



# 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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*Status: This is the original version (as it was originally enacted).*

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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.

#### **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.