



Inshore Fishing (Scotland)

Act 1984

CHAPTER 26

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Section

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Inshore Fishing (Scotland)

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1984 CHAPTER 26

An Act to make fresh provision for Scotland as regards the regulation of inshore sea fishing, and for connected purposes. [26th June 1984]

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.—(1) The Secretary of State may, after consultation with such General bodies as he considers appropriate, make orders under this section power to regulating fishing for sea fish in any specified sea area within prohibit sea Scottish inshore waters. fishing in specified areas.

(2) Orders under this section may prohibit, within the specified sea area, all or any, or a combination of the following—

- (a) all fishing for sea fish ;
- (b) fishing for a specified description of sea fish ;
- (c) fishing by a specified method ;
- (d) fishing from a specified description of fishing boat ;

and they may—

- (e) specify the period during which any prohibition is to apply ;
- (f) make exceptions to any prohibition contained in the order.

(3) Where an order under subsection (2)(b) or (c) above applies within a specified sea area for the time being, and, as an incident of lawful fishing operations, fish of a description for which fishing is prohibited are caught, or fish are caught by a method which is prohibited in respect of fish of that description, such fish shall, unless the order provides otherwise, be returned to the sea forthwith.

Power to prohibit the carriage of specified types of net.

2.—(1) The Secretary of State may, after consultation with such bodies as he considers appropriate, make orders under this section prohibiting the carriage, for any purpose, in any British fishing boat, in any specified sea area within Scottish inshore waters, of a type of net specified in the order; and such an order may make exceptions to any prohibition contained therein.

Use of mobile gear near fixed salmon nets.

3. No person may fish by means of a trawl, seine or other gear designed for fishing from a moving vessel within half a mile of any fixed salmon net.

Offences.

4.—(1) Any person who contravenes section 3 of this Act or any order made under this Act, or who fails to comply with section 1(3) of this Act shall be guilty of an offence; and where a fishing boat is used in the commission of such an offence, the master, the owner and the charterer (if any) shall each be guilty of an offence under this section.

(2) Any person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £5,000 or, on conviction on indictment, to a fine.

(3) Proceedings for an offence under this section or section 6 of this Act may be taken in any sheriff court, and the offence dealt with by the sheriff in every respect as if the offence had been committed wholly within his jurisdiction.

(4) The court by or before which a person is convicted of an offence under this section may, in addition to imposing any penalty under subsection (2) above—

- (a) order the forfeiture of any fish in respect of which the offence was committed or, alternatively, impose a fine not exceeding the value of such fish;
- (b) order the forfeiture of any net or other fishing gear used in the commission of the offence,

and any fish or gear forfeited under this subsection shall be disposed of as the court may direct.

5.—(1) The powers conferred by this section are exercisable by British sea-fishery officers, in relation to any British fishing boat within British fishery limits, for the purpose of enforcing the provisions of section 3 of this Act and of any order under this Act. Powers of sea-fishery officers.

(2) Any such officer may go on board any such boat, with or without persons assigned to assist him in his duties, and for that purpose may require the boat to stop and do anything else which will facilitate the boarding of the boat.

(3) Any such officer may require the attendance of the master and any other persons on board any boat which he has boarded under subsection (2) above and may make any examination and inquiry which appears to him to be necessary for the purpose of enforcing the aforesaid provisions.

(4) Without prejudice to the generality of subsection (3) above, any such officer—

- (a) may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board to do anything which appears to him to be necessary for facilitating the examination ;
- (b) may require any person on board the boat to produce any document relating to the boat, to its fishing operations or other operations ancillary thereto or to the persons on board which is in his custody or possession and may take copies of any such document ;
- (c) for the purpose of ascertaining whether the master, owner or charterer of the boat has committed an offence under this Act, may search the boat for any such document and may require any person on board the boat to do anything which appears to him to be necessary for facilitating the search ;
- (d) where the boat is one in relation to which he has reason to suspect that such an offence has been committed, may seize and detain any such document produced to him or found on board for the purpose of enabling the document to be used as evidence in proceedings for the offence,

but nothing in paragraph (d) above shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(5) Where it appears to any such officer that an offence under

section 4 of this Act has been committed in relation to any fishing boat, he may—

- (a) require the master of the boat to take, or may himself take, the boat and its crew to the port which appears to him to be the nearest convenient port ; and
- (b) detain or require the master to detain the boat in the port,

and where such officer detains or requires the detention of a boat he shall serve on the master a notice in writing stating that the boat will be or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

(6) Any such officer may seize—

- (a) any fish in respect of which an offence has been or is being committed under this Act ;
- (b) any net or other fishing gear which is used in the commission of an offence under this Act.

(7) Any such officer may—

- (a) enter at any reasonable time any premises (other than a dwelling-house) used for carrying on any business in connection with the operation of fishing boats or activities connected therewith or ancillary thereto or with the treatment, storage or sale of sea fish ;
- (b) require any person on the premises to produce any documents which are in his custody or possession relating to the catching, landing, transshipment, sale or disposal of any sea fish ;

and, if he has reason to suspect that an offence under this Act has been committed, he may also—

- (c) search the premises for any such document and require any person on the premises to do anything which appears to him to be necessary for facilitating the search ;
- (d) seize and detain any such document produced to him or found on the premises for the purpose of enabling the document to be used as evidence in proceedings for the offence.

Provisions
ancillary to
section 5.

6.—(1) Any person who—

- (a) fails to comply with any requirement imposed, or to answer any question asked, by a British sea-fishery officer under section 5 of this Act ; or
- (b) prevents, or attempts to prevent, any other person from complying with such a requirement or answering such a question ; or

(c) assaults any such officer exercising any of the powers conferred on him by section 5 of this Act, or obstructs any such officer in the exercise of any of those powers shall be guilty of an offence and liable on summary conviction to a fine of or not exceeding £5,000, or on conviction on indictment to a fine.

(2) A British sea-fishery officer shall not be liable in any civil or criminal proceedings for anything done in purported exercise of the powers conferred upon him by section 5, if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

7.—(1) This section applies where an order under section 1 of this Act imposes any prohibition or restriction on fishing for salmon or migratory trout within any waters which form part of the district of a district board within the meaning of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951. Powers of water bailiffs, etc.
1951 c. 26.

(2) Any water bailiff or constable or any person appointed by the Secretary of State in pursuance of section 10(5) of the said Act of 1951 may exercise in relation to a contravention of an order referred to in subsection (1) any of the powers conferred upon him in relation to a contravention of that Act by the following provisions thereof—

(a) sections 11 and 12 (which confer powers of search and arrest); and

(b) sections 10(1)(d) and 20, so far as those provisions relate to the seizure of fish, instruments or articles liable to forfeiture or to the disposal of such fish,

and subsections 10(3) and (6) (which contain provisions ancillary thereto) shall apply as if the Acts therein mentioned included this Act.

8.—(1) Where any offence under this Act is committed by a body corporate with the consent or approval of any director or other officer of the body corporate, he, as well as the body corporate, shall be guilty of the offence. Offences by bodies corporate and recovery of fines.

(2) Where a fine is imposed on the master, owner or charterer or a member of the crew of a fishing boat who is convicted by the sheriff of an offence under this Act, the sheriff may—

(a) issue a warrant for the poinding and sale of the boat and its gear and catch and any property of the person convicted; and

(b) order the boat to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid, whichever occurs first.

Interpretation. 9.—(1) In this Act—

1894 c. 60.

“British fishing boat” means a fishing boat which is registered in the United Kingdom, exempted from registration by regulations under section 373 of the Merchant Shipping Act 1894 or owned wholly by a person who is (within the meaning of that Act) a person qualified to own a British ship;

“fishing boat” means any vessel which is for the time being employed in sea fishing;

“master” includes, in relation to any fishing boat, the person for the time being in command or charge of the boat;

“miles” means international nautical miles of 1,852 metres;

“Scottish inshore waters” means the sea adjacent to the coast of Scotland and to the landward of a limit of six miles from the baseline from which the breadth of the territorial sea is measured, up to the mean high-water mark of ordinary spring tides;

“sea fish” means fish of any kind found in the sea, including shellfish, salmon and migratory trout.

(2) Orders under section 1 or 2 of this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Consequential amendments and repeals.

10.—(1) Schedule 1 to this Act has effect to make minor and consequential amendments to certain enactments.

(2) The enactments specified in the first column of Schedule 2 to this Act, which include certain spent provisions, are repealed to the extent specified in the third column of that Schedule.

Citation, commencement, transitional provisions and extent.

11.—(1) This Act may be cited as the Inshore Fishing (Scotland) Act 1984.

(2) The provisions of this Act shall come into force on such date as the Secretary of State may appoint by order made by statutory instrument, and different dates may be appointed for different provisions or for different purposes.

(3) The Secretary of State may by order made by statutory instrument make such consequential and transitional provisions as may appear to him to be expedient in connection with the coming into force of any of the provisions of this Act.

(4) This Act extends to Scotland only.

SCHEDULES

SCHEDULE 1

Section 10

MINOR AND CONSEQUENTIAL AMENDMENTS

Crofters Holdings (Scotland) Act 1886 (49 & 50 Vict. c.29)

In section 32—

- (a) for the words from “Fishery Board” to “1882” and for the words “Fishery Board” wherever they occur there shall be substituted the words “Secretary of State”;
- (b) for the words “Secretary for Scotland” there shall be substituted the words “Secretary of State”;
- (c) the words from “and the Secretary of the Board” to “name of the Board” shall be omitted;
- (d) for the words “Chairman and Secretary of the Fishery Board” there shall be substituted the words “Secretary of State”; and
- (e) the words from “The Fishery Board shall” to the end are repealed.

Merchant Shipping Act 1894 (57 & 58 Vict. c. 60)

In section 374, after the words “Fishery Limits Act 1976” there shall be inserted the words “Inshore Fishing (Scotland) Act 1984”.

Illegal Trawling (Scotland) Act 1934 (c. 18)

In section 4(1) for the words “section six of the Herring Fishing (Scotland) Act 1889 or of any byelaw for the time being in force” there shall be substituted the words “an order under section 1 of the Inshore Fishing (Scotland) Act 1984”.

In section 6—

- (a) the definition of “Herring Fishery (Scotland) Acts” is repealed; and
- (b) in the definition of “illegal trawling”—
 - (i) for the words “section six of the Herring Fishing (Scotland) Act 1889 or of any byelaw for the time being in force” there shall be substituted the words “an order under section 1 of the Inshore Fishing (Scotland) Act 1984”; and
 - (ii) the words from “and the expression” to the end of the definition are repealed.

Sea Fish (Conservation) Act 1967 (c.84)

In section 3(7), for the words from “byelaw, rule” to “1895” there shall be substituted the words “order made under section 1 of the Inshore Fishing (Scotland) Act 1984”.

Section 10.

Rivers (Prevention of Pollution) (Scotland) Act 1965 (c.13)

Section 2(2)(d) shall be omitted and after section 2(2)(c) there shall be inserted—

“(dd) any order under section 1 of the Inshore Fishing (Scotland) Act 1984, or”

Fisheries Act 1981 (c.29)

In Part I of Schedule 4, at the end, there shall be added a new paragraph as follows—

“17A. Any offence under section 3 of the Inshore Fishing (Scotland) Act 1984 (fishing with mobile gear near fixed salmon nets or contravention of order restricting fishing for sea fish).”

In Part II of Schedule 4, at the end, there shall be added a new paragraph as follows—

“34A. Any offence under section 3 of the Inshore Fishing (Scotland) Act 1984 (fishing with mobile gear near fixed salmon nets or contravention of order restricting fishing for sea fish).”

SCHEDULE 2

Section 10.

REPEALS

| Chapter | Short title | Extent of repeal |
|---------------------------|---|--|
| 29 Geo. 2. c. 23. | Fisheries (Scotland) Act 1756. | The whole Act. |
| 48 Geo. 3. c. 110. | Herring Fishery (Scotland) Act 1808. | The whole Act. |
| 50 Geo. 3. c. 108. | Sea Fisheries (Scotland) Act 1810. | The whole Act. |
| 55 Geo. 3. c. 94. | Herring Fishery (Scotland) Act 1815. | The whole Act. |
| 1 & 2 Geo. 4. c. 79. | White Herring Fishery (Scotland) Act 1821. | The whole Act. |
| 14 & 15 Vict. c. 26. | Herring Fishery Act 1851. | The whole Act. |
| 23 & 24 Vict. c. 92. | Herring Fisheries (Scotland) Act 1860. | The whole Act. |
| 24 & 25 Vict. c. 72. | White Herring Fishery (Scotland) Act 1861. | The whole Act. |
| 30 & 31 Vict. c. 52. | Herring Fisheries (Scotland) Act 1867. | The whole Act. |
| 44 & 45 Vict. c. 11. | Sea Fisheries (Clam and Bait Beds) Act 1881. | The whole Act. |
| 45 & 46 Vict. c. 78. | Fishery Board (Scotland) Act 1882. | In section 2, the definition of "Herring Fishery Acts". Section 5(1). Schedule 1. |
| 48 & 49 Vict. c. 70. | Sea Fisheries (Scotland) Amendment Act 1885. | Sections 4 and 11. |
| 49 & 50 Vict. c. 29. | Crofters Holdings (Scotland) Act 1886. | In section 32, the words from "and the Secretary of the Board" to "name of the Board". |
| 52 & 53 Vict. c. 23. | Herring Fishery (Scotland) Act 1889. | The whole Act. |
| 58 & 59 Vict. c. 42. | Sea Fisheries Regulation (Scotland) Act 1895. | The whole Act. |
| 7 Edw. 7. c. 42. | Sea Fisheries (Scotland) Application of Penalties Act 1907. | The whole Act. |
| 9 Edw. 7. c. 8. | Trawling in Prohibited Areas Prevention Act 1909. | The whole Act. |
| 24 & 25 Geo. 5. c. 18. | Illegal Trawling (Scotland) Act 1934. | Section 1. Section 5. In section 6, the definition of "Herring Fishery (Scotland) Acts", and in the definition of "illegal trawling" the words from "and the expression" to the end of the definition. |
| 10 & 11 Geo. 6. c. 43. | Local Government (Scotland) Act 1947. | Section 377(4). |

SCH. 2

| Chapter | Short title | Extent of repeal |
|---------------------------|---|--|
| 14 & 15 Geo. 6. c. 39. | Common Informers Act 1951. | In the Schedule, the entry relating to the Fisheries (Scotland) Act 1756. |
| 7 & 8 Eliz. 2. c. 27. | Sea Fisheries (Compensation) (Scotland) Act 1959. | The whole Act. |
| 8 & 9 Eliz. 2. c. 34. | Radioactive Substances Act 1960. | In Part II of the First Schedule, para. 12. |
| 1964 c. 72. | Fishery Limits Act 1964. | In Schedule 1, the amendments of the Herring Fisheries (Scotland) Act 1860, the Herring Fisheries (Scotland) Act 1867 and the Sea Fisheries (Clam and Bait Beds) Act 1881. |
| 1965 c. 13. | Rivers (Prevention of Pollution) (Scotland) Act 1965. | Section 2(2)(d). |
| 1967 c. 83. | Sea Fisheries (Shellfish) Act 1967. | In Schedule 2, the amendments to the Sea Fisheries (Clam and Bait Beds) Act 1881 and the Sea Fisheries Regulation (Scotland) Act 1895. |
| 1968 c. 77. | Sea Fisheries Act 1968. | In Part II of Schedule 1, paragraphs 25 and 35. |
| 1970 c. 36. | Merchant Shipping Act 1970. | In Schedule 3, paragraph 8. |
| 1976 c. 86. | Fishery Limits Act 1976. | In section 2(8)(a), the figure "4". In Schedule 2, paragraphs 1, 2, 4 and 6. |
| 1981 c. 29. | Fisheries Act 1981. | In Part I of Schedule 4, paragraphs 7 to 9. In Part II of Schedule 4, paragraph 29. |

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