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DRAFT STATUTORY INSTRUMENTS

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**2006 No.**

**The Scotland Act 1998 (River Tweed) Order 2006**

**PART 2**

**METHODS OF FISHING AND OFFENCES RELATED TO FISHING**

*Regulation of fisheries*

**General orders**

**52.**—(1) The Scottish Ministers may, after consulting such persons as they consider appropriate, make orders with respect to—

- (a) the due observance of the weekly close time for salmon;
- (b) the construction and alteration of dams or lades or water wheels so as to afford a reasonable means for the passage of salmon or freshwater fish;
- (c) the meshes, materials and dimensions of nets used in fishing for or taking salmon or freshwater fish;
- (d) obstructions in rivers or estuaries to the passage of salmon or freshwater fish;
- (e) the construction, alteration and use for the control of the passage of salmon or freshwater fish of—
  - (i) screens in off-takes from inland waters; and
  - (ii) structures associated with such screens; and
- (f) the marking of boats.

(2) Orders made under sub-paragraph (b) or (e) of paragraph (1) may except from an order or part of an order, any works or any category of works.

(3) The power to make orders under paragraph (1)(c) includes power—

- (a) to make different provision for different parts of the district; and
- (b) to except from the application of an order or part of an order any part of the district specified in the orders.

(4) For the purposes of article 23, and after consulting such persons as they consider appropriate, the Scottish Ministers may by order define fishing for or taking salmon by—

- (a) net and coble;
- (b) bag net, fly net or other stake net,

whether by reference to anything used for the purpose, or to the circumstances in which or method by which it is so used, or to any combination thereof; and, in relation to net and coble, may make different provision as respects inland waters from that made as respects other waters.

(5) Any proprietor or occupier of a salmon fishery at which stake nets, fly nets or bag nets are used who fails, in regard to such nets, to do all acts required by orders made under paragraph (1)

for the observance of the weekly close time shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) Any person who attempts to commit or who does any act preparatory to the commission of any offence mentioned in paragraph (5) shall be guilty of an offence, and liable to the same punishment as if that person had committed the offence mentioned.

(7) Any person who contravenes an order made under this article 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 article may be convicted on the evidence of one witness.

### **Salmon fishing: orders as to baits and lures**

**53.**—(1) Without prejudice to article 55(4)(b) and subject to the provisions of this article, the Scottish Ministers may make orders prohibiting the use of specified baits and lures in the case of fishing for salmon.

(2) The Scottish Ministers may make orders under paragraph (1) only on an application to them made in accordance with paragraph (3) by the Commission.

(3) An application under this article shall be accompanied by the Commission's written proposals which shall state—

- (a) the baits and lures the use of which it is proposed should be prohibited;
- (b) the places to which and the times during which the proposed orders should apply; and
- (c) the reasons for the proposals,

and the application and proposals mentioned in this paragraph may be communicated and stored electronically.

(4) Orders under paragraph (1) shall specify, subject to such exceptions as may be provided therein, all or any, or a combination, of the following:—

- (a) baits and lures or classes of baits or lures, the use of which is prohibited;
- (b) times when the orders apply; and
- (c) areas to which the orders apply.

(5) Paragraphs 8 to 14 of Schedule 2 shall apply, with any necessary modifications, to the making of orders under paragraph (1) as they apply to the making of the orders mentioned in that Schedule.