



# Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (repealed)

1951 CHAPTER 26 14 and 15 Geo 6

## PART I

### PROHIBITION OF CERTAIN METHODS OF TAKING AND DESTROYING FISH

#### Textual Amendments applied to the whole legislation

- F1** Act repealed (except in relation to the River Tweed and the Upper Esk) (1.4.2005) by [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003](#) (asp 15), s. 71(2), **sch. 4 Pt. 2** (with s. 71(3)(4)(6)); S.S.I. 2005/174, art. 2; and (only in relation to the Tweed district) (15.11.2006) by [The Scotland Act 1998 \(River Tweed\) Order 2006](#) (S.I. 2006/2913), art. 1(2), **Sch. 4 Pt. 2** (with art. 1(3))

#### **1 Prohibition of poaching.**

If any person without legal right, or without written permission from a person having such right, fishes for or takes salmon in any waters including any part of the sea within one mile of [<sup>F1</sup>mean low water springs], he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten pounds, and to the forfeiture of any fish illegally taken by him or in his possession at the time of the offence.

#### Textual Amendments

- F1** Words substituted by [Salmon Act 1986](#) (c. 62, SIF 52:2), s. 41, **Sch. 4 para. 7**

#### Modifications etc. (not altering text)

- C1** [S. 1](#) excluded (30.6.1999) by [S.I. 1999/1746](#), **arts. 1(1), 6(3)**

*Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (repealed), Part I. (See end of Document for details)*

## 2 Methods of fishing.

- (1) No person shall fish for or take salmon in any inland water, except by rod and line or by net and coble:  
 Provided that any right of fishing for salmon in existence at the commencement of this Act may continue to be exercised as if the Act had not been passed.
- [<sup>F2</sup>(1A) No person shall fish for or take salmon in any waters in a salmon fishery district other than inland waters, except by rod and line, net and coble or bag net, fly net or other stake net.]
- (2) No person shall fish for or take freshwater fish in any inland water except by rod and line:  
 Provided that—
- (a) in any pond or loch where all the proprietors are so agreed a right of fishing may be exercised by net; and
  - (b) in any inland water a proprietor or occupier may fish for or take freshwater fish, other than trout, by net or trap.
- [<sup>F3</sup>(2A) After consulting such persons as he considers appropriate, the Secretary of State may, for the purposes of this section, by regulations define fishing for or taking salmon by—
- (a) net and coble;
  - (b) bag net, fly net or other stake net,
- whether by reference to anything used for the purpose, or to the circumstances in which or method by which it is so used, or to any combination thereof; and, in relation to net and coble, may make different provision as respects inland waters from that made as respects other waters.
- (2B) The power to make regulations under this section includes power to amend or repeal section 62 of the <sup>M1</sup>Tweed Fisheries Act 1857 and section 12 and 13 of the <sup>M2</sup>Tweed Fisheries Amendment Act 1859.
- (2C) Regulations made 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.]
- (3) Nothing in this section shall be construed as prohibiting the use of a gaff, tailer or landing-net as auxiliary to the taking of salmon or freshwater fish by rod and line.
- (4) If any person contravenes this section he shall be guilty of an offence against this Act.

### Textual Amendments

- F2** S. 2(1A) inserted (1.1.1993) by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [s.21\(a\)](#); S.I. 1992/1973, [art. 2](#)
- F3** S. 2(2A)–(2C) inserted (1.1.1993) by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [s.21\(b\)](#); S.I. 1992/1973, [art. 2](#)

### Modifications etc. (not altering text)

- C2** S. 2 amended by [Freshwater and Salmon Fisheries \(Scotland\) Act 1976 \(c. 22\)](#), s. 7, [Sch. 3 Pt. I para. 8\(a\)](#)
- C3** S. 2 excluded by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [ss. 28\(2\)\(b\)\(iv\)](#), 29
- C4** S. 2(1A) restricted (1.1.1993) by S.I. 1992/1973, [art.3](#)

### Marginal Citations

- M1** 1857 c.cxlviii(52:2).

**Changes to legislation:** There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (repealed), Part I. (See end of Document for details)

M2 1859 c.lxx(52:2).

### 3 **Illegal fishing by two or more persons acting together.**

If two or more persons acting together do any act which would constitute an offence against either of the foregoing sections of this Act, every such person shall be liable to the penalties set forth in section five of this Act.

### 4 **Prohibition against using explosive and other noxious substances for the destruction of fish.**

If any person—

- (a) uses any explosive substance with intent to take or destroy fish in any waters (including the sea [<sup>F4</sup>up to twelve nautical miles from the baselines from which the breadth of the territorial sea is measured]); or
- (b) puts any poison or other noxious substance in or near any such waters with intent to take or destroy fish; or
- (c) uses any electrical device with intent to stun or destroy salmon or freshwater fish in any such waters;

he shall be guilty of an offence against this Act.

#### **Textual Amendments**

F4 Words substituted by Fishery Limits Act 1976 (c. 86), Sch. 2 para. 12

#### **Modifications etc. (not altering text)**

C5 S. 4 amended by Freshwater and Salmon Fisheries (Scotland) Act 1976 (c. 22), s. 7, Sch. 3 Pt. I para. 8(b)

C6 S. 4(c) excluded by Salmon Act 1986 (c. 62, SIF 52:2), s. 28(2)(b)(iv), 29

### 5 **Penalties for contraventions of ss. 3 and 4.**

Any person guilty of a contravention of either of the two last foregoing sections shall be liable—

- (a) on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, and in the case of a second or subsequent conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment;
- (b) on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

### 6 **Taking of dead salmon or trout.**

Without prejudice to the operation of section three of the <sup>M3</sup>Diseases of Fish Act 1937, if any person, other than a water bailiff or constable in the exercise of their respective duties, or a person authorised in that behalf by the Secretary of State, or a district board, or a person with a right to fish therein, or the agent of any such person, takes

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or removes dead salmon or trout from any waters, including any part of the sea within one mile of low water mark, he shall be guilty of an offence against this Act.

**Modifications etc. (not altering text)**

C7 S. 6 modified (30.6.1999) by S.I. 1999/1746, arts. 1(1), 12(1)

**Marginal Citations**

M3 1937 c. 33.

**7 Illegal possession of salmon or trout.**

- (1) If any person is found in possession of any salmon or trout, or any instrument, explosive, poison or other noxious substance which could be used in the taking of salmon or trout, in circumstances which afford reasonable ground for suspecting that he has obtained possession of such salmon or trout, or such instrument, explosive, poison or substance as the result or for the purpose of his committing an offence against any of the provisions of sections one to four of this Act, that person may be charged with unlawful possession as aforesaid of such salmon or trout, or of such instrument, explosive, poison or substance.
- (2) Where the court is satisfied that a person charged under the last foregoing subsection obtained possession of salmon or trout, or of any instrument, explosive, poison or other noxious substance as the result or for the purpose of his committing an offence against any of the provisions of sections one to four of this Act, that person may be convicted of unlawful possession as aforesaid and dealt with in like manner as if he had been convicted of the said offence.
- (3) It shall be lawful to convict a person charged under this section on the evidence of one witness.

**Modifications etc. (not altering text)**

C8 S. 7(3) applied (with modifications) (15.4.2001) by 1986 c. 62, s. 10C(2)(3) (as inserted (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2)

**[<sup>F5</sup>7A Offence of possessing salmon which have been illegally taken, killed or landed.**

- (1) A person who—
  - (a) is in possession of salmon and believes; or
  - (b) is in possession of salmon in circumstances in which it would be reasonable for him to suspect
 that a relevant offence has at any time been committed in relation to the salmon shall be guilty of an offence and liable—
  - (i) on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding the statutory maximum or both;
  - (ii) on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine or both.
- (2) It shall be a defence in proceedings for an offence under this section to show that no relevant offence had in fact been committed in relation to the salmon.

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- (3) It shall be lawful to convict a person charged under this section on the evidence of one witness.
- (4) For the purposes of this section an offence is a relevant offence in relation to a salmon if—
  - (a) it is committed by taking, killing or landing that salmon, either in Scotland or in England and Wales; or
  - (b) that salmon is taken, killed or landed, either in Scotland or in England and Wales in the course of the commission of the offence.
- (5) In subsection (4) above, “offence”, in relation to the taking, killing or landing of salmon either in Scotland or in England or Wales, means an offence under the law applicable to the place where the salmon is taken, killed or landed.
- (6) A person shall not be guilty of an offence under this section in respect of conduct which constitutes a relevant offence in relation to any salmon or in respect of anything done in good faith for purposes connected with the prevention or detection of crime or the investigation or treatment of disease.
- (7) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (8) Where the affairs of a body corporate are managed by its members, subsection (7) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.]

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**Textual Amendments**

**F5** S. 7A inserted by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. 22(1)

**[<sup>F6</sup>7B Fixed engines in the Solway.**

- (1) Any person who, for the purpose of taking or obstructing the free passage of salmon, places or uses an uncertificated fixed engine within the limits of the Solway Firth in Scotland shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) In subsection (1) above—

“fixed engine” includes any net or other implement for taking fish which is fixed to the soil or made stationary in any other way; and

“uncertificated” means not having been certified as privileged under section 5 of the <sup>M4</sup>Solway Salmon Fisheries Commissioners (Scotland) Act 1877.]

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**Textual Amendments**

**F6** S. 7B inserted by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. 25

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#### Marginal Citations

**M4** 1877 c.ccxl

### 8 Attempts to commit offences.

Without prejudice to the operation of [<sup>F7</sup>sections 63 and 312(o) of the <sup>M5</sup>Criminal Procedure (Scotland) Act 1975], any person who attempts to commit or does any act preparatory to the commission of an offence against this Part of this Act shall be guilty of an offence against this Act, and shall be punishable in like manner as for the said offence.

#### Textual Amendments

**F7** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 460\(1\)\(b\)](#)

#### Marginal Citations

**M5** 1975 c. 21.

### 9 Saving for acts done for scientific, &c., purposes.

[<sup>F8</sup>(1)] A person shall not be guilty of any contravention of this Part of this Act [<sup>F9</sup>or of section 31(1)(a) of the <sup>M6</sup>Control of Pollution Act 1974] in respect of any act if he does the act for some scientific purpose, or for the purpose of protecting, improving or developing stocks of fish and has obtained the previous permission in writing of the Secretary of State, . . . <sup>F10</sup>

[<sup>F11</sup>(2) This section does not apply to an act relating to salmon.]

#### Textual Amendments

**F8** By [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. 41, [Sch. 4 para. 8](#) it is provided that s. 9 shall be renumbered as subsection (1) of that section

**F9** Words inserted by [Control of Pollution Act 1974 \(c. 40\)](#), s. 109(2), [Sch. 3 para. 11](#)

**F10** Words repealed by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. 41, [Sch. 4 para. 8](#)

**F11** [S. 9\(2\)](#) added by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. 41, [Sch. 4 para. 8](#)

#### Marginal Citations

**M6** 1974 c. 40.

**Changes to legislation:**

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