



# Marine (Scotland) Act 2010

## 2010 asp 5

### PART 4

#### MARINE LICENSING

##### *Pre-application consultation*

#### **22 Pre-application consultation: preliminary**

- (1) The Scottish Ministers may by regulations prescribe classes or descriptions of licensable marine activity.
- (2) Where a licensable marine activity is of such a class or description, section 23 applies to a prospective applicant for a marine licence in respect of that activity.
- (3) The Scottish Ministers, if satisfied that a prospective applicant is applying for a marine licence in respect of a licensable marine activity—
  - (a) which—
    - (i) is an activity which has previously been carried on at the site to which the application relates (or at a similar site), or
    - (ii) is similar to such an activity, and
  - (b) for which a licence has previously been granted,may determine that section 23 does not apply to the application.
- (4) Regulations under subsection (1) may also make provision—
  - (a) as to the right of a prospective applicant for a marine licence to notify the Scottish Ministers requiring a statement from them as to whether or not, in their opinion, the activity in respect of which the licence is being sought is of such a class or description,
  - (b) as to the manner in which—
    - (i) notification under paragraph (a) is to be exercised, including provision as to the information that the prospective applicant is to provide,
    - (ii) a statement under paragraph (a) is to be provided, including provision as to when a statement must be provided following receipt of sufficient information to determine the matter,

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*Status: This is the original version (as it was originally enacted).*

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- (c) as to the power of the Scottish Ministers to require further information in order to determine the application,
- (d) as to the effect of a statement under paragraph (a),
- (e) as to any other matter the Scottish Ministers consider necessary or expedient for the purposes of this section.

## **23 Pre-application consultation: compliance**

- (1) A person to whom this section applies (“the prospective applicant”) must give notice that an application for a marine licence is to be submitted.
- (2) A period of at least 12 weeks must elapse between giving the notice and the prospective applicant submitting the application.
- (3) Notice under subsection (1) must contain—
  - (a) a description in general terms of the activity to be carried out,
  - (b) a plan or chart showing the outline of the location at which the activity is to be carried out (including, as appropriate, the route to be taken in order to carry out the activity), which is sufficient to identify the location,
  - (c) details as to how the prospective applicant is to be contacted,
  - (d) such other information as may be prescribed by regulations made by the Scottish Ministers.
- (4) Regulations may—
  - (a) require that the notification be given to persons specified in the regulations,
  - (b) specify persons who are to be consulted as respects a proposed application and what form that consultation is to take.
- (5) Different provision may be made under subsection (4) for different parts of the Scottish marine area (see also section 165(1)).
- (6) The Scottish Ministers may, provided that they do so within 21 days of having received the notification, notify the prospective applicant that they require (either or both)—
  - (a) that the notification under subsection (1) be given to persons additional to those specified under subsection (4) (specifying in the notification who those persons are),
  - (b) that consultation additional to that required by virtue of subsection (4)(b) be undertaken as regards the proposed activity (specifying in the notification what form that consultation is to take).
- (7) In considering whether to give notification under subsection (6), the Scottish Ministers are to have regard to the nature, extent and location of the proposed activity, and to the likely effects at and in the vicinity of that location, of its being carried out.

## **24 Pre-application consultation report**

- (1) A person who, before submitting an application for a marine licence, was required to comply with section 23 and who proceeds to submit that application must prepare a report as to what has been done to effect such compliance.
- (2) A report under subsection (1) is to be in such form as the Scottish Ministers may by regulations prescribe.