



# Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (repealed)

1951 CHAPTER 26 14 and 15 Geo 6

## PART II

### POWERS OF WATER BAILIFFS AND OTHERS

#### Textual Amendments applied to the whole legislation

- F1** Act repealed (except in relation to the River Tweed and the Upper Esk) (1.4.2005) by [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003 \(asp 15\)](#), s. 71(2), [sch. 4 Pt. 2](#) (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and (only in relation to the Tweed district) (15.11.2006) by [The Scotland Act 1998 \(River Tweed\) Order 2006 \(S.I. 2006/2913\)](#), art. 1(2), [Sch. 4 Pt. 2](#) (with art. 1(3))

#### 10 Powers of water bailiffs.

- (1) Any water bailiff within his district may do all or any of the following things—
- examine any dam, fixed engine or obstruction, or any lade, and for that purpose enter on any land;
  - stop and search any boat which is used in fishing or any boat which there is reasonable cause to suspect of containing salmon or trout;
  - search and examine nets or other instruments used in fishing or any basket, pocket or other receptacle capable of carrying fish, which there is reasonable cause to suspect of containing salmon or trout illegally taken;
  - seize any fish, instrument or article, boat or vehicle liable to be forfeited in pursuance of this Act.
- (2) Any water bailiff may exercise in any district adjoining that of the district board by which he was appointed any power which he may lawfully exercise in the district of such board.

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- (3) The production by a water bailiff of the instrument of his appointment purporting to be signed on behalf of the district board by whom he was appointed, or of any badge or other device indicating his appointment and purporting to be issued by such board, shall be a sufficient warrant for the exercise of any power conferred on such water bailiff by or in pursuance of this Act or of the Salmon Fisheries (Scotland) Acts 1828 to 1868.
- (4) Any constable may exercise in relation to any water any of the powers specified in subsection (1) of this section.
- (5) Any person appointed by the Secretary of State in that behalf may exercise in relation to any water any of the powers specified in subsection (1) of this section, and the production of the instrument of his appointment purporting to be signed by or on behalf of the Secretary of State shall be a sufficient warrant for the exercise of any such power.
- (6) If any person refuses to allow a water bailiff, constable, or any person acting in pursuance of the last foregoing subsection to exercise any power conferred on him by or in pursuance of this Act or of the Salmon Fisheries (Scotland) Acts 1828 to 1868, or obstructs a water bailiff, constable, or any such person as aforesaid in the exercise of any such power, he shall be guilty of an offence against this Act.
- (7) For the purposes of this section—
  - (a) any reference to the Salmon Fisheries (Scotland) Acts 1828 to 1868, shall in relation to the River Tweed include a reference to the <sup>M1</sup>Tweed Fisheries Act 1857, and the <sup>M2</sup>Tweed Fisheries Amendment Act 1859, and
  - (b) “land” includes land covered by water, but does not include a dwelling-house or any yard, garden, outhouses and pertinents belonging thereto or usually enjoyed therewith.

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

- C1** S. 10 extended by *Sea Fish (Conservation) Act 1967 (c. 84), s. 18(2)*
- C2** S. 10 extended (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(3)**
- C3** S. 10(1)(d)(3)(6) extended by *Inshore Fishing (Scotland) Act 1984 (c. 26, SIF 52:1), ss. 7(2)(a)(b), 10(2)*  
 S. 10(1)(d)(3)(6) applied (with modifications) (15.4.2001) by 1986 c. 62, **s. 10B(1)** (as inserted (15.4.2001) by 2001 asp 3, **s. 1**; S.S.I. 2001/116, **art. 2**)  
 S. 10(6) excluded (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 8(9)**
- C4** S. 10(5) modified (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 12(1)**

**Marginal Citations**

- M1** 1857 c. cxlviii.  
**M2** 1859 c. lxx.

## 11 Powers of search.

- (1) A sheriff or any justice of the peace, if satisfied by information on oath that there is reasonable ground to suspect any offence against any of the provisions of sections [F11 to 4, 7 and 7A] of this Act to have been committed and that evidence of the commission of the offence is to be found on any premises or in any vehicle, may grant a warrant authorising any water bailiff, constable or person appointed by the Secretary of State in pursuance of the last foregoing section at any time or times within one week from

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- the date thereof to enter, if necessary by force, the said premises and every part thereof or the said vehicle for the purposes of detecting the offence.
- (2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, as the case may be.
- (3) Where a constable has reasonable grounds for suspecting that an offence against any of the provisions of sections [F<sup>1</sup> 1 to 4, 7 and 7A] of this Act has been committed, and that evidence of the commission of the offence is to be found in any vehicle, but that by reason of urgency or other good cause it is impracticable to apply for a warrant to search such vehicle, the said constable may stop and search that vehicle and any person who is found in, or whom he has reasonable grounds to believe to have recently left or to be about to enter the said vehicle.
- [F<sup>2</sup>(3A) Where a constable has reasonable grounds for suspecting that an offence against section 7A of this Act is being committed and that evidence of the commission of the offence is to be found in any premises (other than a dwelling-house or any yard, garden, outhouses and pertinents belonging thereto or usually enjoyed therewith) but by reason of urgency or other good cause it is impracticable to apply for a warrant to search such premises, he may search them without warrant.]
- (4) Where a water bailiff has reasonable grounds for suspecting that an offence against [F<sup>3</sup>any of the provisions of sections 1 to 4, 7 and 7A] of this Act has been committed and that evidence of the commission of the offence is to be found in any vehicle on any private land adjoining any water within his district or any district adjoining thereon [F<sup>4</sup>or in any stationary vehicle on—  
(a) a road within the meaning of the Roads (Scotland) Act <sup>M3</sup>1984; or  
(b) a highway within the meaning of the Highways Act <sup>M4</sup>1980  
adjoining such water or such land,] the said water bailiff may search that vehicle.
- (5) Any person appointed by the Secretary of State in pursuance of the last foregoing section may exercise in relation to any water the powers conferred upon a water bailiff by virtue of this section.
- (6) No female shall in pursuance of any search authorised by this section be searched except by a female.

#### Textual Amendments

- F1** Words substituted by [Salmon Act 1986 \(c. 62, SIF 52:2\), s. 22\(2\)\(a\)](#)  
**F2** [S. 11\(3A\)](#) inserted by [Salmon Act 1986 \(c. 62, SIF 52:2\), s. 22\(2\)\(b\)](#)  
**F3** Words substituted by [Salmon Act 1986 \(c. 62, SIF 52:2\), s. 22\(2\)\(c\)\(i\)](#)  
**F4** Words inserted by [Salmon Act 1986 \(c. 62, SIF 52:2\), s. 22\(2\)\(c\)\(ii\)](#)

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

- C5** [S. 11](#) extended by [Sea Fish \(Conservation\) Act 1967 \(c. 84\), s. 18\(2\)](#)  
**C6** [S. 11](#) extended by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\), ss. 7\(2\)\(a\)\(b\), 10\(2\)](#)  
**C7** [S. 11](#) extended (30.6.1999) by [S.I. 1999/1746, arts. 1\(1\), 8\(3\)](#)  
[S. 11](#) applied (with modifications) (15.4.2001) by [1986 c. 62, s. 10B\(4\)](#) (as inserted (15.4.2001) by [2001 asp 3, s. 1; S.S.I. 2001/116, art. 2](#))  
**C8** [S. 11\(1\)\(5\)](#) modified (30.6.1999) by [S.I. 1999/1746, arts. 1\(1\), 12\(1\)](#)

*Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (repealed), Part II. (See end of Document for details)*

### Marginal Citations

- M3** 1984 c.54(108).  
**M4** 1980 c.66(59).

## 12 Apprehension of offenders.

- (1) If any person shall be found committing any offence against the provisions of Part I of this Act, the provisions of section twenty-nine of the <sup>M5</sup>Salmon Fisheries (Scotland) Act 1868 (which relate to the apprehension of offenders), or, where the offence relates to the River Tweed, the provisions of section thirty-eight of the <sup>M6</sup>Tweed Fisheries Act 1857, shall apply in respect of that person as if he had been found committing any of the offences referred to in the said section twenty-nine or in the said section thirty-eight.
- (2) No person other than a water bailiff <sup>F5</sup>... or person appointed by the Secretary of State in pursuance of section ten of this Act shall have power by virtue of the said section twenty-nine to seize and detain any person who shall be found committing an offence against the said Act of 1868; and accordingly the said section twenty-nine shall have effect as if for the reference to person where that word first occurs there were substituted a reference to a water bailiff <sup>F5</sup>... or person appointed by the Secretary of State as aforesaid.
- (3) No person other than a water bailiff, constable or person appointed as aforesaid shall have power by virtue of section thirty-eight of the <sup>M7</sup>Tweed Fisheries Act 1857, to seize and detain any person who shall be found committing an offence against that Act, or the <sup>M8</sup>Tweed Fisheries Amendment Act 1859; and accordingly the said section thirty-eight shall have effect as if for the reference to other person there were substituted a reference to a constable or such person as aforesaid.

### Textual Amendments

- F5** Words in s. 12(2) omitted (25.1.2018) by virtue of [The Criminal Justice \(Scotland\) Act 2016 \(Consequential and Supplementary Modifications\) Regulations 2017 \(S.S.I. 2017/452\)](#), reg. 1, [sch. para. 5](#)

### Modifications etc. (not altering text)

- C9** S. 12 extended by [Sea Fish \(Conservation\) Act 1967 \(c. 84\)](#), s. [18\(2\)](#)  
**C10** S. 12 extended by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\)](#), ss. [7\(2\)\(a\)\(b\)](#), 10(2)  
**C11** S. 12 extended (30.6.1999) by [S.I. 1999/1746](#), arts. [1\(1\)](#), 8(3)  
S. 12 applied (with modifications) (15.4.2001) by [1986 c. 62](#), s. [10B\(5\)](#) (as inserted (15.4.2001) by [2001 asp 3](#), s. [1](#); [S.S.I. 2001/116](#), art. [2](#))  
**C12** S. 12(2) modified (30.6.1999) by [S.I. 1999/1746](#), arts. [1\(1\)](#), 12(1)

### Marginal Citations

- M5** 1868 c. 123.  
**M6** 1857 c. cxlviii.  
**M7** 1857 c. cxlviii.  
**M8** 1859 c. lxx.

**Changes to legislation:**

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