

DIRECTION

The Delegation of Functions in relation to the Regional Marine Plan for the Scottish Marine Region for the Shetland Isles Direction 2016

Given by: the Scottish Ministers

Given to: the Shetland Fisheries Training Centre Trust⁽¹⁾ and Shetland Islands Council

Given on: 22 March 2016

The Scottish Ministers give the following Direction in exercise of the powers conferred by sections 12 and 13 of the Marine (Scotland) Act 2010⁽²⁾ 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 to the Delegate having obtained the consent of Shetland Islands Council.

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 in relation to the Regional Marine Plan for the Scottish Marine Region for the Shetland Isles Direction 2016.

(2) This Direction comes into effect on 24th March 2016 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 Shetland Isles.

Interpretation

2. In this Direction–

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

“the public authority” means Shetland Islands Council;

“the Delegate” is as designated and as comprised by paragraph 5 of this Direction; and

⁽¹⁾ The Shetland Fisheries Training Centre Trust is a Scottish charity (it is registered with the Scottish charity regulator with registration number SC003715). Its operating name is The NAFC Marine Centre, and it was previously known as the North Atlantic Fisheries College.

⁽²⁾ 2010 asp 5.

“the Plan” means the Shetland regional marine plan.

Amendment and revocation

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

Direction

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 under this Direction) be exercisable by the Scottish Ministers; and
- (b) direct that the functions so delegated (the “designated functions”), instead of being so exercisable, are to be exercisable by the Delegate acting on behalf of the Scottish Ministers as is designated in this Direction.

(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—

- (a) the Shetland Fisheries Training Centre Trust, a person nominated by the Scottish Ministers; and
- (b) the public authority,

as the Delegate.

Designation of Shetland Islands Council in preference to a group of persons

6. By virtue of section 12(5)(a) of the Act, the Scottish Ministers’ statement of reasons setting out the grounds for designating the public authority in preference to a group of persons is as follows—

- (a) the public authority has experience in the development of a voluntary marine plan for the Shetland Isles;
- (b) the public authority has experience in consulting with a wide range of stakeholders;
- (c) the public authority has experience in terrestrial planning, having responsibility for preparing and publishing the Shetland Local Development Plan;
- (d) the public authority has an overarching duty to take all such action as it considers necessary or desirable for, or in connection with, the conservancy of, and the control of development within the territorial waters of the United

Kingdom adjacent to the Shetland Isles under the Zetland County Council Act 1974; and

- (e) the public authority has regulatory functions in relation to marine fish farming under the Town and County Planning (Scotland) Act 1997.

Consultation by Shetland Islands Council

7. By virtue of section 12(5)(b) of the Act the public authority must consult on the exercise of its functions in relation to the Plan with—

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

Requirement for Shetland Islands Council to have regard to any representations

8. By virtue of section 12(5)(c) of the Act, the public authority must have regard to any representations made under that consultation.

Exercise of designated functions

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



A member of the Scottish Government
St Andrew's House,
Edinburgh

21st March 2016

SCHEDULE

Terms and conditions

Governance

1. The Delegate must, within 6 months of the date on which this Direction is given, submit to the Scottish Ministers information which sets out its governance arrangements.

Reporting on performance and progress

2. The Delegate must submit to the Scottish Ministers a report on their performance and progress at regular intervals, commencing on a date within 6 months of the date on which this Direction is given and, thereafter, every 6 months from the date of the submission of the 1st report until such time as the regional marine plan for the Scottish marine region for the Shetland Isles has been published.

Preparation of a draft statement of public participation

3.–(1) Where the Scottish Ministers have decided that a statement of public participation (“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 within the period of 6 months from the date on which the decision is made by the Scottish Ministers under sub-paragraph 1.

Publication of statement of public participation

4. 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

5.–(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

6. 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

7.–(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 paragraph (1) the final decision made under that 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 Shetland Isles

8.–(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, terrestrial land use plans and planning circulars.

(3) “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 impact 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 Shetland Isles

9. 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 to the Act have not been implemented in the Plan, the reasons why any such recommendations have not been implemented.

Amendment of the Shetland regional marine plan

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

Compliance

11. 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.