Status: *Point in time view as at 01/08/2007.*
Changes to legislation: *There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, SCHEDULE 3. (See end of Document for details)*

SCHEDULE 3

(introduced by section 48(9))

PROVISIONS AS TO MAKING, VARIATION AND REVOCATION OF PROTECTION ORDERS

Making of protection order

1 Before the Scottish Ministers make a protection order they shall require a person from whom they have received proposals under section 48(3)(a) of this Act to give notice in such form as they may direct—

(a) stating the general effect of those proposals;

(b) naming a place or places where a copy of the proposals and any map accompanying the proposals may be inspected free of charge at all reasonable hours; and

(c) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposals may be made.

Commencement Information

I1 Sch. 3 para. 1 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

2 The notice to be given under paragraph 1 above shall be given by publication [F1]...and in such number of such newspapers as the Scottish Ministers may direct.

Textual Amendments

F1 Words in Sch. 3 para. 2 repealed (1.8.2007) by Aquaculture and Fisheries (Scotland) Act 2007 (asp 12), s. 45(2), **Sch. para. 6(6)** (with s. 39); S.S.I. 2007/333, art. 2(1)

Commencement Information

I2 Sch. 3 para. 2 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

3 The Scottish Ministers may direct that, in addition to publication of the notice as required by paragraph 2 above, a copy or copies of it shall be affixed by a person duly authorised in writing by them to some conspicuous object or objects on the banks of any waters to which the proposals relate or of such other waters as they may direct and at such number of places as they may direct.

Commencement Information

I3 Sch. 3 para. 3 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

4 If no representations or objections are duly made, or if any so made are withdrawn, the Scottish Ministers may make a protection order.

Commencement Information

I4 Sch. 3 para. 4 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

Status: *Point in time view as at 01/08/2007.*
Changes to legislation: *There are currently no known outstanding effects for the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, SCHEDULE 3. (See end of Document for details)*

5 (1) If any representation or objection duly made is not withdrawn, the Scottish Ministers may, after considering the same, forthwith make a protection order or may cause a local inquiry to be held.

(2) The Scottish Ministers shall appoint a person to hold the inquiry and to report thereon to them.

(3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has duly made and has not withdrawn representations or objections to the proposals, and shall be published in such newspaper or newspapers as the Scottish Ministers may direct.

(4) The person appointed to hold the inquiry may, on the motion of any party thereto or on that person's own motion, serve a notice in writing on any person requiring that person to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in that person's custody or under that person's control which relate to any matter in question at the inquiry:

Provided that—

(i) no person shall be required in obedience to such a notice to attend at any place which is more than 16 kilometres from the place where that person resides unless the necessary expenses are paid or tendered to that person; and

(ii) nothing in this sub-paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which that person would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

(5) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

(6) Any person who refuses or wilfully neglects to attend in obedience to a notice under sub-paragraph (4) above or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which that person may be required to produce by such a notice shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 1 on the standard scale or to imprisonment for a period not exceeding 3 months.

(7) The Scottish Ministers may make orders as to the expenses incurred by them in relation to the inquiry (including such reasonable sum as they may determine for the services of the person appointed to hold the inquiry) and as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.

(8) Any order of the Scottish Ministers under sub-paragraph (7) above requiring any party to pay expenses may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

Commencement Information

I5 Sch. 3 para. 5 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

6 After considering the report of the person appointed to hold the inquiry in pursuance of paragraph 5 above and any representations or objections which were duly made, the Scottish Ministers may make a protection order.

Commencement Information

I6 Sch. 3 para. 6 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

7 As soon as may be after a protection order has been made—

(a) the Scottish Ministers shall publish the making of the order in the Edinburgh Gazette and in such number of local newspapers circulating in the area to which the order relates as they think fit; and

(b) a person duly authorised in writing by the Scottish Ministers or a warden shall affix and maintain a copy or copies of the order and such other notice as the Scottish Ministers may consider necessary of the incidence of the order to some conspicuous object or objects, at such places as the Scottish Ministers may direct, on the banks of any waters to which the order relates or elsewhere.

Commencement Information

I7 Sch. 3 para. 7 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

[[F2]8 (1) Before the Scottish Ministers make an order varying a protection order, they shall by notice make such publication as they think fit of the general effect of the proposed variation and specify a time within which, and the manner in which, representations or objections with respect to the proposed variation may be made.

(2) The Scottish Ministers may cause a copy or copies of the notice referred to in sub-paragraph (1) above to be affixed by a person duly authorised by them in writing to some conspicuous object or objects on the banks of such waters at such places as the Scottish Ministers may direct.

(3) If no representations or objections are duly made, or if any so made are withdrawn, the Scottish Ministers may make an order varying the protection order.

(4) If any representation or objection duly made is not withdrawn, the Scottish Ministers may forthwith make an order or may cause a local inquiry to be held.

(5) Sub-paragraphs (2) to (8) of paragraph 5 above shall apply in relation to an inquiry under this paragraph as they apply in relation to an inquiry under that paragraph, but as if in sub-paragraph (3) of that paragraph for the word “proposals” there were substituted the words “proposed variation”.

(6) Paragraph 6 and 7 above shall apply in relation to an order varying a protection order as they apply in relation to a protection order, but as if in paragraph 6 for the reference to paragraph 5 above there were substituted a reference to this paragraph.**]**

Textual Amendments

F2 Sch. 3 para. 8 substituted (1.8.2007) by Aquaculture and Fisheries (Scotland) Act 2007 (asp 12), s. 45(2), **Sch. para. 6(7)** (with s. 39); S.S.I. 2007/333, art. 2(1)

Commencement Information

I8 Sch. 3 para. 8 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

9 (1) Before the Scottish Ministers make an order revoking a protection order, they **[**[F3]shall**]**by notice make such publication as they think fit of the general effect of the proposed revocation and specify a time within which, and the manner in which, representations or objections with respect to the proposed revocation may be made.

(2) The Scottish Ministers may cause a copy or copies of the notice referred to in sub-paragraph (1) above to be affixed by a person duly authorised by them in writing to some conspicuous object or objects on the banks of such waters at such places as the Scottish Ministers may direct.

(3) If no representations or objections are duly made, or if any so made are withdrawn, the Scottish Ministers may make the order revoking the protection order.

(4) If any representation or objection duly made is not withdrawn, the Scottish Ministers may forthwith make the order or may cause a local inquiry to be held.

(5) Sub-paragraphs (2) to (8) of paragraph 5 above shall apply in relation to an inquiry under this paragraph as they apply in relation to an inquiry under that paragraph, but as if in sub-paragraph (3) of that paragraph for the word “proposals” there were substituted the words “ proposed revocation ”.

(6) Paragraph 6 and 7 above shall apply in relation to an order revoking a protection order as they apply in relation to a protection order, but as if in paragraph 6 for the reference to paragraph 5 above there were substituted a reference to this paragraph.

Textual Amendments

F3 Word in Sch. 3 para. 9(1) substituted (1.8.2007) by Aquaculture and Fisheries (Scotland) Act 2007 (asp 12), s. 45(2), **Sch. para. 6(8)** (with s. 39); S.S.I. 2007/333, art. 2(1)

Commencement Information

I9 Sch. 3 para. 9 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

10 The Scottish Ministers shall cause to be published each year a list of prescribed areas.

Commencement Information

I10 Sch. 3 para. 10 in force at 1.4.2005 by S.S.I. 2005/174, **art. 2**

Status:
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Changes to legislation:
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