

MARINE (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 5 – Marine Protection and Enhancement: the Scottish Marine Protection Area

Nature Conservation MPAs

Section 68 - Nature Conservation MPAs: additional requirements relating to designation

103. **Section 68** enables Scottish Ministers to designate by order a Nature Conservation MPA for the purposes of conserving marine flora or fauna, marine habitats and features of geological or geomorphological interest. For flora, fauna, marine habitats and types of habitat, this can include conserving the diversity of such flora or fauna or the habitats or types of such habitats, whether or not any or all of them are threatened.
104. **Section 68** also requires Scottish Ministers to prepare and publish guidance setting out scientific criteria to inform consideration of whether a Nature Conservation MPA should be designated, and to have regard to such guidance when exercising functions under section 67 (which provides for Scottish Ministers to designate MPAs).
105. The designation order is to state the protected feature(s) and conservation objectives for the site. Conserving marine flora or fauna includes in particular conserving any species that is rare or threatened because of the limited number of the species or the limited number of locations in which that species is present.
106. When designating a Nature Conservation MPA, Scottish Ministers must consider its contribution towards the development of a network of conservation sites as specified in section 79.
107. When considering designation of a Nature Conservation MPA, Scottish Ministers may have regard to the extent to which doing so will contribute to the mitigation of climate change. Likewise, when considering designation of a Nature Conservation MPA, they may have regard to any social and economic consequences of designation.
108. Additionally, in considering whether to designate a Nature Conservation MPA for the purposes of conserving or enhancing a marine habitat or feature of geological or geomorphological interest, Scottish Ministers may have regard to the degree to which the feature is representative of its type. Conserving a thing can include assisting in its conservation and enabling or facilitating its recovery or increase. Subsection (9) allows the Scottish Ministers, when considering whether to designate an area, to have particular regard to any views expressed by any person to whom marine planning functions for the relevant region have been delegated.