



Salmon and Freshwater Fisheries Act 1975

1975 CHAPTER 51

PART V

ADMINISTRATION AND ENFORCEMENT

Regulation of fisheries etc.

28 General powers and duties of water authorities and Minister.

- F¹(1)
- F¹(2)
- F¹(2A)
- F¹(3)
- F²(4)
- F²(5)
- F²(6)
- F²(7)
- F²(8)

Textual Amendments

- F1** S. 28(1)–(2A) repealed by [Water Act 1989](#) (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F2** S. 28(3)–(8) repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15(1))

Status: Point in time view as at 01/04/1996.

*Changes to legislation: There are currently no known outstanding effects for the
 Salmon and Freshwater Fisheries Act 1975, Part V. (See end of Document for details)*

29 Fish rearing licences.

- (1) The Minister may grant a licence to carry on the business of artificially propagating or rearing salmon or trout in any waters.
- (2) Any such licence may be granted subject to such conditions (if any) as the Minister thinks fit, and may be revoked if he is of opinion that any condition has not been observed.

30 Introduction of fish into inland waters.

A person shall be guilty of an offence if he introduces any fish or spawn of fish into an inland water, or has in his possession any fish or spawn of fish intending to introduce it into an inland water, unless he first obtains the written consent of the water authority [^{F3}within whose area any part of that water is situated][^{F4}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 ^{M1}Diseases of Fish Act 1937.]

Textual Amendments

- F3** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F4** Words added (E.W. and as mentioned in s. 43(4) of the amending act (border rivers)) by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), **ss. 34, 43(4)**

Marginal Citations

- M1** [1937 c.33\(52:2\)](#).

Powers of water bailiffs etc.

31 Powers of search etc.

- (1) Any water bailiff appointed by a water authority and any person appointed by the Minister—
 - (a) may examine any dam, fishing weir, fishing mill dam, fixed engine or obstruction, or any artificial watercourse, and for that purpose enter on any land;
 - (b) may examine any instrument or bait which he has reasonable cause to suspect of having been or being used or likely to be used in taking fish in contravention of this Act or any container which he has reasonable cause to suspect of having been or being used or likely to be used for holding any such instrument, bait or fish;
 - (c) may stop and search any boat or other vessel used in fishing in a water authority area or any vessel or vehicle which he has reasonable cause to suspect of containing—
 - (i) fish which had been caught in contravention of this Act;
 - (ii) any such instrument, bait or container as aforesaid;

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- (d) may seize any fish and any instrument, vessel, vehicle or other thing liable to be forfeited in pursuance of this Act.
- (2) If any person refuses to allow a water bailiff or a person appointed by the Minister to make any entry, search or examination which he is by this section authorised to make, or to seize anything which he is so authorised to seize, or resists or obstructs a water bailiff or person so appointed in any such entry, search, examination or seizure, he shall be guilty of an offence.

Modifications etc. (not altering text)

- C1** S. 31(1) extended (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(1)** (with art. 2)
- C2** By Salmon Act 1986 (c. 62, SIF 52:2), **ss. 32(6)(a), 43(4)** it is provided that s. 31(1)(b)(c) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))
- C3** S. 31(2) excluded (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(9)** (with art. 2); S.I. 1998/3178, **art. 3**

32 Power to enter lands.

- (1) Subject to subsection (2) below,—
- (a) any water bailiff or other officer of a water authority, under a special order in writing from the authority, and
- (b) any person appointed by the Minister, under an order in writing from him, may at all reasonable times, for the purpose of preventing any offence against this Act, enter, remain upon and traverse any lands adjoining or near to [^{F5}waters within a water authority area][^{F5}any waters] other than—
- (i) a dwelling-house or the curtilage of a dwelling-house, or
- (ii) decoys or lands used exclusively for the preservation of wild fowl.
- (2) An order under subsection (1) above shall not remain in force for more than 12 months.

Textual Amendments

- F5** Words “any waters” substituted for “waters within a water authority area” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(8)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

Modifications etc. (not altering text)

- C4** S. 32 extended (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(1)** (with art. 2); S.I. 1998/3178, **art. 3**

33 Orders and warrants to enter suspected premises.

- (1) Where from a statement on oath of a water bailiff or any other officer of a water authority, or any person appointed by the Minister, it appears to any justice of the peace that the person making the statement has good reason to suspect that any offence against this Act is being or is likely to be committed on any land situate on or near to any waters, the justice may by order under his hand authorise him, during a period not exceeding 24 hours to be specified in the order, to enter upon and remain on the land during any hours of the day or night for the purpose of detecting the persons committing the offence.

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- (2) Any justice of the peace upon an information on oath that there is probable cause to suspect any offence against this Act to have been committed on any premises, or any salmon, trout, freshwater fish or eels to have been illegally taken, or any illegal nets or other instruments to be on any premises, by warrant under his hand and seal may authorise any water bailiff or other officer of a water authority, or any person appointed by the Minister, or any constable, to enter the premises for the purposes of detecting the offence or the fish, nets or other instruments, at such times of the day or night as are mentioned in the warrant, and to seize all illegal nets and other instruments and all salmon, trout, freshwater fish or eels suspected to have been illegally taken that may be found on the premises.
- (3) A warrant under subsection (2) above shall not continue in force for more than one week.

Modifications etc. (not altering text)

- C5 S. 33 extended (30.6.1999) by S.I. 1999/1746, arts. 1(1), 8(1) (with art. 2); S.I. 1998/3178, art. 3
- C6 By Salmon Act 1986 (c. 62, SIF 52:2), ss. 32(6)(b), 43(4) it is provided that s. 33(2) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

34 Power to apprehend persons fishing illegally at night.

If any person, between the end of the first hour after sunset on any day and the beginning of the last hour before sunrise on the following morning, illegally takes or kills salmon, trout, freshwater fish or eels, or is found on or near any waters with intent illegally to take or kill salmon, trout, freshwater fish or eels, or having in his possession for the capture of salmon, trout, freshwater fish or eels any instrument prohibited by this Act, a water bailiff or a person appointed by the Minister, with any assistants, may seize him without warrant and put him as soon as may be into the custody of a police officer.

Modifications etc. (not altering text)

- C7 S. 34 extended (30.6.1999) by S.I. 1999/1746, arts. 1(1), 8(1) (with art. 2); S.I. 1998/3178, art. 3

35 Power to require production of fishing licences.

- (1) [^{F6}A water bailiff or other officer of the agency, or any constable], may require any person who is fishing, or whom he reasonably suspects of being about to fish or to have within the preceding half hour fished [^{F7}in a water authority area][^{F7}in any area], to produce his licence or other authority to fish and to state his name and address.
- [^{F8}(1A) Without prejudice to subsection (1) above, a water bailiff or other officer of the Agency who on any occasion finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, within the meaning of section 37A below, may require that person to state his name and address.]
- (2) A person holding a fishing licence for any [^{F9}water authority area][^{F9}area] may, on production of his licence, require any person who is fishing in that area to produce his licence or other authority to fish and to state his name and address.

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(3) If any person required to produce his fishing licence or other authority or to state his name and address fails to do so, he shall be guilty of an offence; but if within seven days after the production of his licence was so required he produces the licence or other authority at [^{F10}the office of the water authority][^{F10}the appropriate office of [^{F11}the Agency]] he shall not be convicted of an offence under this section for failing to produce it.

[^{F12}(4) In subsection (3) above, “the appropriate office of the Agency” means—

- (a) in a case where the person requiring the production of the licence or other authority specifies a particular office of the Agency for its production, that office; and
- (b) in any other case, any office of the Agency;

and for the purposes of that subsection where a licence or other authority which any person has been required to produce is sent by post to an office of the Agency that licence or other authority shall be treated as produced by that person at that office.]

Textual Amendments

- F6** Words in s. 35(1) substituted (1.4.1996) by 1995 c. 25, s. 104(2) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F7** Words “in any area” substituted for “in a water authority area” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(9)(a) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F8** S. 35(1A) inserted (1.4.1996) by 1995 c. 25, s. 104(3) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F9** Word “area” substituted for “water authority area” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(9)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F10** Words “the appropriate office of the National Rivers Authority” substituted for “the office of the water authority” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(9)(c) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F11** Words in s. 35(3) substituted (1.4.1996) by 1995 c. 25, s. 105, Sch. 15 para. 18(1) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F12** S. 35(4) substituted (1.4.1996) by 1995 c. 25, s. 105, Sch. 15 para. 18(2) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Modifications etc. (not altering text)

- C8** S. 35 excluded (30.6.1999) by S.I. 1999/1746, arts. 1(1), 8(9) (with art. 2); S.I. 1998/3178, art. 3

36 Provisions supplementary to sections 31 to 35.

- (1) A water bailiff and a person appointed by the Minister shall be deemed to be a constable for the purpose of the enforcement of this Act, or any order or byelaw under it, and to have all the same powers and privileges, and be subject to the same liabilities as a constable duly appointed has or is subject to by virtue of the common law or of any statute.
- (2) The production by a water bailiff or a person appointed by the Minister of evidence of his appointment shall be a sufficient warrant for him exercising the powers conferred on him by this Act.

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- (3) A police constable whose services are provided under paragraph 39(1)(c) of Schedule 3 below shall have all the powers and privileges of a water bailiff.

Modifications etc. (not altering text)

- C9** S. 36 extended (30.6.1999) by S.I. 1999/1746, arts. 1(1), 8(1) (with art. 2); S.I. 1998/3178, art. 3
- C10** By Salmon Act 1986 (c. 62, SIF 52:2), ss. 32(6)(b), 43(4) it is provided that s. 36(1) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

Offences

37 Prosecution etc. of offences.

Parts I and II of Schedule 4 to this Act shall have effect with regard to the prosecution and punishment of offences against this Act and the procedure on such prosecutions.

[^{F13}37A Fixed penalty notices for certain offences.

- (1) Where on any occasion a water bailiff or other officer of the Agency finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, he may give to that person a notice (in this section referred to as a “fixed penalty notice”) offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) Where a person is given a fixed penalty notice in respect of a fixed penalty offence—
 - (a) no proceedings shall be instituted for that offence before the expiration of the period for paying the fixed penalty; and
 - (b) he shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.
- (3) The Agency may extend the period for paying the fixed penalty in any particular case if it considers it appropriate to do so in all the circumstances of the case.
- (4) If, in any particular case, the Agency considers that a fixed penalty notice which has been given ought not to have been given, it may give to the person to whom the fixed penalty notice was given a notice withdrawing the fixed penalty notice; and where notice under this subsection is given—
 - (a) the Agency shall repay any amount which has been paid by way of fixed penalty in pursuance of the fixed penalty notice; and
 - (b) no proceedings shall be instituted or continued against that person for the offence in question.
- (5) The amount by which the sums received by the Agency by way of fixed penalties exceed the sums repaid by it under subsection (4)(a) above shall be paid into the Consolidated Fund.
- (6) In any proceedings, a certificate purporting to be signed by or on behalf of the Chief Executive of the Agency and stating either—
 - (a) that payment of a fixed penalty was, or (as the case may be) was not, received by the Agency on or before a date specified in the certificate, or

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- (b) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate, shall be received as evidence of the matters so stated and shall be treated, without further proof, as being so signed unless the contrary is shown.
- (7) A fixed penalty notice shall give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and shall state—
- (a) the monetary amount of the fixed penalty which may be paid;
 - (b) the person to whom and the address at which—
 - (i) the fixed penalty may be paid, and
 - (ii) any correspondence relating to the fixed penalty notice may be sent;
 - (c) the method or methods by which payment of the fixed penalty may be made;
 - (d) the period for paying the fixed penalty;
 - (e) the consequences of the fixed penalty not being paid before the expiration of that period.
- (8) A fixed penalty notice may also contain such other information relating to, or for the purpose of facilitating, the administration of the fixed penalty system as the Agency considers necessary or desirable.
- (9) Regulations may—
- (a) make provision with respect to the giving of fixed penalty notices, including, in particular, provision with respect to—
 - (i) the methods by which,
 - (ii) the officers, servants or agents by, to or on whom, and
 - (iii) the places at which,fixed penalty notices may be given by, or served on behalf of, a water bailiff or other officer of the Agency;
 - (b) prescribe the method or methods by which fixed penalties may be paid;
 - (c) make provision for or with respect to the issue of prescribed documents to persons to whom fixed penalty notices are or have been given.
- (10) In this section—
- “fixed penalty” means a penalty of such amount as may be prescribed (whether by being specified in, or made calculable under, regulations);
 - “fixed penalty offence” means, subject to subsection (11) below, any offence—
 - (a) under this Act,
 - (b) under the ^{M2}Salmon Act 1986,
 - (c) under or by virtue of regulations or orders made under section 115, 116 or 142 of the ^{M3}Water Resources Act 1991, or
 - (d) under section 211(3) of that Act, so far as relating to byelaws made by virtue of paragraph 6 of Schedule 25 to that Act,which is for the time being prescribed for the purpose;
 - “the fixed penalty system” means the system implementing this section and regulations made under it;
 - “the Ministers” means the Secretary of State and the Minister;
 - “notice” means notice in writing;

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“the period for paying”, in relation to any fixed penalty, means such period as may be prescribed for the purpose;

“prescribed” means prescribed by regulations;

“regulations” means regulations made under this section by the Ministers.

- (11) The provision that may be made by regulations prescribing fixed penalty offences includes provision for an offence to be a fixed penalty offence—
- (a) only if it is committed in such circumstances or manner as may be prescribed; or
 - (b) except if it is committed in such circumstances or manner as may be prescribed.
- (12) Regulations may provide for any offence which is a fixed penalty offence to cease to be such an offence.
- (13) An offence which, in consequence of regulations made by virtue of subsection (12) above, has ceased to be a fixed penalty offence shall be eligible to be prescribed as such an offence again.
- (14) Regulations may—
- (a) make different provision in relation to different cases or classes of case; or
 - (b) provide for such exceptions, limitations and conditions, or make such incidental, supplemental, consequential or transitional provision, as the Ministers consider necessary or expedient.
- (15) Any power to make regulations under this section shall be exercisable by statutory instrument made by the Ministers; and a statutory instrument containing any such regulations shall be subject to annulment pursuant to a resolution of either House of Parliament.]

Textual Amendments

F13 S. 37A inserted (1.4.1996) by 1995 c. 25, s. 104(1) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

Marginal Citations

M2 1986 c. 62.

M3 1991 c. 57.

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