

*Status: Point in time view as at 02/12/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Aquaculture and Fisheries (Scotland) Act 2007. (See end of Document for details)*

## SCHEDULE

(introduced by section 41)

### MINOR AND CONSEQUENTIAL AMENDMENTS

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

- 1 In the 1937 Act—
- (a) in section 6—
- (i) in subsection (2), after paragraph (ab) insert—
- “(ac) to inspect any land in Scotland for the purpose of—
- (i) assessing whether any disinfection process specified in an order under section 2 by virtue of section 2ZA(a) is being complied with;
- (ii) the exercise by the Scottish Ministers of any of their powers under section 5A or 5B;”
- (ii) after that subsection insert—
- “(2A) Any inspector authorised by the Scottish Ministers to act as such may, for the purpose of exercising any powers or performing any duties under this Act, be accompanied by such persons as he may authorise in writing for the purpose, and the inspector and any such person may for that purpose take onto any fish farm or any land concerned such vehicles or equipment as the inspector considers appropriate and inspect and take copies of such documents or records as he considers appropriate.
- Any person who refuses to admit or intentionally obstructs an inspector or such an authorised person in the exercise of his powers under this subsection is guilty of an offence.”
- (b) in section 7(1A)—
- (i) after “served” insert—
- “(a) for the purpose of section 5C(1) on a person carrying on the business of fish farming in inland waters;
- (b)”
- (ii) for “waters may” substitute “waters, may”
- (c) in section 8(1), after “article” insert “or any vehicle, equipment, material, substance or dead fish”
- (d) in section 9—
- (i) in paragraph (b), after “1(6)” insert “, 2ZB(1) or (3), 2C(1) or (4)(a) or (c)(i) or (ii), 5F(1)”
- (ii) after paragraph (c), insert—
- “(ca) the form of notice to be served under section 5C;”
- (iii) in paragraph (d), after “articles” insert “or any vehicle, equipment, material, substance or dead fish”
- (e) in section 10(1), in the definition of “infected” for “gyrodactyliasis” substitute “gyrodactylosis”.

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**Commencement Information**

**I1** Sch. para. 1 in force at 1.8.2007 by S.S.I. 2007/333, art. 2(1)

*Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42)*

- 2 In section 1(1) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (procedure for compulsory purchase of land by local authorities, Ministers and others), after paragraph (e) insert—
- “(ea) by the Scottish Ministers under section 5A(3) of the Diseases of Fish Act 1937 (c. 33);”.

**Commencement Information**

**I2** Sch. para. 2 in force at 1.8.2007 by S.S.I. 2007/333, art. 2(1)

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

- 3 In the Sea Fish (Conservation) Act 1967—
- (a) in section 4 (licensing of fishing boats), subsections (9A) and (9B) are repealed,
- (b) in section 11 (penalties for offences)—
- (i) in subsection (1)(b), “, 4(9A)” is repealed,
- (ii) in subsection (2), for “, (6) and (9A)” substitute “and (6)”,
- (iii) in subsection (2)(c), for “, (6) or (9A)” substitute “or (6)”,
- (iv) in subsection (2)(d), for “, (6) or (9A)” substitute “or (6)”,
- (v) in subsection (3), for “, (6) or (9A)” substitute “or (6)”,
- (c) in section 15(2)(b) (powers of British sea-fishery officers), for “, (6) or (9A)” substitute “or (6)”.

**Commencement Information**

**I3** Sch. para. 3 in force at 1.8.2007 by S.S.I. 2007/333, art. 2(1)

*Fisheries Act 1981 (c. 29)*

- 4 In section 30 of the Fisheries Act 1981 (enforcement of Community rules) in subsection (5)(b), for “(5)” substitute “(4)”.

**Commencement Information**

**I4** Sch. para. 4 in force at 1.8.2007 by S.S.I. 2007/333, art. 2(1)

*Criminal Justice and Public Order Act 1994 (c. 33)*

- 5 In Part 1 of Schedule 8 to the Criminal Justice and Public Order Act 1994 (increase in penalties for certain offences), the entry in relation to section 3(3) of the Sea Fisheries (Shellfish) Act 1967 is repealed.

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#### Commencement Information

**I5** Sch. para. 5 in force at 1.8.2007 by S.S.I. 2007/333, art. 2(1)

#### *Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15)*

- 6 (1) The 2003 Act is amended as follows.
- (2) In section 17 (annual close time for trout), after subsection (4) insert—
- “(5) A person who commits an offence under this section may be convicted on the evidence of one witness.”.
- (3) In section 31(5)(b) (salmon fishing: general regulations), for “24” substitute “18”.
- (4) In section 48 (increased availability of, and protection for, freshwater fishing)—
- (a) after subsection (2), insert—
- “(2A) In prescribing the area in relation to which a protection order is made, the Scottish Ministers need not prescribe the entire area to which the proposals, whether modified or not, relate.”,
- (b) in subsection (4), after “Ministers” where it appears for the third time, insert “and subject to subsection (4B)”,
- (c) after that subsection, insert—
- “(4A) At any time, the Scottish Ministers may, after consultation with the person submitting the proposals referred to in subsection (3)(a), modify in such way as they think fit—
- (a) those proposals, or
- (b) those proposals as modified by the person by virtue of subsection (4) above.
- (4B) Proposals modified by the Scottish Ministers by virtue of subsection (4A) may not be modified by the person referred to in that subsection; but that person may at any time withdraw them.”,
- (d) in subsection (10), after “(4)” insert “or (4A)”.
- (5) In schedule 1—
- (a) after paragraph 9(a) insert—
- “(aa) references to proposals shall be construed as the proposals of the Scottish Ministers in relation to the proposed regulations in question;”,
- (b) after paragraph 9 insert—

#### *“Freshwater fish conservation regulations*

- 9A (1) Before making regulations under section 51A of this Act, the Scottish Ministers shall consult such persons as they consider appropriate and then proceed in accordance with paragraphs 11 to 15 below.
- (2) In the application of paragraphs 11 to 15 below to regulations made under section 51A of this Act—

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- (a) references to an applicant and to an application shall be omitted;
  - (b) references to proposals shall be construed as the proposals of the Scottish Ministers in relation to the proposed regulations in question;
  - (c) paragraph 11(3) shall be omitted;
  - (d) in paragraph 12(a), the reference to paragraph 10 is to be read as if there were substituted a reference to paragraph 9A(1).”.
- (6) In paragraph 2 of schedule 3 (provisions as to making, variation and revocation of protection orders), the words “in the Edinburgh Gazette and” are repealed.
- (7) For paragraph 8 of that schedule substitute—
- “8 (1) Before the Scottish Ministers make an order varying a protection order, they shall by notice make such publication as they think fit of the general effect of the proposed variation and specify a time within which, and the manner in which, representations or objections with respect to the proposed variation may be made.
- (2) The Scottish Ministers may cause a copy or copies of the notice referred to in sub-paragraph (1) above to be affixed by a person duly authorised by them in writing to some conspicuous object or objects on the banks of such waters at such places as the Scottish Ministers may direct.
- (3) If no representations or objections are duly made, or if any so made are withdrawn, the Scottish Ministers may make an order varying the protection order.
- (4) If any representation or objection duly made is not withdrawn, the Scottish Ministers may forthwith make an order or may cause a local inquiry to be held.
- (5) Sub-paragraphs (2) to (8) of paragraph 5 above shall apply in relation to an inquiry under this paragraph as they apply in relation to an inquiry under that paragraph, but as if in sub-paragraph (3) of that paragraph for the word “proposals” there were substituted the words “proposed variation”.
- (6) Paragraph 6 and 7 above shall apply in relation to an order varying a protection order as they apply in relation to a protection order, but as if in paragraph 6 for the reference to paragraph 5 above there were substituted a reference to this paragraph.”.
- (8) In paragraph 9(1) of that schedule, for “may” where it first appears substitute “shall”.

**Commencement Information**

**16** Sch. para. 6 in force at 1.8.2007 by S.S.I. 2007/333, art. 2(1) (with art. 4)

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