



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

2003 asp 15

PART 2

ADMINISTRATION OF SALMON FISHERIES

Conservation measures

37 Annual close times for salmon

- (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 [^{F1}and to section 38(5)(c) of this Act], 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 any 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 for the district (within the meaning of the 1862 to 1868 Acts), which had the same coastal limits as that salmon fishery district, under section 6(5) of the 1862 Act, but subject to any variation made under section 9 of the 1868 Act.
 - (3) [^{F2}Without prejudice to section 38(5)(c) of this Act,] the Scottish Ministers may, subject to subsection (1) above, by order (in this Act referred to as an “annual close time 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 they may make different provision for different parts of a district.
- [^{F3}(3A) An annual close time order may impose requirements on district salmon fishery boards or proprietors of salmon fisheries in relation to monitoring and evaluation of the effect of the order on salmon stocks.

Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Cross Heading: Conservation measures. (See end of Document for details)

- (3B) A district salmon fishery board or proprietor commits an offence if the board or proprietor—
- (a) acts in contravention of any such requirements; or
 - (b) fails to take any action required of the board or proprietor by any such requirements.
- (3C) A board which or proprietor who commits an offence under subsection (3B) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.]
- (4) Paragraphs 5, 6 and [F49B] to 15 of schedule 1 to this Act shall have effect in relation to the making of orders under this section.

Textual Amendments

- F1** Words in s. 37(2) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 29(3)(a)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F2** Words in s. 37(3) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 29(3)(b)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F3** S. 37(3A)-(3C) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 29(3)(c)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2
- F4** Word in s. 37(4) substituted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 25(2)(d)**, 66(2) (with s. 65); S.S.I. 2013/249, art. 2

Commencement Information

- I1** S. 37 in force at 1.4.2005 by [S.S.I. 2005/174](#), **art. 2**

38 Salmon conservation regulations

- (1) The Scottish Ministers may make regulations under this section if they consider that it is necessary or expedient to do so for the conservation of salmon.
- (2) Regulations under this section shall not be taken to be for something other than the conservation of salmon by reason only that they also have effect in relation to the management of salmon fisheries for exploitation.
- (3) In considering whether or not it is necessary or expedient to make regulations under this section the Scottish Ministers shall have regard to any representations made to them by any person having an interest in fishing for or taking salmon, or in the environment.
- (4) Regulations under this section—
 - (a) may be made in relation only to salmon fisheries; and
 - (b) subject to subsection (5)(b) [F5 and (c)] below, shall not be made in respect of matters in relation to which the Scottish Ministers have power to make regulations or orders under any other enactment relating to the management of salmon or freshwater fisheries.
- (5) Without prejudice to the generality of the power conferred by this section, regulations under this section may—
 - (a) specify the type of information about any salmon fishery that a district salmon fishery board may require from the proprietor of the fishery and the time within which such information shall (if required) be supplied;

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- (b) prohibit the use of specified baits and lures for the purposes of the definition of “rod and line” in section 4 of this Act.
 - [^{F6}(c) subject to section 37(1) of this Act, prescribe for any salmon fishery district the dates of the annual close time for salmon and the periods within that time when it is permitted to fish for and take salmon by rod and line.]
- (6) Regulations under this section may—
- (a) confer upon constables and water bailiffs such powers of enforcement, additional to those otherwise available under this Act, as the Scottish Ministers consider necessary or expedient for the purposes of the regulations;
 - (b) make provision generally in relation to any river or salmon fishery district, or in relation to any time or season;
 - [^{F7}(ba) impose on district salmon fishery boards or proprietors of salmon fisheries such requirements as the Scottish Ministers consider necessary or expedient in relation to monitoring and evaluation of the effect of the regulations on salmon stocks;]
 - (c) make different provision for different salmon fishery districts or different parts of such a district, or for different parts of a river, or for different cases or classes of case.
- (7) Any person who—
- (a) acts in contravention of; or
 - (b) fails to take any action required of that person by, or to comply with any requirement imposed on that person by,
- regulations made under this section shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) A person who commits an offence under this section may be convicted on the evidence of one witness.
- (9) Paragraphs 7 to 15 of schedule 1 to this Act shall have effect in relation to the making of regulations under this section.

Textual Amendments

- F5** Words in s. 38(4) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 29(4)(a), 66(2)** (with s. 65); S.S.I. 2013/249, art. 2
- F6** S. 38(5)(c) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 29(4)(b), 66(2)** (with s. 65); S.S.I. 2013/249, art. 2
- F7** S. 38(6)(ba) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 29(4)(c), 66(2)** (with s. 65); S.S.I. 2013/249, art. 2

Commencement Information

- I2** S. 38 in force at 1.4.2005 by [S.S.I. 2005/174](#), **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Cross Heading: Conservation measures.