
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Scotland Act 1998 (River Tweed) Order 2006

PART 2

METHODS OF FISHING AND OFFENCES RELATED TO FISHING

Exemptions

Exemptions in relation to fish farming

51.—(1) Subject to the provisions of this article, a person shall not be guilty of a contravention of any of articles 23, 24, 27(b) and (c), 36(1) and (3), 38, 39, 40, 41, 46 and 46(1)(b), or orders under article 53(a) and (c), in respect of any act or omission if the act or the omission takes place within, and in the course of the operation of, a fish farm.

(2) There shall be no contravention of sub-paragraph (b) or (c) of article 27, by virtue of paragraph (1), in respect of an act referred to in those paragraphs if, and only if, the act is carried out with the prior permission in writing of the Scottish Ministers.

(3) For the purposes of paragraph (1), the act of selling or exporting fish by or on behalf of a person who has reared the fish in a fish farm shall be deemed to be an act carried out within a fish farm in the course of the operation of that farm.

(4) In any proceedings for an offence under article 39 in relation to a boat or other thing mentioned in that article which is not in a fish farm, it shall be a defence for the person charged with such offence to prove that the act or omission complained of was necessary for the purpose of the operation of a fish farm.

(5) It shall be a defence for a person charged with an offence under article 40, 41(1)(b), 42(b) or 46 to show that that person believed on reasonable grounds that the fish with respect to which the offence is alleged to have been committed were produced by fish farming.

(6) For the purposes of paragraph (5) above “fish farming” means the breeding, rearing or cultivating of fish, whether or not for the purpose of producing food for human consumption; but the reference in that paragraph to fish produced by fish farming does not include fish bred, reared or cultivated in captivity which have later been released to the wild.