



Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003

2003 asp 15

PART 1

METHODS OF FISHING AND OFFENCES RELATED TO FISHING

Offences related to fishing for salmon and freshwater fish

5 Prohibition against using explosive and other noxious substances for the destruction or taking of fish

- (1) Any person who—
- uses any explosive substance with intent to take or destroy fish in any waters (including the sea up to 22 kilometres from the baselines from which the breadth of the territorial sea is measured);
 - puts any poison or other noxious substance in or near any such waters with intent to take or destroy fish; or
 - uses any electrical device with intent to stun or destroy salmon or freshwater fish in any such waters,
- shall be guilty of an offence.
- (2) Without prejudice to section 294 (attempts to commit crime) of, and paragraph 10 of Schedule 3 to, the Criminal Procedure (Scotland) Act 1995 (c. 46), any person who attempts to commit or who does any act preparatory to the commission of an offence mentioned in subsection (1) above shall be guilty of an offence, and liable to the same punishment as if that person had committed the offence mentioned.
- (3) A person found guilty of an offence under this section shall be liable—
- on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment; and
 - on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both a fine and such imprisonment.

6 Fishing for salmon without right or permission

- (1) Any person who without legal right, or without written permission from a person having such right, fishes for or takes salmon in any waters, including any part of the sea within 1.5 kilometres of mean low water springs, shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Without prejudice to section 294 (attempts to commit crime) of, and paragraph 10 of Schedule 3 to, the Criminal Procedure (Scotland) Act 1995 (c. 46), any person who attempts to commit or who does any act preparatory to the commission of the offence mentioned in subsection (1) above shall be guilty of an offence, and liable to the same punishment as if that person had committed the offence mentioned.

7 Illegal fishing by two or more persons acting together

If two or more persons acting together do any act which would constitute an offence under section 1, 2 or 6 of this Act, every such person shall be guilty of an offence under this section, and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both a fine and such imprisonment.

8 Taking of dead salmon or trout

- (1) Without prejudice to section 3 of the Diseases of Fish Act 1937 (c. 33) (powers and duties of fishery boards), any person other than—
 - (a) a constable or a water bailiff in the exercise of their respective duties;
 - (b) a person authorised in that regard by the Scottish Ministers or a district salmon fishery board; or
 - (c) a person with a right to fish therein or the agent of any such person,who takes or removes dead salmon or trout from any waters, including any part of the sea within 1.5 kilometres of low water mark, shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) Without prejudice to section 294 (attempts to commit crime) of, and paragraph 10 of Schedule 3 to, the Criminal Procedure (Scotland) Act 1995 (c. 46), any person who attempts to commit or who does any act preparatory to the commission of the offence mentioned in subsection (1) above shall be guilty of an offence, and liable to the same punishment as if that person had committed the offence mentioned.

9 Illegal possession of salmon or trout

- (1) Any person who is found in possession of any salmon or trout, or any instrument, explosive, poison or other noxious substance which could be used in the taking of salmon or trout, in circumstances which afford reasonable ground for suspecting that that person has obtained possession of such salmon or trout, or such instrument, explosive, poison or substance as the result or for the purpose of committing an offence under any of the provisions of sections 1, 2, 5, 6 or 7 of this Act, may be charged with unlawful possession as aforesaid of such salmon or trout, or of such instrument, explosive, poison or substance.

- (2) Where the court is satisfied that a person charged under subsection (1) above obtained possession of salmon or trout, or of any instrument, explosive, poison or other noxious substance as the result or for the purpose of committing an offence under any of the provisions of sections 1, 2, 5, 6 or 7 of this Act, that person may be convicted of unlawful possession as aforesaid and dealt with in like manner as if that person had been convicted of the same offence.
- (3) A person who commits an offence under this section may be convicted on the evidence of one witness.

10 Offences in relation to passage of salmon

- (1) Any person who does any act for the purpose of preventing salmon from passing through any fish pass, or taking any salmon in its passage through the same, shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) A person who commits an offence under this section may be convicted on the evidence of one witness.

11 Fishing in waters where fishing rights owned by one person

- (1) Any person who without legal right, or without permission from a person having such right, fishes in a proper stank or loch shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (2) For the purposes of this section—
 - “proper stank or loch” means a stank or loch the fishing rights in which are owned by one person; and
 - “stank” means a reservoir or pond with neither inlet nor outlet sufficient to allow access or egress by fish.

12 Contravention of protection order

- (1) Any person who fishes for or takes freshwater fish in contravention of a prohibition contained in a protection order made under section 48 of this Act shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Without prejudice to section 294 (attempts to commit crime) of, and paragraph 10 of Schedule 3 to, the Criminal Procedure (Scotland) Act 1995 (c. 46), any person who attempts to commit or who does any act preparatory to the commission of the offence mentioned in subsection (1) above shall be guilty of an offence and liable to the same punishment as if that person had committed the offence mentioned.