
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 115

The Conservation of Salmon (Scotland) Regulations 2016

Prohibition on retaining salmon

- 3.**—(1) No person may retain any salmon caught in any coastal waters in a salmon fishery district.
- (2) No person may retain any salmon caught in any inland waters described in Schedule 2.
- (3) Paragraphs (1) and (2) do not apply where a salmon is retained—
- (a) for a purpose mentioned in section 27(1)(a) of the 2003 Act (exemption for certain offences in respect of acts done for scientific and other purposes: salmon) and permission to take the salmon has been granted in accordance with section 27(1)(b) of that Act;
 - (b) within, and in the course of the operation of, a fish farm; or
 - (c) under the authority of, and in accordance with, a licence granted by the Environment Agency under section 25 of the Salmon and Freshwater Fisheries Act 1975(1).
- (4) For the purposes of this regulation—
- “coastal waters” means waters other than inland waters(2);
- “the 2003 Act” means the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003;
- “Environment Agency” means the body corporate known as the Environment Agency established under section 1 of the Environment Act 1995(3); and
- “retain” means failing to return the fish at once to the river or other water from which it came and with the least possible injury.

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- (1) 1975, c.51. There are amendments to section 25 which are not relevant to these Regulations. By virtue of article 6(4) of the Scotland Act 1998 (Border Rivers) Order 1999 (S.I. 1999/1746) the Environment Agency authorises fishing in that part of the Lower Esk lying on or towards the south of a line representing the *medium filum*, at low water, of the main channel of the River Esk and of the main channel of the River Eden downstream of its confluence at low water with the main channel of the River Esk, wherever that may be from time to time. Article 6(1) provides that no person shall fish for or take salmon or sea trout in the Lower Esk unless under a licence granted by the Environment Agency or where that person has a legal right to fish for salmon or written permission from a person having such a right.
- (2) “inland waters” is defined in section 69(1) of the 2003 Act and includes all rivers above estuary limits and their tributary streams, and all waters, water courses and lochs whether natural or artificial which drain, or drain to some extent, into the sea. “Estuary limits” are defined in section 36 of the 2003 Act as the limits which divide each river, including the river mouth, from the sea. By virtue of section 26(2)(a) the limits are fixed and defined by the Byelaw made by the Commissioners, appointed under the Salmon Fisheries (Scotland) Acts 1862, and exercising the power under section 6(1) of that Act, dated 26th April 1864 and enacted as Schedule B to the Salmon Fisheries (Scotland) Act 1868 (c.123).
- (3) 1995 c.25.