

**2022 No. 372**

**ENVIRONMENTAL PROTECTION**

**MARINE MANAGEMENT**

**The Red Rocks and Longay Marine Conservation Order 2022**

*Made* - - - - *13th December 2022*

*Laid before the Scottish Parliament* *15th December 2022*

*Coming into force* - - *9th February 2023*

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), 92(1) and (5) and 93(1) of the Marine (Scotland) Act 2010<sup>(a)</sup> 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 Red Rocks and Longay MPA<sup>(b)</sup>.

In accordance with section 87(2) of that Act, the Scottish Ministers have sent a copy of a draft of this Order to persons whom they considered were likely to be interested in or affected by the making of this Order.

In accordance with section 87(3) of that Act, the Scottish Ministers have placed a copy of a draft of this Order in such place as they considered was likely to be most convenient for the purpose of enabling it to be inspected by persons likely to be affected by the making of this Order.

In accordance with section 87(6) and (7) of that Act, the Scottish Ministers have published notice of their proposal to make this Order.

**Citation and commencement**

**1.** This Order may be cited as the Red Rocks and Longay Marine Conservation Order 2022 and comes into force on 9 February 2023.

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<sup>(a)</sup> 2010 asp 5.

<sup>(b)</sup> The Red Rocks and Longay MPA was designated as a nature conservation marine protected area by, and described in article 3 of, the Red Rocks and Longay Nature Conservation Marine Protected Area Order 2022 (“the MPA Order”). The MPA Order is available at <https://www.gov.scot/policies/marine-environment/marine-protected-areas/>. The conservation objectives are stated in article 5 of the MPA Order.

## Interpretation

### 2. In this Order—

“beam trawl” means a type of demersal trawl which has its mouth extended by a beam, bar or other rigid device,

“the conservation objectives for the Red Rocks and Longay MPA” means the conservation objectives stated in article 5 of the Red Rocks and Longay Nature Conservation Marine Protected Area Order 2022(a),

“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 gear” means any beam trawl, demersal seine net, demersal trawl or dredge, and any rope or wire associated with the gear,

“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,

“dredging” includes using any device to move any material (whether or not suspended in water) from one part of the sea or seabed to another part,

“handline” means a single fishing line which is held in a person’s hand,

“king scallops” means scallops of the species *Pecten maximus*,

“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,
- (d) creels and parlour creels,

and includes any rope or wire associated with the gear,

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

“queen scallops” means scallops of the species *Aequipecten opercularis* (formerly *Chlamys opercularis*),

“the Red Rocks and Longay MPA” means the area designated as a nature conservation marine protected area by, and described in article 3 of, the Red Rocks and Longay Nature Conservation Marine Protected Area Order 2022.

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(a) The Red Rocks and Longay Nature Conservation Marine Protected Area Order 2022 was made by the Scottish Ministers in exercise of the powers conferred by sections 67(1)(a), 68, 69(1), 74 and 79(1) of the Marine (Scotland) Act 2010. By virtue of section 165(3) of that Act that Order is not a Scottish statutory instrument.

### **The protected area**

3. For the purposes of this Order, the protected area is—

- (a) the seabed and subsoil, and
- (b) all of the water covering the seabed,

within the Red Rocks and Longay MPA.

### **Prohibited and regulated activities**

4.—(1) Paragraphs (2) and (3) apply in order to further the conservation objectives for the Red Rocks and Longay MPA.

(2) The following activities are prohibited in the protected area—

- (a) the deployment (by any means) or use of any passive gear,
- (b) the deployment (by any means) or use of any demersal gear,
- (c) the deployment (by any means) or use of a rod and line or handline,
- (d) the carrying out of any form of dredging,
- (e) the anchoring of a vessel,
- (f) the fixing of moorings or anchors to the seabed,
- (g) the depositing (by any means) of anything on the seabed,
- (h) the removal (by any means) of anything from the seabed except the removal of king scallops and queen scallops by hand,
- (i) the construction, alteration or improvement of any works,
- (j) the deposit or use of any explosive substance or article either in the sea or on or under the seabed,
- (k) the incineration of any substance or object on any vehicle, vessel, marine structure or floating container,
- (l) the scuttling of any vessel or floating container,
- (m) the killing, taking, destruction, molestation, touching or disturbance of flapper skate (*Dipturus intermedius*) or the eggs of flapper skate.

(3) While a fishing vessel is in the protected area, the master of that vessel must ensure that any—

- (a) passive gear,
- (b) demersal gear,
- (c) rod and line,
- (d) handline,

carried on board the vessel is properly lashed and stowed in such a way that it may not be readily used.

### **Authorisation of particular activities for the purpose of scientific research**

5.—(1) Subject to paragraph (2), the Scottish Ministers may, following written application to them, issue a permit authorising an activity that would otherwise be prohibited under article 4.

(2) The Scottish Ministers must not issue a permit unless they are satisfied that—

- (a) the activity is for the purpose of scientific research, and
- (b) there is no significant risk of the activity hindering the achievement of the conservation objectives for the Red Rocks and Longay MPA.

### **Delegation of authorisation**

6. The Scottish Ministers may by direction delegate to any person (or group of persons) specified in the direction the issuing of permits under article 5.

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

7.—(1) Section 97(1)(b) (exceptions to offences etc.) 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**

8. The Red Rocks and Longay Urgent Marine Conservation (No. 2) Order 2021(a) and the Red Rocks and Longay Urgent Marine Conservation (No. 2) Order 2021 (Urgent Continuation) Order 2022(b) are revoked.

*MAIRI McALLAN*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
13th December 2022

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(a) S.S.I. 2021/463, the duration of which was modified by S.S.I. 2022/39.  
(b) S.S.I. 2022/39.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under the Marine (Scotland) Act 2010 (“the 2010 Act”) for the purposes of furthering the stated conservation objectives for the Red Rocks and Longay Nature Conservation Marine Protected Area Order 2022 (“the MPA Order”). The MPA Order designated the Red Rocks and Longay area of the Inner Sound of Skye as a nature conservation marine protected area (“the Red Rocks and Longay MPA”). The MPA Order provides that flapper skate (*Dipturus intermedius*) and Quaternary of Scotland (moraines, crag and tails, rock drumlins) are protected features.

Article 3 describes the area protected by this Order (“the protected area”).

Article 4 prohibits and regulates activities within the protected area.

Article 5 provides that the Scottish Ministers may, in specific circumstances, issue permits authorising activities, which would otherwise be prohibited under article 4, within the protected area.

Article 6 provides that the Scottish Ministers may delegate, by way of direction, the issuing of permits under article 5 to another person or group of persons.

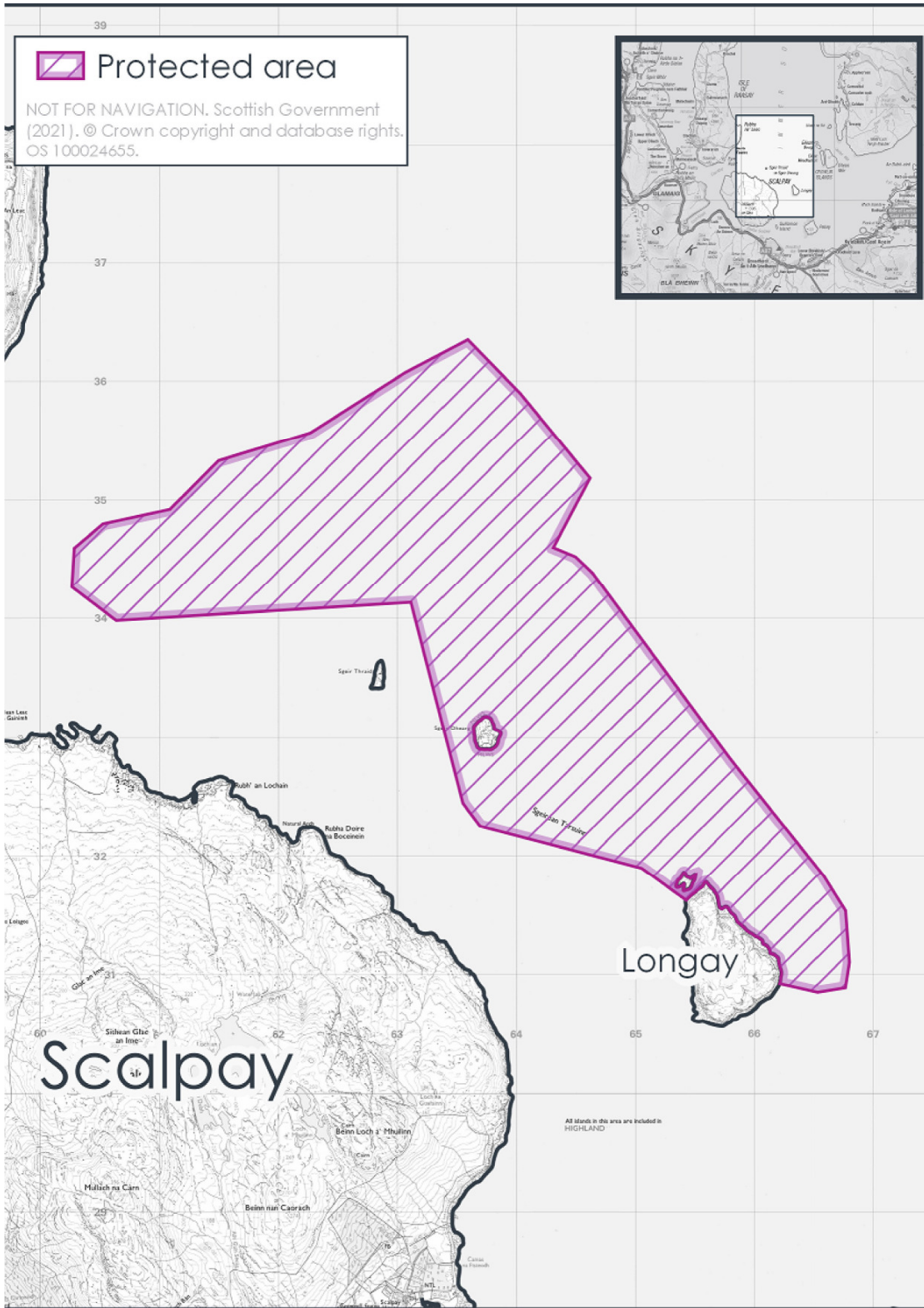
Article 7 provides that section 97(1)(b) (exceptions to offences etc.) of the 2010 Act does not apply in relation to an offence under section 94 of that Act of contravening this Order, or an offence under section 95 of that Act committed in relation to the protected area.

Article 8 revokes the Red Rocks and Longay Urgent Marine Conservation (No. 2) Order 2021 and the Red Rocks and Longay Urgent Marine Conservation (No. 2) Order 2021 (Urgent Continuation) Order 2022.

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. Section 98 of the 2010 Act provides for a defence to such an offence for acts taken in an emergency.

A Business and Regulatory Impact Assessment (“BRIA”) has been prepared in relation to this Order and placed in the Scottish Parliament Information Centre. Copies of this BRIA can be obtained from Marine Scotland, Victoria Quay, Edinburgh EH6 6QQ and online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

An illustrative map showing the Red Rocks and Longay MPA is attached to this note.



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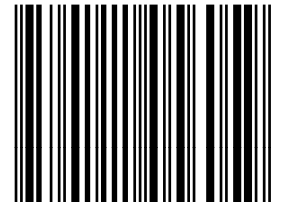
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