



Environment Act 1995

1995 CHAPTER 25

PART V

MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS

Fisheries

102 Sea fisheries.

- (1) The ^{M1}Sea Fisheries Regulation Act 1966 shall be amended in accordance with the following provisions of this section.
- (2) In section 2 (constitution of local fisheries committees) in subsection (2) (which includes provision for the members appointed by the Minister to be persons acquainted with the needs and opinions of the fishing interests of that district) after the words “of that district” there shall be added the words “ or as being persons having knowledge of, or expertise in, marine environmental matters ”.
- (3) After that subsection there shall be inserted—

“(2A) In addition to the members appointed as mentioned in subsection (1) above, a local fisheries committee may appoint such number of persons with knowledge of or expertise in marine environmental matters as it thinks fit as further members of the committee for those occasions on which it is considering any proposed byelaw under section 5 below by virtue of section 5A below, or any proposed amendment or revocation of such a byelaw.”
- (4) At the end of that section there shall be added—

“(7) In this section “marine environmental matters” means—

 - (a) the conservation or enhancement of the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas; or

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- (b) the conservation of flora or fauna which are dependent on, or associated with, a marine or coastal environment.”

(5) After section 5 (byelaws for regulation etc of sea fisheries) there shall be inserted—

“5A Byelaws under section 5 for marine environmental purposes.

- (1) Any power to make byelaws conferred by section 5 above may be exercised for marine environmental purposes.
- (2) The power to make byelaws under section 5 above by virtue of this section is in addition to, and not in derogation from, the power to make byelaws under that section otherwise than by virtue of this section.
- (3) Byelaws under section 5 above by virtue of this section shall be submitted for confirmation under section 7 below—
 - (a) in the case of a byelaw which is to have effect in England, only after consultation with the Nature Conservancy Council for England;
 - (b) in the case of a byelaw which is to have effect in Wales, only after consultation with the Countryside Council for Wales.
- (4) In this section “marine environmental purposes” means the purposes—
 - (a) of conserving or enhancing the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas; or
 - (b) of conserving flora or fauna which are dependent on, or associated with, a marine or coastal environment.”
- (6) In section 8 (power of Minister to revoke byelaws if it appears necessary or desirable for the maintenance or improvement of fisheries) after the words “maintenance or improvement of fisheries” there shall be inserted the words “ or for marine environmental purposes, within the meaning of section 5A above, ”.

Marginal Citations

M1 1966 c. 38.

103 Other marine or aquatic environmental conservation powers.

- (1) After section 5 of the ^{M2}Sea Fish (Conservation) Act 1967 (power to restrict fishing for sea fish) there shall be inserted—

“5A Powers to restrict fishing for marine environmental purposes.

- (1) Any power to make an order under section 5 above may be exercised for marine environmental purposes.
- (2) The power to make an order under section 5 above by virtue of this section is in addition to, and not in derogation from, the power to make an order under that section otherwise than by virtue of this section.
- (3) In this section “marine environmental purposes” means the purposes—

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- (a) of conserving or enhancing the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas; or
 - (b) of conserving flora or fauna which are dependent on, or associated with, a marine or coastal environment.”
- (2) After section 2 of the ^{M3}Inshore Fishing (Scotland) Act 1984 there shall be inserted—

“2A Powers to restrict fishing, or to prohibit the carriage of specified types of net, for marine environmental purposes.

- (1) Any power to make an order under section 1 or 2 above may be exercised for marine environmental purposes.
 - (2) The power to make an order under section 1 or 2 above by virtue of this section is in addition to, and not in derogation from, the power to make an order under that section otherwise than by virtue of this section.
 - (3) In this section “marine environmental purposes” means the purposes—
 - (a) of conserving or enhancing the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas; or
 - (b) of conserving flora or fauna which are dependent on, or associated with, a marine or coastal environment.”
- (3) In Schedule 25 to the ^{M4}Water Resources Act 1991 (byelaw making powers) after paragraph 6 (byelaws for purposes of fisheries functions) there shall be inserted—

Fisheries byelaws for marine or aquatic environmental purposes

- “6A (1) Any power to make byelaws conferred by paragraph 6 above may be exercised for marine or aquatic environmental purposes.
- (2) The power to make byelaws under paragraph 6 above by virtue of this paragraph is in addition to, and not in derogation from, the power to make byelaws under that paragraph otherwise than by virtue of this paragraph.
 - (3) In this paragraph “marine or aquatic environmental purposes” means—
 - (a) the conservation or enhancement of the natural beauty or amenity of marine or coastal, or aquatic or waterside, areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas; or
 - (b) the conservation of flora or fauna which are dependent on, or associated with, a marine or coastal, or aquatic or waterside, environment.”

Marginal Citations

M2 1967 c. 84.
M3 1984 c. 26.
M4 1991 c. 57.

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104 Fixed penalty system for certain fisheries offences.

- (1) After section 37 of the ^{M5}Salmon and Freshwater Fisheries Act 1975 there shall be inserted—

“37A Fixed penalty notices for certain offences.

- (1) Where on any occasion a water bailiff or other officer of the Agency finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, he may give to that person a notice (in this section referred to as a “fixed penalty notice”) offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) Where a person is given a fixed penalty notice in respect of a fixed penalty offence—
 - (a) no proceedings shall be instituted for that offence before the expiration of the period for paying the fixed penalty; and
 - (b) he shall not be convicted of that offence if the fixed penalty is paid before the expiration of that period.
- (3) The Agency may extend the period for paying the fixed penalty in any particular case if it considers it appropriate to do so in all the circumstances of the case.
- (4) If, in any particular case, the Agency considers that a fixed penalty notice which has been given ought not to have been given, it may give to the person to whom the fixed penalty notice was given a notice withdrawing the fixed penalty notice; and where notice under this subsection is given—
 - (a) the Agency shall repay any amount which has been paid by way of fixed penalty in pursuance of the fixed penalty notice; and
 - (b) no proceedings shall be instituted or continued against that person for the offence in question.
- (5) The amount by which the sums received by the Agency by way of fixed penalties exceed the sums repaid by it under subsection (4)(a) above shall be paid into the Consolidated Fund.
- (6) In any proceedings, a certificate purporting to be signed by or on behalf of the Chief Executive of the Agency and stating either—
 - (a) that payment of a fixed penalty was, or (as the case may be) was not, received by the Agency on or before a date specified in the certificate, or
 - (b) that an envelope containing an amount sent by post in payment of a fixed penalty was marked as posted on a date specified in the certificate,
 shall be received as evidence of the matters so stated and shall be treated, without further proof, as being so signed unless the contrary is shown.
- (7) A fixed penalty notice shall give such reasonable particulars of the circumstances alleged to constitute the fixed penalty offence to which the notice relates as are necessary for giving reasonable information of the offence and shall state—
 - (a) the monetary amount of the fixed penalty which may be paid;

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- (b) the person to whom and the address at which—
 - (i) the fixed penalty may be paid, and
 - (ii) any correspondence relating to the fixed penalty notice may be sent;
 - (c) the method or methods by which payment of the fixed penalty may be made;
 - (d) the period for paying the fixed penalty;
 - (e) the consequences of the fixed penalty not being paid before the expiration of that period.
- (8) A fixed penalty notice may also contain such other information relating to, or for the purpose of facilitating, the administration of the fixed penalty system as the Agency considers necessary or desirable.
- (9) Regulations may—
- (a) make provision with respect to the giving of fixed penalty notices, including, in particular, provision with respect to—
 - (i) the methods by which,
 - (ii) the officers, servants or agents by, to or on whom, and
 - (iii) the places at which,fixed penalty notices may be given by, or served on behalf of, a water bailiff or other officer of the Agency;
 - (b) prescribe the method or methods by which fixed penalties may be paid;
 - (c) make provision for or with respect to the issue of prescribed documents to persons to whom fixed penalty notices are or have been given.
- (10) In this section—
- “fixed penalty” means a penalty of such amount as may be prescribed (whether by being specified in, or made calculable under, regulations);
 - “fixed penalty offence” means, subject to subsection (11) below, any offence—
 - (a) under this Act,
 - (b) under the ^{M6}Salmon Act 1986,
 - (c) under or by virtue of regulations or orders made under section 115, 116 or 142 of the ^{M7}Water Resources Act 1991, or
 - (d) under section 211(3) of that Act, so far as relating to byelaws made by virtue of paragraph 6 of Schedule 25 to that Act,which is for the time being prescribed for the purpose;
 - “the fixed penalty system” means the system implementing this section and regulations made under it;
 - “the Ministers” means the Secretary of State and the Minister;
 - “notice” means notice in writing;
 - “the period for paying”, in relation to any fixed penalty, means such period as may be prescribed for the purpose;
 - “prescribed” means prescribed by regulations;

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“regulations” means regulations made under this section by the Ministers.

- (11) The provision that may be made by regulations prescribing fixed penalty offences includes provision for an offence to be a fixed penalty offence—
- (a) only if it is committed in such circumstances or manner as may be prescribed; or
 - (b) except if it is committed in such circumstances or manner as may be prescribed.
- (12) Regulations may provide for any offence which is a fixed penalty offence to cease to be such an offence.
- (13) An offence which, in consequence of regulations made by virtue of subsection (12) above, has ceased to be a fixed penalty offence shall be eligible to be prescribed as such an offence again.
- (14) Regulations may—
- (a) make different provision in relation to different cases or classes of case; or
 - (b) provide for such exceptions, limitations and conditions, or make such incidental, supplemental, consequential or transitional provision, as the Ministers consider necessary or expedient.
- (15) Any power to make regulations under this section shall be exercisable by statutory instrument made by the Ministers; and a statutory instrument containing any such regulations shall be subject to annulment pursuant to a resolution of either House of Parliament.”
- (2) In section 35 of that Act (which, among other things, creates an offence of failing to state one’s name and address when required to do so under that section) in subsection (1) (water bailiffs and constables), for the words from “A water bailiff” to “any constable” there shall be substituted the words “ A water bailiff or other officer of the Agency, or any constable, ”.
- (3) After that subsection there shall be inserted—
- “(1A) Without prejudice to subsection (1) above, a water bailiff or other officer of the Agency who on any occasion finds a person who he has reason to believe is committing, or has on that occasion committed, a fixed penalty offence, within the meaning of section 37A below, may require that person to state his name and address.”
- (4) In section 41(1) of that Act (definitions), before the definition of “authorised officer” there shall be inserted—
- ““the Agency” means the Environment Agency;”.

Marginal Citations

- M5** 1975 c. 51.
M6 1986 c. 62.
M7 1991 c. 57.

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105 Minor and consequential amendments relating to fisheries.

Schedule 15 to this Act (which makes minor and consequential amendments relating to fisheries) shall have effect.

Commencement Information

- II** S. 105 partly in force; s. 105 not in force at Royal Assent see s. 125(3); s. 105 in force for specified purposes at 21.9.1995 by S.I. 1995/1983, **art. 3**; s. 105 in force for further specified purposes at 1.2.1996 by S.I. 1996/186, **art 2**; s. 105 in force for further specified purposes at 1.4.1996 by S.I. 1996/186, **art 3**; s. 105 in force for further specified purposes at 1.1.1999 by S.I. 1995/1983, **art. 4**

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