



Salmon Act 1986

1986 CHAPTER 62

PART I

ADMINISTRATION OF SALMON FISHERIES IN SCOTLAND

General regulation of salmon fisheries

3 Regulations

- (1) Subject to subsection (4) below, regulations made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(6) of the Salmon Fisheries (Scotland) Act 1862 shall have effect in relation to a salmon fishery district as they had effect, immediately before the commencement of this section, in relation to the part of that salmon fishery district which was a district within the meaning of these Acts and which had the same coastal limits as that salmon fishery district.
- (2) The Secretary of State shall have power, after consulting such persons as he considers appropriate, to make regulations with respect to—
 - (a) the due observance of the weekly close time ;
 - (b) the construction and use of cruives;
 - (c) the construction and alteration of dams, including mill dams, or lades or water wheels so as to afford a reasonable means for the passage of salmon;
 - (d) the meshes, materials and dimensions of nets used in fishing for or taking salmon ;
 - (e) obstructions in rivers or estuaries to the passage of salmon;
 - (f) the construction, alteration and use for the control of the passage of salmon of—
 - (i) screens in off-takes from inland waters; and
 - (ii) structures associated with such screens.
- (3) The Secretary of State shall have power, after consulting such persons as he considers appropriate, to make regulations amending section 13 of the Salmon and Freshwater

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Fisheries (Protection) (Scotland) Act 1951 (extent of the weekly close time and the period within which rod and line fishing is permitted); provided always that such regulations shall not shorten the periods specified in the said section 13.

- (4) The power to make regulations under subsection (2) above includes power to revoke any regulations as described in subsection (1) above; and such regulations shall be treated as revoked insofar as they are inconsistent with the provisions of regulations made under this section.
- (5) The power to make regulations under paragraphs (c) or (f) of subsection (2) above includes power to except from the application of a regulation or part of a regulation any works or any category of works; and section 11 of the Salmon Fisheries (Scotland) Act 1868 shall apply to regulations so made.
- (6) The power to make regulations under subsection (2)(d) above includes power—
 - (a) to make different provision for different districts or different parts of a district;
 - (b) to except from the application of a regulation or part of a regulation a district or part of a district specified in the regulations.
- (7) References in any enactment, other than in this Act or in section 36 of the Salmon Fisheries (Scotland) Act 1868, to—
 - (a) byelaws or regulations made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(6) of the Salmon Fisheries (Scotland) Act 1862; or
 - (b) the provisions of any of the Schedules to that Act of 1868 relating to such matters
 shall be construed as including references to regulations made under subsection (2) above.
- (8) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4 Private generating stations

- (1) In subsection (2) of section 5 of the Electricity (Scotland) Act 1979 (formation of Fisheries Committee), after the words " Secretary of State " where they first occur there shall be inserted the words " , to a body or person who wishes to establish or extend a private generating station under section 35 ".
- (2) After subsection (1) of section 35 (control of private hydroelectric generating stations), there shall be inserted the following subsections—
 - “(1A) A person or body wishing to establish or extend any such station shall prepare proposals with a view to the execution of the necessary works and paragraphs 2, 3 and 6 of Schedule 4 to this Act shall have effect in relation to such proposals as if they were constructional schemes proposed under section 10 of this Act and, for the purposes of this subsection, references in that Schedule to the Boards shall be construed as references to such a person or body.
 - (1B) The Secretary of State may make his consent under subsection (1) above conditional on the acceptance by the person or body of any recommendation made under paragraph 3 of Schedule 4 to this Act relating to the proposed establishment or extension; and such person or body shall be bound to implement such recommendation in executing the proposed works.”.

- (3) In paragraph 1 of Schedule 4 (constitution and functions of Fisheries Committee), after the words " Secretary of State " where they secondly occur there shall be inserted the words " , to a body or person who wishes to establish or extend a private generating station under section 35 ".

5 Enforcement of regulations

- (1) In section 15 of the Salmon Fisheries (Scotland) Act 1868 (offences related to regulations)—
- (a) for the words from the beginning to " following offences " there shall be substituted the words " Any person " ;
 - (b) paragraph (7) shall be omitted; and
 - (c) for the words from " shall for every such offence " to the end there shall be substituted the words " shall be guilty of an offence; and section 19 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (forfeiture of fish, instruments, articles, vehicles or boats) shall apply in relation to persons convicted of an offence under this section as it applies to those convicted of an offence under Part I or section 13 of that Act ".
- (2) Without prejudice to the generality of section 3(7) of this Act, in section 15 of that Act, "byelaw"—
- (a) in paragraph (8), shall include regulations made under section 3(2) of this Act and the offence specified in that paragraph shall, as respects such regulations, extend to so much of the River Tweed as is situated outwith Scotland ; and
 - (b) in paragraphs (2), (3) and (4), shall include such regulations except to the extent that they extend to the River Tweed.

6 Annual close time

- (1) The annual close time for a salmon fishery district shall be a continuous period of not less than 168 days and shall apply to every mode of fishing for and taking salmon except to the extent that provision is made for periods within that time during which it is permitted to fish for and take salmon by rod and line.
- (2) Subject to subsection (3) below, the dates of the annual close time and the periods within that time when it is permitted to fish for and take salmon by rod and line shall be, in the case of any particular district—
- (a) the dates and periods specified in the designation order made in respect of that district; or
 - (b) where no designation order has been made in respect of that district, the dates and periods which were determined under section 6(5) of the Salmon Fisheries (Scotland) Act 1862, subject to any variation made under section 9 of the Salmon Fisheries (Scotland) Act 1868, which, immediately before the commencement of this section, were in force as respects the district within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868 which had the same coastal limits as that salmon fishery district.
- (3) Notwithstanding subsection (2) above, the Secretary of State may, subject to subsection (1) above, by order prescribe for any district the dates of the annual close time and the periods within that time when it is permitted to fish for and take salmon by rod and line and he may make different provision for different parts of a district; and such an order is referred to in this Act as an " annual close time order ".

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- (4) The Secretary of State may make an annual close time order in respect of a salmon fishery district only on application to him by—
- (a) the district salmon fishery board for that district; or
 - (b) where there is no such board, two proprietors of salmon fisheries in that district.
- (5) An application under subsection (4) above shall be accompanied by the applicant's written proposals which shall state—
- (a) the proposed dates of the annual close time and the periods within that time when it shall be permitted to fish for and take salmon by rod and line in the district; and
 - (b) the general effect of the proposals
- and the proposals may include different dates and periods for different parts of the district.
- (6) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of an annual close time order as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to an annual close time order ; and
 - (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (4) above.
- (7) References in any enactment, other than in this Act, to—
- (a) regulations or byelaws made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(5) of the Salmon Fisheries (Scotland) Act 1862; or
 - (b) the provisions of Schedule C to the Salmon Fisheries (Scotland) Act 1868 relating to such matters
- shall be construed as including references to an annual close time order or to such part of a designation order as provides for the annual close time for a salmon fishery district.

7 Estuary limits

- (1) Subject to subsection (2) below, the estuary limits of a river shall be the limits fixed by judicial decision or fixed and defined under section 6(1) of the Salmon Fisheries (Scotland) Act 1862.
- (2) Whether or not a river has estuary limits as described in subsection (1) above, the Secretary of State may, by order, prescribe limits or, as the case may be, different limits which shall be the estuary limits for that river ; and such an order is referred to in this Act as an " estuary limits order " .
- (3) The Secretary of State may make an estuary limits order only on application to him by—
- (a) the district salmon fishery board for the district in which the river is situated ; or
 - (b) where there is no such board, two proprietors of salmon fisheries in that district.

- (4) An application under subsection (3) above shall be accompanied by the applicant's written proposals which shall state—
- (a) the proposed estuary limits ; and
 - (b) the general effect of the proposals.
- (5) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of an estuary limits order as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to an estuary limits order ; and
 - (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (3) above.
- (6) For the purposes of this section—
- " estuary limits " means limits which divide each river including its mouth or estuary from the sea ; and
- " river " does not include the River Tweed.
- (7) References in any enactment, other than in this Act or in section 36 of the Salmon Fisheries (Scotland) Act 1868, to—
- (a) byelaws or regulations made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(1) of the Salmon Fisheries (Scotland) Act 1862; or
 - (b) the provisions of Schedule B to the Salmon Fisheries (Scotland) Act 1868 relating to such matters
- shall be construed as including references to an estuary limits order.

8 Use of baits and lures

- (1) The Secretary of State may, subject to the provisions of this section, make regulations specifying baits and lures for the purposes of the definition of " rod and line " in section 24 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.
- (2) The Secretary of State may make regulations under this section only on—
- (a) application to him by a district salmon fishery board ; or
 - (b) a joint application to him by more than one such board,
- and regulations made in respect of such application shall be made only in respect of the district of the applicant.
- (3) Regulations under this section shall specify, subject to such exceptions as may be provided therein, all or any, or a combination of, the following—
- (a) baits and lures or classes of baits and lures ;
 - (b) times when the regulations apply ;
 - (c) areas to which the regulations apply.
- (4) An application under subsection (2) above shall be accompanied by the applicant's written proposals which shall state—
- (a) the baits and lures which it is proposed should be specified;
 - (b) the places to which and the times during which the proposed regulations should apply ; and
 - (c) the reasons for the proposals.

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- (5) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of regulations under this section as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to regulations under this section ; and
 - (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (2) above.
- (6) In section 24(1) of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951, at the end of the definition of " rod and line " there shall be inserted the following — " and, in the case of fishing for salmon in an area to which and at a time during which regulations made under section 8 of the Salmon Act 1986 apply, is not specified in such regulations in respect of that area and time ".

9 Limits of the Solway Firth

References in any enactment to the limits of the Solway Firth shall be construed as references to the limits which were fixed under section 6(2) of the Salmon Fisheries (Scotland) Act 1862.

10 Application of regulations and annual close time orders to the River Tweed

- (1) The byelaw enacted by section 10 of the Salmon Fisheries (Scotland) Act 1868 as Schedule G to that Act, as amended by any other enactment, and so much of section 15 of that Act as relates thereto shall continue to have effect in relation to the River Tweed as it had effect before the commencement of this section.
- (2) Regulations made under section 3 of this Act shall have effect in relation to the River Tweed but the power to make regulations under subsection (1)(d) of that section includes power to except the River Tweed from the application of any such regulation.
- (3) Where such regulations have effect in relation to the River Tweed—
 - (a) references to a salmon fishery district shall include references to the River Tweed ; and
 - (b) references to a district salmon fishery board shall include references to the River Tweed Council
 unless the contrary intention appears.
- (4) Subsections (3), (4)(a), (5) and (6) of section 6 and section 8 of this Act shall have effect in relation to the River Tweed with the following modifications—
 - (a) references to a salmon fishery district shall include references to the River Tweed;
 - (b) references to a district salmon fishery board shall include references to the River Tweed Council
 and Schedule 1 to this Act shall, for the purposes of this subsection, be construed accordingly.
- (5) In making an annual close time order in respect of the River Tweed, the Secretary of State may prescribe an annual close time, being a continuous period of not less than 153 days.

- (6) The power to make regulations under—
- (a) section 3(2)(a) of this Act includes power to amend section 12 of the Tweed Fisheries Amendment Act 1859;
 - (b) section 3(2)(d) of this Act includes power to amend sections 12 and 13 of that Act of 1859; and
 - (c) section 3(2)(e) of this Act includes power to amend section 57 of the Tweed Fisheries Act 1857 ; and
 - (d) section 8 of this Act includes power to amend section 6 of the Tweed Fisheries Amendment Act 1859
- and the power to make an annual close time order in respect of the River Tweed includes power to amend section 6, 10 and 11 of that Act of 1859.
- (7) This section extends to so much of the River Tweed as is situated outwith Scotland.