



Import of Live Fish (Scotland) Act 1978

1978 CHAPTER 35

An Act to restrict in Scotland the import, keeping or release of live fish, or shellfish or the live eggs or milt of fish or shellfish of certain species. [20th July 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Power to limit the import etc. of fish and fish eggs.

- (1) Without prejudice to section 1(1) of the Diseases of Fish Act 1937 and subject to subsection (2) below, the Secretary of State may by order forbid either absolutely or except under a licence granted under this section, the import into, or the keeping or the release, in Scotland of live fish, or the live eggs of fish, of a species which is not native to Scotland and which in the opinion of the Secretary of State might compete with, displace, prey on or harm the habitat of any freshwater fish, shellfish or salmon in Scotland.
- (2) Before determining whether or not to make an order under this section, the Secretary of State shall consult the Nature Conservancy Council and any other person with whom the Secretary of State considers that consultation is appropriate.
- (3) The Secretary of State may grant a licence to any person to import or keep live fish, or the live eggs of fish, of a species specified in an order under this section.
- (4) A licence under this section may be granted—
 - (a) subject to the payment of such fees as may be prescribed in regulations made by the Secretary of State by statutory instrument after consultation with the Treasury; and
 - (b) subject to such other conditions as the Secretary of State thinks fit, and the Secretary of State may revoke or vary any such licence.
- (5) The power conferred by this section to make orders—

Status: This is the original version (as it was originally enacted).

- (a) shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
- (b) shall include power to revoke or vary a previous order made under this section.

(6) In this Act—

- " eggs " includes milt;
- " fish " includes shellfish ;
- " freshwater fish " means any fish living in fresh water including eels and the fry of eels, but excluding salmon ;
- " salmon " includes all migratory fish of the species *Salmo salar* and *Salmo trutta* commonly known as salmon and sea trout respectively;
- " shellfish " has the same meaning as in section 22(1) of the Sea Fish (Conservation) Act 1967.

2 Powers of entry and inspection.

- (1) While an order under section 1 of this Act is in force, any officer commissioned by the Commissioners of Customs and Excise, a police constable or a person duly authorised by the Secretary of State may at all reasonable times, on production of his authority if so required, enter and inspect any land occupied by a person holding a licence granted under that section and any other land upon which he has reason to believe that live fish, or the live eggs of fish, of the species specified in the order are being kept or may be found.
- (2) In this section " land " includes land covered with water but does not include a dwelling-house.

3 Offences etc.

- (1) Subject to subsection (2) below, any person who—
 - (a) imports or attempts to import into, or keeps or releases, in Scotland any live fish, or the live eggs of fish, of a species specified in an order under section 1 of this Act—
 - (i) in a case where the order forbids absolutely such import, keeping or release.
 - (ii) without having a valid licence granted under the said section 1 authorising such import or keeping, in a case where the order forbids the import or keeping except under such a licence ;
 - (b) being the holder of a licence granted to him under the said section 1, acts in contravention of or fails to comply with any term of the licence ;
 - (c) obstructs any person from entering or inspecting any land in pursuance of section 2 of this Act,
 shall be guilty of an offence under this Act and shall be liable on summary conviction to a fine not exceeding £500.
- (2) A person shall not be guilty of an offence under this Act in respect of any act if he does the act for some scientific or research purpose authorised by the Secretary of State.
- (3) The sheriff by whom any person is convicted of an offence under paragraph (a) or (b) of subsection (1) above shall order any fish or eggs in respect of which the offence was committed to be forfeited and destroyed.

- (4) Any person who is empowered to enter land under section 2 of this Act may seize any fish or eggs with respect to which he has reason to believe that an offence under paragraph (a) or (b) of subsection (1) above has been committed, and may detain them pending the determination of any proceedings to be instituted under the said paragraph (a) or (b), or until the Secretary of State is satisfied that no such proceedings are likely to be instituted.

4 Citation and extent.

- (1) This Act may be cited as the Import of Live Fish (Scotland) Act 1978.
- (2) This Act extends to Scotland only.