

# Final Business and Regulatory Impact Assessment

## Title of Proposal

**THE LOCH EWE, ISLE OF EWE, WESTER ROSS, SCALLOPS SEVERAL FISHERY ORDER 2015**

## Purpose and intended effect

### Background

The Loch Ewe, Isle Of Ewe, Wester Ross, Scallops Several Fishery Order 1997 and The Loch Ewe, Isle Of Ewe, Wester Ross, Scallops Several Fishery (Variation) Order 2002 (“the 1997 and 2002 Orders”) are due to expire on 6 May 2017. A new Several Order has been applied for to allow the applicant to acquire the sole right to fish for scallops in the area covered by the 2002 Order and for an extended spatial zone. The applicant is a limited company in which the grantee of the 1997 and 2002 Orders has an interest. 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 scallops in the newly specified area for 10 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 limited company to develop a shellfish fishery in respect of scallops.

### Rationale for Government intervention

The Government has already intervened by making the 1997 and 2002 Orders and it is considered important to maintain the stability provided by these Orders and appropriate to expand upon them. 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 extend the scallop business in Loch Ewe.

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, increasing the area from about 22 hectares to 56 hectares and there were no suggestions for any changes to the proposals.

### **Public Consultation**

The applicant company consulted on its application for a Several 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 28 November 2014 in the local press. No objections were raised and no other representations were received.

### **Business**

The applicant company consulted on its 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 28 November 2014 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 replace the existing 1997 and 2002 Orders, but in respect of a larger fishery within Loch Ewe.

**Option 1** - Do nothing. This option would maintain the status quo until May 2017. Refusing the application for a Several Order might act as a deterrent for future investment in the fishery.

**Option 2** - To make and bring into force a 10 year Several Order which will provide continued rights to fish in a larger zone and provide long term stability to the applicant company's business.

### **Sectors and groups affected**

The affected persons will mainly be the applicant company 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 new

Several Order. If the application for a Several Order were refused, there may be a detrimental effect on the applicant company's business and willingness to invest further in scallop fishing in Loch Ewe, which may hinder the development of the business and its ability to expand and provide 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 and providing an environment in which the applicant has confidence to invest in and expand the business. Expanding the business may also create further employment opportunities.

### **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 fishermen are contemplating fishing for scallops in the proposed area.

### **Scottish Firms Impact Test**

The impact on other local businesses will be negligible. However, the effect on the applicant company's business will be positive as the proposed Several Order will allow it to continue to operate as the grantee of the 2002 Order has done over the past 13 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 still 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 its interests under the Order, and where that proves ineffective, to seek the services of the police to secure that its interests under the Order are respected.

### **Implementation and delivery plan**

The proposed Several Order will come into force on 9 March 2015 which will enable the business to continue to manage the expanded fishery.

### **Post-implementation review**

The proposed Order will run for 10 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 for an expanded spatial zone

which will maintain the current management arrangements, which are generally regarded as successful.

The Order will allow for continued stable and sustainable fishing and further investment in the business and increased employment opportunities.

Conversely, refusing the application to make 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 further investment in the business and creating additional employment opportunities.
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.

**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:**

**Richard Lochhead**  
**Cabinet Secretary for Rural Affairs, Food and the Environment**  
**Scottish Government**

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