

POLICY NOTE

THE SOUTH ARRAN MARINE CONSERVATION ORDER 2014

SSI 2014/260

1. The above instrument was made in exercise of the powers conferred by sections 85(1)(a), (2) and (4), 86(1) and (3), 88(1) and (2) and 92(1) and (5) of the Marine (Scotland) Act 2010. The instrument is subject to negative procedure.

Policy Objectives

2. The purpose of this instrument is to further the recover conservation objective of maerl beds, a protected feature of the South Arran Marine Protected Area (“South Arran MPA”). The designation of this Nature Conservation MPA took effect on 07 August 2014. Maerl beds are particularly vulnerable to physical disturbance. Scientific studies have shown that mobile fishing gears can significantly reduce the amount of live maerl in one pass.

3. Physical disturbance from other activities will also have an impact but to a lesser extent. Given the recover conservation objective there is a need to minimise the risk of negative effect from all activities that can interact with seabed habitats in the discrete areas that are important for maerl beds.

4. In recognition of the need to recover the maerl beds, and their sensitivity to fishing activity, a voluntary management arrangement was put in place when the MPA designation was made. Member Associations of the Scottish Fishermen’s Federation, and the Scottish Creel Fishermen’s Federation, as well the Western Isles Fishermen’s Association, all of whose members are licensed to fish in the South Arran area, were party to this arrangement.

5. Information received by Marine Scotland showed that one fishing vessel was not adhering to the voluntary arrangement. This was considered to present a significant risk of hindering the achievement of the conservation objectives for the maerl beds.

6. Section 3 of the Marine (Scotland) Act 2010 provides that Scottish Ministers and public authorities must act in a way best calculated to further the achievement of the protection and enhancement of the health of the Scottish marine area. Scottish Ministers consider this Urgent Marine Conservation Order necessary to further the conservation objective to recover the maerl beds at the South Arran MPA.

7. The Order prevents any fishing activity taking place within those areas within the South Arran MPA considered essential to the recovery of the maerl beds. In addition, depositing or removing anything from these defined areas is prohibited. This will reduce the risk of human activity hindering the achievement of the conservation objective of the maerl beds to lowest possible level.

8. The Order will take immediate effect instead of waiting at least 28 days as doing so would leave the maerl beds exposed to potential continuing fishing activity during that time. As a consequence of this action section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) has not been complied with.

Consultation

9. Section 87 of the Marine (Scotland) Act 2010 sets out the normal consultation procedure for making a Marine Conservation Order. However, as this Order is being made under powers to include section 88 of the Marine (Scotland) Act 2010 the section 87 consultation process is not required. Discussions have taken place with the Scottish Fishermen's Federation, Scottish Creel Fisherman's Federation, and the national liaison officer of the Inshore Fisheries Groups. They accept that making the voluntary arrangements into statutory provision is a necessary response to the issue.

10. This Order is time limited to 1 year, and the process to develop a permanent order is on-going. There will be a full public consultation this winter regarding permanent arrangements.

Impact Assessments

11. An equality impact assessment screening has been completed on the South Arran Marine Conservation Order. This concluded that there were no equality issues requiring full assessment as the Order applies equally to all types of fishing and other human activities that involve depositing or removing anything from the seabed.

Financial Effects

12. A Business and Regulatory Impact Assessment (BRIA) was completed for the South Arran MPA designation order. In that document lower, intermediate, and upper scenarios were assessed. The impact of this Order will fall between the lower and intermediate scenarios.