

# Offshore Wind Planning Update

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# Significant Legislative Activity

- Planning Act 2008
  - IPC
  - Development Consents
  - National Planning Statements
  - Draft Regulations and Guidance

# OFFSHORE WINDFARMS

## PLANNING UPDATE

- Marine and Coastal Access Bill
- Marine (Scotland) Bill
  - Marine Planning
  - Marine Conservation Zones/Scottish Marine Protection Areas
  - Marine Licences
  - Marine Management Organisation/Scottish Marine

# Marine Planning

- Types of marine planning policy and who makes it
- Effect of Marine Planning on decision making
- Purpose and content

# Marine Planning

- Marine Policy Statement
- Marine Plans
- Conformity between plans

# Marine Policy Statement

- Strategic Policy
- Scope – policies to “achieve sustainable development in the UK Marine Area”
- Policy Authorities for MPS

# Marine Plans

- Policy Authorities for Marine Plans
- A document that states the Authorities' "policies.....for and in connection with the sustainable development of the area"
- On review, relevant matters include:
  - Physical, environmental, social, cultural, economic, and living resources
  - Communications, energy and transport systems
  - Effect that any changes may have on sustainable development

## Marine Planning Policy in Decision Making

- Effect on Decision Making
  - “A public authority must take any authorisation or enforcement decision in accordance with the appropriate marine policy documents [marine plan] unless relevant considerations indicate otherwise”

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“Authorisation” = “the determination of any application (whenever made) for authorisation of the doing of any act which affects or might affect the whole or any part of the [UK] [Scottish] Marine Area”

- Note: Marine Areas

# Marine Planning Policy – Decision Making for Nationally Significant Infrastructure Projects

- Exception in the case of NSIPs
- In such cases there is only a duty to “have regard” to marine policy documents and national policy statements will be the key document.
- IPC must take decisions for development consent in accordance with national policy statement unless
  - illegality (national/international)
  - adverse impact outweighs benefits

# Marine Conservation Zones/Scottish Marine Protection Areas

- New protected marine designations
- Effect of designation
- General prohibition on authorisations unless:
  - (1) insignificant effect on site; or
  - (2) all of the exception tests are met
    - no alternative means
    - outweighing public benefit
    - compensatory measures
- criminal offence of unauthorised interference/byelaws/orders

# Criteria for Designation

## (1) MCZ's and Nature Conservation MPAs

- Conservation of:
  - marine flora or fauna
  - marine habitats or types of marine habitats
  - features of geological or geomorphological interest
- Regard to economic and social consequences of designation

## (2) Demonstration and Research MPAs (Scotland)

- research/demonstration of sustainable methods of marine management or exploitation

## (3) Historic MPAs (Scotland)

- vessels, vehicles, aircraft, objects, structures and artefacts

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- Areas where MCZs and SMPAs can be designated
- Designating authorities
- Consultation and hearings

# Marine Licences

- Establishment of requirement for a licence for a “licensable marine activity”
- Licensable marine activities:
  - deposits
  - conservation, alteration or improvement of works
  - removal of substances or objects
  - scuttling
  - explosives
  - incineration
- Applications to licensing authorities

# Marine Licences

- Criteria for determination of applications. Regard is to be had to
  - environment
  - human health
  - prevention of interference with legitimate maritime activities
  - effects of the use of construction, alteration and improvement works
  - such other matters as the licensing authority thinks relevant
- Inquiries
- Conditions
- Appeals

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- General power to exempt activities from need for licence
- Special procedure for licensable activities that also require consent for a generating station under Section 36 Electricity Act 1989

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# Conclusion



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