



# Salmon and Freshwater Fisheries Act 1975

## 1975 CHAPTER 51

### PART V

#### ADMINISTRATION AND ENFORCEMENT

##### *Regulation of fisheries etc.*

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

- (1) It shall be the duty of every water authority—
  - (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.
- (3) Subject to subsection (4) below, the Minister may 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.
- (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order made under that subsection or under section 38 of the Salmon and Freshwater Fisheries Act 1923 or any Act repealed by that Act.

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*Status: This is the original version (as it was originally enacted).*

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- (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) Section 36(3) of the Water Act 1973 and Schedule 7 to that Act (byelaw procedure) shall have effect in relation to byelaws under this Act.

## **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 within whose area any part of that water is situated.

*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.

### **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 waters within a water authority area other than—
    - (i) a dwelling-house or the curtilage of a dwelling-house, or
    - (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.

### **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.

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

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

- (1) A water bailiff appointed by the water authority 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 in a water authority 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 water authority 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 the office of the water authority he shall not be convicted of an offence under this section for failing to produce it.

**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.

*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.