



Tweed Fisheries Act 1857

1857 CHAPTER cxlviii 20 and 21 Vict

An Act to consolidate and amend the Acts for the more effectual Preservation and Increase of Salmon, and the Regulation of the Fisheries in the River *Tweed*.
[17th August 1857]

Modifications etc. (not altering text)

- C1 Act amended by [Tweed Fisheries Amendment Act 1859 \(c. lxx\)](#), (except ss. LV, LX), [Salmon Fisheries \(Scotland\) Act 1868 \(c. 123\)](#), [s. 41](#), [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), [s. 10](#) and [Tweed Fisheries Act 1969 \(c. xxiv\)](#)

Commencement Information

- II Act wholly in force at Royal Assent

11 G. 4. & 1 W. 4. c. liv. 6 & 7 W. 4. c. lxx.

Whereas an Act was passed in the Eleventh Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for the more effectual Preservation and Increase of the Breed of Salmon, and for better regulating the Fisheries in the River Tweed, and the Rivers and Streams running into the same, and also within the Mouth or Entrance of the said River*; and another Act was passed in the Sixth Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to alter, amend, and enlarge the Powers of an Act passed in the Eleventh Year of the Reign of His late Majesty, intituled "An Act for the more effectual Preservation and Increase of the Breed of Salmon, and for better regulating the Fisheries in the River Tweed, and the Rivers and Streams running into the same, and also within the Mouth or Entrance of the said River"*: 'And whereas the Salmon Fisheries in the River *Tweed* of late Years have been much less productive and have greatly decreased in Value, and it is of public Importance that more effectual Means should be adopted for the Preservation and Increase of the Breed of Salmon, and for that Purpose it is necessary and expedient that the said Acts should be consolidated and amended, and that further Provisions should be made for the Regulation of the said Fisheries, for the Removal of Nuisances and Obstructions, and the Prevention of illegal Fishing in the said River; but these Objects cannot be effected without the Authority of Parliament:

Status: Point in time view as at 01/01/1993.

Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

I Short Title.

This Act may be cited for all Purposes as “TheTweedFisheries Act 1857.”

II Interpretation of Terms.

The following Words and Expressions in this Act shall have the Meanings hereby assigned to them, unless such Meanings be repugnant to or inconsistent with the Context; that is to say,

The Expression “the River” shall mean and include the River*Tweed*, and every River, Brook, or Stream which flows or runs into the said River, and also the Mouth or Entrance of the said River as described and defined in this Act:

The Word “Salmon” shall mean and include Salmon, Grilse, Sea Trout, Bull Trout, Whitling, . . . ^{F1}:

The Expressions “fixed Net” and “fixed Engine” shall respectively mean and include Stake, Bag, Bob, Hang, Sole, Stell, and Cairn Nets, and all Nets, Cruives, Engines, or Devices, of whatsoever Construction or Materials the same may be or however known or termed, used or which may be used for taking, killing, leading, or turning Salmon, or for obstructing the free Passage of Salmon, and fixed to the Soil, or anchored, moored, or fixed or made stationary in any way whatever:

The Word “Fishery” shall mean a Salmon Fishery in the River:

The Word “Commissioners” shall mean the Commissioners appointed by this Act, and shall include the Representatives of Commissioners as hereinafter provided:

The Words “Clerk” and “Treasurer” shall mean respectively the Clerk and Treasurer to the Commissioners for the Time being:

The Word “Sheriff” shall mean the [^{F2}Sheriff principal of the Sheriffdom] in*Scotland* where the Matter requiring the Cognizance of such Sheriff shall arise, and shall include the [^{F2}Sheriff of such Sheriffdom] :

The Words “Justice” and “Justices” shall severally mean a Justice of the Peace or Two or more Justices of the Peace acting for the County, City, Liberty, or Place in*England* or*Scotland* where the Matter requiring the Cognizance of such Justice or Justices shall arise:

The Word “Owner” shall mean any Person or Corporation who is the Proprietor of a Fishery in the River, or who receives or is entitled to receive the Rents of such Fishery on his or their own Account, or as Trustee, Guardian, or Factor for any Person or Corporation.

Textual Amendments

F1 Words repealed by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)

F2 Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. 4, [Sch. 1 para. 1](#)

III Recited Acts repealed.

From and after the passing of this Act the recited Acts shall be and are hereby repealed, and this Act shall commence and take effect.

Status: Point in time view as at 01/01/1993.

*Changes to legislation: There are currently no known outstanding effects
for the Tweed Fisheries Act 1857. (See end of Document for details)*

IV Rates and Property vested in the Commissioners.

All Rates, Rents, Goods, Debts, Moneys, and other Property and Effects whatsoever, heritable and moveable, real and personal, belonging or owing to or held by the Commissioners and Overseers acting under the recited Acts, subject to the existing Debts, Liabilities, Engagements, Contracts, Obligations, and Incumbrances affecting the same, are hereby vested in and may be lawfully held, used, exercised, enforced, recovered, and enjoyed by the Commissioners appointed by this Act.

V Contracts and Deeds to remain in force, and Commissioners liable for Debts.

All Contracts, Agreements, and other Deeds, Instruments, and Writings made, executed, or entered into between any Person and the said Commissioners and Overseers, or by, to, in favour of, or for the said Commissioners and Overseers, shall be and continue as good, valid, and effectual to all Intents and Purposes as if the recited Acts had not been repealed; and the Commissioners shall be liable for the Debts, Obligations, and Engagements of the said Commissioners and Overseers due and owing at the Time of the passing of this Act.

VI Actions not to abate.

All Actions, Suits, and Proceedings at Law or in Equity, and all Arbitrations, to which the said Commissioners and Overseers at the Time of the passing of this Act have been or are Parties, are hereby specially saved and reserved entire, and shall not be prejudiced or affected by anything in this Act contained, and may be proceeded in by or against the Commissioners without the Necessity of intimating such Action, Suit, Proceeding, or Arbitration to the Commissioners, or making them formally Parties thereto; and all Offences against the Provisions of the recited Acts, or either of them, committed before the passing of this Act, may be prosecuted, and all Penalties and Forfeitures incurred by reason of such Offences may be sued for and recovered, by the Commissioners in the same Manner in all respects as if the recited Acts had not been repealed.

VII Proceedings under recited Acts to be valid.

Notwithstanding the Repeal of the recited Acts, and except only as is by this Act otherwise expressly provided, everything done or suffered under the recited Acts shall be as valid as if the same were not repealed, and the Repeal thereof and this Act respectively shall accordingly be subject and without Prejudice to everything so done or suffered, and to all Rights, Liabilities, Claims, and Demands, both present and future, which, if the recited Acts were not repealed and this Act were not passed, would be incident to or consequent on any and every thing so done or suffered; and with respect to all such Rights, Liabilities, Claims, or Demands which affect or should or might affect the said Commissioners and Overseers, the Commissioners shall represent the said Commissioners and Overseers, and may enforce and shall be liable in respect of such Rights, Liabilities, Claims, or Demands in the same Manner and to the same Extent as the said Commissioners and Overseers could enforce or be liable to in respect of such Rights, Liabilities, Claims, or Demands: Provided, that the Generality of this Enactment shall not be restricted by any of the other Clauses or Provisions of this Act.

Status: Point in time view as at 01/01/1993.

Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

VIII Arrears of Rates to be paid to the Commissioners.

All Rates leviable under or by virtue of the recited Acts or any of them, and which at the Time of the passing of this Act shall be due and payable, or if this Act had not been passed would have accrued due and been payable, to the said Commissioners and Overseers, shall continue in force and be due and payable to the Commissioners, and may be sued for, collected, and recovered by such Means and under such Restrictions and Regulations as any Rates may be sued for, collected, or recovered under or in pursuance of this Act.

IX Present Officers continued.

The Clerk, Treasurer, and other Officers of the said Commissioners and Overseers at the Time of the passing of this Act shall be Officers and Servants of the Commissioners appointed by this Act until removed, and shall be subject to the Provisions of this Act as regards both their past and future Actings and Intromissions; and all Bonds and Securities granted to the said Commissioners and Overseers for the Performance of the Duties of such Clerk, Treasurer, and other Officers, and accounting for their Intromissions, shall remain valid and effectual, and may be enforced by the Commissioners in the same Manner and to the same Extent and Effect as such Bonds and Securities might have been enforced by the said Commissioners and Overseers.

X— F3
XIV

Textual Amendments
F3 Ss. 10–14, 17, 20–22 repealed by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 3](#)

XV Penalty on Commissioners acting if not qualified.

Any Person not qualified as herein provided who acts as a Commissioner under this Act, or nominates any Person to act for him, shall for every such Offence be liable to a Penalty of [^{F4}£50][^{F4}level 2 on the standard scale] .

Textual Amendments
F4 Words “level 2 on the standard scale” substituted for “£50” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

XVI Commissioners not to act while holding Places of Profit.

Any Commissioner who accepts of any Place of Profit under this Act shall from thenceforth, and while he continues to hold such Place of Profit, be disqualified from acting or voting as a Commissioner, and from representing or voting for any other Commissioner at any Meeting of the Commissioners; and any Person so disqualified who acts or votes as aforesaid shall for every such Offence be liable to a Penalty of [^{F5}£50][^{F5}level 2 on the standard scale] .

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Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

Textual Amendments

- F5** Words “level 2 on the standard scale” substituted for “£50” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

XVII **F6**

Textual Amendments

- F6** [Ss. 10–14, 17, 20–22](#) repealed by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 3](#)

XVIII Special Meetings may be called.

It shall be lawful for [^{F7}any three members of the council] from Time to Time, by a Requisition in Writing and signed by them, to require the Clerk to call a Special General Meeting [^{F7}of the council] , and on the Receipt of such Requisition the Clerk shall call such Meeting by an Advertisement inserted at least twice in some One Newspaper published in the County of *Roxburgh* and in *Berwick-upon-Tweed* respectively, and if no Newspaper shall be there published, then in Two Newspapers, the one published in *Edinburgh* and the other in *Newcastle-upon-Tyne*, at least Ten Days before such Meeting shall be held, and which Requisition and Advertisement shall specify the Time and Place and the Purposes of such Meeting, and it shall not be lawful at any such Meeting to enter upon any other Business than that which is specified in such Requisition and Advertisement; and all such Special General Meetings shall be held at *Cornhill*, or at such other Place [^{F7}as the council] shall from Time to Time fix upon as the Place for holding Special General Meetings.

Textual Amendments

- F7** Words substituted by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)

XIX Quorum and Adjournment of Meetings.

The Quorum of every [^{F8}meeting of the council] shall be Five, and if less than Five shall be present at any Meeting the [^{F8}members or member] present shall have Power to adjourn the Meeting to such Time and Place as they or he shall think fit, and in that Case Notice shall be given of the Time, Place, and Purpose of such Adjourned Meeting by Advertisement inserted in any Two such Newspapers published as aforesaid at least Ten Days before such Adjourned Meeting: Provided, that it shall not be in the Power of any Adjourned or Special Meeting to alter or rescind any Act done or Resolution passed by any Annual General Meeting.

Textual Amendments

- F8** Words substituted by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)

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XX— F9
XXII

Textual Amendments
F9 Ss. 10–14, 17, 20–22 repealed by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 3](#)

XXIII Commissioners to defray their own Expenses.

At all Meetings of the Commissioners [^{F10}and of the council the Commissioners] shall defray their own Expenses, except such as may be incurred for the Use of the Room in which the Meeting is held, and for Books, Stationery, and Fire.

Textual Amendments
F10 Words substituted by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)

XXIV Commissioners may appoint Officers.

It shall be [^{F11}lawful for the council] at any General Meeting to appoint a Clerk and Treasurer and Superintendent of Water Bailiffs, and such other Officers as they shall think proper, with such Salaries as they shall think fit, and from Time to Time to remove and again to replace any Clerk, Treasurer, Superintendent, or other Officer; and in case of the Clerk, Treasurer, Superintendent, or other Officer dying or being removed from or quitting the Service of the Commissioners, it shall be [^{F11}lawful for the council] at a Special General Meeting called for the Purpose by the Clerk or any [^{F11}three members of the council] , of which Meeting Notice shall be given as hereinbefore provided, to appoint some other fit and proper Person to be Clerk, Treasurer, Superintendent, or Officer in his Place.

Textual Amendments
F11 Words substituted by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)

XXV Books and Accounts to be kept and to be open to Inspection.

The Clerk shall attend [^{F12}all meetings of the proprietary commissioners and of the council] , and shall, in proper Books to be provided for that Purpose, enter and keep a true and perfect Account of all the Money to be received by virtue of this Act, and of the Application of the same, and Minutes of all the Acts and Proceedings under this Act of [^{F12}the proprietary commissioners of the council and of every committee appointed by the council]; and every such Minute shall be signed by the Chairman of the Meeting at which the Proceeding took place, and such Minute so signed shall be received as Evidence in all Courts, and before all Judges, Justices, and others, without Proof of such Meeting having been duly convened or held, or of the Persons attending such Meeting having been or being [^{F12}proprietary commissioners, members of the council or members of the committee] respectively, or of the Signature of the Chairman, or of the Fact of his having been Chairman, all which Matters shall be presumed until the contrary is proved; and every Commissioner may at all convenient Times inspect and peruse such Books and Accounts^{gratis}, and may demand and have Copies of any

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Part thereof on Payment of [^{F13}2½p] for every One hundred Words so to be copied; and if the Clerk shall refuse to permit any Commissioner to inspect or peruse any such Books or Accounts at all convenient Times, or refuse to make any such Copies within a reasonable Time at the Rate aforesaid, he shall for every such Offence be liable to a Penalty not exceeding [^{F14}£25][^{F14}level 1 on the standard scale] .

Textual Amendments

- F12** Words substituted by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)
- F13** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), [s. 10\(1\)](#)
- F14** Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

XXVI Same Person not to be Clerk and Treasurer.

The same Person shall not be appointed to the Office of Clerk and Treasurer; and if any Person being the Clerk or the Partner, or in the Service of the Clerk or of his Partner, shall accept the Office of Treasurer, or if any Person being the Treasurer or the Partner, or in the Service of the Treasurer or of his Partner, shall accept the Office of Clerk, he shall for every such Offence be liable to a Penalty of [^{F15}One hundred Pounds.][^{F15}level 3 on the standard scale]

Textual Amendments

- F15** Words “level 3 on the standard scale” substituted for “One hundred Pounds” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)

XXVII Penalty on Officer taking Fees other than those allowed.

Every Officer employed by the Commissioners who shall exact or accept on account of anything done by virtue of his Office any Fee or Reward whatsoever other than the Salary or Allowances fixed by the Commissioners, or who shall be in any way concerned or interested in any Bargain or Contract made by the Commissioners, shall be liable to a Penalty of [^{F16}Fifty Pounds][^{F16}level 3 on the standard scale], and shall be incapable of being afterwards employed by the Commissioners.

Textual Amendments

- F16** Words “level 3 on the standard scale” substituted for “Fifty Pounds” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)

XXVIII Security to be taken from Officers intrusted with Money.

Before any Treasurer, Collector, or other Officer intrusted by the Commissioners with the Custody or Control of Moneys by virtue of his Office shall enter upon such Office, the Commissioners shall take sufficient Security from him for the faithful Execution thereof.

Status: Point in time view as at 01/01/1993.

Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

XXIX Collectors to pay over Moneys to the Treasurer.

Every Collector appointed or employed by the Commissioners by virtue of this Act to collect any Rates shall, within Seven Days after he shall have received any Moneys on account of any such Rates, pay over the same to the Treasurer to the Account of the Commissioners, and the Receipt of the Treasurer for the Moneys so paid shall be a sufficient Discharge to such Collector; and every such Collector shall, in such Time and in such Manner as the Commissioners direct, deliver to them true and perfect Accounts in Writing under his Hand of all Moneys received by him and of all Moneys paid by him to the Treasurer by virtue of this Act, and also a List of the Names of all Persons who have neglected or refused to pay any Rate or Money owing by them, with a Statement of the Moneys due by them respectively.

XXX Officers to account.

Every Collector and other Officer appointed or employed by the Commissioners by virtue of this Act shall from Time to Time, when required by the Commissioners, make out and deliver to them, or to any Person appointed by them for that Purpose, a true and perfect Account in Writing under his Hand of all Moneys received by him on behalf of the Commissioners, and such Account shall state how and to whom and for what Purpose such Moneys have been disposed of, and together with such Account such Officer shall deliver the Vouchers and Receipts for such Payments; and every such Officer shall pay to the Commissioners, or to any Person appointed by them to receive the same, all Moneys which shall appear to be owing by him upon the Balance of such Accounts.

XXXI Summary Recovery against Officers failing to account.

If any such Collector or other Officer fail to render such Accounts as aforesaid, or to produce and deliver up all the Vouchers and Receipts relating to the same in his Possession or Power, or to pay the Balance thereof when thereunto required, or if for Five Days after being thereunto required he fail to deliver up to the Commissioners, or to any Person appointed by them to receive the same, all Papers and Writings, Property, Effects, Matters, and Things, in his Possession or Power relating to the Execution of this Act or belonging to the Commissioners, then, on Complaint thereof being made to the Sheriff or a Justice, such Sheriff or Justice shall summon such Officer to appear before such Sheriff or before Two or more Justices, according as the Summons may have been issued by the Sheriff or a Justice, at a Time and Place to be set forth in such Summons, to answer such Charge; and upon the Appearance of such Officer, or upon Proof that such Summons was personally served upon him or left at his last known Place of Abode, such Sheriff or Justices may hear and determine the Matter in a summary Way, and may adjust and declare the Balance owing by such Officer; and if it appear, either upon Confession of such Officer or upon Evidence or upon Inspection of the Account, that any Moneys of the Commissioners are in the Hands of such Officer or owing by him to the Commissioners, such Sheriff or Justices may order such Officer to pay the same, and if he fail to pay the Amount it shall be lawful for such Sheriff or Justices to grant a Warrant to levy the same by Distress or by Pounding and Sale, or in default thereof to commit the Offender to Gaol, there to remain without Bail for a Period not exceeding Three Months, unless the same be sooner paid.

Status: Point in time view as at 01/01/1993.

Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

XXXII Officers refusing to make out Accounts and deliver up Documents may be committed to Prison.

If any such Officer summoned as aforesaid refuse to make out such Account in Writing, or to produce and deliver to the Sheriff or Justices the several Vouchers and Receipts relating thereto, or to deliver up any Books, Papers, or Writings, Property, Effects, Matters, or Things, in his Possession or Power belonging to the Commissioners, such Sheriff or Justices may commit such Officer to Gaol, there to remain until he shall have delivered up all the Vouchers and Receipts in his Possession or Power relating to such Accounts, and all the Books, Papers, Writings, Property, Effects, Matters, and Things in his Possession or Power belonging to the Commissioners.

XXXIII Where Officers about to abscond a Warrant may be issued in the first instance.

If any Commissioner or other Person acting on behalf of the Commissioners shall make Oath that he has good Reason to believe, upon Grounds to be stated in his Deposition, and that he does believe, that it is the Intention of any such Officer to abscond, the Sheriff or Justice before whom the Complaint is made may, instead of issuing his Summons, issue his Warrant for bringing such Officer before the Sheriff if the Warrant be issued by him, or before any Two Justices if the Warrant be issued by a Justice; but no Person executing such Warrant shall keep such Officer in Custody longer than Twenty-four Hours without bringing him before the Sheriff or some Justice, according as he may be summoned before the one or the other; and the Sheriff or Justice before whom such Officer may be brought may either discharge such Officer, if he think there is no sufficient Ground for his Detention, or order such Officer to be detained in Custody so as to be brought before the Sheriff or Two Justices at a Time and Place to be named in such Order, unless such Officer give Bail to the Satisfaction of such Sheriff or Justice for his Appearance before such Sheriff or Justices to answer the Complaint of the Commissioners.

XXXIV Proceedings against Officers not to discharge Sureties.

No such Proceeding against or Dealing with any such Officer as aforesaid shall deprive the Commissioners of any Remedy which they might otherwise have against any Surety of such Officer.

XXXV Commissioners may sue and be sued.

The Commissioners may sue and be sued for or with respect to any Matter or Thing to be done in the Execution of this Act, or for any Penalties recoverable under the Provisions thereof, in the Name of their Clerk or in the Name of any Three of the Commissioners; and no Action or Suit wherein the Commissioners shall be concerned as Plaintiffs or Pursuers or Defendants or Defenders in the Name of their Clerk, or in the Name of any Three of the Commissioners by virtue of this Act, shall abate by the Death or Removal of any such Clerk or Commissioner; but the Clerk for the Time being, or any Three of the Commissioners to be for that Purpose nominated, if Plaintiff or Pursuer, or who may be sued if Defendant or Defender, shall be deemed to be the Plaintiff or Pursuer or Defendant or Defender (as the Case may be) in every such Action or Suit.

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Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

XXXVI Water Bailiffs to be appointed.

It shall be lawful for the Commissioners . . . ^{F17} to nominate and appoint such Number of Water Bailiffs for the Protection of the Fisheries and Detection of Offenders as to them shall appear expedient, . . . ^{F17}; and it shall be in the Power of [^{F18}the] Commissioners to remove such Water Bailiffs or any of them, and appoint others in their Room, and to make such Alterations in regard to their Salaries as to them shall appear proper; and it shall be lawful for any Two Commissioners to supply and fill up any Vacancy or Vacancies that may occur by the Death, Resignation, or Dismissal of any One or more Water Bailiffs till [^{F18}the next meeting of the council] be held; and before any Superintendent or Water Bailiff shall be entitled to act under the Authority of this Act he shall take the Oath following before any Sheriff or Justice of Peace; (*videlicet*),

'*L.A.B.* do solemnly swear, That I will duly and faithfully execute the Office of Superintendent [*or* Water Bailiff] in Terms of "The *Tweed Fisheries Act*, 1857." So help me GOD.'

And if any Person shall act as a Superintendent or Water Bailiff under the Authority of this Act without previously taking such Oath, he shall for every such Offence be liable to a Penalty not exceeding [^{F19}£25][^{F19}level 1 on the standard scale].

Textual Amendments

- F17** Words repealed by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)
- F18** Words substituted by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)
- F19** Words "level 1 on the standard scale" substituted for "£25" (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

XXXVII..... ^{F20}

Textual Amendments

- F20** [Ss. 37, 39, 50, 55, 56, 59, 63, 64, 68, 69, 75, 76](#) repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), [Sch. 2](#)

XXXVI Water Bailiffs may apprehend Offenders.

It shall be lawful for every Superintendent or Water Bailiff or other Person whatsoever, without any Warrant or Authority other than this Act, *brevi manuto* seize and detain any Person who shall be found committing any Offence against the Provisions of this Act [^{F21}or of the ^{M1}[Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951](#)], and to convey such Offender or cause him to be conveyed by any Constable or other Peace Officer, in case the Offence is committed in *England*, before any Justice having Jurisdiction in the Place where the Offence is committed or where the Offender resides or is found, who shall forthwith proceed against such Offender according to Law and according to the Provisions in this Act contained, and in case the Offence is committed in *Scotland* such Offender shall be conveyed by the Person apprehending him before the Sheriff or some Justice having Jurisdiction in the Place where the Offence is committed or where the Offender resides or is found, and such Sheriff or Justice shall forthwith

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examine and thereupon discharge or commit such Offender until Caution de Judicio sisti be found, as the Case may require.

Textual Amendments

F21 Words inserted by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), **Sch. 1**

Modifications etc. (not altering text)

C2 [S. 38](#) amended by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), **ss. 12, 22(2)**

Marginal Citations

M1 [1951 c. 26.](#)

XXXIX. **F22**

Textual Amendments

F22 [Ss. 37, 39, 50, 55, 56, 59, 63, 64, 68, 69, 75, 76](#) repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), **Sch. 2**

XL Magistrates may act though interested in Fisheries.

All Sheriffs, Justices of the Peace, and other Magistrates shall and may act in the Execution of this Act notwithstanding any such Sheriff, Justice, or Magistrate shall be interested in any Fishery, except in any Case where he or the Lessee or Occupier of any Fishery in which he is interested is a Party to the Prosecution or Cause to be heard and determined by him.

[^{F23}**XLI Limits of the Mouth or Entrance of the Tweed.**

For the Purposes of this Act, the Limits of the Mouth or Entrance of the River Tweed shall be deemed to extend and shall extend from the Pier called Queen Elizabeth's Pier along the Sea Coast on the South Side of the said Pier Five Miles, and along the Sea Coast on the North Side of the said Pier Four Miles, and shall also extend Five Miles in front of the mouth of the said River and of the several Lines of Boundary herein-before mentioned into the Sea, such Distance towards the Sea to be computed by Lines drawn the one from the Northern and the other from the Southern Extremity of the aforesaid Boundaries at Right Angles to a Line drawn between the said Northern and Southern Extremities; and the whole Enactments and Provisions of this Act shall extend and be applicable to the Mouth or Entrance of the said River within the Limits above defined.]

Textual Amendments

F23 [S. XLI](#) repealed by [Tweed Fisheries Amendment Act 1859 \(c. lxx\)](#), **s. 3**

Status: Point in time view as at 01/01/1993.

Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

XLII F24

XLIV.

Textual Amendments

F24 Ss. 42–44, 46, 67, 71 repealed by [Tweed Fisheries Amendment Act 1859 \(c. lxx\), s. 3](#)

XLV **Nets not to be used in Annual Close Times.**

Every Person who during the Annual Close Times fishes in the River with any Pout Net or Net of any other Kind or Description whatsoever shall for every such Offence be liable to a Penalty not exceeding [^{F25}£25][^{F25}level 1 on the standard scale] , and every such Net shall be forfeited.

Textual Amendments

F25 Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Modifications etc. (not altering text)

C3 S. XLV excluded by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 28\(2\)\(b\)\(i\), 29](#)

C4 S. XLV amended by [Freshwater and Salmon Fisheries \(Scotland\) Act 1976 \(c. 22\), s. 7, Sch. 3 Pt. I para. 2](#)

XLVI F26

Textual Amendments

F26 Ss. 42–44, 46, 67, 71 repealed by [Tweed Fisheries Amendment Act 1859 \(c. lxx\), s. 3](#)

[^{F27}**XLVI** **Removal of Boats and Nets used in Fishing.**

On or before the Fourth Day of October in every Year every Occupier of a Fishery in the River shall and he is hereby required to remove from every Fishery, Fishing Shield, and Fishing Ground and Houses and Premises occupied or used by him all Boats, Oars, Nets, Engines, and other Tackle used and employed in taking and killing Salmon (excepting Boats with their Oars and such other Implements as are used for Angling or Rod Fishing), and to carry away the same to some Place or Places to be from Time to Time appointed by the Commissioners, where the same can be securely lodged and kept until the Twenty-seventh Day of February in the following Year; and each Boat, with its Oars and other Implements as aforesaid, so retained for the Purpose of Angling or Rod Fishing shall be removed and carried away on or before the Seventeenth Day of October in every Year, and shall be lodged and kept and remain as aforesaid until the Twenty-seventh Day of February in the following Year; and every such Occupier who neglects or refuses to remove and carry away all and every such Boats, Oars, Nets, Engines, and other Tackle as aforesaid, and to keep the same secured from the said Fisheries and Premises during the Period aforesaid, shall for every such Offence

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Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

be liable to a Penalty not exceeding Twenty Pounds, and all such Boats, Oars, Nets, Engines, and other Tackle not removed or kept secured as aforesaid shall be forfeited: Provided always, that this Enactment shall not be held or construed to extend to public Ferry Boats, or to Boats used by any Owner or Occupier of Land adjoining the River solely for the Transport of himself or his Family or Servants or any Persons in his Employment: Provided also, that all such last-mentioned Boats shall be under and subject to the Regulations hereinafter prescribed with respect thereto.]

Textual Amendments

F27 S. XLVII repealed by [Tweed Fisheries Amendment Act 1859 \(c. lxx\)](#), s. 3

XLVIII Boats and Nets not removed may be seized without Warrant.

It shall be lawful for any Superintendent or Water Bailiff or other Person employed in the Execution of this Act, without any other Authority than this Act, to seize all such Boats, Oars, Nets, Engines, and other Tackle which shall not have been so removed or kept secured as aforesaid (but excepting as aforesaid), and to convey and carry the same to some of the Places of Security to be appointed as aforesaid; and also at any Time during the Annual Close Times to enter into or upon any Fishery or Fishing Grounds, and without any Warrant to search all and every the Fishing Shields and other Premises belonging thereto for any Boats, Oars, Nets, Engines, and other Tackle that may be deposited or concealed therein; and if any such Shield is found to be locked up, and if upon being required the Occupier of such Shield shall refuse to open the Door thereof, it shall be lawful for any Superintendent or Water Bailiff or other Person employed as aforesaid to break open the Door of such Shield, and to search for such Boats, Oars, Nets, Engines, or other Tackle, and if any are found to seize and carry away the same to some of the Places of Security to be appointed as aforesaid.

XLIX Nets left in the River during Close Times may be seized.

If any Net or other Engine or Tackle whatsoever adapted for taking or killing Salmon or obstructing their Passage in the River shall be left or placed in the River at any Time during the Annual Close Times or Weekly Close Time, it shall be lawful for any Superintendent or Water Bailiff, or other Person acting or employed under the Authority of this Act, to seize and carry away the same, and it shall be lawful for the Commissioners to cause the same to be cut to Pieces or otherwise destroyed, or, in their Discretion, to be restored to the Owner.

L **F28**

Textual Amendments

F28 Ss. 37, 39, 50, 55, 56, 59, 63, 64, 68, 69, 75, 76 repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), **Sch. 2**

Status: Point in time view as at 01/01/1993.

Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

LI Magistrates empowered to issue Search Warrants on Information of Nets, Fish, &c. being illegally in possession.

Upon Information on Oath to any Sheriff or Justice that the Informant has probable Cause to suspect and does suspect, and stating the Grounds of such Suspicion, that any Person residing or being at the Time within the Jurisdiction of such Sheriff or Justice has, contrary to the Provisions of this Act, in his Custody or Possession, or that there is lodged, placed, or concealed in any Dwelling House, Fishing Shield, Outhouse, or Premises, or in any Boat, Vessel, Carriage, Cart, or Vehicle within the Jurisdiction of such Sheriff or Justice, or which will shortly pass through or be within the same, any Net, Leister, Spear, or similar Engine adapted for taking or killing Salmon, or any Salmon which have been illegally taken or killed in or from the River, it shall be lawful for such Sheriff or Justice to authorize and direct, by Warrant under his Hand, any Superintendent or Water Bailiff appointed and acting under the Authority of this Act, or any High or Petty Constable or other Peace Officer, to search in the Daytime every Dwelling House, and at any Time every Fishing Shield, Outhouse, or Premises, or Place, Boat, Vessel, Carriage, Cart, or other Vehicle wherein he has Information that any such Nets, Leisters, Spears, or Engines, or any Salmon, are lodged, placed, or concealed; and if upon such Search any such Nets, Leisters, Spears, or Engines adapted for the taking or killing of Salmon, or any Salmon illegally taken or killed as aforesaid, shall be there found, it shall be lawful for such Superintendent or Water Bailiff, Constable, or Peace Officer to seize and carry away or secure the same, and also the Boat, Vessel, Carriage, Cart, Vehicle, Basket, Box, or Package in which the same may be found: Provided, that every such Warrant shall be put in force within Twenty-four Hours after the same is granted, and only within the Jurisdiction of the Sheriff or Justice granting such Warrant.

LII Ferry Boats and Boats of Proprietors and Occupiers of Land not to be used in Fishing.

The Lessee, Tenant, or Occupier of every established and accustomed Ferry for the Conveyance of Passengers, Horses, and Carriages across the River shall have the Name or Names of the Owner and of the Ferry and the Number of each Boat painted upon some conspicuous Part of each and every Boat so used by him, in Letters of Two Inches in Length in White on a Black Ground or in Black on a White Ground, and shall keep such Boat locked up when not actually in use; and every such Lessee, Tenant, or Occupier who has in his Possession or uses for the Purposes of such Ferry any Boat not so marked and painted, or who does not keep such Boat locked up as aforesaid, shall for every such Offence be liable to a Penalty not exceeding [^{F29}£25][^{F29}level 1 on the standard scale]; and every such Lessee, Tenant, or Occupier who uses or permits or allows any Boat belonging to him or to such Ferry to be used for the Purpose of Fishing in the River shall for every such Offence be liable to a Penalty not exceeding [^{F29}£25][^{F29}level 1 on the standard scale], and every Boat so used may be seized and forfeited.

Textual Amendments

F29 Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Status: Point in time view as at 01/01/1993.

Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

LIII Regulation of private Boats.

Every Owner and Occupier of a Fishery within or of Land adjoining the River who uses any Boat in or upon the River for the Purpose of Fishing, or for any other Purpose, shall have his Name and Surname painted upon every such Boat, with the Number thereof, in like Manner as is herein-before directed with respect to Ferry Boats; and no Boat which in the Fishing Season is generally and ordinarily used for fishing with Nets shall be used for Angling or Rod Fishing; and every such Owner and Occupier who uses a Boat contrary to the Provisions of this Section, or without his Name and the Number painted thereon as before provided, shall for every such Offence be liable to a Penalty not exceeding [^{F30}£25][^{F30}level 1 on the standard scale], and every Boat so used may be seized and forfeited.

Textual Amendments

F30 Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

LIV Commissioners to appoint distinguishing Marks for Boats.

It shall be lawful for the Commissioners . . . ^{F31}, from Time to Time, to direct and appoint all Boats generally and ordinarily used for fishing with Nets to be painted or otherwise marked by some Colour or Mark, so that the same may be known and may be easily distinguished from Ferry Boats or Boats used indiscriminately for both Net Fishing and Rod Fishing, which Direction or Appointment shall be notified to the Owner and Occupier of every Fishery using any such Boat or to his or their known Agent, and which distinguishing Colour or Mark every Owner and Occupier of every Boat generally and ordinarily used for fishing with Nets shall be bound, after such Notification, to put upon such Boat previous to the Commencement of the next Fishing Season, and also upon all such Boats as they shall afterwards use, and to keep the same thereon until such Time as some new Direction or Appointment in that Behalf shall have been made by the Commissioners; and every such Owner or Occupier who uses any such Boat without such distinguishing Colour or Mark, or with any other Colour or Mark than those specially appointed for such Boat, shall for every such Offence be liable to a Penalty not exceeding [^{F32}£25][^{F32}level 1 on the standard scale], and every Boat so used may be seized and forfeited.

Textual Amendments

F31 Words repealed by [Tweed Fisheries Act 1969 \(c. xxiv\), Sch. 2](#)

F32 Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

LV, ^{F33}
LVI.

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Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

Textual Amendments

F33 Ss. 37, 39, 50, 55, 56, 59, 63, 64, 68, 69, 75, 76 repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), [Sch. 2](#)

LVII Removal of Obstructions in the River.

All Rocks, Shoals, Deposits of Stones, Gravel, Sand, Mud, or other Matter or Thing, and all natural Obstructions in the River, which prevent, obstruct, or interrupt the free Passage of Salmon therein, shall be removed or altered so as to permit and allow of the free Run of Salmon at all Times over, across, or through the same; and if the Owner of the Soil, Land, or Fishery in or upon which the Obstruction or Cause of Interruption exists or is situate shall refuse or neglect to alter or remove the same so as to allow the free Run of Salmon at all Times over, across, or through the same, within Fourteen Days after being thereunto required in Writing by any Two Commissioners or the Clerk, it shall be lawful for the Commissioners or for the Sheriff or any Justice within whose Jurisdiction the Obstruction or Cause of Interruption is wholly or partly situated, upon the Application or Information of any Commissioner or the Clerk, to order and direct that such Obstruction or Cause of Interruption shall be removed or altered by or under the Inspection and Direction of a proper Person to be appointed by the Commissioners or such Sheriff or Justice, and at the Expense of the Commissioners, in such a Manner as may sufficiently effect the Object intended with the least possible Injury to the Property of such Owner: Provided, that this Enactment shall not in any way extend to authorize the Alteration or Removal of any Mill Dam, Dyke, Wear, Cauld, or other permanent Obstruction now used for manufacturing Purposes, and as to which Provision is made in the immediately preceding Section.

Modifications etc. (not altering text)

C5 S. LVII: power to amend conferred by [Salmon Act 1986 \(c. 62, SIF 52:2\)](#), [ss. 3\(2\)\(e\)](#), [10\(6\)\(c\)](#)

LVIII Cairns to be removed.

The Owner of every Cairn in the River, or connected with either Bank or Shore thereof, or on or connected with any Shoal or Island therein, and which in the Opinion of the Commissioners may be principally or ordinarily used or is mainly adapted for fishing with Nets, shall within Three Months after the passing of this Act remove or destroy the same; and in the event of such Owner refusing or neglecting to remove or destroy such Cairn within the Period above mentioned, the Commissioners may at any Time thereafter appoint a fit and proper Person to remove and destroy the same at the Expense of the Commissioners.

LIX **F34**

Textual Amendments

F34 Ss. 37, 39, 50, 55, 56, 59, 63, 64, 68, 69, 75, 76 repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), [Sch. 2](#)

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Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

LX To prevent beating the Water.

Every Person who beats the Water, or places, uses, or sets any White Object or any Net or other Thing whatsoever in, over, or across the River, so as to prevent or for the Purpose of preventing Salmon from entering or from going up or down the River or any Part thereof, or who in any other Way or Manner prevents or obstructs Salmon from entering or going up and down the River, shall for the First Offence be liable to a Penalty not exceeding [^{F35}£25][^{F35}level 2 on the standard scale], and for every subsequent Offence to a Penalty not exceeding [^{F36}£50][^{F36}level 2 on the standard scale], and the Net or Object or Thing so placed, used, or set may be seized and forfeited.

Textual Amendments

F35 Words “level 2 on the standard scale” substituted for “£25” (S.) by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**

F36 Words “level 2 on the standard scale” substituted for “£50” (S.) by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**

Modifications etc. (not altering text)

C6 S. LX: [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35** (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)

LXI As to Water-wheels and Machinery.

Nothing in this Act contained prohibiting the placing of fixed Engines or other Things whatsoever in the River shall apply to Waterwheels or other Machinery used only for manufacturing Purposes, and placed in or upon Mill Leads.

^{F37}**LXII**.....

Textual Amendments

F37 [S. 62](#) repealed (1.1.1993) by [S.I. 1992/1974](#), **reg.3**

LXIII,^{F38}

LXIV.

Textual Amendments

F38 [Ss. 37, 39, 50, 55, 56, 59, 63, 64, 68, 69, 75, 76](#) repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), **Sch. 2**

LXV Noxious Matters not to be placed in the River.

Every Person who at any Time lays or places in the River, or allows to fall or run or flow into the River, any hot Lime, or Refuse of Gasworks, or Products thereof, or Prussiate of Potash, or any Water in which Green Flax has been steeped, or any

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Matter or Thing which shall poison or kill any Salmon or Smolt, shall for every such First Offence be liable to a Penalty not exceeding [^{F39}£25][^{F39}level 1 on the standard scale], and for every subsequent Offence shall be liable to a Penalty not exceeding [^{F39}£25][^{F39}level 1 on the standard scale], and to a daily Penalty of Two Pounds for every Day during which such Offence is continued.

Textual Amendments

F39 Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Modifications etc. (not altering text)

C7 S. LXV repealed by [Rivers \(Prevention of Pollution\) \(Scotland\) Act 1951 \(c. 66\)](#) except in relation to tidal waters to which that Act does not apply

LXVI Rubbish not to be placed in the River at or below High-water Mark.

Every Person who at any Time lays or places in or allows to fall into the River at or below High-water Mark any Coal, Cinders, Coal Ashes, Dirt, or Rubbish shall for every such Offence be liable to a Penalty not exceeding [^{F40}£25][^{F40}level 1 on the standard scale].

Textual Amendments

F40 Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Modifications etc. (not altering text)

C8 S. LXVI repealed by [Rivers \(Prevention of Pollution\) \(Scotland\) Act 1951 \(c. 66\), Sch. 4](#) except in relation to tidal waters to which that Act does not apply

LXVII ^{F41}

Textual Amendments

F41 Ss. 42–44, 46, 67, 71 repealed by [Tweed Fisheries Amendment Act 1859 \(c. lxx\), s. 3](#)

LXVIII, ^{F42}

LXIX.

Textual Amendments

F42 Ss. 37, 39, 50, 55, 56, 59, 63, 64, 68, 69, 75, 76 repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\), Sch. 2](#)

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Changes to legislation: There are currently no known outstanding effects for the Tweed Fisheries Act 1857. (See end of Document for details)

LXX Penalty on Persons taking foul or unseasonable Fish.

Every Person who during the Periods in each Year when it is lawful to fish for Salmon knowingly takes or kills or aids or assists in taking or killing in or from the River any foul, unclean, or unseasonable Salmon, or knowingly has in his Possession any such Salmon, or exposes for Sale or exchanges for any Matter or Thing any such Salmon, shall for every such Offence be liable to a Penalty not exceeding [^{F43}£25][^{F43}level 1 on the standard scale], and every Salmon so taken, and the Net or other Engine by which the same has been taken, and the Hampers, Baskets, and Packages in which the same are found, may be seized and forfeited; and the Proof that such Salmon were not taken in or from the River contrary to this Enactment shall lie upon the Person in whose Custody the same shall be found.

Textual Amendments

- F43** Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

LXXI^{F44}

Textual Amendments

- F44** [Ss. 42–44, 46, 67, 71](#) repealed by [Tweed Fisheries Amendment Act 1859 \(c. lxx\), s. 3](#)

LXXII Foul or unseasonable Fish to be put back into River.

If any Person while fishing in the River for Salmon takes or captures any foul, unclean, or unseasonable Salmon, he shall immediately put back such Salmon into the River with as little Injury to such Salmon as possible; and every Person convicted of offending against this Enactment shall for every such Offence be liable to a Penalty not exceeding [^{F45}£25][^{F45}level 1 on the standard scale] for each Salmon so taken and not put back as aforesaid.

Textual Amendments

- F45** Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Modifications etc. (not altering text)

- C9** S. LXXII amended by [Freshwater and Salmon Fisheries \(Scotland\) Act 1976 \(c. 22\), s. 7, Sch. 3 Pt. I para. 2](#)

LXXIIIFish taken in Nets or otherwise in open Season to be restored to the Owner or Occupier of Fishings.

If any Person while in the Act of fishing for River or Fresh-water Trout, during the Period when Salmon may be lawfully taken and killed, takes any Salmon in or from

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the River, he shall forthwith deliver up such Salmon to the Owner or Occupier of the Fishery where the same was taken, and every Person who fails or refuses to deliver up any Salmon so taken shall be liable to a Penalty not exceeding [^{F46}£25][^{F46}level 1 on the standard scale] for every such Salmon.

Textual Amendments

- F46** Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

LXXIV To prevent Destruction of Spawn or Fry.

Every Person who wilfully takes or kills or aids or assists in taking or killing in or from the River by any Means or by any Device (except by the Rod and Line), or wilfully sells, purchases, or has in his Possession, any Smolt, Fry, or young Brood or Spawn of Salmon, or in any Way or by any Device wilfully obstructs the Passage of such Smolts, Fry, or young Brood, or injures or disturbs any such Smolts or Fry, or any Spawn or Spawning Bed, Bank, or Shallow where the same may be, shall for every such Offence be liable to a Penalty not exceeding [^{F47}£25][^{F47}level 1 on the standard scale], and to an additional Penalty of [^{F48}10p][^{F48}level 1 on the standard scale] for each of the Smolts, Fry, or young Brood of Salmon so taken, killed, or destroyed, or found in his Possession, and all Nets, Tackle, and Engines whereby the same have been taken or killed, and the Hampers, Baskets, or Packages wherein the same may be found, may be seized and forfeited.

Textual Amendments

- F47** Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
- F48** Words “level 1 on the standard scale” substituted for “10p” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#)

Modifications etc. (not altering text)

- C10** S. LXXIV amended by [Fisheries Act 1981 \(c. 29, SIF 52:1\), s. 33\(5\)](#), **Sch. 4 Pt. II para. 19**
- C11** S. LXXIV amended by [Freshwater and Salmon Fisheries \(Scotland\) Act 1976 \(c. 22\), s. 7](#), **Sch. 3 Pt. I para. 2**

LXXV, ^{F49}
LXXVI

Textual Amendments

- F49** Ss. 37, 39, 50, 55, 56, 59, 63, 64, 68, 69, 75, 76 repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\), Sch. 2](#)

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LXXVI Management of joint Fisheries.

In the Case of any Fishery usually fished by Nets which belongs to or is held by Two or more Owners jointly, any one of such Owners may, by Writing under his Hand, require the other Owners jointly interested therein to agree with him for the joint Fishing of such Fishery, and to fix the Number of Men, Boats, Nets, and Appurtenances necessary for such Fishing; and on such Owner furnishing his proportionate Number of Men, Boats, Nets, and Appurtenances so fixed and agreed upon, and contributing and paying his proportionate Share of the Burdens and Working Expenses of such Fishery, such Owner shall be entitled for his own Use and Behoof to a Share of the whole Produce of such Fishery in proportion to his Interest therein; and every joint Owner of such Fishery may lease his Interest therein to such Person and on such Terms and Conditions as he may think fit, and every such Lessee shall during his Lease have all the Rights hereby conferred on such joint Owner.

LXXVII Arbitration in case of Difference.

If for Fourteen Days after being thereto required in Writing as aforesaid the joint Owners of such Fishery, or any One of them, shall refuse or delay to fix and agree upon the Number of Men, Boats, Nets, and Appurtenances necessary for such Fishery, any One or more of such joint Owners may, by Writing under his Hand, require that all such Matters be referred to Arbitration, and may name an Arbitrator to act on his Behalf, and require each of the other joint Owners to name an Arbitrator to act on his Behalf; and in the event of such joint Owners or any of them refusing or delaying for Fourteen Days after being so required to name such Arbitrator or Arbitrators, any One or more of such joint Owners may apply to the Sheriff or any Justice to appoint a fit and proper Person to act as sole Arbitrator in such Matters, and to decide therein, and to fix the Number of Men, Boats, Nets, and Appurtenances necessary for such Fishery, and the Shares of the several joint Owners in the Produce thereof; and on such Application the Sheriff or Justice shall and he is hereby authorized to appoint such Arbitrator; and the Arbitrators appointed by such joint Owners as aforesaid may choose an Umpire to act in case of their differing in Opinion, and the Decision or Decree Arbitral to be pronounced by such Arbitrators or Umpire, or by any Arbitrator appointed by the Sheriff or Justice, shall be final and not subject to Review in any Court or by any Process whatsoever.

LXXIX Rates to be levied.

For defraying the Expenses to be incurred in carrying this Act into effect it shall be lawful for the Commissioners . . . ^{F50} and they are hereby required to make, impose, and levy an annual Rate or Assessment of Twenty Pounds *per Centum per Annum* until the Debts and Obligations contracted by the Commissioners and Overseers acting under the recited Acts, and due and subsisting at the passing of this Act, and the Costs of obtaining and passing this Act and incidental thereto, are paid, and annually thereafter of such Amount as the Commissioners shall fix and determine, . . . ^{F51}, to be paid by the whole Owners of Salmon Fisheries in the River in proportion to the Rents or yearly Value of their several Fisheries as such Rents or yearly Value shall be ascertained and fixed by the Commissioners, or by the Sheriff or Justices on the Application of any Owner who may think himself aggrieved by any such Assessment, provided Notice of such Application be given to the Clerk within Ten Days after Notice of such Assessment is given to such Owner, and which Rate shall be payable either yearly or half-yearly, as the Commissioners may from Time to Time direct and appoint, by the several Tenants or Occupiers of the said several Fisheries, for and on behalf of the

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respective Owners of the same, and for which Payments such Tenants or Occupiers shall be entitled to Relief from the respective Owners on settling or paying their Rents; and if any such Rate shall not be paid to the Collector appointed under this Act by any Tenant or Occupier when required, the same shall on Demand be payable by the Owner of the Fishery possessed by such Tenant or Occupier.

Textual Amendments

F50 Words repealed by [Tweed Fisheries Act 1969 \(c. xxiv\)](#), [Sch. 2](#)

F51 Words repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), [Sch. 2](#)

LXXX Recovery of Rates.

The Rate made at any such Meeting shall be binding upon and may be enforced against every such Owner, Tenant, and Occupier of a Fishery; and for the Recovery of any Rates which may remain unpaid it shall be lawful for any Sheriff or Justice within whose Jurisdiction the Goods and Effects of any Owner, Tenant, or Occupier of a Fishery liable for such Rates may be found to grant Warrant for pouncing or distraining such Goods and Effects, and to appraise them on the Place where found, and afterwards to sell the same by Auction for Payment of such Rates, together with the full Costs of such Pouncing, Distress, and Sale, and the Surplus (if any) shall be paid, when demanded, to the Person whose Effects shall have been so distrained and sold; which Warrants shall be granted by such Sheriff or Justice upon an Application made to him by the Clerk or Treasurer or other Person authorized by the Commissioners, with an Attestation on Oath signed by the Collector appointed under this Act certifying that the Person complained of is liable for and has not paid such Rates, and specifying therein the Amount due by him; and the Proceedings for the Recovery of such Rates may be in the Form of the Schedule (A.) hereunto annexed, or as near thereto as may be; or the Commissioners or Clerk may bring and prosecute an Action or Actions at Law for Recovery of such Rates or Arrears thereof.

LXXXI Application of Rates.

The Rates levied under the Authority of this Act shall be applied, first, in paying and discharging the Debts and Obligations contracted by the Commissioners and Overseers acting under the recited Acts, and due and subsisting at the Time of the passing of this Act; secondly, in paying the Costs of obtaining and passing this Act, and incidental thereto: and, lastly, in paying and defraying Salaries and Allowances to the Clerk, Treasurer, Collectors, Superintendent, Water Bailiffs, and other Officers, and other Expenses incurred in carrying this Act into execution.

LXXXI Penalties to be summarily recovered.

Every Penalty imposed by this Act may be recovered by Action of Debt in any County Court, or by summary Proceeding before the Sheriff or a Justice or Justices having Jurisdiction in the Place where the Offence is committed or where the Offender resides or is found; and on Complaint being made at the Instance of the Procurator Fiscal or other public Prosecutor of the County, District, or Place where the Offence may have been committed, or where the Offender or Offenders shall reside or may be found, or at the Instance of any One or more of the Commissioners, or of their Clerk, to any such Sheriff or Justice or Justices, he or they shall issue a Summons or Warrant

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requiring the Person complained against to appear before the Sheriff or any Justice or Justices at a Time not less than Six free Days after Service, and at a Place to be named in such Summons or Warrant; and every such Summons or Warrant, with a Copy of the Complaint, shall be served on the Person complained against, either personally or by leaving the same with some Inmate at his usual Place of Abode; and upon the Appearance of the Person complained against, or in his Absence after Proof of the due Service of such Summons or Warrant, it shall be lawful for the Sheriff or Justice or Justices to proceed to the Hearing of the Complaint; and upon Proof of the Offence, either by the Confession of the Person complained against, or upon the Oath of One credible Witness or more, or in default of Appearance of such Person, it shall be lawful for such Sheriff or Justice or Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty incurred, as well as such Costs attending the Conviction as such Sheriff or Justice or Justices shall think fit; and it shall be competent on the Hearing of every such Complaint to prove that the Person then complained against has been previously convicted of an Offence against the Provisions of this Act, and for such Sheriff or Justice or Justices to take such previous Conviction into consideration in pronouncing Sentence.

LXXXII Penalties to be levied by Pounding or Distress and Sale.

If forthwith upon any such Adjudication or Conviction as aforesaid the Amount of the Penalty and of such Costs as aforesaid be not paid, the Amount of such Penalty and Costs shall be levied by Pounding or Distress and Sale, and such Sheriff or Justice or Justices shall issue their or his Warrant of Pounding or Distress and Sale accordingly.

LXXXIII Imprisonment in default of Pounding or Distress.

It shall be lawful for any such Sheriff or Justice to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be conveniently made to the Warrant of Pounding or Distress and Sale to be issued for levying such Penalty and Costs, unless the Offender give sufficient Security by way of Recognizance, Bond of Caution, or otherwise to the Satisfaction of the Sheriff or Justice for his Appearance before him on the Day appointed for such Return, such Day not being more than Eight Days from the Time of taking such Security; but if before issuing such Warrant of Pounding or Distress and Sale it shall appear to the Sheriff or Justice, by the Admission of the Offender or otherwise, that no sufficient Pounding or Distress can be had within the Jurisdiction of such Sheriff or Justice whereon to levy such Penalty and Costs, he may, if he thinks fit, refrain from issuing such Warrant of Pounding or Distress and Sale; and in such Case, or if such Warrant shall have been issued, and upon the Return thereof such Insufficiency as aforesaid shall be made to appear to such Sheriff or Justice, then such Sheriff or Justice shall by Warrant cause such Offender to be committed to Prison, there to remain without Bail for any Period not exceeding Two Months in the Case of a First Offence, for any Period not exceeding Three Months in the Case of a Second Offence, and for any Period not exceeding Four Months in the Case of a Third or subsequent Offence, unless such Penalty and Costs be sooner paid and satisfied.

LXXXIV Pounding or Distress how to be levied.

Such Penalty and Costs shall be levied by Pounding or Distress and Sale of the Goods, Chattels, and Effects of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods, Chattels, and Effects, after satisfying such Penalty and Costs

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and the Expenses of the Pounding or Distress and Sale, shall be returned on Demand to the Party whose Goods, Chattels, or Effects shall have been pointed or distrained.

LXXXV ~~W~~ounding or Distress not unlawful for Want of Form.

No Pounding or Distress levied by virtue of this Act shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Pounding or Distress and Sale, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover by Action full Satisfaction for the special Damage.

LXXXVI ~~A~~pplication of Penalties.

Every such Penalty, when recovered, shall be paid to the Commissioners, or to their Clerk or Treasurer, or other Person authorized by them to receive the same, to be applied for the Purposes of this Act in the same Manner as the Rates hereby authorized to be levied.

LXXXVII ~~H~~alties to be sued for within Six Months.

No Person shall be liable to the Payment of any Penalty imposed by virtue of this Act for any Offence made cognizable before a Sheriff or Justice, unless the Complaint respecting such Offence shall have been made before such Sheriff or Justice within Six Months next after the Commission of such Offence.

LXXXVIII ~~D~~amage to be made good in addition to Penalty.

If through any Act, Neglect, or Default, on account whereof any Person shall have incurred any Penalty imposed by this Act, any Damage to the Property of the Commissioners shall have been committed by such Person, he shall be liable to make good such Damage as well as to pay such Penalty; and the Amount of such Damage shall in case of Dispute be determined by the Sheriff or Justices by whom the Party incurring such Penalty shall have been convicted, and on Nonpayment of such Damage on Demand the same shall be levied by Pounding or Distress, and such Sheriff or Justices, or one or other of such Justices, shall issue their or his Warrant accordingly.

XC ~~A~~s to enforcing of Summonses and Warrants.

Every Summons, Warrant, Conviction, and Sentence to be issued or pronounced by any Sheriff or Justice or Justices under the Authority of this Act may be enforced against the Person or the Goods and Effects of any Party or Witness in any other County, Burgh, or Place where such Party or Witness may be found, as well as in the County, Burgh, or Place where the same is issued or pronounced, provided such Summons, Warrant, Conviction, or Sentence be endorsed by the Sheriff or Sheriff Clerk or a Justice of such other County, Burgh, or Place; and such Endorsation or Warrant of Concurrence may be in the Form in the Schedule (B.) hereunto annexed, and shall be sufficient Authority to the Constables or Sheriff Officers of both Jurisdictions respectively to put such Summons, Warrant, Conviction, or Sentence into execution within such other County, Burgh, or Place.

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Modifications etc. (not altering text)

- C12** Reference to sheriff clerk of a county to be construed as reference to sheriff clerk of sheriff court district concerned: [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27 Pt. I para. 1\(3\)](#)

XCI Witnesses may be summoned, and Penalty on their making default.

It shall be lawful for any Sheriff or Justice to summon any Person to appear before him, or in the Case of a Justice before any One or more Justices, as a Witness in any Matter in which such Sheriff or Justice or Justices shall have Jurisdiction under the Provisions of this Act, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall without reasonable Excuse refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expenses, or if any Person appearing shall refuse to be examined upon Oath, or to give Evidence before such Sheriff or Justice or Justices, every such Person shall for every such Offence be liable to a Penalty not exceeding [^{F52}£25][^{F52}level 1 on the standard scale].

Textual Amendments

- F52** Words “level 1 on the standard scale” substituted for “£25” (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

XCII Disposal of forfeited Articles.

In all Cases where it is provided by this Act that any Article, Matter, or Thing may be seized and forfeited, it shall be lawful for any Water Bailiff, Constable, or other Person acting in the Execution of this Act to seize and take such Article, Matter, or Thing, and to keep the same in his Custody and Possession until the Person from whom the same is taken is brought before the Sheriff or Justice; and where any such Article, Matter, or Thing shall be adjudged by the Sheriff or Justice to be forfeited under the Provisions of this Act, it shall be lawful for such Sheriff or Justice to direct such Article, Matter, or Thing to be destroyed or to be sold and disposed of as he or they may think fit, and the Proceeds of any such Sale shall be paid to the Commissioners or their Clerk or Treasurer or other Person authorized by them to receive the same, and shall be applied for the Purposes of this Act in the same Manner as the Rates hereby authorized to be levied.

XCIII Form of Proceedings against Offenders.

Any Information, Complaint, and Proceedings before the Sheriff or Justice or Justices before whom any Person shall be complained of or proceeded against for any Offence under the Provisions of this Act, and the Warrants, Sentence, or Conviction thereon, may be in the Form of the Schedule (B.) hereunto annexed, or as near thereto as may be, and may be printed or written or partly printed and partly written, and no written Record of Evidence shall be necessary unless either Party before such Complaint shall be heard requires the Sheriff or Justice or Justices to take Notes of the Evidence to be adduced, which such Sheriff or Justice or Justices shall do or cause to be done, and the

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Notes so taken shall be deemed and held in any subsequent Proceedings as a sufficient Record of the Evidence under such Complaint.

XCIV Proceedings not to be quashed for Want of Form.

No Proceeding in pursuance of this Act shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts in *England*, or be subject to Appeal or Review by any of the Supreme Courts in *Scotland*, except as herein-after provided.

XCIV Prosecutor not bound to negative Plea of Licence.

It shall not be necessary in any Proceeding against any Person under the Provisions of this Act to negative by Evidence any Licence, Consent, Authority, or other Matter of Exception or Defence, but the Person seeking to avail himself of such Licence, Consent, Authority, or other Matter of Exception or Defence shall be bound to prove the same.

XCVI As to Appeals in Scotland.

It shall be lawful for the Complainer or for any Party charged to appeal against any Adjudication or Conviction pronounced by any Sheriff or Justice or Justices in *Scotland*, with respect to any Complaint or Penalty or Forfeiture under the Provisions of this Act, by which he thinks himself aggrieved; and in case such Adjudication or Conviction shall be pronounced by any Sheriff, the Appeal therefrom shall be made to the next Circuit Court of Justiciary in the Manner and by and under the Rules, Limitations, Conditions, and Restrictions contained in the ^{M2}Heritable Jurisdictions (Scotland) Act 1746; and in case such Adjudication or Conviction shall be pronounced by any Justice or Justices, the Appeal therefrom shall be made to the next General, Stated, or Adjourned Meeting of the Justices of the County, Burgh, or Place for which such Justice or Justices shall act, in Quarter Sessions assembled, but no such Appeal to the Quarter Sessions shall be entertained unless it be made within Four Months next after the pronouncing of such Adjudication or Conviction, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought: Provided, that with every such Appeal against the Adjudication or Conviction pronounced by any Sheriff or Justice or Justices a Bond of Caution for the Payment of any Penalty or Costs which may have been awarded against the Appellant by the Adjudication or Conviction appealed from, together with the Costs of the Appeal, shall be lodged with the Sheriff Clerk or Clerk of the Peace, and the Sufficiency of the Cautioner in such Bond shall be judged of and determined by the Sheriff Clerk or Clerk of the Peace, as the Case may be; and it shall not be competent to appeal from or bring any Adjudication or Conviction pronounced by any Sheriff or Justice or Justices acting under this Act under Review in any other Way than as herein provided; and the Decisions of the Circuit Court of Justiciary and of the Justices in Quarter Sessions assembled in any of the Matters aforesaid shall be final, and not subject to Review by Advocation, Suspension, Reduction, or any other Process whatsoever.

Modifications etc. (not altering text)

- C13** Functions of clerk of the peace now exercisable by officer of local authority: [District Courts \(Scotland\) Act 1975 \(c. 20\), s. 18](#)

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Marginal Citations

M2 1746 c. 43.

XCVII As to Appeals in England.

If any Party shall feel aggrieved by any Adjudication or Conviction pronounced by any Justice or Justices in *England* with respect to Penalty or Forfeiture under the Provisions of this Act, such Party may appeal to the [^{F53}Crown Court], but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Textual Amendments

F53 Words substituted by virtue of [Courts Act 1971 \(c. 23\)](#), [Sch. 8 para. 2](#)

XCVIII Quarter Sessions to dispose of Appeal.

At the [^{F54}Crown Court in England or] *Scotland* for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the Hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or confirm or quash the Adjudication, and order any Money paid by any Party or levied by Pounding or Distress of his Goods to be returned to him, and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

Textual Amendments

F54 Words substituted by virtue of [Courts Act 1971 \(c. 23\)](#), [Sch. 8 para. 2](#)

XCIX Persons giving false Evidence liable to Penalties of Perjury.

Every Person who upon any Examination on Oath under the Provisions of this Act shall wilfully and corruptly give false Evidence shall be liable to the Penalties of wilful and corrupt Perjury.

C Act not to affect Powers of Lord High Admiral.

Nothing in this Act contained shall diminish, prejudice, take away, alter, suspend, or affect any Right, Power, Authority, Privilege, or Jurisdiction of the Lord High Admiral of the United Kingdom of *Great Britain and Ireland*, or of the Commissioners for executing the Office of Lord High Admiral.

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SCHEDULES REFERRED TO IN THIS ACT.

SCHEDULE (A.)

FORMS OF PROCEEDINGS FOR RECOVERY OF RATES.

Modifications etc. (not altering text)

C14 Reference to Sheriff of the County to be construed as reference to sheriff principal of the sheriffdom:
[Sheriff Courts \(Scotland\) Act 1971 \(c. 58\), s. 4, Sch. 1 para. 1](#)

1. *Petition.*

To the Honourable the Sheriff of the County of [*or*Her Majesty’s Justices of the Peace for the County or Burgh of ,*or other Place*].

The Petition of *A.B.*, Clerk [*or*Treasurer] to the Commissioners appointed under “The Tweed Fisheries Act, 1857.”

Humbly showeth, That *C.D.* is Owner [*or*Tenant or Occupier] of a Salmon Fishery in the River Tweed at in the County of , and is liable for the Sum of , being the Amount of Rates leviable under the said Act, as specified in the annexed Certificate of the Collector appointed by the said Commissioners, and which Sum of is still due and unpaid.

May it therefore please your Lordship [*or*Honours] to grant Warrant for Recovery of the said Sum of with Costs, by Pounding or Distress of the Goods and Effects of the said *C.D.*, and selling the same, in Terms of the Sixty-ninth Section of the said Act.

A.B.

2. *Certificate by Collector.*

I.E.F., Collector appointed by the Commissioners acting under “The Tweed Fisheries Act, 1857,” make Oath and say, That *C.D.* is liable for the Sum of of Rates leviable under the said Act for the Year [*or*Years] ending the Day of 18 , and that he has not paid the said Sum.

E.F.

Sworn at this Day of Eighteen hundred and Before me, *G.H.* [*Magistrate.*]

3. *Warrant.*

Having considered the foregoing Complaint, grants Warrant for Recovery of the said Sum of with Costs, by Pounding or Distress of the Goods and Effects of the said *C.D.*, and summary Sale thereof, on the Expiration of not less than Forty-eight Hours after such Pounding and Distress; appoints the said Sum of , with the full Costs of Pounding or Distress and Sale, to be paid to the said *A.B.*, the Complainer, from and out of the Proceeds of such Pounding or Distress and Sale, and the Surplus [if any] to be paid to the said *C.D.* when demanded.

G.H. [*Magistrate.*]

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SCHEDULE (B.)

FORMS OF PROCEEDINGS FOR RECOVERY OF PENALTIES.

Modifications etc. (not altering text)

C15 References to Sheriff of the County to be construed as references to sheriff principal of the sheriffdom:
[Sheriff Courts \(Scotland\) Act 1971 \(c. 58\), s. 4, Sch. 1 para. 1](#)

1. Information upon Oath.

A.B., residing at in the County of , Water Bailiff appointed under “The Tweed Fisheries Act, 1857,” [or any other Person upon whose Information on Oath Warrant of Search may be granted] make Oath and say, That [state the Grounds of the Suspicion], and that I suspect and believe that *C.D.*, now or lately residing at in the County of , has, contrary to the Provisions of the said Act, in his Possession, or that there is lodged or placed or concealed in a Dwelling House [or Fishing Shield, Outhouse, or Premises] within the Jurisdiction of your Lordship [or Honour], or in a Boat [or other Vessel, Carriage, Cart, or Vehicle, which particularly specify] within the Jurisdiction of your Lordship [or Honour], or which will shortly pass through or be within the same, One or more Nets or Leisters or Spears adapted for taking or killing Salmon [or Salmon which have been, contrary to the Provisions of the said Act, taken or killed in or from the River Tweed]: All which is Truth, as the Deponent shall answer to God.

Sworn at this Day of *A.B.* 18 , before me,

E.F. [Magistrate.]

2. Petition for Warrant of Search.

[Place and Date.]

Warrant is craved for any Water Bailiff appointed under “The Tweed Fisheries Act, 1857,” or for any Constable or Peace Officer to search in the Daytime the Dwelling House of *C.D.* , at in the County of [or other Place] [or at any Time the Fishing Shield, Outhouse, or other Place or Boat, &c.] specified in the Information of the said *A.B.*, in Terms of the Section of the said Act, for the Nets, Leisters, or Spears [or for the Salmon] referred to in the said Information.

G.H., *P.F.*,

[or other Party entitled to prosecute for Penalties.]

3. Warrant of Search.

At the Day of 18 , at of the Clock Noon.

Having considered the preceding Information and Application, grants Warrant as craved.

E.F. (Magistrate.)

4. Complaint.

To the Honourable the Sheriff of the County of [or Her Majesty’s Justices of the Peace for the County or Burgh of , or other Place].

The Petition and Complaint of *G.H.* Procurator Fiscal of Court for the public Interest [or other Party entitled to prosecute],

Humbly showeth,

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That *C.D.*, now or lately residing at in the County of , has contravened the Section of “The Tweed Fisheries Act, 1857,” in so far as upon the Day of 18 , or about that Time, he [*specify the Particulars of the Offence*], by which Offence the said *C.D.* has incurred a Penalty not exceeding Pounds [*specify any other Forfeiture or Penalty which has been incurred*].

May it therefore please your Lordship [*or Honour*] to grant Warrant to summon the said *C.D.* to appear before your Lordship [*or Honours*] to answer to this Complaint, and to be dealt with in Terms of the said Act.

According to Justice, &c.,

G.H., P.F. [*or other Party entitled to prosecute.*]

5. Deliverance on Complaint.

[*Place and Date.*]

The [*Magistrate*] having considered the foregoing Complaint, grants Warrant for bringing *C.D.* complained of immediately before him [*or before any One or more of Her Majesty’s Justices of the Peace for the said County [or Burgh] of [or other Place]*], [*or appoints the said C.D. to be served with a Copy of the foregoing Complaint and of this Deliverance*], and grants Warrant for citing the said *C.D.* to appear before him [*or before him or any One or more of Her Majesty’s Justices of the Peace for the said County or Burgh of [or other Place]*] within the ordinary Court House [*or other Place*] at on the Day of 18 , at o’Clock Noon, then and there to answer to the Charge made against him in the said Complaint under Certification, and grants Warrant at the Instance of both Parties for summoning Witnesses.

E.F. [*Magistrate.*]

6. Citation.

C.D. Take Notice that you are summoned to appear before the Sheriff of the County of [*or any One or more of Her Majesty’s Justices of the Peace for the County [or Burgh] of [or other Place]*] in a Court to be held within the ordinary Court House at [*or other Place*], on the Day of 18 , at o’clock Noon, to answer to the Complaint against you at the Instance of *G.H.*, to a Copy of which this Citation is attached. This Citation served on the Day of 18 , by me, Sheriff Officer [*or Constable*] of the County of [*or other Place*] before Witness.

L.M., Sheriff Officer [*or Constable*].

7. Execution of Citation.

L.M., Sheriff Officer [*or Constable*] of the County of [*or other Place*] duly summoned *C.D.*, residing at in the County of , to appear before the Sheriff of the County of [*or before any One or more of Her Majesty’s Justices of the Peace for the County [or Burgh] of [or other Place]*] in a Court to be held within the ordinary Court House at [*or other Place*] on the Day of 18 , at o’Clock Noon, to answer to the Complaint at the Instance of *G.H.* against him. This I did by delivering to him personally [*or leaving for him at his Dwelling House at aforesaid*] a Citation to the above Effect, attached to a full Copy of the said Complaint and of the Warrant thereon, dated the Day of 18 , before *N.O.*, subscribing Witness.

L.M., Sheriff Officer [*or Constable*].

N.O., Witness.

8. Conviction in England.

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to wit, Be it remembered, That on the Day of in the Year of our Lord 18*C.D.* is convicted before us *E.F.* and *G.H.*, Two of Her Majesty's Justices of the Peace for the County of [*or other Place*] [*describe the Offence generally, and the Time and Place when and where committed*], contrary to the Provisions of "The Tweed Fisheries Act, 1857." [*Then add Adjudication.*] Given under our Hands and Seals the Day and Year first above written.

E.F. G.H.

9. *Conviction in Scotland.*

[*Place and Date.*]

The [*Magistrate*] in respect of the Evidence adduced [*or of the Judicial Confession of the said C.D., or in default of the Appearance of the said C.D., as the Case may be*], convicts the said *C.D.* of the Offence charged, and decerns and adjudges the said *C.D.* to pay the Sum of of Penalty, with the Sum of of Costs, to the Commissioners appointed by "The Tweed Fisheries Act, 1857," or their Treasurer, and failing Payment by the said *C.D.* forthwith* grants Warrant for Recovery of the said Penalty and Costs by Pounding or Distress of his Goods and Effects, and summary Sale thereof on the Expiration of not less than Forty-eight Hours after such Pounding or Distress; appoints a Return or Execution of such Pounding or Distress and Sale to be reported within Eight Days from this Date, and in the meantime grants Warrant for detaining the said *C.D.* in the Prison at until such Return be reported, or until sufficient Security be given by the said *C.D.* for his Appearance before the [*Magistrate*] on the Day of next.†

E.F. [*Magistrate.*]

*[*If it shall appear at the Trial that no sufficient Pounding can be made within the Jurisdiction of the Magistrate, say here, "and in respect it appears that no sufficient Pounding or Distress can be had whereon to levy the said Penalty and Costs, grants Warrants to imprison the said C.D. in the Prison at for the Space of unless the said Penalty and Costs be sooner paid."*]

†[*If any Article be forfeited, add here, "and further decerns and adjudges the Boat, Net, (or other Article) specified in the said Complaint to be forfeited, and directs the same to be destroyed at the Sight of the Complainer (or to be sold, and the Proceeds thereof paid to the Treasurer of the said Commissioners, as the Case may be.)"*]

Note.—*Warrants of Pounding or Distress in the above Form may be granted separate from the Conviction, if necessary.*

10. *Warrant of Imprisonment.*

To be granted in case of a Return being made that no sufficient Goods and Effects could be found.

[*Place and Date.*]

The [*Magistrate*] in respect of the Return made that no sufficient Effects can be found whereon to levy the said Penalty and Costs grants Warrant to imprison the said *C.D.* in the Prison at for the Space of from this Date, unless the said Penalty and Costs be sooner paid, and decerns.

E.F. [*Magistrate.*]

11. *Warrant of Liberation.*

[*Place and Date.*]

The [*Magistrate*] in respect of the Return of a sufficient Pounding or Distress and Sale of the Effects of the said *C.D.* [*or in respect of Payment having been made of the said Penalty and*

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Costs,*as the Case may be,*] grants Warrant to the Keeper of the Prison at for the immediate Liberation of the said *C.D.*, and decerns.

E.F. (Magistrate.)

12. *Warrant of Concurrence.*

[*Place and Date.*]

M.N., Sheriff [*or Justice of the Peace, or Sheriff Clerk*] of the County of , grant Concurrence to the within Warrant, so that the same may be enforced within this County.

M.N.

Status:

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