



# Fisheries Act 1981

## 1981 CHAPTER 29

An Act to establish a Sea Fish Industry Authority with the duty of promoting the efficiency of the sea fish industry in the United Kingdom; to provide financial assistance for that industry; to amend the law relating to the regulation of sea fishing; to make new provision in relation to fish farming; to amend the enactments relating to whales and the importation of live fish; to extend sections 6 and 7 of the Freshwater and Salmon Fisheries (Scotland) Act 1976 to the part of the River Tweed outside Scotland; to repeal section 5(3) of the Fishery Board (Scotland) Act 1882; and to enable the Department of Agriculture for Northern Ireland to incur expenditure on fishery protection in waters adjacent to Northern Ireland. [2nd July 1981]

### Modifications etc. (not altering text)

C1 Act: transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1; S.I. 1998/3178, art. 3

## PART I

### THE SEA FISH INDUSTRY AUTHORITY

#### *Constitution, duties and powers*

#### **1 Constitution of the Authority.**

- (1) There shall be a body known as the Sea Fish Industry Authority.
- (2) The Authority shall consist of not more than twelve members appointed by the Ministers and of those members the Ministers shall appoint one to be chairman and another to be deputy chairman.
- (3) The chairman, deputy chairman and two of the other members of the Authority shall be persons appearing to the Ministers to have no such financial or commercial interests

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as are likely to affect them in the discharge of their functions as members independent of the sea fish industry.

- (4) The other members of the Authority shall be persons appearing to the Ministers to represent the interests of the sea fish industry or of any part of that industry, and before appointing those members the Ministers shall consult such organisations representing that industry or any part of it as appear to the Ministers to be appropriate.
- (5) Schedule 1 to this Act shall have effect with respect to the Authority.

## 2 Duties of the Authority.

- (1) [<sup>F1</sup>Subject to subsection (2A) below] it shall be the duty of the Authority to exercise its powers under this Part of this Act for the purpose of promoting the efficiency of the sea fish industry and so as to serve the interests of that industry as a whole.
- (2) In exercising its powers under this Part of this Act the Authority shall have regard to the interests of consumers of sea fish and sea fish products.
- [<sup>F2</sup>(2A) If any levy imposed under section 4 below has effect in relation to sea fish or sea fish products from the sea fish industries of member States other than the United Kingdom, the Authority shall so exercise its powers under this Part of this Act as to secure that benefits are conferred on those industries commensurate with any burden directly or indirectly borne by them in consequence of the levy]
- (3) The Ministers may, after consultation with the Authority, give the Authority such directions as they think necessary for ensuring that the activities of the Authority are consistent with [<sup>F3</sup>subsections (1) and (2A) above] and such other directions as appear to them to be requisite in the public interest; and the Authority shall give effect to any such directions.
- (4) Where the Ministers give a direction under this section they shall lay before Parliament [<sup>F4</sup>, and the Scottish Ministers shall lay before the Scottish Parliament,] a statement setting out the direction.
- (5) It shall be the duty of the Authority, if so required by any Minister of the Crown [<sup>F5</sup>or by the Scottish Ministers], to act as his agent in any matter relating to the sea fish industry.

### Textual Amendments

- F1** Words inserted by S.I. 1989/1190, reg. 2(2)
- F2** S. 2(2A) inserted by S.I. 1989/1190, reg. 2(2)
- F3** Words substituted by S.I. 1989/1190, reg. 2(2)
- F4** Words in s. 2(4) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 23 Pt. II para 3(2); S.I. 1998/3178, art. 3
- F5** words in s. 2(5) inserted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 23 Pt. II para. 3(3); S.I. 1998/3178, art. 3

## 3 Powers of the Authority.

- (1) The Authority shall have power—
  - (a) to carry out research and development with respect to any matters relating to the sea fish industry;

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- (b) to give advice on any such matters;
  - (c) to provide training in such matters or to assist in the provision of such training by making grants or by exercising supervisory or co-ordinating functions;
  - (d) to promote the marketing and consumption in, and the export from, the United Kingdom of sea fish and sea fish products;
  - (e) to make loans for assisting persons to meet capital expenditure on constructing, reconditioning or improving fishing vessels or on acquiring, reconditioning or improving plant for making ice or processing sea fish;
  - (f) to give financial assistance (by way of loan, grant or guarantee) to persons incurring expenditure in forming, carrying on or extending the activities of co-operatives for the sale of sea fish or for the purchase of fishing gear, fuel, stores or other materials requisite for the sea fish industry;
- (2) The Authority may charge fees for any services which it provides and may accept voluntary contributions to its expenses or to its expenses in respect of any particular matter.
- (3) In determining its policy with respect to the provision of training or the making of grants under paragraph (c) of subsection (1) above the Authority shall consult with such bodies as may be designated for the purpose by the Ministers; and the Authority shall not without the approval of the Ministers exercise supervisory or co-ordinating functions under that paragraph.
- (4) In determining its policy with respect to any class of financial assistance under subsection (1)(e) or (f) above the Authority shall act with the approval of the Ministers.
- (5) The Authority may provide services for persons concerned with the sea fish industry of countries other than the United Kingdom but shall not do so <sup>F6</sup>unless—
- (a) in the case of a country which is not a member State, the full cost of the services is recovered by fees; and
  - (b) the Authority is satisfied that the services can be provided without prejudice to its other activities.
- <sup>F7</sup>(6) .....
- (7) The Authority may enter into such agreements, acquire such property and do all such other things as may in its opinion be necessary or desirable for the exercise of the powers conferred by the foregoing provisions of this section and may dispose as it thinks fit of any property acquired by it.

**Textual Amendments**

**F6** Words substituted by [S.I. 1989/1190, reg. 2\(3\)](#)

**F7** [S. 3\(6\)](#) repealed (17.6.2002) by [2002 c. 1, s. 19, Sch. 4](#) (with [Sch. 5 paras. 1-5](#)); [S.I. 2002/1408, art. 2](#)

*Financial provisions*

**4 Levies.**

- (1) For the purpose of financing its activities the Authority may impose a levy on persons engaged in the sea fish industry.

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- (2) Any levy under this section shall be imposed by regulations made by the Authority and confirmed by an order of the Ministers; and in this section “prescribed” means prescribed by such regulations.
- (3) Regulations under this section may impose a levy either—
- (a) in respect of the weight of sea fish or sea fish products landed in the United Kingdom or trans-shipped within British fishery limits at a prescribed rate which, in the case of sea fish, shall not exceed [<sup>F8</sup>2p]. per kilogram; or
  - (b) in respect of the value, ascertained in the prescribed manner, of sea fish or sea fish products landed or trans-shipped as aforesaid at a prescribed rate not exceeding 1 per cent. of that value.
- (4) If regulations under this section impose a levy as provided in subsection (3)(a) above the prescribed rate in relation to any sea fish product shall be such that its yield will not in the opinion of the Authority exceed the yield from a levy at the rate of [<sup>F9</sup>2p]. per kilogram on the sea fish required on average (whether alone or together with any other substance or article) to produce a kilogram of that product.
- (5) Different rates may be prescribed for sea fish or sea fish products of different descriptions; and the Authority may repay the whole or part of the levy in such circumstances as it may determine but not so as to discriminate between different persons in the same circumstances.
- (6) Any levy imposed under this section shall be payable by such persons engaged in the sea fish industry, in such proportions and at such times as may be prescribed; and the amount payable by any person on account of the levy shall be a debt due from him to the Authority and recoverable accordingly.
- (7) The Ministers may by order increase or further increase the rate per kilogram specified in subsections (3)(a) and (4) above and the percentage specified in subsection (3)(b) above.
- (8) For the purposes of this section—
- (a) parts of a sea fish shall be treated as sea fish products and not as sea fish;
  - (b) references to the landing of fish include references to the collection for consumption of sea fish which have been bred, reared or cultivated in the course of fish farming whether in the sea or otherwise [<sup>F10</sup>and references to the landing of fish or fish products include references to bringing them through the tunnel system as defined in the Channel Tunnel Act 1987.]
- (9) Any order under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament and no order shall be made under subsection (7) above unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (10) Schedule 2 to this Act shall have effect with respect to the making of regulations and orders under subsection (2) above.

#### Textual Amendments

**F8** Figure substituted by [S.I. 1990/1641](#), [art. 2](#)

**F9** Figure substituted by [S.I. 1990/1641](#), [art. 2](#)

**F10** Words in [s. 4\(8\)\(b\)](#) added (1.7.1994) by [S.I. 1994/1390](#), [art. 2](#)

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## 5 Records and information for levy purposes.

- (1) Regulations imposing a levy under section 4 above may require persons engaged in the sea fish industry to keep and preserve such records and to furnish to the Authority such information as may be specified in the regulations.
- (2) Any officer authorised by the Authority may, on producing on demand evidence of his authority, require the production of, and take copies of, any records which a person is required to keep by virtue of the regulations and for that purpose may at any reasonable time enter any premises occupied for the purposes of his business by any person who is or may be liable to pay the levy and board any vessel owned by or in the possession of any such person.
- (3) Any person who—
  - (a) fails without reasonable excuse to comply with a requirement imposed by virtue of subsection (1) or (2) above; or
  - (b) wilfully obstructs an officer in the exercise of his powers under subsection (2) above,shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F11</sup>level 4 on the standard scale].
- (4) Any person who—
  - (a) in purported compliance with a requirement imposed by virtue of subsection (1) above knowingly makes a record or furnishes any information which is false in a material particular; or
  - (b) knowingly alters a record made in compliance with any such requirement so that it becomes false as aforesaid,shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F12</sup>level 5 on the standard scale] or to imprisonment for a term not exceeding three months or to both.

### Textual Amendments

- F11** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703 \(N.I. 3\), arts. 5, 6](#)
- F12** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\), s. 289G](#) and (N.I.) by [S.I. 1984/703 \(N.I. 3\), arts. 5, 6](#)

## 6 Borrowing powers.

- (1) The Authority may borrow for the purpose of financing its activities.
- (2) The Authority's powers under this section shall be exercised subject to and in accordance with regulations made by the Ministers with the approval of the Treasury.
- (3) Subject to subsection (4) below, the amount outstanding at any time of the aggregate of—
  - (a) the sums borrowed by the Authority under this section; and
  - (b) sums borrowed by another person and guaranteed by the Authority under section 3(1)(f) above;shall not exceed £30 million.

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- (4) The Ministers may by an order made with the approval of the Treasury increase or further increase the maximum amount specified in subsection (3) above but not by more than £10 million at a time.
- (5) An order under subsection (4) above shall not have effect unless approved by a resolution of the House of Commons.

## 7 **Government loans.**

- (1) The Ministers may lend to the Authority, on such terms as the Treasury may approve, any sums required to be borrowed by the Authority for a purpose approved by the Ministers and the Treasury.
- (2) Subject to subsection (3) below, the amount outstanding at any time of the sums lent under this section shall not exceed £30 million.
- (3) The Ministers may by an order made with the approval of the Treasury increase or further increase the maximum amount specified in subsection (2) above but not by more than £10 million at a time.
- (4) An order under subsection (3) above shall not have effect unless approved by a resolution of the House of Commons.
- (5) This section shall not be construed as authorising borrowing by the Authority in excess of the limit imposed by section 6 above.

## 8 **Government grants.**

The Ministers may, with the consent of the Treasury, make grants to the Authority, on such conditions as they think fit, in respect of—

- (a) any expenses incurred by the Authority in fulfilling a guarantee given under section 3(1)(f) above;
- (b) any loss incurred by the Authority by reason of foreign exchange fluctuations where the Authority has borrowed money in one currency and lent it in another.

## 9 **Government guarantees.**

- (1) The Ministers may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on any sums which the Authority borrows otherwise than from the Ministers.
- (2) Immediately after giving any such guarantee the Ministers shall lay before each House of Parliament [F13, and the Scottish Ministers shall lay before the Scottish Parliament,] a statement showing the extent and character of the guarantee and the circumstances in which it came to be given.
- (3) If any sum is paid by the Ministers in fulfilment of a guarantee under this section, the Authority shall as from the date of the payment be indebted to the Ministers in the amount of the payment and the Ministers shall lay before each House of Parliament [F13, and the Scottish Ministers shall lay before the Scottish Parliament,] as soon as practicable after the end of the financial year in which the payment is made a statement showing the amount and the circumstances in which it was made.

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- (4) Where any sum is so paid, the Authority shall make to the Ministers at such time and in such manner as the Ministers from time to time direct—
- (a) payments of such amounts as the Ministers so direct in or towards repayment of that sum; and
  - (b) payments of interest at such rates as the Ministers so direct on what is outstanding for the time being in respect of that sum;
- and so long as that sum has not been repaid in full, together with any interest payable, the Ministers shall, from time to time as the Treasury may request and in any case not less often than once in each financial year, lay before each House of Parliament [<sup>F14</sup>, and the Scottish Ministers shall lay before the Scottish Parliament,] a statement showing how much of that sum remains to be repaid by the Authority, the proposed programme for future repayments, and what directions are currently in force or are proposed to be given with respect to the payment of interest.
- (5) The consent of the Treasury is required for any guarantee given by the Ministers under this section and for any direction given by them under subsection (4) above.

#### Textual Amendments

**F13** Words in s. 9(2)(3) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 23 Pt. II para. 3(2)**; S.I. 1998/3178, **art. 3**

**F14** Words in s. 9(4) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 23 Pt. II para. 3(4)**; S.I. 1998/3178, **art. 3**

#### [<sup>F15</sup>10 Investment of reserve funds.

Any money of the Authority which is not immediately required for any other purpose may be invested by the Authority in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act).]

#### Textual Amendments

**F15** S. 10 substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 41** (with s. 35); S.I. 2001/49, **art. 2**

### Supplementary

#### 11 Accounts and reports.

- (1) It shall be the duty of the Authority—
  - (a) to keep proper accounts and proper records in relation to the accounts; and
  - (b) to prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts shall give a true and fair view of the state of the Authority's affairs at the end of the financial year and of the Authority's income and expenditure in the financial year, and shall comply with any directions given by the Ministers with the consent of the Treasury as to the information to be contained in the statement or

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the manner in which it is to be presented or as to the methods and principles according to which the statement is to be prepared.

- (3) Separate accounts shall be kept by the Authority in respect of services provided as mentioned in section 3(5) above and of such other matters as the Ministers may direct.

<sup>F16</sup>(4) .....

<sup>F16</sup>(5) .....

<sup>F16</sup>(6) .....

- <sup>F17</sup>(6A) The Authority shall send a copy of the statement of accounts prepared under subsection (1) to the Comptroller and Auditor General—

- (a) in the case of the statement relating to the financial year ending on 31st March 2004, as soon as reasonably practicable after 12th July 2004,  
(b) in the case of the statement relating to a financial year ending after 31st March 2004, as soon as reasonably practicable after the end of that year.]

- (6B) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts sent to him by the Authority under subsection (6A) and shall lay before Parliament a copy of the statement and his report on it

- (7) As soon as possible after the end of any financial year and in any event not later than 30th September following the end of that year the Authority shall prepare and submit to the Ministers a report of its proceedings in that year.

- (8) The Ministers shall lay before Parliament [<sup>F18</sup>, and the Scottish Ministers shall lay before the Scottish Parliament,] copies of the Authority's report for any financial year together with copies of the statement of accounts and of the [<sup>F19</sup>report of <sup>F20</sup>... the Comptroller and Auditor General] for that year.

- (9) The Ministers [<sup>F21</sup>, the Comptroller and Auditor General and the Auditor General for Scotland] shall be entitled to inspect all books, papers and other records of the Authority relating to, or to matters dealt with in, the accounts required to be kept pursuant to this section.

#### Textual Amendments

**F16** S. 11(4)-(6) repealed (12.7.2004) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2004 \(S.I. 2004/1715\)](#), arts. 1, **3(3)(a)**

**F17** S. 11(6A) substituted (12.7.2004) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2004 \(S.I. 2004/1715\)](#), arts. 1, **3(3)(b)**

**F18** Words in s. 11(8) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 23 Pt. II para. 3(2)**; S.I. 1998/3178, **art. 3**

**F19** Words in s. 11(8) substituted (23.5.2003) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2003 \(S.I. 2003/1326\)](#), arts. 1, **10(2)(d)**

**F20** Words in s. 11(8) omitted (12.7.2004) by virtue of [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2004 \(S.I. 2004/1715\)](#), arts. 1, **3(3)(c)**

**F21** Words in s. 11(9) inserted (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 23 Pt. II para. 3(5)**; S.I.1998/3178, **art. 3**



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## 12 Restriction on disclosure of information.

- (1) Subject to subsection (2) below, no information with respect to any particular undertaking which has been obtained by or on behalf of the Authority under this Act shall, without the consent of the person carrying on the undertaking, be disclosed otherwise than for the purpose of the discharge of the Authority's functions.
- (2) Subsection (1) above shall not preclude the disclosure of information by or on behalf of the Authority—
  - (a) to the Ministers or any of them for the purposes of any of their functions relating to the sea fish industry or to the regulation of sea fishing; or
  - (b) for the purposes of any legal proceedings or of any report of any such proceedings.
- [<sup>F22</sup>, or
- (c) to the Department of Agriculture and Rural Development for the purposes of any of its functions relating to the sea fish industry in Northern Ireland or to the regulation of sea fishing;]
- (3) If any person discloses information in contravention of this section he shall be guilty of an offence and liable—
  - (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;
  - (b) on summary conviction, to a fine not exceeding the prescribed sum or to imprisonment for a term not exceeding six months or to both.
- (4) In subsection (3)(b) above “the prescribed sum” means—
  - (a) in the case of an offence committed in England, [<sup>F23</sup>and Wales], the prescribed sum within the meaning of section 32 of the <sup>M1</sup>Magistrates' Courts Act 1980 (£1,000 at the passing of this Act);
  - (b) in the case of an offence committed in Scotland the prescribed sum within the meaning of section 289B of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1975 (£1,000 at the passing of this Act);
  - [<sup>F24</sup>(c) in the case of an offence committed in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984]

### Textual Amendments

**F22** S. 12(2)(c) and word preceding it inserted (28.3.2002) by S.I. 2002/790, art. 7(3)

**F23** Words substituted by S.I. 1984/703 (N.I. 3), art. 19(1), Sch. 6 para. 18(a)

**F24** Words substituted by S.I. 1984/703 (N.I. 3), art. 19(1), Sch. 6 para. 18(b)

### Modifications etc. (not altering text)

**C2** S. 12(2): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2), Sch. 4 Pt. I para. 19

### Marginal Citations

**M1** 1980 c. 43.

**M2** 1975 c. 21.

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### 13 Abolition of White Fish Authority and Herring Industry Board.

<sup>F25</sup>(1) .....

(2) Schedule 3 to this Act shall have effect <sup>F26</sup>....

#### Textual Amendments

**F25** S. 13(1) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 6

**F26** Words in s. 13(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 6

### 14 Interpretation of Part I.

(1) In this Part of this Act—

“the Authority” means the Sea Fish Industry Authority;

“financial year” means the twelve months ending with 31st March;

[<sup>F27</sup> “the Ministers” means—] the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fish industry in Scotland, Wales and Northern Ireland;

“sea fish” means fish of any kind found in the sea, including shellfish and, subject to section 4(8)(a) above, any part of any such fish but does not include salmon or migratory trout.

(2) For the purposes of this Part of this Act other than [<sup>F28</sup>sections 2(2A) and 3(5)] “the sea fish industry” means the sea fish industry in the United Kingdom and a person shall be regarded as engaged in the sea fish industry if—

(a) he carries on the business of operating vessels for catching or processing sea fish or for transporting sea fish or sea fish products, being vessels registered in the United Kingdom; or

(b) he carries on in the United Kingdom the business of breeding, rearing or cultivating sea fish for human consumption, of selling sea fish or sea fish products by wholesale or retail, of buying sea fish or sea fish products by wholesale, of importing sea fish or sea fish products or of processing sea fish (including the business of a fish fryer).

#### Textual Amendments

**F27** Words in s. 14(1) substituted (1.7.1999) by S.I. 1999/1747, art. 3, Sch. 23 Pt. II para. 3(6); S.I. 1998/3178, art. 3

**F28** Words substituted by S.I. 1989/1190, reg. 2(4)

## PART II

### FINANCIAL ASSISTANCE FOR SEA FISH INDUSTRY

### 15 Schemes of financial assistance.

(1) The Ministers may, in accordance with a scheme made by them with the approval of the Treasury, make grants or loans for the purpose of re-organising, developing or

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promoting the sea fish industry or of contributing to the expenses of those engaged in it.

- (2) A scheme under this section may be limited so as to apply to a specified part or area of [<sup>F29</sup>England and Wales and Northern Ireland] and may authorise the Ministers to make provision for any purpose specified in the scheme.
- (3) A scheme under this section shall be laid before Parliament after being made and shall cease to have effect (without prejudice to anything previously done thereunder or to the making of a new scheme) after the expiration of the period of forty days beginning with the day on which it is made unless within that period it has been approved by a resolution of each House of Parliament.
- (4) In reckoning any period under subsection (3) above no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (5) Any scheme in force immediately before the coming into force of this section under section 49 of the <sup>M3</sup>Sea Fish Industry Act 1970 (white fish and herring subsidies) shall have effect as if made under this section.

#### Textual Amendments

**F29** Words in s. 15 substituted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(2); S.I. 1998/3178, art. 3

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

**C3** S. 15 certain functions made exercisable (28.3.2002) in or as regards N.I. for the purposes of 1998

c. 47, ss. 6, 86 and transferred by S.I. 2002/790, art. 3(2), Sch. 2 para. 2(2)(3)

**C4** S. 15(1) modified (28.3.2002) by S.I. 2002/790, art. 3(2), Sch. 2 para. 2(7)(a)

**C5** S. 15(3)(4) excluded (28.3.2002) by S.I. 2002/790, art. 3(2), Sch. 2 para. 2(4)

#### Marginal Citations

**M3** 1970 c. 11.

## 16 Administration of schemes by Sea Fish Industry Authority.

- (1) Without prejudice to section 2(5) above, the Ministers may require the Sea Fish Industry Authority to administer for them any scheme made by them under this Part of this Act and where the Authority has been so required it shall administer the scheme accordingly and may exercise any discretion vested under the scheme in the Ministers.
- (2) Any functions of the Authority in relation to a scheme under this Part of this Act shall be discharged by the members appointed under section 1(3) above to the exclusion of the other members.
- (3) Where the Authority has been required to administer a scheme under subsection (1) above it shall keep such accounts with respect to payments made by or to it under the scheme as may be directed by the Ministers with the approval of the Treasury and shall prepare in respect of each financial year a statement of the accounts in such form and giving such information as may be so directed.

<sup>F30</sup>(4) .....

*Status: Point in time view as at 12/11/2009.*

*Changes to legislation: Fisheries Act 1981 is up to date with all changes known to be in force on or before 09 July 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)*

<sup>F30</sup>(5) .....

[<sup>F31</sup>(5A) The Authority shall send a copy of the statement of accounts prepared under subsection (3) to the Comptroller and Auditor General—

- (a) in the case of the statement relating to the financial year ending on 31st March 2004, as soon as reasonably practicable after 12th July 2004.”
- (b) in the case of the statement relating to the financial year ending after 31st March 2004, as soon as reasonably practicable after the end of that year.]

(5B) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts sent to him by the Authority under subsection (5A) and shall lay before Parliament a copy of the statement and his report on it.

(6) The Ministers and the Comptroller and Auditor General shall be entitled to inspect all books, papers and other records of the Authority relating to, or to matters dealt with in, the accounts required to be kept pursuant to this section.

#### Textual Amendments

**F30** S. 16(4)(5) repealed (12.7.2004) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2004 \(S.I. 2004/1715\)](#), arts. 1, **3(4)(a)**

**F31** S. 16(5A) substituted (12.7.2004) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2004 \(S.I. 2004/1715\)](#), arts. 1, **3(4)(b)**

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

**C6** S. 16 certain functions made exercisable (28.3.2002) in or as regards N.I. for the purposes of 1998 c. 47, **ss. 6, 86** and transferred by [S.I. 2002/790](#), art. 3(2), **Sch. 2 para. 2(2)(3)**

**C7** S. 16(3) modified (28.3.2002) by [S.I. 2002/790](#), art. 3(2), **Sch. 2 para. 2(7)(a)**

## 17 Offences in connection with schemes.

Any person who—

- (a) in furnishing any information in purported compliance with a requirement imposed by a scheme made under this Part of this Act makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
- (b) in purported compliance with a requirement imposed by such a scheme produces a document which he knows to be false in a material particular or recklessly produces a document which is false in a material particular; or
- (c) wilfully refuses to supply any information, make any return or produce any document when required to do so by or under any such scheme,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F32</sup>level 5 on the standard scale].

#### Textual Amendments

**F32** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**, (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), **s. 289G** and (N.I.) by [S.I. 1984/703 \(N.I. 3\)](#), **arts. 5, 6**

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## 18 Interpretation of Part II.

(1) In this Part of this Act—

“the Ministers” means—

- (a) in relation to a scheme not extending outside England, the Minister of Agriculture, Fisheries and Food;
- (b) in relation to a scheme not extending outside Wales,<sup>F33</sup> . . . or Northern Ireland respectively, the Secretary of State concerned with the sea fish industry in that country;
- (c) in relation to a scheme extending to the whole or part of two or more of the countries mentioned in paragraphs (a) and (b) above, the Minister of Agriculture, Fisheries and Food (if those countries include England) and the Secretary of State concerned with the sea fish industry in each of the countries (other than England) to the whole or part of which the scheme extends:

but a scheme made by two or more Ministers may provide for payments under the scheme to be made by any of them;

“sea fish” means fish of any kind found in the sea, including shellfish but not salmon or migratory trout.

(2) For the purposes of this Part of this Act “the sea fish industry” means the sea fish industry in [<sup>F34</sup>England and Wales and Northern Ireland] and a person shall be regarded as engaged in the sea fish industry if—

- (a) he carries on or is employed in the business of operating vessels for catching or processing sea fish or for transporting sea fish or sea fish products, being vessels registered in the [<sup>F34</sup>England and Wales and Northern Ireland]; or
- (b) he carries on in [<sup>F34</sup>England and Wales and Northern Ireland], or is employed in [<sup>F34</sup>England and Wales and Northern Ireland] in, the business of selling sea fish or sea fish products by wholesale or retail, of loading, unloading or the inland transport of sea fish or sea fish products or of processing sea fish (including the business of a fish fryer).

### Textual Amendments

**F33** Word in s. 18(1) repealed (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(3), Pt. IV; S.I. 1998/3178, art. 3

**F34** Words in s. 18(2) substituted (1.7.1999) by S.I. 1999/1820 art. 4, Sch. 2 Pt. I para. 68(2); S.I. 1998/3178, art. 3

[<sup>F35</sup>18A

- (1) This Part of the Act has effect in relation to Scotland with the following modifications (and any other necessary modifications).
- (2) For “England and Wales and Northern Ireland”, wherever it occurs, there is substituted “Scotland”.
- (3) In sections 15(1) and 16(3) the words “with the approval of the Treasury” are omitted.
- (4) In section 15(3) and (4) and in section 16(5) for any reference to “Parliament” and to “each House of Parliament” there is substituted “the Scottish Parliament”.
- (5) In section 15(4)—

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- (a) for the reference to "both Houses are" there is substituted "the Scottish Parliament is"; <sup>F36</sup> . . .
  - (b) the words "or prorogued" are omitted and.
  - (c) for "adjourned" there is substituted "in recess".]
- (6) In section 16(6), for "Comptroller and Auditor General" there is substituted "Auditor General for Scotland".
- (7) In section 18(1), in the definition of "the Ministers", from "(a)" to the end there is substituted "the Scottish Ministers".

#### Textual Amendments

**F35** S. 18A inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 68(4)**; S.I. 1998/3178, **art. 3**

**F36** Word in s. 18A(5) repealed (27.7.2000) by S.I. 2000/2040, art. 2, **Sch. Pt. I para. 10(2)(a) Pt. III** (with art. 3)

## PART III

### REGULATION OF SEA FISHING

#### 19 Size limits for fish.

- (1) For section 1 of the <sup>M4</sup>Sea Fish (Conservation) Act 1967 (size limits for fish) there shall be substituted—

- (1) Subject to the provisions of this section and of section (1) of this Act, no person shall land in Great Britain any sea fish of any description, being a fish of a smaller size than such size as may be prescribed in relation to sea fish of that description by an order of the Ministers.
- (2) Subject to the provisions of this section, no person shall, in Great Britain, sell, expose or offer for sale or have in his possession for the purpose of sale, any sea fish of any description, being a fish of a smaller size than such size as may be prescribed in relation to sea fish of that description by an order of the Ministers.
- (3) Sea fish of any description which are of less than the minimum size prescribed in relation to sea fish of that description by an order of the Ministers shall not be carried, whether within or outside British fishery limits, on a British fishing boat; and an order under this subsection may prohibit the carrying by any foreign fishing boat in waters adjacent to the United Kingdom and within British fishery limits of sea fish of any description prescribed by the order which are of less than the minimum size so prescribed in relation to sea fish of that description.
- (4) Different sizes may be prescribed for the purposes of each of the foregoing provisions of this section; and an order under subsection (1) above may prescribe different sizes in relation to fish of different sexes.

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- (5) Where an order under subsection (1) above prescribes a size for fish of any description (or of any description and sex), whether generally or in relation to any particular area, then, except so far as provision to the contrary is made by such an order, a person who in Great Britain or, as the case may be, in that area lands a part of a fish of that description (or of that description and sex) shall, subject to section 9(1) of this Act, be deemed to contravene subsection (1) above if the part is of a smaller size than the one so prescribed.
  - (6) An order under this section may confer exemptions from any prohibition imposed by or by virtue of this section; and any such exemption may be general or subject to conditions and may relate to all fish to which the order applies or to fish of any specified description.
  - (7) Any person who contravenes subsection (1) or (2) above shall be guilty of an offence under that subsection.
  - (8) If subsection (3) above is contravened in the case of a British fishing boat the master, the owner and the charterer (if any) shall each be guilty of an offence under that subsection; and if a prohibition imposed by virtue of that subsection is contravened in the case of a foreign fishing boat, the master shall be guilty of an offence under that subsection.
  - (9) In this section “British fishing boat” means a fishing boat which is registered in the United Kingdom, exempted from registration by regulations under section 373 of the Merchant Shipping Act 1894 or owned wholly by a person who is (within the meaning of that Act) a person qualified to own a British ship; and “foreign fishing boat” means any fishing boat other than a British fishing boat.”
- (2) In consequence of subsection (1) above the said Act of 1967 shall be amended as follows—
- (a) in section 2(2) (size limits for fish used in course of business) for “1(1)” there shall be substituted “ 1(2) ”;
  - (b) in section 9(1) (exemptions) for “1(1) or (2)” there shall be substituted “ 1(1) or (5) ”;
  - (c) in section 12 (offences by bodies corporate) for “1(1) and (3)” there shall be substituted “ 1(1), (2) and (3) ”;
  - (d) in section 22(2) (definition of “the Ministers”), in paragraphs (a) and (b) for “1” there shall be substituted “ 1(1) and (2) ”;
  - (e) in section 23(4) (extent), in paragraph (a), for the words “section 1(1) and (2), section 1(6) so far as it relates to a contravention of section 1(1)” there shall be substituted the words “ section 1(1), (2), (5) and (7) ” and, in paragraphs (c) and (d), for the words “section 1(1)” there shall be substituted the words “ section 1(1) and (2) ”.
- (3) Any order in force under section 1 of the said Act of 1967 immediately before the coming into force of this section shall have effect as if made under that section as substituted by this section.

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*Changes to legislation: Fisheries Act 1981 is up to date with all changes known to be in force on or before 09 July 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)*

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

- C8** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### **Marginal Citations**

- M4** 1967 c. 84.

## **20 Licensing of fishing boats.**

- (1) After subsection (6) of section 4 of the <sup>M5</sup>Sea Fish (Conservation) Act 1967 (licensing of fishing boats) there shall be inserted—

“(6A) The conditions subject to which a licence may be granted under this section may differ as between different vessels or between vessels of different descriptions.”

- (2) In subsection (7) of that section (penalty for failure to comply with requirement to furnish information) after the word “fails” there shall be inserted the words “ without reasonable excuse ”.

- (3) After subsection (7) of that section there shall be inserted—

“(7A) Any person who—

- (a) for the purpose of obtaining a licence under this section; or
- (b) in purported compliance with subsection (7) above,

furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular shall be guilty of an offence under this subsection.”

- (4) After subsection (9) of that section there shall be inserted—

“(9A) Where an order under this section prohibits fishing in a specified area for a specified description of sea fish there shall be returned to the sea forthwith—

- (a) any sea fish of that description taken on board a fishing boat in contravention of the order; and
- (b) except so far as the order otherwise provides, any sea fish of that description taken on board a fishing boat in that area in the course of fishing for sea fish of a different description;

but, where the order applies only to fishing by a specified method or during a specified period or by boats of a specified description, paragraph (b) above applies only if the fish are caught by that method, during that period or by a boat of that description.

- (9B) Where subsection (9A) above is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) shall each be guilty of an offence under that subsection.”



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

- C9** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

**Marginal Citations**

- M5** 1967 c. 84.

**21 Licensing of vessels receiving trans-shipped fish.**

- (1) After section 4 of the <sup>M6</sup>Sea Fish (Conservation) Act 1967 (licensing of fishing boats) there shall be inserted the following section:—

- (1) The Ministers may by order provide that within British fishery limits or in any specified area within those limits the receiving by any vessel (whether British or foreign) of fish trans-shipped from any other vessel is prohibited unless authorised by a licence granted by one of the Ministers.
- (2) Such an order may apply to the receiving of fish generally or to the receiving of—
  - (a) a specified description of fish; or
  - (b) fish caught by a specified method; or
  - (c) fish caught in a specified area; or
  - (d) fish caught or trans-shipped during a specified season of the year or other period; or
  - (e) fish caught or received by vessels of a specified description, including vessels registered in a specified country;and may provide for exceptions from the prohibitions contained in it.
- (3) Where any vessel is used for contravention of a prohibition imposed by an order under this section, the master, the owner and the charterer (if any) are each guilty of an offence under this subsection.
- (4) An order under this section, if made with the consent of the Treasury given for the purposes of this subsection, may authorise the making of a charge for a licence under this section, and if it does so it shall specify maximum charge and may specify different maxima in relation to different classes of licence.
- (5) A licence under this section shall be granted to the owner or charterer in respect of a named vessel and may authorise the receiving of fish generally or may confer limited authority by reference to, in particular—
  - (a) the area within which the fish was caught or is trans-shipped; or
  - (b) the periods, times or particular voyages during which the fish was caught or trans-shipped; or
  - (c) the descriptions and quantities of fish that may be received; or
  - (d) the description of vessel or method by which the trans-shipped fish was caught.

*Status: Point in time view as at 12/11/2009.*

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- (6) A licence under this section may authorise the receiving of fish either unconditionally or subject to such conditions as appear to the Minister granting the licence as to be necessary or expedient for the regulation of trans-shipment, including conditions as to the treatment on board the vessel of the fish received by it; and different conditions may be so imposed with respect to different vessels or vessels of different descriptions.
- If such a condition is broken the master, the owner and the charterer (if any) are each guilty of an offence under this subsection.
- (7) The Minister granting a licence under this section may require the master, the owner and the charterer (if any) of the vessel named in the licence and any agent named in the licence to provide him with such statistical information as he may direct, and a person who fails without reasonable excuse to comply with such a requirement is guilty of an offence under this subsection.
- (8) Any person who—
- (a) for the purpose of obtaining a licence under this section; or
  - (b) in purported compliance with subsection (7) above,
- furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular is guilty of an offence under this subsection.
- (9) The licensing power conferred by this section may be exercised so as to limit the number of vessels, or of any description of vessel (including vessels or any description of vessel registered in a specified country) engaged in receiving fish to such an extent as appears to the Ministers necessary or expedient for the regulation of trans-shipment.
- (10) A licence under this section—
- (a) may be varied from time to time; and
  - (b) may be revoked or suspended, if it appears to the Minister who granted it to be necessary or expedient for the regulation of trans-shipment.
- (11) If a licence is varied, revoked or suspended, the Minister who granted it may, if he considers it appropriate in all the circumstances of the case, refund the whole or part of any charge made for the licence.
- (12) The Ministers may make arrangements for any of their licensing powers under this section (but not the power to make orders under subsection (1)) to be exercised by other persons on their behalf.”
- (2) In the following provisions of the said Act of 1967, after “4” there shall be inserted “4A, ”
- (a) in section 9(5) (exceptions for scientific investigations, etc.);
  - (b) in section 20(2) and (5) (orders to be made by statutory instrument and subject to negative resolution); and
  - (c) in the words in parenthesis in the definition of “sea fish” in section 22(1) (which relate to the inclusion of salmon and migratory trout).

*Status: Point in time view as at 12/11/2009.*

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

**C10** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

**Marginal Citations**

**M6** 1967 c. 84.

**22 Power to restrict sea fishing.**

(1) For subsections (1) to (4) of the <sup>M7</sup>Sea Fish (Conservation) Act 1967 (power to restrict fishing for sea fish) there shall be substituted—

“(1) Subject to the provisions of this section, the Ministers may by order prohibit in any area specified in the order and either for a period so specified or without limitation of time—

- (a) all fishing for sea fish; or
- (b) fishing for any description of sea fish specified in the order; or
- (c) fishing for sea fish, or for any description of sea fish specified in the order, by any method so specified,

by any fishing boat to which the prohibition applies; and where any fishing boat is used in contravention of any prohibition imposed by an order under this section, the master, the owner and the charterer (if any) shall each be guilty of an offence under this subsection.

(2) Orders under this section may make different provision in relation to fishing boats of different descriptions.”

(2) In subsection (6) of that section (duty to return of fish to the sea)—

- (a) for the words “a fishing boat to which the obligation imposed by this subsection applies” there shall be substituted the words “a fishing boat to which the order applies”;
- (b) after the words “subject to section 9 of this Act” there shall be inserted the words “and except where the order otherwise provides”;

(3) For subsection (8) of that section there shall be substituted—

“(8) An order under this section relating to an area outside British fishery limits shall not apply to any fishing boat other than—

- (a) a British fishing boat registered in the United Kingdom; or
- (b) in do far as the order relates to fishing for salmon or migratory trout, a fishing boat which is British-owned but not registered under the Merchant Shipping Act 1894;

but an order under this section relating to an area within those limits may apply to any fishing boat.”

(4) Section 23(1) of the said Act of 1967 (restricted operation of section 5 in waters adjacent to Northern Ireland) shall cease to have effect.

(5) Any order in force under the said section 5 immediately before the coming into force of this section shall have effect as if made under that section as amended by this section.

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

- C11** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### **Marginal Citations**

- M7** 1967 c. 84.

### **23 Prohibition of trans-shipment of sea fish.**

- (1) Sections 6 and 7 of the <sup>M8</sup>Sea Fish (Conservation) Act 1967 (prohibition on landing of sea fish caught in certain areas) shall be amended as follows.

- (2) After subsection (1) of section 6 there shall be inserted—

“(1A) The Ministers, after consultation with the Secretary of State for Trade, may by order prohibit, in accordance with the provisions of this section, the trans-shipment within British fishery limits of sea fish, or any particular description of sea fish, being caught in any such waters as may be specified in the order.”

- (3) In subsection (5) of section 6 for the words “under this section” in the second place where they occur there shall be substituted the words “ under this subsection ”, and after that subsection there shall be inserted—

“(5A) If any sea fish are—

- (a) trans-shipped into a vessel in contravention of an order under this section; or
- (b) trans-shipped from a vessel in contravention of such an order, the master, the owner and the charterer (if any) of the vessel shall each be guilty of an offence under this subsection.”.

- (4) In subsections (1) and (2) of section 7 for the words “any order under section 6 of this Act” there shall be substituted the words “ any order under section 6(1) of this Act ”.

- (5) After subsection (2) of section 7 there shall be inserted—

“(2A) Any British sea-fishery officer may serve on the master of any vessel a notice in writing under the hand of the officer requiring the master to make, on each occasion when any sea fish are about to be trans-shipped within British fishery limits from that vessel while an order under section 6(1A) of this Act is in force, a written declaration that those sea fish are not sea fish the trans-shipment of which is prohibited by the order, and to deliver the declaration, before any of the sea fish are trans-shipped, to the officer or to such other person or at such place as may be specified in the notice and as appears to the officer to be reasonable in the circumstances:

Provided that a notice under this subsection shall not be taken to require the making or delivery of any declaration in respect of the trans-shipment of any sea fish after the end of the period of six months from the date on which the notice is served.

- (2B) Where any sea fish have been or are being trans-shipped, or where a British sea-fishery officer has reasonable grounds for believing that any sea fish are

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about to be trans-shipped, within British fishery limits from any vessel while an order under section 6(1A) of this Act is in force, any such officer may request the master of the vessel to make and deliver to the officer a written declaration that the sea fish in question are not sea fish the trans-shipment of which is prohibited by the order.

Nothing in this subsection shall be taken to affect the operation of subsection (2A) above.”

- (6) In subsection (3) of section 7 for the words from “as the case may be” onwards there shall be substituted the words “the said sea fish shall—
- (a) where the notice or request was served or made under subsection (1) or (2) above, be presumed until the contrary is proved to be sea fish the landing of which is prohibited under section 6 of this Act; and
  - (b) where the notice or request was served or made under subsection (2A) or (2B) above, be presumed until the contrary is proved to be sea fish the trans-shipment of which is prohibited under that section.”
- (7) In subsection (4) of section 7 after the word “subsection (1)” there shall be inserted the words “ or (2A) ”.

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

**C12** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

**Marginal Citations**

**M8** 1967 c. 84.

**24 Penalties for offences.**

- (1) For section 11(1) to (3) of the <sup>M9</sup>Sea Fish (Conservation) Act 1967 (penalties for offences) there shall be substituted—

“(1) Any person found guilty of an offence under this Act shall be liable—

- (a) in the case of an offence under section 4(3), 4A(3), 5(1) or 6(5A) (a), on summary conviction to a fine not exceeding £50,000 or on conviction on indictment to a fine;
- (b) in the case of an offence under section 3, 4(6) or (9A), 4A(6) or 5(6), on summary conviction to a fine not exceeding £5,000 or on conviction on indictment to a fine;
- (c) in the case of an offence under section 1, 2, 4(7) or (7A), 4A(7) or (8), 6(5) or (5A)(b) or 7(3), on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to a fine.

- (2) Subject to the following provisions of this section, the court by or before which a person is convicted of an offence under any of the following provisions of this Act, that is to say, sections 1, 3, 4(3), (6) and (9A), 4A(3) and (6), 5(1) and (6) and 6(5) and (5A)(b) may—

- (a) in the case of an offence under section 1, order the forfeiture of any fish in respect of which the offence was committed;

*Status: Point in time view as at 12/11/2009.*

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- (b) in the case of an offence under section 2, order the forfeiture of the net or other fishing gear in respect of which the contravention constituting the offence occurred;
  - (c) in the case of an offence under section 4(3), (6) or (9A) or 4A(3) or (6), order that the owner or the charterer (if any) of the vessel used to commit the offence or, as the case may be, of the vessel named in the licence of which a condition is broken, be disqualified for a specified period from holding a licence under that section in respect of that vessel;
  - (d) in the case of an offence under section 4(3), (6) or (9A) or section 5(1) or (6), order the forfeiture of any fish in respect of which the offence was committed and of any net or other fishing gear used in committing the offence;
  - (e) in the case of an offence under section 6(5) or (5A)(b), order the forfeiture of any fish in respect of which the offence was committed and of any net or other fishing gear used on the vessel in catching any fish landed or trans-shipped in contravention of an order under that section.
- (3) Any person guilty of an offence under section 1, 3, 4(3), (6) or (9A), 4A(3) or (6), 5(1) or (6) or 6 of this Act shall, subject to subsection (5) below, be liable on summary conviction to a fine not exceeding the value of the fish in respect of which the offence was committed or, in the case of an offence under section 3, the fish caught with the net or other fishing gear in respect of which the contravention constituting the offence occurred.”
- (2) In section 5(4) of the <sup>M10</sup>Sea Fisheries Act 1968 (penalty for contravening order regulating fishing operations) after the words “on summary conviction to a fine not exceeding £1,000” there shall be inserted the words “ or on conviction on indictment to a fine ”.
- (3) In section 10(4) of that Act (penalty for obstructing officer etc.) for the words “on summary conviction” onwards there shall be substituted the words “ on summary conviction to a fine not exceeding £5,000 or on conviction on indictment to a fine. ”

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

**C13** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### **Marginal Citations**

**M9** 1967 c. 84.

**M10** 1968 c. 77.

## **25 Enforcement of Act of 1967.**

- (1) In subsection (2) of section 15 of the <sup>M11</sup>Sea Fish (Conservation) Act 1967 (powers of British sea-fishery officers to seize fish and nets) for paragraphs (a) and (b) there shall be substituted—
- “(a) any fish in respect of which an offence has been committed under section 1(3) of this Act;

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- (aa) any net or other fishing gear in respect of which a contravention of an order under section 3 of this Act has been or is being committed;
- (b) any fish in respect of which an offence has been or is being committed under section 4(3), (6) or (9A) or 5(1) or (6) of this Act where the fish are on the fishing boat with or on which the offence has been or is being committed or are in the ownership or custody of, or under the control of, the owner, the master or the charterer (if any) of the fishing boat;”.

(2) After subsection (2) of that section there shall be inserted—

“(2A) Any such officer may—

- (a) enter at any reasonable time any premises (other than a dwelling-house) used for carrying on any business in connection with the operation of fishing boats or activities connected therewith or ancillary thereto or with the treatment, storage or sale of sea fish;
- (b) require any person on the premises to produce any documents which are in his custody or possession relating to the catching, landing, trans-shipment, sale or disposal of any sea fish;
- (c) take copies of any such document;

and, if he has reason to suspect that an offence under this Act has been committed, he may also—

- (d) search the premises for any such document and require any person on the premises to do anything which appears to him to be necessary for facilitating the search;
- (e) seize and detain any such document produced to him or found on the premises for the purpose of enabling the document to be used as evidence in proceedings for the offence.

(2B) Any such officer may—

- (a) go on board any vessel into which sea fish are being trans-shipped or into which he has reason to believe that sea fish have been or are about to be trans-shipped;
- (b) require any person on the vessel to produce any documents which are in his custody or possession relating to sea fish which have been or are to be trans-shipped into that vessel;
- (c) for the purpose of ascertaining whether an offence has been committed under this Act search the vessel for any such document;
- (d) take copies of any such document;
- (e) inspect any sea fish on, and the equipment of, the vessel, and observe any trans-shipment of sea fish into, the vessel;
- (f) require any person on the vessel to do anything which appears to the officer to be necessary for facilitating the exercise of his powers under paragraph (a), (c) or (e) above.

(2C) Any person who—

- (a) without reasonable excuse fails to comply with any requirement imposed under subsection (2A) or (2B) above; or
- (b) assaults an officer who is exercising any of the powers conferred on him by either of those subsections or wilfully obstructs an officer in the exercise of any of those powers,

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shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or on conviction on indictment to a fine.”

- (3) In subsection (1) of section 16 of the said Act of 1967 (officers entitled to enforce orders under sections 1 and 2) after paragraph (a) there shall be inserted—

“(aa) any British sea-fishery officer”.

- (4) After subsection (1) of that section there shall be inserted—

“(1A) Any person who assaults an officer who is exercising any of the powers conferred on him by subsection (1) above or wilfully obstructs an officer in the exercise of any of those powers shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to a fine.”

- (5) After subsection (2) of that section there shall be inserted—

“(3) An officer shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on him by this section if the court is satisfied that the act was done in good faith and there were reasonable grounds for doing it.”

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

**C14** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### **Marginal Citations**

**M11** 1967 c. 84.

## **26 British sea-fishery officers.**

- (1) Section 7(1)(e) and (f) of the <sup>M12</sup>Sea Fisheries Act 1968 (officers of Customs and Excise and members of the Coastguard to be British sea-fishery officers) shall cease to have effect.

- (2) In section 8(3) of that Act (general powers of British sea-fishery officers) for paragraph (b) there shall be substituted—

“(b) may require any person on board the boat to produce any document relating to the boat, its fishing operations or other operations ancillary thereto or to the persons on board which is in his custody or possession and may take copies of any such document;

(c) for the purpose of ascertaining whether the master, owner or charterer has committed an offence under any of the provisions mentioned in subsection (1) above, may search the boat for any such document and may require any person on board the boat to do anything which appears to him to be necessary for facilitating the search;

(d) where the boat is one in relation to which he has reason to suspect that such an offence has been committed, may seize and detain any such document produced to him or found on board for the purpose



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of enabling the document to be used as evidence in proceedings for the offence;

but nothing in paragraph (d) above shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.”

(3) For section 8(4) of the said Act of 1968 there shall be substituted—

“(4) Where it appears to a British sea-fishery officer that a contravention of any provision of an order under section 5 above or of section 2 of the Fishery Limits Act 1976 or any order thereunder has at any time taken place within British fishery limits, he may—

- (a) require the master of the boat in relation to which the contravention took place to take, or may himself take, the boat and its crew to the port which appears to him to be the nearest convenient port; and
- (b) detain or require the master to detain the boat in the port;

and where such an officer detains or requires the detention of a boat he shall serve on the master a notice in writing stating that the boat will be or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.”

(4) For section 10(1) of the said Act of 1968 (protection of officers exercising powers under that Act) there shall be substituted—

“(1) A British sea-fishery officer shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on him by section 8 or 9 of this Act, section 15 of the Sea Fish (Conservation) Act 1967 or section 27 of the Fisheries Act 1981, and a foreign sea-fishery officer shall not be liable in any such proceedings for anything done in purported exercise of the powers conferred on him by section 9 of this Act, if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.”.

(5) In section 10(2) of the said Act of 1968 (offences connected with enforcement)—

- (a) in paragraph (a) after the word “fails” there shall be inserted the words “without reasonable excuse”;
- (b) in paragraph (c) for the word “obstructs” there shall be substituted the words “wilfully obstructs”.

(6) After section 10(2) of the said Act of 1968 there is inserted the following—

“(2A) Any person who on any vessel within British fishery limits—

- (a) fails without reasonable excuse to comply with any requirement imposed, or to answer any question asked, by a British sea-fishery officer under section 27 of the Fisheries Act 1981;
- (b) prevents, or attempts to prevent, any other person complying with any such requirement or answering any such question; or
- (c) assaults any such officer while exercising any of the powers conferred on him by that section or wilfully obstructs any such officer in the exercise of any of those powers;

shall be guilty of an offence.”.

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

**C15** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### **Marginal Citations**

**M12** 1968 c. 77.

## **27 Enforcement of provisions as to trans-shipment.**

- (1) For the purpose of enforcing the provisions of an order under section 4A or 6(1A) of the <sup>M13</sup>Sea Fish Conservation Act 1967 or the conditions of any licence granted under section 4A of that Act, a British sea-fishery officer may exercise in relation to any vessel (whether British or foreign) within British fishery limits the powers conferred by the following provisions of this section.
- (2) He may go on board the vessel, with or without persons assigned to assist him in his duties, and for that purpose may require the vessel to stop and do anything else which will facilitate the boarding of the vessel.
- (3) He may require the attendance of the master and other persons on board the vessel and may make any examination and inquiry which appears to him to be necessary for the purpose mentioned in subsection (1) above.
- (4) Where it appears to him that a contravention of the order or a breach of a condition of the licence has at any time taken place he may—
  - (a) require the master of the vessel in relation to which the contravention took place to take, or may himself take, the vessel and its crew to the port which appears to him to be the nearest convenient port, and
  - (b) detain or require the master to detain the vessel in the port;
 and if he detains or requires the detention of the vessel he shall serve on the master a notice in writing stating that the vessel will be or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

#### **Marginal Citations**

**M13** 1967 c. 84.

## **28 Offences by bodies corporate.**

In section 12 of the <sup>M14</sup>Sea Fish (Conservation) Act 1967 (offences committed by bodies corporate) after “section 3”, there shall be inserted “4, 4A, 5”.

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

**C16** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

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#### Marginal Citations

M14 1967 c. 84.

## 29 Jurisdiction.

For section 14 of the Sea Fish (Conservation) Act 1967 (jurisdiction to try offences) there shall be substituted—

Proceedings for an offence under section 1(3), 3, 4, 4A, 5, 6, 7, 15 or 16 of this Act may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.”

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

C17 The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

## 30 Enforcement of Community rules.

- (1) The following provisions apply in relation to enforceable Community restrictions<sup>[F37]</sup>, and enforceable Community obligations,] relating to sea fishing except where, or to the extent that, other provision is made by an order under subsection (2) below—
- (a) if any fishing boat fishes within British fishery limits in contravention of any such restriction <sup>[F38]</sup>or obligation], the master, the owner and the charterer (if any) are each guilty of an offence;
  - (b) sections 11, 12, 14 and 15(2) of the Sea Fish (Conservation) Act 1967 (penalties, jurisdiction and powers of seizure) apply to such offences as they apply to offences under section 5(1) of that Act; and
  - (c) section 8 of the <sup>M15</sup>Sea Fisheries Act 1968 (general powers of British sea fishery officers) has effect in relation to such restrictions <sup>[F39]</sup>and obligations] as it has effect in relation to the provisions mentioned in subsection (1) of that section.
- (2) The Ministers may by order make such provision as appears to them to be requisite for the enforcement of any enforceable Community restriction or other obligation relating to sea fishing; and any such order may in particular contain provisions which (with any necessary modifications) apply or correspond to any relevant provisions of the said Act of 1967 or the said Act of 1968.

<sup>[F40]</sup>(2ZA) The provision that may be made by an order made under subsection (2) by the Secretary of State includes—

- (a) provision applying to English or Welsh fishing boats outside British fishery limits;
- (b) provision applying to persons of a specified description on board any fishing boat, other than a Scottish or Northern Ireland fishing boat, outside British fishery limits.

In this subsection “specified” means specified in the order. ]

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[<sup>F41</sup>(2A) Proceedings for an offence under any order made under subsection (2) above may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.]

[<sup>F42</sup>(2B) Her Majesty may by Order in Council provide for subsection (1) or (2) above to apply, with or without modifications, to any fishing boat within subsection (2C) below that is outside British fishery limits as it applies to any English or Welsh fishing boat outside those limits.]

[<sup>F42</sup>(2C) A fishing boat is within this subsection if—

- (a) it is registered under the law of the Isle of Man or any of the Channel Islands; or
- (b) it is wholly owned by persons qualified for the purposes of the law relating to the registration of vessels in the Isle of Man or any of the Channel Islands to own fishing vessels which are entitled to be registered as such under that law.]

(3) In this section—

”enforceable Community restriction” and ”enforceable Community obligation” mean a restriction or obligation to which section 2(1) of the <sup>M16</sup>European Communities Act 1972 applies;

”fishing boat” means any vessel for the time being employed in fishing operations or any operations ancillary thereto;

”master” includes, in relation to any fishing boat, the person for the time being in command or charge of the boat;

”the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland.

(4) Any order under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[<sup>F43</sup>(5) This section has effect in relation to Scotland with the following modifications (and any other necessary modifications)—

- (a) in subsection (3), in the definition of ”the Ministers”, from ”Minister” to the end there is substituted ”Scottish Ministers”; and
- (b) in subsection [<sup>F44</sup>(4)] for ”either House of” there is substituted ”the Scottish”.]

#### Textual Amendments

**F37** Words in s. 30(1) inserted (S.) (1.8.2007) by [Aquaculture and Fisheries \(Scotland\) Act 2007 \(asp 12\)](#), [ss. 33\(a\)](#), [45\(2\)](#) (with s. 39); S.S.I. 2007/333, art. 2(1)

**F38** Words in s. 30(1)(a) inserted (S.) (1.8.2007) by [Aquaculture and Fisheries \(Scotland\) Act 2007 \(asp 12\)](#), [ss. 33\(b\)](#), [45\(2\)](#) (with s. 39); S.S.I. 2007/333, art. 2(1)

**F39** Words in s. 30(1)(c) inserted (S.) (1.8.2007) by [Aquaculture and Fisheries \(Scotland\) Act 2007 \(asp 12\)](#), [ss. 33\(c\)](#), [45\(2\)](#) (with s. 39); S.S.I. 2007/333, art. 2(1)

**F40** S. 30(2ZA) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 293\(3\)](#), [324\(1\)\(c\)](#), (d)

**F41** S. 30(2A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, [Sch. 2 Pt. I para. 68\(5\)\(a\)](#); S.I. 1998/3178, [art. 3](#)

**F42** S. 30(2B)(2C) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 293\(4\)](#), [324\(1\)\(c\)](#), (d)

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**F43** S. 30(5) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 68(5)(b)**; S.I. 1998/3178, **art. 3**

**F44** Word in s. 30(5)(b) substituted (S.) (1.8.2007) by **Aquaculture and Fisheries (Scotland) Act 2007 (asp 12)**, s. 45(2), **Sch. para. 4** (with s. 39); S.S.I. 2007/333, art. 2(1)

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

**C18** S. 30(2) certain functions made exercisable (28.3.2002) in or as regards N.I. for the purposes of 1998 c. 47, **ss. 6, 86** and transferred by S.I. 2002/790, art. 3(2), **Sch. 2 para. 3(1)**

**C19** S. 30(4) excluded (28.3.2002) by S.I. 2002/790, art. 3(2), **Sch. 2 para. 3(3)**

**Marginal Citations**

**M15** 1968 c. 77.

**M16** 1972 c. 63.

## PART IV

### FISH FARMING

#### 31 Financial assistance.

- (1) The Ministers may, in accordance with a scheme made by them with the approval of the Treasury, make such grants as appear to them to be desirable for the purpose of reorganising, developing or promoting fish farming in [<sup>F45</sup>England and Wales].
- (2) In this section “fish farming” means the breeding, rearing or cultivating of fish (including shellfish) for the purpose of producing food for human consumption.
- (3) A scheme under this section may be confined to the making of such grants as appear to the Ministers to be requisite for enabling persons to benefit from any Community instrument which provides for the making of grants by a Community institution where such grants are also provided by a member State.
- (4) A scheme under this section may extend to [<sup>F46</sup>to England, or to Wales, or to both of them.].
- (5) In this section “the Ministers” means—
  - <sup>F47</sup>(a) . . .
  - (b) in relation to a scheme extending to England only or to England together with Wales <sup>F48</sup>. . . , that Minister or, as the case may be, that Minister and the Secretary of State concerned with fisheries in Wales <sup>F48</sup>. . . ;
  - <sup>F49</sup>(c) in relation to a scheme extending to Wales, the Secretary of State concerned with fisheries in Wales.]but a scheme made by two or more Ministers may provide for payments under the scheme to be made by any of them.
- (6) A scheme under this section shall be laid before Parliament after being made and shall cease to have effect (without prejudice to anything previously done thereunder or to the making of a new scheme) after the expiration of the period of forty days beginning with the day on which it is made unless within that period it has been approved by a resolution of each House of Parliament.

*Status: Point in time view as at 12/11/2009.*

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- (7) In reckoning any period under subsection (6) above no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) Section 17 above shall have effect in relation to a scheme under this section as it has effect in relation to a scheme under Part II of this Act.
- [<sup>F50</sup>(9) This section has effect in relation to Scotland with the following modifications (and any other necessary modifications)–
- (a) in subsection (1), for “England and Wales” there is substituted “Scotland”, and the words “with the approval of Treasury” are omitted;
  - (b) subsection (4) is omitted;
  - (c) in subsection (5), for “(a)” to the end there is substituted “the Scottish Ministers”;
  - (d) in subsection (6), for “Parliament” and “each House of Parliament” there is substituted “the Scottish Parliament”; and
  - (e) in subsection (7)–
    - (i) for “Parliament” there is substituted “the Scottish Parliament”;
    - (ii) the words “or prorogued” are omitted; <sup>F51</sup> . . .
    - (iii) for “both Houses are” there is substituted “the Scottish Parliament is”<sup>F52</sup> and
    - (iv) for “adjourned” there is substituted “in recess”.]

#### Textual Amendments

- F45** Words in s. 31(1) substituted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(6)(a); S.I. 1998/3178, art. 3
- F46** Words in s. 31(4) substituted (1.7.1999) by S.I. 1999/1820 art. 4, Sch. 2 Pt. I para. 68(6)(b); S.I. 1998/3178, art. 3
- F47** Words in s. 31(5)(a) repealed (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(6)(c)(i), Pt. IV; S.I. 1998/3178, art. 3
- F48** Words in s.31(5)(b) repealed (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(6)(c)(ii), Pt. IV; S.I. 1998/3178, art. 3
- F49** S. 31(5)(c) substituted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(6)(c)(iii); S.I. 1998/3178, art. 3
- F50** S. 31(9) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(6)(d); S.I. 1998/3178, art. 3
- F51** Word in s. 31(9) at the end of para.(e)(ii) repealed (27.7.2000) by S.I. 2000/2040, art. 2, Sch. Pt. II para. 10(3)(a), Pt. III (with art. 3)
- F52** S. 31(9)(e)(iv) and word preceding it inserted (27.7.2000) by S.I. 2000/2040, art. 2, Sch. Pt. II para. 10(3)(b) Pt. III (with art. 3)

## 32 Research, development and advice.

- (1) The Minister of Agriculture, Fisheries and Food [<sup>F53</sup>, the Secretary of State concerned with fisheries in Wales, and Scottish Ministers] may each carry out research and development for the purpose of promoting the breeding, rearing or cultivating of fish (including shellfish) for the purpose of producing food for human consumption.

*Status: Point in time view as at 12/11/2009.*

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- (2) Each of those Ministers may provide scientific, technical and 6 other advice and instruction on matters relating to the breeding, rearing or cultivating of fish (including shellfish) whether or not for the purpose of producing food for human consumption.
- (3) Fees may be charged for any advice or instruction provided under this section.

#### Textual Amendments

**F53** Words in s. 32(1) substituted (1.7.1999) by S.I. 1999/1820 art. 4, Sch. 2 Pt. I para. 68(7); S.I. 1998/3178, art. 3

### 33 Exclusion of offences under conservation legislation.

- (1) A person shall not be guilty of an offence mentioned in Part I of Schedule 4 to this Act by reason of anything done or omitted by him in the course of fish farming if it is done or omitted under the authority of an exemption conferred by the Minister and in accordance with any conditions attached to the exemption.
- (2) The Minister may by regulations confer general exemptions for the purposes of subsection (1) above, and such regulations may—
  - (a) make different provision for different methods of fish farming and for other different circumstances; and
  - (b) specify conditions to which the exemptions are subject.
- (3) Regulations under subsection (2) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament [<sup>F54</sup>or, in the case of regulations in relation to Scotland, the Scottish Parliament].
- (4) In the application of subsections (1) and (2) above to offences under the <sup>M17</sup>Salmon and Freshwater Fisheries Act 1975, “the Minister” means, in relation to the area of the Welsh Water Authority, the Secretary of State and, in relation to other areas to which the Act applies, the Minister of Agriculture, Fisheries and Food; and in the application of those subsections to offences under enactments relating to sea fishing, “the Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food, and, in relation to Wales <sup>F55</sup>. . . the Secretary of State concerned with fisheries in that country [<sup>F56</sup>and, in relation to Scotland, the Scottish Ministers].
- (5) It shall be a defence for a person charged with an offence mentioned in Part II of Schedule 4 to this Act to show that he believed on reasonable grounds that the fish with respect to which the offence is alleged to have been committed were produced by fish farming.
- (6) In this section “fish farming” means the breeding, rearing or cultivating of fish (including shellfish) whether or not the purpose of producing food for human consumption; but the reference in subsection (5) above to fish produced by fish farming does not include fish bred, reared or cultivated in captivity which have later been released to the wild.

#### Textual Amendments

**F54** Words in s. 33(3) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(8)(a); S.I. 1998/3178, art. 3

*Status: Point in time view as at 12/11/2009.*

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**F55** Words in s. 33(4) repealed (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(8)(b), Pt. IV; S.I. 1998/3178, art. 3

**F56** Words in s. 33(4) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para 68(8)(b); S.I. 1998/3178, art. 3

**Marginal Citations**

**M17** 1975 c. 51.

**34 Structures for propagating or cultivating shellfish.**

In sections 2, 7, 9 and 12 of the <sup>M18</sup>Sea Fisheries (Shellfish) Act 1967 references to a bed for shellfish, a shellfish bed or an oyster bed shall include references to any structure floating on, or standing or suspended in, water for the propagation or cultivation of shellfish or, as the case may be, oysters; and—

- (a) the area of a fishery to which an order under section 1 of that Act relates may, within the limits specified in subsection (1) of that section, include any waters which contain or are to contain any such structure;
- (b) the reference in section 5 of that Act to cultivating the ground for shellfish shall include a reference to cultivating shellfish by means of any such structure.

**Marginal Citations**

**M18** 1967 c. 83.

**PART V**

MISCELLANEOUS AND SUPPLEMENTARY

**35 Regulation of whaling.**

(1) The <sup>M19</sup>Whaling Industry (Regulation) Act 1934 shall be amended as follows.

(2) for section 1 there shall be substituted—

- (1) Subject to the provisions of this section, references in this Act to whales shall be construed as references to any cetacean, and the reference in section 6(4) (a) to whale products shall be construed accordingly.
- (2) In their application to a ship registered in or licensed under the law of a colony or associated state sections 3 to 6 of this Act shall have effect as if references to whales were references only to the following cetaceans, that is to say—
  - (a) whales known as whalebone whales or baleen whales; and
  - (b) whales known as sperm whales, spermacet whales, cachalots or pot whales;

but Her Majesty may by Order in Council direct that those references shall also include references to all other cetaceans or to any description of other cetaceans specified in the Order.



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- (3) An Order under subsection (2) above may provide that its application by virtue of the Order this Act shall have effect with such exceptions, adaptations or modifications as may be specified in the Order; and any Order under that subsection may be limited so as to apply only in relation to one or more colonies or associated states specified in the Order.
- (4) Neither subsection (1) nor subsection (2) above shall be construed as extending, or enabling an Order to extend, to other cetaceans so much of section 3 of this Act as is expressed to apply only to right whales, grey whales, blue whales or fin whales.”
- (3) In sections 2, 3(1) and 4(2) (penalty for unlawful taking, treating, killing or attempting to kill whales) for the words from “to imprisonment” onwards there shall be substituted the words “ on summary conviction to a fine not exceeding £50,000 or on conviction on indictment to a fine. ”
- (4) In section 6(7) (penalty for contravening condition of licence) for the words from “to imprisonment” to “and such fine” there shall be substituted the words “ on summary conviction to a fine not exceeding £5,000 or on conviction on indictment to a fine. ”
- (5) In sections 6(8) and 9(1) (penalty for failure to keep or falsifying records and for forgery of documents) for the words from “to imprisonment” onwards there shall be substituted the words “ on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to a fine. ”
- (6) In section 8(3) (obstructing inspectors)—
- before the word “refuses”, in each place where it occurs, there shall be inserted the words “ without reasonable excuse ” and for the word “obstructs” there shall be substituted the words “ wilfully obstructs ”;
  - for the words “to a fine not exceeding one hundred pounds” there shall be substituted the words “ on summary conviction to a fine not exceeding £5,000 or on conviction on indictment to a fine. ”
- (7) In section 10(2) (summary proceedings) for the words from the beginning to “proceedings taken by virtue of this Act” there shall be substituted the words “ Summary proceedings taken by virtue of this Act ”.
- (8) For the purposes of section 12 (power to exempt coastal waters of territory whose local law corresponds substantially with provisions of the Act) any provision of the local law may be treated as substantially corresponding to a provision of the Act if it substantially corresponds to that provision with or without any amendment made by or by virtue of this section.

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

**C20** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

**Marginal Citations**

**M19** 1934 c. 49.

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### 36 Landing etc. of whales in Scotland.

- (1) Any person who drives ashore in Scotland any whale of the species of smaller whales known as bottlenose whales and pilot whales shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50,000 or on conviction on indictment to a fine.
- (2) The <sup>M20</sup>Whale Fisheries (Scotland) Act 1907 shall cease to have effect; and in section 17(1) of the <sup>M21</sup>Whaling Industry (Regulation) Act 1934 for the words “the authority having power to grant licences under the Whale Fisheries (Scotland) Act 1907” there shall be substituted the words “ the Secretary of State ”.

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

**C21** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### Marginal Citations

**M20** 1907 c. 41.

**M21** 1934 c. 49.

### 37 Import of live fish.

- (1) The <sup>M22</sup>Import of Live Fish (Scotland) Act 1978 and the <sup>M23</sup>Import of Live Fish (England and Wales) Act 1980 shall be amended as follows.
- (2) In section 1(3) of each Act (matters capable of being authorised by licence) for the words “or keep” there shall be substituted the words “ keep or release ” and in section 3(1)(a)(ii) of each Act for the words “or keeping”, in both places, there shall be substituted the words “ keeping or release ”.
- (3) In section 2(1) of each Act (powers of entry) the words “a police constable” shall be omitted.
- (4) In section 3(3) of each Act (duty of court to order forfeiture on conviction of offence) for the word “shall” there shall be substituted the word “ may ”.

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

**C22** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### Marginal Citations

**M22** 1978 c. 35.

**M23** 1980 c. 27.

*Status: Point in time view as at 12/11/2009.*

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### 38 Fisheries offences on River Tweed.

(1) At the end of section 6 of the <sup>M24</sup>Freshwater and Salmon Fisheries (Scotland) Act 1976 (penalties for offences against fisheries enactments) there shall be inserted the following subsections—

“(3) This section, so far as it relates to the enactments specified in subsection (4) below, shall apply to so much of the River Tweed as is situated outwith Scotland as if it were situated in Scotland.

(4) The enactments referred to in subsection (3) above are—

- (a) sections 15(8), 18, 19 and 20 of the Salmon Fisheries (Scotland) Act 1868;
- (b) section 1 of the Freshwater Fish (Scotland) Act 1902;
- (c) sections 1 to 4, 6, 10(6), 13, 15(2) and 16 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.”

(2) At the end of section 7 of the said Act of 1976 (fish farmers not to be guilty of contravention of certain enactments) there shall be inserted the following subsection—

“(5) This section, so far as it relates to the enactments specified in paragraphs 2, 3, 4, 5(d), 6, 8 and 10 of Schedule 3 to this Act, shall apply to so much of the River Tweed as is situated outwith Scotland as if it were situated in Scotland.”.

(3) At the end of section 9(1) of the said Act of 1976 (interpretation) there shall be inserted the following definition—

““the River Tweed” means “the River” as defined by the Tweed Fisheries Amendment Act 1859, and any bye-law amending that definition.”

(4) At the beginning of section 10(2) of the said Act of 1976 (short title and extent) there shall be inserted the words “ Except insofar as this Act otherwise provides, ”.

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

**C23** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### Marginal Citations

**M24** 1976 c. 22.

### 39 Reports on fisheries.

Section 5(3) of the <sup>M25</sup>Fishery Board (Scotland) Act 1882 (duty of Secretary of State to make annual report regarding fisheries) shall cease to have effect.

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

**C24** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

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#### Marginal Citations

M25 1882 c. 78.

#### 40 Fishery protection in waters adjacent to Northern Ireland.

The Department of Agriculture for Northern Ireland may, with the approval of the Department of Finance for Northern Ireland, incur expenditure in employing officers and vessels and generally taking such measures as appear to it necessary to protect British fisheries in [<sup>F57</sup>the Northern Ireland zone within the meaning of the Northern Ireland Act 1998].

#### Textual Amendments

F57 Words in s. 40 substituted (28.3.2002) by 2002/790, art. 6(4)

#### 41 Orders and schemes.

Any power of any Minister [<sup>F58</sup>, Ministers or of the Scottish Ministers] under this Act to make orders or schemes shall be exercisable by statutory instrument.

#### Textual Amendments

F58 Words in s. 41 substituted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 68(9); S.I. 1998/3178, art. 3

#### 42 Offences by bodies corporate.

Where an offence under Part I, II or IV of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### 43 Financial provisions.

- (1) There shall be paid out of moneys provided by Parliament any sums required by any Minister or Ministers—
  - (a) for making payments to or in respect of members of the Sea Fish Industry Authority and former members of the bodies replaced by that Authority;
  - (b) for providing financial assistance to the Authority (by way of loan, grant or guarantee) under Part I of this Act;
  - (c) for making payments pursuant to any scheme under Part II of IV of this Act;
  - (d) for exercising the powers conferred by section 32 above; or
  - (e) for administrative expenses under this Act.
- (2) Any sums received by any Minister or Ministers under this Act shall be paid into the Consolidated Fund.

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[<sup>F59</sup>(3) Any sums received by the Department of Agriculture and Rural Development under this Act shall be paid into the Consolidated Fund of Northern Ireland.]

#### Textual Amendments

**F59** S. 43(3) added (28.3.2002) by S.I. 2002/790, art. 7(4)

#### 44 General interpretation.

In this Act—

“salmon” includes any fish of the salmon species;

“shellfish” includes crustaceans and molluscs of any kind;

“migratory trout” means any species of trout which migrates to and from the sea.

#### 45 Amendment of section 22(2) of Sea Fish (Conservation) Act 1967.

In subsection (2) of section 22 of the <sup>M26</sup>Sea Fish (Conservation) Act 1967—

- (a) in the definition of “the appropriate Minister” the words “and Wales” shall be omitted and after “Minister of Agriculture, Fisheries and Food” there shall be inserted “ in relation to Wales, means the Secretary of State concerned with the sea fishing industry in Wales ”;
- (b) in paragraph (a) after “Scotland” there shall be inserted “ Wales ”;
- (c) in paragraphs (b) and (c) for “the Secretary of State” there shall be substituted “ the Secretaries of State respectively ” and after “Scotland” there shall be inserted “ and Wales ”.

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

**C25** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

#### Marginal Citations

**M26** 1967 c. 84.

#### 46 Short title, repeals, commencement and extent.

- (1) This Act may be cited as the Fisheries Act 1981.
- (2) The enactments mentioned in Schedule 5 to this Act (which include spent or unnecessary provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Subject to subsection (4) below, this Act shall come into force at the expiration of the period of one month beginning with the date on which it is passed.
- (4) The provisions mentioned in subsection (5) below shall come into force on such day as may be specified by an order of the Ministers (as defined in Part I of this Act) and different days may be specified for different provisions.

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- (5) The provisions referred to in subsection (4) above are Part I, section 31, Schedules 1, 2 and 3 and Part I of Schedule 5.
- (6) The following provisions of this Act do not extend to Northern Ireland, that is to say, section 19(2)(a) and (b), section 25(3), (4) and (5), Part IV, sections 36 to 39 and Schedule 4.
- (7) The provisions capable of being extended to the Isle of Man and Channel Islands under section 24 of the <sup>M27</sup>Sea Fish (Conservation) Act 1967 or section 21 of the <sup>M28</sup>Sea Fisheries Act 1968 shall include the provisions relating to those Acts in Part III of this Act; and the provisions capable of being extended under section 13 of the <sup>M29</sup>Whaling Industry (Regulation) Act 1934 to the territories there mentioned shall include the provisions of section 35 of this Act.

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

- C26** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.
- C27** Power of appointment conferred by s. 46(4)(5) fully exercised: [S.I. 1981/1357](#) and 1981/1640
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**Marginal Citations**

- M27** 1967 c. 84.  
**M28** 1968 c. 77.  
**M29** 1934 c. 49.

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## SCHEDULES

### SCHEDULE 1

Section 1(5).

#### THE SEA FISH INDUSTRY AUTHORITY

##### *Status*

- 1 The Authority shall be a body corporate.
- 2 Except as provided in sections 2(5), 3(6) and 16(1) of this Act the Authority shall not be regarded as acting on behalf of the Crown and neither it nor its members, officers or servants shall be regarded as Crown servants.

##### *Members*

- 3 A member of the Authority shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but a person shall not hold office as a member of the Authority for more than three years under any one appointment.
- 4 A member of the Authority may resign by a notice in writing to any of the Ministers.
- 5 The Ministers may terminate the appointment of a member of the Authority if they are satisfied that—
  - (a) in a period of six months beginning not more than nine months previously he has, without the consent of the other members of the Authority, failed to attend the meetings of the Authority;
  - (b) he is an undischarged bankrupt or has made an arrangement with his creditors or is insolvent within the meaning of paragraph 9(2)(a) of Schedule 3 to the <sup>M30</sup>Conveyancing and Feudal Reform (Scotland) Act 1970;
  - (c) he is by reason of physical or mental illness or for any other reason incapable of carrying out his duties; or
  - (d) he has been convicted of such criminal offence, or his conduct has been such, that it is not in the Ministers' opinion fitting that he should remain a member.

##### **Marginal Citations**

**M30** 1970 c. 35.

- 6 A person who ceases or has ceased to be a member shall be eligible for re-appointment.
- 7 The Ministers shall pay to the members of the Authority such remuneration and allowances as they may with the approval of the Minister for the Civil Service determine.
- 8 The Ministers may, with the approval of the Minister for the Civil Service—

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- (a) pay or make arrangements for the payment of pensions, superannuation allowances or gratuities to or in respect of any person who is or has been a member of the Authority;
  - (b) pay compensation to any person who ceases to be a member of the Authority otherwise than on the expiry of his term of office where the Ministers consider that there are special circumstances making it right that compensation should be paid.
- 9 It shall be the duty of the Ministers to satisfy themselves from time to time that the persons appointed under section 1(3) of this Act continue to have no such financial or commercial interests as are there mentioned; and any such person shall, when requested by the Ministers so to do, furnish to them such information as they may reasonably require for the performance of that duty.
- 10 In Part II of Schedule 1 to the <sup>M31</sup>House of Commons Disqualification Act 1975 and Part II of Schedule 1 to the <sup>M32</sup>Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified under those Acts) there shall be inserted at the appropriate place in alphabetical order— “ The Sea Fish Industry Authority ”.

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

**C28** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

**Marginal Citations**

**M31** 1975 c. 24

**M32** 1975 c. 25.

*Officers and servants*

- 11 (1) The Authority may make arrangements for providing pensions, superannuation allowances or gratuities to or in respect of any of its officers or servants; and such arrangements may include the establishment and administration, by the Authority or otherwise, of one or more pension schemes.
- (2) If an officer or servant of the Authority becomes a member of the Authority and was by reference to his employment by the Authority a participant in a pension scheme maintained by it for the benefit of its officers or servants—
- (a) the Authority may determine that his service as a member shall be treated for the purposes of the scheme as service as an officer or servant of the Authority whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 8 above; but
  - (b) if the Authority determines as aforesaid, any discretion as to the benefits payable to or in respect of him which the scheme confers on the Authority shall be exercised only with the consent of the Ministers given with the approval of the Minister for the Civil Service.



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### *Proceedings*

- 12 The quorum for meetings of the Authority shall be determined by the Ministers and where any business falls to be transacted by a meeting attended only by members appointed under section 1(3) of this Act a separate quorum may be determined for such meetings.
- 13 If at any meeting of the Authority the votes are equally divided on any question, the person acting as chairman of the meeting shall have a second or casting vote.
- 14 The validity of any proceedings of the Authority shall not be affected by any vacancy among the members or by any defect in the appointment of a member.
- 15 (1) If a member of the Authority has any pecuniary interest, direct or indirect, in any contract or proposed contract and is present at a meeting of the Authority at which the contract is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract.
- (2) A general notice given in writing by a member of the Authority to the officer designated by it for the purpose to the effect that he is a member or director or in the employment of a specified company or other body, or that he is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract or proposed contract relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.
- (3) Any disclosure made under sub-paragraph (1) above shall be recorded in the minutes of the meeting at which it is made; and any notice given under sub-paragraph (2) above shall be recorded in a book to be kept for the purpose.
- 16 (1) For the purpose of assisting the Authority in the discharge of its functions the Authority may appoint committees consisting of or including persons who are not members of the Authority.
- (2) The Authority may defray the reasonable expenses incurred in the execution of their duties by members of such committees who are not members of the Authority.
- 17 Subject to paragraphs 12 to 16 above and section 16(2) of this Act, the Authority may regulate its own procedure.

### *Execution of instruments etc.*

- 18 The application of the common seal of the Authority to any document shall be attested by at least one member of the Authority and by the person for the time being acting as secretary to the Authority.
- 19 Any document purporting to be a document duly executed or issued under the seal of the Authority or on behalf of the Authority shall, until the contrary is proved, be deemed to be a document so executed or issued.

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## SCHEDULE 2

### SEA FISH INDUSTRY LEVIES

- 1 At least twenty-eight days before making any regulations under section 4 of this Act the Authority shall cause to be published in the London Gazette, the Edinburgh Gazette and the Belfast Gazette and in such other manner as it thinks best adapted for informing persons affected, a notice of the Authority's intention to make the regulations—
  - (a) specifying the place where the draft regulations may be inspected and copies obtained and the price (being a price approved by the Ministers) at which copies will be supplied; and
  - (b) stating that the Authority is prepared to receive and consider any objection to the proposed regulations which may be made to the Authority in writing within such period after the date of the publication of the notice, not being less than twenty-eight days, as may be specified in the notice;
 and the Authority shall, before making the regulations, take into consideration any such objection so made to them before the end of the period specified in the notice.
- 2 When submitting any regulations to the Ministers the Authority shall transmit to them any objection to the regulations which has been duly made to the Authority and has not been withdrawn, and the Ministers shall consider any objections so transmitted to them.
- 3 The order confirming any regulations shall set out the regulations; but before making any such order the Ministers may, after holding such inquiries (if any) as they think fit, make such modifications in the regulations as they may, after consultation with the Authority, consider desirable; but if they decide to make any modifications they shall cause notice of the modifications to be published in such manner as they think best adapted for informing persons affected.

## SCHEDULE 3

### WHITE FISH AUTHORITY AND HERRING INDUSTRY BOARD: CONSEQUENTIAL PROVISIONS

#### *General*

- 1 On the date of the coming into force of section 13(1) of this Act (“the transfer date”) all rights, obligations and property of the White Fish Authority and the Herring Industry Board (“the existing bodies”) shall become rights, obligations and property of the Authority.

#### *Staff and pensions*

- 2 The rights and obligations transferred by paragraph 1 above include rights and obligations under contracts of employment with the officers and servants of the existing bodies; and in determining for the purposes of pension or redundancy the length of service of any person who by virtue of that paragraph becomes an officer or servant of the Authority his service with either of the existing bodies shall be treated as if it had been service with the Authority.

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- 3 (1) Any pension scheme maintained by either of the existing bodies immediately before the transfer date shall on and after that date be treated as a scheme established by the Authority under paragraph 11 of Schedule 1 to this Act.
- (2) The Ministers may, with the approval of the Minister for the Civil Service, pay pensions, superannuation allowances or gratuities to or in respect of former members of either of the existing bodies.

*Schemes of financial assistance*

F60 4 .....

**Textual Amendments**

F60 Sch. 3 paras. 4-7 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 6

*Levies*

F60 5 .....

**Textual Amendments**

F60 Sch. 3 paras. 4-7 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 6

*Lending limit*

F60 6 .....

**Textual Amendments**

F60 Sch. 3 paras. 4-7 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 6

*Accounts*

F60 7 .....

**Textual Amendments**

F60 Sch. 3 paras. 4-7 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 6

*Other statutory functions*

- 8 (1) As from the transfer date the functions of the White Fish Authority and the Herring Industry Board under—
- (a) section 31(12) of the <sup>M33</sup>Harbours Act 1964 (consultation on objections to ship, passenger and goods dues); and
  - (b) rule 124 of the <sup>M34</sup>Fishing Vessels (Safety Provisions) Rules 1975 (appointment of inspectors and surveyors),

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are transferred to the Authority, and those enactments are amended as follows,

- (2) In section 31(12)—
- (a) for “the White Fish Authority or the Herring Industry Board” there is substituted “ the Sea Fish Industry Authority ”; and
  - (b) for “the Authority or as the case may be the Board” there is substituted “ the Authority ”.
- (3) In rule 124—
- (a) for “the Sea Fish Industry Act 1970” there is substituted “ the Fisheries Act 1981 ”; and
  - (b) for “the the White Fish Authority or the Herring Industry Board” in the first place where those words occur, there is substituted “ the Sea Fish Industry Authority ” and in the second place where they occur, there is substituted “ or the Sea Fish Industry Authority ”.
- (4) Anything which when this paragraph comes into force is in process of being done under section 31(12) by or in relation to the White Fish Authority or the Herring Industry Board may be continued by or in relation to the Authority; and any appointment under rule 124 made by either of those bodies before this paragraph comes into force shall have effect as if made by the Authority so far as is necessary for continuing its effect.

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

**C29** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

**Marginal Citations**

**M33** 1964 c. 40.

**M34** S.I. 1975/330.

## SCHEDULE 4

### EXEMPTIONS FOR FISH FARMING

#### PART I

##### OFFENCES TO WHICH SECTION 33(1) OF THIS ACT APPLIES

##### *Offences under the Salmon and Freshwater Fisheries Act 1975*

- 1 Any offence under section 2(2)(a) of the <sup>M35</sup>Salmon and Freshwater Fisheries Act 1975 (taking, killing or injuring or attempting to take, kill or injure, unclean or immature fish).

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#### Marginal Citations

M35 1975 c. 51.

- 2 Any offence under section 3 of that Act (restriction on shooting or working seine or draft net in certain waters and prohibition on use of certain nets).
- 3 Any offence under section 5(1) of that Act (prohibition on use of explosives, poison or electrical devices to take or destroy fish) relating to the use of a noxious substance or electrical device, and any offence under section 5(4) of that Act relating to the possession of such a substance or device.
- 4 Any offence under section 19 of that Act (fishing for, taking or killing or attempting to take or kill fish during close seasons or close times).
- 5 Any offence under section 27 of that Act (fishing for or taking fish without a licence or possession of equipment with intent to use it for an unlicensed purpose).

*[<sup>F61</sup> Offences against byelaws relating to salmon and other freshwater fishing]*

#### Textual Amendments

**F61** Sch. 4 para. 6 and preceding cross-heading substituted for para. 6 (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60\), ss. 2, 4\(2\), Sch. 1 para. 37](#)

- <sup>F62</sup> Any offence under section 211 of the Water Resources Act 1991 consisting in a contravention of a byelaw made for any of the following purposes mentioned in paragraph 6(2) of Schedule 25 to that Act—
- (a) prohibiting the taking or removal from any water without lawful authority of any fish, whether alive or dead;
  - (b) prohibiting or regulating the taking of trout or any freshwater fish of a size less than that prescribed by the byelaw;
  - (c) prohibiting the use for taking salmon, trout, or freshwater fish of any instrument (not being a fixed engine) in such waters and at such times as are prescribed by the byelaw;
  - (d) specifying the nets and other instruments (not being fixed engines) which may be used for taking salmon, trout, freshwater fish and eels and imposing requirements as to the use of such nets and other instruments;
  - (e) imposing requirements as to the construction, design, material and dimensions of any such nets or instruments, including in the case of nets the size of mesh;
  - (f) prohibiting the carrying in any boat or vessel whilst being used in fishing for salmon or trout of any net which is not licensed, or which is without the mark, label or number prescribed by the byelaw;
  - (g) prohibiting or regulating the carrying in a boat or vessel during the annual close season for salmon of a net capable of taking salmon, other than a net commonly used in the area to which the byelaw applies for sea fishing and carried in a boat or vessel commonly used for that purpose.]

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*Offences relating to sea fishing*

- [<sup>F63</sup> Any offence consisting of a contravention of a byelaw made under section 4 of the <sup>M36</sup>Sea Fisheries (Scotland) Amendment Act 1885 (byelaws prohibiting or regulating methods of fishing).]

**Textual Amendments**

**F63** Sch. 4 Pt. I paras. 7, 8 repealed (S.) by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\)](#), s. 10(2), [Sch. 2](#)

**Marginal Citations**

**M36** 1885 c. 70.

- 8 Any offence under section 6(1) of the <sup>M37</sup>Herring Fishery (Scotland) Act 1889 (prohibition on beam or otter trawling in certain areas) and any offence consisting of a contravention of a byelaw made under section 7(1) of that Act (power to prohibit beam or otter trawling in certain other areas).

**Marginal Citations**

**M37** 1889 c. 23.

- 9 ..... <sup>F64</sup>

**Textual Amendments**

**F64** Sch. 4 Pt. I para. 9 repealed by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\)](#), s. 10(2), [Sch. 2](#) and [Statute Law \(Repeals\) Act 1986 \(c.12\)](#), s. 1(1), [Sch. 1 Pt. XI](#)

- 10 Any offence consisting of a contravention of a byelaw made under section 5 of the <sup>M38</sup>Sea Fisheries Regulation Act 1966 (byelaws for the regulation of sea fishing).

**Marginal Citations**

**M38** 1966 c. 38.

- 11 Any offence under section 17 of the <sup>M39</sup>Sea Fisheries (Shellfish) Act 1967 of taking an edible crab or landing a lobster in a condition prohibited by subsection (1) or (3) of that section.

**Marginal Citations**

**M39** 1967 c. 83.

- 12 Any offence under section 1(1) or (3) of the <sup>M40</sup>Sea Fish (Conservation) Act 1967 (landing or carrying fish smaller than prescribed size).

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**Marginal Citations**

**M40** 1967 c. 84.

- 13 Any offence under section 3(5) of that Act (contravention of order regulating nets and gear).
- 14 Any offence under section 4(3) or (9A) of that Act (contravention of order prohibiting fishing without licence and failure to return to sea fish caught in contravention of such a prohibition).
- 15 Any offence under section 4A(3) of that Act (contravention of order prohibiting trans-shipment of fish without licence).
- 16 Any offence under section 5(1) or (6) of that Act (contravention of order prohibiting fishing and failure to return to sea fish caught in contravention of such a prohibition).
- 17 Any offence under section 6 of that Act (landing or trans-shipping fish in contravention of order).
- [<sup>F65</sup>17A Any offence under section 3 of the Inshore Fishing (Scotland) Act 1984 (fishing with mobile gear near fixed salmon nets or contravention of order restricting fishing for sea fish).]

**Textual Amendments**

**F65** Sch. 4 Pt. I para. 17A added (S.) by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\)](#), s. 10(2), **Sch. 1**

**PART II**

OFFENCES TO WHICH SECTION 33(5) OF THIS ACT APPLIES

*Offences relating to freshwater fish and salmon*

<sup>F66</sup>18 .....

**Textual Amendments**

**F66** Sch. 4 paras. 18-25 repealed (S. except in relation to the River Tweed or the Upper Esk) (1.4.2005) by [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003 \(asp 15\)](#), ss. 70(2), 71(2), **Sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and repealed (in relation to the Tweed district) (15.11.2006) by [Scotland Act 1998 \(River Tweed\) Order 2006 \(S.I. 2006/2913\)](#), art. 1(2)(3), **Sch. 4 Pt. 2**

<sup>F66</sup>19 .....

**Textual Amendments**

**F66** Sch. 4 paras. 18-25 repealed (S. except in relation to the River Tweed or the Upper Esk) (1.4.2005) by [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003 \(asp 15\)](#), ss. 70(2), 71(2), **Sch.**

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**4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and repealed (in relation to the Tweed district) (15.11.2006) by Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2)(3), **Sch. 4 Pt. 2**

F6620 .....

**Textual Amendments**

**F66** Sch. 4 paras. 18-25 repealed (S. except in relation to the River Tweed or the Upper Esk) (1.4.2005) by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), ss. 70(2), 71(2), **Sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and repealed (in relation to the Tweed district) (15.11.2006) by Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2)(3), **Sch. 4 Pt. 2**

F6621 .....

**Textual Amendments**

**F66** Sch. 4 paras. 18-25 repealed (S. except in relation to the River Tweed or the Upper Esk) (1.4.2005) by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), ss. 70(2), 71(2), **Sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and repealed (in relation to the Tweed district) (15.11.2006) by Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2)(3), **Sch. 4 Pt. 2**

F6622 .....

**Textual Amendments**

**F66** Sch. 4 paras. 18-25 repealed (S. except in relation to the River Tweed or the Upper Esk) (1.4.2005) by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), ss. 70(2), 71(2), **Sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and repealed (in relation to the Tweed district) (15.11.2006) by Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2)(3), **Sch. 4 Pt. 2**

F6623 .....

**Textual Amendments**

**F66** Sch. 4 paras. 18-25 repealed (S. except in relation to the River Tweed or the Upper Esk) (1.4.2005) by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), ss. 70(2), 71(2), **Sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and repealed (in relation to the Tweed district) (15.11.2006) by Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2)(3), **Sch. 4 Pt. 2**

F6624 .....

**Textual Amendments**

**F66** Sch. 4 paras. 18-25 repealed (S. except in relation to the River Tweed or the Upper Esk) (1.4.2005) by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), ss. 70(2), 71(2), **Sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and repealed (in relation to the Tweed district) (15.11.2006) by Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2)(3), **Sch. 4 Pt. 2**

F6625 .....



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**Textual Amendments**

**F66** Sch. 4 paras. 18-25 repealed (S. except in relation to the River Tweed or the Upper Esk) (1.4.2005) by [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003 \(asp 15\)](#), ss. 70(2), 71(2), **Sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and repealed (in relation to the Tweed district) (15.11.2006) by [Scotland Act 1998 \(River Tweed\) Order 2006 \(S.I. 2006/2913\)](#), art. 1(2)(3), **Sch. 4 Pt. 2**

26 An offence under section 2(2)(b) of the <sup>M41</sup>Salmon and Freshwater Fisheries Act 1975 (buying, selling, exposure for sale or possession of unclean or immature fish or parts of such fish).

**Marginal Citations**

**M41** 1975 c. 51.

27 Any offence under section 22(1) of that Act (buying, selling, exposure for sale or possession for sale of fish at prohibited times of year).

28 Any offence under subsection (3) of section 23 of that Act of entering for export or exporting fish contrary to subsection (1) of that section (unclean fish and fish caught at a time when their sale is prohibited).

*Offences relating to sea fishing*

29 ..... <sup>F67</sup>

**Textual Amendments**

**F67** Sch. 4 Pt. II para. 29 repealed by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\)](#), s. 10(2), **Sch. 2** and [Statute Law \(Repeals\) Act 1986 \(c.12\)](#), s. 1(1), **Sch. 1 Pt. XI**

30 Any offence under section 16 of the <sup>M42</sup>Sea Fisheries (Shellfish) Act 1967 (sale, exposure for sale, buying for sale or consignment for the purpose of sale of oysters at prohibited times of year).

**Marginal Citations**

**M42** 1967 c. 83

31 Any offence under section 17(1) of that Act of possessing, selling or offering for sale, buying for sale or consigning for the purpose of sale an edible crab in a condition prohibited by that subsection.

32 Any offence under section 17(3) of that Act of selling, exposing or offering for sale, or possessing for the purpose of sale a lobster in a condition prohibited by that subsection.

33 Any offence under section 1(2) of the <sup>M43</sup>Sea Fisheries (Conservation) Act 1967 (selling, exposing or offering for sale, or possessing for the purpose of sale fish smaller than the prescribed size).

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#### Marginal Citations

**M43** 1967 c. 84.

34 Any offence under section 2 of that Act (possession for use in the course of a business of fish prohibited from being sold under section 1(2) of that Act).

[<sup>F68</sup>34A Any offence under section 3 of the Inshore Fishing (Scotland) Act 1984 (fishing with mobile gear near fixed salmon nets or contravention of order restricting fishing for sea fish).]

#### Textual Amendments

**F68** Sch. 4 Pt. II para. 34A added (S.) by Inshore Fishing (Scotland) Act 1984 (c. 26, SIF 52:1), s. 10(2), **Sch. 1**

## SCHEDULE 5

Section 46.

### REPEALS

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

**C30** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), 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.

## PART I

### WHITE FISH AUTHORITY AND HERRING INDUSTRY BOARD

Chapter	Short title	Extent of repeal
1970 c. 11.	The Sea Fish Industry Act 1970.	The whole Act except sections 14, 42 and 62.
1972 c. 11.	The Superannuation Act 1972.	In Schedule 4, the entry relating to the White Fish Authority. In Schedule 6, paragraph 79.
1973 c. 3.	The Sea Fish Industry Act 1973.	The whole Act.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entries relating to the Herring Industry Board, the White Fish Authority and the committee constituted under section 2 of the Sea Fish Industry Act 1970.

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1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the entries relating to the Herring Industry Board, the White Fish Authority and the committee constituted under section 2 of the Sea Fish Industry Act 1970.
1976 c. 86.	The Fishery Limits Act 1976.	In Schedule 1, paragraph 4. In Schedule 2, paragraph 18.
1980 c. 35.	The Sea Fish Industry Act 1980.	The whole Act.

## PART II

### MISCELLANEOUS

Chapter or number	Title	Extent of repeal
48 Geo. 3. c. 110.	The Herring Fishery (Scotland) Act 1808.	Section 48. Section 50. Section 57.
55 Geo. 3. c. 94.	The Herring Fishery (Scotland) Act 1815.	Section 41.
1 & 2 Geo. 4. c. 79.	The White Herring Fishery (Scotland) Act 1821.	Section 5.
45 & 46 Vict. c. 78.	The Fishery Board (Scotland) Act 1882.	Section 5(3).
7 Edw. 7. c. 41.	The Whale Fisheries (Scotland) Act 1907.	The whole Act.
12 & 13 Geo. 5. c. 34.	The Whale Fisheries (Scotland) Amendment Act 1922.	The whole Act.
24 & 25 Geo. 5. c. 49.	The Whaling Industry (Regulation) Act 1934.	In section 17(2) the words “the Whale Fisheries (Scotland) Acts 1907 and 1922, and of”.
S.R. & O. 1937 No. 628.	The Whaling Industry (Sperm Whales) Order 1937.	The whole Order.
1967 c. 84.	The Sea Fish (Conservation) Act 1967.	In section 22(2) the words “and Wales”. Section 23(1).
1968 c. 77.	The Sea Fisheries Act 1968.	Section 7(1)(e) and (f).

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		Section 16.
1976 c. 86.	The Fishery Limits Act 1976.	In section 2(8)(d) the words “and (4)” in the first place where they occur.  In Schedule 1, paragraphs 2 and 3(2).  In Schedule 2, in paragraph 16(1) the words “1(3) and (4)” and “5(2) and (8)”, paragraph 16(2) and (7) and in paragraph 17(1) the figure “(4)”.
1978 c. 35.	The Import of Live Fish (Scotland) Act 1978.	In section 2(1) the words “a police constable”.
1980 c. 27.	The Import of Live Fish (England and Wales) Act 1980.	In section 2(1) the words “a police constable”.

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**Status:**

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