

2014 No. 260

ENVIRONMENTAL PROTECTION

MARINE MANAGEMENT

The South Arran Marine Conservation Order 2014

Made - - - - *30th September 2014*

Laid before the Scottish Parliament *30th September 2014*

Coming into force - - *1st October 2014*

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), 88(1) and (2) and 92(1) and (5) of the Marine (Scotland) Act 2010(a) and of 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 South Arran Nature Conservation Marine Protected Area(b) in so far as the conservation objectives relate to maerl beds(c).

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 South Arran Marine Conservation Order 2014 and comes into force on 1st October 2014.

(2) This Order remains in force for the period of 12 months from the date on which it comes into force.

Interpretation

2. In this Order—

“the 2010 Act” means the Marine (Scotland) Act 2010;

“boundary line” means a boundary line delineated by a geodesic line;

(a) 2010 asp 5.

(b) The South Arran Nature Conservation Marine Protected Area was designated by the South Arran Nature Conservation Marine Protected Area Order 2014 (“the 2014 Order”). The 2014 Order is available at <http://www.scotland.gov.uk/Resource/0045/00456829.pdf>

(c) The conservation objectives are stated in article 5 of the 2014 Order and the protected features are stated in Schedule 2 to, as introduced by article 4 of, the 2014 Order.

“co-ordinate” means co-ordinates of latitude and longitude according to the World Geodetic System 1984(a);

“creel” means a basket, small cage, receptacle or container with one or more openings or entrances which may be baited and placed on the seabed for the purpose of catching shellfish;

“dredge” includes—

- (i) a mechanical dredge; or
- (ii) a suction dredge which raises material, fish and shellfish from the seabed with gear by the use of a solids pump, air lift, or water jets which dig into the seabed;

“fishing gear” includes a creel, dredge, parlour creel, passive gear, trawl and any rope or wire associated with the gear;

“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 fishing gear or catch operation which does not require an active movement of the gear, excluding creels and parlour creels, but including—

- (i) gillnets, trammel nets and trap nets;
- (ii) drifting gillnets, and drifting trammel nets, any of which may be equipped with anchoring, floating and navigational gear; and
- (iii) long lines, lines, pots and traps;

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

“South Arran MPA” means that area designated as a nature conservation marine protected area by the South Arran Nature Conservation Marine Protected Area Order 2014; and

“trawl” means all types of trawl, including demersal and pelagic trawls.

The protected area

3.—(1) 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 three parts of the South Arran MPA which are described in paragraph (2).

(2) The parts of that area are enclosed by the boundary lines which are respectively described in Parts 1, 2 and 3 of the Schedule, in each case by reference to the co-ordinates of the points joined by the boundary line.

Prohibited and regulated activities

4.—(1) Paragraphs (2) and (3) apply in order to further the stated conservation objectives of the South Arran MPA in relation to maerl beds.

(2) A person must not—

- (a) anchor any vessel (including the fixing of moorings or anchors to the seabed);
- (b) deploy (by any means) and use any fishing gear;
- (c) deposit (by any means) anything on the seabed; or
- (d) remove anything from the seabed,

within the protected area.

(a) The World Geodetic System 1984 is defined at paragraph 2.1 of the United States National Imagery and Mapping Agency Technical Report TR8350.2, third edition, amendment 1 of 3rd January 2000 entitled “Department of Defense World Geodetic System 1984” (<http://earth-info.nga.mil/GandG/publications/tr8350.2/wgs84fin.pdf>)

(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 in relation to any activity specified which is carried out 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.

Authorisation of things prohibited by this Order

5.—(1) The Scottish Ministers may, following written application to them, issue a permit authorising any activity mentioned in paragraph (2) which would, apart from any such permit, be unlawful under this Order.

(2) The activities mentioned in this paragraph are—

- (a) the deposit (by any means) of a camera and any associated apparatus on the seabed for the purpose of scientific research;
- (b) the removal by any means of—
 - (i) anything from the seabed; or
 - (ii) any part of the seabed,for the purpose of scientific research; and
- (c) the deployment and use of pelagic trawls.

(3) The Scottish Ministers must not determine an application by issuing a permit unless they are satisfied that there is no significant risk of the activity hindering the achievement of the stated conservation objectives for the South Arran MPA in relation to maerl beds.

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

6. Paragraph (b) of section 97(1) 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.

St Andrew's House,
Edinburgh
30th September 2014

RICHARD LOCHHEAD
A member of the Scottish Government

SCHEDULE

Article 3(2)

Protected area – boundary lines

PART 1

<i>Boundary Line</i>	<i>Set of co-ordinates of points which the boundary line joins</i>
1.	A to B
2.	B to C
3.	C to D
4.	D to E
5.	E to F
6.	F to G
7.	G to H
8.	H to I
9.	I to A

Where—

“A” is 55°27.842’N, 005°18.858’W;

“B” is 55°26.267’N, 005°15.735’W;

“C” is 55°25.550’N, 005°16.027’W;

“D” is 55°25.635’N, 005°18.210’W;

“E” is 55°25.849’N, 005°19.114’W;

“F” is 55°26.178’N, 005°19.327’W;

“G” is 55°26.635’N, 005°19.829’W;

“H” is 55°27.280’N, 005°20.018’W, and

“I” is 55°27.554’N, 005°20.239’W.

PART 2

<i>Boundary Line</i>	<i>Set of co-ordinates of points which the boundary line joins</i>
1.	J to K
2.	K to L
3.	L to M
4.	M to N
5.	N to O
6.	O to P
7.	P to Q
8.	Q to R
9.	R to S
10.	S to J

Where—

“J” is 55°25.200’N, 005°06.920’W;

“K” is 55°25.368’N, 005°07.117’W;
 “L” is 55°25.504’N, 005°06.908’W;
 “M” is 55°25.849’N, 005°07.056’W;
 “N” is 55°25.800’N, 005°07.437’W;
 “O” is 55°26.001’N, 005°08.181’W;
 “P” is 55°26.273’N, 005°07.808’W;
 “Q” is 55°26.451’N, 005°06.140’W;
 “R” is 55°27.012’N, 005°05.295’W, and
 “S” is 55°26.820’N, 005°04.970’W.

PART 3

<i>Boundary Line</i>	<i>Set of co-ordinates of points which the boundary line joins</i>
1.	T to U
2.	U to V
3.	V to W
4.	W to X
5.	X to Y
6.	Y to Z
7.	Z to AA
8.	AA to AB
9.	AB to AC
10.	AC to AD
11.	AD to AE
12.	AE to AF
13.	AF to AG
14.	AG to AH
15.	AH to T

Where—

“T” is 55°30.622’N, 005°04.285’W;
 “U” is 55°30.680’N, 005°04.203’W;
 “V” is 55°30.721’N, 005°03.801’W;
 “W” is 55°30.834’N, 005°03.682’W;
 “X” is 55°31.050’N, 005°03.558’W;
 “Y” is 55°31.070’N, 005°03.426’W;
 “Z” is 55°30.916’N, 005°03.333’W;
 “AA” is 55°30.621’N, 005°03.388’W
 “AB” is 55°30.539’N, 005°03.429’W;
 “AC” is 55°30.276’N, 005°03.763’W;
 “AD” is 55°30.193’N, 005°04.055’W;
 “AE” is 55°30.208’N, 005°04.083’W;
 “AF” is 55°30.306’N, 005°04.077’W;
 “AG” is 55°30.400’N, 005°04.040’W, and
 “AH” is 55°30.520’N, 005°04.080’W.

EXPLANATORY NOTE

(This note is not part of the Order)

The South Arran Nature Conservation Marine Protected Area Order 2014 made under the Marine (Scotland) Act 2010 (“the 2010 Act”) designated that part of the Scottish marine area which is adjacent to south Arran as a nature conservation marine protected area (“MPA”). A range of marine habitats are protected features under the South Arran MPA, to include maerl beds.

This Order furthers the stated conservation objectives for the South Arran MPA insofar as they relate to maerl beds. It does so by specifying certain activities which are prohibited, and regulating the storage of fishing gear on fishing vessels, within those parts of the MPA which are described in the Order. Provision is made whereby activities carried out in those parts of the MPA for the purpose of saving life or for the purpose of securing the safety of a vessel, aircraft or marine structure are not prohibited under the Order.

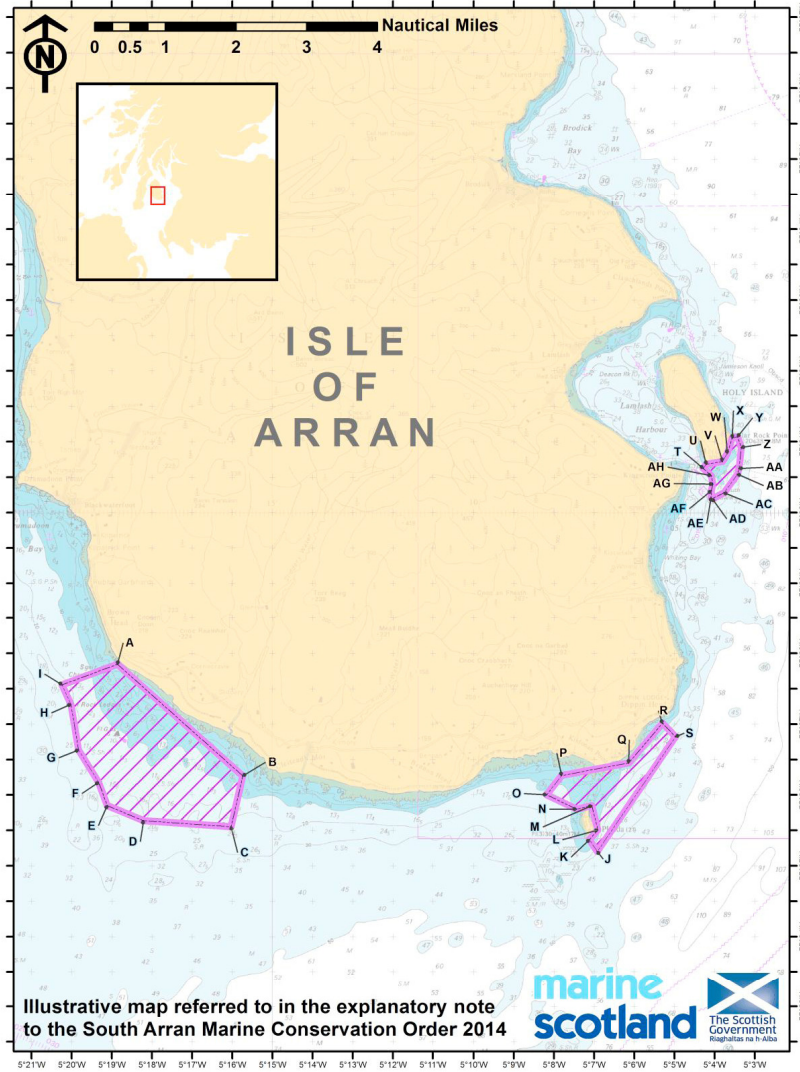
The Order provides that the Scottish Ministers may issue permits authorising certain specified activities which would, apart from such permit, be unlawful under the Order. Provision is made under the Order for the procedure to apply in relation to the making of applications for permits and the determination of such applications.

A person who contravenes a marine conservation order under section 94(1) of the 2010 Act commits an offence. Section 95 of the 2010 Act provides that, subject to certain exceptions specified in that provision, a person who intentionally or recklessly does a prohibited act in a nature conservation MPA which significantly hinders, or may significantly hinder, the achievement of the stated conservation objectives for the MPA commits an offence. Section 97 of the 2010 Act provides further exceptions to the offence provisions whereby a person is not guilty of an offence in certain specified circumstances. This includes where a person has acted under an authorisation granted by a public authority. The Order provides that this particular exception does not apply in relation to activities carried out under such authorisation in those parts of the South Arran MPA where the Order applies.

A Business and Regulatory Impact Assessment (“BRIA”) was undertaken for the designation of the South Arran MPA. The impact of this Order falls between the lower and intermediate estimates made in that document. The BRIA can be found at <http://www.scotland.gov.uk/Resource/0045/00456466.pdf>

An illustrative map showing those parts of the South Arran MPA in respect of which the Order applies is attached to the Order.

The South Arran Marine Conservation Order 2014



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