

Final Business and Regulatory Impact Assessment

Title of Proposal

THE LITTLE LOCH BROOM SCALLOPS SEVERAL FISHERY ORDER 2017

Purpose and intended effect

Background

The Little Loch Broom Scallops Several Fishery Order 2002 (“the 2002 Order”) is due to expire on 6 May 2017. A new Several Order has been applied for to allow the applicant, who is the grantee of the 2002 Order, to continue to have the sole right to fish for scallops in the area of Little Loch Broom which is covered by the 2002 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 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 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 the applicant (who is the grantee of the 2002 Order) to develop a shellfish fishery in respect of scallops.

Rationale for Government intervention

The 2017 Order will confer an exclusive right to fish scallops in the area within Little Loch Broom currently covered by the 2002 Order. Making the new Several Order will facilitate continued business opportunities 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 continue his scallop business in Little Loch Broom.

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 the established several fishery in Little Loch Broom, extending to an area of about 7 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 23 December 2016 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 23 December 2016 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 for the same area of Little Loch Broom.

Option 1 - Do nothing. This option would maintain the status quo until 7 May 2017, at which point the public right to fish for scallops in the area would resume. This might act as a deterrent for future investment in the fishery by the applicant/grantee. There is also the risk that time and money invested in the business maybe lost.

Option 2 - To make and bring into force a 10 year Several Order which will provide the applicant/grantee continuing rights to fish in the zone and provide long term stability to the applicant/grantee's business and continuing 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 new Several Order. 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 further in

scallop fishing in Little Loch Broom which may hinder the development of the business and its ability to continue to 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/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 continue to operate as the grantee of the 2002 Order 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 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 7 May 2017 which will enable the applicant/grantee to continue to manage the fishery.

Post-implementation review

The proposed Order will run for 10 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.

The current arrangements in respect of the 2002 Order are generally regarded as successful. The Several Fishery Order will allow for the continuation of the same management arrangements over the same area as covered by the 2002 Order.

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

Conversely, the effect of non-renewal of 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. There is also the risk that the existing business 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:**Date:**

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Scottish Government

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