



Planning etc. (Scotland) Act 2006

2006 asp 17

PART 3

DEVELOPMENT MANAGEMENT

Meaning of development

4 Marine fish farms

(1) After section 26 of the principal Act insert—

“26AA Marine fish farms: circumstances referred to in section 26(1)

- (1) The circumstances to which section 26(1) refers are—
- (a) that the marine fish farm is being operated after—
 - (i) the date which is the appropriate date in respect of that fish farm, or
 - (ii) if earlier than that date, the date on which planning permission is granted, or an application for planning permission is refused, under section 31A, and
 - (b) that the operation involves the use of equipment which was placed or assembled in waters at a time when that placing or assembly did not constitute development under this Act.
- (2) For the purposes of subsection (1)(a), the appropriate date in respect of a fish farm is whichever is the later of—
- (a) a date prescribed by the Scottish Ministers for the purposes of this subsection, and
 - (b) the date on which any authorisation which—
 - (i) relates to the operation of that fish farm, and
 - (ii) is in effect at the date of commencement of section 4 of the Planning etc. (Scotland) Act 2006 (asp 17), ceases to have effect.
- (3) In this section and in section 31A—

Status: This is the original version (as it was originally enacted).

“authorisation” means—

- (a) a consent for fish farming issued by the Crown Estate Commissioners,
- (b) a licence granted under section 11 of the [Orkney County Council Act 1974 \(c.xxx\)](#), or
- (c) a licence granted under section 11 of the [Zetland County Council Act 1974 \(c.viii\)](#),

“equipment” has the same meaning as in section 26(6), and

“marine fish farm” means a fish farm situated in any part of any waters referred to in paragraphs (b) and (c) of section 26(6).”.

(2) After section 31 of that Act insert—

“Planning permission in respect of operation of marine fish farm

31A Planning permission in respect of operation of marine fish farm

- (1) This section applies to planning permission for the operation of a marine fish farm which involves the use of such equipment as is referred to in section 26AA(1)(b).
- (2) Any planning permission is to be granted by the Scottish Ministers.
- (3) Without prejudice to the generality of subsection (2), planning permission may be granted under that subsection as respects a class of development.
- (4) Any planning permission granted by virtue of subsection (3) is to be granted by order, the class of development in question being specified in the order.
- (5) Planning permission may be granted either unconditionally or subject to conditions or limitations.
- (6) The conditions or limitations which may be imposed include conditions or limitations specified in any authorisation which is at the time of imposition in effect in relation to the fish farm.
- (7) The principal matters to be taken into account by the Scottish Ministers in coming to a decision as to whether to grant planning permission are the likely impact of the development on—
 - (a) any European site within the meaning of regulation 10 of the Conservation (Natural Habitats & c.) Regulations 1994 ([S.I. 1994/2716](#)), and
 - (b) the environment generally.
- (8) The Scottish Ministers may by regulations make provision—
 - (a) specifying those cases where an application for planning permission must be made,
 - (b) as to the form of such an application,
 - (c) specifying documents and information which require to accompany such an application,
 - (d) as to consultation in connection with such an application, and
 - (e) as to any other matters concerning procedure on such an application.”.