



# Tweed Fisheries Act 1969

## CHAPTER xxiv

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ELIZABETH II



1969 CHAPTER xxiv

Act to amend the Tweed Fisheries Act 1857 and Tweed Fisheries Amendment Act 1859; to apply certain provisions of those Acts to freshwater fish; and for other purposes. [25th June 1969]

WHEREAS—

(1) By the Tweed Fisheries Act 1857 (in this Act referred to as "the Act of 1857") the former Acts for the more effectual preservation and increase of salmon and the regulation of the fisheries in the river Tweed were consolidated and amended and commissioners were appointed for the execution of the said Act:

(2) By the Tweed Fisheries Amendment Act 1859 (in this Act referred to as "the Act of 1859") the annual close times defined by the Act of 1857 were altered, the limits of the mouth or entrance of the said river were extended and further provision for the regulation of the fisheries in the said river was made:

(3) It is expedient that further provision should be made for the preservation and increase of trout and other freshwater fish and the regulation of trout and freshwater fishing in the said river and that the provisions of the Act of 1857 and of the Act of 1859 and the jurisdiction of the said commissioners should be amended as in this Act provided:

(4) It is expedient that the said commissioners should include persons representing the interests of freshwater fishing associations and clubs and of other persons concerned with the use of the river Tweed and that provision should be made for the appointment of additional commissioners as in this Act provided.

(5) It is expedient that the other provisions of this Act be enacted:

(6) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, 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:—

Short and collective titles.  
1857 c. cxlviii.  
1859 c. lxx.

1.—(1) This Act may be cited as the Tweed Fisheries Act 1969.

(2) The Tweed Fisheries Act 1857, the Tweed Fisheries Amendment Act 1859 and this Act may be cited together as the Tweed Fisheries Acts 1857 to 1969.

Interpretation.

2.—(1) In this Act, unless the subject or context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

1951 c. 26.

“the Act of 1857” means the Tweed Fisheries Act 1857;  
“the Act of 1859” means the Tweed Fisheries Amendment Act 1859;

“the Act of 1951” means the 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 appointed pursuant to section 4 (Commissioners appointed) of this Act as a commissioner by virtue of being a proprietor of any specified salmon fishing;

"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.

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.

(1) Notwithstanding any repeal effected by this Act each Present of the persons holding office as a commissioner of 1857 at the commissioners of this Act shall, unless he shall previously die or resign continued in office. become disqualified to be a commissioner, hold office as a commissioner until the appointed day.

(2) On the appointed day all the persons then holding office as commissioners shall go out of office except such of those persons as are appointed Commissioners by this Act.

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

(1) On or before the appointed day each of the local authori- Representative specified in column (1) of Schedule 1 to this Act shall appoint the commissioners. 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 the appointed until he shall die, resign, become disqualified or otherwise cease to be a commissioner.

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 but of the representatives so

appointed the number specified in column (3) of Schedule 1 to this Act shall be persons appearing to the local authority by whom they are appointed to be persons sufficiently representing interests of freshwater fishing associations or clubs within the county, burgh or district, as the case may be, of the local authority.

(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.

Council.

6.—(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 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.

(1) The first meeting of the council shall be held on Meetings of March, 1970, and the council shall hold an annual general council. 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 burgh of Kelso.

(1) At every annual general meeting the council shall elect Chairman and a vice-chairman from among their number and persons so elected shall respectively hold office until the next annual general meeting. Chairman and vice-chairman of council.

If any vacancy occurs in the office of chairman or vice-chairman before the expiration of his term of office the council as soon as possible, hold an ordinary meeting for the purpose of filling such vacancy.

The chairman or, in case of his absence, the vice-chairman or, if neither of them be present, some other member of the council, shall be elected by the meeting, shall preside at all meetings of the council.

(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. Votes at council meeting.

(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.

Notwithstanding any repeal effected by this Act, all the 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. Property to continue vested in Commissioners.

Existing  
deeds,  
contracts, etc.,  
to remain in  
force.

11. Notwithstanding any repeal effected by this Act—

- (1) all deeds, conveyances, grants, assurances, leases, purchases, sales, mortgages, bonds, agreements, securities and contracts and all arrangements entered into or made and subsisting on the appointed day and then in force including any agreement or contract modified or varied by a repealed enactment and then in force as so modified 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 an Act of Parliament (other than the repealed enactment) relating to the Commissioners of 1857 or their undertakings and in force at the appointed day shall be binding and of as full force and effect in every respect against or in favour of the Commissioners as 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, 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, nevertheless and without prejudice to any powers, authorities, obligations, pains or penalties vested in him or to which he may be subject under any provision 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;

(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.—(1) The provisions of the Act of 1857 and the Act of 1859, Application of Acts to freshwater fish. 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:—

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 spawning 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.

## Act of 1859—

- Section V (Assessment and regulation of fisheries within the limits of the mouth of the river 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 in Annual Close Times);  
 Section XI (Removal of Boats and Nets used for 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 shall 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 XVIII (Power to Superintendent of water bailiffs to prosecute for offences, etc.) of the Act of 1859 shall not apply to complaints and proceedings in Scotland in relation to freshwater fish.

## Amendments and repeals.

13.—(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 to this Act are hereby repealed.

## Costs of Act.

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

## SCHEDULES

## SCHEDULE 1

Section 5.

## REPRESENTATIVE COMMISSIONERS

Local Authority	Number of Representatives	Number of Special Representatives
(1)	(2)	(3)
The county council of the county of Northumberland	1	—
The county council of the county of Berwick	4	3
The county council of the county of Roxburgh	3	2
The county council of the county of Selkirk ...	2	1
The county council of the county of Peebles ...	1	—
The town council of the royal burgh of Jedburgh	2	1
The town council of the royal burgh of Selkirk	2	1
The town council of the royal burgh of Lauder	2	1
The town council of the royal burgh of Peebles	2	1
The town council of the burgh of Coldstream	2	1
The town council of the burgh of Duns ...	2	1
The town council of the burgh of Galashiels ...	2	1
The town council of the burgh of Kelso ...	2	1
The town council of the burgh of Melrose ...	2	1
The town council of the burgh of Hawick ...	2	1
The town council of the burgh of Eyemouth ...	2	1
The town council of the burgh of Innerleithen	2	1
The corporation of Berwick upon Tweed ...	2	1
The council of the rural district of Norham and Islandshires	2	1
The council of the rural district of Glendale ...	4	3
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Section 13 (1).

## SCHEDULE 2

## ENACTMENTS AMENDED

Enactment	Amendment
1857 c. cxlviii. The Tweed Fisheries Act 1857— Section II (Interpretation of terms)	In the definition of the "Salmon" the words "and of Fish of the Salmon Kind" shall be omitted.
Section XVIII (Special Meetings may be called)	For the words "any Three Commissioners" there shall be substituted the words "any three members of the council"; for the words "the Commissioners" there shall be substituted the words "the council"; and for the word "the Commissioners" there shall be substituted the words "a council".
Section XIX (Quorum and Adjournment of Meetings)	For the words "General and Special Meeting of Commissioners" shall be substituted the words "meeting of the council"; and the words "Commissioners Commissioner" there shall be substituted the words "member member".
Section XXIII (Commissioners to defray their own Expenses)	For the word "they" there shall be substituted the words "and of the council the Commissioners".
Section XXIV (Commissioners may appoint officers)	For the words "lawful for the Commissioners" wherever they occur there shall be substituted the words "lawful for the council"; and for the words "Three of the Commissioners" there shall be substituted the words "three members of the council".
Section XXV (Books and Accounts to be kept and to be open for Inspection)	For the words "the General and Special Meetings of the Commissioners" there shall be substituted the words "all meetings of the proprietary commissioners and of the council"; for the words "the Commissioners and of every Committee appointed by them" there shall be substituted the words "the proprietary commissioners of the council and of every committee appointed by the council"; and

SCH. 2  
—cont.

Enactment

Amendment

Section XXXVI (Water Bailiffs to be appointed)

for the words "Commissioners or Members of Committees" there shall be substituted the words "proprietary commissioners, members of the council or members of the committee".

The words "assembled at any General, Special, or adjourned Meeting" shall be omitted; the words from "or to authorise" to the words "to be expedient" shall be omitted; for the words "any General, Special or District Meeting of" there shall be substituted the word "the"; and for the words "the next General, Special or Adjourned Meeting" there shall be substituted the words "the next meeting of the council".

Section LIV (Commissioners to appoint distinguishing Marks for Boats)

The words "at any Annual General Meeting" shall be omitted.

Section LXXIX (Rates to be levied)

The words "at any General, Special, or Adjourned Meeting" shall be omitted.

SCHEDULE 3

Section 13 (2).

ENACTMENTS REPEALED

1857 c. cxlviii.

Tweed Fisheries Act 1857—

- Section X (Commissioners appointed).
- Section XI (Commissioners may name Representatives).
- Section XII (Factors and Attornies may represent Commissioners).
- Section XIII (As to Proxies).
- Section XIV (Eldest Son or other Heir of a Commissioner may represent him in case of Absence).
- Section XVII (First and subsequent Meetings).
- Section XX (Chairman of Meetings).
- Section XXI (District Meetings and their Powers).
- Section XXII (Votes of Commissioners).

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