

*Status:* Point in time view as at 19/11/1998. This version of this cross heading contains provisions that are not valid for this point in time.

*Changes to legislation:* Environment Act 1995, Paragraph 13 is up to date with all changes known to be in force on or before 04 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 15

#### MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO FISHERIES

##### *The Salmon and Freshwater Fisheries Act 1975*

VALID FROM 01/01/1999

13 For section 14 of that Act (gratings) there shall be substituted—

**“14 Screens.**

- (1) This section applies in any case where—
  - (a) by means of any conduit or artificial channel, water is diverted from waters frequented by salmon or migratory trout; and
  - (b) any of the water so diverted is used for the purposes of a water or canal undertaking or for the purposes of any mill or fish farm; and in this section “the responsible person” means the owner of the water or canal undertaking or (as the case may be) the occupier of the mill or the owner or occupier of the fish farm.
- (2) Where this section applies, the responsible person shall, unless an exemption from the obligation is granted by the Agency, ensure (at his own cost) that there is placed and maintained at the entrance of, or within, the conduit or channel a screen which—
  - (a) subject to subsection (4) below, prevents the descent of the salmon or migratory trout; and
  - (b) in a case where any of the water diverted is used for the purposes of a fish farm, prevents the egress of farmed fish from the fish farm by way of the conduit or channel.
- (3) Where this section applies, the responsible person shall also, unless an exemption from the obligation is granted by the Agency, ensure (at his own cost) that there is placed and maintained across any outfall of the conduit or channel a screen which—
  - (a) prevents salmon or migratory trout from entering the outfall; and
  - (b) in a case where any of the water diverted is used for the purposes of a fish farm, prevents the egress of farmed fish from the fish farm by way of the outfall.
- (4) Where a screen is placed within any conduit or channel pursuant to subsection (2) above, the responsible person shall ensure that a continuous by-wash is provided immediately upstream of the screen, by means of which salmon or migratory trout may return by as direct a

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route as practicable to the waters from which they entered the conduit or channel (and accordingly nothing in subsection (2) or (3) above applies in relation to a by-wash provided for the purposes of this subsection).

- (5) Any screen placed, or by-wash provided, in pursuance of this section shall be so constructed and located as to ensure, so far as reasonably practicable, that salmon or migratory trout are not injured or damaged by it.
- (6) No such screen shall be so placed as to interfere with the passage of boats on any navigable canal.
- (7) Any exemption under subsection (2) or (3) above may be granted subject to conditions.
- (8) If any person who is required to do so by this section fails to ensure that a screen is placed or maintained, or that a by-wash is provided, in accordance with the provisions of this section, he shall be guilty of an offence.
- (9) In any proceedings for an offence under subsection (8) above, it shall, subject to subsection (10) below, be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or a person under his control.
- (10) If in any case the defence provided by subsection (9) above involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless—
  - (a) at least seven clear days before the hearing, and
  - (b) where he has previously appeared before a court in connection with the alleged offence, within one month of his first such appearance,
 he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (11) Any reference in subsection (10) above to appearing before a court includes a reference to being brought before a court.
- (12) The obligations imposed by subsections (2) to (6) above, except so far as relating to farmed fish, shall not be in force during such period (if any) in each year as may be prescribed by byelaw.
- (13) The obligations imposed by subsections (2) to (6) above on the occupier of a mill shall apply only where the conduit or channel was constructed on or after 18th July 1923.
- (14) Any reference in this section to ensuring that a screen is placed and maintained includes, in a case where the screen takes the form of apparatus the operation of which prevents the passage of fish of the descriptions in question, a reference to ensuring that the apparatus is kept in continuous operation.

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(15) In this section “by-wash” means a passage through which water flows.”

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