



# Salmon and Freshwater Fisheries Act 1975

## 1975 CHAPTER 51

### PART V

#### ADMINISTRATION AND ENFORCEMENT

##### *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;
  - (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.

*Status: Point in time view as at 01/04/1996.*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, Cross Heading: Powers of water bailiffs etc.. (See end of Document for details)*

**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 <sup>F1</sup>waters within a water authority area<sup>F1</sup> 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**

- F1** 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.
- (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

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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) [<sup>F2</sup>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 [<sup>F3</sup>in a water authority area][<sup>F3</sup>in any area], to produce his licence or other authority to fish and to state his name and address.

[<sup>F4</sup>(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 [<sup>F5</sup>water authority area][<sup>F5</sup>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.
- (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 [<sup>F6</sup>the office of the water authority][<sup>F6</sup>the appropriate office of [<sup>F7</sup>the Agency]] he shall not be convicted of an offence under this section for failing to produce it.

[<sup>F8</sup>(4) In subsection (3) above, “the appropriate office of the Agency” means—

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- (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

- F2** 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
- F3** 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)
- F4** 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
- F5** 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)
- F6** 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)
- F7** 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
- F8** 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.
- (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))

**Status:**

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**Changes to legislation:**

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