
STATUTORY INSTRUMENTS

1996 No. 1211 (S.122)

DEREGULATION

**The Deregulation (Salmon Fisheries
(Scotland) Act 1868) Order 1996**

Made - - - - - *29th April 1996*

Coming into force - - - - - *30th April 1996*

WHEREAS:

- (a) the Secretary of State is of the opinion that the effect of section 18 of the Salmon Fisheries (Scotland) Act 1868(1) which is the subject of this Order imposes a burden affecting persons in the carrying on of a trade, business, profession or otherwise and that by amending the enactment concerned it is possible to remove or reduce the burden without removing any necessary protection;
- (b) he has consulted such organisations as appear to him to be representative of interests substantially affected by his proposals and such other persons as he considers appropriate;
- (c) it appears to the Secretary of State that it is appropriate, following that consultation, to proceed with the making of this Order;
- (d) a document setting out the Secretary of State's proposals has been laid before Parliament as required by section 3 of the Deregulation and Contracting Out Act 1994(2) and the period for Parliamentary consideration under section 4 of that Act has expired;
- (e) the Secretary of State has had regard to the representations made during that period;
- (f) a draft of this Order has been laid before Parliament with a statement giving details of such representations and the changes (if any) to the Secretary of State's proposals in the light of those representations; and
- (g) a draft of this Order has been approved by resolution of each House of Parliament.

NOW THEREFORE, the Secretary of State, in exercise of the powers conferred on him by section 1 of the Deregulation and Contracting Out Act 1994, hereby makes the following Order:

(1) 1868 c. 123. Section 18 was amended by the Freshwater and Salmon Fisheries (Scotland) Act 1976 (c. 22) section 6 and Schedule 2 and by the Salmon Act 1986 (c. 62) section 41 and Schedule 4 paragraph 3(1). "Salmon" is defined in section 1A of the 1868 Act (as inserted by the Salmon Act 1986 Schedule 4 para.1) as having the same meaning as in section 40(1) of the 1986 Act.

(2) 1994 c. 40.

Title, commencement and extent

1.—(1) This Order may be cited as the Deregulation (Salmon Fisheries (Scotland) Act 1868) Order 1996 and shall come into force on the day after the day on which it is made.

(2) This Order has the same extent as section 18 of the Salmon Fisheries (Scotland) Act 1868.

Amendment of Salmon Fisheries (Scotland) Act 1868

2.—(1) Section 18 of the Salmon Fisheries (Scotland) Act 1868 (buying etc. salmon roe) shall be renumbered as subsection (1) thereof and for the word “section” therein there shall be substituted the word “subsection”.

(2) After that subsection there shall be added the following subsections:—

“(2) It shall be a defence for a person charged with an offence under subsection (1) above to prove—

(a) that the roe had been produced in the course of fish farming within the meaning given by section 33(6) of the Fisheries Act 1981(3); or

(b) that he believed on reasonable grounds that it had been so produced.

(3) Subsection (2) above is without prejudice to the provisions of subsection (1) above relating to the circumstances in which subsection (1) above does not apply.”.

(3) The amendments made by paragraphs (1) and (2) above shall not apply in relation to offences alleged to have been committed before the coming into force of this Order.

St Andrew’s House,
Edinburgh
26th April 1996

Raymond S Robertson
Parliamentary Under Secretary of State Scottish
Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, amends section 18 of the Salmon Fisheries (Scotland) Act 1868 (“the 1868 Act”) which makes it a criminal offence in Scotland to buy, sell, expose for sale or have in possession any salmon roe.

Section 18 of the 1868 Act is renumbered as section 18(1) (article 2(1)).

Two new subsections are then inserted (article 2(2)). Section 18(2) of the 1868 Act introduces new defences to an offence under section 18(1) of the 1868 Act in that either—

- (a) the roe was produced in the course of fish farming, or
- (b) the accused believed on reasonable grounds that it had been so produced.

Subsection (3) provides that these defences are without prejudice to the provisions of section 18(1) relating to the circumstances in which that subsection will not apply. Those circumstances are that a person gives a reason satisfactory to the court by whom he is tried for having salmon roe in his possession.

This Order provides that these defences shall apply only to proceedings for offences alleged to have been committed after the date of its coming into force (article 2(3)).