Salmon and Freshwater Fisheries Act 1965

1965 CHAPTER 68

An Act to repeal and re-enact with amendments section 9 of the Salmon and Freshwater Fisheries Act 1923.

[5th August 1965]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Replacement of s. 9 of Act of 1923. 1923 c. 16.

1. Section 9 of the Salmon and Freshwater Fisheries Act 1923 shall be repealed and replaced by the following section:—

"Prohibition of use of explosives, poisons or electrical devices and of destruction of dams, &c.

9.—(1) No person shall use in or near any waters (including waters adjoining the coast of England and Wales and within the exclusive fishery limits of the British Islands) any explosive substance, any poison or other noxious substance, or any electrical device, with intent thereby to take or destroy fish:

Provided that this subsection shall not apply to the use by a person of any substance or device—

(*a*) for a scientific purpose, or for the purpose of protecting, improving or replacing stocks of fish; and

(*b*) with the permission in writing of the appropriate authority;

and for this purpose the appropriate authority where the waters in question are in the area of a river authority (including the Isle of Wight River and Water Authority) is that river authority, or where they are in the area of the Conservators of the River Thames or the Lee Conservancy Catchment Board is the said Conservators or Board as the case may be, or where they are in the London excluded area (within

1963 c. 38.

the meaning of section 125 of the Water Resources Act 1963) is the Minister; but as respects the use of any noxious substance such permission shall not be given by a river authority or the said Conservators or Board otherwise than with the approval of the Minister.

(2) No person shall unlawfully or maliciously cut through, break down or otherwise destroy any dam, floodgate or sluice with intent thereby to take or destroy fish.

(3) A person who contravenes subsection (1) or (2) of this section or who, for the purpose of contravening the said subsection (1), has in his possession any explosive or noxious substance or any electrical device, shall be guilty of an offence and shall be liable—

(*a*) on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £50, or in the case of a second or subsequent conviction for an offence under this section to imprisonment for a term not exceeding three months or a fine not exceeding £100 or both;

(*b*) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both;

and section 74(3) of this Act (increased penalty on third or subsequent conviction) shall not apply for the punishment of a person on his conviction of an offence under this section.

(4) The court by which a person is convicted of an offence under this section—

(*a*) in the case of a contravention of subsection (1) or (2) of this section, may order the forfeiture of any fish illegally taken by the person convicted or in his possession at the time of the offence, and of any instrument or thing used in the commission of the offence not being, except where the conviction is on indictment, a vessel or vehicle; or

(*b*) in the case of an offence of unlawful possession of any substance or device, may order the forfeiture of that substance or device and, where the conviction is on indictment, of any vessel or vehicle in which the substance or device was contained at the time of the offence;

and may order any object so forfeited to be disposed of as the court thinks fit.

(5) The use of any substance in any waters for a purpose falling within paragraph (*a*) of the proviso to subsection (1) of this section, and with the permission mentioned in paragraph (*b*) thereof, shall not constitute an offence under any of the following provisions, namely, section 8 of this Act, any byelaw made under section 59(1)(*p*) of this Act, section 2(1)(*a*) of the Rivers (Prevention of Pollution) Act 1951 and section 22(1)(*a*) of the Rivers (Prevention of Pollution) (Scotland) Act 1951." 1951 c. 64. 1951 c. 66.

Citation, consequential amendments and commencement.

2.—(1) This Act may be cited as the Salmon and Freshwater Fisheries Act 1965, and the Salmon and Freshwater Fisheries Acts 1923 to 1964 and this Act may be cited together as the Salmon and Freshwater Fisheries Acts 1923 to 1965.

(2) In section 67(1)(*d*) of the Salmon and Freshwater Fisheries Act 1923, after " instrument " there shall be inserted " vessel, vehicle or other thing ". 1923 c. 16.

(3) In section 126(1) of the Water Resources Act 1963, for " 1935 " there shall be substituted " 1965 ". 1963 c. 38.

(4) In Schedule 1 to the Fishery Limits Act 1964, the entry relating to the Salmon and Freshwater Fisheries Act 1923 is hereby repealed. 1964 c. 72.

(5) This Act shall come into operation at the expiration of three months from the date of its passing.