

POW OF INCHAFFRAY DRAINAGE COMMISSION (SCOTLAND) BILL

Written submission by Professor Robert Rennie

1. If the obligations to pay assessments are not real burdens appearing on the Land Register but are to be a stand-alone statutory obligations, like a water rate how are prospective purchasers or their solicitors to become aware of them as they only apply to properties in a restricted area unlike council tax or water rate

2. When a seller puts a house on the market there is a property questionnaire to be filled in. The idea is to provide detailed information regarding the property which a purchaser should know. There is no specific question which applies to a statutory drainage scheme which is restricted to a particular area and is not part of the Scottish Water sewerage and drainage network. There is a detailed question relating to a private sewerage connection to a septic tank but that is different to a restricted statutory scheme

3. In the course of an ordinary sale and purchase the seller will obtain a Property Enquiry Certificate from a professional searcher or a local/water authority. This should disclose a number of things such as whether the road ,footpath and sewer serving the property are public and maintained by the public authorities. At the moment I do not think that this sort of separate scheme would be disclosed

I personally do not do conveyancing now (I am from 1st April this year a consultant with the firm coming in one day a week) but I asked some of the partners in our private client department if they had ever come across/ever had to deal with the Pow of Inchaffray. Only one partner had. She advised that it had come up because the seller had mentioned it casually to the purchasers. The purchasers mentioned it to their solicitor who in turn raised it with the seller`s solicitor. The seller`s solicitor did not seem to know anything about it and simply tried to get the purchasers` solicitor to "accept the position" with little or no further information. At this time of course the 1846 board had ceased to exist so there was no one to check with. The purchasers did not go ahead

4. I wonder about a new "local tax" over and above the water rate. Some might ask whether it would not be more sensible for Scottish Water to take over maintenance and include the cost or charge as they sometimes do for a metered supply. I realise that Scottish water may have their own views on the matter.