



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

2003 asp 15

PART 1

METHODS OF FISHING AND OFFENCES RELATED TO FISHING

Regulation of salmon fisheries

31 Salmon fishing: general regulations

- (1) The Scottish Ministers may, after consulting such persons as they consider appropriate, make regulations with respect to—
- (a) the due observance of the weekly close time for salmon;
 - (b) the construction and use of cruives;
 - (c) the construction and alteration of dams, lades or water wheels so as to afford a reasonable means for the passage of salmon;
 - (d) the meshes, materials and dimensions of nets used in fishing for or taking salmon;
 - (e) obstructions in rivers or estuaries to the passage of salmon;
 - (f) the construction, alteration and use for the control of the passage of salmon of—
 - (i) screens in off-takes from inland waters; and
 - (ii) structures associated with such screens.
- (2) Regulations made under paragraphs (c) or (f) of subsection (1) above—
- (a) may except from a regulation or part of a regulation any works or any category of works; and
 - (b) are subject to section 32 of this Act.
- (3) The power to make regulations under subsection (1)(d) above includes power—
- (a) to make different provision for different districts or different parts of a district; and

- (b) to except from the application of a regulation or part of a regulation a district or part of a district specified in the regulations.
- (4) For the purposes of section 1 of this Act, and after consulting such persons as they consider appropriate, the Scottish Ministers may by regulations define fishing for or taking salmon by—
 - (a) net and coble;
 - (b) bag net, fly net or other stake net;
 - (c) haaf net,
 whether by reference to anything used for the purpose, or to the circumstances in which or method by which it is so used, or to any combination thereof; and, in relation to net and coble, may make different provision as respects inland waters from that made as respects other waters.
- (5) The Scottish Ministers may, after consulting such persons as they consider appropriate, make regulations amending section 13 of this Act, but such regulations shall not reduce —
 - (a) the weekly close time to a period of less than 42 hours;
 - (b) the period within the weekly close time during which it is permitted to fish for salmon by rod and line to less than 24 hours; or
 - (c) the period during which all fishing for salmon is prohibited to less than 24 hours.
- (6) Any proprietor or occupier of a fishery at which stake weirs, stake nets, fly nets or bag nets are used who fails, in regard to such weirs or nets, to do all acts required by regulations made under subsection (1) above for the observance of the weekly close time shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) Any person who contravenes a regulation made under this section shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) A person who commits an offence under this section may be convicted on the evidence of one witness.

32 Exception from regulations with respect to the construction of dams, lades and water wheels

- (1) No regulations made under this Act with respect to the construction and alteration of dams, lades or waterwheels, so as to afford a reasonable means for the passage of salmon, shall apply to streams or branches or tributaries of rivers which are of such small size as not to be frequented by salmon, nor to dam dykes which in the average state of the river do not obstruct the passage of salmon.
- (2) Where in any intake lade there is a sufficient sluice, it shall not be necessary to remove the said sluice to a higher point of the lade, nor to construct an additional sluice at the intake thereof.
- (3) It shall be lawful to lift any heck from out the water as a means of protection during a flood, or when the river is encumbered with ice, or with weeds and floating leaves to an extent to choke the heck.

33 Salmon fishing: regulations as to baits and lures

- (1) Without prejudice to section 38(5)(b) of this Act and subject to subsections (2) to (7) below, the Scottish Ministers may make regulations prohibiting the use of specified baits and lures for the purposes of the definition of “rod and line” in section 4(1) of this Act in the case of fishing for salmon.
- (2) The Scottish Ministers may make regulations under subsection (1) above only on an application to them made in accordance with subsection (5) below.
- (3) An application under subsection (2) above may be made by—
 - (a) a district salmon fishery board; or
 - (b) one or more such boards jointly,and any reference in this section to an “applicant” shall be construed accordingly.
- (4) Regulations made in respect of an application under subsection (2) above shall be made only in respect of the district of the applicant.
- (5) An application under subsection (2) above shall be accompanied by the applicant’s written proposals which shall state—
 - (a) the baits and lures the use of which it is proposed should be prohibited;
 - (b) the places to which and the times during which the proposed regulations should apply; and
 - (c) the reasons for the proposals,and the application and proposals mentioned in this subsection may be communicated and stored electronically.
- (6) Regulations under subsection (1) above shall specify, subject to such exceptions as may be provided therein, all or any, or a combination of, the following—
 - (a) baits and lures or classes of baits or lures, the use of which is prohibited;
 - (b) times when the regulations apply;
 - (c) areas to which the regulations apply.
- (7) Paragraphs 10 to 15 of schedule 1 to this Act shall apply to the making of regulations under subsection (1) above as they apply to the making of the orders or regulations mentioned in those paragraphs; and references to an applicant, and to an application, under paragraph 1 of that schedule shall be construed respectively as references to an applicant, and to an application, under subsection (2) above.