

EXECUTIVE NOTE

THE MARINE (SCOTLAND) ACT 2010 (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) ORDER 2011

SSI 2011/202

The above instrument will, if approved, be made by the Scottish Ministers in exercise of the powers conferred by section 164 of the Marine (Scotland) Act 2010 (“the 2010 Act”). This instrument is subject to affirmative resolution procedure.

Policy objectives

This instrument forms part of an implementation package in connection with the introduction of marine licensing under the 2010 Act and under the Marine and Coastal Access Act 2009.

This Order provides for certain consents and licenses under the Coast Protection Act 1949 (“CPA”) and under the Food and Environment Protection Act 1985 (“FEPA”) to be considered ‘deemed’ licences under the 2010 Act. This will ensure that CPA consents and FEPA licences which are in effect immediately before the commencement date for the new marine licence will continue in place as though they were licenses under the 2010 Act. Any application for a CPA consent or FEPA licence which is made before the commencement date but not processed before then will be treated as an application for a marine licence from that date. Fees will be charged at the rate applicable for FEPA licences.

Transitional provision is also made regarding representation made in respect of FEPA licences and applications; remedial action to be carried out in relation to FEPA licences; dredging operations which do not currently require FEPA or CPA licences or consents; and qualifying approvals under paragraph 11 of the Electronic Communications code set out in Schedule 2 to the Telecommunications Act 1984.

As well as making transitional arrangements this Order amends FEPA so that it will, after 6th April, apply only to relevant reserved matters (article 10); makes minor amendments of the Conservation (Natural Habitats, &c.) Regulations 1994 and the Urban Waste Water Treatment (Scotland) Regulations 1994 similar to changes being made to the equivalent instruments in the rest of the UK (articles 11 and 12); and revokes the Marine Minerals Dredging Regulations and a relevant amending instrument (article 13).

Consultation

A consultation on proposals for secondary legislation required to implement the new marine licensing regime provided for by the 2010 Act took place between 8 September and 1 December 2010. This Order has not been subject to specific consultation.

Business and regulatory impact assessment

A Business and Regulatory Impact Assessment has been completed on the policy of marine licensing, exemptions and appeals against licensing decisions and was subject to consultation along with the draft Order. The final assessment was published in January 2011 and is available at the following address - <http://www.scotland.gov.uk/Consultations/Current>

There are no equality impact issues.

Marine Scotland

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