
STATUTORY INSTRUMENTS

2006 No. 2913

The Scotland Act 1998 (River Tweed) Order 2006

PART 1

ADMINISTRATION

Interpretation

4.—(1) In this Order, unless the context otherwise requires—

“the 2003 Act” means the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003(1);

“the Tweed Acts” means the Tweed Fisheries Act 1857(2), the Tweed Fisheries Amendment Act 1859(3), and the [Tweed Fisheries Act 1969 c. xxiv](#);

“annual value” means the annual rental value of a specified salmon fishery as entered in the valuation roll;

“boat” includes any craft or vessel used in fishing;

“clerk” means the clerk to the Commission;

“The Commission” has the meaning given in article 5 and “Commissioners” shall be construed accordingly;

“dam” means any weir, dam, dyke, cauld, mill dam or other structure constructed in the bed of any stream, river or loch for the purpose of controlling, impounding or diverting water therefrom;

“Environment Agency” has the meaning given by section 1 of the Environment Act 1995(4);

“estuary limits” has the meaning given in article 3;

“fish farm” has the meaning given in section 10(1) of the Diseases of Fish Act 1937(5);

“fixed engine” means any engine, net or trap used for the taking of salmon, other than a sweep net which when in use is hauled through the water continuously and is not allowed to be stationary in the water or to drift with the current;

“foul hooking” means any method of deliberately hooking or attempting to hook a fish other than by inducing the fish to take the hook in its mouth;

“freshwater fish” means any fish living in fresh water, including trout and eels and the fry of eels but exclusive of salmon and of any fish which migrate between the open sea and tidal waters;

(1) [2003 asp 15](#).

(2) [1857 c.cxlviii](#).

(3) [1859 c.lxx](#).

(4) [1995 c.25](#).

(5) [1937 c.33](#). Section 10(1) was amended by the Diseases of Fish Act [1983 \(c.30\)](#), section 4(3).

“inland waters” includes all rivers above estuary limits and their tributary streams, and all waters, watercourses and lochs whether natural or artificial which drain or drain to some extent into the sea;

“justice” and “justices” means a justice of the peace or two or more justices of the peace acting for the county, city or place where the matter requiring action by such justice or justices arises;

“lade” includes any artificial channel through which water is diverted from any inland water in which salmon or trout are present;

“land” includes land covered by water;

“package” includes any box, basket, barrel, case, receptacle, sack, bag, container, wrapper or other thing in which salmon or trout is placed for the purpose of carriage, consignment or exportation;

“prescribed” means prescribed by an order made by the Scottish Ministers under this Order;

“proprietary Commissioner” means a person who is a Commissioner by virtue of having been elected as a Commissioner under article 6, or who has been deemed as such under article 5(7);

“proprietor” means any person, partnership, company or corporation which is the proprietor of a salmon fishery or which receives or is entitled to receive the rents of such fishery on its own account or as trustee, guardian or factor for any person, company or corporation;

“representative Commissioner” has the meaning given in article 7;

“rod and line” has the meaning given in article 25;

“salmon” means all fish of the species *Salmo salar* and migratory fish of the species *Salmo trutta* and commonly known as salmon and sea trout respectively or any part of any such fish;

“salmon fishery district” has the meaning given in section 34 (salmon fishery districts) of the 2003 Act;

“specified salmon fishery” means a salmon fishery in the district—

- (a) of an annual value of not less than £30; or
- (b) which extends to 800 metres in length where such fishery is on one side only of a river or 400 metres in length where such fishery comprehends both sides of a river; or
- (c) the proprietor of which has elected, by notice in writing to the Commission, that he wishes the fishery to be treated as a salmon fishery of an annual value of £30;

“treasurer” means the treasurer to the Commission;

“trout” means non—migratory trout of the species *Salmo trutta* living in fresh waters or in estuaries;

“the Tweed district” has the meaning given in article 2(1), and “district” shall be construed accordingly;

“valuation roll” means the valuation roll prepared by the Commission under article 16;

“vehicle” means any conveyance other than a vehicle used for the purposes of a public passenger transport service within the meaning given in section 63(10) of the Transport Act 1985(6);

“water bailiff” means any person appointed as such by—

- (a) the Commission under article 11(1)(b); or
- (b) by the Scottish Ministers under article 59(5).

(2) References to an occupier of a right of fishing for freshwater fish are references to a person who is in possession of that right as tenant under a lease of land to which such a right pertains or under a contract which by virtue of article 73 is deemed to be a lease and, for the purposes of this paragraph “tenant” and “lease” include “subtenant” and “sublease” respectively.