



# Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003

2003 asp 15

## PART 1

### METHODS OF FISHING AND OFFENCES RELATED TO FISHING

#### *Offences related to sale, purchase and possession of salmon and trout*

#### **18 Unclean salmon**

- (1) Any person who—
- wilfully takes or fishes for; or
  - buys, sells, exposes for sale or is in possession of,
- any unclean or unseasonable salmon shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Subsection (1)(a) above does not apply to any person who takes such fish accidentally and forthwith returns it to the water with the least possible injury.
- (3) A person who commits an offence under this section may be convicted on the evidence of one witness.

#### **Annotations:**

#### **Commencement Information**

- II** S. 18 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

#### **19 Salmon roe**

- (1) Any person who buys, sells, exposes for sale or is in possession of any salmon roe shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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*Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Cross Heading: Offences related to sale, purchase and possession of salmon and trout. (See end of Document for details)*

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- (2) Subsection (1) above shall not apply to any person who gives a reason, satisfactory to the court before which that person is charged, for being in possession of salmon roe.
- (3) It shall be a defence for a person charged with an offence under subsection (1) above to prove—
  - (a) that the roe had been produced in the course of fish farming within the meaning given by section 33(6) of the Fisheries Act 1981 (c. 29); or
  - (b) that that person believed on reasonable grounds that it had been so produced.
- (4) A person who commits an offence under this section may be convicted on the evidence of one witness.
- (5) Subsection (3) above is without prejudice to the provisions of subsection (2) above relating to the circumstances in which subsection (1) above does not apply.

**Annotations:**

**Commencement Information**

**I2** S. 19 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

**20 Possessing salmon which have been illegally taken, killed or landed**

- (1) Any person who—
  - (a) is in possession of salmon and believes; or
  - (b) is in possession of salmon in circumstances in which it would be reasonable for that person to suspect,
 that a relevant offence has at any time been committed in relation to the salmon shall be guilty of an offence.
- (2) A person found guilty of an offence under this section shall be liable—
  - (a) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment; and
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both a fine and such imprisonment.
- (3) It shall be a defence in proceedings for an offence under this section for the accused to show that no relevant offence had in fact been committed in relation to the salmon.
- (4) A person who commits an offence under this section may be convicted on the evidence of one witness.
- (5) For the purposes of this section an offence is a relevant offence in relation to a salmon if—
  - (a) it is committed by taking, killing or landing that salmon, either in Scotland or in England and Wales; or
  - (b) that salmon is taken, killed or landed, either in Scotland or in England and Wales in the course of the commission of the offence,
 and, for the purposes of this subsection, “offence”, in relation to the taking, killing or landing of salmon either in Scotland or in England and Wales means an offence under the law applicable to the place where the salmon is taken, killed or landed.

**Changes to legislation:** There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Cross Heading: Offences related to sale, purchase and possession of salmon and trout. (See end of Document for details)

- (6) A person shall not be guilty of an offence under this section in respect of conduct which constitutes a relevant offence in relation to any salmon or in respect of anything done in good faith for purposes connected with the prevention or detection of crime or the investigation or treatment of disease.

**Annotations:**

**Commencement Information**

**I3** S. 20 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

## 21 Packages of salmon or trout to be marked

- (1) Any person who consigns or sends by any common or other carrier any salmon or trout in a package which is not marked conspicuously on the outside with—
- the word “salmon” or “sea trout” or, as the case may be, “trout”; and
  - the name and address of the sender,
- shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) An authorised person may open any package consigned or sent or brought to any place to be consigned or sent, and suspected to contain salmon or trout.
- (3) Where a package opened under subsection (2) above is found to contain salmon or trout and—
- the package is not marked as described in subsection (1) above; or
  - there is reasonable cause to suspect that salmon or trout contained in any package so marked is being dealt with contrary to law,
- an authorised person may detain the package and its contents pending proceedings for an offence against any provision of this Act.
- (4) If, before the conclusion of such proceedings as are mentioned in subsection (3) above, any salmon or trout detained under that subsection becomes unfit for human consumption, any authorised person may destroy it, or cause it to be destroyed.
- (5) Any person who—
- refuses to allow an authorised person to exercise a power conferred by this section; or
  - obstructs any authorised person in the exercise of a power so conferred,
- shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) For the purposes of this section an “authorised person” means—
- any constable;
  - any water bailiff;
  - any person appointed for the purposes of this section by the Scottish Ministers.

**Annotations:**

**Commencement Information**

**I4** S. 21 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

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## **[<sup>F1</sup>21A Salmon carcass tagging**

- (1) The Scottish Ministers may by regulations make provision for or in connection with tagging the carcasses of salmon.
- (2) Regulations under subsection (1) above may, in particular, make provision—
  - (a) about—
    - (i) the nature and form of tags,
    - (ii) the information which tags are to contain and the nature and form of that information,
    - (iii) applications for, and the supply, issue and storage of, tags,
    - (iv) the persons or descriptions of persons who may supply and issue tags, including provision about registration of such persons,
    - (v) the method of affixing tags to carcasses and the circumstances in which, and the time at or by which, they are to be affixed,
    - (vi) the circumstances in which, and the time at or by which, tags may be removed,
    - (vii) the steps to be taken in the event of loss of, or damage to, tags,
  - (b) for or about the keeping of records in connection with fishing for, taking, and tagging of salmon to which the regulations apply (including the form and content of such records),
  - (c) for or about the inspection or examination of those records, or the information contained in them, by persons or descriptions of persons mentioned in paragraph (e) below, by such methods as the regulations may specify, and the steps to be taken in the event of loss of, or damage to, the records,
  - (d) for or about the inspection or examination of tags by persons or descriptions of persons mentioned in paragraph (e) below, including provision about the retention of tags after their removal,
  - (e) for or about persons, or descriptions of persons, responsible for enforcing and ensuring compliance with the regulations (including the appointment and functions of such persons),
  - (f) for or about the seizure, detention and destruction by persons, or descriptions of persons, mentioned in paragraph (e) above of salmon—
    - (i) that have not been tagged, or
    - (ii) from which a tag has been removed otherwise than, in accordance with the provisions of the regulations,
  - (g) for or about the imposition by the Scottish Ministers of charges for the recovery of any reasonable costs they incur in connection with the supply or issue of tags (including charges in relation to the administration costs associated with the imposition of such charges),
  - (h) for exemptions and exceptions to the regulations and for matters in respect of which the regulations do not apply.
- (3) Regulations under subsection (1) above may make—
  - (a) different provision for different purposes and areas,
  - (b) incidental, supplemental, consequential, transitional, transitory or saving provision,
  - (c) such modifications of Part 5 of this Act as the Scottish Ministers think fit.
- (4) A person commits an offence if the person—

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- (a) sells, offers or exposes for sale, or has in the person's possession, any salmon
    - (i) that has not been tagged in accordance with regulations under subsection (1) above, or
    - (ii) from which a tag has been removed otherwise than in accordance with such regulations,
  - (b) acts in contravention of such regulations, or
  - (c) fails to take any action required of that person or (as the case may be) fails to comply with any requirement imposed on that person by such regulations.
- (5) It is a defence for a person charged with an offence under subsection (4)(c) above to show that the person had a reasonable excuse for failing to take any action or comply with any requirement as mentioned in that subsection.
- (6) A person who commits an offence under subsection (4) above—
- (a) is liable on summary conviction to a fine not exceeding level 4 on the standard scale,
  - (b) may be convicted on the evidence of one person.]

**Annotations:**

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**Amendments (Textual)**

- F1** S. 21A inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 26(2), 66(2)** (with s. 65); [S.S.I. 2013/249](#), **art. 2**

## 22 Size limit for selling trout

- (1) Subject to subsection (2) below, any person who purchases, sells, exposes for sale, consigns for sale, exports or consigns for export—
- (a) trout under 20 centimetres in length; or
  - (b) any trout at any time between 1st September and 31st March both inclusive,
- shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Nothing in this section shall apply to live trout sold or disposed of for the purpose of stocking any river, loch or water, or of artificial propagation.

**Annotations:**

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**Commencement Information**

- I5** S. 22 in force at 1.4.2005 by [S.S.I. 2005/174](#), **art. 2**

**Changes to legislation:**

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Cross Heading: Offences related to sale, purchase and possession of salmon and trout.