



# Marine (Scotland) Act 2010

## 2010 asp 5

### MARINE (SCOTLAND) ACT 2010

#### PART 1

##### THE SCOTTISH MARINE AREA

- 1 The “Scottish marine area”
- 2 “Sea”

#### PART 2

##### GENERAL DUTIES

- 3 Sustainable development and protection and enhancement of the health of the Scottish marine area
- 4 Mitigation of and adaptation to climate change

#### PART 3

##### MARINE PLANNING

###### *Marine plans*

- 5 National marine plan and regional marine plans
- 6 Conformity of marine plans with other documents
- 7 Coming into effect of marine plans
- 8 Amendment of marine plans
- 9 Withdrawal of marine plans
- 10 Effect of withdrawal from or of marine policy statement or of national marine plan
- 11 Duty to keep relevant matters under review

###### *Delegation of functions relating to regional marine plans*

- 12 Delegation of functions relating to regional marine plans
- 13 Directions under section 12: supplementary provision
- 14 Directions to delegates as regards performance of designated functions



*Decisions of public authorities affected by a marine plan*

- 15 Decisions of public authorities affected by marine plans

*Monitoring and reporting*

- 16 Monitoring of and periodical reporting on implementation of marine plans

*Validity of marine plans*

- 17 Validity of national marine plans and regional marine plans  
18 Powers of the Court of Session on an application under section 17

*Interpretation of Part 3*

- 19 Interpretation of Part 3

**PART 4****MARINE LICENSING***Requirement for licence*

- 20 Requirement for licence

*Licensable marine activities*

- 21 Licensable marine activities

*Pre-application consultation*

- 22 Pre-application consultation: preliminary  
23 Pre-application consultation: compliance  
24 Pre-application consultation report

*Licences*

- 25 Application for licence  
26 Notice of applications  
27 Determination of applications  
28 Inquiries  
29 Grant or refusal of licence  
30 Variation, suspension, revocation and transfer  
31 Pre-variation, suspension or revocation procedure

*Exemptions from licensing requirements*

- 32 Exemptions specified by order  
33 Activities below specified threshold of environmental impact  
34 Oil and gas, defence or pollution

*Special provision for certain cases*

- 35 Special procedure for applications relating to certain electricity works  
36 Electronic communications apparatus  
37 Submarine cables



*Appeals against licensing decisions*

38 Appeals against licensing decisions

*Offences*

- 39 Breach of requirement for, or conditions of, licence
- 40 Defences: action taken in an emergency
- 41 Defences: electronic communications: emergency works
- 42 Offences relating to information

*Enforcement notices*

- 43 Compliance notice
- 44 Remediation notice
- 45 Further provision as to compliance and remediation notices

*Civil sanctions*

- 46 Fixed monetary penalties
- 47 Fixed monetary penalties: procedure
- 48 Variable monetary penalties
- 49 Variable monetary penalties: procedure
- 50 Further provision about civil sanctions

*Delegation*

- 51 Delegation of functions relating to marine licensing
- 52 Orders under section 51: supplementary provisions
- 53 Directions to delegates as regards the performance of the marine licensing designated functions

*Register of licensing information*

- 54 Register of licensing information

*Stop notices and emergency safety notices*

- 55 Notice to stop activity causing serious harm etc.
- 56 Further provision as to stop notices
- 57 Emergency safety notices
- 58 Further provision as to emergency safety notices

*Other powers*

- 59 Power to take remedial action
- 60 Power to test and charge for testing certain substances

*Appeals against notices under this Part*

- 61 Appeals against notices

*Offences: supplementary provision*

- 62 General defence of due diligence



*Power by order to provide marine fish farming is not “development”*

- 63 Power by order to provide marine fish farming is not “development”

*Interpretation of Part 4*

- 64 Interpretation of Part 4

**PART 5**

**MARINE PROTECTION AND ENHANCEMENT: THE SCOTTISH MARINE PROTECTION AREA**

*The Scottish marine protection area*

- 65 The Scottish marine protection area  
66 “Sea” for the purposes of this Part

*Designation of marine protected areas*

- 67 Marine protected areas

*Nature Conservation MPAs*

- 68 Nature Conservation MPAs: additional requirements relating to designation  
69 Nature Conservation MPAs: further provision  
70 Nature Conservation MPAs: assessment of achievement of stated objectives

*Demonstration and Research MPAs*

- 71 Demonstration and Research MPAs: additional requirements relating to designation  
72 Demonstration and Research MPAs: further provision

*Historic MPAs*

- 73 Historic MPAs: additional requirements etc.

*Amendment or revocation of designation orders*

- 74 Amendment or revocation of designation orders

*Consultation, urgent designation, representations etc.*

- 75 Publicity and consultation etc. before designation  
76 Publicity in relation to designation orders  
77 Urgent designation  
78 Representations and hearing in relation to proposed designation order

*Duties relating to network*

- 79 Creation of network of conservation sites

*Advice etc. as regards protection of certain marine areas*

- 80 Advice etc. by Scottish Natural Heritage as regards Nature Conservation MPAs and Demonstration and Research MPAs  
81 Advice and guidance by the Scottish Ministers as regards MPAs



*General duties of public authorities*

- 82 Duties of public authorities in relation to marine protected areas etc.
- 83 Duties of public authorities in relation to certain decisions
- 84 Failure to comply with duties

*Marine conservation orders*

- 85 Marine conservation orders
- 86 Example provisions for marine conservation orders
- 87 Procedure for marine conservation orders
- 88 Urgent orders
- 89 Publicity in relation to marine conservation orders and urgent continuation orders
- 90 Representations and hearings in relation to proposed marine conservation orders etc.
- 91 Duty to assess impact of prohibition or restriction of activities

*Authorisation of things prohibited, regulated etc. by marine conservation orders*

- 92 Authorisation of things prohibited, regulated etc. by a marine conservation order
- 93 Delegation of issuing permits or authorisations

*Offences*

- 94 Offences: contravening a marine conservation order
- 95 Offences relating to protected features of a Nature Conservation MPA
- 96 Offences relating to marine historic assets
- 97 Exceptions to offences under section 94, 95 or 96
- 98 Prohibited act taken in an emergency

*Marine management schemes*

- 99 Marine management schemes
- 100 Review of schemes
- 101 Marine management schemes: consultation etc.
- 102 Directions as to making, amending or revocation of schemes

*Reports to Parliament*

- 103 Reports to Parliament

*Licences granted under Wildlife and Countryside Act 1981*

- 104 Grant of certain licences under Wildlife and Countryside Act 1981

*Penalties in regulations implementing Habitats Directive*

- 105 Penalties in regulations implementing the Habitats Directive for the Scottish marine area

*Interpretation of Part 5*

- 106 Interpretation of Part 5



## PART 6

### CONSERVATION OF SEALS

#### *Offence: killing, injuring or taking seals*

- 107 Offence: killing, injuring or taking seals
- 108 Exceptions: alleviating suffering
- 109 Exceptions: licensed activity

#### *Seal licences*

- 110 Seal licences
- 111 Methods of killing or taking seals under seal licence
- 112 Seal licence conditions
- 113 Seal licence reports
- 114 Variation or revocation of seal licence
- 115 Seal licence fees
- 116 Consultation and consent

#### *Protection at haul-out sites*

- 117 Offence: harassment at haul-out sites

#### *Seal conservation areas*

- 118 Seal conservation areas
- 119 Effect of seal conservation area status: licensing decisions

#### *Authorisations to enter land*

- 120 Power to enter land to obtain information about seals
- 121 Power to enter land to protect fisheries or fish farms from seals
- 122 Duty to notify occupier
- 123 Duty to produce authority
- 124 Obstructing an authorised person

#### *Supplementary*

- 125 Advice on seal population
- 126 Police powers: search and seizure
- 127 Forfeiture
- 128 Penalties
- 129 Duty to review seal licensing regime
- 130 Repeal

## PART 7

### COMMON ENFORCEMENT POWERS ETC.: LICENSING AND MARINE PROTECTION ETC.

#### *Powers of marine enforcement officers*

- 131 Enforcement of marine licensing regime
- 132 Enforcement of marine protection and nature conservation legislation

#### *The common enforcement powers*

- 133 The “common enforcement powers”



*Common enforcement powers of entry, search and seizure*

- 134 Power to board and inspect vessels and marine installations
- 135 Power to enter and inspect premises
- 136 Power to enter and inspect vehicles
- 137 Dwellings
- 138 Powers of search, examination, etc.
- 139 Power to require production of documents, etc.
- 140 Powers of seizure, etc.
- 141 Further provision about seizure
- 142 Retention of seized items

*Miscellaneous and ancillary common enforcement powers*

- 143 Power to record evidence of offences
- 144 Power to require name and address
- 145 Power to require production of licence, etc.
- 146 Power to require attendance of certain persons
- 147 Power to direct vessel or marine installation to port
- 148 Assistance, etc.
- 149 Power to use reasonable force

*Licensing: further enforcement powers*

- 150 Power to require information relating to certain substances and objects

*Duties of marine enforcement officers*

- 151 Duty to provide evidence of authority where a person is present
- 152 Duty to state name and purpose, etc.
- 153 Disapplication of sections 151 and 152 in relation to dwellings

*Liability of marine enforcement officers*

- 154 Liability of marine enforcement officers

*Offences in relation to marine enforcement officers*

- 155 Offences in relation to marine enforcement officers

*General*

- 156 General

*Interpretation of Part 7*

- 157 Interpretation of Part 7

**PART 8**

**SEA FISHERIES**

- 158 Extension of modifications relating to Sea Fish (Conservation) Act 1967
- 159 Modification of section 22A of Sea Fish (Conservation) Act 1967
- 160 Modifications relating to Sea Fisheries (Shellfish) Act 1967: orders as to fisheries for shellfish
- 161 Further modifications relating to Sea Fisheries (Shellfish) Act 1967



## PART 9

### GENERAL PROVISIONS

- 162 Crown application
- 163 Offences by bodies corporate
- 164 Ancillary provision
- 165 Orders and regulations
- 166 Interpretation: general
- 167 Consequential modifications
- 168 Commencement and short title

---

#### SCHEDULE 1 — Preparation, adoption etc. of marine plans or any amendment

- 1 Scottish Ministers to notify decision to prepare any marine plan
- 2 Interpretation
- 3 Regional marine plans to be compatible with certain other plans
- 4 Statement of public participation
- 5 Further provision about content of an SPP
- 6 Review and revision of an SPP
- 7 Advice and assistance
- 8 Matters to which Scottish Ministers to have regard in preparing marine plans
- 9 Preparation and publication of a consultation draft
- 10 Representations about a consultation draft
- 11 Independent investigation
- 12 Matters to which Scottish Ministers are to have regard in settling text with a view to adoption etc.
- 13 Laying settled text of draft national marine plan before the Parliament
- 14 Adoption and publication of marine plan

#### SCHEDULE 2 — Further provision about civil sanctions under Part 4 (marine licensing)

- 1 Interpretation
- 2 Fixed monetary penalties: other sanctions
- 3 Variable monetary penalties: other sanctions
- 4 Combination of sanctions
- 5 Monetary penalties
- 6 Recovery of expenses
- 7 Appeals
- 8 Consultation
- 9 Guidance as to use of civil sanctions
- 10 Guidance as to enforcement of offences
- 11 Publication of enforcement action
- 12 Disclosure of information

#### SCHEDULE 3 — Warrants issued under section 137

- 1 Introductory
- 2 Applications for warrants
- 3 Safeguards in connection with power of entry conferred by warrant
- 4 (1) A warrant must specify— (a) the name of the...
- 5 (1) 2 copies are to be made of a warrant....



- 6 Execution of warrants
- 7 (1) A warrant may authorise persons to accompany any marine...
- 8 (1) Execution of a warrant must be within 3 months...
- 9 (1) Where the occupier of a dwelling that is to...
- 10 Return of warrants

#### SCHEDULE 4 — Consequential modifications

##### Part 1 — MARINE LICENSING

- 1 Coast Protection Act 1949 (c.74)
- 2 Merchant Shipping Act 1988 (c.12)
- 3 Energy Act 2004 (c.20)

##### Part 2 — MARINE PROTECTION AND ENHANCEMENT: THE SCOTTISH MARINE PROTECTION AREA

- 4 Protection of Wrecks Act 1973 (c.33)
- 5 Wildlife and Countryside Act 1981 (c.69)
- 6 Territorial Sea Act 1987 (c.49)
- 7 Local Government (Wales) Act 1994 (c.19)
- 8 Local Government etc.(Scotland) Act 1994 (c.39)
- 9 Water Industry (Scotland) Act 2002 (asp 3)

##### Part 3

- 10 Sea Fisheries Act 1968
- 11 Fisheries Act 1981
- 12 Sea Fish (Conservation) Act 1992
- 13 Criminal Justice and Public Order Act 1994

#### SCHEDULE 5 — Index