



# Marine (Scotland) Act 2010

## 2010 asp 5

### PART 6

#### CONSERVATION OF SEALS

##### *Seal licences*

#### **110 Seal licences**

- (1) The Scottish Ministers may grant a licence (a “seal licence”) authorising the killing or taking of seals—
  - (a) for scientific, research or educational purposes,
  - (b) to conserve natural habitats,
  - (c) to conserve seals or other wild animals (including wild birds) or wild plants,
  - (d) in connection with the introduction of seals, other wild animals (including wild birds) or wild plants to particular areas,
  - (e) to protect a zoological or botanical collection,
  - (f) to protect the health and welfare of farmed fish,
  - (g) to prevent serious damage to fisheries or fish farms,
  - (h) to prevent the spread of disease among seals or other animals (including birds) or plants,
  - (i) to preserve public health or public safety, or
  - (j) for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.
- (2) Before granting a seal licence under subsection (1)(g), the Scottish Ministers must have regard to any information they have about—
  - (a) damage which seals have already done to the fishery or fish farm concerned or to any other fishery or fish farm which is in the vicinity of, or which is of a similar type to, the fishery or fish farm concerned, and
  - (b) the effectiveness of non-lethal alternative methods of preventing seal damage to the fishery or fish farm concerned or to any other fishery or fish farm which is in the vicinity of, or which is of a similar type to, the fishery or fish farm concerned.

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- (3) The Scottish Ministers may require an applicant for a seal licence under subsection (1) (g) to provide them with such information about the matters mentioned in paragraphs (a) or (b) of subsection (2) as they reasonably require for the purposes of assisting them to decide whether to grant the seal licence.

#### **111 Methods of killing or taking seals under seal licence**

- (1) A seal licence must specify the method which the licensee must use to kill or take seals.
- (2) The Scottish Ministers must not grant a seal licence authorising a person to kill seals by shooting unless they are satisfied that the person has adequate skills and experience in using firearms.
- (3) A seal licence must not authorise a person to do anything which would contravene regulation 41 of the Conservation (Natural Habitats, &c.) Regulations.  
This subsection does not restrict the things for which a licence may be granted under regulation 44 of those Regulations.

#### **112 Seal licence conditions**

- (1) A seal licence must impose conditions—
- (a) specifying the maximum number of seals which may be killed or taken, and
  - (b) specifying steps which must be taken in relation to any seal injured when attempting to kill or take it in accordance with the seal licence in order to reduce the risk of it suffering unnecessarily.
- (2) A seal licence which authorises the killing of seals by shooting must impose conditions—
- (a) specifying the type of firearm which must be used,
  - (b) specifying the weather conditions in which a person may attempt to shoot a seal,
  - (c) specifying how close a person must be to a seal before attempting to shoot it,
  - (d) prohibiting a person from attempting to shoot a seal from an unstable platform, and
  - (e) about the recovery of carcasses.
- (3) A seal licence may impose other conditions.
- (4) Conditions may, for example, specify—
- (a) the area in which seals may be killed or taken,
  - (b) the species of seal which may be killed or taken,
  - (c) the circumstances in which seals may be killed or taken,
  - (d) any period during which seals may not be killed or taken, for example, when females of the species of seal for which the licence has been issued are likely to be in an advanced stage of pregnancy or have dependent pups.
- (5) Failure to comply with a condition imposed is an offence.
- (6) In any proceedings for such an offence, it is a defence for the person charged to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

### **113 Seal licence reports**

- (1) A person to whom a seal licence is granted must send a seal licence report to the Scottish Ministers within 10 days of the end of each reporting period.
- (2) A seal licence report is a report which—
  - (a) states how many seals have, during the reporting period concerned, been—
    - (i) killed in accordance with the seal licence,
    - (ii) taken in accordance with the seal licence,
    - (iii) killed when attempting to take them in accordance with the seal licence,
    - (iv) injured when attempting to kill or take them in accordance with the seal licence, or
  - (b) where no seals have been so killed, taken or injured during the reporting period concerned, states that fact.
- (3) A reporting period is—
  - (a) in the case of a seal licence which has effect for 3 months or longer—
    - (i) each period of 3 months following the granting of the seal licence, and
    - (ii) any shorter period beginning at the end of such a 3 month period and ending when the seal licence is revoked or otherwise ceases to have effect,
  - (b) in the case of a seal licence which has effect for fewer than 3 months, the period for which the seal licence has effect.
- (4) Failure, without reasonable excuse, to send a seal licence report in accordance with subsection (1) is an offence.

### **114 Variation or revocation of seal licence**

A seal licence may be varied or revoked at any time.

### **115 Seal licence fees**

- (1) The Scottish Ministers may require an application for a seal licence or a variation of a seal licence to be accompanied by such fee as may be determined by, or in accordance with, regulations made by them.
- (2) Regulations may provide for different fees for different descriptions of applications.

### **116 Consultation and consent**

- (1) The Scottish Ministers must consult the Natural Environment Research Council before granting or varying a seal licence.
- (2) The Scottish Ministers must obtain the consent of Scottish Natural Heritage before granting or varying a seal licence authorising the killing or taking of seals in a protected area for a purpose mentioned in any of paragraphs (b) to (e) of section 110(1).

“protected area” means—

  - (a) a Nature Conservation MPA,
  - (b) a Demonstration and Research MPA,
  - (c) a Historic MPA,

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- (d) a site of special scientific interest,
- (e) an area in respect of which a nature conservation order or land management order made under Part 2 of the [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#) has effect,
- (f) a nature reserve (within the meaning of Part 3 of the National Parks and Access to the Countryside Act 1949 (c.97)), or
- (g) a European site (within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations).