

SCHEDULES

SCHEDULE 1

Sections 2, 6, 7, 8 and 10.

PROVISIONS AS RESPECTS THE MAKING OF DESIGNATION ORDERS

Proposals for a designation order

- 1 The Secretary of State may make a designation order only on the application to him by—
- (a) a district salmon fishery board for a district which would be affected by the proposed order ;
 - (b) where there is no such board, two proprietors of salmon fisheries in the area which would be affected by the proposed order ; or
 - (c) any number of or combination of such boards or such proprietors in the area which would be affected by the proposed order
- but the Secretary of State may act under this Schedule notwithstanding that the applicants do not represent the whole area which would be affected by the proposed order.
- 2 An application under paragraph 1 above shall be accompanied by the applicant's written proposals which shall state—
- (a) the area which it is proposed should be designated as a salmon fishery district;
 - (b) the salmon fishery district or districts which are, at the time of the application, contained wholly or partly within that area ;
 - (c) the reasons for the creation of the proposed salmon fishery district ;
 - (d) the proposed dates of the annual close time and the periods within which it shall be permitted to fish for and take salmon by rod and line in the proposed district; and
 - (e) the general effect of the proposals.

Consultation and publication

- 3 On receiving an application under paragraph 1 above, the Secretary of State shall consult such persons as he considers appropriate and may—
- (a) request from the applicant such additional information as he thinks fit;
 - (b) dismiss the application ;
 - (c) proceed in accordance with the remaining provisions of this Schedule.
- 4 (1) Before making a designation order, the Secretary of State shall direct that notice of the general effect of the proposals shall be given, specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposals may be made.

Status: This is the original version (as it was originally enacted).

- (2) Notice shall be given at least once in each of two successive weeks by advertising in a newspaper circulating in the district or districts affected by the proposals.
- (3) The cost of giving notice shall be met by the applicant under paragraph 1 above.
- 5 At any time, the Secretary of State may alter the proposals in such way as he thinks fit and shall consider whether such alterations are sufficient to require—
- (a) further consultation as mentioned in paragraph 3 above ; and
 - (b) further notice to be given under paragraph 4 above.

Making of order

- 6 If no representations or objections are duly made, or if all so made are withdrawn, the Secretary of State may make a designation order.
- 7 (1) If any representation or objection duly made is not withdrawn, the Secretary of State may, after considering the same—
- (a) make a designation order ;
 - (b) dismiss the application ; or
 - (c) cause a local inquiry to be held.
- (2) The Secretary of State shall appoint a person to hold the inquiry and to report thereon to him.
- (3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has duly made and has not withdrawn representations about or objections to the proposals, and shall be published at least once in each of two successive weeks in a newspaper circulating in the district or districts affected by the proposals.
- (4) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.
- (5) The Secretary of State may make orders as to the expenses incurred by him in relation to the inquiry (including such reasonable sum as he may determine for the services of the person appointed to hold the inquiry) and as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.
- (6) Any order of the Secretary of State under sub-paragraph (5) above requiring any party to pay expenses may be enforced in like manner as a recorded decree arbitral.
- 8 After considering the report of the person appointed to hold the inquiry in pursuance of paragraph 7 above and any representations or objections which were duly made, the Secretary of State may make a designation order.
- 9 The power to make a designation order shall be exercisable by statutory instrument.

SCHEDULE 2

Sections 14, 16 and 18.

ELECTION AND CO-OPTION OF MEMBERS OF DISTRICT SALMON FISHERY BOARDS

PART I

MEETING OF QUALIFIED PROPRIETORS

Calling of meeting

- 1 (1) Where there is no district salmon fishery board or transitional district board for a district, the sheriff shall, on the application of two qualified proprietors of salmon fisheries in the district.—
- (a) make up a roll of upper and lower proprietors in the district to which the application relates ;
 - (b) call a meeting of these proprietors, at such time and place as he may direct, for the purpose of forming an association of proprietors of salmon fisheries for that district and electing a committee to become the district salmon fishery board for that district; and
 - (c) give notice at least once in each of two successive weeks by advertising in a newspaper circulating in the district of the date, time and place of that meeting.
- (2) Where proposals for a designation order have been considered by the Secretary of State, in accordance with Schedule 1 to this Act, and he considers that a designation order should be made—
- (a) the clerk or, acting jointly, the clerks to the district salmon fishery boards or transitional district boards for any district or districts which would be superseded by the proposed designation order shall perform, in respect of the proposed district, the duties specified in sub-paragraph (1) above ; or
 - (b) where there is no district salmon fishery board for any district which would be superseded by the proposed designation order, the sheriff shall perform the duties specified in sub-paragraph (1) above on the application of two proprietors of salmon fisheries in the proposed district
- and the following provisions of this Schedule shall have effect in respect of the proposed district as if it had been designated.
- (3) Where the salmon fishery district lies in more than one sheriffdom, the sheriff in whose jurisdiction lies the major part of that district may, for the purposes of this Schedule, perform the duties specified in sub-paragraph (1) above in an adjacent sheriffdom.
- (4) The sheriff may recover from the committee formed in accordance with this Schedule all expenses incurred by him in the performance of his duties under this paragraph, whether or not that committee becomes a district salmon fishery board, but if it does become such a board, these expenses may be met out of the fishery assessment.
- 2 (1) At a meeting of proprietors called—
- (a) by the sheriff under paragraph 1 above ;
 - (b) by the clerk to a board in accordance with section 18(1) of this Act; or
 - (c) by the clerk to a transitional district board in accordance with paragraph 1(a) of Schedule 3 to this Act,

the proprietors present shall elect or, as the case may be, re-elect a committee to act on behalf of the association.

- (2) If
- (a) the membership of that committee is in accordance with Part II of this Schedule; and
 - (b) the requirements of this Part as respects eligibility are met
- that committee shall be or continue to be the district salmon fishery board for that district.
- (3) Membership of such a committee, whether or not it is a district salmon fishery board, shall not affect eligibility for membership of any other such committee or board.

Election of members

- 3 (1) The meeting shall elect from amongst the qualified proprietors present a person to be chairman of the committee.
- (2) In accordance with the following provisions of this Part of this Schedule, representatives of qualified proprietors shall then be elected by—
- (a) the upper proprietors from amongst themselves; and
 - (b) the lower proprietors from amongst themselves
- but an election under this sub-paragraph shall not be held invalid for the sole reason that there was only one upper or, as the case may be, lower proprietor present.
- (3) A qualified proprietor shall have, in respect of each fishery he owns within the district, one vote in an election under this paragraph and shall have one additional vote for each £5,000 or part thereof by which the value of that fishery as entered in the valuation roll exceeds £5,000 but, subject to sub-paragraph (5) below, no proprietor shall have more than four votes in total as respects each fishery.
- (4) A proprietor of a salmon fishery in the district which has been neither entered nor entered separately in the valuation roll shall, notwithstanding anything to the contrary, have one vote at the meeting and shall be eligible for election.
- (5) A person who is both an upper and a lower proprietor by virtue of section 11(5) of this Act shall count as both an upper and as a lower proprietor for the purposes of this paragraph and he may both vote and be elected in each capacity.

Balance between upper and lower proprietors

- 4 (1) In the election of representatives of qualified proprietors, not more than three may be elected by upper proprietors and not more than three may be elected by lower proprietors.
- (2) Where there are less than three proprietors in the district qualified as upper proprietors or less than three qualified as lower proprietors, the number elected from either category shall not exceed the number eligible for election in the other category.
- (3) If the person elected as chairman is—
- (a) an upper proprietor and there are less than four upper proprietors in that district; or
 - (b) a lower proprietor and there are less than four lower proprietors in that district,

he shall also be eligible for election as a representative of qualified proprietors and, if elected, may act as such in addition to acting as chairman.

- (4) In calculating the numbers of upper and lower proprietors, a person who is both an upper and a lower proprietor by virtue of section 11(5) of this Act shall be counted in each capacity in which he has been elected.

Co-optees

- 5 (1) In the co-opting of representatives of salmon anglers and of tenant netsmen under Part II below, the number of representatives of salmon anglers shall equal the number of representatives of tenant netsmen but that number shall be no more than three and shall not exceed—
- (a) the number of proprietors in the district qualified as upper proprietors ; or
 - (b) the number of proprietors in the district qualified as lower proprietors,
- whichever is the smaller number of qualified proprietors.
- (2) A person who is both an upper and a lower proprietor by virtue of section 11(5) of this Act shall be counted in each capacity for the purposes of sub-paragraph (1) above.
- (3) A representative of salmon anglers shall be a person whom the board consider to be representative of persons angling for salmon in the district but who is not himself an upper proprietor in that district.
- (4) Before co-opting a person as a representative of salmon anglers, the board shall consult such organisations representing salmon anglers in the district as they think fit; but this requirement shall not apply to the filling of a vacancy in accordance with section 18(5) of this Act.
- (5) A representative of tenant netsmen shall be—
- (a) a tenant netsman in the district who is not a lower proprietor in that district;
 - (b) a tenant netsman in the district who is a lower proprietor in that district if—
 - (i) there are insufficient tenant netsmen who are qualified or willing to be co-opted and who are not also lower proprietors in that district; and
 - (ii) he has not been elected to the board of that district as a representative of lower proprietors or as chairman; or
 - (c) a lower proprietor in the district who is not a tenant nets-man in that district if—
 - (i) there are insufficient tenant netsmen qualified or willing to be co-opted, whether or not they are also lower proprietors in that district; and
 - (ii) he has not been elected to the board of that district as a representative of lower proprietors or as chairman,
- but a person shall not be disqualified under this sub-paragraph solely because he is an upper proprietor in that district or has been elected to the board of that district as a representative of upper proprietors.

Status: This is the original version (as it was originally enacted).

PART II

MEMBERSHIP

- 6 (1) The members of the committee shall be members of a district salmon fishery board if the committee consists of the following persons—
- (a) an elected chairman ; and
 - (b) in addition to the chairman, not more than six elected representatives of qualified proprietors in the district
- and a person who is both an upper proprietor and a lower proprietor by virtue of section 11(5) of this Act may be elected in either capacity or in both capacities.
- (2) As soon after the meeting of proprietors referred to in Part I above as is practicable, the chairman and the elected representatives of qualified proprietors shall, in accordance with the provisions of this Schedule co-opt representatives of salmon anglers and tenant nets-men in the district as required by section 16(2) of this Act.
- (3) The members of a district salmon fishery board shall be—
- (a) the persons mentioned in sub-paragraph (1) above ;
 - (b) not more than three co-opted representatives of salmon anglers in the district; and
 - (c) not more than three co-opted representatives of tenant netmen in the district but a committee shall not fail to be a district salmon fishery board only by reason that no persons or not enough persons have been co-opted in accordance with this paragraph if—
 - (i) there has been insufficient time to co-opt such persons ; or
 - (ii) no persons or not enough persons are willing to be co-opted.

SCHEDULE 3

Section 14(8).

TRANSITIONAL DISTRICT BOARDS

- 1 Subject to the provisions of this Schedule, a transitional district board within the meaning of section 14(8) of this Act shall be deemed to be a district salmon fishery board and have the powers and duties of such a board and references to a district salmon fishery board shall, unless the context otherwise requires, include references to a transitional district board.
- 2 (1) Sections 16(2) and 18 of this Act shall not apply to a transitional district board, which may retain the membership which it had at the commencement of section 14 of this Act.
- (2) Subject to paragraph 3 below, vacancies on that board may be filled by the board by an upper or, as the case may be, lower proprietor within the meaning of this Act.
- (3) The chairman or a member of a transitional district board may authorise a person to act for him as chairman or as such a member.
- 3 The chairman of a transitional district board shall be the proprietor whose salmon fishery or, taken together, fisheries in that district has or have the greatest value entered in the valuation roll.

Status: This is the original version (as it was originally enacted).

- 4 The clerk to a transitional district board shall prepare a new roll of upper and lower proprietors in that district in accordance with section 11 of this Act so as to include in the roll any proprietors who were not proprietors of salmon fisheries in that district immediately before the commencement of section 14 of this Act.
- 5 (1) A transitional district board may continue to collect the whole or any outstanding part of the fishery assessment imposed under section 23 of the Salmon Fisheries (Scotland) Act 1862 from proprietors of fisheries on which that assessment had been imposed before the commencement of section 14 of this Act
- (2) On the expiry of the period of the fishery assessment mentioned above, the board may levy a fishery assessment under section 15 of this Act but only in respect of fisheries in the district on which that assessment had been imposed before the commencement of section 14 of this Act.
- (3) The board may recover arrears of fishery assessment, whether due before or after the commencement of section 14 of this Act, by action for payment of money.
- (4) The power under subparagraph (3) above to recover arrears of fishery assessment includes power to recover interest, chargeable at such rate as the Secretary of State shall, with the consent of the Treasury, determine, on such arrears from—
- (a) in the case of recovery of arrears due before the date of the coming into force of section 14 of this Act which have been outstanding for at least three months from that date, that date; or
- (b) in the case of recovery of arrears due in respect of an assessment imposed by a transitional district board which have been outstanding for at least three months from the date of issue of a notice of assessment, that date until payment or the commencement of an action for payment, whichever is the earlier.
- 6 A transitional district board shall cease to be deemed a district salmon fishery board and shall cease to have such powers and duties on the expiry of—
- (a) three years from the date of the last meeting of proprietors within the meaning of sections 18 or 24 of the Salmon Fisheries (Scotland) Act 1862 or section 3 of the Salmon Fisheries (Scotland) Act 1868 ; or
- (b) six months from the date of the commencement of section 14 of this Act, whichever is later.
- 7 At any time within the periods specified in paragraph 6 above, the clerk to a transitional district board shall, on the instructions of the board.—
- (a) call a meeting of the upper and lower proprietors of the district, at such time and place as the board may direct, for the purpose of forming an association of proprietors of salmon fisheries for that district and electing a committee to become the district salmon fishery board for that district; and
- (b) give notice at least once in two successive weeks by advertising in a newspaper circulating in die district of the date, time and place of that meeting.
- 8 Notwithstanding paragraph 6 above, a transitional district board shall cease to be deemed a district salmon fishery board and shall cease to have the powers and duties of a transitional district board on the election in accordance with Schedule 2 to this Act of a committee of an association of proprietors within the meaning of section 14 of this Act

Status: This is the original version (as it was originally enacted).

- 9 The assets and liabilities of a district board within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868 shall be transferred to the transitional district board for that district and, likewise, the assets and liabilities of a transitional district board shall be transferred to the district salmon fishery board for that district whenever such a board is elected.

SCHEDULE 4

Section 41.

MINOR AND CONSEQUENTIAL AMENDMENTS

Salmon Fisheries (Scotland) Act 1868 (c. 123.)

- 1 After section 1 of the Salmon Fisheries (Scotland) Act 1868 there shall be inserted the following section—

“1A Expressions used in this Act.

In this Act, unless the context otherwise requires the expressions "board" or "district salmon fishery board ", " district" or " salmon fishery district", " fishery ", " proprietor ", " salmon " and " river " shall have the meanings ascribed to them in section 40(1) of the Salmon Act 1986 (interpretation).”.

- 2 In section 11 of that Act (application to streams not frequented by salmon), for the words " mill dams" there shall be substituted the words " dams, including mill dams "
- 3 (1) In section 18 of that Act (offence of buying, selling, possessing etc. of salmon roe), the words from " uses " to " purposes, or " shall be omitted.
- (2) In section 19 (offences in relation to young salmon, salmon spawn, spawning beds etc.), the words from "for the purpose" in the second place where they occur to " purpose, or " shall be omitted.
- (3) In section 20 (offences in relation to Unclean or unseasonable salmon), the words from "or to any person" onwards shall be omitted.
- 4 In the said section 19, for the word " wilfully " there shall be substituted the word " knowingly ".
- 5 In section 41 of that Act (extent), the words from " and Schedule G " to " Schedule " shall be omitted.

Diseases of Fish Act 1937 (c.33)

- 6 In subsection (3) of section 8 of the Diseases of Fish Act 1937 (penalties and legal proceedings) for the words after " be " there shall be substituted the words " proceeded against and punished in Scotland

Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c. 26)

- 7 In section 1 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 {prohibition of poaching), for the words " low water mark " there shall be substituted the words " mean low water springs ".

Status: This is the original version (as it was originally enacted).

- 8 Section 9 of that Act (saving for acts done for scientific and other purposes) shall be renumbered as subsection (1) of that section and—
- (a) in that subsection the words from "or", where fourthly occurring, onwards shall cease to have effect; and
 - (b) after that subsection there shall be added the following subsection
- “(2) This section does not apply to an act relating to salmon.”.
- 9 In section 15(1)(c) of that Act (power of Secretary of State to conduct inquiries and to obtain information), the words from " so as to show " to the end of that subsection shall be omitted.
- 10 In section 19(2) of that Act (forfeitures) the words " on indictment " shall be omitted.
- 11 In section 22 of that Act (provisions as to River Tweed), for the reference to the Board of Commissioners of the River Tweed there shall be substituted a reference to the council constituted under section 6 of the Tweed Fisheries Act 1969.
- 12 In section 24 of that Act (interpretation), for the entries relating to " District " and " District Board " there shall be substituted the following entries—
- “" District" and " Salmon Fishery District" shall be deemed to include the River Tweed ;
 - " District Board " and " District Salmon Fishery Board " shall include the council constituted under section 6 of the Tweed Fisheries Act 1969 ;”.

Salmon and Freshwater Fisheries Act 1975 (c. 51)

- 13 In section 39 of the Salmon and Freshwater Fisheries Act 1975 (Border rivers and Solway Firth), after subsection (4) there shall be added the following subsection—
- “(5) Nothing in this section shall authorise a water authority to take legal proceedings in Scotland in respect of an offence against this Act.”.
- 14 In section 43(3) of that Act (Scottish extent), for the words " and (4) " there shall be substituted the words " (4) and (5) ".

Freshwater and Salmon Fisheries (.Scotland) Act 1976 (c. 22)

- 15 (1) In section 7(5) of the Freshwater and Salmon Fisheries (Scotland) Act 1976 (fish farmers to be exempted from certain offences)—
- (a) the word " 4 " shall be omitted ; and
 - (b) after the word " 8 " there shall be inserted the words " , 8A ".
- (2) In Part I of Schedule 3 to that Act (offences from which fish farmers are to be exempted)—
- (a) paragraph 4 shall be omitted ; and
 - (b) after paragraph 8 there shall be inserted the following paragraph—
- “(8A) In the Salmon Act 1986, regulations made under section 3(2)(a) or (d) (general regulations).”.

Status: This is the original version (as it was originally enacted).

SCHEDULE 5

Section 41.

REPEALS

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
1696 c. 35 (S.).	Salmon Act 1696.	The whole Act.
25 & 26 Vict, c. 97.	Salmon Fisheries (Scotland) Act 1862.	The whole Act.
26 & 27 Vict, c. 10.	Salmon Acts Amendment Act 1863.	The whole Act.
26 & 27 Vict, c. 50.	Salmon Fisheries (Scotland) Act 1863.	The whole Act.
27 & 28 Vict, c. 118.	Salmon Fisheries (Scotland) Act 1864.	The whole Act.
31 & 32 Vict, c. 123.	Salmon Fisheries (Scotland) Act 1868.	The whole Act except sections 1, 11, 15, 18 to 24, 26, 27, 29, 31 to 36 and 41.
33 & 34 Vict, c. 33.	Salmon Acts Amendment Act 1870.	The whole Act.
45 & 46 Vict. c.78.	Fishery Board (Scotland) Act 1882.	The whole Act.
14 & 15 Geo. 6. c. 26.	Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.	Section 14. In section 19(2) the words "on indictment,".