

Changes to legislation: There are currently no known outstanding effects for the Historic Environment Scotland Act 2014, SCHEDULE 4. (See end of Document for details)

SCHEDULE 4

(introduced by section 17)

FUNCTIONS OF HISTORIC ENVIRONMENT SCOTLAND IN RELATION TO THE MARINE ENVIRONMENT

1 The Marine (Scotland) Act 2010 (asp 5) is amended as follows.

Commencement Information

I1 Sch. 4 para. 1 in force at 1.10.2015 by S.S.I. 2015/196, art. 2, Sch. (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

2 After section 80 (advice etc. by Scottish Natural Heritage) insert—

“80A Advice etc. by Historic Environment Scotland as regards Historic MPAs

- (1) Historic Environment Scotland may give advice and guidance as to—
- (a) the matters which are capable of damaging or otherwise affecting any marine historic asset in a Historic MPA,
 - (b) how any stated preservation objectives for a Historic MPA may be furthered, or how the achievement of any such objectives may be hindered, and
 - (c) the assessment by a public authority of the matters in section 83(4)(b)(i) and (ii) including what factors the authority should take into account.
- (2) Advice or guidance as to any of the matters in paragraph (a) to (c) of subsection (1) may be given—
- (a) in relation to—
 - (i) a particular Historic MPA,
 - (ii) all Historic MPAs generally,
 - (b) in relation to a particular public authority or public authorities generally.”.

Commencement Information

I2 Sch. 4 para. 2 in force at 1.10.2015 by S.S.I. 2015/196, art. 2, Sch. (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

3 In section 82 (duties of public authorities in relation to marine protected areas etc.)

- (a) in subsection (3) after “Heritage” insert “ or Historic Environment Scotland ”,
- (b) in subsection (5) after “Heritage” insert “ or Historic Environment Scotland ”,
- (c) in subsection (6) after sub-paragraph (i) insert—

“(ia) Historic Environment Scotland has given advice or guidance to the authority under section 80A,”

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- (d) in subsection (7) after “Heritage” insert “ or Historic Environment Scotland ”,
- (e) in subsection (10) after “Heritage” insert “ or Historic Environment Scotland ”,
- (f) in subsection (12) after “80” insert “ , by Historic Environment Scotland under section 80A ”,
- (g) in subsection (13)—
 - (i) the words from “it is appropriate” to “Research MPA” become paragraph (a) of that subsection,
 - (ii) after that paragraph insert—
 - “(b) it is appropriate to inform Historic Environment Scotland where the exercise of the public authority's functions or the act or omission in question relates to a Historic MPA.”.

Commencement Information

I3 Sch. 4 para. 3 in force at 1.10.2015 by S.S.I. 2015/196, art. 2, Sch. (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

- 4 In section 83 (duties of public authorities in relation to certain decisions)—
- (a) in subsection (2) after “Heritage” insert “ or Historic Environment Scotland ”,
 - (b) in subsection (8) after “80” insert “ , by Historic Environment Scotland under section 80A ”,
 - (c) in subsection (9)—
 - (i) the words from “it is appropriate” to “Research MPA” become paragraph (a) of that subsection,
 - (ii) after that paragraph insert—
 - “(b) it is appropriate to inform Historic Environment Scotland where the act relates to a Historic MPA.”.

Commencement Information

I4 Sch. 4 para. 4 in force at 1.10.2015 by S.S.I. 2015/196, art. 2, Sch. (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

- 5 In section 84 (failure to comply with duties) after subsection (3) insert—
- “(3A) In relation to a Historic MPA if, in the opinion of Historic Environment Scotland, a public authority has failed—
 - (a) to act in accordance with advice or guidance given by Historic Environment Scotland under section 80A,
 - (b) to comply with any of its duties under section 82(2) or 83(3) or (4),
 Historic Environment Scotland may request from the authority an explanation in writing for the failure.
 - (3B) Historic Environment Scotland must send a copy of a request by it under subsection (3A) to the Scottish Ministers.

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- (3C) On receiving a request under subsection (3A), the public authority must—
- (a) provide Historic Environment Scotland with the requested explanation for the failure,
 - (b) send a copy of the explanation to the Scottish Ministers.”.

Commencement Information

- I5** Sch. 4 para. 5 in force at 1.10.2015 by S.S.I. 2015/196, art. 2, Sch. (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

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