



# Water Environment and Water Services (Scotland) Act 2003

2003 asp 3

## PART 1

### PROTECTION OF THE WATER ENVIRONMENT

#### CHAPTER 3

##### MEASURES FOR PROTECTION OF THE WATER ENVIRONMENT

#### 24 Planning permission: fish farming

- (1) The Town and Country Planning (Scotland) Act 1997 (c. 8) is amended as follows.
- (2) In section 26 (meaning of “development”)—
  - (a) in subsection (6)—
    - (i) for “tank” in the first and second places where it occurs substitute “equipment”,
    - (ii) after “waters” in the first place where it occurs insert “, transitional water or coastal water”,
    - (iii) before the definition of “fish farming” insert—

““coastal water” has the meaning given by section 3(8) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3);

“equipment” includes any tank, cage or other structure, or long-line, for use in fish farming;”,
    - (iv) the definition of “tank” is repealed,
    - (v) at the end insert—

““transitional water” has the meaning given by section 3(7) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3);”,
  - (b) after subsection (6) insert—

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*Status: This is the original version (as it was originally enacted).*

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“(6A) The Scottish Ministers may by order made by statutory instrument make such modifications as they consider necessary or expedient to the definitions of “equipment” and “fish farming” in subsection (6); and an order under this subsection may make different provision for different purposes and different areas.

(6B) In subsection (6A), “modifications” includes amendments and repeals.”

(3) In section 40 (assessment of environmental effects), after subsection (3) insert—

“(4) Without prejudice to subsection (1), before planning permission is granted by a planning authority in respect of anything which is development by virtue of section 26(6), the authority must consider the effect of the proposed development on the water environment.

(5) In subsection (4), “water environment” has the same meaning as in section 3(2) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3).”

(4) In section 275 (regulations and orders)—

(a) in subsection (4), after “26(2)(f)” insert “and (6A)”,

(b) after subsection (5) insert—

“(5A) No order made under section 26(6A) is to be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament.”

(5) The Scottish Ministers may by order make such provision as they consider necessary or expedient for the purpose of or in connection with the application of the Town and Country Planning (Scotland) Act 1997 (c. 8), by virtue of this section, to operations in transitional water or coastal water.

(6) An order under subsection (5) may, in particular, make provision for any planning authority specified in the order to be the planning authority for the purposes of the application of that Act, by virtue of this section, to operations in such areas of transitional water or coastal water as the order may specify in relation to the authority, despite those operations relating to land outwith the district of the authority.

(7) Before making an order under subsection (5) the Scottish Ministers must consult—

(a) every planning authority,

(b) SEPA,

(c) such other persons as they think fit.