



Sea Fisheries (Shellfish) Act 1967

1967 CHAPTER 83

Further provisions with respect to shellfish

12 Power to prohibit deposit of shellfish.

- (1) The appropriate Minister may by order designate any waters to which this section applies, and prohibit the deposit in those waters of shellfish of any description, or of shellfish of a description specified in the order, being (in either case) shellfish taken (as the order may provide) either—
 - (a) from any shellfish bed outside the waters so designated, or
 - (b) from any shellfish bed in an area specified in the order.
 - (2) This section applies to the following waters, that is to say—
 - (a) all tidal waters (whether forming part of the sea or not) within the seaward limits of the territorial waters adjacent to [^{F1}England and Wales] , and
 - (b) all inland waters from which, in the opinion of the appropriate Minister, diseases or pests carried by shellfish deposited in them may be conveyed into any such tidal waters as are mentioned in paragraph (a) above.
- [^{F2}(2A) Subsection (2) above has effect in relation to Scotland with the modification that in paragraph (a) for “adjacent to England and Wales” there is substituted “within the Scottish zone”.]
- (3) An order under this section designating any waters may also designate any land adjacent to those waters, being land from which, in the opinion of the appropriate Minister, diseases or pests carried by shellfish deposited on it may be conveyed into those waters; and any prohibition imposed by the order on depositing shellfish in those waters shall apply also to depositing shellfish on that land.
- [^{F3}(3A) Where the appropriate Minister considers it desirable for the purpose of preventing the spread of diseases or pests carried by shellfish, an order under this section may also prohibit the taking from any waters or land designated by the order of shellfish of any description or of shellfish of a description specified in the order.]
- (4) An order under this section may provide that [^{F4}any prohibition] thereby imposed shall not apply to any shellfish if—

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- (a) they are deposited [^{F5}or (as the case may be) taken] under the authority of a licence granted by the appropriate Minister, and
 - (b) the conditions (if any) specified in that licence are complied with.
- (5) Where any person deposits any shellfish in any waters or on any land in contravention of an order under this section, and is convicted of an offence under this Act in respect of that contravention, the appropriate Minister shall have power to remove those shellfish from those waters or that land, and also to remove therefrom any other shellfish which, in his opinion, may have become affected by any disease or pest carried by the shellfish so deposited.
- (6) The appropriate Minister may cause any shellfish removed under subsection (5) of this section to be disposed of (whether by destruction, sale or otherwise) as he may think fit, and shall be entitled to recover from the person convicted as mentioned in that subsection any expenses reasonably incurred by the appropriate Minister in removing the shellfish under that subsection, or in disposing of them under this subsection.
- (7) For the purposes of this section a person shall be taken to deposit shellfish in any particular waters if he causes the shellfish to enter those waters; and any reference in this section to depositing shellfish on land includes a reference to throwing down, dropping or otherwise discharging the shellfish on that land.
- (8) An order under this section may be varied or revoked by a subsequent order thereunder.

Textual Amendments

- F1** Words in s. 12(2)(a) substituted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 42(6)(a)**; S.I. 1998/3178, **art. 3**
- F2** S. 12(2A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 42(6)(b)**; S.I. 1998/3178, **art. 3**
- F3** S. 12(3A) inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(1)**
- F4** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(2)**
- F5** Words inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(2)**

Modifications etc. (not altering text)

- C1** Ss. 9, 12 extended by Fisheries Act 1981 (c. 29, SIF 52:1), **s. 34**

13 Power to prohibit importation of shellfish in certain cases.

- (1) Where any waters are for the time being designated by an order under section 12 of this Act, the appropriate Minister may by order made under this section designate any area, consisting of any part of the coast or other land adjacent to those waters, and prohibit shellfish of any description specified in the order from being imported into that area, except at such places (if any) as may be specified in the order.
- (2) A person shall be taken to contravene an order under this section if any shellfish to which the prohibition imposed by the order applies are imported in contravention of the order, and he, whether as owner, consignor or consignee, agent or broker, is in possession, or is in any way entitled to the custody or control, of the shellfish at the time when they are imported.
- (3) An order under this section may be varied or revoked by a subsequent order thereunder.

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(4) In this section “imported” means imported on board any vessel, [^{F6}hovercraft] or aircraft, whether from a place outside [^{F7}England and Wales] or not, and [^{F6}“hovercraft”] means a [^{F8}hovercraft within the meaning of the ^{M1}Hovercraft Act 1960].

[^{F9}(5) This section has effect in relation to Scotland with the modification that in subsection (4) for “England and Wales” there is substituted “Scotland”.]

[^{F10}(5) References in this section to importation shall include references to importation through the tunnel system as defined in the Channel Tunnel Act 1987. ^{M2}]

Textual Amendments

- F6** Words substituted by S.I. 1972/971, **art. 10(3)**
- F7** Words in s. 13(4) substituted (1.7.1999) by S.I. 1999/1820, **art. 4, Sch. 2 Pt. I para. 42(7)(a)**; S.I. 1998/3178, **art. 3**
- F8** Words substituted by Hovercraft Act 1968' (c. 59), Sch. para. 4
- F9** S. 13(5): “after subsection (4) there is inserted” subsection (5) (1.7.1999) by S.I. 1999/1820, **art. 4, Sch. 2 Pt. I para. 42(7)(b)**; S.I. 1998/3178, **art. 3**
- F10** S. 13(5) inserted by S.I. 1990/2371, **art. 2, Sch. 1 para. 2**

Marginal Citations

- M1** 1968 c. 59.
- M2** 1987 c.53.

14 Supplementary provisions as to orders under ss. 12 and 13.

- (1) Where the appropriate Minister makes an order under section 12 or 13 of this Act, he shall take such steps (whether by the publication or display of notices or otherwise) as he may consider most suitable for informing all persons concerned of the effect of the order.
- (2) Any person who contravenes the provisions of any order made under the said section 12 or 13 (including any person who contravenes those provisions by not complying with any conditions specified in a licence granted thereunder) shall be guilty of an offence under this subsection, and shall be liable on summary conviction—
- in the case of a first offence under this subsection, to a fine not exceeding [^{F11}level 4 on the standard scale];
 - in the case of a second or subsequent offence under this subsection, to imprisonment for a term not exceeding three months, or a fine not exceeding [^{F11}level 4 on the standard scale], or both.
- (3) A person authorised in that behalf by the appropriate Minister (in this section referred to as an “inspector”) shall, subject to subsection (4) of this section, have the right, at any reasonable time, to enter any land designated by an order under the said section 12, or any waters, or land covered by waters, designated by such an order, where either—
- the inspector has reasonable grounds for believing that the prohibition imposed by the order [^{F12}in pursuance of subsection (1) of that section] is being or has been contravened, or
 - entry is required for the purpose of removing any shellfish which the appropriate Minister is empowered to remove under subsection (5) of that section;

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and an inspector having a right to enter any land or waters under this subsection shall also have the right to obtain and take away samples (which shall be marked, labelled or otherwise made capable of identification) of any shellfish found there, and to dispose of any such sample as the inspector may determine:

Provided that where an inspector enters any land or waters by virtue of paragraph (a) above, he shall retain any shellfish so taken for as long as may be necessary to secure that they are available for production in any proceedings for an offence under this section in respect of the contravention in question.

- (4) A right of entry under subsection (3) of this section shall not be exercisable in respect of any occupied land unless not less than twenty-four hours' notice of the intended entry has been given to the occupier; and the inspector shall, if so required, produce written evidence of his authority before entering.
- (5) Any person who obstructs an inspector in the exercise of any right conferred by subsection (3) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F13}level 3 on the standard scale].

Textual Amendments

- F11** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#) ss. 289E-289G and by 1994 c. 33, s. 157(1) (9), **Sch. 8 Pt. I**; S.I. 1995/127, art. 2(1), **Sch. 1** it is provided (3.2.1995) that s. 14(2) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding level 4
- F12** Words inserted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), **s. 6(3)**
- F13** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and by 1994 c. 33, s. 157(1) (9), **Sch. 8 Pt. I**; S.I. 1995/127, art. 2(1), **Sch. 1** it is provided (3.2.1995) that s. 14(5) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding level 3

Modifications etc. (not altering text)

- C2** [S. 14\(2\): Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289E** (in relation to liability on first and subsequent convictions), applies (S.)
- C3** [S. 14\(2\): Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35** (in relation to liability on first and subsequent convictions), 38 (increases of fines) and 46 (substitution or references to levels on the standard scale), apply (E.W.)

15 Public fisheries: elimination of disease or pest affecting shellfish.

- (1) This section applies to any waters in which the public have a right to fish, other than—
- waters which are within the limits of a fishery in respect of which a right (whether a right of several fishery or of regulating a fishery) conferred by an order under section 1 of this Act is for the time being in force;
 - waters (not falling within paragraph (a) above) in which a person has an exclusive right to take shellfish of any description.
- (2) The appropriate Minister may take any action which appears to him to be requisite—
- for destroying any shellfish which are in any waters to which this section applies and which appear to him to be affected by a disease or pest, or
 - for eliminating from any such waters any disease or pest affecting shellfish;

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and (where he has taken any action in respect of any waters in accordance with paragraph (a) or paragraph (b) above) for causing those waters to be restocked with shellfish.

16 Oysters not to be sold between certain dates.

- (1) Subject to subsection (2) of this section, any person who between the 14th May in any year and the following 4th August sells, exposes for sale, buys for sale, or consigns to any person for the purpose of sale, any description of oysters shall be guilty of an offence and liable on summary conviction to a fine not exceeding, in the case of a first offence, [F14]level 1 on the standard scale] or, in the case of a second or subsequent offence, [F14]level 1 on the standard scale] and, in any case, to forfeit the oysters exposed for sale, bought for sale or consigned to any person for the purpose of sale, in contravention of this subsection.
- (2) A person shall not be guilty of an offence under this section if he satisfies the court that the oysters alleged to have been sold, exposed for sale, bought for sale or consigned to any person for the purpose of sale—
 - (a) were originally taken within the waters of a foreign state, or
 - (b) were preserved in tins or otherwise cured, or
 - (c) were intended for the purpose of oyster cultivation within the same district in which the oysters were taken, or
 - (d) were taken from any place for cultivation with the consent of the appropriate Minister [F15], or
 - (e) were Pacific or Japanese oysters (*Crassostrea gigas*), Portuguese oysters (*Crassostrea angulata*) or other members of the genus *Crassostrea*].
- (3) For the purposes of subsection (2)(c) of this section a district is—
 - (a) the Thames Estuary, bounded by a line drawn from Orford Ness to the North Foreland, and
 - (b) any other area for the time being constituted a district for the purposes of this section by an order of the appropriate Minister;and where the place at which oysters are taken is not within any such district, so much of the area within ten miles of that place as is not included in any such district shall be deemed to be a district for those purposes.
- (4) The appropriate Minister may by a subsequent order revoke or vary any order made by him under subsection (3)(b) of this section.

Textual Amendments

- F14** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and by virtue of (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and by [1994 c. 33, s. 157\(1\) \(9\)](#), [Sch. 8 Pt. I](#); S.I. 1995/127, [art. 2\(1\)](#), [Sch. 1](#) it is provided (3.2.1995) that s. 16(1) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 4 on the standard scale instead of a fine not exceeding level 1
- F15** [S. 16\(2\)\(e\)](#) added by [Sea Fisheries \(Shellfish\) Act 1973 \(c. 30\)](#), [s. 1](#)

Modifications etc. (not altering text)

- C4** [S. 16](#) amended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#), [s. 33\(5\)](#), [Sch. 4 Pt. II para. 30](#)

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17 Taking and sale of certain crabs and lobsters prohibited.

- (1) Subject to subsection (2) of this section, any person who takes, has in his possession, sells, exposes for sale, buys for sale, or consigns to any person for the purpose of sale, —
- (a) any edible crab carrying any spawn attached to the tail or other exterior part of the crab, or
 - (b) any edible crab which has recently cast its shell,
- shall be guilty of an offence.
- (2) A person shall not be guilty of an offence under subsection (1) of this section if he satisfies the court that the edible crabs found in his possession or alleged to have been sold, exposed for sale, bought for sale, or consigned to any person for the purpose of sale, were intended for bait for fishing.
- (3) If the Minister and [^{F16}the Secretary of State for Scotland and the Secretary of State for Wales] by order so direct, no person shall, in [^{F17} England and Wales], land, sell, expose or offer for sale, or have in his possession for the purpose of sale, any lobster which is carrying any spawn attached to the tail or some other exterior part of the lobster, or which is in such a condition as to show that, at the time when it was taken, it was carrying spawn so attached; and any person who contravenes an order under this subsection shall be guilty of an offence.
- [^{F18}(3A) Subsection (3) of this section has effect in relation to Scotland, with the modifications that—
- (a) for “Minister and the Secretary of State for Scotland and the Secretary of State for Wales” there is substituted “Scottish Ministers”; and
 - (b) for “England and Wales” there is substituted “Scotland”.]

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, [^{F19}level 3 on the standard scale] and, in the case of a second or subsequent offence, [^{F19}level 3 on the standard scale], and the court by which the offender is convicted may order the forfeiture of all crabs or lobsters found in his possession or alleged to have been sold, exposed or offered for sale, bought for sale, or consigned to any person for the purpose of sale, in contravention of subsection (1) of this section or of an order under subsection (3) thereof, as the case may be.

(5) An order under subsection (3) of this section may be varied or revoked by a subsequent order thereunder.

Textual Amendments

F16 Words substituted by [S.I. 1978/272, Sch. 5 para. 1](#)

F17 Words in s. 17(3) substituted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(8\)\(a\)](#); [S.I. 1998/3178, art. 3](#)

F18 [S. 17\(3A\)](#) inserted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(8\)\(b\)](#); [S.I. 1998/3178, art. 3](#)

F19 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289E–289G](#) and by [1994 c. 33, s. 157\(1\)\(9\), Sch. 8 Pt. I](#); [S.I. 1995/127, art. 2\(1\), Sch. 1](#) it is provided (3.2.1995) that s. 17(4) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding level 3

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Modifications etc. (not altering text)

- C5** S. 17(1)(3) amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(1), **Sch. 4 Pt. I para. 11** and by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33, **Sch. 4 Pt. II para. 32**
- C6** S. 17(4): Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 35** (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)

18 Power to search for, seize, etc. oysters, crabs and lobsters illegally in possession of any person, etc.

Any person who has power under any Act, charter or byelaw to search for, seize, remove or condemn any food unfit for human consumption or to order any such food to be destroyed or otherwise disposed of, may exercise the like power with respect to any oysters, crabs or lobsters which, in contravention of section 16 or 17 of this Act, are in the possession of any person or exposed or offered by any person for sale or have been bought by, or consigned to, any person for the purpose of sale.

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