
STATUTORY INSTRUMENTS

1992 No. 1974 (S.201)

RIVER, SCOTLAND

**The Salmon (Definition of Methods of Net Fishing
and Construction of Nets) (Scotland) Regulations 1992**

<i>Made</i>	- - - -	<i>12th August 1992</i>
<i>Laid before Parliament</i>		<i>21st August 1992</i>
<i>Coming into force</i>	- -	<i>1st January 1993</i>

The Secretary of State, in exercise of the powers conferred upon him by section 2(2A) and (2B) of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951⁽¹⁾ and sections 3(2)(d) and (4) and 10(2) and (6)(b) of the Salmon Act 1986⁽²⁾ and of all other powers enabling him in that behalf and after having consulted such persons as he considers appropriate, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Salmon (Definition of Methods of Net Fishing and Construction of Nets) (Scotland) Regulations 1992 and shall come into force on 1st January 1993.

(2) These Regulations other than regulations 1, 2, 3 and 10 shall not apply in relation to the River Tweed.

(3) In these Regulations “River Tweed” means the river as defined by the Tweed Fisheries Amendment Act 1859⁽³⁾, as amended by the byelaw made under section 4 of the Salmon Fisheries (Scotland) Act 1863⁽⁴⁾.

(1) 1951 c. 26; section 2 was amended by section 21 of the Salmon Act 1986.

(2) 1986 c. 62.

(3) 1859 c. 1xx.

(4) 1863 c. 50; the byelaw made under section 4 of the 1863 Act continues to have effect by virtue of the Salmon Act 1986, section 41(4) notwithstanding the repeal of the 1863 Act by the 1986 Act, Schedule 5.

PART I

Regulations made under section 2 of the Salmon and Freshwater Fisheries (Protection)(Scotland) Act 1951

Definition of methods of net fishing

2. For the purposes of section 2 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951—

- (a) fishing for or taking salmon by net and coble means the use of a sweep net, paid out from a boat, whereby the salmon are surrounded by the net and drawn to the bank or shore, provided that—
 - (i) the net and any warps are not made or held stationary, nor allowed to remain stationary, nor to drift with the current, but are both paid out and hauled in as quickly as practicable and kept in unchecked motion under the effectual command and control of the fisherman, for the purpose of enclosing the salmon within the sweep of the net and drawing them to the bank or shore;
 - (ii) no stakes, dykes, other obstructive devices or other nets are used in association with the net;
 - (iii) the water is not disturbed by throwing of stones or other objects, or splashing or other activity in order to drive salmon into the area to be swept by the net; and
 - (iv) the net shall not come within 50 metres of any other such net already being paid out or hauled, until the last mentioned net has been fully hauled in to the bank or shore; and
- (b) fishing for or taking salmon by bag net, fly net or other stake net means the use of a fish trap (including the use of a landing net to remove salmon from such a trap) consisting of one or more fish courts and associated inscales and wings, together with a leader net designed to lead the salmon into the trap; the whole of which is fixed or moored to the shore or seabed: but no part of the bag net, fly net or other stake net, except mooring wraps and anchors, shall extend seawards beyond 1300 metres from the mean low water mark.

Repeal of provision in the Tweed Fisheries Act 1857

3. Section 62 (as to the working of wear shot nets) of the Tweed Fisheries Act 1857⁽⁵⁾ is hereby repealed.

PART II

Regulations made under sections 3 and 10 of the Salmon Act 1986

Interpretation

4. In this part of these Regulations—

“the Commission Regulation” means Commission Regulation (EEC) No 2108/84⁽⁶⁾ laying down detailed rules for determining the mesh size of fishing nets;

(5) 1857 c.xlviii.

(6) OJ L194 24.7.84 p.22.

“hanging ratio” means the ratio between the length of a portion of rope from which netting is hung and the length of the stretched netting hung from that portion of rope; and for the purpose of this definition “stretched” means fully extended parallel to the rope;

“monofilament netting” means any netting containing any mesh the sides of which consist of a single filament of synthetic material; and

“square mesh netting” means netting mounted so that of the two sets of parallel lines formed by the mesh bars one set is parallel to, and the other at right-angles to, the long axis of the net.

Application of this Part

5. Regulations 4 to 9 of these Regulations shall apply to any net used in fishing for or taking salmon except a landing net used—

- (a) as an auxiliary to fishing for or taking salmon by rod and line;
- (b) to remove salmon from a bag net, fly net or other stake net.

Mesh size of net

6.—(1) Any net used in fishing for or taking salmon shall have a mesh size of not less than 90mm as measured in accordance with regulation 7.

(2) The setting of two or more nets in any way with the practical effect of reducing the mesh size of the nets used to less than 90mm is hereby prohibited.

Measurement of mesh size

7.—(1) For the purposes of these Regulations the mesh size shall be measured in accordance with the provisions of the Commission Regulation.

(2) In the case of square mesh netting the method set out in article 2(1) and 4 of the Commission Regulation shall not be used but instead the net shall be stretched in the direction of each diagonal of the mesh and the measurement shall be taken of each stretched diagonal, and the size of the mesh shall be taken to be the average of those two measurements, each such measurement being the width of the gauge at the point where the gauge is stopped when using the gauge in accordance with article 2(2) and (3) of the Commission Regulation.

Material of net

8. No monofilament netting shall be used in the construction of any net used in fishing for or taking salmon.

Dimensions and hanging ratio for leader of bag net, fly net or stake net

9.—(1) The leader of any bag net, fly net or other stake net shall be so mounted that the hanging ratio is at least 66%.

(2) The length of the leader of any bag net, fly net or other stake net shall not exceed 300m.

Amendment to the Tweed Fisheries Amendment Act 1859

10.—(1) Section 12 of the Tweed Fisheries Amendment Act 1859 shall be amended as follows:—

- (a) in the provision and regulation beginning “In every such Stake Net...” for the words “Three Feet” there shall be substituted “90cm”; and
- (b) after the provision and regulation beginning “The netting of the leader...” there shall be inserted the following provisions and regulations:—

“The nets used in the formation and construction of stake nets and bag nets shall not comprise monofilament netting that is to say any netting containing any mesh, the sides of which consists of a single filament of synthetic material:

The leader of any bag net or stake net shall not exceed 300m in length.”

(2) Section 13 of the said Act of 1859 shall be amended as follows:—

(a) for the words from the beginning to “Seven Inches round” there shall be substituted “It shall not be lawful to shoot, draw or use in the river any net of which the meshes shall be less than 90mm”; and

(b) after “Rod and Line” there shall be inserted—

“which mesh size shall be measured in accordance with Commission Regulation (EEC) No 2108/84 (which lays down detailed rules for determining the mesh size of fishing nets) except that in the case of square mesh netting (that is to say netting mounted so that of the 2 sets of parallel lines formed by the mesh bars one set is parallel to and the other at right-angles to the long axis of the net) the method set out in article 2(1) and (4) of the said Commission Regulation shall not be used but instead the net shall be stretched in the direction of each diagonal of the mesh and the measurement shall be taken of each stretched diagonal and the size of the mesh shall be taken to be the average of those 2 measurements, each such measurement being the width of the gauge at the point where the gauge is stopped when using the gauge in accordance with article 2(2) and (3) of the said Commission Regulation;”.

Salmon Fisheries (Scotland) Act 1862

11. The Regulations made under section 6(6) of the Salmon Fisheries (Scotland) Act 1862(7) set out as a Byelaw in Schedule E to the Salmon Fisheries (Scotland) Act 1868(8) are hereby revoked.

St Andrew’s House,
Edinburgh
12th August 1992

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

(7) 1862 c. 97.

(8) 1868 c. 123.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations define the lawful methods of fishing for salmon by means of a net (Part I) and the construction, dimension and material of nets that can be used for salmon fishing (Part II).

Regulation 2 defines, for the purposes of section 2 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951, fishing for salmon by net and coble and by bag net, fly net or other stake net which section specifies the lawful methods of fishing for salmon by means of a net. Regulation 2 applies to the whole of Scotland and to those parts of the River Tweed and its tributaries which lie in England. Regulation 3 repeals section 62 of the Tweed Fisheries Act 1857.

Regulation 5 provides that regulations 4 to 9 applies to all nets used in fishing for salmon except a landing net used in connection with the lawful methods.

Regulation 6 prescribes 90mm as the minimum mesh size for nets so used in fishing for or taking salmon and regulation 7 prescribes the method of measuring the mesh size.

Regulation 8 forbids the use of monofilament netting in the construction of any net that can be used in fishing for or taking salmon.

Regulation 9 establishes the hanging ratio for leader nets or bag nets, fly nets and stake nets and prescribes the maximum length of a leader net.

Regulations 5 to 9 do not apply to the River Tweed but amendments made by regulation 10 to sections 12 and 13 of the Tweed Fisheries Amendment Act 1859 impose a similar ban on the use of monofilament netting, impose the same minimum mesh size and prescribe the same method of measuring the mesh size.

Regulation 11 revokes the Regulations made under section 6 of the Salmon Fisheries (Scotland) Act 1862 to deal with the meshes of nets and set out as a Byelaw in Schedule E to the Salmon Fisheries (Scotland) Act 1868.

A breach of regulation 2 will be dealt with under section 1(4) and section 18 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951. Breaches of regulations 5 to 9 will be dealt with under section 15 of the Salmon and Freshwater Fisheries (Scotland) Act 1868. Section 3(7)(a) of the Salmon Act 1986 provides that any reference to byelaws or regulations made under the Salmon Fisheries (Scotland) Act 1862 and 1868 shall be construed as including a reference to Regulations made under section 3.