



Salmon Act 1986

1986 CHAPTER 62

PART I

ADMINISTRATION OF SALMON FISHERIES IN SCOTLAND

General regulation of salmon fisheries

3 Regulations.

- (1) Subject to subsection (4) below, regulations made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(6) of the Salmon Fisheries (Scotland) Act 1862 shall have effect in relation to a salmon fishery district as they had effect, immediately before the commencement of this section, in relation to the part of that salmon fishery district which was a district within the meaning of these Acts and which had the same coastal limits as that salmon fishery district.
- (2) The Secretary of State shall have power, after consulting such persons as he considers appropriate, to make regulations with respect to—
 - (a) the due observance of the weekly close time;
 - (b) the construction and use of cruives;
 - (c) the construction and alteration of dams, including mill dams, or lades or water wheels so as to afford a reasonable means for the passage of salmon;
 - (d) the meshes, materials and dimensions of nets used in fishing for or taking salmon;
 - (e) obstructions in rivers or estuaries to the passage of salmon;
 - (f) the construction, alteration and use for the control of the passage of salmon of—
 - (i) screens in off-takes from inland waters; and
 - (ii) structures associated with such screens.
- (3) The Secretary of State shall have power, after consulting such persons as he considers appropriate, to make regulations amending section 13 of the ^{M1}Salmon and Freshwater

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Fisheries (Protection) (Scotland) Act 1951 (extent of the weekly close time and the period within which rod and line fishing is permitted); provided always that such regulations shall not shorten the periods specified in the said section 13.

- (4) The power to make regulations under subsection (2) above includes power to revoke any regulations as described in subsection (1) above; and such regulations shall be treated as revoked insofar as they are inconsistent with the provisions of regulations made under this section.
- (5) The power to make regulations under paragraphs (c) or (f) of subsection (2) above includes power to except from the application of a regulation or part of a regulation any works or any category of works; and section 11 of the ^{M2}Salmon Fisheries (Scotland) Act 1868 shall apply to regulations so made.
- (6) The power to make regulations under subsection (2)(d) above includes power—
 - (a) to make different provision for different districts or different parts of a district;
 - (b) to except from the application of a regulation or part of a regulation a district or part of a district specified in the regulations.
- (7) References in any enactment, other than in this Act or in section 36 of the Salmon Fisheries (Scotland) Act 1868, to—
 - (a) byelaws or regulations made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(6) of the ^{M3}Salmon Fisheries (Scotland) Act 1862; or
 - (b) the provisions of any of the Schedules to that Act of 1868 relating to such matters
 shall be construed as including references to regulations made under subsection (2) above.
- (8) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M1 1951 c. 26.
M2 1868 c. 123.
M3 1862 c. 97.

4 F1

Textual Amendments

F1 S. 4 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

5 Enforcement of regulations.

- (1) In section 15 of the ^{M4}Salmon Fisheries (Scotland) Act 1868 (offences related to regulations)—
 - (a) for the words from the beginning to “following offences” there shall be substituted the words “ Any person ”;

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- (b) paragraph (7) shall be omitted; and
 - (c) for the words from “shall for every such offence” to the end there shall be substituted the words “ shall be guilty of an offence; and section 19 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (forfeiture of fish, instruments, articles, vehicles or boats) shall apply in relation to persons convicted of an offence under this section as it applies to those convicted of an offence under Part I or section 13 of that Act ”.
- (2) Without prejudice to the generality of section 3(7) of this Act, in section 15 of that Act, “byelaw”—
- (a) in paragraph (8), shall include regulations made under section 3(2) of this Act and the offence specified in that paragraph shall, as respects such regulations, extend to so much of the River Tweed as is situated outwith Scotland; and
 - (b) in paragraphs (2), (3) and (4), shall include such regulations except to the extent that they extend to the River Tweed.

Marginal Citations

M4 1868 c. 123.

6 Annual close time.

- (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, 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 the 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 under section 6(5) of the ^{M5}Salmon Fisheries (Scotland) Act 1862, subject to any variation made under section 9 of the ^{M6}Salmon Fisheries (Scotland) Act 1868, which, immediately before the commencement of this section, were in force as respects the district within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868 which had the same coastal limits as that salmon fishery district.
- (3) Notwithstanding subsection (2) above, the Secretary of State may, subject to subsection (1) above, by 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 he may make different provision for different parts of a district; and such an order is referred to in this Act as an “annual close time order”.
- (4) The Secretary of State may make an annual close time order in respect of a salmon fishery district only on application to him by—
- (a) the district salmon fishery board for that district; or
 - (b) where there is no such board, two proprietors of salmon fisheries in that district.

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- (5) An application under subsection (4) above shall be accompanied by the applicant's written proposals which shall state—
- (a) the proposed dates of the annual close time and the periods within that time when it shall be permitted to fish for and take salmon by rod and line in the district; and
 - (b) the general effect of the proposals
- and the proposals may include different dates and periods for different parts of the district.
- (6) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of an annual close time order as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to an annual close time order; and
 - (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (4) above.
- (7) References in any enactment, other than in this Act, to—
- (a) regulations or byelaws made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(5) of the ^{M7}Salmon Fisheries (Scotland) Act 1862; or
 - (b) the provisions of Schedule C to the ^{M8}Salmon Fisheries (Scotland) Act 1868 relating to such matters
- shall be construed as including references to an annual close time order or to such part of a designation order as provides for the annual close time for a salmon fishery district.

Subordinate Legislation Made

P1 [S. 6](#): power previously exercised by [S.I. 1989/1363](#), 1989/1499, 1990/1854, 1990/2020

P2 [S. 6\(3\)](#): s. 6(3) power exercised by [S.I.1991/2115](#)

Marginal Citations

M5 [1862 c. 97](#).

M6 [1868 c. 123](#).

M7 [1862 c. 97](#).

M8 [1868 c. 123](#).

7 Estuary limits.

- (1) Subject to subsection (2) below, the estuary limits of a river shall be the limits fixed by judicial decision or fixed and defined under section 6(1) of the Salmon Fisheries (Scotland) Act 1862.
- (2) Whether or not a river has estuary limits as described in subsection (1) above, the Secretary of State may, by order, prescribe limits or, as the case may be, different limits which shall be the estuary limits for that river; and such an order is referred to in this Act as an “estuary limits order”.
- (3) The Secretary of State may make an estuary limits order only on application to him by—

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- (a) the district salmon fishery board for the district in which the river is situated; or
 - (b) where there is no such board, two proprietors of salmon fisheries in that district.
- (4) An application under subsection (3) above shall be accompanied by the applicant's written proposals which shall state—
- (a) the proposed estuary limits; and
 - (b) the general effect of the proposals.
- (5) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of an estuary limits order as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to an estuary limits order; and
 - (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (3) above.
- (6) For the purposes of this section—
- “estuary limits” means limits which divide each river including its mouth or estuary from the sea; and
 - “river” does not include the River Tweed.
- (7) References in any enactment, other than in this Act or in section 36 of the ^{M9}Salmon Fisheries (Scotland) Act 1868, to—
- (a) byelaws or regulations made under the ^{M10}Salmon Fisheries (Scotland) Act 1862 to 1868 as respects the matters specified in section 6(1) of the Salmon Fisheries (Scotland) Act 1862; or
 - (b) the provisions of Schedule B to the Salmon Fisheries (Scotland) Act 1868 relating to such matters
- shall be construed as including references to an estuary limits order.

Marginal Citations

M9 1868 c. 123.

M10 1862 c. 97.

8 Use of baits and lures.

- (1) The Secretary of State may, subject to the provisions of this section, make regulations specifying baits and lures for the purposes of the definition of “rod and line” in section 24 of the ^{M11}Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.
- (2) The Secretary of State may make regulations under this section only on—
- (a) application to him by a district salmon fishery board; or
 - (b) a joint application to him by more than one such board,
- and regulations made in respect of such application shall be made only in respect of the district of the applicant.

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- (3) Regulations under this section 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 and lures;
 - (b) times when the regulations apply;
 - (c) areas to which the regulations apply.
- (4) An application under subsection (2) above shall be accompanied by the applicant's written proposals which shall state—
- (a) the baits and lures which it is proposed should be specified;
 - (b) the places to which and the times during which the proposed regulations should apply; and
 - (c) the reasons for the proposals.
- (5) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of regulations under this section as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to regulations under this section; and
 - (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (2) above.
- (6) In section 24(1) of the ^{M12}Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951, at the end of the definition of “rod and line” there shall be inserted the following — “and, in the case of fishing for salmon in an area to which and at a time during which regulations made under section 8 of the Salmon Act 1986 apply, is not specified in such regulations in respect of that area and time”.

Marginal Citations

M11 1951 c. 26.

M12 1951 c. 26.

9 Limits of the Solway Firth.

References in any enactment to the limits of the Solway Firth shall be construed as references to the limits which were fixed under section 6(2) of the ^{M13}Salmon Fisheries (Scotland) Act 1862.

Marginal Citations

M13 1862 c. 97.

10 Application of regulations and annual close time orders to the River Tweed

- (1) The byelaw enacted by section 10 of the ^{M14}Salmon Fisheries (Scotland) Act 1868 as Schedule G to that Act, as amended by any other enactment, and so much of section 15 of that Act as relates thereto shall continue to have effect in relation to the River Tweed as it had effect before the commencement of this section.

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- (2) Regulations made under section 3 of this Act shall have effect in relation to the River Tweed but the power to make regulations under subsection (2)(d) of that section includes power to except the River Tweed from the application of any such regulation.
- (3) Where such regulations have effect in relation to the River Tweed—
- (a) references to a salmon fishery district shall include references to the River Tweed; and
 - (b) references to a district salmon fishery board shall include references to the River Tweed Council
- unless the contrary intention appears.
- (4) Subsections (3), (4)(a), (5) and (6) of section 6 and section 8 of this Act shall have effect in relation to the River Tweed with the following modifications—
- (a) references to a salmon fishery district shall include references to the River Tweed;
 - (b) references to a district salmon fishery board shall include references to the River Tweed Council
- and Schedule 1 to this Act shall, for the purposes of this subsection, be construed accordingly.
- (5) In making an annual close time order in respect of the River Tweed, the Secretary of State may prescribe an annual close time, being a continuous period of not less than 153 days.
- (6) The power to make regulations under—
- (a) section 3(2)(a) of this Act includes power to amend section 12 of the ^{M15}Tweed Fisheries Amendment Act 1859;
 - (b) section 3(2)(d) of this Act includes power to amend sections 12 and 13 of that Act of 1859; and
 - (c) section 3(2)(e) of this Act includes power to amend section 57 of the ^{M16}Tweed Fisheries Act 1857; and
 - (d) section 8 of this Act includes power to amend section 6 of the Tweed Fisheries Amendment Act 1859
- and the power to make an annual close time order in respect of the River Tweed includes power to amend section 6, 10 and 11 of that Act of 1859.
- (7) This section extends to so much of the River Tweed as is situated outwith Scotland.

Marginal Citations

M14 1868 c. 123.

M15 1859 c. lxx.

M16 1857 c. cxlviii.

[^{F2}10A Regulations to assist conservation of salmon

- (1) An application may be made by any person who may make an application in relation to an annual close time order under section 6(4) of this Act to the Scottish Ministers to make regulations under subsection (3) below.

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- (2) An application under subsection (1) above shall be in writing and shall contain the applicant's proposals, including—
- (a) a general description of the proposals;
 - (b) a statement as to why the applicant considers that the proposals are necessary or expedient; and
 - (c) a statement as to the general effect of the proposals.
- (3) The Scottish Ministers shall have power to make regulations—
- (a) on an application under subsection (1) above; or
 - (b) otherwise,
- if they consider that it is necessary or expedient to do so for the conservation of salmon.
- (4) For the purposes of subsection (3) above, regulations 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.
- (5) In considering whether or not it is necessary or expedient to make regulations under subsection (3) above, 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.
- (6) Regulations under this section may be made in relation only to salmon fisheries; and, subject to subsection (7)(b) below, such regulations 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 provision of this Act or under any other enactment relating to the management of salmon or freshwater fisheries.
- (7) Without prejudice to the generality of the power conferred by subsection (3) above, 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;
 - (b) specify baits and lures for the purposes of the definition of “rod and line” in section 24 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.]

Textual Amendments

F2 Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

F³10B Powers of enforcement, entry, search and arrest

- (1) Section 10(1)(d) of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c.26) (powers of water bailiffs) and, in relation thereto, subsections (3) and (6) of that section shall apply to a water bailiff, a person appointed by the Scottish Ministers under subsection (5) of that section and any constable for the purposes of the enforcement of any provision of any regulations made under section 10A of this Act as they apply to a water bailiff for the purposes of that Act; and for this purpose the reference in the said section 10(1)(d) to forfeiture in pursuance of that Act shall be construed as a reference to forfeiture by virtue of section 10C of this Act.

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- (2) Section 27 of the Salmon Fisheries (Scotland) Act 1868 (c.123) (constables or water bailiffs entering upon land) shall apply to a water bailiff and any constable for the purposes of the enforcement of any provision of any regulations made under section 10A of this Act as it applies to them for the purposes of the enforcement of the provisions of the said Act of 1951.
- (3) Regulations under section 10A of this Act may make provision in relation to a water bailiff, a person appointed by the Scottish Ministers under section 10(5) of the said Act of 1951 or any constable conferring on him such further powers of enforcement, in relation to the regulations, as the Scottish Ministers consider necessary or expedient for the conservation of salmon.
- (4) Section 11 of the said Act of 1951 (powers of entry and search) and, in relation thereto, section 10(3) and (6) of that Act shall apply to an offence against any provision of any regulations made under section 10A of this Act as they apply to an offence against any of the provisions of sections 3 and 4 of that Act; and for this purpose any reference in the said section 11 to an offence against any of the provisions of sections 3 and 4 of that Act shall be construed as a reference to an offence against any of the provisions of any regulations made under section 10A of this Act.
- (5) Section 12 of the said Act of 1951 (apprehension of offenders) and, in relation thereto, section 10(3) and (6) of that Act shall apply to an offence against any provision of any regulations made under section 10A of this Act as they apply to an offence against the provisions of Part I of that Act; and for this purpose any reference in the said section 12 to an offence against the provisions of Part I of that Act shall be construed as a reference to an offence against the provisions of any regulations made under section 10A of this Act.

Textual Amendments

F3 Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

^{F4}10C Offences, penalties, forfeiture etc.

- (1) Any person who—
 - (a) acts in contravention of; or
 - (b) fails to take any action required of him by, or to comply with any requirement imposed on him by,any provision of any regulations made under section 10A of this Act, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) Sections 7(3) (evidence), 19 (forfeiture) and 20 (disposal of seized fish) of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c.26) shall apply in the case of a conviction under this section of this Act as they apply in the case of a conviction against Part I, section 7 or section 13, as the case may be, of that Act.
- (3) For the purpose of subsection (2) above—
 - (a) the reference in the said section 7(3) to “this section” shall be construed as a reference to this section of this Act;

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- (b) any reference in the said section 19 to an offence against Part I or section 13 of that Act shall be construed as a reference to an offence against any provision of any regulations made under section 10A of this Act; and
- (c) the reference in the said section 20 to “this Act” shall be construed as a reference to regulations made under section 10A of this Act.

Textual Amendments

F4 Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

^{F5}10D Regulations

- (1) Regulations under section 10A of this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (2) Such regulations may make—
 - (a) provision generally in relation to any district or river, or in relation to any time or season;
 - (b) different provision for different districts or different parts of a district, or for different parts of a river, or for different cases or classes of case.
- (3) Paragraphs 3 to 8 of Schedule 1 to this Act shall apply to the making of regulations under section 10A(3)(a) of this Act as they apply to the making of a designation order and for this purpose—
 - (a) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under the said section 10A; and
 - (b) references to a designation order shall be construed as references to the regulations.
- (4) Paragraphs 3 to 8 of Schedule 1 to this Act shall apply to the making of regulations under section 10A(3)(b) of this Act as they apply to the making of a designation order and for this purpose—
 - (a) references to an applicant and to an application shall be omitted;
 - (b) references to a designation order shall be construed as references to the regulations;
 - (c) the reference in paragraph 3 to the persons who shall be consulted shall be construed as including, in particular, such district salmon fishery boards as the Scottish Ministers consider appropriate; and
 - (d) paragraph 4(3) shall be omitted.

Textual Amendments

F5 Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

^{F6}10E Application to River Esk

Sections 10A to 10D of this Act shall apply to so much of the River Esk, including its banks and tributary streams, as is situated in Scotland; and, for the purpose of

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section 10A(1) of this Act, section 6(4) of this Act shall be deemed to apply to the River Esk, its banks and tributary streams.

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Textual Amendments

F6 Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

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