EXECUTIVE NOTE

THE MARINE LICENSING (EXEMPTED ACTIVITIES) (SCOTTISH OFFSHORE REGION) ORDER 2011

SSI 2011/57

The above instrument is made by the Scottish Ministers in exercise of the powers conferred by sections 74(1), (2) and (3) and 316 (1) of the Marine and Coastal Access Act 2009 ("the 2009 Act"). This instrument is subject to negative procedure. The content is similar to that of the Marine Licensing (Exempted Activities)(Scottish Inshore Region) Order 2011 which falls to be made under sections 32(1), (2) and (3) and 165 (1) of the Marine (Scotland) Act 2010 ("the 2010 Act") but is subject to affirmative resolution procedure. This instrument covers exemptions from licensing requirements in the Scottish offshore region from 12 to 200nm. That made under the 2010 Act covers the Scottish inshore region from 0 to 12 nm.

Policy objectives

This instrument forms part of an implementation package in connection with the introduction of marine licensing under the 2009 and 2010 Acts.

The new marine licensing system has a broad scope. This will allow a consistent approach across a range of activities, simplifying the process of getting approval for a project. However this broad scope means that some activities that are already well regulated and others that pose little environmental risk potentially require a licence. The purpose of the instrument is to exempt day to day activities, ensure compatibility with international and domestic law, avoid regulating the same activity twice and enable emergency action to be carried out without damaging delay.

Consultation

A consultation on proposals for secondary legislation required to implement the new marine licensing regime provided for by the 2010 Act took place between 8 September and 1 December 2010. The consultation received 46 responses. In addition the consultation document was considered at 4 events which took place during the consultation period.

Responses to the consultation were published in the Scottish Government's Consultation Report which contains a full list of those who responded and is available at the following address – http://www.scotland.gov.uk/Consultations/Current

A number of exemptions were added to the Order in response to comments made during the consultation exercise. These were as follows

- The exemption in respect of scientific instruments at article 16 does not apply to a deposit that causes or is likely to cause obstruction or danger to navigation.

- Reference to the removal of biological growth from a vehicle, vessel, aircraft or marine structure has been dropped from article 18.

- The words “the approval or consent” are now included in article 20(1(b).

- An exemption has been added at article 23 for the authorised emergency inspection and repair of cables and pipelines.

Business and regulatory impact assessment

A Business and Regulatory Impact Assessment has been completed on the policy of marine licensing, exemptions and appeals against licensing decisions and was subject to consultation along with the draft Order. The final assessment was published in January 2011 and is available at the following address - http://www.scotland.gov.uk/Topics/Business-Industry/support/better-regulation/partial-assessments/full/2011/MarineActExemptions#top

There are no equality impact issues.

Financial effects

Establishing exemptions from the need to apply for a marine licence does not in itself have financial effects.

Marine Scotland
February 2011