



## CHAPTER cvi.

An Act to confirm a Provisional Order under the Salmon and Freshwater Fisheries Act 1907 relating to the Rivers Taw and Torridge and other waters. [4th August 1922.] A.D. 1922.

**W**HEREAS the Minister of Agriculture and Fisheries has 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 amended 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 Taw and Torridge Fisheries Provisional Order Confirmation Act 1922. Short title.

A.D. 1922.

SCHEDULE.

TAW AND TORRIDGE FISHERIES PROVISIONAL  
ORDER 1922.

THE Minister of Agriculture and Fisheries by virtue and in exercise of the powers vested in him 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 hereby makes 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 to the area described in the First Schedule hereto and more particularly delineated in a map sealed by the Minister of Agriculture and Fisheries (hereinafter referred to as “the Minister”) in relation to this Order and to all salmon and freshwater fisheries in such area.

(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 and this right of inspection shall include a right to make copies of the map or any part thereof.

(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  
Conser-  
vators.

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 Taw and Torridge 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.”

(2) The Fishery Board shall consist of the following members :—

(A) Five members appointed by the Devonshire County Council Such members unless appointed for a definite period shall remain in office until resignation death or determination of their appointment by the Council but any member may resign his appointment :



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- (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 elected under and in accordance with sections 29 to 33 of the Salmon Fishery Act 1873 which sections shall apply with the necessary modifications and with the further modifications that after the year nineteen hundred and twenty-two 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 and that for the sum of fifty pounds in section 29 the sum of thirty pounds shall be substituted :
- (D) Members representative of the interests of persons fishing with rod and line for trout or char to be appointed by the Minister. Such members shall be appointed 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 shall (subject as hereinafter provided) be regulated by the average amount of licence duty paid for fishing with rod and line for trout or char 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 Minister by the clerk of the Fishery Board. If the amount of licence duty so paid does not exceed one hundred pounds two members may be so appointed 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 two :
- (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 this Order at a total yearly value of fifty 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 ;

A person entitled to act as an additional member may nominate by power of attorney an agent to act for

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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 not be entitled to vote in each capacity on any question to be determined by the Fishery Board and for the purpose of a quorum shall be counted as one member but this provision shall not affect a nomination by any person entitled to act as an additional member of an agent to act for him as an additional member.

Election of  
members re-  
presentative  
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-five pounds or less he shall have one vote for each member to be elected and if the assessment exceeds twenty-five pounds he shall have one additional vote for each such member in respect of each additional twenty-five pounds:

Provided that this scale may from time to time be varied by an order made by the Fishery Board and confirmed by the Minister after publication thereof in such manner as the Minister shall direct:

(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. A.D. 1922.

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 1921 or any Act amending the same the Fishery Board may 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 except with the previous consent of the Minister the Fishery Board shall not incur expenses or liabilities which will involve the imposition of a contribution in any financial year of more than two shillings and sixpence in respect of every pound of the total assessed yearly value of the fisheries liable to be assessed :

Provided also 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. Subject to the provisions of this Order the fisheries liable to be assessed shall be all private fisheries for salmon or trout or char 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 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. Fisheries liable to be assessed.

7. The yearly value of a fishery for salmon and trout or either of them 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 Yearly value for purposes of assessment.

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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. Provided that where a fishery is separately rated to the relief of the poor the rateable value as ascertained for such purpose shall for the purposes of this Order be deemed *prima facie* to be the yearly value of the fishery for salmon and trout or either of them.

Assessment  
committee.

8.—(1) The Fishery Board shall appoint an assessment committee of not less than seven members of the Board of whom five 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 agreement with the owner thereof or in default of such agreement then in accordance with the provisions of this Order in manner provided by this section.

(2) If the assessment committee and the owner of a fishery fail to agree as to the yearly value of the fishery the 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 on which the notice was posted the yearly value of the fishery shall for the purposes of this Order be deemed to have been determined by agreement 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. If objection is duly made to such provisional assessment and the assessment committee and the owner of the fishery fail to agree as to the yearly value of the fishery the yearly value may be determined by a single arbitrator appointed in default of agreement on the application of either party by the Minister under and in accordance with the provisions of the Arbitration Act 1889 or any statutory modification of that Act.

(3) A clerk may be appointed by the assessment committee but in the absence of such appointment the clerk of the Fishery Board shall be the clerk of the committee.

(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 or reputed 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.

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(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 or by the agent of an owner or by any person liable under any agreement to pay the contributions imposed under this Order on any such fishery and this right of inspection shall include a right to make copies of entries in the register.

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 and so far as may be consistent with any agreement between the owner and occupier) 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 contribu-  
tions.

Provided that nothing in this section shall prejudice or affect any right or liability under any existing or future contract of tenancy or agreement.

(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 or reputed 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 or reputed 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—

Apportion-  
ment &c. of  
assessments.

(i) determine the yearly value of the fishery in the manner hereinbefore provided 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

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(iii) re-determine the yearly value of the fishery in the manner hereinbefore provided.

(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 seven days after receipt of notification of the apportionment require the apportionment to be made by a valuer appointed by the Minister and the apportionment shall thereupon be so made. The remuneration of the valuer shall be fixed by the Minister and be paid by such one of the owners of the fisheries or by such owners in such shares as the valuer shall direct.

(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 until after the expiration of three years from the date of the previous determination except with the consent of the Fishery Board and the owner of the fishery unless by the making or revocation of a byelaw the yearly value thereof is increased or diminished.

Powers of  
Fishery  
Board as  
to expen-  
diture.

12. Subject to the provisions of this Order the Fishery Board may expend any moneys in their hands 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 trout or char 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.—(1) Subject as hereinafter provided 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 Minister whose remuneration shall be fixed by the Minister 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 Minister by the Fishery Board.

(2) The first audit shall extend to the accounts from the appointed day to the thirty-first day of December nineteen hundred and twenty-three.



RETURNS BY PERSONS TAKING FISH IN THE DISTRICT.

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15. The Fishery Board may as regards salmon and trout or either of such fish require returns to be made and sent to the Fishery 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 Fishery Board by registered post and if any person to whom such a form is so sent wilfully or negligently fail to make and send to the Fishery 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. If any person in making a return shall require that the particulars comprised in his return shall not be disclosed the Fishery Board shall not disclose them except to the Minister for the purposes hereinafter mentioned or 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 Fishery Board or the Minister 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  
Fishery  
Board  
to require  
fishery re-  
turns.

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

16. The powers conferred by the Salmon and Freshwater Fisheries Acts 1861 to 1921 on boards of conservators of purchasing for the purpose of removal fishing weirs and other obstructions dams or fixed engines shall in relation to the Fishery Board extend to the purchase of any dam fishing weir fishing mill dam fixed engine or other artificial obstruction or any fishery 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 the fisheries within the Fishery District and the Fishery Board may for such purposes by agreement hire any such obstruction or fishery.

Modification  
of Salmon  
Fishery Act  
1865 s. 27 as  
extended by  
Salmon Fish-  
ery Act 1873  
s. 49.

17. 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 Minister or as shall on the application of either party be determined by the Minister 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 Minister.

Modification  
of Salmon  
Fishery Act  
1865 s. 34  
(4).

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Modification  
of Salmon  
Fishery Act  
1865 s. 34  
(5).

18. The Fishery Board may by order confirmed by the Minister limit the number of licences to be issued in any year for fishing for salmon in public or common waters within the Fishery District with any instrument or device specified in the order and provide where the applications exceed the number of licences that may be issued for the selection of the applicants to whom licences shall be issued. Before confirming an order under this section the Minister shall direct the order to be published in such manner as the Minister shall think desirable by and at the expense of the Fishery Board and shall take into consideration any objections to the order which may be sent to the Minister within the time prescribed by the notice of publication.

Duration of  
licences.

19.—(1) A scale of licence duties fixed by the Fishery Board may provide for licences available only for part of a year.

(2) A scale of licence duties or alteration or variation of any scale shall not be approved by the Minister unless one month's notice of intention to apply for approval shall have been given by advertisement in such manner as the Minister may direct and such provision shall be substituted for any provision of the Salmon and Freshwater Fisheries Acts 1861 to 1921 which regulates the procedure in the case of fixing altering or varying a scale of licence duties or the notification of any scale so fixed altered or varied. Provided that no licence duty shall come into operation before the commencement of the next fishing season after the date of the approval of the licence duty.

Additional  
powers of  
making bye-  
laws.

20.—(1) Subject to the provisions of this Order the Fishery Board in addition to any power conferred by the Salmon and Freshwater Fisheries Acts 1861 to 1921 shall have power with a view to the improvement and development of the salmon and trout fisheries in the Fishery District to 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 all or any of the following purposes:—

- (i) To prohibit the use for taking salmon of nets or any specified kind of net (not being a fixed engine, in such waters lying within the Fishery District as may be defined by the byelaw;
- (ii) To prohibit or regulate fishing within such distance as may be prescribed by the byelaw above or below any natural or artificial obstruction to the passage of salmon;
- (iii) To determine the nets and other instruments (not being fixed engines) which may lawfully be employed for taking salmon trout or char in the Fishery District;
- (iv) To prohibit or regulate 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;

- (v) To determine the length size and description of nets and the manner of using the same (not being fixed engines) for taking salmon;
- (vi) To prohibit or regulate during such part of the year as may be specified in the byelaw the use with rod and line of any lure bait or mode of fishing specified in the byelaw;
- (vii) To prohibit or regulate the use of a gaff or other instrument as auxiliary to angling with rod and line;
- (viii) 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;
- (ix) 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 1921 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;
- (x) To prohibit the taking of any specified kind of fish of a less size than that specified in the byelaw;
- (xi) 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;
- (xii) 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 twelve months after the confirmation of any byelaw made by the Fishery Board under paragraph (i) and (iii) of the preceding subsection the owner or occupier of any fishery within the Fishery District by notice in writing to the Minister claim that such fishery is injuriously affected by such byelaw such claim shall be determined and the amount of compensation to be paid for the damage (if any) to such fishery shall be assessed by the Minister unless the Fishery Board or the claimant within such time as the Minister directs require in writing that such matters shall be determined by arbitration in which case they shall be determined by a single arbitrator appointed by the Minister under and in accordance with the provisions of the Arbitration Act 1889 or any statutory

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modification of that Act The amount so assessed whether by way of an annual payment or otherwise shall be paid by the Fishery Board to the person or persons interested in the fishery at such times in such manner to such persons and in such proportions as the Minister or the arbitrator as the case may be shall direct Provided that when the compensation is payable under any award by way of an annual payment the Fishery Board or the person entitled to the annual payment may at any time after the expiration of five years from the date of the award require the award to be reviewed by an arbitrator appointed as aforesaid and the compensation to be thenceforth paid (if any) shall be such as may be determined by that arbitrator.

Limit on  
licence duties  
removed.

21. The provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1921 which limit the amount of duty payable for a licence shall not apply within the Fishery District but so that the amount of duty shall be approved by the Minister as in the said Acts provided.

Definition of  
boundary  
between  
inland and  
tidal waters.

22. The Fishery Board may with the approval of the Minister define for the purposes of subsection (12) of section 39 of the Salmon Fishery Act 1873 the boundary between inland and tidal waters.

Special per-  
mits for  
taking fish  
for stocking  
&c.

23.—(1) 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 1921 or this Order or any byelaw made by the Fishery Board penalising the use of such instrument or its use without a licence or the catching or killing of fish at particular times or places 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 or to the catching or killing of fish by such use.

(2) A permit granted to a person under this provision shall not be construed as authorising him to fish in any waters in which he is not otherwise entitled to fish.

(3) Any person to whom the Fishery Board shall refuse to grant a permit may appeal against such refusal to the Minister whose decision shall be final and if the Minister so directs the Fishery Board shall grant a permit in accordance with his directions.

Removal of  
diseased fish.

24. The provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1921 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.



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25. The Minister 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 as amended by section 53 of the Salmon Fishery Act 1873 on such conditions (if any) as may be specified in the permit.

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Modification of Salmon Fishery Act 1861 s. 26.

26. In any case in which by the provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1921 a fish pass is required to be attached to or made as part of the structure of any dam weir or other obstruction to the passage of salmon the Minister 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 Minister are efficient to facilitate the passage of salmon past such dam weir or obstruction and are approved accordingly under the seal of the Minister.

Modification of Salmon Fishery Act 1861 ss. 12 and 25 and Salmon Fishery Act 1873 ss. 17 and 46.

27. 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.

Modification of Salmon Fishery Act 1861 s. 23.

28. A byelaw made by the Fishery Board may be confirmed by the Minister 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 Minister in that behalf.

Confirmation of byelaws.

29. 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.

Proof of byelaws.

30. Sections 58 and 60 of the Salmon Fishery Act 1873 shall apply within the Fishery District with the substitution of "salmon or trout" for "salmon" and as if the words "from the nature of the channel" were omitted from section 60.

Modification of law as to gratings.

31. Section 57 of the Salmon Fishery Act 1865 shall apply within the Fishery District to any offence under the Salmon and Freshwater Fisheries Acts 1861 to 1921 or this Order or any byelaw made under the authority of the said Acts or Order but it shall not be imperative to inflict a greater penalty than fifty shillings for a second offence or five pounds for a third offence.

Modification of Salmon Fishery Act 1865 s. 57.



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Provision for  
measurement  
of mesh of  
nets.

32. For the purposes of any provision in the Salmon and Freshwater Fisheries Acts 1861 to 1921 or this Order or any byelaw made thereunder which prescribes the minimum size of mesh of nets that may lawfully be used within the Fishery District it shall be sufficient evidence of the mesh being of less than the minimum size if it is proved that a gauge certified by the Board of Trade to be of such size as to correspond with the size prescribed as a minimum by the statutory provision Order or byelaw would not pass through the mesh without pressure when the net is wet.

Regulation  
of seine or  
draft nets.

33. Any person who shall shoot or work any seine or draft net for salmon in the Fishery District within fifty yards from the nearest point in the line of shoot of any other seine or draft net worked in like manner and already shot or being worked before such last-mentioned net is fully drawn in and landed shall for every such offence be liable to a penalty not exceeding five pounds.

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

34.—(1) The provisions of the Salmon and Freshwater Fisheries Acts 1861 to 1921 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 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 Provided that nothing in this Order shall be construed as authorising the Board to levy licence duty for fishing for any fish other than salmon trout and char.

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

For protec-  
tion of public  
water under  
takings.

35.—(1) Nothing in the Salmon and Freshwater Fisheries Acts 1861 to 1921 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 of or the 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:

Provided that so far as is practicable all trout or salmon removed under this provision are returned alive to waters within



the Fishery District that their removal if so required by the Fishery Board is superintended by a water bailiff appointed by the Fishery Board and that reasonable notice is given to the Fishery Board of the time and place of the intended removal.

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(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 filter-beds machinery appliances or works which form part of the water undertaking of any local authority or water board.

(3) The Fishery Board shall on the application of a water authority being the owner of any reservoir appoint a water bailiff nominated by the applicant for the protection of the fisheries in such reservoir. Such water bailiff shall be paid by the applicant for such appointment but unless otherwise directed by the instrument appointing him the powers of any such water bailiff shall not extend beyond the reservoir. Provided that any appointment made by the Fishery Board under this subsection may at any time be revoked by them for any cause which they may deem sufficient but without prejudice to the right to require the Fishery Board to appoint another person.

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):—

Definitions.

“ Owner ” means the person for the time being receiving the rackrent of a fishery whether on his own account or as trustee or attorney 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 twenty-two or the third year after the preceding year of election as the context requires;

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

“ Water authority ” means any local authority board or company constituted by general or local Act of Parliament or by Provisional Order confirmed by Parliament and having power to supply water to any town or place;

Words importing the masculine gender shall include females;

Other expressions have the same meaning as in the Salmon and Freshwater Fisheries Acts 1861 to 1921.

(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



[Ch. cvi.] *Taw and Torridge* [12 & 13 GEO. 5.]  
*Fisheries Provisional Order Confirmation Act, 1922.*

A.D. 1922. — 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.

Crown  
and Duchy  
rights.

37.—(1) Nothing in this Order affects prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained authorises the Fishery Board to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

(2) The consent of His Royal Highness the Prince of Wales in right of His Duchy of Cornwall signified to this Order shall not be taken as a consent to the surrender of and nothing in this Order contained shall prejudice or affect any property rights powers authorities or privileges of His Royal Highness or of the possessor of the Duchy of Cornwall for the time being.

Works below  
high-water  
mark not to  
be com-  
menced with-  
out consent  
of Board of  
Trade.

38. The Fishery Board shall not under the powers of this Order construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Fishery Board shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals. If any such work be commenced or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Fishery Board and the amount of such costs and charges shall be a debt due from the Fishery Board to the Crown and shall be recoverable as a Crown debt or summarily.

Short title.

39. This Order may be cited as the *Taw and Torridge Fisheries Provisional Order 1922.*

TRANSITORY PROVISIONS.

Abolition  
of existing  
Board of  
Conservators

40.—(1) The existing Board of Conservators of the *Taw and Torridge 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 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 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 (including the power to exempt from assessment for a specified period) 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.

A.D. 1922.  
—  
and other  
transitory  
provisions.

(2) For the purposes of the first election under section 3 of this Order the Minister may by order substitute for the first day of December and twenty-first day of December such days as the Minister 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 Minister of Agriculture  
and Fisheries has caused his Official Seal  
to be affixed this nineteenth day of May  
nineteen hundred and twenty-two. } (L.S.)

(Signed) HENRY G. MAURICE  
Fisheries Secretary  
Authorised by the Minister.

A.D. 1922.

SCHEDULES.

FIRST SCHEDULE.

AREA WITHIN WHICH THE ORDER APPLIES.

The area comprising (1) such parts of the counties of Devon Somerset and Cornwall as lie within the natural watershed of any river or stream which flows into the sea at any point on the northern coast of the county of Devon between the following points namely :—

- (a) The seaward extremity at high-water mark of the right or eastern bank of the stream flowing into the sea in the parish of Oare in the county of Somerset at or near the boundary between the counties of Devon and Somerset ; and
- (b) The seaward extremity at high-water mark of the left or southern bank of the stream flowing into the sea in the parish of Morwenstow in the county of Cornwall at or near the boundary between the counties of Devon and Cornwall ; and

(2) such parts of the sea coast and territorial waters as lie within lines drawn respectively true north from the said point in the parish of Oare and true west from the said point in the parish of Morwenstow.



SECOND SCHEDULE.

A.D. 1922.

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 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.

F O R M S.

FORM I.

*Notice of Assessment of Fisheries.*

Taw and Torridge Fishery District.

Notice is hereby given that an assessment committee has been appointed by the Board of Conservators of the Taw and Torridge Fishery District to assess the yearly value of all private fisheries for salmon or trout or either of them in the Taw and Torridge Fishery District constituted by the Taw and Torridge Fisheries Provisional Order 1922 which are of the yearly value of five pounds or upwards and are liable to be assessed.

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.*]

A.D. 1922.

FORM II.

*Notice of Provisional Assessment.*  
Salmon and Freshwater Fisheries Acts.  
Taw and Torridge Fishery District.

To

Notice is hereby given that the assessment committee appointed under the Taw and Torridge Fisheries Provisional Order 1922 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 said Order be deemed to have been determined by agreement 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.

If notice of objection is duly given you will be entitled to have the value determined in default of agreement by arbitration.

(Signed)                      *A.B.*  
Clerk of the Assessment Committee.

*Schedule to Notice.*

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

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[Date on which the Notice is sent.] \_\_\_\_\_



FORM III.

A.D. 1922.

*Notice of Demand for payment of Contribution.*

Salmon and Freshwater Fisheries Acts.

Taw and Torridge Fishery District.

Notice is hereby given that the Taw and Torridge 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 Taw and Torridge  
Board of Conservators.

Dated \_\_\_\_\_ 19 .

*Schedule to Notice.*

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Description of Fishery as entered in Register of Assessments.

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FOURTH SCHEDULE.

A.D. 1922.

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 14 - -	Provision as to working seine or draft nets.
	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.
	Section 39 (3) - -	Determination of length &c. of salmon nets.
	Section 45 - -	Proof of byelaws.

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