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**Changes to legislation:** There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, SCHEDULE 2. (See end of Document for details)

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## SCHEDULE 2

(introduced by section 43)

### ELECTION AND CO-OPTION OF MEMBERS OF DISTRICT SALMON FISHERY BOARDS

#### PART 1

##### MEETING OF QUALIFIED PROPRIETORS

###### *Calling of meeting*

- 1 (1) Where there is no district salmon fishery board for a district, the sheriff shall, on the application of two qualified proprietors of salmon fisheries in the district—
  - (a) make up a roll of upper and lower proprietors in the district to which the application relates;
  - (b) call a meeting of these proprietors, at such time and place as the sheriff may direct, for the purpose of forming an association of proprietors of salmon fisheries for that district and electing a committee to become the district salmon fishery board for that district; and
  - (c) give notice at least once in each of two successive weeks by advertising in a newspaper circulating in the district of the date, time and place of that meeting.
- (3) Where proposals for a designation order have been considered by the Scottish Ministers, in accordance with schedule 1 to this Act, and they consider that a designation order should be made—
  - (a) the clerk or, acting jointly, the clerks to the district salmon fishery boards for any district or districts which would be superseded by the proposed designation order shall perform, in respect of the proposed district, the duties specified in sub-paragraph (1) above; or
  - (b) where there is no district salmon fishery board for any district which would be superseded by the proposed designation order, the sheriff shall perform the duties specified in sub-paragraph (1) above on the application of two proprietors of salmon fisheries in the proposed district,and the following provisions of this schedule shall have effect in respect of the proposed district as if it had been designated.
- (4) Where the salmon fishery district lies in more than one sheriffdom, the sheriff in whose jurisdiction lies the major part of that district may, for the purposes of this schedule, perform the duties specified in sub-paragraph (1) above in an adjacent sheriffdom.
- (5) The sheriff may recover from the committee formed in accordance with this schedule all expenses incurred by the sheriff in the performance of the sheriff's duties under this paragraph, whether or not that committee becomes a district salmon fishery board, but if it does become such a board, these expenses may be met out of the fishery assessment.

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**Annotations:**

**Commencement Information**

**I1** Sch. 2 para. 1 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

- 2 (1) At a meeting of proprietors called—
- (a) by the sheriff under paragraph 1 above; or
  - (b) by the clerk to a board in accordance with section 47(1) of this Act,
- the proprietors present shall elect or, as the case may be, re-elect a committee to act on behalf of the association.
- (2) If—
- (a) the membership of that committee is in accordance with Part 2 of this schedule; and
  - (b) the requirements of this Part as respects eligibility are met,
- that committee shall be or continue to be the district salmon fishery board for that district.
- (3) Membership of such a committee, whether or not it is a district salmon fishery board, shall not affect eligibility for membership of any other such committee or board.

**Annotations:**

**Commencement Information**

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

- 3 (1) In accordance with the following provisions of this Part of this schedule, representatives of qualified proprietors shall be elected by—
- (a) the upper proprietors from amongst themselves; and
  - (b) the lower proprietors from amongst themselves.
- (2) At least one representative shall be elected from amongst upper proprietors and at least one representative shall be elected from amongst lower proprietors, but an election under this paragraph shall not be held invalid if either—
- (a) there is no upper or, as the case may be, lower proprietor present; or
  - (b) there is no upper or, as the case may be, lower proprietor willing to be elected.
- (3) The total number of representatives of qualified proprietors shall be at least three.
- (4) A qualified proprietor shall have, in respect of each fishery that person owns within the district, one vote in an election under this paragraph and shall have one additional vote for each £5,000 or part thereof by which the value of that fishery as entered in the valuation roll exceeds £5,000 but, subject to sub-paragraph (5) below, no proprietor shall have more than four votes in total as respects each fishery.
- (5) A person who is both an upper and a lower proprietor by virtue of section 40(5) of this Act shall count as both an upper and as a lower proprietor for the purposes of this paragraph and may both vote and be elected in each capacity.

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**Annotations:**

**Commencement Information**

**I3** Sch. 2 para. 3 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

- 4 (1) In the co-opting of representatives of salmon anglers and of tenant netsmen under Part 2 below, the number of representatives of salmon anglers and tenant netsmen together shall be less than the number of elected representatives of qualified proprietors.
- (2) A person who is both an upper and a lower proprietor by virtue of section 40(5) of this Act shall be counted in each capacity for the purposes of sub-paragraph (1) above.
- (3) A representative of salmon anglers shall be a person whom the board consider to be representative of persons angling for salmon in the district but who is not an upper proprietor in that district.
- (4) Before co-opting a person as a representative of salmon anglers, the board shall consult such organisations representing salmon anglers in the district as they think fit; but this requirement shall not apply to the filling of a vacancy in accordance with section 47(5) of this Act.
- (5) A representative of tenant netsmen shall be—
- (a) a tenant netsman in the district who is not a lower proprietor in that district;
  - (b) a tenant netsman in the district who is a lower proprietor in that district if—
    - (i) there are insufficient tenant netsmen who are qualified or willing to be co-opted and who are not also lower proprietors in that district; and
    - (ii) that person has not been elected to the board of that district as a representative of lower proprietors or as convener; or
  - (c) a lower proprietor in the district who is not a tenant netsman in that district if—
    - (i) there are insufficient tenant netsmen qualified or willing to be co-opted, whether or not they are also lower proprietors in that district; and
    - (ii) that person has not been elected to the board of that district as a representative of lower proprietors or as convener,but a person shall not be disqualified under this sub-paragraph solely by reason of being an upper proprietor in that district or of having been elected to the board of that district as a representative of upper proprietors.

**Annotations:**

**Commencement Information**

**I4** Sch. 2 para. 4 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

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## PART 2

### MEMBERSHIP

- 5 (1) The members of the committee shall be members of a district salmon fishery board if the committee consists of not fewer than three elected representatives of qualified proprietors in the district.
- (2) As soon after their election as is practicable, the elected representatives of qualified proprietors shall, in accordance with the provisions of this schedule co-opt representatives of salmon anglers and tenant netmen in the district as required by section 45(2) of this Act.
- (3) As soon after such co-option as is practicable, the elected representatives of qualified proprietors and the co-opted representatives shall elect, from among the representatives of qualified proprietors, a convener.
- (4) The members of a district salmon fishery board shall be—
- (a) the persons mentioned in sub-paragraph (1) above;
  - (b) the convener elected in accordance with sub-paragraph (3) above;
  - (c) at least one co-opted representative of salmon anglers in the district; and
  - (d) at least one co-opted representative of tenant netmen in the district,
- but a committee shall not fail to be a district salmon fishery board only by reason that no persons or not enough persons have been co-opted in accordance with this paragraph if—
- (i) there are no salmon anglers or no tenant netmen in the district; or
  - (ii) no persons or not enough persons are willing to be co-opted.

#### **Annotations:**

#### **Commencement Information**

**I5** Sch. 2 para. 5 in force at 1.4.2005 by [S.S.I. 2005/174](#), [art. 2](#)

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