

MARINE (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 5 – Marine Protection and Enhancement: the Scottish Marine Protection Area

The Scottish marine protection area

Section 65 - The Scottish marine protection area

100. *Section 65* defines the area which is to constitute the “Scottish marine protection area”.

Section 66 – “Sea” for the purposes of this Part

101. *Section 66* defines the “sea” as having the meaning given in section 2, except that it does not include any waters upstream of the fresh-water limit of estuarial waters.

Designation of marine protected areas

Section 67 - Marine protected areas

102. *Section 67* enables Scottish Ministers to designate a nature conservation, demonstration and research or historic marine protected area (an “MPA”) within the Scottish marine protection area. Section 67(2) clarifies that any island within the area of an MPA may form part of it.

Nature Conservation MPAs

Section 68 - Nature Conservation MPAs: additional requirements relating to designation

103. *Section 68* enables Scottish Ministers to designate by order a Nature Conservation MPA for the purposes of conserving marine flora or fauna, marine habitats and features of geological or geomorphological interest. For flora, fauna, marine habitats and types of habitat, this can include conserving the diversity of such flora or fauna or the habitats or types of such habitats, whether or not any or all of them are threatened.

104. *Section 68* also requires Scottish Ministers to prepare and publish guidance setting out scientific criteria to inform consideration of whether a Nature Conservation MPA should be designated, and to have regard to such guidance when exercising functions under section 67 (which provides for Scottish Ministers to designate MPAs).

105. The designation order is to state the protected feature(s) and conservation objectives for the site. Conserving marine flora or fauna includes in particular conserving any species that is rare or threatened because of the limited number of the species or the limited number of locations in which that species is present.

106. When designating a Nature Conservation MPA, Scottish Ministers must consider its contribution towards the development of a network of conservation sites as specified in section 79.
107. When considering designation of a Nature Conservation MPA, Scottish Ministers may have regard to the extent to which doing so will contribute to the mitigation of climate change. Likewise, when considering designation of a Nature Conservation MPA, they may have regard to any social and economic consequences of designation.
108. Additionally, in considering whether to designate a Nature Conservation MPA for the purposes of conserving or enhancing a marine habitat or feature of geological or geomorphological interest, Scottish Ministers may have regard to the degree to which the feature is representative of its type. Conserving a thing can include assisting in its conservation and enabling or facilitating its recovery or increase. Subsection (9) allows the Scottish Ministers, when considering whether to designate an area, to have particular regard to any views expressed by any person to whom marine planning functions for the relevant region have been delegated.

Section 69 - Nature Conservation MPAs: further provision

109. **Section 69** makes further provisions concerning the establishment of Nature Conservation MPAs. A designation order must identify the area's boundaries and may provide for the boundary to be determined by, or by reference to, mean high water spring tide. A Nature Conservation MPA may include, in addition to an area of sea referred to in section 67(1), an area of seashore lying above mean high water spring tide if the area of seashore adjoins the area of sea and at least any one the following conditions are satisfied: (a) the protected feature(s) is or are present in the area of seashore; (b) the area of sea is designated for the purpose of conserving marine flora or fauna which are wholly or part dependent on anything which takes place in, or is present in, the area of seashore; (c) without inclusion of the area of seashore, the identification of the boundary of the MPA (either in order to designate or manage it) would be impossible or impracticable.

Section 70 - Nature Conservation MPAs: assessment of achievement of stated objectives

110. This section requires that Scottish Ministers must assess from time to time the extent to which in their opinion the stated conservation objectives of any Nature Conservation MPA have been achieved. This section cross-refers to section 103, which deals with laying reports about MPAs before Parliament.

Demonstration and Research MPAs

Section 71 - Demonstration and Research MPAs: additional requirements relating to designation

111. **Section 71** enables Scottish Ministers to designate by order a Demonstration and Research MPA. Scottish Ministers may do this for the purpose of demonstrating sustainable methods of marine management or exploitation or carrying out research into such matters. A relevant designating order must state whether it is for the purpose of demonstration or research or both, and the method or methods of marine management or exploitation to be demonstrated or researched. Subsection (3)(a) allows the Scottish Ministers, when considering whether to designate an area, to have particular regard to any views expressed by any person to whom marine planning functions for the relevant region have been delegated.

Section 72 - Demonstration and Research MPAs: further provision

112. **Section 72** makes further provision for the establishment of Demonstration and Research MPAs. A designation order must identify the area's boundaries and may

provide for the boundary to be determined by, or by reference to, mean high water spring tide. A Demonstration and Research MPA may include, in addition to an area of sea referred to in section 67(1), an area of seashore lying above mean high water spring tide if the area of seashore adjoins the area of sea and the inclusion of the area of seashore is necessary to further or support the purpose for which the area is designated.

Historic MPAs

Section 73 - Historic MPAs: additional requirements etc.

113. **Section 73** makes further provision relating to the designation of Historic MPAs. Subsection (1) enables Scottish Ministers to designate a Historic MPA for the purposes of preserving a marine historic asset of national importance located, or which the Scottish Ministers are satisfied may be located, in the area. The designation order is to define the asset(s) to be protected, the preservation objectives and the boundaries of the area, including such area of seabed comprising or adjacent to the marine historic asset(s) necessary for the preservation of the marine historic asset(s). Section 73(5) sets out what a “marine historic asset” is for the purposes of Part 5.

Amendment or revocation of designation orders

Section 74 - Amendment or revocation of designation orders

114. **Section 74** provides that a designation order may be amended or revoked by a further such order.

Consultation, urgent designation, representations etc.

Section 75 - Publicity and consultation etc. before designation

115. **Section 75** requires Scottish Ministers, before making a designation order, to publish notice of their proposal to do so. This must be published in such a manner as the Scottish Ministers consider most likely to bring the proposal to the attention of any persons likely to be affected by the making of the order, they must contain a statement of the terms of the proposed order, and they must indicate where a plan or chart identifying the area’s boundaries can be obtained or inspected.
116. The Scottish Ministers are also required to consult any persons they consider are likely to be interested in or affected by the making of the order - these include in particular any local authority whose area is adjacent to the boundaries of the area proposed to be designated, and also persons specified in section 27(4)(a).

Section 76 - Publicity in relation to designation orders

117. **Section 76** requires that if Scottish Ministers seek to designate, amend or revoke an MPA they must publish notice of the order. They must do this in the way most likely to bring the order to the attention of persons likely to be interested in or affected by the order. They must provide an address at which the order may be inspected, ensure that it is available for inspection at this address at all reasonable hours, and provide a copy on request to any person. A fee may be charged for providing a copy on request.

Section 77 - Urgent designation

118. **Section 77** provides that, where there is an urgent need to protect a marine area, Scottish Ministers may make a designation order without being required to publish notice of their proposals or to consult. Such an order can remain in place for up to 2 years. But if an order specifies a period in excess of 6 months this order must be reviewed by the Scottish Ministers after 6 months has elapsed to assess whether it is still required.

119. Even in the case of urgently designated MPAs, Scottish Ministers will still be bound under section 76 to adequately publicise the designation order once made.
120. Upon expiration of the urgent order, Ministers may not re-designate the area, or any part of it, without publishing notice of their proposals under section 75(1)(a) and consulting under section 75(1)(b).

Section 78 - Representations and hearing in relation to proposed designation order

121. **Section 78** provides that Scottish Ministers may, before deciding whether to make a designation order, give any person the opportunity to make oral or written representations. This section also gives Scottish Ministers the power to make regulations providing for the procedure to be followed at any hearing held under this section. It should be noted that section 77 confers discretionary powers on Scottish Ministers. Formal consultation duties on Ministers for non-urgent MPAs are set down in section 75.

Duties relating to network

Section 79 – Creation of network of conservation sites

122. **Section 79** states that Scottish Ministers have an obligation to designate Nature Conservation MPAs under section 67 in order to contribute to the objective specified in section 79(2). The objective is that any areas designated as MPAs, taken together with other marine conservation zones and relevant conservation sites in the UK marine area, form a network which satisfies certain conditions which are specified in subsection (3).
123. Those conditions are that the network contributes to the conservation or improvement of the marine environment in the UK marine area, that the features which are protected by the sites comprised in the network represent the range of features present in the UK marine area, and that the designation of sites comprised in the network reflects the fact that the conservation of features may require the designation of more than one site.
124. “Relevant conservation sites” are any European marine site, any European offshore marine site, the whole or part of any site of special scientific interest and the whole or part of any Ramsar site.
125. When complying with this duty to designate sites to contribute to a network, Scottish Ministers must have regard to any obligations under EU and international law that relate to the conservation or improvement of the marine environment.
126. **Section 79** also requires the Scottish Ministers to prepare a statement outlining the principles relating to the achievement of a network, which the Scottish Ministers intend to follow. The document must be laid before Parliament within the period ending 2 months after the section comes into force. The statement may also set out other relevant matters that the Scottish Ministers plan on taking into account when designating Nature Conservation MPAs, which are not part of the conditions of improving and conserving the marine environment. This statement must be kept under review and if necessary amended and laid before the Parliament.

Advice etc. as regards protection of certain marine areas

Section 80 - Advice etc. by Scottish Natural Heritage as regards Nature Conservation MPAs and Demonstration and Research MPAs

127. **Section 80** provides that Scottish Natural Heritage (SNH) may issue advice and guidance to public authorities on certain matters relating to MPAs. For example, advice may be provided on matters which are capable of damaging protected features. Such guidance may relate to a single MPA, categories of MPAs or all MPAs, and may be

given to a particular authority or authorities in general. This section also requires that SNH must give advice to a public authority if the authority requests it.

Section 81 - Advice and guidance by the Scottish Ministers as regards MPAs

128. **Section 81** provides that Scottish Ministers may also give advice and guidance on those areas for which SNH may provide guidance under section 80. In addition, Scottish Ministers may provide guidance relating to the matters which are capable of damaging or otherwise affecting any marine historic asset in a Historic MPA and how any stated objectives for a Historic MPA may be best furthered, or how the achievement of any such objectives may be hindered. Scottish Ministers may provide advice in relation to a particular Nature Conservation, Demonstration and Research or Historic MPA, as well as in relation to categories of MPA or indeed all MPAs.

General duties of public authorities

Section 82 - Duties of public authorities in relation to marine protected areas etc.

129. **Section 82** requires public authorities to exercise their functions (so far as is consistent with the proper exercise of these functions) in a manner which best furthers or least hinders the stated objectives or purposes of individual MPAs. The public authority must also exercise those functions in the manner best calculated to further the contribution of a Nature Conservation MPA to a network of conservation sites as specified in section 79.
130. Where a public authority believes that any of its functions is such that the exercise of the function would or might significantly hinder the achievement of the relevant objectives or purpose of the MPA, it must inform Scottish Ministers and (if appropriate) SNH of that fact.
131. If a public authority intends to do an act and it believes there is or may be a significant risk of the act hindering the achievement of the objectives or purpose in subsection (2) (a) (furthering the stated objectives or purpose of an MPA), it must notify Scottish Ministers and if appropriate SNH. The authority must wait 28 days from notifying Scottish Ministers or SNH before deciding whether to act or not, unless the Scottish Ministers have stated they need not wait or if the authority deems that there is an urgent need to act. Authorities need not notify Scottish Ministers or SNH in such instances if guidance has already been provided by the Scottish Ministers or SNH, and that the guidance has not ceased to apply. This section also requires that if an authority considers there has been an act or omission in relation to the exercise of its duties which is an offence and which it believes will or may significantly hinder the achievement of the objective or purpose of an MPA, it must inform Scottish Ministers and (if appropriate) SNH. In carrying out its duties under this section a public authority must have regard to any advice given by SNH or Scottish Ministers under sections 80 and 81.
132. Where a public authority has any function, the exercise of which is capable of significantly affecting any protected feature of a Nature conservation MPA, it must (so far as is consistent with the proper exercise of its functions), exercise its functions in the way best calculated by it to further the contribution of the Nature Conservation MPA in question to a network of conservation sites. The network of conservation sites refers to the network referred to in section 79(2).

Section 83 - Duties of public authorities in relation to certain decisions

133. **Section 83** applies to public authorities where they have the function of determining applications for any act, where that act is capable of affecting an MPA (other than insignificantly) or natural processes upon which it is dependent. Where the public authority believes that there is a significant risk of the act hindering the objectives or purpose of an MPA, it must notify Scottish Ministers and SNH. The public authority must then wait for 28 days before deciding whether to grant authorisation unless

Scottish Ministers notify the authority that it need not wait until the end of the period or the authority thinks there is an urgent need to grant authorisation for the act. The authority must not grant authorisation for the act unless the applicant satisfies the authority that there is no significant risk of the act hindering the achievement of the objective or stated purpose of the MPA. Alternatively, the applicant can satisfy the authority that there is no other means of proceeding which would substantially lower risk of hindering the MPA objectives or purposes and that the benefit to the public clearly outweighs the risk of damage to the environment that will be created by the act. Where the applicant is not able to satisfy the authority that there is not a significant risk of the act hindering the achievement of the stated objectives for a MPA, if the authorising authority has the power to grant authorisation subject to conditions it must exercise its power so as to require the applicant to satisfy the authority and Scottish Ministers that it will undertake measures of equivalent environmental benefit to the damage which the act will or is likely to have in or on the MPA concerned. The authority must notify the Scottish Ministers that it proposes to grant the authorisation and of the conditions subject to which it proposes to grant it, and must wait 28 days before granting the authorisation, unless Scottish Ministers notify the authority that it need not wait until the expiry of the 28 day period. In the case where the person applying for the authorisation is not able to satisfy the authority that there is no significant risk of the act hindering the achievement of the stated preservation objectives of a Historic MPA, if the authorising authority has the power to grant authorisation subject to conditions it must exercise its power so as to make it a condition of the authorisation that before the act in question is commenced, a detailed archaeological investigation of the area is carried out. In carrying out its duties under this section a public authority must have regard to any advice given by SNH or Scottish Ministers under sections 80 and 81.

Section 84 - Failure to comply with duties

134. **Section 84** provides powers for SNH, where it believes that a public authority has failed to follow the advice of SNH or to comply with its duties in relation to MPAs, to require the authority to supply an explanation in writing for the failure. SNH must send a copy of the request to Scottish Ministers. On receiving a request under this section the public authority must provide SNH with an explanation and send a copy to the Scottish Ministers. Where Scottish Ministers believe that a public authority has failed to act in accordance with advice or guidance issued by them under section 81, they may also request an explanation in writing from the authority and the authority must provide it. Where in relation to a Historic MPA Scottish Ministers believe a public authority has failed to comply with any of its duties relating to MPAs in the exercise of its functions, they may seek an explanation from the authority in writing and the authority must provide it.

Marine conservation orders

Section 85 - Marine conservation orders

135. **Section 85** enables Scottish Ministers to make marine conservation orders (MCOs) for the purpose of regulating activities so as to further the objectives or stated purposes of MPAs. Where the MPA overlaps with or adjoins a European marine site, the order can have effect on that site as well. Section 85(4)(a) provides that an MCO may disapply the defence found in section 97(1)(b) (which relates to the carrying out of public functions or authorisations from public authorities). Section 85(4)(c) provides for flexibility to apply orders in different ways to different parts of an MPA, and to different methods of carrying out an activity. This will enable orders to be focused on controlling particularly damaging methods, while avoiding capturing activities which pose less of a risk.

Section 86 - Example provisions for marine conservation orders

136. **Section 86** gives example provisions which MCOs can make in order to further the objectives or stated purposes of MPAs. Subsection (1) sets out examples of activities

which can be prohibited, restricted or regulated within the area through the making of a conservation order. Section 86(2) provides an example whereby an MCO can be used to regulate the speed of vessels outside the area of the MPA where that movement may adversely affect the objectives or purposes of the MPA. The activities set out are primarily activities which are not controlled by other means (e.g. the new licensing regime). The activities set out in the example provisions may, if unregulated, threaten biodiversity and in certain circumstances marine historic assets. However, the extent of threat can vary on a site by site basis depending on a variety of factors. The powers in these subsections are therefore drafted relatively widely to allow the Scottish Ministers to control any of the activities they may need to, based on an analysis of the threat posed in each instance.

Section 87 - Procedure for marine conservation orders

137. **Section 87** sets out the procedure that the Scottish Ministers must follow when making a marine conservation order. This includes sending out a draft copy of the order to any persons Scottish Ministers believe are likely to be affected by or interested in the making of the order, placing the order in a place where they consider it to be most convenient for inspection by most persons affected by the order and providing a copy to any person who requests one (a fee not exceeding incurred expenses may be charged in this case by Ministers). Where the order would apply to an area any part of which is land, Ministers must also provide a copy of the draft to the planning authority in whose district the land is situated. Here, “planning authority” and “district authority” have the same meaning as in section 1(1) of the Town and Country Planning (Scotland) Act 1997.
138. Scottish Ministers are also required to publish notice of their proposal to make an order. The notice must be published in such a manner as the Scottish Ministers consider most likely to bring the proposal to the attention of any persons who are likely to be affected by the making of it, it must state where the copy or copies of the draft order have been placed by the Scottish Ministers and state the time within which representations about the draft order must be made to the Scottish Ministers. In placing copies of the notice, they must be placed in a place or places where Scottish Ministers consider them most likely or most convenient for the purpose of inspection by persons most likely to be affected by the making of the order.

Section 88 - Urgent orders

139. Where the Scottish Ministers consider there is an urgent need to protect an area (i.e. where delay in making an order could result in harm to the features, the marine historic asset, or the stated purpose of the area), section 88 allows the Scottish Ministers to follow an expedited process, without the need to publicise in advance that the order is to be made. The order will still be made as a statutory instrument and it will be a requirement on Scottish Ministers to publish notice of an MCO once it has been made. Section 88 provides for urgent marine conservation orders to remain in force for a limited period which may not exceed 12 months except if extended under subsection (6) for an additional 12 months maximum duration. An urgent continuation order under subsection (6) can be made only if Scottish Ministers intend to make a permanent marine conservation order in respect of the site to which the urgent MCO applies and they have published their proposals to make such an order.

Section 89 - Publicity in relation to marine conservation orders and urgent continuation orders

140. **Section 89** lays out the duties on Scottish Ministers to adequately publicise marine conservation orders, orders amending or revoking MCOs and urgent continuation orders. Ministers should send a copy to any persons they consider likely to be interested in or affected by the order, and make a copy of the order available for inspection at one of their offices at all reasonable hours. Ministers must provide a copy of the order to anyone who requests one but in doing so may charge a fee (not exceeding expenses).

Section 90 - Representations and hearings in relation to proposed marine conservation orders etc.

141. **Section 90** makes provision for Scottish Ministers to give any person the opportunity to make written or oral representations before an MCO is put in place and to make regulations providing for the procedure to be followed.

Section 91 - Duty to assess impact of prohibition or restriction

142. **Section 91** applies where an activity is restricted or prohibited under an MCO. Where the MCO is for the purpose of furthering the objectives of a Nature Conservation MPA or a stated purpose of a Demonstration and Research MPA, or for protecting a European marine site, Ministers must assess various things.
143. Ministers must assess the impact or potential impact of the restriction or prohibition within the area protected by the MCO, and where the restriction or prohibition will cause displacement activity to another part of the Scottish marine area, the impact or potential impact of that displacement.
144. The assessment must include an assessment of the extent to which the restriction or prohibition of the activity has had and may have an impact on economic interests, social interests, the environment within the protected area, and the environment elsewhere in the Scottish marine area as a result of the activity being displaced.
145. Where following an assessment the Scottish Ministers identify an adverse impact, they must take such steps as they consider are reasonable to minimise the impact as far as is practicable.
146. **Section 91** does not apply to urgent MCOs made under section 88.

Authorisation of things prohibited, regulated etc. by marine conservation orders

Section 92 - Authorisation of things prohibited, regulated etc. by a marine conservation order

147. **Section 92** sets out mechanisms for authorisation of things prohibited, regulated etc. by a marine conservation order. Under section 92(1), Scottish Ministers may issue a permit and under section 92(2) they may attach any condition to the permit that they consider appropriate. In the case of Historic MPAs, section 92(3) allows for an MCO applying to a Historic MPA to provide that the Scottish Ministers can authorise by direction the carrying out of certain activities or operations that would otherwise be unlawful and to attach any conditions they consider appropriate.

Section 93 - Delegation of issuing permits or authorisations

148. **Section 93** allows for an MCO to provide that Scottish Ministers can delegate the issuing of permits or authorisations to third parties. By way of illustration, this would allow charter boat operators or community associations authorised by Scottish Ministers to themselves authorise visitor access to Historic MPAs providing that certain conditions had been met, thereby avoiding the need for each visitor to obtain individual authorisation from the Scottish Ministers.

Offences

Section 94 - Offences: contravening a marine conservation order

149. **Section 94** provides for the offence of contravening an MCO. A person who contravenes an MCO is liable to a fine not exceeding £50,000 on summary conviction or on conviction on indictment to a fine. In determining the amount of fine to be imposed on a person convicted of an offence, the court must in particular have regard to any financial

benefit which has accrued or appears likely to accrue to the person in consequence of the offence. In this section, the term “contravene” includes failing to comply.

Section 95 - Offences relating to protected features of a Nature Conservation MPA

150. **Section 95** provides for an offence of doing a prohibited act relating to protected features of a Nature Conservation MPA. “Prohibited” acts include intentionally or recklessly killing or injuring any animal in the MPA which is a protected feature of the MPA; picking, collecting, cutting, uprooting or destroying any plant in the MPA which is a protected feature of the site; taking anything from the MPA which is or forms part of the protected feature(s) of the MPA; and damaging or destroying any habitat or feature which is a protected feature of the MPA. However, doing one of these acts is only an offence where the act significantly hinders, or may significantly hinder, the achievement of the stated conservation objectives of the MPA.

Section 96 - Offences relating to marine historic assets

151. **Section 96** deals with an offence relating to prohibited acts in connection with a Historic MPA. It is an offence intentionally or recklessly to do a prohibited act which significantly hinders (or which may significantly hinder) the stated preservation objectives for the protected area. A prohibited act includes works or activities which (or which are likely to) damage or interfere with a marine historic asset or have a significant impact on the protected area. It is also a prohibited act to remove, alter or disturb a marine historic asset within a Historic MPA.

Section 97 - Exception to offences under section 94, 95 or 96

152. **Section 97** sets out exceptions to certain offences. Section 97(1) provides that a person is not guilty of the offence if the act was an exercise of the functions of a public authority in accordance with section 82(2), authorised by a public authority (but see note on section 85 which deals with disapplication of this defence), or in accordance with a permit or authorisation issued by the Scottish Ministers under section 92(1) or (3). Section 97(1)(d) provides additional exceptions relating to the national interest. Section 97(2) provides a defence if the person can show that the act was done for the purpose of sea-fishing (or was an act done in connection with such an act) and the damage could not have reasonably been avoided. However, Scottish Ministers may by order (which requires Parliamentary approval by affirmative resolution) vary or remove the defence in section 97(2).

Section 98 - Prohibited act taken in an emergency

153. **Section 98** sets out defences to certain offences. There are defences for where the act was necessary to save a life or to secure the safety of a vessel, aircraft or marine structure, and the person took steps within a reasonable time to inform the Scottish Ministers of the matters set out in subsection (2).

Marine management schemes

Section 99 - Marine management schemes

154. **Section 99** makes explicit provision for relevant authorities (either individually or acting together with another authority or authorities) to establish one or more management schemes for Nature Conservation and Demonstration and Research MPAs and any European marine site situated in the Scottish marine area which is included in whole or in part in, or includes in whole or in part, or adjoins, a Nature Conservation or Demonstration and Research MPA. The purpose of management schemes is to further the conservation objectives or stated purpose of an MPA or the protection of a European marine site to which a management scheme applies. Under the scheme, the relevant authority’s functions are exercised to that effect. Management schemes may

be time limited and amended from time to time. “Relevant authority” here means any public body exercising functions in the Scottish marine protection area or the Scottish Ministers.

Section 100 - Review of schemes

155. **Section 100** requires any established management scheme to be reviewed five years after it is established and at intervals of five years after that.

Section 101 - Marine management schemes: consultation etc.

156. **Section 101** requires that Scottish Natural Heritage is consulted over the making or amending of schemes. Scottish Ministers and Scottish Natural Heritage must be informed of any amendments to a scheme.

Section 102 - Directions as to making, amending or revocation of schemes

157. **Section 102** enables Scottish Ministers to give directions to relevant authorities as to the making of management schemes.
158. A direction may in particular require one or more schemes to be made, require conservation or other measures specified in the direction to be included in a scheme, where a scheme is to be made by more than one relevant authority acting together, appoint one such authority to co-ordinate the making of it, set time limits within which any steps in relation to the making of the scheme are to be taken, require the approval of the Scottish Ministers before a scheme is made and require any relevant authority to give Scottish Ministers such information relating to the making of a scheme as may be specified in the direction.
159. Scottish Ministers may also give directions (whether general or specific) to an authority or authorities as to the amendment of a marine management scheme, and they may revoke a marine management scheme by a direction given to the relevant authority or authorities. Any direction given under section 102 must be in writing.
160. Relevant authorities must comply with directions from Ministers to establish or amend marine management schemes.

Reports to Parliament

Section 103 - Reports to Parliament

161. **Section 103** imposes duties on Scottish Ministers to lay before Parliament, prior to the end of the relevant period, a report setting out certain information relating to MPAs. The relevant period is the period beginning on the date in which this section comes into force and ending on 31 December 2012, and each subsequent period of 6 years.
162. This report is to include information about Nature Conservation MPAs, Demonstration and Research MPAs, and Historic MPAs. It will include reporting on the overall number of all of these MPA types and particular details relating specifically to these MPA types.
163. With particular regard to Nature Conservation MPAs, the report must include information on the extent to which their designation, taken together with UK Marine Conservation Zones and any European inshore or offshore marine sites, form a network of sites that contributes to the conservation or improvement of the marine environment and satisfies the other conditions in section 79(3).
164. The report to Parliament is also to include information about marine conservation orders and managements schemes, and include information on amendments to either of these.

Licences granted under Wildlife and Countryside Act 1981

Section 104 - Grant of certain licences under Wildlife and Countryside Act 1981

165. **Section 104** amends the Wildlife and Countryside Act 1981 so that Scottish Ministers will have responsibility for those marine wildlife licensing functions currently exercised by SNH. However, where appropriate Scottish Ministers will be able to delegate those functions to SNH.

Penalties in regulations implementing Habitats Directive

Section 105 - Penalties in regulations implementing the Habitats Directive for the Scottish marine area

166. **Section 105** provides for the possibility of increased penalties for offences in the Scottish marine area relating to the Habitats Directive. Regulations implementing that Directive will be able to include penalties of a fine up to £50,000 on summary conviction and an unlimited fine on conviction on indictment.

Interpretation of Part 5

Section 106 - Interpretation of Part 5

167. **Section 106** sets out how certain terms used in Part 5 are to be interpreted.