

Marine (Scotland) Bill

3rd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 5	Schedule 1
Sections 6 to 41	Schedule 2
Sections 42 to 122	Schedule 3
Sections 123 to 146	Schedule 5
Section 147	Schedule 4
Section 148	Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 78

Stuart McMillan

- 235** In section 78, page 45, line 18, at end insert <including the United Kingdom Hydrographic Office, to allow the content of such orders to inform—
- (a) navigational charts, and
 - (b) notices to mariners.>

Section 79

Karen Gillon

- 236** In section 79, page 45, line 31, at end insert—
- <(A1) The Scottish Ministers must, before deciding to—
- (a) make a marine conservation order (whether in accordance with section 76 or an urgent marine conservation order in accordance with section 77),
 - (b) amend a marine conservation order,
- give any persons who considers that their economic position could be materially disadvantaged as a result of any such decision, the opportunity of making oral or written representations to Scottish Ministers or to any person appointed by them for that purpose at a hearing.>

Karen Gillon

- 237** In section 79, page 45, line 40, after <subsection> insert <(A1) or>

After section 79

Liam McArthur

238 After section 79, insert—

<Duty to assess impact of restriction and prohibition of activities

- (1) The Scottish Ministers must assess the potential impact of—
 - (a) the restriction or prohibition of an activity within the area, or
 - (b) the displacement of an activity to another part of the Scottish marine area,where the activity has been restricted or (as the case may be) prohibited as a consequence of an order made under section 74(1)(a), (b) or (d).
- (2) The assessment must include the extent to which the restriction or prohibition of the activity would have an adverse impact on—
 - (a) commercial interests,
 - (b) the environment elsewhere in the Scottish marine area as a result of the activity being displaced.
- (3) Where, following an assessment, the Scottish Ministers identify an adverse impact under subsection (2), they must take such steps as they consider are reasonable to minimise it as far as is practicable.>

Section 82

Robin Harper

189 In section 82, page 46, line 37, at end insert <, imprisonment for a period not exceeding 2 years, or both.>

Section 83

Stuart McMillan

239 In section 83, page 47, line 27, leave out <£50,000> and insert <£5,000>

Robin Harper

190 In section 83, page 47, line 28, at end insert <, imprisonment for a period not exceeding 2 years, or both.>

Section 84

Stuart McMillan

240 In section 84, page 48, line 15, leave out <£50,000> and insert <£5,000>

After section 84

Robin Harper

241 After section 84, insert—

<Offences relating to Surfing MPAs

- (1) A person commits an offence under this section if the person—
 - (a) intentionally or recklessly does a prohibited act in a Surfing MPA (the “protected area”), and
 - (b) the act has significantly hindered, or may significantly hinder, the achievement of the stated objectives for the protected area.
- (2) For the purpose of subsection (1), a person does a prohibited act if the person carries out works or activities in the area which (or which are likely to)—
 - (a) damage or interfere with a Surfing MPA,
 - (b) have a significant impact on the protected area.>

Section 85

Robin Harper

242 In section 85, page 49, line 1, after <act,> insert—

<() the act occurred on the seaward side of the 0-6 nautical mile fisheries zone in a location where foreign vessels have fishing rights,>

Richard Lochhead

75 In section 85, page 49, line 3, at end insert—

<(2A) The Scottish Ministers may by order amend this section so as to remove, or restrict the application of, the defence provided by subsection (2).>

Robin Harper

243 In section 85, page 49, line 4, at end insert—

<“foreign vessel” means any vessel other than a British vessel, Scottish fishing boat or a Northern Ireland fishing boat.>

Section 86

Richard Lochhead

76 In section 86, page 49, line 11, leave out <structure,> and insert <installation, and>

Richard Lochhead

77 In section 86, page 49, leave out line 12

Section 87

Bill Wilson

- 168 In section 87, page 49, line 27, leave out from beginning to <all> in line 28 and insert <A marine management scheme must be established for each>

Robin Harper

- 244 In section 87, page 49, line 30, at end insert—
<() any Surfing MPA,>

Robin Harper

- 245 In section 87, page 49, line 36, after the first <MPA> insert <, a Surfing MPA>

Bill Wilson

- 169 In section 87, page 50, line 1, leave out <relevant authority's (or authorities') functions> and insert <functions of a relevant authority (or of 2 or more relevant authorities acting together)>

Robin Harper

- 246 In section 87, page 50, line 7, at end insert—
<() the stated preservation objectives for any Surfing MPA to which the scheme applies,>

Bill Wilson

- 170 In section 87, page 50, line 17, after <area> insert <directed in writing by the Scottish Ministers to establish a marine management scheme (whether on its own or together with another relevant authority or other relevant authorities)>

Section 89

Elaine Murray

- 191 In section 89, page 50, line 28, at end insert—
<() The relevant authority (or authorities acting together) must have regard to any representations made to it by Scottish Natural Heritage under subsection (1).>

After section 90

Elaine Murray

- 247 After section 90, insert—

<Nature Conservation MPAs: duty to review achievement of stated objectives

Nature Conservation MPAs: duty to review achievement of stated objectives

- (1) At the end of a period mentioned in subsection (3), the appropriate statutory conservation body must carry out an assessment of the extent to which the stated conservation objectives of a designated Nature Conservation MPA have been achieved.
- (2) An assessment under subsection (1) may also include an assessment of the contribution of any relevant marine management scheme to the achievement of the objectives.
- (3) The periods are—
 - (a) the period of 5 years beginning with the date on which the area was designated under section 58(1)(a),
 - (b) each subsequent period of 5 years.>

Section 91

Richard Lochhead

- 175** In section 91, page 51, line 20, leave out <120 of the Marine and Coastal Access Act 2009 (c.00)> and insert <124 of the 2009 Act>

Robin Harper

- 248** In section 91, page 51, line 25, at end insert—
<() Surfing MPAs,>

Robin Harper

- 249** In section 91, page 51, line 32, at end insert—
<() in relation to each Surfing MPA—
(i) its size,
(ii) the stated purpose,>

Robin Harper

- 250** In section 91, page 52, line 6, at end insert—
<() in relation to each Surfing MPA (whether in a designation order made before or during the relevant period)—
(i) the extent to which in the opinion of the Scottish Ministers the stated purpose has been achieved,
(ii) any further steps which in their opinion are required to be taken in order to contribute to the achievement of that purpose,>

Liam McArthur

- 192** In section 91, page 52, line 17, at end insert—
<() information about—
(i) any amendment to a marine conservation order, or

- (ii) any amendment to or update of a marine management scheme, made during the relevant period as a result of monitoring the effectiveness of the order or scheme,>

Richard Lochhead

- 171 In section 91, page 52, line 20, leave out from <an> to the end of line 26 and insert <the objective in section (*Creation of network of conservation sites*)(2).>

Richard Lochhead

- 172 In section 91, page 52, leave out lines 28 to 30

Richard Lochhead

- 173 In section 91, page 52, leave out lines 35 and 36

Section 92

Richard Lochhead

- 79 In section 92, page 53, line 1, leave out <Marine and Coastal Access Act 2009 (c.00)> and insert <2009 Act>

Richard Lochhead

- 80 In section 92, page 53, line 18, leave out <Marine and Coastal Access Act 2009> and insert <2009 Act>

Section 94

Richard Lochhead

- 81 In section 94, page 53, line 33, at end insert—
<“animal” includes any egg, larva, pupa or other immature stage of an animal,>

Robin Harper

- 251 In section 94, page 54, line 13, at end insert—
<“stated preservation objectives” for a Surfing MPA means the preservation objectives stated (in the designation order designating the area) as the preservation objectives for the area,>

After section 94

Robin Harper

- 272* After section 94, insert—

<PART

MARINE LITTER STRATEGY

Marine litter strategy

- (1) Scottish Ministers must prepare a marine litter strategy for the Scottish marine area.
- (2) The objective of the strategy is to reduce the total load of marine litter in the marine environment, and ensure that the properties and quantity of marine litter is such as to be below a level which causes an adverse impact on—
 - (a) the health of the marine environment,
 - (b) navigational safety.
- (3) The strategy must—
 - (a) define or elaborate on the threshold at which marine litter has such an adverse impact, with reference to—
 - (i) the volume of marine litter on the seabed, on the sea surface, in the water column and on the coastline,
 - (ii) the ecological effects of marine litter,
 - (iii) the degradation of marine litter,
 - (iv) the adverse social and economic consequences of marine litter,
 - (b) include an assessment of the incidence of marine littering and its likely sources,
 - (c) include such maps, diagrams or illustrations as are determined by the Scottish Ministers to be appropriate to the purpose of the strategy, and
 - (d) include policies and programmes aimed at the prevention and removal of marine litter, including awareness raising of the consequences of marine littering.
- (4) For the purposes of this section, “marine litter” includes any persistent, manufactured or processed solid material in the sea or on the seashore.
- (5) Before finalising the text of the strategy, the Scottish Ministers must—
 - (a) consult such persons as they consider are likely to be interested in or affected by the implementation of the strategy, and
 - (b) have regard to any representations made in response.
- (6) The Scottish Ministers must publish the strategy—
 - (a) no later than 3 years after this section comes into force, and
 - (b) in such manner as they consider is most likely to bring it to the attention of interested persons.
- (7) The Scottish Ministers must, no later than 2 years after the publication of the strategy, and within each subsequent 2 years, lay a report before the Parliament assessing the extent to which in the opinion of the Scottish Ministers the objective under subsection (2) has been achieved.
- (8) The Scottish Ministers may—
 - (a) review any strategy they have prepared under this section from time to time and, following such a review, revise it, and

- (b) consult such persons as they consider are likely to be interested in or affected by the implementation of the strategy before finalising the text of any revised strategy.>

Robin Harper

273 After section 94, insert—

<PART

CETACEAN SANCTUARY

Cetacean sanctuary

- (1) The Scottish marine area is designated as a cetacean sanctuary.
- (2) If it appears that the action of any person may have resulted, or may have been likely to have resulted in the unintentional killing or injury of a cetacean, that person must report this to Scottish Natural Heritage as soon as reasonably practicable.>

Robin Harper

274 After section 94, insert—

<PART

PROTECTION OF MARINE EUROPEAN PROTECTED SPECIES

Guidance as regards protection of marine European Protected Species

- (1) Scottish Natural Heritage must prepare and issue guidance setting out recommendations, advice and information on—
 - (a) the avoidance of action which may constitute an offence under regulation 39 of the Conservation (Natural Habitats, &c.) Regulations as amended, and
 - (b) the protection from all injury and disturbance,in respect of marine European Protected Species.
- (2) Scottish Natural Heritage must review the guidance from time to time and may, following such a review, revise it.
- (3) Scottish Natural Heritage must—
 - (a) before preparing the guidance, and
 - (b) when reviewing it,consult such persons appearing to it to have an interest in the protection of marine European Protected Species and consult such other persons as it thinks fit.
- (4) Scottish Natural Heritage must—
 - (a) publish the guidance and any revisions to it in such manner (including on the internet or by other electronic means) as it thinks fit, and
 - (b) promote awareness and understanding of the guidance and any revisions to it.
- (5) A person's failure to comply with any provision of the guidance or any revisions to it does not in itself render the person liable to proceedings of any sort.
- (6) In any proceedings for an offence under this Act or any other relevant enactment—

- (a) failure to comply with a relevant provision of the guidance or any revisions to it may be relied upon as tending to establish liability,
 - (b) compliance with a relevant provision of the guidance or any revisions to it may be relied upon as tending to negative liability.
- (7) In this section, “marine European Protected Species” means those species which are listed in Annex IV(a) of the Habitats Directive, and whose natural range includes any part of the Scottish marine area.>

Section 95

Elaine Murray

275 In section 95, page 54, line 29, after <injuring> insert <, disturbing, harassing>

Elaine Murray

276 In section 95, page 54, line 29, at end insert—
<() Obstructing access to a seal haul-out site is an offence.>

Section 97

Richard Lochhead

82 In section 97, page 55, line 23, leave out <or an authorisation granted under section 107>

Richard Lochhead

83 In section 97, page 55, line 26, leave out <or an authorisation granted under section 107>

Richard Lochhead

84 In section 97, page 55, line 28, leave out <or an authorisation granted under section 107>

Section 98

Elaine Murray

262 In section 98, page 56, line 1, at end insert—
<() to protect the health and welfare of farmed fish,>

Elaine Murray

277 In section 98, page 56, line 2, leave out <to prevent> and insert <following serious damage to fisheries or fish farms, to prevent further>

Elaine Murray

278 In section 98, page 56, line 8, at end insert—

- <(2) A licence may only be granted under subsection (1)(f) if the applicant has satisfied the Scottish Ministers that—
- (a) a seal has caused serious damage to a fishery or fish farm, and
 - (b) all non-lethal alternatives to killing have been tried, given sufficient time to succeed, and demonstrably have not prevented serious damage occurring.
- (3) The Scottish Ministers must specify by regulations what constitutes a “non-lethal alternative” under subsection (2).>

Robin Harper

279* In section 98, page 56, line 8, at end insert—

- <(4) The Scottish Ministers may not grant a licence authorising the killing or taking of seals during the period when females are likely to be in an advanced stage of pregnancy or to have dependent pups.
- (5) For the purposes of subsection (4), the period is—
- (a) for grey seals, that is to say seals of the species *Halichoerus grypus*, from 1 September to 31 December inclusive,
 - (b) for common seals, that is to say seals of the species *Phoca vitulina*, from 1 June to 31 August inclusive.>

Robin Harper

280* In section 98, page 56, line 8, at end insert—

- <(6) The Scottish Ministers may not grant a licence authorising the killing or taking of seals to the owner or operator of any fish farm, netting station or other fishery installation any part of which has been placed within one kilometre of a known seal haul-out site.
- (7) Subsection (6) applies only to a fish farm, netting station or other fishery installation constructed or positioned after 31 December 2010.>

Section 99

Elaine Murray

281* In section 99, page 56, line 10, at end insert—

- <(1A) A licence issued to kill a seal must specify the circumstances in which an individual named on the licence is authorised to shoot seals, including the requirement that there is sufficient visibility and the sea conditions are such to allow a clear shot to be taken.>

Elaine Murray

282 In section 99, page 56, line 10, at end insert—

- <(1B) A licence issued to kill a seal must specify the circumstances in which an individual named on the licence is authorised to shoot seals, including the requirement that all reasonable steps have been taken to ensure that the seal does not suffer a prolonged or painful death.>

Elaine Murray

283 In section 99, page 56, line 10, at end insert—

<(1C) A licence issued to kill a seal must specify the circumstances in which an individual named on the licence is authorised to shoot seals, including the requirement that—

- (a) the type of firearm to be used is specified under the licence,
- (b) such an individual possesses the appropriate firearms licence, and
- (c) the individual has satisfied the Scottish Ministers that they are a proficient marksman using the specified firearm.>

Elaine Murray

284 In section 99, page 56, line 10, at end insert—

<(1D) A licence issued to kill a seal must specify the circumstances in which an individual named on the licence is authorised to shoot seals, including the requirement that a seal must not be shot from a moving boat or other unstable platform.>

Section 100

Robin Harper

263 In section 100, page 56, line 18, after <Ministers> insert <within 30 days, and>

Elaine Murray

285 In section 100, page 56, line 18, leave out <as soon as reasonably practical after> and insert <, in accordance with subsection (1A), on the following>

Robin Harper

264 In section 100, page 56, line 19, after <practical> insert <within that period>

John Scott

286 In section 100, page 56, line 20, after first <seal> insert <, or seals,>

John Scott

287 In section 100, page 56, line 21, after first <seal> insert <, or seals,>

John Scott

288 In section 100, page 56, line 23, after <seal> insert <, or seals,>

Elaine Murray

289 In section 100, page 56, line 24, at end insert—

<() that the licensee has not carried out any of the activities specified in paragraph (b)(i) to (iii).>

Elaine Murray

290 In section 100, page 56, line 24, at end insert—

<() requiring that, when a seal has been killed, all reasonable steps be taken to recover its carcase and, if so recovered, the Natural Environment Research Council be notified of the availability of the carcase for post-mortem or research purposes.>

Elaine Murray

291 In section 100, page 56, line 24, at end insert—

<(1A) The licensee must report to the Scottish Ministers within the specified period the information set out under subsection (1)(b) at the end of the period of 3 months after the date on which this section comes into force and at the end of each subsequent period of 3 months.>

Elaine Murray

292 In section 100, page 56, line 29, after <taken> insert <, in addition to those specified in section 99(1A), (1B), (1C) and (1D)>

After section 103

Elaine Murray

293 After section 103, insert—

<Seal licences: review

- (1) The Scottish Ministers must, before the end of every second calendar year following the year in which section 98 comes into force, review the operation of seal licences.
- (2) In conducting a review under subsection (1), the Scottish Ministers must—
 - (a) take into account scientific evidence on seal biology, welfare and behaviour and such other matters as they consider relevant to the understanding of the purposes for which seal licences may be granted, and
 - (b) consult such persons as they consider are likely to be interested in or affected by the review.
- (3) Following a review under subsection (1), the Scottish Ministers must—
 - (a) consider how the operation of the provisions in this Part can be modified in order to reduce to a minimum the killing or taking of seals, and
 - (b) implement any such modifications that are reasonably practicable.>

Section 105

Elaine Murray

294 In section 105, page 58, line 5, after <granted> insert—

<() that, for licences applied for under section 98(1)(f), the Scottish Ministers are satisfied that the conditions under subsection 98(2) have been met by the applicant,>

Section 107

Richard Lochhead

- 85 In section 107, page 58, line 23, leave out from first <any> to <prevent> and insert <a person to enter land in order to kill or take seals in accordance with a seal licence granted for the purpose of preventing>

Section 117

Richard Lochhead

- 86 In section 117, page 61, line 10, leave out <and 84> and insert <, 84, 95 and 100(4),>

Stuart McMillan

- 295 In section 117, page 61, line 15, leave out <subsections (4) and (5)> and insert <subsection (4)>

Stuart McMillan

- 265 In section 117, page 61, line 21, leave out subsections (5) to (7)

Richard Lochhead

- 87 In section 117, page 61, line 37, at end insert—
<“vessel” does not include aircraft.>

Section 126

Richard Lochhead

- 88 In section 126, page 66, line 26, at end insert—
<() Where a marine enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may require that person to afford such facilities and assistance with respect to matters under that person’s control as the officer considers would facilitate the exercise in relation to that person of any power conferred by section 125 or this section.>

Richard Lochhead

- 176 In section 126, page 66, line 28, leave out <243(7) of the Marine and Coastal Access Act 2009 (c.00)> and insert <253(7) of the 2009 Act>

Section 132

Liam McArthur

- 296 In section 132, page 68, line 19, at end insert—
<() Before doing any of the things in subsection (2), the officer must take all reasonable steps to—

- (a) notify the port authority for the port to which the officer proposes that the vessel be taken, and
- (b) seek the views of the port authority as to the appropriateness of so doing.>

Liam McArthur

297 In section 132, page 68, line 28, at end insert—

- <() The owner of a vessel or marine installation which has been detained in a port by virtue of subsection (3) is liable to pay compensation to the relevant port authority for any damage or loss of revenue arising from that detention.>

Section 136

Stuart McMillan

266 In section 136, page 69, line 23, leave out <if requested to do so>

Stuart McMillan

267 In section 136, page 69, line 27, leave out subsection (3)

Section 137

Stuart McMillan

268 In section 137, page 69, line 32, leave out <if requested to do so>

Stuart McMillan

269 In section 137, page 69, line 34, leave out <, if requested to do so,>

Stuart McMillan

270 In section 137, page 70, line 4, leave out subsection (5)

Section 138

Stuart McMillan

271 In section 138, page 70, line 17, at end insert—

- <() if the act was carried out without reasonable skill or care,>

Section 141

Richard Lochhead

90 In section 141, page 71, leave out lines 26 and 27.

Richard Lochhead

91 In section 141, page 72, line 4, at end insert—

<() any aircraft,>

After section 141

Richard Lochhead

256 After section 141, insert—

<PART

SEA FISHERIES

Extension of modifications relating to Sea Fish (Conservation) Act 1967

- (1) The modifications to the Sea Fish (Conservation) Act 1967 (c.84) made by Chapter 1 of Part 7 of, and Schedules 15 and 22 to, the 2009 Act, except those mentioned in subsection (2), extend to Scotland.
- (2) The modifications made by sections 194(4) and (5), 196 and 198(3) of, and paragraph 1(4) of Schedule 15 to, the 2009 Act do not extend to Scotland.>

Richard Lochhead

257 After section 141, insert—

<Modification of section 22A of Sea Fish (Conservation) Act 1967

- (1) Section 22A (application to Scotland) of the Sea Fish (Conservation) Act 1967 is modified as follows.
- (2) In subsection (2) after “sections” insert “1(3B) and (9), 5(8).”.
- (3) After subsection (2) insert—

“(2A) In section 1—

- (a) for subsections (3) and (3A) substitute—

“(3B) Sea fish of any description which do not meet the requirements as to size prescribed in relation to sea fish of that description by an order of the Scottish Ministers must not be carried, whether within or outside the Scottish zone, on a Scottish fishing boat; and an order under this subsection may prohibit the carrying by a relevant British fishing boat or a foreign vessel in the Scottish zone of sea fish of any description prescribed by the order which do not meet the requirements as to size so prescribed in relation to sea fish of that description.”,

- (b) in subsection (8) for “(3)” substitute “(3B)”,

- (c) for subsection (9) substitute—

“(9) In this section—

“foreign vessel” means any vessel other than a relevant British fishing boat or a Scottish fishing boat,

“relevant British fishing boat” means a vessel, other than a Scottish fishing boat, which—

- (a) is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 (c.21), or

(b) is owned wholly by persons qualified to own British ships for the purposes of that Part of that Act.”.

(2B) In section 3—

(a) in subsection (2A) for “adjacent to England and Wales” substitute “of the United Kingdom adjacent to Scotland”,

(b) for subsection (2B) substitute—

“(2B) In subsection (2A) above—

(a) the Scottish Ministers are “the appropriate national authority”,

(b) the boundaries between the parts of the territorial sea of the United Kingdom adjacent to Scotland and the parts not so adjacent are to be determined by reference to an Order in Council made under section 126(2) of the Scotland Act 1998 (c.46) to the extent that the Order in Council is expressed to apply for the purposes of that Act.”.

(4) For subsection (6) substitute—

“(6) In section 5—

(a) in subsection (1), for “appropriate national authority” substitute “Scottish Ministers”,

(b) for subsections (8) and (9) substitute—

“(8) An order under this section may make provision—

(a) applying to Scottish fishing boats whether within or outside the Scottish zone,

(b) in any other case, applying to fishing boats within the Scottish zone.”.

(5) After subsection (9) insert—

“(9A) In section 11(1)(a), for “4(3), (6) or (9A)” substitute “4(3) or (6)”.”.>

Richard Lochhead

258 After section 141, insert—

<Extension of modifications relating to Sea Fisheries (Shellfish) Act 1967

The modifications to the Sea Fisheries (Shellfish) Act 1967 (c.83) made by sections 203, 204, 206, 207, 209, 210, 211(1) and (3) and 214 of, and Part 5(A) of Schedule 22 to, the 2009 Act extend to Scotland.>

Richard Lochhead

259 After section 141, insert—

<Modification of Sea Fisheries (Shellfish) Act 1967

(1) The Sea Fisheries (Shellfish) Act 1967 (c.83) is modified as follows.

(2) In section 1 (power to make orders as to fisheries for shellfish)—

(a) omit subsection (4),

(b) after subsection (14) insert—

“(14A) Subsection (14) above has effect in relation to Scotland as if the reference to the Town and Country Planning Act 1990 were a reference to section 26 of the Town and Country Planning (Scotland) Act 1997 (c.8).”.

- (3) In section 7 (protection of fisheries), in subsection (4), for “level 3 on the standard scale” substitute “£50,000”.
- (4) In paragraph 6 of Schedule 1—
 - (a) the existing provision is renumbered as sub-paragraph (1),
 - (b) after that sub-paragraph insert—
 - “(2) Where the proposed order relates to any portion of the sea shore belonging to Her Majesty in right of the Crown, the appropriate Minister must also have regard to the powers and duties of the Crown Estate Commissioners under the Crown Estate Act 1961 (c.55).”>

Before section 142

Liam McArthur

260 Before section 142, insert—

<Judicial review

- (1) In any application for judicial review relating to or arising out of the provisions of this Act, it will be enough for any party to show sufficient interest in order to satisfy the common law tests of title and interest.
- (2) “Sufficient interest” is to be interpreted in accordance with the criteria laid out in Article 9 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters signed at Aarhus on 25 June 1998 (“the Aarhus Convention”).
- (3) In relation to the expenses associated with any judicial review proceedings under this Act, the court may impose a cap on, or otherwise regulate, the extent of liability for expenses between the parties; and such applications may be competently made at any stage of the proceedings.
- (4) When determining an application made under subsection (3) above, the court is to have regard to the need to remove or reduce financial or other barriers to access to justice, in accordance with the principles laid out in Article 9 of the Aarhus Convention.
- (5) In any application for judicial review under this Act, the court may competently consider both the substantive and the procedural legality of the decision, act or omission under review.>

Section 142

Richard Lochhead

92 In section 142, page 72, line 21, leave out <Part> and insert <Act>

Section 145

Liam McArthur

- 193 In section 145, page 73, line 23, leave out subsection (3)

Richard Lochhead

- 93 In section 145, page 73, line 33, at end insert
<() an order under section 85(2A),>

Section 146

Richard Lochhead

- 94 In section 146, page 74, line 2, at end insert—
<“the 2009 Act” means the Marine and Coastal Access Act 2009 (c.23),>

Richard Lochhead

- 95 In section 146, page 74, line 10, at end insert—
<“marine installation” means any artificial island, installation or structure (other than a vessel),>

Richard Lochhead

- 177 In section 146, page 74, line 12, at end insert—
<“UK marine area” has the meaning given in section 42 of the 2009 Act,>

Schedule 5

Richard Lochhead

- 252 In schedule 5, page 88, line 17, at end insert—
<the 2009 Act Section 146(1)>

Richard Lochhead

- 253 In schedule 5, page 89, line 5, at end insert—
<marine installation Section 146(1)>

Richard Lochhead

- 254 In schedule 5, page 89, line 7, at end insert—
<marine policy statement Section 15>

Richard Lochhead

- 255 In schedule 5, page 89, line 25, at end insert—

Schedule 4

Elaine Murray

174 In schedule 4, page 87, line 18, at end insert—

<Town and Country Planning (Scotland) Act 1997 (c.8)

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 26—
 - (a) in subsection (1), the words “or the operation of a marine fish farm in the circumstances specified in section 26AA” are repealed,
 - (b) in subsection (6)—
 - (i) after “any”, where it occurs for the third time, there is inserted “inland”,
 - (ii) the words from “which”, where it first occurs, to “miles”, where it first occurs, are repealed,
 - (iii) for the definition of “inland waters”, there is substituted ““inland waters” means waters which do not form part of the sea, as defined in section 2 of the Marine (Scotland) Act 2009 (asp 00),”
 - (iii) the definition of “nautical miles” is repealed,
 - (c) subsections (6C) to (6J) are repealed.
- (3) Section 26AA is repealed.
- (4) Section 31A is repealed.
- (5) In section 275—
 - (a) in subsection (4), for the words“(6A) and (6C), 31A” there is substituted “and (6A)”,
 - (b) in subsection (5A), the words “or (6C)” are repealed.>

Richard Lochhead

298 In schedule 4, page 88, line 13, at end insert—

<PART

SEA FISHERIES

Sea Fisheries Act 1968

In the Sea Fisheries Act 1968 (c.77), in section 15 (amendments of Sea Fisheries (Shellfish) Act 1967), subsection (2A) is repealed.

Fisheries Act 1981

- (1) The Fisheries Act 1981 (c.29) is modified as follows.
- (2) The following provisions are repealed—
 - (a) section 19(2)(c),

- (b) section 22(2)(a) and (3),
- (c) section 28.
- (3) In paragraph 33 of Part 2 of Schedule 4 (offences to which section 33(5) applies)—
 - (a) for “Sea Fisheries (Conservation) Act 1967” substitute “Sea Fish (Conservation) Act 1967”,
 - (b) for “smaller than the prescribed size” substitute “which do not meet the prescribed size requirements”.

Sea Fish (Conservation) Act 1992

In the Sea Fish (Conservation) Act 1992 (c.60), paragraph (b) of section 5 is repealed.

Criminal Justice and Public Order Act 1994

In the Criminal Justice and Public Order Act 1994 (c.33), in Part 1 of Schedule 8 (increase in penalties), the entry relating to section 7(4) of the Sea Fisheries (Shellfish) Act 1967 is repealed.>

Long Title

Elaine Murray

- 299** In the long title, page 1, line 1, leave out <functions and activities in> and insert <the sustainable development of>

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