

POLICY NOTE

THE WESTER ROSS MARINE CONSERVATION ORDER 2015

SSI 2015/302

1. The above instrument was made in exercise of the powers conferred by sections 85(1)(a), (2) and (4), 86(1) and (3) and 88(1) and (2) 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 conservation objectives of the recover conservation objectives of the Wester Ross Marine Protected Area (“Wester Ross MPA”), in particular the recovery of maerl beds, one of the protected features. 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. 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. This was designed to prevent physical impact on the maerl beds whilst permanent management arrangements were put in place. Member Associations of the Scottish Fishermen’s Federation, as well as the Western Isles Fishermen’s Association, all of whose members are licensed to fish in the Wester Ross area, were party to this arrangement.

4. Information recently received by Marine Scotland shows 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.

5. 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 sustainable development, including the protection and enhancement of the health of the Scottish marine area. Scottish Ministers consider this Urgent Marine Conservation Order is necessary to further the conservation objective to recover the maerl beds at the Wester Ross MPA.

6. The Order prevents mechanical or suction dredging from taking place in the Wester Ross MPA. The Scottish Government announced on 11 June its intention to implement this measure on 01 October, which was later changed to 01 November 2015. However, in light of the breach of the voluntary agreement, waiting to this date would leave the maerl beds in particular at significant risk of further damage and / or destruction in the meantime.

7. The Order will take immediate effect. If the laying requirement of 28 days was adhered to then this 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

8. Section 87 of the Marine (Scotland) Act 2010 sets out the consultation procedure which usually applies before a Marine Conservation Order may be made. However, as this Order is being made under powers to include section 88 of the Marine (Scotland) Act 2010 the section 87 consultation process does not apply in this case. Relevant stakeholders have been informed that this Order is being implemented

9. This Order is time limited to 1 year, and will be revoked and replaced by the permanent Marine Conservation Order in due course.

Impact Assessments

10. An equality impact assessment screening has been completed on the Wester Ross Marine Conservation Order. This concluded that there were no equality issues requiring full assessment.

Financial Effects

11. A draft Business and Regulatory Impact Assessment (BRIA) has been prepared for the forthcoming permanent Marine Conservation Order and is available on the Marine Scotland website. The final BRIA will be available in due course on that website.

Marine Planning and Policy – Marine Scotland
August 2015