



Marine (Scotland) Act 2010

2010 asp 5

MARINE (SCOTLAND) ACT 2010

PART 1

THE SCOTTISH MARINE AREA

- 1 The “Scottish marine area”
- 2 “Sea”

PART 2

GENERAL DUTIES

- 3 Sustainable development and protection and enhancement of the health of the Scottish marine area
- 4 Mitigation of and adaptation to climate change

PART 3

MARINE PLANNING

Marine plans

- 5 National marine plan and regional marine plans
- 6 Conformity of marine plans with other documents
- 7 Coming into effect of marine plans
- 8 Amendment of marine plans
- 9 Withdrawal of marine plans
- 10 Effect of withdrawal from or of marine policy statement or of national marine plan
- 11 Duty to keep relevant matters under review

Delegation of functions relating to regional marine plans

- 12 Delegation of functions relating to regional marine plans
- 13 Directions under section 12: supplementary provision
- 14 Directions to delegates as regards performance of designated functions

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

Decisions of public authorities affected by a marine plan

- 15 Decisions of public authorities affected by marine plans

Monitoring and reporting

- 16 Monitoring of and periodical reporting on implementation of marine plans

Validity of marine plans

- 17 Validity of national marine plans and regional marine plans
18 Powers of the Court of Session on an application under section 17

Interpretation of Part 3

- 19 Interpretation of Part 3

PART 4

MARINE LICENSING

Requirement for licence

- 20 Requirement for licence

Licensable marine activities

- 21 Licensable marine activities

Pre-application consultation

- 22 Pre-application consultation: preliminary
23 Pre-application consultation: compliance
24 Pre-application consultation report

Licences

- 25 Application for licence
26 Notice of applications
27 Determination of applications
28 Inquiries
29 Grant or refusal of licence
30 Variation, suspension, revocation and transfer
31 Pre-variation, suspension or revocation procedure

Exemptions from licensing requirements

- 32 Exemptions specified by order
33 Activities below specified threshold of environmental impact
34 Oil and gas, defence or pollution

Special provision for certain cases

- 35 Special procedure for applications relating to certain electricity works
36 Electronic communications apparatus
37 Submarine cables

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

Appeals against licensing decisions

38 Appeals against licensing decisions

Offences

- 39 Breach of requirement for, or conditions of, licence
- 40 Defences: action taken in an emergency
- 41 Defences: electronic communications: emergency works
- 42 Offences relating to information

Enforcement notices

- 43 Compliance notice
- 44 Remediation notice
- 45 Further provision as to compliance and remediation notices

Civil sanctions

- 46 Fixed monetary penalties
- 47 Fixed monetary penalties: procedure
- 48 Variable monetary penalties
- 49 Variable monetary penalties: procedure
- 50 Further provision about civil sanctions

Delegation

- 51 Delegation of functions relating to marine licensing
- 52 Orders under section 51: supplementary provisions
- 53 Directions to delegates as regards the performance of the marine licensing designated functions

Register of licensing information

- 54 Register of licensing information

Stop notices and emergency safety notices

- 55 Notice to stop activity causing serious harm etc.
- 56 Further provision as to stop notices
- 57 Emergency safety notices
- 58 Further provision as to emergency safety notices

Other powers

- 59 Power to take remedial action
- 60 Power to test and charge for testing certain substances

Appeals against notices under this Part

- 61 Appeals against notices

Offences: supplementary provision

- 62 General defence of due diligence

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

Power by order to provide marine fish farming is not “development”

- 63 Power by order to provide marine fish farming is not “development”

Interpretation of Part 4

- 64 Interpretation of Part 4

PART 5

MARINE PROTECTION AND ENHANCEMENT: THE SCOTTISH MARINE PROTECTION AREA

The Scottish marine protection area

- 65 The Scottish marine protection area
66 “Sea” for the purposes of this Part

Designation of marine protected areas

- 67 Marine protected areas

Nature Conservation MPAs

- 68 Nature Conservation MPAs: additional requirements relating to designation
69 Nature Conservation MPAs: further provision
70 Nature Conservation MPAs: assessment of achievement of stated objectives

Demonstration and Research MPAs

- 71 Demonstration and Research MPAs: additional requirements relating to designation
72 Demonstration and Research MPAs: further provision

Historic MPAs

- 73 Historic MPAs: additional requirements etc.

Amendment or revocation of designation orders

- 74 Amendment or revocation of designation orders

Consultation, urgent designation, representations etc.

- 75 Publicity and consultation etc. before designation
76 Publicity in relation to designation orders
77 Urgent designation
78 Representations and hearing in relation to proposed designation order

Duties relating to network

- 79 Creation of network of conservation sites

Advice etc. as regards protection of certain marine areas

- 80 Advice etc. by Scottish Natural Heritage as regards Nature Conservation MPAs and Demonstration and Research MPAs
81 Advice and guidance by the Scottish Ministers as regards MPAs

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

General duties of public authorities

- 82 Duties of public authorities in relation to marine protected areas etc.
- 83 Duties of public authorities in relation to certain decisions
- 84 Failure to comply with duties

Marine conservation orders

- 85 Marine conservation orders
- 86 Example provisions for marine conservation orders
- 87 Procedure for marine conservation orders
- 88 Urgent orders
- 89 Publicity in relation to marine conservation orders and urgent continuation orders
- 90 Representations and hearings in relation to proposed marine conservation orders etc.
- 91 Duty to assess impact of prohibition or restriction of activities

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

- 92 Authorisation of things prohibited, regulated etc. by a marine conservation order
- 93 Delegation of issuing permits or authorisations

Offences

- 94 Offences: contravening a marine conservation order
- 95 Offences relating to protected features of a Nature Conservation MPA
- 96 Offences relating to marine historic assets
- 97 Exceptions to offences under section 94, 95 or 96
- 98 Prohibited act taken in an emergency

Marine management schemes

- 99 Marine management schemes
- 100 Review of schemes
- 101 Marine management schemes: consultation etc.
- 102 Directions as to making, amending or revocation of schemes

Reports to Parliament

- 103 Reports to Parliament

Licences granted under Wildlife and Countryside Act 1981

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

Penalties in regulations implementing Habitats Directive

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

Interpretation of Part 5

- 106 Interpretation of Part 5

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

PART 6

CONSERVATION OF SEALS

Offence: killing, injuring or taking seals

- 107 Offence: killing, injuring or taking seals
- 108 Exceptions: alleviating suffering
- 109 Exceptions: licensed activity

Seal licences

- 110 Seal licences
- 111 Methods of killing or taking seals under seal licence
- 112 Seal licence conditions
- 113 Seal licence reports
- 114 Variation or revocation of seal licence
- 115 Seal licence fees
- 116 Consultation and consent

Protection at haul-out sites

- 117 Offence: harassment at haul-out sites

Seal conservation areas

- 118 Seal conservation areas
- 119 Effect of seal conservation area status: licensing decisions

Authorisations to enter land

- 120 Power to enter land to obtain information about seals
- 121 Power to enter land to protect fisheries or fish farms from seals
- 122 Duty to notify occupier
- 123 Duty to produce authority
- 124 Obstructing an authorised person

Supplementary

- 125 Advice on seal population
- 126 Police powers: search and seizure
- 127 Forfeiture
- 128 Penalties
- 129 Duty to review seal licensing regime
- 130 Repeal

PART 7

COMMON ENFORCEMENT POWERS ETC.: LICENSING AND MARINE PROTECTION ETC.

Powers of marine enforcement officers

- 131 Enforcement of marine licensing regime
- 132 Enforcement of marine protection and nature conservation legislation

The common enforcement powers

- 133 The “common enforcement powers”

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

Common enforcement powers of entry, search and seizure

- 134 Power to board and inspect vessels and marine installations
- 135 Power to enter and inspect premises
- 136 Power to enter and inspect vehicles
- 137 Dwellings
- 138 Powers of search, examination, etc.
- 139 Power to require production of documents, etc.
- 140 Powers of seizure, etc.
- 141 Further provision about seizure
- 142 Retention of seized items

Miscellaneous and ancillary common enforcement powers

- 143 Power to record evidence of offences
- 144 Power to require name and address
- 145 Power to require production of licence, etc.
- 146 Power to require attendance of certain persons
- 147 Power to direct vessel or marine installation to port
- 148 Assistance, etc.
- 149 Power to use reasonable force

Licensing: further enforcement powers

- 150 Power to require information relating to certain substances and objects

Duties of marine enforcement officers

- 151 Duty to provide evidence of authority where a person is present
- 152 Duty to state name and purpose, etc.
- 153 Disapplication of sections 151 and 152 in relation to dwellings

Liability of marine enforcement officers

- 154 Liability of marine enforcement officers

Offences in relation to marine enforcement officers

- 155 Offences in relation to marine enforcement officers

General

- 156 General

Interpretation of Part 7

- 157 Interpretation of Part 7

PART 8

SEA FISHERIES

- 158 Extension of modifications relating to Sea Fish (Conservation) Act 1967
- 159 Modification of section 22A of Sea Fish (Conservation) Act 1967
- 160 Modifications relating to Sea Fisheries (Shellfish) Act 1967: orders as to fisheries for shellfish
- 161 Further modifications relating to Sea Fisheries (Shellfish) Act 1967

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

PART 9

GENERAL PROVISIONS

- 162 Crown application
- 163 Offences by bodies corporate
- 164 Ancillary provision
- 165 Orders and regulations
- 166 Interpretation: general
- 167 Consequential modifications
- 168 Commencement and short title

SCHEDULE 1 — Preparation, adoption etc. of marine plans or any amendment

Scottish Ministers to notify decision to prepare any marine plan

- 1 (1) Where the Scottish Ministers decide to prepare a national...

Interpretation

- 2 In this schedule— “consultation draft” is to be read in...

Regional marine plans to be compatible with certain other plans

- 3 (1) In preparing or amending a regional marine plan for...

Statement of public participation

- 4 (1) Before preparing a national marine plan or a regional...

Further provision about content of an SPP

- 5 (1) An SPP must include a proposed timetable.

Review and revision of an SPP

- 6 (1) The Scottish Ministers must keep an SPP under review....

Advice and assistance

- 7 (1) In connection with the preparation of a national marine...

Matters to which Scottish Ministers to have regard in preparing marine plans

- 8 (1) The matters to which the Scottish Ministers are to...

Preparation and publication of a consultation draft

- 9 (1) The Scottish Ministers must publish in such manner as...

Representations about a consultation draft

- 10 (1) Any person may make representations about a consultation draft....

Independent investigation

- 11 (1) Where the Scottish Ministers have published a consultation draft...

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

Matters to which Scottish Ministers are to have regard in settling text with a view to adoption etc.

- 12 The Scottish Ministers, in settling the text of a national...

Laying settled text of draft national marine plan before the Parliament

- 13 (1) The Scottish Ministers must not adopt a national marine...

Adoption and publication of marine plan

- 14 (1) A national marine plan or (as the case may...

SCHEDULE 2 — Further provision about civil sanctions under Part 4 (marine licensing)

Interpretation

- 1 In this schedule— “ civil sanction ” means a fixed...

Fixed monetary penalties: other sanctions

- 2 (1) Provision under section 46 must secure that, in a...

Variable monetary penalties: other sanctions

- 3 Provision under section 48 must secure that, in a case...

Combination of sanctions

- 4 (1) Provision may not be made under section 46 and...

Civil sanctions and fixed penalty notices

- 4A (1) Provision under section 46 must secure that, in a...

Monetary penalties

- 5 An order under section 46 or 48 which enables the...

Recovery of expenses

- 6 (1) Provision under section 48 may include provision for the...

Appeals

- 7 (1) An order under section 46 or 48 which makes...

Consultation

- 8 (1) Before making an order under section 46 or 48,...

Guidance as to use of civil sanctions

- 9 (1) Where the Scottish Ministers make provision about the imposition...

Guidance as to enforcement of offences

- 10 (1) Where the Scottish Ministers make provision about the imposition...

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

Publication of enforcement action

- 11 (1) Where the Scottish Ministers make provision about the imposition...

Disclosure of information

- 12 (1) Information held by or on behalf of a person...

SCHEDULE 3 — Warrants issued under section 137

Introductory

- 1 (1) This schedule has effect in relation to the issue...

Applications for warrants

- 2 (1) Where a marine enforcement officer applies for a warrant,...

Safeguards in connection with power of entry conferred by warrant

- 3 A warrant authorises entry on one occasion only.
4 (1) A warrant must specify— (a) the name of the...
5 (1) 2 copies are to be made of a warrant....

Execution of warrants

- 6 A warrant may be executed by any marine enforcement officer...
7 (1) A warrant may authorise persons to accompany any marine...
8 (1) Execution of a warrant must be within 3 months...
9 (1) Where the occupier of a dwelling that is to...

Return of warrants

- 10 (1) A warrant which— (a) has been executed, or

SCHEDULE 4 — Consequential modifications

Part 1 — MARINE LICENSING

Coast Protection Act 1949 (c.74)

- 1 In the Coast Protection Act 1949— (a) Part II is...

Merchant Shipping Act 1988 (c.12)

- 2 Section 36 of the Merchant Shipping Act 1988 is repealed....

Energy Act 2004 (c.20)

- 3 In section 99 of the Energy Act 2004, subsections (4)...

Part 2 — MARINE PROTECTION AND ENHANCEMENT: THE SCOTTISH
MARINE PROTECTION AREA

Protection of Wrecks Act 1973 (c.33)

- 4 Section 1 of the Protection of Wrecks Act 1973 is...

Wildlife and Countryside Act 1981 (c.69)

- 5 In the Wildlife and Countryside Act 1981—

Status: Point in time view as at 01/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010. (See end of Document for details)

Territorial Sea Act 1987 (c.49)

- 6 In the Territorial Sea Act 1987— (a) in section 3,...

Local Government (Wales) Act 1994 (c.19)

- 7 In the Local Government (Wales) Act 1994, in Schedule 16,...

Local Government etc.(Scotland) Act 1994 (c.39)

- 8 In the Local Government etc. (Scotland) Act 1994, in Schedule...

Water Industry (Scotland) Act 2002 (asp 3)

- 9 In the Water Industry (Scotland) Act 2002, in schedule 7, ...
Part 3
Sea fisheries

Sea Fisheries Act 1968

- 10 In the Sea Fisheries Act 1968 (c.77), in section 15...

Fisheries Act 1981

- 11 (1) The Fisheries Act 1981 (c.29) is modified as follows....

Sea Fish (Conservation) Act 1992

- 12 In the Sea Fish (Conservation) Act 1992 (c.60), paragraph (b)...

Criminal Justice and Public Order Act 1994

- 13 In the Criminal Justice and Public Order Act 1994 (c.33),...

SCHEDULE 5 — Index

Status:

Point in time view as at 01/07/2010.

Changes to legislation:

There are currently no known outstanding effects for the Marine (Scotland) Act 2010.