



Sea Fisheries (Shellfish) Act 1967

1967 CHAPTER 83

Modifications etc. (not altering text)

C1 Act: power to transfer functions conferred (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

Fisheries for shellfish

1 Power to make orders as to fisheries for shellfish.

- (1) Subject to the provisions of this section, the appropriate Minister may, on an application made to him in accordance with subsection (2) of this section, by order provide for the establishment or improvement, and for the maintenance and regulation, of a fishery for [^{F1} shellfish of any kind specified in the order], on any portion of the shore and bed of the sea, or of an estuary or tidal river, above or below, or partly above and partly below, low water mark and within [^{F2}waters adjacent to [^{F3}England and Wales] to a distance of six nautical miles measured from the baselines from which the breadth of the territorial sea is measured] (which shore and bed are in this Act referred to as “the sea shore”) and, if desirable, for the constitution of a board or body corporate for the purposes of the order.
- [^{F4}(1A) Subsection (1) above has effect in relation to Scotland, with the modification that for “waters adjacent to England and Wales to” there is substituted “that part of the Scottish zone within”.]
- (2) An application for an order under this section shall be made in such form and manner as may be prescribed by regulations made by the appropriate Minister; and the provisions of Schedule 1 to this Act shall have effect in relation to the making of orders under this section.
- [^{F5}(2A) In relation to applications to the Welsh Ministers, subsection (2) has effect as if for “prescribed by regulations made by the appropriate Minister” there were substituted “specified by the Welsh Ministers” .

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- (2B) The Welsh Ministers may require a person who applies to them for an order under this section to provide them with such further information as they think necessary to enable them to determine the application.]
- (3) An order under this section may confer on such persons as may be specified in the order—
 - (a) a right of several fishery with respect to the whole of the area of the fishery to which the order relates, or
 - (b) a right of regulating a fishery with respect to the whole of that area, or
 - (c) a right of several fishery with respect to such part of that area as may be specified by or under the order and a right of regulating a fishery with respect to the remainder,
 but shall not confer either right for a longer period at one time than sixty years.
- ^{F6}(4)
- (5) No order under this section shall take away or abridge any right of several fishery or any right on, to or over any portion of the sea shore, being a right enjoyed by any person under any local or special Act of Parliament or any Royal charter, letters patent, prescription, or immemorial usage, except with the consent of that person.
- (6) [^{F7}Any order made under this section may be varied or revoked by a subsequent order made under this section.
- (7) Subject to subsection (8) below, subsections (1) to (5) above shall apply in relation to any such subsequent order and to an application for such an order as they apply in relation to an original order made under this section and to an application for such an order.
- (8) Subsection (7) above does not apply in the case of any order made by virtue of subsection (10) below [^{F8}or by virtue of section 5E of this Act].
- (9) Subsection (10) below applies in any case where it appears to the appropriate Minister that—
 - (a) permission has been granted for the carrying out of any development in, on or over any portion of the sea shore to which an order made under this section relates (the “affected area”), and
 - (b) as a result of the development, it will be impossible or impracticable to exercise any right of several fishery or of regulating a fishery conferred by the order in the affected area.
- (10) In any such case, the appropriate Minister may—
 - (a) vary the order so that the area to which the order relates no longer includes the affected area, or
 - (b) if the affected area comprises the whole or the greater part of the area to which the order relates, revoke the order.
- (11) The provision that may be made by an order made by virtue of subsection (10) above includes—
 - (a) provision requiring the owners of the affected area to pay compensation to any persons who, at the time of the making of the order, are entitled to a right of several fishery in any part of the affected area by virtue of an order under this section;

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- (b) provision for the amount of any such compensation to be specified in, or determined in accordance with provision made by, the order (including provision for or in connection with the appointment of a person to make any such determination).
- (12) Before making an order by virtue of subsection (10) above, the appropriate Minister must consult—
- (a) any persons who are entitled to a right of several fishery or a right of regulating a fishery in any part of the affected area by virtue of an order under this section, and
- (b) the owners or reputed owners, lessees or reputed lessees and occupiers, if any, of the affected area.
- (13) The appropriate Minister may require the owners of the affected area to provide him with such information relating to the development as he may reasonably require for the purpose of deciding whether to make an order by virtue of subsection (10) above.
- (14) In this section “ development ” has the same meaning as in the Town and Country Planning Act 1990.]
- [^{F9}(14A) Subsection (14) above has effect in relation to Scotland as if the reference to the Town and Country Planning Act 1990 were a reference to section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8).]

Textual Amendments

- F1** Words in s. 1(1) substituted (12.1.2010 for E.W. and 16.9.2013 for S.) by [Marine and Coastal Access Act 2009 \(c. 23\)](#) , **ss. 202(2)** , [324\(3\)](#) ; [S.I. 2009/3345](#) , [art. 2](#) , [Sch. para. 9](#); [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#) , [ss. 55\(1\)](#) , [66\(2\)](#) (with [s. 65](#)); [S.S.I. 2013/249](#) , [art. 2](#)
- F2** Words substituted by [Fishery Limits Act 1976 \(c. 86\)](#) , **Sch. 2 para. 15**
- F3** Words in s. 1(1) substituted (1.7.1999) by [S.I. 1999/1820](#) , [art. 4](#) , **Sch. 2 Pt. I para. 42(2)(a)** ; [S.I. 1998/3178](#) , **art. 3**
- F4** S. 1(1A) inserted (1.7.1999) by [S.I. 1999/1820](#) , [art. 4](#) , **Sch. 2 Pt. I para. 42(2)(b)** ; [S.I. 1998/3178](#) , **art. 3**
- F5** S. 1(2A)(2B) inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#) , **ss. 71(1)** , [88\(2\)\(c\)](#) (with [s. 71\(2\)](#))
- F6** S. 1(4) repealed (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#) , [ss. 202\(3\)](#) , [324\(3\)](#) , **Sch. 22 Pts. 5(A)** ; [S.I. 2009/3345](#) , [art. 2](#) , [Sch. para. 9](#)[Sch. para. 27\(b\)](#) and s. 1(4) repealed (S.) (24.2.2011) by [Marine \(Scotland\) Act \(asp 5\)](#) , [ss. 160\(1\)](#) , [168\(1\)](#) (with [s. 162](#)); [S.S.I. 2011/58](#) , [art. 2\(a\)](#)
- F7** S. 1(6) substituted for s. 1(6)-(14) (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#) , **ss. 203** , [324\(3\)](#) ; [S.I. 2009/3345](#) , [art. 2](#) , [Sch. para. 9](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#) , [ss. 160\(2\)](#) , [168\(1\)](#) (with [s. 162](#)); [S.S.I. 2011/58](#) , [art. 2\(a\)](#)
- F8** Words in s. 1(8) inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#) , **ss. 74(3)** , [88\(2\)\(c\)](#)
- F9** S. 1(14A) inserted (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#) , **ss. 161(2)** , [168\(1\)](#) (with [s. 162](#)); [S.S.I. 2011/58](#) , [art. 2\(a\)](#) (with [art. 4](#))

Modifications etc. (not altering text)

- C2** S. 1 amended by [Sea Fisheries Act 1968 \(c. 77\)](#) , **s. 15(1)(3)-(5)**
- C3** S. 1(1) extended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#) , **s. 34 (a)**

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2 Effect of grant of right of several fishery.

- (1) Where an order under section 1 of this Act confers a right of several fishery, then, subject to any restrictions and exceptions contained in the order and to section 12 of this Act, the grantees shall have within the limits of the fishery, or of that part of the fishery within which the right is exercisable, the exclusive right of depositing propagating, dredging, fishing for and taking shellfish of any description to which the order applies, and in the exercise of that right may within those limits—
- (a) make and maintain beds for such shellfish;
 - (b) at any season collect such shellfish and remove them from place to place and deposit them as and where the grantees think fit;
 - (c) do all other things which the grantees think proper for obtaining, storing and disposing of the produce of their fishery.
- (2) In this section “the grantees” means the persons for the time being entitled to the right of several fishery conferred by the order under the said section 1.

Modifications etc. (not altering text)

C4 S. 2 extended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 34

3 Effect of grant of right of regulating a fishery.

- (1) Where an order under section 1 of this Act confers on the grantees a right of regulating a fishery for any specified description of shellfish and imposes restrictions on, or makes regulations respecting, the dredging, fishing for and taking of any specified description of shellfish within the limits of the regulated fishery, or of that part of the fishery within which the right is exercisable, or imposes tolls or royalties upon persons dredging, fishing for and taking any specified description of shellfish within the limits of that fishery or part, then, subject to any restrictions and exceptions contained in the order and to section 12 of this Act, the grantees shall have power to do all or any of the following things, namely—
- (a) to carry into effect and enforce any such restrictions and regulations;
 - (b) to levy any such tolls or royalties;
 - (c) to provide for depositing and propagating shellfish of any description to which the order applies within those limits and for ^{F10}regulating] the regulated fishery or regulated part, as the case may be.
- (2) Subject to the provisions of ^{F11}sections 4 and 5A] of this Act, all such restrictions, regulations, tolls and royalties as aforesaid shall be imposed on and apply to all persons equally, and shall be for the benefit of the regulated fishery or part only, and ^{F12}, subject to subsection (2A) of this section,]any such tolls and royalties shall be applied ^{F13} for purposes relating to the regulation of] that fishery or part.

^{F14}(2A) An order under section 1 of this Act which—

- (a) confers on the grantees a right of regulating a fishery, and
- (b) imposes tolls or royalties upon persons dredging, fishing for and taking shellfish within the limits of the fishery, or of that part of the fishery within which the right is exercisable,

may provide that the grantees may, for the purposes of recouping any costs incurred by the grantees in connection with applying for the order, retain such portion of those tolls and royalties as may be specified in the order.]

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- (3) Any person who dredges, fishes for or takes shellfish of any description to which any such order applies in contravention of any such restriction or regulation, or without paying any such toll or royalty, as aforesaid shall be guilty of an offence and liable on summary conviction to [^{F15}a fine not exceeding [^{F16} £50,000] [^{F15}a fine]] and to forfeit all such shellfish so taken or, if they have been sold, a sum equal to their value; and any shellfish or sum so forfeited shall be recoverable in like manner as a fine.
- (4) The court by which any such forfeiture is imposed may direct the shellfish or sum forfeited to be delivered or paid to the grantees to be applied by them [^{F17} for purposes relating to the regulation of] the regulated fishery or part.
- [^{F18}(4A) Subsection (4B) applies where an order under section 1 of this Act—
- (a) confers a right of regulating a fishery for any specified description of shellfish, and
 - (b) imposes restrictions on, or makes regulations respecting, the dredging, fishing for and taking of any specified description of shellfish within the limits of the regulated fishery or any part of it.
- (4B) A person commits an offence if—
- (a) the person is found within the limits of, or in the immediate vicinity of, the regulated fishery,
 - (b) the person is found there at, or about, a time at which the restrictions imposed or regulations made by the order apply,
 - (c) when so found, the person is in possession of such equipment, vehicle, apparatus or other gear or paraphernalia (including clothing) as may be used for the purpose of dredging, fishing for and taking shellfish in contravention of the restrictions or regulations, and
 - (d) it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the person intends to dredge, fish for and take shellfish in contravention of the restrictions or regulations.
- (4C) A person who commits an offence under subsection (4B) is liable on summary conviction to a fine not exceeding £50,000.]
- [^{F19}(5) Where any sea fishing boat is used in the commission of an offence under subsection (3) [^{F20}or (4B)] of this section, the master, the owner and the charterer (if any) shall each be guilty of an offence and liable on summary conviction to [^{F21}a fine not exceeding £50,000 [^{F21}a fine]].]
- [^{F22}(6) [^{F23}Subsection (1) of this section] [^{F23}This section]] applies where an order under section 1 of this Act—
- (a) confers on the grantees a right of regulating a fishery, and
 - (b) by virtue of section 15(3) of the Sea Fisheries Act 1968, enables the grantees to impose restrictions on, or make regulations respecting, the dredging, fishing for and taking of shellfish within the limits of the regulated fishery or part,
- as it applies where an order under section 1 of this Act confers such a right and imposes such restrictions or makes such regulations.
- (7) Accordingly, any reference in this section to restrictions or regulations is to be read as including a reference to any restrictions imposed by, or any regulations made by, the grantees.]

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Textual Amendments

- F10** Word in s. 3(1)(c) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 204\(2\), 324\(3\)](#); [S.I. 2009/3345, art. 2, Sch. para. 9](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\), ss. 161\(1\), 168\(1\) \(with s. 162\)](#); [S.S.I. 2011/58, art. 2\(a\) \(with art. 4\)](#)
- F11** Words in s. 3(2) substituted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\), ss. 72\(3\), 88\(2\)\(c\)](#)
- F12** Words in s. 3(2) inserted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 204\(3\)\(a\), 324\(3\)](#); [S.I. 2009/3345, art. 2, Sch. para. 9](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 asp 5, ss. 161\(1\), 168\(1\) \(with s. 162\)](#); [S.S.I. 2011/58, art. 2\(a\) \(with art. 4\)](#)
- F13** Words in s. 3(2) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 204\(3\)\(b\), 324\(3\)](#); [S.I. 2009/3345, art. 2, Sch. para. 9](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 asp 5 ss. 161\(1\), 168\(1\) \(with s. 162\)](#); [S.S.I. 2011/58, art. 2\(a\) \(with art. 4\)](#)
- F14** S. 3(2A) inserted (E.W.) (12.11.2009 for specified purposes) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 204\(4\), 324\(1\)\(c\), 324\(1\)\(d\)](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\), ss. 161\(1\), 168\(1\) \(with s. 162\)](#); [S.S.I. 2011/58, art. 2\(a\) \(with art. 4\)](#)
- F15** Words in s. 3(3) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\), reg. 1\(1\), Sch. 4 para. 3\(2\)\(a\) \(with reg. 5\(1\)\)](#)
- F16** Word in s. 3(3) substituted (S.) (1.8.2007) by virtue of [Aquaculture and Fisheries \(Scotland\) Act 2007 \(asp 12\), ss. 32\(1\), 45\(2\) \(with s. 39\)](#); [S.S.I. 2007/333, art. 2\(1\) \(with art. 3\)](#); and said word also substituted (E.W.) (12.1.2010) by virtue of [Marine and Coastal Access Act 2009 \(c. 23\), ss. 205\(2\), 324\(3\)](#); [S.I. 2009/3345, art. 2, Sch. para. 9 \(with art. 3\(1\)\)](#)
- F17** Words in s. 3(4) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 204\(5\), 324\(3\)](#); [S.I. 2009/3345, art. 2, Sch. para. 9](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\), ss. 161\(1\), 168\(1\) \(with art. 162\)](#); [S.S.I. 2011/58, art. 2\(a\) \(with art. 4\)](#)
- F18** S. 3(4A)-(4C) inserted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\), ss. 56\(2\)\(a\), 66\(2\) \(with s. 65\)](#); [S.S.I. 2013/249, art. 2](#)
- F19** S. 3(5) inserted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 206\(1\), 324\(3\)](#); [S.I. 2009/3345, art. 2, Sch. para. 9 \(with art. 3\(2\)\)](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\), ss. 161\(1\), 168\(1\) \(with s. 162\)](#); [S.S.I. 2011/58, art. 2\(a\) \(with art. 4\)](#)
- F20** Words in s. 3(5) inserted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\), ss. 56\(2\)\(b\), 66\(2\) \(with s. 65\)](#); [S.S.I. 2013/249, art. 2](#)
- F21** Words in s. 3(5) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\), reg. 1\(1\), Sch. 4 para. 3\(2\)\(b\) \(with reg. 5\(1\)\)](#)
- F22** S. 3(6)(7) inserted (E.W.) (12.11.2009 for specified purposes) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 207, 324\(1\)\(c\), 324\(1\)\(d\)](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 asp 5, ss. 161\(1\), 168\(1\) \(with s. 162\)](#); [S.S.I. 2011/58, art. 2\(a\) \(with art. 4\)](#)
- F23** Words in s. 3(6) substituted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\), ss. 56\(2\)\(c\), 66\(2\) \(with s. 65\)](#); [S.S.I. 2013/249, art. 2](#)

[^{F24}3A] Contravention of regulated fishery orders: presumption

- (1) Subsection (2) applies in proceedings against a person (“the accused”) for an offence under section 3(3) of this Act involving dredging, fishing for and taking shellfish in contravention of restrictions imposed or regulations made by—

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- (a) an order under section 1 of this Act, or
 - (b) the grantee of such an order.
- (2) It is to be presumed that the accused was, or had been, dredging, fishing for and taking shellfish in contravention of the restrictions or regulations if—
- (a) it is proved that—
 - (i) the accused was found within the limits of, or in the immediate vicinity of, the regulated fishery to which the order relates,
 - (ii) the accused was found there at, or about, a time at which the restrictions or regulations apply, and
 - (iii) when so found, the accused was in possession of any of the things mentioned in subsection (3), and
 - (b) it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the accused was, or had been, dredging, fishing for and taking shellfish in contravention of the restrictions or regulations.
- (3) The things are—
- (a) such equipment, vehicle, apparatus or other gear or paraphernalia (including clothing) as may be used for the purpose of dredging, fishing for and taking shellfish in contravention of the order,
 - (b) shellfish the dredging, fishing for and taking of which is prohibited by the restrictions or regulations.
- (4) Subsection (2) does not apply if evidence is adduced sufficient to raise an issue as to whether—
- (a) the accused's presence within the limits of, or in the vicinity of, the regulated fishery to which the order relates was for the purpose of dredging, fishing for and taking shellfish in contravention of the restrictions or requirements, or
 - (b) where the accused was found in possession—
 - (i) of any of the things mentioned in paragraph (a) of subsection (3), the possession of the thing was for that purpose,
 - (ii) of shellfish mentioned in paragraph (b) of that subsection, the shellfish were caught or taken in contravention of the restrictions or requirements.]

Textual Amendments

F24 S. 3A inserted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 56(3), 66(2)** (with [s. 65](#)); [S.S.I. 2013/249](#), **art. 2** (with [art. 4](#))

4 Licensing powers in case of regulated fishery.

- (1) This section applies to an order made under section 1 of this Act, being an order which confers a right of regulating a fishery.
- (2) The restrictions imposed by an order to which this section applies may include restrictions prohibiting all persons from dredging, fishing for or taking, within the limits of the fishery or of that part of the fishery within which the right is exercisable, shellfish of the description to which the order applies except under the authority of a licence issued in that behalf by the grantees.

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- (3) Any power to vary an order to which this section applies shall (without prejudice to the generality of that power) include power to vary the order so as to impose restrictions in accordance with subsection (2) of this section.
- (4) Where an order to which this section applies (either as originally made or as varied) imposes any such restrictions, then, subject to the provisions of the order and of this section, licences may be issued under the order in such numbers and to such persons, and operative for such periods, and may authorise the dredging, fishing for or taking of shellfish at such times, in such manner and to such extent, as the grantees may determine.
- (5) Where in pursuance of such an order the grantees propose to issue licences, they shall, unless they propose to issue licences to all such persons as may apply for them, notify the appropriate Minister of their intention; and the appropriate Minister may give directions to the grantees as to the exercise of their powers under subsection (4) of this section.
- (6) If the grantees issue or withhold licences without complying with the requirements of subsection (5) of this section or of any directions given thereunder, then, for the purposes of section 5 of this Act (and without prejudice to the generality of that section) the grantees shall be taken not to be properly carrying into effect the restrictions imposed by the order; but no licence issued in contravention of any such requirements shall be invalid by reason only that it was so issued.
- (7) Any licence issued under an order to which this section applies may with the consent of the appropriate Minister be cancelled by the grantees if the person to whom the licence is issued^{F25} is convicted] of an offence of contravening a restriction imposed by the order^{F26}...; but, except as provided by this subsection, a licence so issued shall not be cancelled before it is due to expire unless the person to whom it was issued dies or surrenders the licence.
- (8) In this section any reference to the imposition of restrictions includes a reference to the making of regulations.

Textual Amendments

- F25** S. 4(7): word "is" substituted (S.) (1.8.2007) by virtue of [Aquaculture and Fisheries \(Scotland\) Act 2007 \(asp 12\)](#), **ss. 32(2)(a)**, 45(2) (with s. 39); S.S.I. 2007/333, art. 2(1) (with art. 3); and words in s. 4(7) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 208(a)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 9
- F26** Words in s. 4(7) repealed (S.) (1.8.2007) by [Aquaculture and Fisheries \(Scotland\) Act 2007 \(asp 12\)](#), **ss. 32(2)(b)**, 45(2) (with s. 39); S.S.I. 2007/333, art. 2(1) (with art. 3); and words in s. 4(7) repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 208(b)**, 324(3), **Sch. 22 Pts. 5(A)**; S.I. 2009/3345, art. 2, Sch. para. 9Sch. para. 27(b)

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Register of licences

- (1) This section applies where the grantees of an order to which section 4 of this Act applies issue one or more licences in pursuance of the order.
- (2) The grantees shall establish and maintain a register containing the names and addresses of all persons who for the time being hold licences issued by the grantees.

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- (3) The register shall be available for inspection free of charge by any person at such place or places, and during such hours, as are determined by the grantees.
- (4) The grantees shall make arrangements for the provision of a copy of an entry in the register to any person on request.
- (5) The arrangements that may be made under subsection (4) of this section include arrangements for the payment of a reasonable fee by the person making the request.]

Textual Amendments

F27 S. 4ZA inserted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 209, 324\(3\)](#); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 9](#) and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), [ss. 161\(1\), 168\(1\)](#) (with s. 162); [S.S.I. 2011/58](#), [art. 2\(a\)](#) (with art. 4)

[^{F28} 4A Powers of sea-fishery officers in relation to fishing boats to enforce regulated fishery

- (1) For the purpose of enforcing restrictions imposed by, or regulations made by, an order under section 1 conferring a right of regulating a fishery, a British sea-fishery officer may exercise the powers conferred by subsections (2) to (7) in relation to—
 - (a) a Scottish fishing boat wherever it may be;
 - (b) any other fishing boat in the Scottish zone.
- (2) The officer may go on board the boat, with or without persons assigned to assist in the duties of that officer, and may, for that purpose or for the purpose of disembarking from the boat, require the boat to stop, and anything else to be done which will facilitate the boarding of, or as the case may be, disembarking from, the boat.
- (3) The officer may require the attendance of the master and any other person on board the boat and may make any examination and inquiry which appears to the officer to be necessary for the purpose of enforcing such restrictions or regulations.
- (4) In particular under subsection (3) the officer may—
 - (a) search the boat for shellfish or fishing gear;
 - (b) examine any shellfish on the boat and the equipment (including the fishing gear) of the boat, and require persons on board the boat to do any thing which appears to the officer to be necessary for facilitating the examination;
 - (c) require any person on the boat to produce any relevant document in the person's custody or possession;
 - (d) for the purpose of ascertaining whether an offence under section 3(3) has been committed, search the boat for any relevant document and may require any person on board the boat to do anything which appears to the officer to be necessary for facilitating the search;
 - (e) inspect, take copies of and retain possession of, while any search, examination or inspection provided for under this subsection is being carried out, any relevant document produced to the officer or found on board;
 - (f) require the master or any person for the time being in charge of the boat to render any relevant document on a computer system into visible and legible form and to produce it in a form in which it may be taken away; and

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- (g) where the boat is one in relation to which the officer has reason to suspect that an offence under section 3(3) has been committed, seize and detain any relevant document produced to the officer or found on board, for the purpose of enabling the document to be used as evidence in proceedings for the offence.
- (5) But subsection (4)(g) does not permit any document required by law to be carried on a boat to be seized and detained except while the boat is detained in a port.
- (6) In subsection (4), “ relevant document ” means a document relating to—
 - (a) the boat; or
 - (b) the catching, landing, transportation, transhipment, sale or disposal of shellfish.
- (7) Where it appears to a British sea-fishery officer that an offence under section 3(3) has at any time been committed the officer—
 - (a) may take, or require the master of any boat in relation to which the offence took place to take, the boat and its crew to the port which appears to the officer to be the nearest convenient port; and
 - (b) may detain, or require the master to detain, the boat in the port.
- (8) Where a British sea-fishery officer detains or requires the detention of a boat under subsection (7)(b), the officer must serve notice in writing on the master stating that the boat is or, as the case may be, is required to, be detained until the time mentioned in subsection (9).
- (9) That time is when the master is served with a notice in writing signed by a British sea-fishery officer stating that the previous notice ceases to have effect.

Textual Amendments

F28 Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), **ss. 98(1)**, 104(1); S.S.I. 2006/432, art. 2(f)

4B Powers of sea-fishery officers on land to enforce regulated fishery

- (1) For the purpose of enforcing restrictions imposed by, or regulations made by, an order under section 1 conferring a right of regulating a fishery, a British sea-fishery officer may exercise the powers conferred by subsections (2) to (11) of this section in relation to—
 - (a) any premises (other than a dwelling-house) used for—
 - (i) carrying on any business in connection with the operation of fishing boats;
 - (ii) an activity connected with or ancillary to the operation of fishing boats; or
 - (iii) the treatment, storage or sale of shellfish;
 - (b) any vehicle which the officer has reasonable cause to believe is being used—
 - (i) to dredge, fish for or take shellfish; or
 - (ii) to transport shellfish.

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- (2) The officer may enter and inspect, at any reasonable time, the premises or vehicle (and, in the case of a vehicle, for that purpose require the vehicle to stop or require the operator to take the vehicle to a particular place).
- (3) The officer may, in exercising the power conferred by subsection (2), take with the officer such other persons as appear to the officer to be necessary and any equipment or materials.
- (4) The officer may examine any shellfish on the premises or vehicle and require persons on the premises or vehicle to do anything which appears to the officer to be necessary for facilitating the examination.
- (5) The officer may on the premises or vehicle carry out such other inspections and tests as may reasonably be necessary.
- (6) The officer may require any person not to remove or cause to be removed any shellfish from the premises or vehicle for such a period as may be reasonably necessary for the purposes of establishing whether an offence under section 3(3) has at any time been committed.
- (7) The officer may require any person on the premises or vehicle to produce any relevant document in the person's custody or possession.
- (8) The officer may, for the purpose of establishing whether an offence under section 3(3) has been committed, search the premises or vehicle for any relevant document, and may require any person on the premises or vehicle to do anything which appears to the officer to be necessary for facilitating the search.
- (9) The officer may inspect and take copies of any relevant document produced or found on the premises or vehicle.
- (10) The officer may require any person to render any relevant document on a computer system into a visible and legible form and to produce it in a form in which it may be taken away.
- (11) If the officer has reasonable grounds to suspect that an offence under section 3(3) has been committed, the officer may seize and detain any relevant document produced or found on the premises or vehicle, for the purpose of enabling the document to be used as evidence in proceedings for the offence.
- (12) A sheriff may, if satisfied by evidence on oath as to the matters mentioned in subsection (13), grant a warrant authorising a British sea-fishery officer to enter premises (if necessary using reasonable force), accompanied by such persons as appear to the officer to be necessary.
- (13) Those matters are—
 - (a) that there are reasonable grounds to believe that anything which a British sea-fishery officer has power under this section to examine or inspect is on the premises and that the examination or inspection is likely to disclose evidence of the commission of an offence under section 3(3); and
 - (b) that any of the following is the case—
 - (i) admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under subsection (12) has been given to the occupier;

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- (ii) an application for admission, or the giving of such notice, would defeat the object of entry;
 - (iii) the premises are unoccupied or the occupier is temporarily absent and it might defeat the object of entry to await the return of the occupier.
- (14) A warrant under subsection (12) is valid for the period of one month beginning with the date on which it is granted or for such shorter period as the sheriff may specify.
- (15) In this section—
- “ premises ” includes land; and
 - “ relevant document ” means a document relating to the catching, landing, transportation, transhipment, sale or disposal of shellfish.

Textual Amendments

F28 Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), **ss. 98(1)**, 104(1); S.S.I. 2006/432, art. 2(f)

4C Powers of British sea-fishery officers to seize fish and fishing gear

- (1) A British sea-fishery officer may seize—
- (a) in Scotland or in the Scottish zone; or
 - (b) on a Scottish fishing boat wherever it may be,
- any shellfish and any net or other fishing gear to which subsection (2) applies.
- (2) This subsection applies to—
- (a) any shellfish in respect of which the officer has reasonable grounds to suspect that an offence under section 3(3) has been committed;
 - (b) any net or other fishing gear which the officer has reasonable grounds to suspect has been used in the commission of such an offence.
- (3) In this section—
- (a) “ Scotland ” has the meaning given by the Scotland Act 1998 (c. 46); and
 - (b) references to shellfish include any receptacle which contains shellfish.

Textual Amendments

F28 Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), **ss. 98(1)**, 104(1); S.S.I. 2006/432, art. 2(f)

^{F29}4CA Power to enter land

- (1) For the purposes of exercising the powers conferred by sections 4A to 4C, and of enforcing the restrictions imposed by, or regulations made by, an order under section 1 conferring a right of regulating a fishery, a British sea-fishery officer may at any time enter land (including the foreshore) other than a dwelling house, and for that purpose may—
- (a) open lockfast places,
 - (b) remove any objects preventing the officer from gaining access to the land,

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- (c) require any person who has placed an object in such a position as to prevent the officer from gaining access to the land to remove the object,
 - (d) require the owner or occupier of the land to allow the officer access to the land.
- (2) A British sea-fishery officer may—
- (a) exercise the power of entry under subsection (1) on foot or in a vehicle,
 - (b) when exercising that power, take with the officer—
 - (i) such persons as appear to the officer to be necessary,
 - (ii) any equipment or material.
- (3) The power of entry under subsection (1)—
- (a) may not be exercised in relation to land in respect of which section 4B confers a power of entry, and
 - (b) is without prejudice to the power of entry conferred by that section.
- (4) A British sea-fishery officer who proposes to exercise the power of entry conferred by subsection (1) must, if so required, produce evidence of the officer's identity.]

Textual Amendments

F28 Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\)](#), **ss. 98(1)**, 104(1); S.S.I. 2006/432, art. 2(f)

F29 S. 4CA inserted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 57(2)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2

4D Sections 4A to [F30 4CA]: supplementary

- (1) A British sea-fishery officer, or a person assisting such an officer by virtue of section 4A(2) or [F31, 4B(3) or (12) or 4CA(2)(b)], is not liable in any civil or criminal proceedings for anything done in the purported exercise of a power conferred by section 4A, 4B [F32, 4C or 4CA] if the court is satisfied—
- (a) that the act was done in good faith;
 - (b) that there were reasonable grounds for doing it; and
 - (c) that it was done with reasonable skill and care.
- (2) A person who—
- (a) fails without reasonable excuse to comply with any requirement imposed on the person by a British sea-fishery officer under a power conferred by section 4A [F33, 4B or 4CA];
 - (b) without reasonable excuse prevents, or attempts to prevent, any other person from complying with such a requirement; or
 - (c) obstructs such an officer in the exercise of any of those powers or the powers conferred by section 4C,
- shall be guilty of an offence.

^{F34}(2A)

^{F34}(2B)

- (3) A person who commits an offence under subsection (2) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;

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(b) on conviction on indictment, to a fine.]

Textual Amendments

- F28** Ss. 4A-4D inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006](#) (asp 10), **ss. 98(1)**, 104(1); S.S.I. 2006/432, art. 2(f)
- F30** Words in s. 4D title substituted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013](#) (asp 7), **ss. 57(4)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F31** Words in s. 4D(1) substituted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013](#) (asp 7), **ss. 57(3)(a)(i)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F32** Words in s. 4D(1) substituted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013](#) (asp 7), **ss. 57(3)(a)(ii)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F33** Words in s. 4D(2)(a) substituted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013](#) (asp 7), **ss. 57(3)(b)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F34** S. 4D(2A)(2B) repealed (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Consequential and Supplementary Modifications\) Regulations 2017](#) (S.S.I. 2017/452), reg. 1, **sch. para. 6**

5 Cesser of right conferred by order under s. 1.

- (1) If, in the case of any right of several fishery or of regulating a fishery conferred by an order made under section 1 of this Act, the appropriate Minister is not satisfied, either as respects the whole of the area within which that right is exercisable or as respects any part of that area, that the grantees are properly cultivating the ground for shellfish of any description to which the order applies within the limits of that area or part or properly carrying into effect and enforcing any restrictions and regulations contained in the order and levying any tolls or royalties imposed thereby, he may make a certificate to that effect and thereupon that right shall be absolutely determined as respects that area or, as the case may be, that part thereof, and the provisions of this Act shall cease to operate in relation to that area or, as the case may be, that part thereof as, or, as the case may be, as part of, a several or regulated fishery.
- (2) For the purpose of subsection (1) of this section, the appropriate Minister may from time to time, with respect to any such fishery, make such inquiries and examination by an inspector or otherwise, and require from the grantees such information, as that Minister thinks necessary or proper, and the grantees shall afford all facilities for such inquiries and examination, and give such information, accordingly.
- (3) For the purpose of carrying out any inquiry or examination with respect to a fishery in pursuance of subsection (2) of this section, any inspector or other person appointed by the appropriate Minister under that subsection may take evidence, and by summons under his hand require the attendance of any person and examine him and any person who attends before him, on oath or otherwise, as he thinks expedient, and may administer an oath or take any affidavit or declaration for the purpose of the inquiry or examination.
- (4) For the purpose of carrying out any such inquiry or examination, a person authorised in that behalf by the appropriate Minister shall, subject to subsection (5) of this section, have the right, at any reasonable time, to enter any land within the limits of the fishery, and to obtain and take away samples (which shall be marked, labelled or otherwise made capable of identification) of any shellfish found within those limits; and, notwithstanding anything contained in this Act, when the purpose for which any such sample was taken has been satisfied the person by whom the sample was taken may dispose of it as he may determine.

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- (5) A right of entry under subsection (4) of this section shall not be exercisable in respect of any land unless not less than twenty-four hours' notice of the intended entry has been given to the occupier of the land, and also to the grantees if they are not the occupiers of the land; and the person exercising the right shall, if so requested, produce written evidence of his authority before entering.
- (6) Any duty imposed on any person by subsection (2) of this section to afford facilities for any inquiry or examination in respect of a fishery shall include a duty to afford facilities for the exercise of any right exercisable in respect of the fishery in accordance with subsections (4) and (5) of this section.
- (7) Any person who obstructs an inspector or other person in the exercise of any power or right conferred by this section, or who refuses or without reasonable excuse fails to provide any information reasonably required by an inspector or other person in the exercise of any such power or right, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F35}level 3 on the standard scale].
- (8) In this section “the grantees”, in relation to a right of several fishery, means the persons for the time being entitled to that right.
- (9) In the application of this section to Scotland, subsection (3) shall have effect as if for the words “summons under his hand” there were substituted the words “an order signed by him”.

Textual Amendments

F35 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and by [1994 c. 33, s. 157\(1\) \(9\)](#), [Sch. 8 Pt. I](#); [S.I. 1995/127, art. 2\(1\)](#), [Sch. 1](#) it is provided (3.2.1995) that s. 5(7) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding level 3

Modifications etc. (not altering text)

C5 S. 5 extended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#), [s. 34\(b\)](#)

[^{F36}5A Orders made by Welsh Ministers: protection of marine environment

- (1) An order made by the Welsh Ministers under section 1 of this Act must contain—
 - (a) such provision (if any) as the Welsh Ministers consider appropriate for the purpose of preventing harm to any European marine site identified in the order, and
 - (b) such other provision (if any) as they consider appropriate for the purpose of protecting the marine environment.
- (2) For the purposes of this section, “the marine environment” includes—
 - (a) the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features);
 - (b) features of archaeological or historic interest in such areas;
 - (c) flora and fauna which are dependent on, or associated with, a marine or coastal environment.]

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Textual Amendments

F36 S. 5A inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 72(2), 88(2)(c)**

[^{F37} **5B** **European marine sites: power of Welsh Ministers to serve site protection notice**

- (1) If it appears to the Welsh Ministers that harm to a European marine site has occurred, or is likely to occur, as a result of any activity—
 - (a) carried on in the exercise of a right conferred by an order made by them under section 1 of this Act, or
 - (b) authorised in pursuance of provision made by or under such an order which confers a right of regulating a fishery,
 the Welsh Ministers may serve a site protection notice on the grantees of the order.
- (2) A site protection notice is a notice which requires the grantees to take steps specified in the notice for the purpose of preventing harm (or further harm) to the European marine site.
- (3) The provision that may be made by a site protection notice includes provision prohibiting, restricting or interfering with the exercise of any right conferred by the order.
- (4) A site protection notice must—
 - (a) be in writing,
 - (b) set out the reasons for giving the notice, and
 - (c) specify the time by which, or the period for which, the steps specified in the notice must be taken.
- (5) The Welsh Ministers must consult the grantees of the order before serving a site protection notice on them, unless it appears to the Welsh Ministers that there is an urgent need to take steps to prevent harm (or further harm) to the European marine site.
- (6) The Welsh Ministers may vary or cancel a site protection notice by serving notice of the variation or cancellation on the grantees of the order.
- (7) The Welsh Ministers must publish every notice served by them under this section in such manner as they consider appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by it.
- (8) Provision under subsection (4)(c) may specify a time after, or a period which ends after, the expiry of the order; and in such a case, references in sections 5C and 5D of this Act to the grantees of the order are, in relation to any time after its expiry, references to the persons who were the grantees immediately before the order expired.
- (9) Subsections (2) to (7) of section 5 of this Act apply for the purposes of this section as they apply for the purposes of subsection (1) of that section.

Textual Amendments

F37 Ss. 5B-5D inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 73, 88(2)(c)**

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5C Appeal against site protection notice

- (1) An appeal lies to the First-tier Tribunal against—
 - (a) a site protection notice;
 - (b) any provision of a site protection notice;
 - (c) the variation of a site protection notice;
 - (d) the refusal of a request for the variation or cancellation of a site protection notice.
- (2) An appeal may be brought—
 - (a) in the case of an order made under section 1 of this Act which confers a right of several fishery, by the grantees of the order;
 - (b) in the case of such an order which confers a right of regulating a fishery—
 - (i) by the grantees of the order, or
 - (ii) by a person authorised to carry on an activity in pursuance of provision made by or under the order who is affected by the site protection notice or variation.
- (3) Where an appeal is brought by a person mentioned in subsection (2)(b)(ii), the grantees of the order are entitled to be parties to the appeal.
- (4) The First-tier Tribunal may suspend a site protection notice, or a variation of such a notice, pending the determination of an appeal.
- (5) On an appeal the Tribunal may confirm, vary or cancel a site protection notice.
- (6) If the Tribunal varies or cancels the notice, it may order the Welsh Ministers to pay compensation to any other party to the appeal for loss or damage suffered by that party as a result of the notice.

Textual Amendments

F37 Ss. 5B-5D inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 73, 88(2)(c)**

5D Failure to comply with site protection notice

- (1) If the grantees of an order made under section 1 of this Act fail to comply with a site protection notice, the Welsh Ministers may themselves do anything that could be done by the grantees for the purpose of complying with the notice.
- (2) If the Welsh Ministers incur expenses in doing anything under subsection (1), they may recover those expenses from the grantees as a debt.]

Textual Amendments

F37 Ss. 5B-5D inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), **ss. 73, 88(2)(c)**

[^{F38}5E European marine sites: power of Welsh Ministers to vary or revoke order under section 1

- (1) This section applies where—

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- (a) the Welsh Ministers have served a site protection notice on the grantees of an order made under section 1 of this Act,
 - (b) the notice has not been cancelled under section 5B(6) or 5C(5) of this Act, and
 - (c) no appeal under section 5C of this Act is pending.
- (2) The Welsh Ministers may vary or revoke the order to reflect the effect of the site protection notice.
- (3) Before making an order by virtue of this section, the Welsh Ministers must consult—
- (a) any persons who are entitled to a right of several fishery or a right of regulating a fishery in any part of the area to which the order relates, and
 - (b) any other persons the Welsh Ministers think are likely to be interested in the order or affected by it.
- (4) For the purposes of subsection (1)(c), an appeal under section 5C is pending if—
- (a) an appeal under that section (or a further appeal) has been brought and has not been determined or withdrawn, or
 - (b) an appeal under that section (or a further appeal) has not been brought but the period for bringing such an appeal is still running.]

Textual Amendments

F38 S. 5E inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), ss. 74(2), 88(2)(c)

[^{F39}5F] Protection of marine environment: supplementary provision

- (1) In sections 5A to 5E of this Act—
- “European marine site” has the same meaning as in [^{F40}the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012) (see regulation 8)] ;
 - “the grantees”, in relation to a right of several fishery, means the persons for the time being entitled to that right;
 - “harm”, in relation to a European marine site, means—
 - (a) an adverse effect on the integrity of the site,
 - (b) the deterioration of a relevant natural habitat or of the habitat of a relevant species, or
 - (c) the disturbance of a relevant species, in so far as the disturbance could be significant in relation to the objectives of the Habitats Directive.
- (2) For the purposes of the definition of “harm” in subsection (1)—
- a “relevant” natural habitat or species is one for which the site in question has been designated or classified as a European marine site;
 - “the Habitats Directive” means Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora.
- (3) Sections 5A to 5E of this Act do not apply in relation to an order made under section 1 of this Act before the coming into force of Part 5 of the Environment (Wales) Act 2016.]

Textual Amendments

F39 S. 5F inserted (E.W.) (21.5.2016) by [Environment \(Wales\) Act 2016 \(anaw 3\)](#), ss. 75, 88(2)(c)

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F40 Words in s. 5F(1) substituted (30.11.2017) by [The Conservation of Habitats and Species Regulations 2017 \(S.I. 2017/1012\)](#), reg. 1(2), [Sch. 6 para. 2](#)

6 Report to Parliament.

The appropriate Minister shall after the end of every year prepare a report respecting the applications to, and proceedings of, that Minister under the foregoing provisions of this Act during that year and shall lay a copy of it before each House of Parliament.^{F41} [or, in the case of a report in relation to Scotland, before the Scottish Parliament]

Textual Amendments

F41 Words in s. 6 inserted (1.7.1999) by [S.I. 1999/1820](#), art. 4, [Sch. 2 Pt. I para. 42\(3\)](#); [S.I. 1998/3178](#), [art. 3](#)

7 Protection of fisheries.

- (1) The provisions of this section shall have effect where—
 - (a) an order under section 1 of this Act grants a right of several fishery, or
 - (b) a [^{F42} private shellfish bed] is owned by any person independently of this Act and is sufficiently marked out or sufficiently known as such.
- (2) All shellfish of a description to which the order applies in or on a bed for such shellfish within the area of the fishery with respect to which the right of several fishery is conferred, or, as the case may be, all [^{F43} relevant shellfish] in or on the [^{F44} private shellfish bed], shall be the absolute property of the grantees or, as the case may be, of the owner of the bed and in all courts and for all purposes shall be deemed to be in the actual possession of the grantees or, as the case may be, owner.
- (3) All such shellfish removed by any person from a bed for such shellfish within the area of the fishery with respect to which the right of several fishery is conferred, or, as the case may be, all [^{F45} relevant shellfish] removed by any person from the [^{F46} private shellfish bed], shall, unless ^{F47} . . . or disposed of by or under the authority of the grantees or, as the case may be, of the owner of the bed, be the absolute property of the grantees or, as the case may be, of the owner, and in all courts and for all purposes the absolute right to the possession thereof shall be deemed to be in the grantees or, as the case may be, owner.
- (4) Subject to subsection (5) of this section, if within the limits of the area of the fishery with respect to which the right of several fishery is conferred or in any part of that area described for the purposes of this subsection in the order, or within the limits of any such [^{F48} private shellfish bed], any person other than the grantees or an agent or employee of theirs or, as the case may be, the owner or an agent or employee of his knowingly does any of the following things, namely—
 - (a) uses any implement of fishing except—
 - (i) a line and hook; or
 - (ii) a net adapted solely for catching floating fish and so used as not to disturb or injure in any manner shellfish of the description in question or any bed therefor or the fishery therefor; [^{F49} or [^{F50} or
 - (iii) in the case of several fishery, an implement of a type specified by or under the order and so used as not to disturb or injure in any manner

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shellfish of the description in question or any bed for such shellfish or the fishery for such shellfish;]

(iii) in the case of several fishery, an implement of a type specified in the order and so used as not to disturb or injure in any manner shellfish of the description in question.]

- (b) dredges for any ballast or other substance except under a lawful authority for improving the navigation;
- (c) deposits any ballast, rubbish or other substance;
- (d) places any implement, apparatus or thing prejudicial or likely to be prejudicial to any such shellfish, bed or fishery except for a lawful purpose of navigation or anchorage;
- (e) disturbs or injures in any manner, except for a lawful purpose of navigation or anchorage, any such shellfish, bed or fishery;

he shall be guilty of an offence and liable on summary conviction to [^{F51}a fine not exceeding, in the case of a first offence, [^{F52} £50,000], or, in the case of a second offence, [^{F52} £50,000], or, in the case of a third or subsequent offence, [^{F52} £50,000] [^{F51}a fine]], and shall also be liable to make full compensation to the grantees or, as the case may be, owner for all damage sustained by them or him by reason of the unlawful act; and such compensation in default of payment may be recovered from him by the grantees or owner as the case may be by proceedings in any court of competent jurisdiction whether he has been prosecuted for or convicted of the offence in question or not.

[^{F53}(4A) The power to specify a type of implement for the purposes of subsection (4)(a)(iii) of this section includes power to specify—

- (a) periods during which implements of that type may or may not be used;
- (b) parts of the area of the fishery with respect to which the right of several fishery is conferred in which implements of that type may or may not be used.

The exception in subsection (4)(a)(iii) of this section does not apply in a case of a person who uses an implement otherwise than in accordance with provision made by virtue of this subsection.]

(5) Nothing in subsection (4) of this section shall make it unlawful for any person to do any of the things therein mentioned—

- (a) in the case of a right of several fishery granted by an order under section 1 of this Act, if at the time of his doing that thing the limits of the area of the fishery within which that right is exercisable or of the part of that area described for the purposes of the said subsection (4) in the order are not sufficiently marked out in manner prescribed by or under the order or if notice of those limits has not been given to that person in manner so prescribed;
- (b) in the case of a [^{F54} private shellfish bed] owned by any person independently of this Act, if the bed is not sufficiently marked out and known as such.

(6) [^{F55}In this section—

“ the grantees ” means the persons for the time being entitled to the right of several fishery conferred by the order under section 1 of this Act;

“ relevant shellfish ”, in relation to a private shellfish bed, means the shellfish in respect of which the owner of the bed has private rights independently of this Act.]

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Textual Amendments

- F42** Words in s. 7(1)(b) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 210\(2\)](#), 324(3); and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4) S.I. 2009/3345, art. 2, Sch. para. 9
- F43** Words in s. 7(2) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 210\(3\)\(a\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F44** Words in s. 7(2) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 210\(3\)\(b\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F45** Words in s. 7(3) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 210\(3\)\(a\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F46** Words in s. 7(3) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 210\(3\)\(b\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F47** Words in s. 7(3) omitted (3.1.1995) by virtue of 1994 c. 32, [ss. 2\(2\)](#), 3(3) (with s. 3(2))
- F48** Words in s. 7(4) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 210\(4\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F49** S. 7(4)(a)(iii) and preceding word inserted (S.) (2.1.2001) by 2000 asp 12, [s. 1](#)
- F50** S. 7(4)(a)(iii) and preceding word inserted "at the end of paragraph (a)(ii)" (E.W.) (12.1.2010) by virtue of [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 211\(2\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9
- F51** S. 7(4): "a fine" substituted (E.W.) (12.3.2015) for "a fine not exceeding £50,000" by virtue of [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 3\(3\)](#) (with reg. 5(1))
- F52** Word in s. 7(4) substituted (E.W.) (12.1.2010) by virtue of [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 205\(3\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 (with art. 3(1)) and said word substituted (24.2.2011) by virtue of [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(3), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F53** S. 7(4A) inserted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 211\(3\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F54** Words in s. 7(5)(b) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 210\(4\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F55** S. 7(6) substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 210\(5\)](#), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9 and said amendment extended to S. (24.2.2011) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)

Modifications etc. (not altering text)

- C6** S. 7 extended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#), [s. 34](#)

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8 Proof of certain matters.

Whenever it is necessary in any legal proceedings to prove that the requirements of an order under section 1 of this Act or of any other Act as to—

- (a) the buoying or other marking of the limits of any fishery for shellfish of any description to which the order applies or, as the case may be, of any fishery for oysters or mussels to which that other Act applies, or
- (b) the publication, posting or distribution of notices of those limits,

have been complied with, or that notice of the provisions of the order or Act relating to the fishery has been duly published, a certificate, purporting to be under the hand of one of the secretaries, under secretaries or assistant secretaries of the appropriate Minister's department [^{F56}or, as regards Scotland, signed by a member of the staff of the Scottish Administration], certifying that that Minister is satisfied that those requirements have been complied with or that the said notice was duly published shall be received as evidence of compliance with those requirements or publication of that notice.

Textual Amendments

F56 Words in s. 8 inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42(4); S.I. 1998/3178, art. 3

9 Grants and loans for restoration of fisheries.

- (1) The appropriate Minister may, with the approval of the Treasury, make grants or loans to any person in respect of any expenses incurred or to be incurred by him in cleansing and reinstating (including restocking) any shellfish beds to which this subsection applies which have been affected by any disease or pest.

[^{F57}(1A) Subsection (1) above has effect in relation to Scotland, with the modification that for “waters adjacent to England and Wales to” there is substituted “that part of the Scottish zone within”.]

- (2) Subsection (1) of this section applies—
 - (a) to any shellfish bed within the limits of a fishery in respect of which an order under section 1 of this Act is for the time being in force, and
 - (b) to any other shellfish bed used for the propagation or cultivation of oysters, mussels or cockles, being a shellfish bed in respect of which a person has an exclusive right to take oysters, mussels or cockles.

Textual Amendments

F57 S. 9(1A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42(5); S.I. 1998/3178, art. 3

Modifications etc. (not altering text)

C7 Ss. 9, 12 extended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 34

10 Fishery to be within county, etc. for purposes of jurisdiction.

[^{F58}(1)] The portion of the sea shore to which an order under section 1 of this Act relates shall for all purposes of jurisdiction be deemed to be within the body of the adjoining

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county, borough or burgh (so far as it is not by law within it) or to be within the body of each of them, if more than one.

[^{F59}(2) In the application of this section in relation to Wales, the reference to a county in subsection (1) of this section includes a reference to a preserved county (as defined by section 64 of the Local Government (Wales) Act 1994).]

Textual Amendments

F58 S. 10 renumbered as s. 10(1) (1.4.1996) by 1994 c. 19, s. 1(3), **Sch. 2 para. 3** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 3, **Sch. 1**

F59 S. 10(2) added (1.4.1996) by 1994 c. 19, s. 1(3), **Sch. 2 para. 3** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 3, **Sch. 1**

11 Service of certain documents.

Without prejudice to any provision made by or under any other Act prescribing the manner in which service of any document may be effected, service of any summons or other document in any proceedings under section 3(3) or 7(4) of, or paragraph 4(5) of Schedule 1 to, this Act may be effected by leaving the document for the person to be served on board any sea fishing boat to which he belongs with the person being or appearing to be in charge of the boat.

Further provisions with respect to shellfish

12 Power to prohibit deposit of shellfish.

- (1) The appropriate Minister may by order designate any waters to which this section applies, and prohibit the deposit in those waters of shellfish of any description, or of shellfish of a description specified in the order, being (in either case) shellfish taken (as the order may provide) either—
 - (a) from any shellfish bed outside the waters so designated, or
 - (b) from any shellfish bed in an area specified in the order.
- (2) This section applies to the following waters, that is to say—
 - (a) all tidal waters (whether forming part of the sea or not) within the seaward limits of the territorial waters adjacent to [^{F60}England and Wales] , and
 - (b) all inland waters from which, in the opinion of the appropriate Minister, diseases or pests carried by shellfish deposited in them may be conveyed into any such tidal waters as are mentioned in paragraph (a) above.

[^{F61}(2A) Subsection (2) above has effect in relation to Scotland with the modification that in paragraph (a) for “adjacent to England and Wales” there is substituted “within the Scottish zone”.]

- (3) An order under this section designating any waters may also designate any land adjacent to those waters, being land from which, in the opinion of the appropriate Minister, diseases or pests carried by shellfish deposited on it may be conveyed into those waters; and any prohibition imposed by the order on depositing shellfish in those waters shall apply also to depositing shellfish on that land.

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- [^{F62}(3A) Where the appropriate Minister considers it desirable for the purpose of preventing the spread of diseases or pests carried by shellfish, an order under this section may also prohibit the taking from any waters or land designated by the order of shellfish of any description or of shellfish of a description specified in the order.]
- (4) An order under this section may provide that [^{F63}any prohibition] thereby imposed shall not apply to any shellfish if—
- (a) they are deposited [^{F64}or (as the case may be) taken] under the authority of a licence granted by the appropriate Minister, and
 - (b) the conditions (if any) specified in that licence are complied with.
- (5) Where any person deposits any shellfish in any waters or on any land in contravention of an order under this section, and is convicted of an offence under this Act in respect of that contravention, the appropriate Minister shall have power to remove those shellfish from those waters or that land, and also to remove therefrom any other shellfish which, in his opinion, may have become affected by any disease or pest carried by the shellfish so deposited.
- (6) The appropriate Minister may cause any shellfish removed under subsection (5) of this section to be disposed of (whether by destruction, sale or otherwise) as he may think fit, and shall be entitled to recover from the person convicted as mentioned in that subsection any expenses reasonably incurred by the appropriate Minister in removing the shellfish under that subsection, or in disposing of them under this subsection.
- (7) For the purposes of this section a person shall be taken to deposit shellfish in any particular waters if he causes the shellfish to enter those waters; and any reference in this section to depositing shellfish on land includes a reference to throwing down, dropping or otherwise discharging the shellfish on that land.
- (8) An order under this section may be varied or revoked by a subsequent order thereunder.

Textual Amendments

- F60** Words in s. 12(2)(a) substituted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 42(6)(a)**; S.I. 1998/3178, **art. 3**
- F61** S. 12(2A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 42(6)(b)**; S.I. 1998/3178, **art. 3**
- F62** S. 12(3A) inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(1)**
- F63** Words substituted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(2)**
- F64** Words inserted by Diseases of Fish Act 1983 (c. 30, SIF 52:2), **s. 6(2)**

Modifications etc. (not altering text)

- C8** Ss. 9, 12 extended by Fisheries Act 1981 (c. 29, SIF 52:1), **s. 34**

13 Power to prohibit importation of shellfish in certain cases.

- (1) Where any waters are for the time being designated by an order under section 12 of this Act, the appropriate Minister may by order made under this section designate any area, consisting of any part of the coast or other land adjacent to those waters, and prohibit shellfish of any description specified in the order from being imported into that area, except at such places (if any) as may be specified in the order.

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- (2) A person shall be taken to contravene an order under this section if any shellfish to which the prohibition imposed by the order applies are imported in contravention of the order, and he, whether as owner, consignor or consignee, agent or broker, is in possession, or is in any way entitled to the custody or control, of the shellfish at the time when they are imported.
- (3) An order under this section may be varied or revoked by a subsequent order thereunder.
- (4) In this section “imported” means imported on board any vessel, [^{F65}hovercraft] or aircraft, whether from a place outside [^{F66}England and Wales] or not, and [^{F65}“hovercraft”] means a [^{F67}hovercraft within the meaning of the ^{M1}Hovercraft Act 1960].
- [^{F68}(5) This section has effect in relation to Scotland with the modification that in subsection (4) for “England and Wales” there is substituted “Scotland”.]
- [^{F69}(5) References in this section to importation shall include references to importation through the tunnel system as defined in the Channel Tunnel Act 1987.]^{M2}

Textual Amendments

- F65** Words substituted by [S.I. 1972/971, art. 10\(3\)](#)
- F66** Words in s. 13(4) substituted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(7\)\(a\)](#); [S.I. 1998/3178, art. 3](#)
- F67** Words substituted by [Hovercraft Act 1968' \(c. 59\), Sch. para. 4](#)
- F68** S. 13(5): “after subsection (4) there is inserted” subsection (5) (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(7\)\(b\)](#); [S.I. 1998/3178, art. 3](#)
- F69** S. 13(5) inserted by [S.I. 1990/2371, art. 2, Sch. 1 para. 2](#)

Marginal Citations

- M1** [1968 c. 59.](#)
- M2** [1987 c.53.](#)

14 Supplementary provisions as to orders under ss. 12 and 13.

- (1) Where the appropriate Minister makes an order under section 12 or 13 of this Act, he shall take such steps (whether by the publication or display of notices or otherwise) as he may consider most suitable for informing all persons concerned of the effect of the order.
- (2) Any person who contravenes the provisions of any order made under the said section 12 or 13 (including any person who contravenes those provisions by not complying with any conditions specified in a licence granted thereunder) shall be guilty of an offence under this subsection, and shall be liable on summary conviction—
- (a) in the case of a first offence under this subsection, to a fine not exceeding [^{F70}level 4 on the standard scale];
- (b) in the case of a second or subsequent offence under this subsection, to imprisonment for a term not exceeding three months, or a fine not exceeding [^{F70}level 4 on the standard scale], or both.
- (3) A person authorised in that behalf by the appropriate Minister (in this section referred to as an “inspector”) shall, subject to subsection (4) of this section, have the right, at

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any reasonable time, to enter any land designated by an order under the said section 12, or any waters, or land covered by waters, designated by such an order, where either—

- (a) the inspector has reasonable grounds for believing that the prohibition imposed by the order [^{F71}in pursuance of subsection (1) of that section] is being or has been contravened, or
- (b) entry is required for the purpose of removing any shellfish which the appropriate Minister is empowered to remove under subsection (5) of that section;

and an inspector having a right to enter any land or waters under this subsection shall also have the right to obtain and take away samples (which shall be marked, labelled or otherwise made capable of identification) of any shellfish found there, and to dispose of any such sample as the inspector may determine:

Provided that where an inspector enters any land or waters by virtue of paragraph (a) above, he shall retain any shellfish so taken for as long as may be necessary to secure that they are available for production in any proceedings for an offence under this section in respect of the contravention in question.

- (4) A right of entry under subsection (3) of this section shall not be exercisable in respect of any occupied land unless not less than twenty-four hours' notice of the intended entry has been given to the occupier; and the inspector shall, if so required, produce written evidence of his authority before entering.
- (5) Any person who obstructs an inspector in the exercise of any right conferred by subsection (3) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F72}level 3 on the standard scale].

Textual Amendments

- F70** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#) ss. 289E-289G and by 1994 c. 33, s. 157(1) (9), **Sch. 8 Pt. I**; S.I. 1995/127, art. 2(1), **Sch. 1** it is provided (3.2.1995) that s. 14(2) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding level 4
- F71** Words inserted by [Diseases of Fish Act 1983 \(c. 30, SIF 52:2\)](#), **s. 6(3)**
- F72** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and by 1994 c. 33, s. 157(1) (9), **Sch. 8 Pt. I**; S.I. 1995/127, art. 2(1), **Sch. 1** it is provided (3.2.1995) that s. 14(5) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding level 3

Modifications etc. (not altering text)

- C9** S. 14(2): [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289E** (in relation to liability on first and subsequent convictions), applies (S.)
- C10** S. 14(2): [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35** (in relation to liability on first and subsequent convictions), 38 (increases of fines) and 46 (substitution or references to levels on the standard scale), apply (E.W.)

15 Public fisheries: elimination of disease or pest affecting shellfish.

- (1) This section applies to any waters in which the public have a right to fish, other than—

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- (a) waters which are within the limits of a fishery in respect of which a right (whether a right of several fishery or of regulating a fishery) conferred by an order under section 1 of this Act is for the time being in force;
 - (b) waters (not falling within paragraph (a) above) in which a person has an exclusive right to take shellfish of any description.
- (2) The appropriate Minister may take any action which appears to him to be requisite—
- (a) for destroying any shellfish which are in any waters to which this section applies and which appear to him to be affected by a disease or pest, or
 - (b) for eliminating from any such waters any disease or pest affecting shellfish;
- and (where he has taken any action in respect of any waters in accordance with paragraph (a) or paragraph (b) above) for causing those waters to be restocked with shellfish.

Modifications etc. (not altering text)

- C11** S. 15 transfer of functions (31.3.2010) by [The Welsh Zone \(Boundaries and Transfer of Functions\) Order 2010 \(S.I. 2010/760\)](#), arts. 1(3), **4(1)(a)** (with art. 5(2)(3))

16 Oysters not to be sold between certain dates.

- (1) Subject to subsection (2) of this section, any person who between the 14th May in any year and the following 4th August sells, exposes for sale, buys for sale, or consigns to any person for the purpose of sale, any description of oysters shall be guilty of an offence and liable on summary conviction to a fine not exceeding, in the case of a first offence, [^{F73}level 1 on the standard scale] or, in the case of a second or subsequent offence, [^{F73}level 1 on the standard scale] and, in any case, to forfeit the oysters exposed for sale, bought for sale or consigned to any person for the purpose of sale, in contravention of this subsection.
- (2) A person shall not be guilty of an offence under this section if he satisfies the court that the oysters alleged to have been sold, exposed for sale, bought for sale or consigned to any person for the purpose of sale—
- (a) were originally taken within the waters of a foreign state, or
 - (b) were preserved in tins or otherwise cured, or
 - (c) were intended for the purpose of oyster cultivation within the same district in which the oysters were taken, or
 - (d) were taken from any place for cultivation with the consent of the appropriate Minister [^{F74}, or
 - (e) were Pacific or Japanese oysters (*Crassostrea gigas*), Portuguese oysters (*Crassostrea angulata*) or other members of the genus *Crassostrea*].
- (3) For the purposes of subsection (2)(c) of this section a district is—
- (a) the Thames Estuary, bounded by a line drawn from Orford Ness to the North Foreland, and
 - (b) any other area for the time being constituted a district for the purposes of this section by an order of the appropriate Minister;
- and where the place at which oysters are taken is not within any such district, so much of the area within ten miles of that place as is not included in any such district shall be deemed to be a district for those purposes.

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- (4) The appropriate Minister may by a subsequent order revoke or vary any order made by him under subsection (3)(b) of this section.

Textual Amendments

- F73** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and by virtue of (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and by [1994 c. 33, s. 157\(1\) \(9\)](#), [Sch. 8 Pt. I](#); [S.I. 1995/127, art. 2\(1\)](#), [Sch. 1](#) it is provided (3.2.1995) that s. 16(1) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 4 on the standard scale instead of a fine not exceeding level 1
- F74** S. 16(2)(e) added by [Sea Fisheries \(Shellfish\) Act 1973 \(c. 30\)](#), [s. 1](#)

Modifications etc. (not altering text)

- C12** S. 16 amended by [Fisheries Act 1981 \(c. 29, SIF 52:1\)](#), [s. 33\(5\)](#), [Sch. 4 Pt. II para. 30](#)
- C13** S. 16 transfer of functions (31.3.2010) by [The Welsh Zone \(Boundaries and Transfer of Functions\) Order 2010 \(S.I. 2010/760\)](#), [arts. 1\(3\)](#), [4\(1\)\(a\)](#) (with [art. 5\(2\)\(3\)](#))

17 Taking and sale of certain crabs and lobsters prohibited.

- (1) Subject to ^{F75} subsections (2) and (2A)] of this section, any person who takes, has in his possession, sells, exposes for sale, buys for sale, or consigns to any person for the purpose of sale,—
- any edible crab carrying any spawn attached to the tail or other exterior part of the crab, or
 - any edible crab which has recently cast its shell,
- shall be guilty of an offence.
- (2) A person shall not be guilty of an offence under subsection (1) of this section if he satisfies the court that the edible crabs found in his possession or alleged to have been sold, exposed for sale, bought for sale, or consigned to any person for the purpose of sale, were intended for bait for fishing.
- ^{F76}(2A) Any person who takes or has in his possession any edible crab falling within paragraph (a) or (b) of subsection (1) of this section shall not be guilty of an offence under that subsection if—
- the crabs were taken from that part of the sea that is within British fishery limits and does not include the Scottish zone or the Northern Ireland zone,
 - the person has been granted authority by the appropriate body to take such crabs for the purpose of scientific investigation, and
 - the crabs were taken for that purpose and in accordance with such authority.]
- ^{F77}(3) ^{F77} If the appropriate national authority by order so directs, no person shall, in the part of the United Kingdom to which the order relates,] land, sell, expose or offer for sale, or have in his possession for the purpose of sale, any lobster which is carrying any spawn attached to the tail or some other exterior part of the lobster, or which is in such a condition as to show that, at the time when it was taken, it was carrying spawn so attached; ^{F78} and, subject to subsection (3B) of this section, any person] who contravenes an order under this subsection shall be guilty of an offence.
- ^{F79}(3ZA) In subsection (3) of this section “ the appropriate national authority ” means—
- in relation to England, the Secretary of State;

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- (b) in relation to Wales, the Welsh Ministers;
- (c) in relation to Scotland, the Scottish Ministers.]

[^{F80}(3B) Any person who lands any lobster falling within subsection (3) of this section shall not be guilty of an offence under that subsection if—

- (a) the lobsters were taken from that part of the sea that is within British fishery limits and does not include the Scottish zone or the Northern Ireland zone,
- (b) the person has been granted authority by the appropriate body to take such lobsters for the purpose of scientific investigation, and
- (c) the lobsters were taken for that purpose and in accordance with such authority.]

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, [^{F81}level 3 on the standard scale] and, in the case of a second or subsequent offence, [^{F81}level 3 on the standard scale], and the court by which the offender is convicted may order the forfeiture of all crabs or lobsters found in his possession or alleged to have been sold, exposed or offered for sale, bought for sale, or consigned to any person for the purpose of sale, in contravention of subsection (1) of this section or of an order under subsection (3) thereof, as the case may be.

(5) An order under subsection (3) of this section may be varied or revoked by a subsequent order thereunder.

[^{F82}(6) In this section—

“ the appropriate body ” means—

- (a) the Marine Management Organisation, in the case of crabs and lobsters taken from that part of the sea that is within British fishery limits and does not include—
 - (i) the Scottish zone,
 - (ii) the Northern Ireland zone, or
 - (iii) the Welsh zone;
- (b) the Welsh Ministers, in the case of crabs and lobsters taken from the Welsh zone;

“ British fishery limits ” has the meaning given by section 1 of the Fishery Limits Act 1976;

“ Northern Ireland zone ” has the same meaning as in the Northern Ireland Act 1998;

“ Welsh zone ” has the same meaning as in the Government of Wales Act 2006.]

Textual Amendments

F75 Words in s. 17(1) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 212\(2\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 9](#)

F76 S. 17(2A) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 212\(3\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 9](#)

F77 Words in s. 17(3) substituted (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. 213\(2\), 324\(1\)\(c\), 324\(1\)\(d\); S.I. 2009/3345, art. 2, Sch. para. 9](#)

F78 Words in s. 17(3) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 212\(4\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 9](#)

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- F79** S. 17(3A) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 213(3)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 9
- F80** S. 17(3B) inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 212(5)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 9
- F81** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289E–289G** and by 1994 c. 33, s. 157(1) (9), **Sch. 8 Pt. I**; S.I. 1995/127, art. 2(1), **Sch. 1** it is provided (3.2.1995) that s. 17(4) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding level 3
- F82** S. 17(6) inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 212(6)**, 324(3); S.I. 2009/3345, art. 2, Sch. para. 9

Modifications etc. (not altering text)

- C14** S. 17(1)(3) amended by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33(1), **Sch. 4 Pt. I para. 11** and by Fisheries Act 1981 (c. 29, SIF 52:1), s. 33, **Sch. 4 Pt. II para. 32**
- C15** S. 17(4): Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 35** (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)

18 Power to search for, seize, etc. oysters, crabs and lobsters illegally in possession of any person, etc.

Any person who has power under any Act, charter or byelaw to search for, seize, remove or condemn any food unfit for human consumption or to order any such food to be destroyed or otherwise disposed of, may exercise the like power with respect to any oysters, crabs or lobsters which, in contravention of section 16 or 17 of this Act, are in the possession of any person or exposed or offered by any person for sale or have been bought by, or consigned to, any person for the purpose of sale.

Supplemental

19 Jurisdiction to try certain offences and applications of certain fines.

- (1) For the purposes of and incidental to the jurisdiction of any magistrates' court, or, in Scotland, of the sheriff, any offence under section 16 or 17 of this Act shall be deemed to have been committed either in the place in which it was actually committed or in any place in which the offender may for the time being be found.
- (2) Any offence under any of the provisions of this Act mentioned in subsection (4) of this section committed in Scotland may be prosecuted in any court of summary jurisdiction within the meaning of the ^{M3}^{F83} Criminal Procedure (Scotland) Act 1975] having jurisdiction in the place where the offence was committed.
- (3) ^{F84}
- (4) The provisions of this Act referred to in subsections (2) and (3) of this section are sections 3(3) and 7(4) and paragraph 4(5) of Schedule 1.

Textual Amendments

- F83** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)
- F84** S. 19(3) repealed by Criminal Justice Act 1972 (c. 71), **Sch. 6 Pt. II**

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Marginal Citations

M3 1975 c. 21.

20 Orders and regulations.

- (1) Any power to make orders or regulations under this Act shall be exercisable by statutory instrument.
- (2) Any instrument containing an order under section 1 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.^{F85}[or, in the case of an order in relation to Scotland, the Scottish Parliament]
- (3) Any instrument containing an order under section 17(3) of this Act [^{F86}shall—
 - (a) in the case of an order in relation to England, be laid before Parliament;
 - (b) in the case of an order in relation to Wales, be laid before the National Assembly for Wales;
 - (c) in the case of an order in relation to Scotland, be laid before the Scottish Parliament.]

Textual Amendments

F85 Words in s. 20(2)(3) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42(9); S.I. 1998/3178, art. 3

F86 Words in s. 20(3) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 213(4), 324(3); S.I. 2009/3345, art. 2, Sch. para. 9

21 Financial provisions.

- (1) There shall be paid out of moneys provided by Parliament any expenditure incurred by the Minister or the Secretary of State under this Act.
- (2) There shall be paid into the Exchequer any receipts of the Minister or the Secretary of State in pursuance of section 12(6) of this Act or paragraph 8 of Schedule 1 thereto and any sums received by the Minister or the Secretary of State by way of interest on, or repayment of, loans under section 9 of this Act.

22 Interpretation.

- (1) In this Act “the Minister” means the Minister of Agriculture, Fisheries and Food and “the appropriate Minister”, in relation to England and Wales, means the Minister and, in relation to Scotland, means the [^{F87}Scottish Ministers].
- (2) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“land” includes land covered by water;

[^{F88} “master ” includes, in relation to any sea fishing boat, the person for the time being in command or charge of the boat;]

[^{F89}“the Scottish zone” has the same meaning as in the Scotland Act 1998.]

“sea fish” means fish of any description found in the sea, other than fish of the salmon species, and includes shellfish;

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“sea fishing boat” means a vessel of whatever size, and in whatever way propelled, which is used by any person in fishing for sea fish;

[^{F90} “Scottish fishing boat” means a fishing vessel registered in the register maintained under section 8 of the Merchant Shipping Act 1995 (c. 21) whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging;]

“shellfish” includes crustaceans and molluscs of any kind, and includes any part of a shellfish and any (or any part of any) brood, ware, half-ware or spat of shellfish, and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish, and references in this Act to shellfish of any particular description shall be construed accordingly;

“shellfish bed” means any bed or ground in which shellfish are usually found or which is used for the propagation or cultivation of shellfish.

Textual Amendments

- F87** Words in s. 22(1) substituted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(10\)\(a\)](#); [S.I. 1998/3178, art. 3](#)
- F88** Words in s. 22(2) inserted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 206\(2\), 324\(3\)](#); [S.I. 2009/3345, art. 2, Sch. para. 9 \(with art. 3\(2\)\)](#) and said amendment extended to S. (24.2.2011) by Marine (Scotland) act 2010 (asp 5), ss. 161(1), 168(1) (with s. 162); S.S.I. 2011/58, art. 2(a) (with art. 4)
- F89** Definition in s. 22(2) inserted (1.7.1999) by [S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 42\(10\)\(b\)](#); [S.I. 1998/3178, art. 3](#)
- F90** Words in s. 22 inserted (S.) (1.9.2006) by [Police, Public Order and Criminal Justice \(Scotland\) Act 2006 \(asp 10\), ss. 98\(2\), 104\(1\)](#); [S.S.I. 2006/432, art. 2\(f\)](#)

Modifications etc. (not altering text)

- C16** Certain functions of Minister of Agriculture, Fisheries and Food now exercisable (W.) by Secretary of State, or Minister and Secretary of State jointly: [S.I. 1969/388, art. 3, Sch. 2 Pt. II](#) and 1978/272, art. 2, Sch. 1

23 Isle of Man and Channel Islands.

- (1) Sections 16, 17, 18 and 19(1) of this Act shall extend to the Isle of Man and the Channel Islands, and shall have effect in those Islands subject to such adaptations and modifications as Her Majesty may by Order in Council specify.
- (2) Any Order in Council made under subsection (1) of this section may be varied or revoked by a subsequent Order in Council so made.

24 Consequential amendments, repeals and transitional provisions.

- (1) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments specified therein, being amendments consequential on the provisions of this Act.
- (2) Any Order in Council made under subsection (1) of this section may be varied or revoked by a subsequent Order in Council so made.
- (3) In so far as any order, regulation or licence made or granted under any enactment repealed by this Act, or any other thing done under any such enactment, could have

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been made, granted or done under a corresponding provision of this Act, it shall not be invalidated by the repeals effected by this section but shall have effect as if made, granted or done under that corresponding provision.

- (4) Without prejudice to subsection (3) of this section, any reference in this Act to a thing done under any provision of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done under the corresponding provision of the enactments repealed by this Act.
- (5) Where any Act or any document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as a reference to the corresponding provision of this Act.
- (6) For the purpose of determining the punishment (by fine, imprisonment or both) which may be imposed on a person in respect of an offence under any provision of this Act, an offence committed by that person under the corresponding enactment repealed by this Act shall be deemed to have been committed under that provision.
- (7) Nothing in this section shall be taken as prejudicing the operation of section 38 of the ^{M4}Interpretation Act 1889 (which relates to the effect of repeals).

Modifications etc. (not altering text)

C17 The text of S. 24(1)(2), Schs. 2 and 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force, and, except as specified, does not reflect any repeals or amendments which may have been made prior to 1.2.1991

Marginal Citations

M4 1889 c. 63.

[^{F91}24A Crown application: Scotland

- (1) Section 4CA binds the Crown and applies in relation to Crown land as it applies in relation to other land.
- (2) Nothing in that section is to be taken as in any way affecting Her Majesty in Her private capacity.
- (3) No contravention by the Crown of section 4D(2) in respect of a failure to comply with a requirement under a power conferred by section 4CA makes the Crown criminally liable.
- (4) But the Court of Session may, on the application of the Lord Advocate, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (5) For the purposes of subsection (1), “ Crown land ” means land an interest in which—
 - (a) belongs to Her Majesty in right of the Crown,
 - (b) belongs to an office-holder in the Scottish Administration or a government department or is held in trust for Her Majesty for the purposes of the Scottish Administration or a government department.
- (6) In subsection (5), “ an office-holder in the Scottish Administration ” is to be construed in accordance with section 126(7)(a) of the Scotland Act 1998.]

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Textual Amendments

F91 S. 24A inserted (S.) (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 57(5), 66(2)** (with s. 65); S.S.I. 2013/249, art. 2

25 Citation, commencement and extent.

- (1) This Act may be cited as the Sea Fisheries (Shellfish) Act 1967 and shall come into force at the expiration of a period of one month beginning with the date on which it is passed.
- (2) This Act shall not extend to Northern Ireland.

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 14(2) words repealed by [2003 c. 44 Sch. 37 Pt. 9](#)