

Status: Point in time view as at 01/02/1991.

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

SCHEDULES REFERRED TO IN THIS ACT.

SCHEDULE (A.)

FORMS OF PROCEEDINGS FOR RECOVERY OF RATES.

Modifications etc. (not altering text)

- C1** 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)

- C2** 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.*

Status: Point in time view as at 01/02/1991.

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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 *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.

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