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STATUTORY INSTRUMENTS

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**1999 No. 1746**

**The Scotland Act 1998 (Border Rivers) Order 1999**

**PART II**

**RIVER ESK**

**Fishing without right or licence in the Lower Esk**

- 6.—(1) No person shall fish for or take salmon or sea trout in the Lower Esk unless either—
- (a) he does so under the authority of, and in accordance with, a licence granted by the Environment Agency under section 25 of the 1975 Act; or
  - (b) he has a legal right to fish for salmon or he has written permission from a person having such a right.

(2) Any person who has in his possession, for the purpose of fishing for salmon or sea trout in the Lower Esk, an instrument other than one which he is authorised, by any rule of law or, in the case of fishing under the authority of a licence, by that licence, to use for that purpose, shall be guilty of an offence.

(3) Section 1 of the 1951 Act and section 27 of the 1975 Act shall cease to have effect in relation to the Lower Esk.

(4) Subject to paragraph (6) below a licence granted by the Environment Agency may only authorise fishing in any part of the Lower Esk lying on or towards the south of a line representing the *medium filum*, at low water, of the main channel of the River Esk and of the main channel of the River Eden downstream of its confluence at low water with the main channel of the River Esk, wherever that line may be from time to time.

(5) A legal right to fish for salmon, or a written permission given by a person having such a right, shall authorise fishing—

- (a) in any part of the Lower Esk lying on or towards the north of the line described in paragraph (4) above; and
- (b) to the extent that right or permission so authorises, in any other part of the Lower Esk.

(6) A licence granted by the Environment Agency shall not apply to any part of the Lower Esk which is the subject of a grant of fishings granted by King James V of Scotland to the Burghers of Annan by Royal Charter dated 1st March 1538 and re-stated on 10th July 1612.

(7) It shall be for any person claiming to have a legal right to fish for salmon, or to have written permission from such a person, to prove that he has that right or permission.

(8) In this article—

“legal right to fish for salmon” means—

- (a) a right of ownership of salmon fishings contained in a title recorded in the Register of Sasines or entered in the Land Register of Scotland;
- (b) the right of a tenant under a lease of salmon fishings granted by a person having a right under (a) above or (d) below;

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- (c) the right of any person vest by operation of law in the heritable property of a person having a right under (a) above or (d) below; or
- (d) a right of salmon fishings under Royal Warrant or Royal Charter.