



Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003

2003 asp 15

PART 3

DISTRICT SALMON FISHERY BOARDS

Proprietors of salmon fisheries

40 Qualified proprietors and upper and lower proprietors

- (1) A qualified proprietor shall be, for the purposes of this Act, a proprietor of a salmon fishery entered in the valuation roll.
- (2) Where any salmon fishery is not entered or not entered separately in the valuation roll, the assessor shall, on the request of—
 - (a) the clerk to the district salmon fishery board for the district in which the fishery is situated; or
 - (b) where there is no such board for the district, the proprietor of that fishery, value that fishery and enter it in the valuation roll.
- (3) If a salmon fishery is situated in more than one salmon fishery district the assessor shall, on the request of—
 - (a) the clerk to the district salmon fishery board for either or any of these districts; or
 - (b) where there is no such board, the proprietor of that fishery, value that fishery and enter it in the valuation roll according to its value in each district.
- (4) A qualified proprietor shall be an upper proprietor or a lower proprietor for the purposes of this Act according to whether the salmon fishery in question is, respectively, upstream or downstream of a division of a river as defined in subsection (7) or (8) below and, in this Act, “upper proprietor” and “lower proprietor” each means a qualified proprietor.
- (5) A person who is a qualified proprietor of one salmon fishery situated above and another situated below a division referred to in subsection (4) above shall be both an

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upper proprietor and a lower proprietor, whether or not both fisheries are on the same river in the district, and may act in either capacity or in both capacities in accordance with the provisions of this Act.

- (6) Subject to subsection (5) above, a qualified proprietor in a salmon fishery district shall not be eligible for election, co-option or appointment to the district salmon fishery board for that district in respect of more than one salmon fishery.
- (7) The division referred to in subsection (4) above shall be—
- (a) a line across the river between such points on either bank prescribed by the Scottish Ministers under subsection (8) below; or
 - (b) where the Scottish Ministers have not prescribed such points but a point of division has been fixed in accordance with section 6(4) of the 1862 Act, that point of division; or
 - (c) where no division has been effected under paragraph (a) or (b) above, the normal tidal limit.
- (8) When requested to do so by the district salmon fishery board for the district in which a river is situated, the Scottish Ministers may by order prescribe a point of division on each bank of the river to which the request relates.
- (9) The clerk to a district salmon fishery board shall maintain a roll showing—
- (a) the upper and lower proprietors in the district; and
 - (b) the values of their fisheries as entered in the valuation roll;
- and the board may, if they are satisfied that a name should be added or removed, add or remove it.
- (10) Subject to section 5 of the Sheriff Courts (Scotland) Act 1907 (c. 51) (jurisdiction as regards heritable property), the sheriff may, on summary application made by a person whose request to the board to add or remove a name has not been met, order the board to add or remove that name.

Commencement Information

I1 S. 40 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

41 Sole proprietor in a salmon fishery district

Where there is in a salmon fishery district only one proprietor of salmon fisheries, for references in this Act, except in paragraph 1 of schedule 2, to two proprietors of salmon fisheries in a salmon fishery district for which there is no board there shall be substituted references to that sole proprietor.

Commencement Information

I2 S. 41 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

Status: Point in time view as at 16/09/2013.

Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Part 3. (See end of Document for details)

Mandatory

42 Mandatory

- (1) A qualified proprietor or an elected member or convener of a district salmon fishery board may at any time authorise a person to act on behalf of such proprietor, member or convener; and such a person is referred to in this Act as a “mandatory”.
- (2) A mandatory may as such be elected under schedule 2 to this Act as a representative of qualified proprietors or as convener but, subject to subsection (4) below, a person may not authorise another to act as a co-opted member under this Act nor shall a mandatory be co-opted under section 45(2) of this Act.
- (3) A person who is both an upper and a lower proprietor by virtue of section 40(5) of this Act may authorise a person in accordance with this section in either or both of those capacities or may do so in each capacity.
- (4) Where a co-opted member is not a natural person, it may authorise a natural person to represent it for the purposes of this Act.

Commencement Information

I3 S. 42 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

District salmon fishery boards

43 District salmon fishery boards

- (1) If proprietors of salmon fisheries in a salmon fishery district—
 - (a) form an association for the purpose of the protection or improvement of the fisheries within their district; and
 - (b) elect, in accordance with schedule 2 to this Act, a committee to act for them, that committee shall be the district salmon fishery board for that district; and the purpose of such a board shall be the purpose specified above in respect of the association.
- (2) A district salmon fishery board shall have the powers and duties conferred—
 - (a) on them under this Act; and
 - (b) by any other enactment on a district board within the meaning of the Salmon Fisheries (Scotland) Acts 1862 to 1868.
- (3) Subject to subsection (4) below, a committee mentioned in subsection (1) above shall cease to be the district salmon fishery board for a district on the expiry of a period of three years from the date of the last meeting of proprietors which elected, in accordance with Part 1 of schedule 2 to this Act, such members as require to be elected under Part 2 of that schedule.
- (4) On the coming into force of a designation order the committee within the meaning of this section in respect of a district superseded by the district so designated shall cease to be a district salmon fishery board; and any committee within the meaning of this section which has been constituted in accordance with schedule 2 to this Act in

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anticipation of the order and in respect of the district designated by the order shall be the district salmon fishery board for that district.

- (5) If a committee ceases to be a district salmon fishery board, the assets and liabilities of that board shall be the assets and liabilities of the members of the association for which the committee acts; but, for the purposes of the winding-up of such an association, any assets of the former board remaining after the settlement of the liabilities of the former board shall be distributed amongst all the proprietors in the district who were liable to the fishery assessment immediately before the date on which the committee ceased to be such a board, according to the valuation of each fishery as entered in the valuation roll at that date.
- (6) A district salmon fishery board shall not be bound by any direction given to them by the association for which the elected members of the board act as a committee.
- (7) There may be a district salmon fishery board for a district whether or not there are any salmon in the waters of that district.
- (8) The Scottish Ministers may by order vary the provisions of schedule 2 to this Act.

Commencement Information

I4 S. 43 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

44 Financial powers and duties of district salmon fishery boards

- (1) Each year, a district salmon fishery board shall prepare—
 - (a) a report; and
 - (b) a statement of accounts, which shall be audited,
 relating to the activities of the board; and the clerk of the board shall call an annual meeting of qualified proprietors in the district for the purposes of considering the report and the audited accounts.
- [^{F1}(1A) As soon as practicable after the annual meeting held under subsection (1) above, the clerk of the board must—
 - (a) arrange for the final report and audited accounts to be published; and
 - (b) send a copy of the final report and audited accounts to the Scottish Ministers.
- (1B) In subsection (1A) above, the references to the final report and audited accounts are references to—
 - (a) the report and audited accounts as submitted for consideration at the annual meeting held under subsection (1) above; or
 - (b) if they are revised following consideration at the meeting, the revised versions of them.]
- (2) A district salmon fishery board shall have power to impose an assessment, to be known as the fishery assessment, on each salmon fishery in their district.
- (3) The fishery assessment shall be assessed at such uniform rate as is determined for all fisheries in the district by the board and shall be exigible according to the valuation of a fishery as entered in the valuation roll.
- (4) Subsections (2) and (3) of section 40 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.

Status: Point in time view as at 16/09/2013.

Changes to legislation: There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Part 3. (See end of Document for details)

- (5) Arrears of fishery assessment may, as the case may be, be recovered by—
- (a) the district salmon fishery board which imposed the assessment; or
 - (b) the district salmon fishery board for a district created by a designation order in respect of an assessment imposed by a district salmon fishery board for a district superseded by that order,
- by action for payment of money.
- (6) The powers under subsection (5) above to recover arrears of fishery assessment include power to recover interest, chargeable at such rate as the Scottish Ministers shall determine, on such arrears from, in the case of recovery of arrears under subsection (5) above which have been outstanding for at least three months from the date of issue of a notice of assessment, that date until payment or the commencement of an action for payment, whichever is the earlier.
- (7) A board may, in carrying out their purpose under this Act, borrow—
- (a) an amount not exceeding twice the amount of the fishery assessment collected within the twelve month period immediately prior to the date of the decision to borrow; or
 - (b) such higher sum as is approved by the proprietors of fisheries which together amount to four fifths of the total value of fisheries in the district as entered in the valuation roll.
- (8) In subsection (7)(a) above, “collected” means collected in—
- (a) the district for which that board are the district salmon fishery board; and
 - (b) if that district has been designated in an order made under section 34(2) of this Act within that twelve month period, all the districts superseded by that order.
- (9) In carrying out their purpose, a district salmon fishery board may authorise expenditure, including expenditure for the acquisition of heritable property, out of sums accruing to them from—
- (a) the fishery assessment;
 - (b) the exercise of the power, under subsection (7) above, to borrow; or
 - (c) any other source;
- but they shall not pay to any member of that board any salary or fees for acting in any way as a member of or under that board.

Textual Amendments

- F1** S. 44(1A)(1B) inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), ss. [24\(2\)](#), [66\(2\)](#) (with s. 65); S.S.I. 2013/249, art. 2

Commencement Information

- I5** S. 44 in force at 1.4.2005 by S.S.I. 2005/174, art. 2

45 General powers and duties of district salmon fishery boards

- (1) A district salmon fishery board may do such acts, execute such works and incur such expenses as may appear to them expedient for—
- (a) the protection or improvement of the fisheries within their district;
 - (b) the increase of salmon; or

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- (c) the stocking of the waters of the district with salmon.
- (2) The elected members of a district salmon fishery board shall, in accordance with Part 2 of schedule 2 to this Act, co-opt representatives of salmon anglers and tenant netmen.
- (3) On such terms and conditions as the board think fit, a district salmon fishery board—
 - (a) shall appoint a person to act as clerk to the board; and
 - (b) may appoint persons to act as water bailiffs, or in such other capacity as the board see fit.
- (4) A district salmon fishery board may sue or be sued in the name of their clerk.
- (5) References in any enactment to water bailiffs shall include references to water bailiffs appointed under this section.

Commencement Information

I6 S. 45 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

46 Proceedings of district salmon fishery boards

- (1) The first meeting of a district salmon fishery board shall be at the date, time and place determined by the members of the board who were elected at the meeting of qualified proprietors called under paragraph 1 of schedule 2 to this Act but in any case shall be no later than 21 days after that meeting.
- (2) A district salmon fishery board shall determine the quorum for their meetings.
- (3) At any meeting of the board, each member shall have one vote, subject to the following exceptions—
 - (a) the convener, in that capacity, shall have both a casting and a deliberative vote; and
 - (b) a person who is both an upper proprietor and a lower proprietor by virtue of section 40(5) of this Act shall have a vote in either capacity or in both capacities according to the capacity or capacities in which that person has been elected or co-opted.
- (4) No act or proceeding of a district salmon fishery board shall be questioned on account of any vacancy in their membership and no defect in the qualification or appointment of any person acting as a member shall vitiate any proceedings of the board in which that member has taken part.
- (5) The minutes of proceedings of district salmon fishery boards shall be signed by the convener and shall be conclusive evidence of the proceedings; and a meeting so minuted shall be presumed to have been duly convened and held and all members thereof to have been duly qualified.
- (6) On the written request of any two members of the board, the convener shall be bound to convene a meeting of the board within fourteen days of receiving the request and the clerk shall give notice to each member of the date, time and place of and the agenda for that meeting, and the request mentioned in this subsection may be communicated and stored electronically.

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Commencement Information

I7 S. 46 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

[^{F2}46A Annual report

- (1) This section applies in relation to the report to be prepared under section 44(1)(a) of this Act by a district salmon fishery board.
- (2) The board must ensure that the report contains, in particular—
 - (a) a summary of what the board have done in carrying out their functions under this Act, or any other enactment, during the year to which the report relates,
 - (b) a summary of what the board propose to do in carrying out those functions in the following year,
 - (c) information about complaints made to the board during the year, including—
 - (i) the number of complaints, and
 - (ii) a statement of the nature of each complaint and how it was disposed of, and
 - (d) a statement as to how the board—
 - (i) have complied during the year with the good governance requirements, and
 - (ii) propose to comply with those requirements in the following year.
- (3) For the purposes of subsection (2)(d) above, the “good governance requirements” are the requirements under—
 - (a) this section,
 - (b) section 44(1) and (1A) of this Act, and
 - (c) sections 46B to 46E of this Act.

Textual Amendments

F2 Ss. 46A-46G inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), [ss. 24\(3\), 66\(2\)](#) (with [s. 65](#)); [S.S.I. 2013/249](#), [art. 2](#)

46B Annual public meeting

- (1) A district salmon fishery board—
 - (a) must hold one public meeting in each year, to be known as the “annual public meeting” of the board, and
 - (b) may hold other public meetings in the course of the year.
- (2) Subject to subsection (4) below, the matters to be considered at the annual public meeting are for the board to determine, but must include the final report and statement of accounts required to be prepared under section 44(1).
- (3) The reference in subsection (2) above to the final report and audited accounts is to be construed in accordance with section 44(1B) of this Act.
- (4) The board must ensure that members of the public, and others who attend or propose to attend the meeting, are given an opportunity—

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- (a) to propose matters for consideration at the meeting, and
- (b) to speak at the meeting.

Textual Amendments

F2 Ss. 46A-46G inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 24(3), 66(2)** (with s. 65); [S.S.I. 2013/249](#), art. 2

46C Further provision about meetings

- (1) Subsection (2) below applies in relation to—
 - (a) the annual meeting of qualified proprietors required to be called by the clerk of a district salmon fishery board under section 44(1) of this Act, and
 - (b) the annual public meeting of a district salmon fishery board.
- (2) The clerk of the board must, no later than 21 days before the day on which the meeting is to be held—
 - (a) prepare a notice—
 - (i) specifying the date and time of the meeting and the place where it is to be held,
 - (ii) containing a list of the matters to be considered at the meeting,
 - (iii) stating that the meeting is open to the public, and
 - (iv) in the case of the annual public meeting, providing information as to how salmon anglers, tenant netmen and other members of the public can submit proposals for matters to be considered at the meeting,
 - (b) arrange for the notice to be published in such manner as the clerk considers appropriate, and
 - (c) send a copy of the notice to the Scottish Ministers.
- (3) In relation to any other meeting of a district salmon fishery board, the clerk of the board must—
 - (a) take such steps as the clerk considers appropriate to publicise the meeting, and
 - (b) subject to subsection (6) below, ensure that the public are given an opportunity to attend the meeting.
- (4) Subsections (5) to (9) below apply in relation to—
 - (a) the meetings referred to in subsection (1) above, and
 - (b) any other meeting of a district salmon fishery board.
- (5) Subject to subsection (6) below, the board must ensure that the business at the meeting is conducted in public.
- (6) In the case of a meeting other than the annual public meeting, the board may, if there is a good reason for doing so, decide to conduct the meeting, or to consider any particular item of business, in private.
- (7) As soon as practicable after the meeting, the clerk of the board must—
 - (a) prepare a minute of the meeting,
 - (b) arrange for the minute to be published in such manner as the clerk considers appropriate, and

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- (c) in the case of the minutes of the meetings referred to in subsection (1) above, send a copy of the minutes to the Scottish Ministers.
- (8) Subsection (9) below applies where the board decide—
 - (a) to conduct the meeting in private, or
 - (b) to consider any item of business at the meeting in private.
- (9) The board must state reasons for the decision and ensure that the statement of reasons is included in the minute of the meeting.

Textual Amendments

F2 Ss. 46A-46G inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), ss. 24(3), 66(2) (with s. 65); S.S.I. 2013/249, art. 2

46D Complaints procedure

- (1) A district salmon fishery board must maintain, and keep under review, proper arrangements for dealing with complaints made to the board about the way in which the board have carried out, or propose to carry out, their functions under this Act or any other enactment.
- (2) A board's arrangements under subsection (1) above must, in particular, include provision for dealing with complaints made by—
 - (a) members of the public,
 - (b) proprietors of salmon fisheries in the board's district,
 - (c) salmon anglers in the board's district,
 - (d) tenant netmen in the board's district,
 - (e) members of the board,
 - (f) other district salmon fishery boards.
- (3) The arrangements may make different provision in relation to different categories of complaint or complainant.
- (4) As soon as practicable after making or reviewing arrangements under subsection (1) above, a district salmon fishery board must—
 - (a) take such steps to publicise the arrangements as the board consider appropriate in order to bring them to the attention of persons who may wish to make complaints, and
 - (b) send to the Scottish Ministers a note of the arrangements.
- (5) A district salmon fishery board must keep records of complaints made to the board about the way in which they have carried out, or propose to carry out, their functions, including information about how each complaint was disposed of.

Textual Amendments

F2 Ss. 46A-46G inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), ss. 24(3), 66(2) (with s. 65); S.S.I. 2013/249, art. 2

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46E Members' interests

- (1) A district salmon fishery board must maintain, and keep under review, proper arrangements for the registration and declaration of relevant financial interests of members of the board.
- (2) A board's arrangements under subsection (1) above must, in particular, include provision for—
 - (a) further defining what are relevant financial interests,
 - (b) the clerk to keep a register of members' relevant financial interests,
 - (c) members to register their relevant financial interests in the register,
 - (d) members to declare any relevant financial interests before taking part in the board's consideration of any business,
 - (e) members to be excluded from taking part in the board's consideration of any business in which the member has a relevant financial interest.
- (3) A district salmon fishery board must ensure that the register of members' relevant financial interests is made available for public inspection.
- (4) In this section, “relevant financial interests”—
 - (a) means interests of a pecuniary nature that could be affected by a decision of the board, or the holding of which could otherwise have a bearing on or otherwise influence a member's view on any matter being considered by the board, and
 - (b) includes such interests held by a member or by another person with whom the member has a personal or business relationship.

Textual Amendments

F2 Ss. 46A-46G inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 24(3), 66(2)** (with s. 65); [S.S.I. 2013/249](#), art. 2

46F Ministerial power to modify the good governance requirements

- (1) The Scottish Ministers may by order—
 - (a) modify any of the good governance requirements,
 - (b) modify this Act so as to impose further requirements on district salmon fishery boards.
- (2) An order under subsection (1) above may make only such provision as the Scottish Ministers consider necessary for a purpose specified in subsection (3) below.
- (3) The purposes are—
 - (a) ensuring that the boards' affairs are conducted in an open and accountable manner,
 - (b) ensuring that the boards' affairs are conducted to appropriate standards of propriety and good governance.
- (4) An order under subsection (1) above may include incidental, supplemental, consequential, transitional, transitory or saving provision.
- (5) In this section, the “good governance requirements” has the same meaning as in section 46A(3) of this Act.

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Textual Amendments

F2 Ss. 46A-46G inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 24(3), 66(2)** (with [s. 65](#)); [S.S.I. 2013/249](#), art. 2

46G Ministerial power to dissolve the committee constituting a board

- (1) This section applies where the Scottish Ministers consider that a district salmon fishery board have persistently—
 - (a) failed to comply with the good governance requirements, or
 - (b) otherwise contravened the requirements of this Act.
- (2) The Scottish Ministers may by order dissolve the committee constituting the board on a date specified in the order.
- (3) The dissolution of the committee by an order under subsection (2) above has the same effect in relation to the committee (and the board) as the expiry of the period of three years mentioned in sections 43(3) and 47(1) of this Act.
- (4) Accordingly, the references in section 43(3) and 47(1) of this Act to the expiry of the period of three years are to be read, in relation to a committee dissolved by an order under subsection (2) above, as including a reference to the date of dissolution specified in the order.
- (5) In this section, the “good governance requirements” has the same meaning as in section 46A(3) of this Act.]

Textual Amendments

F2 Ss. 46A-46G inserted (16.9.2013) by [Aquaculture and Fisheries \(Scotland\) Act 2013 \(asp 7\)](#), **ss. 24(3), 66(2)** (with [s. 65](#)); [S.S.I. 2013/249](#), art. 2

47 Tenure of office

- (1) Before the expiry of a period of three years from—
 - (a) the first election of the members of the board; or
 - (b) the last meeting of qualified proprietors called under this section,the clerk to that board shall call a meeting of qualified proprietors in that district for the purpose of electing or re-electing, in accordance with Part 1 of schedule 2 to this Act, such members as require to be elected under Part 2 of that schedule; and at that meeting each member of the board shall first resign.
- (2) The provisions of schedule 2 to this Act, apart from paragraph 1, shall apply to further elections as they apply to the first election of the members.
- (3) Without prejudice to subsection (1) above, a member of a district salmon fishery board may resign at any time and a person who ceases to meet the requirements of this Act for membership of a district salmon fishery board shall cease to be a member of that board.
- (4) Where a person is both an upper and a lower proprietor by virtue of section 40(5) of this Act, subsection (3) above shall have effect as respects either or each such capacity.

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- (5) Where a vacancy in their number occurs, the board shall, so far and as soon as is reasonably practicable, fill that vacancy by—
- (a) the electing by the elected members from amongst themselves of a new convener;
 - (b) the appointing by the elected members of a qualified proprietor in the district as a representative of qualified proprietors according to the rules in schedule 2 to this Act regarding the balance between upper and lower proprietors; or
 - (c) the co-opting by the board of a representative of salmon anglers or of tenant netsmen in accordance with that schedule,
- as the case may be, and a person appointed under paragraph (b) above shall be an elected representative of qualified proprietors for the purposes of this Act.

Commencement Information

18 S. 47 in force at 1.4.2005 by [S.S.I. 2005/174](#), **art. 2**

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, Part 3.