



Salmon Act 1986

1986 CHAPTER 62

PART III

PROVISIONS APPLYING TO ENGLAND AND WALES

31 Dealer licensing in England and Wales.

- (1) The Minister of Agriculture, Fisheries and Food and the Secretary of State may by order made by statutory instrument make provision for the purpose of prohibiting persons, in such cases as may be specified in the order, from—
 - (a) dealing in salmon otherwise than under and in accordance with a license issued in pursuance of the order by such person as may be so specified; or
 - (b) buying salmon from a person who is not licensed to deal in salmon.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may—
 - (a) prescribe the manner and form of an application for a licence to deal in salmon and the sum, or maximum sum, to be paid on the making of such an application;
 - (b) specify the circumstances in which such an application is to be granted or refused and the conditions that may be incorporated in such a licence;
 - (c) authorise the amendment, revocation or suspension of such a licence;
 - (d) create a criminal offences consisting in the contravention of, or failure to comply with, provisions made under this section;
 - (e) provide for matters to be determined for the purposes of any such provision by a person authorised by any such provision to issue a licence; and
 - (f) make provision, whether by applying provisions of the ^{M1}Salmon and Freshwater Fisheries Act 1975 or otherwise, for the purpose of facilitating the enforcement of any provision made under this section.
- (3) An order under this section may—
 - (a) make different provision for different cases; and

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- (b) contain such incidental, supplemental and transitional provision as appears to the Minister of Agriculture, Fisheries and Food and the Secretary of State to be necessary or expedient.
- (4) Except in the case of an order to which subsection (5) below applies, no order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing an order under this section which relates exclusively to the sum, or maximum sum, to be paid on the making of an application for a licence to deal in salmon shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “deal”, in relation to salmon, includes selling any quantity of salmon, whether by way of business or otherwise, and acting on behalf of a buyer or seller of salmon.

Marginal Citations

M1 1975 c. 51.

32 Handling [^{F1}fish] in suspicious circumstances.

- (1) Subject to subsections (3) and (4) below, a person shall be guilty of an offence if, at a time when he believes or it would be reasonable for him to suspect that a relevant offence has at any time been committed in relation to [^{F2}any fish to which this section applies], he receives [^{F3}that fish], or undertakes or assists in its retention, removal or disposal ^{F4}..., or if he arranges to do so.

[^{F5}(1A) This section applies to—

- (a) salmon, trout, eels, lampreys, smelt and freshwater fish; and
- (b) fish of such other description as may be specified for the purposes of this section by order under section 40A of the Salmon and Freshwater Fisheries Act 1975.]

- (2) For the purposes of this section an offence is a relevant offence in relation to [^{F6}a fish to which this section applies] if—

- (a) it is committed by taking, killing or landing [^{F7}, or selling,][^{F8}that fish], either in England and Wales or in Scotland; or
- (b) [^{F9}that fish] is taken, killed or landed, [^{F10}or sold,] either in England and Wales or in Scotland, in the course of the commission of the offence.

- (3) It shall be immaterial for the purposes of subsection (1) above that a person’s belief or the grounds for suspicion relate neither specifically to a particular offence that has been committed nor exclusively to a relevant offence or to relevant offences; but it shall be a defence in proceedings for an offence under this section to show that no relevant offence had in fact been committed in relation to the [^{F11}fish] in question.

- (4) A person shall not be guilty of an offence under this section in respect of conduct which constitutes a relevant offence in relation to any [^{F12}fish to which this section applies] or in respect of anything done in good faith for purposes connected with the prevention or detection of crime or the investigation or treatment of disease.

- (5) A person guilty of an offence under this section shall be liable—

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- (a) on summary conviction, [^{F13}to a fine not exceeding the statutory maximum] ;
(b) on conviction on indictment, [^{F14}to a fine] .
- (6) The ^{M2}Salmon and Freshwater Fisheries Act 1975 shall have effect as if—
^{F15}(a)
(b) in sections 33(2) (warrants to enter suspected premises), 36(1) (water bailiffs to be constables for the purpose of enforcing Act) and 39(1) (border rivers) and in paragraph 39(1)(a) of Schedule 3 (prosecution by water authorities) and Part II of Schedule 4 (procedure on prosecutions), the references to that Act included references to this section.
- (7) In this section “offence”, in relation to the taking, killing or landing [^{F16}, or selling,] of [^{F17} a fish to which this section applies] either in England and Wales or in Scotland, means an offence under the law applicable to the place where [^{F18}the fish] is taken, killed or landed [^{F19}or sold] .
- ^{F20}(8) In this section “salmon”, “trout”, “eels”, “smelt”, “fish” and “freshwater fish” have the same meanings as in the Salmon and Freshwater Fisheries Act 1975.]

Textual Amendments

- F1** Word in s. 32 substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(2\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F2** Words in s. 32(1) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(3\)\(a\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F3** Words in s. 32(1) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(3\)\(b\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F4** Words in s. 32(1) repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(3\)\(c\), 324\(3\), Sch. 22 Pt. 5\(B\); S.I. 2009/3345, art. 2, Sch. paras. 14, 27\(b\)](#)
- F5** S. 32(1A) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(4\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F6** Words in s. 32(2) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(5\)\(a\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F7** Words in s. 32(2)(a) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(5\)\(b\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F8** Words in s. 32(2)(a) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(5\)\(b\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F9** Words in s. 32(2)(b) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(5\)\(c\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F10** Words in s. 32(2)(b) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(5\)\(c\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F11** Word in s. 32(3) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(6\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F12** Words in s. 32(4) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(7\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F13** Words in s. 32(5)(a) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(8\)\(a\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F14** Words in s. 32(5)(b) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(8\)\(b\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)
- F15** S. 32(6)(a) repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 19, Sch. 22 Pt. 5\(B\); S.I. 2009/3345, art. 2, Sch. paras. 15\(i\), 27\(b\)](#)
- F16** Words in s. 32(7) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 229\(9\)\(a\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 14](#)

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- F17** Words in s. 32(7) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 229(9)(b)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 14
- F18** Words in s. 32(7) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 229(9)(c)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 14
- F19** Words in s. 32(7) inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 229(9)(d)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 14
- F20** S. 32(8) inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 229(10)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 14

Marginal Citations

M2 1975 c. 51.

33 Placing and use of fixed engines.

- F21**(1)
- F21**(2)
- F22**(3)

Textual Amendments

- F21** S. 33(1)(2) repealed (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. para. 27(b)
- F22** S. 33(3) repealed (01.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt.I**.

34 Introduction of fish into fish farms without consent.

In section 30 of the ^{M3}Salmon and Freshwater Fisheries Act 1975 (prohibition of introduction of fish into inland waters without the consent of the water authority), at the end there shall be added the words “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 ^{M4}Diseases of Fish Act 1937.”.

Marginal Citations

M3 1975 c. 51.
M4 1937 c. 33.

35 Removal of differential penalties under Salmon and Freshwater Fisheries Act 1975.

- (1) In the Table in Part I of Schedule 4 to the Salmon and Freshwater Fisheries Act 1975 (mode of prosecution and punishment for offences), for the entries relating to sections 1 and 27 (being entries which make different provision according to whether the offender acted with another and do not provide for imprisonment on summary conviction) there shall be substituted the following entries, respectively—

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<i>Provision of Act creating the offence</i>	<i>Description of offence</i>	<i>Mode of prosecution</i>	<i>Punishment</i>
(1)	(2)	(3)	(4)
“Section 1...	Fishing with certain instruments for salmon, trout or freshwater fish and possessing certain instruments for fishing for such fish.	(a) Summarily	Three months or the statutory maximum or both.
Section 27 ...	Fishing for fish otherwise than under the authority of a licence and possessing an unlicensed instrument with intent to use it for fishing.	(b) On indictment (a) If the instrument in question, or each of the instruments in question, is a rod and line, summarily. (b) In any other case— (i) summarily (ii) on indictment	Two years or a fine or both. Level 4 on the standard scale. three months or the statutory maximum or both; two years or a fine or both.”.

(2) Subsection (1) above shall not affect any proceedings in respect of, or the punishment for, an offence committed before that subsection comes into force.

36 Servants and agents authorised by fishing licences.

(1) For paragraph 9 of Schedule 2 to the ^{M5}Salmon and Freshwater Fisheries Act 1975 (persons treated as servants and agents of licensee for the purpose of being entitled to use an instrument under the authority of the licence) there shall be substituted the following paragraph—

“9 (1) A person who uses an instrument of any description for fishing in an area in relation to which an order under section 26 above limiting the number of licences for fishing with instruments of that description is in force shall not be treated for the purposes of section 25(3) above as the duly authorised servant or agent of any holder of a licence to use an instrument of that description unless, at the time that person uses the instrument—

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- (a) his name and address are entered on the licence in accordance with the following provisions of this Schedule; and
 - (b) he is not himself the holder of a licence to use an instrument of that description in that area; and
 - (c) he is accompanied by the licensee or has the consent of the water authority to his use of the instrument in the absence of the licensee.
- (2) A person who uses an instrument of any description for fishing in an area in which no such order as is mentioned in sub-paragraph (1) above is in force shall not be treated for the purposes of section 25(3) above as the duly authorised servant or agent of any holder of a licence to use an instrument of that description unless, at the time that person uses the instrument—
- (a) his name and address are entered on the licence in accordance with the following provisions of this Schedule; or
 - (b) he is accompanied by the licensee; or
 - (c) he has the consent of the water authority to his use of the instrument otherwise than where there is compliance with paragraph (a) or (b) above.
- (3) The consent of a water authority shall not be given under this paragraph except—
- (a) in the case of a consent for the purposes of sub-paragraph (1) (c) above, in relation to a period which appears to the water authority to be a period throughout which the licensee will be unable through illness or injury to accompany his servant or agent;
 - (b) in the case of a consent for the purposes of sub-paragraph (2) (c) above, where the giving of the consent appears to the water authority to be required by the special circumstances of the case.”
- (2) Accordingly, in section 25(3) of that Act, for the words from “not exceeding” onwards there shall be substituted the words “subject to the provisions of paragraphs 9 to 13 of Schedule 2 to this Act”.

Marginal Citations

M5 1975 c. 51.

37 Byelaws under Sea Fisheries Regulation Act 1966.

- (1) Subject to subsection (3) below, the power of a local fisheries committee to make byelaws under section 5 of the ^{M6}Sea Fisheries Regulation Act 1966 shall be exercisable for the purposes of protecting salmon and of preventing any interference with their migration and shall be so exercisable as if the references in that section to sea fish included references to salmon.
- (2) Subject to subsection (3) below, the power of a local fisheries committee to make byelaws under the said section 5 shall also include power to make byelaws which for the purposes of section 6 of the ^{M7}Salmon and Freshwater Fisheries Act 1975 authorise the placing and use of fixed engines at such places in their sea fisheries district, at such times and in such manner as may be prescribed by the byelaws and impose

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requirements as to the construction, design, material and dimensions of such engines, including in the case of nets the size of mesh.

- (3) A local fisheries committee shall not make byelaws for any purpose mentioned in subsection (1) or (2) above unless [^{F23}the Environment Agency has] has consented to byelaws being made by the committee for that purpose.
- (4) For the purposes of any byelaws made by virtue of this section the references to sea fish in sections 10(2)(c) and 12 of the said Act of 1966 (which include provision with respect to the seizure of, and searches for, sea fish taken in contravention of byelaws) shall be deemed to include references to salmon.
- (5) In this section—
 - “fixed engine” has the same meaning as in the Salmon and Freshwater Fisheries Act 1975; and
 - “salmon” means fish of the salmon species and trout which migrate to and from the sea.

Textual Amendments

F23 Words in s. 37(3) substituted (1.4.1996) by virtue of 1995 c. 25, s. 105, **Sch. 15 para. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M6 1966 c. 38.

M7 1975 c. 51.

^{F24}**38 Disclosure of information furnished under the Diseases of Fish Act 1983.**

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Textual Amendments

F24 S. 38 repealed in part (15.11.2006) by Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2), Sch. 4 Pt. 2 and s. 38 omitted (27.3.2009) by virtue of Aquatic Animal Health (England and Wales) Regulations 2009 (S.I. 2009/463), reg. 1(2), **Sch. 2 para. 7(a)** (with reg. 2(2))

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