

## **POLICY NOTE**

### **THE LOCH CARRON URGENT MARINE CONSERVATION (No. 2) ORDER 2017 (URGENT CONTINUATION) ORDER 2018**

#### **SSI 2018/100**

1. The Loch Carron Urgent Marine Conservation (No. 2) Order 2017 (Urgent Continuation) Order 2018 (“the Continuation Order”) is made by the Scottish Ministers in exercise of the powers conferred by section 88(6) of the Marine (Scotland) Act 2010 (“the 2010 Act”) and all other powers enabling them to do so.

#### **Policy Objectives**

2. The purpose of the Order is to extend the duration of the Loch Carron Urgent Marine Conservation (No. 2) Order 2017 (“the Urgent MCO”). The Urgent MCO was implemented to prohibit the deployment and use of certain fishing gears in the Loch Carron Marine Protected Area (MPA). The original Loch Carron MPA was designated to recover the flame shell beds to a favourable condition.

#### **Policy Background**

3. It was reported on 23 April 2017 that the Loch Carron flame shell beds had been damaged by a scallop dredger. Flame shell beds are a Priority Marine Feature and are, therefore, given general protection by Scotland’s National Marine Plan. At the time of the incident Loch Carron was not an MPA. However, in order to facilitate recovery of the damaged flame shell beds it was designated as such on 19 May 2017.

4. According to section 3 of the 2010 Act, Scottish Ministers must act in a way best calculated to further the achievement of sustainable development, including the improvement of the health of the Scottish Marine Area, when exercising any function that affects that Area under the 2010 Act. In 2017, having identified the damaged flame shell beds in Loch Carron, Scottish Ministers determined there was a need to act in a way that helped recovery, and therefore improve the health of our seas.

5. At the same time as Loch Carron was designated as an urgent MPA in May 2017, the Loch Carron Urgent Marine Conservation Order 2017 was implemented. That Order was later revoked and replaced by the Urgent MCO. This was done in order to correct an error in the boundary definition of the MPA.

6. Pursuant to section 88(2) of the 2010 Act, a marine conservation order made on an urgent basis can only last for one year. However, the Scottish Ministers may extend such an order for a further year by making a continuation order in accordance with section 88(6) and (7) of the 2010 Act. If making a continuation order, the Scottish Ministers must have published notice of their proposal to make a permanent marine conservation order.

#### **Notice to designate permanent MPA and permanent Marine Conservation Order**

7. In accordance with the requirements of the 2010 Act, the Scottish Ministers published notice of their proposal to implement a permanent marine conservation order in respect of Loch Carron and also to designate Loch Carron as a permanent MPA. All of the relevant documents including a draft Business and Regulatory Impact Assessment can be found at: <https://consult.gov.scot/marine-scotland/loch-carron-mpa/>

## **Consultation**

8. In determining the need for the Continuation Order the Scottish Ministers have taken account of advice from Scottish Natural Heritage. There has been no public consultation on this Continuation Order. However, as noted above, there is an ongoing consultation on the proposal to implement a permanent marine conservation order in respect of Loch Carron and also to designate Loch Carron as a permanent MPA.

## **Impact Assessments**

9. A Business and Regulatory Impact Assessment (“BRIA”) has not been carried out for this Continuation Order, however a draft BRIA has been published for the consultation on designation of a permanent marine conservation order and a permanent MPA for Loch Carron. An equality assessment was not required.

Scottish Government  
Marine Scotland Directorate  
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