
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Scotland Act 1998 (River Tweed) Order 2006

PART 2

METHODS OF FISHING AND OFFENCES RELATED TO FISHING

Close times for salmon

Weekly close time for salmon

35.—(1) The weekly close time for salmon fishing shall be such period of not less than 42 hours, including the whole of Sunday, as may be prescribed.

(2) No person shall fish for or take salmon during Sunday.

(3) No person shall fish for or take salmon during the weekly close time but, subject to paragraph (2), an order under this article may make provision for periods within the weekly close time during which it is permitted to fish for and take salmon by rod and line.

(4) Any person who contravenes this article shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) A person who commits an offence under this article may be convicted on the evidence of one witness.

Annual close time for salmon

36.—(1) Subject to the provisions of this article, the annual close time for salmon fishing—

(a) shall be such continuous period of not less than 153 days as may be prescribed by an order (to be known as an “annual close time order”) under this article; and

(b) shall apply to every mode of fishing for and taking salmon.

(2) An annual close time order may make provision for periods within the annual close time during which it is permitted to fish for and take salmon by rod and line (but only with the artificial fly).

(3) Paragraphs 3, 4 and 8 to 14 of Schedule 2 shall have effect in relation to the making of orders under this article.

Fishing for salmon during annual close time

37.—(1) Subject to paragraph (2), any person who fishes for or takes salmon during the annual close time within the meaning of article 36 shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) It shall not be an offence to fish for or take salmon by means of rod and line, with the artificial fly only, at any period within the annual close time when such fishing is permitted by the orders in force in the part of the district in which the fishing occurs.

(3) Any person who attempts to commit or who does any act preparatory to the commission of any offence mentioned in paragraph (1) shall be guilty of an offence, and liable to the same punishment as if that person had committed the offence mentioned.

(4) A person who commits an offence under this article may be convicted on the evidence of one witness.

Removal of boats and nets during annual close time

38.—(1) The proprietor or occupier of any salmon fishery shall within 36 hours after the commencement of the annual close time—

- (a) remove and carry from such fishery, and from the landing places and grounds adjacent thereto, all boats, oars, nets, engines and other tackle used or employed by such occupier in taking salmon; and
- (b) effectually secure the same so as to prevent their being used in fishing until the end of the close time,

with the exception of such boats and oars as may be used in angling.

(2) Any proprietor or occupier who fails to comply with the duty imposed by paragraph (1) shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) A person who commits an offence under this article may be convicted on the evidence of one witness.

(4) Nothing in this article applies to—

- (a) any ferry-boat or prevents the continued use of any boat by any owner of land adjoining the river or the owner's family, if the boat has the owner's name painted on it, and is secured, when not in use for lawful purposes, by lock and key;
- (b) the pins fixed in the ground to assist in the support of the stakes or poles of fly nets or other stake nets; or
- (c) the fastenings fixed in rocks for the support of bag nets.

Buying and selling salmon in annual close time

39.—(1) Any person who buys, sells, exposes for sale or is in possession of any salmon within the district during the period when the annual close time is in force in the district, shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) It shall be a defence to a prosecution brought under this article for the accused to prove that the salmon was caught lawfully.

(3) The burden of proving that any salmon was caught lawfully shall lie on the person charged with selling, exposing for sale or being in possession of, the salmon.

(4) A person who commits an offence under this article may be convicted on the evidence of one witness.