
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provisions in connection with the application of the Town and Country Planning (Scotland) Act 1997 (“the Act”) to marine fish farming. The Order also amends the definition of “fish farming” in section 26(6) of the Act.

Article 3 of the Order applies Part 2 of the Act for the purposes of the preparation of development plans in connection with marine fish farming and disapplies certain provisions of the Act in connection with marine fish farming. Article 3(3) makes provision as to how provisions of enactments and other instruments and documents are to be read in connection with the application of the legislation to marine fish farming.

Article 4 makes provision for a National Park Plan to include matters relating to the regulation of marine fish farming in the marine planning zone for which a National Park authority has functions under the Act and makes consequential changes to the procedures to be followed in the preparation of the Plan in such a case.

Article 5 provides that there are to be 23 marine planning zones for marine waters. The Order describes the marine planning zones by means of data stored on a CD ROM. Copies of the CD ROM are to be deposited with the planning authorities specified in the Schedule to the Order and maps of the marine planning zones can be viewed on www.scotland.gov.uk. Article 5(1) designates the local authority which is to be the planning authority for the purposes of marine fish farming within a particular marine planning zone. Article 5(2) confers on Loch Lomond and Trossachs National Park Authority functions under the enactments specified in column 3 of Part 2 of the Schedule to the Order.

Articles 6 and 7 amend the Orkney County Council Act 1974 and the Zetland County Council Act 1974 to remove the requirement for a works licence for the placing or assembly of equipment in marine waters for the purposes of marine fish farming.

Article 8(2) amends the definition of fish farming in section 26(6) of the Act to include the farming of sea urchins. Article 8(3) amends section 27 of the Act to extend the meaning of “material operation” to provide that for the purposes of Part 3 of the Act development is, in the case of marine fish farming, to be taken to have begun on the earliest date of the placing or assembly of equipment in marine waters.

Article 9 amends regulation 7 of the Town and Country Planning (Enforcement of Control) (No. 2) (Scotland) Regulations 1992 to allow the index of register of enforcement notices etc to enable a person to trace an entry by reference to or a plan of the marine waters to which a notice relates.

Article 10 amends the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 in its application for marine fish farming and in particular alters the notification requirements to take account of the special circumstances of marine waters and also requires the Scottish Ministers to be consulted in relation to proposed marine fish farm development.

Article 11 amends the Environmental Impact Assessment (Scotland) Regulations 1999 (“the 1999 Regulations”) to modify those regulations to suit the particular considerations that arise in relation to development in marine waters. The changes made by article 11 result in the 1999 Regulations containing equivalent provisions as regards the environmental impact assessment of marine fish farms in Scotland as are contained in the Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999. Article 12 amends those Regulations so that they no longer apply to marine waters in Scotland.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007 No. 268*

Article 13 amends the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 2004 to include fees in relation to fish farm development and Article 14 makes transitional and savings provisions in relation to the existing applications for permission to carry out fish farming.