

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Part 3: Salmon and Freshwater Fisheries

Salmon and freshwater fisheries

Section 22 – Close times for freshwater fish

57. Section 22 inserts sections 17A and 17B into the 2003 Act.
58. Section 17A(1) enables the Scottish Ministers, having consulted such persons as they consider appropriate, to make an order specifying a weekly close time for freshwater fish (defined in section 69(1) of the 2003 Act). The power to make an order under section 17A(1) must be exercised by statutory instrument which is subject to annulment in pursuance of a resolution of the Scottish Parliament, by virtue of section 68 (Orders and regulations) of the 2003 Act. Section 17A(2) permits such an order to make different provision for different species of freshwater fish. Section 17A(6) permits such an order to specify the part or area of Scotland in respect of which it is to have effect.
59. Section 17A(3) prohibits any person from fishing for or taking freshwater fish specified in such an order in relation to the close time specified in that order. Section 17A(4) makes it an offence to contravene such an order. Section 17A(4) provides that a person found guilty of such an offence is liable to a fine not exceeding level 3 on the standard scale, which currently equates to a maximum fine of £1,000. Section 17A(5) provides that a person may be convicted of such an offence on the evidence of one witness.
06. Section 17B(1) enables the Scottish Ministers, having consulted such persons as they consider appropriate, to make an order specifying an annual close time for freshwater fish (defined in section 69(1) of the 2003 Act) other than trout (section 17 of the 2003 Act makes provision in respect of an annual close time for trout). The power to make orders under section 17B(1) must be exercised by statutory instrument which is subject to annulment in pursuance of a resolution of the Scottish Parliament, by virtue of section 68 (Orders and regulations) of the 2003 Act. Section 17B(2) permits such an order to make different provision for different species of freshwater fish. Section 17B(7) permits such an order to specify the part or area of Scotland to which it is to have effect.
61. Section 17B(3) provides that any person who, during an annual close time specified in such an order, in relation to the species of freshwater fish specified in such an order, fishes for or takes such fish in any inland waters (as defined in section 69(1) of the 2003 Act) or is in possession of such fish, is guilty of an offence. Such a person is liable on conviction to a fine not exceeding level 3 on the standard scale, which currently equates to a maximum fine of £1,000. Section 17B(6) provides that a person may be convicted

*These notes relate to the Aquaculture and Fisheries (Scotland)
Act 2007 (asp 12) which received Royal Assent on 5th April 2007*

of such an offence on the evidence of one witness. Section 17B(5) provides exceptions to the offence provision.