

*These notes relate to the Pow of Inchaffray Drainage Commission (Scotland) Act 2019 (asp 2) which received Royal Assent on 17 January 2019*

# **POW OF INCHAFFRAY DRAINAGE COMMISSION (SCOTLAND) ACT 2019**

---

## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1 – The Commission**

##### **Constitution**

##### ***Section 1 – The Pow of Inchaffray Drainage Commission***

11. **Section 1** incorporates the Commission as a body corporate called the Pow of Inchaffray Drainage Commission and provides, in accordance with schedule 1, for the Commission’s functions, powers etc.

##### ***Section 2 – The Commissioners***

12. **Section 2** provides that the Commission is to consist of nine Commissioners representing the different sections of land benefited by the Pow (“benefited land”). The number of Commissioners for a section of the benefited land can be amended by a resolution of heritors passed in compliance with section 9.

##### **The Pow and benefited land**

##### ***Section 3 – Extent of the Pow and benefited land***

13. **Section 3** defines the Pow as the Pow of Inchaffray shown on the land plans deposited with the Scottish Parliament and the “associated works”. The associated works comprise ditches shown on the plans, further ditches within the benefited land included by agreement or by a resolution of heritors passed in compliance with section 9, and banks and other structures associated with the Pow. Ditches within the Pow may be excluded by a resolution passed in compliance with section 9.
14. **Section 3(4)** divides the Pow into four sections for the purpose of appointing Commissioners. The boundaries between each section may be altered by a resolution of heritors passed in compliance with section 9.

##### **Appointment of Commissioners etc.**

##### ***Section 4 – Appointment of Commissioners etc.***

15. **Section 4** provides for the appointment of Commissioners in accordance with schedule 2.

##### ***Section 5 – First appointments of Commissioners***

16. **Section 5** sets out the provisions for the transition from the existing serving Commissioners appointed under the 1846 Act to nine Commissioners under section 2.

*These notes relate to the Pow of Inchaffray Drainage Commission (Scotland)  
Act 2019 (asp 2) which received Royal Assent on 17 January 2019*

Prior to section 2 coming into force, the serving Commissioners must choose three serving Commissioners as the Commissioners for the lower, middle and upper sections. These three Commissioners are to continue in office for 24 months and the others will cease to be Commissioners. Six further Commissioners must then be appointed under schedule 2, one for each of the lower, middle and upper sections and three for the Balgowan section. These Commissioners are to be appointed at a heritors' meeting within two months of the Act coming into force. This is to allow the additional Commissioners to be appointed by the time section 2 comes into force (three months after the rest of the Act) as, in accordance with paragraph 3(c) of schedule 2, a Commissioner is to be appointed one month before that Commissioner's appointment takes effect.

### ***Section 6 – Commission meetings***

17. **Section 6** provides for meetings of the Commission in accordance with schedule 3.

### **Heritors' meetings etc.**

### ***Section 7 - Heritors' meetings convened by the Commission***

18. **Section 7** sets out when the Commission must call a meeting of heritors, and when it may do so. The Commission must call a heritors' meeting when necessary to appoint a Commissioner; before each general business meeting of the Commission (held twice a year); and (where requested to do so by three or more heritors) to consider a resolution to: change the number of Commissioners for each section of the benefited land; alter the boundaries of each section; to include or exclude a ditch from the Pow; or terminate the appointment of a Commissioner. The Commission may call a heritors' meeting for any other purpose at any other time. Before the Commission convenes a heritors' meeting it must give not less than 10 days' notice to heritors and provide them with the details of the meeting, including the agenda. The quorum for such a meeting is three heritors.

### ***Section 8 – Heritor's representative***

19. **Section 8** provides that a heritor may, by giving notice to the Clerk, appoint a person to represent the heritor for the purposes of the Act. For example, a heritor who does not live in the Pow area can appoint a local representative to attend meetings and vote for a resolution on the heritor's behalf.

### ***Section 9 – Alterations by heritors***

20. **Section 9** provides that where the Act requires a resolution to comply with this section it must be voted for by heritors representing at least 75% of the sum of the chargeable values of all heritors' land.