



# Sea Fisheries (Shellfish) Act 1967

## 1967 CHAPTER 83

**E+W+S**

An Act to consolidate certain enactments relating to shellfish fisheries and shellfish, with amendments to give effect to recommendations of the Law Commission and the Scottish Law Commission. [27th October 1967]

### Modifications etc. (not altering text)

**C1** Act: power to transfer functions conferred (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

### *Fisheries for shellfish*

#### **1 Power to make orders as to fisheries for shellfish. **E+W+S****

- (1) Subject to the provisions of this section, the appropriate Minister may, on an application made to him in accordance with subsection (2) of this section, by order provide for the establishment or improvement, and for the maintenance and regulation, of a fishery for shellfish of any one or more of the following descriptions, that is to say, oysters, mussels [<sup>F1</sup>cockles, clams [<sup>F2</sup>, lobsters] and any other molluscs [<sup>F2</sup> or crustaceans] of a kind specified in regulations made by the appropriate Minister], on any portion of the shore and bed of the sea, or of an estuary or tidal river, above or below, or partly above and partly below, low water mark and within [<sup>F3</sup>waters adjacent to [<sup>F4</sup>England and Wales] to a distance of six nautical miles measured from the baselines from which the breadth of the territorial sea is measured] (which shore and bed are in this Act referred to as “the sea shore”) and, if desirable, for the constitution of a board or body corporate for the purposes of the order.
- [<sup>F5</sup>(1A) Subsection (1) above has effect in relation to Scotland, with the modification that for “waters adjacent to England and Wales to” there is substituted “that part of the Scottish zone within”.]
- (2) An application for an order under this section shall be made in such form and manner as may be prescribed by regulations made by the appropriate Minister; and the provisions

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of Schedule 1 to this Act shall have effect in relation to the making of orders under this section.

- (3) An order under this section may confer on such persons as may be specified in the order—
- (a) a right of several fishery with respect to the whole of the area of the fishery to which the order relates, or
  - (b) a right of regulating a fishery with respect to the whole of that area, or
  - (c) a right of several fishery with respect to such part of that area as may be specified by or under the order and a right of regulating a fishery with respect to the remainder,
- but shall not confer either right for a longer period at one time than sixty years.
- (4) An order under this section shall not be made with respect to any portion of the sea shore which belongs to Her Majesty in right of the Crown or forms part of the possessions of the Duchy of Lancaster or of the Duchy of Cornwall except with the appropriate consent, that is to say—
- (a) the consent of the Crown Estate Commissioners, or
  - (b) the consent of the Chancellor of the Duchy of Lancaster in writing under his hand attested by the clerk of the Council of the Duchy, or
  - (c) the consent of the Duke of Cornwall or the other persons for the time being empowered to dispose for any purpose of lands of the Duchy of Cornwall,
- as the case may be.
- (5) No order under this section shall take away or abridge any right of several fishery or any right on, to or over any portion of the sea shore, being a right enjoyed by any person under any local or special Act of Parliament or any Royal charter, letters patent, prescription, or immemorial usage, except with the consent of that person.
- (6) Any order made under this section may be varied by a subsequent order made thereunder; and the foregoing provisions of this section shall apply in relation to any such subsequent order and to an application for such an order as they apply in relation to an original order made under this section and to an application for such an order.

#### Textual Amendments

- F1** Words substituted by [Sea Fisheries Act 1968 \(c. 77\)](#) , **s. 15(2)**
- F2** Words in s. 1(1) inserted (27.2.1995) by [1997 c. 3](#) , **s. 1**
- F3** Words substituted by [Fishery Limits Act 1976 \(c. 86\)](#) , **Sch. 2 para. 15**
- F4** Words in s. 1(1) substituted (1.7.1999) by [S.I. 1999/1820](#) , art. 4 , **Sch. 2 Pt. I para. 42(2)(a)** ; [S.I. 1998/3178](#) , **art. 3**
- F5** S. 1(1A) inserted (1.7.1999) by [S.I. 1999/1820](#) , art. 4 , **Sch. 2 Pt. I para. 42(2)(b)** ; [S.I. 1998/3178](#) , **art. 3**

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

- C2** S. 1 amended by [Sea Fisheries Act 1968 \(c. 77\)](#) , **s. 15(1)(3)–(5)**
- C3** S. 1(1) extended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#) , **s. 34 ( a )**

## 2 Effect of grant of right of several fishery. **E+W+S**

- (1) Where an order under section 1 of this Act confers a right of several fishery, then, subject to any restrictions and exceptions contained in the order and to section 12

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of this Act, the grantees shall have within the limits of the fishery, or of that part of the fishery within which the right is exercisable, the exclusive right of depositing propagating, dredging, fishing for and taking shellfish of any description to which the order applies, and in the exercise of that right may within those limits—

- (a) make and maintain beds for such shellfish;
  - (b) at any season collect such shellfish and remove them from place to place and deposit them as and where the grantees think fit;
  - (c) do all other things which the grantees think proper for obtaining, storing and disposing of the produce of their fishery.
- (2) In this section “the grantees” means the persons for the time being entitled to the right of several fishery conferred by the order under the said section 1.

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

C4 S. 2 extended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 34

**3 Effect of grant of right of regulating a fishery. E+W+S**

- (1) Where an order under section 1 of this Act confers on the grantees a right of regulating a fishery for any specified description of shellfish and 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 of that part of the fishery within which the right is exercisable, or imposes tolls or royalties upon persons dredging, fishing for and taking any specified description of shellfish within the limits of that fishery or part, then, subject to any restrictions and exceptions contained in the order and to section 12 of this Act, the grantees shall have power to do all or any of the following things, namely—
  - (a) to carry into effect and enforce any such restrictions and regulations;
  - (b) to levy any such tolls or royalties;
  - (c) to provide for depositing and propagating shellfish of any description to which the order applies within those limits and for improving and cultivating the regulated fishery or regulated part, as the case may be.
- (2) Subject to the provisions of section 4 of this Act, all such restrictions, regulations, tolls and royalties as aforesaid shall be imposed on and apply to all persons equally, and shall be for the benefit of the regulated fishery or part only, and any such tolls and royalties shall be applied in the improvement and cultivation of that fishery or part.
- (3) Any person who dredges, fishes for or takes shellfish of any description to which any such order applies in contravention of any such restriction or regulation, or without paying any such toll or royalty, as aforesaid shall be guilty of an offence and liable on summary conviction to a fine not exceeding [F6level 2 on the standard scale] and to forfeit all such shellfish so taken or, if they have been sold, a sum equal to their value; and any shellfish or sum so forfeited shall be recoverable in like manner as a fine.
- (4) The court by which any such forfeiture is imposed may direct the shellfish or sum forfeited to be delivered or paid to the grantees to be applied by them for the improvement and cultivation of the regulated fishery or part.

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### Textual Amendments

**F6** Words substituted by virtue of (E.W.) [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), [s. 31](#), [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289C](#), [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. 3(3) 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 2

## 4 Licensing powers in case of regulated fishery. **E+W+S**

- (1) This section applies to an order made under section 1 of this Act, being an order which confers a right of regulating a fishery.
- (2) The restrictions imposed by an order to which this section applies may include restrictions prohibiting all persons from dredging, fishing for or taking, within the limits of the fishery or of that part of the fishery within which the right is exercisable, shellfish of the description to which the order applies except under the authority of a licence issued in that behalf by the grantees.
- (3) Any power to vary an order to which this section applies shall (without prejudice to the generality of that power) include power to vary the order so as to impose restrictions in accordance with subsection (2) of this section.
- (4) Where an order to which this section applies (either as originally made or as varied) imposes any such restrictions, then, subject to the provisions of the order and of this section, licences may be issued under the order in such numbers and to such persons, and operative for such periods, and may authorise the dredging, fishing for or taking of shellfish at such times, in such manner and to such extent, as the grantees may determine.
- (5) Where in pursuance of such an order the grantees propose to issue licences, they shall, unless they propose to issue licences to all such persons as may apply for them, notify the appropriate Minister of their intention; and the appropriate Minister may give directions to the grantees as to the exercise of their powers under subsection (4) of this section.
- (6) If the grantees issue or withhold licences without complying with the requirements of subsection (5) of this section or of any directions given thereunder, then, for the purposes of section 5 of this Act (and without prejudice to the generality of that section) the grantees shall be taken not to be properly carrying into effect the restrictions imposed by the order; but no licence issued in contravention of any such requirements shall be invalid by reason only that it was so issued.
- (7) Any licence issued under an order to which this section applies may with the consent of the appropriate Minister be cancelled by the grantees if the person to whom the licence is issued, having been convicted of an offence of contravening a restriction imposed by the order, is subsequently convicted of another such offence; but, except as provided by this subsection, a licence so issued shall not be cancelled before it is due to expire unless the person to whom it was issued dies or surrenders the licence.
- (8) In this section any reference to the imposition of restrictions includes a reference to the making of regulations.

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[<sup>F7</sup>4A **Powers of sea-fishery officers in relation to fishing boats to enforce regulated fishery** **E+W+S**

- (1) For the purpose of enforcing restrictions imposed by, or regulations made by, an order under section 1 conferring a right of regulating a fishery, a British sea-fishery officer may exercise the powers conferred by subsections (2) to (7) in relation to—
  - (a) a Scottish fishing boat wherever it may be;
  - (b) any other fishing boat in the Scottish zone.
- (2) The officer may go on board the boat, with or without persons assigned to assist in the duties of that officer, and may, for that purpose or for the purpose of disembarking from the boat, require the boat to stop, and anything else to be done which will facilitate the boarding of, or as the case may be, disembarking from, the boat.
- (3) The officer may require the attendance of the master and any other person on board the boat and may make any examination and inquiry which appears to the officer to be necessary for the purpose of enforcing such restrictions or regulations.
- (4) In particular under subsection (3) the officer may—
  - (a) search the boat for shellfish or fishing gear;
  - (b) examine any shellfish on the boat and the equipment (including the fishing gear) of the boat, and require persons on board the boat to do any thing which appears to the officer to be necessary for facilitating the examination;
  - (c) require any person on the boat to produce any relevant document in the person's custody or possession;
  - (d) for the purpose of ascertaining whether an offence under section 3(3) has been committed, search the boat for any relevant document and may require any person on board the boat to do anything which appears to the officer to be necessary for facilitating the search;
  - (e) inspect, take copies of and retain possession of, while any search, examination or inspection provided for under this subsection is being carried out, any relevant document produced to the officer or found on board;
  - (f) require the master or any person for the time being in charge of the boat to render any relevant document on a computer system into visible and legible form and to produce it in a form in which it may be taken away; and
  - (g) where the boat is one in relation to which the officer has reason to suspect that an offence under section 3(3) has been committed, seize and detain any relevant document produced to the officer or found on board, for the purpose of enabling the document to be used as evidence in proceedings for the offence.
- (5) But subsection (4)(g) does not permit any document required by law to be carried on a boat to be seized and detained except while the boat is detained in a port.
- (6) In subsection (4), “relevant document” means a document relating to—
  - (a) the boat; or
  - (b) the catching, landing, transportation, transhipment, sale or disposal of shellfish.
- (7) Where it appears to a British sea-fishery officer that an offence under section 3(3) has at any time been committed the officer—

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- (a) may take, or require the master of any boat in relation to which the offence took place to take, the boat and its crew to the port which appears to the officer to be the nearest convenient port; and
  - (b) may detain, or require the master to detain, the boat in the port.
- (8) Where a British sea-fishery officer detains or requires the detention of a boat under subsection (7)(b), the officer must serve notice in writing on the master stating that the boat is or, as the case may be, is required to, be detained until the time mentioned in subsection (9).
- (9) That time is when the master is served with a notice in writing signed by a British sea-fishery officer stating that the previous notice ceases to have effect.

#### Textual Amendments

- F7** Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), [ss. 98\(1\)](#), 104(1); S.S.I. 2006/432, art. 2(f)

#### 4B Powers of sea-fishery officers on land to enforce regulated fishery **E+W+S**

- (1) For the purpose of enforcing restrictions imposed by, or regulations made by, an order under section 1 conferring a right of regulating a fishery, a British sea-fishery officer may exercise the powers conferred by subsections (2) to (11) of this section in relation to—
- (a) any premises (other than a dwelling-house) used for—
    - (i) carrying on any business in connection with the operation of fishing boats;
    - (ii) an activity connected with or ancillary to the operation of fishing boats; or
    - (iii) the treatment, storage or sale of shellfish;
  - (b) any vehicle which the officer has reasonable cause to believe is being used—
    - (i) to dredge, fish for or take shellfish; or
    - (ii) to transport shellfish.
- (2) The officer may enter and inspect, at any reasonable time, the premises or vehicle (and, in the case of a vehicle, for that purpose require the vehicle to stop or require the operator to take the vehicle to a particular place).
- (3) The officer may, in exercising the power conferred by subsection (2), take with the officer such other persons as appear to the officer to be necessary and any equipment or materials.
- (4) The officer may examine any shellfish on the premises or vehicle and require persons on the premises or vehicle to do anything which appears to the officer to be necessary for facilitating the examination.
- (5) The officer may on the premises or vehicle carry out such other inspections and tests as may reasonably be necessary.
- (6) The officer may require any person not to remove or cause to be removed any shellfish from the premises or vehicle for such a period as may be reasonably necessary for the purposes of establishing whether an offence under section 3(3) has at any time been committed.

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- (7) The officer may require any person on the premises or vehicle to produce any relevant document in the person's custody or possession.
- (8) The officer may, for the purpose of establishing whether an offence under section 3(3) has been committed, search the premises or vehicle for any relevant document, and may require any person on the premises or vehicle to do anything which appears to the officer to be necessary for facilitating the search.
- (9) The officer may inspect and take copies of any relevant document produced or found on the premises or vehicle.
- (10) The officer may require any person to render any relevant document on a computer system into a visible and legible form and to produce it in a form in which it may be taken away.
- (11) If the officer has reasonable grounds to suspect that an offence under section 3(3) has been committed, the officer may seize and detain any relevant document produced or found on the premises or vehicle, for the purpose of enabling the document to be used as evidence in proceedings for the offence.
- (12) A sheriff may, if satisfied by evidence on oath as to the matters mentioned in subsection (13), grant a warrant authorising a British sea-fishery officer to enter premises (if necessary using reasonable force), accompanied by such persons as appear to the officer to be necessary.
- (13) Those matters are—
  - (a) that there are reasonable grounds to believe that anything which a British sea-fishery officer has power under this section to examine or inspect is on the premises and that the examination or inspection is likely to disclose evidence of the commission of an offence under section 3(3); and
  - (b) that any of the following is the case—
    - (i) admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under subsection (12) has been given to the occupier;
    - (ii) an application for admission, or the giving of such notice, would defeat the object of entry;
    - (iii) the premises are unoccupied or the occupier is temporarily absent and it might defeat the object of entry to await the return of the occupier.
- (14) A warrant under subsection (12) is valid for the period of one month beginning with the date on which it is granted or for such shorter period as the sheriff may specify.
- (15) In this section—
  - “ premises ” includes land; and
  - “ relevant document ” means a document relating to the catching, landing, transportation, transhipment, sale or disposal of shellfish.

#### Textual Amendments

- F7** Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), [ss. 98\(1\)](#), 104(1); S.S.I. 2006/432, art. 2(f)

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#### 4C Powers of British sea-fishery officers to seize fish and fishing gear **E+W+S**

- (1) A British sea-fishery officer may seize—
- (a) in Scotland or in the Scottish zone; or
  - (b) on a Scottish fishing boat wherever it may be,
- any shellfish and any net or other fishing gear to which subsection (2) applies.
- (2) This subsection applies to—
- (a) any shellfish in respect of which the officer has reasonable grounds to suspect that an offence under section 3(3) has been committed;
  - (b) any net or other fishing gear which the officer has reasonable grounds to suspect has been used in the commission of such an offence.
- (3) In this section—
- (a) “ Scotland ” has the meaning given by the Scotland Act 1998 (c. 46); and
  - (b) references to shellfish include any receptacle which contains shellfish.

##### Textual Amendments

**F7** Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), **ss. 98(1)**, 104(1); S.S.I. 2006/432, art. 2(f)

#### 4D Sections 4A to 4C: supplementary **E+W+S**

- (1) A British sea-fishery officer, or a person assisting such an officer by virtue of section 4A(2) or 4B(3) or (12), is not liable in any civil or criminal proceedings for anything done in the purported exercise of a power conferred by section 4A, 4B or 4C if the court is satisfied—
- (a) that the act was done in good faith;
  - (b) that there were reasonable grounds for doing it; and
  - (c) that it was done with reasonable skill and care.
- (2) A person who—
- (a) fails without reasonable excuse to comply with any requirement imposed on the person by a British sea-fishery officer under a power conferred by section 4A or 4B;
  - (b) without reasonable excuse prevents, or attempts to prevent, any other person from complying with such a requirement; or
  - (c) obstructs such an officer in the exercise of any of those powers or the powers conferred by section 4C,
- shall be guilty of an offence.
- (3) A person who commits an offence under subsection (2) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.]

##### Textual Amendments

**F7** Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), **ss. 98(1)**, 104(1); S.S.I. 2006/432, art. 2(f)



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## 5 Cesser of right conferred by order under s. 1. **E+W+S**

- (1) If, in the case of any right of several fishery or of regulating a fishery conferred by an order made under section 1 of this Act, the appropriate Minister is not satisfied, either as respects the whole of the area within which that right is exercisable or as respects any part of that area, that the grantees are properly cultivating the ground for shellfish of any description to which the order applies within the limits of that area or part or properly carrying into effect and enforcing any restrictions and regulations contained in the order and levying any tolls or royalties imposed thereby, he may make a certificate to that effect and thereupon that right shall be absolutely determined as respects that area or, as the case may be, that part thereof, and the provisions of this Act shall cease to operate in relation to that area or, as the case may be, that part thereof as, or, as the case may be, as part of, a several or regulated fishery.
- (2) For the purpose of subsection (1) of this section, the appropriate Minister may from time to time, with respect to any such fishery, make such inquiries and examination by an inspector or otherwise, and require from the grantees such information, as that Minister thinks necessary or proper, and the grantees shall afford all facilities for such inquiries and examination, and give such information, accordingly.
- (3) For the purpose of carrying out any inquiry or examination with respect to a fishery in pursuance of subsection (2) of this section, any inspector or other person appointed by the appropriate Minister under that subsection may take evidence, and by summons under his hand require the attendance of any person and examine him and any person who attends before him, on oath or otherwise, as he thinks expedient, and may administer an oath or take any affidavit or declaration for the purpose of the inquiry or examination.
- (4) For the purpose of carrying out any such inquiry or examination, a person authorised in that behalf by the appropriate Minister shall, subject to subsection (5) of this section, have the right, at any reasonable time, to enter any land within the limits of the fishery, and to obtain and take away samples (which shall be marked, labelled or otherwise made capable of identification) of any shellfish found within those limits; and, notwithstanding anything contained in this Act, when the purpose for which any such sample was taken has been satisfied the person by whom the sample was taken may dispose of it as he may determine.
- (5) A right of entry under subsection (4) of this section shall not be exercisable in respect of any land unless not less than twenty-four hours' notice of the intended entry has been given to the occupier of the land, and also to the grantees if they are not the occupiers of the land; and the person exercising the right shall, if so requested, produce written evidence of his authority before entering.
- (6) Any duty imposed on any person by subsection (2) of this section to afford facilities for any inquiry or examination in respect of a fishery shall include a duty to afford facilities for the exercise of any right exercisable in respect of the fishery in accordance with subsections (4) and (5) of this section.
- (7) Any person who obstructs an inspector or other person in the exercise of any power or right conferred by this section, or who refuses or without reasonable excuse fails to provide any information reasonably required by an inspector or other person in the exercise of any such power or right, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F8</sup>level 3 on the standard scale].

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- (8) In this section “the grantees”, in relation to a right of several fishery, means the persons for the time being entitled to that right.
- (9) In the application of this section to Scotland, subsection (3) shall have effect as if for the words “summons under his hand” there were substituted the words “an order signed by him”.

#### Textual Amendments

**F8** 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. 5(7) 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)

**C5** S. 5 extended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 34(b)

## 6 Report to Parliament. **E+W+S**

The appropriate Minister shall after the end of every year prepare a report respecting the applications to, and proceedings of, that Minister under the foregoing provisions of this Act during that year and shall lay a copy of it before each House of Parliament.<sup>F9</sup> [or, in the case of a report in relation to Scotland, before the Scottish Parliament]

#### Textual Amendments

**F9** Words in s. 6 inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42(3); S.I. 1998/3178, art. 3

## 7 Protection of fisheries. **E+W+S**

- (1) The provisions of this section shall have effect where—
- an order under section 1 of this Act grants a right of several fishery, or
  - a private oyster bed is owned by any person independently of this Act and is sufficiently marked out or sufficiently known as such.
- (2) All shellfish of a description to which the order applies in or on a bed for such shellfish within the area of the fishery with respect to which the right of several fishery is conferred, or, as the case may be, all oysters in or on the private oyster bed, shall be the absolute property of the grantees or, as the case may be, of the owner of the bed and in all courts and for all purposes shall be deemed to be in the actual possession of the grantees or, as the case may be, owner.
- (3) All such shellfish removed by any person from a bed for such shellfish within the area of the fishery with respect to which the right of several fishery is conferred, or, as the case may be, all oysters removed by any person from the private oyster bed, shall, unless<sup>F10</sup> . . . or disposed of by or under the authority of the grantees or, as the case may be, of the owner of the bed, be the absolute property of the grantees or, as the case may be, of the owner, and in all courts and for all purposes the absolute right to the possession thereof shall be deemed to be in the grantees or, as the case may be, owner.

*Status: Point in time view as at 01/09/2006.*

*Changes to legislation: Sea Fisheries (Shellfish) Act 1967 is up to date with all changes known to be in force on or before 18 May 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)*

- (4) Subject to subsection (5) of this section, if within the limits of the area of the fishery with respect to which the right of several fishery is conferred or in any part of that area described for the purposes of this subsection in the order, or within the limits of any such private oyster bed, any person other than the grantees or an agent or employee of theirs or, as the case may be, the owner or an agent or employee of his knowingly does any of the following things, namely—
- (a) uses any implement of fishing except—
    - (i) a line and hook; or
    - (ii) a net adapted solely for catching floating fish and so used as not to disturb or injure in any manner shellfish of the description in question or any bed therefor or the fishery therefor; <sup>F11</sup> or
    - (iii) in the case of several fishery, an implement of a type specified in the order and so used as not to disturb or injure in any manner shellfish of the description in question.]
  - (b) dredges for any ballast or other substance except under a lawful authority for improving the navigation;
  - (c) deposits any ballast, rubbish or other substance;
  - (d) places any implement, apparatus or thing prejudicial or likely to be prejudicial to any such shellfish, bed or fishery except for a lawful purpose of navigation or anchorage;
  - (e) disturbs or injures in any manner, except for a lawful purpose of navigation or anchorage, any such shellfish, bed or fishery;
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding, in the case of a first offence, [<sup>F12</sup>level 3 on the standard scale], or, in the case of a second offence, [<sup>F12</sup>level 3 on the standard scale], or, in the case of a third or subsequent offence, [<sup>F12</sup>level 3 on the standard scale], and shall also be liable to make full compensation to the grantees or, as the case may be, owner for all damage sustained by them or him by reason of the unlawful act; and such compensation in default of payment may be recovered from him by the grantees or owner as the case may be by proceedings in any court of competent jurisdiction whether he has been prosecuted for or convicted of the offence in question or not.
- (5) Nothing in subsection (4) of this section shall make it unlawful for any person to do any of the things therein mentioned—
- (a) in the case of a right of several fishery granted by an order under section 1 of this Act, if at the time of his doing that thing the limits of the area of the fishery within which that right is exercisable or of the part of that area described for the purposes of the said subsection (4) in the order are not sufficiently marked out in manner prescribed by or under the order or if notice of those limits has not been given to that person in manner so prescribed;
  - (b) in the case of a private oyster bed owned by any person independently of this Act, if the bed is not sufficiently marked out and known as such.
- (6) In this section “the grantees” means the persons for the time being entitled to the right of several fishery conferred by the order under section 1 of this Act.

#### Textual Amendments

**F10** Words in s. 7(3) omitted (3.1.1995) by virtue of 1994 c. 32, ss. 2(2), 3(3) (with s. 3(2))

**F11** S. 7(4)(a)(iii) and preceding word inserted (S.) (2.1.2001) by 2000 asp 12, s. 1

*Status: Point in time view as at 01/09/2006.*

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**F12** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (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. 7(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 and by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 3(1), Sch. 2 Pt. II it is provided (S.) (1.4.1996) that s. 7(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 3 on the standard scale

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

**C6** S. 7 extended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 34

**8 Proof of certain matters. E+W+S**

Whenever it is necessary in any legal proceedings to prove that the requirements of an order under section 1 of this Act or of any other Act as to—

- (a) the buoying or other marking of the limits of any fishery for shellfish of any description to which the order applies or, as the case may be, of any fishery for oysters or mussels to which that other Act applies, or
- (b) the publication, posting or distribution of notices of those limits,

have been complied with, or that notice of the provisions of the order or Act relating to the fishery has been duly published, a certificate, purporting to be under the hand of one of the secretaries, under secretaries or assistant secretaries of the appropriate Minister's department [<sup>F13</sup>or, as regards Scotland, signed by a member of the staff of the Scottish Administration], certifying that that Minister is satisfied that those requirements have been complied with or that the said notice was duly published shall be received as evidence of compliance with those requirements or publication of that notice.

**Textual Amendments**

**F13** Words in s. 8 inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42(4); S.I. 1998/3178, art. 3

**9 Grants and loans for restoration of fisheries. E+W+S**

- (1) The appropriate Minister may, with the approval of the Treasury, make grants or loans to any person in respect of any expenses incurred or to be incurred by him in cleansing and reinstating (including restocking) any shellfish beds to which this subsection applies which have been affected by any disease or pest.

[<sup>F14</sup>(1A) Subsection (1) above has effect in relation to Scotland, with the modification that for “waters adjacent to England and Wales to” there is substituted “that part of the Scottish zone within”.]

- (2) Subsection (1) of this section applies—
  - (a) to any shellfish bed within the limits of a fishery in respect of which an order under section 1 of this Act is for the time being in force, and
  - (b) to any other shellfish bed used for the propagation or cultivation of oysters, mussels or cockles, being a shellfish bed in respect of which a person has an exclusive right to take oysters, mussels or cockles.

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#### Textual Amendments

**F14** S. 9(1A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 42(5)**; S.I. 1998/3178, **art. 3**

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

**C7** Ss. 9, 12 extended by **Fisheries Act 1981 (c. 29, SIF 52:1), s. 34**

### 10 Fishery to be within county, etc. for purposes of jurisdiction. **E+W+S**

[<sup>F15</sup>(1)] The portion of the sea shore to which an order under section 1 of this Act relates shall for all purposes of jurisdiction be deemed to be within the body of the adjoining county, borough or burgh (so far as it is not by law within it) or to be within the body of each of them, if more than one.

[<sup>F16</sup>(2) In the application of this section in relation to Wales, the reference to a county in subsection (1) of this section includes a reference to a preserved county (as defined by section 64 of the Local Government (Wales) Act 1994).]

#### Textual Amendments

**F15** S. 10 renumbered as s. 10(1) (1.4.1996) by 1994 c. 19, s. 1(3), **Sch. 2 para. 3** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1995/3198, art. 3, **Sch. 1**

**F16** S. 10(2) added (1.4.1996) by 1994 c. 19, s. 1(3), **Sch. 2 para. 3** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1995/3198, art. 3, **Sch. 1**

### 11 Service of certain documents. **E+W+S**

Without prejudice to any provision made by or under any other Act prescribing the manner in which service of any document may be effected, service of any summons or other document in any proceedings under section 3(3) or 7(4) of, or paragraph 4(5) of Schedule 1 to, this Act may be effected by leaving the document for the person to be served on board any sea fishing boat to which he belongs with the person being or appearing to be in charge of the boat.

*Further provisions with respect to shellfish*

### 12 Power to prohibit deposit of shellfish. **E+W+S**

- (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 [<sup>F17</sup>England and Wales], and

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- (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.

[<sup>F18</sup>(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.

[<sup>F19</sup>(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 [<sup>F20</sup>any prohibition] thereby imposed shall not apply to any shellfish if—

- (a) they are deposited [<sup>F21</sup>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

- F17** 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**
- F18** 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**
- F19** S. 12(3A) inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(1)**
- F20** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(2)**
- F21** Words inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(2)**

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

C8 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. **E+W+S**

- (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.
- (4) In this section “imported” means imported on board any vessel, [<sup>F22</sup>hovercraft] or aircraft, whether from a place outside [<sup>F23</sup>England and Wales] or not, and [<sup>F22</sup>“hovercraft”] means a [<sup>F24</sup>hovercraft within the meaning of the <sup>M1</sup>Hovercraft Act 1960].
- [<sup>F25</sup>(5) This section has effect in relation to Scotland with the modification that in subsection (4) for “England and Wales” there is substituted “Scotland”.]
- [<sup>F26</sup>(5) References in this section to importation shall include references to importation through the tunnel system as defined in the Channel Tunnel Act 1987. <sup>M2</sup>]

#### Textual Amendments

- F22** Words substituted by S.I. 1972/971, art. 10(3)
- F23** 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
- F24** Words substituted by Hovercraft Act 1968' (c. 59), Sch. para. 4
- F25** 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
- F26** 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. **E+W+S**

- (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.

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- (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—
- (a) in the case of a first offence under this subsection, to a fine not exceeding [<sup>F27</sup>level 4 on the standard scale];
  - (b) 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 [<sup>F27</sup>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—
- (a) the inspector has reasonable grounds for believing that the prohibition imposed by the order [<sup>F28</sup>in pursuance of subsection (1) of that section] is being or has been contravened, or
  - (b) entry is required for the purpose of removing any shellfish which the appropriate Minister is empowered to remove under subsection (5) of that section;
- 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 [<sup>F29</sup>level 3 on the standard scale].

#### Textual Amendments

- F27** 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
- F28** Words inserted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), [s. 6\(3\)](#)
- F29** 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



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

- C9** 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.)
- C10** 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. E+W+S**

- (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;
- 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. E+W+S**

- (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, [F30]level 1 on the standard scale] or, in the case of a second or subsequent offence, [F30]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—
- were originally taken within the waters of a foreign state, or
  - were preserved in tins or otherwise cured, or
  - were intended for the purpose of oyster cultivation within the same district in which the oysters were taken, or
  - were taken from any place for cultivation with the consent of the appropriate Minister [F31], or
  - 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—
- the Thames Estuary, bounded by a line drawn from Orford Ness to the North Foreland, and

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(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

**F30** 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

**F31** [S. 16\(2\)\(e\)](#) added by [Sea Fisheries \(Shellfish\) Act 1973 \(c. 30\)](#), [s. 1](#)

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

**C11** [S. 16](#) amended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#), [s. 33\(5\)](#), [Sch. 4 Pt. II para. 30](#)

## 17 Taking and sale of certain crabs and lobsters prohibited. **E+W+S**

(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 [<sup>F32</sup>the Secretary of State for Scotland and the Secretary of State for Wales] by order so direct, no person shall, in [<sup>F33</sup>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.

[<sup>F34</sup>(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, [<sup>F35</sup>level 3 on the standard

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scale] and, in the case of a second or subsequent offence, [<sup>F35</sup>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

- F32** Words substituted by [S.I. 1978/272, Sch. 5 para. 1](#)
- F33** 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](#)
- F34** [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](#)
- F35** 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

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

- C12** [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](#)
- C13** [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. **E+W+S**

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.

### Supplemental

## 19 Jurisdiction to try certain offences and applications of certain fines. **E+W+S**

- (1) For the purposes of and incidental to the jurisdiction of any magistrates' court, or, in Scotland, of the sheriff, any offence under section 16 or 17 of this Act shall be deemed to have been committed either in the place in which it was actually committed or in any place in which the offender may for the time being be found.
- (2) Any offence under any of the provisions of this Act mentioned in subsection (4) of this section committed in Scotland may be prosecuted in any court of summary

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jurisdiction within the meaning of the [<sup>F36M3</sup>Criminal Procedure (Scotland) Act 1975] having jurisdiction in the place where the offence was committed.

- (3) .....<sup>F37</sup>
- (4) The provisions of this Act referred to in subsections (2) and (3) of this section are sections 3(3) and 7(4) and paragraph 4(5) of Schedule 1.

#### Textual Amendments

**F36** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

**F37** [S. 19\(3\)](#) repealed by [Criminal Justice Act 1972 \(c. 71\), Sch. 6 Pt. II](#)

#### Marginal Citations

**M3** [1975 c. 21.](#)

## 20 Orders and regulations. **E+W+S**

- (1) Any power to make orders or regulations under this Act shall be exercisable by statutory instrument.
- (2) Any instrument containing an order under section 1 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.<sup>F38</sup> [or, in the case of an order in relation to Scotland, the Scottish Parliament]
- (3) Any instrument containing an order under section 17(3) of this Act shall be laid before Parliament<sup>F38</sup>. [or, in the case of an order in relation to Scotland, the Scottish Parliament]

#### Textual Amendments

**F38** Words in [s. 20\(2\)\(3\)](#) inserted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(9\)](#); [S.I. 1998/3178, art. 3](#)

## 21 Financial provisions. **E+W+S**

- (1) There shall be paid out of moneys provided by Parliament any expenditure incurred by the Minister or the Secretary of State under this Act.
- (2) There shall be paid into the Exchequer any receipts of the Minister or the Secretary of State in pursuance of section 12(6) of this Act or paragraph 8 of Schedule 1 thereto and any sums received by the Minister or the Secretary of State by way of interest on, or repayment of, loans under section 9 of this Act.

## 22 Interpretation. **E+W+S**

- (1) In this Act “the Minister” means the Minister of Agriculture, Fisheries and Food and “the appropriate Minister”, in relation to England and Wales, means the Minister and, in relation to Scotland, means the [<sup>F39</sup>Scottish Ministers].
- (2) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—  
“land” includes land covered by water;

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[<sup>F40</sup>“the Scottish zone” has the same meaning as in the Scotland Act 1998.]  
“sea fish” means fish of any description found in the sea, other than fish of the salmon species, and includes shellfish;  
“sea fishing boat” means a vessel of whatever size, and in whatever way propelled, which is used by any person in fishing for sea fish;  
[<sup>F41</sup>“ Scottish fishing boat ” means a fishing vessel registered in the register maintained under section 8 of the Merchant Shipping Act 1995 (c. 21) whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging; ]  
“shellfish” includes crustaceans and molluscs of any kind, and includes any part of a shellfish and any (or any part of any) brood, ware, half-ware or spat of shellfish, and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish, and references in this Act to shellfish of any particular description shall be construed accordingly;  
“shellfish bed” means any bed or ground in which shellfish are usually found or which is used for the propagation or cultivation of shellfish.

#### Textual Amendments

- F39** Words in s. 22(1) substituted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(10\)\(a\)](#); [S.I. 1998/3178, art. 3](#)
- F40** Definition in s. 22(2) inserted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(10\)\(b\)](#); [S.I. 1998/3178, art. 3](#)
- F41** Words in s. 22 inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 98\(2\), 104\(1\)](#); [S.S.I. 2006/432, art. 2\(f\)](#)

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

- C14** Certain functions of Minister of Agriculture, Fisheries and Food now exercisable (W.) by Secretary of State, or Minister and Secretary of State jointly: [S.I. 1969/388, art. 3, Sch. 2 Pt. II](#) and [1978/272, art. 2, Sch. 1](#)

## 23 Isle of Man and Channel Islands. **E+W+S**

- (1) Sections 16, 17, 18 and 19(1) of this Act shall extend to the Isle of Man and the Channel Islands, and shall have effect in those Islands subject to such adaptations and modifications as Her Majesty may by Order in Council specify.
- (2) Any Order in Council made under subsection (1) of this section may be varied or revoked by a subsequent Order in Council so made.

## 24 Consequential amendments, repeals and transitional provisions. **E+W+S**

- (1) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments specified therein, being amendments consequential on the provisions of this Act.
- (2) Any Order in Council made under subsection (1) of this section may be varied or revoked by a subsequent Order in Council so made.
- (3) In so far as any order, regulation or licence made or granted under any enactment repealed by this Act, or any other thing done under any such enactment, could have been made, granted or done under a corresponding provision of this Act, it shall not be invalidated by the repeals effected by this section but shall have effect as if made, granted or done under that corresponding provision.

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- (4) Without prejudice to subsection (3) of this section, any reference in this Act to a thing done under any provision of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done under the corresponding provision of the enactments repealed by this Act.
- (5) Where any Act or any document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as a reference to the corresponding provision of this Act.
- (6) For the purpose of determining the punishment (by fine, imprisonment or both) which may be imposed on a person in respect of an offence under any provision of this Act, an offence committed by that person under the corresponding enactment repealed by this Act shall be deemed to have been committed under that provision.
- (7) Nothing in this section shall be taken as prejudicing the operation of section 38 of the <sup>M4</sup>Interpretation Act 1889 (which relates to the effect of repeals).

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

**C15** The text of S. 24(1)(2), Schs. 2 and 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force, and, except as specified, does not reflect any repeals or amendments which may have been made prior to 1.2.1991

**Marginal Citations**

**M4** 1889 c. 63.

**25 Citation, commencement and extent. E+W+S**

- (1) This Act may be cited as the Sea Fisheries (Shellfish) Act 1967 and shall come into force at the expiration of a period of one month beginning with the date on which it is passed.
- (2) This Act shall not extend to Northern Ireland.

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## SCHEDULES

### SCHEDULE 1 **E+W+S**

Section 1.

#### PROVISIONS WITH RESPECT TO MAKING OF ORDERS UNDER SECTION 1

- 1 Where an application for an order under section 1 of this Act is made to the appropriate Minister, that Minister may either refuse the application or prepare a draft order and serve a copy of it on the applicants.
- 2 Where a draft order is prepared and a copy thereof served on the applicants under paragraph 1 above, the applicants shall cause printed copies of the draft order to be published and circulated in such manner as the appropriate Minister thinks sufficient and proper for giving information to all parties interested, and shall give notice of the application, in such manner as that Minister directs or approves, to the owners or reputed owners, lessees or reputed lessees, and occupiers, if any, of the portion of the sea shore to which the proposed order relates and of the lands adjoining thereto.
- 3 During the period of one month after the first publication of the draft order under paragraph 2 above, the appropriate Minister shall receive any objections or representations made to him in writing respecting the proposed order.
- 4
  - (1) The provisions of this paragraph shall have effect where any objection with respect to the proposed order which the appropriate Minister considers to be neither frivolous nor irrelevant has been duly made to that Minister under paragraph 3 above and has not been withdrawn.
  - (2) The appropriate Minister shall as soon as conveniently may be after the expiration of the period of one month referred to in paragraph 3 above appoint some fit person to act as inspector respecting the proposed order.
  - (3) The inspector shall proceed to make an inquiry concerning the subject matter of the proposed order, and for that purpose to hold a sitting or sittings in some convenient place in the neighbourhood of the portion of the sea shore to which the proposed order relates and thereat to take and receive any evidence and information offered, and hear and inquire into any objections or representations made respecting the proposed order with power from time to time to adjourn any sitting.
  - (4) The inspector may for the purpose of the said inquiry take evidence, and by summons under his hand require the attendance of any person, and examine him and any person who attends before him, on oath or otherwise, as he thinks expedient, and may administer an oath or take any affidavit or declaration for the purposes of the inquiry.
  - (5) Any person so summoned who, after tender to him of his reasonable expenses, refuses or neglects to obey the summons, and any person who refuses or neglects to answer any question which the inspector is authorised to ask, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F42</sup>level 1 on the standard scale].

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- (6) Not less than [<sup>F43</sup>twenty-eight days] notice shall be published in such manner as the appropriate Minister may direct of every sitting of the inquiry other than an adjourned sitting.
- (7) The inspector shall make a report in writing to the appropriate Minister, setting forth the result of the inquiry, and stating whether in his opinion the proposed order should be made, with or without alteration, specifying any alteration he recommends and his reasons therefor, and stating the objections and representations, if any, made on the inquiry and his opinion thereon.
- (8) In the application of this paragraph to Scotland, in sub-paragraph (4) for the words “summons under his hand” there shall be substituted the words “an order signed by him”, and in sub-paragraph (5) for the words “summoned” and “summons” there shall be substituted the words “ordered” and “order” respectively.

#### Textual Amendments

- F42** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#) , [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#) , [s. 289G](#)
- F43** Words substituted by [Sea Fisheries Act 1968 \(c. 77\)](#) , [s. 15\(7\)](#)

- 5 Without prejudice to paragraph 4 above, the appropriate Minister may, in the case of any proposed order, cause any such inquiry as he thinks fit to be held with respect thereto.
- 6 As soon as conveniently may be after the expiration of the period of one month referred to in paragraph 3 above or after the receipt by the appropriate Minister of any report of the inspector under paragraph 4(7) above, that Minister shall, after considering the objections or representations, if any, that have been made with respect to the proposed order and any such report, either refuse the application or settle and make an order in such form and containing such provisions as he thinks expedient.
- 7 Where the appropriate Minister makes an order under section 1 of this Act, the applicants for the order shall cause notice of the making of the order to be published in such manner as that Minister thinks sufficient for giving information to all parties interested and shall give notice of the making of the order, in such manner as that Minister directs or approves, to the owners or reputed owners, lessees or reputed lessees, and occupiers, if any, of the portion of the sea shore to which the order relates and of the lands adjoining thereto.
- 8 All expenses incurred by the appropriate Minister in relation to any application for an order under section 1 of this Act or to any order made in consequence thereof shall be defrayed by the applicants; and the appropriate Minister shall, if he thinks fit, on or at any time after the making of the application, require the applicants to pay to him such sum as he thinks requisite for or on account of those expenses, or to give security to his satisfaction for the payment of those expenses on demand.



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SCHEDULE 2 **E+W+S**

Section 24.

CONSEQUENTIAL AMENDMENTS

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

**C16** The text of S. 24(1)(2), Schs. 2 and 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force, and, except as specified, does not reflect any repeals or amendments which may have been made prior to 1.2.1991

*[<sup>F44</sup>THE <sup>M5</sup>SEA FISHERIES (CLAM AND BAIT BEDS) ACT 1881]*

**Textual Amendments**

**F44** Entries repealed (S.) by the [Inshore Fishing \(Scotland\) Act 1984](#) (c. 26, SIF 52:1), s. 10(2), **Sch. 2**

**Marginal Citations**

**M5** 1881 c. 11.

In section 4 for the words from “sections” where first occurring, to the end of the first paragraph there shall be substituted the words “the following provisions of the Sea Fisheries (Shellfish) Act 1967, that is to say, section 1(2), so far as it relates to Schedule 1, section 1(4) and (5), sections 6, 8 and 10 and Schedule 1, shall apply as if those provisions were re-enacted in this Act with the necessary modifications”.

In section 6 for the words “Part III of the Sea Fisheries Act 1868” there shall be substituted the words “section 1 of the Sea Fisheries (Shellfish) Act 1967”.

In section 8 for the words “under the Sea Fisheries Act 1868, and any Act amending the same” there shall be substituted the words “for an offence under section 7(4) of the Sea Fisheries (Shellfish) Act 1967”.

*[<sup>F45</sup>THE <sup>M6</sup>SEA FISHERIES REGULATION (SCOTLAND) ACT 1895]*

**Textual Amendments**

**F45** Entries repealed (S.) by the [Inshore Fishing \(Scotland\) Act 1984](#) (c. 26, SIF 52:1), s. 10(2), **Sch. 2**

**Marginal Citations**

**M6** 1895 c. 42.

In section 8(1)(b) for the words “section four of the Fisheries (Oyster, Crab and Lobster) Act 1877” there shall be substituted the words “section 16(2) of the Sea Fisheries (Shellfish) Act 1967”.

In section 8(1)(c) for the words “the proviso to section eight of the Fisheries (Oyster, Crab and Lobster) Act 1877” there shall be substituted the words “section 17(2) of the said Act” and the words “or under a certain size” shall be omitted.

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In section 5(1)(e) for the words “section four of the Fisheries (Oyster, Crab and Lobster) Act 1877” there shall be substituted the words “section 16(2) of the Sea Fisheries (Shellfish) Act 1967”.

In section 5(1)(f) for the words “the proviso to section 8” there shall be substituted the words “section 17(2)”.

... **F46**

**Textual Amendments****F46** Entries repealed by [Sea Fisheries Act 1968 \(c. 77\)](#), **Sch. 2 Pt. II****SCHEDULE 3 E+W+S**

Section 24

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

**C17** The text of S. 24(1)(2), Schs. 2 and 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force, and, except as specified, does not reflect any repeals or amendments which may have been made prior to 1.2.1991

<b>Chapter</b>	<b>Short Title</b>	<b>Extent of Repeal</b>
31 & 32 Vict. c. 45.	The Sea Fisheries Act 1868.	Part III. Sections 58 and 68.
32 & 33 Vict. c. 31.	The Oyster and Mussel Fisheries Orders Confirmation Act 1869 (No. 2).	Sections 2 and 3.
38 & 39 Vict. c. 15.	The Sea Fisheries Act 1875.	The whole Act.
40 & 41 Vict. c. 42.	The Fisheries (Oyster, Crab and Lobster) Act 1877.	The whole Act.
47 & 48 Vict. c. 27.	The Sea Fisheries Act 1884.	The whole Act.
48 & 49 Vict. c. 70.	The Sea Fisheries (Scotland) Amendment Act 1885.	In section 3, the words “the Sea Fisheries Act, 1875, and”.

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		In section 11, paragraphs (a) and (b).
58 & 59 Vict. c. 42.	The Sea Fisheries Regulation (Scotland) Act 1895.	Sections 11 to 17.
3 Edw. 7. c. 31.	The Board of Agriculture and Fisheries Act 1903.	In the Schedule, Part 4.
23 & 24 Geo. 5. c. 45.	The Sea-Fishing Industry Act 1933.	In section 4 (as substituted by section 38 of the Sea Fish Industry Act 1938), subsection (2).
1 & 2 Geo. 6. c. 30.	The Sea Fish Industry Act 1938.	Section 58.
		In section 59, the words from the beginning to “1868”.
		Section 61(2).
10 & 11 Eliz. 2. c. 31.	The Sea Fish Industry Act 1962.	Sections 19 to 26.
		In section 32(1)(a), the words from “section nineteen” to “twenty-six” and section 32(2)(a), except in so far as it relates to receipts in pursuance of an order made in accordance with section 11(5) of that Act.
		In section 33(1), the definitions of “land”, “mussel”, “oyster” and “shellfish bed”.
		In section 34(2), the words from “and”, where first occurring, to “twenty”, and section 34(3) so far as it relates to orders under Part III of the Sea Fisheries Act 1868.
		In section 35(5), the words “nineteen to”.
		In Schedule 2, paragraphs 1 to 4.

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**Status:**

Point in time view as at 01/09/2006.

**Changes to legislation:**

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