



# Marine (Scotland) Act 2010

## 2010 asp 5

### PART 3

#### MARINE PLANNING

##### *Delegation of functions relating to regional marine plans*

#### **12 Delegation of functions relating to regional marine plans**

- (1) The Scottish Ministers may give directions under this section which—
- (a) designate any of the delegable functions in relation to a regional marine plan which would (apart from directions under this section) be exercisable by the Scottish Ministers,
  - (b) direct that the functions so designated (the “designated functions”), instead of being so exercisable, are to be exercisable by such delegate acting on behalf of the Scottish Ministers as is designated in the direction.
- (2) The delegate so designated must comprise of—
- (a) a person nominated by the Scottish Ministers, and
  - (b) one or more of the following—
    - (i) a public authority,
    - (ii) a person nominated by a public authority with an interest in the Scottish marine region to which the regional marine plan applies as the Scottish Ministers consider appropriate.

[<sup>F1</sup>(2A) But the requirement in subsection (2) does not apply in relation to a delegate where—

- (a) that delegate is either—
  - (i) Orkney Islands Council,
  - (ii) Shetland Islands Council, or
  - (iii) Comhairle nan Eilean Siar, and
- (b) before making the direction, the Scottish Ministers are satisfied that there would be difficulty in nominating any other person described in that subsection in relation to the regional marine plan to which the direction applies.]

---

*Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010,  
Cross Heading: Delegation of functions relating to regional marine plans. (See end of Document for details)*

---

- (3) Where the Scottish Ministers designate delegable functions under subsection (1) to a group of persons, they must ensure that the group comprises—
- (a) so far as reasonably practicable, representatives of persons with an interest in—
    - (i) the protection and enhancement of the Scottish marine region to which the regional marine plan applies,
    - (ii) the use of that region for recreational purposes,
    - (iii) the use of that region for commercial purposes, and
  - (b) any other persons that the Scottish Ministers consider appropriate.
- (4) The Scottish Ministers may give a direction under this section only with the consent of any public authority referred to in subsection (2).
- (5) Where the Scottish Ministers designate delegable functions under subsection (1) to a public authority, the direction must include—
- (a) a statement of reasons setting out the grounds for designating the authority in preference to a group of persons,
  - (b) a requirement for that authority to consult on the exercise of its functions in relation to the Scottish marine region to which the regional marine plan applies with—
    - (i) representatives of persons with an interest in—
      - (A) the protection and enhancement of that region,
      - (B) the use of that region for recreational purposes,
      - (C) the use of that region for commercial purposes, and
    - (ii) any other persons that the Scottish Ministers consider appropriate,
  - (c) a requirement for that authority to have regard to any representations made under paragraph (b).
- (6) The delegate—
- (a) must comply with the direction,
  - (b) is to be taken to have all the powers necessary to do so.
- (7) In this section “delegable functions in relation to a regional marine plan” means the following functions in relation to any such plan—
- (a) those under sections 5, 8 or 11,
  - (b) those under section 16 (monitoring etc. of implementation),
- but excluding the excepted functions.
- (8) The excepted functions are the following functions in relation to any such plan—
- (a) deciding under paragraph 4 of schedule 1 whether to prepare and publish a statement of public participation,
  - (b) deciding under paragraph 6 of that schedule whether to revise a statement of public participation,
  - (c) deciding under paragraph 9 of that schedule whether to publish a consultation draft,
  - (d) deciding under paragraph 14 of that schedule whether to publish a regional marine plan or any amendment of such a plan.

**Changes to legislation:** There are currently no known outstanding effects for the Marine (Scotland) Act 2010,  
Cross Heading: Delegation of functions relating to regional marine plans. (See end of Document for details)

#### Textual Amendments

- F1** [S. 12\(2A\)](#) inserted (4.10.2018) by [Islands \(Scotland\) Act 2018 \(asp 12\)](#), [ss. 27, 31\(2\)](#); [S.S.I. 2018/282](#), [reg. 2](#)

#### Commencement Information

- I1** [S. 12](#) in force at 1.7.2010 by [S.S.I. 2010/230](#), [art. 2\(a\)](#)

### 13 Directions under section 12: supplementary provision

- (1) Where the Scottish Ministers give a direction under section 12, they must publish it in such manner as they consider most likely to bring it to the attention of persons likely to be interested in or affected by it.
- (2) For so long as any such direction remains in effect, the designated functions are exercisable by the delegate acting on behalf of the Scottish Ministers (and are not exercisable by the Scottish Ministers).
- (3) But subsection (2) is subject to any provision to the contrary which—
  - (a) is made by the direction, or
  - (b) is included in a direction under section 14.
- (4) A direction under section 12 may include—
  - (a) such terms or conditions,
  - (b) such obligations or requirements,
  - (c) such financial provisions,as the Scottish Ministers may determine.
- (5) A direction under section 12 may make different provision for different cases, different areas or different delegates.
- (6) The Scottish Ministers may make grants to a delegate for the exercise of the designated functions.

#### Commencement Information

- I2** [S. 13](#) in force at 1.7.2010 by [S.S.I. 2010/230](#), [art. 2\(a\)](#)

### 14 Directions to delegates as regards performance of designated functions

- (1) This section applies where any functions are exercisable by a delegate by virtue of a direction given under section 12.
- (2) The Scottish Ministers may from time to time give directions to the delegate with respect to the performance of the functions.
- (3) Before giving any direction under this section, the Scottish Ministers must consult the delegate.
- (4) A delegate given a direction under this section must comply with the direction.

---

**Changes to legislation:** There are currently no known outstanding effects for the Marine (Scotland) Act 2010,  
Cross Heading: Delegation of functions relating to regional marine plans. (See end of Document for details)

---

- (5) Where the Scottish Ministers give a direction under this section, they must publish it in such manner as they consider most likely to bring it to the attention of persons likely to be interested in or affected by it.

.....

**Commencement Information**

**I3** [S. 14](#) in force at 1.7.2010 by [S.S.I. 2010/230](#), [art. 2\(a\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Marine (Scotland) Act 2010, Cross  
Heading: Delegation of functions relating to regional marine plans.