

SCHEDULES

SCHEDULE 3

Section 18

SEA FISHING LICENCES: FURTHER PROVISION

Power to attach conditions to sea fishing licence

- 1 (1) A sea fish licensing authority may, on granting a sea fishing licence, attach to the licence such conditions as appear to it to be necessary or expedient for the regulation of sea fishing (including conditions which do not relate directly to fishing).
- (2) The conditions that may be attached to a sea fishing licence include, in particular, conditions—
 - (a) as to the landing of fish or parts of fish (including specifying the ports at which catches are to be landed);
 - (b) as to the use to which the fish caught may be put;
 - (c) restricting the time the fishing boat may spend at sea (whether for the purpose of fishing or otherwise);
 - (d) which are imposed for the purposes of conserving or enhancing the marine and aquatic environment.
- (3) Where a sea fish licensing authority attaches a condition under sub-paragraph (2)(c) to a licence, it may include in the licence provision as to the circumstances in which time is, or is not, to count as time spent at sea for the purposes of the condition.
- (4) If a licence condition is broken, the master, the owner and the charterer (if any) of the fishing boat named in the licence are each guilty of an offence.
- (5) For further provision about an offence under sub-paragraph (4) (including provision as to penalties), see sections 19 to 21.

Power to vary, suspend or revoke sea fishing licence etc

- 2 (1) A sea fish licensing authority may from time to time—
 - (a) vary a sea fishing licence it has granted so as to alter the authority the licence confers, or
 - (b) add, remove or vary a condition attached to a sea fishing licence it has granted.
- (2) A sea fish licensing authority may suspend or revoke a sea fishing licence it has granted if this appears to it to be—
 - (a) necessary or expedient for the regulation of sea fishing, or
 - (b) appropriate in a case where there is—
 - (i) a contravention of the prohibition in section 14(1) or 16(1), or
 - (ii) a contravention of a condition attached to the licence.
- (3) Where—

Status: This is the original version (as it was originally enacted).

- (a) a sea fish licensing authority exercises the power in sub-paragraph (1) or (2), and
 - (b) a charge in respect of the sea fishing licence in question has been made in accordance with regulations under paragraph 7(3),
- the authority may, if it considers it appropriate in all the circumstances of the case, refund the whole or part of the charge.

Power to obtain information

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- (1) A sea fish licensing authority may require the master, the owner and the charterer (if any) of the fishing boat named in a sea fishing licence granted by the authority to provide such information, in such form, as the authority may direct.
 - (2) A person who fails without reasonable excuse to comply with such a requirement is guilty of an offence.
 - (3) Any person who—
 - (a) for the purpose of obtaining a sea fishing licence, or
 - (b) in purported compliance with sub-paragraph (1),
 provides information which the person knows to be false in a material particular or recklessly provides information which is false in a material particular is guilty of an offence.
 - (4) For further provision about an offence under sub-paragraph (2) or (3) (including provision as to penalties), see sections 19 to 21.

Duty to comply with request of another sea fish licensing authority

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- (1) This paragraph applies where—
 - (a) a sea fish licensing authority exercises its licensing functions in relation to sea fishing licences granted in respect of fishing boats of a particular description so as to—
 - (i) limit the authority conferred by the licences, or
 - (ii) attach conditions to the licences; and
 - (b) the limit or conditions mentioned in paragraph (a) apply when the fishing boats are in an area for which the authority is responsible.
 - (2) The sea fish licensing authority mentioned in sub-paragraph (1) (“the requesting authority”) may request any other sea fish licensing authority (“the other authority”) to exercise its licensing functions in such a way that the licences granted by the other authority in respect of fishing boats of the same description, so far as they confer authority in relation to the area mentioned in sub-paragraph (1)(b), are made subject to the limit or conditions mentioned in sub-paragraph (1)(a).
 - (3) The other authority must comply with the request unless, in its opinion, it is unreasonable to do so.
 - (4) References in this paragraph to an area for which a sea fish licensing authority is responsible are—
 - (a) in the case of the Scottish Ministers, to an area in Scotland or the Scottish zone;
 - (b) in the case of the Welsh Ministers, to an area in Wales or the Welsh zone;

- (c) in the case of the Northern Ireland department, to an area in Northern Ireland or the Northern Ireland zone;
- (d) in the case of the Marine Management Organisation, to any other area within British fishery limits.

Use of licensing functions to limit fishing activity

- 5 A sea fish licensing authority may exercise its licensing functions so as to limit—
- (a) the number of fishing boats, or any class of fishing boats, engaged in fishing in any area, or
 - (b) fishing in any area for any description of fish,
- to such extent as appears to it to be necessary or expedient for the regulation of sea fishing.

Power to arrange for licensing functions to be exercised by others

- 6 (1) A sea fish licensing authority may make arrangements for any of its licensing functions to be exercised by other persons on its behalf.
- (2) Arrangements made by a sea fish licensing authority under this paragraph do not affect that authority's responsibility for the exercise of the licensing function in question.
- (3) A public authority that exercises functions on behalf of a sea fish licensing authority under this paragraph may charge that authority such fees as it considers reasonable in respect of the cost of doing so.
- (4) This paragraph does not confer power on a sea fish licensing authority to make arrangements for a licensing function to be exercised on its behalf by another sea fish licensing authority (see instead section 43 (agency arrangements between sea fish licensing authorities)).

Regulations about the licensing of fishing boats

- 7 (1) The relevant national authority may by regulations make provision—
- (a) as to the manner in which a sea fish licensing authority's licensing functions are to be exercised;
 - (b) as to the time when—
 - (i) a sea fishing licence, or a variation, suspension or revocation of a sea fishing licence, has effect, or
 - (ii) a condition attached to a sea fishing licence, or the addition, removal or variation of such a condition, has effect.
- (2) Regulations under sub-paragraph (1) may, in particular, include provision—
- (a) for documents to be delivered, or notices given, to the nominees of persons to whom licences are granted;
 - (b) for documents or notices to be treated as delivered or given if they are posted or otherwise communicated in accordance with the regulations;
 - (c) for notices to be given by publication in newspapers;
 - (d) as to the transitional effects of variations.

Status: This is the original version (as it was originally enacted).

- (3) The relevant national authority may by regulations make provision authorising the making of charges in relation to a sea fishing licence.
- (4) Regulations under sub-paragraph (3) may, in particular—
 - (a) make provision for the amount of any charge to be specified in, or determined in accordance with provision made by, the regulations;
 - (b) make different provision in relation to different classes of licence;
 - (c) make provision for no charge to be payable in such circumstances as may be specified in the regulations.
- (5) The relevant national authority must by regulations make provision as to the principles that are to be applied by a sea fish licensing authority in exercising its functions in relation to conditions attached to a sea fishing licence under paragraph 1(2)(c) (conditions as to time spent at sea).
- (6) A principle of the kind to which sub-paragraph (7) applies may not be included in any regulations under sub-paragraph (5) which make provision for principles of any other kind.
- (7) This sub-paragraph applies to a principle providing for a reduction in the time which all fishing boats, or all fishing boats of a specified description, may spend at sea during any period by comparison with the time which they, or fishing boats of that description, were permitted to spend (or spent or were treated as spending) during a specified previous period (making any necessary adjustment where the periods are of different lengths); and for this purpose “description” means description framed by reference to size of fishing boat, method or area of fishing or description of fish.
- (8) Regulations under sub-paragraph (5) providing for a principle of the kind to which sub-paragraph (7) applies are subject to the affirmative resolution procedure.
- (9) Any other regulations under this paragraph are subject to the negative resolution procedure.
- (10) In this paragraph “the relevant national authority” means—
 - (a) the Scottish Ministers, in relation to regulations containing provision about the licensing of—
 - (i) Scottish fishing boats, or
 - (ii) foreign fishing boats in Scotland or the Scottish zone;
 - (b) the Welsh Ministers, in relation to regulations containing provision about the licensing of—
 - (i) Welsh fishing boats, or
 - (ii) foreign fishing boats in Wales or the Welsh zone;
 - (c) the Northern Ireland department, in relation to regulations containing provision about the licensing of—
 - (i) Northern Ireland fishing boats, or
 - (ii) foreign fishing boats in Northern Ireland or the Northern Ireland zone;
 - (d) the Secretary of State, in relation to regulations containing provision about the licensing of—
 - (i) British fishing boats that are not Scottish, Welsh or Northern Ireland fishing boats, or

- (ii) foreign fishing boats outside Scotland and the Scottish zone, Wales and the Welsh zone, and Northern Ireland and the Northern Ireland zone.

Power of Secretary of State under paragraph 7 where consent obtained

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- (1) Provision which could be included in regulations made by the Scottish Ministers under any provision of paragraph 7 may be included in regulations made by the Secretary of State under that provision with the consent of the Scottish Ministers.
 - (2) Provision which could be included in regulations made by the Welsh Ministers under any provision of paragraph 7 may be included in regulations made by the Secretary of State under that provision with the consent of the Welsh Ministers.
 - (3) Provision which could be included in regulations made by the Northern Ireland department under any provision of paragraph 7 may be included in regulations made by the Secretary of State under that provision with the consent of the Northern Ireland department.

Interpretation

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- In this Schedule “licensing function” means a function of a sea fish licensing authority under—
- (a) section 15 or 17,
 - (b) paragraphs 1 to 4 of this Schedule, or
 - (c) regulations under paragraph 7 of this Schedule.