

Pow of Inchaffray Drainage Commission (Scotland) Bill

Marshalled List of Amendments for Consideration Stage

The Bill will be considered in the following order—

Section 1	Schedule 1
Sections 2 to 4	Schedule 2
Sections 5 and 6	Schedule 3
Sections 7 to 10	Schedule 4
Sections 11 to 19	Schedule 5
Sections 20 to 24	Schedule 6
Sections 25 to 29	Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 2

Tom Arthur (on behalf of the promoter)

- 1 In section 2, page 1, line 25, leave out <seven> and insert <nine>

Tom Arthur (on behalf of the promoter)

- 2 In section 2, page 2, line 2, leave out <one Commissioner> and insert <three Commissioners>

Schedule 2

Tom Arthur (on behalf of the promoter)

- 11 In schedule 2, page 12, leave out lines 33 and 34

Tom Arthur (on behalf of the promoter)

- 12 In schedule 2, page 13, line 4, at end insert—

<(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.>

Tom Arthur (on behalf of the promoter)

- 13 In schedule 2, page 13, line 4, at end insert—

<() 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.>

Section 5

Tom Arthur (on behalf of the promoter)

- 3 In section 5, page 3, leave out lines 7 and 8 and insert—
- <() 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.>

Schedule 3

Tom Arthur (on behalf of the promoter)

- 14 In schedule 3, page 13, line 17, leave out <three> and insert <five>

After schedule 3

Tom Arthur (on behalf of the promoter)

- 15 After schedule 3, insert—

<SCHEDULE 3A

(introduced by section 10(1))

PREPARATION OF ANNUAL BUDGETS AND HERITORS' RIGHTS TO REQUIRE REVIEW ETC.

Preparation of draft budget and provisional assessment notice

- 1 Before the beginning of each assessment year, the Commission must prepare a draft budget of the expenditure it expects to incur in carrying out its functions for, subject to paragraph 2, that assessment year.
- 2 The budget—
 - (a) must allow for any anticipated surplus or shortfall from the previous assessment year, and
 - (b) may include provision for a reserve fund to cover extraordinary expenditure.
- 3 Promotion costs not recovered from heritors through assessments under the 1846 Act are to be included in the budgets for the first three assessment years.
- 4 “Promotion costs” means costs, fees and expenses incurred by the Commission (whether before or after its incorporation by this Act), in connection with promotion of the Bill for this Act.
- 5 As soon as practicable after the draft budget is prepared, the Commission must give a provisional assessment notice to each heritor, specifying the amount that would be payable by the heritor for the assessment year under section 10(2) if based on the draft budget.
- 6 The provisional assessment notice must include—
 - (a) a copy of the draft budget,
 - (b) the rate poundage and how it is calculated,
 - (c) an explanation of how the amount that would be payable by the heritor is calculated, and

- (d) a statement that the heritor may under paragraph 7 make written representations to the Commission on the draft budget and the time limit for doing so.

Right of heritors to make representations and to require a review

- 7 A heritor may make written representations on the draft budget to the Commission no later than the period of 21 days beginning on the date of service of the provisional assessment notice.
- 8 If written representations are made under paragraph 7, the Commission must consider the representations and decide—
 - (a) not to amend the draft budget, or
 - (b) to amend the draft budget.
- 9 The Commission must notify all heritors of its decision under paragraph 8 and the reasons for its decision.
- 10 Where the draft budget is amended, the notice must specify the amount that would be payable by the heritor for the assessment year under section 10(2) if based on the amended draft budget and must include—
 - (a) a copy of the amended draft budget,
 - (b) the rate poundage and how it is calculated, and
 - (c) an explanation of how the amount that would be payable by the heritor is calculated.
- 11 A notice under paragraph 9 must also include a statement explaining the budget review provisions set out in paragraphs 13 to 15.
- 12 Where a heritor has made representations, the notice to the heritor under paragraph 9 must be accompanied by the Commission’s response to the heritor’s representations.

Independent review

- 13 No later than 14 days after the date on which heritors have been notified under paragraph 9—
 - (a) 10 or more heritors, or
 - (b) one or more heritors (where the amount of the confirmed draft budget exceeds the budget review threshold),may notify the Commission in writing that they require the draft budget to be independently reviewed.
- 14 The budget review threshold is—
 - (a) for the first assessment year, £60,000,
 - (b) for each subsequent assessment year, the budget review threshold for the previous assessment year, adjusted by the percentage increase in the retail price index during the 12 month period ending on 31 December in the previous assessment year.
- 15 No later than 14 days after service of a notice under paragraph 13, the Commission must refer the draft budget for determination by an expert to be appointed by—
 - (a) the Chairman of the Association of Drainage Authorities or any successor body,
 - (b) where an expert cannot be appointed under sub-paragraph (a), the Chairman of the Royal Institution of Chartered Surveyors in Scotland.

Confirmed budget

- 16 For the purposes of section 10, the confirmed budget is—
- (a) where no independent review has been carried out, the draft budget notified to heritors—
 - (i) under paragraph 5, or
 - (ii) if amended, under paragraph 9, or
 - (b) where an independent review has been carried out, the draft budget finalised by the Commission in accordance with the expert's determination and including the costs of the reference to the expert.>

Section 7

Tom Arthur (on behalf of the promoter)

- 4 In section 7, page 3, line 22, at end insert—
- < () terminate the appointment of a Commissioner in accordance with paragraph 13(4) of schedule 2.>

Section 10

Tom Arthur (on behalf of the promoter)

- 5 Leave out section 10 and insert—
- <Annual budget and assessments**
- (1) Schedule (*Preparation of annual budgets and heritors' rights to require review etc.*) has effect in regard to—
 - (a) the preparation and confirmation of the budget for each assessment year, and
 - (b) heritors' rights to make representations on, and to require an independent review of, the draft budget.
 - (2) As soon as practicable after there is a confirmed budget for an assessment year, the Commission must give an assessment notice to each heritor specifying the amount payable by the heritor for the assessment year.
 - (3) The amount payable by a heritor is the rate poundage for the assessment year multiplied by the chargeable value of the heritor's land.
 - (4) The rate poundage for an assessment year is the budget for the assessment year divided by the sum of the chargeable values of each heritor's land.
 - (5) The chargeable value of a heritor's land is calculated in accordance with schedule 4.
 - (6) An assessment notice must include—
 - (a) a copy of the confirmed budget,
 - (b) the rate poundage and how it is calculated, and
 - (c) an explanation of how the amount payable by the heritor is calculated.
 - (7) The heritor must pay the assessment to the Commission by the later of—

- (a) the end of the period of 28 days beginning with receipt of the assessment notice, and
 - (b) the first day of the assessment year to which it applies.
- (8) No later than two months after the date on which this section comes into force, the Commission must give each heritor a valuation notice specifying the chargeable value of the heritor's land and how it has been calculated.>

Section 15

Tom Arthur (on behalf of the promoter)

- 6** In section 15, page 6, leave out lines 8 to 13 and insert—
- <() The Commission must make the land plans available for inspection, free of charge, by any person—
- (a) at the Clerk's offices during ordinary office hours,
 - (b) by electronic means.>

Section 16

Tom Arthur (on behalf of the promoter)

- 7** In section 16, page 6, leave out lines 30 to 33 and insert—
- <() The Commission must make the Register of Heritors available for inspection, free of charge, by any person—
- (a) at the Clerk's office during ordinary office hours,
 - (b) by electronic means.>

Section 27

Tom Arthur (on behalf of the promoter)

- 8** In section 27, page 9, line 7, leave out <2018> and insert <2019>

Tom Arthur (on behalf of the promoter)

- 9** In section 27, page 9, line 23, leave out <with the Bill for this Act> and insert <in the Office of the Clerk of the Parliament on 3 May 2018>

Tom Arthur (on behalf of the promoter)

- 10** In section 27, page 9, line 28, at end insert—
- <“retail price index” means—
- (a) the monthly index of retail prices (all items including mortgage interest rates) published by the Office for National Statistics, or

- (b) in the absence of a monthly index of retail prices, an alternative comparable index determined by an expert appointed by the Chairman of the Royal Institution of Chartered Surveyors in Scotland, or successor body, at the request of the Commission,>

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