

SCHEDULE 1

Article 7

REPRESENTATIVE COMMISSIONERS

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Local Authority</i>	<i>Number of representatives</i>	<i>Part of local authority area represented</i>	<i>Number of representatives for each Part</i>	<i>Number of representatives of associations and clubs</i>
Scottish Borders Council	34	Former Burgh of Coldstream	2	1
		Former Burgh of Duns	2	1
		Former Burgh of Eyemouth	2	1
		Remainder of the area of the former District of Berwickshire	3	2
		Former Burgh of Jedburgh	2	1
		Former Burgh of Kelso	2	1
		Former Burgh of Hawick	2	1
		Remainder of the area of the former District of Roxburgh	3	2
		Former Burgh of Selkirk	2	1
		Former Burgh of Lauder	2	1
		Former Burgh of Galashiels	2	1
		Former Burgh of Melrose	2	1
		Remainder of the former District of Ettrick and Lauderdale	3	2
		Former Burgh of Peebles	2	1
		Former Burgh of Innerleithen	2	1
		Remainder of the former District of Tweeddale	1	—
Berwick—upon—Tweed District Council	9	Former Borough of Berwick—upon—Tweed	2	1
		The former rural district of Norham and Islandshires	2	1

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<i>Local Authority</i>	<i>Number of representatives</i>	<i>Part of local authority area represented</i>	<i>Number of representatives for each Part</i>	<i>Number of representatives of associations and clubs</i>
		The former rural district of Glendale	4	3
		The remainder of the River Tweed catchment area within the County of Northumberland	1	—

SCHEDULE 2

Articles 3(6), 36(3), 53(5), 54(9), 55

ESTUARY LIMITS ORDERS, ANNUAL CLOSE TIME ORDERS AND SALMON CONSERVATION ORDERS

Estuary limits orders

1. The Scottish Ministers may make an estuary limits order only on application to them by the Commission.
2. An application under paragraph 1 shall be accompanied by the Commission’s written proposals which shall state—
 - (a) the proposed estuary limits; and
 - (b) the general effect of the proposals.

Annual close time orders

3. The Scottish Ministers may make an annual close time order only on application to them by the Commission.
4. An application under paragraph 3 shall be accompanied by the Commission’s written proposals which shall state—
 - (a) the proposed dates of the annual close time and the periods within that time when it shall be permitted to fish for and take salmon by rod and line; and
 - (b) the general effect of the proposals,
 and the proposals may include different dates and periods for different parts of the district.

Salmon conservation orders

5. The Scottish Ministers may make a salmon conservation order either—
 - (a) on an application to them by the Commission; or
 - (b) otherwise.
6. An application under paragraph 5(a) shall be in writing and shall contain the Commission’s proposals, including—
 - (a) a general description of the proposals;

(b) a statement as to why the Commission considers that the proposals are necessary or expedient; and

(c) a statement as to the general effect of the proposals.

7. In the application of paragraphs 8 to 13 to a salmon conservation order made under paragraph 5(b)—

(a) references to the Commission and to an application shall be omitted;

(b) the reference in paragraph 8 to the persons who shall be consulted shall be construed as including, in particular, the Commission; and

(c) paragraph 9(3) shall be omitted.

Common provisions with respect to orders

8. On receiving an application under paragraph 1, 3 or 5, the Scottish Ministers shall consult such persons as they consider appropriate and may—

(a) request from the Commission such additional information as they think fit;

(b) dismiss the application; or

(c) proceed in accordance with the remaining provisions of this Schedule.

9.—(1) Before making an order, the Scottish Ministers shall direct that notice of the general effect of the proposals shall be given, specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposals may be made.

(2) Notice shall be given at least once in each of two successive weeks by advertising in a newspaper circulating in the district.

(3) The cost of giving notice shall be met by the applicant under paragraph 1, 3 or 5.

10. At any time, the Scottish Ministers may alter the proposals in such way as they think fit and shall consider whether such alterations are sufficient to require—

(a) further consultation as mentioned in paragraph 8; and

(b) further notice to be given under paragraph 9.

Making of annual close time, estuary limits or salmon conservation order

11. If no representations or objections are duly made, or if all so made are withdrawn, the Scottish Ministers may make an order.

12.—(1) If any representation or objection duly made is not withdrawn, the Scottish Ministers may, after considering it—

(a) make an order;

(b) dismiss the application; or

(c) cause a local inquiry to be held.

(2) Where they decide to proceed under sub—paragraph (1)(c), the Scottish Ministers shall appoint a person to hold the inquiry and to report thereon to them.

(3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has duly made and has not withdrawn representations about or objections to the proposals, and shall be published at least once in each of two successive weeks in a newspaper circulating in the district.

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(4) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

(5) The Scottish Ministers may make orders as to the expenses incurred by them in relation to the inquiry (including such reasonable sum as they may determine for the services of the person appointed to hold the inquiry) and as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.

(6) Any order of the Scottish Ministers under sub—paragraph (5) requiring any party to pay expenses may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

13. After considering the report of the person appointed to hold the inquiry in pursuance of paragraph 12 and any representations or objections which were duly made, the Scottish Ministers may make an order, or dismiss the application.

14. Applications under this Schedule may be communicated and stored electronically.

SCHEDULE 3

Article 68

PROVISIONS AS TO MAKING, VARIATION AND REVOCATION OF PROTECTION ORDERS

Making of protection order

1. Before the Scottish Ministers make a protection order they shall require a person from whom they have received proposals under article 68(3)(a) to give notice in such form as they may direct—

- (a) stating the general effect of those proposals;
- (b) naming a place or places where a copy of the proposals and any map accompanying the proposals may be inspected free of charge at all reasonable hours; and
- (c) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposals may be made.

2. The notice to be given under paragraph 1 shall be given by publication in the Edinburgh Gazette and in such number of such newspapers as the Scottish Ministers may direct.

3. The Scottish Ministers may direct that, in addition to publication of the notice as required by paragraph 2, a copy or copies of it shall be affixed by a person duly authorised in writing by them to some conspicuous object or objects on the banks of any waters to which the proposals relate or of such other waters as they may direct and at such number of places as they may direct.

4. If no representations or objections are duly made, or if any so made are withdrawn, the Scottish Ministers may make a protection order.

5.—(1) If any representation or objection duly made is not withdrawn, the Scottish Ministers may, after considering the same, forthwith make a protection order or may cause a local inquiry to be held.

(2) The Scottish Ministers shall appoint a person to hold the inquiry and to report thereon to them.

(3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has duly made and has not withdrawn representations or objections to the proposals, and shall be published in such newspaper or newspapers as the Scottish Ministers may direct.

(4) The person appointed to hold the inquiry may, on the motion of any party to the inquiry or on that person's own motion, serve a notice in writing on any person requiring that person to attend

at the time and place set forth in the notice to give evidence or to produce any books or documents in that person's custody or under that person's control which relate to any matter in question at the inquiry, provided that—

- (i) no person shall be required in obedience to such a notice to attend at any place which is more than 16 kilometres from the place where that person resides unless the necessary expenses are paid or tendered to that person; and
- (ii) nothing in this sub—paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which that person would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

(5) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

(6) Any person who refuses or wilfully neglects to attend in obedience to a notice under sub—paragraph (4) or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which that person may be required to produce by such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale or to imprisonment for a period not exceeding 3 months.

(7) The Scottish Ministers may make determinations as to the expenses incurred by them in relation to the inquiry (including such reasonable sum as they may determine for the services of the person appointed to hold the inquiry) and as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.

(8) Any determination of the Scottish Ministers under sub—paragraph (7) requiring any party to pay expenses may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

6. After considering the report of the person appointed to hold the inquiry in pursuance of paragraph 5 and any representations or objections which were duly made, the Scottish Ministers may make a protection order.

7. As soon as may be after a protection order has been made—

- (a) the Scottish Ministers shall publish the making of the order in the Edinburgh Gazette and in such number of local newspapers circulating in the area to which the order relates as they think fit; and
- (b) a person duly authorised in writing by the Scottish Ministers or a warden shall affix and maintain a copy or copies of the order and such other notice as the Scottish Ministers may consider necessary of the incidence of the order to some conspicuous object or objects, at such places as the Scottish Ministers may direct, on the banks of any waters to which the order relates or elsewhere.

Variation of protection order

8. Paragraph 7 shall apply to an order varying a protection order as it applies to a protection order.

Revocation of protection order

9.—(1) Before the Scottish Ministers make an order revoking a protection order, they may by notice make such publication as they think fit of the general effect of the proposed revocation and specify a time within which, and the manner in which, representations or objections with respect to the proposed revocation may be made.

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(2) The Scottish Ministers may cause a copy or copies of the notice referred to in sub—paragraph (1) to be affixed by a person duly authorised by them in writing to some conspicuous object or objects on the banks of such waters at such places as the Scottish Ministers may direct.

(3) If no representations or objections are duly made, or if any so made are withdrawn, the Scottish Ministers may make the order revoking the protection order.

(4) If any representation or objection duly made is not withdrawn, the Scottish Ministers may forthwith make the order or may cause a local inquiry to be held.

(5) Sub—paragraphs (2) to (8) of paragraph 5 shall apply in relation to an inquiry under this paragraph as they apply in relation to an inquiry under that paragraph, but as if in sub—paragraph (3) of that paragraph for the word “proposals” there were substituted the words “proposed revocation”.

(6) Paragraphs 6 and 7 shall apply in relation to an order revoking a protection order as they apply in relation to a protection order, but as if in paragraph 6 for the reference to paragraph 5 above there were substituted a reference to this paragraph.

Publication of orders

10. The Scottish Ministers shall cause to be published each year a list of prescribed areas.

SCHEDULE 4

Article 76

CONSEQUENTIAL AMENDMENTS, REPEALS AND REVOCATIONS

PART 1

CONSEQUENTIAL AMENDMENTS

Sea Fish (Conservation) Act 1967 (c.84)

1. In section 18 (enforcement of orders in relation to salmon and migratory trout) of the Sea Fish (Conservation) Act 1967, after subsection (2)(1), there shall be inserted the following subsection—

“(3) Where any order under the said section 4, 5 or 6 imposes any prohibition or restriction on fishing for salmon or migratory trout within any waters which form part of the Tweed district (as defined in article 2(1) of the Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913)), or on landing salmon or migratory trout at a place within that district, the provisions of articles 56 to 61 and 63(3) and (4) of that Order (which relate to enforcement and forfeiture) shall apply in relation to any contravention of the orders mentioned above as they apply in relation to a contravention of that Order.”.

Salmon and Freshwater Fisheries Act 1975 (c.51)

2. In subsection (1) of section 39 (Border rivers and Solway Firth) of the Salmon and Freshwater Fisheries Act 1975, for the words from “means”, to the end there shall be substituted the words “means the Tweed district (as defined in article 2(1) of the Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913)).”.

(1) Section 18(2) was substituted in respect of Scotland only by the [Salmon and Freshwater \(Consolidation\) \(Scotland\) Act 2003 \(asp 15\)](#) (“the 2003 Act”), section 70 and Schedule 4, paragraph 1.

Inshore Fishing (Scotland) Act 1984 (c.26)

3. After section 7(2) of the Inshore Fishing (Scotland) Act 1984 there shall be inserted the following section—

“Powers of water bailiffs in the Tweed district etc.

7A.—(1) This section applies where an order under section 1 of this Act imposes any prohibition or restriction on fishing for salmon or migratory trout within any waters which form part of the Tweed district (as defined in article 2(1) of the Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913)).

(2) Any water bailiff or constable or any person appointed by the Scottish Ministers in pursuance of article 59(5) of that Order may exercise in relation to a contravention of an order referred to in subsection (1) any of the powers conferred upon him in relation to a contravention of that Order.

(3) The provisions of articles 56 to 61 and 63(3) and (4) of that Order shall apply in relation to an order referred to in subsection (1) as they apply in relation to a contravention of that Order.”.

Scotland Act 1998 (c.46)

4. In subsection (4) of section 111 of the Scotland Act 1998 (regulation of Tweed and Esk fisheries), in the definition of “the River Tweed”, for the words from “has” to the end there shall be substituted the words “means the Tweed district (as defined in article 2(1) of the Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913)).”.

PART 2

REPEALS AND REVOCATIONS

<i>Enactment</i>	<i>Extent of repeal or revocation</i>
Theft Act 1607 (c.6)	The words “and fisches in propir stankis and loches”.
Tweed Fisheries Act 1857 (c.cxlviii)	The whole Act.
Tweed Fisheries Amendment Act 1859 (c.lxx)	The whole Act.
Salmon Fisheries (Scotland) Act 1868 (c.123)	The whole Act.
Freshwater Fish (Scotland) Act 1902 (c.29)	The whole Act.
Trout (Scotland) Act 1933 (c.35)	The whole Act.
Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c.26)	The whole Act.
Rivers (Prevention of Pollution) (Scotland) Act 1965 (c.13)	Section 13(1).
Tweed Fisheries Act 1969 (c.xxiv)	The whole Act.
Control of Pollution Act 1974 (c.40)	In Schedule 3, paragraph 11.

(2) Section 7 was amended in respect of Scotland only by the 2003 Act, section 70 and Schedule 4, paragraph 2.

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<i>Enactment</i>	<i>Extent of repeal or revocation</i>
Freshwater and Salmon Fisheries (Scotland) Act 1976 (c.22)	The whole Act.
Fishery Limits Act 1976 (c.86)	In Schedule 2, paragraph 12.
Fisheries Act 1981 (c.29)	In Schedule 4, paragraphs 18 to 25.
Salmon Act 1986 (c.62)	The whole Act, except section 31.
Water Act 1989 (c.15)	In Schedule 17, paragraph 4.
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40)	In Schedule 4, paragraph 11.
Deregulation (Salmon Fisheries (Scotland) Act 1868) Order 1996 (S.I. 1996/1211)	The whole Order.
Scotland Act 1998 (Border Rivers) Order 1999 (S.I. 1999/1746)	Part 3.
Salmon Conservation (Scotland) Act 2001 (asp 3)	The whole Act.