

EXECUTIVE NOTE

THE MARINE LICENSING (FEES) (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/183

Introduction

The above instrument is made by the Scottish Ministers in exercise of powers conferred by sections 67(2) and (3)(b) and 316(1)(b) of the Marine and Coastal Access Act 2009 ('the 2009 Act') and under sections 25(1)(b) and (2) and 165(1)(b) of the Marine Scotland Act 2010 ('the 2010 Act')

The instrument is subject to negative resolution procedure.

Policy Objectives

The objective of these Regulations is to resolve an issue that has arisen in the period following the introduction and implementation of the marine licensing regime. Although the charges for applications for marine licences which were set then by the Marine Licensing (Fees) (Scotland) Regulations 2011 ('the principal Regulations') increased slightly on 1st April 2012 in line with the consumer prices index, in respect of applications for marine licences for offshore renewable energy projects they fall short of recovering costs which will be incurred by the Marine Licence Operations Team. The amendments will increase the fees for the greater value renewables projects (where any fee will be negligible against overall costs) while not unduly penalising applications for other, more marginal activities.

Regulation 7 of these Regulations provides that the application fees for these types of licence applications will also be subject to the inflation uplift which is provided under Regulation 6 of the principal Regulations on 1st April 2013. The fees for these types of licence applications will thereafter be increased on a yearly basis in line with the Consumer Price Index to meet the cost of providing the service, in the same way all other licence application fees are treated in the principal Regulations.

For greater value renewable projects (greater than £50,000) the increase in the fees reflects an increase in the rate by one-third, together with the application of the inflation uplift on that increased amount. For smaller value renewable projects (up to £50,000) the small increase in the fees reflects only the application of the April 2012 inflation uplift.

Consultation

The Scottish Government consulted on the proposals for fees to be set at a level that achieves cost recovery. The costs were based on proposed developments – some of which have withdrawn since consultation began. Figures given were based on approximately 10-15% dropout. The aim is to set fees at a level that, over time, broadly cover costs incurred by the Marine Scotland Licensing Operations Team (but not other bodies) in administering the licensing process. Responses to the consultation were published in the Consultation Report which contains a full list of those who responded and is available at the following address – <http://www.scotland.gov.uk/Consultations/Current>.

5 responses were received to this consultation – 4 formal responses were received from EDF Energy, Scottish Power Renewables, Scottish Renewables, Royal Town Planning Institute Scotland. Whilst there was broad support for these Regulations, it was clear that respondents want to ensure that the extra income would benefit Marine Licensing: in other words, the increased income should be used, as is intended, to protect the service offered by the Marine Scotland Licensing Operations Team in terms of efficiency, effectiveness etc.

In response to the consultation we will amend Regulations to increase fees for offshore renewable energy projects and move to levying fees in stages which will be introduced administratively.

Business and Regulatory Impact Assessment

A Business and Regulatory Impact Assessment has been completed on the policy of fees for marine licensing and was subject to consultation. The final assessment was published on the Scottish Government website <http://www.scotland.gov.uk/Consultations/Current>.

There are no equality impact issues.

Scottish Government
Directorate for Marine Scotland
30 May 2012