
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 437

The South Arran Marine Conservation Order 2015

Citation and commencement

1. This Order may be cited as the South Arran Marine Conservation Order 2015 and comes into force on 8th February 2016.

Interpretation

2. In this Order—

“boundary line” means a boundary delineated by a line as described in Schedule 1, 2 or 3;

“co-ordinate” means a co-ordinate of latitude and longitude according to the World Geodetic System 1984(1);

“the protected area” means the area described in article 3; and

“South Arran MPA” means the area designated as a nature conservation marine protected area by, and described in article 3 of, the South Arran Nature Conservation Marine Protected Area Order 2014(2).

The protected area

3. For the purposes of this Order, the area protected by it is—

(a) the seabed and subsoil; and

(b) all of the water covering the seabed,

within the South Arran MPA.

Prohibited and regulated activities

4.—(1) Paragraphs (2), (3), (4), (5), (6), (7), (8) and (10) apply in order to further the stated conservation objectives for the South Arran MPA.

(2) A person must not deploy (by any means) or use any fishing gear within the protected area.

(3) While a fishing vessel is within the protected area the master of the vessel must ensure that any fishing gear, passive gear, pelagic trawl, rod and line, or handline carried on board the vessel is properly lashed and stowed in such a way that it may not be readily used.

(4) Paragraphs (2) and (3) do not apply to the deployment or use of a demersal trawl (other than a beam trawl) by a vessel with a gross tonnage of no more than 120 tonnes, and registered as such

(1) The World Geodetic System 1984 is defined at paragraph 2.1 of the United States National Imagery and Mapping Agency Technical Report TR8350.2, third edition, amendment 1 of 3rd January 2000 entitled “Department of Defense World Geodetic System 1984” (<http://earth-info.nga.mil/GandG/publications/tr8350.2/wgs84fin.pdf>)

(2) The South Arran Nature Conservation Marine Protected Area Order 2014 (“the 2014 Order”) was made by the Scottish Ministers under powers within the Marine (Scotland) Act 2010, including section 67(1)(a). By virtue of section 165(3) of that Act the 2014 Order is not a Scottish statutory instrument but a Scottish Ministerial Order. The 2014 Order is available at <http://www.gov.scot/Resource/0045/00456829.pdf>

under Part II of the Merchant Shipping Act 1995(3), within those parts of the protected area which are described in Schedule 1.

(5) A person must not deploy (by any means) or use any passive gear within those parts of the protected area which are described in Schedule 2.

(6) With regard to any passive gear, paragraph (3) only applies within those parts of the protected area which are described in Schedule 2.

(7) A person must not deploy (by any means) or use any pelagic trawl, rod and line, or handline within that part of the protected area which is described in Schedule 3.

(8) With regard to any pelagic trawl, rod and line, or handline, paragraph (3) only applies within that part of the protected area which is described in Schedule 3.

(9) Paragraphs (2), (3), (5), (6), (7) and (8) do not apply to the deployment or use of any fishing gear, passive gear, pelagic trawl, rod and line, or handline within the protected area for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure.

(10) A person must not fish by hand within that part of the protected area which is described in Schedule 3.

(11) In this article—

“beam trawl” means a type of demersal trawl which has its mouth extended by a beam, bar or other rigid device;

“creel” means a basket, small cage, pot, receptacle or container with one or more openings or entrances which may be baited and placed on the seabed for the purpose of catching fish or shellfish;

“demersal seine net” means an encircling net, attached to ropes, which is laid on, and towed across, the seabed;

“demersal trawl” means a net which is towed along the seabed;

“dredge” means—

- (a) a mechanical dredge; or
- (b) a suction dredge which raises material, fish and shellfish from the seabed by the use of a solids pump, air lift or water jets which dig into the seabed;

“fish by hand” means the catching, or collection, of fish or shellfish (or any attempt to catch or collect fish or shellfish) without the deployment or use of any fishing gear or any passive gear, pelagic trawl, rod and line, or handline;

“fishing gear” means any beam trawl, demersal seine net, demersal trawl, dredge, any other device used for fishing purposes, and any rope or wire associated with the gear but excluding—

- (a) passive gear;
- (b) a pelagic trawl;
- (c) a rod and line; and
- (d) a handline;

“handline” means a single fishing line which is held in a person’s hand;

“parlour creel” means a creel which has at least two compartments, entry to one or more of which is likely to be gained only through an internal connection from another compartment;

“passive gear” means any gear or catch operation which does not require an active movement of the gear, including—

(3) 1995 c.21. Section 19(1) of the Merchant Shipping Act 1995 provides that the tonnage of any ship to be registered under Part II of that Act shall be ascertained in accordance with regulations made by the Secretary of State (“tonnage regulations”). The tonnage regulations are the Merchant Shipping (Tonnage) Regulations 1997 (S.I. 1997/1510) (as amended).

- (a) gillnets, trammel nets and trap nets;
 - (b) drifting gillnets, and drifting trammel nets, any of which may be equipped with anchoring, floating or navigational gear;
 - (c) long lines and lines; and
 - (d) creels and parlour creels,
- and includes any rope or wire associated with the gear; and
- “pelagic trawl” means any trawl or encircling net which has no contact with the seabed during a fishing operation, and includes any rope or wire associated with the gear.

Authorisation for the purpose of scientific research

5.—(1) The Scottish Ministers may, following written application to them, issue a permit authorising any of the following activities which would, apart from any such permit, be unlawful under this Order:—

- (a) to deploy or use any fishing gear, passive gear, pelagic trawl, rod and line, or handline; and
- (b) to fish by hand,

for the purpose of scientific research.

(2) The Scottish Ministers must not issue a permit unless they are satisfied that there is no significant risk of the activity hindering the achievement of the stated conservation objectives for the South Arran MPA.

(3) In this article “fishing gear”, “passive gear”, “pelagic trawl”, “handline” and “fish by hand” have the same meanings as in article 4(11).

Disapplication of exception to the offences under sections 94 and 95 of the Marine (Scotland) Act 2010

6.—(1) Paragraph (b) of section 97(1) of the 2010 Act does not apply in relation to—

- (a) an offence under section 94 of the 2010 Act of contravening this Order;
- (b) an offence under section 95 of the 2010 Act committed in relation to the protected area.

(2) In this article “the 2010 Act” means the Marine (Scotland) Act 2010.

Revocations

7. The instruments listed in column 1 of the table in Schedule 4 are revoked.

St Andrew’s House,
Edinburgh
16th December 2015

RICHARD LOCHHEAD
A member of the Scottish Government