



Salmon and Freshwater Fisheries Act 1975

1975 CHAPTER 51

PART VI

MISCELLANEOUS AND SUPPLEMENTARY

39 Border rivers and Solway Firth.

(1) This Act—

(a) does not apply to the River Tweed, but

(b) [^{F1}except where otherwise indicated,] applies to so much of the River Esk, with its banks and tributary streams up to their source, as is situated in Scotland,

and in this subsection “the River Tweed” [^{F2}means the Tweed district (as defined in article 2(1) of the Scotland Act 1998 (River Tweed) Order 2006 ([S.I. 2006/2913](#))].]

[^{F3}(1A) In the application of this Act, under subsection (1)(b) above, to the River Esk in Scotland, references to this Act in sections 31 to 33 and section 36 shall be construed as including references to sections 1, 3 and 18 to 20 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act ^{M1} 1951 as applied to that River by section 21 of that Act.]

[^{F4}(1B) Sections 31 to 34 and 36(2) of this Act shall, subject to the modifications set out in subsection (1C) below, apply throughout the catchment area of the River Esk in Scotland but a water bailiff shall exercise his powers under those sections as so applied only in relation to an offence—

(a) against this Act;

(b) against section 1 of the ^{M2} Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951; or

(c) which is deemed to be an offence under this Act by virtue of section 211(6) of the ^{M3} Water Resources Act 1991,

which he has reasonable cause to suspect has been committed in a place to which this Act applies by virtue of subsection (1)(b) above.

(1C) The modifications referred to in subsection (1B) above are—

Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975, Section 39. (See end of Document for details)

- (a) references in sections 31 to 34 of this Act to “ this Act ” shall be construed as including references to section 1 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (as applied to the River Esk by section 21 of that Act); and
- (b) in section 33—
- (i) references to a justice of the peace shall be construed as including references to a sheriff; and
- (ii) in subsection (2), the reference to an information on oath shall be construed as including a reference to evidence on oath.]
- (2) Where the minimum size of mesh of nets used for taking salmon prescribed by any provision of this Act or by any byelaw in force in any part of the Solway Firth within England is greater than that which may be lawfully used in the part of the Solway Firth within Scotland, the provision or byelaw shall have effect as if the minimum size of mesh so prescribed in relation to the part of the Solway Firth within England were such as may be so lawfully used as aforesaid in the part of the Solway Firth within Scotland.
- (3) The limits of the Solway Firth for the purposes of this section shall be determined by the Minister.
- (4) F5
- [^{F6}(5) Nothing in this section [^{F7}the Water Resources Act 1991][^{F8}or the Water Act 1989] shall authorise a water authority to take legal proceedings in Scotland in respect of an offence against this Act.]

Textual Amendments

- F1** Words in s. 39(1)(b) inserted (19.1.2015) by [The Keeping and Introduction of Fish \(England and River Esk Catchment Area\) Regulations 2015 \(S.I. 2015/10\)](#), regs. 1(1)(b), **18(2)** (with reg. 3)
- F2** Words in s. 39(1) substituted (15.11.2006) by [Scotland Act 1998 \(River Tweed\) Order 2006 \(S.I. 2006/2913\)](#), art. 1(2), **Sch. 4 para. 2**
- F3** S. 39(1A) inserted by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. **26(2)**
- F4** S. 39(1B)(1C) inserted (1.4.1996) by [1995 c. 25, s. 105, Sch. 15 para. 19](#) (with ss. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)
- F5** S. 39(4) repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F6** S. 39(5) added by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), s. 41, **Sch. 4 para. 13**
- F7** S. 39(5): By [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2, 4(2), **Sch. 1 para. 30(3)** it is provided that after the words "this section" there is substituted (E.W.) (1.12.1991) the words "the Water Resources Act 1991"
- F8** Words inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 141, **Sch. 17 para. 7(1)(10)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), 194(9), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

Modifications etc. (not altering text)

- C1** By [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), **ss. 32(6)(b)**, 43(4) it is provided that s. 39(1) is amended (E.W. and as mentioned in the said s. 43(4) (border rivers))

Marginal Citations

- M1** [1951 c.26\(52:2\)](#).
- M2** [1951 c. 26](#).

Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975, Section 39. (See end of Document for details)

M3 1991 c. 57.

Changes to legislation:

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries Act 1975, Section 39.