



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 7

FISHERIES

CHAPTER 3

MIGRATORY AND FRESHWATER FISH

Supplementary

228 Theft of fish from private fisheries etc

- (1) In the Theft Act 1968 (c. 60), in Schedule 1 (offences of taking or destroying fish), paragraph 2 is amended as follows.
- (2) For sub-paragraph (1) substitute—
 - “(1) A person who unlawfully takes or destroys, or attempts to take or destroy, any fish in water which is private property or in which there is any private right of fishery shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale.”
- (3) Sub-paragraph (2) is omitted.
- (4) In sub-paragraph (3), for “this paragraph” substitute “ sub-paragraph (1) above ”.

Commencement Information

II S. 228 in force at 12.1.2010 by [S.I. 2009/3345](#), art. 2, [Sch. para. 14](#)

Changes to legislation: Marine and Coastal Access Act 2009, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

229 Handling fish

- (1) Section 32 of the Salmon Act 1986 (c. 62) (handling salmon in suspicious circumstances) is amended as follows.
- (2) In the heading, for “salmon” substitute “ fish ”.
- (3) In subsection (1)—
 - (a) for “any salmon” substitute “ any fish to which this section applies ”;
 - (b) for “the salmon” substitute “ that fish ”;
 - (c) the words “by or for the benefit of another person” are omitted.
- (4) After that subsection insert—

“(1A) This section applies to—

 - (a) salmon, trout, eels, lampreys, smelt and freshwater fish; and
 - (b) fish of such other description as may be specified for the purposes of this section by order under section 40A of the Salmon and Freshwater Fisheries Act 1975.”
- (5) In subsection (2)—
 - (a) for “a salmon” substitute “ a fish to which this section applies ”;
 - (b) in paragraph (a)—
 - (i) after “or landing” insert “ , or selling, ”;
 - (ii) for “that salmon” substitute “ that fish ”;
 - (c) in paragraph (b)—
 - (i) for “that salmon” substitute “ that fish ”;
 - (ii) after “or landed,” insert “ or sold, ”.
- (6) In subsection (3), for “salmon” substitute “ fish ”.
- (7) In subsection (4), for “salmon” substitute “ fish to which this section applies ”.
- (8) In subsection (5)—
 - (a) in paragraph (a), for the words from “to imprisonment” to the end substitute “ to a fine not exceeding the statutory maximum ”;
 - (b) in paragraph (b), for the words from “to imprisonment” to the end substitute “ to a fine ”.
- (9) In subsection (7)—
 - (a) after “or landing” insert “ , or selling, ”
 - (b) for “a salmon” substitute “ a fish to which this section applies ”;
 - (c) for “the salmon” substitute “ the fish ”;
 - (d) at the end insert “ or sold ”.
- (10) At the end insert—

“(8) In this section “salmon”, “trout”, “eels”, “smelt”, “fish” and “freshwater fish” have the same meanings as in the Salmon and Freshwater Fisheries Act 1975.”

Commencement Information

I2 S. 229 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 14

Changes to legislation: Marine and Coastal Access Act 2009, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

230 Duties of the Environment Agency

- (1) Section 6 of the Environment Act 1995 (c. 25) (general duties of the Agency) is amended as follows.
- (2) In subsection (6), for the words from “salmon” to the end substitute “fisheries of—
 - (a) salmon, trout, eels, lampreys, smelt and freshwater fish, and
 - (b) fish of such other description as may be specified for the purposes of this subsection by order under section 40A of the Salmon and Freshwater Fisheries Act 1975”.
- (3) In subsection (8), at the end insert—

““salmon”, “trout”, “eels”, “smelt”, “fish” and “freshwater fish” have the same meanings as in the Salmon and Freshwater Fisheries Act 1975”

Commencement Information

I3 S. 230 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 14

231 Tweed and Esk fisheries

- (1) Section 111 of the Scotland Act 1998 (c. 46) (regulation of Tweed and Esk fisheries) is amended as follows.
- (2) In subsection (1), for “salmon, trout, eels and freshwater fish” substitute “ salmon, trout, eels, lampreys, smelt, shad and freshwater fish ”.
- (3) In subsection (4), in the definition of “conservation”, for “salmon, trout, eels and freshwater fish,” substitute “ salmon, trout, eels, lampreys, smelt, shad and freshwater fish, ”.
- (4) In subsection (4), in the definition of “eels”, “freshwater fish”, “salmon” and “trout”—
 - (a) after “ “eels”, ” insert “fish”, ”;
 - (b) after “ “salmon” ” insert “ , “smelt” ;
 - (c) after “Salmon and Freshwater Fisheries Act 1975” insert “ (as amended by the Marine and Coastal Access Act 2009) ”.
- (5) At the end insert—

“(6) An Order under subsection (1) may amend that subsection so as to—
 - (a) add any description of fish to it, or
 - (b) remove any description of fish from it.”

Commencement Information

I4 S. 231 partly in force; s. 231 in force for specified purposes at Royal Assent see s. 324(1)(c)

I5 S. 231 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 14

232 Keeping, introduction and removal of fish

- (1) The appropriate national authority may by regulations make provision for the purpose of prohibiting persons, in such cases as may be specified in the regulations, from

Changes to legislation: Marine and Coastal Access Act 2009, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

carrying on any of the activities specified in subsection (2) otherwise than under and in accordance with a permit issued by [^{F1}the appropriate agency].

- (2) The activities referred to in subsection (1) are—
- (a) keeping any fish in the area to which this section applies;
 - (b) introducing any fish into any inland waters in that area;
 - (c) removing any fish from any inland waters in that area.
- (3) The area to which this section applies is the area consisting of—
- (a) England,
 - (b) Wales, and
 - (c) so much of the catchment area of the River Esk as is in Scotland.
- (4) The references in subsection (2)(b) and (c) to inland waters do not include the River Tweed.
- (5) Regulations made under this section may in particular—
- (a) make provision as to the descriptions of permits to be issued;
 - (b) specify the manner and form of an application for a permit from [^{F2}the appropriate agency] to carry out any activity specified in subsection (2) and the sum, or maximum sum, to be paid on the making of such an application;
 - (c) specify the circumstances in which such an application is to be granted or refused and any considerations which [^{F2}the appropriate agency] may or must take into account when determining whether or not to issue such a permit;
 - (d) specify the conditions that may be incorporated into such a permit;
 - (e) make provision for the amendment, suspension or revocation of such a permit;
 - (f) make provision authorising [^{F2}the appropriate agency] to exempt persons from any requirement under the regulations to obtain such a permit;
 - (g) make provision as to the effect of a prohibition under regulations made under this section on fishing pursuant to any licence, authorisation, permission, or right to fish;
 - (h) make provision enabling [^{F2}the appropriate agency] to require a person in breach of any requirement under regulations made under this section, or in breach of any condition of a permit under such regulations—
 - (i) to take steps to ensure that the position is, so far as possible, restored to what it would have been had there been no such breach;
 - (ii) to allow [^{F2}the appropriate agency] to take such steps;
 - (iii) to pay to [^{F2}the appropriate agency] a sum representing reasonable expenses of any such steps taken or to be taken by [^{F3}the appropriate agency];
 - (i) make provision creating criminal offences for the purpose of securing compliance with regulations made under this section or of any requirements under paragraph (h);
 - (j) make other provision for the enforcement of requirements under the regulations, including provision conferring the following powers on [^{F4}the appropriate agency]—
 - (i) powers of entry;
 - (ii) powers of search and seizure;
 - (iii) powers to destroy or release any fish seized.
- (6) Provision under subsection (5)(a) may specify that a permit may be issued—

Changes to legislation: Marine and Coastal Access Act 2009, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) in respect of one or more of the activities specified in subsection (2);
 - (b) in relation to the carrying on of any one or more of those activities on one occasion or more than one occasion;
 - (c) for periods of limited or unlimited duration.
- (7) Provision under subsection (5)(i) must provide that where a person is guilty of an offence created under that subsection, the person is liable—
- (a) on summary conviction, to [^{F5}a fine not exceeding £50,000][^{F5}a fine, the amount of which may be limited by the regulations];
 - (b) on conviction on indictment, to a fine.
- (8) In this section—
- [^{F6}“appropriate agency” means—
 - (a) the Environment Agency, otherwise than in relation to Wales, and
 - (b) the Natural Resources Body for Wales, in relation to Wales;]
 “appropriate national authority” means—
 - (a) the Secretary of State, otherwise than in relation to Wales;
 - (b) the Welsh Ministers, in relation to Wales;
 references to “fish” include the spawn of fish;
 “inland waters” has the same meaning as in the Water Resources Act 1991 (c. 57);
 “River Tweed” means “the river” within the meaning of the Tweed Fisheries Amendment Act 1859 (c. lxx), as amended by byelaws.

Textual Amendments

- F1** Words in s. 232(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 447(2)** (with Sch. 7)
- F2** Words in s. 232(5) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 447(3)(a)** (with Sch. 7)
- F3** Words in s. 232(5)(h)(iii) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 447(3)(b)** (with Sch. 7)
- F4** Words in s. 232(5)(j) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 447(3)(b)** (with Sch. 7)
- F5** Words in s. 232(7)(a) 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. 93** (with reg. 5(2))
- F6** Words in s. 232(8) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 447(4)** (with Sch. 7)

Commencement Information

- I6** S. 232 partly in force; s. 232 in force for specified purposes at Royal Assent see s. 324(1)(c)
- I7** S. 232 in force at 12.1.2010 in so far as not already in force by [S.I. 2009/3345](#), art. 2, **Sch. para. 14**

233 Consequential and supplementary amendments

- (1) Schedule 16 (which contains consequential and supplementary amendments relating to this Chapter) has effect.

Changes to legislation: Marine and Coastal Access Act 2009, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (2) The following provisions of the Salmon and Freshwater Fisheries Act 1975 (c. 51) (which are obsolete or no longer of practical utility) are omitted—
- (a) in section 4 (poisonous matter etc), subsection (2);
 - (b) section 23 (export of salmon and trout);
 - (c) section 24 (consignment of salmon and trout).

Commencement Information

- I8** S. 233(1) in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, [Sch. para. 15](#)
- I9** S. 233(1) in force at 1.1.2011 in so far as not already in force by S.I. 2010/298, art. 2, [Sch. para. 13](#)
- I10** S. 233(2) in force at 12.1.2010 by S.I. 2009/3345, art. 2, [Sch. para. 16](#)

Changes to legislation:

Marine and Coastal Access Act 2009, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 72A(2A) inserted by [2023 c. 55 s. 232\(2\)\(d\)](#)
- s. 72A(6)(a) words in s. 72A(6) renumbered as s. 72A(6)(a) by [2023 c. 55 s. 232\(2\)\(f\)\(i\)](#)
- s. 72A(6)(a) words inserted by [2023 c. 55 s. 232\(2\)\(f\)\(ii\)](#)
- s. 72A(6)(b) and word inserted by [2023 c. 55 s. 232\(2\)\(f\)\(iii\)](#)
- Sch. 6 para. 1(2)(da) inserted by [2023 c. 55 Sch. 8 para. 31\(2\)\(a\)](#)