

Status: Point in time view as at 01/04/2005.

Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, SCHEDULE 1. (See end of Document for details)

SCHEDULE 1

(introduced by section 39)

DESIGNATION ORDERS, ESTUARY LIMITS ORDERS, ANNUAL CLOSE TIME ORDERS AND REGULATIONS UNDER SECTIONS 33 AND 38

Designation orders

- 1 The Scottish Ministers may make a designation order only on an application to them by—
- (a) a district salmon fishery board for a district which would be affected by the proposed order;
 - (b) where there is no such board, two proprietors of salmon fisheries in the area which would be affected by the proposed order; or
 - (c) any number of or combination of such boards or such proprietors in the area which would be affected by the proposed order,
- but the Scottish Ministers may act under this schedule notwithstanding that the applicants do not represent the whole area which would be affected by the proposed order.

Commencement Information

I1 Sch. 1 para. 1 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 2 An application under paragraph 1 above shall be accompanied by the applicant's written proposals which shall state—
- (a) the area which it is proposed should be designated as a salmon fishery district;
 - (b) the salmon fishery district or districts which are, at the time of the application, contained wholly or partly within that area;
 - (c) the reasons for the creation of the proposed salmon fishery district;
 - (d) the proposed dates of the annual close time and the periods within which it shall be permitted to fish for and take salmon by rod and line in the proposed district; and
 - (e) the general effect of the proposals.

Commencement Information

I2 Sch. 1 para. 2 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

Estuary limits orders

- 3 The Scottish Ministers may make an estuary limits order only on application to them by—
- (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.

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Commencement Information

I3 Sch. 1 para. 3 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 4 An application under paragraph 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.

Commencement Information

I4 Sch. 1 para. 4 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

Annual close time orders

- 5 The Scottish Ministers may make an annual close time order in respect of a salmon fishery district only on application to them 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.

Commencement Information

I5 Sch. 1 para. 5 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 6 An application under paragraph 5 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.

Commencement Information

I6 Sch. 1 para. 6 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

Salmon conservation regulations

- 7 The Scottish Ministers may make regulations under section 38 of this Act either—
- (a) on an application to them by—
 - (i) any district salmon fishery board; or
 - (ii) where there is no such board in a salmon fishery district, two proprietors of salmon fisheries in that district; or
 - (b) otherwise.

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Commencement Information

I7 Sch. 1 para. 7 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 8 An application under paragraph 7(a) 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.

Commencement Information

I8 Sch. 1 para. 8 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 9 In the application of paragraphs 10 to 15 below to regulations under section 38 of this Act made under paragraph 7(b) above—
- (a) references to an applicant and to an application shall be omitted;
 - (b) the reference in paragraph 10 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
 - (c) paragraph 11(3) shall be omitted.

Commencement Information

I9 Sch. 1 para. 9 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

Common provisions with respect to orders

- 10 On receiving an application under paragraph 1, 3, 5 or 7 above, the Scottish Ministers shall consult such persons as they consider appropriate and may—
- (a) request from the applicant such additional information as they think fit;
 - (b) dismiss the application;
 - (c) proceed in accordance with the remaining provisions of this schedule.

Commencement Information

I10 Sch. 1 para. 10 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 11 (1) Before making an order or, as the case may be, regulations, the Scottish Ministers shall direct that notice of the general effect of the proposals shall be given, specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposals may be made.
- (2) Notice shall be given at least once in each of two successive weeks by advertising in a newspaper circulating in the district or districts affected by the proposals.
- (3) The cost of giving notice shall be met by the applicant under paragraph 1, 3 or 5 above.

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I11 Sch. 1 para. 11 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 12 At any time, the Scottish Ministers may alter the proposals in such way as they think fit and shall consider whether such alterations are sufficient to require—
- (a) further consultation as mentioned in paragraph 10 above; and
 - (b) further notice to be given under paragraph 11 above.

Commencement Information

I12 Sch. 1 para. 12 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

Making of designation, annual close time or estuary limits order or salmon conservation regulations

- 13 If no representations or objections are duly made, or if all so made are withdrawn, the Scottish Ministers may make an order or, as the case may be, regulations.

Commencement Information

I13 Sch. 1 para. 13 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 14 (1) If any representation or objection duly made is not withdrawn, the Scottish Ministers may, after considering the same—
- (a) make an order or, as the case may be, regulations;
 - (b) dismiss the application; or
 - (c) cause a local inquiry to be held.
- (2) Where they decide to proceed under sub-paragraph (1)(c) above, the Scottish Ministers shall appoint a person to hold the inquiry and to report thereon to them.
- (3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has duly made and has not withdrawn representations about or objections to the proposals, and shall be published at least once in each of two successive weeks in a newspaper circulating in the district or districts affected by the proposals.
- (4) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.
- (5) The Scottish Ministers may make orders as to the expenses incurred by them in relation to the inquiry (including such reasonable sum as they may determine for the services of the person appointed to hold the inquiry) and as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.
- (6) Any order of the Scottish Ministers under sub-paragraph (5) above requiring any party to pay expenses may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

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Commencement Information

I14 Sch. 1 para. 14 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 15 After considering the report of the person appointed to hold the inquiry in pursuance of paragraph 14 above and any representations or objections which were duly made, the Scottish Ministers may make an order or, as the case may be, regulations.

Commencement Information

I15 Sch. 1 para. 15 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

- 16 Applications under this schedule may be communicated and stored electronically.

Commencement Information

I16 Sch. 1 para. 16 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

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