

PLANNING ETC. (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 3 – Development Management

Section 4 Marine fish farms

54. **Subsection (1)** introduces a new section 26AA into the 1997 Act.
55. **Section 26AA(1)** provides for the circumstances to which section 26(1) refer. 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.
56. **Section 26AA(2)** clarifies that the “appropriate date” for a fish farm with reference to section 26AA(1)(a) is whichever is the later of: a date prescribed by Scottish Ministers and a date on which any authorisation ceases to have effect. Such an authorisation relates to the operation of a fish farm and is in effect on the date of commencement of section 4 of this Act.
57. **Section 26AA(3)** provides definitions of “authorisation”, “equipment” and “marine fish farm” in sections 26AA and 31A of the 1997 Act.
58. **Subsection (2)** introduces a new section 31A into the 1997 Act.
59. **New section 31A(1)** applies only to planning permission for the operation of a fish farm which involves the use of such equipment as is referred to in section 26AA(1)(b) of the 1997 Act. Subsection (2) provides that planning permission is to be granted by the Scottish Ministers, and subsection (3) provides that permission granted under subsection (2) may be granted as respects a class of development.
60. Subsection (4) requires that any grant of planning permission as respects a class of development is to be by order, and that when granting any permission by order, the class of development to be granted is to be specified in the order. Subsection (5) provides that any permission granted under this section may be unconditional or subject to conditions or limitations. Subsection (6) provides that the conditions or limitations which may be imposed on any permission include those specified in the development consent or works licence in force at the time of imposition.
61. Subsection (7) provides that in coming to a decision on whether to grant such a permission, the principal matters to be considered by Ministers are the likely impact of the development on any European site as defined and the environment generally. Subsection (8) provides Ministers with regulation making powers with regard to applications for planning permission under section 31A.