



Association of Salmon Fishery Boards

List of fisheries offences and links to provisions in Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003

November 2011

This guide **1)** provides a summary list of salmon and freshwater fisheries offences which may be useful for general reference, and **2)** directs Boards and other interested parties to the various sections of the 2003 Act, which consolidated the vast majority of the Scottish salmon and freshwater fisheries law into a single Act. The 2003 Act is the key governing legislation for Scotland's district salmon fishery boards, and it sets out the provisions for the constitution, composition and financing of the boards. It is also the framework for a number of other important regulatory areas, including legal methods of fishing and offences, close times, local regulatory measures, protection of juvenile and spawning salmon, passage of salmon, and general powers relating to appointment of water bailiffs and enforcement of salmon and freshwater fisheries law. A number of amendments were made to the 2003 Act by the Aquaculture and Fisheries (Scotland) Act 2007, and the 2007 Act should be consulted separately to see the effect of any amendments. This guide is not a legal document and does not provide a legal view on any of the provisions. If there are any inaccuracies or omissions in this, I would be glad to hear of them.

A further Aquaculture and Fisheries Bill is planned for 2012, details of the scope of this proposed legislation are unclear at present, updates will be provided once further information becomes available.

1) General list of salmon and freshwater fisheries offences

Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 This should be read in conjunction with the Aquaculture and Fisheries (Scotland) Act 2007 which inserts a number of amendments and new offences into the 2003 Act.		
Section	Offence	Note
1 (1)	Fishing for salmon in inland waters other than by rod and line or net & coble or – in certain circumstances – cruive, haaf net or certificated fixed engine	
1(2)	Fishing for salmon in the sea other than by rod & line, net & coble or bag net, fly net or other stake net	

2	Fishing for freshwater fish in inland waters other than by rod & line	
3A	Using a rod not held by hand for salmonids (not from a boat) Using more than 4 rods not held by hand for non-salmonids (not from a boat) Using more than 4 rods on a boat to catch fish	Inserted by 2007 Act
4	Use of roe, fire or light as a bait or lure; Use of live vertebrates as bait*; foul hooking*;	*Inserted by 2007 Act
5	Use of explosives, poisons or electrical devices to take or destroy fish	
3	Use of gaffs, & tailers	Inserted by 2007 Act
5A	Use of pike gags and knotted or metallic mesh keep-nets	Inserted by 2007 Act
6	Fishing without written permission or legal right (salmon)	
7	Fishing contrary to ss. 1, 2 or 6 of the 2003 Act by two or more persons acting together	
8	Removing dead salmon and trout from water	
9	Illegal possession of salmon, trout, and articles where there is suspicion that fish have been, or are about to be taken unlawfully	Convictable on evidence of a single witness
10	Taking or preventing passage of salmon through a fish pass	Convictable on evidence of a single witness
11	Fishing without permission or legal right (stanks & loch owned by one person).	
12 & 48	Fishing for brown trout and freshwater fish without legal right or written permission in an area covered by a Protection Order.	
13 (2)	Fishing for or taking salmon on a Sunday	Convictable on evidence of a single witness
13 (3)	Fishing for or taking salmon during the weekly close time other than by rod and line	Convictable on evidence of a single witness
14	Fishing during the annual close time except as allowed for by byelaw, regulation or licence	Convictable on evidence of a single witness
15	Failure to remove boats & nets within 36 hours of start of the annual close time	Convictable on evidence of a single witness
16	Possessing, buying or selling salmon during the period when the annual close time is in force in every salmon fishery district	Convictable on evidence of a single witness
17	Fishing for, taking or possessing trout during the annual close time for trout	Convictable on evidence of a single witness
18	Fishing for, taking, possess, buy, sell or expose for sale unclean or unseasonable salmon	Convictable on evidence of a single witness
19	Possessing, buying, selling or exposing for sale salmon roe	Convictable on evidence of a single witness
20	Possessing salmon which have been illegally taken, killed or landed	Convictable on evidence of a single witness
21	Consigning salmon or trout in an unmarked package	

21 (5)	Obstruction of any person authorised under s.21(6) to check unmarked packages (consignment of fish in an unmarked package)	
22	Size limit for buying or selling trout (under 20cm) Sale of any trout between 1 Sep-31 March	
23(1)	Knowingly taking, injuring, destroying, buying, selling or exposing for sale smolts, parr, salmon fry or alevin or use of any device to obstruct the passage of young salmon	
23(2)	Knowingly injuring or disturbing salmon spawn; or disturbing spawning bed, bank or shallow	
23(3)	Obstructing the passage of salmon to spawning grounds during the annual close time	
25	Use of un-certificated fixed engine in Solway	
26	Fishing without legal right or permission for any fish other than salmon in the rivers running into the Solway Firth (excl Annan)	
31(1)(d) & (7)	Fishing for salmon with net of mesh size less than 90mm (stretched mesh)	Also refer to SI 1992/1974 regulation 6
as above	Fishing for salmon with a net of twine less than 0.9mm thick	As above, regulation 8A
as above	Use of monofilament netting in the construction of nets used in fishing for salmon	As above, regulation 8
33(A)	Introduction of salmon or salmon spawn in inland waters without the consent of a salmon fishery board (or Scottish Ministers where no board exists) Introduction of other live fish or spawn in inland waters without consent of Scottish Ministers	Convictable on evidence of a single witness
38(7)	Contravention of any salmon conservation regulation	Convictable on evidence of a single witness
50(3)(a)	Obstruction of a warden in the exercise of their powers under the Act (s. 49 & 50)	
50(3)(b)	Obstruction of any person appointed by Scottish Ministers under the Act (s. 50(2)) in the exercise of their powers under that subsection	
58	Obstruction of a constable or water bailiff in the exercise of their powers under the Act	
64	Failure of a proprietor or occupier to provide information or statistics, or to allow access to a fishery for related purposes	
The Freshwater Fish Conservation (Prohibition on Fishing for Eels) (Scotland) Regulations 2008		
SI 2008 no 419	Fishing for or taking eels except under licence	Made under S. 51A of 2003 Act
The Conservation of Salmon (Prohibition of Sale) (Scotland) Regulations 2002		

SI 200 no 418	Sale of rod-caught salmon	
The Salmon (Fish Passes and Screens) (Scotland) Regulations 1994		
SI 1994 No 2524	Failure to comply with regulations on fish passes and screens	
The Sea Fish Conservation Act 1967		
5	Fishing for salmon from a boat in the sea by drift net or other gill net, trawl net, seine net (other than fishing from the shore by net & coble), troll or long line.	Also refer to SI 1973/207, as varied by SI 1983/60
6	Landing of salmon caught in contravention of an order made under the 1967 Act	Also refer to SI 1972/1966, as varied by SI 1983/58
The Inshore Fishing (Scotland) Act 1984		
1	Fishing for salmon in the sea with any gill net within half a mile of the shore	SI 1986/59
2	Carriage of monofilament gill net of mesh size less than 250mm in any British fishing boat	Also refer to SI 1996/1907
3	Fishing with trawls or other moving gear within half a mile of a fixed salmon net	

2. Link to the 2003 Act sections

Click on the part number or section number below to link to the relevant section of the 2003 Act.

Part 1 methods of fishing and offences related to fishing

Methods of fishing

1. Methods of fishing: salmon
2. Methods of fishing: freshwater fish
3. Use of gaff, tailer or landing net
4. Meaning of "rod and line"

Offences related to fishing for salmon and freshwater fish

5. Prohibition against using explosive and other noxious substances for the destruction or taking of fish
6. Fishing for salmon without right or permission
7. Illegal fishing by two or more persons acting together
8. Taking of dead salmon or trout
9. Illegal possession of salmon or trout
10. Offences in relation to passage of salmon
11. Fishing in waters where fishing rights owned by one person
12. Contravention of protection order

Close times for salmon

13. Weekly close time for salmon
14. Fishing for salmon during annual close time
15. Removal of boats and nets during annual close time
16. Buying and selling salmon in close time

Close time for trout

17. Annual close time for trout

Offences related to sale, purchase and possession of salmon and trout

18. Unclean salmon
19. Salmon roe
20. Possessing salmon which have been illegally taken, killed or landed
21. Packages of salmon or trout to be marked
22. Size limit for selling trout

Protection of young salmon

23. Young salmon and spawning beds
24. Unauthorised introduction of salmon or salmon eggs into certain waters

Offences in relation to the Solway

25. Fixed engines in the Solway
26. Fishing without legal right in the Solway

Exemptions

27. Exemption from certain offences in respect of acts done for scientific and other purposes: salmon
28. Exemption from certain offences in respect of acts done for scientific and other purposes: fish other than salmon
29. Exemption from certain offences in respect of certain acts in relation to salmon
30. Exemptions in relation to fish farming

Regulation of salmon fisheries

31. Salmon fishing: general regulations
32. Exception from regulations with respect to the construction of dams, lades and water wheels
33. Salmon fishing: regulations as to baits and lures

Part 2 Administration of salmon fisheries

Salmon fishery districts

34. Salmon fishery districts

- 35. Designation orders
- 36. Estuary limits

Conservation measures

- 37. Annual close times for salmon
- 38. Salmon conservation regulations

Procedures

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

Part 3 District salmon fishery boards

Proprietors of salmon fisheries

- 40. Qualified proprietors and upper and lower proprietors
- 41. Sole proprietor in a salmon fishery district

Mandatories

- 42. Mandatories

District salmon fishery boards

- 43. District salmon fishery boards
- 44. Financial powers and duties of district salmon fishery boards
- 45. General powers and duties of district salmon fishery boards
- 46. Proceedings of district salmon fishery boards
- 47. Tenure of office

Part 4 Administration of freshwater fisheries

- 48. Increased availability of, and protection for, freshwater fishing
- 49. Appointment of wardens to secure compliance with protection order
- 50. Powers of entry and obstruction of wardens etc.
- 51. Financial contributions towards organisations developing freshwater fisheries

Part 5 Enforcement

Powers of constables and water bailiffs

- 52. Grant of warrant to search premises or vehicles
- 53. Powers of constables
- 54. Powers of constables and water bailiffs to enter land
- 55. Powers of water bailiffs
- 56. General enforcement provisions not to apply in relation to protection orders

Further provision as to offences

57. Offences by bodies corporate
58. Offences in relation to obstruction

Powers of court

59. Power of court in trial for an offence to convict of another
60. Forfeiture
61. Defences
62. Jurisdiction in respect of offences committed on sea coast or at sea
63. Disqualification of justices

Part 6 Miscellaneous

64. Power of Scottish Ministers to conduct inquiries and to obtain information
65. Additional powers in respect of licensing and regulation of salmon dealing
66. Application of Leases Act 1449

Part 7 General

67. Application of this Act to the Crown
68. Orders and regulations
69. Interpretation
70. Consequential amendments, repeals and revocations
71. Short title, commencement and extent

SCHEDULE 1

Designation orders, estuary limits orders, annual close time orders and regulations under sections 33 and 38

1. Designation orders
2. An application under paragraph 1 above shall be accompanied by...
3. Estuary limits orders
4. An application under paragraph 3 above shall be accompanied by...
5. Annual close time orders
6. An application under paragraph 5 above shall be accompanied by...
7. Salmon conservation regulations
8. An application under paragraph 7(a) above shall be in writing...
9. In the application of paragraphs 10 to 15 below to...
10. Common provisions with respect to orders
11. (1) Before making an order or, as the case may...
12. At any time, the Scottish Ministers may alter the proposals...

13. Making of designation, annual close time or estuary limits order or salmon conservation regulations
14. (1) If any representation or objection duly made is not...
15. After considering the report of the person appointed to hold...
16. Applications under this schedule may be communicated and stored electronically....

SCHEDULE 2

Election and co-option of members of district salmon fishery boards

Part 1 Meeting of qualified proprietors

1. Calling of meeting
2. (1) At a meeting of proprietors called—
3. (1) In accordance with the following provisions of this Part...
4. (1) In the co-opting of representatives of salmon anglers and...

Part 2 Membership

5. (1) The members of the committee shall be members of...

SCHEDULE 3

Provisions as to making, variation and revocation of protection orders

1. Making of protection order
2. The notice to be given under paragraph 1 above shall...
3. The Scottish Ministers may direct that, in addition to publication...
4. If no representations or objections are duly made, or if...
5. (1) If any representation or objection duly made is not...
6. After considering the report of the person appointed to hold...
7. As soon as may be after a protection order has...
8. Paragraph 7 above shall apply to an order varying a...
9. (1) Before the Scottish Ministers make an order revoking a...
10. The Scottish Ministers shall cause to be published each year...

SCHEDULE 4

Consequential amendments, repeals and revocations

For further information please contact:

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