

Final Business and Regulatory Impact Assessment

Title of Proposal

THE LOCH SLIGACHAN, ISLE OF SKYE, SCALLOPS SEVERAL FISHERY ORDER 2013

Purpose and intended effect

Background

The Loch Sligachan, Isle of Skye, Scallops Several Fishery Order 1998 (“the 1998 Order”) is due to expire on 15 November 2013. A new Several Order needs to come into effect to allow the applicant to continue to hold the sole right to fish in the area covered by the 1998 Order. Several Orders are made under the Sea Fisheries (Shellfish) Act 1967, whereby Ministers can provide for the establishment or improvement of a fishery for certain species of shellfish, by granting exclusive rights to individuals or corporate bodies to deposit, propagate, dredge, fish for or take those specified species of shellfish. The proposed order will confer on the applicant a right of several fishery for 15 years; this follows on from the 1998 Order, which was also in force for a period of 15 years.

Objective

Several Orders assist the development of the shellfish farming sector, which offers economic and employment opportunities, particularly in remote and rural areas, without any significant environmental consequences. Marine Scotland supports and encourages local management of fisheries, where harvesting techniques are used to support sustainable fishing and consultation shows local support and no conflict with commercial interests. The Order allows a person to develop a shellfish fishery.

Rationale for Government intervention

The Government has already intervened by making the 1998 Order and it is important to maintain the stability provided by this Order. It should be noted that no objections have been raised to the new order, the effect of which will be to allow the grantee to continue and develop his scallop business.

This order will contribute to the Scottish Government’s strategic objective to improve Scotland’s natural and built environment and the sustainable use and enjoyment of it. It also supports the inshore strategy of local fisheries management.

Consultation

Within Government

The proposed Several Order itself has already been the subject of consultation as part of the requirements of Schedule 1 to the Sea Fisheries (Shellfish) Act 1967.

In addition to the Several Order consultation, as per the requirements of Schedule 1 to the Sea Fisheries (Shellfish) Act 1967, the following organisations have also been consulted on the terms of this proposed Order:

- Scottish Natural Heritage
- The Crown Estate
- Scottish Environmental Protection Agency
- BT
- National Grid

- Highland Council
- Food Standards Agency
- UK Chamber of Shipping
- Northern Lighthouse Board

The effect of the Order is to continue with the existing management of the fishery and there were no suggestions for any changes to the proposals.

Public Consultation

The applicant consulted on his application for a Several Order in order and this was consistent with the Several and Regulated Fisheries (Form of Application) Regulations 1987. The consultation responses received were included in the application and were supportive of the application.

In addition, in accordance with the requirements of Schedule 1 to the Sea Fisheries (Shellfish) Act 1967, there was a further consultation period of one month in respect of the draft Order after it was advertised on 14 June 2013 in the local press. No objections were raised and no other representations were received.

Business

The applicant consulted on his application for a Several Order itself to ensure compliance with the requirements of the Several and Regulated Fisheries (Form of Application) Regulations 1987. The consultation responses received were included in the application and raised no objections to the application. There was a further period of one month of consultation after advertising the Order on 20 July 2012 in the local press. No objections were raised and no other representations were received.

Options

Two options have been considered in relation to the proposed Several Order:

1. do nothing; and
2. make a new Several Order to come into force upon the expiry of the existing 1998 Order.

Option 1 - Do nothing. This option would raise the potential for others to fish in the proposed area which has been cultivated by the applicant over the past 15 years. Whilst the likelihood of this remains small it might act as a deterrent for future investment in the fishery.

Option 2 - To make and bring into force a 15 year Several Order which will maintain the status quo and provide long term stability to the applicant's business.

Sectors and groups affected

The affected persons will mainly be the applicant and any persons employed as a result of the existing fishery, but also any other person who might have been contemplating fishing for scallops in the area covered by the Several Order. Impact on other individuals including other fishermen is negligible.

Benefits

Option 1 – there are no benefits in allowing the existing 1998 Order to lapse without making a new Several Order. There may be a detrimental effect on the applicant's business and its ability to provide an income for himself and employment for others.

Option 2 – The benefit of bringing into force a new Order is the stability it provides for the business and its employees.

Costs

Other than the costs of consultation during the application process there are no direct costs to the business in applying for a Several Order or being granted a right of several fishery. A brief annual report is required from a Several Order grantee each year.

Scottish Firms Impact Test

The impact on other local businesses will be negligible. However, the effect on the applicant's business will be positive as the proposed Several Order will allow him to continue to operate as he has done over the past 15 years. With effective management, the sustainability of the stocks in the longer term guarantees the future of the fishery.

Competition Assessment

The Sea Fisheries (Shellfish) Act 1967 provides for the making of Several Orders, which give the grantee the sole right to fish for shellfish in the proposed area and therefore encourage sustainability. The area covered by this Order is small and the impact on other shellfish businesses is negligible.

Test run of business forms

There are no forms directly introduced by this Order and therefore no requirement for a test run of business forms.

Legal Aid Impact Test

There will be no impact on the legal aid fund.

Enforcement, sanctions and monitoring

It falls to the grantee of the Several Order to enforce his interests under the Order, and where that proves ineffective, to seek the services of the police to secure that his interests under the Order are respected.

Implementation and delivery plan

The proposed Several Order will come into force on 16 November 2013 which will enable the applicant to continue to manage the fishery as he has done over the past 15 years.

Post-implementation review

The proposed Order will run for 15 years. An annual report is submitted by the applicant which allows for an annual review of the performance and impact of the Order.

Summary and recommendation

To proceed with option 2.

The current proposal is in effect a renewal of the existing Order which will maintain the current management arrangements, which are generally regarded as successful.

The Order will allow for continued stable and sustainable fishing.

Conversely, the effect of non-renewal of the Order would have the potential to de-stabilise the existing business.

Summary costs and benefits table

Option	Total benefits per annum: economic, environmental and social	Total cost per annum: economic, environmental, social, policy and administrative
1	Nil – danger of destabilisation of applicants business.	Nil economic cost to business but risk of destabilisation.
2	Maintaining a stable environment for the business to operate in.	Nil – other than cost of consulting for application and time required to complete a short annual return.

Declaration and publication

I have read the Regulatory impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of the businesses in Scotland.

Signed:**Date:**

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Scottish Government

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