



Aquaculture and Fisheries (Scotland) Act 2013

2013 asp 7

PART 2

SALMON FISHERIES, ETC.

Governance

24 District salmon fishery boards: openness and accountability

- (1) The Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 is amended in accordance with this section.
- (2) In section 44 (financial powers and duties of district salmon fishery boards), after subsection (1) insert—
- “(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.”.

(3) After section 46 insert—

“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.

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

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
 - (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.

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

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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.

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

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- (b) includes such interests held by a member or by another person with whom the member has a personal or business relationship.

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.

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.”.
- (4) In section 68 (orders and regulations), in subsection (4), after “Act” insert “, and no order is to be made under section 46F(1) of this Act,”.

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25 Duty to consult and report before making certain applications

- (1) The Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 is amended in accordance with this section.
- (2) In each of the following provisions, for “10” substitute “9B”—
 - (a) subsection (7) of section 33 (salmon fishing: regulations as to baits and lures),
 - (b) subsection (3) of section 35 (designation orders),
 - (c) subsection (4) of section 36 (estuary limits),
 - (d) subsection (4) of section 37 (annual close times for salmon).
- (3) In schedule 1 (procedure for making certain orders and regulations under the Act), before paragraph 10 insert—

“9B (1) This paragraph applies where a person (the “applicant”) proposes to make an application to the Scottish Ministers under paragraph 1, 3, 5 or 7 above.

 - (2) The applicant must—
 - (a) give notice in accordance with sub-paragraph (3) below that an application is proposed,
 - (b) specify in the notice the period within which, and the manner in which, representations or objections with respect to the proposed application may be made,
 - (c) specify in the notice details of—
 - (i) where and how such representations or objections (if any are made) may be viewed, and
 - (ii) how copies of any such representations or objections that are made may be obtained,
 - (d) consult persons who, so far as the applicant can reasonably ascertain, have an interest in, or may be affected by, the proposed application, and
 - (e) specify the period (being not less than 28 days beginning with the date of consultation) within which, and the manner in which, representations or objections with respect to the proposed application may be made by such persons.
 - (3) A notice of the proposed application must be published at least once in each of two successive weeks in a newspaper (which may be a local newspaper) circulating in the district or districts affected by the proposed application.
 - (4) The period mentioned in sub-paragraph (2)(b) above is a period of not less than 28 days beginning with—
 - (a) if notice of the proposed application is published only once in the first of the two successive weeks as mentioned in sub-paragraph (3) above, the date on which it is published in that week,
 - (b) if such notice is published more than once in the first of those two successive weeks, the date on which it is first published in that week.

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- (5) In deciding whether or not to make the proposed application, the applicant must take into account any representations and objections made in respect of it.
 - (6) Having decided whether or not to make the proposed application, the applicant must—
 - (a) publish in a newspaper (which may be a local newspaper) circulating in the district or districts affected by the proposed application a notice containing—
 - (i) a summary of the reasons for the decision,
 - (ii) details of where and how a written statement of such reasons may be viewed, and
 - (iii) details of how copies of such a written statement may be obtained, and
 - (b) send a copy of such a written statement to any person who made representations or objections to the proposed application under this paragraph.
 - (7) The costs of complying with sub-paragraphs (2) and (6) above are to be met by the applicant.
- 9C
- (1) This paragraph applies where an applicant, having complied with the requirements of paragraph 9B above, decides to make an application mentioned in sub-paragraph (1) of that paragraph.
 - (2) When making the application, the applicant must include a report—
 - (a) stating that the requirements of paragraph 9B above have been complied with,
 - (b) explaining how those requirements were complied with,
 - (c) providing details of the persons consulted,
 - (d) explaining the substance of any representations and objections made in relation to the application, and the extent to which they were taken into account in deciding to proceed with the application, and
 - (e) giving the reasons for proceeding with the application.”.