

EXECUTIVE NOTE

THE TOWN AND COUNTRY PLANNING (MARINE FISH FARMING) (SCOTLAND) AMENDMENT REGULATIONS 2011

S.S.I 2011/145

AND

THE TOWN AND COUNTRY PLANNING (MARINE FISH FARMS PERMITTED DEVELOPMENT) (SCOTLAND) ORDER 2011

S.S.I 2011/144

The above Regulations are to be made by Scottish Ministers in exercise of the powers conferred by section 31A(8) of the Town and Country Planning (Scotland) Act 1997, as inserted by section 4(2) of the Planning etc (Scotland) Act 2006 and all other powers enabling them to do so.

Policy Objective

Introduction

The purpose of these Regulations is to amend the Town and Country Planning (Marine Fish Farming) (Scotland) Regulations 2007 to extend the cases of marine fish farms in respect of which an application for planning permission under section 31A of the Town and Country Planning (Scotland) Act 1997, as amended, is to be made to Scottish Ministers.

Background

On 1 April 2007, responsibility for new marine fish farm developments and modifications to existing developments was transferred to planning authorities by the Town and Country Planning (Scotland) Act 1997, as amended. Prior to this, the responsibility for issuing consents for developments on the West coast of Scotland and the Western Isles rested with the Crown Estate, while responsibility for issuing licences for such developments in Orkney and Shetland rested with the respective Councils under local Acts. At the same time, Ministers concluded that they would determine whether planning permission should be granted to existing marine fin and shellfish farms.

Regulations and Order

Section 31A(8) of the Act enables Ministers to make regulations specifying those cases where an application for planning permission must be made. Ministers determined that applications should initially only be sought for older cases, namely finfish farms which had received (or applied for) consent from the Crown Estate or the relevant Council before 14th March 1999. These Regulations extend the scope to make applications to shellfish farms and to more recent finfish and shellfish farms. An application is only needed where planning permission is not granted by an Order made under section 31A.

An Order under section 31A (the Town and Country Planning (Marine Fish Farms Permitted Development) (Scotland) Order 2011) grants planning permission for the operation of certain classes of marine fish farms specified in the Order. These are active finfish or shellfish farms, ie they have been in active use at anytime from 1 January 2008 to the date of the coming into force of the Order. In order to ensure that fish farms in respect of which it is not intended that planning permission should be granted as they are currently inactive cannot take advantage of the Order it is necessary to bring the Order into force with almost immediate effect.

Consultation

In view of the purpose of these Regulations and Order, no consultation has been considered necessary. However, the main shell and fish farm representative bodies have been advised of the reason for the revised approach.

Financial Effect

The Regulations will have no financial effects on planning authorities or the Scottish Government. No Regulatory Impact Assessment has been prepared as there are no financial implications for business.

**Scottish Government, Marine Scotland
February 2011**