

Status: Point in time view as at 01/02/1991.

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

SCHEDULES

SCHEDULE 1

Section 19.

CLOSE SEASONS AND CLOSE TIMES

- 1 It shall be the duty of every water authority to make byelaws fixing for ^[F1]the respective parts of the area in relation to which the National Rivers Authority carries out its functions under this Act], subject to paragraph 3 below, the annual close season and weekly close time for fishing by any method for salmon and trout other than rainbow trout.

Textual Amendments

- F1** Words in Sch. 1 para. 1 substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(12) (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)

- ^[F2]2 If a water authority have not before the commencement of this Act made any such byelaws for a part of their area, the Minister may make such byelaws for that part of that area with or without a local inquiry.]

Textual Amendments

- F2** Sch. 1 para. 2 repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, Sch. 27 Pt.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)

- 3 The minimum close seasons and close times are specified in the following Table (subject to the power to dispense altogether with a close season for freshwater fish or rainbow trout conferred by paragraph 20 of Schedule 3 below).

TABLE

		<i>Minimum duration</i>
1.	Salmon close season	153 days
2.	Close season for fishing for salmon with rod and line	92 days
3.	Close season for fishing for salmon or trout with putts and putchers	242 days

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4.	Weekly close time for salmon	42 hours
5.	Trout close season	181 days
6.	Close season for fishing for trout with rod and line	153 days
7.	Weekly close time for trout	42 hours
8.	Close season for freshwater fish or rainbow trout	93 days

4 If byelaws neither specify nor dispense with an annual close season for freshwater fish, the annual close season for such fish shall be the period between 14th March and 16th June.

5 The annual close season for rainbow trout for any waters is that fixed for those waters by byelaws.

6 Subject to any byelaws under this Act or the ^{M1}Salmon and Freshwater Fisheries Act 1923—

(a) for salmon—

- (i) the annual close season shall be the period between 31st August and the following 1st February;
- (ii) the close season for rods shall be the period between 31st October and the following 1st February;
- (iii) the close season for putts and putchers shall be the period between 31st August and the following 1st May; and
- (iv) the weekly close time shall be the period between 6 a.m. on Saturday and 6 a.m. on the following Monday; and

(b) for trout—

- (i) the annual close season shall be the period between 31st August and the following 1st March;
- (ii) the annual close season for rod and line shall be the period between 30th September and the following 1st March; and
- (iii) the weekly close time shall be the period between 6 a.m. on Saturday and 6 a.m. on the following Monday.

Marginal Citations

M1 1923. c. 16.

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SCHEDULE 2

Section 25.

LICENCES

Duty on licences

- 1 (1) Subject to sub-paragraph (2) below, there shall be payable in respect of a fishing licence a duty fixed in accordance with this Schedule by the water authority.
- (2) The water authority may in special cases grant an exemption from the duty.
- 2 Different duties may be fixed under paragraph 1 above for different instruments, different periods, different parts of the water authority area, different descriptions of fish and different classes of licence holder.
- 3 A water authority shall at least one month before fixing or altering a duty for the use of any instrument in any part of their area, except a duty payable in respect of a temporary licence, publish in one or more newspapers circulating in that part of their area notice of their intention to do so [^{F3}and such a notice shall set out the amount of any duty as proposed to be fixed or altered.]

Textual Amendments

- F3** Words inserted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 141, [Sch. 17 para. 7\(1\)\(13\)\(a\)](#) (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)

- 4 If during the month immediately following the publication of a notice under paragraph 3 above a written objection to the proposed duty is made to the Minister by any interested person, the water authority shall not fix or alter the duty without the approval of the Minister.
- 5 The Minister, with or without a local inquiry, may refuse to approve any duty submitted by a water authority for his approval under paragraph 4 above or may approve the duty with or without modifications; and the authority, if so directed by the Minister, shall cause notice of any proposed modification to be given in accordance with the direction.
- [^{X1}6 No duty fixed under the foregoing provisions of this Schedule shall take effect until the beginning of the year following that in which it is fixed or, in the case of a duty required to be approved by the Minister, in which it is approved by him.]

Editorial Information

- X1** [Sch. 2 para. 6](#) beginning “Where the fixing” substituted for para. 6 beginning “No duty” (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 141, [Sch. 17 para. 7\(1\)\(13\)\(b\)](#) (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)

- [^{F4}6 Where the fixing or alteration of any duty takes effect under this Schedule at any time, no alteration or, as the case may be, further alteration of that duty shall so take effect within the period of twelve months beginning with that time.]

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Textual Amendments

F4 Sch. 2 para. 6 beginning “Where the fixing” substituted for para. 6 beginning “No duty” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(13)(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)

- 7 A water authority may grant a temporary licence, that is to say, a licence authorising the use of an instrument for fishing in circumstances specified in the licence during a period not exceeding 14 days, and may charge in respect of that licence a duty less than the duty fixed for the use of that instrument under the foregoing provisions of this Schedule.
- 8 There shall be payable in respect of a general licence such sum as may be agreed by the water authority and the licensee.

Net etc. licences for salmon and trout fishing

- [^{X2}9 A person shall be treated for the purposes of section 25(3) above as the duly authorised servant or agent of the holder of a licence to use an instrument of any description only in the following cases—
- (a) in an area in which there is in force an order under section 26 above limiting the number of licences for fishing with instruments of that description, if his name and address are entered on the licence in accordance with the following provisions of this Schedule and he is not the holder of another licence to use an instrument of that description in that area;
 - (b) in any other area, if his name and address are so entered or when using the instrument to which the licence relates he is accompanied by the licensee; or
 - (c) in the case of any area, if the water authority direct that owing to special circumstances he is to be so treated.]

Editorial Information

X2 Sch. 2 para. 9 beginning “A person who uses” substituted for para. 9 beginning “A person shall be treated” (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. 36(1), 43(4)**

- [^{F5}9 (1) A person who uses an instrument of any description for fishing in an area in relation to which an order under section 26 above limiting the number of licences for fishing with instruments of that description is in force shall not be treated for the purposes of section 25(3) above as the duly authorised servant or agent of any holder of a licence to use an instrument of that description unless, at the time that person uses the instrument—
- (a) his name and address are entered on the licence in accordance with the following provisions of this Schedule; and
 - (b) he is not himself the holder of a licence to use an instrument of that description in that area; and
 - (c) he is accompanied by the licensee or has the consent of the water authority to his use of the instrument in the absence of the licensee.
- (2) A person who uses an instrument of any description for fishing in an area in which no such order as is mentioned in sub-paragraph (1) above is in force shall not be treated

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for the purposes of section 25(3) above as the duly authorised servant or agent of any holder of a licence to use an instrument of that description unless, at the time that person uses the instrument—

- (a) his name and address are entered on the licence in accordance with the following provisions of this Schedule; or
- (b) he is accompanied by the licensee; or
- (c) he has the consent of the water authority to his use of the instrument otherwise than where there is compliance with paragraph (a) or (b) above.

(3) The consent of a water authority shall not be given under this paragraph except—

- (a) in the case of a consent for the purposes of subparagraph (1)(c) above, in relation to a period which appears to the water authority to be a period throughout which the licensee will be unable through illness or injury to accompany his servant or agent;
- (b) in the case of a consent for the purposes of subparagraph (2)(c) above, where the giving of the consent appears to the water authority to be required by the special circumstances of the case.]

Textual Amendments

- F5** [Sch. 2 para. 9](#) beginning “A person who uses” substituted for para. 9 beginning “A person shall be treated” (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. 36\(1\), 43\(4\)](#)

- 10 The name and address of a servant or agent may be entered on a licence by an employee of a water authority authorised to do so or by the licensee or an agent who has been appointed by the licensee to act for the purposes of this paragraph and whose appointment, together with his name and address, has been notified to the water authority.
- 11 The date of entry in the licence shall be stated in the licence at the time of the making of the entry, and within twenty-four hours of the making of an entry by a licensee or his agent a copy shall be sent to the water authority, together with a fee of 20p for every name and address entered.
- 12 The name and address of a servant or agent may be removed from, or inserted in, a licence on payment of a fee of 20p for each removal or insertion or, where a name and address are inserted in substitution for a name and address removed, for each substitution.
- 13 The number of servants or agents whose names may at any time be entered on a licence shall not exceed twice the number of persons who in the opinion of the water authority are required to work at one time the instrument to which the licence relates or, where the applicant for the licence notifies the authority at the time of the application that he proposes to take part in working the instrument, one less than twice that number.
- 14 Any person who, with intent to deceive, enters on a licence more names than are permitted by paragraph 13 above or states falsely the date of entry in a licence is guilty of an offence.

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Miscellaneous

- 15 Subject to section 26 above, a fishing licence shall be granted by the water authority to every applicant who is at the time of the application not disqualified from holding a fishing licence, on payment of the duty in respect of the instrument to which the licence relates.
- 16 A fishing licence shall not confer any right to fish at a place or a time at which the licensee is not otherwise entitled to fish.
- 17 A fishing licence shall not authorise the erection of any structure or the use of any installation or instrument for or in connection with fishing the erection or use of which would otherwise be illegal.
- 18 The production of a printed copy of a statement purporting to be issued by a water authority as to a licence duty fixed and, if it be the case, approved by the Minister under this Schedule shall be prima facie evidence that the licence duty was fixed or approved as there mentioned and of the amount of the duty, and without proof of the handwriting or official position of any person purporting to sign the statement.

SCHEDULE 3

Section 28.

ADMINISTRATION

PART I

ORDERS

Scope

- [^{F6}1 An order may provide—
- (a) for the imposition, collection and recovery by a water authority of contributions assessed on several fisheries regulated by the order or on the owners and occupiers of such fisheries;
 - (b) for enabling the water authority with the approval of the Minister, but subject to paragraphs 2 and 3 below, to erect and work by themselves or their lessees any fixed engine for catching salmon or migratory trout within the area within which the order is to apply;
 - (c) for modifying in relation to the fisheries within the area any of the provisions of this Act which relate to the regulation of fisheries, or of any local Act relating to any fishery within the area.]

Textual Amendments

F6 Sch. 3 paras. 1–5 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)

- 2 An order shall not authorise a fixed engine to be worked for a period exceeding five years unless authorisation is from time to time extended by licence of the Minister

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for such terms as may be specified in the licence and not exceeding at any one time five years.

3 The Minister shall not grant a licence until he has inquired into the effect of the working of the engine on the salmon or trout fisheries within the area.

4 An order may contain any incidental, consequential or supplemental provisions, including provisions for payment of compensation to persons injuriously affected by the order, which may appear to be necessary or proper for the purposes of the order.

Procedure

5 An application for an order may be made by any of the following, namely—

- (a) a water authority;
- [^{F7}(b) a [^{F8}county or metropolitan district council];]
- (c) persons who in the opinion of the Minister are the owners of one-fourth at least in value of the several fisheries proposed to be regulated or constitute a majority of the persons holding licences to fish in public waters within the area of the proposed order;
- (d) any association of persons which in the opinion of the Minister is sufficiently representative of fishing interests within that area.

Textual Amendments

F7 Sch. 3 para 5(b) repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 41, Sch. 17 para. 7(1)(14)(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), 41(1), 57(6), 58)

F8 Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 16, Sch. 8 para. 20

6 The applicant for an order shall give such security for the Minister's expenses as the Minister may require.

[^{F9}7 Before he makes an order the Minister shall—

- (a) send to the National Rivers Authority a copy of the draft order; and
- (b) notify the Authority of the time within which, and the manner in which, objections to the draft order may be made to him;

and the Minister shall not make an order unless the Authority has caused notice of the Ministers' intention to make the order, of the place where copies of the draft order may be inspected and obtained and of the matters notified under subparagraph (b) above to be published in the London Gazette and, if it is directed to do so by the Minister, in such other manner as the Minister thinks best adapted for informing persons affected.]

Textual Amendments

F9 Sch. 3 para. 7 substituted by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(14)(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(3)(4), 57(6), 58)

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Modifications etc. (not altering text)

C1 Sch. 3 para. 7 modified by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 26 para. 40(3)(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)

8 Before making an order the Minister shall consider any objections which may be duly made to the draft order, and may cause a public local inquiry to be held with respect to any such objections.

[^{F109} A statutory instrument containing an order shall be subject to annulment in pursuance to a resolution of either House of Parliament; and, where a statutory instrument is laid before Parliament for the purposes of this paragraph, a copy of the report of any local inquiry held with respect to objections considered in connection with the making of the order contained in that instrument shall be so laid at the same time.]

Textual Amendments

F10 Sch. 3 para. 9 substituted for paras. 9 (beginning “After an order”), 10, 11 by Water Act 1989 (c.15, SIF 130), ss. 141, 190, Sch. 17 para. 7(1)(14)(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)

^{F11}12

Textual Amendments

F11 Sch. 3 para. 12 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)

13 Where—
(a) any fishery, land or foreshore proposed to be comprised in an order; or
(b) any fishery proposed to be affected by any order; or
(c) any land over which it is proposed to acquire an easement under an order, belongs to Her Majesty in right of the Crown or forms part of the possessions of the Duchy of Lancaster or the Duchy of Cornwall, or belongs to or is under the management of any government department, the Minister may make the order if he has previously obtained—
(i) in the case of any foreshore under the management of the Crown Estate Commissioners, or of any fishery or land belonging to Her Majesty in right of the Crown, the consent of those Commissioners;
(ii) in the case of any foreshore or fishery or land forming part of the possessions of the Duchy of Lancaster, the consent of the Chancellor of the Duchy;
(iii) in the case of any foreshore, fishery or land forming part of the possessions of the Duchy of Cornwall, the consent of the Duke of Cornwall, or the

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- persons for the time being empowered to dispose for any purpose of the land of the Duchy;
- (iv) in the case of any foreshore or fishery or land which belongs to or is under the management of a government department, the consent of that government department.

PART II

BYELAWS

General

- 14 Subject to Schedule 1 above, the power to make byelaws shall be exercisable by water authorities.
- 15 Byelaws may be made for any of the purposes mentioned in paragraphs 19 to 36 below.
- 16 A byelaw may be made to apply to^{F12} . . . any part or parts of a water authority area or to the whole or any part or parts of the year.

Textual Amendments

F12 Words 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](#))

- 17 If at any time before the end of 12 months after the confirmation of a byelaw made for the purpose specified in paragraph 21 or 25 below the owner or occupier of any fishery^{F13} . . ., by notice in writing to the water authority, claims that the fishery is injuriously affected by the byelaw, the claim and the amount of compensation to be paid, by way of annual payment or otherwise, for the damage (if any) to the fishery shall be determined, in default of agreement, by a single arbitrator appointed by the Minister.

Textual Amendments

F13 Words 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](#))

- 18 When the compensation is payable under any award by way of an annual payment, the water authority or the person entitled to the annual payment may at any time after the end of 5 years from the date of the award require it to be reviewed by a single arbitrator appointed by the Minister, and the compensation to be thenceforth paid shall be such, if any, as may be determined by that arbitrator.

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Purposes for which Byelaws may be made

- 19 Fixing or altering, subject to paragraph 3 of Schedule 1 above, any such close season or close time as is mentioned in that paragraph.
- 20 Dispensing with a close season for freshwater fish or rainbow trout.
- 21 Specifying the nets and other instruments (not being fixed engines) which may be used for taking salmon, trout, freshwater fish and eels and imposing requirements as to their construction, use, design, material and dimensions, including in the case of nets the size of mesh.
- [^{F14}21A Authorising the placing and use of fixed engines at such places ^{F15} . . . (not [^{F16}without the consent of the local fisheries committee in question] being places within the sea fisheries district of a local fisheries committee), at such times and in such manner as may be prescribed by the byelaws and imposing requirements as to the construction, design, material and dimensions of such engines, including in the case of nets the size of mesh.]

Textual Amendments

- F14** Sch. 3 para. 21A inserted (E.W. and as mentioned in the said s. 43(4) (border rivers)) by Salmon Act 1986 (c. 62, SIF 52:2), ss. 33(3), 43(4)
- F15** Words 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)
- F16** Words inserted by Water Act 1989 (c. 15, SIF 130), ss. 141, 190, Sch. 17 para. 7(14)(c), 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)

- 22 Requiring and regulating the attachment to licensed nets and instruments of marks, labels or numbers, or the painting of marks or numbers or the affixing of labels or numbers to boats, coracles or other vessels used in fishing.
- 23 Prohibiting the carrying in any boat or vessel whilst being used in fishing for salmon or trout of any net which is not licensed, or which is without the mark, label or number prescribed by the byelaws.
- 24 Prohibiting or regulating the carrying in a boat or vessel during the annual close season for salmon of a net capable of taking salmon other than a net commonly used in the area to which the byelaw applies for sea fishing if carried in a boat or vessel commonly used for that purpose.

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- 25 Prohibiting the use for taking salmon, trout, or freshwater fish of any instrument (not being a fixed engine) in such waters within the water authority area and at such times as may be prescribed by the byelaws.
- 26 Prohibiting the taking or removal from any water without lawful authority of any fish, whether alive or dead.
- 27 Determining for the purposes of this Act the period of the year during which gratings need not be maintained.
- 28 Prohibiting or regulating the taking of trout or any freshwater fish of a size less than such as may be prescribed by the byelaw.
- 29 Prohibiting or regulating the taking of fish by any means within such distance as is specified in the byelaw above or below any dam or any other obstruction, whether artificial or natural.
- 30 Prohibiting or regulating fishing with rod and line 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.
- 31 Regulating the deposit or discharge in any waters containing fish of any liquid or solid matter specified in the byelaw which is detrimental to salmon, trout or freshwater fish, or the spawn or food of fish, but not so as to prejudice any powers of a local authority to discharge sewage in pursuance of any power given by a public general Act, a local Act or a provisional order confirmed by Parliament.
- [^{F17}32 Requiring persons to send to the National Rivers Authority returns, in such form, giving such particulars and at such times as may be specified in the byelaws, of the period or periods during which they have fished for salmon, trout, freshwater fish or eels, of whether they have taken any and, if they have, of what they have taken.]

Textual Amendments

- F17** Sch. 3 para. 32 substituted for para. 32 by Water Act 1989 (c. 15, SIF 130), ss. 141, 190, Sch. 17 para. 7(1)(14)(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)

- 33 Regulating the use in connection with fishing with rod and line of any lure or bait specified in the byelaw.

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- 34 Determining the time during which it shall be lawful to use a gaff in connection with fishing with rod and line for salmon or migratory trout.
- 35 Authorising fishing with rod and line for eels during the annual close season for freshwater fish.
- 36 The better execution of this Act and the better protection, preservation and improvement of any salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries^{F18} . . .

Textual Amendments

F18 Words 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)

PART III

MISCELLANEOUS

- 37 Without prejudice to [^{F19}section 145 of the Water Act 1989, the powers conferred on the National Rivers Authority by that section, by section 151 of that Act and by section 155 of that Act include power] to purchase or take on lease (either by agreement or if so authorised compulsorily)—
- (a) any dam, fishing weir, fishing mill dam, fixed engine or other artificial obstruction and any fishery attached to or worked in connection with any such obstruction;
 - (b) so much of the bank adjoining a dam as may be necessary for making or maintaining a fish pass for the purposes of section 10 above; and
 - (c) for the purpose of erecting and working a fixed engine under paragraph 1(b) above, any fishery land or foreshore specified in the relevant order under that paragraph together with any easement over any adjoining land necessary for securing access to the fishery land or foreshore so acquired.

Textual Amendments

F19 Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 141, 190, Sch. 17 para. 7(1)(14)(e), **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)

- 38 Without prejudice to the said [^{F20}section 145], a water authority may either alter or remove an obstruction acquired in the exercise of the powers mentioned in paragraph 37 above, or may by themselves or their lessees use or work in any lawful manner the obstruction for fishing purposes and exercise the right conferred by any fishery so acquired, subject in the case of an obstruction or fishery acquired by way of lease to the terms of the lease.

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Textual Amendments

F20 Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 141, 190, Sch. 17 para. 7(1)(14)(f), **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)

- 39 (1) Without prejudice to the said [^{F21}paragraph 2][^{F21}section 145], a water authority—
- (a) may take legal proceedings in respect of any offence against this Act, or for the enforcement of the provision of this Act or for the protection of [^{F22}the fisheries in their area][^{F22}any fisheries] from injury by pollution or otherwise;
 - [^{F23}(b) may purchase or lease by agreement any fishery, fishing rights, or any establishment for the artificial propagation or rearing of salmon, trout or freshwater fish, and may use, work or exercise the same by themselves, their lessees, or any person duly authorised by them in writing; and]
 - (c) may obtain the services of additional constables under section 15 of the ^{M2}Police Act 1964.
- (2) Nothing in this paragraph shall authorise anything to be done which may injuriously affect any navigable river, canal, or inland navigation.

Textual Amendments

F21 Words “section 145” substituted for “paragraph 2” (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 141, 190, Sch. 17 para. 7(1)(14)(g)(i), **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)

F22 Words “any fisheries” substituted for “the fisheries in their area” (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 141, 190, Sch. 17 para. 7(1)(14)(g)(ii), **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)

F23 Sch. 3 para. 39(1)(b) 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)

C2 Sch. 3 para. 39(1)(a): by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), **ss. 32(6)(b)**, 43(4) it is provided that Sch. 3 para. 39(1)(a) is amended (E.W., and as mentioned in s. 43(4) (border rivers))

Marginal Citations

M2 1964 c. 48.

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SCHEDULE 4

Section 37.

OFFENCES

PART I

PROSECUTION AND PUNISHMENT

- 1 (1) Column 2 of the Table below gives a description of the offences against the provisions of this Act specified in column 1 of the Table, and in relation to any such offence—
- (a) column 3 shows whether the offence is punishable summarily (that is to say, on summary conviction) or on indictment or either in one way or the other; and
 - (b) column 4 shows the maximum punishment by way of fine or imprisonment which may be imposed on a person convicted of the offence in the way specified in column 3 (that is to say, summarily or on indictment), any reference in column 4 to a period of years or months being construed as a reference to a term of imprisonment for that period.
- (2) A person guilty of an offence against any provision of this Act not specified in the Table shall be liable on summary conviction to a fine not exceeding [^{F24}level 4 on the standard scale] or, in the case of a second or subsequent conviction, [^{F24}level 4 on the standard scale].
- (3) A person shall be treated as acting together with another for the purposes of the above Table if both are engaged in committing an offence against section 1 or 27 above, other than one committed by means of a rod and line or without any instrument, or one is aiding, abetting, counselling or procuring the commission of such an offence by the other.

TABLE

Provision of Act creating the offence	Description of offence	Mode of prosecution	Punishment
(1)	(2)	(3)	(4)
[^{F25} Section 1 ...]	[^{F25} Fishing with certain instruments for salmon, trout or freshwater fish and possessing certain instruments for fishing for such fish.]	[^{F25} (a) Summarily ...]	[^{F25} Three months or the statutory maximum or both.]
Section 4 ...	Discharging poisonous or	[^{F25} On indictment ...] (a) Summarily	[^{F25} Two years or a fine of both.] [^{F26} The prescribed sum] and £40

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	injurious matter into waters containing fish or spawn.		for each day on which the offence continues after a conviction thereof.
		(b) On indictment	Two years or a fine or both.
Section 5(1) ...	Using explosives, poisons, noxious substances or electrical devices to take or destroy fish.	(a) Summarily	[^{F26} The prescribed sum].
		(b) On indictment	Two years or a fine or both.
Section 5(3) ...	Destroying or damaging dams etc., to take or destroy fish.	(a) Summarily	[^{F26} The prescribed sum].
		(b) On indictment	Two years or a fine or both.
Section 19(2) ...	Fishing for salmon during the annual close season or weekly close time.	Summarily	[^{F27} Level 4 on the standard scale]; or in the case of a second or subsequent conviction [^{F27} level 4 on the standard scale].
Section 19(4) ...	Fishing for trout during the annual close season or weekly close time.	Summarily	[^{F27} Level 4 on the standard scale]; or in the case of a second or subsequent conviction [^{F27} level 4 on the standard scale].
Section 19(6) ...	Fishing for freshwater fish during the annual close season for freshwater fish and fishing for eels by means of a rod and line during that season.	Summarily	[^{F27} Level 4 of the standard scale]; or in the case of a second or subsequent conviction [^{F27} level 4 on the standard scale].
Section 19(7) ...	Fishing for rainbow trout during the annual	Summarily	[^{F27} Level 4 on the standard scale]; or in the

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	close season for rainbow trout and fishing for eels by means of a rod and line during that season.		case of a second or subsequent conviction [^{F27} level 4 on the standard scale].
Section 21.	Prohibition on use of certain devices at certain times.	Summarily	[^{F27} Level 4 on the standard scale]; or in the case of a second or subsequent conviction [^{F27} level 4 on the standard scale].
[^{F25} Section 27 ...]	[^{F25} Fishing for fish otherwise than under the authority of a licence and possessing an unlicensed instrument with intent to use it for fishing.]	[^{F25} (a) If the instrument in question, or each of the instruments in question, is a rod and line, summarily.]	[^{F25} Level 4 on the standard scale]
		[^{F25} (b) in any other case—]	
		[^{F25} (i) summarily]...	[^{F25} Three months or the statutory maximum or both;]
		[^{F25} (ii) on indictment]...	[^{F25} Two years or a fine or both.]

Textual Amendments

- F24** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)
- F25** Entry substituted (E.W. and as mentioned in s. 43(4) of the substituting Act (border rivers)) by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [ss. 35\(1\)\(2\)](#), 43(4)
- F26** Sch. 4 para. 1 table: the maximum fine which may be imposed on summary conviction shall be the prescribed sum by virtue of [Magistrates' Courts Act 1980 \(c. 43\)](#), [s. 32\(2\)](#)
- F27** Words substituted by virtue of [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), s. 31, [Sch. 6](#) and [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)

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PART II

PROCEDURE

Modifications etc. (not altering text)

C3 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 [^{F28}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:—
- [^{F29}(a) paragraphs 1(2) and 5 shall be omitted;]
 - (b) for references to the Commissioners of Customs and Excise there shall be substituted references to the water authority [^{F30}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.

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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

- F28** Words substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), s. 177(1), **Sch. 4 para. 12**
- F29** [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**
- 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)

- 7 An authorised officer may seize any salmon, trout or freshwater fish bought, sold or exposed for sale by, or in the possession for sale of, any person in contravention of this Act.
- 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 [^{F31}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 [^{F32}or for fishing in a water authority area]^{F32} 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 [^{F33}one year]^{F33} five years] as the court thinks fit.

Textual Amendments

- F31** 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)
- F32** 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)
- F33** 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—
- (a) cause it to be delivered to the clerk of the court not later than the day before the date appointed for the hearing, or

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- (b) 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 clerk and either registered or sent by the recorded delivery service, or
- (c) 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.

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—

- (a) send notice of the order to the water authority [^{F34}within whose area the offence was committed], unless the authority prosecuted in the case;
- (b) 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

F34 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 clerk 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 [^{F35}for the area in which the offence was committed].

Textual Amendments

F35 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.

VALID FROM 01/04/2001

[^{F36}14 In paragraphs 10 and 12 above “proper officer” means—
(a) in relation to a magistrates’ court, the justices’ chief executive for the court; and
(b) in relation to the Crown Court, the appropriate officer.]

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Textual Amendments

- F36** 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)

SCHEDULE 5

Section 43.

REPEALS

Modifications etc. (not altering text)

- C4** 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

Chapter	Short title	Extent of repeal
13 & 14 Geo. 5. c. 16.	The Salmon and Freshwater Fisheries Act 1923.	The whole Act.
19 & 20 Geo. 5. c. 39.	The Salmon and Freshwater Fisheries (Amendment) Act 1929.	The whole Act.
25 & 26 Geo. 5. c. 43.	The Salmon and Freshwater Fisheries Act 1935.	The whole Act.
1963 C. 38.	The Water Resources Act 1963.	In section 71(6), the words “the Salmon and Freshwater Fisheries Act 1923 or by”. In section 126(1), the words “the Salmon and Freshwater Fisheries Acts 1923 to 1972, and”.
1965 c. 56.	The Compulsory Purchase Act 1965.	In Schedule 6, the entry relating to the Salmon and Freshwater Fisheries Act 1923.
1965 c. 68.	The Salmon and Freshwater Fisheries Act 1965.	The whole Act.
1972 c. 37.	The Salmon and Freshwater Fisheries Act 1972.	The whole Act.
1973 c. 37.	The Water Act 1973.	Section 18. Section 40(4)(c). In Schedule 8, paragraphs 1 to 19 and paragraphs 95 to 97.

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1974 c. 40.

The Control of Pollution
1974.

In Schedule 3, paragraph 5.

Status:

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Changes to legislation:

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