



Diseases of Fish Act 1983 (repealed)

1983 CHAPTER 30

Amendments of 1937 Act

1 Importation of live salmon.

- (1) In the Diseases of Fish Act 1937 (“the ^{M1}1937 Act”) section 1 (restriction on importation of live fish and eggs of fish) shall be amended as follows.
- (2) In subsection (1) (unlawful to import or bring into Great Britain any live fish of the salmon family) there shall be inserted at the beginning “Subject to subsection (6) of this section”.
- (3) At the end of the section there shall be inserted—
 - “(6) Subsection (1) of this section shall not apply to any fish of a description specified in an order made by the Minister under this subsection.
 - (7) The description may be made by reference to species, place of origin or any other factor.
 - (8) Where an order under subsection (6) of this section has effect in relation to any fish, subsection (2) to (5) of this section shall have effect as if it were a freshwater fish.
 - (9) The power to make an order under subsection (6) of this section shall be exercisable by statutory instrument, and no such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
 - (10) An order under subsection (6) of this section may be varied or revoked by a subsequent order made under that subsection.”

Marginal Citations

M1 1937 c. 33.

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Changes to legislation: There are currently no known outstanding effects for the Diseases of Fish Act 1983 (repealed), Cross Heading: Amendments of 1937 Act. (See end of Document for details)

2 Infected waters.

The following shall be substituted for section 2 of the 1937 Act (provisions as to infected areas)—

“2 Power to designate areas.

- (1) If, at any time, the Minister has reasonable grounds for suspecting that any inland or marine waters are or may become infected waters, he may by order designate the waters and such land adjacent to them as he considers appropriate in the circumstances; and in the following provisions of this section “designated area” means anything designated by an order under this section.
- (2) The Minister may, to such extent as he considers practicable and desirable for the purpose of preventing the spread of infection among fish, by the same or a subsequent order—
 - (a) prohibit or regulate the taking into or out of the designated area of such of the following (or of such description of them) as may be specified in the order, namely, live fish, live eggs of fish and foodstuff for fish;
 - (b) regulate the movement within the area of such of those things (or of such description of them) as may be specified in the order.
- (3) Any person who is the occupier of any inland waters in a designated area, or carries on the business of fish farming in any marine waters in such an area, shall be entitled, on application, to be supplied by the Minister free of charge with a report of the evidence on which the order was made.

This subsection does not apply to Scotland.

- (4) In Scotland any person who—
 - (a) is the occupier of any inland waters;
 - (b) carries on the business of fish farming in any marine waters;
 - (c) has a right to fish for salmon in any marine waters; or
 - (d) has a right of fishing in any private non-navigable marine waters,
 which are in a designated area, shall be entitled, on application, to be supplied by the Secretary of State free of charge with a report of the evidence on which the order was made.
- (5) Any order under this section shall be published in the prescribed manner and may be varied or revoked by a subsequent order made under this section.
- (6) If any person intentionally contravenes any provision of an order under this section he shall be guilty of an offence.

2A Designated areas: direction to remove fish.

- (1) Where an order is in force under section 2 of this Act, the Minister may serve a notice in writing on—
 - (a) any occupier of inland waters situated in the designated area (that is, the area designated by the order);
 - (b) any person carrying on the business of fish farming in marine waters situated in the designated area.

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- (2) A notice served on a person under subsection (1)(a) of this section may direct him to take such practicable steps as are specified in the notice to secure the removal of dead or dying fish from the waters concerned, and may regulate the manner in which any fish removed from the waters, and any parts of such fish, are to be disposed of.
- (3) A notice served on a person under subsection (1)(b) of this section may direct him to take such practicable steps as are specified in the notice to secure the removal of dead or dying fish from any cage which is owned or possessed by him, is used for the purposes of the business and is situated in the waters concerned, and may regulate the manner in which any fish removed from such a cage, and any parts of such fish, are to be disposed of.
- (4) No notice may be served under subsection (1)(a) of this section in respect of waters in the area of a water authority, not being a fish farm.
- (5) If the Minister is satisfied that a direction contained in a notice served under this section has not been complied with within the time specified in the notice, he may authorise an inspector to carry out the direction, and any expenses reasonably incurred by the inspector in so doing shall be recoverable by the Minister from the person upon whom the notice was served; and if any person intentionally does any act which is prohibited by such a notice, he shall be guilty of an offence unless he shows that he did not know that the act was so prohibited.

2B Designated areas: authority to remove fish.

- (1) Where an order is in force under section 2 of this Act, the Minister, if he is satisfied that for the protection against disease of the stock of fish in any waters it is necessary to do so, may by a notice served under section 2A of this Act or otherwise in writing give authority falling within subsection (2) or (3) of this section; and in those subsections "the designated area" means the area designated by the order.
- (2) Authority falling within this subsection is authority to any occupier of inland waters situated in the designated area to remove, notwithstanding anything in any agreement to the contrary, any fish (or any fish of a description specified in the authorisation) from the waters, and to do so by such agents and by such methods (including methods otherwise illegal) as the Minister considers to be most expedient for the purpose.
- (3) Authority falling within this subsection is authority to any person carrying on the business of fish farming in marine waters situated in the designated area to remove, notwithstanding anything in any agreement to the contrary, any fish (or any fish of a description specified in the authorisation) from any cage which is owned or possessed by him, is used for the purposes of the business and is situated in the waters, and to do so by such agents and by such methods (including methods otherwise illegal) as the Minister considers to be most expedient for the purpose.
- (4) No authority may be given as mentioned in subsection (2) of this section in respect of waters in the area of a water authority, not being a fish farm.

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- (5) Where a person has in pursuance of an authority under this section removed any fish, he shall comply with any directions given to him by the Minister as to the manner in which the fish, and any parts of such fish, are to be disposed of; and, if he intentionally fails to comply with any such directions, he shall be guilty of an offence.”

3 Infected waters: preliminary precautions.

The following shall be substituted for section 4 of the 1937 Act (preliminary precautions where waters of fish farm are suspected to be infected)—

“4 Preliminary precautions: inland waters.

- (1) If an inspector has reasonable grounds for suspecting that any inland waters which are the waters of any fish farm are infected waters, he may serve the prescribed notice upon the occupier of the fish farm and (if the inspector serves such a notice) he shall report the facts to the Minister.
- (2) Where a notice has been served under subsection (1) of this section—
- (a) no live fish and no live eggs of fish shall, without the permission of the Minister, be taken into or out of the fish farm, and
 - (b) no foodstuff for fish shall, without the permission of the Minister, be taken out of the fish farm,
- until after the expiration of thirty days from the service of the notice, unless before the expiration of that period the occupier receives from the Minister a written intimation that such permission is no longer required.
- (3) Where a notice has been served upon an occupier under subsection (1) of this section, the Minister may if he thinks it desirable authorise an inspector to serve a further prescribed notice upon the occupier so long as no written intimation under subsection (2) above has been given to the occupier; and if the inspector does so before the expiration of thirty days from the service of the first notice, that subsection shall have effect in relation to the fish farm concerned as if for ‘thirty’ there were substituted ‘sixty’.
- (4) A person who intentionally takes any fish, eggs or foodstuff into or out of a fish farm while the taking is prohibited by this section shall be guilty of an offence, unless he shows that he did not know that the taking was prohibited.
- (5) If any person entitled to take fish from any inland waters, or employed for the purpose of having the care of any inland waters, has reasonable grounds for suspecting that the waters are infected waters, it shall be his duty forthwith to report the facts in writing to the Minister or, if the waters are not a fish farm, to the water authority in whose area the waters are situated; and if without reasonable excuse he fails to do so, he shall be guilty of an offence.

This subsection does not apply to Scotland.

- (6) In Scotland if any person entitled to take fish from any inland waters, or employed for the purpose of having the care of any inland waters, has reasonable grounds for suspecting that the waters are infected waters, it shall be his duty forthwith to report the facts in writing to the Secretary of State, or, if the waters are situated in the area of a district board and are not a fish farm, to

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the board; and if without reasonable excuse he fails to do so, he shall be guilty of an offence.

4A Preliminary precautions: marine waters.

(1) If an inspector has reasonable grounds for suspecting that any marine waters are infected waters—

- (a) he may serve, upon any person who owns or possesses a cage which is situated in the waters and is used by him for the purposes of a business of fish farming carried on by him, the prescribed notice specifying the waters suspected to be infected waters, and
- (b) if the inspector serves such a notice, he shall report the facts to the Minister,

and in the following provisions of this section "the farmer" means the person so served.

(2) Where a notice has been served under subsection (1) of this section—

- (a) no live fish and no live eggs of fish shall, without the permission of the Minister, be taken into or out of any cage which is situated in the waters specified in the notice and is used by the farmer for the purposes of a business of fish farming carried on by him, and
- (b) no foodstuff for fish shall, without the permission of the Minister, be taken out of any such cage,

until after the expiration of thirty days from the service of the notice, unless before the expiration of that period the farmer receives from the Minister a written intimation that such permission is no longer required.

(3) Where a notice has been served upon a farmer under subsection (1) of this section, the Minister may if he thinks it desirable authorise an inspector to serve a further prescribed notice upon the farmer so long as no written intimation under subsection (2) above has been given to the farmer; and if the inspector does so before the expiration of thirty days from the service of the first notice, that subsection shall have effect in relation to any cage concerned as if for "thirty" there were substituted "sixty".

(4) A person who intentionally takes any fish, eggs or foodstuff into or out of a cage while the taking is prohibited by this section shall be guilty of an offence, unless he shows that he did not know that the taking was prohibited.

(5) If any person who—

- (a) owns or possesses a cage which is situated in marine waters and is used by him for the purposes of a business of fish farming carried on by him, or
- (b) is employed for the purpose of having the care of a cage so situated and used for the purposes of a business of fish farming,

has reasonable grounds for suspecting that the waters in which the cage is situated are infected waters, it shall be his duty forthwith to report the facts in writing to the Minister; and if without reasonable excuse he fails to do so, he shall be guilty of an offence.

(6) In Scotland if any person who—

- (a) has a right to fish for salmon in any marine waters; or

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- (b) has a right of fishing in any private non-navigable marine waters; or
- (c) is employed for the purposes of having the care of any waters mentioned in paragraph (a) or (b) above,

has reasonable grounds for suspecting that the waters (excluding any marine waters in which a cage used for the purposes of a business of fish farming is situated) are infected waters, it shall be his duty forthwith to report the facts in writing to the Secretary of State; and if without reasonable excuse he fails to do so, he shall be guilty of an offence.”

4 Definitions.

(1) Section 10(1) of the 1937 Act (interpretation) shall be amended as mentioned in subsections (2) to (4) below.

(2) The following shall be inserted at the appropriate places—

““business of fish farming” means business of keeping live fish (whether or not for profit) with a view to their sale or to their transfer to other waters;”

““cage” means any structure for containing live fish;”

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““fish” does not include shellfish but otherwise means fish of any kind;”

““inland waters” means waters within Great Britain which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows;”

““marine waters” means waters (other than inland waters) within the seaward limits of the territorial sea adjacent to Great Britain;”

““shellfish” includes crustaceans and molluscs of any kind;”.

(3) In the definition of “fish farm” the words “of the salmon family, live freshwater fish” shall be omitted and in the definition of “waters” the words “of the salmon family or live freshwater fish” shall be omitted.

(4) In the definition of “land” for “water” there shall be substituted “inland waters”, and in the definition of “occupier” for “any waters” there shall be substituted “any inland waters”.

(5) In section 10(2) of the 1937 Act (“occupier”) for “any waters” (in both places) there shall be substituted “any inland waters”.

(6) For section 13 of the 1937 Act (power to extend Act by Order in Council to other diseases) there shall be substituted—

“13 Power to amend definition of ”infected’.

(1) The Minister may by order add to or remove any disease for the time being set out in the definition of ”infected’ in section 10(1) of this Act.

(2) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

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Textual Amendments

- F1** The definition of “district board” repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 27 Pt. I](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

5 Further amendments of 1937 Act.

The Schedule to this Act (which contains further amendments of the 1937 Act, including amendments consequential on the preceding provisions of this Act) shall have effect.

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