



# Tweed Fisheries Act 1857

1857 CHAPTER cxlviii 20 and 21 Vict

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

## Annotations:

### Modifications etc. (not altering text)

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

### Commencement Information

- II Act wholly in force at Royal Assent

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

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

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

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## I Short Title.

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

## II Interpretation of Terms.

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

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

The Word “Salmon” shall mean and include Salmon, Grilse, Sea Trout, Bull Trout, Whitling, . . . <sup>F1</sup>:

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

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

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

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

The Word “Sheriff” shall mean the [<sup>F2</sup>Sheriff principal of the Sheriffdom] in*Scotland* where the Matter requiring the Cognizance of such Sheriff shall arise, and shall include the [<sup>F2</sup>Sheriff of such Sheriffdom] :

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

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

### Annotations:

#### Amendments (Textual)

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

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

## III Recited Acts repealed.

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

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#### **IV Rates and Property vested in the Commissioners.**

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

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

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

#### **VI Actions not to abate.**

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

#### **VII Proceedings under recited Acts to be valid.**

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

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## VIII Arrears of Rates to be paid to the Commissioners.

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

## IX Present Officers continued.

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

X— ..... F3  
XIV

### Annotations:

#### Amendments (Textual)

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

## XV Penalty on Commissioners acting if not qualified.

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

### Annotations:

#### Amendments (Textual)

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

## XVI Commissioners not to act while holding Places of Profit.

Any Commissioner who accepts of any Place of Profit under this Act shall from thenceforth, and while he continues to hold such Place of Profit, be disqualified from acting or voting as a Commissioner, and from representing or voting for any other Commissioner at any Meeting of the Commissioners; and any Person so disqualified

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who acts or votes as aforesaid shall for every such Offence be liable to a Penalty of [<sup>F5</sup>£50][<sup>F5</sup>level 2 on the standard scale] .

**Annotations:**

**Amendments (Textual)**

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

**XVII** ..... <sup>F6</sup>

**Annotations:**

**Amendments (Textual)**

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

**XVIII Special Meetings may be called.**

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

**Annotations:**

**Amendments (Textual)**

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

**XIX Quorum and Adjournment of Meetings.**

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