

Changes to legislation: There are currently no known outstanding effects for the Fisheries Act 1981, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4 **E+W+S**

EXEMPTIONS FOR FISH FARMING

PART I **E+W+S**

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 ^{M1}Salmon and Freshwater Fisheries Act 1975 (taking, killing or injuring or attempting to take, kill or injure, unclean or immature fish).

Marginal Citations

M1 1975 c. 51.

^{F1}2

Textual Amendments

F1 Sch. 4 para. 2 repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 22 Pt. 5\(B\)](#); S.I. 2009/3345, art. 2, Sch. para. 27(b)

- 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.

^{F2}4

Textual Amendments

F2 Sch. 4 para. 4 repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 22 Pt. 5\(B\)](#); S.I. 2009/3345, art. 2, Sch. para. 27(b)

- 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).

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[^{F3} Offences against byelaws relating to salmon and other freshwater fishing]

Textual Amendments

F3 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](#)

- ^{F4} 6 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 [^{F5}to which paragraph 6 of that Schedule applies,] whether alive or dead;
 - [specifying close seasons or times for the taking of any fish to which that
 - ^{F6}(aa) paragraph applies by such means as may be prescribed by the byelaws;]
 - (b) prohibiting or regulating the taking of [^{F7}any fish to which that paragraph applies of a size greater or] less than that prescribed by the byelaw;
 - (c) prohibiting the use for taking [^{F8}fish to which that paragraph applies] of any instrument ^{F9} ... in such waters and at such times as are prescribed by the byelaw;
 - (d) specifying the nets and other instruments ^{F10} ... which may be used for taking [^{F11}fish to which that paragraph applies] 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 [^{F12}fish to which that paragraph applies] of any net [^{F13}which may not lawfully be used], 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 [^{F14}any close season or time for any description of fish to which that paragraph applies of a net capable of taking fish of that description], 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.]

Offences relating to sea fishing

- ^{F157} Any offence consisting of a contravention of a byelaw made under section 4 of the ^{M2} Sea Fisheries (Scotland) Amendment Act 1885 (byelaws prohibiting or regulating methods of fishing).

Textual Amendments

F15 Sch. 4 Pt. 1 paras. 7, 8 repealed (S.) by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\), s. 10\(2\), Sch. 2](#)

Marginal Citations

M2 1885 c. 70.

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- 8 Any offence under section 6(1) of the ^{M3}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).]

Textual Amendments

F15 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

M3 1889 c. 23.

^{F16}9

Textual Amendments

F16 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](#)

^{F17}10

Textual Amendments

F17 Sch. 4 para. 10 repealed (1.4.2010 for W., 1.4.2011 for E.) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 22 Pt. 4](#); S.I. 2010/630, art. 3(b) (with arts. 812)

- 11 Any offence under section 17 of the ^{M4}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

M4 1967 c. 83.

- 12 Any offence under section 1(1) or (3) of the ^{M5}Sea Fish (Conservation) Act 1967 (landing or carrying fish [^{F18}smaller than prescribed size][^{F18}which do not meet prescribed size requirements]).

Textual Amendments

F18 Words in Sch. 4 para. 12 substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 15 para. 5\(2\)\(a\)](#); S.I. 2009/3345, art. 2, Sch. para. 8

Marginal Citations

M5 1967 c. 84.

- 13 Any offence under section 3(5) [^{F19}or (5A)] of that Act (contravention of order regulating nets and gear).

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Textual Amendments

F19 Words in Sch. 4 para. 13 inserted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 15 para. 5\(2\)\(b\)](#); S.I. 2009/3345, art. 2, Sch. para. 8

- 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 [^{F20}or restricting] fishing and failure to return to sea fish caught in contravention of such a prohibition).

Textual Amendments

F20 Words in Sch. 4 para. 16 inserted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 15 para. 5\(2\)\(c\)](#); S.I. 2009/3345, art. 2, Sch. para. 8

- 17 Any offence under section 6 of that Act (landing or trans-shipping fish in contravention of order).
- [^{F21}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

F21 Sch. 4 Pt. I para. 17A added (S.) by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\)](#), s. 10(2), [Sch. 1](#)

- [^{F22}17B Any offence under section 163 of the [Marine and Coastal Access Act 2009](#) (contravention of byelaws made by inshore fisheries and conservation authorities).]

Textual Amendments

F22 Sch. 4 para. 17B inserted (1.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 14 para. 10](#); S.I. 2011/556, art. 2(2)(k)

- [^{F23}17C Any offence under section 190 of the [Marine and Coastal Access Act 2009](#) (contravention of an order made by the Welsh Ministers in relation to fisheries in Wales).]

Textual Amendments

F23 Sch. 4 para. 17C inserted (E.W.) (12.5.2010) by [Marine and Coastal Access Act 2009 \(Consequential Provisions\) \(Wales\) Order 2010 \(S.I. 2010/1410\)](#), arts. 1(2), 2

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PART II E+W+S

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

Offences relating to freshwater fish and salmon

F2418

Textual Amendments

F24 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**

F2419

Textual Amendments

F24 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**

F2420

Textual Amendments

F24 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**

F2421

Textual Amendments

F24 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**

F2422

Textual Amendments

F24 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**

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F24 23

Textual Amendments
F24 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**

F24 24

Textual Amendments
F24 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**

F24 25

Textual Amendments
F24 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 ^{M6}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
M6 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).

F25 28

Textual Amendments
F25 Sch. 4 para. 28 repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 22 Pt. 5(B)**; S.I. 2009/3345, art. 2, Sch. para. 27(b)

Offences relating to sea fishing

F26 29

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Textual Amendments

F26 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 ^{M7}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

M7 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 [^{F27}the Sea Fish (Conservation) Act 1967] (selling, exposing or offering for sale, or possessing for the purpose of sale fish [^{F27} which do not meet the prescribed size requirements]).

Textual Amendments

F27 Words in Sch. 4 para. 33 substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 15 para. 5(3)(a)(b)**; S.I. 2009/3345, art. 2, Sch. para. 8; same words substituted (S.) (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), s. 168(1), **Sch. 4 para. 11(3)** (with s. 162); S.S.I. 2011/58, art. 2(b)

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).

[^{F28}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

F28 Sch. 4 Pt. II para. 34A added (S.) by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\)](#), s. 10(2), **Sch. 1**

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