

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2013

EXPLANATORY NOTES

THE ACT

Schedule 1 – Commercially damaging species: control schemes

186. [Schedule 1](#) (paragraphs 1-13) is introduced by section 17(6) and makes further provision in respect of control schemes.

Making a control scheme: procedure

187. [Paragraphs 1 to 4](#) of schedule 1 concern the procedure to be followed by the Scottish Ministers when making a control scheme. It includes procedures to be used when an objection is made and when modifications to a control scheme are required.

Variation or revocation of a control scheme: procedure

188. [Paragraphs 5 to 9](#) of schedule 1 specify the process for Scottish varying or revoking a control scheme, with or without the application of a person who carries on a business of fish farming or shellfish farming, and on whom the control scheme has imposed any requirement. Paragraph 6 makes provision for the documents that the Scottish Ministers must serve on every person on whom the control scheme has imposed any requirement. Paragraphs 7 and 8 makes provision in relation to objections made or not made, further to paragraph 6. Paragraph 9 provides the steps that must be taken before a variation of a control scheme can be made. This includes serving every person who has been served a copy of the draft scheme under paragraph 6 a notice of the proposal to make the modification and each person consenting to the proposal.

Objections

189. [Paragraph 10](#) of schedule 1 enables the Scottish Ministers to require that an objection must state in writing the grounds for it and enables them to disregard the objection for the purposes of the schedule if they are satisfied that the objections is frivolous.

Making, varying or revoking a control scheme: notices

190. [Paragraph 11](#) of schedule 1 makes provision for Scottish Ministers to serve on every person, on whom a notice was required to be served, a notice stating that the scheme has been made, or that a variation or revocation for the scheme has been made.
191. [Paragraph 12](#) of schedule 1 provides that, apart from in appeals under paragraph 13, the validity of control schemes may not be questioned in legal proceedings. This is not intended to exclude judicial review.

Appeals

192. [Paragraph 13](#) of schedule 1 provides for a right of appeal to the sheriff by a person carrying out a business of fish farming to which a control scheme relates, including a provision that an appeal must be lodged not later than 28 days after the date on which the person making the appeal received a notice. Any appeal on a point of law against the decision of the Sheriff would be to the Court of Session.