



# Aquaculture and Fisheries (Scotland) Act 2007

2007 asp 12

## PART 6

### GENERAL

#### 39 Crown application

- (1) This Act binds the Crown.
- (2) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable; but the provisions of this Act and any provisions made under it apply to persons in the service of the Crown as they apply to other persons.
- (3) The Court of Session may, on the application of the Lord Advocate, declare unlawful any act or omission of the Crown which constitutes a contravention of any provision made by or under this Act.

#### Commencement Information

**II** S. 39 in force at 1.8.2007 by [S.S.I. 2007/333](#), [art. 2\(1\)](#)

#### 40 Offences by bodies corporate etc.

- (1) Where an offence under this Act committed—
  - (a) by a body corporate, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
    - (i) is a director, manager or secretary of the body corporate, or
    - (ii) purports to act in any such capacity,
  - (b) by a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
    - (i) is a partner, or
    - (ii) purports to act in that capacity,

*Status: Point in time view as at 16/09/2013.*

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- (c) by an unincorporated association other than a Scottish partnership, is committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who—
- (i) is concerned in the management or control of the association, or
  - (ii) purports to act in the capacity of a person so concerned,
- the individual (as well as the body corporate, Scottish partnership or, as the case may be, unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

#### Commencement Information

**I2** S. 40 in force at 1.8.2007 by [S.S.I. 2007/333, art. 2\(1\)](#)

### 41 Minor and consequential amendments

The schedule to this Act, which contains minor amendments and amendments consequential on this Act, has effect.

#### Commencement Information

**I3** S. 41 in force at 1.8.2007 by [S.S.I. 2007/333, art. 2\(1\)](#)

### 42 Ancillary provision

- (1) The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes, or in consequence, of this Act.
- (2) An order under this section may modify any enactment, instrument or document.

### 43 Orders

- (1) Any power conferred by this Act on the Scottish Ministers to make an order—
  - (a) must be exercised by statutory instrument,
  - (b) may be exercised so as to make different provision for different purposes.
- (2) A statutory instrument containing an order made under this Act (except an order under section 45(2)) is, subject to subsection (3), subject to annulment in pursuance of a resolution of the Parliament.
- (3) A statutory instrument containing an order under—
  - (a) section <sup>F1</sup>4A(6) or] 36(1),
  - (b) section 42 containing provisions which add to, replace or omit any part of the text of an Act,

is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

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#### Textual Amendments

- F1** Words in s. 43(3)(a) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 1(4), 66(2)** (with s. 65); S.S.I. 2013/249, art. 2

#### 44 Interpretation: general

In this Act—

“the 1937 Act” means the Diseases of Fish Act 1937 (c. 33);

“the 1983 Act” means the Diseases of Fish Act 1983 (c. 30);

“the 2003 Act” means the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15).

[<sup>F2</sup> “the 2009 Regulations ” means the Aquatic Animal Health (Scotland) Regulations 2009 ( [S.S.I. 2009/85](#) ). ]

#### Textual Amendments

- F2** Words in s. 44 inserted (2.12.2011) by [The Aquatic Animal Health \(Miscellaneous Modifications\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/427\)](#), **reg. 3(4)**

#### 45 Short title and commencement

- (1) This Act may be cited as the Aquaculture and Fisheries (Scotland) Act 2007.
- (2) The provisions of this Act, except this section and sections 12 and 42 to 44, come into force on such day as the Scottish Ministers may by order appoint.
- (3) Different days may be appointed under subsection (2) for different purposes.

**Status:**

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**Changes to legislation:**

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