



# Salmon Act 1986

## 1986 CHAPTER 62

### PART III

#### PROVISIONS APPLYING TO ENGLAND AND WALES

#### **31 Dealer licensing in England and Wales**

- (1) The Minister of Agriculture, Fisheries and Food and the Secretary of State may by order made by statutory instrument make provision for the purpose of prohibiting persons, in such cases as may be specified in the order, from—
  - (a) dealing in salmon otherwise than under and in accordance with a licence issued in pursuance of the order by such person as may be so specified ; or
  - (b) buying salmon from a person who is not licensed to deal in salmon.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may—
  - (a) prescribe the manner and form of an application for a licence to deal in salmon and the sum, or maximum sum, to be paid on the making of such an application;
  - (b) specify the circumstances in which such an application is to be granted or refused and the conditions that may be incorporated in such a licence ;
  - (c) authorise the amendment, revocation or suspension of such a licence;
  - (d) create criminal offences consisting in the contravention of, or failure to comply with, provisions made under this section;
  - (e) provide for matters to be determined for the purposes of any such provision by a person authorised by any such provision to issue a licence ; and
  - (f) make provision, whether by applying provisions of the Salmon and Freshwater Fisheries Act 1975 or otherwise, for the purpose of facilitating the enforcement of any provision made under this section.
- (3) An order under this section may—
  - (a) make different provision for different cases ; and

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- (b) contain such incidental, supplemental and transitional provision as appears to the Minister of Agriculture, Fisheries and Food and the Secretary of State to be necessary or expedient.
- (4) Except in the case of an order to which subsection (5) below applies, no order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing an order under this section which relates exclusively to the sum, or maximum sum, to be paid on the making of an application for a licence to deal in salmon shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section "deal", in relation to salmon, includes selling any quantity of salmon, whether by way of business or otherwise, and acting on behalf of a buyer or seller of salmon.

### **32 Handling salmon in suspicious circumstances**

- (1) Subject to subsections (3) and (4) below, a person shall be guilty of an offence if, at a time when he believes or it would be reasonable for him to suspect that a relevant offence has at any time been committed in relation to any salmon, he receives the salmon, or undertakes or assists in its retention, removal or disposal by or for the benefit of another person, or if he arranges to do so.
- (2) For the purposes of this section an offence is a relevant offence in relation to a salmon if—
  - (a) it is committed by taking, killing or landing that salmon, either in England and Wales or in Scotland ; or
  - (b) that salmon is taken, killed or landed, either in England and Wales or in Scotland, in the course of the commission of the offence.
- (3) It shall be immaterial for the purposes of subsection (1) above that a person's belief or the grounds for suspicion relate neither specifically to a particular offence that has been committed nor exclusively to a relevant offence or to relevant offences; but it shall be a defence in proceedings for an offence under this section to show that no relevant offence had in fact been committed in relation to the salmon in question.
- (4) A person shall not be guilty of an offence under this section in respect of conduct which constitutes a relevant offence in relation to any salmon or in respect of anything done in good faith for purposes connected with the prevention or detection of crime or the investigation or treatment of disease.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both ;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (6) The Salmon and Freshwater Fisheries Act 1975 shall have effect as if—
  - (a) in section 31(1)(b) and (c) (powers of search of water bailiffs), the references to a fish taken in contravention of that Act included references to a salmon in relation to which a relevant offence has been committed ; and

- (b) in sections 33(2) (warrants to enter suspected premises), 36(1) (water bailiffs to be constables for the purpose of enforcing Act) and 39(1) (border rivers) and in paragraph 39(1)(a) of Schedule 3 (prosecution by water authorities) and Part II of Schedule 4 (procedure on prosecutions), the references to that Act included references to this section.
- (7) In this section " offence ", in relation to the taking, killing or landing of a salmon either in England and Wales or in Scotland, means an offence under the law applicable to the place where the salmon is taken, killed or landed.

### **33 Placing and use of fixed engines**

- (1) For subsection (1) of section 6 of the Salmon and Freshwater Fisheries Act 1975 (under which it is an offence to place a fixed engine in any inland or tidal waters or to use an unauthorised fixed engine for specified purposes) there shall be substituted the following subsection—
  - “(1) Any person who places or uses an unauthorised fixed engine in any inland or tidal waters shall be guilty of an offence”.
- (2) In subsection (3) of the said section 6 (definition of unauthorised fixed engine), at the end of paragraph (b) there shall be inserted “; or
  - (c) a fixed engine the placing and use of which is authorised by byelaws made by a water authority under this Act or by byelaws made by a local fisheries committee by virtue of section 37(2) of the Salmon Act 1986.”
- (3) In Part II of Schedule 3 to the said Act of 1975 (byelaws), after paragraph 21 there shall be inserted the following paragraph—
  - “21A Authorising the placing and use of fixed engines at such places in the water authority area (not 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.”.

### **34 Introduction of fish into fish farms without consent**

In section 30 of the Salmon and Freshwater Fisheries Act 1975 (prohibition of introduction of fish into inland waters without the consent of the water authority), at the end there shall be added the words " or the inland water is one which consists exclusively of, or of part of, a fish farm and which, if it discharges into another inland water, does so only through a conduit constructed or adapted for the purpose.

In this section " fish farm " has the same meaning as in the Diseases of Fish Act 1937."

### **35 Removal of differential penalties under Salmon and Freshwater Fisheries Act 1975**

- (1) In the Table in Part I of Schedule 4 to the Salmon and Freshwater Fisheries Act 1975 (mode of prosecution and punishment for offences), for the entries relating to sections I and 27 (being entries which make different provision according to whether

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the offender acted with another and do not provide for imprisonment on summary conviction) there shall be substituted the following entries, respectively—

<i>“Provision of Act creating the offence</i>	<i>Description of offence</i>	<i>Mode of prosecution</i>	<i>Punishment</i>
(1)	(2)	(3)	(4)
Section 1	Fishing with certain instruments for salmon, trout or freshwater fish and possessing certain instruments for fishing for such fish.	(a) Summarily  (b) On indictment	Three months or the statutory maximum or both.  Two years or a fine or both.
Section 27	Fishing for fish otherwise than under the authority of a licence and possessing an unlicensed instrument with intent to use it for fishing.	(a) If the instrument in question, or each of the instruments in question, is a rod and line, summarily.  (b) In any other case—  (i) summarily  (ii) on indictment	Level 4 on the standard-scale.     three months or the statutory maximum or both;  two years or a fine or both.”.

(2) Subsection (1) above shall not affect any proceedings in respect of, or the punishment for, an offence committed before that subsection comes into force.

### **36 Servants and agents authorised by fishing licences**

(1) For paragraph 9 of Schedule 2 to the Salmon and Freshwater Fisheries Act 1975 (persons treated as servants and agents of licensee for the purpose of being entitled to use an instrument under the authority of the licence) there shall be substituted the following paragraph—

- “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

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- (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 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.”
- (2) Accordingly, in section 25(3) of that Act, for the words from "not exceeding" onwards there shall be substituted the words " subject to the provisions of paragraphs 9 to 13 of Schedule 2 to this Act ".

### **37 Byelaws under Sea Fisheries Regulation Act 1966**

- (1) Subject to subsection (3) below, the power of a local fisheries committee to make byelaws under section 5 of the Sea Fisheries Regulation Act 1966 shall be exercisable for the purposes of protecting salmon and of preventing any interference with their migration and shall be so exercisable as if the references in that section to sea fish included references to salmon.
- (2) Subject to subsection (3) below, the power of a local fisheries committee to make byelaws under the said section 5 shall also include power to make byelaws which for the purposes of section 6 of the Salmon and Freshwater Fisheries Act 1975 authorise the placing and use of fixed engines at such places in their sea fisheries district, at such times and in such manner as may be prescribed by the byelaws and impose requirements as to the construction, design, material and dimensions of such engines, including in the case of nets the size of mesh.
- (3) A local fisheries committee shall not make byelaws for any purpose mentioned in subsection (1) or (2) above unless the water authority whose area for the purposes of functions relating to fisheries includes the whole or any part of the committee's sea fisheries district have consented to byelaws being made by the committee for that purpose.

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- (4) For the purposes of any byelaws made by virtue of this section the references to sea fish in sections 10(2)(c) and 12 of the said Act of 1966 (which include provision with respect to the seizure of, and searches for, sea fish taken in contravention of byelaws) shall be deemed to include references to salmon.
- (5) In this section—
- " fixed engine " has the same meaning as in the Salmon and Freshwater Fisheries Act 1975 ; and
  - " salmon" means fish of the salmon species and trout which migrate to and from the sea.

### **38 Disclosure of information furnished under the Diseases of Fish Act 1983**

In subsection (1) of section 9 of the Diseases of Fish Act 1983 (disclosure of information obtained in pursuance of section 7 of that Act), after paragraph (c) there shall be inserted the words “or

- (d) for the purpose of enabling a water authority to carry out any of their functions under the 1937 Act”.