



Marine (Scotland) Act 2010

2010 asp 5

PART 8

SEA FISHERIES

158 Extension of modifications relating to Sea Fish (Conservation) Act 1967

- (1) The modifications to the Sea Fish (Conservation) Act 1967 (c.84) made by Chapter 1 of Part 7 of, and Schedules 15 and 22 to, the 2009 Act, except those mentioned in subsection (2), extend to Scotland.
- (2) The modifications made by sections 194(4) and (5), 196 and 198(3) of, and paragraph 1(4) of Schedule 15 to, the 2009 Act do not extend to Scotland.

159 Modification of section 22A of Sea Fish (Conservation) Act 1967

- (1) Section 22A (application to Scotland) of the Sea Fish (Conservation) Act 1967 is modified as follows.
- (2) In subsection (2) after “sections” insert “1(3B) and (9), 5(8).”.
- (3) After subsection (2) insert—

“(2A) In section 1—

- (a) for subsections (3) and (3A) substitute—

“(3B) Sea fish of any description which do not meet the requirements as to size prescribed in relation to sea fish of that description by an order of the Scottish Ministers must not be carried, whether within or outside the Scottish zone, on a Scottish fishing boat; and an order under this subsection may prohibit the carrying by a relevant British fishing boat or a foreign vessel in the Scottish zone of sea fish of any description prescribed by the order which do not meet the requirements as to size so prescribed in relation to sea fish of that description.”.

- (b) in subsection (8) for “(3)” substitute “(3B)”,
- (c) for subsection (9) substitute—

Status: This is the original version (as it was originally enacted).

“(9) In this section—

“foreign vessel” means any vessel other than a relevant British fishing boat or a Scottish fishing boat,

“relevant British fishing boat” means a vessel, other than a Scottish fishing boat, which—

- (a) is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 (c.21), or
- (b) is owned wholly by persons qualified to own British ships for the purposes of that Part of that Act.”.

(2B) In section 3—

- (a) in subsection (2A) for “adjacent to England and Wales” substitute “of the United Kingdom adjacent to Scotland”,
- (b) for subsection (2B) substitute—

“(2B) In subsection (2A) above—

- (a) the Scottish Ministers are “the appropriate national authority”,
- (b) the boundaries between the parts of the territorial sea of the United Kingdom adjacent to Scotland and the parts not so adjacent are to be determined by reference to an Order in Council made under section 126(2) of the Scotland Act 1998 (c.46) to the extent that the Order in Council is expressed to apply for the purposes of that Act.”.

(4) For subsection (6) substitute—

“(6) In section 5—

- (a) in subsection (1), for “appropriate national authority” substitute “Scottish Ministers”,
- (b) for subsection (8) substitute—

“(8) An order under this section may make provision—

- (a) applying to Scottish fishing boats whether within or outside the Scottish zone,
- (b) in any other case, applying to fishing boats within the Scottish zone.”.

(5) After subsection (9) insert—

“(9A) In section 11(1)(a), for “4(3), (6) or (9A)” substitute “4(3) or (6)”.

160 Modifications relating to Sea Fisheries (Shellfish) Act 1967: orders as to fisheries for shellfish

- (1) In section 1 of the Sea Fisheries (Shellfish) Act 1967 (c.83) (“the 1967 Act”) (power to make orders as to fisheries for shellfish), omit subsection (4).
- (2) The modifications made to that section by section 203 of the 2009 Act (variation etc. of orders as a result of development) extend to Scotland.

- (3) In paragraph 6 of schedule 1 to the 1967 Act—
- (a) the existing provision is renumbered as sub-paragraph (1), and
 - (b) after that sub-paragraph insert—
 - “(2) Where the proposed order relates to any portion of the sea shore belonging to Her Majesty in right of the Crown, the appropriate Minister must also have regard to the powers and duties of the Crown Estate Commissioners under the Crown Estate Act 1961 (c.55).”.

161 Further modifications relating to Sea Fisheries (Shellfish) Act 1967

- (1) The modifications to the Sea Fisheries (Shellfish) Act 1967 (c.83) (“the 1967 Act”) made by the following provisions of the 2009 Act extend to Scotland—
- (a) section 204 (purposes for which tolls from regulated fisheries may be applied),
 - (b) section 206 (liability of master, etc where vessel used in commission of offence),
 - (c) section 207 (restrictions imposed by grantees in relation to regulated fisheries),
 - (d) section 209 (register of licences in relation to regulated fisheries),
 - (e) section 210 (protection of private shellfish beds),
 - (f) section 211(1) and (3) (use of implements of fishing),
 - (g) section 214 (power to appoint inspector before making orders as to fisheries for shellfish),
 - (h) Part 5(A) of Schedule 22 (repeals).
- (2) In section 1 of the 1967 Act (power to make orders as to fisheries for shellfish), after subsection (14) insert—
- “(14A) Subsection (14) above has effect in relation to Scotland as if the reference to the Town and Country Planning Act 1990 were a reference to section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8).”.
- (3) In section 7 of the 1967 Act (protection of fisheries), in subsection (4), for “level 3 on the standard scale” substitute “£50,000”.
- (4) The modifications to the 1967 Act made by section 214 (power to appoint inspector before making orders as to fisheries for shellfish) of the 2009 Act, other than those made by subsection (2)(b), extend to Scotland.
- (5) In paragraph 4(2) of Schedule 1 to the 1967 Act (provisions with respect to making orders as to fisheries for shellfish), for “The appropriate Minister shall” substitute “The Scottish Ministers may, and in the case of receiving an objection raising a material concern under paragraph 3 above, must”.