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## SCHEDULES

### SCHEDULE 16 **E+W**

Section 233(1)

#### MIGRATORY AND FRESHWATER FISH: CONSEQUENTIAL AND SUPPLEMENTARY AMENDMENTS

##### *Salmon and Freshwater Fisheries Act 1975 (c. 51)*

1 The Salmon and Freshwater Fisheries Act 1975 has effect subject to the amendments in paragraphs 2 to 17.

#### Commencement Information

- I1** Sch. 16 para. 1 in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, Sch. para. 15(a)  
**I2** Sch. 16 para. 1 in force at 1.1.2011 in so far as not already in force by S.I. 2010/298, art. 2, Sch. para. 13

2 Section 3 (nets) is omitted.

#### Commencement Information

- I3** Sch. 16 para. 2 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

3 (1) Section 5 (prohibition of use of explosives etc) is amended as follows.  
(2) In subsection (1), for “subsection (2)” substitute “ subsections (2) and (2A) ”.  
(3) In subsection (2)(b), at the end insert “ , for which the Agency may charge a fee ”.  
(4) After subsection (2) insert—  
“(2A) Subsection (1) above shall not apply to anything done pursuant to an authorisation granted by the Agency under section 27A below.”

#### Commencement Information

- I4** Sch. 16 para. 3(1) in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, Sch. para. 15(b)  
**I5** Sch. 16 para. 3(1) in force at 1.1.2011 in so far as not already in force by S.I. 2010/298, art. 2, Sch. para. 13  
**I6** Sch. 16 para. 3(2)(4) in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13  
**I7** Sch. 16 para. 3(3) in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(b)

4 Sections 6 to 8 (fixed engines, fishing weirs and fishing mill dams) are omitted.

#### Commencement Information

- I8** Sch. 16 para. 4 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

5 Section 16 (boxes and cribs in weirs and dams) is omitted.

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**Commencement Information**

**I9** Sch. 16 para. 5 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 6 Section 17 (restrictions on taking salmon or trout above or below an obstruction or in mill races) is omitted.

**Commencement Information**

**I10** Sch. 16 para. 6 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 7 In section 18 (supplementary provisions), in subsection (4), for “, 15 or 17” substitute “ or 15 ”.

**Commencement Information**

**I11** Sch. 16 para. 7 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 8 Sections 19 to 22 (close seasons etc) are omitted.

**Commencement Information**

**I12** Sch. 16 para. 8 in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, Sch. para. 15(c)

**I13** Sch. 16 para. 8 in force at 1.1.2011 in so far as not already in force by S.I. 2010/298, art. 2, Sch. para. 13

- 9 (1) Section 25 (licences to fish) is amended as follows.
- (2) In subsection (2), for “an instrument” substitute “ the means of fishing ”.
- (3) In subsection (3)—
- (a) for “an instrument” substitute “ any means of fishing ”;
  - (b) for “the instrument” substitute “ that means of fishing ”.

**Commencement Information**

**I14** Sch. 16 para. 9 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 10 (1) Section 26 (limitation of fishing licences) is amended as follows.
- (2) In subsection (1), for “the Minister” substitute “ the appropriate national authority ”.
- (3) In subsection (2)—
- (a) for “the Minister” substitute “ the appropriate national authority ”;
  - (b) for “he” (in both places) substitute “ that authority ”;
  - (c) for “his” substitute “that authority's”;
  - (d) for “him” substitute “ that authority ”.
- (4) In subsection (3)—
- (a) for “The Minister” substitute “ The appropriate national authority ”;
  - (b) for “him” substitute “ that authority ”;
  - (c) for “he” substitute “ that authority ”.

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- (5) In subsection (6)—
- (a) for “The Minister” substitute “ The appropriate national authority ”;
  - (b) for “him” substitute “ that authority ”;
  - (c) for “he” substitute “ that authority ”.
- (6) In subsection (7)—
- (a) for “the Minister”, in the first place, substitute “ the appropriate national authority ”;
  - (b) for “the Minister”, in the second place, substitute “ that authority ”.

**Commencement Information**

**I15** Sch. 16 para. 10 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 11 (1) Section 27 (unlicensed fishing) is amended as follows.
- (2) The existing provision is renumbered as subsection (1).
- (3) In that subsection, after “of any description” insert “ by any licensable means of fishing ”.
- (4) In that subsection, for paragraphs (a) and (b) substitute—
- “(a) fishes for or takes fish of that description by that means and—
    - “(i) is not entitled to use that means for that purpose by virtue of a fishing licence, or
    - “(ii) is acting in breach of any condition of such a licence, or”
  - (b) where that licensable means of fishing is an instrument, has that instrument in his possession with intent to use it for that purpose and is not entitled to use it for that purpose by virtue of a fishing licence.”
- (5) After that subsection insert—
- “(2) Subsection (1) above does not apply to a person where—
    - (a) he has permission under section 25(10) above to take fish of that description in that place by that means, and
    - (b) he is not acting in breach of any condition of that permission.”

**Commencement Information**

**I16** Sch. 16 para. 11 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 12 In section 33 (orders and warrants to enter suspected premises), in subsection (2), for “or any salmon, trout, freshwater fish or eels to have been illegally taken” substitute “ or an offence against this Act to have been committed in the taking of any fish ”.

**Commencement Information**

**I17** Sch. 16 para. 12 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(d)

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- 13 In section 34 (power to apprehend persons fishing illegally), for the words from “illegally takes or kills” to “by this Act” substitute “ takes or kills any fish where the taking or killing constitutes an offence under this Act, or is found on or near any waters with intent to take or kill any fish where the taking or killing would constitute an offence under this Act, or having an instrument prohibited by this Act in his possession for the capture of any fish, where the capture would constitute an offence under this Act ”.

**Commencement Information**

**I18** Sch. 16 para. 13 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(d)

- 14 (1) In section 41 (interpretation), subsection (1) is amended as follows.
- (2) In the definition of “fixed engine”, in paragraph (d), for “salmon or trout” substitute “ fish ”.
- (3) After the definition of “general licence” insert—
- ““historic installation” has the meaning given by section 25 above;”.
- (4) After the definition of “inland water” insert—
- ““licensable means of fishing” has the meaning given by section 25 above;”.

**Commencement Information**

**I19** Sch. 16 para. 14(1) in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, Sch. para. 15(e)

**I20** Sch. 16 para. 14(1) in force at 1.1.2011 in so far as not already in force by S.I. 2010/298, art. 2, Sch. para. 13

**I21** Sch. 16 para. 14(2) in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(e)

**I22** Sch. 16 para. 14(3)(4) in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 15 Schedule 1 (close seasons and close times) is omitted.

**Commencement Information**

**I23** Sch. 16 para. 15 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(f)

- 16 (1) Schedule 2 (licences) is amended as follows.
- (2) In paragraph 1(2), for “in special cases” substitute “ in such cases as it considers appropriate ”.
- (3) In paragraph 2, for the words from “different instruments” to “different descriptions of fish” substitute “ different descriptions of licence ”.
- (4) In paragraph 3, for “any instrument” substitute “ any licensable means of fishing ”.
- (5) In paragraph 4—
- (a) for “the Minister”, in the first place, substitute “ the appropriate national authority ”;
- (b) for “the Minister”, in the second place, substitute “ that authority ”.
- (6) In paragraph 5—

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- (a) for “The Minister” substitute “ The appropriate national authority ”;
  - (b) for “his” substitute “that authority's”;
  - (c) for “the Minister” substitute “ that authority ”.
- (7) In paragraph 7—
- (a) for “an instrument” substitute “ any licensable means of fishing ”;
  - (b) for “that instrument” substitute “ that means ”.
- (8) In paragraph 9—
- (a) in sub-paragraph (1)—
    - (i) for “an instrument of any description” substitute “ any licensable means of fishing ”;
    - (ii) for “with instruments of that description” substitute “ by that means ”;
    - (iii) for “an instrument of that description”, in the first place, substitute “ that means of fishing ”;
    - (iv) for “the instrument”, in the first place, substitute “ that means of fishing ”;
    - (v) in paragraph (b), for “an instrument of that description”, substitute “ that means of fishing ”;
    - (vi) in paragraph (c), for “the instrument” substitute “ that means of fishing ”;
  - (b) in sub-paragraph (2)—
    - (i) for “an instrument of any description” substitute “ any licensable means of fishing ”;
    - (ii) for “an instrument of that description” substitute “ that means of fishing ”;
    - (iii) for “the instrument”, in the first place, substitute “ that means of fishing ”;
    - (iv) in paragraph (c), for “the instrument” substitute “ that means of fishing ”.
- (9) In paragraph 10, after “entered on” insert “ or removed from ”.
- (10) In paragraph 13, for “the instrument”, in both places, substitute “ the means of fishing ”.
- (11) In paragraph 15, for “the instrument” substitute “ the means of fishing ”.
- (12) In paragraph 17, for “instrument” substitute “ other thing ”.

#### **Commencement Information**

- I24** Sch. 16 para. 16(1) in force at 12.1.2010 for specified purposes by [S.I. 2009/3345](#), art. 2, [Sch. para. 15\(g\)](#)
- I25** Sch. 16 para. 16(1) in force at 1.1.2011 in so far as not already in force by [S.I. 2010/298](#), art. 2, [Sch. para. 13](#)
- I26** Sch. 16 para. 16(2)(3)(5)(6)(9) in force at 12.1.2010 by [S.I. 2009/3345](#), art. 2, [Sch. para. 15\(g\)](#)
- I27** Sch. 16 para. 16(4)(7)(8)(10)-(12) in force at 1.1.2011 by [S.I. 2010/298](#), art. 2, [Sch. para. 13](#)

- 17 (1) Schedule 4 (offences) is amended as follows.

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- (2) In the table in paragraph 1(2), the entries relating to section 19(2), section 19(4), section 19(6), section 19(7) and section 21 are omitted.
- (3) In that table, in the entry relating to section 27—
- (a) in the second column—
    - (i) after “fishing for fish” insert “ by licensable means of fishing ”;
    - (ii) after “unlicensed” insert “ licensable ”;
  - (b) in the third column, in paragraph (a), for the words from “instrument” to “rod and line” substitute “ offence is one alleged to be committed by use or possession of rod and line (only) ”.
- (4) In paragraph 1(3), for the words from “both” to the end substitute—
- “(a) both are engaged in committing—
    - (i) an offence under section 1 above, other than one committed without any instrument, or
    - (ii) an offence under section 27 above, other than one committed by means of a rod and line (only), or
  - (b) one is aiding, abetting, counselling or procuring the commission of such an offence by the other.”
- (5) In paragraph 7, for “salmon, trout or freshwater fish” substitute “ fish ”.
- (6) In paragraph 9—
- (a) after “any fishing or general licence” insert “ or authorisation under section 27A above ”;
  - (b) after “a fishing or general licence” (in both places) insert “ or authorisation under section 27A above ”.
- (7) In paragraph 10—
- (a) after “a fishing or general licence” insert “ or authorisation under section 27A above ”;
  - (b) after “the licence” (in every place) insert “ or authorisation under section 27A above ”.
- (8) In paragraph 11—
- (a) after “a fishing or general licence” insert “ or authorisation under section 27A above ”;
  - (b) after “a licence” insert “ or authorisation ”;
  - (c) after “the licence” insert “ or authorisation ”.

#### **Commencement Information**

- I28** Sch. 16 para. 17(1) in force at 12.1.2010 for specified purposes by [S.I. 2009/3345, art. 2, Sch. para. 15\(h\)](#)
- I29** Sch. 16 para. 17(1) in force at 1.1.2011 in so far as not already in force by [S.I. 2010/298, art. 2, Sch. para. 13](#)
- I30** Sch. 16 para. 17(2)(4)(5) in force at 12.1.2010 by [S.I. 2009/3345, art. 2, Sch. para. 15\(h\)](#)
- I31** Sch. 16 para. 17(3)(6)-(8) in force at 1.1.2011 by [S.I. 2010/298, art. 2, Sch. para. 13](#)

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*Fisheries Act 1981 (c. 29)*

- 18 (1) In the Fisheries Act 1981, in Part 1 of Schedule 4 (offences to which section 33(1) of that Act applies), paragraph 6 is amended as follows.
- (2) In paragraph (a), after “any fish” insert “ to which paragraph 6 of that Schedule applies ”.
- (3) After paragraph (a) insert—
- “(aa) specifying close seasons or times for the taking of any fish to which that paragraph applies by such means as may be prescribed by the byelaws;”.
- (4) In paragraph (b), for “trout or any freshwater fish of a size” substitute “ any fish to which that paragraph applies of a size greater or ”.
- (5) In paragraph (c)—
- (a) for “salmon, trout, or freshwater fish” substitute “ fish to which that paragraph applies ”;
- (b) the words “(not being a fixed engine)” are omitted.
- (6) In paragraph (d)—
- (a) the words “(not being fixed engines)” are omitted;
- (b) for “salmon, trout, freshwater fish and eels” substitute “ fish to which that paragraph applies ”.
- (7) In paragraph (f)—
- (a) for “salmon or trout” substitute “ fish to which that paragraph applies ”;
- (b) for “which is not licensed” substitute “ which may not lawfully be used ”.
- (8) In paragraph (g), for “the annual close season for salmon of a net capable of taking salmon” substitute “ any close season or time for any description of fish to which that paragraph applies of a net capable of taking fish of that description ”.

**Commencement Information**

**I32** Sch. 16 para. 18 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

*Salmon Act 1986 (c. 62)*

- 19 In section 32 of the Salmon Act 1986 (handling salmon in suspicious circumstances), subsection (6)(a) is omitted.

**Commencement Information**

**I33** Sch. 16 para. 19 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

*Water Resources Act 1991 (c. 57)*

- 20 The Water Resources Act 1991 has effect subject to the amendments in paragraphs 21 to 25.

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**Commencement Information**

**I34** Sch. 16 para. 20 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

- 21 In section 115 (fisheries orders), in subsection (1)—
- (a) in paragraph (a), after “Salmon and Freshwater Fisheries Act 1975” insert “(as amended by the Marine and Coastal Access Act 2009) ”;
  - (b) in paragraph (b), after “this Act” insert “(as so amended) ”.

**Commencement Information**

**I35** Sch. 16 para. 21 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

- 22 In section 116 (power to give effect to international obligations)—
- (a) the existing provision is renumbered as subsection (1);
  - (b) after that subsection insert—
    - “(2) In subsection (1), the reference to functions includes any functions conferred on the Agency by virtue of the Marine and Coastal Access Act 2009.”

**Commencement Information**

**I36** Sch. 16 para. 22 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

- 23 (1) Section 212 (compensation in respect of certain fisheries byelaws) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a)—
    - (i) for “salmon, trout, or freshwater fish” substitute “any fish to which paragraph 6 of that Schedule applies ”;
    - (ii) the words “(not being a fixed engine)” are omitted;
  - (b) in paragraph (b)—
    - (i) the words “(not being fixed engines)” are omitted;
    - (ii) for “salmon, trout, freshwater fish and eels” substitute “any such fish ”.

**Commencement Information**

**I37** Sch. 16 para. 23 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

- 24 (1) In Schedule 25 (byelaw-making powers of the Agency), paragraph 6 (byelaws for purposes of fisheries functions) is amended as follows.
- (2) In sub-paragraph (2)—
- (a) the words “Subject to paragraph 7(1) below” are omitted;
  - (b) in paragraph (a), after “any fish” insert “to which this paragraph applies ”;
  - (c) in paragraph (b)—



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- (i) in sub-paragraph (i), for “trout or any freshwater fish” substitute “any fish to which this paragraph applies”;
  - (ii) in sub-paragraph (ii), after “fish” insert “to which this paragraph applies”;
  - (d) in paragraph (c)—
    - (i) for “salmon, trout, or freshwater fish” substitute “fish to which this paragraph applies”;
    - (ii) the words “(not being a fixed engine)” are omitted;
  - (e) in paragraph (d)—
    - (i) the words “(not being fixed engines)” are omitted;
    - (ii) for “salmon, trout, freshwater fish and eels” substitute “fish to which this paragraph applies”;
  - (f) in paragraph (g), the word “licensed” is omitted;
  - (g) in paragraph (h)—
    - (i) for “salmon or trout” substitute “fish to which this paragraph applies”;
    - (ii) for “which is not licensed” substitute “which may not lawfully be used”;
  - (h) in paragraph (i), for “the annual close season for salmon of a net capable of taking salmon” substitute “any close season or time for any description of fish to which this paragraph applies of a net capable of taking fish of that description”.
- (3) In sub-paragraph (5) for “salmon, trout, freshwater fish or eels” substitute “fish to which this paragraph applies”.

**Commencement Information**

**I38** Sch. 16 para. 24 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

25 In that Schedule, paragraph 7 is omitted.

**Commencement Information**

**I39** Sch. 16 para. 25 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

*Environment Act 1995 (c. 25)*

26 In section 13 of the Environment Act 1995 (regional and local fisheries advisory committees), in subsection (1)(a), for the words from “salmon fisheries” to “eel fisheries” substitute “fisheries referred to in section 6(6) above”.

**Commencement Information**

**I40** Sch. 16 para. 26 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(i)

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