

EXECUTIVE NOTE

THE TWEED REGULATION ORDER 2007 - S.S.I. 2007/19

The above instrument is made in exercise of the powers conferred by articles 35, 36, 52, 53, 54, 68 and 77(3) of the Scotland Act 1998 (River Tweed) Order 2006 (the principal order). The instrument is subject to negative resolution procedure.

Legislative background

1. Under section 111 of the Scotland Act 1998, Her Majesty may by Order in Council make provision for or in connection with the conservation, management and exploitation of salmon, trout, eels and freshwater fish in the Border rivers. For the purposes of this section, the Border Rivers means the Rivers Tweed and Esk.
2. The principal order was made under sections 111, 112(1) and 113 of the Scotland Act 1998 and in accordance with the provisions of section 115 of and paragraphs 1 and 2 of Schedule 7 to that Act. The order was subject to affirmative procedure in both the Westminster Parliament and the Scottish Parliament and came into force on 15 November 2006.
3. A number of provisions relating to fishing for salmon and freshwater fishing in the Tweed district were contained in instruments made under general Scottish legislation or in the Tweed Acts. These are restated in this instrument.

Policy objective

4. Transitional provisions with respect to fishing by rod and line during the weekly close time in the principal order will cease to have effect at the start of the fishing season for salmon in the Tweed salmon fishery district on 15 February 2007. It is necessary, therefore, to re-state the provisions.
5. The opportunity has been taken to bring together all of the subordinate legislation applying to the Tweed district.
6. The policy objective is to ensure the continuation of the existing provisions with respect to fishing for salmon and freshwater fish in the Tweed district. No new provisions are proposed.

Content of the Order

7. The instrument restates the current legislation, although it has been drafted to ensure greater clarity. The contents include:

- Defining the annual and weekly close times, and which methods of fishing shall be permissible during these periods. (These provisions re-state those currently made in the principal order and in the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.)
- Maintaining the prohibition on the sale, in Scotland, of any salmon taken by rod and line. (This provision re-states, so far as relating to the Tweed district, an order made in 2002 for the purpose of the conservation of salmon.)
- Making provision that all boats used by the owners or occupiers of a fishery in the district for fishing or any other purpose in the district are marked. (This was previously provided for in the Tweed legislation.)
- Defining the methods of fishing for salmon by net and regulating the construction of nets. (This provision re-states measures in the Tweed legislation and regulations relating to construction and use of nets made in 1992, amended in 1993 and 1994.)
- Prescribing restrictions on the use of baits and lures and the areas to which these apply. (These re-state provisions in regulations made in 1991 and 1998.)
- Maintaining the protection order provisions in that part of the Tweed district that lies within Scotland. (This re-states the provisions in the protection order renewed in respect of the Rivers Tweed and Eye in 1991.)
- Re-stating the obligation on operators of dams and off-takes with regard to ensuring the free passage of salmon. (This re-states the provisions of the Salmon (Fish Passes and Screens) (Scotland) Regulations 1994.)

This Order replaces all other subordinate legislation which applies to salmon and freshwater fisheries in the Tweed district at present.

Legislative Effect

8. The legislative effect is to continue, without change, provisions that existed prior to the making of the principal order.

Consultation

9. This is essentially a consolidation exercise. The provisions contained within this instrument were discussed during consultations on the principal order. Detailed discussions on the instrument itself have been held with the River Tweed Commission. DEFRA has also been consulted.

Financial Implications

10. There are no financial implications for the Scottish Executive.

Regulatory Impact Assessment

11. No Regulatory Impact Assessment has been prepared in relation to this Instrument as it will make no change to the provisions in force at the time the principal order was made.

Scottish Executive Environment and Rural Affairs Department
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