

ENVIRONMENTAL PROTECTION

MARINE MANAGEMENT

The Delegation of Functions (Regional Marine Plan for the Scottish Marine Region for the Clyde) Direction 2017

Made - - - - - 14th March 2017

Coming into force - - - 20th March 2017

The Scottish Ministers give the following Direction in exercise of the powers conferred by sections 12 and 13 of the Marine (Scotland) Act 2010(a) and all other powers enabling them to do so.

By virtue of section 12(4) of the Marine (Scotland) Act 2010 this Direction is given with the consent of the public authorities referred to in paragraph 2 of this Direction.

In accordance with section 13(1) of the Marine (Scotland) Act 2010, the Scottish Ministers have published this Direction in such a manner as they considered most likely to bring it to the attention of persons likely to be interested in or affected by it.

Citation, commencement, duration in effect and application

1.—(1) This Direction may be cited as the Delegation of Functions (Regional Marine Plan for the Scottish Marine Region for the Clyde) Direction 2017.

(2) This Direction comes into force on 20th March 2017 and remains in effect until it is revoked by the Scottish Ministers.

(3) This Direction applies only in relation to the regional marine plan for the Scottish marine region for the Clyde.

Interpretation

2. In this Direction—

“the Act” means the Marine (Scotland) Act 2010;

“the Delegate” means the delegate designated by paragraph 5 of this Direction;

“the designated functions” means the delegable functions which have been designated by the Scottish Ministers in relation to the Plan which would (apart from this Direction) be exercisable by the Scottish Ministers;

“the Plan” means the regional marine plan for the Scottish marine region for the Clyde;

“the Planning Partnership” means the Clyde Marine Planning Partnership(b);

(a) 2010 asp 5.

(b) Detailed information about the Clyde Marine Planning Partnership (CMPP), to include a list of all of the members of the CMPP, can be found at <http://www.clydemarineplan.scot/>.

“the public authorities” means—

Argyll and Bute Council;
CalMac Ferries Limited;
Clydeport Operations Limited;
The Crown Estate Commissioners;
Glasgow and the Clyde Valley Strategic Development Planning Authority;
Loch Lomond and The Trossachs National Park;
North Ayrshire Council;
Scottish Canals;
Scottish Natural Heritage;
South Ayrshire Council, and
VisitScotland; and

“SPP” means a statement of public participation as defined in paragraph 2 of schedule 1 of the Act.

Amendment and revocation

3. The Scottish Ministers may amend or revoke this Direction at any time by notice, in writing, to the Delegate.

Designated functions

4.—(1) The Scottish Ministers hereby—

- (a) designate all of the delegable functions referred to in section 12(7) of the Act in relation to the Plan which would (apart from this Direction) be exercisable by the Scottish Ministers; and
- (b) direct that the designated functions, instead of being so exercisable, are to be exercisable by the Delegate acting on behalf of the Scottish Ministers.

(2) Sub-paragraph (1)(b) is subject to any provision to the contrary made by this Direction or included in a direction given by the Scottish Ministers under section 14 of the Act.

Delegate

5. The Scottish Ministers hereby designate as the Delegate for the purposes of this Direction—

- (a) the Planning Partnership, as the person nominated by the Scottish Ministers under section 12(2)(a) of the Act; and
- (b) the public authorities.

Consultation

6.—(1) The public authorities must consult on the exercise of their designated functions in relation to the Scottish marine region to which the Plan applies, with—

- (a) representatives of persons with an interest in—
 - (i) the protection and enhancement of the Scottish marine region for the Clyde;
 - (ii) the use of that region for recreational purposes;
 - (iii) the use of that region for commercial purposes; and
- (b) any other persons that the Scottish Ministers consider appropriate.

(2) The Planning Partnership must consult on the exercise of its designated functions in relation to the Scottish marine region to which the Plan applies, with—

- (a) representatives of persons with an interest in—
 - (i) the protection and enhancement of the Scottish marine region for the Clyde;
 - (ii) the use of that region for recreational purposes;
 - (iii) the use of that region for commercial purposes; and
- (b) any other persons that the Scottish Ministers consider appropriate.

Requirement for the Public Authorities and the Planning Partnership to have regard to any representations

7.—(1) The public authorities must have regard to any representations made under paragraph 6(1).

(2) The Planning Partnership must have regard to any representations made under paragraph 6(2).

Exercise of designated functions

8. The Delegate must exercise the designated functions subject to the terms and conditions set out in the schedule.

ROSEANNA CUNNINGHAM
Cabinet Secretary for Environment, Climate Change and Land Reform

St Andrew's House,
Edinburgh
14th March 2017

SCHEDULE

Paragraph 8

Terms and conditions

Governance

1. The governance arrangements of the Planning Partnership must be set out within its constitution. In the event that any changes are made to the constitution, governance arrangements or membership of the Planning Partnership then the Planning Partnership must inform the Scottish Ministers of such changes as soon as practicable and without delay.

Performance

2. The Delegate must remain fully informed of all relevant issues pertinent to its marine planning functions so as to ensure that effective marine planning is delivered in full.

Reporting on performance and progress

3. The Delegate must submit to the Scottish Ministers a report on their performance and progress at regular intervals, commencing on a date no later than 6 months from the date on which this Direction is given and, thereafter, every 6 months from that date until such time as the regional marine plan for the Scottish marine region for the Clyde has been published.

Preparation of a draft statement of public participation

4.—(1) Where the Scottish Ministers have decided that a SPP should be prepared the Delegate must prepare a draft SPP and submit it to the Scottish Ministers for their approval.

(2) The Delegate must submit the draft SPP to the Scottish Ministers under sub-paragraph (1) within the period of 6 months from the date on which this Direction is given.

Publication of statement of public participation

5. Where the Scottish Ministers have decided that the SPP should be published the Delegate must, as soon as practicable after that decision is made, publish the SPP in such manner as it considers is most likely to bring it to the attention of interested persons.

Revision of statement of public participation

6.—(1) Where the Scottish Ministers have decided that the SPP should be revised the Delegate must revise the SPP.

(2) The Delegate must submit the SPP, as revised, to the Scottish Ministers for their approval.

(3) Where the Scottish Ministers have approved the SPP, as revised, the Delegate must publish the SPP, as revised.

Consultation

7. Following the decision of the Scottish Ministers to publish a consultation draft of the Plan the Delegate must—

- (a) publish the consultation draft of the Plan in such manner as it considers appropriate; and
- (b) take such further steps as it considers appropriate to secure that the proposals contained in the consultation draft are brought to the attention of interested persons.

Independent investigation

8.—(1) Following the publication of a consultation draft of the Plan the Scottish Ministers and the Delegate must, acting jointly, consider and make a decision as to whether to appoint an independent person to investigate and report upon the proposals contained within the draft.

(2) In the event of a disagreement between the Scottish Ministers and the Delegate as to whether to appoint an independent person under sub-paragraph (1) the final decision made under that sub-paragraph rests with the Scottish Ministers.

(3) The Scottish Ministers and the Delegate must, acting jointly, publish any report of an independent person.

Preparation of the regional marine plan for the Scottish marine region for the Clyde

9.—(1) The Delegate must prepare, and submit to the Scottish Ministers for their approval, the Plan, together with any supporting information which may be required, within 3 years of the date on which this Direction is given.

(2) The Delegate must, when preparing the Plan, have regard to matters which the Scottish Ministers consider relevant, to include Integrated Coastal Zone Management and any Inshore Fisheries Management Plans, terrestrial land use plans and planning circulars which cover any part of the marine region.

(3) In sub-paragraph (1) “supporting information” means—

- (a) a business and regulatory impact assessment;
- (b) a Child Rights and Wellbeing Impact Assessment, in terms of the Children and Young People (Scotland) Act 2014;
- (c) an equality impact assessment, in terms of regulation 5 of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012;
- (d) a strategic environment assessment, in terms of the Environmental Assessment (Scotland) Act 2005; and
- (e) any other relevant information, assessments or reports, including any report setting out any modifications which have been made to the proposals published in the consultation draft for the Plan.

Publication of the regional marine plan for the Scottish marine region for the Clyde

10. As soon as reasonably practicable following the decision of the Scottish Ministers to publish the Plan, the Delegate must publish the Plan, together with statements of each of the following—

- (a) any modifications that have been made to the proposals published in the consultation draft for the plan;
- (b) the reasons for those modifications;
- (c) if any recommendations made by any independent person appointed under paragraph 11 of schedule 1 of the Act have not been implemented in the Plan, the reasons why any such recommendations have not been implemented.

Amendment of the regional marine plan for the Scottish marine region for the Clyde.

11. When such a request is made by the Scottish Ministers, the Delegate must amend the Plan.

Compliance

12. In the event that the Delegate is not able to comply with this Direction, the Delegate must, as soon as practicable, notify the Scottish Ministers of that fact and the reasons for the non-compliance.