

Status: Point in time view as at 12/01/2010.

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

SCHEDULES

SCHEDULE 4

OFFENCES

PART II

PROCEDURE

Modifications etc. (not altering text)

C1 Sch. 4 Pt. II: by Salmon Act 1986 (c. 62, SIF 52:2), ss. 32(6)(b), 43(4) it is provided that Sch. 4 Pt. II is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

- 2 Any offence against this Act committed on the sea-coast or at sea beyond the ordinary jurisdiction of a court of summary jurisdiction shall be deemed to have been committed in any place abutting on that sea-coast or adjoining that sea, and may be tried and punished accordingly.
- 3 Offences against this Act committed in Scotland shall be proceeded against and punished in Scotland.
- 4 A justice of the peace shall not be disqualified from hearing any case under this Act by reason only of being a subscriber to any society for the protection of fish, but a justice shall not be entitled to hear any case in respect of an offence committed on his own land or in relation to any fishery of which he is owner or occupier.
- 5 The court by which a person is convicted of an offence against this Act may order the forfeiture of—
- (a) any fish illegally taken by him or in his possession at the time of the offence;
 - (b) any instrument, bait or other thing used in the commission of the offence;
 - (c) in the case of an offence of unlawful possession of any substance or device in contravention of section 5 above, that substance or device; and
 - (d) on conviction on indictment, any vessel or vehicle used in or in connection with the commission of the offence or in which any substance or device unlawfully in his possession was contained at the time of the offence;
- and may order any object so forfeited to be disposed of as the court thinks fit.
- 6 ^[F1]Schedule 3 to the Customs and Excise Management Act 1979] (provisions relating to the forfeiture of things seized under that Act) shall apply in relation to any vessel or vehicle liable to forfeiture under paragraph 5 above as it applies in relation to anything liable to forfeiture under that Act, but in its application in relation to any such vessel or vehicle shall have effect subject to the following modifications:—
- ^[F2](a) paragraphs 1(2) and 5 shall be omitted;]

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- (b) for references to the Commissioners of Customs and Excise there shall be substituted references to the water authority [^{F3}within whose area the offence in question was committed]; and
- (c) the court shall not condemn a vehicle or vessel as forfeited under paragraph 6 of that Schedule if satisfied by its owner that that offence was committed without his knowledge and that he could not have reasonably foreseen that it would be used as mentioned in paragraph 5(d) above;

and where notice of claim in respect of anything is duly given in accordance with paragraphs 3 and 4 of that Schedule, as applied by this paragraph, the court shall not exercise its power of ordering forfeiture of the vessel or vehicle under paragraph 5 above.

In this paragraph “owner”, in relation to a vessel or vehicle which is the subject of a hire-purchase agreement, means the person in possession of the vehicle under that agreement.

Textual Amendments

- F1** Words substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), s. 177(1), **Sch. 4 para. 12**
- F2** [Sch. 4 para. 6\(a\)](#) substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), s. 177(1), **Sch. 4 para. 12**
- 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](#))

- 7 An authorised officer may seize any [^{F4} fish] bought, sold or exposed for sale by, or in the possession for sale of, any person in contravention of this Act.

Textual Amendments

- F4** Word in [Sch. 4 para. 7](#) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 16 para. 17(5)**; [S.I. 2009/3345](#), art. 2, [Sch. para. 15\(h\)](#)

- 8 Where any fish or any other thing of a perishable nature is seized as liable to forfeiture under paragraph 5 above, the person by whom it is seized may sell it, and the net proceeds of sale shall be liable to forfeiture in the same manner as the fish or other thing sold, and if and so far as not forfeited shall be paid on demand to the owner; but no person shall be subject to any liability on account of his neglect or failure to exercise the powers conferred on him by this paragraph.

- 9 If a person is convicted of an offence against this Act [^{F5}and is subsequently convicted of any such offence], the court may order that any fishing or general licence held by him shall be forfeited, and that he shall be disqualified from holding and obtaining a fishing or general licence [^{F6}or for fishing in a water authority area][^{F6}for having his name entered on a licence in pursuance of paragraph 9 to 14 of Schedule 2 to this Act or for fishing (either in a particular area or generally)] by virtue of a fishing or general licence for such period not exceeding [^{F7}one year][^{F7}five years] as the court thinks fit.

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Textual Amendments

- F5** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 141, 190, Sch. 17 para. 7(1)(15)(a), **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** Words beginning “for having his name” substituted for words beginning “or for fishing” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(15)(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)
- F7** Words “five years” substituted for “one year” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(15)(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)

- 10 A person who is prosecuted for an offence against this Act and who is the holder of a fishing or general licence shall either—
- cause it to be delivered to the [^{F8}proper officer] of the court not later than the day before the date appointed for the hearing, or
 - post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the [proper officer] and either registered or sent by the recorded delivery service, or
 - have it with him at the hearing;
- and if he is convicted of the offence and the court makes an order under paragraph 9 above the court shall order the licence to be surrendered to it; and if the offender has not posted the licence or caused it to be delivered as aforesaid and does not surrender it as required then he shall be guilty of an offence and the licence shall be revoked from the time when its surrender was ordered.

Textual Amendments

- F8** Words in Sch. 4 para. 10(a)(b) substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 86(2)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

- 11 Where a court orders a fishing or general licence to be surrendered to it under paragraph 10 above, or where by an order of a court under paragraph 9 above a person is disqualified from holding or obtaining a licence, the court shall—
- send notice of the order to the water authority [^{F9}within whose area the offence was committed], unless the authority prosecuted in the case;
 - if the licence has been so surrendered, retain it and forward it to that authority, who may dispose of it as they think fit.

Textual Amendments

- F9** 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)

- 12 Where any person is convicted of an offence against this Act, the [^{F10}proper officer] of the court before whom he is convicted shall, within one month of the date of conviction, forward a certificate of the conviction to the water authority [^{F11}for the area in which the offence was committed].

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Textual Amendments

- F10** Words in Sch. 4 para. 12 substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 86(2)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F11** 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 A certificate under paragraph 12 above shall be receivable in evidence in all legal proceedings.

- ^{F12}[14 In paragraphs 10 and 12 above “proper officer” means—
- (a) in relation to a magistrates’ court, the [^{F13}designated officer] for the court; and
- (b) in relation to the Crown Court, the appropriate officer.]

Textual Amendments

- F12** Sch. 4 para. 14 inserted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 86(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F13** Words in Sch. 4 para. 14 substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 178**; S.I. 2005/910, art. 3(y)

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