

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (SCOTLAND) AMENDMENT ORDER 2018

SSI 2018/142

1. This instrument was made by the Scottish Ministers in exercise of the powers conferred by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997. The instrument is subject to the negative resolution procedure.

Policy Objectives

2. Scottish Government is committed to the sustainable growth of aquaculture. Planning has a key role in delivering sustainable growth, which needs to be backed by an efficient and reputable planning system to make Scotland an attractive place to invest.

3. Permitted Development Rights (PDR) for the placing or assembly of certain equipment within the area of an existing fish farm allows minor modifications to be carried out to fish farm sites without the need to obtain formal planning consent. Scottish Government committed to review the operation of PDR for fin fish and shellfish developments following their introduction in 2012. This amending Order reflects the outcome of the review process.

4. PDRs for finfish and shellfish developments are not operating as expected and amendments are necessary to provide greater operational flexibility to fish and shellfish farm operators to replace and upgrade equipment in the marine environment.

5. Changes are being introduced to;

Remove requirement for prior notification, where possible, for like for like equipment changes;

Extend PDR further to shellfish developments for equality with finfish developments;
and

Introduce new PDR provisions to allow replacement and relocation of moorings, fin fish pen nets, shellfish trestles and the introduction of secondary pen net structures.

6. In addition to the above changes, this Order will introduce PDR for 'fallow fish farms' and define existing equipment. These changes will allow operators greater flexibility to rest fish farms and remove any ambiguity as to when PD rights cease to exist.

7. The Order also provides for prior notification where changes are not like for like. This will enable local authorities to assess whether prior approval is required and the ability to apply conditions to minimise impact of the changes on sensitive landscapes and other vulnerable environmental features. Prior approval may be refused at the discretion of the local authority and PD rights are automatically withdrawn where Environmental Impact Assessment is required.

Consultation

8. Pre - consultation took place with the former Ministerial Group for Sustainable Aquaculture (MGSA) Capacity Working Group (CWG) to inform policy development and proposals to take forward to public consultation. The Capacity Working Group includes the majority of stakeholders involved in the planning process including public bodies Scottish Natural Heritage, Marine Scotland and Scotland's Environment Protection Agency .

9. Consultation took place between May and July 2017 and responses were received from a wide array of interests, including fish farmers, trade bodies, local authorities, other marine users, individuals, environment and heritage interests. The consultation document may be viewed at <http://www.gov.scot/Publications/2017/05/8601>. The provisions of the Order were settled upon after considering and taking account of views expressed. The Government's formal response document, available at <http://www.gov.scot/Publications/2017/12/5131>.

Financial Implications and Impact Assessment

10. A Business and Regulatory Impact Assessment has been undertaken. The Order does not introduce any new costs or impose any new regulatory burdens. Businesses will benefit from substantial savings since the prior notification fee is a fixed £78 compared to the scale fee (based on size of the site) that would apply were formal planning applications still needed for the modifications. Local authorities should also benefit from a less burdensome process, particularly where prior notification requirements for like for like changes have been removed.

11. The Order does not give rise to any equality issues.

Scottish Government

Marine Scotland

April 2018