

Final Business and Regulatory Impact Assessment

<p>Title of Proposal</p> <p>THE SCALPAY ISLAND, ISLE OF SKYE, SCALLOPS SEVERAL FISHERY ORDER 2018</p>
<p>Purpose and intended effect</p> <p>Background</p> <p>An application has been made for a Several Order off Scalpay Island, Isle of Skye, for the sole right to fish for scallops in the proposed area.</p> <p>The area was previously subject to a Several Order granted to the applicant, The Scalpay Island, Isle of Skye, Scallops Several Fishery Order 1998, which expired in 2013.</p> <p>Several Orders are made under the Sea Fisheries (Shellfish) Act 1967, whereby Ministers can provide for the establishment or improvement of a fishery for specified 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/grantee a right of several fishery in respect of scallops in the same specified area for a period of 15 years.</p> <p>Objective</p> <p>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 the applicant to develop a shellfish fishery in respect of scallops.</p> <p>Rationale for Government intervention</p> <p>The 2018 Order will confer an exclusive right to fish scallops in the 18 hectare area off Scalpay Island. Making the new Several Order will facilitate business and employment opportunities. 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 develop his scallop business.</p> <p>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.</p>
<p>Consultation</p> <p>Within Government</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none">• 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 facilitate the resumption of the scallop fishery off Scalpay Island, extending to an area of about 18 hectares. There were no suggestions for any changes to the proposals.

Public Consultation

The applicant/grantee consulted on his application for a Several Order and this was consistent with the Several and Regulated Fisheries (Form of Application) Regulations 1987.

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 13 April 2018 in the local press. No objections were raised and no other representations were received.

Business

The applicant/grantee 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. There was a further period of one month of consultation after advertising the Order on 13 April 2018 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. Refuse the application; and
2. Make a Several Order for the proposed area off Scalpay Island.

Option 1 – Refuse the application. This option would maintain the status quo and continue the public right to fish for scallops in the area. There is no evidence that the area is currently commercially fished other than by the applicant. By not making a Several Order the applicant might be deterred from investment in the fishery. There is also the risk that any time and money invested in the business and in developing the scallop stock may be lost if others come and harvest the shellfish.

Option 2 - To make and bring into force a 15 year Several Order which will provide the applicant/grantee exclusive rights to fish for scallops in the zone and provide long term stability to the applicant/grantee's business and potential employment opportunities.

Sectors and groups affected

The affected persons will mainly be the applicant/grantee 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 refusing the application and not supporting a Several Order. There is no evidence that other fishermen currently fish in the proposed area and no

objections were raised. We believe there will therefore be no impact on other fishermen. If the application for a Several Order were refused, there may be a detrimental effect on the applicant/grantee's business and willingness to invest in scallop fishing in the area which may hinder the development of the business and its ability to provide employment for others.

Option 2 – The benefit of bringing into force an Order is the stability it provides for the business and employees and providing an environment in which the applicant/grantee has confidence to invest in the business.

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. There is no evidence to suggest that other businesses would be deprived of fishing opportunities by making this order.

Scottish Firms Impact Test

The impact on other local businesses will be negligible. However, the effect on the applicant/grantee's business will be positive as the proposed Several Order will allow him to operate as the grantee of Order over the next 15 years. With effective management, the sustainability of the stocks in the longer term should guarantee 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 specified area and therefore encourage sustainability. The area covered by this Order is relatively 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 29 October 2018 which will enable the applicant/grantee to manage the fishery.

Post-implementation review

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

Summary and recommendation

To proceed with option 2.

A Several Order will provide stability and confidence for the grantee to invest in his business and provide for employment opportunities, as well as for stable and sustainable fishing.

Conversely, the effect of refusing the Order would have the potential to deter future investment in 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.	Nil economic cost to business but risk of losing the opportunity of incentivising investment in the business and creating employment opportunities. There is also the risk that the existing business interests maybe eroded.
2	Maintaining a stable environment for the business to operate in and allowing for investment and expansion. Creating additional employment opportunities.	Nil economic cost – other than cost of consulting for application and time required to complete a short annual return. Risk of depriving any other person who might have been contemplating fishing for scallops in the area covered by the Several Order although there is no evidence to suggest this is the case.

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: Mairi Gougeon**Date: 30th July 2018****Mairi Gougeon
Minister for Rural Affairs and the Natural Environment
Scottish Government****Scottish Government Contact point:**

Michael Cutts
Inshore Fisheries and Coastal Communities Team
Marine Scotland
0131 244 4756