



# Diseases of Fish Act 1937

1937 CHAPTER 33 1 Edw 8 and 1 Geo 6

An Act to prevent the spreading of disease among salmon and freshwater fish in Great Britain. [10th June 1937]

## Modifications etc. (not altering text)

- C1** Certain functions of Minister of Agriculture, Fisheries and Food under this Act now exercisable (W.) by Secretary of State or by Minister and Secretary of State jointly: *S.I. 1978/272, art. 2(1)(4), Sch. 1* Act: Functions of the National Rivers Authority transferred to the Environment Agency (1.4.1995) by 1995 c. 25, s. 2(1)(a)(v); *S.I. 1996/186, art. 3*  
Act: power to transfer certain functions conferred (1.7.1999) by *S.I. 1999/672, art. 2, Sch. 1*
- C2** Act excluded by *Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 3(3)* (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)  
Act excluded (1.4.1995) by 1995 c. 25 s. 105, Sch. 15 para. 4(3) (with ss. 7(6), 115, 117); *S.I. 1996/186, art. 3*
- C3** Act amended by *Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 3(1)(3)* (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)
- C4** Act modified by *Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 3(1)(3)* (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)  
Act modified (1.4.1995) by 1995 c. 25, s. 105, *Sch. 15 para. 4(1)(3)* (with ss. 7(6), 115, 117); *S.I. 1996/186, art. 3*
- C5** Act extended (1.12.1991) by *Water Resources Act 1991 (c. 57, SIF 130), ss. 2(6)(b), 225(2)* (with ss. 179, 222(3), 225(4), Sch. 22 para. 1, Sch. 23 para. 6)

## Commencement Information

- I1** Act wholly in force at 1.11.1937 by s. 14(2) (now repealed)

## 1 Restriction on importation of live fish and eggs of fish.

- (1) [<sup>F1</sup>subject to subsection (6) of this section] It shall not be lawful to import or bring into Great Britain any live fish of the salmon family.

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- (2) It shall not be lawful to import or bring into Great Britain any live freshwater fish or live eggs of fish of the salmon family, or of freshwater fish, unless the fish or eggs are consigned to a person licensed under this section and the licence is produced at the time of the delivery under [<sup>F2</sup>the enactments for the time being in force relating to customs or excise] of the entry of the consignment.
- (3) The [<sup>F3</sup>Minister] may grant a licence to any person to have consigned to him such fish or eggs as are mentioned in the last foregoing subsection, and the following provisions shall have effect in relation to such licences, that is to say:—
- (a) a licence may be granted subject to such conditions as the Minister thinks fit as to the quantities or kinds of fish or eggs which may be imported or brought in under the licence, as to the disposal, transport, inspection, cleansing and disinfection of the fish or eggs and of the containers or other vessels in which they are to be transported or kept and otherwise as to the precautions which are to be taken for avoiding the spreading of disease among salmon and freshwater fish;
  - (b) a licence may be granted for any period not exceeding twelve months but may be suspended or revoked by the Minister at any time during the currency thereof;
  - (c) there shall on the grant of a licence be paid by the person applying therefor to the Minister such fee not exceeding [<sup>F4</sup>25p] as the Minister may, with the consent of the Treasury, determine.
- (4) If any person in contravention of the provisions of this section imports or brings or procures to be imported or brought into Great Britain any live fish or eggs of fish or, being the holder of a licence under this Act, contravenes any condition subject to which the licence was granted, he shall be guilty of an offence; and any officer of police, officer of Customs and Excise, or inspector may seize any fish or eggs with respect to which he has reason to believe that such an offence has been committed and may detain them pending the determination of any proceedings instituted under this Act in respect of that offence or until the Minister is satisfied that no such proceedings are likely to be instituted.
- (5) Notwithstanding the foregoing provisions of this section where it is shown to the satisfaction of the Commissioners of Customs and Excise that any live fish or eggs of fish, of which the importation or bringing into Great Britain is prohibited or restricted by this section, are being imported or brought solely with a view to the re-exportation thereof after transit through Great Britain or by way of transshipment, the Commissioners may, subject to such conditions as they think fit to impose for securing the re-exportation of the goods, allow the fish or eggs of fish to be imported or brought as if the prohibition or restriction did not apply thereto.
- [<sup>F5</sup>(6) Subsection (1) of this section shall not apply to any fish of a description specified in an order made by the Minister under this subsection.
- (7) The description may be made by reference to species, place of origin or any other factor.
- (8) Where an order under subsection (6) of this section has effect in relation to any fish, subsections (2) to (5) of this section shall have effect as if it were a freshwater fish.
- (9) The power to make an order under subsection (6) of this section shall be exercisable by statutory instrument, and no such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

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- (10) An order under subsection (6) of this section may be varied or revoked by a subsequent order made under that subsection.]

#### Textual Amendments

- F1** Words inserted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), **s. 1(2)**  
**F2** Words substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), **sch. 4 para. 12**  
**F3** Word substituted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), **Sch. para. 1**  
**F4** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19, SIF 10\)](#), **s. 10(1)**  
**F5** S. 1(6)–(10) inserted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), **s. 1(3)**

#### Modifications etc. (not altering text)

- C6** S. 1 excluded (1.1.1993) by [S.I. 1992/3298](#), reg. 29(2), **Sch. 4 Pt.II**.  
**C7** S. 1 excluded (1.1.1993) by [S.I. 1992/3295](#), reg. 31, **Sch.7**.  
**C8** S. 1 excluded (1.1.1994) by [S.I. 1993/3247](#), regs. 1(1), 33, **Sch.6**.  
S. 1 excluded (9.10.1995) by [S.I. 1995/2428](#), reg. 33, **Sch. 6**  
S. 1 excluded (1.1.1997) by [S.I. 1996/3124](#), reg. 40(2), **Sch. 5 Pt. II**  
S. 1 excluded (1.3.1998) by [S.I. 1998/190](#), reg. 34, **Sch. 6**  
S. 1 excluded (S.) (28.7.2000) by [S.S.I. 2000/216](#), reg. 34, **Sch. 6**  
**C9** S. 1 excluded (E.) (13.4.2004) by [Animals and Animal Products \(Import and Export\) Regulations 2004 \(S.I. 2004/853\)](#), reg. 1(1), **Sch. 6** (with reg. 2)  
**C10** S. 1 excluded (E.) (7.12.2004) by [Animals and Animal Products \(Import and Export\) \(No.2\) Regulations 2004 \(S.I. 2004/2886\)](#), reg. 1(1), **Sch. 8**  
**C11** S. 1 disappplied (E.) (15.8.2005) by [Animals and Animal Products \(Import and Export\) \(England\) Regulations 2005 \(S.I. 2005/2002\)](#), reg. 1(1), **Sch. 8**  
**C12** S. 1 excluded (W.) (15.6.2006) by [The Animals and Animal Products \(Import and Export\) \(Wales\) Regulations 2006 \(S.I. 2006/1536\)](#), reg. 1(1), **Sch. 9**  
**C13** S. 1 excluded (E.) (29.6.2006) by [Animals and Animal Products \(Import and Export\) \(England\) Regulations 2006 \(S.I. 2006/1471\)](#), reg. 1(1), **Sch. 9**  
**C14** S. 1 excluded (S.) (2.4.2007) by [Animals and Animal Products \(Import and Export\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/194\)](#), reg. 1(1), **Sch. 9**

#### [<sup>F6</sup>2 Power to designate areas.

- (1) If, at any time, the Minister has reasonable grounds for suspecting that any inland or marine waters are or may become infected waters, he may by order designate the waters and such land adjacent to them as he considers appropriate in the circumstances; and in the following provisions of this section “designated area” means anything designated by an order under this section.
- (2) . . . . . <sup>F7</sup>
- (3) Any person who is the occupier of any inland waters in a designated area, or carries on the business of fish farming in any marine waters in such an area, shall be entitled, on application, to be supplied by the Minister free of charge with a report of the evidence on which the order was made. This subsection does not apply to Scotland.
- (4) In Scotland any person who—
- (a) is the occupier of any inland waters;
  - (b) carries on the business of fish farming in any marine waters;
  - (c) has a right to fish for salmon in any marine waters; or

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- (d) has a right of fishing in any private non-navigable marine waters, which are in a designated area, shall be entitled, on application, to be supplied by the Secretary of State free of charge with a report of the evidence on which the order was made.
- (5) Any order under this section shall be published in the prescribed manner and may be varied or revoked by a subsequent order made under this section.
- (6) If any person intentionally contravenes any provision of an order under this section he shall be guilty of an offence.]

#### Textual Amendments

- F6** Ss. 2, 2A, 2B substituted for s. 2 by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), s. 2
- F7** S. 2(2) repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2. c. 5\)](#)

### 2A Designated areas: direction to remove fish.

- (1) Where an order is in force under section 2 of this Act, the Minister may serve a notice in writing on—
- (a) any occupier of inland waters situated in the designated area (that is, the area designated by the order);
  - (b) any person carrying on the business of fish farming in marine waters situated in the designated area.
- (2) A notice served on a person under subsection (1)(a) of this section may direct him to take such practicable steps as are specified in the notice to secure the removal of dead or dying fish from the waters concerned, and may regulate the manner in which any fish removed from the waters, and any parts of such fish, are to be disposed of.
- (3) A notice served on a person under subsection (1)(b) of this section may direct him to take such practicable steps as are specified in the notice to secure the removal of dead or dying fish from any cage which is owned or possessed by him, is used for the purposes of the business and is situated in the waters concerned, and may regulate the manner in which any fish removed from such a cage, and any parts of such fish, are to be disposed of.
- (4) No notice may be served under subsection (1)(a) of this section in respect of waters in the area of a water authority, not being a fish farm.
- (5) If the Minister is satisfied that a direction contained in a notice served under this section has not been complied with within the time specified in the notice, he may authorise an inspector to carry out the direction, and any expenses reasonably incurred by the inspector in so doing shall be recoverable by the Minister from the person upon whom the notice was served; and if any person intentionally does any act which is prohibited by such a notice, he shall be guilty of an offence unless he shows that he did not know that the act was so prohibited.

### 2B Designated areas: authority to remove fish.

- (1) Where an order is in force under section 2 of this Act, the Minister, if he is satisfied that for the protection against disease of the stock of fish in any waters it is necessary to do so, may by a notice served under section 2A of this Act or otherwise in writing give

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authority falling within subsection (2) or (3) of this section; and in those subsections “the designated area” means the area designated by the order.

- (2) Authority falling within this subsection is authority to any occupier of inland waters situated in the designated area to remove, notwithstanding anything in any agreement to the contrary, any fish (or any fish of a description specified in the authorisation) from the waters, and to do so by such agents and by such methods (including methods otherwise illegal) as the Minister considers to be most expedient for the purpose.
- (3) Authority falling within this subsection is authority to any person carrying on the business of fish farming in marine waters situated in the designated area to remove, notwithstanding anything in any agreement to the contrary, any fish (or any fish of a description specified in the authorisation) from any cage which is owned or possessed by him, is used for the purposes of the business and is situated in the waters, and to do so by such agents and by such methods (including methods otherwise illegal) as the Minister considers to be most expedient for the purpose.
- (4) No authority may be given as mentioned in subsection (2) of this section in respect of waters in the area of a water authority, not being a fish farm.
- (5) Where a person has in pursuance of an authority under this section removed any fish, he shall comply with any directions given to him by the Minister as to the manner in which the fish, and any parts of such fish, are to be disposed of; and, if he intentionally fails to comply with any such directions, he shall be guilty of an offence.

### 3 Powers and duties of fishery boards.

- (1) Any [<sup>F8</sup>water authority] who have reasonable ground for suspecting that [<sup>F9</sup>any inland waters], not being a fish farm, are infected waters, shall forthwith report the facts to the Minister, and may take any practicable steps for securing the removal of dead or dying fish from the waters.

The Minister on receiving any such report as aforesaid with respect to [<sup>F9</sup>any inland waters], shall forthwith cause an investigation to be made as to whether they are infected waters.

- <sup>F10</sup>(2) Where an order is in force in relation to an area under section 2 of this Act, the Minister may authorise any water authority to remove any fish (or any fish of a description specified in the authorisation) from any inland waters in that area (not being a fish farm) and to do so by such agents and by such methods (including methods otherwise illegal) as he considers to be most expedient for the purpose.]
- (3) Every [<sup>F8</sup>water authority]—
  - (a) shall destroy or otherwise properly dispose of all fish removed under any powers conferred on them by or under this section; and
  - (b) shall at such times as the Minister may direct send to him a return stating the number of fish so removed . . . <sup>F11</sup>.

#### Textual Amendments

- F8** Words substituted by virtue of [River Boards Act 1948 \(c. 32\), sch. 3 para. 7](#), [Water Resources Act 1963 \(c. 38, SIF 130\)](#), [Sch. 3 paras. 3, 4](#) and [Water Act 1973 \(c. 37, SIF 130\)](#), [s. 9](#)
- F9** Words substituted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), [Sch. para. 2\(2\)](#)
- F10** S. 3(2) substituted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), [Sch. para. 2\(3\)](#)

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**F11** Words repealed by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 2(4)**

**[<sup>F12</sup>4 Preliminary precautions: inland waters.**

- (1) If an inspector has reasonable grounds for suspecting that any inland waters which are the waters of any fish farm are infected waters, he may serve the prescribed notice upon the occupier of the fish farm and (if the inspector serves such a notice) he shall report the facts to the Minister.
- (2) Where a notice has been served under subsection (1) of this section—
  - (a) no live fish and no live eggs of fish shall, without the permission of the Minister, be taken into or out of the fish farm, and
  - (b) no foodstuff for fish shall, without the permission of the Minister, be taken out of the fish farm,
 until after the expiration of thirty days from the service of the notice, unless before the expiration of that period the occupier receives from the Minister a written intimation that such permission is no longer required.
- (3) Where a notice has been served upon an occupier under subsection (1) of this section, the Minister may if he thinks it desirable authorise an inspector to serve a further prescribed notice upon the occupier so long as no written intimation under subsection (2) above has been given to the occupier; and if the inspector does so before the expiration of thirty days from the service of the first notice, that subsection shall have effect in relation to the fish farm concerned as if for “thirty” there were substituted “sixty”.
- (4) A person who intentionally takes any fish, eggs or foodstuff into or out of a fish farm while the taking is prohibited by this section shall be guilty of an offence, unless he shows that he did not know that the taking was prohibited.
- (5) If any person entitled to take fish from any inland waters, or employed for the purpose of having the care of any inland waters, has reasonable grounds for suspecting that the waters are infected waters, it shall be his duty forthwith to report the facts in writing to the Minister or, if the waters are not a fish farm, to the water authority in whose area the waters are situated; and if without reasonable excuse he fails to do so, he shall be guilty of an offence.

..... <sup>F13</sup> .

(6) ..... <sup>F14</sup> ]

**Textual Amendments**

**F12** Ss. 4, 4A substituted for s. 4 by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 3**

**F13** Words 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)

**F14** S. 4(6) 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)

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#### **4A Preliminary precautions: marine waters.**

(1) If an inspector has reasonable grounds for suspecting that any marine waters are infected waters—

(a) he may serve, upon any person who owns or possesses a cage which is situated in the waters and is used by him for the purposes of a business of fish farming carried on by him, the prescribed notice specifying the waters suspected to be infected waters, and

(b) if the inspector serves such a notice, he shall report the facts to the Minister, and in the following provisions of this section “the farmer” means the person so served.

(2) Where a notice has been served under subsection (1) of this section—

(a) no live fish and no live eggs of fish shall, without the permission of the Minister, be taken into or out of any cage which is situated in the waters specified in the notice and is used by the farmer for the purposes of a business of fish farming carried on by him, and

(b) no foodstuff for fish shall, without the permission of the Minister, be taken out of any such cage,

until after the expiration of thirty days from the service of the notice, unless before the expiration of that period the farmer receives from the Minister a written intimation that such permission is no longer required.

(3) Where a notice has been served upon a farmer under subsection (1) of this section, the Minister may if he thinks it desirable authorise an inspector to serve a further prescribed notice upon the farmer so long as no written intimation under subsection (2) above has been given to the farmer; and if the inspector does so before the expiration of thirty days from the service of the first notice, that subsection shall have effect in relation to any cage concerned as if for “thirty” there were substituted “sixty”.

(4) A person who intentionally takes any fish, eggs or foodstuff into or out of a cage while the taking is prohibited by this section shall be guilty of an offence, unless he shows that he did not know that the taking was prohibited.

(5) If any person who—

(a) owns or possesses a cage which is situated in marine waters and is used by him for the purposes of a business of fish farming carried on by him, or

(b) is employed for the purpose of having the care of a cage so situated and used for the purposes of a business of fish farming,

has reasonable grounds for suspecting that the waters in which the cage is situated are infected waters, it shall be his duty forthwith to report the facts in writing to the Minister; and if without reasonable excuse he fails to do so, he shall be guilty of an offence.

(6) In Scotland if any person who—

(a) has a right to fish for salmon in any marine waters; or

(b) has a right of fishing in any private non-navigable marine waters; or

(c) is employed for the purpose of having the care of any waters mentioned in paragraph (a) or (b) above,

has reasonable grounds for suspecting that the waters (excluding any marine waters in which a cage used for the purposes of a business of fish farming is situated) are infected waters, it shall be his duty forthwith to report the facts in writing to the Secretary of State; and if without reasonable excuse he fails to do so, he shall be guilty of an offence.



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## 5 Duty of Minister to examine waters on demand of a fishery board or occupier.

It shall be the duty of the Minister, on the demand of any [<sup>F15</sup>water authority], or of an [<sup>F16</sup>occupier of any inland waters] to cause an inspector to make an examination of any waters within their [<sup>F15</sup>area], or in his occupation, as the case may be, with a view to discovering whether or not they are infected waters, and to cause a report of the result of the examination to be furnished to the said [<sup>F15</sup>water authority] or occupier free of charge; and if at any such examination the waters are found to be infected waters, the Minister shall cause an inspector to make a further examination thereof when required so to do by the [<sup>F15</sup>water authority] or occupier, as the case may be: Provided that the Minister shall not be bound to cause an examination to be made of any waters if the period which has elapsed since the conclusion of any previous examination of those waters undertaken in accordance with a demand made under this section is so short that in his opinion a further examination is not yet necessary.

### Textual Amendments

- F15** Words substituted by virtue of [River Boards Act 1948 \(c. 32\)](#), [sch. 3 para. 7](#), [Water Resources Act 1963 \(c. 38, SIF 130\)](#), [Sch. 3 paras. 3, 4](#) and [Water Act 1973 \(c. 37, SIF 130\)](#), [s. 9](#)
- F16** Words substituted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), [Sch. para. 3](#)

## 6 Powers of entry on land and inspection.

- (1) Any justice of the peace, upon an information on oath that there is reasonable cause to suspect an offence under this Act to have been committed, may, by warrant under his hand authorise any person named in the warrant to enter on any land mentioned in the warrant at such times as are so mentioned and to seize any fish, eggs of fish, or foodstuff or article which that person suspects to have been imported or brought into Great Britain, removed or otherwise dealt with, or to be about to be removed or otherwise dealt with, in contravention of this Act or of any licence granted, order made, or notice served thereunder: Provided that a warrant under this subsection shall not continue in force for more than one week from the date of the granting thereof. [<sup>F17</sup>The preceding provisions of this subsection shall have effect for the purpose of authorising the boarding of and entry into a cage situated in marine waters and used for the purposes of a business of fish farming as they have effect for the purpose of authorising entry on land.]
- (2) Any inspector shall have power [<sup>F18</sup>(to the extent that he does not have it apart from this subsection)]—
- [<sup>F19</sup>(a) to inspect any inland waters in which fish or the eggs of fish or foodstuff for fish are likely to be found, and to take therefrom samples of any fish or of any such eggs or foodstuff or of water, mud, vegetation or other matter;
- (aa) to inspect any cage situated in marine waters and used for the purposes of a business of fish farming, and to take therefrom samples of any fish or of any eggs of fish or of foodstuff for fish or of water or other matter;
- (ab) to inspect any marine waters in which fish of the salmon family or freshwater fish or the eggs of such fish or foodstuff for fish are likely to be found, and to take therefrom samples of any such fish, eggs or foodstuff or of water, mud, vegetation or other matter;]
- (b) for the purpose of exercising any powers or performing any duties under this Act, to enter, upon production on demand of his authority, on any land;



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[<sup>F20</sup>(c) for the purpose of exercising any powers or performing any duties under this Act, to board and enter, upon production on demand of his authority, any cage situated in marine waters and used for the purposes of a business of fish farming.]

and any person who refuses to admit or [<sup>F21</sup>intentionally obstructs] an inspector in the exercise or performance of any of the said powers and duties shall be guilty of an offence.

(3) If in any sample of fish taken from [<sup>F22</sup>any inland waters], by an inspector under the powers conferred by the last foregoing subsection none is found to be infected, the Minister shall pay to the occupier of the waters, or where there is more than one occupier of the waters, to such of the occupiers as he considers equitable, a sum equal to the market value of the fish taken in that sample.

[<sup>F23</sup>(3A) If in any sample of fish taken from a cage by an inspector under the powers conferred by subsection (2)(aa) of this section none is found to be infected, the Minister shall pay to the person who owns or possesses the cage and uses it for the purposes of a business of fish farming carried on by him a sum equal to the market value of the fish taken in that sample.]

(4) Any person authorised in writing in that behalf by a [<sup>F24</sup>water authority] may, for the purpose of performing any duties imposed on him by the [<sup>F24</sup>water authority] in exercise of their functions under this Act, enter, upon production on demand of his authority, on any land situate within the [<sup>F24</sup>area of the water authority] not being part of a fish farm, and any person who refuses to admit him or [<sup>F25</sup>intentionally obstructs] him in the carrying out of any of those duties shall be guilty of an offence.

(5) Any person exercising powers conferred on him by or under this section on land owned or used for the purposes of any railway or canal undertaking shall conform to such reasonable requirements of the un-dertakers as are necessary to prevent obstruction to, or interference with, the working of the traffic on their railway or canal, as the case may be, and the undertakers shall not be liable for any accident or injury happening to any person while exercising such powers—

- (a) in the case of a railway undertaking, upon any railway or land carrying a railway belonging to them; and
- (b) in the case of a canal undertaking, upon any canal or reservoir or the banks of any canal or reservoir belonging to them.

#### Textual Amendments

- F17** Words inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 4(2)**
- F18** Words inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 4(3)**
- F19** S. 6(2)(a)–(ab) substituted for s. 6(2)(a) by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 4(4)**
- F20** S. 6(2)(c) inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 4(5)**
- F21** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 4(6)**
- F22** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 4(7)**
- F23** S. 6 (3A) inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 4(8)**
- F24** Words substituted by virtue of River Boards Act 1948 (c. 32), **sch. 3 para. 7**, Water Resources Act 1963 (c. 38, SIF 130), **Sch. 3 paras. 3, 4** and Water Act 1973 (c. 37, SIF 130), **s. 9**
- F25** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 4(9)**

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## 7 Service of notices, and authority of agents.

- (1) Any notice required or authorised to be served for the purposes of this Act upon an [<sup>F26</sup>occupier of any inland waters] may be served by delivering it to him, or to any servant or agent employed by him for the purpose of having the care of any of the waters, or by sending it by registered post to the usual or last-known address of the occupier, or, if his address is not known and cannot reasonably be ascertained, by exhibiting the notice addressed to him in some conspicuous place at or near the waters, and, where the identity of the occupier of the waters cannot reasonably be ascertained, the notice, if so exhibited as aforesaid, shall be deemed to be addressed to every person who is an occupier of the waters if it is addressed “The Occupier” without further name or description.
- [<sup>F27</sup>(1A) Any notice required or authorised to be served for the purposes of this Act upon a person carrying on the business of fish farming in marine waters may be served by delivering it to him or sending it by registered post to his usual or last-known address.]
- (2) Where a notice requiring anything to be done by an [<sup>F28</sup>occupier of any inland waters] has been served under this section by delivering it to a servant or agent having the care of any of the waters, that servant or agent shall be deemed to have authority from that occupier to do on his behalf and at his expense whatever is required by the notice to be done in relation to any of the waters.

### Textual Amendments

- F26** Words substituted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), [Sch. para. 5\(2\)](#)
- F27** S. 7(1A) inserted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), [Sch. para. 5\(3\)](#)
- F28** Words substituted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), [Sch. para. 5\(4\)](#)

## 8 Penalties and legal proceedings.

- (1) [<sup>F29</sup>Any person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale <sup>F30</sup>. . . ; and] the court by whom any person is convicted of an offence under this Act may order to be forfeited any fish, eggs of fish, foodstuff or article in respect of which the offence was committed.
- [<sup>F31</sup>(2) In England and Wales a water authority shall have power to take legal proceedings to enforce provisions of this Act as respects [<sup>F32</sup>inland waters] . . . <sup>F33</sup>.
- (3) Offences against this Act committed in [<sup>F32</sup>inland waters] in Scotland (including offences committed in [<sup>F34</sup>inland waters in Scotland] with respect to which functions under this Act are exercisable by the [<sup>F35</sup>Environment Agency]) shall be [<sup>F36</sup>proceeded against and punished in Scotland].]
- [<sup>F37</sup>(4) For the purposes of and incidental to the jurisdiction of any magistrates’ court or, in Scotland, of the sheriff, any offence under this Act committed in the territorial sea adjacent to Great Britain shall be taken to have been committed in any place in which the offender may for the time being be found.]

### Textual Amendments

- F29** Words substituted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), s. 11(5), [Sch. para. 6\(2\)](#)
- F30** Words in s. 8 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIV](#).

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- F31** S. 8(2)(3) substituted for s. 8(2) by Water Act 1973 (c. 37, SIF 130), **Sch. 8 para. 43**
- F32** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 6(3)**
- F33** Words 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)
- F34** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 6(4)**
- F35** Words in s. 8(3) substituted (1.4.1996) by virtue of 1995 c. 25, s. 105, **Sch. 15 para. 4(2)(3)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F36** Words substituted by Salmon Act 1986 (c. 62, SIF 52:2), s. 41, **Sch. 4 para. 6**
- F37** S. 8(4) inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 6(5)**

## 9 Power to make regulations.

The Minister may make regulations for giving effect to the provisions of this Act and in particular for prescribing—

- (a) the form of licences to be granted under this Act and the manner in which application is to be made for such licences;
- (b) the manner in which orders made under this Act [<sup>F38</sup>(other than those made under section 1(6) or 13)] are to be published;
- (c) the form of notice to be served by an inspector upon the occupier of any waters where the inspector has reasonable grounds for suspecting that the waters are infected waters;
- (d) the manner in which any fish, eggs of fish, foodstuff or articles seized or forfeited under this Act are to be dealt with.

### Textual Amendments

- F38** Words inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 7**

## 10 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

[<sup>F39</sup>“business of fish farming” means business of keeping live fish (whether or not for profit) with a view to their sale or to their transfer to other waters;

“cage” means any structure for containing live fish;

.....<sup>F40</sup>

“fish” does not include shellfish but otherwise means fish of any kind;]

“fish farm” means any pond, stew, fish hatchery or other place used for keeping, with a view to their sale or to their transfer to other waters (including any other fish farm), live fish . . . <sup>F41</sup>, live eggs of fish, fish, or foodstuff for fish, and includes any buildings used in connection therewith, and the banks and margins of any water therein;

“fish of the salmon family” includes all fish or whatever genus or species belonging to the family Salmonidæ;

<sup>F42</sup>“foodstuff for fish” means any substance used, or intended or likely to be used, as food for fish, including natural food;

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“freshwater fish” does not include fish of the salmon family, or any kinds of fish which migrate to and from tidal waters, but save as aforesaid includes any fish living in fresh water;

[<sup>F43</sup>“infected” means, in relation to fish, infected with any of the diseases respectively known as bacterial kidney disease (BKD), furunculosis of salmon, [<sup>F44</sup>gyrodactyliasis caused by *Gyrodactylus salaris*,] infectious haematopoietic necrosis (IHN), infectious pancreatic necrosis (IPN) [<sup>F45</sup>infectious salmon anaemia (ISA)], spring viraemia of carp (SVC), viral haemorrhagic septicaemia (VHS) and whirling disease (Myxosoma cerebralis)] [<sup>F46</sup>enteric redmouth disease (ERM)];

[<sup>F47</sup>“infected waters” means waters in which any of the diseases mentioned in the definition of the expression “infected” exists among fish, or in which the causative organisms of any of those diseases are present;]

[<sup>F48</sup>“inland waters” means waters within Great Britain which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows;]

“inspector” means a person authorised by the Minister to act as an inspector under this Act, either generally or for the particular purpose in question;

“land” includes land covered with [<sup>F49</sup>inland waters];

[<sup>F48</sup>“marine waters” means waters (other than inland waters) within the seaward limits of the territorial sea adjacent to Great Britain;]

[<sup>F50</sup>“the Minister” means—

(a) in relation to England, and any marine waters adjacent to England, the Minister of Agriculture, Fisheries and Food;

(b) in relation to Wales, and any marine waters adjacent to Wales, the Secretary of State;

(c) in relation to Scotland (including the marine waters thereof), the Secretary of State;]

“occupier” means in relation to [<sup>F49</sup>any inland waters] a person entitled, without the permission of another person, to take fish from the waters;

“prescribed” means prescribed by regulations made under this Act;

[<sup>F51</sup>“shellfish” includes crustaceans and molluscs of any kind;]

“waters” means any waters (including any fish farm) which are frequented by, or used for keeping, live fish . . . [<sup>F41</sup>live eggs of fish, or foodstuff for fish, and includes the banks and margins of any such waters and any buildings used in connection therewith.

- (2) Notwithstanding anything in the foregoing definition of the expression “occupier,” where the persons entitled without the permission of any other person to take fish from [<sup>F52</sup>any inland waters] are so entitled only by reason of their membership of a club or association, the person having the management of the waters on behalf of the club or association shall, to the exclusion of any members of the club or association (other than himself if a member), be deemed to be the occupier of the waters; and where a person is entitled, without the permission of any other person, to take fish from [<sup>F52</sup>any inland waters] only by virtue of a right acquired for a period not exceeding one year, not he, but the person from whom the right was acquired, shall be deemed to be the occupier of the waters.

- (3) . . . . . <sup>F53</sup>

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**Textual Amendments**

- F39** Definitions inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 4(2)**
- F40** Definition 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)
- F41** Words repealed by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 4(3)**
- F42** Definition spent
- F43** Definition of “infected” substituted by S.I. 1984/301 art. 2
- F44** Words inserted by S.I. 1988/195, **art. 2**
- F45** Words inserted by S.I. 1990/616, **art. 2**
- F46** Words added in relation to Scotland (including the marine waters thereof) by S.I. 1986/213 art. 2
- F47** Definition substituted by S.I. 1973/2093 art. 4
- F48** Definition inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 4(2)**
- F49** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 4(4)**
- F50** Definition inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **Sch. para. 8**
- F51** Definition inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 4(2)**
- F52** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 4(5)**
- F53** S. 10(3) 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)

**11** ..... **F54**

**Textual Amendments**

- F54** S. 11 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)

**12 Expenses of Minister.**

Any expenses incurred by the Minister in connection with the execution of this Act, or in connection with any arrangements made by him with the consent of the Treasury for the carrying on of scientific investigation or laboratory diagnosis as to diseases affecting fish of the salmon family or freshwater fish, shall be defrayed out of moneys provided by Parliament.

[<sup>F55</sup>**13 Power to amend definition of “infected”.**

- (1) The Minister may by order add to or remove any disease for the time being set out in the definition of “infected” in section 10(1) of this Act.
- (2) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

**Textual Amendments**

- F55** S. 13 substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 4(6)**

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**14 †Short title, commencement and extent.**

(1) This Act may be cited as the Disease of Fish Act 1937

(2) ..... <sup>F56</sup>

(3) This Act shall not extend to Northern Ireland.

**Textual Amendments**

**F56** S. 14(2) repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

**Modifications etc. (not altering text)**

**C15** A dagger appended to a marginal note means that it is no longer accurate

**Status:**

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**Changes to legislation:**

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