



# Fisheries Act 1981

## 1981 CHAPTER 29

### PART V

#### MISCELLANEOUS AND SUPPLEMENTARY

#### **35 Regulation of whaling.**

- (1) The <sup>M1</sup>Whaling Industry (Regulation) Act 1934 shall be amended as follows.
- (2) for section 1 there shall be substituted—
  - (1) Subject to the provisions of this section, references in this Act to whales shall be construed as references to any cetacean, and the reference in section 6(4) (a) to whale products shall be construed accordingly.
  - (2) In their application to a ship registered in or licensed under the law of a colony or associated state sections 3 to 6 of this Act shall have effect as if references to whales were references only to the following cetaceans, that is to say—
    - (a) whales known as whalebone whales or baleen whales; and
    - (b) whales known as sperm whales, spermacet whales, cachalots or pot whales;but Her Majesty may by Order in Council direct that those references shall also include references to all other cetaceans or to any description of other cetaceans specified in the Order.
  - (3) An Order under subsection (2) above may provide that its application by virtue of the Order this Act shall have effect with such exceptions, adaptations or modifications as may be specified in the Order; and any Order under that subsection may be limited so as to apply only in relation to one or more colonies or associated states specified in the Order.
  - (4) Neither subsection (1) nor subsection (2) above shall be construed as extending, or enabling an Order to extend, to other cetaceans so much of

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section 3 of this Act as is expressed to apply only to right whales, grey whales, blue whales or fin whales.”

- (3) [<sup>F1</sup>In sections 2, 3(1) and 4(2) (penalty for unlawful taking, treating, killing or attempting to kill whales) for the words from “to imprisonment” onwards there shall be substituted the words “ on summary conviction to a fine not exceeding £50,000 or on conviction on indictment to a fine. ”]
- (4) [<sup>F1</sup>In section 6(7) (penalty for contravening condition of licence) for the words from “to imprisonment” to “and such fine” there shall be substituted the words “ on summary conviction to a fine not exceeding £5,000 or on conviction on indictment to a fine. ”]
- (5) In sections 6(8) and 9(1) (penalty for failure to keep or falsifying records and for forgery of documents) for the words from “to imprisonment” onwards there shall be substituted the words “ on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to a fine. ”
- (6) In section 8(3) (obstructing inspectors)—
- (a) before the word “refuses”, in each place where it occurs, there shall be inserted the words “ without reasonable excuse ” and for the word “obstructs” there shall be substituted the words “ wilfully obstructs ”;
  - (b) [<sup>F1</sup>for the words “to a fine not exceeding one hundred pounds” there shall be substituted the words “ on summary conviction to a fine not exceeding £5,000 or on conviction on indictment to a fine. ”]
- (7) In section 10(2) (summary proceedings) for the words from the beginning to “proceedings taken by virtue of this Act” there shall be substituted the words “ Summary proceedings taken by virtue of this Act ”.
- (8) For the purposes of section 12 (power to exempt coastal waters of territory whose local law corresponds substantially with provisions of the Act) any provision of the local law may be treated as substantially corresponding to a provision of the Act if it substantially corresponds to that provision with or without any amendment made by or by virtue of this section.

#### **Textual Amendments**

**F1** S. 35(3)(4)(6)(b) omitted (E.W.) (12.3.2015) 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. 95\(3\)](#) (with reg. 5(1))

#### **Modifications etc. (not altering text)**

**C1** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M1** 1934 c. 49.

## **36 Landing etc. of whales in Scotland.**

- (1) Any person who drives ashore in Scotland any whale of the species of smaller whales known as bottlenose whales and pilot whales shall be guilty of an offence and liable on

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summary conviction to a fine not exceeding £50,000 or on conviction on indictment to a fine.

- (2) The <sup>M2</sup>Whale Fisheries (Scotland) Act 1907 shall cease to have effect; and in section 17(1) of the <sup>M3</sup>Whaling Industry (Regulation) Act 1934 for the words “the authority having power to grant licences under the Whale Fisheries (Scotland) Act 1907” there shall be substituted the words “the Secretary of State”.

**Modifications etc. (not altering text)**

**C2** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M2** 1907 c. 41.  
**M3** 1934 c. 49.

**37 Import of live fish.**

- (1) The <sup>M4</sup>Import of Live Fish (Scotland) Act 1978 and the <sup>M5</sup>Import of Live Fish (England and Wales) Act 1980 shall be amended as follows.
- (2) In section 1(3) of each Act (matters capable of being authorised by licence) for the words “or keep” there shall be substituted the words “keep or release” and in section 3(1)(a)(ii) of each Act for the words “or keeping”, in both places, there shall be substituted the words “keeping or release”.
- (3) In section 2(1) of each Act (powers of entry) the words “a police constable” shall be omitted.
- (4) In section 3(3) of each Act (duty of court to order forfeiture on conviction of offence) for the word “shall” there shall be substituted the word “may”.

**Modifications etc. (not altering text)**

**C3** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M4** 1978 c. 35.  
**M5** 1980 c. 27.

**38 Fisheries offences on River Tweed.**

- (1) At the end of section 6 of the <sup>M6</sup>Freshwater and Salmon Fisheries (Scotland) Act 1976 (penalties for offences against fisheries enactments) there shall be inserted the following subsections—

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“(3) This section, so far as it relates to the enactments specified in subsection (4) below, shall apply to so much of the River Tweed as is situated outwith Scotland as if it were situated in Scotland.

(4) The enactments referred to in subsection (3) above are—

- (a) sections 15(8), 18, 19 and 20 of the Salmon Fisheries (Scotland) Act 1868;
- (b) section 1 of the Freshwater Fish (Scotland) Act 1902;
- (c) sections 1 to 4, 6, 10(6), 13, 15(2) and 16 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.”

(2) At the end of section 7 of the said Act of 1976 (fish farmers not to be guilty of contravention of certain enactments) there shall be inserted the following subsection—

“(5) This section, so far as it relates to the enactments specified in paragraphs 2, 3, 4, 5(d), 6, 8 and 10 of Schedule 3 to this Act, shall apply to so much of the River Tweed as is situated outwith Scotland as if it were situated in Scotland.”.

(3) At the end of section 9(1) of the said Act of 1976 (interpretation) there shall be inserted the following definition—

““the River Tweed” means “the River” as defined by the Tweed Fisheries Amendment Act 1859, and any bye-law amending that definition.”

(4) At the beginning of section 10(2) of the said Act of 1976 (short title and extent) there shall be inserted the words “ Except insofar as this Act otherwise provides, ”.

**Modifications etc. (not altering text)**

**C4** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M6** 1976 c. 22.

**39 Reports on fisheries.**

Section 5(3) of the <sup>M7</sup>Fishery Board (Scotland) Act 1882 (duty of Secretary of State to make annual report regarding fisheries) shall cease to have effect.

**Modifications etc. (not altering text)**

**C5** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M7** 1882 c. 78.

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#### 40 Fishery protection in waters adjacent to Northern Ireland.

The Department of Agriculture for Northern Ireland may, with the approval of the Department of Finance for Northern Ireland, incur expenditure in employing officers and vessels and generally taking such measures as appear to it necessary to protect British fisheries in [<sup>F2</sup>the Northern Ireland zone within the meaning of the Northern Ireland Act 1998].

##### Textual Amendments

**F2** Words in s. 40 substituted (28.3.2002) by 2002/790, art. 6(4)

#### 41 Orders <sup>F3</sup>....

Any power of any Minister [<sup>F4</sup>, Ministers or of the Scottish Ministers] under this Act to make orders <sup>F5</sup>... shall be exercisable by statutory instrument.

##### Textual Amendments

**F3** Words in s. 41 heading omitted (23.11.2020) by virtue of Fisheries Act 2020 (c. 22), s. 54(1)(c), **Sch. 6 para. 4(2)(a)(i)** (with **Sch. 4 para. 31**)

**F4** Words in s. 41 substituted (1.7.1999) by S.I. 1999/1820, art. 4, **Sch. 2 Pt. I para. 68(9)**; S.I. 1998/3178, **art. 3**

**F5** Words in s. 41 omitted (23.11.2020) by virtue of Fisheries Act 2020 (c. 22), s. 54(1)(c), **Sch. 6 para. 4(2)(a)(i)** (with **Sch. 4 para. 31**)

#### 42 Offences by bodies corporate.

Where an offence under Part I<sup>F6</sup>... of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

##### Textual Amendments

**F6** Words in s. 42 omitted (23.11.2020) by virtue of Fisheries Act 2020 (c. 22), s. 54(1)(c), **Sch. 6 para. 4(2)(a)(ii)** (with **Sch. 4 para. 31**)

#### 43 Financial provisions.

(1) There shall be paid out of moneys provided by Parliament any sums required by any Minister or Ministers—

- (a) for making payments to or in respect of members of the Sea Fish Industry Authority and former members of the bodies replaced by that Authority;
- (b) for providing financial assistance to the Authority (by way of loan, grant or guarantee) under Part I of this Act;

<sup>F7</sup>(c) .....

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- (d) for exercising the powers conferred by section 32 above; or
  - (e) for administrative expenses under this Act.
- (2) Any sums received by any Minister or Ministers under this Act shall be paid into the Consolidated Fund.
- [<sup>F8</sup>(3) Any sums received by the Department of Agriculture and Rural Development under this Act shall be paid into the Consolidated Fund of Northern Ireland.]

#### Textual Amendments

- F7** S. 43(1)(c) omitted (23.11.2020) by virtue of [Fisheries Act 2020 \(c. 22\)](#), s. 54(1)(c), [Sch. 6 para. 4\(2\)\(a\)\(iii\)](#) (with [Sch. 4 para. 31](#))
- F8** S. 43(3) added (28.3.2002) by [S.I. 2002/790](#), [art. 7\(4\)](#)

#### 44 General interpretation.

In this Act—

- “salmon” includes any fish of the salmon species;
- “shellfish” includes crustaceans and molluscs of any kind;
- “migratory trout” means any species of trout which migrates to and from the sea.

#### 45 Amendment of section 22(2) of Sea Fish (Conservation) Act 1967.

In subsection (2) of section 22 of the <sup>M8</sup>Sea Fish (Conservation) Act 1967—

- (a) in the definition of “the appropriate Minister” the words “and Wales” shall be omitted and after “Minister of Agriculture, Fisheries and Food” there shall be inserted “ in relation to Wales, means the Secretary of State concerned with the sea fishing industry in Wales ”;
- (b) in paragraph (a) after “Scotland” there shall be inserted “ Wales ”;
- (c) in paragraphs (b) and (c) for “the Secretary of State” there shall be substituted “ the Secretaries of State respectively ” and after “Scotland” there shall be inserted “ and Wales ”.

#### Modifications etc. (not altering text)

- C6** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2)(3), Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M8** 1967 c. 84.

#### 46 Short title, repeals, commencement and extent.

- (1) This Act may be cited as the Fisheries Act 1981.

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- (2) The enactments mentioned in Schedule 5 to this Act (which include spent or unnecessary provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Subject to subsection (4) below, this Act shall come into force at the expiration of the period of one month beginning with the date on which it is passed.
- (4) The provisions mentioned in subsection (5) below shall come into force on such day as may be specified by an order of the Ministers (as defined in Part I of this Act) and different days may be specified for different provisions.
- (5) The provisions referred to in subsection (4) above are Part I, section 31, Schedules 1, 2 and 3 and Part I of Schedule 5.
- (6) The following provisions of this Act do not extend to Northern Ireland, that is to say, section 19(2)(a) and (b), section 25(3), (4) and (5), Part IV, sections 36 to 39 and Schedule 4.
- (7) The provisions capable of being extended to the Isle of Man and Channel Islands under section 24 of the <sup>M9</sup>Sea Fish (Conservation) Act 1967 or section 21 of the <sup>M10</sup>Sea Fisheries Act 1968 shall include the provisions relating to those Acts in Part III of this Act; and the provisions capable of being extended under section 13 of the <sup>M11</sup>Whaling Industry (Regulation) Act 1934 to the territories there mentioned shall include the provisions of section 35 of this Act.

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**Modifications etc. (not altering text)**

- C7** The text of s. 3(6), 19–26, 28, 29, 35(2)–(7), 36(2), 37–39, 45, 46(2), Sch. 1 para. 10, Sch. 3 para. 8(2) (3), Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C8** Power of appointment conferred by s. 46(4)(5) fully exercised: [S.I. 1981/1357](#) and 1981/1640
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**Marginal Citations**

- M9** 1967 c. 84.  
**M10** 1968 c. 77.  
**M11** 1934 c. 49.

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