



Pow of Inchaffray Drainage Commission (Scotland) Act 2019

2019 asp 2

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 13th December 2018 and received Royal Assent on 17th January 2019

An Act of the Scottish Parliament to incorporate and reconstitute the Pow of Inchaffray Drainage Commission; to make provision for its functions and for the appointment of Commissioners; to make provision for the calculation of the annual assessments payable by the owners of land benefited by the Pow; to make provision for meetings of the Commissioners and heritors; to make provision for the Commissioners to have access to the Pow over neighbouring land for necessary purposes and for the Commissioners' consent to be required for activities affecting the Pow and adjacent land etc.; and for connected purposes.

PART 1

THE COMMISSION

Constitution

1 The Pow of Inchaffray Drainage Commission

- (1) The Commission established by the 1846 Act continues and becomes a body corporate called the Pow of Inchaffray Drainage Commission, referred to in this Act as “the Commission”.
- (2) Schedule 1 makes further provision about the Commission.
- (3) All property, rights, liabilities and obligations of the Commission prior to incorporation are transferred to and vested in the Commission.
- (4) Incorporation of the Commission does not affect the rights or obligations of any person or make defective any legal proceedings that have been raised by or against the Commission prior to incorporation.

Changes to legislation: There are currently no known outstanding effects for the Pow of Inchaffray Drainage Commission (Scotland) Act 2019. (See end of Document for details)

- (5) Any reference to the Commissioners or the Commission in any agreement, deed or other instrument is to be read as a reference to the Commission as incorporated, unless the context otherwise requires.

2 The Commissioners

- (1) Subject to subsection (3), the Commission is to consist of nine members each called a Commissioner.
- (2) There are to be two Commissioners for each of the lower, middle, and upper sections of the benefited land and three Commissioners for the Balgowan section of the benefited land.
- (3) A heritors' meeting may alter the number of Commissioners for a section of the benefited land by a resolution passed in compliance with section 9.

The Pow and the benefited land

3 Extent of the Pow and the benefited land

- (1) In this Act, “the Pow” means the Pow of Inchaffray shown on the land plans and the associated works.
- (2) Subject to subsection (3), the “associated works” are—
 - (a) the ditches shown on the land plans,
 - (b) ditches within the benefited land which the Commission and the heritors on whose land they are situated have agreed in writing to include within the Pow,
 - (c) ditches within the benefited land included by a resolution passed in compliance with section 9,
 - (d) the banks, revetments, dams, culverts, sluices, and other structures associated with, or forming part of—
 - (i) the Pow of Inchaffray,
 - (ii) ditches included within the Pow.
- (3) A heritors' meeting may exclude ditches from the Pow by a resolution passed in compliance with section 9.
- (4) For the purposes of this Act, the benefited land is divided into four sections—
 - (a) the lower section,
 - (b) the middle section,
 - (c) the upper section,
 - (d) the Balgowan section.
- (5) The boundaries between sections are shown on the land plans.
- (6) A heritors' meeting may alter the boundaries between sections by a resolution passed in compliance with section 9.

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Appointment etc. of Commissioners

4 Appointment of Commissioners etc.

Schedule 2 makes provision about the appointment of, and holding of office by, the Commissioners.

5 First appointments of Commissioners

- (1) The serving Commissioners are to continue in office until the day on which section 2 comes into force.
- (2) Prior to the day on which section 2 comes into force, the Commission is to choose three serving Commissioners to continue as Commissioners, one for each of the lower, middle and upper sections of the benefited land.
- (3) On the day on which section 2 comes into force—
 - (a) the appointments of serving Commissioners not chosen under subsection (2) cease to have effect, and
 - (b) six additional appointments of Commissioners made in accordance with schedule 2 have effect, three for the Balgowan section and one for each of the lower, middle and upper sections of the benefited land.
- (4) The Commissioners chosen under subsection (2) are to continue to hold office for 24 months from the day on which section 2 comes into force.

6 Commission meetings

Schedule 3 makes provision about meetings of the Commission.

Heritors' meetings etc.

7 Heritors' meetings convened by the Commission

- (1) The Commission must convene a heritors' meeting—
 - (a) when necessary to appoint a Commissioner in accordance with this Act,
 - (b) before each general business meeting of the Commission,
 - (c) where requested to do so by three or more heritors, to consider a resolution to—
 - (i) alter the number of Commissioners in accordance with section 2(3),
 - (ii) include a ditch in accordance with section 3(2)(c),
 - (iii) exclude a ditch in accordance with section 3(3),
 - (iv) alter the boundaries between sections in accordance with section 3(6),
 - (v) terminate the appointment of a Commissioner in accordance with paragraph 13(4) of schedule 2.
- (2) The Commission may convene a heritors' meeting for any other purpose at any time.
- (3) The Commission is to convene a heritors' meeting by giving not less than 10 days' notice to each heritor.

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- (4) A notice convening a heritors' meeting must state the place, date, time and purpose of the meeting.
- (5) A notice convening a heritors' meeting in accordance with subsection (1)(b) must include the agenda for the meeting of the Commission.
- (6) The quorum of a heritors' meeting is three heritors.
- (7) The Clerk may attend a heritors' meeting.

8 Heritor's representative

- (1) A heritor may from time to time appoint a person as the heritor's representative for the purposes of this Act (“a heritor's representative”), by giving notice of the appointment to the Clerk.
- (2) The heritor may terminate the appointment at any time by giving notice to the Clerk.
- (3) References in this Act to a heritor include the heritor's representative in place of the heritor except—
 - (a) in—
 - (i) section 10,
 - (ii) section 16,
 - (iii) the term “heritor's land”,
 - (b) where the context otherwise requires.

9 Alterations by heritors

A resolution is passed in compliance with this section if the heritors who vote for it represent at least 75% of the sum of the chargeable values of all heritors' land.

PART 2

ANNUAL ASSESSMENTS ETC.

10 Annual budget and assessments

- (1) Schedule 4 has effect in regard to—
 - (a) the preparation and confirmation of the budget for each assessment year, and
 - (b) heritors' rights to make representations on, and to require an independent review of, the draft budget.
- (2) As soon as practicable after there is a confirmed budget for an assessment year, the Commission must give an assessment notice to each heritor specifying the amount payable by the heritor for the assessment year.
- (3) The amount payable by a heritor is the rate poundage for the assessment year multiplied by the chargeable value of the heritor's land.
- (4) The rate poundage for an assessment year is the budget for the assessment year divided by the sum of the chargeable values of each heritor's land.

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- (5) The chargeable value of a heritor's land is calculated in accordance with schedule 5.
- (6) An assessment notice must include—
 - (a) a copy of the confirmed budget,
 - (b) the rate poundage and how it is calculated, and
 - (c) an explanation of how the amount payable by the heritor is calculated.
- (7) The heritor must pay the assessment to the Commission by the later of—
 - (a) the end of the period of 28 days beginning with receipt of the assessment notice, and
 - (b) the first day of the assessment year to which it applies.
- (8) No later than two months after the date on which this section comes into force, the Commission must give each heritor a valuation notice specifying the chargeable value of the heritor's land and how it has been calculated.

11 Revaluation of assumed values and base value

- (1) The assumed values, and the base value, per acre used in schedule 5 to calculate the chargeable value of a heritor's land are to be revalued with effect from each tenth anniversary of the commencement of the first assessment year.
- (2) The Commission is to appoint a surveyor to carry out the revaluation on the basis of the valuation assumptions specified in schedule 5.
- (3) The surveyor must give notice to each heritor specifying the surveyor's revaluation proposals (“a revaluation proposal”).
- (4) A heritor may make representations in writing to the surveyor on the revaluation proposal within the period of 28 days beginning on the day the revaluation proposal is notified to the heritor.
- (5) The surveyor must have regard to heritors' representations under subsection (4) when carrying out the revaluation.
- (6) Following expiry of the 28-day period, the surveyor is to notify the Commission of the revaluation of the assumed values, and the base value, per acre.
- (7) Revaluations are to take effect from the commencement of the first assessment year following the carrying out of the revaluations.

12 Amendments to land categories to meet changed circumstances

- (1) The Commission may appoint a surveyor at any time to—
 - (a) amend a land category used in schedule 5 to meet changed circumstances,
 - (b) where appropriate, make consequential amendments to the assumed value per acre for that land category.
- (2) Before making an amendment, the surveyor must give notice to each heritor specifying the proposed amendment (“an amendment proposal”).
- (3) A heritor may make representations in writing to the surveyor on the amendment proposal within the period of 28 days beginning on the day the amendment proposal is notified to the heritor.