

ELIZABETH II



1965 CHAPTER xiii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to the Royal Four Towns Fishing. [5th August 1965]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936 c. 52. 1936 and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation
of Order in
schedule.
2. This Act may be cited as the Royal Four Towns Fishing Short title, Order Confirmation Act 1965.

SCHEDULE

ROYAL FOUR TOWNS FISHING

Provisional Order to incorporate Commissioners of Fishing for the Royal Four Towns, and to confer powers on such Commissioners with respect to certain fishings in the River Annan, and for other purposes.

Whereas from time immemorial the persons entered for the time being in the Roll of King's Kindly Tenants of Lochmaben kept by the Earl of Mansfield at Comlongon Castle in the County of Dumfries, commonly known as the "King's Kindly Tenants of Lochmaben" and hereinafter referred to as the "Kindly Tenants", acting it is believed in pursuance of a grant from King Robert the Bruce of Scotland, have exercised a right to fish for salmon in the stretch of the River Annan extending from Shillahill Bridge to Smallholmburn in the said county:

And whereas the residents in certain parts of the parishes of Lochmaben and Dalton in the said county, commonly known as the "Residents of the Royal Four Towns" are by custom privileged to fish for salmon in the said stretch of the said river:

And whereas in the year 1909 an Association was formed of certain of the Kindly Tenants and of the said Residents with the name of "The Royal Four Towns Fishing Association" with the object of controlling the salmon fishings in the said stretch of river and in pursuance of the objects and purposes for which the said Association was formed have, so far as practicable, controlled and improved the said salmon fishings:

And whereas in order to provide for the effective management, improvement and control of the said salmon fishings (to the extent provided in this Order) it is expedient and would be in the public interest that Commissioners should be constituted as provided in this Order, and that they should have the sole power of managing, regulating and controlling the said salmon fishings to the extent aforesaid and of issuing tickets entitling the holders thereof to fish for salmon and that the rights and privileges hereinbefore mentioned should no longer be exercised:

And whereas it is expedient that the further powers contained in this Order should be conferred on the said Commissioners:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act, 1936:

1936 c. 52.

Now therefore in pursuance of the powers contained in the said Act the Secretary of State orders as follows:—

Short title.

1. This Order may be cited as the Royal Four Towns Fishing Order, 1965.

2. In this Order unless there is something in the subject or context Interpretation.
repugnant to such construction the following words and expressions
shall have the meanings hereinafter respectively assigned to them, that
is to say:—

“ chairman ” and “ vice-chairman ” mean respectively the
chairman and vice-chairman of the Commissioners;

“ clerk ” means the clerk to the Commissioners;

“ Commissioners ” means the body incorporated under the name
of “ The Commissioners of Fishing for the Royal Four
Towns ” by section 3 (Incorporation of Commissioners) of
this Order;

“ elected Commissioner ” means a person elected to be a Com-
missioner by either the Kindly Tenants or the Residents as
the case may be;

“ fishing ticket ” means a ticket issued by the Commissioners
or by the owner entitling the holder thereof to fish for salmon
in the river, except ex adverso of the excepted stretch of the
river;

“ general meeting ” means an annual general meeting of the
Kindly Tenants and the Residents;

“ Kindly Tenants ” means and includes every person or body for the
time being entitled to be entered on the Roll of King’s Kindly
Tenants of Lochmaben kept by the Earl of Mansfield at
Comlongon Castle, Dumfriesshire or by his successor as
Keeper of Lochmaben Castle;

“ owner ” means the Trustees acting under a Deed of Trust
granted by Andrew Rupert John Buchanan-Jardine, Younger,
of Castle Milk, residing at Dixons, Lockerbie in the County
of Dumfries dated the 16th day of January and registered in
the Books of the Lords of Council and Session on the 3rd day
of May, both in the year 1960, or the successors of the said
Trustees;

“ Residents ” means the Residents of the Royal Four Towns;

“ Residents of the Royal Four Towns ” means and includes every
person entitled pursuant to the provisions of the Representa-
tion of the People Act, 1949, to vote at a local government 1949 c. 68.
election by reason of his residence in any of those parts of the
parishes of Lochmaben and Dalton in the County of Dumfries
comprised within the boundaries set forth and described in
Schedule 1 to this Order but excluding the Kindly Tenants;

“ river ” means the stretch of the River Annan extending from
Shillahill Bridge to Smallholmburn in the County of Dumfries
shown on the map signed by Malcolm MacPherson Esquire,
the Chairman of the Commissioners to whom this Order
was referred, and kept by the clerk;

“ Royal Four Towns Fishing Association ” means the Association
of certain of the Kindly Tenants and of the Residents formed
in the year 1909;

“ salmon-fishings ” means the salmon-fishings in the river but
does not include the salmon-fishings ex adverso of the stretch
of the left bank of the river extending from Shillahill Bridge
downstream for a distance of 2,000 yards and shown coloured

red on the map hereinbefore mentioned, which stretch of the left bank of the river is in this Order referred to as "the excepted stretch of the river";

"special meeting" means a special meeting of the Kindly Tenants and the Residents.

Incorporation of Commissioners.

3.—(1) For the purpose of carrying this Order into effect there shall be and is hereby incorporated a body to be known as "The Commissioners of Fishing for the Royal Four Towns".

(2) The Commissioners shall be a body corporate with perpetual succession and a common seal and with power to purchase, acquire, hold and dispose of lands and other property and to sue and be sued and with all other rights, powers and privileges of a body corporate.

Constitution of Commissioners.

4.—(1) The Commissioners shall consist of nine persons, of whom four shall be elected by the Kindly Tenants, four shall be elected by the Residents in accordance with the provisions of this Order, and one shall be a person to be nominated from time to time by the owner to hold office as a permanent Commissioner.

(2) The first Commissioners shall be the persons named in Schedule 2 to this Order who shall take office on the coming into operation of this Order, together with the person first nominated by the owner as aforesaid after the coming into operation of this Order to hold office as a permanent Commissioner, who shall take office on the date of his nomination.

(3) The first chairman and the first vice-chairman of the Commissioners shall be the persons respectively so designated in the said schedule.

Election of chairman and vice-chairman.

5.—(1) At the second and every subsequent general meeting a chairman and a vice-chairman shall be elected from among the Commissioners and the persons so elected shall respectively hold office until the next ensuing general meeting.

(2) Any person holding the office of chairman or vice-chairman shall on the termination of his period of office be eligible for re-election to either of such offices.

Period of office of elected Commissioners.

6.—(1) Subject to the provisions of this Order the period of office of the elected Commissioners shall be four years.

(2) The first two of the elected Commissioners named in Schedule 2 to this Order shall retire from office at the second general meeting to be held in accordance with the provisions of section 10 (General meetings) of this Order and thereafter at each of the three following general meetings two of the elected Commissioners so named shall retire from office (in the order in which their names are set out in the said schedule) and at each subsequent general meeting the two elected Commissioners who have then been longest in office shall retire.

(3) A person who retires from the office of elected Commissioner in pursuance of the foregoing provisions of this section shall be eligible for re-election at the meeting of the Kindly Tenants or of the Residents, as the case may be, to be held in pursuance of the provisions of

section 8 (Election of Commissioners) of this Order, on the same day as but prior to the general meeting at which such person is to retire and a person so re-elected shall take office as an elected Commissioner at the general meeting at which he so retires.

7. Every person who is either a Kindly Tenant or a Resident shall be eligible for election as a Commissioner. Qualification of Commissioners.

8.—(1) On the same respective days as, but prior to the second general meeting and every subsequent general meeting there shall be held a meeting of the Kindly Tenants and a meeting of the Residents, at which such meetings elections shall be held of persons to fill the vacancies in the number of elected Commissioners being Kindly Tenants and the number of elected Commissioners being Residents respectively, which have arisen in consequence of the retirement of elected Commissioners in pursuance of section 6 (Period of office of elected Commissioners) of this Order or otherwise. Election of Commissioners.

(2) A person so elected shall take office as an elected Commissioner at the general meeting immediately following his election.

(3) Nominations for candidates for the office of elected Commissioner must be delivered to the clerk not later than seven clear days before the meeting of Kindly Tenants or of Residents at which the election is to be held.

9. Any casual vacancy occurring in the office of elected Commissioner during the course of any year may be filled by the appointment by the chairman, or failing him the vice-chairman, of a person being either a Kindly Tenant or a Resident as the case may require and the person so appointed shall hold office until the next general meeting when the office shall be open to election. Casual vacancies.

10.—(1) A general meeting shall be held on Monday, 25th October, 1965, in the village hall at Hightae in the parish of Lochmaben and County of Dumfries, and thereafter a general meeting shall be held annually on the last Monday of January (the first of such meetings being held on the last Monday of January in the year 1967) in the said village hall or at such place and on such date as shall be determined at the general meeting held in the preceding year. General meetings.

(2) All matters to be considered at a general meeting shall be notified in writing to the clerk at least one week before such meeting.

11. Any three persons being Kindly Tenants or Residents, by a requisition in writing signed by them, may require the chairman to call a special meeting and on the receipt of such requisition the chairman shall cause such meeting to be called by notice inserted in some newspaper circulating in the county of Dumfries once in each of two successive weeks (the second of such notices being at least ten days before the date fixed by the chairman for the holding of such meeting) specifying the time and place and purpose of such meeting, and it shall not be lawful at any such special meeting to enter upon any business other than that which is specified in such requisition and advertisement. Special meetings.

Quorum at
general and
special
meetings.

12.—(1) The quorum at every general meeting or special meeting shall be five of the persons entitled to be present and to vote thereat and all such meetings shall be presided over by the chairman or in his absence by the vice-chairman or such of the other Commissioners as he or the vice-chairman as the case may be may nominate.

(2) If less than five of such persons are present at any general meeting or special meeting the chairman or in his absence the vice-chairman or such other person as may be presiding over the meeting shall adjourn the meeting to such time and place as he shall think fit and notice of such adjourned meeting shall be given in the manner provided in the immediately preceding section of this Order.

Procedure at
general and
special
meetings.

13. Subject to the provisions of section 12 (Quorum at general and special meetings) and section 14 (Voting at general and special meetings, etc.) of this Order the procedure at every general meeting and special meeting and at every meeting of the Commissioners shall be such as the chairman or in his absence the vice-chairman or such other person as may be presiding over the meeting shall determine.

Voting at
general and
special
meetings, etc.

14.—(1) All Kindly Tenants and Residents shall be entitled to attend and vote at every general meeting and at every special meeting.

(2) All Kindly Tenants and Residents present at a general meeting or at a special meeting shall have one vote except that if there is an equal division of votes on any question the chairman or in his absence the vice-chairman or such other person as may be presiding over the meeting shall have a second or casting vote.

(3) All questions arising at any general meeting or special meeting shall be decided by a majority of the votes cast by the persons present.

Meetings of
Commissioners.

15.—(1) The Commissioners shall hold at least three ordinary meetings in each year and such meetings shall be held on such dates and at such times and places as they may from time to time determine.

(2) At all meetings of the Commissioners, three shall be a quorum, and the Commissioners may act notwithstanding any vacancy if a quorum is present.

(3) Notice of every ordinary meeting shall be delivered or sent by post to each Commissioner by the clerk not less than one week before the meeting.

Transfer of
assets of and
dissolution of
Royal Four
Towns Fishing
Association.

16. On the coming into operation of this Order—

(a) the whole property and assets held by the Royal Four Towns Fishing Association shall by virtue of this Order be transferred to and shall vest in the Commissioners subject to all liabilities affecting the same and shall be held and used by the Commissioners for the purposes of this Order; and

(b) the said Association shall be and is hereby dissolved.

17.—(1) On the coming into operation of this Order all rights and privileges relating to fishing for salmon in the river vested in or exercised by the Kindly Tenants, the Residents and the owner before the coming into operation of this Order (other than the rights conferred on them by the issue of fishing tickets in pursuance of subsection (2) of this section) shall cease to be exercisable by them:

Certain rights and privileges of Kindly Tenants, Residents and owner to cease to be exercisable and issue of fishing tickets to them.

Provided that nothing in this subsection shall apply to the exercise of any rights or privileges in relation to the excepted stretch of the river.

(2) The Commissioners shall issue—

- (a) one season fishing ticket free of charge to each Kindly Tenant and to each Resident who applies to the clerk for the same; and
- (b) twenty-five season fishing tickets free of charge to and for the benefit of the owner, which shall be used only by persons in his employment.

18. It shall be the duty of the Commissioners to manage, regulate and control the salmon-fishings on behalf of the Kindly Tenants and the Residents and the owner and for that purpose to exercise the powers conferred on them by this Order in such manner and together with such further powers (not being inconsistent with the provisions of this Order) as shall be determined in general meeting.

Commissioners to manage salmon-fishings.

19.—(1) The Commissioners shall as soon as possible after the coming into operation of this Order cause a copy to be made of the Roll of King's Kindly Tenants of Lochmaben and shall thereafter from time to time make any necessary alterations or additions to the said copy.

Commissioners to keep copy of Roll of King's Kindly Tenants.

(2) The said copy of the said Roll shall be kept by the clerk and shall be available for public inspection free of charge at all reasonable hours.

20. Without prejudice to the generality of the provisions of section 18 (Commissioners to manage salmon-fishings) of this Order the Commissioners may take such steps and carry out such operations as they may think necessary for the improvement of the salmon-fishings.

Power to improve salmon-fishings.

21.—(1) Without prejudice to the generality of the rights and powers conferred upon them by this order the Commissioners may in respect of any season issue additional fishing tickets, in such numbers and at such prices as the Commissioners may from time to time determine:

Issue of additional fishing tickets.

Provided that the numbers of additional fishing tickets to be issued under this subsection shall be no greater than, in the view of the Commissioners, is consistent with the proper management and enjoyment of the salmon fishing.

(2) Fishing tickets issued under the foregoing subsection may entitle the holder to fish either for the day specified on the ticket, or for the week so specified or for the season so specified.

(3) The owner shall, in each season, be entitled to issue daily, weekly and season tickets not exceeding in number 10 per cent. respectively of the number of daily, weekly and season additional fishing tickets which the Commissioners determine to issue in respect of that season in accordance with the foregoing provisions of this section, and shall be entitled to make such charges therefor as he may think fit.

General provisions applicable to fishing tickets.

22.—(1) All fishing tickets issued by the Commissioners to the Kindly Tenants and to the Residents shall bear the name of the person to whom they have been issued.

(2) All fishing tickets shall be subject to such conditions as shall be determined by the Commissioners and shall not be transferable by the person to whom they have been issued to any other person.

(3) The Commissioners may at any time withdraw or cancel any fishing ticket on the ground of infringement of any condition subject to which it was issued.

Power to acquire, lease, etc., further fishings.

23. The Commissioners may with the approval of a general meeting acquire or take on lease any fishings, and may manage, regulate, control and improve the same and issue fishing permits therefor.

Officers and servants.

24. The Commissioners may appoint a clerk (who may be part-time) and such other officers or agents as they may deem necessary with such salaries as shall be determined at a general meeting and such clerk and other officers or agents shall hold office for such period and on such terms and conditions as the Commissioners shall themselves determine.

Power to Commissioners to accept donations, etc.

25. The Commissioners may accept donations, subscriptions and other gifts and transfers of property and apply the same for the purposes of this Order:

Provided that nothing in this section shall authorise the Commissioners to administer any sums of money or other property accepted by them in any manner inconsistent with any condition attached to any donation or other gift or transfer of property by virtue or in consequence of which the same was accepted by the Commissioners.

Application of income.

26. The Commissioners may be authorised by a general meeting to apply so much of their income as is not required by them for carrying this Order into effect towards such charitable purposes as may be decided by such general meeting.

Accounts to be kept by Commissioners and auditors.

27.—(1) The Commissioners shall keep full accounts showing the sums of money received and expended by them together with their assets and liabilities.

(2) A qualified accountant shall annually as at a date to be fixed by the Commissioners audit the accounts referred to in the foregoing subsection and report thereon to the Commissioners.

(3) For the purposes of this section the expression “qualified accountant” means a person who is a member, or a firm all of the partners wherein are members, of one or more of the following bodies:—

- the Institute of Chartered Accountants of Scotland;
- the Institute of Chartered Accountants in England and Wales;
- the Institute of Chartered Accountants in Ireland ;
- the Association of Certified and Corporate Accountants;
- any other body of accountants established in the United Kingdom and for the time being recognised by the Board of Trade for the purposes of paragraph (a) of subsection (1) of section 161 of the Companies Act, 1948.

1948 c. 38.

28. Nothing in this Order shall derogate from the provisions of—
- (a) the Salmon Fisheries (Scotland) Acts, 1828 to 1868, the Salmon and Freshwater Fisheries (Protection) (Scotland) Act, 1951, or the Trout (Scotland) Acts, 1845 to 1933; or
 - (b) the Rivers (Prevention of Pollution) (Scotland) Act, 1951.

Saving for
Salmon
Fisheries
(Scotland) Acts,
etc.
1951 c. 26.
1951 c. 66.

29. The costs, charges and expenses of and incident to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Commissioners.

Costs of
Order.

SCHEDULES

SCHEDULE 1

BOUNDARIES OF AREA REFERRED TO IN SECTION 2 (INTERPRETATION) OF
THE FOREGOING ORDER

Commencing at a point in the centre of Shillahill Bridge over the River Annan in the Parish of Lochmaben and County of Dumfries, thence in a general southerly direction along the medium filum of the said river to the point where the Smallholmburn enters the said river and that following the bends of the said river for a distance of 7,000 yards or thereby, thence in a west-south-westerly direction to the centre of the Roman camp, known as Range Castle, along which it extends in a straight line a distance of 1,750 yards or thereby, thence in a north-westerly direction to spot height 632 at the south-east corner of a plantation along which it extends, again in a straight line, a distance of 2,700 yards or thereby, thence in a northerly direction to spot height 241 situated at a distance of 150 yards or thereby north of the north-most point of the farm steading of Mill Dam, along which it extends, again in a straight line, a distance of 2,250 yards or thereby, thence in a north-easterly direction to spot height 220 situated a distance of 200 yards or thereby north of the Farm of Smallrig, along which it extends, again in a straight line, a distance of 1,100 yards or thereby, thence in an easterly direction to the said point in the centre of Shillahill Bridge, along which it extends, again in a straight line, a distance of 3,500 yards or thereby; all as shown on the Ordnance Survey Sheets (on a scale of six inches to one mile) for the said County of Dumfries (Provisional Edition of 1957) Numbers NY 18 SW, NY 17 NW, NY 07 NE and NY 08 SE.

SCHEDULE 2

NAMES OF THE COMMISSIONERS FIRST APPOINTED UNDER THE
ORDER

David Green.

David Rae.

Gilbert McCormack.

John Rae.

Thomas Waugh.

Alan Malcolm Bell Macdonald, Vice-Chairman.

Stanley Gainford.

Lt.-Colonel Arthur James Jardine Paterson, Chairman.

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Royal Four Towns Fishing Order Confirmation Act 1965

CHAPTER xiii

ARRANGEMENT OF SECTIONS

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2. Short title.

SCHEDULE

ROYAL FOUR TOWNS FISHING

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SCHEDULES:

Schedule 1—Boundaries of area referred to in section 2 (Interpretation) of the foregoing Order.

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