
WELSH STATUTORY INSTRUMENTS

2022 No. 213

The Menai Strait (East) Mussel and Oyster Fishery Order 2022

PART 2

The right of several fishery

The right of several fishery

3. The right of several fishery for the prescribed species is conferred on the Grantee for a period of 35 years beginning on 2 April 2022 in relation to the several fishery area⁽¹⁾.

Designation of several fishery area

4.—(1) The Grantee may, from time to time, with the consent of the Welsh Ministers, designate the several fishery area.

(2) The designation must be in writing and must—

- (a) identify all areas to be designated by reference to an area within a line drawn between listed co-ordinates;
- (b) confirm that it is made under this article;
- (c) state the date upon which it is to take effect; and
- (d) be signed by the Grantee.

(3) The designation must be published by the Grantee on their website no later than 7 days after it takes effect.

Welsh Ministers' consent to a designation made under article 4(1)

5.—(1) A request for the Welsh Ministers' consent to a designation under article 4(1) must be made in writing and —

- (a) identify the area of the proposed several fishery area in accordance with article 4(2)(a);
- (b) include an illustrative map of the Order area with proposed boundaries between the regulated fishery area and the several fishery area marked on it;
- (c) include a statement from the Grantee in support of the request; and
- (d) where the Grantee has made regulations under article 20, confirm that the Grantee has given consideration to whether amendment of those regulations is necessary.

(2) The Grantee must not seek the Welsh Ministers' consent to a designation under article 4(1) that includes a part of the Order area in relation to which there are licences in force.

(3) The Welsh Ministers may require the Grantee to provide them with any further information as they reasonably require to consider the request.

⁽¹⁾ The effect of a grant of right of several fishery is set out in section 2 of the Act.

(4) When considering whether to consent to a designation the Welsh Ministers must have regard to—

- (a) the impact of the designation on the European marine sites; and
 - (b) the impact of the designation on the marine environment.
- (5) The Welsh Ministers' consent must be given in writing.

Cancellation of a designation made under article 4(1)

6.—(1) The Grantee may, from time to time, with the consent of the Welsh Ministers, cancel the designation made under article 4(1).

- (2) A cancellation of the designation must be made in writing and must—
- (a) confirm it is made under this article;
 - (b) confirm the date upon which it is to take effect; and
 - (c) be signed by the Grantee.

(3) The Grantee must not seek the Welsh Ministers' consent to a cancellation that includes a part of the Order area in relation to which there are leases in force.

(4) The cancellation of the designation must be published by the Grantee on their website no later than 7 days after it takes effect.

Welsh Ministers' consent to cancellation of a designation made under article 4(1)

7.—(1) A request for the Welsh Ministers' consent to a cancellation of a designation made under article 4(1) must be made in writing and—

- (a) include a statement from the Grantee in support of the request;
- (b) confirm it is made under this article;
- (c) confirm the date upon which it takes effect; and
- (d) be signed by the Grantee.

(2) The Welsh Ministers may require the Grantee to provide them with any further information as they reasonably require to consider the request.

(3) When considering whether to consent to a cancellation the Welsh Ministers must have regard to—

- (a) the impact of the cancellation on the European marine sites; and
 - (b) the impact of the cancellation on the marine environment.
- (4) The Welsh Ministers' consent must be given in writing.

Restrictions on the right of several fishery

8.—(1) The right of several fishery may not be exercised by the Grantee.

(2) The Grantee may, from time to time, with the consent of the Welsh Ministers, grant a lease over part of the several fishery area.

(3) The Grantee may not, without the prior written consent of the Welsh Ministers, lease, assign or in any other way transfer the right of several fishery to another person.

- (4) Any lease granted by the Grantee must—
- (a) not exceed a term of 7 years and where applicable must expire on or before the date upon which the right of several fishery ceases in accordance with article 3;

- (b) prohibit assignment of the lease, or the grant of a sub-lease and assignment of it, without the prior written consent of the Welsh Ministers;
- (c) require the tenant to maintain laying markings in position and in good repair;
- (d) require the tenant to maintain the laying to the satisfaction of the Grantee;
- (e) permit the Welsh Ministers, or any person authorised by them, access to the laying for the purpose of—
 - (i) an environmental survey;
 - (ii) monitoring stock;
 - (iii) monitoring the spread of the prescribed species;
 - (iv) disease prevention; and
 - (v) the collection of samples.
- (f) permit the Grantee to inspect the laying for the purpose of monitoring compliance with the lease;
- (g) require the tenant to comply with any site protection notice relating to their laying served on the Grantee; and
- (h) provide that in the event of the tenant breaching the lease the Grantee may —
 - (i) take the necessary action to remedy the breach; and
 - (ii) terminate the lease.

Welsh Ministers' consent to a lease

9.—(1) A request for the Welsh Ministers' consent under article 8(2) must be made in writing and include—

- (a) a copy of the draft lease; and
- (b) a statement from the Grantee in support of the request.

(2) The Welsh Ministers may require the Grantee to provide them with any further information they reasonably require to consider the request.

(3) Before consenting to any lease the Welsh Ministers must have regard to —

- (a) the impact of the proposed lease upon the European marine sites;
- (b) the impact of the proposed lease upon the marine environment.

(4) The Welsh Ministers' consent must be given in writing.

Grantee's duty to monitor compliance with a lease

10. The Grantee must take all reasonable steps to monitor the tenant's compliance with any lease granted.

Effect of a lease

11. A lease has effect as if the right which it confers on the tenant were conferred by an order made under section 1 of the Act, and as if any terms and conditions contained in the lease were contained in such an order.

New lease opportunities

12.—(1) In the event that a laying becomes vacant, before granting a new lease, the Grantee must—

- (a) advertise the opportunity to apply for a lease on their website and in at least one local newspaper;
 - (b) publish on their website the criteria the Grantee will use to assess the applications received;
 - (c) allow a period of at least 28 days for submission of applications; and
 - (d) assess all applications according to published criteria and in accordance with paragraph (2).
- (2) When assessing applications received from prospective tenants, the Grantee must have regard to whether applicants can demonstrate either —
- (a) evidence of competence to safely operate a laying; or
 - (b) proposals to obtain relevant training or qualifications to acquire competence to safely operate a laying.
- (3) For the purposes of paragraph (1), a laying becomes vacant if the tenant of that laying—
- (a) surrenders their lease to the Grantee;
 - (b) forfeits their lease to the Grantee; or
 - (c) at the expiry of the term of one lease, does not seek a new lease.

Income from the several fishery area

13. All income received by the Grantee by way of rent payable under a lease must be applied for the following purposes in order of priority listed below—

- (a) discharging the expenses of obtaining this Order;
- (b) marking out the boundaries of the several fishery area and layings;
- (c) the destruction of pests harmful to the prescribed species; and
- (d) management, supervision and improvement of the several fishery area.