# Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (repealed)

**1951 CHAPTER 26 14 and 15 Geo 6**

## PART V

LOCAL AND SUPPLEMENTAL

**Textual Amendments applied to the whole legislation**

**F1** Act repealed (except in relation to the River Tweed and the Upper Esk) (1.4.2005) by Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), s. 71(2), **sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and (only in relation to the Tweed district) (15.11.2006) by The Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913), art. 1(2), **Sch. 4 Pt. 2** (with art. 1(3))

### 21 Application to River Esk.

**[**[F1](1)**]** **[**[F2]Subject to subsection (2) below,**]**the provisions of this Act shall not apply to so much of the River Esk, including its banks and tributary streams, as is situated in Scotland.

**[**[F3](2) Section 1 of this Act and sections 3 and 18 to 20 so far as relating to an offence under that section shall apply to so much of the River Esk, including its banks and tributary streams, as is situated in Scotland.**]**

**Textual Amendments**

**F1** By Salmon Act 1986 (c. 62, SIF 52:2), **s. 26(1)** it is provided that s. 21 shall be renumbered as subsection (1) of that section

**F2** Words inserted by Salmon Act 1986 (c. 62, SIF 52:2), **s. 26(1)**

**F3** S. 21(2) added by Salmon Act 1986 (c. 62, SIF 52:2), **s. 26(1)**

**Changes to legislation:** *There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (repealed), Part V. (See end of Document for details)*

## 22 Provisions as to River Tweed.

(1) Section nineteen of and Schedule G to the [M1]Salmon Fisheries (Scotland) Act 1868 (which section and Schedule relate respectively to penalties for destroying salmon fry and disturbing spawning beds, and to the construction and alteration of dams and lades) shall apply to the River Tweed with the substitution for references to a district and a district board respectively of references to the River Tweed and the Board of Commissioners of the River Tweed, and with any other necessary modifications.

(2) This Act (including the foregoing subsection) and the [M2]Freshwater Fish (Scotland) Act 1902, shall apply to so much of the River Tweed as is situated outwith Scotland as if it were situated in Scotland:
Provided that—

(a) offences committed in England (including English territorial waters) whether against this Act or against any other enactment mentioned in the foregoing provisions of this section shall be proceeded against and punished in England, and in the case of an offence committed in territorial waters proceedings may be taken in any place where the person charged may be found; and

(b) in relation to a person found committing an offence to which the foregoing paragraph applies section thirty-eight of the [M3]Tweed Fisheries Act 1857, shall have effect with the substitution for the words from "before any justice" onwards of the words "before any justice having jurisdiction to deal with the case, who shall proceed against such offender according to law".

**Modifications etc. (not altering text)**

**C1** S. 22 amended by Salmon Act 1986 (c. 62, SIF 52:2), s. 41, **Sch. 4 para. 11**

**Marginal Citations**

**M1** 1868 c. 123.
**M2** 1902 c. 29.
**M3** 1857 c. cxlviii.

## 23 Expenses payable out of moneys provided by Parliament.

Any expenses of the Secretary of State under this Act shall, to such amount as may be sanctioned by the Treasury, be defrayed out of moneys provided by Parliament.

## 24 Interpretation.

(1) For the purposes of this Act unless the context otherwise requires—

"Boat" includes any craft or vessel used in fishing;

"Dam" means any weir, dam, dyke, cauld, mill dam or other structure constructed in the bed of any stream, river or loch for the purpose of controlling, impounding or diverting water therefrom;

**[**[F4] "District" and "Salmon Fishery District" shall be deemed to include the River Tweed;

"District board" and "District Salmon Fishery Board" shall include the council constituted under section 6 of the Tweed Fisheries Act [M4]1969;**]**

"Enactment" means any Act of Parliament whether public, general, local or private;

"Estuary limits" means limits which divide each river including its mouth or estuary from the sea as fixed by any enactment, byelaw or the decision of a court;

"Fixed engine" means any engine, net or trap used for the taking of salmon, other than a sweep net which when in use is hauled through the water continuously and is not allowed to be stationary in the water or to drift with the current;

"Freshwater fish" means any fish living in fresh water, including trout, and eels and the fry of eels, but exclusive of salmon and of any kind of fish which migrate between the open sea and tidal waters;

"Inland waters" includes all rivers above estuary limits and their tributary streams, and all waters, watercourses and lochs whether natural or artificial draining into the sea;

"Lade" includes any artificial channel through which water is diverted from any inland water in which salmon or trout are present;

"Package" includes any box, basket, barrel, case, receptacle, sack, bag, container, wrapper or other thing in which salmon or trout is placed for the purpose of carriage, consignment or exportation;

"The River Tweed" means "the River" as defined by the [M5]Tweed Fisheries Amendment Act 1859, and any byelaw amending that definition;

"Rod and line" means single rod and line with such bait or lure as is lawful at the passing of this Act **[**[F5]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**]**;

"Salmon" includes all migratory fish of the species*Salmo salar*and*Salmo trutta*and commonly known as salmon and sea trout respectively or any part of any such fish;

"Trout" means non-migratory trout of the species*Salmo trutta*living in fresh waters or estuaries;

"Vehicle" includes any conveyance other than a vehicle used for the purposes of a passenger transport service within the meaning of the [M6]Transport Act 1947.

"Water bailiff" means any water bailiff or other duly appointed officer of a district board.

(2) Nothing contained in this Act shall render legal any method of fishing which was or would have been illegal at the date of the commencement of this Act.

(3) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment including this Act.

**Textual Amendments**

**F4** Words substituted by Salmon Act 1986 (c. 62, SIF 52:2), s. 41, **Sch. 4 para. 12**

**F5** Words inserted by Salmon Act 1986 (c. 62, SIF 52:2), **ss. 8(6)**, 10(4)

**Modifications etc. (not altering text)**

**C2** S. 24(1) amended (River Awe) (11.02.1991) by S.I. 1991/116, **reg. 2**

**Marginal Citations**

**M4** 1969 c.xxiv**(52:2).**

**M5** 1859 c. lxx.

**M6** 1947 c. 49.

## 25 Minor amendments and repeals.

(1) The enactments mentioned in the first column of the First Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule (being amendments consequential upon the foregoing provisions of this Act or relating to matters of minor detail).

(2) . . . . . **F6**

**Textual Amendments**

**F6** S. 25(2), Sch. 2 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

**Modifications etc. (not altering text)**

**C3** The text of S. 25(1), Sch. 1 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

## 26 Short title and extent.

(1) This Act may be cited as the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.

(2) Save as in this Act otherwise expressly provided this Act shall extend only to Scotland.

**Changes to legislation:**
There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (repealed), Part V.