

BUSINESS AND REGULATORY IMPACT ASSESSMENT

Title of Measure

Extension of Permitted Development Rights and Changes of Use to Finfish and Shellfish Developments.

Purpose and intended effect

- **Objectives**

To streamline the planning process so as to permit the operators of marine and freshwater fish farms to make minor changes to consented equipment and consented fish species without the requirement to obtain new explicit planning permission.

- **Background**

The Scottish Government supports aquaculture development. The Government published a strategy statement Delivering Planning Reform for Aquaculture, in March 2010, which explains the importance of the aquaculture sector to the Scottish economy. It also contains a joint statement from the Cabinet Secretary for Finance and Sustainable Growth and Minister for Environment to the effect that the Scottish Government will aim to ensure that there are no unnecessary barriers to impeding the growth of the industry.

- **Rationale for Government intervention**

Relaxations to the regulatory regime can only be made by amending the legislation.

Consultation

- **Within Government**

Consultation has included Marine Scotland Science, Scottish Environment Protection Agency, Scottish Natural Heritage and Scottish Development International.

- **Public Consultation**

Public consultation took place between 17 March and 17 June 2011. The consultation document was published on the Scottish Government website, at www.scotland.gov.uk/Publications/2011/03/14164543/0. It does not contain proposals affecting individuals and so publication was not targeted at individuals or bodies representing personal, cultural or religious attribute or belief.

- **Business**

Those invited to comment on the consultation included aquaculture businesses and trade associations, commercial fisheries interests, local authorities, heritage interests and environmental interests.

Options

1. Do nothing

The status quo is costly and bureaucratic to industry without delivering any commensurate benefits in terms of environmental protection. It is not favoured by either industry or government.

2. Making the change

- **Sectors and groups affected**

Marine and freshwater finfish farmers and shellfish farmers, local authorities as planning authorities.

- **Benefits**

Currently, fish farm planning applications cost £145 per 0.1 hectare of the surface area of marine waters plus £50 for each 0.1 hectare of seabed enclosed by the moorings, up to a maximum of £14,500¹. Fish farm operators who already have planning permission and who wish to change their configuration, add extra or temporary equipment, will save both those monetary costs and the time involved (which can be anything from 2 months to 6 months for minor changes) in obtaining formal planning permission. That is, the operator will only need to give the planning authority prior notification that they are doing so.

Govt agencies and regulators are statutory consultees to the planning process. They will benefit through not having to devote effort to minor developments.

- **Costs**

Minor. In the majority of instances, the fish farm operator will have to pay a prior notification fee of £61 but this represents a significant financial saving on the cost of an application for amended planning permission (the actual amount of the saving being dependent on the nature of the alteration sought). The impact on planning authorities is neutral; planning fees and charges are set on a cost-recovery basis.

Scottish Firms Impact Test

- **Competition Assessment**

Those affected by the proposals are companies engaged in fish farming (either finfish or shellfish). The proposals do not alter the existing barriers to entry to the fish farming sector; what they do is reduce the regulatory overhead (including the finance and staffing overhead) involved in making minor changes to the equipment installed on a site. To the extent that the proposals affect competition they are likely to favour smaller operators in that the existing cost of making changes is disproportionately larger to them

¹ In March 2012 the Scottish Government published a consultation on Fees for Planning Applications. The purpose of this consultation is to seek views on draft regulations that set out a new fee structure and level for planning applications in Scotland. The consultation closes on 22nd June 2012.

than to their national and multi-national competitors.

- **Test run of business forms**

Not applicable.

Legal Aid Impact Test

The proposals do not create any new procedure or right of appeal to a court or tribunal, amend any existing procedures or rights of appeal or make any change of policy or practice which may lead people to consult a solicitor.

Enforcement, sanctions and monitoring

Monitoring and sanctions are in respect of unauthorised developments and other breaches of planning legislation. No changes are being made to existing controls, remedies and penalties.

Implementation and delivery plan

- **Post-implementation review**

The proposals are being introduced by The Town and Country Planning (General Permitted Development) (Fish Farming) (Scotland) Amendment Order 2012. The enforcing authority is the local authority, as planning authority for the area. Planning authorities have been involved in the preliminary consultations giving rise to the proposals, consulted formally as part of the consultation process and were consulted again informally prior to the Government reaching its conclusions.

The proposals do not have to be managed post-implementation. Neither do they require an implementation plan, although guidance is being developed. Once the Order has been made fish farm operators will benefit from a more relaxed regulatory regime as regards alterations to equipment and farmed species.

The Government's stakeholder Working Group on Improved Systems for the Licensing of Aquaculture Developments will monitor the success of the policy against the stated policy aim of better and more relaxed regulation. The Government will consider, in light of actual experience, whether and to what extent the proposals should be amended in future.

Summary and recommendation

- **Summary costs and benefits table**

Option	Total benefits per annum: economic, environmental, social	Total costs per annum: economic, environmental, social policy and administrative
1	Economic – there are no economic benefits to maintaining the status quo;	Economic – industry has to pay fees amounting to £145 per 0.1ha of water surface area plus £50 per 0.1ha of seabed each time an operator wishes to alter the configuration of their site or add

	<p>Environmental – the status quo delivers high and robust levels of environmental protection;</p> <p>Social – high and robust levels of development control.</p>	<p>extra or temporary equipment;</p> <p>Environmental – none; the status quo delivers high and robust levels of environmental protection</p> <p>Social – None</p>
2	<p>Economic – reduced monetary cost to industry of £195 per 0.1ha per modification;</p> <p>Environmental – high and robust levels of environmental protection maintained;</p> <p>Social – None.</p>	<p>Economic – None;</p> <p>Environmental – none, pre-conditions attached to the permitted developments, and the requirement for prior notification and/ or prior approval by planning authorities, will ensure that existing levels of protection are maintained.</p> <p>Social – None.</p>

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Date _____

(Minister for Local Government and Planning)