



Marine (Scotland) Act 2010

2010 asp 5

PART 3

MARINE PLANNING

Validity of marine plans

17 Validity of national marine plans and regional marine plans

- (1) A relevant document must not be questioned in any legal proceedings, except in so far as is provided by this section.
- (2) A person aggrieved by a relevant document may make an application to the Court of Session on any of the following grounds—
 - (a) that the document is not within the appropriate powers,
 - (b) that a procedural requirement has not been complied with.
- (3) Any such application must be made not later than 6 weeks after the publication of the relevant document.
- (4) In this section and section 18—
 - (a) “the appropriate powers” means in the case of a national marine plan, a regional marine plan or an amendment of any such plan, the powers conferred on the Scottish Ministers by sections 5 to 12,
 - (b) “procedural requirement” means any requirement—
 - (i) under the appropriate powers, or
 - (ii) in directions under section 12 or 14,which relates to the preparation, adoption or publication of a relevant document,
 - (c) “relevant document” means—
 - (i) a national marine plan,
 - (ii) an amendment of a national marine plan,
 - (iii) a regional marine plan,
 - (iv) an amendment of a regional marine plan.

18 Powers of the Court of Session on an application under section 17

- (1) This section applies in any case where an application is made to the Court of Session (“the Court”) under section 17.
- (2) The Court may make an interim order suspending the operation of the relevant document—
 - (a) wholly or in part,
 - (b) generally or as it affects a particular area,and an interim order has effect until the proceedings are finally determined.
- (3) Subsection (4) applies if the Court is satisfied as to any of the following—
 - (a) that a relevant document is to any extent outside the appropriate powers,
 - (b) that the interests of the applicant have been substantially prejudiced by failure to comply with a procedural requirement.
- (4) The Court may—
 - (a) quash the relevant document,
 - (b) remit the relevant document to the Scottish Ministers.
- (5) If the Court remits the relevant document under subsection (4)(b), it may give directions as to the action to be taken in relation to the relevant document.
- (6) Directions under subsection (5) may in particular—
 - (a) require the relevant document to be treated (generally or for specified purposes) as not having been adopted or published,
 - (b) require specified steps in the process that has resulted in the adoption of the relevant document to be treated (generally or for specified purposes) as having been taken or not having been taken,
 - (c) require action to be taken by the Scottish Ministers.
- (7) The powers of the Court under subsections (4) and (5) are exercisable in relation to the whole or any part of the relevant document.