



# Marine (Scotland) Act 2010

## 2010 asp 5

### PART 4

#### MARINE LICENSING

##### *Exemptions from licensing requirements*

#### **32 Exemptions specified by order**

- (1) The Scottish Ministers may by order specify activities which—
  - (a) are not to need a marine licence,
  - (b) are not to need a marine licence if conditions specified in the order are satisfied.
- (2) The conditions that may be specified in an order under subsection (1) include conditions enabling the Scottish Ministers to require a person to obtain their approval before the person does anything for which a licence would be needed but for the order.
- (3) Approval under subsection (2) may be either—
  - (a) without conditions, or
  - (b) subject to such conditions as the Scottish Ministers consider appropriate.
- (4) In deciding whether to make an order under subsection (1), the Scottish Ministers must have regard to—
  - (a) the need to protect the environment,
  - (b) the need to protect human health,
  - (c) the need to prevent interference with legitimate uses of the sea,
  - (d) such other matters as the Ministers consider relevant.
- (5) The Scottish Ministers must consult such persons as they consider appropriate as to any order the Ministers propose to make under subsection (1).

#### **33 Activities below specified threshold of environmental impact**

- (1) The Scottish Ministers may by regulations provide that licensable marine activities which fall below a specified threshold of environmental impact—

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*Status: This is the original version (as it was originally enacted).*

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- (a) are not to need a marine licence, but
  - (b) are instead to be registered.
- (2) Regulations under subsection (1) may—
- (a) define or elaborate the meaning of—
    - (i) “fall below”,
    - (ii) “registered”,
    - (iii) “specified threshold of environmental impact”,
  - (b) make further provision in relation to registration of the activities, including in particular the procedure in relation to registration.
- (3) The regulations may also—
- (a) create offences,
  - (b) provide that any offence created is triable summarily or on indictment,
  - (c) provide for any offence created to be punishable—
    - (i) on summary conviction, by a fine not exceeding £50,000,
    - (ii) on conviction on indictment, by a fine, imprisonment for a period not exceeding 2 years, or both.
- (4) The Scottish Ministers must consult such persons as they consider appropriate as to any regulations the Ministers propose to make under subsection (1).

### **34 Oil and gas, defence or pollution**

Nothing in this Part applies to—

- (a) any activity relating to a matter which is a reserved matter by virtue of Section D2 (oil and gas) in Part II of Schedule 5 to the Scotland Act 1998 (c.46) and which is an activity outside controlled waters (within the meaning of section 30A(1) of the Control of Pollution Act 1974 (c.40)),
- (b) any activity relating to a matter which is a reserved matter by virtue of paragraph 9 (defence) in Part I of that Schedule,
- (c) any activity falling within the subject matter of Part 6 (pollution) of the Merchant Shipping Act 1995 (c.21).