
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 268

**The Town and Country Planning (Marine
Fish Farming) (Scotland) Order 2007**

Transitional arrangements

14.—(1) Section 26(6) of the 1997 Act shall not apply to the placing or assembly of equipment in marine waters permitted by a relevant authorisation if that placing or assembly is carried out on or after 1st April 2007 and before 1st April 2010.

(2) Where section 26(6) of the 1997 Act does not apply to fish farm development by virtue of paragraph (1), sections 26(1), 26AA and 31A of the 1997 Act shall apply to the operation after 1st April 2010 of a marine fish farm involving the use of equipment the placing or assembly of which is permitted by a relevant authorisation subject to the following modifications—

(a) in section 26AA(1) for paragraph (b) substitute—

“(b) that the operation involves the use of equipment the placing or assembly of which—

(i) is carried out on or after 1st April 2007 and before 1st April 2010; and

(ii) is permitted by an authorisation granted in pursuance of an application for such authorisation made before 1st April 2007”; and

(b) in section 26AA(2)(b)(ii) for “the date of commencement of section 4 of the Planning etc. (Scotland) Act 2006” substitute “1st April 2010”.

(3) Nothing in this Order shall affect the enforceability of any authorisation granted prior to the date on which this Order comes into force.

(4) Notwithstanding article 12, the Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999⁽¹⁾ shall continue to apply in any case where an application to the Crown Estate Commissioners for consent for fish farming in marine waters is made prior to 1st April 2007.

(5) If an application for a works licence is—

(a) made before 1st April 2007; and

(b) is not deemed at that date to have been refused by virtue of either—

(i) section 11(4)(b) of the Zetland County Council Act 1974⁽²⁾; or

(ii) section 11(4)(b) of the Orkney County Council Act 1974⁽³⁾,

the application shall be treated as an application for planning permission rather than an application for a works licence and the 1997 Act shall apply as if the application is an application for planning permission made under Part 3 of that Act.

(6) In this article—

(a) “authorisation” has the same meaning as in section 26AA(3) of the 1997 Act;

⁽¹⁾ S.I.1999/367.

⁽²⁾ 1974.

⁽³⁾ 1974.

- (b) “equipment” and “fish farming” has the same meanings as in section 26(6) of the 1997 Act; and
- (c) “relevant authorisation” means—
 - (i) an authorisation granted by the Crown Estate Commissioners pursuant to an application for such authorisation made prior to 1st April 2007; or
 - (ii) a works licence granted prior to 1st April 2007; and
- (d) “works licence” means—
 - (i) a licence granted under section 11 of the Zetland County Council Act 1974 as regards fish farming within the coastal area defined in that Act; or
 - (ii) a licence granted under section 11 of the Orkney County Council Act 1974 as regards fish farming within a harbour area defined in that Act.