



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART V

#### GENERAL CONTROL OF FISHERIES

##### 115 Fisheries orders.

- (1) Subject to the following provisions of this section, each of the Ministers shall have power, on an application made to him by the [<sup>F1</sup>Agency], by order made by statutory instrument to make provision in relation to an area defined by the order for the modification, in relation to the fisheries in that area—
  - (a) of any provisions of the <sup>M1</sup>Salmon and Freshwater Fisheries Act 1975 relating to the regulation of fisheries;
  - [<sup>F2</sup>(b) of section 142 or 156 below or paragraph 6 or 7 of Schedule 25 to this Act; or]
  - (c) of any provisions of a local Act relating to any fishery in that area.
- (2) An order under this section—
  - (a) may contain such supplemental, consequential and transitional provision, including provision for the payment of compensation to persons injuriously affected by the order, as may appear to be necessary or expedient in connection with the other provisions of the order; but
  - (b) shall not apply to any waters in respect of which either of the Ministers has granted a licence under section 29 of the Salmon and Freshwater Fisheries Act 1975 (fish rearing licences).
- (3) Before either of the Ministers makes an order under this section he shall—
  - (a) send to the [<sup>F1</sup>Agency] a copy of the draft order; and
  - (b) notify the [<sup>F1</sup>Agency] of the time within which, and the manner in which, objections to the draft order may be made to him.
- (4) Neither of the Ministers shall make an order under this section unless the [<sup>F1</sup>Agency] has caused notice of—
  - (a) that Minister's intention to make the order;
  - (b) the place where copies of the draft order may be inspected and obtained; and

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- (c) the matters notified under subsection (3)(b) above,  
to be published in the London Gazette and, if it is directed to do so by one of the Ministers, in such other manner as that Minister thinks best adapted for informing persons affected.
- (5) Before either of the Ministers makes an order under this section he—
- (a) shall consider any objection which may be duly made to the draft order; and
  - (b) may cause a public local inquiry to be held with respect to any such objections.
- (6) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament; and, where a statutory instrument is laid before Parliament for the purposes of this paragraph, a copy of the report of any local inquiry held with respect to objections considered in connection with the making of the order contained in that instrument shall be so laid at the same time.
- (7) Where—
- (a) any fishery, land or foreshore proposed to be comprised in an order under this section [<sup>F3</sup>making provision, by virtue of subsection (1)(b) above, for the modification of section 156 below in relation to fisheries in an area]; or
  - (b) any fishery proposed to be affected by any such order; or
  - (c) any land over which it is proposed to acquire an easement under any such order,
- belongs to Her Majesty in right of the Crown or forms part of the possessions of the Duchy of Lancaster or the Duchy of Cornwall or belongs to, or is under the management of, any government department, the order may be made by one of the Ministers only if he has previously obtained the consent of the appropriate authority.
- (8) In subsection (7) above “the appropriate authority”—
- (a) in the case of any foreshore under the management of the Crown Estate Commissioners or of any fishery or land belonging to Her Majesty in right of the Crown, means those Commissioners;
  - (b) in the case of any foreshore, fishery or land forming part of the possessions of the Duchy of Lancaster, means the Chancellor of the Duchy;
  - (c) in the case of any foreshore, fishery or land forming part of the possessions of the Duchy of Cornwall, means the Duke of Cornwall or the persons for the time being empowered to dispose for any purpose of the land of the Duchy;
  - (d) in the case of any foreshore, fishery or land which belongs to or is under the management of a government department, means that government department.
- (9) In this section “foreshore” includes the shore and bed of the sea and of every channel, creek, bay, estuary and navigable river as far as the tide flows.

#### Textual Amendments

- F1** Words in s. 115 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F2** S. 115(1)(b) substituted (subject to other provisions of the amending Act) (21.9.1995) by 1995 c. 25, s. 105, **Sch. 15 para. 25** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3** (with art. 4)
- F3** Words in s. 115(7)(a) inserted (subject to other provisions of the amending Act) (21.9.1995) by 1995 c. 25, s. 116, **Sch. 21 Pt. 1 para. 2(2)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

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

**C1** S. 115 excluded by S.I. 1999/1746, **arts. 1(1), 4(1)** (with **art. 2**) (the exclusion coming into force immediately before the principal appointed day (1.7.1999 appointed by S.I. 1998/3178, **art. 3**))

**Marginal Citations**

**M1** 1975 c. 51.

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