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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 116**

**FISHERIES  
RIVER**

**The Salmon Carcass Tagging (Scotland) Regulations 2016**

*Made* - - - - 22nd February 2016  
*Laid before the Scottish  
Parliament* - - - - 23rd February 2016  
*Coming into force* - - 31st March 2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 21A(1), (2) and (3)(a) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003<sup>(1)</sup> and all other powers enabling them to do so. There has been a consultation as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirement of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(2)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Salmon Carcass Tagging (Scotland) Regulations 2016 and come into force on 31st March 2016.

**Interpretation**

2. In these Regulations—

“the 2003 Act” means the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003;

“the Environment Agency” means the body corporate known as the Environment Agency established under section 1 of the Environment Act 1995<sup>(3)</sup>;

“salmon” means fish of the species *Salmo salar* (commonly known as salmon) or any part of any such fish and excludes migratory fish of the species *Salmo trutta* (commonly known as sea trout) or any part of such fish;

“salmon tag” means a tag which complies with the requirements in regulations 5 and 6 and is issued by the Scottish Ministers in accordance with regulation 8.

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(1) 2003 asp 15. Section 21A was inserted by the Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), section 26(2).

(2) OJ L 31, 1.2.2002, p.1. There have been no relevant amendments to Article 9.

(3) 1995 c.25.

### **Duty to tag carcasses of salmon**

3.—(1) Subject to paragraph (2), any person who takes salmon from any inland waters, must tag the carcass of the salmon in accordance with regulation 4.

- (2) The duty imposed by paragraph (1) does not apply where the person takes a salmon—
- (a) by rod and line within the meaning of section 4 (as read with section 3A) of the 2003 Act;
  - (b) for a purpose mentioned in section 27(1)(a) of the 2003 Act (exemption from certain offences in respect of acts done for scientific and other purposes: salmon) and permission to take the salmon has been obtained in accordance with section 27(1)(b) of the 2003 Act<sup>(4)</sup>;
  - (c) within, and in the course of the operation of, a fish farm; or
  - (d) 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<sup>(5)</sup>.

### **Requirements as to affixing of salmon tags**

4.—(1) For the purposes of regulation 3(1), the tagging of the carcass of a salmon is to be carried out by affixing a salmon tag to the carcass in accordance with this regulation.

- (2) The salmon tag must be affixed by the following method—
- (a) by inserting it through the mouth of the salmon to emerge from the gill opening; and
  - (b) by securing and locking the tag around the gill cover.
- (3) The salmon tag must be affixed to the carcass of the salmon no later than the time when the salmon is brought to the shore or bank.

### **Nature and form of salmon tags**

5. A salmon tag must—
- (a) have a cable tie and lock; and
  - (b) be capable of—
    - (i) fitting through the mouth of the salmon carcass to emerge from the gill opening; and
    - (ii) being secured with the cable tie and lock.

### **Information to be contained in salmon tags**

6. A salmon tag must contain—
- (a) a unique reference number; and
  - (b) the name of the salmon fishery within which the salmon was taken.

### **Circumstances in which salmon tags may be removed**

7.—(1) No person may remove a salmon tag from the carcass of a salmon which has been tagged in accordance with regulations 3(1) and 4 except in the circumstances specified in paragraph (2).

- (2) The circumstances in which a salmon tag may be removed are where a person—

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(4) Section 27 was amended by the Aquaculture and Fisheries (Scotland) Act 2013 ([asp 7](#)) section 33(2).

(5) 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 line may be from time to time.

- (a) prepares the salmon for the purposes of cooking or smoking;
- (b) cuts any steaks, cutlets or other portions of the salmon immediately prior to it being offered, or exposed, for sale; or
- (c) prepares the salmon for his or her own consumption.

### **Supply and issue of salmon tags**

8.—(1) A person who intends to take salmon in circumstances where the duty at regulation 3(1) would apply may make an application to the Scottish Ministers for the supply and issue of salmon tags.

(2) No person other than the Scottish Ministers may supply and issue a tag which complies with the requirements in regulations 5 and 6.

### **Records**

9.—(1) Any person who, by virtue of regulation 3(1), is required to tag the carcass of a salmon, must keep, for each week in which salmon is taken, a record of—

- (a) the total number of the carcasses of salmon which have been tagged with a salmon tag;
- (b) the unique reference number of any salmon tags affixed to the carcasses of salmon;
- (c) the salmon fishery within which the salmon was taken;
- (d) the unique reference number of any damaged salmon tags which cannot be affixed in accordance with regulation 4;
- (e) any salmon tags which have been lost.

(2) A record kept under paragraph (1) must be submitted to the Scottish Ministers within the period of 2 weeks from the date of the start of the annual close time for the salmon fishery district, or that part of a salmon fishery district, within which the salmon was taken.

(3) In paragraph (1) “week” means a period of 7 days commencing on a Monday and ending on a Sunday.

(4) In paragraph (2)—

- (a) “annual close time” means the annual close time for salmon within the meaning of section 37 of the 2003 Act; and
- (b) the dates of the annual close time for a salmon fishery district, or part of a salmon fishery district, are those dates prescribed by the Conservation of Salmon (Annual Close Time and Catch and Release) (Scotland) Regulations 2014(6) in respect of that district or part of a district.

St Andrew’s House,  
Edinburgh  
22nd February 2016

*AILEEN McLEOD*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for and in connection with tagging the carcasses of salmon within inland waters in Scotland. The duty to affix a tag to salmon carcasses does not apply to any salmon which is taken in fish farms or where the exemptions at section 27 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 apply. They do not apply where salmon is caught by rod and line and where the salmon is taken in the Lower Esk south of the *medium filum* under the authority of a licence issued by the Environment Agency.

Regulation 4 prescribes the method of tagging and the time by which the carcass must be tagged. Regulations 5 and 6 prescribe the nature and form of, and the information to be contained in, salmon tags. Tags are supplied and issued by the Scottish Ministers (regulation 8) and cannot be removed from a salmon carcass except in the circumstances prescribed in regulation 7(2).

Persons who are under a duty to tag salmon carcasses must keep a record in accordance with regulation 9. The record must be submitted to the Scottish Ministers within the period of 2 weeks from the date of the start of the annual close time for the salmon fishery district, or part of a salmon fishery district, within which the salmon was taken (regulation 9(2)).

These Regulations were notified in draft to the European Commission in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council (OJ L 241, 17.9.2015, p.1) which lays down a procedure for the provision of information in the field of technical regulations and rules on Information Society services.

A Business and Regulatory Impact Assessment in relation to these Regulations has been prepared and placed in the Scottish Parliament Information Centre. Copies of it can be obtained from Marine Scotland, Victoria Quay, Leith, Edinburgh EH6 6QQ and online at [www.legislation.gov.uk](http://www.legislation.gov.uk).