



# Aquaculture and Fisheries (Scotland) Act 2013

2013 asp 7

## PART 3

### SEA FISHERIES

#### *Inshore sea fishing*

#### **49 Contravention of orders prohibiting inshore sea fishing**

(1) The Inshore Fishing (Scotland) Act 1984 is amended in accordance with this section.

(2) In section 4 (offences), after subsection (1A) insert—

“(1B) A person commits an offence if—

- (a) the person is found in, or in the immediate vicinity of, the area specified in an order under section 1 of this Act;
- (b) the person is found there at, or about, a time at which the prohibition under the order applies;
- (c) when so found, the person is in possession of such equipment, vehicle, apparatus or other gear or paraphernalia (including clothing) as may be used for the purpose of fishing in contravention of the order; and
- (d) it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the person intends to fish in contravention of the order.”

(3) After section 4 insert—

#### **“4A Contravention of orders under section 1: presumption**

- (1) Subsection (2) applies in proceedings against a person (“the accused”) for an offence under section 4(1) of this Act involving fishing in contravention of a prohibition contained in an order under section 1 of this Act (other than a prohibition under section 1(2)(d)).

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**Changes to legislation:** There are currently no known outstanding effects for the Aquaculture and Fisheries (Scotland) Act 2013, Section 49. (See end of Document for details)

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- (2) It is to be presumed that the accused was, or had been, fishing in contravention of the order if—
- (a) it is proved that—
    - (i) the accused was found in, or in the immediate vicinity of, the area specified in the order;
    - (ii) the accused was found there at, or about, a time at which the prohibition under the order applies; and
    - (iii) when so found, the accused was in possession of any of the things mentioned in subsection (3); and
  - (b) it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the accused was, or had been, fishing in contravention of the order.
- (3) The things are—
- (a) such equipment, vehicle, apparatus or other gear or paraphernalia (including clothing) as may be used for the purpose of fishing in contravention of the order;
  - (b) sea fish the fishing for which is prohibited by the order.
- (4) Subsection (2) does not apply if evidence is adduced sufficient to raise an issue as to whether—
- (a) the accused's presence in, or in the vicinity of, the area specified in the order was for the purpose of fishing in contravention of the order; or
  - (b) where the accused was found in possession—
    - (i) of any of the things mentioned in paragraph (a) of subsection (3), the possession of the thing was for that purpose;
    - (ii) of sea fish mentioned in paragraph (b) of that subsection, the fish were caught or taken in contravention of the order.”.

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**Commencement Information**

**II** S. 49 in force at 16.9.2013 by S.S.I. 2013/249, art. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Aquaculture and Fisheries (Scotland) Act 2013, Section 49.