

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2013

EXPLANATORY NOTES

THE ACT

Part 2

Salmon Fisheries, Etc

Governance

Section 24 - District salmon fishery boards: openness and accountability

54. **Section 24** amends sections 44 and 68 of, and inserts new sections 46A to 46G into, the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (“the 2003 Act”) to introduce good governance obligations on district salmon fishery boards (“DSFBs”). The Scottish Government intends to issue administrative guidance to DSFBs on these obligations to aid and guide compliance.
55. **Section 24(2)** inserts a new subsection (1A) into section 44 of the 2003 Act. Section 44(1A) places duties on the clerk of a DSFB in relation to the board’s agreed report and audited accounts, and requires the clerk to publish these documents and to send copies of them to the Scottish Ministers.
56. **Section 24(3)** inserts new sections 46A – 46G into the 2003 Act. Section 46A places obligations on DSFBs in relation to the content of the annual report required to be prepared under section 44(1)(a) of the 2003 Act. New section 46A(2)(d) of the 2003 Act requires the report to contain a statement on how the board complied in the previous year and how it proposes to comply in the coming year with the good governance requirements, and section 46A(3) provides a definition of “good governance requirements” for that purpose and for the purposes of the provisions mentioned in section 46A(3)(a)-(c).
57. Section 46B of the 2003 Act introduces a obligation on DSFBs to hold an annual public meeting and prescribes matters which must be considered at that meeting (section 46B(2)). Section 46B(4) places obligations on DSFBs regarding participation of members of the public and others who attend or propose to attend the annual meeting.
58. Section 46C(2) of the 2003 Act makes further provision about the annual public meeting held by the board under section 46B(1)(a) and the annual meeting of qualified proprietors held under section 44(1) of the 2003 Act. The provisions place duties on the clerk of the DSFB to give advance notice to the public of these meetings and prescribes the manner, timing and circulation of that notice (section 46C(2)). Section 46C(2)(a) (iv) underpins the new section 46B(4) duty on boards by requiring the clerk to notify the public of how they may propose matters for consideration at the annual public meeting. The public will not have an automatic right to speak at the annual meeting of qualified proprietors, unless a DSFB decides to afford such an opportunity.

*These notes relate to the Aquaculture and Fisheries (Scotland)
Act 2013 (asp 7) which received Royal Assent on 18 June 2013*

59. Section 46C(3)-(9) of the 2003 Act makes further provision about meetings of DSFBs, including the annual public meeting, the meeting of qualified proprietors and any other meetings the board may decide to hold. In particular, the clerk is required to prepare and publish minutes of the DSFB meetings.
60. Section 46D of the 2003 Act requires a DSFB to compile, maintain and keep under review a procedure for dealing with complaints, and to publicise its terms. DSFBs must keep records of any complaints received and how they were disposed of (section 46D(5)).
61. Section 46E of the 2003 Act requires a DSFB to maintain and review arrangements for registering and declaring the relevant financial interests of board members. “Relevant financial interests” are defined in subsection (4).
62. Section 46F(1) of the 2003 Act enables the Scottish Ministers to modify, by order, the good governance requirements (as defined in section 46A(3)) of the 2003 Act) and to place further requirements on DSFBs for specific purposes. The purposes are specified in subsection (3), and seek to achieve that the order-making power is exercisable so as to ensure the boards’ affairs are conducted in an open and accountable manner and to appropriate standards of propriety and good governance. The order-making power is not exercisable in such a way as would allow Ministers to provide for structural change to DSFBs.
63. Section 46G(3) of the 2003 Act provides that, where Ministers exercise the section 46G(2) reserve power to dissolve, by order, the committee constituting the board, its effect is to prompt the calling of a meeting of qualified proprietors for the purpose of electing a new committee.
64. [Section 24\(4\)](#) is a technical amendment in consequence of section 46F(1) of the 2003 Act, as inserted by section 24(3). Its effect is to ensure that any order under section 46(F) (1) is subject to the affirmative procedure in the Scottish Parliament.