



## **Briefing note to DSFBs on Section 46B and 46C (Meetings) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (introduced by s24 of the Aquaculture and Fisheries (Scotland) Act 2013)**

### **Introduction**

Section 24 of the Aquaculture and Fisheries (Scotland) Act 2013, amends the 2003 Act to place a number of new duties on DSFBs relating to Board meetings, including a new requirement to hold an annual public meeting. Under the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 DSFBs are already required to prepare a report and a statement of accounts (which must be audited) relating to the activities of the Board and the clerk of the board is required to call an annual meeting of qualified proprietors in the district for the purposes of considering the report and the audited accounts. This briefing is intended to assist Boards in ensuring that they can comply by providing advice on the procedure for holding Board meetings and an annual public meeting. The Scottish Government has issued guidance in relation to the Good Governance obligations. Specific guidance relating to Meetings of the Board can be found in paragraphs 13-23.

### **Legislative Requirements**

For the annual meeting of qualified proprietors and the annual public meeting the clerk of the board must, no later than 21 days before the day on which the meeting is to be held:

- Prepare a notice
  - specifying the date and time of the meeting and the location where it will be held
  - containing the list of the matters to be considered at the meeting
  - stating that the meeting is open to the public, and
  - in the case of the annual public meeting, providing information as to how salmon anglers, tenant netsmen and other members of the public can submit proposals for matters to be considered at the meeting.
- Arrange for the notice to be published in such manner as the clerk considers appropriate, and
- Send a copy of the notice to the Scottish Ministers

In the case of the Annual public meeting, the board must ensure that members of the public and others who attend the meeting are given an opportunity to speak at the meeting. The matters to be considered at the annual public meeting are for the board to determine, but must include the final report and statement of accounts.

In relation to any other meetings of a DSFB, the clerk of the board must take such steps as the clerk considers appropriate to publicise the meeting and ensure that the public are given an opportunity to attend the meeting. The Board must ensure that the business at the meeting is conducted in public. However, in any meeting other than the annual public meeting the board may, if there is a good reason for doing so, decide to conduct the meeting, or to consider any particular item of business, in private. The board must state reasons for the decision to hold business in private and ensure that the statement of reasons is included in the minute of the meeting.

As soon as practicable after the meeting, the clerk to the Board must prepare a minute of the meeting and arrange for the minute to be published in such a manner as the clerk considers appropriate. In the case of

the annual meeting of qualified proprietors and the annual public meeting, a copy of the minutes should be sent to Scottish Ministers.

### **FMS Advice**

Sample wording for the notice for the annual meeting of qualified proprietors and the annual public meeting is included in Annex A & B. The manner in which the notice should be published is a matter for the Board, but we would suggest that at an absolute minimum, the notice should be posted prominently on the Board's website, and proprietors, angling clubs and tenant netsmen should be notified, either directly or via the relevant representatives on the Board. Consideration might also be given to placing notices in local libraries, tackle shops etc. The notice to Scottish Ministers should be sent electronically to: [dsfbgoodgovernance@scotland.gsi.gov.uk](mailto:dsfbgoodgovernance@scotland.gsi.gov.uk) and the agenda for the meeting should be posted on the Board's website prior to the meeting.

Whilst the legislation is not prescriptive as to the timing of the annual meeting of qualified proprietors and the annual public meeting, Scottish Government strongly recommend that these meetings are held on separate days. As set out in the 2003 Act the annual meeting of proprietors is called for the purpose of *considering* the annual report and audited accounts and at this meeting these documents would be agreed and finalised. The annual public meeting should be held after the annual meeting of qualified proprietors and this would be an opportunity to present the agreed and finalised report and accounts to the wider public and explain what is planned for the following year. The policy intention from Scottish Government is that the annual public meeting is an outward-focussed meeting in order to engage and inform the wider public. The Scottish Government recommend that there should be some separation between these meetings, in order to ensure that there is adequate time to agree and finalise the accounts and report, in order that the public meeting is presented with final, rather than draft, documents. However, as stated above, this is a decision for the Board.

We would suggest that all other meetings are publicised, at least, on the Board's website and, if possible, the dates for these meetings should be highlighted at the Annual Public Meeting. Again, the agenda for the meeting should be posted on the Board's website prior to the meeting.

Where a Board elects to conduct the meeting, or to consider any particular item of business, in private the board must ensure that a statement of reasons is included in the minute of the meeting. There are a number of legitimate reasons for holding business in private, such as (but not limited to): discussion of deployment of bailiffs, priorities for enforcement action and staff remuneration.

It should be noted that the legislation only makes provision for members of the public to propose matters for consideration and speak at the annual public meeting. Depending on local circumstances, DSFBs may wish to give interested parties the right to do so at all meetings, but this would be at the discretion of the Board. FMS advise that any matters proposed for consideration by members of the public are submitted in advance and this is reflected in the sample wording of the notices in Annex A & B. However, it would be unreasonable to prevent an interested party from speaking on this basis as there are many legitimate reasons why a person may have failed to submit and issue in advance.

Minutes from all meetings should be published on the Board's website. In addition, minutes of the annual meeting of qualified proprietors and the annual public meeting should be sent electronically to Scottish Ministers: [dsfbgoodgovernance@scotland.gsi.gov.uk](mailto:dsfbgoodgovernance@scotland.gsi.gov.uk). The legislation requires the minutes to be prepared and published *as soon as practicable after the meeting*. Our advice is that 3 months is a reasonable time frame to allow minutes to be circulated and agreed at a subsequent meeting if required. If Board meetings

are held less frequently than every 3 months, we would recommend that an alternative means of agreeing minutes is introduced.

It is recommended that a sign-in sheet is circulated during the meeting, in order that a record can be taken of the number of members of the public who attend. This information will be useful for reporting against the good governance requirements as required in the annual report.

**For further information please contact:**

Brian Davidson | Director of Communications & Administration  
Tel: 0131 221 6567 | Email: [brian@fms.scot](mailto:brian@fms.scot)

Dr Alan Wells | Chief Executive  
Tel: 0131 221 6567 | Email: [alan@fms.scot](mailto:alan@fms.scot)

## Annex A

### Sample wording to notify an Annual Meeting of Proprietors

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| <p style="text-align: center;"><b>[XXXX] District Salmon Fishery Board</b></p> <p style="text-align: center;"><b>Annual Meeting of Qualified Proprietors</b></p> <p style="text-align: center;">[DATE – at least 21 days after the notice is posted] [TIME] [LOCATION]</p> <p style="text-align: center;">The following matters will be considered:</p> <ul style="list-style-type: none"><li>- The activities of the Board for the year to [DATE]</li><li>- Consideration of the annual report and accounts</li><li>- The proposed activities of the Board for the next year</li></ul> <p>This meeting is open to the public – it would be helpful in planning seating etc. if you contact [NAME], clerk to the Board at [contact details] if you are interested in attending. The agenda for the meeting will be available on [DATE] and can be viewed at [WEB ADDRESS]</p> |
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## Annex B

### Sample wording to notify an Annual Public Meeting

The actual wording to be used is a matter for the Board and the local circumstances/activities. For example, you might wish to link the meeting to publicising a particular local project or initiative.

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| <p style="text-align: center;"><b>[XXXX] District Salmon Fishery Board</b></p> <p style="text-align: center;"><b>Annual Public Meeting</b></p> <p style="text-align: center;">[DATE – at least 21 days after the notice is posted] [TIME] [LOCATION]</p> <p style="text-align: center;">The following matters will be considered:</p> <p style="text-align: center;">The activities of the Board for the year to [DATE]</p> <p style="text-align: center;">Presentation of the annual report and accounts</p> <p style="text-align: center;">The proposed activities of the Board for the next year</p> <p style="text-align: center;">Question and Answer Session</p> <p>This meeting is open to the public – it would be helpful in planning seating etc. if you contact [NAME], clerk to the Board at [contact details] if you are interested in attending. Proposals are invited for matters to be considered at the meeting – please submit written proposals to the clerk in advance. The agenda for the meeting will be available on [DATE] and can be viewed at [WEB ADDRESS]</p> |
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