



# Salmon Act 1986

## 1986 CHAPTER 62

### PART I

#### ADMINISTRATION OF SALMON FISHERIES IN SCOTLAND

##### *Salmon fishery districts*

#### **1 Salmon fishery districts.**

- (1) A salmon fishery district shall be the area within the coastal limits of a district (within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868) and extending—
  - (a) seaward for three miles from mean low water springs and
  - (b) landward to include the catchment area of each river which flows directly or indirectly into the sea within these limitsbut excluding any area designated as a salmon fishery district by an order made under subsection (2) below.
- (2) Notwithstanding subsection (1) above, the Secretary of State may, in accordance with section 2 of this Act, by order designate any area as a salmon fishery district, whether or not it includes all or part of a salmon fishery district—
  - (a) established by subsection (1) above; or
  - (b) already designated as such by an order made under this subsection;and such an order is referred to in this Act as a “designation order”.
- (3) Districts within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868 shall cease to exist and, subject to subsection (6) below—
  - (a) any reference in any enactment to a particular district within that meaning shall be construed as a reference to the salmon fishery district established by subsection (1) above which has the same coastal limits as that district; and
  - (b) for references in any enactment, excluding this Act, to such districts in general there shall be substituted references to salmon fishery districts

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and a salmon fishery district which has the same coastal limits as a district within the meaning of these Acts shall have the same name as that district.

- (4) After consulting such persons as he thinks fit, the Secretary of State may, by order made by statutory instrument—
- (a) where an island or part of an island is not within the area of a salmon fishery district by virtue of subsections (1) or (2) above, include in the area of a salmon fishery district—
    - (i) that island or that part; and
    - (ii) the sea within three miles from mean low water springs on that island or that part;
  - (b) where there is doubt as to whether a particular place is in a particular salmon fishery district, make provision for the purpose of removing that doubt; or
  - (c) change a reference used in describing a salmon fishery district where the suitability of that reference for that purpose has lessened or ceased
- but such an order shall not create a salmon fishery district.
- (5) The River Tweed shall not be a salmon fishery district except as otherwise provided in this Act.
- (6) References in the <sup>M1</sup>Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 and in any other enactment as amended by that Act to a district shall be construed as including references to the River Tweed.

#### Marginal Citations

M1 1951 c. 26.

## 2 Designation orders.

- (1) A designation order shall provide for the abolition of such salmon fishery districts as are superseded by the district so designated.
- (2) A designation order shall provide for the application to the district so designated of such regulations—
  - (a) made under section 3 of this Act; or
  - (b) made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(6) of the <sup>M2</sup>Salmon Fisheries (Scotland) Act 1862

as the Secretary of State specifies in the order and he may, in such an order, amend regulations made under section 3(2)(d) of this Act or under section 6(6) of that Act in their application under this subsection.
- (3) Subject to section 6(1) of this Act, a designation order shall specify for the district so designated the annual close time and the periods within that time when it is permitted to fish for and take salmon by rod and line; and the order may make different provision for different parts of the district.
- (4) The power under section 1(2) of this Act to make a designation order shall not extend to the River Tweed.
- (5) Schedule 1 shall have effect as to the procedure in the making of a designation order.

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- (6) The Secretary of State may by order vary the provisions of Schedule 1 to this Act.
- (7) An order under subsection (6) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

M2 1862 c. 97.

### *General regulation of salmon fisheries*

## 3 Regulations.

- (1) Subject to subsection (4) below, regulations made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(6) of the Salmon Fisheries (Scotland) Act 1862 shall have effect in relation to a salmon fishery district as they had effect, immediately before the commencement of this section, in relation to the part of that salmon fishery district which was a district within the meaning of these Acts and which had the same coastal limits as that salmon fishery district.
- (2) The Secretary of State shall have power, after consulting such persons as he considers appropriate, to make regulations with respect to—
  - (a) the due observance of the weekly close time;
  - (b) the construction and use of cruives;
  - (c) the construction and alteration of dams, including mill dams, or lades or water wheels so as to afford a reasonable means for the passage of salmon;
  - (d) the meshes, materials and dimensions of nets used in fishing for or taking salmon;
  - (e) obstructions in rivers or estuaries to the passage of salmon;
  - (f) the construction, alteration and use for the control of the passage of salmon of—
    - (i) screens in off-takes from inland waters; and
    - (ii) structures associated with such screens.
- (3) The Secretary of State shall have power, after consulting such persons as he considers appropriate, to make regulations amending section 13 of the <sup>M3</sup>Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (extent of the weekly close time and the period within which rod and line fishing is permitted); provided always that such regulations shall not shorten the periods specified in the said section 13.
- (4) The power to make regulations under subsection (2) above includes power to revoke any regulations as described in subsection (1) above; and such regulations shall be treated as revoked insofar as they are inconsistent with the provisions of regulations made under this section.
- (5) The power to make regulations under paragraphs (c) or (f) of subsection (2) above includes power to except from the application of a regulation or part of a regulation any works or any category of works; and section 11 of the <sup>M4</sup>Salmon Fisheries (Scotland) Act 1868 shall apply to regulations so made.

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- (6) The power to make regulations under subsection (2)(d) above includes power—
- (a) to make different provision for different districts or different parts of a district;
  - (b) to except from the application of a regulation or part of a regulation a district or part of a district specified in the regulations.
- (7) References in any enactment, other than in this Act or in section 36 of the Salmon Fisheries (Scotland) Act 1868, to—
- (a) byelaws or regulations made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(6) of the <sup>M5</sup>Salmon Fisheries (Scotland) Act 1862; or
  - (b) the provisions of any of the Schedules to that Act of 1868 relating to such matters
- shall be construed as including references to regulations made under subsection (2) above.
- (8) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

- M3** 1951 c. 26.  
**M4** 1868 c. 123.  
**M5** 1862 c. 97.

4 ..... F1

#### Textual Amendments

- F1** S. 4 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), Sch. 18

## 5 Enforcement of regulations.

- (1) In section 15 of the <sup>M6</sup>Salmon Fisheries (Scotland) Act 1868 (offences related to regulations)—
- (a) for the words from the beginning to “following offences” there shall be substituted the words “ Any person ”;
  - (b) paragraph (7) shall be omitted; and
  - (c) for the words from “shall for every such offence” to the end there shall be substituted the words “ shall be guilty of an offence; and section 19 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (forfeiture of fish, instruments, articles, vehicles or boats) shall apply in relation to persons convicted of an offence under this section as it applies to those convicted of an offence under Part I or section 13 of that Act ”.
- (2) Without prejudice to the generality of section 3(7) of this Act, in section 15 of that Act, “byelaw”—
- (a) in paragraph (8), shall include regulations made under section 3(2) of this Act and the offence specified in that paragraph shall, as respects such regulations, extend to so much of the River Tweed as is situated outwith Scotland; and

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- (b) in paragraphs (2), (3) and (4), shall include such regulations except to the extent that they extend to the River Tweed.

#### Marginal Citations

M6 1868 c. 123.

## 6 Annual close time.

- (1) The annual close time for a salmon fishery district shall be a continuous period of not less than 168 days and shall apply to every mode of fishing for and taking salmon except to the extent that provision is made for periods within that time during which it is permitted to fish for and take salmon by rod and line.
- (2) Subject to subsection (3) below, the dates of the annual close time and the periods within that time when it is permitted to fish for and take salmon by rod and line shall be, in the case of any particular district—
- (a) the dates and periods specified in the designation order made in respect of that district; or
- (b) where no designation order has been made in respect of that district, the dates and periods which were determined under section 6(5) of the <sup>M7</sup>Salmon Fisheries (Scotland) Act 1862, subject to any variation made under section 9 of the <sup>M8</sup>Salmon Fisheries (Scotland) Act 1868, which, immediately before the commencement of this section, were in force as respects the district within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868 which had the same coastal limits as that salmon fishery district.
- (3) Notwithstanding subsection (2) above, the Secretary of State may, subject to subsection (1) above, by order prescribe for any district the dates of the annual close time and the periods within that time when it is permitted to fish for and take salmon by rod and line and he may make different provision for different parts of a district; and such an order is referred to in this Act as an “annual close time order”.
- (4) The Secretary of State may make an annual close time order in respect of a salmon fishery district only on application to him by—
- (a) the district salmon fishery board for that district; or
- (b) where there is no such board, two proprietors of salmon fisheries in that district.
- (5) An application under subsection (4) above shall be accompanied by the applicant’s written proposals which shall state—
- (a) the proposed dates of the annual close time and the periods within that time when it shall be permitted to fish for and take salmon by rod and line in the district; and
- (b) the general effect of the proposals
- and the proposals may include different dates and periods for different parts of the district.
- (6) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of an annual close time order as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to an annual close time order; and

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- (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (4) above.
- (7) References in any enactment, other than in this Act, to—
- (a) regulations or byelaws made under the Salmon Fisheries (Scotland) Acts 1862 to 1868 as respects the matters specified in section 6(5) of the <sup>M9</sup>Salmon Fisheries (Scotland) Act 1862; or
- (b) the provisions of Schedule C to the <sup>M10</sup>Salmon Fisheries (Scotland) Act 1868 relating to such matters
- shall be construed as including references to an annual close time order or to such part of a designation order as provides for the annual close time for a salmon fishery district.

#### **Subordinate Legislation Made**

**P1** S. 6: power previously exercised by S.I. 1989/1363, 1989/1499, 1990/1854, 1990/2020

**P2** S. 6(3): s. 6(3) power exercised by S.I.1991/2115

#### **Marginal Citations**

**M7** 1862 c. 97.

**M8** 1868 c. 123.

**M9** 1862 c. 97.

**M10** 1868 c. 123.

## **7 Estuary limits.**

- (1) Subject to subsection (2) below, the estuary limits of a river shall be the limits fixed by judicial decision or fixed and defined under section 6(1) of the Salmon Fisheries (Scotland) Act 1862.
- (2) Whether or not a river has estuary limits as described in subsection (1) above, the Secretary of State may, by order, prescribe limits or, as the case may be, different limits which shall be the estuary limits for that river; and such an order is referred to in this Act as an “estuary limits order”.
- (3) The Secretary of State may make an estuary limits order only on application to him by—
- (a) the district salmon fishery board for the district in which the river is situated; or
- (b) where there is no such board, two proprietors of salmon fisheries in that district.
- (4) An application under subsection (3) above shall be accompanied by the applicant’s written proposals which shall state—
- (a) the proposed estuary limits; and
- (b) the general effect of the proposals.
- (5) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of an estuary limits order as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to an estuary limits order; and

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- (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (3) above.
- (6) For the purposes of this section—  
“estuary limits” means limits which divide each river including its mouth or estuary from the sea; and  
“river” does not include the River Tweed.
- (7) References in any enactment, other than in this Act or in section 36 of the <sup>M11</sup>Salmon Fisheries (Scotland) Act 1868, to—  
(a) byelaws or regulations made under the <sup>M12</sup>Salmon Fisheries (Scotland) Act 1862 to 1868 as respects the matters specified in section 6(1) of the Salmon Fisheries (Scotland) Act 1862; or  
(b) the provisions of Schedule B to the Salmon Fisheries (Scotland) Act 1868 relating to such matters  
shall be construed as including references to an estuary limits order.

#### Marginal Citations

**M11** 1868 c. 123.

**M12** 1862 c. 97.

## 8 Use of baits and lures.

- (1) The Secretary of State may, subject to the provisions of this section, make regulations specifying baits and lures for the purposes of the definition of “rod and line” in section 24 of the <sup>M13</sup>Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.
- (2) The Secretary of State may make regulations under this section only on—  
(a) application to him by a district salmon fishery board; or  
(b) a joint application to him by more than one such board,  
and regulations made in respect of such application shall be made only in respect of the district of the applicant.
- (3) Regulations under this section shall specify, subject to such exceptions as may be provided therein, all or any, or a combination of, the following—  
(a) baits and lures or classes of baits and lures;  
(b) times when the regulations apply;  
(c) areas to which the regulations apply.
- (4) An application under subsection (2) above shall be accompanied by the applicant’s written proposals which shall state—  
(a) the baits and lures which it is proposed should be specified;  
(b) the places to which and the times during which the proposed regulations should apply; and  
(c) the reasons for the proposals.

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- (5) Paragraphs 3 to 9 of Schedule 1 to this Act shall apply to the making of regulations under this section as they apply to the making of a designation order, and for this purpose—
- (a) references to a designation order shall be construed as references to regulations under this section; and
  - (b) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under subsection (2) above.
- (6) In section 24(1) of the <sup>M14</sup>Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951, at the end of the definition of “rod and line” there shall be inserted the following — “and, in the case of fishing for salmon in an area to which and at a time during which regulations made under section 8 of the Salmon Act 1986 apply, is not specified in such regulations in respect of that area and time”.

**Marginal Citations**

**M13** 1951 c. 26.

**M14** 1951 c. 26.

**9 Limits of the Solway Firth.**

References in any enactment to the limits of the Solway Firth shall be construed as references to the limits which were fixed under section 6(2) of the <sup>M15</sup>Salmon Fisheries (Scotland) Act 1862.

**Marginal Citations**

**M15** 1862 c. 97.

**10 Application of regulations and annual close time orders to the River Tweed**

- (1) The byelaw enacted by section 10 of the <sup>M16</sup>Salmon Fisheries (Scotland) Act 1868 as Schedule G to that Act, as amended by any other enactment, and so much of section 15 of that Act as relates thereto shall continue to have effect in relation to the River Tweed as it had effect before the commencement of this section.
- (2) Regulations made under section 3 of this Act shall have effect in relation to the River Tweed but the power to make regulations under subsection (2)(d) of that section includes power to except the River Tweed from the application of any such regulation.
- (3) Where such regulations have effect in relation to the River Tweed—
- (a) references to a salmon fishery district shall include references to the River Tweed; and
  - (b) references to a district salmon fishery board shall include references to the River Tweed Council
- unless the contrary intention appears.
- (4) Subsections (3), (4)(a), (5) and (6) of section 6 and section 8 of this Act shall have effect in relation to the River Tweed with the following modifications—



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- (a) references to a salmon fishery district shall include references to the River Tweed;
- (b) references to a district salmon fishery board shall include references to the River Tweed Council

and Schedule 1 to this Act shall, for the purposes of this subsection, be construed accordingly.

- (5) In making an annual close time order in respect of the River Tweed, the Secretary of State may prescribe an annual close time, being a continuous period of not less than 153 days.
- (6) The power to make regulations under—
  - (a) section 3(2)(a) of this Act includes power to amend section 12 of the <sup>M17</sup>Tweed Fisheries Amendment Act 1859;
  - (b) section 3(2)(d) of this Act includes power to amend sections 12 and 13 of that Act of 1859; and
  - (c) section 3(2)(e) of this Act includes power to amend section 57 of the <sup>M18</sup>Tweed Fisheries Act 1857; and
  - (d) section 8 of this Act includes power to amend section 6 of the Tweed Fisheries Amendment Act 1859

and the power to make an annual close time order in respect of the River Tweed includes power to amend section 6, 10 and 11 of that Act of 1859.

- (7) This section extends to so much of the River Tweed as is situated outwith Scotland.

#### Marginal Citations

**M16** 1868 c. 123.

**M17** 1859 c. lxx.

**M18** 1857 c. cxlviii.

VALID FROM 15/04/2001

#### **[<sup>F2</sup>10A Regulations to assist conservation of salmon**

- (1) An application may be made by any person who may make an application in relation to an annual close time order under section 6(4) of this Act to the Scottish Ministers to make regulations under subsection (3) below.
- (2) An application under subsection (1) above shall be in writing and shall contain the applicant's proposals, including—
  - (a) a general description of the proposals;
  - (b) a statement as to why the applicant considers that the proposals are necessary or expedient; and
  - (c) a statement as to the general effect of the proposals.
- (3) The Scottish Ministers shall have power to make regulations—
  - (a) on an application under subsection (1) above; or
  - (b) otherwise,

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if they consider that it is necessary or expedient to do so for the conservation of salmon.

- (4) For the purposes of subsection (3) above, regulations shall not be taken to be for something other than the conservation of salmon by reason only that they also have effect in relation to the management of salmon fisheries for exploitation.
- (5) In considering whether or not it is necessary or expedient to make regulations under subsection (3) above, the Scottish Ministers shall have regard to any representations made to them by any person having an interest in fishing for or taking salmon, or in the environment.
- (6) Regulations under this section may be made in relation only to salmon fisheries; and, subject to subsection (7)(b) below, such regulations shall not be made in respect of matters in relation to which the Scottish Ministers have power to make regulations or orders under any other provision of this Act or under any other enactment relating to the management of salmon or freshwater fisheries.
- (7) Without prejudice to the generality of the power conferred by subsection (3) above, regulations under this section may—
  - (a) specify the type of information about any salmon fishery that a district salmon fishery board may require from the proprietor of the fishery and the time within which such information shall (if required) be supplied;
  - (b) specify baits and lures for the purposes of the definition of “rod and line” in section 24 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.]

#### Textual Amendments

**F2** Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

VALID FROM 15/04/2001

#### <sup>F3</sup>10B Powers of enforcement, entry, search and arrest

- (1) Section 10(1)(d) of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c.26) (powers of water bailiffs) and, in relation thereto, subsections (3) and (6) of that section shall apply to a water bailiff, a person appointed by the Scottish Ministers under subsection (5) of that section and any constable for the purposes of the enforcement of any provision of any regulations made under section 10A of this Act as they apply to a water bailiff for the purposes of that Act; and for this purpose the reference in the said section 10(1)(d) to forfeiture in pursuance of that Act shall be construed as a reference to forfeiture by virtue of section 10C of this Act.
- (2) Section 27 of the Salmon Fisheries (Scotland) Act 1868 (c.123) (constables or water bailiffs entering upon land) shall apply to a water bailiff and any constable for the purposes of the enforcement of any provision of any regulations made under section 10A of this Act as it applies to them for the purposes of the enforcement of the provisions of the said Act of 1951.
- (3) Regulations under section 10A of this Act may make provision in relation to a water bailiff, a person appointed by the Scottish Ministers under section 10(5)

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of the said Act of 1951 or any constable conferring on him such further powers of enforcement, in relation to the regulations, as the Scottish Ministers consider necessary or expedient for the conservation of salmon.

- (4) Section 11 of the said Act of 1951 (powers of entry and search) and, in relation thereto, section 10(3) and (6) of that Act shall apply to an offence against any provision of any regulations made under section 10A of this Act as they apply to an offence against any of the provisions of sections 3 and 4 of that Act; and for this purpose any reference in the said section 11 to an offence against any of the provisions of sections 3 and 4 of that Act shall be construed as a reference to an offence against any of the provisions of any regulations made under section 10A of this Act.
- (5) Section 12 of the said Act of 1951 (apprehension of offenders) and, in relation thereto, section 10(3) and (6) of that Act shall apply to an offence against any provision of any regulations made under section 10A of this Act as they apply to an offence against the provisions of Part I of that Act; and for this purpose any reference in the said section 12 to an offence against the provisions of Part I of that Act shall be construed as a reference to an offence against the provisions of any regulations made under section 10A of this Act.

#### Textual Amendments

**F3** Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

VALID FROM 15/04/2001

#### <sup>F4</sup>10C Offences, penalties, forfeiture etc.

- (1) Any person who—
- acts in contravention of; or
  - fails to take any action required of him by, or to comply with any requirement imposed on him by,
- any provision of any regulations made under section 10A of this Act, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) Sections 7(3) (evidence), 19 (forfeiture) and 20 (disposal of seized fish) of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c.26) shall apply in the case of a conviction under this section of this Act as they apply in the case of a conviction against Part I, section 7 or section 13, as the case may be, of that Act.
- (3) For the purpose of subsection (2) above—
- the reference in the said section 7(3) to “this section” shall be construed as a reference to this section of this Act;
  - any reference in the said section 19 to an offence against Part I or section 13 of that Act shall be construed as a reference to an offence against any provision of any regulations made under section 10A of this Act; and
  - the reference in the said section 20 to “this Act” shall be construed as a reference to regulations made under section 10A of this Act.

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### Textual Amendments

**F4** Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

VALID FROM 15/04/2001

### <sup>F5</sup>10D Regulations

- (1) Regulations under section 10A of this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (2) Such regulations may make—
  - (a) provision generally in relation to any district or river, or in relation to any time or season;
  - (b) different provision for different districts or different parts of a district, or for different parts of a river, or for different cases or classes of case.
- (3) Paragraphs 3 to 8 of Schedule 1 to this Act shall apply to the making of regulations under section 10A(3)(a) of this Act as they apply to the making of a designation order and for this purpose—
  - (a) references to an applicant, and to an application, under paragraph 1 shall be construed respectively as references to an applicant, and to an application, under the said section 10A; and
  - (b) references to a designation order shall be construed as references to the regulations.
- (4) Paragraphs 3 to 8 of Schedule 1 to this Act shall apply to the making of regulations under section 10A(3)(b) of this Act as they apply to the making of a designation order and for this purpose—
  - (a) references to an applicant and to an application shall be omitted;
  - (b) references to a designation order shall be construed as references to the regulations;
  - (c) the reference in paragraph 3 to the persons who shall be consulted shall be construed as including, in particular, such district salmon fishery boards as the Scottish Ministers consider appropriate; and
  - (d) paragraph 4(3) shall be omitted.

### Textual Amendments

**F5** Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

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VALID FROM 15/04/2001

#### **F<sup>6</sup>10E Application to River Esk**

Sections 10A to 10D of this Act shall apply to so much of the River Esk, including its banks and tributary streams, as is situated in Scotland; and, for the purpose of section 10A(1) of this Act, section 6(4) of this Act shall be deemed to apply to the River Esk, its banks and tributary streams.

#### **Textual Amendments**

**F6** Ss. 10A-10E inserted (S.) (15.4.2001) by 2001 asp 3, s. 1; S.S.I. 2001/116, art. 2

### *Proprietors*

## **11 Qualified proprietors and upper and lower proprietors.**

- (1) A qualified proprietor shall be, for the purposes of this Act, a proprietor of a salmon fishery entered in the valuation roll.
- (2) Where any salmon fishery is not entered or not entered separately in the valuation roll, the assessor shall, on the request of—
  - (a) the clerk to the district salmon fishery board for the district in which the fishery is situated; or
  - (b) where there is no such board for the district, the proprietor of that fishery, value that fishery and enter it in the valuation roll.
- (3) If a salmon fishery is situated in more than one salmon fishery district the assessor shall, on the request of—
  - (a) the clerk to the district salmon fishery board for either or any of these districts; or
  - (b) where there is no such board, the proprietor of that fishery value that fishery and enter it in the valuation roll according to its value in each district.
- (4) A qualified proprietor shall be an upper proprietor or a lower proprietor for the purposes of this Act according to whether his salmon fishery is, respectively, upstream or downstream of a division of a river as defined in subsection (7) below and, in this Act, “upper proprietor” and “lower proprietor” each mean a qualified proprietor.
- (5) A qualified proprietor shall be both an upper proprietor and a lower proprietor if he is a qualified proprietor of one salmon fishery situated above and another situated below a division referred to in subsection (4) above, whether or not both fisheries are on the same river in the district, and he may act in either capacity or in both capacities in accordance with the provisions of this Act.
- (6) Subject to subsection (5) above, a qualified proprietor in a salmon fishery district shall not be eligible for election, co-option or appointment to the district salmon fishery board for that district in respect of more than one salmon fishery.
- (7) The division referred to in subsection (4) above shall be—

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- (a) a line across the river between points on either bank prescribed by the Secretary of State under subsection (8) below; or
  - (b) where the Secretary of State has not prescribed such points but a point of division has been fixed in accordance with section 6(4) of the <sup>M19</sup>Salmon Fisheries (Scotland) Act 1862, that point of division; or
  - (c) where no division has been effected under paragraphs (a) or (b) above, the normal tidal limit.
- (8) When requested to do so by the district salmon fishery board for the district in which a river is situated, the Secretary of State may, by order made by statutory instrument, prescribe a point on each bank of the river to which the request relates.
- (9) The clerk to a district salmon fishery board shall maintain a roll showing—
- (a) the upper and lower proprietors in the district; and
  - (b) the values of their fisheries as entered in the valuation roll;
- and the board may, if they are satisfied that a name should be added or removed, add or remove it.
- (10) Subject to section 5 of the <sup>M20</sup>Sheriff Courts (Scotland) Act 1907 (jurisdiction as regards heritable property), the sheriff may, on summary application made to him by a person whose request to the board to add or remove a name has not been met, order the board to add or remove that name.

#### **Marginal Citations**

**M19** 1862 c. 97.

**M20** 1907 c. 51.

## **12 Sole proprietor in a salmon fishery district.**

- (1) Where, after the commencement of this section, there is in a salmon fishery district only one proprietor of salmon fisheries, for references in this Act, except under paragraph 1 of Schedule 2 to this Act, to two proprietors of salmon fisheries in a salmon fishery district for which there is no board there shall be substituted references to that sole proprietor.
- (2) Where, immediately before the commencement of this section, there is a sole proprietor in a district within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868, the powers of a district board conferred on him by section 19 of the Salmon Fisheries (Scotland) Act 1862 shall, on the commencement of this Act, cease to be exercisable by him.
- (3) A person appointed as a water bailiff by a sole proprietor mentioned in subsection (2) above shall, on the commencement of this section, cease to have the powers and duties of a water bailiff conferred on him by or under any enactment to the extent that such powers and duties relate to that appointment.

## **13 Mandatories.**

- (1) A qualified proprietor or an elected member or chairman of a district salmon fishery board may at any time authorise a person to act for him; and such a person is referred to in this Act as a “mandatory”.

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- (2) A mandatory may as such be elected under Schedule 2 to this Act as a representative of qualified proprietors or as chairman but a person may not authorise another to act as a co-opted member under this Act nor shall a mandatory be co-opted under section 16(2) of this Act.
- (3) A person who is both an upper and a lower proprietor by virtue of section 11(5) of this Act may authorise a person in accordance with this section in either or both of his capacities or may do so in each capacity.

#### *District salmon fishery boards*

### **14 District salmon fishery boards.**

- (1) If proprietors of salmon fisheries in a salmon fishery district—
  - (a) form an association for the purpose of the protection or improvement of the fisheries within their district; and
  - (b) elect, in accordance with Schedule 2 to this Act, a committee to act for them, that committee shall be the district salmon fishery board for that district; and the purpose of such a board shall be the purpose specified above in respect of the association.
- (2) A district salmon fishery board shall have the powers and duties conferred—
  - (a) on them under this Act; and
  - (b) by any other enactment on a district board within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868;and references in any enactment, other than in this Act, to a district board within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868 shall be construed as references to a district salmon fishery board.
- (3) Subject to subsection (4) below, a committee mentioned in subsection (1) above shall cease to be the district salmon fishery board for a district on the expiry of a period of three years from the date of the last meeting of proprietors which elected, in accordance with Part I of Schedule 2 to this Act, such members as require to be elected under Part II of that Schedule.
- (4) On the coming into force of a designation order—
  - (a) the transitional district board for; or
  - (b) the committee within the meaning of this section in respect ofa district superseded by the district so designated, as the case may be, shall cease to be a district salmon fishery board; and the committee within the meaning of this section which has been constituted in accordance with Schedule 2 to this Act in anticipation of the order and in respect of the district designated by the order shall be the district salmon fishery board for that district.
- (5) If a committee ceases to be a district salmon fishery board, the assets and liabilities of that board shall be the assets and liabilities of the members of the association for which the committee acts; but, for the purposes of the winding-up of such an association, any assets of the former board remaining after the settlement of the liabilities of the former board shall be distributed amongst all the proprietors in the district who were liable to the fishery assessment immediately before the date on which the committee

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ceased to be such a board, according to the valuation of each fishery as entered in the valuation roll at that date.

- (6) A district salmon fishery board shall not be bound by any direction given to them by the association for which the elected members of the board act as a committee.
- (7) Nothing in this section shall affect the powers and duties of the River Tweed Council.
- (8) The powers and duties under any enactment of district boards constituted in accordance with the Salmon Fisheries (Scotland) Acts 1862 to 1868 shall cease to have effect in relation to such boards and Schedule 3 to this Act shall have effect as respects such a board which was in office immediately before the commencement of this section; and such a board is referred to in this Act as a “transitional district board”.
- (9) There may be a district salmon fishery board for a district whether or not there are salmon in the waters of that district.
- (10) The Secretary of State may by order vary the provisions of Schedule 2 or Schedule 3 to this Act.
- (11) An order under subsection (10) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **15 Financial powers and duties of district salmon fishery boards.**

- (1) Each year, a district salmon fishery board shall prepare—
  - (a) a report; and
  - (b) a statement of accounts, which shall be audited,
 relating to the activities of the board; and the clerk of the board shall call an annual meeting of qualified proprietors in the district for the purposes of considering the report and the audited accounts.
- (2) A district salmon fishery board shall have power to impose an assessment, to be known as the fishery assessment, on each salmon fishery in their district.
- (3) The fishery assessment shall be assessed at such uniform rate or rates as are determined for all fisheries in the district by the board and shall be exigible according to the valuation of a fishery as entered in the valuation roll.
- (4) Subsections (2) and (3) of section 11 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) Arrears of fishery assessment may be recovered by—
  - (a) the district salmon fishery board which imposed the assessment; or
  - (b) the district salmon fishery board for a district created by a designation order in respect of an assessment imposed by a district salmon fishery board for a district superseded by that order; or
  - (c) the district salmon fishery board which replaced a transitional district board in respect of an assessment imposed by the transitional district board,
 as the case may be, by action for payment of money.
- (6) Any of the boards mentioned in subsection (5) above may recover arrears of fishery assessment which were due immediately before the commencement of this section



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under section 23 of the <sup>M21</sup>Salmon Fisheries (Scotland) Act 1862 in respect of any part of their district.

(7) The powers under subsections (5) and (6) above to recover arrears of fishery assessment include power to recover interest, chargeable at such rate as the Secretary of State shall, with the consent of the Treasury, determine, on such arrears from—

- (a) in the case of recovery of arrears under subsection (5) above which have been outstanding for at least three months from the date of issue of a notice of assessment, that date; or
- (b) in the case of recovery of arrears under subsection (6) above which have been outstanding for at least three months from the date of the coming into force of this section, that date,

until payment or the commencement of an action for payment, whichever is the earlier.

(8) A board may, in carrying out its purpose under this Act, borrow—

- (a) an amount not exceeding twice the amount of the fishery assessment collected within the twelve month period immediately prior to the date of the decision to borrow; or
- (b) such higher sum as is approved by the proprietors of fisheries which together amount to four fifths of the total value of fisheries in the district as entered in the valuation roll.

(9) In subsection (8)(a) above, “collected” means collected in—

- (a) the district for which that board is the district salmon fishery board; and
- (b) if that district has been designated in an order made under section 1(2) of this Act within that twelve month period, all the districts superseded by that order.

(10) In carrying out its purpose, a district salmon fishery board may authorise expenditure, including expenditure for the acquisition of heritable property, out of sums accruing to it from—

- (a) the fishery assessment;
- (b) the exercise of the power, under subsection (8) above, to borrow; or
- (c) any other source;

but it shall not pay to any member of that board any salary or fees for his acting in any way as a member of or under that board.

#### Marginal Citations

M21 1862 c. 97.

## 16 General powers and duties of district salmon fishery boards.

(1) A district salmon fishery board may do such acts, execute such works and incur such expenses as may appear to them expedient for—

- (a) the protection or improvement of the fisheries within their district;
- (b) the increase of salmon; or
- (c) the stocking of the waters of the district with salmon.

(2) The elected members of a district salmon fishery board shall, in accordance with Part II of Schedule 2 to this Act, co-opt representatives of salmon anglers and tenant netmen.

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- (3) On such terms and conditions as the board think fit, a district salmon fishery board—
  - (a) shall appoint a person to act as clerk to the board; and
  - (b) may appoint persons to act as water bailiffs, or in such other capacity as the board see fit.
- (4) A district salmon fishery board may sue or be sued in the name of their clerk.
- (5) References in any enactment to water bailiffs shall include references to water bailiffs appointed under this section.

## **17 Proceedings of district salmon fishery boards.**

- (1) The first meeting of a district salmon fishery board shall be at the date, time and place determined by the members of the board who were elected at the meeting of qualified proprietors called under paragraph 1 of Schedule 2 to this Act but in any case shall be no later than 21 days after that meeting.
- (2) A district salmon fishery board shall determine the quorum for their meetings.
- (3) At any meeting of the board, each member shall have one vote, subject to the following exceptions—
  - (a) the chairman, in his capacity as such, shall have both a casting and a deliberative vote; and
  - (b) a person who is both an upper proprietor and a lower proprietor by virtue of section 11(5) of this Act shall have a vote in either capacity or in both capacities according to the capacity or capacities in which he has been elected or co-opted.
- (4) No act or proceeding of a district salmon fishery board shall be questioned on account of any vacancy in their membership and no defect in the qualification or appointment of any person acting as a member shall vitiate any proceedings of the board in which that member has taken part.
- (5) The minutes of proceedings of district salmon fishery boards shall be signed by the chairman and shall be conclusive evidence of the proceedings; and a meeting so minuted shall be presumed to have been duly convened and held and all members thereof to have been duly qualified.
- (6) On the written request of any two members of the board, the chairman shall be bound to convene a meeting of the board within fourteen days of receiving the request and the clerk shall give notice to each member of the date, time and place of and the agenda for that meeting.

## **18 Tenure of office.**

- (1) Before the expiry of a period of three years from—
  - (a) the first election of the members of the board; or
  - (b) the last meeting of qualified proprietors called under this section
 the clerk to that board shall call a meeting of qualified proprietors in that district for the purpose of electing or re-electing, in accordance with Part I of Schedule 2 to this Act, such members as require to be elected under Part II of that Schedule; and at that meeting each member of the board shall resign.

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- (2) The provisions of Schedule 2 to this Act, apart from paragraph 1, shall apply to further elections as they apply to the first election of the members.
- (3) Without prejudice to subsection (1) above, a member of a district salmon fishery board may resign at any time and where a person ceases to meet the requirements of this Act for membership of a district salmon fishery board he shall cease to be a member of that board.
- (4) Where a person is both an upper and a lower proprietor by virtue of section 11(5) of this Act, subsection (3) above shall have effect as respects either or each such capacity.
- (5) Where a vacancy in their number occurs, the board shall, so far and as soon as is reasonably practicable, fill that vacancy by—
  - (a) the electing by the elected members from amongst themselves of a new chairman;
  - (b) the appointing by the elected members of a qualified proprietor in the district as a representative of qualified proprietors according to the rules in Schedule 2 to this Act regarding the balance between upper and lower proprietors; and
  - (c) the co-opting by the board of a representative of salmon anglers or of tenant netsmen in accordance with that Schedule,as the case may be, and a person appointed under paragraph (b) above shall be an elected representative of qualified proprietors for the purposes of this Act.

#### *Application to the Esk*

### **19 Application of Part I to the River Esk.**

The provisions of Part I of this Act shall not apply to so much of the River Esk, including its banks and tributary streams, as is situated in Scotland.

**Status:**

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**Changes to legislation:**

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