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*Changes to legislation: There are currently no known outstanding effects for the Water Act 1989, SCHEDULE 17. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 17

Section 141.

#### TRANSFER OF FISHERIES FUNCTIONS TO THE AUTHORITY

##### *General modifications of references to water authorities*

- 1 (1) Subject to the following provisions of this Schedule and to any repeal made by this Act, any provision to which this paragraph applies which contains, or falls to be construed as containing, a reference (however framed and whether or not in relation to an area) to any one or more water authorities, or to a particular water authority, shall have effect on and after the transfer date as if that reference were a reference to the Authority.
- (2) Subject as aforesaid, any provision to which this paragraph applies which contains, or falls to be construed as containing, a reference (however framed) to the area of a water authority shall have effect on and after the transfer date as if that reference were a reference—
- (a) in the case where the provision is contained in a local statutory provision or in subordinate legislation and the reference is in relation to a particular water authority, to the area which, immediately before the transfer date, was the area of that authority for the purposes of their functions relating to fisheries; and
  - (b) in any other case, to the whole area in relation to which the Authority carries out its functions relating to fisheries.
- (3) Subject as aforesaid, any function of a Minister of the Crown under any provision to which this paragraph applies or under the <sup>M1</sup>Diseases of Fish Act 1937 shall, in so far as immediately before the transfer date it is exercisable by different Ministers according to the water authority or water authority area in relation to which it is exercised, be exercisable on and after that date concurrently by the Minister of Agriculture, Fisheries and Food and by the Secretary of State; and references in any enactment (including a reference inserted by this Act) to a Minister, so far as they have effect for the purposes of, or in connection with, the exercise of any function under a provision to which this paragraph applies or the said Act of 1937, shall have effect accordingly.
- (4) The provisions to which this paragraph applies are the provisions of—
- (a) [<sup>F1</sup>the <sup>M2</sup>Sea Fisheries Regulation Act 1966;]
  - (b) the <sup>M3</sup>Salmon and Freshwater Fisheries Act 1975; and
  - (c) any local statutory provision or subordinate legislation which is in force immediately before the transfer date and—
    - (i) relates to the carrying out by a water authority of any function relating to fisheries; or

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(ii) in the case of subordinate legislation, was made by virtue of any provision to which this paragraph applies or under the Diseases of Fish Act 1937.

(5) The modifications made by this paragraph shall be subject to any power by subordinate legislation to revoke or amend any provision to which this paragraph applies; and, accordingly, any such power, including the powers conferred by section 191 of this Act and paragraph 2 below, shall be exercisable so as to exclude the operation of this paragraph in relation to the provisions in relation to which the power is conferred.

#### Textual Amendments

**F1** Sch. 17 para. 1(4)(a) repealed (1.4.2010 for W., 1.4.2011 for E.) by [Marine and Coastal Access Act 2009](#) (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 812); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))

#### Marginal Citations

**M1** 1937 c. 33.  
**M2** 1966 c. 38.  
**M3** 1975 c. 51.

#### *Power to amend subordinate legislation etc*

- 2 (1) If it appears to the Minister or the Secretary of State to be appropriate to do so for the purposes of, or in consequence of, the coming into force of any provision of this Schedule, he may by order revoke or amend any subordinate legislation.
- (2) An order under this paragraph may—
- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
  - (b) contain such supplemental, consequential and transitional provision as the Minister or the Secretary of State considers appropriate.
- (3) The power conferred by virtue of this paragraph in relation to subordinate legislation made under any enactment shall be without prejudice to any other power to revoke or amend subordinate legislation made under that enactment, but—
- (a) no requirement imposed with respect to the exercise of any such other power shall apply in relation to any revocation or amendment of that legislation by an order under this paragraph; and
  - (b) the power to make an order under this paragraph shall be exercisable (instead of in accordance with any such requirement) by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### *The Diseases of Fish Act 1937 (c. 33)*

F2F3<sub>3</sub> .....

#### Textual Amendments

**F2** Sch. 17 para. 3 omitted (E.W.) (27.3.2009) by virtue of [The Aquatic Animal Health \(England and Wales\) Regulations 2009](#) (S.I. 2009/463), reg. 1(2), **Sch. 2 para. 8(a)** (with reg. 2(2))

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**F3** Sch. 17 para. 3 omitted (S.) (27.3.2009) by virtue of [The Aquatic Animal Health \(Scotland\) Regulations 2009 \(S.S.I. 2009/85\)](#), reg. 1(2)(c), [sch. 2 para. 8\(b\)](#) (with reg. 2.)

PROSPECTIVE

*The Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c. 26)*

F4

**Textual Amendments**

**F4** Sch. 17 para. 4 repealed (15.11.2006) by [The Scotland Act 1998 \(River Tweed\) Order 2006 \(S.I. 2006/2913\)](#), art. 1(2), [Sch. 4 Pt. 2](#)

*The Sea Fisheries Regulation Act 1966 (c. 38)*

5 [F5(1) The provisions of section 1 of the Sea Fisheries Regulation Act 1966 (establishment of fisheries committees) which provide that an order under that section modifying a previous such order is to be made only on such an application and after such consultation as is mentioned in that section shall not apply to an order under that section which contains a statement that the only provision made by the order is provision which appears to the Minister making the order to be appropriate in consequence of any of the provisions of this Act.

F6(2) .....

(3) In section 18(3) of that Act (provision where a water authority or harbour authority have the powers of a local fisheries committee), for the words from “section 36(3)” to “authority)” there shall be substituted the words “section 186 of the Water Act 1989 (procedure relating to byelaws made by the National Rivers Authority)”.]

**Textual Amendments**

**F5** Sch. 17 para. 5 repealed (1.4.2010 for W., 1.4.2011 for E.) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 22 Pt. 4](#); S.I. 2010/630, art. 3(b) (with arts. 812); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))

**F6** Sch. 17 para. 5(2) repealed (1.4.1996) by [1995 c. 25](#), s. 120(3), [Sch. 24](#) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3\(xxv\)](#)

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

6 In section 18(1) of the Sea Fish (Conservation) Act 1967 (enforcement of orders relating to salmon and migratory trout)—

(a) for the words from “for the purposes” to the beginning of paragraph (a) there shall be substituted the words “are included in the area which by virtue of subsection (4) of section 141 of the Water Act 1989 is the area in relation to which the National Rivers Authority carries out functions relating to fisheries under the Salmon and Freshwater Fisheries Act 1975 or on landing salmon or migratory trout”; and

[F7(b) for paragraph (b) there shall be substituted the following paragraph—

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“(b) the provisions of section 147 and, in relation to that section, sections 178 and 179 of the Water Act 1989 (which confer powers of entry) shall apply as if section 4 of this Act, and any order under section 5 or 6 of this Act, were an enactment to which the said section 147 applies.”]

#### Textual Amendments

**F7** Schs. 5, 15, 17 paras. 6(b), 7(2)(7)(a)(14)(a)–(f)(g)(i)(16) repealed (E. W.) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), s. 3, [Sch. 3 Pt.I](#) (with s. 2, [Sch. 2 paras. 10, 14\(1\), 15](#))

#### *The Salmon and Freshwater Fisheries Act 1975 (c. 51)*

- 7 (1) The Salmon and Freshwater Fisheries Act 1975 shall be amended as follows.
- [<sup>F8</sup>(2) In section 5(5), for paragraph (c) (exemption from section 31(1)(a) of the <sup>M4</sup>Control of Pollution Act 1974) there shall be substituted the following paragraph—
- “(c) section 107(1)(a) of the Water Act 1989;”.]
- <sup>F9</sup>(3) .....
- <sup>F10</sup>(4) .....
- (5) In section 25(2) (licences to fish), for the words “of a description, in an area and for a period” there shall be substituted the words “of such a description, in such area or areas and for such period as is”.
- (6) In section 26(1) (limitation of fishing licences)—
- (a) after the word “may”, in the first place where it occurs, there shall be inserted the words “in relation to any such area or areas as are specified in the order,”; and
  - (b) in paragraph (a), for the words “any part of their area” there shall be substituted the words “that area or those areas”.
- (7) In section 28 (general powers and duties of water authorities and Minister)—
- [<sup>F8</sup>(a) in subsection (3), for the words from “by”, in the first place where it occurs, onwards there shall be substituted the words
- (a) for the imposition on the owners and occupiers of fisheries in that area of requirements to pay contributions to that Authority of such amounts as may be determined under the order in respect of the expenses of the carrying out in relation to that area of that Authority’s functions with respect to fisheries;
  - (b) for such contributions to be paid or recovered in such manner and to be refundable in such circumstances as may be specified in or determined under the order;
  - (c) for the modification, in relation to the fisheries in that area, of any provisions of this Act relating to the regulation of fisheries or of any provisions of a local Act relating to any fishery in that area;

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and an order under this subsection may contain such supplemental, consequential and transitional provision, including provision for the payment of compensation to persons injuriously affected by the order, as may appear to be necessary or expedient in connection with the other provisions of the order.”; and]

(b) in subsection (8), for the words “Section 36(3) of the Water Act 1973 and Schedule 7” there shall be substituted the words “Section 186 of the Water Act 1989 and Schedule 24”.

(8) In section 32(1) (power of water bailiffs and other persons to enter lands), for the words “waters within a water authority area” there shall be substituted the words “any waters”.

(9) In section 35 (power to require production of fishing licences)—

(a) in subsection (1), for the words “in a water authority area” there shall be substituted the words “in any area”;

<sup>F11</sup>(b) .....

(c) in subsection (3), for the words “the office of the water authority” there shall be substituted the words “the appropriate office of the National Rivers Authority”; and

<sup>F12</sup>(d) .....

(10) In section 39(5) (no power to bring criminal proceedings in Scotland), after the words “this section” there shall be inserted the words “or the Water Act 1989”.

(11) In section 41(1) (interpretation), in the definition of “authorised officer”, the words “acting within the water authority area” shall be omitted.

<sup>F13</sup>(12) .....

(13) In Schedule 2 (duty on licences)—

(a) in paragraph 3 (notice of intention to increase duties), at the end of the paragraph there shall be inserted the words “and such a notice shall set out the amount of any duty as proposed to be fixed or altered.”;

(b) for paragraph 6 (fixing or alteration to take effect from the beginning of the following year) there shall be substituted the following paragraph—

“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.”

(14) In Schedule 3 (administration)—

<sup>F8</sup>(a) for paragraph 7 there shall be substituted the following paragraph—

“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 Minister’s intention to make the order, of the

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place where copies of the draft order may be inspected and obtained and of the matters notified under sub-paragraph (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.”]

[<sup>F8</sup>(b) for paragraphs 9 to 11 (orders subject to special parliamentary procedure, etc.) there shall be substituted the following paragraph—

“9 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.”;]

[<sup>F8</sup>(c) in paragraph 21A (byelaws with respect to fixed engines), after the word “not” there shall be inserted the words “without the consent of the local fisheries committee in question” ;]

[<sup>F8</sup>(d) for paragraph 32 (returns to be made by persons fishing), there shall be substituted the following paragraph—

“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.”;]

[<sup>F8</sup>(e) in paragraph 37 (power of water authority to acquire certain interests etc.), for the words from “paragraph 2” to “water authority” there shall be substituted the words “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”];]

[<sup>F8</sup>(f) in paragraph 38 (powers of water authorities), for the words “paragraph 2” there shall be substituted the words “section 145”; and]

(g) in paragraph 39 (powers of water authorities)—

[<sup>F8</sup>(i) in sub-paragraph (1), in the words before paragraph (a), for the words “paragraph 2” there shall be substituted the words “section 145”; and]

(ii) in paragraph (a) of that sub-paragraph, for the words “the fisheries in their area” there shall be substituted the words “any fisheries”.

(15) In paragraph 9 of Part II of Schedule 4 (disqualification of offenders)—

(a) the words “and is subsequently convicted of any such offence” shall be omitted;

(b) for the words “or for fishing in a water authority area” there shall be substituted the words “for having his name entered on a licence in pursuance of paragraphs 9 to 14 of Schedule 2 to this Act or for fishing (either in a particular area or generally)”;

(c) for the words “one year” there shall be substituted the words “five years”.

[<sup>F8</sup>(16) Section 181 of this Act shall apply in relation to any local inquiry under the said Act of 1975 as it applies in relation to local inquiries under this Act.]

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#### Textual Amendments

- F8** Schs. 5, 15, 17 paras. 6(b), 7(2)(7)(a)(14)(a)–(f)(g)(i)(16) repealed (E. W.) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c.60, SIF 130), s. 3, **Sch. 3 Pt. I** (with s. 2, Sch. 2 paras. 10, 14(1), 15)
- F9** Sch. 17 para. 7(3) repealed (12.1.2010) by [Marine and Coastal Access Act 2009](#) (c. 23), s. 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. para. 27(b)
- F10** Sch. 17 para. 7(4) repealed (12.1.2010) by [Marine and Coastal Access Act 2009](#) (c. 23), s. 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. para. 27(b)
- F11** Sch. 17 para. 7(9)(b) repealed (12.1.2010) by [Marine and Coastal Access Act 2009](#) (c. 23), s. 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. para. 27(b)
- F12** Sch. 17 para. 7(9)(d) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3(xxv)**
- F13** Sch. 17 para. 7(12) repealed (12.1.2010) by [Marine and Coastal Access Act 2009](#) (c. 23), s. 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. para. 27(b)

#### Marginal Citations

- M4** 1974 c. 40.

### *The Diseases of Fish Act 1983 (c. 30)*

F14F158 .....

#### Textual Amendments

- F14** Sch. 17 para. 8 omitted (E.W.) (27.3.2009) by virtue of [The Aquatic Animal Health \(England and Wales\) Regulations 2009](#) (S.I. 2009/463), reg. 1(2), **Sch. 2 para. 8(a)** (with reg. 2(2))
- F15** Sch. 17 para. 8 omitted (S.) (27.3.2009) by virtue of [The Aquatic Animal Health \(Scotland\) Regulations 2009](#) (S.S.I. 2009/85), reg. 1(2)(c), **sch. 2 para. 8(b)** (with reg. 2.)

### *The Salmon Act 1986 (c. 62)*

9 <sup>F16</sup>(1) .....

- (2) In section 39(3) of that Act (areas in respect of which a review of certain salmon net fishing is to be made), the reference to the areas of the Yorkshire and Northumbrian water authorities shall be construed on and after the transfer date as a reference to the areas which, immediately before that date, were the areas of those authorities for the purposes of their functions relating to fisheries.

#### Textual Amendments

- F16** Sch. 17 para. 9(1) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3(xxv)**

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