

---

*Status: This is the original version (as it was originally enacted).*

---

## SCHEDULE 1

(introduced by section 39)

### DESIGNATION ORDERS, ESTUARY LIMITS ORDERS, ANNUAL CLOSE TIME ORDERS AND REGULATIONS UNDER SECTIONS 33 AND 38

#### *Designation orders*

- 1 The Scottish Ministers may make a designation order only on an application to them 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 Scottish Ministers 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.

#### *Estuary limits orders*

- 3 The Scottish Ministers may make an estuary limits order only on application to them by—
  - (a) the district salmon fishery board for the district in which the river is situated; or
  - (b) where there is no such board, two proprietors of salmon fisheries in that district.
- 4 An application under paragraph 3 above shall be accompanied by the applicant's written proposals which shall state—
  - (a) the proposed estuary limits; and
  - (b) the general effect of the proposals.

#### *Annual close time orders*

- 5 The Scottish Ministers may make an annual close time order in respect of a salmon fishery district only on application to them by—
  - (a) the district salmon fishery board for that district; or

- (b) where there is no such board, two proprietors of salmon fisheries in that district.
- 6 An application under paragraph 5 above shall be accompanied by the applicant's written proposals which shall state—
- (a) the proposed dates of the annual close time and the periods within that time when it shall be permitted to fish for and take salmon by rod and line in the district; and
  - (b) the general effect of the proposals,
- and the proposals may include different dates and periods for different parts of the district.

*Salmon conservation regulations*

- 7 The Scottish Ministers may make regulations under section 38 of this Act either—
- (a) on an application to them by—
    - (i) any district salmon fishery board; or
    - (ii) where there is no such board in a salmon fishery district, two proprietors of salmon fisheries in that district; or
  - (b) otherwise.
- 8 An application under paragraph 7(a) above shall be in writing and shall contain the applicant's proposals, including—
- (a) a general description of the proposals;
  - (b) a statement as to why the applicant considers that the proposals are necessary or expedient; and
  - (c) a statement as to the general effect of the proposals.
- 9 In the application of paragraphs 10 to 15 below to regulations under section 38 of this Act made under paragraph 7(b) above—
- (a) references to an applicant and to an application shall be omitted;
  - (b) the reference in paragraph 10 to the persons who shall be consulted shall be construed as including, in particular, such district salmon fishery boards as the Scottish Ministers consider appropriate; and
  - (c) paragraph 11(3) shall be omitted.

*Common provisions with respect to orders*

- 10 On receiving an application under paragraph 1, 3, 5 or 7 above, the Scottish Ministers shall consult such persons as they consider appropriate and may—
- (a) request from the applicant such additional information as they think fit;
  - (b) dismiss the application;
  - (c) proceed in accordance with the remaining provisions of this schedule.
- 11 (1) Before making an order or, as the case may be, regulations, the Scottish Ministers 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.
- (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.

---

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

---

- (3) The cost of giving notice shall be met by the applicant under paragraph 1, 3 or 5 above.
- 12 At any time, the Scottish Ministers may alter the proposals in such way as they think fit and shall consider whether such alterations are sufficient to require—
- (a) further consultation as mentioned in paragraph 10 above; and
  - (b) further notice to be given under paragraph 11 above.

*Making of designation, annual close time or estuary limits order or salmon conservation regulations*

- 13 If no representations or objections are duly made, or if all so made are withdrawn, the Scottish Ministers may make an order or, as the case may be, regulations.
- 14 (1) If any representation or objection duly made is not withdrawn, the Scottish Ministers may, after considering the same—
- (a) make an order or, as the case may be, regulations;
  - (b) dismiss the application; or
  - (c) cause a local inquiry to be held.
- (2) Where they decide to proceed under sub-paragraph (1)(c) above, the Scottish Ministers shall appoint a person to hold the inquiry and to report thereon to them.
- (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 Scottish Ministers may make orders as to the expenses incurred by them in relation to the inquiry (including such reasonable sum as they 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 Scottish Ministers under sub-paragraph (5) above requiring any party to pay expenses may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- 15 After considering the report of the person appointed to hold the inquiry in pursuance of paragraph 14 above and any representations or objections which were duly made, the Scottish Ministers may make an order or, as the case may be, regulations.
- 16 Applications under this schedule may be communicated and stored electronically.

## SCHEDULE 2

*(introduced by section 43)*

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

#### PART 1

#### MEETING OF QUALIFIED PROPRIETORS

##### *Calling of meeting*

- 1 (1) Where there is no district salmon fishery 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 the sheriff 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.
- (3) Where proposals for a designation order have been considered by the Scottish Ministers, in accordance with schedule 1 to this Act, and they consider that a designation order should be made—
  - (a) the clerk or, acting jointly, the clerks to the district salmon fishery 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.
- (4) 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.
- (5) The sheriff may recover from the committee formed in accordance with this schedule all expenses incurred by the sheriff in the performance of the sheriff's 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; or
  - (b) by the clerk to a board in accordance with section 47(1) of this Act,

---

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

---

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 2 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) In accordance with the following provisions of this Part of this schedule, representatives of qualified proprietors shall be elected by—
- (a) the upper proprietors from amongst themselves; and
  - (b) the lower proprietors from amongst themselves.
- (2) At least one representative shall be elected from amongst upper proprietors and at least one representative shall be elected from amongst lower proprietors, but an election under this paragraph shall not be held invalid if either—
- (a) there is no upper or, as the case may be, lower proprietor present; or
  - (b) there is no upper or, as the case may be, lower proprietor willing to be elected.
- (3) The total number of representatives of qualified proprietors shall be at least three.
- (4) A qualified proprietor shall have, in respect of each fishery that person 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.
- (5) A person who is both an upper and a lower proprietor by virtue of section 40(5) of this Act shall count as both an upper and as a lower proprietor for the purposes of this paragraph and may both vote and be elected in each capacity.

#### *Co-optees*

- 4 (1) In the co-opting of representatives of salmon anglers and of tenant netsmen under Part 2 below, the number of representatives of salmon anglers and tenant netsmen together shall be less than the number of elected representatives of qualified proprietors.
- (2) A person who is both an upper and a lower proprietor by virtue of section 40(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 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 47(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) that person has not been elected to the board of that district as a representative of lower proprietors or as convener; or
  - (c) a lower proprietor in the district who is not a tenant netsman 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) that person has not been elected to the board of that district as a representative of lower proprietors or as convener,
 but a person shall not be disqualified under this sub-paragraph solely by reason of being an upper proprietor in that district or of having been elected to the board of that district as a representative of upper proprietors.

## PART 2

### MEMBERSHIP

- 5 (1) The members of the committee shall be members of a district salmon fishery board if the committee consists of not fewer than three elected representatives of qualified proprietors in the district.
- (2) As soon after their election as is practicable, the elected representatives of qualified proprietors shall, in accordance with the provisions of this schedule co-opt representatives of salmon anglers and tenant netsmen in the district as required by section 45(2) of this Act.
- (3) As soon after such co-option as is practicable, the elected representatives of qualified proprietors and the co-opted representatives shall elect, from among the representatives of qualified proprietors, a convener.
- (4) The members of a district salmon fishery board shall be—
- (a) the persons mentioned in sub-paragraph (1) above;
  - (b) the convener elected in accordance with sub-paragraph (3) above;
  - (c) at least one co-opted representative of salmon anglers in the district; and
  - (d) at least one co-opted representative of tenant netsmen 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 are no salmon anglers or no tenant netsmen in the district; or
  - (ii) no persons or not enough persons are willing to be co-opted.

### SCHEDULE 3

*(introduced by section 48(9))*

#### PROVISIONS AS TO MAKING, VARIATION AND REVOCATION OF PROTECTION ORDERS

##### *Making of protection order*

- 1 Before the Scottish Ministers make a protection order they shall require a person from whom they have received proposals under section 48(3)(a) of this Act to give notice in such form as they may direct—
  - (a) stating the general effect of those proposals;
  - (b) naming a place or places where a copy of the proposals and any map accompanying the proposals may be inspected free of charge at all reasonable hours; and
  - (c) 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.
- 2 The notice to be given under paragraph 1 above shall be given by publication in the Edinburgh Gazette and in such number of such newspapers as the Scottish Ministers may direct.
- 3 The Scottish Ministers may direct that, in addition to publication of the notice as required by paragraph 2 above, a copy or copies of it shall be affixed by a person duly authorised in writing by them to some conspicuous object or objects on the banks of any waters to which the proposals relate or of such other waters as they may direct and at such number of places as they may direct.
- 4 If no representations or objections are duly made, or if any so made are withdrawn, the Scottish Ministers may make a protection order.
- 5
  - (1) If any representation or objection duly made is not withdrawn, the Scottish Ministers may, after considering the same, forthwith make a protection order or may cause a local inquiry to be held.
  - (2) The Scottish Ministers shall appoint a person to hold the inquiry and to report thereon to them.
  - (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 or objections to the proposals, and shall be published in such newspaper or newspapers as the Scottish Ministers may direct.
  - (4) The person appointed to hold the inquiry may, on the motion of any party thereto or on that person's own motion, serve a notice in writing on any person requiring that person to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in that person's custody or under that person's control which relate to any matter in question at the inquiry:

Provided that—

  - (i) no person shall be required in obedience to such a notice to attend at any place which is more than 16 kilometres from the place where that person resides unless the necessary expenses are paid or tendered to that person; and
  - (ii) nothing in this sub-paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which that person would be entitled, on the ground of

---

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

---

privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

- (5) 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.
  - (6) Any person who refuses or wilfully neglects to attend in obedience to a notice under sub-paragraph (4) above or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which that person may be required to produce by such a notice shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 1 on the standard scale or to imprisonment for a period not exceeding 3 months.
  - (7) The Scottish Ministers may make orders as to the expenses incurred by them in relation to the inquiry (including such reasonable sum as they 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.
  - (8) Any order of the Scottish Ministers under sub-paragraph (7) above requiring any party to pay expenses may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- 6 After considering the report of the person appointed to hold the inquiry in pursuance of paragraph 5 above and any representations or objections which were duly made, the Scottish Ministers may make a protection order.
- 7 As soon as may be after a protection order has been made—
- (a) the Scottish Ministers shall publish the making of the order in the *Edinburgh Gazette* and in such number of local newspapers circulating in the area to which the order relates as they think fit; and
  - (b) a person duly authorised in writing by the Scottish Ministers or a warden shall affix and maintain a copy or copies of the order and such other notice as the Scottish Ministers may consider necessary of the incidence of the order to some conspicuous object or objects, at such places as the Scottish Ministers may direct, on the banks of any waters to which the order relates or elsewhere.

#### *Variation of protection order*

- 8 Paragraph 7 above shall apply to an order varying a protection order as it applies to a protection order.

#### *Revocation of protection order*

- 9 (1) Before the Scottish Ministers make an order revoking a protection order, they may by notice make such publication as they think fit of the general effect of the proposed revocation and specify a time within which, and the manner in which, representations or objections with respect to the proposed revocation may be made.
- (2) The Scottish Ministers may cause a copy or copies of the notice referred to in sub-paragraph (1) above to be affixed by a person duly authorised by them in writing to some conspicuous object or objects on the banks of such waters at such places as the Scottish Ministers may direct.



---

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

---

- (3) If no representations or objections are duly made, or if any so made are withdrawn, the Scottish Ministers may make the order revoking the protection order.
- (4) If any representation or objection duly made is not withdrawn, the Scottish Ministers may forthwith make the order or may cause a local inquiry to be held.
- (5) Sub-paragraphs (2) to (8) of paragraph 5 above shall apply in relation to an inquiry under this paragraph as they apply in relation to an inquiry under that paragraph, but as if in sub-paragraph (3) of that paragraph for the word “proposals” there were substituted the words “proposed revocation”.
- (6) Paragraph 6 and 7 above shall apply in relation to an order revoking a protection order as they apply in relation to a protection order, but as if in paragraph 6 for the reference to paragraph 5 above there were substituted a reference to this paragraph.

#### *Publication of orders*

- 10 The Scottish Ministers shall cause to be published each year a list of prescribed areas.

### SCHEDULE 4

*(introduced by section 70)*

#### CONSEQUENTIAL AMENDMENTS, REPEALS AND REVOCATIONS

#### PART 1

#### CONSEQUENTIAL AMENDMENTS

##### *Sea Fish (Conservation) Act 1967 (c. 84)*

- 1 In section 18 (enforcement of orders in relation to salmon and migratory trout) of the Sea Fish (Conservation) Act 1967, for subsection (2) there shall be substituted—

“(2) Where any order under the said section 4, 5 or 6 imposes any prohibition or restriction on fishing for salmon or migratory trout within any waters which form part of the district of a district salmon fishery board within the meaning of the [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003 \(asp 15\)](#), or on landing salmon or migratory trout at a place within such a district as aforesaid, the provisions of sections 52, 53, 54, 55, 57, 58 and 60(3) and (4) of that Act (which relate to enforcement and forfeiture) shall apply in relation to any contravention of the orders mentioned above as they apply in relation to a contravention of that Act.”

##### *Inshore Fishing (Scotland) Act 1984 (c. 26)*

- 2 (1) The Inshore Fishing (Scotland) Act 1984 shall be amended as follows.
- (2) In subsection (1) of section 7 (powers of water bailiffs etc.), for the words from “district board” to the end there shall be substituted the words “district salmon fishery board within the meaning of the [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003 \(asp 15\)](#) (“the 2003 Act”).”

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

(3) For subsection (2) of section 7 there shall be substituted—

“(2) The provisions of sections 52, 53, 54, 55, 57, 58 and 60(3) and (4) of the 2003 Act (which relate to enforcement and forfeiture) shall apply in relation to a contravention of an order referred to in subsection (1) above as they apply in relation to a contravention of that Act.”

*Water Act 1989 (c. 15)*

- 3 (1) The Water Act 1989 shall be amended as follows.
- (2) In paragraph 4 of Schedule 17 (minor and consequential amendments) for the words from “section 15” to “Secretary of State” there shall be substituted the words “section 64 of the [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003 \(asp 15\)](#) (power of Scottish Ministers”.
- (3) In the paragraph to be inserted into this Act by paragraph (a) of that paragraph—
- (a) for the word “him” there shall be substituted the word “them”; and
  - (b) for the word “he”, in each place where it occurs, there shall be substituted the word “they”.

## PART 2

### REPEALS AND REVOCATIONS

<i>Enactment</i>	<i>Extent of repeal or revocation</i>
Theft Act 1607(c. 6)	The words “and fishes in popir stankis and loches”.
<a href="#">Solway Firth Fisheries Act 1804 (c.xlv)</a>	The whole Act.
<a href="#">Salmon Fisheries (Scotland) Act 1868 (c. 123)</a>	The whole Act.
<a href="#">Solway Salmon Fisheries Commissioners (Scotland) Act 1877 (c. ccxl.)</a>	The whole Act.
<a href="#">Freshwater Fish (Scotland) Act 1902 (c. 29)</a>	The whole Act.
<a href="#">Trout (Scotland) Act 1933 (c. 35)</a>	The whole Act.
<a href="#">Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c. 26)</a>	The whole Act.
<a href="#">Rivers (Prevention of Pollution) (Scotland) Act 1965 (c. 13)</a>	Section 13(1).
<a href="#">Control of Pollution Act 1974 (c. 13)</a>	In Schedule 3, paragraph 11.
<a href="#">Freshwater and Salmon Fisheries (Scotland) Act 1976 (c. 22)</a>	The whole Act.
<a href="#">Fishery Limits Act 1976 (c. 86)</a>	In Schedule 2, paragraph 12.
<a href="#">Fisheries Act 1981 (c. 29)</a>	In Schedule 4, paragraphs 18 to 25.
<a href="#">Salmon Act 1986 (c. 62)</a>	Sections 1 to 3 and 5 to 30.

---

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

---

---

<i>Enactment</i>	<i>Extent of repeal or revocation</i>
	Schedules 1 to 3.
	In Schedule 4, paragraphs 1 to 5, 7 to 10, 12 and 15.
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In Schedule 4, paragraph 11.
Deregulation (Salmon Fisheries (Scotland) Act 1868) Order 1996 (S.I. 1996/1211)	The whole Order.
District Salmon Fishery Boards Order 1999 (S.I. 1999/1111)	The whole Order.
Salmon Conservation (Scotland) Act 2001 (asp 3)	The whole Act.

---