# CHAPTER 16.

An Act to consolidate and amend the enactments relating to Salmon and Freshwater Fisheries in England and Wales. [18th July 1923.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I.

### PROHIBITION OF CERTAIN MODES OF TAKING AND DESTROYING FISH.

Prohibition of fishing with lights, spears, &c.

**1.**—(1) No person shall—

(*a*) use any light for the purpose of taking salmon, trout, or freshwater fish; or

(*b*) use any otter lath or jack, wire or snare, spear, gaff (except as hereinafter provided), stroke-haul, snatch, or other like instrument for taking or killing salmon, trout, or freshwater fish; or

(*c*) have in his possession a light or any of the foregoing instruments, in such circumstances as to satisfy the court before which he is charged that he intended at the time to take or kill salmon, trout, or freshwater fish by means thereof; or

(*d*) throw or discharge any stone or other missile into any water for the purpose of taking or killing, or facilitating the taking or killing, of any salmon or trout.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act, unless he proves to the satisfaction of the court before which he is charged that the act was done for the purpose of the preservation or development of a private fishery and with the previous

permission in writing of the fishery board, or, where there is no fishery board, of the Minister.

(3) For the purposes of this section—

(*a*) The expression "otter lath or jack" includes any small boat or vessel, board, stick, or other instrument, whether used with a hand line, or as auxiliary to a rod and line, or otherwise for the purpose of running out lures, artificial or otherwise;

(*b*) The expression "strokehaul or snatch" includes any instrument or device, whether used with a rod and line or otherwise, for the purpose of foul hooking any fish.

(4) This section shall not apply to any person using a gaff (consisting of a plain metal hook without a barb) or tailer as auxiliary to angling with a rod and line.

Prohibition of using roe.

**2.**—(1) No person shall, for the purpose of fishing for salmon, trout or freshwater fish—

(*a*) use any fish roe, or

(*b*) buy, sell, or expose for sale, or have in his possession any roe of salmon or trout.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

Prohibition of taking unclean or immature fish.

**3.**—(1) No person shall—

(*a*) knowingly take, kill, or injure, or attempt to take, kill, or injure any salmon, trout, or freshwater fish which is unclean or immature within the meaning of this Act; or

(*b*) buy, sell, or expose for sale, or have in his possession any salmon, trout, or freshwater fish which is unclean or immature within the meaning of this Act, or any part of any such fish.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

(3) This section shall not apply to any person who takes a fish accidentally and returns it to the water with the least possible injury.

Prohibition of disturbing fish spawning.

**4.**—(1) No person shall wilfully disturb any spawn or spawning fish, or any bed, bank, or shallow on which any spawn or spawning fish may be.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

(3) This section shall not prejudice the legal right of any person to take materials from any waters.

Saving for acts done for artificial propagation or scientific purposes.

**5.** A person shall not be liable to any penalty under any of the provisions of the three last foregoing sections in respect of any act, if he does the act for the purpose of the artificial propagation of salmon, trout, or freshwater fish, or for some scientific purpose, or for the purpose of the preservation or development of a private fishery and has obtained the previous permission in writing of the fishery board if the act was done in a fishery district where there is a fishery board, or in any other case of the Minister.

Prohibition of certain modes of working nets.

**6.**—(1) No person shall, in any fishery district, shoot or work any seine or draft net for salmon or migratory trout in any waters across more than three-fourths of the width thereof, or within one hundred yards from the nearest point in the line of shot of any other seine or draft net worked in like manner and already shot or being worked in the waters, before such last-mentioned net is fully drawn in and landed.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

Prohibition of use of certain nets.

**7.**—(1) No person shall take or attempt to take salmon or migratory trout with any net having a mesh of less dimensions than two inches in extension from knot to knot (the measurement to be made on each side of the square), or eight inches measured round each mesh when wet, except in the case of a landing net in use as auxiliary to angling with rod and line.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

(3) The placing of two or more nets the one behind the other, or near to each other in such manner as practically to diminish the mesh of the nets used, or the covering of the nets used with canvas, or the using of any

other artifice so as to evade the provisions of this section with respect to the mesh of nets, shall be deemed to be a contravention of this section:

Provided that nothing in this section shall render any person liable to a penalty for using in any place a net having a mesh of smaller dimensions than in this section specified, if the use of such a net is for the time being determined to be lawful in that place by a byelaw under this Act.

Protection of waters containing fish from poisonous matter and trade effluents.

**8.**—(1) No person shall cause or knowingly permit to flow, or put or knowingly permit to be put, into any waters containing fish, or into any tributaries thereof, any liquid or solid matter to such an extent as to cause the waters to be poisonous or injurious to fish or the spawning grounds, spawn or food of fish, and if any person contravenes this subsection he shall be guilty of an offence against this Act:

Provided that—

(*a*) a person shall not be so liable to any penalty for any act done in the exercise of any right to which he is by law entitled or in continuation of a method in use in connection with the same premises prior to the passing of this Act, if he proves to the satisfaction of the court before which he is charged that he has used the best practicable means, within a reasonable cost, to prevent such matter from doing injury to fish or to the spawning grounds, spawn or food of fish;

(*b*) nothing in this subsection shall prevent any person from acquiring a legal right in cases where he would have acquired it if this Act had not passed, or exempt any person from any penalty to which he would otherwise be subject, or make lawful any act or default which would but for this Act be a nuisance or otherwise contrary to law.

(2) No person shall, within a fishery district, discharge any trade effluent into any waters containing fish by means of any new work unless such notice of the proposed construction of the new work has been given to the fishery board or to the Minister as is prescribed by this

section, and, if he does so, he shall be guilty of an offence against this Act: Provided that the fishery board or the Minister may at any time exempt any new work from the operation of this subsection as from the date of the exemption or any earlier date notwithstanding that the provisions of this section as to notice have not been complied with.

Notice of the proposed construction of a new work shall be given to the fishery board or to the Minister—

(*a*) where under any Act or byelaw notice thereof or an application for the approval thereof is required to be given or made to a local authority, then at the same time as such notice or application is given or made; and

(*b*) in any other case not less than three months before the commencement of the work,

and a notice, if not accompanied by plans and specifications of the proposed new work, shall state where such plans and specifications can be inspected at all reasonable times by an officer of the fishery board or of the Ministry, as the case may be.

The expression "new work" means any work constructed after the commencement of this Act or any alteration after such date of any then existing work.

This subsection shall not apply to any work constructed by any sanitary or other local authority in pursuance of any power given by a Public General or Local Act or by a Provisional Order confirmed by Parliament.

(3) Proceedings under this section shall not be instituted except by the fishery board or by a person who has first obtained a certificate from the Minister that he has a material interest in the waters alleged to be affected.

Prohibition against using dynamite and noxious substances for destruction of fish.

**9.** If any person—

(*a*) uses dynamite or other explosive substance with intent thereby to take or destroy fish in any waters (including any territorial waters adjoining the coast of England or Wales); or

(*b*) puts any poison, lime, or noxious material in any such waters with intent thereby to take or

destroy any of the fish that may then be or may thereafter be put therein; or

(*c*) unlawfully or maliciously cuts through, breaks down or otherwise destroys any dam, floodgate or sluice with intent thereby to take or destroy fish;

he shall be liable to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a term not exceeding three months.

Amendment of the Malicious Damages Act. 24 & 25 Vict. c. 97.

**10.** Section thirty-two of the Malicious Damages Act, 1861, shall have effect as if the words from "shall unlawfully and maliciously cut through" to "thereafter to be put therein or" were omitted therefrom.

## PART II.

### OBSTRUCTIONS TO PASSAGE OF FISH.

Prohibition of placing or using fixed engines for taking or obstructing salmon or migratory trout.

**11.**—(1) No fixed engine of any description shall be placed or used for taking or facilitating the taking of salmon or migratory trout or for detaining, or obstructing the free passage of, salmon or migratory trout in any inland or tidal waters.

(2) Any engine placed or used in contravention of this section may be taken possession of or destroyed by any person acting under directions to that effect given by a fishery board, or, where there is no fishery board, by the Minister.

(3) Any person who places or uses any engine in contravention of this section shall be guilty of an offence against this Act.

(4) Nothing in this section shall apply—

(*a*) to any fixed engine certified in pursuance of the Salmon Fishery Act, 1865, to be a privileged fixed engine; or 28 & 29 Vict. c. 121.

(*b*) to any fixed engine which was in use for taking salmon or migratory trout during the open

season of eighteen hundred and sixty-one, in pursuance of an ancient right or mode of fishing as lawfully exercised during that open season, by virtue of any grant or charter or immemorial usage; or

(*c*) to fishing weirs or fishing mill dams.

Prohibition of using certain dams for taking salmon or migratory trout.

**12.**—(1) No fishing weir or fishing mill dam which was not lawfully in use on the sixth day of August, eighteen hundred and sixty-one, by virtue of a grant or charter or immemorial usage, shall be used for the purpose of taking or facilitating the taking of salmon or migratory trout.

(2) If any person uses any weir or dam in contravention of this section, he shall be guilty of an offence against this Act.

Rules for fishing weirs.

**13.**—(1) Where a fishing weir extends more than halfway across any river at its lowest state of water, it shall not be used for the purpose of taking salmon or migratory trout unless it has therein a free gap or opening in accordance with the following regulations:—

(*a*) the free gap must be situate in the deepest part of the river between the points where it is intercepted by the weir:

(*b*) the sides of the gap must be in a line with and parallel to the direction of the stream at the weir:

(*c*) the bottom of the gap must be level with the natural bed of the river above and below the gap:

(*d*) the width of the gap in its narrowest part must be not less than one-tenth part of the width of the river: Provided that it need not be wider than forty feet, and must not be narrower than three feet.

(2) If any person uses any weir in contravention of this section, or makes any alteration in the bed of a river in such manner as to reduce the flow of water

through a free gap, he shall be guilty of an offence against this Act.

Rules for fishing mill dams.

**14.**—(1) A fishing mill dam shall not be used for the purpose of taking salmon or migratory trout unless it has attached thereto a fish pass of such form and dimensions as may be approved by the Minister, and unless the fish pass is maintained in such a condition and has constantly running through it such a flow of water as will enable salmon and migratory trout to pass up and down the pass.

(2) If any person uses or attempts to use a dam in contravention of this section, he shall be guilty of an offence against this Act.

(3) If a fishing mill dam has not a fish pass attached to it as required by law, the right of using the fishing mill dam for the purpose of taking fish shall be deemed to have ceased and be for ever forfeited, and, if the fishing mill dam is in a fishery district, the fishery board of the district may remove from it any cage, crib, trap, box, cruive, or other obstruction to the free passage of the fish.

Regulations as to boxes and cribs in weirs and dams.

**15.**—(1) No fishing weir or fishing mill dam shall be used for the taking of salmon or migratory trout by means of boxes or cribs unless the boxes or cribs comply with the following regulations:—

(*a*) the upper surface of the sill of the box or crib must be level with the bed of the river:

(*b*) the bars or inscales of the heck or upstream side of the box or crib must not be nearer to each other than two inches, and must be capable of being removed and must be placed perpendicularly:

(*c*) there must not be attached to any such box or crib any spur or tail wall, leader, or outrigger of a greater length than twenty feet from the upper or lower side of the box or crib.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

Power of fishery board to acquire obstructions or fisheries.

**16.**—(1) A fishery board may, subject to the provisions of this section, purchase or take on lease (either by agreement or if so authorised compulsorily) any dam, fishing weir, fishing mill dam, fixed engine, or other artificial obstruction, and any fishery attached to or worked in connection with any such obstruction, and may either alter or remove the obstruction, or may by themselves or their lessees, use or work in any lawful manner the obstruction for fishing purposes and exercise the right conferred by any fishery so acquired, subject in the case of an obstruction or fishery acquired by way of lease to the terms of the lease.

(2) For the purposes of the purchase of any such obstruction or fishery by agreement under this section by a fishery board, the Lands Clauses Acts shall be incorporated with this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement and with respect to the sale of superfluous land, and section one hundred and seventy-eight of the Public Health Act, 1875, shall apply as if the fishery board were referred to therein.

38 & 39 Vict. c. 55.

(3) Where a fishery board propose to purchase an obstruction or fishery compulsorily under this section, the fishery board may, subject to the provisions of Part I. of the First Schedule to this Act, submit to the Minister an order putting in force as respects the obstruction or fishery specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(4) Where a fishery board propose to hire an obstruction or fishery compulsorily, the fishery board may submit to the Minister an order for the compulsory hiring of the obstruction or fishery specified in the order for a period not less than fourteen nor more than thirty-five years, and the provisions of Part I. of the First Schedule to this Act shall apply to the order in like manner as it applies to an order for compulsory purchase, with the substitution of "hiring" for "purchase," and with the modifications set out in Part II. of that Schedule.

(5) An order under this section shall be of no force unless and until it is confirmed by the Minister, and the Minister may, subject to the provisions of the First Schedule to this Act, confirm the order either without

modification or subject to such modifications as he thinks fit, and an order when so confirmed shall become final and have effect as if enacted in this Act; and the confirmation by the Minister shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act:

Provided that, when the order relates to a dam constructed under any Act of Parliament, the order shall be provisional only and shall not have effect unless and until it is confirmed by Parliament.

(6) Where the obstruction or fishery authorised to be compulsorily hired by an order under this section is subject to a mortgage, any lease made in pursuance of the order by the mortgagor or mortgagee in possession shall have the like effect as if it were a lease authorised by section eighteen of the Conveyancing Act, 1881. 44 & 45 Vict. c. 41.

Restriction on taking salmon or trout above or below an obstruction or in mill races.

**17.**—(1) No person shall, in any fishery district, take or kill, or attempt to take or kill, except with rod and line, or scare or disturb any salmon or trout—

(*a*) at any place above or below any dam or any obstruction, whether artificial or natural, which hinders or retards the passage of salmon or trout, being within fifty yards above or one hundred yards below the dam or obstruction or within such other distance from the dam or obstruction as may be prescribed by byelaw under this Act; or

(*b*) in any waters under or adjacent to any mill, or in the head race or tail race of any mill, or in any waste race or pool communicating with a mill; or

(*c*) in any artificial channel connected with any such dam or obstruction.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

(3) Nothing in this section shall apply to any legal fishing mill dam not having a crib, box, or cruive, or to any fishing box, coop, apparatus, net, or mode of fishing in connexion with and forming part of such dam or obstruction for purposes of fishing.

(4) Where a fish pass approved by the Minister is for the time being attached to a dam or obstruction, this section shall not be enforced in respect of the dam or obstruction until compensation has been made by the fishery board to the persons entitled to fish in the waters for that right of fishery, such compensation to be settled in case of dispute by a single arbitrator appointed by the Minister.

Supply of water to dams and fish passes.

**18.**—(1) The sluices (if any) for drawing off the water which would otherwise flow over any dam in waters frequented by salmon or migratory trout shall, unless permission in writing to the contrary is granted by the fishery board, or, where there is no fishery board, by the Minister, be kept shut on Sundays and at all times when the water is not required for milling purposes, in such manner as to cause such water to flow through the fish pass (if any) in or connected with the dam, or if there is no such fish pass, over the dam.

(2) If any person fails to comply with this section, he shall be guilty of an offence against this Act.

(3) This section shall not prevent any person from opening a sluice for the purpose of letting off water in cases of flood, or for milling purposes, or when necessary for the purposes of navigation, or, subject to previous notice in writing being given to the fishery board (if any) or, where there is no fishery board, to the Minister, for cleaning or repairing any dam or mill or the appurtenances thereof.

Penalty for making obstructions without fish passes.

**19.**—(1) Where since the thirty-first day of August, eighteen hundred and seventy-three, in any waters frequented by salmon or migratory trout—

(*a*) a new dam has been constructed or an existing dam has been raised or otherwise altered so as to create increased obstruction to the passage of salmon or migratory trout, or any other obstruction to the passage of salmon or migratory trout has been created, increased or caused; or

(*b*) a dam which from any cause has been destroyed or taken down to the extent of one-half of its length has been rebuilt or reinstated,

whether such construction, alteration, rebuilding or reinstatement took place before or after the passing of this Act, the owner or occupier for the time being of the dam

or obstruction shall, within such reasonable period as may be required by notice given by the fishery board, or, where there is no fishery board, by the Minister, make and shall thereafter maintain in an efficient state a fish pass for salmon or migratory trout of such form and dimensions as the Minister may approve as part of the structure of, or in connection with, the dam or obstruction, if no such fish pass already exists.

(2) If any such owner or occupier fails to make or fails to maintain in an efficient state such fish pass as is required by this section, he shall be guilty of an offence against this Act.

(3) The fishery board, or, where there is no fishery board, the Minister may cause to be done any work by this section required to be done, and for that purpose may enter on the dam or obstruction or any land adjoining thereto, and may recover the expenses of doing the work in a summary manner from any person in default.

(4) If any person obstructs any person legally authorised whilst doing any act authorised by this section, he shall be guilty of an offence against this Act.

(5) Nothing in this section—

(*a*) shall authorise the doing of anything that may injuriously affect any public waterworks or navigable river canal or inland navigation, or any dock, the supply of water to which is obtained from any navigable river canal or inland navigation, under the provisions of any Act of Parliament; or

(*b*) shall prevent any person from removing a fish pass for the purpose of repairing or altering a dam or other obstruction, so that within a reasonable time the fish pass is restored to its former state of efficiency; or

(*c*) shall apply to any alteration of a dam or other obstruction, not being a re-building or re-instatement of a dam or other obstruction destroyed or taken down to the extent of one-half of its length, if the same as altered does not cause more obstruction to the passage of salmon or migratory trout than was caused by the dam or obstruction as lawfully constructed or maintained at any previous date.

(6) The Minister may, on the recommendation of the fishery board (if any), exempt any dam from the operation of this section, either permanently or for such period as may be specified in the exemption, and subject to such conditions (if any) as the Minister may on the like recommendation impose, and when such condition is imposed any person who fails to comply with the condition shall be guilty of an offence against this Act.

Power for fishery board to construct and alter fish passes.

**20.**—(1) Any fishery board may, with the written consent of the Minister, construct and maintain in any dam or in connexion therewith a fish pass of such form and dimensions as the Minister may approve, so that no injury be done by such fish pass to the milling power, or to the supply of water of or to any navigable river canal or other inland navigation.

(2) Any fishery board may, with the written consent of the Minister, abolish or alter, or restore to its former state of efficiency, any existing fish pass or free gap, or substitute another fish pass or free gap, so that no injury be done to the milling power, or to the supply of water of or to any navigable river canal or other inland navigation.

(3) If any person injures any such new or existing fish pass, he shall pay the expense incurred by the fishery board in repairing the injury, and any such expense may be recovered by the fishery board in a summary manner.

(4) If any person obstructs any person legally authorised whilst doing any act authorised by this section, he shall be guilty of an offence against this Act.

(5) If any injury is caused to any dam by reason of the construction, abolition, or alteration of a fish pass or the abolition or alteration of a free gap in pursuance of this section, any person sustaining any loss thereby may recover from the fishery board compensation for the injury sustained, the amount of compensation to be determined in default of agreement by a single arbitrator appointed by the Minister.

(6) The Minister shall not give his consent to the construction, abolition, or alteration of a fish pass or the abolition or alteration of a free gap in pursuance of this

section, unless a reasonable notice of the application has been served on the owner and occupier of the dam, fish pass, or free gap, with a plan and specification of the proposed work, and the Minister shall, before giving his consent, take into consideration any objections by the owner or occupier.

(7) For the purposes of this section, a fishery board may purchase so much of the bank adjoining a dam as may be necessary for making or maintaining a fish pass, and may for the purpose of such purchase take the like proceedings as are prescribed by this Act in the case of the compulsory purchase by a fishery board of a dam or obstruction, and those provisions shall apply accordingly.

Approval of fish pass by Minister.

**21.**—(1) Where a fish pass has received the approval of the Minister, it shall be deemed to be a fish pass in conformity with this Act, notwithstanding that it was not constructed in the manner and by the persons specified in this Act.

(2) The Minister may approve and certify any fish pass that has either before or after the passing of this Act been constructed, if he is of opinion that the fish pass is efficient in all respects and for all purposes, whether constructed under the provisions of this Act or not.

Penalty for injuring or obstructing fish pass or free gap.

**22.**—(1) If any person—

(*a*) wilfully alters or injures a fish pass; or

(*b*) does any act whereby salmon or trout are obstructed or liable to be obstructed in using a fish pass or whereby a fish pass is rendered less efficient; or

(*c*) alters a dam or the bed or banks of the river so as to render a fish pass less efficient; or

(*d*) uses any contrivance, or does any act whereby salmon or trout are in anywise liable to be scared, hindered, or prevented from passing through a fish pass,

he shall be guilty of an offence against this Act, and shall also in every case pay any expense which may be incurred

in restoring the fish pass to its former state of efficiency, and any such expense may be recovered in a summary manner.

(2) If any person does any act for the purpose of preventing salmon or trout from passing through a fish pass, or takes, or attempts to take, any salmon or trout in its passage through a fish pass, he shall be guilty of an offence against this Act.

(3) If any person places any obstruction, uses any contrivance, or does any act whereby salmon or trout may be scared, deterred, or in any way prevented from freely entering and passing up and down a free gap at all periods of the year, he shall be guilty of an offence against this Act.

(4) This section shall not apply to a temporary bridge or board used for crossing a free gap, and taken away immediately after the person using it has crossed.

(5) For the purposes of this section, the owner or occupier of a dam shall be deemed to have altered it, if the dam is damaged or destroyed, or is allowed to fall into a state of disrepair, and if after notice served on him by the fishery board (if any) or by the Minister he fails to repair or reconstruct the dam within a reasonable time so as to render the fish pass as efficient as before the damage or destruction.

Erection of gratings to prevent the ingress of salmon or migratory trout into artificial channels.

**23.**—(1) Where water is diverted from waters frequented by salmon or migratory trout by means of any conduit or artificial channel and the water so diverted is used for the purposes of a water or canal undertaking or for the purposes of any mill, the owner of the undertaking or the occupier of the mill shall, unless an exemption from the obligation is granted by the fishery board (if any), or by the Minister, place and maintain, at his own cost, a grating or gratings across the conduit or channel, for the purpose of preventing the descent of the salmon or migratory trout.

(2) In the case of any such conduit or artificial channel the owner of the undertaking or the occupier of the mill shall also, unless an exemption is granted as aforesaid, place and maintain at his own cost a grating

or gratings across the outfall (if any) of the conduit or channel for the purpose of preventing salmon or migratory trout entering the outfall.

(3) A grating shall be constructed and placed in such manner and position as may be approved by the Minister.

(4) If any person without lawful excuse fails to place or to maintain a grating in accordance with this section, that person shall be guilty of an offence against this Act.

(5) No such grating shall be so placed as to interfere with the passage of boats on any navigable canal.

(6) The obligations imposed by this section shall not be in force during such period (if any) in each year as may be prescribed by byelaw under this Act, and the obligations imposed by this section on the occupier of a mill shall apply only in a case where the conduit or channel is constructed after the passing of this Act.

Power for fishery board to place gratings in water-courses.

**24.**—(1) A fishery board may, with the written consent of the Minister, cause to be placed and maintained at the expense of the board, in any watercourse, mill race, cut, leat, conduit, or other channel for conveying water for any purpose from any waters frequented by salmon or migratory trout at or near the points of divergence and return, or either of them, or in any other suitable place, a grating or gratings of such form and dimensions as they may determine:

Provided that nothing in this section shall—

(*a*) affect the liability of any person to place and maintain a grating under the provisions of this Act; or

(*b*) authorise a grating to be so placed or maintained during any period of the year during which under a byelaw made by the fishery board gratings need not be maintained; or

(*c*) authorise any grating to be placed or maintained so as to obstruct any conduit or channel used for navigation or in any way to interfere with the effective working of any mill.

(2) The grating for the purpose of this and the preceding section shall be any device approved by the Minister for preventing the passage of salmon or trout through the conduit or channel in which it is placed.

(3) In any case in which a grating is placed under this section, the fishery board may, if they deem it expedient, with the written consent of the Minister, cause any watercourse, mill race, cut, leat, conduit or other channel to be widened or deepened at the expense of the board so far as may be necessary to compensate for the diminution of any flow of water caused by the placing of the grating, or shall take some other means to prevent the flow of water being prejudicially diminished or otherwise injured.

(4) A fishery board may, with the written consent of the Minister, adopt such means as the Minister may approve for preventing the ingress of salmon or trout into waters in which they or their spawning beds or ova are, from the nature of the channel or other causes, liable to be destroyed, but so that no water rights used or enjoyed for the purposes of manufacturing or milling purposes, or for drainage or navigation, be prejudicially interfered with thereby.

(5) If any person,—

(*a*) injures any such grating or other device; or

(*b*) removes any such grating or other device or part thereof, except during any period of the year during which under a byelaw made by the fishery board gratings need not be maintained; or

(*c*) opens any such grating or other device improperly; or

(*d*) permits any such grating or other device to be injured, or removed, except as aforesaid, or improperly opened; or

(*e*) obstructs any person legally authorised whilst doing any act authorised by this section,

he shall be guilty of an offence against this Act.

(6) The provisions of this Act relating to compensation for injury by the construction of a fish pass by a fishery board and to the consent of the Minister to such construction, shall apply to compensation for injury caused by

anything done by a fishery board under this section and to any consent of the Minister under this section.

Limitation on the time for claiming compensation.

**25.** In any case in which a fishery board are liable to pay compensation under this Act in respect of injury or damage caused by the making or maintaining of any work, compensation shall not be recoverable unless proceedings for the recovery thereof are instituted within two years from the date of the completion of the work in respect of which the compensation is claimed.

## PART III.

## TIMES OF FISHING AND SELLING, AND EXPORTING FISH.

### *Salmon and Trout.*

Annual close season for salmon.

**26.**—(1) No person shall—

(*a*) fish for, take, kill, or attempt to take or kill salmon (except with a rod and line or putts and putchers) during the annual close season; or

(*b*) fish for, take, kill, or attempt to take or kill salmon with a rod and line during the close season for rods; or

(*c*) fish for, take, kill, or attempt to take or kill salmon with putts or putchers during the close season for putts and putchers.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act;

Provided that a person shall not be liable to a penalty under this section for any act done for the purpose of the artificial propagation of fish, or for some scientific purpose, if that person has obtained the previous permission in writing of the fishery board (if any) or of the Minister.

(3) The annual close season shall be in any place the period which has been fixed in that behalf by a byelaw under this or any other Act, or, if there is no such byelaw, the period between the thirty-first day of August and the first day of February following.

(4) The close season for rods shall be in any place the period which has been fixed in that behalf by a bye-law under this or any other Act, or, if there is no such byelaw, the period between the thirty-first day of October and the first day of February following.

(5) The close season for putts and putchers shall be the period between the commencement of the annual close season and the first day of May following.

Weekly close time for salmon.

**27.**—(1) No person shall fish for, take, kill, or attempt to take or kill salmon (except with a rod and line or putts and putchers) during the weekly close time.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

(3) The weekly close time shall be in any place the period which has been fixed in that behalf by a byelaw under this or any other Act, or, if there is no such byelaw, the period between the hour of six on Saturday morning and the hour of six on the following Monday morning.

Removal of fixed engines during close season and close time.

**28.** The occupier of any fixed engine for taking salmon shall forthwith, after the commencement of the annual close season and until the end of that season, and in the case of putts and putchers until the end of the close season of putts and putchers, and also (except in the case of putts and putchers) during the weekly close time, cause the fixed engine to be removed or rendered incapable of taking or obstructing the passage of salmon.

(2) If any person contravenes or fails to comply with this section, he shall be guilty of an offence against this Act.

Penalty for obstructing salmon in close season.

**29.** If any person during the annual close season or weekly close time places any obstruction, uses any contrivance, or does any act, for the purpose of deterring salmon from passing up a river, he shall be guilty of an offence against this Act:

Provided that—

(*a*) Nothing in this section shall apply to any kind of fishing for fish other than salmon legally practised in any waters:

(*b*) The provisions of this section as to the weekly close time shall not apply to putts and putchers.

Prohibition on selling salmon at certain times.

**30.**—(1) No person shall buy, sell, or expose for sale, or have in his possession for sale any salmon or part of any salmon, between the thirty-first day of August and the first day of February following.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

(3) This section shall not apply to any person buying selling, or exposing for sale, or having in his possession for sale—

(*a*) any salmon which has been canned, frozen, cured, salted, pickled, dried or otherwise preserved beyond the limits of Great Britain and Ireland; or

(*b*) any salmon which has been canned, frozen, cured, salted, pickled, dried or otherwise preserved within Great Britain or Ireland between the first day of February and the thirty-first day of August in any year; or

(*c*) any salmon (not being an unclean salmon) caught beyond the limits of Great Britain and Ireland; or

(*d*) any salmon (not being an unclean or immature salmon) caught within Great Britain or Ireland, if its capture by any net, instrument, or device other than a rod and line was lawful at the time and in the place where it was caught.

(4) The burden of proving that any salmon bought, sold, exposed for sale, or in the possession of any person for sale between the thirty-first day of August and the first day of February following, is not bought, sold, exposed for sale, or in the possession of that person for sale in contravention of this section, shall lie on the person buying, selling, or exposing for sale, or having in his possession for sale such salmon.

Close season and close time for trout.

**31.**—(1) No person shall fish for, take, kill, or attempt to take or kill trout—

(*a*) except with a rod and line, during the annual close season for trout; or

(*b*) with a rod and line during the annual trout close season for rod and line; or

(*c*) except with a rod and line, during the weekly close time for trout.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act:

Provided that a person shall not be liable to a penalty under this section for any act done for the purpose of the artificial propagation of fish, the stocking or restocking of waters, or for some scientific purpose, if that person has obtained the previous permission in writing of the fishery board (if any) or of the Minister.

(3) The annual close season for trout shall in any place in which a period has been fixed in that behalf by a byelaw under this or any other Act be that period, or, if there is no such byelaw, be the period between the thirty-first day of August and the first day of March following.

(4) The annual trout close season for rod and line shall be in any place the period which has been fixed in that behalf by a byelaw under this or any other Act, or, if there is no such byelaw, the period between the thirtieth day of September and the first day of March following.

(5) The weekly close time for trout shall be in any place the period which has been fixed in that behalf by a byelaw under this or any other Act, or, if there is no such byelaw, the period between the hour of six on Saturday morning and the hour of six on the following Monday morning.

(6) The provisions of this Act penalising the obstruction of salmon during the annual close season or the weekly close time, shall apply to migratory trout as if they were herein re-enacted and in terms made applicable to migratory trout and the annual close season and the weekly close time for migratory trout.

(7) This section shall not apply to rainbow trout.

Prohibition against sale of trout.

**32.**—(1) No person shall buy, sell, or expose for sale or have in his possession for sale any trout between the thirty-first day of August and the first day of March following, and, if any person contravenes this section, he shall be guilty of an offence against this Act: Provided that a person shall not be liable to a penalty under this section for any act done for the purpose of the artificial propagation of fish, or the stocking or restocking of waters, or for some scientific purpose.

(2) This section shall not apply to rainbow trout.

Provisions as to exportation of salmon and trout.

**33.**—(1) No person shall export or enter for exportation any unclean salmon or trout, or any salmon or trout caught during the time at which the sale of salmon or trout is prohibited in the district in which the salmon or trout was caught.

(2) The burden of proving that any salmon or trout entered for exportation between the thirty-first day of August and the first day of May following is not so entered in contravention of the preceding subsection shall lie on the person entering the same for exportation.

(3) All salmon or trout intended for exportation between the thirty-first day of August and the first day of May following, shall be entered for that purpose with the proper Officer of Customs and Excise, at the port or place of intended exportation, before shipment thereof.

(4) If any salmon or trout is entered for exportation or exported, or brought to any wharf, quay, or other place for exportation, contrary to this section or is not entered as required by this section, the salmon or trout and any package containing the salmon or trout shall be deemed to be goods forfeited under the enactments relating to customs and the person entering or exporting the salmon or trout, or bringing the salmon or trout for exportation, or failing to enter the salmon or trout as required by this section, shall be guilty of an offence against this Act.

(5) Any Officer of Customs and Excise may, between the thirty-first day of August and the first day of May following, open or cause to be opened any parcel entered or intended for exportation, or brought to any quay, wharf, or other place for that purpose, and suspected by him to contain salmon or trout, and may detain or cause to be detained any salmon or trout found in the parcel until proof is given of the salmon or trout being such as may be legally exported; and if the salmon or trout, before such proof is given, becomes unfit for human food, the Officer may destroy the same or cause the same to be destroyed.

Restrictions on the consignment of salmon or trout.

**34.**—(1) No person shall consign or send by any common or other carrier any salmon or trout unless the package containing the salmon or trout is conspicuously marked on the outside thereof with the word salmon or trout as the case may be.

(2) Any of the following officers, that is to say—

(*a*) any officer of a fishery board acting within the fishery district;

(*b*) any officer of a market authority acting within the area of the jurisdiction of that authority;

(*c*) any officer appointed for the purpose by the Minister;

(*d*) any officer appointed in writing by the Fishmongers Company;

(*e*) any officer of police,

may open any package so consigned or sent, or brought to any place to be so consigned or sent, and suspected to contain salmon or trout, and if any such package is found to contain salmon or trout and is not marked in accordance with this section, or if there is reasonable cause to suspect that the salmon or trout contained in any marked package is being dealt with contrary to law, may detain such package and the contents thereof until proof is given that the salmon or trout is not being so dealt with, and in like manner and under like conditions may detain any such salmon or trout not packed in any package, and if before such proof is given any salmon or trout detained under the provisions of this section becomes unfit for human food, may destroy the same or cause the same to be destroyed.

(3) If any person contravenes this section or refuses to allow any person acting under the authority thereof to exercise the powers conferred thereby or obstructs any such person in the exercise of those powers, he shall be guilty of an offence against this Act.

(4) For the purposes of this section :—

The expression " market authority " includes any corporation, local authority, body of trustees, or other persons having power to maintain or regulate any market.

The expression " Fishmongers Company " means the wardens and commonalty of the " Mystery of Fishmongers in the City of London."

The expression " salmon " includes a part of a salmon, and the expression " trout " includes a part of a trout.

*Freshwater Fish.*

**35.**—(1) No person shall, during the annual close season for freshwater fish, fish for eels by means of a rod and line, or fish for, take, kill, or attempt to take or kill any freshwater fish in any river, or in any lake, tributary, stream, or other water connected or communicating with any river: Close season for freshwater fish.

Provided that the foregoing provision shall not apply—

(i) to the removal by an owner or occupier of any several fishery, where salmon or trout are specially preserved, from that fishery of any eels or freshwater fish not so preserved;

(ii) to any person fishing with rod and line in any several fishery, where salmon or trout are specially preserved, with the previous permission in writing of the owner or occupier of that fishery;

(iii) to any person fishing with rod and line for eels in any waters in which such fishing is authorised by byelaw made under this Act;

(iv) to any person taking in any several fishery, with the previous permission in writing of the owner or occupier of that fishery, or in any other fishery (except where such taking is prohibited by a byelaw made under this Act) freshwater fish for scientific purposes, or for use as bait.

(2) The annual close season for freshwater fish shall be the period between the fourteenth day of March and the sixteenth day of June, or, if in relation to any waters a different period is substituted by byelaw made under this Act or by any authority having statutory power to make byelaws for the purpose, that substituted period.

(3) No person shall, between the fourteenth day of March and the following sixteenth day of June, buy, sell, or expose for sale or have in his possession for sale any freshwater fish other than fish preserved for use as bait or fish intended for the stocking or re-stocking of any fishery.

(4) If any person contravenes this section, he shall be guilty of an offence against this Act.

Prohibition on using eel baskets, &c., at certain times.

**36.**—(1) No person shall—

(*a*) between the thirty-first day of December and the twenty-fifth day of June following, hang, fix, or use in any waters frequented by salmon or migratory trout any baskets, nets, traps, or devices for catching eels, or place in any inland water any device whatsoever to catch or obstruct any fish descending the river; or

(*b*) at any time place upon the apron of any weir any basket, trap, or device for taking fish, except wheels or leaps for taking lamperns between the first day of August and the first day of March following.

(2) If any person contravenes this section, he shall be guilty of an offence against this Act.

(3) Nothing in this section, shall extend to prohibit the use of eel baskets not exceeding in any part ten inches in diameter, constructed so as to be fished with bait, and not used at a dam or other obstruction or in any conduit or artificial channel by which water is deviated from a river, or any device for taking eels in such place, during such time, and subject to such conditions as may be authorised by the fishery board with the consent of the Minister, or where there is no fishery board, by the Minister.

## PART IV.

### FISHERY DISTRICTS AND FISHERY BOARDS.

Power of Minister to make orders.

**37.** With a view to the maintenance, improvement, and development of the salmon fisheries, trout fisheries, or freshwater fisheries, within any area, the Minister may, upon such application as is hereinafter mentioned, make an order for the regulation of any such fisheries within the area defined by the order.

Contents of the order.

**38.**—(1) An order under this Part of this Act may provide for—

(*a*) defining the area of the fishery district within which the order is to apply;

(*b*) the constitution and incorporation of a fishery board;

(*c*) excepting from the application to a fishery board so constituted, and an area so defined, any of the provisions of this Act with respect to fishery boards and fishery districts, or modifying in their application to such a board or area any of those provisions;

(*d*) the imposition, collection, and recovery by a fishery board of contributions to be assessed on several fisheries regulated by the order or on the owners or occupiers thereof;

(*e*) enabling the fishery board with the approval of the Minister to erect and work by themselves or their lessees any fixed engine for catching salmon or migratory trout within the area, and for that purpose to purchase or take on lease any fishery land or foreshore specified in the order together with any easement over any adjoining land necessary for securing access to the fishery land or foreshore so acquired:

Provided that any such order—

(i) shall not authorise any such fixed engine to be worked for a period exceeding five years unless the authority is from time to time extended by licence of the Minister for such term as may be specified in the licence and not exceeding at any one time five years, and the Minister shall not grant any such licence until he has inquired into the effect of the working of the engine on the salmon or trout fisheries within the area; and

(ii) shall provide that all rents and profits of the fixed engines authorised by the order to be worked by the fishery board shall be appropriated for the purpose of such measures for the maintenance, improvement, or development of the fisheries in the area as may be approved by the Minister;

(*f*) modifying in relation to the fisheries within the area any of the provisions of this Act which relate to the regulation of fisheries, or of any local Act relating to any fishery within the area;

(*g*) abolishing any fishery board established within the area under this Act or under any Act repealed by this Act, and transferring their property and liabilities to the fishery board constituted by the order, and making such adjustments between the two bodies as may appear to the Minister to be necessary or expedient;

(*h*) altering the area of a fishery district or the constitution of any fishery board established under this Act or under any Act repealed by this Act, and conferring on any fishery board so established any powers which can be conferred on a fishery board established by an order made under this Part of this Act;

(*i*) the payment out of any funds in the hands of the fishery board constituted by the order of the costs of the applicants in obtaining the order, and, where the order requires confirmation by Parliament, the costs of obtaining such confirmation;

(*j*) amending or revoking any previous order made under this Act or any Act repealed by this Act;

(*k*) the general regulation of the fisheries within the area,

and may contain any incidental, consequential, or supplemental provisions, including provisions for payment of compensation to persons injuriously affected by the order, which may appear to be necessary or proper for the purposes of the order.

(2) For the purpose of the acquisition of any fishery, land or foreshore or any easements necessary for giving access thereto authorised to be taken compulsorily under any such order, the provisions of the Lands Clauses Acts which relate to the purchase and taking of lands otherwise than by agreement, and to the entry upon lands by the promoters of the undertaking, are, subject to the modifications set out in the Second Schedule to this Act, incorporated with this Act.

(3) An order under this Part of this Act shall not apply to any waters in which the business of artificially propagating or rearing salmon or trout is carried on under a licence granted by the Minister, and any such

licence may be granted by the Minister, subject to such conditions (if any) as he thinks fit, and may be revoked if the Minister is of opinion that any condition has not been observed.

Applications for orders.

**39.**—(1) An application for an order under this Part of this Act may be made by a fishery board constituted under this Act or any Act repealed by this Act, or by a county council, or by persons who in the opinion of the Minister are the owners of one-fourth at least in value of the several fisheries proposed to be regulated or constitute a majority of the persons holding licences to fish in public waters within the area of the proposed order, or by any association of persons which in the opinion of the Minister is sufficiently representative of fishing interests within such area.

(2) The applicants shall give such security for expenses of the Minister as he may require.

Procedure for making order.

**40.**—(1) Before making an order the Minister shall cause notice of the intention to make the order and of the place where copies of the draft order may be inspected and obtained, and of the time within and manner in which objections to the draft order may be made, to be published in the "London Gazette" and in such other manner as he thinks best adapted for informing persons affected, and shall also where the order contains a power to acquire compulsorily any fishery, land or foreshore or any easement over adjoining lands, cause notice to be given to owners, lessees, and occupiers of the fishery, land or foreshore affected in manner provided by rules made by the Minister.

(2) Before making an order the Minister shall consider any objections which may be duly made to the draft order and may in any case cause a public local inquiry to be held with respect to any objections to the draft order.

(3) After an order has been settled and made by the Minister it shall be published in such a manner as he thinks best adapted for informing persons affected with notice that the Minister has settled the order, and that the order will become final and have effect as an Act of Parliament unless within such period, not being less than thirty days as may be stated in the notice, a memorial is presented to the Minister by a fishery board, local

authority, or other person or association affected by the order, praying that the order shall not become law without confirmation by Parliament.

(4) If within such period, not being less than thirty days, as may be stated in the notice so published as aforesaid, no memorial against the order is presented to the Minister by any fishery board, local authority, or other person or association affected thereby, or if every such memorial so presented is withdrawn, the Minister may confirm the order, and the order shall thereupon have effect as if enacted in this Act, but, if any such memorial is presented and is not withdrawn, the order shall be provisional only and shall not have effect unless or until confirmed by Parliament.

(5) The making and confirmation of an order shall be primâ facie evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making and confirmation of such order have respectively been complied with.

(6) The Minister may make regulations in relation to the publication of notices and advertisements under this section and to the holding of and procedure at public local inquiries under this section, and the payment of expenses of and incidental to such inquiries and to any other matters of procedure respecting the making of orders under this section.

Expenses.

**41.** Any expenses incurred by a fishery board or county council under this Part of this Act in respect of any order or confirming Bill made thereunder, or in respect of any application for any such order, shall, whether or not the application for the order was made by the board or the council, be defrayed—

(*a*) in the case of a fishery board, as other expenses incurred by them under this Act; and

(*b*) in the case of a county council, out of the county fund.

Consents in case of Crown and certain other foreshore and land.

**42.** Where any fishery, land or foreshore proposed to be comprised in an order under this Part of this Act, or any fishery proposed to be affected by any such order, or any land over which it is proposed to acquire an easement under any such order, belongs to His

Majesty in right of the Crown, or forms part of the possessions of the Duchy of Lancaster or the Duchy of Cornwall, or belongs to or is under the management of any Government department, the Minister may make the order if such consent as hereinafter mentioned has previously been obtained :—

(*a*) in the case of any foreshore under the management of the Commissioners of Woods, or of any fishery or land belonging to His Majesty in right of the Crown, the consent of the Commissioners of Woods, or one of them:

(*b*) in the case of any foreshore under the management of the Board of Trade, the consent of the Board of Trade:

(*c*) in the case of any foreshore or fishery or land forming part of the possessions of the Duchy of Lancaster, the consent of the Chancellor of the Duchy:

(*d*) in the case of any foreshore or fishery or land forming part of the possessions of the Duchy of Cornwall, the consent of the Duke of Cornwall, or other the persons for the time being empowered to dispose for any purpose of the lands of the Duchy:

(*e*) in the case of any foreshore or fishery or land which belongs to or is under the management of any other Government department, the consent of that Government department.

Application of Part IV. to River Lee. 31 & 32 Vict. c. cliv. 63 & 64 Vict. c. cxvii.

**43.**—(1) An order under this Part of this Act relating to the River Lee as defined by the Lee Conservancy Act, 1868, shall not be made without the consent of the Conservancy Board constituted under the Lee Conservancy Act, 1900.

(2) The Minister may, by an order made on the application of the Conservancy Board but otherwise in accordance with the provisions of this Part of this Act, apply to the Board and the River Lee any provisions of this Act relating to a fishery board or a district of a fishery board.

## PART V.

### PROVISIONS AS TO FISHERY BOARDS.

Application of Act to fishery boards and districts. 7 Edw. 7. c. 15.

**44.** The provisions of this Act relating to fishery boards and fishery districts shall apply to—

(*a*) every fishery board and district constituted under the enactments repealed by this Act other than the Salmon and Freshwater Fisheries Act, 1907;

(*b*) every fishery board and district constituted by an order under the Salmon and Freshwater Fisheries Act, 1907, with this qualification, that this Act shall not, except as otherwise expressly provided, alter the constitution of any such board or the method of election or the duration of office of any member thereof, and that where any such order excepts from application to the fishery board or district thereby constituted any of the provisions of the Acts repealed by this Act or modifies in their application to any such board or district any of those provisions, the corresponding provisions of this Act shall not apply to that fishery board or district, or shall apply thereto subject to the like modifications, as the case may be;

(*c*) every fishery board and district constituted by an order made under Part IV. of this Act, subject to such exceptions and modifications as may be contained in the order.

*Constitution and appointment of Fishery Boards.*

Constitution of fishery boards.

**45.** Subject to the exceptions mentioned in the last foregoing section, a fishery board shall be constituted of such—

(*a*) appointed members,

(*b*) representative members, and

(*c*) ex-officio members,

as hereinafter mentioned.

Appointed members.

**46.**—(1) Where a fishery district lies wholly within one county, the county council of that county shall annually appoint such number of persons not exceeding five as they think fit to be members of the fishery board for that district.

(2) Where a fishery district does not lie wholly within one county, the county council of each county in the district shall annually appoint such number of members not exceeding three as they think fit.

(3) On every appointment of members of a fishery board by a county council the clerk of that county council shall, within fourteen days from the date of the appointment, send to the clerk or other officer of the fishery board notice of the appointment, specifying the names and addresses of the members appointed by that county council.

(4) The term of office of an appointed member of a fishery board shall be one year, but a member ceasing to hold office may be re-appointed: Provided that nothing herein contained shall affect the tenure of office of an existing member of a fishery board at the date of the passing of this Act.

(5) If at the time when any annual appointment ought to take place no such appointment is made, the retiring members shall be deemed to be re-appointed unless by reason thereof the members appointed by a county council shall exceed the number of members which the council is by this section authorised to appoint.

Representative members of net fishermen.

**47.**—(1) In every fishery district in which there are any public rights of fishing, and such rights are exercised by fishermen duly licensed to fish for salmon otherwise than with rod and line, there shall in each year be elected such number of members representative of the holders of such licences on the fishery board for that district as hereinafter mentioned; (that is to say)—

if the aggregate amount of licence duties paid in the last preceding fishing season for licences (other than licences for the use of a rod and line) for fishing in public waters does not exceed the sum of fifty pounds, one member; and

if the aggregate amount of such licence duties exceeds fifty pounds, one additional member for every additional fifty pounds or part of fifty pounds, so, however, that the number of representatives of holders of such licences shall not exceed one-half of the total number of members of the fishery board in the preceding year.

(2) The fishery board shall hold a meeting after the commencement of the annual close season in each year for the purpose of ascertaining whether any, and, if any, what number of representative members are to be elected for the ensuing year.

(3) At that meeting the clerk of the board shall produce a statement of the licence duties paid in the district during the preceding fishing season, and the board shall thereupon ascertain and declare the amount of licence duties paid in respect of licences (other than licences for the use of a rod and line) for fishing for salmon in public waters, and the number of representative members, if any, for the ensuing year.

(4) This section shall apply as well to a fishery board constituted by an order under the Salmon and Freshwater Fisheries Act, 1907, as to other fishery boards, except that if the basis of representation of the holders of such licences as provided in the order is more favourable to them than the basis under this section, the provisions of the order shall prevail.

Representative members of rod fishermen for fish other than salmon.

**48.**—(1) In every fishery district in which duties are payable for licences for fishing with rod and line for fish other than salmon there shall be appointed or elected such number of members representative of the holders of such licences on the fishery board for that district as may be provided by an order made under Part IV. of this Act, and, in default of and subject to any such provision, as is hereinafter mentioned, that is to say;

if the aggregate amount of duties for such licences does not exceed the sum of fifty pounds, one member;

if the aggregate amount of such duties exceeds fifty pounds, one additional member for every additional fifty pounds or part of fifty pounds; so, however, that in a district in which duties are payable for licences for fishing for salmon with rod and line the number of such representative members shall not exceed one-third of the total number of members of the fishery board in the preceding year.

(2) The Minister may at any time sanction a scheme as to the manner in which such representatives are to be appointed or elected.

(3) Until such a scheme is sanctioned such representatives shall be appointed by the Minister, and thereafter shall be appointed or elected in accordance with the scheme.

(4) The fishery board shall, on or before the thirty-first day of December in each year, cause to be sent to the Minister a certificate of the aggregate amount of duties paid up to the date of the certificate for such licences during the preceding twelve months, and the number of persons to be appointed or elected under this section shall be determined in accordance with the amount specified in such certificate.

(5) This section shall apply as well to a fishery board constituted by an order under the Salmon and Freshwater Fisheries Act, 1907, as to any other fishery board.

Mode of election of representative members of net fishermen.

**49.** When an election of representative members of net fishermen is to be held in a fishery district—

(1) A person shall be qualified to vote if he has in the last preceding fishing season paid licence duty exceeding one pound in respect of a licence or licences (other than a licence for fishing with a rod and line) for fishing in public or common waters, or both, in that district, and also is either—

(*a*) resident within the district, or

(*b*) the owner of land within, or within ten miles of the boundary of the district:

(2) The chairman of the fishery board or some person appointed by writing under his hand to conduct the election shall be returning officer at the election:

(3) The election shall be held in accordance with the rules in the Third Schedule to this Act:

(4) The returning officer shall, at the first meeting of the fishery board after the election, lay before the board an account of the expenses incurred by him in conducting the election, and the board shall thereupon cause the account to be audited, and may disallow any item which they consider to be excessive or illegal; and they shall forthwith pay the amount found due to the returning officer, and in default of payment the returning officer shall be entitled to recover that amount from the board in a summary manner:

(5) If the returning officer fails to comply with any of the provisions of this Act with respect to the

election, he shall be liable for every offence to a fine not exceeding five pounds:

(6) If any person wilfully fabricates in whole or in part, or alters, defaces, destroys, abstracts, or purloins any voting paper, or personates any person entitled to vote, or falsely assumes to act in the name or on behalf of any person entitled to vote or attest the execution of any voting paper, he shall be liable to a fine not exceeding twenty pounds, or to be imprisoned for any time not exceeding three months, with or without hard labour.

Qualifications of ex-officio members.

**50.**—(1) Every person shall be an ex-officio member of the fishery board of a fishery district who possesses either of the qualifications hereinafter mentioned; (that is to say)—

(*a*) is the owner or occupier of a fishery or fisheries in that district, which is or are assessed to the rate for the relief of the poor on a gross estimated rental of thirty pounds a year or more; or

(*b*) is the owner of lands in that district of an annual value of not less than one hundred pounds, having a frontage to any waters over which the fishery board have jurisdiction, frequented by salmon, trout, or freshwater fish of not less than one mile (counting, in the case of land having a frontage to both sides of any waters, the aggregate frontage), and has the right to fish in the waters adjoining such frontage, and has paid licence duty for fishing for salmon, trout or freshwater fish within the district during the last preceding fishing season:

Provided that—

(i) the owner and occupier shall not both be entitled to act at the same time as ex-officio members in respect of the same fishery or fisheries;

(ii) if there are more than one such owner or occupier of the same fishery or fisheries, then not more than one such owner or occupier shall be entitled to act at the same time as ex-officio member in respect of such fishery or fisheries.

(2) Where the owner of any fisheries or lands possessing either of the aforesaid qualifications is an infant or lunatic, or is a corporation, company, or fishery association, one of the guardians or trustees of the infant, the committee of the estate of the lunatic, one of the members of the corporation, company, or fishery association, or an attorney or agent of the guardian, trustee, committee, corporation, company, or fishery association, shall be entitled to act as an ex-officio member of the fishery board instead of the infant, or lunatic, or as representative of the corporation, company, or association respectively.

(3) Every person claiming to be entitled to act as an ex-officio member of a fishery board shall, before taking his seat at the board, or taking any part in the proceedings thereof, or acting in any way as a member of the board, sign a declaration in such form as the board prescribe, setting forth the nature of the qualification in respect of which he claims to be entitled to act.

(4) If any person so claiming wilfully makes a false declaration, or having been required to make a declaration, acts before having done so, he shall be liable to a fine not exceeding five pounds.

(5) An ex-officio member who has made the declaration required by this section shall be entitled to act as a member of the board so long only as he continues to hold his qualification.

Casual vacancies in appointed or representative members.

**51.** Any casual vacancy occurring by death, resignation, or otherwise, among the appointed or representative members of a fishery board, may be filled by the board; but the member chosen to fill the vacancy shall hold office for such time only as the member vacating it would have held office if no vacancy had occurred.

*Proceedings and Powers of Fishery Boards.*

Incorporation of fishery boards.

**52.** A fishery board shall be a body corporate, having perpetual succession and a common seal, with power to hold land for the purposes of this Act without licence in mortmain, and to sell or lease any land held by them which is not required for the purposes of the fishery board.

Proceedings.

**53.**—(1) A fishery board shall meet for the despatch of business, and shall make such regulations with respect to the election of a chairman of their meetings, the summoning, notice, place, quorum, management, and adjournment, of their meetings, and generally with respect to the transaction and management of business, as they think fit, subject to the following conditions:—

(*a*) the first meeting of the board in each year shall be held on such day after the day (if any) fixed for the election of representative members as the chairman of the board for the preceding year appoints:

(*b*) an extraordinary meeting may be summoned at any time by the chairman or on the requisition of three members:

(*c*) the quorum to be fixed by the board shall consist of not less than three members:

(*d*) every question shall be decided by a majority of votes of the members voting on that question; and in the event of an equality of votes the chairman for the time being shall have a second or casting vote.

(2) A fishery board may appoint committees of their members, may fix a quorum for each committee, and may lay down rules for its guidance. Every question before a committee shall be decided by a majority of votes of the members voting on that question, and in the event of an equality of votes the chairman for the time being shall have a second or casting vote.

(3) No act or proceeding of a fishery board shall be questioned on account of any vacancy in their body; and no defect in the qualification or appointment of any person acting as member of the board shall vitiate any proceedings of the board.

(4) A minute made of proceedings at a meeting of the board, signed by the chairman of that meeting, or of the next ensuing meeting, or a copy of a minute so signed which is certified by the clerk to be a true copy, shall be received in evidence without further proof. Until the contrary is proved every meeting of the board in respect of the proceedings of which a minute has been so made, shall be deemed to have been duly convened and held, and all the members thereof shall be deemed to have been duly qualified.

General powers of board.

**54.**—(1) A fishery board shall have, in addition to any other powers given to them by this Act or by the order constituting the board, power within their district to do any of the following things; that is to say,—

(*a*) to appoint by writing under the hand of the chairman of the board a clerk and a sufficient number of water bailiffs and other officers, to assign to them their salaries and duties, and to remove any clerk, water bailiff, or officer so appointed;

(*b*) to take legal proceedings in respect of any offence against this Act, or for the enforcement of any provision of this Act or for the protection of the fisheries in their district from injury by pollution or otherwise;

(*c*) to expend any moneys in their hands in any manner which they think most conducive to the maintenance, improvement or development of the fisheries within their district;

(*d*) to purchase or lease by agreement any fishery, fishing rights, or any establishment for the artificial propagation or rearing of salmon, trout or freshwater fish, and to use, work, or exercise the same by themselves, their lessees, or any person duly authorised by them in writing; and

(*e*) generally to execute such works, do such acts, and incur such expenses as they deem expedient for the said purposes.

(2) It shall not be lawful for a fishery board to pay to any member of the board any salary, fees, or other remuneration for his acting in any way as a member of or under the board.

(3) This section—

(*a*) shall not prevent a fishery board from obtaining the services of additional constables under section nineteen of the County Police Act, 1840, for the purpose of carrying out the provisions of this Act; and any additional constables so appointed shall have all the powers and privileges of water bailiffs, and shall be paid for their services by the board; 3 & 4 Vict. c. 88.

(*b*) shall not authorise anything to be done which may injuriously affect any navigable river, canal, or inland navigation;

(*c*) shall not prevent a fishery board from paying to any member of the board any compensation, purchase money, or rent in respect of any land, dam, fishery, fishing weir, fishing mill dam, fixed engine, or other obstruction, if the member does not vote in respect of the payment of such compensation to himself.

Power to prevent the pollution of waters.

**55.**—(1) A fishery board, for the protection of the fisheries in their district, may—

(*a*) institute proceedings under the Rivers Pollution Prevention Acts, 1876 to 1893, and for this purpose shall have the like powers and shall be subject to the same restrictions as a sanitary authority;

(*b*) aid any person or local authority in instituting such proceedings.

(2) The Rivers Pollution Prevention Acts, 1876 to 1893, shall, for the purpose of the protection of fisheries, extend to the sea to such extent, and to tidal waters to such point, as may, after a local inquiry to be held by two persons to be appointed by the Minister and the Minister of Health respectively, be determined by order (to be published in the London Gazette) of the Minister of Health; and those Acts shall apply accordingly as if the expression "stream" therein included any part of the sea or tidal waters so determined, with this qualification, that proceedings under those Acts in respect of the pollution of any part of the sea or tidal waters so determined shall not be instituted without the consent of the Minister of Health.

(3) An order under this section shall fix the date upon which the order shall become operative, being a date not less than four weeks after the order is made.

(4) On the making of an order under this section, notice shall be given of the making of the order and the effect thereof to any local authority or joint board who may be affected by the order, and if within four weeks from the date of such notice any such local authority or

joint board give notice in writing to the Minister of Health that they object to the order, and the objection is not withdrawn, the order shall be provisional only and shall not have effect unless and until confirmed by Parliament, but in any other case the order shall have effect as if enacted in this Act.

(5) Sections fourteen and fifteen of the Rivers Pollution Prevention Act, 1876, shall apply to a local inquiry under this section as if the persons holding the inquiry were inspectors of the Ministry of Health. 39 & 40 Vict c. 75.

Power to mortgage revenue or property.

**56.** A fishery board may, with the consent of the Minister, for the purpose of defraying any expenditure incurred or to be incurred by them under this Act, borrow at interest on the credit of any revenue receivable by them, or of any other property belonging to them, any money necessary for defraying such expenditure; and may for the purpose of securing the repayment of any money so borrowed, with interest thereon, mortgage to the persons by or on behalf of whom the money is advanced, such revenue or property, or any part thereof; and the provisions of the Commissioners Clauses Act, 1847, with respect to mortgages to be created by the commissioners, shall be incorporated with this Act, and any mortgagee may enforce payment of his principal and interest by appointment of a receiver. 10 & 11 Vict. c. 16.

Audit of accounts of board.

**57.** The accounts of the receipts and disbursements of every fishery board shall in each year be made up to the preceding thirty-first day of December and shall be audited by an auditor appointed by the fishery board subject to the approval of the Minister and paid by the board, and a copy of the audited accounts with the report of the auditor thereon shall not later than the thirty-first day of January following, be sent to the Minister by the clerk of the fishery board.

Annual returns.

**58.** The clerk, or other officer where there is no clerk, of every fishery board shall prepare and forward to the Minister, before such date as the Minister may appoint, an annual return in such form, and with such particulars, and made up to such date, as the Minister may direct.

## PART VI.

## BYELAWS.

Power of boards to make byelaws for certain purposes.

**59.**—(1) A fishery board, or where there is no fishery board the Minister, may, subject to the provisions of this Act, make byelaws for any of the following purposes; (that is to say,)—

(*a*) To fix or alter the annual close season for salmon so that such close season is not less than one hundred and fifty-three days, and does not commence later than the first day of September in each year:

(*b*) To fix or alter the close season for fishing for salmon with rod and line so that such close season is not less than ninety-two days, and does not commence later than the first day of November in each year:

(*c*) To fix or alter the weekly close time for salmon so that such time is not less than forty-two nor more than seventy-two hours:

(*d*) To fix or alter the annual close season for trout so that such annual close season is not less than one hundred and eighty-one days and does not commence later than the first day of September in each year, or to fix or alter the annual trout close season for rod and line so that such close season is not less than one hundred and fifty-three days and does not commence later than the first day of October in each year, or as regards migratory trout, not later than the first day of November in each year, or to fix or alter the weekly close time for trout so that such time is not less than forty-two or more than seventy-two hours:

(*e*) To fix or alter the annual close season for freshwater fish so that such annual close season is not less than ninety-three days:

(*f*) To determine the nets and other instruments (not being fixed engines) which may be used for taking salmon, trout and freshwater fish, the dimensions, size of mesh, and description thereof,

the manner of using them and the conditions under which they may be used:

(*g*) To require or regulate the attachment to licensed nets and instruments of marks, labels, or numbers, or the painting thereof upon, or the affixing thereof to, boats, coracles, or other vessels used in fishing:

(*h*) To prohibit the carrying in any boat or vessel whilst being used in fishing for salmon or trout of any net which is not licensed and has not attached thereto the mark, label, or number prescribed by byelaws of the fishery board:

(*i*) To prohibit or regulate the carrying in a boat or vessel during the annual close season for salmon of a net capable of taking salmon other than a net commonly used in the district for sea fishing if carried in a boat or vessel commonly used for that purpose:

(*j*) To prohibit the use for taking salmon, trout or freshwater fish of any instrument not being a fixed engine in such waters within the fishery district and at such times as may be prescribed by the byelaw:

(*k*) To prohibit the taking or removal from any waters without lawful authority of any live fish or any dead fish:

(*l*) To determine for the purposes of this Act, the period of the year during which gratings need not be maintained:

(*m*) To prohibit or regulate the taking of trout or any freshwater fish of a size less than such as may be prescribed by the byelaw:

(*n*) To prohibit or regulate the taking of fish by any means within such distance as is specified in the byelaw above or below any dam or any other obstruction whether artificial or natural:

(*o*) To prohibit or regulate fishing with rod and line between the expiration of the first hour after sunset on any day and the beginning of the last hour before sunrise on the following morning:

(*p*) To regulate the deposit or discharge in any waters containing fish of any liquid or solid matter specified therein detrimental to salmon, trout or

freshwater fish, or the spawn or food of fish, but not so as to prejudice any powers of a sanitary or other local authority to discharge sewage in pursuance of any power given by a Public General or Local Act or by a Provisional Order confirmed by Parliament:

(*q*) To require returns of salmon and trout taken within the district to be made to the fishery board by the person by whom the salmon and trout are taken:

(*r*) To regulate the use in connection with fishing with rod and line of any lure or bait specified in the byelaw:

(*s*) To determine the time during which it shall be lawful to use a gaff in connection with fishing by a rod and line for salmon or migratory trout:

(*t*) To authorise the fishing with rod and line for eels during the annual close season for freshwater fish:

(*u*) Generally for the better execution of this Act, and for the better protection, preservation, and improvement of the fisheries in the district.

(2) Any byelaw may be made to apply to the whole or any part or parts of the district, or to the whole or any part or parts of the year.

(3) If any person contravenes or fails to comply with the provisions of any byelaw, he shall be guilty of an offence against this Act.

(4) If at any time before the expiration of twelve months after the confirmation of any byelaw made by a fishery board under paragraph (*f*) or (*j*) of subsection (1) of this section, the owner or occupier of any fishery within the fishery district, by notice in writing to the clerk of the fishery board, claims that the fishery is injuriously affected by the byelaw, the claim and the amount of compensation to be paid, by way of annual payment or otherwise, for the damage (if any) to such fishery shall be determined, in default of agreement, by a single arbitrator appointed by the Minister:

Provided that, when the compensation is payable under any award by way of an annual payment, the fishery board or the person entitled to the annual payment

may, at any time after the expiration of five years from the date of the award, require the award to be reviewed by an arbitrator appointed as aforesaid, and the compensation to be thenceforth paid shall be such as may be determined by that arbitrator.

Rules for making, confirming, and publishing byelaws.

**60.**—(1) Byelaws made by a fishery board under this Act shall be made, confirmed, and published in accordance with the following rules:—

(*a*) before a byelaw is made, notice of an intention to propose it must be given in the notice convening the meeting of the fishery board at which it is intended to propose it, and the notice must be issued one fortnight at least before the date of that meeting:

(*b*) every byelaw when made must be reduced into writing and sealed with the common seal of the board:

(*c*) a byelaw shall not come into operation until it has been confirmed by the Minister:

(*d*) one month at least before an application for confirmation of any byelaw, notice of the intention of the fishery board to apply for confirmation shall be given by advertisement in some newspaper circulating in the district, and a copy of the proposed byelaw shall, during the said period, be kept at the office of the board, or at some place to be appointed by the chairman for that purpose, and during the said period all persons may at all reasonable times inspect such copy without payment, and the board shall furnish every person who applies for the same with a copy of the proposed byelaw, free of cost:

(*e*) on any application for confirmation of a byelaw the Minister may direct an inquiry into the same at such time and place, and before such person, and after giving such notices, as he thinks fit; and, subject to the provisions of this section, may, with or without such inquiry, disallow the byelaw or allow the byelaw either without modification or subject to such modifications to which the fishery board consent as he

thinks fit, and the fishery board shall, if so directed by the Minister, cause notice of any proposed modification to be advertised in accordance with such directions:

(*f*) byelaws when confirmed shall be printed, and copies thereof shall be open to inspection without charge, and the secretary or clerk of the fishery board shall deliver on application without charge a printed copy thereof to every person who pays licence duty, and copies thereof shall be put up on boards in conspicuous places within the district.

(2) The Minister shall not make or confirm any byelaw which will be operative within the limits of any dockyard port unless the Admiralty consent thereto.

(3) The Minister before making a byelaw under this Part of this Act shall cause notice of his intention to make such byelaw to be published in a paper circulating in the district proposed to be affected specifying the time within which notice of any objection from any person affected by such byelaw may be presented to the Minister, and shall take into consideration any objection so presented, and, if he thinks fit, direct a local public inquiry to be held for the hearing of any such objection.

(4) The Minister, if he considers that the revocation of a byelaw is necessary or desirable for the maintenance or improvement of the fisheries in any district, may, after giving notice to the fishery board and considering any objections raised by that board, and, if so required by that board, holding a local public inquiry, revoke the byelaw.

## PART VII.

## LICENCES.

Licences to fish for salmon and trout.

**61.** Every fishery board shall grant licences to fish for salmon or trout with any instruments which may be lawfully used for the purpose, and such licences shall be issued and shall have effect in accordance with the following rules:—

(*a*) Licences shall be granted on payment of such licence duties as the fishery board, with the approval of the Minister, may from time to time

determine, or, in the case of any instrument for which a licence duty has not been determined and approved and which may be lawfully used in the district on payment of a licence duty of twenty shillings:

(*b*) The approval of the Minister to a licence duty shall not be given unless one month's previous notice of the intention of the fishery board to apply therefor has been given by advertisement stating the proposed licence duty in some newspaper circulating in the district:

(*c*) Subject to the provisions of this Part of this Act with respect to the limitation of the number of licences, every person demanding a licence, and tendering to the person appointed by the fishery board to distribute licences the amount of licence duty payable under this Act in respect of that licence, shall, unless disqualified for holding a licence in manner hereinafter appearing, be entitled to receive that licence without any question or objection whatsoever:

(*d*) Licences shall specify the period for which they are available, the limits within which they may be used, and the instruments to which they are applicable, and shall be distributed in such manner as the fishery board direct:

(*e*) A licence duty shall not take effect until the commencement of the year next after that in which the licence duty is approved by the Minister:

(*f*) Different licence duties may be made payable on similar instruments for different periods, or in different parts of a district, or for different kinds of trout or other fish if so stated in the licence:

(*g*) Any person or association of persons for the time being entitled to an exclusive right of fishing for salmon or trout in any waters may, on application to the fishery board, obtain a general licence subject to such conditions as the fishery board and the licensee may agree or in default of agreement as may be determined by the Minister; and such general licence shall enable the licensee or any person authorised by

the licensee in writing under his hand, or when granted to an association of persons any member of the association authorised in writing by the secretary of the association, without any other licence, to fish for salmon or trout in any legal manner in those waters, but shall not be of any validity beyond the limits to which it refers:

(*h*) There shall be paid for a general licence such sum as the fishery board and the person or association of persons entitled to the licence may from time to time agree, with the approval of the Minister, having regard to the extent and productiveness of the fishery, and to the nature of the instruments used and to the conditions (if any) attached to the licence:

(*i*)—(i) A licence for an instrument (other than rod and line) by which salmon or trout may be caught, shall be used only by the person to whom it is granted or his agent or servant, and for the employment of the instrument described therein;

(ii) No person shall be deemed to be an agent or servant of a licensee for the purposes of this section unless his name is endorsed on the licence, in accordance with the provisions of this section, or he is accompanied by the licensee;

(iii) The name must be endorsed either by the proper officer of the fishery board, or by the licensee or his agent;

(iv) The fishery board shall make arrangements for the endorsement of licences and shall appoint their clerk or other officer to endorse licences and to receive notices and fees in respect of endorsements;

(v) Before an endorsement is made by an agent of a licensee the name and address and notice of the appointment of the agent must be sent to the proper officer of the fishery board;

(vi) The date of an endorsement made by the licensee or his agent must be inserted in the endorsement at the time of making it, and a copy of the endorsement must, within twenty-four hours from the date thereof, be sent by

post, accompanied with the proper fee, to the proper officer of the fishery board;

(vii) A fee of one shilling shall be payable to the proper officer of the fishery board for every name endorsed;

(viii) Not more names of agents or servants may be endorsed than twice the number of persons required to work at one time the instrument in respect of which the licence is granted;

(ix) Any name may be removed and another name substituted, on payment of a like fee for each name substituted;

(x) If a licensee in respect of any such instrument at any time during a fishing season works or assists in working the instrument himself, the number of names which may be endorsed on the licence for that instrument shall be one less than twice the number aforesaid;

(xi) If any person fraudulently endorses on a licence more names than the licensee is entitled to have endorsed thereon, or inserts in an endorsement any date other than the actual date of the making it, he shall be guilty of an offence against this Act:

(*j*) A licence for the use of a rod and line shall be used only by the person to whom it is granted, and shall not be transferable:

(*k*) A licence shall not confer any right to fish in any place or at any time in or at which the licensee is not otherwise entitled to fish:

(*l*) The grant of a licence shall not be held to make any fishing weir, fishing mill dam, putts, putchers, net, or other instrument legal that would otherwise be illegal, or to imply any recognition of the legality of any such instrument:

(*m*) A licence to use any instrument for fishing for salmon shall have effect also as a licence to use the same instrument for trout.

Limitation of licences.

**62.**—(1) A fishery board may, by order confirmed by the Minister, limit the number of licences to be issued in any year for fishing for salmon or trout in public waters within the fishery district with any instrument

other than rod and line specified in the order, and provide for the selection of the applicants to whom licences shall be issued where the number of applications exceed the number of licences which may be granted:

Provided that—

(*a*) the Minister before confirming an order under this section shall direct the order and notice of his intention to confirm the order to be published, in such manner as he thinks desirable, by and at the expense of the fishery board, and shall take into consideration any objections to the proposed order which may be received by him within the time prescribed by the notice; and

(*b*) if the number of licences as limited by the order is less than the number of licences issued in any one of the previous three years, and objection to the order is duly made by any person who has during each of the previous two years held any such licence, the Minister before confirming the order shall cause a public inquiry to be held in the locality by an officer of the Ministry; and

(*c*) the Minister shall not confirm an order unless he is satisfied that the terms of the order relating to the selection of licensees are such as to secure that any licensee dependent upon fishing for his livelihood will be able to obtain a licence.

(2) The Minister may, with the consent of the fishery board, vary the order before confirmation, after publication by the fishery board, if the Minister so directs, of the proposed variation in such manner as such directions may require.

(3) An order under this section may be revoked by the Minister, or by an order made by the fishery board and confirmed by the Minister in like manner as the original order.

(4) This section shall not apply to any instrument which is worked by one man only and is not worked from a boat.

Penalty on use of unlicensed

**63.**—(1) If any person in a fishery district fishes for or takes salmon or trout otherwise than by means of an instrument which he is duly licensed to use for

that purpose, he shall be guilty of an offence against this Act. instrument for fishing.

(2) This section shall not prevent the use of a gaff (consisting of a plain metal hook without a barb) or tailer or landing net, by the holder of a rod licence as auxiliary to angling with a rod and line, and licence duty shall not be payable in respect of any such instrument so used.

**64.**—(1) Any of the following persons; namely,— Production of licence.

(*a*) any licensee under this Act on producing his licence;

(*b*) any member of a fishery board on producing a certificate of his being a member, signed by the clerk of the fishery board;

(*c*) any water bailiff appointed under this Act on producing the instrument appointing him;

(*d*) any constable,

may require any person found fishing for salmon or trout within a fishery district to produce the licence or authority (if any) legalising such fishing, and to furnish his name and address.

(2) If any person, on being required under the provisions of this section to produce his licence or authority, or to furnish his name and address, fails without reasonable excuse to produce his licence or authority, or fails to state correctly his name and address, he shall be guilty of an offence against this Act.

**65.**—(1) The Minister may, on the application of a fishery board or on such other application as he may deem sufficient, by order extend the foregoing provisions of this Part of this Act to freshwater fish, and— Power to require licences in the case of freshwater fish.

(*a*) either generally to all freshwater fish or to such freshwater fish as may be specified in the order; and

(*b*) either generally to all waters in the fishery district or to such of those waters as may be so specified; and

(*c*) either to all instruments or to such instruments as may be so specified,

and, where such an order is made, the said provisions shall, to the extent and subject to the modifications contained

in the order, apply to freshwater fish in like manner as they apply to salmon and trout.

(2) Any such order shall contain such scheme for the representation on the fishery board of members representative of persons licensed to fish with rod and line for freshwater fish as, subject to the provisions of section forty-eight of this Act, appear to the Minister to be desirable.

(3) A licence to use any instrument for fishing for salmon or trout, shall have effect also as a licence to use the like instrument for fishing for freshwater fish.

(4) Before the Minister makes an order under this section, he shall cause the proposed order and notice of the intention to make the order to be published by the applicant in such manner as he may direct, and, if within such time as is mentioned in such notice, any objection from any person who will be affected by the order is received by the Minister, and is not withdrawn, the Minister before giving his authority shall hold a local inquiry and shall consider the report of the person holding the inquiry.

## PART VIII.

### POWERS OF INSPECTORS, WATER BAILIFFS, AND OTHERS.

Power to inspect dams, &c.

**66.**—(1) Any person duly appointed in writing by a fishery board may, for the purpose of enforcing any of the provisions of this Act or any order or byelaw made thereunder, at all times enter on and traverse any lands to inspect any dam, fishing weir, fishing mill dam, fixed engine, obstruction, mill race, or watercourse.

(2) If any person refuses to admit or obstructs any person exercising any of the powers given to him by this section, he shall be guilty of an offence against this Act.

Powers of water bailiffs.

**67.**—(1) Any water bailiff appointed under this Act may do all or any of the following things:—

(*a*) examine any dam, fishing weir, fishing mill dam, fixed engine, or obstruction, or any artificial watercourse, and for that purpose enter on any land;

(*b*) stop and search any boat, barge, coracle, or other vessel which is used in fishing, or any vessel or

vehicle which there is reasonable cause to suspect of containing salmon, trout or freshwater fish;

(*c*) search and examine any nets or other instruments used in fishing or any basket, bag, pocket, or other receptacle, capable of carrying fish which there is reasonable cause to suspect of containing fish illegally caught;

(*d*) seize any fish and any instrument liable to be forfeited in pursuance of this Act.

(2) If any person refuses to allow any water bailiff to make any entry, search or examination which he is by this section authorised to make, or resists or obstructs any water bailiff in any such entry, search or examination, he shall be guilty of an offence against this Act.

(3) For the enforcement of the provisions of this Act, or any order or byelaw made thereunder, every water bailiff shall be deemed to be a constable, and to have all the same powers and privileges, and be subject to the same liabilities as a constable duly appointed has or is subject to, by virtue of the common law or of any statute.

(4) The production by a water bailiff of the instrument of his appointment purporting to be executed in the manner prescribed in this Act, shall be a sufficient warrant for the water bailiff exercising the authorities given to him under this Act.

Power to enter lands.

**68.** Any water bailiff may, under a special order in writing from the fishery board signed by the chairman or by the clerk and two members of the board, at all reasonable times enter remain upon and traverse any lands not being a dwelling-house or the curtilage thereof, adjoining or near to any waters within the fishery district for the purpose of preventing any offence against this Act:

Provided that,--

(*a*) this section shall not apply to decoys or lands used exclusively for the preservation of wild fowl;

(*b*) an order under this section shall not remain in force for more than twelve months from its date.

Order to enter suspected places.

**69.** Where from a statement on oath of any member of a fishery board or water bailiff it appears to any justice of the peace that such member or bailiff has good reason to suspect that any offence against this Act is being or is likely to be committed on any land situate on or near to any waters, the justice may, by order under his hand, authorise such member or bailiff, during a period not exceeding twenty-four hours, to be specified in the order, to enter upon and remain on such land during any hours of the day or night for the purpose of detecting the persons committing the offence.

Warrant to enter suspected premises.

**70.** Any justice of the peace, upon an information on oath that there is probable cause to suspect any offence against this Act to have been committed on any premises, or any salmon, trout or freshwater fish to have been illegally taken, or any illegal nets or other instruments to be concealed on any premises, by warrant under his hand and seal may authorise any water bailiff, member of a fishery board or constable to enter such premises for the purposes of detecting the offence or the concealed fish, nets or engines at such times of the day or night as are mentioned in the warrant, and to seize all illegal nets and engines and all salmon, trout, or freshwater fish suspected to have been illegally taken that may be found on the premises:

Provided that a warrant under this section shall not continue in force for more than one week from its date.

Power to apprehend persons fishing illegally at night.

**71.** If any person, between the expiration of the first hour after sunset on any day and the beginning of the last hour before sunrise on the following morning, illegally takes or kills salmon, trout or freshwater fish, or is found on or near any waters with intent illegally to take or kill salmon, trout or freshwater fish, or having in his possession for the capture of salmon, trout or freshwater fish any instrument prohibited by this Act, any water bailiff with any assistants may seize and apprehend the offender without warrant and deliver him, as soon as may be, into the custody of an officer of police in order to his being conveyed before a court of summary jurisdiction for the purpose of being dealt with according to law.

Powers of officers appointed by Minister.

**72.** Any person appointed by the Minister in that behalf may exercise within any fishery district the powers of a water bailiff, and the foregoing provisions of this

Part of this Act relating to water bailiffs shall apply to the persons so appointed, with this modification, that for the reference to a special order in writing from the fishery board there shall be substituted a reference to an order in writing from the Minister.

## PART IX.

## LEGAL PROCEDURE AND EVIDENCE.

### *Legal Procedure.*

Recovery of penalties.

**73.**—(1) Any offence against this Act may be prosecuted, and any fine under this Act, and all money recoverable under this Act in a summary manner, may be recovered, in manner directed by the Summary Jurisdiction Acts.

(2) Subject to the provisions of section five of the Criminal Justice Administration Act, 1914, any fines or moneys recovered under this Act on the complaint of a fishery board, or of any officer of or person authorised by a fishery board, shall (unless the court for some special reason otherwise order) be paid to the fishery board, to be applied by them for the purposes of this Act.

4 & 5 Geo. 5. c. 58.

Penalties for offences.

**74.**—(1) Any person who is found guilty of an offence against this Act shall, except in the case of an offence for which some other penalty is expressly provided by this Act, be liable to a fine not exceeding fifty pounds, and in the case of a continuing offence to a further fine not exceeding five pounds for every day during which the offence is continued after conviction, and to the forfeiture of any instrument in respect of which the offence is committed, and of any fish illegally taken by the person convicted or in his possession at the time of the offence, and any instrument or fish so forfeited shall be disposed of as the court may direct.

(2) If a licensee under this Act convicted of an offence against this Act is subsequently convicted of any such offence, the court may direct that any licence held by him shall be forfeited, and that for a period not exceeding one year he shall be disqualified for holding a licence under this Act.

(3) In the case of a third or subsequent conviction under this Act the offender shall also be liable to imprisonment with or without hard labour for a term not exceeding three months in lieu of any fine to which he

is liable under this Act: and for the purposes of this provision a conviction under an enactment repealed by this Act or under any byelaw made under any such repealed enactment shall be treated as if it had been a conviction under this Act.

(4) Where any member of a fishery board is convicted of an offence against this Act, the court by which he is convicted may declare that person to be disqualified for being a member of a fishery board and that person shall thereupon cease to be a member thereof and shall not be entitled to become a member of any fishery board for such period as the court may think fit.

(5) A conviction of an offence under any enactment repealed by this Act shall for the purposes of this Act be treated as if it had been a conviction under this Act.

Jurisdiction of courts.

**75.**—(1) Any offence against this Act committed on the sea-coast or at sea beyond the ordinary jurisdiction of a court of summary jurisdiction, shall be deemed to have been committed in any place abutting on such seacoast or adjoining such sea, and may be tried and punished accordingly.

(2) Proceedings against any person contravening any of the provisions of this Act may be instituted before a court of summary jurisdiction in any place where the fish in respect whereof the proceedings are taken or the person charged may be found.

As to disqualification of justices.

**76.** A justice of the peace shall not be disqualified for hearing any case arising under this Act by reason only of his being a member of a fishery board, or a subscriber to any society for the protection of fish:

Provided that a justice shall not be entitled to hear any case in respect of an offence committed on his own land or in relation to any fishery of which he is owner or occupier.

Certificate of conviction to be sent to clerk of board.

**77.**—(1) Where any person is convicted of an offence committed in a fishery district against this Act, the clerk of the court before which that person is convicted shall, within one month from the date of the conviction, forward a certificate of the conviction to the clerk of the fishery board of that district.

(2) Every such certificate shall be receivable in evidence in all legal proceedings.

Seizure of fish under Act.

**78.** Any of the following officers, that is to say:

(*a*) any officer of a fishery board acting within the fishery district;

(*b*) any officer of a market authority acting within the area of the jurisdiction of that authority;

(*c*) any officer appointed for the purpose by the Minister;

(*d*) any officer appointed in writing by the Fishmongers Company in that behalf;

(*e*) any officer of police;

may seize any salmon, trout, or freshwater fish bought, sold, or exposed for sale by, or in the possession for sale of, any person in contravention of this Act.

Disposal of fish &c., seized under Act.

**79.** Where under this Act any fish or any other thing of a perishable nature is seized as liable to forfeiture, the person by whom it is seized may sell it, and the net proceeds of sale shall be liable to forfeiture in the same manner as the fish or other thing sold, and if and so far as not forfeited shall be paid on demand to the owner of the fish or other thing sold:

Provided that no person shall be subject to any liability on account of his neglect or failure to exercise the powers conferred on him by this section.

*Evidence.*

Evidence of orders of special commissioners. 28 & 29 Vict. c. 121.

**80.**—(1) Any summons, order, warrant, or other instrument or copy thereof, purporting to be sealed with the seal of the special commissioners appointed under the Salmon Fishery Act, 1865, and to be signed, in the case of any warrant for the removal of any fishing weir or fixed engine, or for the alteration of any fishing mill dam, by two at least of the commissioners, or, in the case of any notice or other instrument, by any person delegated by them, shall be deemed to be sufficiently executed, and shall be received in evidence without further proof.

(2) Any copy of an order of such commissioners, or of any plan or map accompanying such order, shall, if purporting to be stamped with the seal of the commissioners, be received in evidence without further proof.

Evidence of certified copies of byelaws, &c.

**81.**—(1) A copy of any byelaw or licence duty under this Act, or any enactment repealed by this Act, purporting to be signed by a clerk of the fishery board by

which the byelaw was made or the licence duties chargeable, and to be certified by him to be a true copy and to be duly confirmed or approved by the Minister, shall be evidence in all legal proceedings of the due making, confirmation, approval, publication and existence of such byelaw or licence duties without further or other proof.

(2) A copy of a certificate under any enactment repealed by this Act deposited with the clerk of the county council of any county in relation to the formation, enlargement, combination, reduction, or alteration of a fishery district if certified or purporting to be certified as a true copy by the clerk of the county council of such county, shall be evidence that all the statutory provisions relating to the formation, enlargement, combination, reduction, or alteration of any fishery district have been complied with, and that such district has been duly formed, enlarged, combined, reduced, or altered with the limits and in the manner specified in such certificate.

(3) A copy of a newspaper containing an advertisement of an alteration made in any fishery district or in the constitution of any fishery board shall be evidence of such advertisement having been given at the time such newspaper bears date.

(4) A copy of a newspaper containing an advertisement of the appointment of a fishery board shall be evidence of such appointment having been made, and shall, after the expiration of three months from the date of such newspaper, be conclusive evidence of the validity of all orders and proceedings relating to such appointment.

## PART X.

## LOCAL AND SUPPLEMENTAL.

Application to River Tweed.

22 & 23 Vict. c. clxx.

**82.** The provisions of this Act shall not apply to the River Tweed within the meaning of the expression "the river" as defined by the Tweed Fisheries Amendment Act, 1859, and any byelaw amending that definition.

Application to River Esk.

**83.** This Act shall apply to so much of the River Esk, with its banks and tributary streams up to their source, as is situated in Scotland:

Provided that offences against this Act committed within Scottish jurisdiction shall be prosecuted and fines recovered in manner directed by the Salmon Fisheries (Scotland) Act, 1868.

31 & 32 Vict. c. 123.

Special provisions as to the Solway Firth.

**84.**—(1) With a view to the maintenance, improvement, and development of the salmon fisheries within the area (hereinafter referred to as the "Solway district") defined in Part I. of the Fourth Schedule to this Act, the Minister and the Fishery Board for Scotland, acting jointly, may, upon such application as is hereinafter mentioned and subject to the provisions of this section, make an order under Part IV. of this Act for the constitution of a fishery board, to be called the Solway District Board, representative of the persons interested in the salmon fisheries within the area so defined and in the rivers flowing into such area, and for the regulation by that Board of the salmon fisheries within that area, and on such order being made and confirmed the provisions of this Act shall, subject to the provisions of this section and the order, apply to the Solway district.

(2) The provisions of Part V. of this Act relating to appointed members, representative members, and ex-officio members of a fishery board shall not apply to the constitution of the Solway District Board.

(3) An order made under this section—

(*a*) shall not authorise the imposition by the Solway District Board of contributions assessed on several fisheries;

(*b*) shall not enable the Solway District Board to erect fixed engines;

(*c*) shall not prejudice or affect any existing private right of fishing or any existing right or title of an owner of salmon fishings or the exercise of such right in any way whether by haaf net, poke net, stake net, fixed engine or otherwise which would have been lawful if the order had not been made, and shall contain such prohibition or restriction of fishing within a prescribed distance of any such stake net or fixed engine as may be reasonably necessary for the protection of the interests of the persons entitled to use such nets or engines; and

(*d*) shall provide that any reference in this Act to the Minister shall, in relation to the Solway district except in so far as otherwise provided in the order, be construed as a reference to the Minister and the Fishery Board for Scotland acting jointly.

(4) So much of Part VII. of this Act as requires or authorises a fishery board to grant licences shall not apply to the Solway District Board.

Licences granted by a fishery board of any fishery district abutting on the Solway district for use in its district shall be available for use in the Solway district, but not so as to confer any right to fish in any place or at any time in or at which the licensee is not otherwise entitled to fish or any right to fish within the Solway district in any manner or with any instrument in or with which it is not otherwise lawful to fish therein.

(5) Notwithstanding that licences are not issued by the Solway District Board, that board shall have the like powers of limiting by order the number of licences to be available for fishing in the Solway district as a fishery board has under Part VII. of this Act of limiting the number of licences to be issued by the board, and any order so made by the Solway District Board may, in order to secure such limitation of licences so available, limit the number of licences to be issued by any fishery board of any district abutting on the Solway district.

(6) The expenditure incurred by the Solway District Board, up to such amount as may be sanctioned by the Minister and the Fishery Board for Scotland acting jointly after consultation with the fishery boards and district boards affected, shall be defrayed out of contributions to be paid by the fishery boards or district boards of the fishery districts abutting on the Solway district in such proportions and with such remedies for enforcement thereof as may be prescribed by order made under this section.

(7) Any offences committed in the Solway district against this Act or an order made under this section, or any byelaw made thereunder, shall be deemed to have been committed in any place abutting on that district, and may be tried and punished accordingly, but if proceedings are instituted in Scotland they shall be instituted and prosecuted as if the offences were offences under the Salmon Fisheries (Scotland) Act, 1868, and the provisions of that Act as to offences shall apply accordingly with the substitution of references to this Act for references to that Act, and of references to the Solway District Board for references to a district board, but so that the penalties imposed by this Act for an offence against this Act shall be substituted for the penalties imposed by the Salmon Fisheries (Scotland) Act, 1868.

(8) As from such date as may be prescribed by an order made under this section, all powers of any fishery board, district board, or other authority constituted for the preservation of salmon, so far as they relate to salmon and salmon fishing, and are exercisable within the Solway district, shall absolutely determine, and the enactments mentioned in Part II. of the Fourth Schedule to this Act, and all byelaws made thereunder, shall, so far as they relate to salmon and salmon fishing, cease to apply within the Solway district:

Provided that nothing in this section, or in any order made thereunder, shall affect the powers of any district board with regard to assessments on any existing fisheries within the Solway district or the enactments relating thereto.

(9) An application for an order under this Part of this Act may be made by the fishery board or district board of any district comprising or abutting on any part of the area defined in the Fourth Schedule to this Act.

(10) As from such date as may be prescribed by the order constituting the Solway District Board, the public right of fishing which exists in such part of the Solway district as lies in England shall, subject to the provisions of this section, extend to such part of that district as lies in Scotland.

(11) For the purposes of this section—

The expression "salmon" shall be deemed to include migratory trout;

The expression "district board" means a board constituted under the Salmon Fisheries (Scotland) Acts, 1828 to 1868;

The expression "existing" means existing at the date of the making of an order under this section.

(12) Any expenses incurred by a district board under this section in respect of any order or confirming Bill under this section or in respect of any application for any such order, shall, whether the application for the Order was made by such board or not, be defrayed in like manner as expenses incurred by such board under the Salmon Fisheries (Scotland) Acts, 1828 to 1868, and any notice required by Part IV. of this Act to be published in the "London Gazette" shall, in the case of an order made

under this Part of this Act, be published also in the "Edinburgh Gazette."

Application to Solway Firth, pending the making of an order under section 84.

**85.**—(1) Until such an order as is mentioned in the last preceding section is made, and until such date thereafter as may be prescribed by such order, with a view to securing uniformity as to the minimum size of mesh which may be lawfully used for taking salmon in any part of the Solway Firth, it is hereby declared that where the minimum size of mesh of nets used for taking salmon prescribed by any provision of this Act or by any byelaw in force in any part of the Solway Firth within England is greater than that which may be lawfully used in the part of the Solway Firth within Scotland, the provision or byelaw shall have effect as if the minimum size of mesh so prescribed in relation to the part of the Solway Firth within England were such as may be so lawfully used as aforesaid in the part of the Solway Firth within Scotland.

(2) The limits of the Solway Firth for the purposes of this section shall be such as may be determined by the Minister.

Provision as to Severn navigation dams.
5 Vict. c. xxiv. (Sess. 2).
16 Vict. c. xlvii.

**86.** Each of the dams constructed by the Severn Commissioners under the provisions of the Severn Navigation Acts, 1842 and 1853, or either of them, shall be deemed to be a dam within the meaning of this Act, and the provisions of this Act shall apply thereto, and every fish pass which now exists in either of the said dams, or which may be constructed therein under the provisions of this Act, shall be deemed to be a fish pass within the meaning of this Act, and shall be maintained in an efficient state by the Severn Commissioners.

Close season for elvers in Severn fishery district.

**87.**—(1) With respect to the River Severn Fishery District, the period between the thirty-first day of December and the first day of March, and the period between the twenty-fifth day of April and the twenty-fifth day of June, both inclusive, shall each be a close season for elvers.

(2) If any person, during either of such close seasons, takes or uses any instrument for taking elvers in the River Severn Fishery District, he shall be guilty of an offence against this Act.

(3) For the purposes of this section, the expression "elvers" includes the fry of eels, and the River Severn Fishery District means the district of the fishery board

for the River Severn constituted under any enactment repealed by this Act, or under this Act.

Application of Act to county boroughs and counties of cities and towns.

**88.** The provisions of this Act with respect to fishery districts and fishery boards shall apply to a county borough, and to any other borough being a county of a city or county of a town and containing according to the census of one thousand eight hundred and eighty-one a population of ten thousand or upwards, as if that county borough or other borough were a separate county, and as if the council of the borough were substituted for the county council, and the borough fund or borough rate were substituted for the county fund.

Saving of rights of dredging.

**89.** Nothing in this Act shall prejudice the legal right of any conservators, directors, commissioners, undertakers, or other persons, to dredge, scour, cleanse, or improve any navigable river, canal or other inland navigation.

Crown exemption.

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

Provisions as to works below high-water mark.

**91.**—(1) Any works proposed to be constructed under the provisions of this Act on, over, or under tidal lands below high-water mark of ordinary spring tides shall be constructed only in accordance with such plans and sections and subject to such restrictions and regulations as previous to such works being commenced have been approved by the Board of Trade in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade.

(2) Any alteration or extension of any such works shall be subject to the like approval.

(3) If any such work is commenced or completed contrary to the provisions of this section, the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost of the person who may have commenced or executed such work, or (if such person shall not be the owner of such work) of the owner thereof, and the amount of such cost shall be a debt due from such person or such owner to the Crown and shall be recoverable as a Crown debt or summarily.

(4) The provisions of this section shall be in addition to and not in derogation of any local Act applicable to any such works as aforesaid.

Interpretation.

**92.**—(1) In this Act, unless the context otherwise requires—

The expression "the Minister" means the Minister of Agriculture and Fisheries:

The expression "dam" includes any weir or other fixed obstruction used for the purpose of damming up water:

The expression "fishing mill dam" means a dam used or intended to be used partly for the purpose of taking or facilitating the taking of fish, and partly for the purpose of supplying water for milling or other purposes:

The expression "fishing weir" means any erection, structure, or obstruction fixed to the soil either temporarily or permanently across, or partly across, a river or branch of a river, and used for the exclusive purpose of taking or facilitating the taking of fish:

The expression "mill" includes any erection for the purpose of developing water power, and the expression "milling" has a corresponding meaning:

The expression "fixed engine" includes—

(*a*) stake net, bag net, putt, putcher; and

(*b*) any fixed implement or engine for taking or facilitating the taking of fish; and

(*c*) any net secured by anchors and any net or other implement for taking fish fixed to the soil, or made stationary in any other way, not being a fishing weir or fishing mill dam; and

(*d*) any net placed or suspended in any inland or tidal waters unattended by the owner or a person duly authorised by the owner to use the same for taking salmon or trout, and

any engine, device, machine, or contrivance, whether floating or otherwise, for placing or suspending such last-mentioned net or maintaining it in working order or making it stationary:

The expression "salmon" means all fish of the salmon species:

The expression "trout" means any fish of the salmon family commonly known as trout and includes "migratory trout" as hereinafter defined:

The expression "migratory trout" means trout which migrate to and from the sea:

The expression "freshwater fish" means any fish living in fresh water exclusive of salmon and trout and of any kinds of fish which migrate to and from tidal waters and of eels and the fry of eels:

The expression "rod and line" means single rod and line:

The expression "immature" in relation to salmon means that the salmon is of a length of less than twelve inches, measured from the tip of the snout to the fork or cleft of the tail, and in relation to any other fish, means that the fish is of a length less than such (if any) as may be prescribed by the byelaws applicable to the water in which the fish is taken:

The expression "unclean" in relation to any fish means that the fish is about to spawn, or has recently spawned and has not recovered from spawning:

The expression "fishery board" means any board of conservators or other similar body constituted under this Act, or any enactment repealed by this Act for the regulation of fisheries in a fishery district:

The expression "chairman" in relation to a fishery board includes an acting chairman:

The expression "owner" in relation to a fishery or premises includes any person who is entitled to receive the rents of the fishery or premises from the occupier thereof, or who would be so entitled if the fishery or premises were let to a tenant:

The expression "occupier" in relation to a fishery or premises includes any person for the time being in actual possession of the fishery or premises, whether that person is owner or not:

The expression "licensee" includes any person entitled to fish as agent or servant of a person holding a licence:

The expression "foreshore" includes the shore and bed of the sea and of every channel, creek, bay, estuary, and of every navigable river as far up the same as the tide flows:

The expression "river" includes "stream."

(2) This Act shall apply to char in like manner as to trout as if in this Act the expression trout included char.

Repeals.

**93.**—(1) The enactments specified in the Fifth Schedule to this Act are hereby repealed as to England and Wales to the extent specified in the third column of that schedule.

(2) Nothing in this repeal shall affect any order, warrant, appointment, certificate, notice, byelaw, licence or licence duty made, granted, issued, or payable under any enactment repealed by this Act, and in force at the commencement of this Act, but all such orders, warrants, appointments, certificates, notices, byelaws, licences and licence duties shall have effect as if made, granted, issued, or payable under this Act:

**Provided that—**

(i) the maximum penalties for offences against this Act shall be substituted for any maximum penalties imposed by such orders or byelaws in respect of breaches thereof; and

(ii) any byelaw or scale of licence duties relating to salmon or trout shall be construed as if the expressions salmon or trout in such byelaw or scale had the same meaning as in this Act.

Short title, commencement, and extent.

**94.**—(1) This Act may be cited as the Salmon and Freshwater Fisheries Act, 1923.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-four:

Provided that an order or byelaw may be made or a licence duty may be fixed or altered under this Act at any time after the passing of this Act if the same is declared to take effect on or after the said date.

(3) Save as in this Act otherwise expressly provided, this Act shall extend only to England and Wales.

# SCHEDULES.

## FIRST SCHEDULE.

Section 16.

### PART I.

### PROVISIONS AS TO THE COMPULSORY ACQUISITION OF OBSTRUCTIONS AND FISHERIES BY A FISHERY BOARD.

(1) The order shall be in the prescribed form, and shall contain such provisions as the Minister may prescribe for the purpose of carrying the order into effect, and of protecting the fishery board and the persons interested in the obstruction or fishery, and shall incorporate, subject to the necessary adaptations, the Lands Clauses Acts (except the provisions thereof relating to the sale of superfluous land) and sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, but subject to this modification, that any question of disputed compensation shall be determined by an official arbitrator under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

8 & 9 Vict. c. 20.

9 & 10 Geo. 5. c. 57.

(2) The order shall be published by the fishery board in the prescribed manner, and such notice shall be given both in the locality in which the obstruction or fishery proposed to be acquired is situate and to the owners, lessees, and occupiers of that obstruction or fishery, as may be prescribed.

(3) If within the prescribed period no objection to the order has been presented to the Minister by a person interested in the obstruction or fishery, or if every such objection has been withdrawn, the Minister may, without further inquiry, confirm the order, but, if such an objection has been presented and has not been withdrawn, the Minister shall, before confirming the order, cause a public inquiry to be held in the locality in which the obstruction or fishery is proposed to be acquired, and the fishery board and all persons interested in the obstruction or fishery and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry.

(4) Before confirming the order the Minister shall consider the report of the person who held the inquiry, and all objections made thereat.

(5) In construing, for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act and the fishery board shall be deemed to be the promoters of the undertaking, and the obstruction or fishery shall be deemed to be land.

## PART II.

### PROVISIONS AS TO THE COMPULSORY HIRING OF OBSTRUCTION AND FISHERIES BY A FISHERY BOARD.

(1) The Minister shall make regulations for the purpose of carrying the order into effect and of protecting the fishery board and the persons interested in the obstruction or fishery, and the order shall incorporate such regulations, together with such provisions of the Lands Clauses Acts and of sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, as may, subject to the prescribed adaptations, appear to the fishery board necessary or expedient for that purpose.

(2) The order authorising the obstruction or fishery to be hired compulsorily shall determine the terms and conditions of the hiring other than the rent, and in particular shall provide for the insertion in the lease of covenants by the fishery board to maintain the obstruction or fishery in good condition or to pay to the landlord, at the determination of the tenancy of the fishery board, compensation for any depreciation of the obstruction or fishery by reason of any failure by the fishery board, or any person deriving title under them, to maintain the same in good condition.

(3) The determination of—

(*a*) the amount of the rent to be paid by the fishery board for the obstruction or fishery compulsorily hired;

(*b*) the amount of any other compensation to be paid by the fishery board to any person entitled thereto in respect of the obstruction or fishery or any interest therein, or otherwise; and

(*c*) when the obstruction or fishery is included in the lease of any land to a tenant, the rent to be paid for the residue of the premises comprised in the lease during the remainder of the term of the lease

shall in default of agreement be in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919.

(4) The official arbitrator, in fixing the rent to be paid for the obstruction or fishery compulsorily hired, shall take into

consideration the rent (if any) at which the obstruction or fishery has been let and the annual value at which the obstruction or fishery is assessed for purposes of income tax or rating, the loss (if any) caused to the owner by severance, the terms and conditions of the hiring (including any reservation of fishing rights), and all the other circumstances connected with the obstruction or fishery.

(5) Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of the premises comprised in his lease caused by the withdrawal therefrom of the obstruction or fishery compulsorily hired shall, as far as possible, be provided for by taking such compensation into account in fixing the rent to be paid for the residue of the premises during the remainder of the term for which they are held by the tenant.

(6) On the determination of any tenancy created by compulsorily hiring, any question as to the amount due by the fishery board for depreciation or breach of covenant shall, in default of agreement, be determined by an arbitrator appointed by the Minister.

## SECOND SCHEDULE.

Section 38.

### MODIFICATION OF THE LANDS CLAUSES ACTS.

The following modifications shall have effect in the construction of the Lands Clauses Acts incorporated by this Act for the purposes of Part IV. thereof:—

(1) The expression "Special Act" means the Act inclusive of any order made thereunder authorising the compulsory acquisition of any part of the foreshore except that the period of three years mentioned in section one hundred and twenty-three of the Lands Clauses (Consolidation) Act 1845 shall be calculated from the date when the order comes into operation: 8 & 9 Vict. c. 18.

(2) Any question as to disputed compensation shall be determined under and in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919:

(3) The expression "the promoters" means the fishery board constituted by the order:

(4) The expression "land" includes easements in or relating to land.

Section 49.

## THIRD SCHEDULE.

### RULES AS TO NOMINATION AND ELECTION OF REPRESENTATIVE MEMBERS OF FISHERY BOARDS.

1. Every person qualified to vote is in this schedule referred to as an elector.

2. Within a reasonable time before the first meeting of the fishery board in every year, the returning officer shall sign and publish a notice specifying the number of representative members to be elected, and shall send a copy of such notice by post, with a nomination paper to every elector.

3. The notice shall specify a day on or before which the nomination papers are to be sent to the returning officer.

4. Any elector may fill up the nomination paper with his own name, or with the name or names of any other person or persons (not exceeding the number of persons to be elected), and send the nomination paper by post to the returning officer on or before the specified day.

5. If the number of persons nominated is the same as or less than the number of persons to be elected, the persons nominated shall be deemed to be elected, and shall be certified as elected by the returning officer under his hand.

6. If the number of persons nominated exceeds the number of persons to be elected, the returning officer shall send by post to each elector a voting paper containing in alphabetical order the names of all persons nominated, and shall specify a day, not less than five days or more than ten days from the date of sending the voting paper, on or before which the voting paper is to be returned to him.

7. Every voter shall, in the presence of a witness, insert against the name of every candidate (not exceeding in the whole the number to be elected) for whom he intends to vote, the number of votes which he intends to give to the candidate, and sign the voting paper with his name and address. Provided that if the voter cannot write, the witness shall attest and write his own initials against the mark of the voter, and shall fill up the number of votes the voter intends to give to each candidate. In every case the witness shall subscribe his own name and address to the voting paper.

8. Each voter shall be entitled to the number of votes following; (that is to say,)

if the licence duty paid by him in the last preceding fishing season exceeds one pound and does not exceed two pounds, one vote for every member to be elected:

if the licence duty exceeds two pounds and does not exceed five pounds, two votes for every such member:

if the licence duty exceeds five pounds and does not exceed ten pounds, three votes for every such member:

if the licence duty exceeds ten pounds and does not exceed twenty pounds, four votes for every such member; and

if the licence duty exceeds twenty pounds, five votes for every such member.

9. A voter may give all his votes to one candidate, or distribute them amongst such of the candidates, not exceeding the number to be elected, as he thinks fit.

10. The voter shall send the voting paper by post to the returning officer, duly filled up and attested, on or before the day fixed for its return.

11. If an elector has not received a voting paper, he shall be entitled, on his personal application to the returning officer, before the day fixed for the return of the voting papers, to receive and fill in a voting paper in manner aforesaid.

12. The returning officer shall, within four days after the day fixed for the return to him of the voting papers, inquire into the validity of the votes given, and cast up and ascertain the number of valid votes given to each candidate, and the candidates, not exceeding the number to be elected, who have obtained the greatest number of valid votes shall be deemed to be elected, and the returning officer shall certify them to be elected under his hand.

13. If an equal number of votes has been given for two or more candidates, one or more of whom only is or are entitled to be elected, the returning officer shall, in the presence of two witnesses, determine by lot which of such candidates is or are elected, and the candidate or candidates so determined shall be deemed to be duly elected.

14. The returning officer shall, immediately after ascertaining the persons elected, send by post to each person elected a notice of his election.

15. The returning officer shall make out a list containing the names of all persons nominated, together (in case of a

contest) with the number of valid votes given to each candidate, and shall sign and certify the same, and shall deliver such list, together with the nomination and voting papers, to the fishery board at their next meeting; and such list shall be open to the inspection of all licence payers without fee.

16. The nomination paper and voting paper shall be in such form as the Minister may prescribe.

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Section 84.

## FOURTH SCHEDULE.

### PART I.

### LIMITS OF SOLWAY DISTRICT.

So much of the estuary known as the Solway Firth as lies to the east of a line drawn from the most projecting point of land south-east of Whitehill between Portling Bay and Portowarren Bay to the northern boundary of the parish and township of Seaton, in the county of Cumberland, including the foreshore and all rivers, creeks, and streams, and water as far as the tide flows and reflows, except so much of the Rivers Ellen, Waver, Wampool, Eden, Esk, Sark, Annan, Lochar, and Nith, and their estuaries, as lies above the following lines, namely:—

As respects the River Ellen, a line across the river along the seaward side of the bridge in Station Street, Maryport;

As respects the River Waver, a line across the river along the seaward side of the North British Railway bridge at Abbey Junction;

As respects the River Wampool, a line across the river along the seaward side of the Solway Junction Railway bridge;

As respects the Rivers Esk and Eden, a line across those rivers from the eastern side of the mouth of the River Sark, at Sark Foot, to Burgh Marsh Point;

As respects the River Sark, a line across the river drawn true west from the southern extremity of the eastern bank of the river at Sark Foot;

As respects the River Annan, a line across the river drawn true north from the lighthouse at Annan Foot;

As respects the River Lochar, a line across the river drawn true east from the eastern extremity of the southern bank;

As respects the River Nith, a line drawn from the eastern extremity of the southern bank of New Abbey Pow to Scar Point, in Dumfriesshire.

The said lines shall be more particularly delineated on a plan approved for the purposes of the order by the Minister and the Fishery Board for Scotland, and shall be marked in such manner as may be prescribed by the order.

## PART II.

### ENACTMENTS WHICH ARE TO CEASE TO APPLY WITHIN THE SOLWAY DISTRICT.

The Salmon Fisheries (Scotland) Acts, 1828 to 1868, except sections twenty-three and thirty-three of the Salmon Fisheries (Scotland) Act, 1862, and the provisions of the Salmon Fisheries (Scotland) Act, 1868, relating to offences, so far as they are applied by this Act.

The local Act of the session of the forty-fourth year of the reign of His Majesty King George the Third, chapter forty-five, intituled "An Act for the better regulating and improving the fisheries in the arm of the sea between the county of Cumberland and the counties of Dumfriesshire and Wigton and the stewartry of Kircudbright, and also the fisheries in the several streams and waters which run into or communicate with the said arm of the sea."

The local Act of the session of the fourth and fifth years of the reign of Her Majesty Queen Victoria, chapter eighteen, intituled "An Act for the more effectual preservation and improvement of the fisheries in the River Annan, in the county of Dumfries, and in the streams and waters running into the same and on the shores or sea coasts adjacent to the mouth or entrance of the said river."

All other enactments relating to salmon fisheries in Scotland.

Section 93.

# FIFTH SCHEDULE.

## ENACTMENTS REPEALED.

| Session and Chapter of Act. | Title. | Extent of Repeal. |
|---|---|---|
| 24 & 25 Vict. c. 109. | The Salmon Fishery Act, 1861 - | The whole Act. |
| 26 & 27 Vict. c. 10. | The Salmon Acts Amendment Act, 1863. | The whole Act. |
| 28 & 29 Vict. c. 121. | The Salmon Fishery Act, 1865 - | The whole Act. |
| 33 & 34 Vict. c. 33. | The Salmon Acts Amendment Act, 1870. | The whole Act. |
| 36 & 37 Vict. c. 71. | The Salmon Fishery Act, 1873 - | The whole Act. |
| 39 & 40 Vict. c. 19. | The Salmon Fishery Act, 1876 - | The whole Act. |
| 39 & 40 Vict. c. 34. | The Elver Fishing Act, 1876 - | The whole Act. |
| 40 & 41 Vict. c. 65. | The Fisheries (Dynamite) Act, 1877 | The whole Act. |
| 40 & 41 Vict. c. xcviii. | The Norfolk and Suffolk Fisheries Act, 1877. | The whole Act. |
| 41 & 42 Vict. c. 39. | The Freshwater Fisheries Act, 1878 | The whole Act. |
| 42 & 43 Vict. c. 26. | The Salmon Fishery Law Amendment Act, 1879. | The whole Act. |
| 47 & 48 Vict. c. 11. | The Freshwater Fisheries Act, 1884 | The whole Act. |
| 49 & 50 Vict. c. 2. | The Freshwater Fisheries Act, 1886 | The whole Act. |
| 49 & 50 Vict. c. 39. | The Salmon and Freshwater Fisheries Act, 1886. | The whole Act. |
| 54 & 55 Vict. c. 37. | The Fisheries Act, 1891 - - | Section twelve. |
| 55 & 56 Vict. c. 50. | The Salmon and Freshwater Fisheries Act, 1892. | The whole Act. |
| 59 & 60 Vict. c. 18. | The Fisheries (Norfolk and Suffolk) Act, 1896. | The whole Act. |
| 7 Edw. 7. c. 15. | The Salmon and Freshwater Fisheries Act, 1907. | The whole Act. |
| 11 & 12 Geo. 5. c. 38. | The Salmon and Freshwater Fisheries Act, 1921. | The whole Act. |