



# Pow of Inchaffray Drainage Commission (Scotland) Act 2019

2019 asp 2

## PART 1

### THE COMMISSION

#### *Constitution*

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

- (1) The Commission established by the 1846 Act continues and becomes a body corporate called the Pow of Inchaffray Drainage Commission, referred to in this Act as “the Commission”.
- (2) Schedule 1 makes further provision about the Commission.
- (3) All property, rights, liabilities and obligations of the Commission prior to incorporation are transferred to and vested in the Commission.
- (4) Incorporation of the Commission does not affect the rights or obligations of any person or make defective any legal proceedings that have been raised by or against the Commission prior to incorporation.
- (5) Any reference to the Commissioners or the Commission in any agreement, deed or other instrument is to be read as a reference to the Commission as incorporated, unless the context otherwise requires.

#### **2 The Commissioners**

- (1) Subject to subsection (3), the Commission is to consist of nine members each called a Commissioner.
- (2) There are to be two Commissioners for each of the lower, middle, and upper sections of the benefited land and three Commissioners for the Balgowan section of the benefited land.

- (3) A heritors' meeting may alter the number of Commissioners for a section of the benefited land by a resolution passed in compliance with section 9.

*The Pow and the benefited land*

**3 Extent of the Pow and the benefited land**

- (1) In this Act, “the Pow” means the Pow of Inchaffray shown on the land plans and the associated works.
- (2) Subject to subsection (3), the “associated works” are—
- (a) the ditches shown on the land plans,
  - (b) ditches within the benefited land which the Commission and the heritors on whose land they are situated have agreed in writing to include within the Pow,
  - (c) ditches within the benefited land included by a resolution passed in compliance with section 9,
  - (d) the banks, revetments, dams, culverts, sluices, and other structures associated with, or forming part of—
    - (i) the Pow of Inchaffray,
    - (ii) ditches included within the Pow.
- (3) A heritors' meeting may exclude ditches from the Pow by a resolution passed in compliance with section 9.
- (4) For the purposes of this Act, the benefited land is divided into four sections—
- (a) the lower section,
  - (b) the middle section,
  - (c) the upper section,
  - (d) the Balgowan section.
- (5) The boundaries between sections are shown on the land plans.
- (6) A heritors' meeting may alter the boundaries between sections by a resolution passed in compliance with section 9.

*Appointment etc. of Commissioners*

**4 Appointment of Commissioners etc.**

Schedule 2 makes provision about the appointment of, and holding of office by, the Commissioners.

**5 First appointments of Commissioners**

- (1) The serving Commissioners are to continue in office until the day on which section 2 comes into force.
- (2) Prior to the day on which section 2 comes into force, the Commission is to choose three serving Commissioners to continue as Commissioners, one for each of the lower, middle and upper sections of the benefited land.

- (3) On the day on which section 2 comes into force—
  - (a) the appointments of serving Commissioners not chosen under subsection (2) cease to have effect, and
  - (b) six additional appointments of Commissioners made in accordance with schedule 2 have effect, three for the Balgowan section and one for each of the lower, middle and upper sections of the benefited land.
- (4) The Commissioners chosen under subsection (2) are to continue to hold office for 24 months from the day on which section 2 comes into force.

## **6 Commission meetings**

Schedule 3 makes provision about meetings of the Commission.

*Heritors' meetings etc.*

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

- (1) The Commission must convene a heritors' meeting—
  - (a) when necessary to appoint a Commissioner in accordance with this Act,
  - (b) before each general business meeting of the Commission,
  - (c) where requested to do so by three or more heritors, to consider a resolution to—
    - (i) alter the number of Commissioners in accordance with section 2(3),
    - (ii) include a ditch in accordance with section 3(2)(c),
    - (iii) exclude a ditch in accordance with section 3(3),
    - (iv) alter the boundaries between sections in accordance with section 3(6),
    - (v) terminate the appointment of a Commissioner in accordance with paragraph 13(4) of schedule 2.
- (2) The Commission may convene a heritors' meeting for any other purpose at any time.
- (3) The Commission is to convene a heritors' meeting by giving not less than 10 days' notice to each heritor.
- (4) A notice convening a heritors' meeting must state the place, date, time and purpose of the meeting.
- (5) A notice convening a heritors' meeting in accordance with subsection (1)(b) must include the agenda for the meeting of the Commission.
- (6) The quorum of a heritors' meeting is three heritors.
- (7) The Clerk may attend a heritors' meeting.

## **8 Heritor's representative**

- (1) A heritor may from time to time appoint a person as the heritor's representative for the purposes of this Act ("a heritor's representative"), by giving notice of the appointment to the Clerk.
- (2) The heritor may terminate the appointment at any time by giving notice to the Clerk.

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*Status: This is the original version (as it was originally enacted).*

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(3) References in this Act to a heritor include the heritor's representative in place of the heritor except—

- (a) in—
  - (i) section 10,
  - (ii) section 16,
  - (iii) the term “heritor's land”,
- (b) where the context otherwise requires.

## **9 Alterations by heritors**

A resolution is passed in compliance with this section if the heritors who vote for it represent at least 75% of the sum of the chargeable values of all heritors' land.