



# Tweed Fisheries Act 1969

## 1969 CHAPTER xxiv

### 1 Short and collective titles.

- (1) This Act may be cited as the Tweed Fisheries Act 1969.
- (2) The <sup>M1</sup>Tweed Fisheries Act 1857, the <sup>M2</sup>Tweed Fisheries Amendment Act 1859 and this Act may be cited together as the Tweed Fisheries Acts 1857 to 1969.

#### Marginal Citations

- M1** 1857 c. cxlviii  
**M2** 1859 c. lxx

### 2 Interpretation.

- (1) In this Act, unless the subject or context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—
  - “the Act of 1857” means the <sup>M3</sup>Tweed Fisheries Act 1857;
  - “the Act of 1859” means the <sup>M4</sup>Tweed Fisheries Amendment Act 1859;
  - “the Act of 1951” means the <sup>M5</sup>Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951;
  - “annual value” means the yearly value ascertained and fixed in accordance with the provisions of section LXXIX (Rates to be levied) of the Act of 1857;
  - “the appointed day” means 1st February 1970;
  - “the Commissioners” means the commissioners appointed by this Act;
  - “the Commissioners of 1857” means the commissioners appointed by the Act of 1857;
  - “the council” means the council constituted pursuant to section 6 (Council) of this Act;
  - “freshwater fish” has the same meaning as in the Act of 1951;
  - “proprietary commissioner” means a person who is pursuant to section 4 (Commissioners appointed) of this Act a commissioner by virtue of being a proprietor of a specified salmon fishing;

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“representative commissioner” means a commissioner appointed as a representative of a local authority pursuant to section 5 (Representative commissioners) of this Act;

“the river” means “the River” as defined by the Act of 1859 and any byelaw amending that definition;

“salmon” has the same meaning as in the Act of 1857 as amended by this Act;

“specified salmon fishing” means a salmon fishing in the river to the annual value of not less than thirty pounds or which extends half a mile in length where such fishing is on one side only of the river or a quarter of a mile in length where such fishing comprehends both sides of the river.

- (2) Except where the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.
- (3) On and after the appointed day references in the Act of 1857 and in the Act of 1859 to the commissioners shall be construed as references to the Commissioners appointed by this Act.

**Marginal Citations**

**M3** 1857 c. cxlviii.  
**M4** 1859 c. lxx.  
**M5** 1951 c. 26.

3 ..... F1

**Textual Amendments**

**F1** S. 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

**4 Commissioners appointed.**

On and after the appointed day every proprietor of a specified salmon fishing and the representative commissioners shall be Commissioners for the execution of the Act of 1857.

**5 Representative commissioners.**

- (1) On or before [<sup>F2</sup>16th May 1975] each of the local authorities specified in column (1) of Schedule 1 to this Act shall appoint the respective number of representatives specified in column (2) of that schedule to act as commissioners for the purposes of this Act, and each such commissioner shall hold office from [<sup>F2</sup>16th May 1975] until he shall die, resign, become disqualified or otherwise cease to be a commissioner.
- (2) A representative appointed to act as a commissioner by a local authority need not be a member or officer of the local authority by whom he is appointed . . . <sup>F3</sup>

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- [<sup>F4</sup>(2A) The representatives appointed as commissioners by a local authority shall be persons appearing to the local authority to be persons sufficiently representing the interests of those respective parts of the area of that local authority as are specified in column 3 of Schedule 1 to this Act, and the number of persons appointed in respect of each part so specified shall be in accordance with the respective numbers specified in column 4 of the said Schedule 1.
- (2B) Of the representatives appointed in respect of each specified part of the area of a local authority, the respective number specified in column 5 of the said Schedule 1 shall be persons appearing to the local authority to be persons sufficiently representing the interests of freshwater fishing associations or clubs within that part.]
- (3) If any vacancy shall arise in the office of a representative commissioner, the authority in whom the appointment is vested shall with all convenient speed appoint another person as a representative.
- (4) All appointments under this section shall be made in writing and may at any time be determined by the authority in whom the appointment is vested.

#### Textual Amendments

- F2** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 26 para. 2\(a\)](#)
- F3** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)
- F4** [s. 5\(2A\)\(2B\)](#) inserted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 26 para. 2\(c\)](#)

## 6 Council.

- (1) On and after the appointed day the powers and duties of the commissioners under the Act of 1857 and the Act of 1859 shall be vested in, and exercised and complied with on behalf of the commissioners by a council which shall consist of thirty-eight proprietary commissioners elected as hereinafter provided and the representative commissioners.
- (2) (a) Before 1st March 1970, and on or before the first Monday in March in each succeeding year a meeting of the proprietary commissioners shall be held within the [<sup>F5</sup>former] burgh of Kelso for the purpose of electing thirty-eight of their number as members of the council.
- (b) At every such meeting the proprietary commissioners shall elect one of their number to act as chairman of the meeting and every proprietary commissioner present at the meeting shall have one vote, except that in the case of an equality of votes the chairman of the meeting shall be entitled to a second or casting vote.
- (3) Each person elected in accordance with the provisions of subsection (2) (a) of this section shall hold office as a member of the council for the ensuing year unless he shall previously die, resign, become disqualified or otherwise cease to be a proprietary commissioner.
- (4) If any vacancy shall arise in the office of a member of the council elected in pursuance of the foregoing provisions of this section the clerk shall convene a special meeting of the proprietary commissioners for the purpose of electing another of their number and the person so elected shall be entitled to hold office as a member of the council so long only as the member in whose stead he is elected would have been entitled to have continued in office.

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**Textual Amendments**

**F5** Word inserted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 26 para. 3](#)

**7 Meetings of council.**

- (1) The first meeting of the council shall be held on 2nd March 1970, and the council shall hold an annual general meeting on the first Monday in March in every year thereafter.
- (2) The council may hold such ordinary meetings as the council may from time to time determine.
- (3) All meetings of the council shall be held within the [<sup>F6</sup>former] burgh of Kelso.

**Textual Amendments**

**F6** Word inserted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 26 para. 4](#)

**8 Chairman and vice-chairman of council.**

- (1) At every annual general meeting the council shall elect a chairman and a vice-chairman from among their number and the persons so elected shall respectively hold office until the next ensuing annual general meeting.
- (2) If any vacancy occurs in the office of chairman or vice-chairman before the expiration of his term of office the council shall, as soon as possible, hold an ordinary meeting for the purpose of filling such vacancy.
- (3) The chairman or, in case of his absence, the vice-chairman or, if neither of them be present, some other member of the council, to be elected by the meeting, shall preside at all meetings of the council.

**9 Votes at council meeting.**

- (1) Every member of the council present at any general, special or ordinary meeting of the council shall have one vote, except that, in the case of an equality of votes, the chairman or in his absence the vice-chairman or such other person as may be presiding shall be entitled to a second or casting vote.
- (2) All questions arising at any general, special or ordinary meeting of the council shall be decided by a majority of the votes cast by the members of the council present at the meeting.
- (3) It shall be lawful for every member of the council to nominate, by instrument in writing under his hand, from time to time a person to be proxy for and to represent and act at any meeting or meetings of the council as the representative or proxy of the member by whom he is so nominated, which person so nominated shall be entitled, in the absence of the member by whom he is so nominated, to vote at the meeting or meetings of the council for the member by whom he is so nominated.

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## **10 Property to continue vested in Commissioners.**

Notwithstanding any repeal effected by this Act, all the estate, right, title and interest of the Commissioners of 1857 in and to all heritable and movable, real and personal property which are immediately before the appointed day vested in the Commissioners of 1857 shall on the appointed day be and are hereby transferred to and vested in the Commissioners but subject and without prejudice to any charges, incumbrances or claims which affect the Commissioners of 1857 or their property.

## **11 Existing deeds, contracts, etc., to remain in force.**

Notwithstanding any repeal effected by this Act—

- (1) all deeds, conveyances, grants, assurances, assignment, leases, purchases, sales, mortgages, bonds, covenants, agreements, securities and contracts and all working arrangements entered into or made and subsisting at the appointed day and then in force including any agreement or contract modified or varied by any repealed enactment and then in force as so modified or varied and all liabilities and obligations incurred before the passing of this Act, and, except where otherwise expressly provided in this Act, all the provisions of any Act of Parliament (other than the repealed enactments) relating to the Commissioners of 1857 or their undertaking and in force at the appointed day shall be as binding and of as full force and effect in every respect against or in favour of the Commissioners as they would or might have been against or in favour of the Commissioners of 1857 if this Act had not been passed;
- (2) any action, suit, prosecution or other proceeding commenced before the passing of this Act either by or against the Commissioners of 1857 shall not abate or be discontinued or prejudicially affected by this Act but shall continue and take effect both in favour of and against the Commissioners in like manner to all intents as if this Act had not been passed;
- (3) every officer and servant of the Commissioners of 1857 appointed or continued in his employment by virtue of or acting under any of the enactments repealed by this Act shall hold and enjoy his office and employment with the salary and emoluments thereunto annexed and be deemed an officer or servant of the Commissioners, as the case may be, until he shall vacate or be removed from such office or employment and he shall have the same rights and privileges and be subject to the same conditions of service, powers of removal, rules, regulations, pains and penalties as he would have had or been subject to if this Act had not been passed, subject nevertheless and without prejudice to any powers, authorities, obligations, pains or penalties vested in him or to which he may be subject under any provisions of this Act;
- (4) the Commissioners shall for the purposes of this Act be and continue seised and possessed of and entitled to all things in action, claims and demands whatsoever of or to which the Commissioners of 1857 were seised, possessed or entitled immediately before the passing of this Act;
- (5) all rates, other charges, fees, rents, fines, forfeitures, penalties, damages and other sums of money at the appointed day due or accruing due to the Commissioners of 1857 may be collected and recovered by the Commissioners as if this Act had not been passed;
- (6) all books and documents which if this Act had not been passed would have been receivable in evidence shall be receivable in evidence as if this Act had not been passed;

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- (7) all byelaws, rules, regulations and rates made or imposed by the Commissioners of 1857 under any enactment so repealed and now enforceable by the Commissioners shall so far as they are not inconsistent with the provisions of this Act and until repealed, altered or superseded remain in force in like manner and to the like extent as if this Act had not been passed;
- (8) everything before the passing of this Act done, suffered and confirmed respectively shall be as valid as if this Act had not been passed.

## 12 Application of Acts to freshwater fish.

- (1) The provisions of the Act of 1857 and the Act of 1859, except the following sections of those Acts, shall, unless the context otherwise requires, with any necessary modifications extend and apply to freshwater fish in like manner as they apply to salmon:—

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### Act of 1857—

Section XLV	(Nets not to be used in annual close time);
Section XLVIII	(Boats and nets not removed may be seized without warrant);
Section XLIX	(Nets left in the river during close times may be seized);
Section LI	(Magistrates empowered to issue search warrants);
Section LII	(Ferry boats and boats of proprietors and occupiers of land not to be used in fishing);
Section LIV	(Commissioners to appoint distinguishing marks for boats);
Section LVIII	(Cairns to be removed);
Section LXII	(As to the working of wear shot nets);
Section LXX	(Penalty on persons taking foul or unseasonable fish);
Section LXXII	(Foul or unseasonable fish to be put back into river);
Section LXXIV	(To prevent destruction of spawn or fry);
Section LXXVII	(Management of joint fisheries);
Section LXXVIII	(Arbitration in case of difference);
Section LXXIX	(Rates to be levied);
Section LXXX	(Recovery of rates);
Schedule A.	

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**Act of 1859—**

Section V	(Assessment and regulation of fisheries within the limits of the mouth or entrance as extended);
Section VI	(Annual Close Times);
Section VIII	(Penalty for fishing in Annual or Weekly Close Times);
Section IX	(Provisions of recited Act applicable to Annual and Weekly Close Times);
Section X	(Penalty for having or selling fish caught in Annual Close Times);
Section XI	(Removal of Boats and Nets used in fishing);
Section XII	(Regulating stake and bag nets);
Section XIII	(Regulating size of meshes of nets);
Section XVII	(Nothing in section 72 of recited Act to require the putting back into the river of foul, etc., fish taken by rod and line).

- (2) Notwithstanding anything in subsection (1) of this section, section XVIII (Power to Superintendent of water bailiffs to prosecute for offences, etc.) of the Act of 1859 shall not extend and apply to complaints and proceedings in Scotland in relation to freshwater fish.

**13 Amendments and repeals.**

- (1) As from the appointed day, the enactments mentioned in column (1) of Schedule 2 to this Act shall have effect subject to the amendments specified in column (2) of that schedule.
- (2) As from the appointed day the enactments specified in Schedule 3 in this Act are hereby repealed.

**Modifications etc. (not altering text)**

- C1** The text of s. 13, Schs. 2, 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any repeals or amendments which may have been made prior to 1.2.1991

**14 Costs of Act.**

All costs, charges and expenses of and incident to the preparing and obtaining of this Act and otherwise incurred in reference thereto shall be paid by the Commissioners.

**Changes to legislation:**

There are currently no known outstanding effects for the Tweed Fisheries Act 1969.