

2003 No. 560

RIVERS

The Prohibition of Keeping or Release of Live Fish (Specified Species) (Scotland) Order 2003

Made - - - - - *18th November 2003*

Laid before the Scottish Parliament *19th November 2003*

Coming into force in accordance with article 1(2) and (3)

The Scottish Ministers, in exercise of the powers conferred by section 1(1) of the Import of Live Fish (Scotland) Act 1978(a) and of all other powers enabling them in that behalf and, in accordance with section 1(2)(b) of that Act, after consultation with Scottish Natural Heritage and such other persons as the Scottish Ministers consider appropriate and being of the opinion that the species of live fish to which this Order applies might compete with, displace, prey on or harm the habitat of any freshwater fish, shellfish or salmon in Scotland, hereby make the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Prohibition of Keeping or Release of Live Fish (Specified Species) (Scotland) Order 2003.

(2) Articles 1, 2 and 4 of this Order shall come into force on 10th December 2003.

(3) Article 3 of this Order shall come into force—

- (a) in relation to fish specified in Schedule 1 first kept before 10th December 2003 on 10th June 2004;
- (b) in relation to fish specified in Schedule 2 first kept before 10th December 2003, on that date; and
- (c) in relation to fish specified in Schedules 1 and 2 first kept or released on or after 10th December 2003, on that date.

Interpretation

2. In this Order “Scotland” has the same meaning as in section 126(1) of the Scotland Act 1998(c).

(a) 1978 c.35. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) Section 1(2) was amended by the Environmental Protection Act 1990 (c.43), Schedule 9, paragraph 7 and the Natural Heritage (Scotland) Act 1991 (c.28), Schedule 2, paragraph 6.

(c) Waters adjacent to Scotland are defined in the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).

Prohibition of keeping or release of specified fish

3. No person shall keep or release in Scotland any live fish or the live eggs of fish of the species specified in Schedules 1 and 2 to this Order, except under the authority of a licence granted by the Scottish Ministers.

Revocations and savings

4.—(1) Subject to paragraph (2), the Orders specified in Schedule 3 to this Order are hereby revoked.

(2) The Orders specified in Schedule 3 to this Order shall continue to apply for the purposes of the legal process of such charges as may be brought for contravening the provisions of the Orders prohibiting the keeping or release of live fish or live eggs of fish without a valid licence.

Pentland House,
Edinburgh
18th November 2003

ALLAN WILSON
A member of the Scottish Executive

SCHEDULE 1

Article 3

SPECIES OF FISH (INCLUDING LIVE EGGS) WHOSE KEEPING OR RELEASE IN SCOTLAND IS PROHIBITED EXCEPT UNDER AUTHORITY OF A LICENCE GRANTED BY THE SCOTTISH MINISTERS

<i>Common name</i>	<i>Scientific name</i>
Asp	<i>Aspius aspius</i>
Barbel	species of the genus <i>Barbus</i> (excluding the native <i>Barbus barbus</i>)
Bass (including striped bass, white bass and their crosses e.g. hybrid striped bass)	species of the genus <i>Morone</i>
Bighead carp	<i>Hypophthalmichthys nobilis</i>
Bitterling	<i>Rhodeus sericeus/Rhodeus amarus</i>
Blacknose Dace	<i>Rhinichthys atratulus</i>
Blageon	<i>Leuciscus souffia</i>
Blue bream	<i>Abramis ballerus</i>
Blue Sucker	<i>Cycleptus elongatus</i>
Burbot	<i>Lota lota</i>
Catfish	species of the genera <i>Ictalurus</i> , <i>Ameiurus</i> and <i>Silurus</i>
Charr	species of the genus <i>Salvelinus</i> (excluding the native <i>Salvelinus alpinus</i>)
Chinese black or snail-eating carp	<i>Myopharyngodon piceus</i>
Chinese Sucker (also known as Zebra Hi Fin, banded shark/sucker)	<i>Myxocyprinus asiaticus</i>
Common White Sucker	<i>Catostomus commersoni</i>
Danubian bleak	<i>Chalcalburnus chalcoides</i>
Danubian Salmon & Taimen	species of the genus <i>Hucho</i>
Eastern Mudminnow	<i>Umbra pygmaea</i>
European Mudminnow	<i>Umbra krameri</i>

<i>Common name</i>	<i>Scientific name</i>
Fathead minnow (or Roseyreds)	<i>Pimephales promelas</i>
Freshwater minnow, Dragon Fish or Pale chub	<i>Zacco platypus</i>
Grass carp	<i>Ctenopharyngodon idella</i>
Landlocked salmon	non-anadromous varieties of the species <i>Salmo salar</i>
Largemouth bass	<i>Micropterus salmoides</i>
Marbled trout	<i>Salmo marmoratus</i>
Nase	<i>Chondrostoma nasus</i>
Northern Redbelly Dace (common minnow)	<i>Phoxinus/Chrosomus eos</i>
Pacific salmon and trout	species of the genus <i>Oncorhynchus</i> (excluding <i>Oncorhynchus mykiss</i> and <i>Oncorhynchus kisutch</i>)
Paddlefish	species of the genera <i>Polyodon</i> and <i>Psephurus</i>
Perch	species of the genus <i>Perca</i> (excluding the native <i>Perca fluviatilis</i>)
Pike	species of the genus <i>Esox</i> (excluding the native <i>Esox lucius</i>)
Red shiner	<i>Cyprinella/Notropis lutrensis</i>
Rock bass	<i>Ambloplites rupestris</i>
Ruffe	<i>Gymnocephalus cernuus</i>
Schneider	<i>Alburnoides bipunctatus</i>
Silver carp	<i>Hypophthalmichthys molitrix</i>
Small-mouth bass	<i>Micropterus dolomieu</i>
Snakehead	species of the genus <i>Channa</i>
Southern Redbelly Dace (common minnow)	<i>Phoxinus/Chrosomus erythrogaster</i>
Sturgeon or sterlet	species of the genera <i>Acipenser</i> , <i>Huso</i> , <i>Pseudoscaphirhynchus</i> and <i>Scaphirhynchus</i>

<i>Common name</i>	<i>Scientific name</i>
Sunbleak (Sundace), also known as Belica or Motherless Minnow	<i>Leucaspius delineatus</i>
Sunfish, including pumpkinseed (also basses, crapies & bluegills)	species of the genus <i>Lepomis</i>
Topmouth gudgeon	<i>Pseudorasbora parva</i>
Toxostome (or French nase)	<i>Chondrostoma toxostoma</i>
Vimba	<i>Vimba vimba</i>
Weatherfish	<i>Misgurnus fossilis</i>
Whitefish	species of the genus <i>Coregonus</i> (excluding the native <i>Coregonus lavaretus</i> and <i>Coregonus albula</i>)

SCHEDULE 2

Article 3

SPECIES OF FISH (INCLUDING LIVE EGGS) WHOSE KEEPING OR RELEASE IN SCOTLAND IS PROHIBITED EXCEPT UNDER AUTHORITY OF A LICENCE GRANTED BY THE SCOTTISH MINISTERS

<i>Common name</i>	<i>Scientific name</i>
Coho salmon	<i>Oncorhynchus kisutch</i>
Crayfish	freshwater decapod crustacean of the Families <i>Astacidae</i> , <i>Cambaridae</i> or <i>Parastacidae</i> , (excluding <i>Austropotamobius pallipes</i>)
Pikeperch	species of the genus <i>Stizostedion</i> <i>lucioperca</i>

SCHEDULE 3

Article 4

REVOCATIONS

<i>Orders</i>	<i>Revoked</i>
The Import of Live Fish (Coho Salmon) (Prohibition) (Scotland) Order 1980	S.I. 1980/376
The Prohibition of the Keeping or the Release of Live Fish (Pikeperch) (Scotland) Order 1993	S.I. 1993/1288
The Prohibition of Keeping of Live Fish (Crayfish) (Scotland) Order 1996	S.I. 1996/1107

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 1(1) of the Import of Live Fish (Scotland) Act 1978 (“the Act”). The Order prohibits the keeping or release in Scotland of any species of fish or the live eggs of fish specified in Schedules 1 and 2 to the Order, except under authority of a licence granted by the Scottish Ministers (article 3). The prohibition comes into force, in relation to fish specified in Schedule 1 and first kept before 10th December 2003 on 10th June 2004. The prohibition comes into force on 10th December 2003 in relation to fish specified in Schedule 2 and first kept before 10th December 2003 and fish specified in Schedules 1 and 2 first kept or released on or after 10th December 2003.

Section 3 of the Act provides that any person who keeps or releases any of the species of fish specified in Schedules 1 and 2 on the date the Order comes into force without a valid licence or who contravenes the terms of a licence shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

In addition to prohibiting the keeping or release of certain fish specified for the first time in the Order, the Order consolidates three other Orders – the Import of Live Fish (Coho Salmon) (Prohibition) (Scotland) Order 1980 (S.I. 1980/376), the Prohibition of the Keeping or the Release of Live Fish (Pikeperch) (Scotland) Order 1993 (S.I. 1993/1288) and the Prohibition of Keeping of Live Fish (Crayfish) (Scotland) Order 1996 (S.I. 1996/1107). The species which were specified in these three Orders are now specified in Schedule 2 to the Order. The Order revokes the three Orders that it consolidates, subject to a saving provision (article 4).

A Regulatory Impact Assessment has been prepared in relation to this Order and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Executive Environment and Rural Affairs Department, Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY.

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