

# **AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2013**

---

## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 2**

#### **Salmon Fisheries, Etc**

#### **Governance**

#### ***Section 25 - Duty to consult and report before making certain applications***

65. **Section 25** amends the 2003 Act to create an obligation to undertake consultation on proposals to submit specified applications under the 2003 Act. Subsection (2) of section 25 amends sections 33(7), 35(3), 36(4) and 37(4) of the 2003 Act to substitute reference to paragraph 9B of schedule 1 (procedure for making certain orders and regulations under the Act) to the 2003 Act for references to paragraph 10 of that schedule where it occurs in those provisions.
66. Subsection (3) of section 25 amends the 2003 Act to introduce new paragraphs 9B and 9C into schedule 1. Paragraph 9B(1) specifies the applications in respect of which the provisions of paragraph 9B apply, that is: applications under paragraph 1, 3, 5 or 7 of schedule 1 (respectively, applications for designation orders under section 35 of the 2003 Act, estuary limits orders under section 36, annual close time orders under section 37 and salmon conservation regulations under section 38). Paragraphs 9B to 15 of schedule 1 to the 2003 Act also apply to regulations under section 33(1) of the 2003 Act (baits and lures) by virtue of section 33(7) of that Act. Paragraph 9B(2) of schedule 1 provides that where an applicant proposes to make an application for such an order or regulations, the applicant must give notice of the proposed application, specify in that notice the period in which representations or objections may be made on that proposal, undertake consultation with persons who may have an interest in or be likely to be affected by the proposal and give such persons notice of the period in which they may make representations or objections on the proposal.
67. Paragraph 9B(3) of schedule 1 requires the applicant to give notice of the proposed application in each of two successive weeks in a newspaper circulating in the district concerned, and paragraph 9B(4) of schedule 1 clarifies the length of the period for the purposes of paragraph 9B(2)(b) of schedule 1.
68. An applicant is required to take into account any timeous representation or objections made on the proposal (paragraph 9B(5)). The applicant must publish a notice containing a summary of reasons for proceeding with the proposed application or not, as the case may be, together with details of where their reasons for this decision may be viewed and how a copy of the reasons may be obtained (paragraph 9B(6)). Paragraph 9B(7) confirms that the costs for compliance with paragraph 9B(2) and (6) are to be paid by the applicant.

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

69. Paragraph 9C of schedule 1 to the 2003 Act applies where an applicant determines to proceed with a proposed application. At the time the applicant makes the application, the applicant must submit together with the application a report which; states whether and explains how the requirements of paragraph 9B have been met; provides details of who was consulted; explains the content of any representations or objections received; and gives the reasons for making the application.