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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Article 11(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy (OJ L 354, 28.12.2013, p.22) empowers EU member States to adopt conservation measures which are necessary for compliance with obligations under EU environmental legislation.

The South Arran Nature Conservation Marine Protected Area Order 2014 (“the 2014 Order”) designated that part of the Scottish marine area which is adjacent to South Arran as a nature conservation marine protected area (“South Arran MPA”). The 2014 Order provides that a range of marine habitats and one low or limited mobility species are protected features.

This Order furthers the stated conservation objectives for the South Arran MPA.

Article 3 describes the area protected by this Order (“the protected area”). It is the area which is designated under the 2014 Order as the South Arran MPA.

Article 4 prohibits and regulates activities within the protected area.

Article 4(2) provides that a person must not deploy or use any fishing gear within the protected area. The term “fishing gear” is defined in article 4(11) of the Order.

Article 4(3) regulates the storage of fishing gear, and other gear which is not covered by the general definition of fishing gear, on fishing vessels within the protected area.

Article 4(4) provides that demersal trawling (other than beam trawling) by certain specified fishing vessels is permitted within specified parts of the protected area which are described in Schedule 1.

Article 4(5) provides that a person must not deploy (by any means) or use passive gear within those parts of the protected area which are described in Schedule 2.

Article 4(7) provides that a person must not deploy (by any means) or use any pelagic trawl, rod and line, or a handline, within that part of the protected area which is described in Schedule 3.

Article 4(6) and (8) provide that article 4(3) applies with regard to the types of fishing provided for in article 4(5) and (7) only in those parts of the protected area where those types of fishing is not allowed.

Article 4(9) provides that certain specified provisions do not apply to activities carried out in the protected area for the purpose of saving life or for the purpose of securing the safety of a vessel, aircraft or marine structure.

Article 4(10) provides that a person may not fish other than by the deployment or use of fishing gear within the part of the protected area described in Schedule 3.

The effect of article 4(2), (3), (4), (5), (6), (7), (8) and (10) is that no fishing by any method may take place within the area in respect of which the Inshore Fishing (Prohibition on Fishing) (Lamlash Bay) (Scotland) Order 2008 (“the 2008 Order”) previously made provision.

Article 5 provides that the Scottish Ministers may issue permits authorising activity which would otherwise be unlawful under the Order within the protected area for the purpose of scientific research. The article makes provision regarding the procedure which applies to the making of applications for permits and the determination of such applications.

Article 6 provides that paragraph (b) of section 97(1) of the Marine (Scotland) Act 2010 does not apply in relation to an offence under section 94 of that Act of contravening this Order or an offence under section 95 of that Act committed in relation to the protected area.

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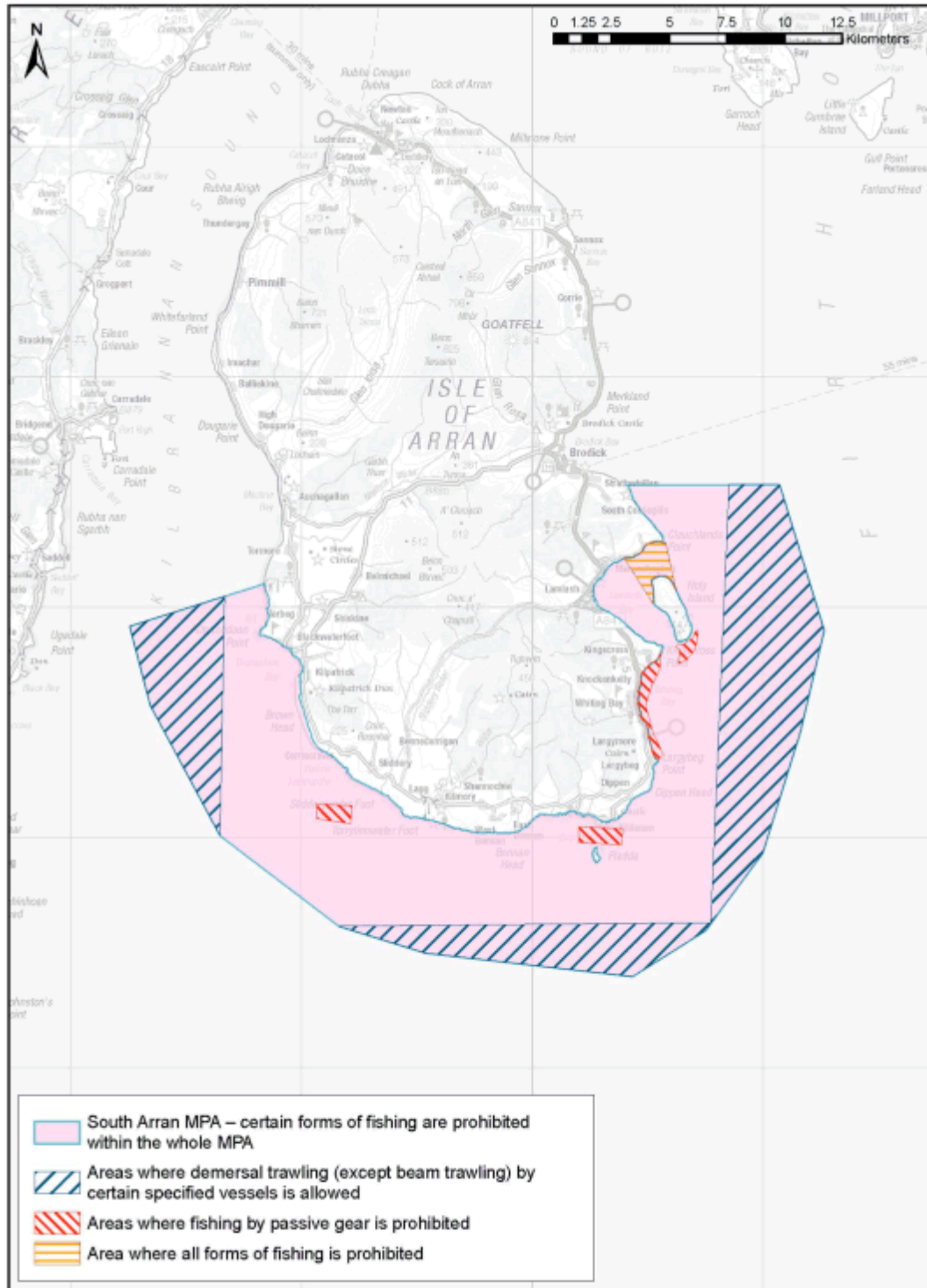
Article 7 and Schedule 4 provide that the 2008 Order, the South Arran Marine Conservation Order 2014, the South Arran Marine Conservation (Amendment) Order 2014 and the South Arran Marine Conservation Order 2014 (Urgent Continuation) Order 2015 are revoked. The provision made by the 2008 Order and by the other Orders above is broadly re-made by this Order.

A person who contravenes this Order commits an offence and is liable on summary conviction to a fine of up to £50,000, and on conviction on indictment to an unlimited fine. The penalty on summary conviction under this Order is greater than that which is provided by the 2008 Order.

A business and regulatory impact assessment has been prepared in relation to this Order and placed in the Scottish Parliament Information Centre. A copy of this can be obtained from Marine Scotland, the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ.

An illustrative map showing the South Arran MPA, and those parts of the MPA in respect of which the Order makes provision, is attached to this note.

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