



Marine (Scotland) Act 2010

2010 asp 5

PART 5

MARINE PROTECTION AND ENHANCEMENT: THE SCOTTISH MARINE PROTECTION AREA

Nature Conservation MPAs

68 Nature Conservation MPAs: additional requirements relating to designation

- (1) An area may be designated by a designation order as a Nature Conservation MPA if the Scottish Ministers consider it desirable to do so for any of the following purposes—
 - (a) conserving marine flora or fauna,
 - (b) conserving—
 - (i) marine habitats or types of such habitat,
 - (ii) features of geological or geomorphological interest.
- (2) The Scottish Ministers must—
 - (a) prepare and publish guidance setting out scientific criteria to inform consideration of whether an area should be designated a Nature Conservation MPA, and
 - (b) have regard to such guidance in exercising their functions under section 67.
- (3) The designation order must state—
 - (a) the protected feature or features in,
 - (b) the conservation objectives for,the Nature Conservation MPA.
- (4) Before designating an area as a Nature Conservation MPA, the Scottish Ministers must have regard to the extent to which the designation of the area would contribute towards the development of a network of conservation sites (namely a network referred to in section 79(2)).
- (5) For the purposes of subsection (1)(a), conserving marine flora or fauna includes (in particular) conserving any species that is rare or threatened because of—
 - (a) the limited number of individuals of that species,
 - (b) the limited number of locations in which that species is present.

Status: This is the original version (as it was originally enacted).

- (6) For the purposes of subsection (1)(a) and (b)(i), conserving marine flora or fauna, or (as the case may be) marine habitat or types of such habitat includes conserving the diversity of such flora or fauna or (as the case may be) such habitats or types of such habitats, whether or not any or all of them are rare or threatened.
- (7) In considering whether to designate an area, the Scottish Ministers may have regard to the extent to which doing so will contribute to the mitigation of climate change.
- (8) In considering whether it is desirable to designate an area as a Nature Conservation MPA, the Scottish Ministers may have regard to any social or economic consequences of designation.
- (9) In considering whether to designate an area, the Scottish Ministers may have regard in particular to the views of any relevant delegate as to the desirability of conserving—
 - (a) marine flora or fauna,
 - (b) marine habitats or types of such habitat,
 - (c) features of geological or geomorphological interest,
 in the area.
- (10) In considering whether to designate a Nature Conservation MPA for a purpose referred to in subsection (1)(b), the matters to which the Scottish Ministers may have regard include the degree to which a marine habitat or type of such habitat or (as the case may be) a feature of geological or geomorphological interest is representative of its type.
- (11) For the purposes of—
 - (a) this section, conserving a thing includes—
 - (i) assisting in its conservation,
 - (ii) enabling or facilitating its recovery or increase,
 - (b) subsection (9), a “relevant delegate” means any delegate designated in a direction under section 12(1)(b) to exercise functions in relation to a regional marine plan for the Scottish marine region in which any part of the proposed Nature Conservation MPA lies.

69 Nature Conservation MPAs: further provision

- (1) A designation order designating an area as a Nature Conservation MPA—
 - (a) must identify the area’s boundaries,
 - (b) may provide for a boundary to be determined by, or by reference to, mean high water spring tide.
- (2) A Nature Conservation MPA may include (in addition to an area of sea referred to in section 67(1)) an area of seashore lying above mean high water spring tide if—
 - (a) the area of seashore adjoins the area of sea, and
 - (b) any of the conditions in subsection (3) is satisfied.
- (3) The conditions are that—
 - (a) the protected feature or features leading to the designation of the area of sea is or are also present in the area of seashore,
 - (b) the area of sea is designated for the purpose of conserving marine flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, the area of seashore,

- (c) without the inclusion of the area of seashore, the identification of the boundary of the Nature Conservation MPA (either in the order designating the MPA or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.

70 Nature Conservation MPAs: assessment of achievement of stated objectives

The Scottish Ministers must assess from time to time the extent to which in their opinion the stated conservation objectives of any Nature Conservation MPA have been achieved (see also section 103, in particular subsections (1) and (3)(d)).