

Status: Point in time view as at 01/01/2011.

Changes to legislation: Marine and Coastal Access Act 2009, Cross Heading: Salmon and Freshwater Fisheries Act 1975 (c. 51) is up to date with all changes known to be in force on or before 20 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)

SCHEDULES

SCHEDULE 16

MIGRATORY AND FRESHWATER FISH: CONSEQUENTIAL AND SUPPLEMENTARY AMENDMENTS

Salmon and Freshwater Fisheries Act 1975 (c. 51)

- 1 The Salmon and Freshwater Fisheries Act 1975 has effect subject to the amendments in paragraphs 2 to 17.

Commencement Information

- I1** Sch. 16 para. 1 in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, Sch. para. 15(a)
I2 Sch. 16 para. 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

- 2 Section 3 (nets) is omitted.

Commencement Information

- I3** Sch. 16 para. 2 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 3 (1) Section 5 (prohibition of use of explosives etc) is amended as follows.
(2) In subsection (1), for “subsection (2)” substitute “ subsections (2) and (2A) ”.
(3) In subsection (2)(b), at the end insert “ , for which the Agency may charge a fee ”.
(4) After subsection (2) insert—
“(2A) Subsection (1) above shall not apply to anything done pursuant to an authorisation granted by the Agency under section 27A below.”

Commencement Information

- I4** Sch. 16 para. 3(1) in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, Sch. para. 15(b)
I5 Sch. 16 para. 3(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
I6 Sch. 16 para. 3(2)(4) in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13
I7 Sch. 16 para. 3(3) in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(b)

- 4 Sections 6 to 8 (fixed engines, fishing weirs and fishing mill dams) are omitted.

Commencement Information

- I8** Sch. 16 para. 4 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 5 Section 16 (boxes and cribs in weirs and dams) is omitted.

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I9 Sch. 16 para. 5 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 6 Section 17 (restrictions on taking salmon or trout above or below an obstruction or in mill races) is omitted.

Commencement Information

I10 Sch. 16 para. 6 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 7 In section 18 (supplementary provisions), in subsection (4), for “, 15 or 17” substitute “ or 15 ”.

Commencement Information

I11 Sch. 16 para. 7 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 8 Sections 19 to 22 (close seasons etc) are omitted.

Commencement Information

I12 Sch. 16 para. 8 in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, Sch. para. 15(c)

I13 Sch. 16 para. 8 in force at 1.1.2011 in so far as not already in force by S.I. 2010/298, art. 2, Sch. para. 13

- 9 (1) Section 25 (licences to fish) is amended as follows.
- (2) In subsection (2), for “an instrument” substitute “ the means of fishing ”.
- (3) In subsection (3)—
- (a) for “an instrument” substitute “ any means of fishing ”;
 - (b) for “the instrument” substitute “ that means of fishing ”.

Commencement Information

I14 Sch. 16 para. 9 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 10 (1) Section 26 (limitation of fishing licences) is amended as follows.
- (2) In subsection (1), for “the Minister” substitute “ the appropriate national authority ”.
- (3) In subsection (2)—
- (a) for “the Minister” substitute “ the appropriate national authority ”;
 - (b) for “he” (in both places) substitute “ that authority ”;
 - (c) for “his” substitute “that authority's”;
 - (d) for “him” substitute “ that authority ”.
- (4) In subsection (3)—
- (a) for “The Minister” substitute “ The appropriate national authority ”;
 - (b) for “him” substitute “ that authority ”;
 - (c) for “he” substitute “ that authority ”.

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- (5) In subsection (6)—
- (a) for “The Minister” substitute “ The appropriate national authority ”;
 - (b) for “him” substitute “ that authority ”;
 - (c) for “he” substitute “ that authority ”.
- (6) In subsection (7)—
- (a) for “the Minister”, in the first place, substitute “ the appropriate national authority ”;
 - (b) for “the Minister”, in the second place, substitute “ that authority ”.

Commencement Information

I15 Sch. 16 para. 10 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 11 (1) Section 27 (unlicensed fishing) is amended as follows.
- (2) The existing provision is renumbered as subsection (1).
- (3) In that subsection, after “of any description” insert “ by any licensable means of fishing ”.
- (4) In that subsection, for paragraphs (a) and (b) substitute—
- “(a) fishes for or takes fish of that description by that means and—
 - “(i) is not entitled to use that means for that purpose by virtue of a fishing licence, or
 - (ii) is acting in breach of any condition of such a licence, or”
 - (b) where that licensable means of fishing is an instrument, has that instrument in his possession with intent to use it for that purpose and is not entitled to use it for that purpose by virtue of a fishing licence.”
- (5) After that subsection insert—
- “(2) Subsection (1) above does not apply to a person where—
 - (a) he has permission under section 25(10) above to take fish of that description in that place by that means, and
 - (b) he is not acting in breach of any condition of that permission.”

Commencement Information

I16 Sch. 16 para. 11 in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 12 In section 33 (orders and warrants to enter suspected premises), in subsection (2), for “or any salmon, trout, freshwater fish or eels to have been illegally taken” substitute “ or an offence against this Act to have been committed in the taking of any fish ”.

Commencement Information

I17 Sch. 16 para. 12 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(d)

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- 13 In section 34 (power to apprehend persons fishing illegally), for the words from “illegally takes or kills” to “by this Act” substitute “ takes or kills any fish where the taking or killing constitutes an offence under this Act, or is found on or near any waters with intent to take or kill any fish where the taking or killing would constitute an offence under this Act, or having an instrument prohibited by this Act in his possession for the capture of any fish, where the capture would constitute an offence under this Act ”.

Commencement Information

I18 Sch. 16 para. 13 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(d)

- 14 (1) In section 41 (interpretation), subsection (1) is amended as follows.
- (2) In the definition of “fixed engine”, in paragraph (d), for “salmon or trout” substitute “ fish ”.
- (3) After the definition of “general licence” insert—
- ““historic installation” has the meaning given by section 25 above;”.
- (4) After the definition of “inland water” insert—
- ““licensable means of fishing” has the meaning given by section 25 above;”.

Commencement Information

I19 Sch. 16 para. 14(1) in force at 12.1.2010 for specified purposes by S.I. 2009/3345, art. 2, Sch. para. 15(e)

I20 Sch. 16 para. 14(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

I21 Sch. 16 para. 14(2) in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(e)

I22 Sch. 16 para. 14(3)(4) in force at 1.1.2011 by S.I. 2010/298, art. 2, Sch. para. 13

- 15 Schedule 1 (close seasons and close times) is omitted.

Commencement Information

I23 Sch. 16 para. 15 in force at 12.1.2010 by S.I. 2009/3345, art. 2, Sch. para. 15(f)

- 16 (1) Schedule 2 (licences) is amended as follows.
- (2) In paragraph 1(2), for “in special cases” substitute “ in such cases as it considers appropriate ”.
- (3) In paragraph 2, for the words from “different instruments” to “different descriptions of fish” substitute “ different descriptions of licence ”.
- (4) In paragraph 3, for “any instrument” substitute “ any licensable means of fishing ”.
- (5) In paragraph 4—
- (a) for “the Minister”, in the first place, substitute “ the appropriate national authority ”;
- (b) for “the Minister”, in the second place, substitute “ that authority ”.
- (6) In paragraph 5—

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- (a) for “The Minister” substitute “ The appropriate national authority ”;
 - (b) for “his” substitute “that authority's”;
 - (c) for “the Minister” substitute “ that authority ”.
- (7) In paragraph 7—
- (a) for “an instrument” substitute “ any licensable means of fishing ”;
 - (b) for “that instrument” substitute “ that means ”.
- (8) In paragraph 9—
- (a) in sub-paragraph (1)—
 - (i) for “an instrument of any description” substitute “ any licensable means of fishing ”;
 - (ii) for “with instruments of that description” substitute “ by that means ”;
 - (iii) for “an instrument of that description”, in the first place, substitute “ that means of fishing ”;
 - (iv) for “the instrument”, in the first place, substitute “ that means of fishing ”;
 - (v) in paragraph (b), for “an instrument of that description”, substitute “ that means of fishing ”;
 - (vi) in paragraph (c), for “the instrument” substitute “ that means of fishing ”;
 - (b) in sub-paragraph (2)—
 - (i) for “an instrument of any description” substitute “ any licensable means of fishing ”;
 - (ii) for “an instrument of that description” substitute “ that means of fishing ”;
 - (iii) for “the instrument”, in the first place, substitute “ that means of fishing ”;
 - (iv) in paragraph (c), for “the instrument” substitute “ that means of fishing ”.
- (9) In paragraph 10, after “entered on” insert “ or removed from ”.
- (10) In paragraph 13, for “the instrument”, in both places, substitute “ the means of fishing ”.
- (11) In paragraph 15, for “the instrument” substitute “ the means of fishing ”.
- (12) In paragraph 17, for “instrument” substitute “ other thing ”.

Commencement Information

- I24** Sch. 16 para. 16(1) in force at 12.1.2010 for specified purposes by [S.I. 2009/3345](#), art. 2, [Sch. para. 15\(g\)](#)
- I25** Sch. 16 para. 16(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](#)
- I26** Sch. 16 para. 16(2)(3)(5)(6)(9) in force at 12.1.2010 by [S.I. 2009/3345](#), art. 2, [Sch. para. 15\(g\)](#)
- I27** Sch. 16 para. 16(4)(7)(8)(10)-(12) in force at 1.1.2011 by [S.I. 2010/298](#), art. 2, [Sch. para. 13](#)

- 17 (1) Schedule 4 (offences) is amended as follows.

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- (2) In the table in paragraph 1(2), the entries relating to section 19(2), section 19(4), section 19(6), section 19(7) and section 21 are omitted.
- (3) In that table, in the entry relating to section 27—
- (a) in the second column—
 - (i) after “fishing for fish” insert “ by licensable means of fishing ”;
 - (ii) after “unlicensed” insert “ licensable ”;
 - (b) in the third column, in paragraph (a), for the words from “instrument” to “rod and line” substitute “ offence is one alleged to be committed by use or possession of rod and line (only) ”.
- (4) In paragraph 1(3), for the words from “both” to the end substitute—
- “(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.”
- (5) In paragraph 7, for “salmon, trout or freshwater fish” substitute “ fish ”.
- (6) In paragraph 9—
- (a) after “any fishing or general licence” insert “ or authorisation under section 27A above ”;
 - (b) after “a fishing or general licence” (in both places) insert “ or authorisation under section 27A above ”.
- (7) In paragraph 10—
- (a) after “a fishing or general licence” insert “ or authorisation under section 27A above ”;
 - (b) after “the licence” (in every place) insert “ or authorisation under section 27A above ”.
- (8) In paragraph 11—
- (a) after “a fishing or general licence” insert “ or authorisation under section 27A above ”;
 - (b) after “a licence” insert “ or authorisation ”;
 - (c) after “the licence” insert “ or authorisation ”.

Commencement Information

- I28** Sch. 16 para. 17(1) in force at 12.1.2010 for specified purposes by [S.I. 2009/3345, art. 2, Sch. para. 15\(h\)](#)
- I29** Sch. 16 para. 17(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](#)
- I30** Sch. 16 para. 17(2)(4)(5) in force at 12.1.2010 by [S.I. 2009/3345, art. 2, Sch. para. 15\(h\)](#)
- I31** Sch. 16 para. 17(3)(6)-(8) in force at 1.1.2011 by [S.I. 2010/298, art. 2, Sch. para. 13](#)

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