

POLICY NOTE

THE RED ROCKS AND LONGAY URGENT MARINE CONSERVATION ORDER 2021

SSI 2021/131

1. The Red Rocks and Longay Urgent Marine Conservation Order 2021 (“the Order”) is made by the Scottish Ministers in exercise of the powers conferred by sections 85(1)(a), (2) and (4), 86(1) and (3), 92(1) and 93(1) of the Marine (Scotland) Act 2010 (“the Act”) and all other powers enabling them to do so.

Policy Objectives

2. The purpose of this instrument is to protect a flapper skate egg laying habitat, in furtherance of the conservation objectives of the Red Rocks and Longay Marine Protected Area¹ (“the MPA”). The designation of the MPA took effect on the 11th March 2021.

Policy Background

3. Flapper skate (*Dipturus intermedius*) was historically abundant in the North-east Atlantic and widely distributed in the seas surrounding the British Isles, however its range has reduced significantly and catch rates declined throughout the 20th century. It now only occurs in the northern North Sea and off Scotland’s north-west coast. Part of the common skate complex (along with blue skate), flapper skate is on the OSPAR Threatened and/or Declining Species and Habitats List and the list of Priority Marine Features².

4. In October 2020, NatureScot alerted the Scottish Government to dive surveys which identified over 100 flapper skate eggs in the Inner Sound of Skye. This is the first flapper skate nursery area of this size to be identified in Scotland and is of national importance. Despite considerable survey effort around Scotland, the number of locations where skate eggs have been recorded is low, and in most of these, few eggs have been recorded. NatureScot have advised the Scottish Ministers that the number and density of eggs is an indication of its use by multiple animals in multiple years. NatureScot further advised that the adult and juvenile flapper skate and their eggs are sensitive to a variety of pressures, including fishing activities, development of the marine area and disturbance of the seabed.

5. According to section 3 of the Act, the 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 Act. Having identified a nationally important egg-laying habitat for flapper skate in the Red Rocks and Longay area, the Scottish Ministers determined there was a need to act in a way that helped protection, and therefore improve the health of our seas.

6. A nature conservation MPA has been put in place to protect the egg-laying habitat and this Order furthers the conservation objective of the MPA, which is to conserve the flapper skate and its eggs in this area. This Order restricts activities which may adversely affect the area, including certain methods of fishing, deposits on the seabed and diving, which would not be prohibited by virtue of the activities taking place in an MPA.

¹ The Red Rocks and Longay MPA was designated as a nature conservation marine protected area by the Red Rocks and Longay Nature Conservation Marine Protected Area Order 2021, which is available at <https://www.gov.scot/policies/marine-environment/marine-protected-areas/>.

² Priority Marine Features are species and habitats which have been identified as being of conservation importance to Scotland. Most are a subset of species and habitats identified on national, UK or international lists. For further information, see [Scotland’s National Marine Plan](#).

7. This Order is being made on an urgent basis, under section 88 of the Act, due to the urgent need to put measures in place to protect flapper skate from pressures in the marine environment. A Marine Conservation Order made on an urgent basis can only last for one year, however such an order can be extended for a further year by making a Continuation Order.

8. Whilst this urgent Order is in place, further research will be carried out to determine the full extent of the flapper skate habitat in the Inner Sound. Some activities that may otherwise be prohibited by this Order may need to take place for the purposes of that research. This Order makes provision for those activities to be authorised by way of a permit, provided that they are not contrary to the conservation objectives of the MPA.

Consultation

9. As there is an urgent need to protect the flapper skate no public consultation has taken place on this Order. Section 88 of Act allows the Scottish Ministers to dispense with consultation when there is an urgent need to act. However, in determining the need for this Order, officials have undertaken targeted engagement with affected sectors and the Scottish Ministers have taken account of the stakeholder views and advice from NatureScot.

Impact Assessments

10. A Business and Regulatory Impact Assessment (BRIA) and Island Communities Impact Assessment (ICIA) have not been carried out for this Order due to its urgent nature.

Scottish Government
Directorate for Marine Scotland
10 March 2021