



Aquaculture and Fisheries (Scotland) Act 2007

2007 asp 12

PART 3

SALMON AND FRESHWATER FISHERIES

19 Use of gaff, tailer or landing net

- (1) In section 3 of the 2003 Act (use of gaff, tailer or landing net)—
 - (a) for “gaff, tailer or” substitute “knotless non-metallic”,
 - (b) after “net” insert “(that is, a net the mesh of which is knotless and made of non-metallic material)”.
- (2) The title to section 3 of the 2003 Act becomes “**Use of landing nets**”.

20 Rod and line

- (1) After section 3 of the 2003 Act, insert—

“3A Fishing by rod and line

- (1) For the purposes of this Act, a person shall be treated as fishing for or taking fish by rod and line in the circumstances set out in subsection (2), (3) or (4) only if the condition specified in the relevant subsection is met.
- (2) Where a person—
 - (a) is fishing for or taking salmonids, and
 - (b) is not doing so from a boat,the condition is that the person uses a single rod and line and that the rod is being held by the person.
- (3) Where a person—
 - (a) is fishing for or taking freshwater fish other than salmonids, and
 - (b) is not doing so from a boat,

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the condition is that the person uses no more than 4 rods for that purpose at any one time.

(4) Where a person—

(a) is fishing for or taking fish, and

(b) is doing so from a boat,

the condition is that no more than 4 rods are used on the boat for that purpose at any one time.

(5) In this section, “salmonids” means all fish of the family Salmonidae.”.

(2) In section 4 of the 2003 Act (meaning of “rod and line”)—

(a) in subsection (1)—

(i) the word “single” is repealed,

(ii) for the words “pointing, or by striking or dragging for fish” substitute “foul hooking”,

(b) in subsection (2), after “use” insert “live vertebrates,”,

(c) after subsection (2), insert—

“(3) In subsection (1)—

“foul hooking” means pointing, or any other method of hooking or attempting to hook a fish other than by inducing the fish to take the hook in its mouth by reason of the bait or lure;

“set line” means a fishing line left unattended in water and having attached to it one or more lures or baited hooks.”.

21 Prohibition against using pike gags and certain keepnets

After section 5 of the 2003 Act, insert—

“5A Prohibition against using pike gags and certain keepnets

(1) Any person who uses a pike gag in relation to the fishing for or taking of fish shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who uses—

(a) a knotted keepnet (that is, a keepnet the mesh of which is knotted),

(b) a metallic keepnet, (that is, a keepnet the mesh of which is made of metallic material),

in relation to the fishing for or taking of fish shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Without prejudice to section 294 (attempts to commit crime) of, and paragraph 10 of Schedule 3 to, the Criminal Procedure (Scotland) Act 1995, any person who attempts to commit or who does any act preparatory to the commission of the offence mentioned in subsection (1) or (2) above shall be guilty of an offence, and liable to the same punishment as if that person had committed the offence mentioned.

- (4) In subsection (1), “pike gag” means a device used for the purpose of keeping the jaws of a fish open by inserting it into the mouth of the fish.”.

22 Close times for freshwater fish

After section 17 of the 2003 Act (annual close time for trout), insert—

“Close times for freshwater fish

17A Weekly close time for freshwater fish

- (1) The Scottish Ministers may by order, after consulting such persons as they consider appropriate, specify a weekly close time for freshwater fish.
- (2) An order under subsection (1) may make different provision for different species of freshwater fish.
- (3) During a weekly close time specified by virtue of subsection (1), no person shall fish for or take such freshwater fish as are so specified in relation to that close time.
- (4) Any person who contravenes an order made under this section shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person who commits an offence under this section may be convicted on the evidence of one witness.
- (6) An order under subsection (1) may specify that the effect of the order is applicable only to a particular part or area of Scotland.

17B Annual close time for freshwater fish other than trout

- (1) The Scottish Ministers may by order, after consulting such persons as they consider appropriate, specify an annual close time for freshwater fish other than trout.
- (2) An order under subsection (1) may make different provision for different species of freshwater fish.
- (3) Subject to subsections (4) and (5) below, any person who, during the annual close time specified by virtue of subsection (1) in relation to a species of fish—
 - (a) fishes for or takes such fish in any inland waters; or
 - (b) is in possession of such fish,shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) It shall not be an offence under this section for the owner or occupier of any water where fish in relation to which an annual close time is specified by virtue of subsection (1) are kept in captivity or artificially reared or fed, or any person employed by such a person, to take such fish from such water during the annual close time—
 - (a) for scientific or breeding purposes;

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(b) for the purpose of removing them or having them removed, alive, to other waters.

(5) It shall not be an offence under this section for a person to whom fish are consigned, whether by sale or otherwise, for the purpose mentioned in subsection (4)(b) above, to be in possession of such fish.

(6) A person who commits an offence under this section may be convicted on the evidence of one witness.

(7) An order under subsection (1) may specify that the effect of the order is applicable only to a particular part or area of Scotland.”.

23 Exemption from certain offences

(1) In section 28(2)(a) of the 2003 Act (exemption from certain offences in respect of acts done for scientific and other purposes: fish other than salmon), after “17” insert “, 17A, 17B”.

(2) In section 30 of that Act (exemptions in relation to fish farming)—

(a) in subsection (1)—

(i) after “(c),” insert “6, 8,”,

(ii) for “and 22(1)” substitute “, 22(1) and 23”,

(b) in subsection (5), after “17(2)(b),” insert “17B(3)(b),”.

24 Freshwater fish conservation regulations

(1) After section 51 of the 2003 Act (financial contributions towards organisations developing freshwater fisheries), insert—

“Conservation measures

51A Freshwater fish conservation regulations

(1) The Scottish Ministers may make regulations under this section if they consider that it is necessary or expedient to do so for the conservation of freshwater fish.

(2) Regulations under this section shall not be taken to be for something other than the conservation of freshwater fish by reason only that they also have effect in relation to the management of freshwater fisheries for exploitation.

(3) In considering whether or not it is necessary or expedient to make regulations under this section the Scottish Ministers shall have regard to any representations made to them by any person having an interest in fishing for or taking freshwater fish, or in the environment.

(4) Regulations under this section—

(a) may be made in relation only to freshwater fisheries;

(b) may make different provision for different species of freshwater fish.

(5) Without prejudice to the generality of the power conferred by this section, regulations under this section may prohibit 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 freshwater fish.

- (6) Regulations under this section which prohibit the use of specified baits and lures for the purposes mentioned in subsection (5) shall specify, subject to such exceptions as may be so specified—
- (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) Regulations under this section may—
- (a) confer upon constables and water bailiffs such powers of enforcement, additional to those otherwise available under this Act, as the Scottish Ministers consider necessary or expedient for the purposes of the regulations;
 - (b) make provision generally in relation to any river, or in relation to any time or season;
 - (c) make different provision for different parts of a river, or for different cases or classes of case.
- (8) Any person who—
- (a) acts in contravention of; or
 - (b) fails to take any action required of that person by, or to comply with any requirement imposed on that person by,
- regulations 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.
- (9) A person who commits an offence under this section may be convicted on the evidence of one witness.
- (10) Paragraphs 9A and 11 to 15 of schedule 1 to this Act shall have effect in relation to the making of regulations under this section.”.
- (2) In section 4(1) of the 2003 Act (meaning of “rod and line”), at the end add “or, in relation to fishing for freshwater fish, under section 51A of this Act”.