

This S.S.I. has been made in consequence of a defect in the Loch Carron Nature Conservation Marine Protected Area Order 2017 and is being issued free of charge to all known recipients of the Loch Carron Urgent Marine Conservation Order 2017 (S.S.I. 2017/158).

SCOTTISH STATUTORY INSTRUMENTS

2017 No. 205

ENVIRONMENTAL PROTECTION

MARINE MANAGEMENT

**The Loch Carron Urgent Marine Conservation (No. 2) Order
2017**

Made - - - - 14th June 2017

Laid before the Scottish Parliament 14th June 2017

Coming into force - - 15th June 2017

The Scottish Ministers make the following Order 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^(a) and all other powers enabling them to do so.

In accordance with section 85(1)(a) of that Act, this Order is made for the purpose of furthering the stated conservation objectives for the Loch Carron MPA^(b).

In accordance with section 88(1) of that Act, the Scottish Ministers consider there is an urgent need to protect the area as respects which this Order is made (and so an urgent need to make this Order).

Citation, commencement and duration in force

1.—(1) This Order may be cited as the Loch Carron Urgent Marine Conservation (No. 2) Order 2017 and comes into force on 15th June 2017.

(2) This Order remains in force until the end of 19th May 2018.

(a) 2010 asp 5.

(b) The Loch Carron MPA was designated by the Loch Carron Nature Conservation Marine Protected Area (No. 2) Order 2017 (“the 2017 Order”). The 2017 Order is available at www.gov.scot/Topics/marine/marine-environment/mpanetwork/developing/2017MPA. The conservation objectives are stated in article 5 of the 2017 Order and the protected features are stated in schedule 2 of that Order.

Interpretation

2. In this Order—

“the Loch Carron MPA” means the area designated as a nature conservation marine protected area by, and described in article 3 of, the Loch Carron Nature Conservation Marine Protected Area (No. 2) Order 2017^(a); and

“the protected area” means the area described in article 3.

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 Loch Carron MPA.

Prohibited and regulated activities

4.—(1) Paragraphs (2) and (3) apply in order to further the stated conservation objectives for the Loch Carron 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 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 any fishing gear 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.

(5) 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;

“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;

^(a) The 2017 Order was made by the Scottish Ministers under powers conferred by sections 67(1)(a), 68, 69 and 79(1) of the Marine (Scotland) Act 2010. By virtue of section 165(3) of that Act the 2017 Order is not a Scottish statutory instrument but a Scottish Ministerial Order.

“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—

- (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.

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

5.—(1) Paragraph (b) of section 97(1) (exception to offence where act authorised by a public authority) 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.

Revocation

6. The Loch Carron Urgent Marine Conservation Order 2017(a) is revoked.

R CUNNINGHAM

A member of the Scottish Government

St Andrew’s House,
Edinburgh
14th June 2017

(a) S.S.I. 2017/158.

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 Loch Carron Nature Conservation Marine Protected Area (No. 2) Order 2017 (“the 2017 Order”) designated that part of the Scottish marine area which is within Loch Carron as a nature conservation marine protected area (“the Loch Carron MPA”). The 2017 Order provides that flame shell beds within Loch Carron are protected features.

This Order furthers the stated conservation objectives for the Loch Carron MPA.

This Order is made under the Marine (Scotland) Act 2010, including section 88(1) and (2) of that Act which allows the Scottish Ministers to make this Order on an urgent basis. In accordance with section 88(1)(b) of that Act the Order remains in force for a specified period. In accordance with section 88(5) of that Act the Scottish Ministers must keep under review the need for this Order to remain in force.

Article 3 describes the area protected by this Order (“the protected area”). It is the seabed and subsoil and all of the water covering the seabed within the Loch Carron 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” and associated terms are defined in article 4(5) of the Order.

Article 4(3) regulates the storage of fishing gear on fishing vessels within the protected area.

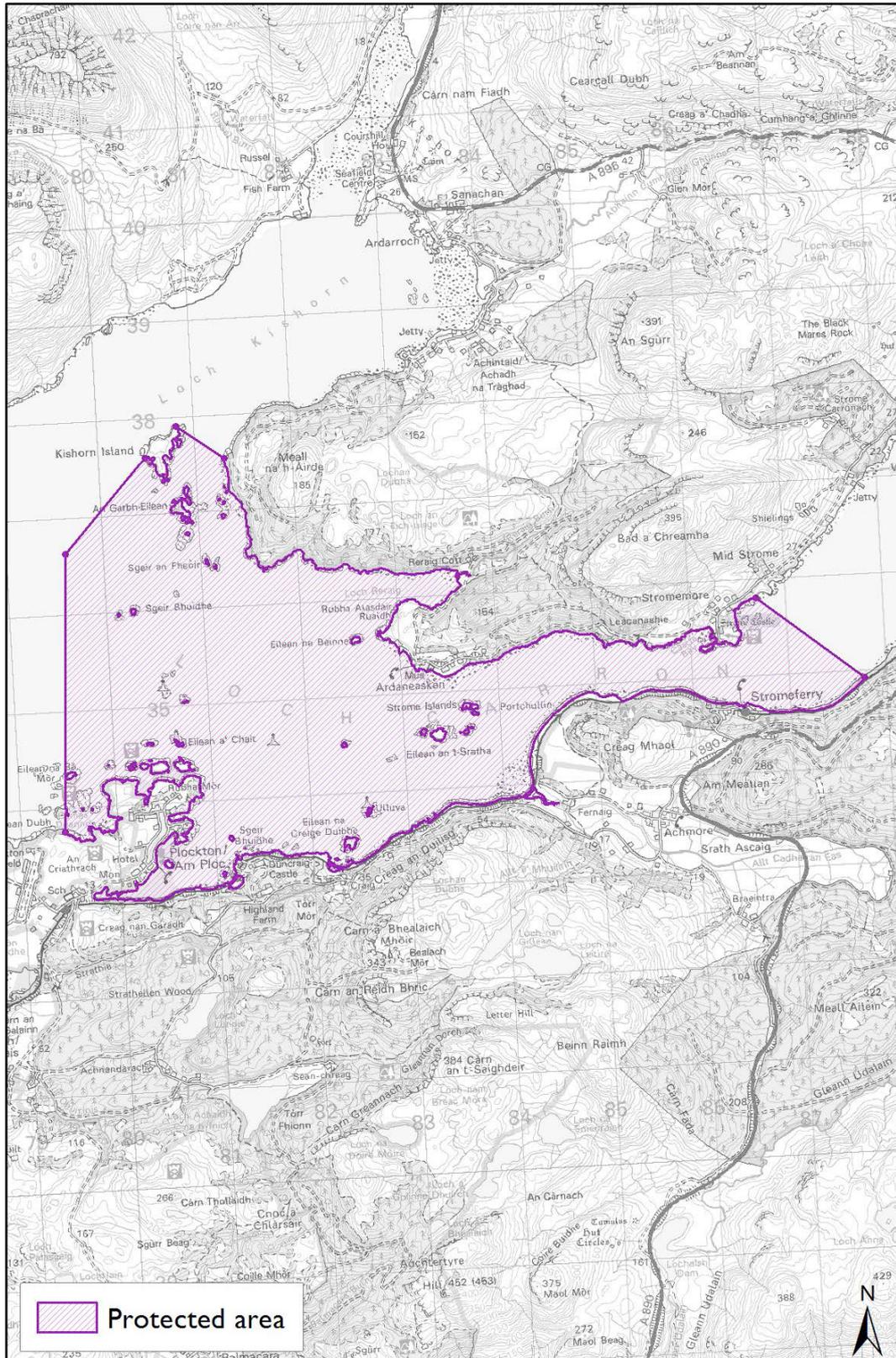
Article 4(4) provides that article 4(2) and (3) does not apply to activities carried out in the protected area for the purpose of saving life or for the purpose of securing the safety of a vessel, aircraft or marine structure.

Article 5 provides that paragraph (b) of section 97(1) (exception to offence where act authorised by a public authority) 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.

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.

Article 6 revokes the Loch Carron Urgent Marine Conservation Order 2017. The provision made by that Order is re-made by this Order except for a change in the extent of the area protected that reflects a change in the extent of the area designated by the 2017 Order. The definition of “the Loch Carron MPA” in article 2 of this Order refers to the area designated as a nature conservation marine protected area by the 2017 Order.

An illustrative map showing the Loch Carron MPA is attached to this note.



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