
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Scotland Act 1998 (River Tweed) Order 2006

PART 4

PROVISIONS APPLICABLE ONLY IN SCOTLAND

Miscellaneous

Licensing and regulation of salmon dealing

72.—(1) Without prejudice to the generality of section 44 of the Civic Government (Scotland) Act 1982⁽¹⁾(power to designate additional activities as subject to licensing and regulation) an order as respects dealing in salmon made under that section may—

- (a) define dealing in salmon and so define it as to—
 - (i) include such acts preparatory to or connected with dealing in salmon; and
 - (ii) exclude dealing in such class or classes of salmon,as may be specified in the Order;
- (b) provide that the offence under section 7(1) of that Act (doing anything for which a licence is required without having one) shall be punishable—
 - (i) on summary conviction, by imprisonment for a term not exceeding three months, or a fine not exceeding the statutory maximum on the standard scale or both; or
 - (ii) on conviction on indictment, by imprisonment for a term not exceeding two years, or a fine or both;
- (c) provide that it shall be an offence for any person, other than a person holding a salmon dealer's licence, to buy salmon from or sell salmon to a person not having such a licence;
- (d) provide that the offences under section 7(1) of that Act and any provision under sub-paragraph (c) shall be subject to such exceptions as may be specified in the Order;
- (e) provide that a licence shall be required only for such class or classes of dealing in salmon and dealing in such class or classes of salmon as may be specified in the Order; and
- (f) provide as to the exercise of powers of entry and search by water bailiffs,

but not so as to enable these powers to be exercised in any dwelling house or any yard, outhouses and pertinents belonging to or usually enjoyed with a dwelling house.

(2) The Scottish Ministers shall have power by order to prescribe the fees, or the maximum amounts of the fees, which the licensing authority may determine and charge under sub-paragraph (1) of paragraph 15 of Schedule 1 to that Act in respect of the licensing of dealing in salmon; and in that respect the licensing authority's powers under that paragraph shall be subject to the provisions of any such Order.

(1) 1982 c. 45. Section 44(2)(d) was amended by the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289G.

Application of Leases Act 1449

73.—(1) Notwithstanding any rule of law to the contrary, any contract entered into in writing for a consideration and for a period of not less than a year whereby an owner of land to which a right of fishing for freshwater fish in any inland waters pertains or the occupier of such a right authorises another person to so fish shall be deemed to be a lease to which the Leases Act 1449(2) applies, and the right of fishing so authorised shall, for the purposes of succession to that right, be deemed to be heritable property.

(2) In this article “inland waters” does not include the tidal parts of the district.