Changes to legislation: There are currently no known outstanding effects for the Sea Fisheries (Shellfish) Act 1967, Section 5. (See end of Document for details)

Sea Fisheries (Shellfish) Act 1967

1967 CHAPTER 83

Fisheries for shellfish

5 Cesser of right conferred by order under s. 1.

(1) If, in the case of any right of several fishery or of regulating a fishery conferred by an order made under section 1 of this Act, the appropriate Minister is not satisfied, either as respects the whole of the area within which that right is exercisable or as respects any part of that area, that the grantees are properly cultivating the ground for shellfish of any description to which the order applies within the limits of that area or part or properly carrying into effect and enforcing any restrictions and regulations contained in the order and levying any tolls or royalties imposed thereby, he may make a certificate to that effect and thereupon that right shall be absolutely determined as respects that area or, as the case may be, that part thereof, and the provisions of this Act shall cease to operate in relation to that area or, as the case may be, that part thereof as, or as the case may be, as part of, a several or regulated fishery.

(2) For the purpose of subsection (1) of this section, the appropriate Minister may from time to time, with respect to any such fishery, make such inquiries and examination by an inspector or otherwise, and require from the grantees such information, as that Minister thinks necessary or proper, and the grantees shall afford all facilities for such inquiries and examination, and give such information, accordingly.

(3) For the purpose of carrying out any inquiry or examination with respect to a fishery in pursuance of subsection (2) of this section, any inspector or other person appointed by the appropriate Minister under that subsection may take evidence, and by summons under his hand require the attendance of any person and examine him and any person who attends before him, on oath or otherwise, as he thinks expedient, and may administer an oath or take any affidavit or declaration for the purpose of the inquiry or examination.

(4) For the purpose of carrying out any such inquiry or examination, a person authorised in that behalf by the appropriate Minister shall, subject to subsection (5) of this section, have the right, at any reasonable time, to enter any land within the limits of the fishery, and to obtain and take away samples (which shall be marked, labelled or otherwise made capable of identification) of any shellfish found within those limits;
and, notwithstanding anything contained in this Act, when the purpose for which any such sample was taken has been satisfied the person by whom the sample was taken may dispose of it as he may determine.

(5) A right of entry under subsection (4) of this section shall not be exercisable in respect of any land unless not less than twenty-four hours’ notice of the intended entry has been given to the occupier of the land, and also to the grantees if they are not the occupiers of the land; and the person exercising the right shall, if so requested, produce written evidence of his authority before entering.

(6) Any duty imposed on any person by subsection (2) of this section to afford facilities for any inquiry or examination in respect of a fishery shall include a duty to afford facilities for the exercise of any right exercisable in respect of the fishery in accordance with subsections (4) and (5) of this section.

(7) Any person who obstructs an inspector or other person in the exercise of any power or right conferred by this section, or who refuses or without reasonable excuse fails to provide any information reasonably required by an inspector or other person in the exercise of any such power or right, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In this section “the grantees”, in relation to a right of several fishery, means the persons for the time being entitled to that right.

(9) In the application of this section to Scotland, subsection (3) shall have effect as if for the words “summons under his hand” there were substituted the words “an order signed by him”.

Annotations:

Amendments (Textual)

F1 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and by 1994 c. 33, s. 157(1)(9), Sch. 8 Pt. I; S.I. 1995/127, art. 2(1), Sch. 1 it is provided (3.2.1995) that s. 5(7) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding level 3

Modifications etc. (not altering text)

C1 S. 5 extended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 34(b)
Changes to legislation:
There are currently no known outstanding effects for the Sea Fisheries (Shellfish) Act 1967, Section 5.