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*Changes to legislation: There are currently no known outstanding effects for the Fisheries Act 2020, SCHEDULE 10. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 10

Section 48

#### AMENDMENTS OF THE MARINE AND COASTAL ACCESS ACT 2009

##### PART 1

###### GENERAL POWERS AND DUTIES OF THE MARINE MANAGEMENT ORGANISATION

- 1 The Marine and Coastal Access Act 2009 is amended as follows.
- 2 (1) Section 24 (research) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The MMO must, at the request of the Secretary of State—
- (a) undertake research into any international marine matter, or
- (b) commission or support (by financial means or otherwise) research into any such matter;
- and may, in complying with such a request, undertake, commission or support research with other bodies or persons.
- (2B) The MMO must, at the request of the Secretary of State, make the results of any research under subsection (2A) available to any person.”
- (3) In subsection (3), after “Subsection (2)” insert “ or (2A) ”.
- (4) After subsection (3) insert—
- “(4) For the purposes of this section a matter is an “international marine matter” if—
- (a) it relates to an area outside the UK marine area, and
- (b) the MMO has power under subsection (1)(a) to undertake research into a corresponding matter that relates to the UK marine area or an area within it.
- (5) References in this section to the functions of the MMO are to functions exercisable by or on behalf of the MMO (including functions that the MMO performs under an agreement under section 14, and functions that any other body performs under an agreement under section 15).
- (6) References in this section to a person include a person outside the United Kingdom.”
- 3 (1) Section 25 (advice, assistance and training facilities) is amended as follows.
- (2) After subsection (3) insert—

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“(3A) The MMO must, at the request of the Secretary of State, provide advice to any person (including a person outside the United Kingdom) on any international marine matter that is within its knowledge or experience.”

(3) After subsection (4) insert—

“(5) The MMO must, at the request of the Secretary of State, provide any person outside the United Kingdom with—

- (a) assistance, or
- (b) the use of training facilities,

as respects any matter of which the MMO has knowledge or experience.

(6) For the purposes of this section a matter is an “international marine matter” if—

- (a) it relates to an area outside the UK marine area, and
- (b) the MMO has power under subsection (3)(a) (on request) to provide advice on a corresponding matter that relates to the UK marine area or an area within it.

(7) References in this section to the functions of the MMO are to functions exercisable by or on behalf of the MMO (including functions that the MMO performs under an agreement under section 14, and functions that any other body performs under an agreement under section 15).”

4 (1) Section 26 (provision of information etc) is amended as follows.

(2) After subsection (1) insert—

“(1A) The MMO must, at the request of the Secretary of State—

- (a) publish documents or provide information about any international marine matter, or
- (b) assist in the publication of such documents or the provision of such information.”

(3) In subsection (2), at the end insert “ or the duty imposed by subsection (1A) ”.

(4) After subsection (2) insert—

“(3) For the purposes of this section a matter is an “international marine matter” if—

- (a) it relates to an area outside the UK marine area, and
- (b) the MMO has power under subsection (1)(a) to publish documents or provide information about a corresponding matter that relates to the UK marine area or an area within it.

(4) References in this section to the functions of the MMO are to functions exercisable by or on behalf of the MMO (including functions that the MMO performs under an agreement under section 14, and functions that any other body performs under an agreement under section 15).”

5 In section 27 (power to charge for services), in subsection (3)—

- (a) in paragraph (b), after “24(2)” insert “ or (2B) ”;
- (b) in paragraph (c), for “or (4)” substitute “, (3A), (4) or (5)”.

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## PART 2

### POWERS RELATING TO THE EXPLOITATION OF SEA FISHERIES RESOURCES

- 6 The Marine and Coastal Access Act 2009 is amended in accordance with paragraphs 7 to 31.
- 7 In the heading of Chapter 1 of Part 5, after “marine conservation zones” insert “and management of sea fisheries”.
- 8 (1) Section 117 (grounds for designation of MCZs) is amended as follows.
- (2) In subsection (4), for “The reference in subsection (1)(a)” substitute “ Any reference in this Chapter ”.
- (3) In subsection (5), for “The references in subsection (1)(a) and (b)” substitute “ Any reference in this Chapter ”.
- (4) In subsection (6), after “Any reference” insert “ in this Chapter ”.
- 9 In the italic heading before section 129, for “protection of MCZs etc: England” substitute “ marine conservation: England and the English offshore region ”.
- 10 In section 129 (byelaws for protections of MCZs in England), in subsection (7), for “subject to specified exceptions” substitute—
- “(a) subject to specified exceptions or conditions;
- (b) so as to cease to have effect after a specified period.”
- 11 After section 129 insert—

#### **“129A Byelaws relating to exploitation of sea fisheries resources: England**

- (1) The MMO may make one or more byelaws relating to the exploitation of sea fisheries resources in England for the purposes of conserving—
- (a) marine flora or fauna, or
- (b) marine habitats or types of marine habitat.
- (2) A byelaw under this section may be made so as to apply to any area in England.
- (3) A byelaw under this section must specify the flora or fauna, or habitat or type of habitat, for the conservation of which the byelaw is made.
- (4) The provision that may be made by a byelaw under this section includes provision that prohibits, restricts or otherwise interferes with the exercise of—
- (a) a right of several fishery;
- (b) any right on, to or over any portion of the seashore that is enjoyed by a person under a local or special Act, a Royal charter, letters patent or by prescription or immemorial usage.
- (5) But the MMO may make a byelaw that prohibits, or significantly restricts or interferes with, a right referred to in subsection (4), only if the person who enjoys the right consents.
- (6) Subsection (5) does not apply in relation to the exercise of such a right in relation to—

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- (a) a site of special scientific interest, within the meaning of Part 2 of the Wildlife and Countryside Act 1981,
- (b) a national nature reserve declared in accordance with section 35 of that Act,
- (c) a Ramsar site, within the meaning of section 37A of that Act,
- (d) a European marine site, within the meaning of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), or
- (e) an MCZ.

(7) See also section 129C (supplementary).

### **129B Byelaws relating to exploitation of sea fisheries resources: English offshore region**

- (1) The MMO may make one or more byelaws relating to the exploitation of sea fisheries resources in the English offshore region for the purposes of conserving—
  - (a) marine flora or fauna,
  - (b) marine habitats or types of marine habitat, or
  - (c) features of geological or geomorphological interest.
- (2) A byelaw under this section may be made so as to apply to any area in the English offshore region.
- (3) A byelaw under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made.
- (4) See also section 129C (supplementary).

### **129C Byelaws under sections 129A and 129B: supplementary**

- (1) The provision that may be made by a byelaw under section 129A or 129B includes, in particular, provision falling within any of the Heads set out in subsections (2) to (4).
- (2) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—
  - (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
  - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
  - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (3) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the MMO, including—
  - (a) provision for the charging of fees for permits;
  - (b) provision enabling conditions to be attached to a permit;
  - (c) provision enabling the MMO to limit the number of permits issued by it.
- (4) Head 3 is—

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- (a) provision prohibiting or restricting the use of vessels of specified descriptions;
  - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
  - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources;
  - (d) provision for determining whether such items are items of a specified description.
- (5) A byelaw under section 129A or 129B may be made—
- (a) subject to specified exceptions or conditions;
  - (b) so as to cease to have effect after a specified period.
- (6) A byelaw under section 129A or 129B may make different provision for different cases, including in particular—
- (a) different times of the year,
  - (b) different means or methods of carrying out an activity, and
  - (c) different descriptions of sea fisheries resources.
- (7) In this section “specified” means specified in the byelaw.”
- 12 (1) Section 130 (byelaws: procedure) is amended as follows.
- (2) In subsection (1) after “129” insert “, 129A or 129B ”.
- (3) In subsection (2), after “the byelaw” insert “ is made under section 129 or 129A and ”.
- (4) After subsection (2) insert—
- “(2A) If the byelaw is made under section 129B and—
- (a) the byelaw would or might affect the exploitation of sea fisheries resources in the Welsh offshore region, the MMO must send a copy of a draft of the byelaw to the Welsh Ministers;
  - (b) the byelaw would or might affect the exploitation of sea fisheries resources in the Scottish offshore region, the MMO must send a copy of a draft of the byelaw to the Scottish Ministers;
  - (c) the byelaw would or might affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, the MMO must send a copy of a draft of the byelaw to the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.”
- (5) In subsections (8) and (9), after “129” insert “, 129A or 129B ”.
- (6) In subsection (11), for the words from “where” to the end substitute “ in relation to a byelaw made by virtue of section 131 (emergency byelaws) ”.
- 13 (1) Section 131 (emergency byelaws) is amended as follows.
- (2) In subsection (1), after “that purpose” insert “ under section 129 ”.
- (3) After subsection (1) insert—

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- “(1A) Where the MMO thinks that there is an urgent need to protect the English offshore region, a byelaw made by it under section 129B for that purpose has effect without being confirmed by the Secretary of State.”
- (4) In subsection (8)(a), after “MCZ” insert “, or under section 129B in respect of the English offshore region, ”.
- 14 (1) Section 132 (interim byelaws) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The MMO may make one or more byelaws relating to the exploitation of sea fisheries resources in the English offshore region for the purpose of protecting any feature in an area in that region if the MMO thinks—
- (a) that there are or may be reasons for the Secretary of State to consider whether to designate the area as an MCZ, and
- (b) that there is an urgent need to protect the feature.”
- (3) In subsection (2), after “subsection (1)” insert “ or (1A) ”.
- (4) In subsection (4), for “an interim byelaw” substitute “ a byelaw made under subsection (1) ”.
- (5) After subsection (4) insert—
- “(4A) Section 129C applies to a byelaw made under subsection (1A) as it applies to a byelaw made under section 129A or 129B.”
- 15 (1) Section 133 (further provision) is amended as follows.
- (2) In subsection (1) for “or 132” substitute “, 129A, 129B or 132(1) or (1A) ”.
- (3) In subsection (3), after “applies” insert “ is made under section 129, 129A or 132(1) and ”.
- (4) After subsection (3) insert —
- “(3A) If the byelaw is made under section 129B or 132(1A) and—
- (a) the byelaw will or may affect the exploitation of sea fisheries resources in the Welsh offshore region, the MMO must send a copy of the byelaw to the Welsh Ministers;
- (b) the byelaw will or may affect the exploitation of sea fisheries resources in the Scottish offshore region, the MMO must send a copy of the byelaw to the Scottish Ministers;
- (c) the byelaw will or may affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, the MMO must send a copy of the byelaw to the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.”
- (5) In subsection (6) after “129” insert “ or 129A ”.
- (6) After subsection (6) insert—
- “(6A) In the case of a byelaw made under section 129B in accordance with section 130, subsection (3A) applies only after the byelaw has been confirmed under section 130(8).”

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16 In the italic heading before section 134, for “protection of MCZs etc: Wales” substitute “ marine conservation: Wales and the Welsh offshore region ”.

17 After section 134 insert—

**“134A Orders relating to exploitation of sea fisheries resources: Wales**

- (1) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in Wales for the purposes of conserving—
  - (a) marine flora or fauna, or
  - (b) marine habitats or types of marine habitat.
- (2) An order under this section may be made so as to apply to any area in Wales.
- (3) An order under this section must specify the flora or fauna, or habitat or type of habitat, for the conservation of which the order is made.
- (4) The provision that may be made by an order under this section includes provision that prohibits, restricts or otherwise interferes with the exercise of—
  - (a) a right of several fishery;
  - (b) any right on, to or over any portion of the seashore that is enjoyed by a person under a local or special Act, a Royal charter, letters patent or by prescription or immemorial usage.
- (5) But the Welsh Ministers may make an order that prohibits, or significantly restricts or interferes with, a right referred to in subsection (4), only if the person who enjoys the right consents.
- (6) Subsection (5) does not apply in relation to the exercise of such a right in relation to—
  - (a) a site of special scientific interest, within the meaning of Part 2 of the Wildlife and Countryside Act 1981,
  - (b) a national nature reserve declared in accordance with section 35 of that Act,
  - (c) a Ramsar site, within the meaning of section 37A of that Act,
  - (d) a European marine site, within the meaning of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), or
  - (e) an MCZ.
- (7) See also section 134C (supplementary).

**134B Orders relating to exploitation of sea fisheries resources: Welsh offshore region**

- (1) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Welsh offshore region for the purposes of conserving—
  - (a) marine flora or fauna,
  - (b) marine habitats or types of marine habitat, or
  - (c) features of geological or geomorphological interest.

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- (2) An order under this section may be made so as to apply to any area in the Welsh offshore region.
- (3) An order under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made.
- (4) See also section 134C (supplementary).

### **134C Orders under sections 134A and 134B: supplementary**

- (1) The provision that may be made by an order under section 134A or 134B includes, in particular, provision falling within any of the Heads set out in subsections (2) to (4).
- (2) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—
  - (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
  - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
  - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (3) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the Welsh Ministers, including—
  - (a) provision for the charging of fees for permits;
  - (b) provision enabling conditions to be attached to a permit;
  - (c) provision enabling the Welsh Ministers to limit the number of permits issued by them.
- (4) Head 3 is—
  - (a) provision prohibiting or restricting the use of vessels of specified descriptions;
  - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
  - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources;
  - (d) provision for determining whether such items are items of a specified description.
- (5) An order under section 134A or 134B may be made—
  - (a) subject to specified exceptions or conditions;
  - (b) so as to cease to have effect after a specified period.
- (6) An order under section 134A or 134B may make different provision for different cases, including in particular—
  - (a) different times of the year,
  - (b) different means or methods of carrying out an activity, and
  - (c) different descriptions of sea fisheries resources.



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- (7) In this section “specified” means specified in the order.”
- 18 (1) Section 135 (consultation) is amended as follows.
- (2) In the heading, after “134” insert “ , 134A or 134B ”.
- (3) In subsection (1), after “section 134” insert “ or 134A ”.
- (4) After subsection (1) insert—
- “(1A) Before making an order under section 134B the Welsh Ministers must—
- (a) consult the Secretary of State,
- (b) if the order would or might affect the exploitation of sea fisheries resources in the English offshore region, consult the MMO,
- (c) if the order would or might affect the exploitation of sea fisheries resources in the Scottish offshore region, consult the Scottish Ministers,
- (d) if the order would or might affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, and
- (e) consult any other person whom they think fit to consult.”
- (5) In subsection (2), after “134” insert “ , 134A or 134B ”.
- (6) In subsection (4)—
- (a) for “in order to protect an MCZ” substitute “ , 134A or 134B ”;
- (b) for paragraph (a) substitute—
- “(a) subsections (1) and (1A) do not apply in relation to the making of that order, and”.
- 19 (1) Section 136 (interim orders) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Welsh offshore region for the purpose of protecting any feature in an area in that region if they think—
- (a) that there are or may be reasons to consider whether to designate the area as an MCZ, and
- (b) that there is an urgent need to protect the feature.”
- (3) In subsection (2), after “subsection (1)” insert “ or (1A) ”.
- (4) In subsection (4), for “an interim order” substitute “ an order made under subsection (1) ”.
- (5) After subsection (4) insert—
- “(4A) Section 134C applies to an order made under subsection (1A) as it applies to an order made under section 134A or 134B.”
- 20 (1) Section 137 (further provision) is amended as follows.
- (2) In the heading, after “134” insert “ 134A, 134B ”.
- (3) In subsection (1), for “or 136” substitute “ , 134A, 134B or 136(1) or (1A) ”.

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- (4) In subsection (2), at the end insert “ and (in the case of an order under section 134B) to any person consulted under section 135(1A) ”.

21 After section 137 insert—

*“Orders for marine conservation: Scottish offshore region*

**137A Orders relating to exploitation of sea fisheries resources: Scottish offshore region**

- (1) The Scottish Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Scottish offshore region for the purposes of conserving—
  - (a) marine flora or fauna,
  - (b) marine habitats or types of marine habitat, or
  - (c) features of geological or geomorphological interest.
- (2) An order under this section may be made so as to apply to any area in the Scottish offshore region.
- (3) An order under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made.
- (4) The provision that may be made by an order under this section includes, in particular, provision falling within any of the Heads set out in subsections (5) to (7).
- (5) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—
  - (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
  - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
  - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (6) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the Scottish Ministers, including—
  - (a) provision for the charging of fees for permits;
  - (b) provision enabling conditions to be attached to a permit;
  - (c) provision enabling the Scottish Ministers to limit the number of permits issued by it.
- (7) Head 3 is—
  - (a) provision prohibiting or restricting the use of vessels of specified descriptions;
  - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
  - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources;

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- (d) provision for determining whether such items are items of a specified description.
- (8) An order under this section may be made—
  - (a) subject to specified exceptions or conditions;
  - (b) so as to cease to have effect after a specified period.
- (9) An order under this section may make different provision for different cases, including in particular—
  - (a) different times of the year,
  - (b) different means or methods of carrying out an activity, and
  - (c) different descriptions of sea fisheries resources.
- (10) In this section “specified” means specified in the order.
- (11) An order under this section that contains provision for the charging of fees for permits (including provision changing the level of fees) is subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010) (asp 10)).
- (12) Any other order under this section is subject to the negative procedure (see that Part of that Act).

### **137B Consultation etc regarding orders under section 137A**

- (1) Before making an order under section 137A the Scottish Ministers must—
  - (a) consult the Secretary of State,
  - (b) if the order would or might affect the exploitation of sea fisheries resources in the English offshore region, consult the MMO,
  - (c) if the order would or might affect the exploitation of sea fisheries resources in the Welsh offshore region, consult the Welsh Ministers,
  - (d) if the order would or might affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, and
  - (e) consult any other person whom they think fit to consult.
- (2) The Scottish Ministers must publish notice of the making of an order under section 137A.
- (3) The notice under subsection (2) must—
  - (a) be published in such manner as the Scottish Ministers think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
  - (b) give an address at which a copy of the order may be inspected.
- (4) Where the Scottish Ministers think that there is an urgent need to make an order under section 137A to protect the Scottish offshore region—
  - (a) subsection (1) does not apply, and
  - (b) the notice under subsection (2) must also state that any person affected by the making of the order may make representations to the Scottish Ministers.

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- (5) Where in reliance on subsection (4)(a) the Scottish Ministers do not comply with subsection (1) before making an order under section 137A, that order—
  - (a) comes into force on a date specified in the order, and
  - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (6) The Scottish Ministers may by further order extend the period for which an order to which subsection (5) applies is in force for a period not exceeding 12 months.

### **137C Interim orders made by Scottish Ministers**

- (1) The Scottish Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Scottish offshore region for the purpose of protecting any feature in any area in that region if they think—
  - (a) that there are or may be reasons to consider whether to designate the area as an MCZ, and
  - (b) that there is an urgent need to protect the feature.
- (2) An interim order under this section must contain a description of the boundaries of the area to which it applies (which must be no greater than is necessary for the purpose of protecting the feature in question).
- (3) Subsections (4) to (10) of section 137A apply to an interim order under this section.
- (4) An interim order under this section—
  - (a) comes into force on a date specified in the order, and
  - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (5) The Scottish Ministers must publish notice of the making of an interim order under this section.
- (6) The notice under subsection (5) must—
  - (a) be published in such manner as the Scottish Ministers think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
  - (b) give an address at which a copy of the order may be inspected;
  - (c) state that any person affected by the making of the order may make representations to the Scottish Ministers.
- (7) The Scottish Ministers must keep under review the need for an interim order under this section to remain in force.
- (8) The Scottish Ministers may by further order extend the period for which an interim order remains in force.
- (9) In this section “feature” means any flora, fauna, habitat or feature which could be a protected feature if the area in question were designated as an MCZ.
- (10) An order under this section is subject to the negative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010) (asp 10)).

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### **137D Further provision as to orders made under section 137A or 137C**

- (1) This section applies to any order made under section 137A or 137C.
- (2) The Scottish Ministers must send a copy of any order to which this section applies to the Secretary of State and to any person consulted under section 137B(2).
- (3) The Scottish Ministers must—
  - (a) make a copy of any order to which this section applies available for inspection at such place as they think fit for that purpose at all reasonable hours without payment;
  - (b) provide a copy of any such order to any person who requests one.
- (4) An order to which this section applies may be amended or revoked by a further order.

*Orders for marine conservation: Northern Ireland offshore region*

### **137E Orders relating to exploitation of sea fisheries resources: Northern Ireland offshore region**

- (1) The Department may make one or more orders relating to the exploitation of sea fisheries resources in the Northern Ireland offshore region for the purposes of conserving—
  - (a) marine flora or fauna,
  - (b) marine habitats or types of marine habitat, or
  - (c) features of geological or geomorphological interest.
- (2) An order under this section may be made so as to apply to any area in the Northern Ireland offshore region.
- (3) An order under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made.
- (4) The provision that may be made by an order under this section includes, in particular, provision falling within any of the Heads set out in subsections (5) to (7).
- (5) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—
  - (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
  - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
  - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (6) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the Department, including—
  - (a) provision for the charging of fees for permits;
  - (b) provision enabling conditions to be attached to a permit;

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- (c) provision enabling the Department to limit the number of permits issued by it.
- (7) Head 3 is—
  - (a) provision prohibiting or restricting the use of vessels of specified descriptions;
  - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
  - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources;
  - (d) provision for determining whether such items are items of a specified description.
- (8) An order under this section may be made—
  - (a) subject to specified exceptions or conditions;
  - (b) so as to cease to have effect after a specified period.
- (9) An order under this section may make different provision for different cases, including in particular—
  - (a) different times of the year,
  - (b) different means or methods of carrying out an activity, and
  - (c) different descriptions of sea fisheries resources.
- (10) In this section “specified” means specified in the order.
- (11) In this section, and in sections 137F to 137H, “the Department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

### **137F Consultation etc regarding orders under section 137E**

- (1) Before making an order under section 137E the Department must—
  - (a) consult the Secretary of State,
  - (b) if the order would or might affect the exploitation of sea fisheries resources in the English offshore region, consult the MMO,
  - (c) if the order would or might affect the exploitation of sea fisheries resources in the Scottish offshore region, consult the Scottish Ministers,
  - (d) if the order would or might affect the exploitation of sea fisheries resources in the Welsh offshore region, consult the Welsh Ministers, and
  - (e) consult any other person whom they think fit to consult.
- (2) The Department must publish notice of the making of an order under section 137E.
- (3) The notice under subsection (2) must—
  - (a) be published in such manner as the Department think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;

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- (b) give an address at which a copy of the order may be inspected.
- (4) Where the Department think that there is an urgent need to make an order under section 137E to protect the Northern Ireland offshore region—
  - (a) subsection (1) does not apply,
  - (b) the notice under subsection (2) must also state that any person affected by the making of the order may make representations to the Department.
- (5) Where in reliance on subsection (4)(a) the Department does not comply with subsection (1) before making an order under section 137A, that order—
  - (a) comes into force on a date specified in the order, and
  - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (6) The Department may by further order extend the period for which an order to which subsection (5) applies is in force for a period not exceeding 6 months.”

### **137G Interim orders made by the Department**

- (1) The Department may make one or more orders relating to the exploitation of sea fisheries resources in the Northern Ireland offshore region for the purpose of protecting any feature in any area in that region if the Department thinks—
  - (a) that the appropriate authority should consider whether to designate the area as an MCZ, and
  - (b) that there is an urgent need to protect the feature.
- (2) An interim order under this section must contain a description of the boundaries of the area to which it applies (which must be no greater than is necessary for the purpose of protecting the feature in question).
- (3) Subsections (4) to (10) of section 137E apply to an interim order under this section.
- (4) An interim order under this section—
  - (a) comes into force on a date specified in the order, and
  - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (5) The Department may by further order extend the period for which the interim order is in force for a period not exceeding 6 months.
- (6) The Department must publish notice of the making of an interim order under this section.
- (7) The notice under subsection (6) must—
  - (a) be published in such manner as the Department think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
  - (b) give an address at which a copy of the order may be inspected;
  - (c) state that any person affected by the making of the order may make representations to the Department.

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- (8) The Department must keep under review the need for an interim order under this section to remain in force.
- (9) In this section “feature” means any flora, fauna, habitat or feature which could be a protected feature if the area in question were designated as an MCZ.

**137H Further provision as to orders made under section 137E or 137G**

- (1) This section applies to any order made under section 137E or 137G.
- (2) The Department must send a copy of any order to which this section applies to the Secretary of State and to any person consulted under section 137F(2).
- (3) The Department must—
  - (a) make a copy of any order to which this section applies available for inspection at such place as the Department thinks fit for that purpose at all reasonable hours without payment;
  - (b) provide a copy of any such order to any person who requests one.”

- 22 (1) Section 138 (hearings) is amended as follows.
- (2) In the heading, omit “by Secretary of State or Welsh Ministers”.
  - (3) In subsection (1)(a) for “section 129” substitute “ this Chapter ”.
  - (4) In subsection (2)—
    - (a) in paragraph (a), after “134” insert “ , 134A or 134B ”;
    - (b) in paragraph (b), after “136(1)” insert “ or (1A) ”.
  - (5) After subsection (2) insert—
    - “(2A) This section also applies where the Scottish Ministers have the function of—
      - (a) deciding whether to make an order under section 137A;
      - (b) deciding whether to make an order under section 137C.
    - (2B) This section also applies where the Department of Agriculture, Environment and Rural Affairs in Northern Ireland has the function of —
      - (a) deciding whether to make an order under section 137E;
      - (b) deciding whether to make an order under section 137G.”
  - (6) In subsections (3), (4) and (5), after “Welsh Ministers” insert “ , the Scottish Ministers or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland ”.

- 23 (1) Section 139 (offences) is amended as follows.
- (2) In subsection (1)—
    - (a) in paragraph (a), for “or 132(1)” substitute “ , 129A, 129B or 132(1) or (1A) ”;
    - (b) in paragraph (b), for “or 136(1)” substitute “ , 134A, 134B, 136(1) or (1A), 137A, 137C, 137E or 137G ”.
  - (3) For subsection (2) substitute—



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“(2) A person who is guilty of an offence under this section in respect of a contravention of—

- (a) a byelaw made under section 129 or 129A,
- (b) a byelaw made under section 132(1),
- (c) an order made under section 134 or 134A, or
- (d) an order made under section 136(1),

is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2A) A person who is guilty of an offence under this section in respect of a contravention of a byelaw or order not specified in subsection (2) is liable—

- (a) on conviction on indictment, to a fine, or
- (b) on summary conviction, to a fine (in Scotland or Northern Ireland, not exceeding the statutory maximum).”

(4) In subsection (4), for “England and Wales” substitute “ the United Kingdom ”.

24 In section 141 (exceptions), in subsection (1)(c)(i), for “or 134(4)” substitute “ 129C(3), 134(4), 134C(3), 137A(6) or 137E(6) ”.

25 In section 142 (fixed monetary penalties), in subsection (1), omit “(other than the Scottish offshore region)”.

26 (1) Section 147 (interpretation) is amended as follows.

(2) In subsection (1)—

- (a) in the definition of “interim byelaw” after “132(1)” insert “ or (1A) ”;
- (b) in the definition of “interim order”, after “136(1)” insert “ or (1A) ”;
- (c) after the definition of “sea” insert—

““sea fisheries resources” has the same meaning as in Chapter 1 of Part 6, and references to the exploitation of sea fisheries resources are to be read in accordance with section 153(12);”.

(3) After subsection (2) insert—

“(3) For provision about the meaning of references to “conserving” a thing, see subsections (4) to (6) of section 117.”

27 In section 166 (powers of IFC officers), in subsection (1)(e), after “129” insert “ , 129A, 129B ”.

28 In section 189 (power of Welsh Ministers in relation to fisheries in Wales)—

- (a) in subsection (1), for “Subject to subsection (2), the” substitute “ The ”;
- (b) omit subsection (2).

29 (1) Section 237 (enforcement of nature conservation legislation) is amended as follows.

(2) In the heading, after “conservation” insert “ or fisheries exploitation ”.

(3) In subsection (1), after “legislation” insert “ or the fisheries exploitation legislation ”.

(4) In subsection (2)—

- (a) in paragraph (f), for “132” substitute “ 132(1) ”;
- (b) in paragraph (g), for “136” substitute “ 136(1) ”.

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- (5) After subsection (2) insert—
- “(2A) In this section “the fisheries exploitation legislation” means—
- (a) any byelaws made under section 129A, 129B or 132(1A) of this Act;
- (b) any orders made under section 134A, 134B, 136(1A), 137A, 137C, 137E or 137G of this Act.”
- (6) In subsection (3), after “legislation” insert “ or the fisheries exploitation legislation ”.
- (7) In subsection (8), after “legislation” insert “ or the fisheries exploitation legislation ”.
- (8) After subsection (9) insert—
- “(9A) The powers which a marine enforcement officer has for the purposes of enforcing the fisheries exploitation legislation may not be exercised in relation to a vessel falling within paragraph (b) or (c) of subsection (10) unless the Commissioners have given authority to exercise those powers.”
- (9) In subsection (11), after “(9)(b)” insert “ or (9A) ”.
- (10) After subsection (13) insert—
- “(14) Where the fisheries exploitation legislation consists of an order made under section 137A or 137C of this Act (orders relating to Scottish offshore region), this section applies as if—
- (a) references to a marine enforcement officer included a person appointed as such by the Scottish Ministers,
- (b) for the purposes of subsection (3)(a), the relevant enforcement area were Scotland, the Scottish inshore region and the Scottish offshore region, and
- (c) subsections (3)(c) and (d) and (4) to (6) were omitted.
- (15) Where the fisheries exploitation legislation consists of an order made under section 137E or 137G of this Act (orders relating to Northern Ireland offshore region), this section applies as if—
- (a) references to a marine enforcement officer included a person appointed as such by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland,
- (b) for the purposes of subsection (3)(a), the relevant enforcement area were Northern Ireland, the Northern Ireland inshore region and the Northern Ireland offshore region, and
- (c) subsections (3)(c) and (d) and (4) to (6) were omitted.”
- 30 In section 238(3), after paragraph (d) insert—
- “(da) any byelaws made under section 129A, 129B or 132(1A);
- (db) any orders made under section 134A, 134B, 136(1A), 137A, 137C, 137E or 137G;”.
- 31 (1) Section 316 (regulations and orders) is amended as follows.
- (2) In subsection (4)(a)—
- (a) for “137” substitute “ 137G ”;
- (b) after “MCZs” insert “ etc ”.
- (3) In subsection (6), before paragraph (a) insert—

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- “(za) any order under section 137E that contains provision for the charging of fees for permits (including provision changing the levels of fees),”.
- 32 (1) In the Water Resources Act 1991, in Schedule 25, paragraph 5(4) (byelaws for flood defence and drainage purposes) is amended as follows.
- (2) In paragraph (b)—
- (a) for “or 132” substitute “, 129A, 129B or 132(1) or (1A) ”;
  - (b) for “protecting marine conservation zones” substitute “ marine conservation ”.
- (3) In paragraph (c)—
- (a) for “or 136” insert “, 134A, 134B or 136(1) or (1A) ”;
  - (b) for “protecting marine conservation zones” substitute “ marine conservation ”.

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