

## **EXECUTIVE NOTE**

### **TOWN AND COUNTRY PLANNING (MARINE FISH FARMING) (SCOTLAND) REGULATIONS 2007 SSI/2007/175**

The above Regulations are to be made in exercise of the powers conferred on the Scottish Ministers by sections 31A(8) of the Town and Country Planning (Scotland) Act 1997, as amended. The instrument is subject to negative resolution procedure.

#### **Policy Objective**

#### **Introduction**

The purpose of these Regulations are to set out the requirements for applications for planning permission under section 31A of the Town and Country Planning (Scotland) Act 1997.

These provisions extend to Scotland only. There are no similar provisions in England, Wales and Northern Ireland.

#### **Background**

The Scottish Executive is to introduce statutory planning controls for marine fish farming. The planning controls will cover the marine waters out to the 12-nautical mile limit. Both finfish and shellfish farming will be subject to the new planning controls. These controls will extend to farms which are currently in existence.

Provisions contained in section 26AA(1) of the Town and Country Planning (Scotland) Act (the 1997 Act) provide for the circumstances in which an existing fish farm is considered as development. At subsection (1)(a) these are that the marine fish farm is being operated after the "appropriate date" or, if before that date, the date when planning permission is granted or refused under section 31A, and at subsection (1)(b) that the operation involves the use of equipment which was placed or assembled in waters at a time when that action did not constitute development under the planning Acts i.e. before 1 April 2007.

Section 31A of the 1997 Act provides that planning permissions relating to such farms may be granted by Scottish Ministers. Section 31A(8) of the Town and Country Planning (Scotland) Act 1997, as amended, (the 1997 Act) provides Ministers with regulation making powers with regard to applications for planning permission under section 31A.

In order to come to a view on whether to grant planning permission for existing fish farm, Ministers are to set up a review/audit process. In order to facilitate this process, it is considered necessary applications for planning permission are required in certain circumstances.

The circumstances where such an application is required are set out in Regulation 2 as being where an authorisation was granted pursuant to an application made before 14 March 1999. The intention of this is to ensure that an application is required where the original

authorisation was considered subject to the Environmental Impact Assessment (Salmon Farming in Marine Waters) Regulations 1988.

However, where the finfish farm was subject to consideration under the Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999, we will not be looking for an application to Ministers as their authorisations are to be audited. Shellfish farms are to be treated in the same way as these finfish farms.

When an application to the Scottish Ministers for review has been submitted, Ministers are required to consult with the bodies set out in Regulation 4.

### **Consultation**

There has been extensive consultation on the extension of planning controls to marine fish farming. Following a full public consultation in 2004-5, there has been continued discussion with key stakeholders on the detail of the changes through a specially convened planning sub-group of the Highland and Islands Aquaculture Forum (HIAF).

### **Financial Effects**

The Regulations are likely to have negligible financial effects on planning authorities and the Scottish Executive. No Regulatory Impact Assessment has been prepared as the financial implications for business are also negligible.

Scottish Executive Development Department  
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