



REGULATION OF THE INTRODUCTION OF FRESHWATER FISH IN SCOTLAND

ADVICE FOR WATER BAILIFFS

Introduction

1. As you may be aware, there is new legislation which will regulate the introduction i.e. stocking of all species of freshwater fish within Scotland. Section 35 of the Aquaculture and Fisheries (Scotland) Act 2007¹, which inserts a new section 33A into the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, makes it an offence for any person to intentionally introduce any live fish or spawn of any fish into inland waters, or possess such with the intention of introduction without previous written agreement of the appropriate authority. **This legislation comes into force on 1 August 2008.**

Aim

2. The principal aim of the new provisions is to protect native biodiversity from the consequences of introductions of non-native fish into Scottish freshwaters. They will also assist in delivering sustainable fisheries and will provide necessary records to assist in fish disease prevention and control under COUNCIL DIRECTIVE 2006/88/EC².

What does this apply to?

3. The provisions apply to all introductions of freshwater fish including, salmon, trout and coarse fish to any inland Scottish water system. **These provisions do not apply to fish farms (including the introduction of brood-stock into hatcheries) or to ornamental fish-keeping facilities.**

Who issues agreement?

4. Where a District Salmon Fisheries Board (DSFB) operates and the fish to be introduced are salmon or sea trout then the relevant Board will take applications from individuals or corporate bodies who wish to introduce fish. **The Board will issue written agreement or refusal to the applicant.** Therefore, for salmon, this very much reflects the current position whereby section 24 of the 2003 Act makes it an offence to stock salmon or salmon eggs without the permission of the relevant DSFB.

5. Where a DSFB does not operate or where the fish being introduced are not salmon or sea trout then it is for the **Scottish Ministers via Fisheries Research**

¹ http://www.opsi.gov.uk/legislation/scotland/acts2007/pdf/asp_20070012_en.pdf

² http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_328/l_32820061124en00140056.pdf

Services (FRS) to consider applications from individuals or corporate bodies who wish to introduce fish and issue written agreement or refusal.

How will applications be processed?

6. A new development to underpin both roles is the creation of a risk-based assessment procedure which will be developed to ensure similar criteria are applied by both authorising bodies when considering proposals to introduce or stock fish, whether salmon, sea trout, brown trout, rainbow trout or coarse fish.

7. Scottish Government application forms for all freshwater fish or for salmon or sea trout for areas where there is no DSFB, will require certain key information to be submitted. This will be used to assess proposed introductions which will then be classed as low-risk (Green - consent) e.g. rainbow trout stockings into commercial Stillwater fisheries, medium-risk (Amber – further consideration) e.g. stocking of species, such as grayling or roach, that breed in Scotland but are still not present in a catchment and high-risk (Red - refusal) e.g. stocking of species, such as Rudd or Barbel, that would breed in the wild but are not already present. Other risk factors will be also be considered e.g. whether the receiving water is screened or not.

Who will enforce these measures?

8. **The enforcing body, as for other wildlife and fisheries crimes, will be the mainline local police forces. It will be for the relevant police force, based on evidence gathered, to make a report to the Procurator Fiscal. It will be for the Fiscal to determine whether to proceed with criminal proceedings.**

What does this mean for Bailiffs?

9. **The powers³ of DSFB Bailiffs or Bailiffs appointed by the Scottish Ministers are not reduced or increased by this legislation. Therefore the extent of Bailiff's powers remains the same. However, this legislation permits the prosecution of individuals, punishable by a fine, who introduce fish, or possess fish with the intention of introducing them, without the consent of the DSFB, or as the case may be the Scottish Ministers. The purpose of the legislation is to prevent negligent, rogue or irresponsible stocking of fish into Scottish freshwaters. The legislation is not designed to over-regulate responsible fisheries managers or to disrupt their business.**

11. The following are some guidance pointers for use by Bailiffs:

- **You should request sight of a consent if you encounter an individual or individuals whom you 'reasonably' suspect of introducing fish illegally within an area of your jurisdiction**
- **You should not, as a matter of course, request sight of a consent if you encounter an individual or individuals whom you 'reasonably' consider to be engaged in bone fide commercial stocking activity**

³ Powers of Water Bailiffs, 2004, ISBN: 0-7559-4133 0

- **If no consent is available you should seize the fish if possible and report the offence to the relevant local mainline police force. You should request an incident number for your records.**

12. If you require any further information you should contact the Scottish Government on 0131-244-5245 or the ASFB on 0131-272-2797

**Scottish Government, Marine Directorate
Association of Salmon Fishery Boards**