

SCHEDULES

SCHEDULE 10

AMENDMENTS OF THE MARINE AND COASTAL ACCESS ACT 2009

PART 2

POWERS RELATING TO THE EXPLOITATION OF SEA FISHERIES RESOURCES

21 After section 137 insert—

“Orders for marine conservation: Scottish offshore region

137A Orders relating to exploitation of sea fisheries resources: Scottish offshore region

- (1) The Scottish Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Scottish offshore region for the purposes of conserving—
 - (a) marine flora or fauna,
 - (b) marine habitats or types of marine habitat, or
 - (c) features of geological or geomorphological interest.
- (2) An order under this section may be made so as to apply to any area in the Scottish offshore region.
- (3) An order under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made.
- (4) The provision that may be made by an order under this section includes, in particular, provision falling within any of the Heads set out in subsections (5) to (7).
- (5) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—
 - (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
 - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
 - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (6) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the Scottish Ministers, including—
 - (a) provision for the charging of fees for permits;
 - (b) provision enabling conditions to be attached to a permit;

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- (c) provision enabling the Scottish Ministers to limit the number of permits issued by it.
- (7) Head 3 is—
- (a) provision prohibiting or restricting the use of vessels of specified descriptions;
 - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
 - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources;
 - (d) provision for determining whether such items are items of a specified description.
- (8) An order under this section may be made—
- (a) subject to specified exceptions or conditions;
 - (b) so as to cease to have effect after a specified period.
- (9) An order under this section may make different provision for different cases, including in particular—
- (a) different times of the year,
 - (b) different means or methods of carrying out an activity, and
 - (c) different descriptions of sea fisheries resources.
- (10) In this section “specified” means specified in the order.
- (11) An order under this section that contains provision for the charging of fees for permits (including provision changing the level of fees) is subject to the affirmative procedure (see Part 2 of the [Interpretation and Legislative Reform \(Scotland\) Act 2010](#) (asp 10)).
- (12) Any other order under this section is subject to the negative procedure (see that Part of that Act).

137B Consultation etc regarding orders under section 137A

- (1) Before making an order under section 137A the Scottish Ministers must—
 - (a) consult the Secretary of State,
 - (b) if the order would or might affect the exploitation of sea fisheries resources in the English offshore region, consult the MMO,
 - (c) if the order would or might affect the exploitation of sea fisheries resources in the Welsh offshore region, consult the Welsh Ministers,
 - (d) if the order would or might affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, and
 - (e) consult any other person whom they think fit to consult.
- (2) The Scottish Ministers must publish notice of the making of an order under section 137A.
- (3) The notice under subsection (2) must—

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- (a) be published in such manner as the Scottish Ministers think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
 - (b) give an address at which a copy of the order may be inspected.
- (4) Where the Scottish Ministers think that there is an urgent need to make an order under section 137A to protect the Scottish offshore region—
 - (a) subsection (1) does not apply, and
 - (b) the notice under subsection (2) must also state that any person affected by the making of the order may make representations to the Scottish Ministers.
- (5) Where in reliance on subsection (4)(a) the Scottish Ministers do not comply with subsection (1) before making an order under section 137A, that order—
 - (a) comes into force on a date specified in the order, and
 - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (6) The Scottish Ministers may by further order extend the period for which an order to which subsection (5) applies is in force for a period not exceeding 12 months.

137C Interim orders made by Scottish Ministers

- (1) The Scottish Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Scottish offshore region for the purpose of protecting any feature in any area in that region if they think—
 - (a) that there are or may be reasons to consider whether to designate the area as an MCZ, and
 - (b) that there is an urgent need to protect the feature.
- (2) An interim order under this section must contain a description of the boundaries of the area to which it applies (which must be no greater than is necessary for the purpose of protecting the feature in question).
- (3) Subsections (4) to (10) of section 137A apply to an interim order under this section.
- (4) An interim order under this section—
 - (a) comes into force on a date specified in the order, and
 - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (5) The Scottish Ministers must publish notice of the making of an interim order under this section.
- (6) The notice under subsection (5) must—
 - (a) be published in such manner as the Scottish Ministers think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
 - (b) give an address at which a copy of the order may be inspected;
 - (c) state that any person affected by the making of the order may make representations to the Scottish Ministers.

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- (7) The Scottish Ministers must keep under review the need for an interim order under this section to remain in force.
- (8) The Scottish Ministers may by further order extend the period for which an interim order remains in force.
- (9) In this section “feature” means any flora, fauna, habitat or feature which could be a protected feature if the area in question were designated as an MCZ.
- (10) An order under this section is subject to the negative procedure (see Part 2 of the [Interpretation and Legislative Reform \(Scotland\) Act 2010](#)) (asp 10)).

137D Further provision as to orders made under section 137A or 137C

- (1) This section applies to any order made under section 137A or 137C.
- (2) The Scottish Ministers must send a copy of any order to which this section applies to the Secretary of State and to any person consulted under section 137B(2).
- (3) The Scottish Ministers must—
 - (a) make a copy of any order to which this section applies available for inspection at such place as they think fit for that purpose at all reasonable hours without payment;
 - (b) provide a copy of any such order to any person who requests one.
- (4) An order to which this section applies may be amended or revoked by a further order.

Orders for marine conservation: Northern Ireland offshore region

137E Orders relating to exploitation of sea fisheries resources: Northern Ireland offshore region

- (1) The Department may make one or more orders relating to the exploitation of sea fisheries resources in the Northern Ireland offshore region for the purposes of conserving—
 - (a) marine flora or fauna,
 - (b) marine habitats or types of marine habitat, or
 - (c) features of geological or geomorphological interest.
- (2) An order under this section may be made so as to apply to any area in the Northern Ireland offshore region.
- (3) An order under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made.
- (4) The provision that may be made by an order under this section includes, in particular, provision falling within any of the Heads set out in subsections (5) to (7).
- (5) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—

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- (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
 - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
 - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (6) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the Department, including—
- (a) provision for the charging of fees for permits;
 - (b) provision enabling conditions to be attached to a permit;
 - (c) provision enabling the Department to limit the number of permits issued by it.
- (7) Head 3 is—
- (a) provision prohibiting or restricting the use of vessels of specified descriptions;
 - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
 - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources;
 - (d) provision for determining whether such items are items of a specified description.
- (8) An order under this section may be made—
- (a) subject to specified exceptions or conditions;
 - (b) so as to cease to have effect after a specified period.
- (9) An order under this section may make different provision for different cases, including in particular—
- (a) different times of the year,
 - (b) different means or methods of carrying out an activity, and
 - (c) different descriptions of sea fisheries resources.
- (10) In this section “specified” means specified in the order.
- (11) In this section, and in sections 137F to 137H, “the Department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

137F Consultation etc regarding orders under section 137E

- (1) Before making an order under section 137E the Department must—
- (a) consult the Secretary of State,
 - (b) if the order would or might affect the exploitation of sea fisheries resources in the English offshore region, consult the MMO,
 - (c) if the order would or might affect the exploitation of sea fisheries resources in the Scottish offshore region, consult the Scottish Ministers,

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- (d) if the order would or might affect the exploitation of sea fisheries resources in the Welsh offshore region, consult the Welsh Ministers, and
 - (e) consult any other person whom they think fit to consult.
- (2) The Department must publish notice of the making of an order under section 137E.
- (3) The notice under subsection (2) must—
- (a) be published in such manner as the Department think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
 - (b) give an address at which a copy of the order may be inspected.
- (4) Where the Department think that there is an urgent need to make an order under section 137E to protect the Northern Ireland offshore region—
- (a) subsection (1) does not apply,
 - (b) the notice under subsection (2) must also state that any person affected by the making of the order may make representations to the Department.
- (5) Where in reliance on subsection (4)(a) the Department does not comply with subsection (1) before making an order under section 137A, that order—
- (a) comes into force on a date specified in the order, and
 - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (6) The Department may by further order extend the period for which an order to which subsection (5) applies is in force for a period not exceeding 6 months.”

137G Interim orders made by the Department

- (1) The Department may make one or more orders relating to the exploitation of sea fisheries resources in the Northern Ireland offshore region for the purpose of protecting any feature in any area in that region if the Department thinks—
- (a) that the appropriate authority should consider whether to designate the area as an MCZ, and
 - (b) that there is an urgent need to protect the feature.
- (2) An interim order under this section must contain a description of the boundaries of the area to which it applies (which must be no greater than is necessary for the purpose of protecting the feature in question).
- (3) Subsections (4) to (10) of section 137E apply to an interim order under this section.
- (4) An interim order under this section—
- (a) comes into force on a date specified in the order, and
 - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (5) The Department may by further order extend the period for which the interim order is in force for a period not exceeding 6 months.

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- (6) The Department must publish notice of the making of an interim order under this section.
- (7) The notice under subsection (6) must—
 - (a) be published in such manner as the Department think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
 - (b) give an address at which a copy of the order may be inspected;
 - (c) state that any person affected by the making of the order may make representations to the Department.
- (8) The Department must keep under review the need for an interim order under this section to remain in force.
- (9) In this section “feature” means any flora, fauna, habitat or feature which could be a protected feature if the area in question were designated as an MCZ.

137H Further provision as to orders made under section 137E or 137G

- (1) This section applies to any order made under section 137E or 137G.
- (2) The Department must send a copy of any order to which this section applies to the Secretary of State and to any person consulted under section 137F(2).
- (3) The Department must—
 - (a) make a copy of any order to which this section applies available for inspection at such place as the Department thinks fit for that purpose at all reasonable hours without payment;
 - (b) provide a copy of any such order to any person who requests one.”