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CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

FISHERIES

RIVER, SCOTLAND

RIVER, ENGLAND AND WALES

The Tweed Regulation (Salmon Carcass Tagging) Order 2016

Made - - - - 22nd February 2016

Laid before the Scottish Parliament 23rd February 2016

Coming into force - - 31st March 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by article 43A(1), (2) and (3)(a) of the Scotland Act 1998 (River Tweed) Order 2006^(a), and all other powers enabling them to do so. There has been a consultation as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirement of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety^(b).

Citation and commencement

1. This Order may be cited as the Tweed Regulation (Salmon Carcass Tagging) Order 2016 and comes into force on 31st March 2016.

Interpretation

2. In this Order—

“the principal order” means the Scotland Act (River Tweed) Order 2006;

“salmon” means fish of the species *Salmo salar* (commonly known as salmon) or any part of such fish and excludes the migratory fish of the species *Salmo trutta* (commonly known as sea trout) or any part of such fish;

“salmon tag” means a tag which complies with the requirements in articles 5 and 6 and is issued by the Scottish Ministers in accordance with article 8.

(a) S.I. 2006/2913. Article 43A was inserted by S.I. 2015/203.

(b) OJ L 31, 1.2.2002, p.1. There have been no relevant amendments to Article 9.

Duty to tag carcasses of salmon

3.—(1) Subject to paragraph (2), any person who takes salmon from any inland waters must tag the carcass of the salmon in accordance with article 4.

- (2) The duty imposed by paragraph (1) does not apply where the person takes a salmon—
- (a) by rod and line within the meaning of article 25 of the principal order;
 - (b) for a purpose mentioned in article 48(1)(a) of the principal Order (exemption from certain offences in respect of acts done for scientific and other purposes: salmon) and permission to take the salmon has been obtained in accordance with article 48(1)(b) of the principal Order; or
 - (c) within, and in the course of the operation of, a fish farm.

Requirements as to affixing of salmon tags

4.—(1) For the purposes of article 3(1) the tagging of the carcass of a salmon is to be carried out by affixing a salmon tag to the carcass in accordance with this article.

- (2) The salmon tag must be affixed by the following method—
- (a) by inserting it through the mouth of the salmon to emerge from the gill opening; and
 - (b) by securing and locking the tag around the gill cover.
- (3) The salmon tag must be affixed to the carcass of the salmon no later than the time when the salmon is brought to the shore or bank.

Nature and form of salmon tags

5. A salmon tag must—
- (a) have a cable tie and lock; and
 - (b) be capable of—
 - (i) fitting through the mouth of the salmon carcass to emerge from the gill opening; and
 - (ii) being secured with the cable tie and lock.

Information to be contained in salmon tags

6. A salmon tag must contain—
- (a) a unique reference number; and
 - (b) the name of the salmon fishery within which the salmon was taken.

Circumstances in which salmon tags may be removed

7.—(1) No person may remove a salmon tag from the carcass of a salmon which has been tagged in accordance with articles 3(1) and 4 except in the circumstances specified in paragraph (2).

- (2) The circumstances in which a salmon tag may be removed are where a person—
- (a) prepares the salmon for the purposes of cooking or smoking;
 - (b) cuts any steaks, cutlets or other portions of the salmon immediately prior to it being offered, or exposed, for sale; or
 - (c) prepares the salmon for his or her own consumption.

Supply and issue of salmon tags

8.—(1) A person who intends to take salmon in circumstances where the duty at article 3(1) would apply may make an application to the Scottish Ministers for the supply and issue of salmon tags.

(2) No person other than the Scottish Ministers may supply and issue a tag which complies with the requirements in articles 5 and 6.

Records

9.—(1) Any person who, by virtue of article 3(1), is required to tag the carcass of a salmon, must keep, for each week in which salmon is taken, a record of—

- (a) the total number of the carcasses of salmon which have been tagged with a salmon tag;
- (b) the unique reference number of any salmon tags affixed to the carcasses of salmon;
- (c) the unique reference number of any damaged salmon tags which cannot be affixed in accordance with article 4;
- (d) any salmon tags which have been lost.

(2) A record kept under paragraph (1) must be submitted to the Scottish Ministers within the period of 2 weeks from the date of the start of the annual close time.

(3) In paragraph (1) “week” means a period of 7 days commencing on a Monday and ending on a Sunday.

(4) In paragraph (2) “annual close time” means the annual close time for salmon within the meaning of article 3(1) of the Tweed Regulation Order 2007(a).

AILEEN McLEOD

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
22nd February 2016

(a) S.S.I. 2007/19. Article 3(1) was amended by S.S.I. 2015/11.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for and in connection with tagging the carcasses of salmon within inland waters in Scotland. The duty to affix a tag to salmon carcasses does not apply to any salmon which is taken by rod and line, in fish farms or where the exemptions at article 48 of the Scotland Act (River Tweed) Order 2006 apply.

Article 4 prescribes the method of tagging and the time by which the carcass must be tagged. Articles 5 and 6 prescribe the nature and form of, and the information to be contained in, salmon tags. Tags are supplied and issued by the Scottish Ministers (article 8) and cannot be removed from a salmon carcass except in the circumstances prescribed in article 7(2).

Persons who are under a duty to tag salmon carcasses must keep a record in accordance with article 9. The record must be submitted to the Scottish Ministers within the period of 2 weeks from the date of the start of the annual close time for the Tweed district (article 9(2)).

This Order notified in draft to the European Commission in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council (OJ L 241, 17.9.2015, p.1) which lays down a procedure for the provision of information in the field of technical regulations and rules on Information Society services.

A Business and Regulatory Impact Assessment in relation to this Order has been prepared and placed in the Scottish Parliament Information Centre. Copies of it can be obtained from Marine Scotland, Victoria Quay, Leith, Edinburgh EH6 6QQ and online at www.legislation.gov.uk.

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