

[9 EDW. 7.]

*Lune Fisheries Provisional Order
Confirmation Act, 1909.*

[Ch. clvii.]



CHAPTER clvii.

An Act to confirm an Order under the Salmon and Freshwater Fisheries Act 1907 relating to the River Lune and other waters. A.D. 1909.
[20th October 1909.]

WHEREAS the Board of Agriculture and Fisheries have made the Provisional Order set forth in the schedule hereto under the provisions of the Salmon and Freshwater Fisheries Act 1907: 7 Edw. 7.
c. 15.

And whereas it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the King'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 Order as altered and set out in the schedule hereto shall be and the same is hereby confirmed and all the provisions thereof shall have full validity and force. Order in
schedule
confirmed.

2. This Act may be cited as the Lune Fisheries Provisional Order Confirmation Act 1909. Short title.

A.D. 1909.

SCHEDULE.

LUNE FISHERIES PROVISIONAL ORDER 1909.

THE Board of Agriculture and Fisheries by virtue and in exercise of the powers vested in them under the Salmon and Freshwater Fisheries Act 1907 with a view to the improvement and development of the salmon and freshwater fisheries in the area defined by this Order do make the following Provisional Order for the regulation of such fisheries in that area:—

DEFINITION OF FISHERY-DISTRICT AND CONSTITUTION OF
BOARD OF CONSERVATORS.

Definition of
area affected
by Order.

1.—(1) This Order applies (except as hereinafter provided) to the area described in the First Schedule hereto and more particularly delineated on a map sealed by the Board of Agriculture and Fisheries in relation to this Order and to all salmon and freshwater fisheries in such area:

Provided that this Order shall not apply to—

- (a) so much of the Lancaster Canal as lies above Bayley Bridge ;
or
- (b) the lands reservoirs streams and works of the Fylde Water Board except the Grizedale reservoir or to that reservoir if and when the Fylde Water Board acquire or become the owners of the fisheries and fishing rights therein.

(2) A copy of the said map certified under the Documentary Evidence Acts 1868 to 1895 shall be kept by the Board of Conservators hereby constituted at the office of the clerk of that Board and be open at all reasonable times to inspection free of charge by any person desiring inspection for any bonâ fide purpose.

(3) The area to which this Order applies as hereinbefore defined is in this Order referred to as "the Fishery District."

Constitution
and incor-
poration of
Board of
Conservators.

2.—(1) For the purposes of this Order a Board of Conservators shall be constituted in manner hereinafter appearing as a body corporate under the name of "The Lune Board of Conservators" having perpetual succession and a common seal with power to make contracts and to sue and be sued in that name and such Board is in this Order referred to as "the Fishery Board."

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(2) The Fishery Board shall consist of the following members:— A.D. 1909.

- (A) Three members appointed by the Lancashire County Council and one member appointed by each of the Councils of the Counties of the West Riding of Yorkshire and Westmorland and the Council of the Borough of Lancaster Such members shall remain in office until resignation death or determination of their appointment by the council appointing them :
- (B) Fifteen members elected in manner provided by this Order by the persons who under this Order are entitled to vote for the election of members representative of private fisheries :
- (C) Members representative of public fisheries to be elected in the same numbers and under the same rules as to election as representative members under sections 29 to 33 of the Salmon Fishery Act 1873 except that after the year nineteen hundred and nine the elections shall be triennial and the number of members to be elected shall be determined according to the average amount of licence duty paid in the year of election and the two preceding years :
- (D) Members representative of the interests of persons fishing with rod and line for freshwater fish to be appointed by the Board of Agriculture and Fisheries until that Board shall sanction a scheme for their election or for their appointment otherwise than by that Board Such members shall be appointed or elected triennially and except in the case of an appointment to fill a vacancy caused by death or resignation shall come into office on the appointed day in each year The number of members to be so appointed or elected shall (subject as hereinafter provided) be regulated by the average amount of licence duty paid for fishing with rod and line for freshwater fish in the year of election before the first day of December and in the two preceding years which amount shall if so required be certified to the Board of Agriculture and Fisheries by the clerk to the Fishery Board If the amount of licence duty so paid does not exceed one hundred and fifty pounds three members may be so appointed or elected and if it exceeds that sum one additional member may be appointed for every additional fifty pounds so paid The number of such members to be first appointed shall be three :
- (E) Any person who is entered in the register of assessments as an owner of a private fishery or private fisheries assessed for the purpose of fishery contributions under

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this Order at a total yearly value of one hundred pounds or more shall subject to the provisions of this subsection be entitled to act as an additional member of the Fishery Board ;

Where a person entitled to act as an additional member is an infant or a lunatic the guardian or committee of the estate as the case may be shall be entitled to act in the place of such person ;

An additional member may nominate by power of attorney an agent to act for him as a member and an agent so nominated shall be entitled so to act until the power is duly determined. A copy of every such nomination and notice of the determination of a nomination shall be sent as soon as may be by the owner making or determining the nomination to the clerk of the Fishery Board and an agent shall not be entitled to act until a copy of his nomination has been received by the clerk ;

Where persons entitled to act as additional members are so entitled as joint tenants or tenants in common of a fishery or fisheries they shall act only by an agent nominated by them in manner hereinbefore provided who may be one of the persons by whom the nomination is made.

(3) Where an additional member is elected as a member representative of private fisheries he shall be entitled to vote in each capacity on any question determined by the Fishery Board and for the purpose of a quorum shall be counted as two members.

Election of members representative of private fisheries.

3. The following rules shall be observed with respect to the election of members representative of private fisheries :—

(1) The electors shall be the owners of private fisheries assessed for the purposes of fishery contributions under this Order who on the first day of December in any year of election are entered in the register of assessments and have then paid the fishery contributions (if any) due from them :

(2) Each elector shall be entitled to vote according to the following scale :—

If the fishery or fisheries in respect of which he is entitled to vote is or are assessed for the purposes of this Order at the yearly value of twenty pounds or less one vote for each member to be elected ;

If the assessment exceeds twenty pounds but does not exceed fifty pounds two votes for each such member ;

If the assessment exceeds fifty pounds but does not exceed one hundred pounds three votes for each such member ;

If the assessment exceeds one hundred pounds but does not exceed one hundred and fifty pounds four votes for each such member;

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If the assessment exceeds one hundred and fifty pounds five votes for each such member:

Provided that this scale may from time to time be varied by an order of the Fishery Board approved by the Board of Agriculture and Fisheries:

- (3) An elector may give all his votes to any one of the persons nominated or may distribute them among such of the persons nominated not exceeding the number to be elected as he shall think fit:
- (4) The nomination and election shall be in accordance with the regulations set forth in the Second Schedule to this Order.

4. The term of office of an elected member of the Fishery Board shall be three years and on the appointed day in each third year the elected members shall go out of office and their places shall be filled by the newly elected members Any member going out of office shall be eligible for re-election.

Term of office
of elected
members.

ASSESSMENTS AND FINANCIAL PROVISIONS.

5. For defraying expenses incurred in carrying into effect this Order and the Salmon and Freshwater Fisheries Acts 1861 to 1892 or any Act amending the same the Fishery Board shall impose collect and recover contributions to be paid by the owners of the whole of the fisheries in the Fishery District liable to be assessed and such contributions shall be apportioned on the several owners in proportion to the assessed value of their fisheries:

Imposition
collection and
recovery of
contributions
assessed on
private
fisheries.

Provided that no order imposing a contribution shall be made at any meeting unless notice of an intention to impose a contribution at such meeting shall have been given in the notice convening the meeting which notice shall be issued one fortnight at least before the date of the meeting and unless there are nine members present at the meeting.

6. The fisheries liable to be assessed shall be all private fisheries for salmon and trout or either of them in the Fishery District which are of the yearly value of five pounds or upwards Provided that the Fishery Board may by order made in the manner hereby prescribed for making an order imposing a contribution exempt from assessment for such period not exceeding three years as is stated in the order the fisheries in any part of the Fishery District specified in the order Provided also that the fisheries in any reservoir or other waters in the

Fisheries
liable to be
assessed.

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A.D. 1909. Fishery District which form part of the water undertaking of a local authority or water board shall while owned by the local authority or water board be exempt from assessment unless and until revenue is derived from the fisheries by the local authority or water board.

Yearly value for purposes of assessment.

7. The yearly value of a fishery shall be the rent at which the same might reasonably be expected to let from year to year free of all usual tenants' rates and taxes and tithe rentcharge (if any) and deducting therefrom the probable average annual cost of the repairs and other expenses (if any) necessary to maintain the fishery in a state to command such rent.

Assessment committee.

8.—(1) The Fishery Board shall appoint an assessment committee of five members of the Board of whom three shall form a quorum and such committee shall cause the yearly value of every fishery which appears to them to be liable to be assessed to be determined either by written agreement with the owner thereof or in default of such agreement by a valuer who may on the application of the committee or of the owner be appointed by the Board of Agriculture and Fisheries. The remuneration of the valuer shall be fixed by the last-mentioned Board and be paid to him on demand in equal shares by the Fishery Board and the owner.

(2) An assessment committee may provisionally assess the yearly value of a fishery at such amount as they think reasonable and notify such provisional assessment by registered post to the reputed owner of the fishery by a notice in the form set forth in the Third Schedule hereto. If no objection to such provisional assessment is received by the clerk of the assessment committee within fourteen days after the date of the notice the yearly value of the fishery shall for the purposes of this Order be deemed to have been determined at the amount stated in the notice and the person to whom the notice was sent shall be entered in the register of assessments as the owner of the fishery.

(3) Assessment committees may be appointed for separate parts of the Fishery District and a committee so appointed shall act in accordance with any rules made by the Fishery Board.

(4) A member of an assessment committee shall not act as such in relation to a fishery if he is owner or occupier of the fishery or the agent of the owner or occupier.

Register of assessments.

9.—(1) The yearly value of a fishery when determined shall if amounting to five pounds or upwards be entered by the clerk of the Fishery Board in the register of assessments with a description of the fishery and the name and address of the owner thereof. The clerk of the Fishery Board may upon the application of any person claiming to be the owner of a fishery entered in such register and upon such

evidence of ownership as appears to him to be sufficient insert the name and address of the applicant in the register as the owner of the fishery in the place of any person so entered as owner thereof. A.D. 1909.

(2) The register of assessments shall be kept at the office of the clerk of the Fishery Board and be open to inspection free of charge by any person bonâ fide claiming to be an owner of a fishery registered or liable to be registered therein.

10.—(1) On the date determined by the Fishery Board every contribution shall be payable by the owners of the fisheries assessed to the collector appointed by the Fishery Board to receive the same. Provided that if the collector is unable to ascertain the owner of any fishery or if the owner of a fishery makes default in paying the amount due from him the amount may be recovered by the collector as a debt from the occupier of the fishery and the occupier shall subject to any agreement to the contrary be entitled to deduct from the rent of the fishery (if any) payable by him any sum so paid on behalf of the owner thereof or recover the same from the owner as a debt. Recovery of contributions.

(2) Notice of demand for payment of a contribution in the form set forth in the Third Schedule to this Order shall be sent by post to the persons entered in the register of assessments as owners of fisheries and in any proceedings for the recovery of a contribution a certificate in the form set forth in such Schedule purporting to be signed by the clerk of the Fishery Board shall be sufficient evidence of the facts therein stated and unless the contrary is proved the person entered in the register of assessments as owner of a fishery shall for the purpose of any such proceedings be deemed to be the owner of the fishery.

11.—(1) The assessment committee shall on the application of any person claiming to be the owner of a fishery liable to be assessed under this Order proceed as soon as is practicable to— Apportionment &c. of assessments.

- (i) determine the yearly value of the fishery if it has not been determined either separately or in one assessment with another fishery; or
- (ii) apportion the assessed yearly value between the fishery of the applicant and any other fishery included in the same assessment; or
- (iii) re-determine the yearly value of the fishery.

(2) In the case of apportionment notice of the application shall be given to the owner of any other fishery included in the same assessment and the committee shall apportion the yearly value between the fisheries but the owner of any fishery may by notice in writing delivered or sent by post to the clerk of the Fishery Board within

A.D. 1909. seven days after receipt of notification of the apportionment require the apportionment to be made by a valuer appointed by the Board of Agriculture and Fisheries and the apportionment shall thereupon be so made. The remuneration of the valuer shall be fixed by the last-mentioned Board and be recoverable from the owners of the fisheries in such shares as correspond with the respective yearly values of those fisheries as so determined.

(3) The yearly value of a fishery may be re-determined from time to time without an application by the owner of a fishery. Provided that no re-determination shall be made whether on the application of the owner or not until after the expiration of three years from the date of the previous determination.

Powers of
Fishery
Board as to
expenditure.

12. The Fishery Board may expend any moneys in their hands not appropriated by this Order for a particular purpose on any matter they may think conducive to the maintenance improvement or development of the fisheries within the Fishery District. Provided that the Fishery Board shall as far as practicable appropriate to the maintenance improvement or development of the fisheries for freshwater fish any moneys coming to their hands in respect of such fisheries after payment thereof of a fair proportion of the general expenses of administration of the Fishery Board.

Mortgages of
contribu-
tions.

13. Section 28 of the Salmon Fishery Act 1865 shall extend to mortgages of contributions authorised to be imposed under this Order.

Audit.

14. The accounts of the Fishery Board shall be balanced in each year to the thirty-first day of December and shall forthwith be audited by some person appointed by the Board of Agriculture and Fisheries whose remuneration shall be fixed by that Board and paid by the Fishery Board. A copy of the audited accounts with the report (if any) of the auditor thereon shall as soon as possible be sent to the Board of Agriculture and Fisheries by the Fishery Board.

Exemption of
reservoirs
lakes and
ponds in
certain cases.

15. The Fishery Board shall on the application of the owner of any reservoir lake or pond which has no connection with any river or other waters above or below through which fish can pass or of the owner of the right of fishing in any such reservoir lake or pond exempt it from the provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1892 and this Order which provide for assessment and for payment of licence duty by persons fishing within the Fishery District.

FIXED ENGINES.

Provisions
enabling
Fishery
Board to

16.—(1) The Fishery Board may purchase or take on lease from any person able and willing to sell or lease the same any part of the foreshore lying within the Fishery District to the southward of a line

drawn true west from the southern extremity of the main building of Rossall School together with any easement over any adjoining land necessary for securing access to the foreshore so acquired and notwithstanding the provisions of section 11 of the Salmon Fishery Act 1861 or any provision amending or extending such provisions may by themselves or their lessees erect on the foreshore so acquired and work such fixed engines for salmon as may be approved of by the Board of Agriculture and Fisheries subject to such conditions (if any) as may be attached by the said Board to their approval.

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—
set up fixed engines.

(2) A fixed engine shall not be worked under the authority of this provision for a period exceeding five years unless the authority is from time to time extended by licence of the Board of Agriculture and Fisheries or in that case for a period exceeding such term as may be specified in the licence.

(3) All rents and profits derived by the Fishery Board from the fixed engines by this provision authorised shall be appropriated for the purpose of securing the restriction or abolition of the use of nets or other obstructions to the passage of salmon within that part of the Fishery District which is situate to the northward of the line above mentioned.

RETURNS BY PERSONS TAKING FISH IN THE DISTRICT.

17. The Board of Agriculture and Fisheries may as regards any specified kind of fish require returns to be made and sent to the Board by every person taking such fish within the Fishery District within one month after the receipt by such person of a form of return sent to him by the Board by registered post and if any person to whom such a form is so sent fail without lawful excuse to make and send to the Board a full and true return in the form so provided he shall be liable on summary conviction to a penalty not exceeding five pounds unless he proves to the satisfaction of the court that he did not receive the form of return so sent. If any person in making a return shall require that the particulars comprised in his return shall not be disclosed the Board shall not disclose them except for the purposes of a prosecution under this provision or for determining the value of a fishery for the purposes of this Order and except that in compiling any report or summary of statistics the Board may include such particulars so arranged that no person will be able to identify any particulars so published as particulars relating to the person making the return or his business.

Power for Board of Agriculture and Fisheries to require fishery returns.

LICENCES FOR FISHING FOR FRESHWATER FISH.

18.—(1) On and after the first day of January nineteen hundred and ten licences shall be granted to all persons using a rod and line for

Licences required for rods and lines

A.D. 1909.
—
used for
freshwater
fish.

fishing for freshwater fish in inland waters within the Fishery District and any scale of licence duties in force on that date shall then cease to operate so far as it relates to persons using a rod and line for fishing for freshwater fish in inland waters within the Fishery District and any person fishing in inland waters within the Fishery District on or after the said date with a rod and line for freshwater fish without a proper licence shall be liable to a penalty not less than double the amount to be paid for the requisite licence and not exceeding five pounds.

(2) A licence under this section shall be available only within the Fishery District and by the person to whom it is granted.

(3) The provisions of subsections (4) to (7) of section 34 of the Salmon Fishery Act 1865 which relate to licences to fish for salmon granted under that Act shall with the necessary adaptations apply to licences to fish for freshwater fish granted under this section.

(4) The provisions as to variation of licence duties contained in the Salmon and Freshwater Fisheries Acts 1861 to 1892 shall extend to licence duties under this section and subject to any variation the scale of licence duties under this section shall be—

(A) one shilling for each single rod and line if the licence is available for use only in the parts of the Fishery District which lie below the following lines respectively:—

(i) A line across the River Lune drawn north-west from the south-west corner of Freeman's Wood;

(ii) A line across the River Wyre along the lower side of the Aqueduct;

(iii) A line across the River Keer along the lower side of the Furness Railway Bridge;

(iv) A line across the River Cocker along the lower side of the Cocker Bridge;

(v) A line across the River Conder along the lower side of the main road at Conder Green; and

(B) two shillings and sixpence for each single rod and line if the licence is available for use within the whole Fishery District.

Power to
require li-
cences for
other instru-
ments used
for fresh-
water fish.

19.—(1) The Fishery Board shall have power to issue licences to all persons fishing for freshwater fish (otherwise than with a rod and line) in inland waters within the Fishery District and in the event of the power being exercised the provisions of sections 33 to 37 of the Salmon Fishery Act 1865 and sections 21 22 and 25 of the Salmon Fishery Act 1873 (relative to licences under those Acts) shall apply in relation to licences under this provision with the substitution therein

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of the words "freshwater fish" for the word "salmon" and of "waters in the Fishery District" for "river or part of a river" and subject to the terms of this Order. A.D. 1909.

(2) The power conferred by this section may be exercised in respect of all freshwater fish or of specified kinds of freshwater fish and in the latter case the specified kinds of fish shall be stated in any scale of licence duties fixed under this section and this section shall apply only to those kinds of fish.

20.—(1) A licence to fish for salmon shall also have effect as a licence to fish for freshwater fish. Provisions affecting licences for fishing for freshwater fish.

(2) Every scale of licence duties for fishing for freshwater fish or variation of such scale shall except as herein otherwise expressly provided take effect on the first day of January after the date of its approval by the Board of Agriculture and Fisheries.

(3) The Fishery Board shall not enforce any scale of licence duties for fishing for freshwater fish (otherwise than with a rod and line) unless they have previously given notice of their intention in this behalf by advertisement in one or more local newspapers not less than once in each week for four consecutive weeks before the commencement of the year in which the scale is to take effect and the production of a copy of a newspaper containing any such advertisement as aforesaid shall be conclusive evidence of due notice having been given in accordance with this provision and such advertisement shall be in substitution for the advertisement required by section 25 of the Salmon Fishery Act 1873.

MODIFICATIONS IN RELATION TO FISHERIES IN THE FISHERY DISTRICT
OF CERTAIN PROVISIONS OF THE SALMON AND FRESHWATER
FISHERIES ACTS.

21. The powers conferred by the Salmon and Freshwater Fisheries Acts 1861 to 1892 on boards of conservators of purchasing fishing weirs fishing mill dams or fixed engines shall in relation to the Fishery Board extend to the purchase of any fishing weir fishing mill dam or fixed engine for the purpose of enabling the Fishery Board to work the same by themselves or their lessees where such purchase and working will in the opinion of the Fishery Board be for the benefit of fisheries within the Fishery District and the Fishery Board may by agreement hire for such purpose any fishing weir fishing mill dam or fixed engine. Modification of Salmon Fishery Act 1865 s. 27.

22. There shall be paid for a general licence such sum as shall be agreed by the Fishery Board and the person entitled to the licence and be approved by the Board of Agriculture and Fisheries or as shall on the application of either party be determined by the Board of Modification of s. 34 (4) of Salmon Fishery Act 1865.

A.D. 1909. Agriculture and Fisheries having regard to the extent and productiveness of the fishery and to any conditions attached to the licence with respect to the nature of the instruments or devices to be used for catching fish or otherwise which shall be agreed upon by the said parties or in default of agreement be imposed by the Board of Agriculture and Fisheries.

Duration of licences.

23. A scale of licence duties fixed by the Fishery Board may provide that licences may be available for the season or any part of a season but so that no licence shall be available after the expiration of the year in which it is issued.

Additional powers of making byelaws.

24.—(1) The Fishery Board may make byelaws to be made confirmed and published in the same manner as byelaws authorised by section 39 of the Salmon Fishery Act 1873 for any of the following purposes :—

- (i) To prohibit or regulate the use of nets or any specified kind of net in such waters lying within the Fishery District as may be defined by the byelaw ;
- (ii) To prohibit or regulate fishing within such distance above or below any natural or artificial obstruction to the passage of salmon as may be prescribed by the byelaw but so that the byelaw shall not affect fishing with rod and line above or below an obstruction in which or in connexion with which there is maintained in an efficient state a fish pass approved under the Salmon and Freshwater Fisheries Acts 1861 to 1892 ;
- (iii) To prohibit the carrying in a boat or vessel while being used in fishing for salmon of any net which is not licensed and has not attached thereto the mark label or number (if any) prescribed by a byelaw made by the Fishery Board ;
- (iv) To determine the length size and description of nets and the manner of using the same (not being fixed engines) for taking salmon ;
- (v) To alter the weekly close season as regards a particular instrument or mode of fishing ;
- (vi) To extend the weekly close season to a period not exceeding sixty hours ;
- (vii) To prohibit or regulate the use with rod and line of any lure bait or mode of fishing specified in the byelaw ;
- (viii) To prohibit or regulate the use of a gaff or other instrument as auxiliary to angling with rod and line ;
- (ix) To exempt any waters within the Fishery District from the operation of section 15 of the Salmon Fishery Act 1873

and to regulate the use of baskets nets traps and devices for catching eels lamperns or lampreys ; A.D. 1909.

- (x) To exempt any specified kind of non-migratory trout (other than salmo fario) from the provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1892 which regulate the period during which it shall be illegal to take or kill trout and to prohibit fishing for catching or killing or attempting to catch or kill such exempted kind of trout between the dates specified in the byelaw ;
- (xi) To prohibit fishing for catching or killing or attempting to catch or kill any specified kind of freshwater fish between the dates specified in the byelaw ;
- (xii) To prohibit taking of any specified kind of fish of a less size than that specified in the byelaw ;
- (xiii) To prohibit the introduction into any waters within the Fishery District with such exceptions as may be prescribed by the byelaw of any specified kind of fish ;
- (xiv) To impose a penalty not exceeding five pounds for each offence against a byelaw ;

and Part VII. and section 62 of the Salmon Fishery Act 1873 shall apply to any byelaw made under this provision.

(2) If at any time before the expiration of six months after the confirmation of any byelaw made by the Fishery Board under paragraph (i) of the preceding subsection the owner or occupier of any fishery within the Fishery District by notice in writing to the Board of Agriculture and Fisheries claim that such fishery is injuriously affected by such byelaw the Board of Agriculture and Fisheries shall consider such claim and if they are satisfied that such fishery is injuriously affected by such byelaw they shall either assess the amount of compensation to be paid for the damage to such fishery by way of an annual payment or otherwise or direct how such compensation shall be assessed and the amount so assessed shall be paid by the Fishery Board to the persons interested in the fishery in such manner as the Board of Agriculture and Fisheries shall direct.

25. The provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1892 which limit the amount of duty payable for a licence shall not apply within the Fishery District. Limit on licence duties removed.

26. The Fishery Board may with the approval of the Board of Agriculture and Fisheries define for the purposes of this Order and of subsection (12) of section 39 of the Salmon Fishery Act 1873 the boundary between inland and tidal waters. Definition of boundary between inland and tidal waters.

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Special permits for taking fish for stocking &c.

27. The Fishery Board may by written permit authorise the use of any instrument specified in the permit for the purpose of taking fish for stocking or breeding purposes or for scientific purposes or for the destruction of any specified kind of fish and such permit may contain such conditions as the Fishery Board think fit and in such case any provision in the Salmon and Freshwater Fisheries Acts 1861 to 1892 or this Order or any byelaw made by the Fishery Board penalising the use of such instrument or its use without a licence shall not apply to the use of the instrument by the person to whom the permit is granted for the purposes and subject to the conditions specified in the permit.

Removal of diseased fish.

28. The provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1892 relating to powers of water bailiffs shall in the case of a water bailiff appointed by the Fishery Board extend to the removal of diseased fish from any waters in the Fishery District and to the disposal of the same as the Fishery Board direct.

Modification of Salmon Fishery Act 1861 s. 26.

29. The Board of Agriculture and Fisheries may by written permit available for a period specified in the permit exempt any sluices from the provisions of section 26 of the Salmon Fishery Act 1861 on such conditions (if any) as may be specified in the permit.

Modification of Salmon Fishery Act 1861 s. 25 and Salmon Fishery Act 1873 s. 46.

30. In the case of any dam weir or other obstruction to the passage of salmon to which by the provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1892 a fish pass is required to be attached or made as part of the structure thereof the Board of Agriculture and Fisheries may by written permit exempt such dam weir or obstruction from the operation of such provisions so long as there is maintained in an efficient state a fish pass not attached to or forming part of the structure of the dam weir or obstruction but of such form and dimensions and in such position as in the opinion of the said Board are efficient to facilitate the passage of salmon past such dam weir or obstruction and are approved accordingly under the seal of the said Board.

Modification of Salmon Fishery Act 1861 s. 23.

31. The power of erecting a fish pass attached to a dam conferred by section 23 of the Salmon Fishery Act 1861 as amended by the Salmon Fishery Act 1873 shall extend to the erection and maintenance of a fish pass adjacent to but not attached to the dam.

Confirmation of byelaws.

32. A byelaw made by the Fishery Board may be confirmed by the Board of Agriculture and Fisheries either without modification or with such modification as may be assented to by the Fishery Board and in the latter case notice of the proposed modification shall be given by the Fishery Board by advertisement or otherwise in accordance with the directions (if any) of the Board of Agriculture and Fisheries in that behalf.

33. A copy of any byelaw made by the Fishery Board purporting to be signed by the clerk of the Fishery Board and certified by him to be a true copy and to have been duly confirmed shall be evidence until the contrary is proved in all legal proceedings of the due making confirmation publication and existence of such byelaws without further or other proof.

A.D. 1909.

Proof of
byelaws.

34.—(1) The provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1892 with respect to boards of conservators conservators and fishery districts except as herein expressly provided and so far as they are consistent with the provisions of this Order shall apply to the Fishery Board the members of the Board and the Fishery District as if such Board and District were formed under those Acts and as if the waters lying within the Fishery District were a river and subject to the provisions of this Order the Fishery Board shall as regards all waters lying within the Fishery District have all such powers and duties as may be exercised or discharged by a board of conservators constituted under the said Acts or any of them.

Application
of provisions
of Salmon
and Fresh-
water Fisher-
ies Acts.

(2) The provisions of those Acts with respect to the formation alteration combination and dissolution of fishery districts and the sections or parts of sections of those Acts mentioned in the Fourth Schedule to this Order shall not apply to the Fishery Board or within the Fishery District.

35.—(1) Nothing in the Salmon and Freshwater Fisheries Acts 1861 to 1892 or this Order or any byelaw made by the Fishery Board penalising the use of any instrument or its use without a licence or prohibiting or restricting the catching or killing or attempting to catch or kill any kind of fish shall apply in relation to the removal of fish from any reservoir or other waters in the Fishery District which form part of the water undertaking of a local authority or water board by their direction for the purposes of their undertaking.

For protec-
tion of public
water under-
takings.

(2) An officer of the Fishery Board shall not under the powers conferred by the said Acts or this Order have any power to interfere with any lands reservoirs streams machinery appliances or works which form part of the water undertaking of the Fylde Water Board or with any lands machinery appliances or works which form part of the water undertaking of the Lancaster Corporation.

(3) The Fishery Board shall on the application of the local authority or water board appoint as a water bailiff to be paid by the local authority or water board any person nominated by the local authority or water board but the powers of any water bailiff so appointed shall unless otherwise directed by the Fishery Board extend only to the reservoirs or other waters forming part of the water undertaking of the local authority or water board by whom he is nominated and to the protection of the fisheries therein.

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Definitions.

36.—(1) In this Order unless the context otherwise requires the following terms have the meaning hereinafter respectively assigned to them (that is to say):—

“Freshwater fish” means fish of any kind (exclusive of all migratory fish of the genus salmon) which live permanently or periodically in fresh water;

“Owner” means the person for the time being receiving the rack-rent of a fishery whether on his own account or as trustee for any other person or who would so receive the same if the fishery were let at a rackrent;

“Year of election” means the year nineteen hundred and nine or the third year after the preceding year of election as the context requires;

“Appointed day” means the date appointed by the Board of Agriculture and Fisheries as that on which elected members of the Fishery Board shall come into office;

Other expressions have the same meaning as in the Salmon and Freshwater Fisheries Acts 1861 to 1892.

(2) Any document purporting to be signed by one of several persons entitled as joint tenants or tenants in common of a fishery on behalf of himself and the other persons or to be signed by the clerk of any body corporate being an owner of a fishery on behalf of such body shall unless and until the contrary is proved be treated for the purposes of this Order as signed by all the persons entitled or by the body corporate as the case may be.

Short title.

37. This Order may be cited as the *Lune Fisheries Provisional Order 1909.*

TRANSITORY PROVISIONS.

Abolition of existing Board of Conservators and other transitory provisions.

38.—(1) The existing Board of Conservators of the Lune Wyre Keer and Cocker Fishery District shall be abolished on the appointed day and all property acquired and all liabilities incurred by that Board shall as from that day by virtue of this Order be transferred to and vested in the Fishery Board and the Fishery Board shall to all intents and purposes represent and be deemed a continuation of the existing Board and the clerk and all other officers of that Board shall become the officers of the Fishery Board and upon the same terms and conditions as heretofore Except as otherwise expressly provided by this Order any byelaw scale of licence duties notice or instrument made fixed given or executed by the existing Board shall upon such abolition take effect as if it had been made fixed given or executed by the Fishery Board but shall not in any other respect be altered or affected by this Order The existing Board shall as soon as practicable after the confirmation of this Order carry into effect the

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provisions of this Order as to assessment of the private fisheries in the Fishery District and for this purpose the provisions of this Order relating to such assessment shall apply to the existing Board and to the clerk of that Board Notice of assessment of fisheries shall be given as soon as practicable by the existing Board by advertisement in two successive issues of some newspaper or newspapers circulating in the Fishery District in the form set forth in the Third Schedule hereto The time and place of the first meeting of the Fishery Board shall be fixed by the existing Board and for the purposes of the nomination and election of the first elected members of the Fishery Board the existing Board shall in the application of this Order be substituted for the Fishery Board.

(2) For the purposes of the first election under section 3 of this Order the Board of Agriculture and Fisheries may by order substitute for the first day of December and twenty-first day of December such days as the Board shall determine.

(3) The Fishery Board shall come into office on the appointed day and the members of the existing Board shall remain in office until that date.

(4) The costs incurred by the existing Board of Conservators in obtaining this Order and its confirmation by Parliament shall be paid by the existing Board or by the Fishery Board out of any funds in their hands not hereby appropriated for any other purpose.

In witness whereof the Board of Agriculture and Fisheries have hereunto set their Official Seal }
this Twenty-sixth day of May nineteen hundred and nine.

(L.S.)

WALTER E. ARCHER
An Assistant Secretary
to the said Board.

SCHEDULES.

FIRST SCHEDULE.

AREA WITHIN WHICH THE ORDER APPLIES EXCEPT AS SPECIFIED IN SECTION ONE OF THE ORDER.

The area included within a line commencing at the Tower at Blackpool and drawn straight to the nearest point on the natural watershed of the river Wyre and thence along the natural watersheds

A.D. 1909. of that river and the rivers Cocker Lune and Keer until the line reaches the nearest point to the seaward extremity of the northernmost boundary of the parish of Warton in the county of Lancaster thence straight to such seaward extremity thence straight to a point in the middle of a line drawn straight from the westernmost point of Walney Island to Rossall Point thence along such last-mentioned line towards Rossall Point until it reaches the boundary of territorial waters thence in a southerly direction along such boundary until it reaches a point true west of the Tower at Blackpool thence straight to such Tower.

SECOND SCHEDULE.

REGULATIONS AS TO NOMINATION AND ELECTION OF MEMBERS REPRESENTATIVE OF PRIVATE FISHERIES.

The returning officer shall be the chairman of the Fishery Board or a person appointed by him in writing for the purpose. Nominations of candidates for election signed by the candidate in evidence of his willingness to act and by two other electors may be sent to the returning officer so as to be delivered at his office not later than midnight on the first day of December in the year of election. If the number of persons nominated shall be the same as or less than the number of persons to be elected such persons shall be deemed to be duly elected. If the number of persons nominated exceed the number to be elected the returning officer shall on or before the following twenty-first day of December send by post to each elector at the address stated in the register of assessments a voting paper in the form contained in the Second Schedule to the Salmon Fishery Act 1873 containing in alphabetical order the names of the candidates and specifying a day not less than ten days nor more than fifteen days from the date of sending such voting paper on or before which such voting paper is to be returned to him.

Paragraphs (7) and (10)-(16) of section 30 of the Salmon Fishery Act 1873 and sections 31 to 33 of that Act shall apply to the election of members representative of private fisheries as if the same were incorporated herein.

THIRD SCHEDULE.

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F O R M S.

FORM I.

Notice of Assessment of Fisheries.

Lune Wyre Keer and Cocker Fishery District.

Notice is hereby given that an assessment committee has been appointed by the Board of Conservators of the Lune Wyre Keer and Cocker Fishery District to assess the yearly value of all private fisheries for salmon and trout or either of them in the Lune Fishery District constituted by the Lune Fisheries Provisional Order 1909 which are of the yearly value of five pounds or upwards.

At the election of members representative of private fisheries the electors will be the owners of such of the above-mentioned fisheries as have been duly assessed and entered in the register of assessments and owners should immediately communicate with the clerk of the Board. [*Name and Address.*]

FORM II.

Notice of Provisional Assessment.

Salmon and Freshwater Fisheries Acts.

Lune Fishery District.

To

Notice is hereby given that the assessment committee appointed under the Lune Fisheries Provisional Order 1909 have provisionally assessed the yearly value of the fishery described in the schedule to this notice at £ s. d.

If no objection to such provisional assessment by or on your behalf is received by the undersigned within fourteen days after the date of this notice the yearly value of the fishery will for the purposes of the Lune Fisheries Provisional Order 1909 be deemed to have been determined at the amount above stated and in default of any objection you will be entered in the register of assessments as the owner of the fishery.

(Signed) A.B.

Clerk of the Assessment Committee.

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Schedule to Notice.

Description of Fishery as proposed to be entered in Register of Assessments.

[Date on which the Notice is sent.]

FORM III.

Notice of Demand for payment of Contribution.

Salmon and Freshwater Fisheries Acts.

Lune Fishery District.

Notice is hereby given that the Lune Board of Conservators have imposed a contribution to be paid by the owners of the whole of the fisheries in the above-mentioned District liable to be assessed and have directed that the same shall be payable on the _____ day of _____ to _____ of _____ the collector appointed to receive the same.

The amount payable in respect of such contribution by the owner of the fishery described in the schedule to this notice is £ _____ s. _____ d. which is hereby required to be paid to the said collector on or before the above-mentioned date.

(Signed) *A.B.*

Clerk of the Lune Board of Conservators.

Dated 19 .

Schedule to Notice.

Description of Fishery as entered in Register of Assessments.

FORM IV.

Certificate for Recovery of Contribution.

Salmon and Freshwater Fisheries Acts.

Lune Fishery District.

I *A.B.* hereby certify that the amount of £ _____ s. _____ d. is payable by the owner of the fishery described in the schedule to this certificate in respect of a contribution duly imposed by the Lune Board of Conservators to _____ of _____ the

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collector appointed by that Board to receive the same and that the person entered in the register of assessments as owner of such fishery is of

(Signed) A.B.

Clerk of the Lune Board of Conservators.

° *Schedule to Certificate.*

Description of Fishery as entered in Register of Assessments.

FOURTH SCHEDULE.

PROVISIONS WHICH BY THIS ORDER ARE DECLARED TO BE INAPPLICABLE TO THE FISHERY BOARD OR WITHIN THE FISHERY DISTRICT.

Act.	Section.	Subject.
Salmon Fishery Act 1865.	Section 15 - - -	Tenure of office by Conservators.
	Section 16 - - -	Notice of appointment of Conservators.
	Section 29 - - -	Audit of accounts.
	Section 34 (8) - - -	Notice on first appointment of Conservators.
	In sections 35 and 36 the words "From and after a time to be appointed as aforesaid in a fishery district."	
Salmon Fishery Act 1873.	Section 26 - - -	Ex-officio members of Boards of Conservators.
	Section 27 - - -	Provision for persons under disability.
	Section 28 - - -	Ex-officio members to sign a declaration.
	In section 39 (2) the words "such weekly close time in no case to exceed 48 hours."	Limitation of power to alter weekly close time.
	Section 39 (3) - - -	Determination of length &c. of salmon nets.

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