

SCHEDULES

SCHEDULE 4

Section 37.

OFFENCES

PART I

PROSECUTION AND PUNISHMENT

- 1 (1) Column 2 of the Table below gives a description of the offences against the provisions of this Act specified in column 1 of the Table, and in relation to any such offence—
- (a) column 3 shows whether the offence is punishable summarily (that is to say, on summary conviction) or on indictment or either in one way or the other; and
 - (b) column 4 shows the maximum punishment by way of fine or imprisonment which may be imposed on a person convicted of the offence in the way specified in column 3 (that is to say, summarily or on indictment), any reference in column 4 to a period of years or months being construed as a reference to a term of imprisonment for that period.
- (2) A person guilty of an offence against any provision of this Act not specified in the Table shall be liable on summary conviction to a fine not exceeding [^{F1}level 4 on the standard scale] or, in the case of a second or subsequent conviction, [^{F1}level 4 on the standard scale].
- (3) A person shall be treated as acting together with another for the purposes of the above Table if
- [^{F2}(a) both are engaged in committing—
 - (i) an offence under section 1 above, other than one committed without any instrument, or
 - (ii) an offence under section 27 above, other than one committed by means of a rod and line (only), or
 - (b) one is aiding, abetting, counselling or procuring the commission of such an offence by the other.]

TABLE

Provision of Act creating the offence	Description of offence	Mode of prosecution	Punishment
(1)	(2)	(3)	(4)
[^{F3} Section 1 ...]	[^{F3} Fishing with certain instruments for salmon, trout or	[^{F3} (a) Summarily ...]	^{F4} [^{F3} Three months or the statutory

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	freshwater fish and possessing certain instruments for fishing for such fish.]	[^{F3} On indictment ...]	maximum or both.] [^{F3} Two years or a fine of both.]
Section 4 ...	Discharging poisonous or injurious matter into waters containing fish or spawn.	(a) Summarily	[^{F5} The prescribed sum] and £40 for each day on which the offence continues after a conviction thereof.
		(b) On indictment	Two years or a fine or both.
Section 5(1) ...	Using explosives, poisons, noxious substances or electrical devices to take or destroy fish.	(a) Summarily	[^{F6} A fine.]
		(b) On indictment	Two years or a fine or both.
Section 5(3) ...	Destroying or damaging dams etc., to take or destroy fish.	(a) Summarily	[^{F5} The prescribed sum].
		(b) On indictment	Two years or a fine or both.
F7	F7	F7	F7
...
F7	F7	F7	F7
...
F7	F7	F7	F7
...
F7	F7	F7	F7
...
F7	F7	F7	F7
...
[^{F3} Section 27 ...]	[^{F3} Fishing for fish[^{F8} by licensable means of fishing] otherwise than under the authority of a licence and possessing an unlicensed[^{F9} licensable] instrument with intent to use it for fishing.]	[^{F3} (a) If the [^{F10} offence is one alleged to be committed by use or possession of rod and line (only)], summarily.] [^{F3} (b) in any other case—] [^{F3} (i)summarily]...	[^{F3} Level 4 on the standard scale] F4 [^{F3} Three months or the statutory

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			maximum or both;]
		[^{F3} (ii) on indictment]...	[^{F3} Two years or a fine or both.]
[^{F11} Section 27B	Unauthorised fishing etc	(a) Summarily (b) On indictment	[^{F12} A fine.] A fine.]

Textual Amendments

- F1** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and by [1995 c. 40, ss. 3, 7\(2\), Sch. 1 para. 3\(1\), Sch. 2 Pt. II](#) it is provided (S.)(1.4.1996) that Sch. 4 para. 1(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 4 on the standard scale
- F2** Sch. 4 para. 1(3)(a)(b) substituted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(4\)](#); S.I. 2009/3345, art. 2, Sch. para. 15(h)
- F3** Entry substituted (E.W. and as mentioned in s. 43(4) of the substituting Act (border rivers)) by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [ss. 35\(1\)\(2\)](#), 43(4)
- F4** By [1995 c. 40, ss. 3, 7\(2\), Sch. 1 para. 3\(1\), Sch. 2 Pt. II](#) it is provided (S.) (1.4.1996) that Sch. 4 Pt. I Table shall have effect as if the maximum fine that may be imposed on summary conviction for the offences mentioned therein (offences created under sections 1, 19(2)(4)(6)(7), 21, 27 of this Act) were a fine not exceeding level 4 on the standard scale
- F5** Sch. 4 para. 1 table: the maximum fine which may be imposed on summary conviction shall be the prescribed sum by virtue of [Magistrates' Courts Act 1980 \(c. 43\), s. 32\(2\)](#)
- F6** Words in Sch. 4 para. 1(2) substituted (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. 8\(a\)](#) (with reg. 5(1))
- F7** Sch. 4 para. 1(2) entries repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(2\), 22 Pt. 5\(B\)](#); S.I. 2009/3345, art. 2, Sch. paras. 15(h), 27(b)
- F8** Words in Sch. 4 para. 1(2) inserted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(3\)\(a\)\(i\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F9** Word in Sch. 4 para. 1(2) inserted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(3\)\(a\)\(ii\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F10** Words in Sch. 4 para. 1(2) substituted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(3\)\(b\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F11** Words in Sch. 4 para. 1(2) inserted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 219\(3\), 324\(3\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F12** Words in Sch. 4 para. 1(2) substituted (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. 8\(b\)](#) (with reg. 5(1))

PART II

PROCEDURE

Modifications etc. (not altering text)

- C1** [Sch. 4 Pt. II](#): by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [ss. 32\(6\)\(b\)](#), 43(4) it is provided that [Sch. 4 Pt. II](#) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

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- 2 Any offence against this Act committed on the sea-coast or at sea beyond the ordinary jurisdiction of a court of summary jurisdiction shall be deemed to have been committed in any place abutting on that sea-coast or adjoining that sea, and may be tried and punished accordingly.
- 3 Offences against this Act committed in Scotland shall be proceeded against and punished in Scotland.
- 4 A justice of the peace shall not be disqualified from hearing any case under this Act by reason only of being a subscriber to any society for the protection of fish, but a justice shall not be entitled to hear any case in respect of an offence committed on his own land or in relation to any fishery of which he is owner or occupier.
- 5 The court by which a person is convicted of an offence against this Act may order the forfeiture of—
- (a) any fish illegally taken by him or in his possession at the time of the offence;
 - (b) any instrument, bait or other thing used in the commission of the offence;
 - (c) in the case of an offence of unlawful possession of any substance or device in contravention of section 5 above, that substance or device; and
 - (d) on conviction on indictment, any vessel or vehicle used in or in connection with the commission of the offence or in which any substance or device unlawfully in his possession was contained at the time of the offence;
- and may order any object so forfeited to be disposed of as the court thinks fit.
- 6 ^[F13]Schedule 3 to the Customs and Excise Management Act 1979] (provisions relating to the forfeiture of things seized under that Act) shall apply in relation to any vessel or vehicle liable to forfeiture under paragraph 5 above as it applies in relation to anything liable to forfeiture under that Act, but in its application in relation to any such vessel or vehicle shall have effect subject to the following modifications:—
- ^[F14](a) paragraphs 1(2) and 5 shall be omitted;
 - (b) for references to ^[F15]the appropriate agency; and]
 - (c) the court shall not condemn a vehicle or vessel as forfeited under paragraph 6 of that Schedule if satisfied by its owner that that offence was committed without his knowledge and that he could not have reasonably foreseen that it would be used as mentioned in paragraph 5(d) above;
- and where notice of claim in respect of anything is duly given in accordance with paragraphs 3 and 4 of that Schedule, as applied by this paragraph, the court shall not exercise its power of ordering forfeiture of the vessel or vehicle under paragraph 5 above.

In this paragraph “owner”, in relation to a vessel or vehicle which is the subject of a hire-purchase agreement, means the person in possession of the vehicle under that agreement.

Textual Amendments

- F13** Words substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), s. 177(1), **Sch. 4 para. 12**
- F14** Sch. 4 para. 6(a) substituted by [Customs and Excise Management Act 1979 \(c. 2, SIF 40:1\)](#), s. 177(1), **Sch. 4 para. 12**
- F15** Words in Sch. 4 para. 6(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 152(2)** (with Sch. 7)

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7 An authorised officer may seize any [^{F16} fish] bought, sold or exposed for sale by, or in the possession for sale of, any person in contravention of this Act.

Textual Amendments

F16 Word in Sch. 4 para. 7 substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 16 para. 17(5); S.I. 2009/3345, art. 2, Sch. para. 15(h)

8 Where any fish or any other thing of a perishable nature is seized as liable to forfeiture under paragraph 5 above, the person by whom it is seized may sell it, and the net proceeds of sale shall be liable to forfeiture in the same manner as the fish or other thing sold, and if and so far as not forfeited shall be paid on demand to the owner; but no person shall be subject to any liability on account of his neglect or failure to exercise the powers conferred on him by this paragraph.

9 If a person is convicted of an offence against this Act [^{F17}and is subsequently convicted of any such offence], the court may order that any fishing or general licence[^{F18} or authorisation under section 27A above] held by him shall be forfeited, and that he shall be disqualified from holding and obtaining a fishing or general licence[^{F19} or authorisation under section 27A above][^{F20}or for fishing in a water authority area][^{F20}for having his name entered on a licence in pursuance of paragraph 9 to 14 of Schedule 2 to this Act or for fishing (either in a particular area or generally)] by virtue of a fishing or general licence[^{F19} or authorisation under section 27A above] for such period not exceeding [^{F21}one year][^{F21}five years] as the court thinks fit.

Textual Amendments

F17 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 141, 190, Sch. 17 para. 7(1)(15)(a), Sch. 27 Pt. 1 (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F18 Words in Sch. 4 para. 9 inserted (1.1.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 16 para. 17(6)(a); S.I. 2010/298, art. 2, Sch. para. 13

F19 Words in Sch. 4 para. 9 inserted (1.1.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 16 para. 17(6)(b); S.I. 2010/298, art. 2, Sch. para. 13

F20 Words beginning “for having his name” substituted for words beginning “or for fishing” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(15)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F21 Words “five years” substituted for “one year” (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 141, Sch. 17 para. 7(1)(15)(c) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

10 A person who is prosecuted for an offence against this Act and who is the holder of a fishing or general licence [^{F22}or authorisation under section 27A above] shall either—

(a) [^{F23}serve it on the proper officer of the court in accordance with Criminal Procedure Rules] not later than the day before the date appointed for the hearing, or

^{F24}(b)

(c) have it with him at the hearing;

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and if he is convicted of the offence and the court makes an order under paragraph 9 above the court shall order the licence [^{F25}or authorisation under section 27A above] to be surrendered to it; and if the offender has not [^{F26}served the licence or authorisation under section 27A above] as aforesaid and does not surrender it as required then he shall be guilty of an offence and the licence [^{F25}or authorisation under section 27A above] shall be revoked from the time when its surrender was ordered.

Textual Amendments

- F22** Words in Sch. 4 para. 10 inserted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(7\)\(a\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F23** Words in Sch. 4 para. 10(a) substituted (28.6.2022) by [Judicial Review and Courts Act 2022 \(c. 35\), s. 51\(3\), Sch. 1 para. 4\(a\)](#)
- F24** Sch. 4 para. 10(b) omitted (28.6.2022) by virtue of [Judicial Review and Courts Act 2022 \(c. 35\), s. 51\(3\), Sch. 1 para. 4\(b\)](#)
- F25** Words in Sch. 4 para. 10 inserted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(7\)\(b\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F26** Words in Sch. 4 para. 10 substituted (28.6.2022) by [Judicial Review and Courts Act 2022 \(c. 35\), s. 51\(3\), Sch. 1 para. 4\(c\)](#)

- 11 Where a court orders a fishing or general licence [^{F27} or authorisation under section 27A above] to be surrendered to it under paragraph 10 above, or where by an order of a court under paragraph 9 above a person is disqualified from holding or obtaining a licence [^{F28} or authorisation], the court shall—
- (a) send notice of the [^{F29}order to the appropriate agency, unless that agency prosecuted] in the case;
 - (b) if the licence [^{F30} or authorisation] has been so surrendered, retain it and [^{F31}forward it to the appropriate agency, who] may dispose of it as they think fit.

Textual Amendments

- F27** Words in Sch. 4 para. 11 inserted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(8\)\(a\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F28** Words in Sch. 4 para. 11 inserted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(8\)\(b\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F29** Words in Sch. 4 para. 11(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 152\(3\)\(a\)](#) (with Sch. 7)
- F30** Words in Sch. 4 para. 11 inserted (1.1.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 16 para. 17\(8\)\(c\)](#); S.I. 2010/298, art. 2, Sch. para. 13
- F31** Words in Sch. 4 para. 11(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 152\(3\)\(b\)](#) (with Sch. 7)

- 12 Where any person is convicted of an offence against this Act, the [^{F32}proper officer] of the court before whom he is convicted shall, within one month of the date of conviction, forward a certificate of the conviction to [^{F33}the appropriate agency].

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Textual Amendments

- F32** Words in Sch. 4 para. 12 substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 86(2)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F33** Words in Sch. 4 para. 12 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 152(4)** (with Sch. 7)

13 A certificate under paragraph 12 above shall be receivable in evidence in all legal proceedings.

^{F34}[14 In paragraphs 10 and 12 above “ proper officer ” means—

(a) in relation to a magistrates’ court, the [^{F35}designated officer] for the court; and

(b) in relation to the Crown Court, the appropriate officer.]

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Textual Amendments

- F34** Sch. 4 para. 14 inserted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 86(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F35** Words in Sch. 4 para. 14 substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 178**; S.I. 2005/910, art. 3(y)

Changes to legislation:

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975, SCHEDULE 4.