend the period within which a fish pass is to be made as part of or in connection with the obstruction.
- (4) The Minister may approve and certify any fish pass if he is of opinion that it is efficient in all respects and for all purposes, whether it was constructed under this Act or not.
- (5) Where a fish pass has received the approval of the Minister, and the approval has not been revoked, it shall be deemed to be a fish pass in conformity with this Act, notwithstanding that it was not constructed in the manner and by the person specified in this Act.

## **12 Penalty for injuring or obstructing fish pass or free gap.**

- (1) If any person—
  - (a) wilfully alters or injures a fish pass; or
  - (b) does any act whereby salmon or trout are obstructed or liable to be obstructed in using a fish pass or whereby a fish pass is rendered less efficient; or
  - (c) alters a dam or the bed or banks of the river so as to render a fish pass less efficient; or
  - (d) uses any contrivance or does any act whereby salmon or trout are in any way liable to be scared, hindered or prevented from passing through a fish pass,he shall be guilty of an offence, and shall also in every case pay any expenses which may be incurred in restoring the fish pass to its former state of efficiency; and any such expenses may be recovered in a summary manner.
- (2) The owner or occupier of a dam shall be deemed to have altered it if it is damaged, destroyed or allowed to fall into a state of disrepair, and if after notice is served on him by the water authority [<sup>F15</sup>in whose area the dam is or was situated] he fails to repair or reconstruct it within a reasonable time so as to render the fish pass as efficient as before the damage or destruction.
- (3) If any person—

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- (a) does any act for the purpose of preventing salmon or trout from passing through a fish pass, or takes, or attempts to take, any salmon or trout in its passage through a fish pass; or
- (b) places any obstruction, uses any contrivance or does any act whereby salmon or trout may be scared, deterred or in any way prevented from freely entering and passing up and down a free gap at all periods of the year,

he shall be guilty of an offence.

- (4) This section shall not apply to a temporary bridge or board used for crossing a free gap, and taken away immediately after the person using it has crossed.

#### Textual Amendments

**F15** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 27 Pt. I](#) (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), 41(1), 57(6), 58)

### 13 Sluices.

- (1) Subject to subsection (3) below, unless permission in writing is granted by the water authority [<sup>F16</sup>for the area], any sluices for drawing off the water which would otherwise flow over any dam in waters frequented by salmon or migratory trout shall be kept shut on Sundays and at all times when the water is not required for milling purposes, in such manner as to cause the water to flow through any fish pass in or connected with the dam or, if there is no such fish pass, over the dam.
- (2) If any person fails to comply with this section, he shall be guilty of an offence.
- (3) This section shall not prevent any person opening a sluice for the purpose of letting off water in cases of flood or for milling purposes or when necessary for the purpose of navigation or, subject to previous notice in writing being given to the water authority, for cleaning or repairing the dam or mill or its appurtenances.

#### Textual Amendments

**F16** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 27 Pt. I](#) (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), 41(1), 57(6), 58)

### 14 Gratings.

- (1) Where water is diverted from waters frequented by salmon or migratory trout by means of any conduit or artificial channel and the water so diverted is used for the purposes of a water or canal undertaking or for the purposes of any mill, the owner of the undertaking or the occupier of the mill shall, unless an exemption from the obligation is granted by the water authority [<sup>F17</sup>for the area], place and maintain, at his own cost, a grating or gratings across the conduit or channel for the purpose of preventing the descent of the salmon or migratory trout.
- (2) In the case of any such conduit or artificial channel the owner of the undertaking or the occupier of the mill shall also, unless an exemption is granted as aforesaid, place

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and maintain at his own cost a grating or gratings across any outfall of the conduit or channel for the purpose of preventing salmon or migratory trout entering the outfall.

- (3) A grating shall be constructed and placed in such a manner and position as may be approved by the Minister.
- (4) If any person without lawful excuse fails to place or to maintain a grating in accordance with this section, he shall be guilty of an offence.
- (5) No such grating shall be so placed as to interfere with the passage of boats on any navigable canal.
- (6) The obligations imposed by this section shall not be in force during such period (if any) in each year as may be prescribed by byelaw.
- (7) The obligations imposed by this section on the occupier of a mill shall apply only where the conduit or channel was constructed on or after 18th July 1923.

#### Textual Amendments

**F17** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 27 Pt. I](#) (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\(4\), 41\(1\), 57\(6\), 58](#))

## 15 Power of water authority to use gratings etc. to limit movements of salmon and trout.

- (1) A water authority, with the written consent of the Minister—
  - (a) may cause a grating or gratings of such form and dimensions as they may determine to be placed and maintained, at the expense of the authority, at a suitable place in any watercourse, mill race, cut, leat, conduit or other channel for conveying water for any purpose from any waters frequented by salmon or migratory trout; and
  - (b) may cause any watercourse, mill race, cut, leat, conduit or other channel in which a grating is placed under this section to be widened or deepened at the expense of the authority so far as may be necessary to compensate for the diminution of any flow of water caused by the placing of the grating, or shall take some other means to prevent the flow of water being prejudicially diminished or otherwise injured.
- (2) If any person—
  - (a) injures any such grating; or
  - (b) removed any such grating or part of any such grating, except during any period of the year during which under a byelaw gratings need not be maintained; or
  - (c) opens any such grating improperly; or
  - (d) permits any such grating to be injured, or removed, except as aforesaid, or improperly opened;he shall be guilty of an offence.
- (3) A water authority, with the written consent of the Minister, may adopt such means as the Minister may approve for preventing the ingress of salmon or trout into waters in which they or their spawning beds or ova are, from the nature of the channel or other causes, liable to be destroyed.

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(4) Nothing in this section shall—

- (a) affect the liability under this Act of any person to place and maintain a grating; or
- (b) authorise a grating to be so placed or maintained during any period of the year during which under a byelaw gratings need not be maintained; or
- (c) authorise any grating to be placed or maintained so as to obstruct any conduit or channel used for navigation or in any way interfere with the effective working of any mill;

and nothing in subsection (3) above shall authorise the water authority prejudicially to interfere with water rights used or enjoyed for the purposes of manufacturing or for milling purposes or for drainage or navigation.

## **16 Boxes and cribs in weirs and dams.**

- (1) Any person who uses a fishing weir or fishing mill dam for the taking of salmon or migratory trout by means of boxes or cribs shall be guilty of an offence unless the boxes or cribs satisfy the requirements specified in subsection (2) below.
- (2) The requirements mentioned in subsection (1) above are—
  - (a) the upper surface of the sill of the box or crib must be level with the bed of the river;
  - (b) the bars or inscales of the heck or upstream side of the box or crib—
    - (i) must not be nearer to each other than 2 inches;
    - (ii) must be capable of being removed; and
    - (iii) must be placed perpendicularly;
  - (c) there must not be attached to any such box or crib any spur or tail wall, leader or outrigger of a greater length than 20 feet from the upper or lower side of the box or crib.

## **17 Restrictions on taking salmon or trout above or below an obstruction or in mill races.**

- (1) Any person who takes or kills, or attempts to take or kill, except with rod and line, or scares or disturbs any salmon or trout—
  - (a) at any place above or below any dam or any obstruction, whether artificial or natural, which hinders or retards the passage of salmon or trout, being within 50 yards above or 100 yards below the dam or obstruction, or within such other distance from the dam or obstruction as may be prescribed by byelaw; or
  - (b) in any waters under or adjacent to any mill, or in the head race or tail race of any mill, or in any waste race or pool communicating with a mill; or
  - (c) in any artificial channel connected with any such dam or obstruction,
 shall be guilty of an offence.
- (2) Nothing in this section shall apply to any legal fishing mill dam not having a crib, box or cruive, or to any fishing box, coop, apparatus, net or mode of fishing in connection with and forming part of such a dam or obstruction for purposes of fishing.
- (3) Where a fish pass approved by the Minister is for the time being attached to a dam or obstruction, this section shall not be enforced in respect of the dam or obstruction

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until compensation has been made by the water authority to the persons entitled to fish in the waters for that right of fishery.

## **18 Provisions supplementary to Part II.**

- (1) If any person obstructs a person legally authorised whilst he is doing any act authorised by section 9, 10 or 15 above, he shall be guilty of an offence.
- (2) The Minister shall not give a water authority his consent—
  - (a) to the construction, abolition or alteration of a fish pass or the abolition or alteration of a free gap in pursuance of section 10 above; or
  - (b) to the doing of any work under section 15 above,unless reasonable notice of the authority's application under the relevant section has been served on the owner and occupier of the dam, fish pass or free gap, watercourse, mill race, cut, leat, conduit or other channel, with a plan and specification of the proposed work; and the Minister shall take into consideration any objections by the owner or occupier, before giving his consent.
- (3) If any injury is caused—
  - (a) to any dam by reason of the construction, abolition or alteration of a fish pass or the abolition or alteration of a free gap in pursuance of section 10 above; or
  - (b) by anything done by the water authority under section 15 above,any person sustaining any loss as a result may recover from the water authority compensation for the injury sustained.
- (4) The amount of any compensation under section 10, 15 or 17 above shall be settled in case of dispute by a single arbitrator appointed by the Minister.
- (5) In any case in which a water authority are liable to pay compensation under this Part of this Act in respect of injury or damage caused by the making or maintaining of any work, compensation shall not be recoverable unless proceedings for its recovery are instituted within two years from the completion of the work.

## **PART III**

### **TIMES OF FISHING AND SELLING AND EXPORTING FISH**

## **19 Close seasons and close times.**

- (1) Schedule 1 to this Act shall have effect in relation to the close seasons and close times for the descriptions of fish there specified.
- (2) Subject to subsection (3) below, any person who fishes for, takes, kills or attempts to take or kill salmon—
  - (a) except with a rod and line or putts and putchers, during the annual close season or weekly close time; or
  - (b) with a rod and line during the annual close season for rod and line; or
  - (c) with putts and putchers, during the annual close season for putts and putchers,shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) above in respect of any act done for the purpose of the artificial propagation of fish, or for some scientific

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purpose, if he has obtained the previous permission in writing of the water authority [F18: in whose area the act was done].

- (4) Subject to subsection (5) below, any person who fishes for, takes, kills or attempts to take or kill trout other than rainbow trout—
- (a) except with a rod and line, during the annual close season or weekly close time for trout; or
  - (b) with a rod and line during the annual trout close season for rod and line,
- shall be guilty of an offence.
- (5) A person shall not be guilty of an offence under subsection (4) above in respect of any act done for the purpose of the artificial propagation of fish or the stocking or restocking of waters, or for some scientific purpose, if he has obtained the previous permission in writing of the water authority [F18: in whose area the act was done].
- (6) Subject to subsection (8) below, any person who, during the annual close season for freshwater fish, fishes for, takes, kills, or attempts to take or kill, any freshwater fish in any inland water, or fishes for eels by means of a rod and line in any such water, shall be guilty of an offence.
- (7) Subject to subsection (8) below, any person who, during the annual close season for rainbow trout, fishes for, takes, kills or attempts to take or kill, any rainbow trout in any inland water, or fishes for eels by means of a rod and line in any such water, shall be guilty of an offence.
- (8) Subsections (6) and (7) above do not apply—
- (a) to the removal by the owner or occupier, from any several fishery where salmon or trout are specially preserved, of any eels, freshwater fish or rainbow trout not so preserved;
  - (b) to any person fishing with rod and line in any such fishery with the previous permission in writing of its owner or occupier;
  - (c) to any person fishing with rod and line for eels in any waters in which such fishing is authorised by a byelaw;
  - (d) to the taking of freshwater fish or rainbow trout for scientific purposes;
  - (e) to the taking of freshwater fish for bait—
    - (i) in a several fishery with the permission in writing of its owner or occupier, or
    - (ii) in any other fishery, unless the taking would contravene a byelaw.

#### Textual Amendments

**F18** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 27 Pt. I](#) (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\(4\), 41\(1\), 57\(6\), 58](#))

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

**C10** [S. 19](#) amended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#), s. 33(1), [Sch. 4 Pt. I para. 4](#)

## 20 Close seasons and close times—fixed engines and obstructions.

- (1) Subject to subsections (4) and (5) below, immediately after the commencement of the annual close season and the weekly close time, the occupier of any fixed engine for

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taking salmon or migratory trout shall cause it to be removed or rendered incapable of taking them or obstructing their passage.

- (2) Subject to subsections (4) and (5) below, where in pursuance of subsection (1) above a fixed engine has been rendered incapable (whether by removal or otherwise) of taking salmon or migratory trout or obstructing their passage, its occupier shall not replace it or otherwise render it capable of taking them or obstructing their passage until the end of the close season or close time.
- (3) If any person—
  - (a) fails to comply with subsection (1) or (2) above; or
  - (b) during the annual close season or weekly close time places any obstruction, uses any contrivance or does any act, for the purpose of deterring salmon or migratory trout from passing up a river,he shall be guilty of an offence.
- (4) Subsections (1) to (3) above only apply to putts and putchers in relation to the close season for putts and putchers.
- (5) It shall be a defence for a person charged with an offence under subsection (3)(b) above to show that he placed the obstruction, used the contrivance or did the acts in question in the course of legally fishing for fish other than salmon or migratory trout.
- (6) In this section “migratory trout” does not include rainbow trout.

## 21 Eel baskets etc.

- (1) Subject to subsection (2) below, any person who—
  - (a) before 25th June in any year, hangs, fixes or uses in any waters frequented by salmon or migratory trout any baskets, nets, traps or devices for catching eels, or places in any inland water any device whatsoever to catch or obstruct any fish descending the river; or
  - (b) at any time places upon the apron of any weir any basket, trap or device for taking fish, except wheels or leaps for taking lamperns between 1st August and the following 1st March,shall be guilty of an offence.
- (2) Subsection (1) above does not prohibit—
  - (a) the use of eel baskets not exceeding in any part 10 inches in diameter constructed so as to be fished with bait, and not used at any dam or other obstruction or in any conduit or artificial channel by which water is deviated from a river; or
  - (b) any device for taking eels in such places, during such time and subject to such conditions as may be authorised by the water authority [<sup>F19</sup>for the area with the consent of the Minister].

### Textual Amendments

- F19** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 141, 190, Sch. 17 para. 7(1)(4), **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)

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

**C11** S. 21(1) excluded by S.I. 1982/1420, arts. 4, 6

**22 Sale of salmon and trout.**

- (1) Subject to subsections (2) and (3) below, any person who buys, sells, or exposes for sale or has in his possession for sale—
- (a) any salmon between 31st August and the following 1st February; or
  - (b) any trout other than rainbow trout between 31st August and the following 1st March,
- shall be guilty of an offence.
- (2) Subsection (1) above shall not apply to any person buying, selling or exposing for sale, or having in his possession for sale—
- (a) any salmon or trout which has been canned, frozen, cured, salted, pickled, dried or otherwise preserved outside the United Kingdom; or
  - (b) any salmon which has been canned, frozen, cured, salted, pickled, dried or otherwise preserved in the United Kingdom between 1st February and 31st August; or
  - (c) any trout which has been canned, frozen, cured, salted, pickled, dried or otherwise preserved within the United Kingdom between 1st March and 31st August; or
  - (d) any salmon or trout (other than an unclean salmon or trout) caught outside the United Kingdom; or
  - (e) any salmon or trout (other than an unclean or immature salmon or trout) caught within the United Kingdom, if its capture by any net, instrument or device was lawful at the time and in the place where it was caught.
- (3) A person shall not be guilty of an offence in respect of trout under this section for any act done for the purpose of the artificial propagation of fish, or the stocking or restocking of waters, or for some scientific purpose.
- (4) The burden of proving that any salmon or trout bought, sold, exposed for sale or in the possession of any person for sale between the dates mentioned in paragraph (a) or (b) of subsection (1) above is not bought, sold, exposed for sale or in the possession of that person for sale in contravention of this section shall lie on the person buying, selling or exposing it for sale, or having it in his possession for sale.

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

**C12** S. 22(1) amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(5), Sch. 4 Pt. II para. 27

**23 Export of salmon and trout.**

- (1) No person shall export or enter for export any unclean salmon or trout or any salmon or trout caught during the time at which the sale of salmon or trout is prohibited where the salmon or trout was caught.



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- (2) All salmon or trout intended for export between 31st August and the following 1st May shall before shipment be entered for that purpose with the proper officer of Customs and Excise, at the port or place of intended export.
- (3) If any salmon or trout is entered for export, or exported or brought to any wharf, quay or other place for export, contrary to this section, or is not entered as required by this section, the salmon or trout and any package containing it shall be deemed to be goods liable to be forfeited under the enactments relating to customs, and the person entering or exporting the salmon or trout, or bringing it for export, or failing to enter the salmon or trout as required by this section, shall be guilty of an offence.
- (4) Any officer of Customs and Excise may, between 31st August and the following 1st May, open or cause to be opened any parcel entered or intended for export, or brought to any quay, wharf or other place for that purpose, and suspected by him to contain salmon or trout, and may detain or cause to be detained any salmon or trout found in the parcel until proof is given of the salmon or trout being such as may be legally exported; and if the salmon or trout becomes unfit for human food before such proof is given, the officer may destroy it or cause it to be destroyed.
- (5) The burden of proving that any salmon or trout entered for export between 31st August and the following 1st May is not so entered in contravention of this section shall lie on the person entering it.

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

C13 S. 23(3) amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(5), Sch. 4 Pt. II para. 28

## 24 Consignment of salmon and trout.

- (1) A person who consigns or sends a package containing salmon or trout by any common or other carrier shall be guilty of an offence unless the outside of the package containing it is conspicuously marked “salmon” or “trout”, as the case may be.
- (2) An authorised officer may open any package consigned or sent by a carrier, or brought to any place to be so consigned or sent, and suspected to contain salmon or trout.
- (3) If any such package is found to contain salmon or trout and is not marked in accordance with this section, or if there is reasonable cause to suspect that the salmon or trout contained in any marked package is being dealt with contrary to law, an authorised officer may detain the package and its contents until proof is given that the salmon or trout is not being so dealt with.
- (4) The power to detain salmon or trout conferred by subsection (3) above shall be exercisable also in relation to salmon or trout not packed in a package.
- (5) If any salmon or trout detained under this section becomes unfit for human food before the proof required by subsection (3) above is given, an authorised officer may destroy it or cause it to be destroyed.
- (6) If any person refuses to allow an authorised officer to exercise the powers conferred by this section, or obstructs such an officer in their exercise, he shall be guilty of an offence.

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## PART IV

### FISHING LICENCES

#### 25 Licences to fish.

- (1) A water authority shall by means of a system of licensing regulate fishing for salmon and trout [<sup>F20</sup>in their area] and, except so far as excused by the Minister, shall by such means regulate fishing for freshwater fish of any description or eels [<sup>F20</sup>in their area].
- (2) Subject to the following provisions of this section, a licence granted for the purposes of this section (hereafter in this Act referred to as a “fishing licence”) shall entitle the person to whom it was granted and no others to use an instrument specified in the licence to fish for any fish [<sup>F21</sup>of a description, in an area and for a period][<sup>F21</sup>of such a description, in such area or areas and for such period as is] so specified.
- (3) A fishing licence for the use of an instrument other than a rod and line to fish for salmon or trout shall also authorise the use of the instrument for that purpose by the duly authorised servants or agents of the person to whom it was granted, but [<sup>F22</sup>not exceeding the number permitted by paragraph 13 of Schedule 2 to this Act][<sup>F22</sup>subject to the provisions of paragraphs 9 to 13 of Schedule 2 to this Act].
- (4) A fishing licence for the use of a rod and line shall entitle the licensee to use as ancillary to that use a gaff, consisting of a plain metal hook without a barb, or a tailer or landing net.
- (5) A fishing licence for the use of any instrument for fishing for salmon shall authorise the use of that instrument for fishing for trout.
- (6) A fishing licence in respect of any instrument for fishing for salmon or trout shall authorise the use of that instrument for fishing for freshwater fish and eels.
- (7) Any person or association entitled to an exclusive right of fishing in any inland waters may be granted a general licence to fish in those waters subject to any conditions agreed between the water authority and the licensee, and the licence shall entitle the licensee and, subject to paragraph 9 of Schedule 4 below, any person authorised by him in writing, or in the case of an association, by its secretary so to fish.
- (8) Schedule 2 to this Act shall have effect with respect to fishing licences.
- (9) Any licence in force under any provision of section 61 of the <sup>M7</sup>Salmon and Freshwater Fisheries Act 1923 immediately before 29th June 1972 shall be treated as having been granted under the corresponding provision of this section.

#### Textual Amendments

- F20** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 27 Pt. I](#) (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\(4\), 41\(1\), 57\(6\), 58](#))
- F21** Words “of such a description, in such area or areas and for such period as is” substituted for “of a description, in an area and for a period” (E.W.) by [Water Act 1989 \(c.15, SIF 130\)](#), s. 141, [Sch. 17 para. 7\(1\)\(5\)](#) (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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**F22** Words beginning “subject to the provisions” substituted for words beginning “not exceeding” (E.W. and as mentioned in s. 43(4) of the amending act (border rivers)) by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [ss. 33\(1\), 43\(4\)](#)

#### Marginal Citations

**M7** [1923 c. 16.](#)

## 26 Limitation of fishing licences.

- (1) A water authority may [<sup>F23</sup>in relation to any such area or areas as are specified in the order,] by order confirmed by the Minister—
  - (a) limit for a period not exceeding ten years from the coming into operation of the order the number of fishing licences to be issued in any year for fishing in [<sup>F24</sup>any part of their area][<sup>F24</sup>that area or those areas] for salmon or trout other than rainbow trout with any instrument so specified other than rod and line; and
  - (b) provide for the selection of the applicants to whom such licences are to be issued where the number of applications exceeds the number of licences which may be granted.
- (2) Where the Minister proposes to confirm an order under this section, he shall require the water authority to publish the order and notice of his intention to confirm it in such manner as he may require, together with a notification that within a period specified in the requirement written objections to the order may be made to him.
- (3) The Minister shall consider any such objections received by him within the said period, and—
  - (a) if the number of licences as proposed to be limited by the order is less than the number of licences issued in any of the three years preceding the year in which the order is to come into operation; and
  - (b) any such objection is made by any person who has during each of the two years preceding that year held a licence of the same description as the licences which it is proposed so to limit in number;

he shall cause a local inquiry to be held before confirming the order.
- (4) Subject to subsection (5) below, the Minister shall not confirm an order under this section unless he is satisfied that the terms of the order relating to the selection of applicants for licences are such as to secure that any person who during the year preceding that year held a fishing licence to use an instrument of any description and who is dependent on fishing for his livelihood will be able to obtain a fishing licence to use an instrument of that description.
- (5) If it appears to the Minister that the operation of subsection (4) above would be detrimental to the conservation of any fishery, he may direct that the subsection shall in its application to that fishery have effect with the substitution for the words “the year” of the words “the two years” or, if in his opinion special circumstances justify it, “the three years”.
- (6) The Minister may with the consent of the water authority vary an order submitted to him under this section before confirming it and may require the water authority to publish the terms of the proposed variation in such manner, if any, as he may specify in the requirement.

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(7) An order under this section may be revoked by the Minister, or by an order made by the water authority and confirmed by the Minister.

[<sup>F25</sup>(8) Any order limiting the number of licences in force in a water authority area under section 62 of the <sup>M8</sup>Salmon and Freshwater Fisheries Act 1923 immediately before 29th June 1972 shall be treated as having limited the number of licences in that area for a period of ten years from that date.]

#### Textual Amendments

- F23** Words inserted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 141, **Sch. 17 para. 7(1)(6)(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 “that area or those areas” substituted for “any part of their area” (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 141, **Sch. 17 para. 7(1)(6)(b)** (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)
- F25** S. 26(8) repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)

#### Marginal Citations

- M8** 1923 c. 16.

## 27 Unlicensed fishing.

A person is guilty of an offence if, in any place in which fishing for fish of any description is regulated by a system of licensing, he—

- (a) fishes for or takes fish of that description otherwise than by means of an instrument which he is entitled to use for that purpose by virtue of a fishing licence or otherwise than in accordance with the conditions of the licence; or
- (b) has in his possession with intent to use it for that purpose an instrument other than one which he is authorised to use for that purpose by virtue of such a licence.

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

- C14** S. 27 amended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#), s. 33(1), **Sch. 4 Pt. I para. 5**
- C15** S. 27 excluded (30.6.1999) by [S.I. 1999/1746](#), **arts. 1(1), 6(3)** (with **art. 2**); [S.I. 1998/3178](#), **art. 3**

## PART V

### ADMINISTRATION AND ENFORCEMENT

#### *Regulation of fisheries etc.*

## 28 General powers and duties of water authorities and Minister.

[<sup>F26</sup>(1) It shall be the duty of every water authority—

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- (a) to maintain, improve and develop the salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries in the area for which they exercise functions under this Act;
  - (b) to establish advisory committees of persons who appear to them to be interested in any such fisheries in that area and consult them as to the manner in which the authority are to discharge their duty under paragraph (a) above.
- (2) The duty to establish advisory committees imposed by paragraph (b) of section (1) above is a duty to establish a regional advisory committee for the whole of the area mentioned in paragraph (a) of that subsection and such local advisory committees as the water authority consider necessary to represent the interests referred to in paragraph (b) of that subsection in different parts of that area.

[ A water authority may pay to any member of an advisory committee established by it <sup>F27</sup>(2A) in accordance with paragraph (b) of subsection (1) above such allowances as may be determined by the Minister with the consent of the Treasury.]]
- (3) Subject to subsection (4) below, the Minister may [<sup>F28</sup>by statutory instrument make an order for the general regulation of the salmon, trout, freshwater and eel fisheries within an area defined by the order][<sup>F28</sup>on an application made to him by the National Rivers Authority, by order made by statutory instrument make provision in relation to an area defined by the order—
  - (a) for the imposition on the owners and occupiers of fisheries in that area of requirements to pay contributions to that Authority of such amounts as may be determined under the order in respect of the expenses of the carrying out in relation to that area of that Authority's functions with respect to fisheries;
  - (b) for such contributions to be paid or recovered in such manner and to be refundable in such circumstances as may be specified in or determined under the order;
  - (c) for the modification, in relation to the fisheries in that area, of any provisions of this Act relating to the regulation of fisheries or of any provisions of a local Act relating to any fishery in that area;and an order under this subsection may contain such supplemental, consequential and transitional provision, including provision for the payment of compensation to persons injuriously affected by the order, as may appear to be necessary or expedient in connection with the other provisions of the order.].
- (4) An order under subsection (3) above shall not apply to any waters in respect of which the Minister has granted a licence under section 29 below.
- (5) An order under subsection (3) above may amend or revoke any previous order made under that subsection or under section 38 of the <sup>M9</sup>Salmon and Freshwater Fisheries Act 1923 or any Act repealed by that Act.
- (6) Schedule 3 to this Act shall have effect in relation to the Minister's power to make orders under subsection (3) above, to the powers of water authorities under this Act and to byelaws.
- (7) Any person who contravenes or fails to comply with a byelaw shall be guilty of an offence.
- (8) [<sup>F29</sup>Section 36(3) of the <sup>M10</sup>Water Act 1973 and Schedule 7][<sup>F29</sup>Section 186 of the Water Act 1989 and Schedule 24] to that Act (byelaw procedure) shall have effect in relation to byelaws under this Act.

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 Salmon and Freshwater Fisheries Act 1975. (See end of Document for details)*

#### Textual Amendments

- F26** S. 28(1)–(2A) repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F27** S. 28(2A) inserted by [Water Act 1983 \(c. 23, SIF 130\)](#), s. 11(2), **Sch. 4 para. 4(1)**
- F28** Words beginning “on an application” substituted for words beginning “by statutory instrument” (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 141, 190, Sch. 17 para. 7(1)(7)(a), **Sch. 26 para. 40(3)** (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 “Section 186 of the Water Act 1989 and Schedule 24” substituted for “Section 36(3) of the Water Act 1973 and Schedule 7” (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 141, 190, Sch. 17 para. 7(1)(7)(b), **Sch. 26 para. 40(3)** (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)

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

- C16** S. 28(7) amended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#), s. 33(1), **Sch. 4 Pt. I para. 6**

#### Marginal Citations

- M9** 1923 c. 16.  
**M10** 1973 c. 37.

## 29 Fish rearing licences.

- (1) The Minister may grant a licence to carry on the business of artificially propagating or rearing salmon or trout in any waters.
- (2) Any such licence may be granted subject to such conditions (if any) as the Minister thinks fit, and may be revoked if he is of opinion that any condition has not been observed.

## 30 Introduction of fish into inland waters.

A person shall be guilty of an offence if he introduces any fish or spawn of fish into an inland water, or has in his possession any fish or spawn of fish intending to introduce it into an inland water, unless he first obtains the written consent of the water authority [<sup>F30</sup>within whose area any part of that water is situated][<sup>F31</sup>or the inland water is one which consists exclusively of, or of part of, a fish farm and which, if it discharges into another inland water, does so only through a conduit constructed or adapted for the purpose.

In this section “fish farm” has the same meaning as in the <sup>M11</sup>Diseases of Fish Act 1937.]

#### Textual Amendments

- F30** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F31** Words added (E.W. and as mentioned in s. 43(4) of the amending act (border rivers)) by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), **ss. 34, 43(4)**

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### Marginal Citations

M11 1937 c.33(52:2).

## *Powers of water bailiffs etc.*

### 31 Powers of search etc.

- (1) Any water bailiff appointed by a water authority 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 in contravention of this Act 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 fishing in a water authority area or any vessel or vehicle which he has reasonable cause to suspect of containing—
    - (i) fish which had been caught in contravention of this Act;
    - (ii) any such instrument, bait or container as aforesaid;
  - (d) may seize any fish and any instrument, vessel, vehicle or other thing liable to be forfeited in pursuance 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 bailiff or person so appointed in any such entry, search, examination or seizure, he shall be guilty of an offence.

### Modifications etc. (not altering text)

- C17 S. 31(1) extended (30.6.1999) by S.I. 1999/1746, **arts. 1(1)**, 8(1) (with **art. 2**)
- C18 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))
- C19 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 subsection (2) below,—
- (a) any water bailiff or other officer of a water authority, under a special order in writing from the authority, 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>F32</sup>waters within a water authority area][<sup>F32</sup>any waters] other than—
- (i) a dwelling-house or the curtilage of a dwelling-house, or

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(ii) decoys or lands used exclusively for the preservation of wild fowl.

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

**Textual Amendments**

**F32** 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)

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

**C20** [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 officer of a water authority, 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 any salmon, trout, freshwater fish or eels to have been illegally taken, 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 officer of a water authority, 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 seize all illegal nets and other instruments and all salmon, trout, freshwater fish or eels suspected to have been illegally taken that may be found on the premises.

(3) A warrant under subsection (2) above shall not continue in force for more than one week.

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

**C21** [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**

**C22** 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 at night.**

If any person, between the end of the first hour after sunset on any day and the beginning of the last hour before sunrise on the following morning, illegally takes or kills salmon, trout, freshwater fish or eels, or is found on or near any waters with intent illegally to take or kill salmon, trout, freshwater fish or eels, or having in his possession for the capture of salmon, trout, freshwater fish or eels any instrument prohibited by this Act, a water bailiff or a person appointed by the Minister, with any assistants,



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may seize him without warrant and put him as soon as may be into the custody of a police officer.

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

**C23** 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) A water bailiff appointed by the water authority [<sup>F33</sup>for the area], or any constable, may require any person who is fishing, or whom he reasonably suspects of being about to fish or to have within the preceding half hour fished [<sup>F34</sup>in a water authority area][<sup>F34</sup>in any area], to produce his licence or other authority to fish and to state his name and address.
- (2) A person holding a fishing licence for any [<sup>F35</sup>water authority area][<sup>F35</sup>area] may, on production of his licence, require any person who is fishing in that area to produce his licence or other authority to fish and to state his name and address.
- (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>F36</sup>the office of the water authority][<sup>F36</sup>the appropriate office of the National Rivers Authority] he shall not be convicted of an offence under this section for failing to produce it.
- [<sup>F37</sup>(4) In subsection (3) above, “the appropriate office of the National Rivers Authority” means—
  - (a) in a case where the person requiring the production of the licence or other authority specifies a particular office of the National Rivers Authority for its production, that office; and
  - (b) in any other case, any office of that Authority;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 that Authority that licence or other authority shall be treated as produced by that person at that office.]

**Textual Amendments**

- F33** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F34** 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)
- F35** Word “area” substituted for “water authority area” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(9)(b)** (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)
- F36** 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)

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**F37** S. 35(4) inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 141, 190, Sch. 17 para. 7(1)(9)(d), **Sch. 26 para. 40(3)** (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)

### 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.
- (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)

- C24** 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
- C25** 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))

### *Offences*

### 37 Prosecution etc. of offences.

Parts I and II of Schedule 4 to this Act shall have effect with regard to the prosecution and punishment of offences against this Act and the procedure on such prosecutions.

VALID FROM 01/04/1996

#### <sup>F38</sup>37A Fixed penalty notices for certain offences.

- (1) Where on any occasion a water bailiff or other officer of the Agency finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, he may give to that person a notice (in this section referred to as a “fixed penalty notice”) offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) Where a person is given a fixed penalty notice in respect of a fixed penalty offence—
  - (a) no proceedings shall be instituted for that offence before the expiration of the period for paying the fixed penalty; and
  - (b) he shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.
- (3) The Agency may extend the period for paying the fixed penalty in any particular case if it considers it appropriate to do so in all the circumstances of the case.

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- (4) If, in any particular case, the Agency considers that a fixed penalty notice which has been given ought not to have been given, it may give to the person to whom the fixed penalty notice was given a notice withdrawing the fixed penalty notice; and where notice under this subsection is given—
- (a) the Agency shall repay any amount which has been paid by way of fixed penalty in pursuance of the fixed penalty notice; and
  - (b) no proceedings shall be instituted or continued against that person for the offence in question.
- (5) The amount by which the sums received by the Agency by way of fixed penalties exceed the sums repaid by it under subsection (4)(a) above shall be paid into the Consolidated Fund.
- (6) In any proceedings, a certificate purporting to be signed by or on behalf of the Chief Executive of the Agency and stating either—
- (a) that payment of a fixed penalty was, or (as the case may be) was not, received by the Agency on or before a date specified in the certificate, or
  - (b) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,
- shall be received as evidence of the matters so stated and shall be treated, without further proof, as being so signed unless the contrary is shown.
- (7) A fixed penalty notice shall give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and shall state—
- (a) the monetary amount of the fixed penalty which may be paid;
  - (b) the person to whom and the address at which—
    - (i) the fixed penalty may be paid, and
    - (ii) any correspondence relating to the fixed penalty notice may be sent;
  - (c) the method or methods by which payment of the fixed penalty may be made;
  - (d) the period for paying the fixed penalty;
  - (e) the consequences of the fixed penalty not being paid before the expiration of that period.
- (8) A fixed penalty notice may also contain such other information relating to, or for the purpose of facilitating, the administration of the fixed penalty system as the Agency considers necessary or desirable.
- (9) Regulations may—
- (a) make provision with respect to the giving of fixed penalty notices, including, in particular, provision with respect to—
    - (i) the methods by which,
    - (ii) the officers, servants or agents by, to or on whom, and
    - (iii) the places at which,fixed penalty notices may be given by, or served on behalf of, a water bailiff or other officer of the Agency;
  - (b) prescribe the method or methods by which fixed penalties may be paid;
  - (c) make provision for or with respect to the issue of prescribed documents to persons to whom fixed penalty notices are or have been given.
- (10) In this section—

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“fixed penalty” means a penalty of such amount as may be prescribed (whether by being specified in, or made calculable under, regulations);

“fixed penalty offence” means, subject to subsection (11) below, any offence—

- (a) under this Act,
- (b) under the <sup>M12</sup>Salmon Act 1986,
- (c) under or by virtue of regulations or orders made under section 115, 116 or 142 of the <sup>M13</sup>Water Resources Act 1991, or
- (d) under section 211(3) of that Act, so far as relating to byelaws made by virtue of paragraph 6 of Schedule 25 to that Act,

which is for the time being prescribed for the purpose;

“the fixed penalty system” means the system implementing this section and regulations made under it;

“the Ministers” means the Secretary of State and the Minister;

“notice” means notice in writing;

“the period for paying”, in relation to any fixed penalty, means such period as may be prescribed for the purpose;

“prescribed” means prescribed by regulations;

“regulations” means regulations made under this section by the Ministers.

- (11) The provision that may be made by regulations prescribing fixed penalty offences includes provision for an offence to be a fixed penalty offence—
- (a) only if it is committed in such circumstances or manner as may be prescribed; or
  - (b) except if it is committed in such circumstances or manner as may be prescribed.
- (12) Regulations may provide for any offence which is a fixed penalty offence to cease to be such an offence.
- (13) An offence which, in consequence of regulations made by virtue of subsection (12) above, has ceased to be a fixed penalty offence shall be eligible to be prescribed as such an offence again.
- (14) Regulations may—
- (a) make different provision in relation to different cases or classes of case; or
  - (b) provide for such exceptions, limitations and conditions, or make such incidental, supplemental, consequential or transitional provision, as the Ministers consider necessary or expedient.
- (15) Any power to make regulations under this section shall be exercisable by statutory instrument made by the Ministers; and a statutory instrument containing any such regulations shall be subject to annulment pursuant to a resolution of either House of Parliament.]

#### Textual Amendments

**F38** S. 37A inserted (1.4.1996) by 1995 c. 25, s. 104(1) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

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**Marginal Citations**

- M12 1986 c. 62.
- M13 1991 c. 57.

**PART VI**

MISCELLANEOUS AND SUPPLEMENTARY

**38 Works below high water mark.**

- (1) Any works proposed to be constructed under this Act on, over or under tidal lands below high-water mark of ordinary spring tides shall be constructed only in accordance with such plans and sections and subject to such restrictions and regulations as the Secretary of State approves in writing before they are commenced.
- (2) Any alteration or extension of any such works shall be subject to the like approval.
- (3) If any such work is commenced or completed contrary to this section, the Secretary of State may abate and remove it and restore its site to its former condition at the cost of the person who commenced or executed it, or (if he is not the owner of the work) of the owner, and the cost shall be summarily recoverable by the Secretary of State.
- (4) This section is in addition to and not in derogation of any local Act.

**39 Border rivers and Solway Firth.**

- (1) This Act—
  - (a) does not apply to the River Tweed, but
  - (b) applies to so much of the River Esk, with its banks and tributary streams up to their source, as is situated in Scotland,and in this subsection “the River Tweed” means “the river” as defined by the <sup>M14</sup>Tweed Fisheries (Amendment) Act 1859 and any byelaw amending that definition.

[<sup>F39</sup>(1A) In the application of this Act, under subsection (1)(b) above, to the River Esk in Scotland, references to this Act in sections 31 to 33 and section 36 shall be construed as including references to sections 1, 3 and 18 to 20 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act <sup>M15</sup>1951 as applied to that River by section 21 of that Act.]

- (2) Where the minimum size of mesh of nets used for taking salmon prescribed by any provision of this Act or by any byelaw in force in any part of the Solway Firth within England is greater than that which may be lawfully used in the part of the Solway Firth within Scotland, the provision or byelaw shall have effect as if the minimum size of mesh so prescribed in relation to the part of the Solway Firth within England were such as may be so lawfully used as aforesaid in the part of the Solway Firth within Scotland.
- (3) The limits of the Solway Firth for the purposes of this section shall be determined by the Minister.
- (4) .....

F40

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[<sup>F41</sup>(5) Nothing in this section [<sup>F42</sup>or the Water Act 1989] shall authorise a water authority to take legal proceedings in Scotland in respect of an offence against this Act.]

#### Textual Amendments

- F39** S. 39(1A) inserted by *Salmon Act 1986 (c. 62, SIF 52:2)*, s. 26(2)
- F40** S. 39(4) repealed by *Water Act 1989 (c. 15, SIF 130)*, s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F41** S. 39(5) added by *Salmon Act 1986 (c. 62, SIF 52:2)*, s. 41, **Sch. 4 para. 13**
- F42** Words inserted by *Water Act 1989 (c. 15, SIF 130)*, s. 141, **Sch. 17 para. 7(1)(10)** (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)

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

- C26** By *Salmon Act 1986 (c. 62, SIF 52:2)*, ss. 32(6)(b), 43(4) it is provided that s. 39(1) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

#### Marginal Citations

- M14** 1859 c. lxx
- M15** 1951 c.26(52:2).

## 40 River Severn.

This Act applies to the dams constructed by the Severn Commissioners under the <sup>M16</sup>Severn Navigation Act 1842 and the <sup>M17</sup>Severn Navigation Act 1853 and now vested in the British Waterways Board, and to all fish passes in those dams; and it shall accordingly be the Board's duty, subject to the provisions of this Act and to section 23 of the <sup>M18</sup>Severn Navigation Act 1881 (by virtue of which they have power to stop up the passes with the agreement of the water authority for the area) to maintain those passes in an efficient state.

#### Marginal Citations

- M16** 1842 c. xxiv (Sess. 2).
- M17** 1853 c. xlvii.
- M18** 1881 c. ccv.

## 41 Interpretation.

(1) In this Act, unless the context otherwise requires—

“authorised officer” means—

- (a) any officer of a water authority [<sup>F43</sup>acting within the water authority area];
- (b) any officer of a market authority acting within the area of the jurisdiction of that authority;
- (c) any officer appointed by the Minister;
- (d) any officer appointed in writing by the Fishmongers Company, or
- (e) any police officer;

“byelaw” means a byelaw under this Act;

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**Changes to legislation:** There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975. (See end of Document for details)

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“dam” includes any weir or other fixed obstruction used for the purpose of damming up water;

“eels” includes elvers and the fry of eels;

“fishing licence” has the meaning assigned to it by section 25(2) above;

“fishing mill dam” means a dam used or intended to be used partly for the purpose of taking or facilitating the taking of fish, and partly for the purpose of supplying water for milling or other purposes;

“fishing weir” means any erection, structure or obstruction fixed to the soil either temporarily or permanently, across or partly across a river or branch of a river, and used for the exclusive purpose of taking or facilitating the taking of fish;

“Fishmongers Company” means the wardens and commonalty of the Mystery of Fishmongers in the City of London;

“fixed engine” includes—

- (a) a stake net, bag net, putt or putcher;
- (b) any fixed implement or engine for taking or facilitating the taking of fish;
- (c) any net secured by anchors and any net or other implement for taking fish fixed to the soil, or made stationary in any other way; and
- (d) any net placed or suspended in any inland or tidal waters unattended by the owner or a person duly authorised by the owner to use it for taking salmon or trout, and any engine, device, machine or contrivance, whether floating or otherwise, for placing or suspending such a net or maintaining it in working order or making it stationary;

“foreshore” includes the shore and bed of the sea and of every channel, creek, bay, estuary and navigable river as far up it as the tide flows;

“freshwater fish” means any fish living in fresh water exclusive of salmon and trout and of any kinds of fish which migrate to and from tidal waters and of eels;

“general licence” means a licence granted under section 25(7) above;

“grating” means a device approved by the Minister for preventing the passage of salmon or trout through a conduit or channel in which it is placed;

“immature” in relation to salmon means that the salmon is of a length of less than 12 inches, measured from the tip of the snout to the fork or cleft of the tail, and in relation to any other fish means that the fish is of a length less than such length (if any) as may be prescribed by the byelaws applicable to the water in which the fish is taken;

“inland water” has the same meaning as in the <sup>M19</sup>Water Resources Act 1963;

“market authority” includes any corporation, local authority, body of trustees or other persons having power to maintain or regulate any market;

“migratory trout” means trout which migrate to and from the sea;

“mill” includes any erection for the purpose of developing water power, and “milling” has a corresponding meaning;

“the Minister” means, [<sup>F44</sup>subject to subsection (2) below], the Minister of Agriculture, Fisheries and Food;

“occupier” in relation to a fishery or premises includes any person for the time being in actual possession of the fishery or premises;

“owner” includes any person who is entitled to receive rents from a fishery or premises;

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- “river” includes a stream;
- “rod and line” means single rod and line;
- “salmon” means all fish of the salmon species and includes part of a salmon;
- “trout” means any fish of the salmon family commonly known as trout, including migratory trout and char, and also includes part of a trout;
- “unclean” in relation to any fish means that the fish is about to spawn, or has recently spawned and has not recovered from spawning.

[<sup>F45</sup>(2) In the following provisions of this Act, namely—

- Part IV;
- section 28(3);
- paragraph 2 of Schedule 1;
- paragraphs 5 to 11 and Part II of Schedule 3; and Schedule 2,
- any reference to the Minister shall be construed, in relation to water authority areas wholly or partly in Wales, as a reference to the Minister and the Secretary of State jointly.

[ In section 28(2A) above, the reference to the Minister shall be construed, in relation <sup>F46</sup>(2A) to the Welsh Water Authority, as a reference to the Secretary of State.]]

- (3) Except so far as provision is made by paragraph 13 of Schedule 3 below, nothing in this Act shall be construed as authorising a water authority or any other person to take or use land or other property belonging to the Crown.
- (4) In any byelaw made under an enactment repealed by the <sup>M20</sup>Salmon and Freshwater Fisheries Act 1923 “salmon” and “trout” have the meanings assigned to them by subsection (1) above.

#### Textual Amendments

- F43** Words repealed (E.W.) by Water Act 1989 (c.15, SIF 130), ss. 141, 190, Sch. 17 para. 7(1)(11), **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F44** Words repealed (E.W.) by Water Act 1989 (c.15, SIF 130), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F45** S. 41(2)(2A) repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (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), 41(1), 57(6), 58)
- F46** S. 41(2A) inserted by Water Act 1983 (c. 23, SIF 130), s. 11(2), **Sch. 4 para. 4(2)**

#### Marginal Citations

- M19** 1963 c. 38.
- M20** 1923 c. 16.

## 42 Repeals etc.

- (1) The enactments specified in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.



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**Changes to legislation:** There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975. (See end of Document for details)

- (2) In section 18(1) of the <sup>M21</sup>Sea Fish (Conservation Act 1967 (enforcement of orders in relation to salmon and migratory trout) for paragraph (a) there shall be substituted the following paragraph:—
- “(a) section 31 (1)(d) of the Salmon and Freshwater Fisheries Act 1975 (which confers power of seizure) shall apply as if the reference in it to that Act included a reference to this Act, and sections 36(1) and (2) of that Act, and paragraph 8 of Schedule 4 (all of which contain ancillary provisions), shall be construed accordingly as including references to that Act as applied by this subsection;”
- (3) In so far as any instrument made or other thing whatsoever done under any enactment repealed by this Act could have been made or done under a corresponding enactment in this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if made or done under that corresponding enactment; and for the purposes of this provision anything which under section 93(2) of the <sup>M22</sup>Salmon and Freshwater Fisheries Act 1923 had effect as if done under any enactment in that Act shall, so far as may be necessary for the continuity of the law, be treated as done under the corresponding enactment in this Act.
- (4) Any enactment or other document referring to an enactment repealed by this Act or by the <sup>M23</sup>Salmon and Freshwater Fisheries Act 1923 shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding enactment in this Act.
- (5) Nothing in this Act shall affect the admissibility in evidence of any instrument made under the <sup>M24</sup>Salmon Fishery Act 1865.
- (6) Section 254(2)(c) of the <sup>M25</sup>Local Government Act 1972 (power of Secretary of State to amend, etc., enactments by order) shall apply to this Act as if it had been passed before 1st April 1974.
- [<sup>F47</sup>(7) The <sup>M26</sup>Water Act 1973 shall have effect as if the functions conferred on water authorities by section 28(1) and (2) above were conferred by it.]
- (8) Nothing in this Act shall affect the legal right of any conservators, directors, commissioners, undertakers or other persons to dredge, scour, cleanse or improve any navigable river, canal or other inland navigation.
- (9) Nothing in this Act shall be taken as prejudicing the operation of section 38 of the <sup>M27</sup>Interpretation Act 1889 (which relates to the effect of repeals).

#### Textual Amendments

**F47** S. 42(7) repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 27 Pt. I](#) (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\(4\), 41\(1\), 57\(6\), 58](#))

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

**C27** The text of s. 42(1)(2), [Sch. 5](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Marginal Citations

**M21** [1967 c. 84](#).

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**M22** 1923 c. 16.  
**M23** 1923 c. 16.  
**M24** 1865 c. 121.  
**M25** 1972 c. 70.  
**M26** 1973 c. 37.  
**M27** 1889 c. 63.

### 43 Citation etc.

- (1) This Act may be cited as the Salmon and Freshwater Fisheries Act 1975.
- (2) Subject to section 39 above and subsection (3) below, this Act extends only to England and Wales.
- (3) The following provisions of this Act, namely—
  - section 28(1) and (2) above,
  - section 39(1) [<sup>F48</sup>,(1A)][<sup>F49</sup>(4) and (5)] above,
  - section 42(1) above, so far as it relates to the repeal of section 15 of the <sup>M28</sup>Salmon and Freshwater Fisheries Act 1972 and section 18 of the <sup>M29</sup>Water Act 1973, paragraph 3 of Schedule 4 below,extend to Scotland.
- (4) This Act shall come into force on 1st August 1975.

#### Textual Amendments

- F48** Words inserted by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. 26(3)  
**F49** Words substituted by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. 41, [Sch. 4 para. 14](#)

#### Marginal Citations

- M28** 1972 c. 37.  
**M29** 1973 c. 37.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975.