

SCHEDULES

SCHEDULE 3

Section 28.

ADMINISTRATION

PART I

ORDERS

Scope

- 1 An order may provide—
- (a) for the imposition, collection and recovery by a water authority of contributions assessed on several fisheries regulated by the order or on the owners and occupiers of such fisheries ;
 - (b) for enabling the water authority with the approval of the Minister, but subject to paragraphs 2 and 3 below, to erect and work by themselves or their lessees any fixed engine for catching salmon or migratory trout within the area within which the order is to apply ;
 - (c) for modifying in relation to the fisheries within the area any of the provisions of this Act which relate to the regulation of fisheries, or of any local Act relating to any fishery within the area.

2 An order shall not authorise a fixed engine to be worked for a period exceeding five years unless authorisation is from time to time extended by licence of the Minister for such term as may be specified in the licence and not exceeding at any one time five years.

3 The Minister shall not grant a licence until he has inquired into the effect of the working of the engine on the salmon or trout fisheries within the area.

4 An order may contain any incidental, consequential or supplemental provisions, including provisions for payment of compensation to persons injuriously affected by the order, which may appear to be necessary or proper for the purposes of the order.

Procedure

- 5 An application for an order may be made by any of the following, namely—
- (a) a water authority ;
 - (b) a county council;
 - (c) persons who in the opinion of the Minister are the owners of one-fourth at least in value of the several fisheries proposed to be regulated or constitute a majority of the persons holding licences to fish in public waters within the area of the proposed order ;

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- (d) any association of persons which in the opinion of the Minister is sufficiently representative of fishing interests within that area.
- 6 The applicant for an order shall give such security for the Minister's expenses as the Minister may require.
- 7 Before making an order the Minister shall cause notice of the intention to make the order and of the place where copies of the draft order may be inspected and obtained, and of the time within and manner in which objections to the draft order may be made, to be published in the London Gazette and in such other manner as he thinks best adapted for informing persons affected.
- 8 Before making an order the Minister shall consider any objections which may be duly made to the draft order, and may cause a public local inquiry to be held with respect to any such objections.
- 9 After an order has been settled and made by the Minister it shall be published in such manner as he thinks best adapted for informing persons affected with notice that the Minister has settled the order, and that the order will become final unless within such period, not being less than 30 days, as may be stated in the notice, a memorial is presented to the Minister by a water authority, local authority or other person or association affected by it, praying that it shall be subject to special parliamentary procedure.
- 10 If within such period, not being less than 30 days, as may be stated in the notice so published, no memorial against the order is presented to the Minister by any water authority, local authority or other person or association affected by the order, or if any such memorial so presented is withdrawn, the Minister may confirm the order, but if any such memorial is presented and is not withdrawn, the order shall be subject to special parliamentary procedure.
- 11 The making and confirmation of an order shall be prima facie evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making and confirmation of such an order have been complied with.
- 12 The Minister may by statutory instrument make regulations in relation to the publication of notices and advertisements and the holding of and procedure at public local inquiries under this Part of this Schedule, and the payment of expenses of and incidental to such inquiries and to any other matters of procedure respecting the making of orders.
- 13 Where—
- (a) any fishery, land or foreshore proposed to be comprised in an order; or
 - (b) any fishery proposed to be affected by any order; or
 - (c) any land over which it is proposed to acquire an easement under an order, belongs to Her Majesty in right of the Crown or forms part of the possessions of the Duchy of Lancaster or the Duchy of Cornwall, or belongs to or is under the management of any government department, the Minister may make the order if he has previously obtained—
 - (i) in the case of any foreshore under the management of the Crown Estate Commissioners, or of any fishery or land belonging to Her Majesty in right of the Crown, the consent of those Commissioners ;
 - (ii) in the case of any foreshore or fishery or land forming part of the possessions of the Duchy of Lancaster, the consent of the Chancellor of the Duchy ;

- (iii) in the case of any foreshore, fishery or land forming part of the possessions of the Duchy of Cornwall, the consent of the Duke of Cornwall, or the persons for the time being empowered to dispose for any purpose of the land of the Duchy;
- (iv) in the case of any foreshore or fishery or land which belongs to or is under the management of a government department, the consent of that government department.

PART II

BYELAWS

General

- 14 Subject to Schedule 1 above, the power to make byelaws shall be exercisable by water authorities.
- 15 Byelaws may be made for any of the purposes mentioned in paragraphs 19 to 36 below.
- 16 A byelaw may be made to apply to the whole or any part or parts of a water authority area or to the whole or any part or parts of the year.
- 17 If at any time before the end of 12 months after the confirmation of a byelaw made for the purpose specified in paragraph 21 or 25 below the owner or occupier of any fishery within the water authority area, by notice in writing to the water authority, claims that the fishery is injuriously affected by the byelaw, the claim and the amount of compensation to be paid, by way of annual payment or otherwise, for the damage (if any) to the fishery shall be determined, in default of agreement, by a single arbitrator appointed by the Minister.
- 18 When the compensation is payable under any award by way of an annual payment, the water authority or the person entitled to the annual payment may at any time after the end of 5 years from the date of the award require it to be reviewed by a single arbitrator appointed by the Minister, and the compensation to be thenceforth paid shall be such, if any, as may be determined by that arbitrator.

Purposes for which Byelaws may be made

- 19 Fixing or altering, subject to paragraph 3 of Schedule 1 above, any such close season or close time as is mentioned in that paragraph.
- 20 Dispensing with a close season for freshwater fish or rainbow trout.
- 21 Specifying the nets and other instruments (not being fixed engines) which may be used for taking salmon, trout, freshwater fish and eels and imposing requirements as to their construction, use, design, material and dimensions, including in the case of nets the size of mesh.
- 22 Requiring and regulating the attachment to licensed nets and instruments of marks, labels or numbers, or the painting of marks or numbers or the affixing of labels or numbers to boats, coracles or other vessels used in fishing.

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- 23 Prohibiting the carrying in any boat or vessel whilst being used in fishing for salmon or trout of any net which is not licensed, or which is without the mark, label or number prescribed by the byelaws.
- 24 Prohibiting or regulating the carrying in a boat or vessel during the annual close season for salmon of a net capable of taking salmon other than a net commonly used in the area to which the byelaw applies for sea fishing if carried in a boat or vessel commonly used for that purpose.
- 25 Prohibiting the use for taking salmon, trout, or freshwater fish of any instrument (not being a fixed engine) in such waters within the water authority area and at such times as may be prescribed by the byelaws.
- 26 Prohibiting the taking or removal from any water without lawful authority of any fish, whether alive or dead.
- 27 Determining for the purposes of this Act the period of the year during which gratings need not be maintained.
- 28 Prohibiting or regulating the taking of trout or any freshwater fish of a size less than such as may be prescribed by the byelaw.
- 29 Prohibiting or regulating the taking of fish by any means within such distance as is specified in the byelaw above or below any dam or any other obstruction, whether artificial or natural.
- 30 Prohibiting or regulating fishing with rod and line between the end of the first hour after sunset on any day and the beginning of the last hour before sunrise on the following morning.
- 31 Regulating the deposit or discharge in any waters containing fish of any liquid or solid matter specified in the byelaw which is detrimental to salmon, trout or freshwater fish, or the spawn or food of fish, but not so as to prejudice any powers of a local authority to discharge sewage in pursuance of any power given by a public general Act, a local Act or a provisional order confirmed by Parliament.
- 32 Requiring persons fishing for salmon, trout or freshwater fish to send to the water authority returns, in such form, giving such particulars and at such times as may be specified in the byelaws, of any such fish which they have taken, or a statement that they have taken no such fish.
- 33 Regulating the use in connection with fishing with rod and line of any lure or bait specified in the byelaw.
- 34 Determining the time during which it shall be lawful to use a gaff in connection with fishing with rod and line for salmon or migratory trout.
- 35 Authorising fishing with rod and line for eels during the annual close season for freshwater fish.
- 36 The better execution of this Act and the better protection, preservation and improvement of any salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries in a water authority area.

PART III

MISCELLANEOUS

- 37 Without prejudice to paragraph 2 of Schedule 3 to the Water Act 1973 (general power of water authorities to do anything which in their opinion is calculated to facilitate or is conducive or incidental to the discharge of any of their functions), it is hereby declared that the powers conferred by Part VI of the Water Resources Act 1963 (which relates to land and works) include power for a water authority to purchase or take on lease (either by agreement or if so authorised compulsorily)—
- (a) any dam, fishing weir, fishing mill dam, fixed engine or other artificial obstruction and any fishery attached to or worked in connection with any such obstruction ;
 - (b) so much of the bank adjoining a dam as may be necessary for making or maintaining a fish pass for the purposes of section 10 above ; and
 - (c) for the purpose of erecting and working a fixed engine under paragraph 1(b) above, any fishery land or foreshore specified in the relevant order under that paragraph together with any easement over any adjoining land necessary for securing access to the fishery land or foreshore so acquired.
- 38 Without prejudice to the said paragraph 2, a water authority may either alter or remove an obstruction acquired in the exercise of the powers mentioned in paragraph 37 above, or may by themselves or their lessees use or work in any lawful manner the obstruction for fishing purposes and exercise the right conferred by any fishery so acquired, subject in the case of an obstruction or fishery acquired by way of lease to the terms of the lease.
- 39 (1) Without prejudice to the said paragraph 2, a water authority—
- (a) may take legal proceedings in respect of any offence against this Act, or for the enforcement of any provision of this Act or for the protection of the fisheries in their area from injury by pollution or otherwise ;
 - (b) may purchase or lease by agreement any fishery, fishing rights, or any establishment for the artificial propagation or rearing of salmon, trout or freshwater fish, and may use, work or exercise the same by themselves, their lessees, or any person duly authorised by them in writing ; and
 - (c) may obtain the services of additional constables under section 15 of the Police Act 1964.
- (2) Nothing in this paragraph shall authorise anything to be done which may injuriously affect any navigable river, canal, or inland navigation.