

SCHEDULE

Section 5.

FURTHER AMENDMENTS OF 1937 ACT

- 1 In section 1(3) of the 1937 Act (Minister may grant licences as to certain imported fish) for the words from " Minister " (in the first place) to "Minister)" (in the second place) there shall be substituted " Minister " .
- 2 (1) Section 3 of the 1937 Act (functions of water authorities as to infected waters) shall be amended as follows.
 - (2) In subsection (1) (water authority to report to Minister if waters suspected to be infected) for "any waters" (in both places) there shall be substituted " any inland waters " .
 - (3) For subsection (2) (Minister may authorise water authority to remove fish) there shall be substituted—

“(2) Where an order is in force in relation to an area under section 2 of this Act, the Minister may authorise any water authority to remove any fish (or any fish of a description specified in the authorisation) from any inland waters in that area (not being a fish farm) and to do so by such agents and by such methods (including methods otherwise illegal) as he considers to be most expedient for the purpose.”
 - (4) In subsection (3)(b) (returns to Minister) the words from " and " to the end shall be omitted.
- 3 In section 5 of the 1937 Act (Minister's duty to examine waters on demand of water authority or occupier to discover whether waters are infected) for " occupier of any waters " there shall be substituted " occupier of any inland waters " .
- 4 (1) Section 6 of the 1937 Act (powers of entry and inspection) shall be amended as follows.
 - (2) At the end of subsection (1) (power to authorise entry on land) there shall be inserted—

“The preceding provisions of this subsection shall have effect for the purpose of authorising the boarding of and entry into a cage situated in marine waters and used for the purposes of a business of fish farming as they have effect for the purpose of authorising entry on land.”
 - (3) In subsection (2) (power of inspector to inspect waters, take samples and enter land) after " power " there shall be inserted " (to the extent that he does not have it apart from this subsection) " .
 - (4) For paragraph (a) of subsection (2) there shall be substituted—
 - “(a) to inspect any inland waters in which fish or the eggs of fish or foodstuff for fish are likely to be found, and to take therefrom samples of any fish or of any such eggs or foodstuff or of water, mud, vegetation or other matter ;
 - (aa) to inspect any cage situated in marine waters and used for the purposes of a business of fish farming, and to take therefrom samples of any fish or of any eggs of fish or of foodstuff for fish or of water or other matter ;

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

- (ab) to inspect any marine waters in which fish of the salmon family or freshwater fish or the eggs of such fish or foodstuff for fish are likely to be found, and to take therefrom samples of any such fish, eggs or foodstuff or of water, mud, vegetation or other matter ;”.
- (5) After paragraph (b) of subsection (2) there shall be inserted—
- “(c) for the purpose of exercising any powers or performing any duties under this Act, to board and enter, upon production on demand of his authority, any cage situated in marine waters and used for the purposes of a business of fish farming.”
- (6) In subsection (2) for " obstructs " there shall be substituted " intentionally obstructs " .
- (7) In subsection (3) (compensation to occupier where non-infected fish taken from waters by inspector) for " any waters " there shall be substituted " any inland waters " .
- (8) After subsection (3) there shall be inserted—
- “(3A) If in any sample of fish taken from a cage by an inspector under the powers conferred by subsection (2)(aa) of this section none is found to be infected, the Minister shall pay to the person who owns or possesses the cage and uses it for the purposes of a business of fish farming carried on by him a sum equal to the market value of the fish taken in that sample.”
- (9) In subsection (4) for " obstructs " there shall be substituted " intentionally obstructs " .
- 5 (1) Section 7 of the 1937 Act (service of notices etc.) shall be amended as follows.
- (2) In subsection (1) (service of notice on occupier of waters) for " occupier of any waters " there shall be substituted " occupier of any inland waters " .
- (3) After subsection (1) there shall be inserted—
- “(1A) Any notice required or authorised to be served for the purposes of this Act upon a person carrying on the business of fish farming in marine waters may be served by delivering it to him or by sending it by registered post to his usual or last-known address.”
- (4) In subsection (2) (servant's or agent's authority) for " occupier of any waters " there shall be substituted " occupier of any inland waters " .
- 6 (1) Section 8 of the 1937 Act (penalties and legal proceedings) shall be amended as follows.
- (2) In subsection (1) (amount of fine) for the words from the beginning to " ; and " there shall be substituted " Any person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale (as defined in section 75 of the Criminal Justice Act 1982); and " .
- (3) In subsection (2) (water authorities' power to enforce Act as respects waters in their areas) for " waters " there shall be substituted " inland waters " .
- (4) In subsection (3) (prosecution of offences in Scotland etc.) for " Scotland " there shall be substituted " inland waters in Scotland " and for " waters " there shall be substituted " inland waters " .
- (5) After subsection (3) there shall be inserted—

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- “(4) For the purposes of and incidental to the jurisdiction of any magistrates' court or, in Scotland, of the sheriff, any offence under this Act committed in the territorial sea adjacent to Great Britain shall be taken to have been committed in any place in which the offender may for the time being be found.”
- 7 In section 9(b) of the 1937 Act (regulations may prescribe manner of publishing orders made under the Act) after " Act " there shall be inserted " (other than those made under section 1(6) or 13) " .
- 8 In section 10(1) of the 1937 Act (interpretation) after the definition of " marine waters " there shall be inserted—
“ the Minister' means—
(a) in relation to England, and any marine waters adjacent to England, the Minister of Agriculture, Fisheries and Food ;
(b) in relation to Wales, and any marine waters adjacent to Wales, the Secretary of State ;
(c) in relation to Scotland (including the marine waters thereof), the Secretary of State ;”.
- 9 For section 11 of the 1937 Act (application to Scotland) there shall be substituted—
“**11** In the application of this Act to Scotland, for references to a water authority there shall be substituted references to a district board.”.