



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

2003 asp 15

PART 1

METHODS OF FISHING AND OFFENCES RELATED TO FISHING

Exemptions

27 Exemption from certain offences in respect of acts done for scientific and other purposes: salmon

- (1) A person shall not, in respect of any act or omission relating to salmon or salmon roe or eggs, be guilty of a contravention of an enactment prohibiting or regulating that act or omission if—
- (a) the act or omission is for—
 - (i) some scientific purpose;
 - (ii) the purpose of protecting, improving or developing stocks of fish; or
 - (iii) the purpose of conserving any creature or other living thing; and
 - (b) that person has obtained the previous permission in writing—
 - (i) if the act or omission is one to which this sub-paragraph applies, of the district salmon fishery board for the salmon fishery district in which it takes place or of the Scottish Ministers; and
 - (ii) in any other case, of the Scottish Ministers,for the act or omission.
- (2) Sub-paragraph (i) of subsection (1)(b) above applies if the act or omission referred to in that sub-paragraph takes place in a salmon fishery district for which there is a district salmon fishery board; and is a contravention of section 1, 2, 5(1)(c), 18, 19 or 23 of this Act.
- (3) A permission under subsection (1) above shall specify the act or omission permitted and the enactment to which the permission relates.

28 Exemption from certain offences in respect of acts done for scientific and other purposes: fish other than salmon

- (1) A person shall not be guilty of any contravention of a provision specified in subsection (2) below in respect of any act in relation to fish other than salmon, if that person does the act for—
- (a) some scientific purpose; or
 - (b) the purpose of protecting, improving or developing stocks of fish,
- and has obtained the previous permission in writing of the Scottish Ministers.
- (2) The provisions are—
- (a) sections 2, 5, 8, 9, 17 or 22 of this Act;
 - (b) section 7 of this Act, so far as it relates to the said section 2; and
 - (c) section 30F(1) of the Control of Pollution Act 1974 (c. 40) (pollution of controlled waters).

29 Exemption from certain offences in respect of certain acts in relation to salmon

- (1) A person shall not, in respect of any act or omission relating to fishing for or taking salmon, be guilty of a contravention of an enactment prohibiting or regulating that act or omission if the act or omission has been exempted by the Scottish Ministers.
- (2) The Scottish Ministers may exempt an act or omission under subsection (1) above only if they are satisfied that—
- (a) the proprietor of every affected salmon fishery in the salmon fishery district in which the act or omission is to take place, being a salmon fishery entered in the valuation roll; and
 - (b) if there is one, the district salmon fishery board for that district,
- have previously consented to it.
- (3) In subsection (2) above “affected” means appearing to the Scottish Ministers to be likely to be affected by the exemption.
- (4) An exemption under this section—
- (a) may relate only to such person as may be specified in it;
 - (b) may be subject to such conditions as may be so specified;
 - (c) shall be in writing;
 - (d) shall specify—
 - (i) the limits of the waters to which it relates;
 - (ii) its duration; and
 - (iii) the enactment to which it relates.

30 Exemptions in relation to fish farming

- (1) Subject to subsections (2) to (6) below, a person shall not be guilty of a contravention of any of sections 1, 2, 5(1)(b) and (c), 13(2) and (3), 14(1), 15 to 18 and 22(1), or regulations under section 31(1)(a) or (d), of this Act in respect of any act or omission if the act or the omission takes place within, and in the course of the operation of, a fish farm.

- (2) There shall be no contravention of paragraph (b) or (c) of section 5(1) of this Act, by virtue of subsection (1) above, in respect of an act referred to in those paragraphs if, and only if, the act is carried out with the consent of the Scottish Ministers.
- (3) For the purposes of subsection (1) above, the act of selling or exporting fish by or on behalf of a person who has reared the fish in a fish farm shall be deemed to be an act carried out within a fish farm in the course of the operation of that farm.
- (4) In any proceedings for an offence under section 15 of this Act in relation to a boat or other thing mentioned in that section which is not in a fish farm, it shall be a defence for the person charged with such offence to prove that the act or omission complained of was necessary for the purpose of the operation of a fish farm.
- (5) It shall be a defence for a person charged with an offence under section 16, 17(2)(b), 18(1)(b) or 22 of this Act to show that that person believed on reasonable grounds that the fish with respect to which the offence is alleged to have been committed were produced by fish farming.
- (6) For the purposes of subsection (5) above “fish farming” means the breeding, rearing or cultivating of fish, whether or not for the purpose of producing food for human consumption; but the reference in that subsection to fish produced by fish farming does not include fish bred, reared or cultivated in captivity which have later been released to the wild.