



Aquaculture and Fisheries (Scotland) Act 2013

2013 asp 7

PART 4

SHELLFISH

Orders as to fisheries for shellfish

56 Contravention of regulated fishery orders

- (1) The Sea Fisheries (Shellfish) Act 1967 is amended in accordance with this section.
- (2) In section 3 (effect of grant of right of regulating a fishery)—
 - (a) after subsection (4) insert—

“(4A) Subsection (4B) applies where an order under section 1 of this Act—

 - (a) confers a right of regulating a fishery for any specified description of shellfish, and
 - (b) imposes restrictions on, or makes regulations respecting, the dredging, fishing for and taking of any specified description of shellfish within the limits of the regulated fishery or any part of it.
 - (4B) A person commits an offence if—
 - (a) the person is found within the limits of, or in the immediate vicinity of, the regulated fishery,
 - (b) the person is found there at, or about, a time at which the restrictions imposed or regulations made by the order apply,
 - (c) when so found, the person is in possession of such equipment, vehicle, apparatus or other gear or paraphernalia (including clothing) as may be used for the purpose of dredging, fishing for and taking shellfish in contravention of the restrictions or regulations, and
 - (d) it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the person

Status: This is the original version (as it was originally enacted).

intends to dredge, fish for and take shellfish in contravention of the restrictions or regulations.

(4C) A person who commits an offence under subsection (4B) is liable on summary conviction to a fine not exceeding £50,000.”

- (b) in subsection (5), after “subsection (3)” insert “or (4B)”, and
- (c) in subsection (6), for “Subsection (1) of this section” substitute “This section”.

(3) After section 3 insert—

“3A Contravention of regulated fishery orders: presumption

- (1) Subsection (2) applies in proceedings against a person (“the accused”) for an offence under section 3(3) of this Act involving dredging, fishing for and taking shellfish in contravention of restrictions imposed or regulations made by—
 - (a) an order under section 1 of this Act, or
 - (b) the grantee of such an order.
- (2) It is to be presumed that the accused was, or had been, dredging, fishing for and taking shellfish in contravention of the restrictions or regulations if—
 - (a) it is proved that—
 - (i) the accused was found within the limits of, or in the immediate vicinity of, the regulated fishery to which the order relates,
 - (ii) the accused was found there at, or about, a time at which the restrictions or regulations apply, and
 - (iii) when so found, the accused was in possession of any of the things mentioned in subsection (3), and
 - (b) it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the accused was, or had been, dredging, fishing for and taking shellfish in contravention of the restrictions or regulations.
- (3) The things are—
 - (a) such equipment, vehicle, apparatus or other gear or paraphernalia (including clothing) as may be used for the purpose of dredging, fishing for and taking shellfish in contravention of the order,
 - (b) shellfish the dredging, fishing for and taking of which is prohibited by the restrictions or regulations.
- (4) Subsection (2) does not apply if evidence is adduced sufficient to raise an issue as to whether—
 - (a) the accused’s presence within the limits of, or in the vicinity of, the regulated fishery to which the order relates was for the purpose of dredging, fishing for and taking shellfish in contravention of the restrictions or requirements, or
 - (b) where the accused was found in possession—
 - (i) of any of the things mentioned in paragraph (a) of subsection (3), the possession of the thing was for that purpose,

(ii) of shellfish mentioned in paragraph (b) of that subsection, the shellfish were caught or taken in contravention of the restrictions or requirements.”.