
STATUTORY INSTRUMENTS

1998 No. 2639 (S.130)

SEA FISHERIES

SHELLFISH

**The Scalpay Island, Isle of Skye,
Scallops Several Fishery Order 1998**

Made - - - - *8th October 1998*
Laid before Parliament *26th October 1998*
Coming into force - - *16th November 1998*

Whereas an application for an Order under section 1 of the Sea Fisheries (Shellfish) Act 1967⁽¹⁾ has been made to the Secretary of State, the appropriate Minister⁽²⁾ by M.F.G. & J.A. Walford;

And whereas the Secretary of State has prepared a draft order and has served a copy of it on the applicant in accordance with paragraph 1 of Schedule 1 to that Act;

And whereas the applicant caused printed copies of the draft order to be published and circulated and has given notice of the application in accordance with paragraph 2 of that Schedule;

And whereas objections were received by the Secretary of State under paragraph 3 of that Schedule and which he considered to be neither frivolous nor irrelevant and which were not withdrawn;

And whereas the Secretary of State appointed an inspector respecting the proposed order in accordance with paragraph 4(2) of that Schedule and the inspector made an inquiry, held a sitting in accordance with paragraph 4(3) thereof and made a report to the Secretary of State in accordance with paragraph 4(2) of that Schedule stating that in his opinion the proposed order should be made;

Now, therefore, the Secretary of State in exercise of the powers conferred on him by section 1 of, as read with Schedule 1 to, that Act and of all other powers enabling him in that behalf and with the consent of the Crown Estate Commissioners hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scalpay Island, Isle of Skye, Scallops Several Fishery Order 1998 and shall come into force on 16th November 1998.

(1) 1967 c. 83; section 1 was amended by the Sea Fisheries Act 1968 (c. 77), section 15(2), the Fishery Limits Act 1976 (c. 86), Schedule 2, paragraph 15, the Sea Fisheries (Shellfish) (Amendment) Act 1997 (c. 3) and is to be read with the Sea Fisheries Act 1968, section 15(3) to (5); Schedule 1 was amended by the Sea Fisheries Act 1968, section 15(7). Scallops and queens were specified for the purpose of section 1 by the Shellfish (Specification of Molluscs) Regulations 1987 (S.I.1987/218).

(2) The “appropriate Minister” is defined in section 22(1) of the Sea Fisheries (Shellfish) Act 1967 (c. 83).

(2) In this Order—

“the applicant” means the partnership of M.F.G & J.A. Walford, Scalpay House, Broadford, Isle of Skye, IV49 9BS;

“the grantee” means the applicant and such other person as is for the time being entitled to the right of several fishery conferred by this Order;

“the definitive map” means the map prepared in duplicate, each copy of which is signed by the Secretary of State and marked “Map referred to in the Scalpay Island, Isle of Skye, Scallops Several Fishery Order 1998”, one such copy of which is deposited in the principal office of the Scottish Office Agriculture, Environment and Fisheries Department at Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TW and the other such copy of which is deposited in the applicant’s place of business at Scalpay House, Broadford, Isle of Skye, IV49 9BS ; and

“the fishery” means that part of the bed of the sea lying off the east coast of Scalpay Island, Isle of Skye, described in the Schedule to this Order and shown coloured pink on the definitive map.

Right of several fishery

2. Subject to the following provisions of this Order there is hereby conferred on the applicant for a period of 15 years beginning on the date on which this Order comes into force the right of several fishery for scallops with respect to the whole of the area of the fishery.

Restriction on harvesting

3. The right of several fishery granted by article 2 above is subject to the restriction that the harvesting of scallops shall be carried out manually by divers.

Assignment

4. The grantee shall not without the prior written consent of the Secretary of State assign or in any other way transfer the right of several fishery to any other person.

Marking of limits of fishery

5. The grantee shall cause to be clearly marked on the bed and on the surface of the sea the limits of the fishery and shall maintain the marks in position and in good repair.

Rights of the Crown

6.—(1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained shall authorise the applicant to take, use, enter upon or in any manner interfere with any land, or interest in land, any rights of whatever description (including any portion of the shore or bed of the sea, or of any river, channel, creek, bay or estuary) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners.

(2) A consent under paragraph (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

St Andrew's House,
Edinburgh
8th October 1998

Sewel
Scottish Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 1(2)

DESCRIPTION OF THE FISHERY

That part of the bed of the sea lying off the east coast of Scalpay Island, Isle of Skye extending to 17.400 hectares or thereby and bounded as follows: on or towards the north east, by a straight line extending in a generally south-south-easterly direction from a point at 57°17.530' North latitude and 05°55.425' West longitude to a point at 57°16.895' North latitude and 05°55.200' West longitude; thence, on or towards the south by a straight line extending in a generally westerly direction to a point at 57°16.875' North latitude and 05°55.490' West longitude; and thence, on or towards the west, by line extending in a generally northerly direction following the line of mean low water springs to the point of beginning.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers on M.F.G. & J.A. Walford for a period of 15 years the right of several fishery for scallops in part of the sea bed lying off the east coast of Scalpay Island, Isle of Skye (article 2). The part of the sea bed to which the Order applies is described in the Schedule. The location of the area is also shown on the definitive map (article 1(2)). A copy of the definitive map is held by the Scottish Office Agriculture, Environment and Fisheries Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TW and by the applicant at Scalpay House, Broadford, Isle of Skye, IV49 9BS. A representation of the definitive map is appended to this Note.

The Order requires the harvesting of scallops under the right of several fishery to be carried out manually by divers (article 3).

The Order prohibits the assignation or other transfer of the right of several fishery without the prior written consent of the Secretary of State (article 4).

The Order requires the limits of the area to be clearly marked and maintained on the bed and surface of the sea (article 5).

The Order provides that its effect will not prejudicially affect the rights of the Crown except with the Crown's consent (article 6).

By virtue of section 2 of the Sea Fisheries (Shellfish) Act 1967 this Order confers on the applicant the exclusive right to deposit, propagate, fish for and take scallops within the area.