

POW OF INCHAFFRAY DRAINAGE COMMISSION (SCOTLAND) ACT 2019

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Annual Assessments etc

Section 10 – Annual budget and assessments

21. **Section 10** introduces schedule 4, which provides for the preparation and confirmation of the budget for each assessment year and for heritors' rights to make representation on, and require a review of, the draft budget. The provisions of this schedule are explained below.
22. The section also provides for the calculation of the annual assessment payable by each heritor. Each heritor is to pay a share of the annual budget based on the "chargeable value" – that is, the assumed value of the benefit to the heritor's land of the work carried out under the Pow Acts (this Act, the 1846 Act and the 1696 Act). The chargeable value is calculated in accordance with schedule 5. The amount that each heritor must pay is the chargeable value multiplied by the "rate poundage" for the assessment year – namely the total amount of the year's budget divided by the sum of all the chargeable values.
23. Heritors are notified by the Commission of the amount each must pay by way of an assessment notice. The assessment is payable within 28 days of receipt of the assessment notice or, if later, by the first day of the assessment year.
24. The Commission must notify each heritor of the chargeable value of the heritor's land, and how it has been calculated, within 2 months of the day after the Act receives Royal Assent.

Section 11 – Revaluation of assumed values and base value

25. **Section 11** provides that the Commission must have the assumed value and base value per acre, used to calculate chargeable values (and initially fixed in schedule 5) revalued every 10 years. The revaluation is to be carried out by a surveyor appointed by the Commission.
26. Before finalising a revaluation, the surveyor must notify each heritor of the proposed revaluation. Heritors then have 28 days to make representations to the surveyor on the proposed revaluation, and the surveyor must have regard to any such representations in making the revaluation.
27. The Bill provides for revaluations to take effect from the commencement of the first assessment year following completion of the revaluation. The intention is that in practice this will be every 10th anniversary of the commencement of the first assessment year, but this provision ensures that, if there are delays, any resulting changes in chargeable values will not be retrospective.

Section 12 – Amendments to land categories to meet changed circumstances

28. **Section 12** sets out the circumstances in which the Commission may appoint a surveyor to amend the land categories in schedule 5 and the procedure for doing so.
29. Before making an amendment, the surveyor must notify each heritor of the proposed amendment. Heritors then have 28 days to make representations to the surveyor on the proposed amendment, and the surveyor must have regard to any such representations in making the revaluation.
30. Amendments are to take effect from the commencement of the first assessment year following the making of the amendment.

Section 13 – Surveyor’s professional requirements

31. **Section 13** requires a surveyor appointed by the Commission for the purposes of sections 11 and 12 to be a member of the Royal Institution of Chartered Surveyors in Scotland or any successor body.

Section 14 – Commission may act as surveyor’s agent

32. Where the Commission has appointed a surveyor under section 11 or 12, the Commission may act as the surveyor’s agent for the purpose of communicating between the surveyor and the heritors.

Section 15 - Land Plans

33. **Section 15** requires the Commission to make the land plans available for inspection, free of charge, at the Clerk’s offices during ordinary office hours, and must also be made available electronically (for example, on a website). The Commission is to amend the land plans where a change is made following a resolution by heritors to include ditches or exclude ditches from the Pow or alter the boundaries of the sections of the benefited land.

Section 16 – Register of Heritors

34. The Commission must maintain a register with particulars of the heritors and plans showing the benefited land owned by each heritor. Heritors or persons ceasing to be heritors must notify the Commission of changes. The Commission is to make the register available for inspection, free of charge, at the Clerk’s offices during ordinary office hours, and must also make it available electronically (e.g. on a website).