

Status: Point in time view as at 15/01/2010.

Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975. (See end of Document for details)

SCHEDULES

^{F1}SCHEDULE 1

Section 19.

Textual Amendments

- F1** Sch. 1 repealed (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 16 para. 15, **22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. paras. 15(f), 27(b)

SCHEDULE 2

Section 25.

LICENCES

Duty on licences

- 1 (1) Subject to sub-paragraph (2) below, there shall be payable in respect of a fishing licence a duty fixed in accordance with this Schedule by the water authority.
- (2) The water authority may [^{F2} in such cases as it considers appropriate] grant an exemption from the duty.

Textual Amendments

- F2** Words in Sch. 2 para. 1(2) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 16(2)**; S.I. 2009/3345, art. 2, Sch. para. 15(g)

- 2 Different duties may be fixed under paragraph 1 above for [^{F3} different descriptions of licence] and different classes of licence holder.

Textual Amendments

- F3** Words in Sch. 2 para. 2 substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 16(3)**; S.I. 2009/3345, art. 2, Sch. para. 15(g)

- 3 A water authority shall at least one month before fixing or altering a duty for the use of any instrument in any part of their area, except a duty payable in respect of a temporary licence, publish in one or more newspapers circulating in that part of their area notice of their intention to do so [^{F4} and such a notice shall set out the amount of any duty as proposed to be fixed or altered.]

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Textual Amendments

- F4** Words inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(13)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

- 4 If during the month immediately following the publication of a notice under paragraph 3 above a written objection to the proposed duty is made to [^{F5} the appropriate national authority] by any interested person, the water authority shall not fix or alter the duty without the approval of [^{F6} that authority].

Textual Amendments

- F5** Words in Sch. 2 para. 4 substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 16(5)(a)**; S.I. 2009/3345, art. 2, Sch. para. 15(g)
- F6** Words in Sch. 2 para. 4 substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 16(5)(b)**; S.I. 2009/3345, art. 2, Sch. para. 15(g)

- 5 [^{F7} The appropriate national authority], with or without a local inquiry, may refuse to approve any duty submitted by a water authority for [^{F8} that authority's] approval under paragraph 4 above or may approve the duty with or without modifications; and the authority, if so directed by [^{F9} that authority], shall cause notice of any proposed modification to be given in accordance with the direction.

Textual Amendments

- F7** Words in Sch. 2 para. 5 substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 16(6)(a)**; S.I. 2009/3345, art. 2, Sch. para. 15(g)
- F8** Words in Sch. 2 para. 5 substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 16(6)(b)**; S.I. 2009/3345, art. 2, Sch. para. 15(g)
- F9** Words in Sch. 2 para. 5 substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 16(6)(c)**; S.I. 2009/3345, art. 2, Sch. para. 15(g)

- [^{X1}6 No duty fixed under the foregoing provisions of this Schedule shall take effect until the beginning of the year following that in which it is fixed or, in the case of a duty required to be approved by the Minister, in which it is approved by him.]

Editorial Information

- X1** Sch. 2 para. 6 beginning “Where the fixing” substituted for para. 6 beginning “No duty” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(13)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

- [^{F10}6 Where the fixing or alteration of any duty takes effect under this Schedule at any time, no alteration or, as the case may be, further alteration of that duty shall so take effect within the period of twelve months beginning with that time.]

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Textual Amendments

F10 Sch. 2 para. 6 beginning “Where the fixing” substituted for para. 6 beginning “No duty” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(13)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

- 7 A water authority may grant a temporary licence, that is to say, a licence authorising the use of an instrument for fishing in circumstances specified in the licence during a period not exceeding 14 days, and may charge in respect of that licence a duty less than the duty fixed for the use of that instrument under the foregoing provisions of this Schedule.
- 8 There shall be payable in respect of a general licence such sum as may be agreed by the water authority and the licensee.

Net etc. licences for salmon and trout fishing

- [^{X2}9 A person shall be treated for the purposes of section 25(3) above as the duly authorised servant or agent of the holder of a licence to use an instrument of any description only in the following cases—
- (a) in an area in which there is in force an order under section 26 above limiting the number of licences for fishing with instruments of that description, if his name and address are entered on the licence in accordance with the following provisions of this Schedule and he is not the holder of another licence to use an instrument of that description in that area;
 - (b) in any other area, if his name and address are so entered or when using the instrument to which the licence relates he is accompanied by the licensee; or
 - (c) in the case of any area, if the water authority direct that owing to special circumstances he is to be so treated.]

Editorial Information

X2 Sch. 2 para. 9 beginning “A person who uses” substituted for para. 9 beginning “A person shall be treated” (E.W. and as mentioned in s. 43(4) of the amending act (border rivers)) by Salmon Act 1986 (c. 62, SIF 52:2), ss. 36(1), 43(4)

- [^{F11}9 (1) A person who uses an instrument of any description for fishing in an area in relation to which an order under section 26 above limiting the number of licences for fishing with instruments of that description is in force shall not be treated for the purposes of section 25(3) above as the duly authorised servant or agent of any holder of a licence to use an instrument of that description unless, at the time that person uses the instrument—
- (a) his name and address are entered on the licence in accordance with the following provisions of this Schedule; and
 - (b) he is not himself the holder of a licence to use an instrument of that description in that area; and
 - (c) he is accompanied by the licensee or has the consent of the water authority to his use of the instrument in the absence of the licensee.
- (2) A person who uses an instrument of any description for fishing in an area in which no such order as is mentioned in sub-paragraph (1) above is in force shall not be treated

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for the purposes of section 25(3) above as the duly authorised servant or agent of any holder of a licence to use an instrument of that description unless, at the time that person uses the instrument—

- (a) his name and address are entered on the licence in accordance with the following provisions of this Schedule; or
- (b) he is accompanied by the licensee; or
- (c) he has the consent of the water authority to his use of the instrument otherwise than where there is compliance with paragraph (a) or (b) above.

(3) The consent of a water authority shall not be given under this paragraph except—

- (a) in the case of a consent for the purposes of subparagraph (1)(c) above, in relation to a period which appears to the water authority to be a period throughout which the licensee will be unable through illness or injury to accompany his servant or agent;
- (b) in the case of a consent for the purposes of subparagraph (2)(c) above, where the giving of the consent appears to the water authority to be required by the special circumstances of the case.]

Textual Amendments

F11 Sch. 2 para. 9 beginning “A person who uses” substituted for para. 9 beginning “A person shall be treated” (E.W. and as mentioned in s. 43(4) of the amending act (border rivers)) by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), **ss. 36(1), 43(4)**

10 The name and address of a servant or agent may be entered on^{F12} or removed from] a licence by an employee of a water authority authorised to do so or by the licensee or an agent who has been appointed by the licensee to act for the purposes of this paragraph and whose appointment, together with his name and address, has been notified to the water authority.

Textual Amendments

F12 Words in Sch. 2 para. 10 inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 16 para. 16(9)**; S.I. 2009/3345, art. 2, Sch. para. 15(g)

11 The date of entry in the licence shall be stated in the licence at the time of the making of the entry, and within twenty-four hours of the making of an entry by a licensee or his agent a copy shall be sent to the water authority,^{F13}

Textual Amendments

F13 Words in Sch. 2 para. 11 repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 217(6) (a), 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. para. 27(b)

^{F14}12

Textual Amendments

F14 Sch. 2 para. 12 repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 217(6)(b), 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. para. 27(b)

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- 13 The number of servants or agents whose names may at any time be entered on a licence shall not exceed twice the number of persons who in the opinion of the water authority are required to work at one time the instrument to which the licence relates or, where the applicant for the licence notifies the authority at the time of the application that he proposes to take part in working the instrument, one less than twice that number.
- 14 Any person who, with intent to deceive, enters on a licence more names than are permitted by paragraph 13 above or states falsely the date of entry in a licence is guilty of an offence.

Miscellaneous

- 15 Subject to section 26 above, a fishing licence shall be granted by the water authority to every applicant who is at the time of the application not disqualified from holding a fishing licence, on payment of the duty in respect of the instrument to which the licence relates.
- 16 A fishing licence shall not confer any right to fish at a place or a time at which the licensee is not otherwise entitled to fish.
- 17 A fishing licence shall not authorise the erection of any structure or the use of any installation or instrument for or in connection with fishing the erection or use of which would otherwise be illegal.
- 18 The production of a printed copy of a statement purporting to be issued by a water authority as to a licence duty fixed and, if it be the case, approved by the Minister under this Schedule shall be prima facie evidence that the licence duty was fixed or approved as there mentioned and of the amount of the duty, and without proof of the handwriting or official position of any person purporting to sign the statement.

SCHEDULE 3

Section 28.

ADMINISTRATION

PART I

ORDERS

Scope

- [^{F15}] An order may provide—
- (a) for the imposition, collection and recovery by a water authority of contributions assessed on several fisheries regulated by the order or on the owners and occupiers of such fisheries;
 - (b) for enabling the water authority with the approval of the Minister, but subject to paragraphs 2 and 3 below, to erect and work by themselves or their lessees any fixed engine for catching salmon or migratory trout within the area within which the order is to apply;

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- (c) for modifying in relation to the fisheries within the area any of the provisions of this Act which relate to the regulation of fisheries, or of any local Act relating to any fishery within the area.]

Textual Amendments

F15 Sch. 3 paras. 1–5 repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 27 Pt I**. (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

- 2 An order shall not authorise a fixed engine to be worked for a period exceeding five years unless authorisation is from time to time extended by licence of the Minister for such terms as may be specified in the licence and not exceeding at any one time five years.
- 3 The Minister shall not grant a licence until he has inquired into the effect of the working of the engine on the salmon or trout fisheries within the area.
- 4 An order may contain any incidental, consequential or supplemental provisions, including provisions for payment of compensation to persons injuriously affected by the order, which may appear to be necessary or proper for the purposes of the order.

Procedure

- 5 An application for an order may be made by any of the following, namely—
 - (a) a water authority;
 - [^{F16}(b) a [^{F17}county or metropolitan district council];]
 - (c) persons who in the opinion of the Minister are the owners of one-fourth at least in value of the several fisheries proposed to be regulated or constitute a majority of the persons holding licences to fish in public waters within the area of the proposed order;
 - (d) any association of persons which in the opinion of the Minister is sufficiently representative of fishing interests within that area.

Textual Amendments

F16 Sch. 3 para 5(b) repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 41, [Sch. 17 para. 7\(1\)\(14\)\(a\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**)

F17 Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 16, **Sch. 8 para. 20**

- 6 The applicant for an order shall give such security for the Minister’s expenses as the Minister may require.

^{F18}7

Textual Amendments

F18 Sch. 3 para. 7 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

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F19⁸

Textual Amendments

F19 Sch. 3 para. 8 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F20⁹

Textual Amendments

F20 Sch. 3 para. 9 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F21¹²

Textual Amendments

F21 Sch. 3 para. 12 repealed by [Water Act 1989](#) (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F22¹³

Textual Amendments

F22 Sch. 3 para. 13 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

PART II

BYELAWS

F23

Textual Amendments

F23 Heading repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F24¹⁴

Textual Amendments

F24 Sch. 3 para. 14 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F25¹⁵

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Textual Amendments

F25 Sch. 3 para. 15 repealed (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F26 16

Textual Amendments

F26 Sch. 3 para. 16 repealed (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F27 17

Textual Amendments

F27 Sch. 3 para. 17 repealed (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F28 18

Textual Amendments

F28 Sch. 3 para. 18 repealed (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

Purposes for which Byelaws may be made

F29 19

Textual Amendments

F29 Sch. 3 para. 19 repealed (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F30 20

Textual Amendments

F30 Sch. 3 para. 20 repealed (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F31 21

Textual Amendments

F31 Sch. 3 para. 21 repealed (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

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21A^{F32}

Textual Amendments

F32 S. 21A repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

^{F33}22

Textual Amendments

F33 Sch. 3 para. 22 repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

^{F34}23

Textual Amendments

F34 Sch. 3 para. 23 repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

^{F35}24

Textual Amendments

F35 Sch. 3 para. 24 repealed (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

^{F36}25

Textual Amendments

F36 Sch. 3 para. 25 repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

^{F37}26

Textual Amendments

F37 Sch. 3 para. 26 repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

^{F38}27

Textual Amendments

F38 Sch. 3 para. 27 repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

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28^{F39}

Textual Amendments
F39 Sch. 3 para. 28 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F40²⁹

Textual Amendments
F40 Sch. 3 para. 29 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt.I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F41³⁰

Textual Amendments
F41 Sch. 3 para. 30 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F42³¹

Textual Amendments
F42 Sch. 3 para 31 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt.I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F43³²

Textual Amendments
F43 Sch. 3 para. 32 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt.I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F44³³

Textual Amendments
F44 Sch. 3 para. 33 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt.I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F45³⁴

Textual Amendments
F45 Sch. 3 para. 34 repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt.I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

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F46 35

Textual Amendments

F46 Sch. 3 para. 35 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F47 36

Textual Amendments

F47 Sch. 3 para. 36 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

PART III

MISCELLANEOUS

F48 37

Textual Amendments

F48 Sch. 3 para. 37 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

F49 38

Textual Amendments

F49 Sch. 3 para. 38 repealed (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15(1))

39 (1) Without prejudice to ^{F50}section 4 of the Water Resources Act 1991], a water authority—

(a) may take legal proceedings in respect of any offence against this Act, or for the enforcement of the provision of this Act or for the protection of ^{F51}any fisheries] from injury by pollution or otherwise;

^{F52}(b)

(c) may obtain the services of additional constables under ^{F53}section 25 of the Police Act 1996].

(2) Nothing in this paragraph shall authorise anything to be done which may injuriously affect any navigable river, canal, or inland navigation.

Textual Amendments

F50 Words in Sch. 3 para. 39 substituted (E.W.)(1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 30(6)**

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- F51** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 141, 190, **Sch. 17 para. 7(1)(14)(g)(ii)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F52** Sch. 3 para. 39(1)(b) repealed by Water Act 1989 (c. 15, SIF 130), s. 190, Sch. 27 Pt. I (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F53** Words in Sch. 3 Pt. III para. 39(1)(c) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. II para. 26**

Modifications etc. (not altering text)

- C1** Sch. 3 para. 39(1)(a): by Salmon Act 1986 (c. 62, SIF 52:2), **ss. 32(6)(b)**, 43(4) it is provided that Sch. 3 para. 39(1)(a) is amended (E.W., and as mentioned in s. 43(4) (border rivers))

SCHEDULE 4

Section 37.

OFFENCES

PART I

PROSECUTION AND PUNISHMENT

- 1 (1) Column 2 of the Table below gives a description of the offences against the provisions of this Act specified in column 1 of the Table, and in relation to any such offence—
- (a) column 3 shows whether the offence is punishable summarily (that is to say, on summary conviction) or on indictment or either in one way or the other; and
 - (b) column 4 shows the maximum punishment by way of fine or imprisonment which may be imposed on a person convicted of the offence in the way specified in column 3 (that is to say, summarily or on indictment), any reference in column 4 to a period of years or months being construed as a reference to a term of imprisonment for that period.
- (2) A person guilty of an offence against any provision of this Act not specified in the Table shall be liable on summary conviction to a fine not exceeding [^{F54}level 4 on the standard scale] or, in the case of a second or subsequent conviction, [^{F54}level 4 on the standard scale].
- (3) A person shall be treated as acting together with another for the purposes of the above Table if
- [^{F55}(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.]

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TABLE

Provision of Act creating the offence	Description of offence	Mode of prosecution	Punishment
(1)	(2)	(3)	(4)
[^{F56} Section 1 ...]	[^{F56} Fishing with certain instruments for salmon, trout or freshwater fish and possessing certain instruments for fishing for such fish.]	[^{F56} (a) Summarily ...]	^{F57} [^{F56} Three months or the statutory maximum or both.]
Section 4 ...	Discharging poisonous or injurious matter into waters containing fish or spawn.	(a) Summarily ... (b) On indictment ...	[^{F58} The prescribed sum] and £40 for each day on which the offence continues after a conviction thereof. Two years or a fine or both.
Section 5(1) ...	Using explosives, poisons, noxious substances or electrical devices to take or destroy fish.	(a) Summarily ... (b) On indictment ...	[^{F59} £50,000]. Two years or a fine or both.
Section 5(3) ...	Destroying or damaging dams etc., to take or destroy fish.	(a) Summarily ... (b) On indictment ...	[^{F58} The prescribed sum]. Two years or a fine or both.
F60	F60	F60	F60
...
F60	F60	F60	F60
...
F60	F60	F60	F60
...
F60	F60	F60	F60
...
F60	F60	F60	F60
...
[^{F56} Section 27 ...]	[^{F56} Fishing for fish otherwise than	[^{F56} (a) If the instrument in	[^{F56} Level 4 on the standard scale]

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<p>under the authority of a licence and possessing an unlicensed instrument with intent to use it for fishing.]</p>	<p>question, or each of the instruments in question, is a rod and line, summarily.]</p> <p>[^{F56}(b) in any other case—]</p> <p>[^{F56}(i)summarily]... ^{F57}</p> <p>[^{F56} Three months or the statutory maximum or both;]</p> <p>[^{F56}(ii) on indictment]... [^{F56}Two years or a fine or both.]</p>
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Textual Amendments

- F54** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) 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 Sch. 4 para. 1(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 4 on the standard scale
- F55** Sch. 4 para. 1(3)(a)(b) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(4\); S.I. 2009/3345, art. 2, Sch. para. 15\(h\)](#)
- F56** Entry substituted (E.W. and as mentioned in s. 43(4) of the substituting Act (border rivers)) by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 35\(1\)\(2\), 43\(4\)](#)
- F57** 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 Sch. 4 Pt. I Table shall have effect as if the maximum fine that may be imposed on summary conviction for the offences mentioned therein (offences created under sections 1, 19(2)(4)(6)(7), 21, 27 of this Act) were a fine not exceeding level 4 on the standard scale
- F58** Sch. 4 para. 1 table: the maximum fine which may be imposed on summary conviction shall be the prescribed sum by virtue of [Magistrates' Courts Act 1980 \(c. 43\), s. 32\(2\)](#)
- F59** Word in Sch. 4 para. 1 substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 220\(9\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 12](#)
- F60** Sch. 4 para. 1(2) entries repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(2\), 22 Pt. 5\(B\); S.I. 2009/3345, art. 2, Sch. paras. 15\(h\), 27\(b\)](#)

PART II

PROCEDURE

Modifications etc. (not altering text)

- C2** [Sch. 4 Pt. II](#): by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 32\(6\)\(b\), 43\(4\)](#) it is provided that [Sch. 4 Pt. II](#) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

- 2 Any offence against this Act committed on the sea-coast or at sea beyond the ordinary jurisdiction of a court of summary jurisdiction shall be deemed to have

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been committed in any place abutting on that sea-coast or adjoining that sea, and may be tried and punished accordingly.

3 Offences against this Act committed in Scotland shall be proceeded against and punished in Scotland.

4 A justice of the peace shall not be disqualified from hearing any case under this Act by reason only of being a subscriber to any society for the protection of fish, but a justice shall not be entitled to hear any case in respect of an offence committed on his own land or in relation to any fishery of which he is owner or occupier.

5 The court by which a person is convicted of an offence against this Act may order the forfeiture of—

- (a) any fish illegally taken by him or in his possession at the time of the offence;
- (b) any instrument, bait or other thing used in the commission of the offence;
- (c) in the case of an offence of unlawful possession of any substance or device in contravention of section 5 above, that substance or device; and
- (d) on conviction on indictment, any vessel or vehicle used in or in connection with the commission of the offence or in which any substance or device unlawfully in his possession was contained at the time of the offence;

and may order any object so forfeited to be disposed of as the court thinks fit.

6 [^{F61}Schedule 3 to the Customs and Excise Management Act 1979] (provisions relating to the forfeiture of things seized under that Act) shall apply in relation to any vessel or vehicle liable to forfeiture under paragraph 5 above as it applies in relation to anything liable to forfeiture under that Act, but in its application in relation to any such vessel or vehicle shall have effect subject to the following modifications:—

- [^{F62}(a) paragraphs 1(2) and 5 shall be omitted;]
- (b) for references to the Commissioners of Customs and Excise there shall be substituted references to the water authority [^{F63}within whose area the offence in question was committed]; and
- (c) the court shall not condemn a vehicle or vessel as forfeited under paragraph 6 of that Schedule if satisfied by its owner that that offence was committed without his knowledge and that he could not have reasonably foreseen that it would be used as mentioned in paragraph 5(d) above;

and where notice of claim in respect of anything is duly given in accordance with paragraphs 3 and 4 of that Schedule, as applied by this paragraph, the court shall not exercise its power of ordering forfeiture of the vessel or vehicle under paragraph 5 above.

In this paragraph “owner”, in relation to a vessel or vehicle which is the subject of a hire-purchase agreement, means the person in possession of the vehicle under that agreement.

Textual Amendments

F61 Words substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), s. 177(1), [Sch. 4 para. 12](#)

F62 [Sch. 4 para. 6\(a\)](#) substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), s. 177(1), [Sch. 4 para. 12](#)

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F63 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

7 An authorised officer may seize any [^{F64} fish] bought, sold or exposed for sale by, or in the possession for sale of, any person in contravention of this Act.

Textual Amendments

F64 Word in Sch. 4 para. 7 substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 16 para. 17(5)**; S.I. 2009/3345, art. 2, Sch. para. 15(h)

8 Where any fish or any other thing of a perishable nature is seized as liable to forfeiture under paragraph 5 above, the person by whom it is seized may sell it, and the net proceeds of sale shall be liable to forfeiture in the same manner as the fish or other thing sold, and if and so far as not forfeited shall be paid on demand to the owner; but no person shall be subject to any liability on account of his neglect or failure to exercise the powers conferred on him by this paragraph.

9 If a person is convicted of an offence against this Act [^{F65}and is subsequently convicted of any such offence], the court may order that any fishing or general licence held by him shall be forfeited, and that he shall be disqualified from holding and obtaining a fishing or general licence [^{F66}or for fishing in a water authority area][^{F66}for having his name entered on a licence in pursuance of paragraph 9 to 14 of Schedule 2 to this Act or for fishing (either in a particular area or generally)] by virtue of a fishing or general licence for such period not exceeding [^{F67}one year][^{F67}five years] as the court thinks fit.

Textual Amendments

F65 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 141, 190, **Sch. 17 para. 7(1)(15)(a)**, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F66 Words beginning “for having his name” substituted for words beginning “or for fishing” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(15)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F67 Words “five years” substituted for “one year” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, **Sch. 17 para. 7(1)(15)(c)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

10 A person who is prosecuted for an offence against this Act and who is the holder of a fishing or general licence shall either—

- (a) cause it to be delivered to the [^{F68}proper officer] of the court not later than the day before the date appointed for the hearing, or
- (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the [proper officer] and either registered or sent by the recorded delivery service, or
- (c) have it with him at the hearing;

and if he is convicted of the offence and the court makes an order under paragraph 9 above the court shall order the licence to be surrendered to it; and if the offender has not posted the licence or caused it to be delivered as aforesaid and does not

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surrender it as required then he shall be guilty of an offence and the licence shall be revoked from the time when its surrender was ordered.

Textual Amendments

F68 Words in Sch. 4 para. 10(a)(b) substituted (1.4.2001) by 1999 c. 22, s. 90(1), Sch. 13 para. 86(2) (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)

- 11 Where a court orders a fishing or general licence to be surrendered to it under paragraph 10 above, or where by an order of a court under paragraph 9 above a person is disqualified from holding or obtaining a licence, the court shall—
- (a) send notice of the order to the water authority [^{F69}within whose area the offence was committed], unless the authority prosecuted in the case;
 - (b) if the licence has been so surrendered, retain it and forward it to that authority, who may dispose of it as they think fit.

Textual Amendments

F69 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, Sch. 27 Pt. I (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

- 12 Where any person is convicted of an offence against this Act, the [^{F70}proper officer] of the court before whom he is convicted shall, within one month of the date of conviction, forward a certificate of the conviction to the water authority [^{F71}for the area in which the offence was committed].

Textual Amendments

F70 Words in Sch. 4 para. 12 substituted (1.4.2001) by 1999 c. 22, s. 90(1), Sch. 13 para. 86(2) (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)

F71 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, Sch. 27 Pt. I (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

- 13 A certificate under paragraph 12 above shall be receivable in evidence in all legal proceedings.

- ^{F72}[14 In paragraphs 10 and 12 above “proper officer” means—
- (a) in relation to a magistrates’ court, the [^{F73}designated officer] for the court; and
 - (b) in relation to the Crown Court, the appropriate officer.]

Textual Amendments

F72 Sch. 4 para. 14 inserted (1.4.2001) by 1999 c. 22, s. 90(1), Sch. 13 para. 86(3) (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)

F73 Words in Sch. 4 para. 14 substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 178; S.I. 2005/910, art. 3(y)

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Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975. (See end of Document for details)

SCHEDULE 5

Section 43.

REPEALS

Modifications etc. (not altering text)

- C3** The text of s. 42(1)(2), Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Chapter	Short title	Extent of repeal
13 & 14 Geo. 5. c. 16.	The Salmon and Freshwater Fisheries Act 1923.	The whole Act.
19 & 20 Geo. 5. c. 39.	The Salmon and Freshwater Fisheries (Amendment) Act 1929.	The whole Act.
25 & 26 Geo. 5. c. 43.	The Salmon and Freshwater Fisheries Act 1935.	The whole Act.
1963 C. 38.	The Water Resources Act 1963.	In section 71(6), the words “the Salmon and Freshwater Fisheries Act 1923 or by”. In section 126(1), the words “the Salmon and Freshwater Fisheries Acts 1923 to 1972, and”.
1965 c. 56.	The Compulsory Purchase Act 1965.	In Schedule 6, the entry relating to the Salmon and Freshwater Fisheries Act 1923.
1965 c. 68.	The Salmon and Freshwater Fisheries Act 1965.	The whole Act.
1972 c. 37.	The Salmon and Freshwater Fisheries Act 1972.	The whole Act.
1973 c. 37.	The Water Act 1973.	Section 18. Section 40(4)(c). In Schedule 8, paragraphs 1 to 19 and paragraphs 95 to 97.
1974 c. 40.	The Control of Pollution Act 1974.	In Schedule 3, paragraph 5.

Status:

Point in time view as at 15/01/2010.

Changes to legislation:

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975.