



Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003

2003 asp 15

PART 2

ADMINISTRATION OF SALMON FISHERIES

Salmon fishery districts

34 Salmon fishery districts

- (1) Subject to subsection (2) below, a salmon fishery district shall be the area within the coastal limits of a district (within the meaning of the 1862 to 1868 Acts), and extending—
 - (a) seaward for 5 kilometres from mean low water springs; and
 - (b) landward to include the catchment area of each river which flows directly or indirectly into the sea within the coastal limits of the salmon fishery district.
- (2) The Scottish Ministers may, in accordance with section 35 of this Act, by order (in this Act referred to as a “designation order”) designate any area as a salmon fishery district, whether or not it includes all or part of an existing salmon fishery district.
- (3) After consulting such persons as they think fit, the Scottish Ministers may, by order—
 - (a) where an island or part of an island is not within the area of a salmon fishery district by virtue of subsection (1) or (2) above, include in the area of such a district—
 - (i) that island or that part; and
 - (ii) the sea within 5 kilometres from mean low water springs on that island or that part;
 - (b) where there is doubt as to whether a particular place is in a particular salmon fishery district, make provision for the purpose of removing that doubt; or
 - (c) change a reference used in describing a salmon fishery district where the suitability of that reference for that purpose has lessened or ceased,but such an order shall not create a salmon fishery district.

35 Designation orders

- (1) A designation order shall provide for the abolition of such salmon fishery districts as are superseded by the district so designated.
- (2) Subject to section 37(1) of this Act, a designation order shall specify for the district so designated 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 the order may make different provision for different parts of the district.
- (3) Paragraphs 1, 2 and 10 to 15 of schedule 1 to this Act shall have effect in relation to the making of designation orders.
- (4) The Scottish Ministers may by order vary the provisions of paragraphs 1, 2 and 10 to 15 of schedule 1 to this Act.

36 Estuary limits

- (1) For the purposes of this section “estuary limits” means limits which divide each river including its mouth or estuary from the sea.
- (2) The estuary limits of a river shall be the limits fixed and defined—
 - (a) under section 6(1) of the 1862 Act; or
 - (b) under an estuary limits order made under subsection (3) below,and, where no such limits have been fixed as provided for in the preceding paragraphs of this subsection, the estuary limits of a river shall be the natural limits which divide a river (including its estuary) from the sea.
- (3) The Scottish Ministers may, in relation to any river, and whether or not any such limits have previously been fixed, by order (in this Act referred to as an “estuary limits order”) prescribe limits which shall be the estuary limits for that river.
- (4) Paragraphs 3, 4 and 10 to 15 of schedule 1 to this Act shall have effect in relation to the making of an estuary limits order.
- (5) Where the estuary limits of any river have been fixed, and after consulting such persons as they think fit, the Scottish Ministers may, by order, change a reference used in describing estuary limits where the suitability of that reference for that purpose has lessened or ceased; but such an order shall not be an estuary limits order.

Conservation measures

37 Annual close times for salmon

- (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 any designation order made in respect of that district; or

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- (b) where no designation order has been made in respect of that district, the dates and periods which were determined for the district (within the meaning of the 1862 to 1868 Acts), which had the same coastal limits as that salmon fishery district, under section 6(5) of the 1862 Act, but subject to any variation made under section 9 of the 1868 Act.
- (3) The Scottish Ministers may, subject to subsection (1) above, by order (in this Act referred to as an “annual close time 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 they may make different provision for different parts of a district.
- (4) Paragraphs 5, 6 and 10 to 15 of schedule 1 to this Act shall have effect in relation to the making of orders under this section.

38 Salmon conservation regulations

- (1) The Scottish Ministers may make regulations under this section if they consider that it is necessary or expedient to do so for the conservation of salmon.
- (2) Regulations under this section 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.
- (3) In considering whether or not it is necessary or expedient to make regulations under this section 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.
- (4) Regulations under this section—
 - (a) may be made in relation only to salmon fisheries; and
 - (b) subject to subsection (5)(b) below, 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 enactment relating to the management of salmon or freshwater fisheries.
- (5) Without prejudice to the generality of the power conferred by this section, 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) prohibit the use of specified baits and lures for the purposes of the definition of “rod and line” in section 4 of this Act.
- (6) Regulations under this section may—
 - (a) confer upon constables and water bailiffs such powers of enforcement, additional to those otherwise available under this Act, as the Scottish Ministers consider necessary or expedient for the purposes of the regulations;
 - (b) make provision generally in relation to any river or salmon fishery district, or in relation to any time or season;
 - (c) make different provision for different salmon fishery districts or different parts of such a district, or for different parts of a river, or for different cases or classes of case.

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- (7) Any person who—
- (a) acts in contravention of; or
 - (b) fails to take any action required of that person by, or to comply with any requirement imposed on that person by,
- regulations made under this section 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 section may be convicted on the evidence of one witness.
- (9) Paragraphs 7 to 15 of schedule 1 to this Act shall have effect in relation to the making of regulations under this section.

Procedures

39 Procedure for making orders and regulations under section 33 and this Part

Schedule 1 (which makes provision for the making of certain orders and regulations under section 33 and this Part of this Act) shall have effect.