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*Status: Point in time view as at 18/01/2019.*

**Changes to legislation:** There are currently no known outstanding effects for the Pow of Inchaffray Drainage Commission (Scotland) Act 2019, SCHEDULE 2. (See end of Document for details)

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## SCHEDULE 2 (introduced by section 4) COMMISSIONERS

### *Appointment*

- 1 A person appointed as a Commissioner for a section of the benefited land must be either—
  - (a) a heritor who owns land within that section, or
  - (b) the heritor's representative of such heritor.
- 2 A heritor who owns land in more than one section of the benefited land, or the heritor's representative of that heritor, may only be a Commissioner for one section.
- 3 Except where this Act provides otherwise, the appointment of a Commissioner is to be made at a heritors' meeting held—
  - (a) in the case of a vacancy other than a vacancy under paragraph 6, within three months of the vacancy occurring,
  - (b) in the case of a vacancy under paragraph 6 which is not filled by the Commission under paragraph 7, within 12 months of the vacancy arising, and
  - (c) in any other case not later than one month before the appointment is to take effect.
- 4 Subject to paragraphs 5 and 6, a Commissioner must be appointed by a majority vote of the heritors attending the meeting who own land within the section of the benefited land to which the appointment relates (“the relevant heritors”).
- 5 If only one relevant heritor attends the meeting, the heritor may appoint a Commissioner without a vote.
- 6 Where no Commissioner is appointed under paragraph 4 or 5, the position is to be treated as vacant.
- 7 The Commission may fill a vacancy under paragraph 6 by appointing a Commissioner for a period of up to 12 months.
- 8 A vacancy occurring less than three months before the end of a Commissioner's term is to be left unfilled until the end of that term.
- 9 Except where this Act provides otherwise, a Commissioner is appointed for a term of 10 years.
- 10 A person appointed to fill a vacancy to which paragraphs 3(a) or 3(b) apply holds office for the remainder of the term of appointment of the Commissioner in whose place the person has been appointed.
- 11 Subject to paragraph 12, a person who has served as a Commissioner may be reappointed on any number of occasions.
- 12 A person may not be reappointed as a Commissioner where the person's appointment as a Commissioner has been terminated under paragraph 13(2) unless the Commission is satisfied the grounds for the person's termination no longer apply.

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*Early termination of appointment as Commissioner*

- 13 (1) A Commissioner may resign by giving notice to the Commission.
- (2) The Commission may, by giving notice to the Commissioner, terminate a Commissioner's appointment if—
- (a) the Commissioner has been absent from two or more consecutive meetings of the Commission without the permission of the Commission,
  - (b) the Commission considers that the Commissioner is—
    - (i) unable to perform the functions of a Commissioner, or
    - (ii) unsuitable to continue as a Commissioner.
- (3) For the purposes of sub-paragraph (2)(a)—
- (a) a meeting of the Commission includes a meeting of a committee of the Commission of which the Commissioner is a member, and
  - (b) permission of the Commission includes permission of the committee where the committee meeting consists of three or more Commissioners.
- (4) A Commissioner's appointment may be terminated with immediate effect by a majority vote of heritors attending a meeting convened under section 7(1)(c)(v) who own land within the section of the benefited land to which the appointment relates.
- (5) The Commission must, by giving notice to the Commissioner, terminate a Commissioner's appointment if the Commissioner or, where the Commissioner is a heritor's representative, the heritor the Commissioner represents, has ceased to be a heritor.

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