

**2015 No. 302**

**ENVIRONMENTAL PROTECTION**

**MARINE MANAGEMENT**

**The Wester Ross Marine Conservation Order 2015**

*Made* - - - - *17th August 2015*

*Laid before the Scottish Parliament* *17th August 2015*

*Coming into force* - - *18th August 2015*

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) and 88(1) and (2) 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 Wester Ross Nature Conservation Marine Protected Area(b) in so far as the conservation objectives relate to burrowed mud, circalittoral muddy sand communities, flame shell beds, kelp and seaweed communities on sublittoral sediment, maerl beds, maerl or coarse shell gravel with burrowing sea cucumbers and northern feather star aggregations on mixed substrata(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**

1.—(1) This Order may be cited as the Wester Ross Marine Conservation Order 2015 and comes into force on 18th August 2015.

(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;

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(a) 2010 asp 5.

(b) The Wester Ross Nature Conservation Marine Protected Area was designated by the Wester Ross Nature Conservation Marine Protected Area Order 2014 (“the 2014 Order”). The 2014 Order is available at <http://www.scotland.gov.uk/Resource/0045/00456503.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.

“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,

and any rope or wire associated with the dredge;

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

“Wester Ross MPA” means that area designated as a nature conservation marine protected area by the Wester Ross Nature Conservation Marine Protected Area Order 2014(a).

### **The protected area**

3. 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 Wester Ross MPA.

### **Prohibited and regulated activities**

4.—(1) Paragraphs (2) and (3) apply in order to further the stated conservation objectives of the Wester Ross MPA in relation to burrowed mud, circalittoral muddy sand communities, flame shell beds, kelp and seaweed communities on sublittoral sediment, maerl beds, maerl or coarse shell gravel with burrowing sea cucumbers and northern feather star aggregations on mixed substrata.

(2) A person must not deploy (by any means) or use any dredge within the protected area.

(3) While a fishing vessel is within the protected area the master of the vessel must ensure that any dredge 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 where a dredge is deployed or used 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.

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

5. 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 contravening this Order;
- (b) an offence under section 95 of the 2010 Act committed in relation to the protected area.

*RICHARD LOCHHEAD*

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
17th August 2015

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(a) The Wester Ross Nature Conservation Marine Protected Area Order 2014 (“the 2014 Order”) was made by the Scottish Ministers under powers within the Marine (Scotland) Act 2010, including section 67(1)(a). By virtue of section 165(3) of that Act the 2014 Order is not a Scottish statutory instrument but a Scottish Ministerial Order. The 2014 Order is available at <http://www.scotland.gov.uk/Resource/0045/00456503.pdf>

## EXPLANATORY NOTE

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

The Wester Ross 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 Wester Ross as a nature conservation marine protected area (“MPA”). A range of marine habitats and a low or limited mobility species are protected features under the Wester Ross MPA.

This Order furthers the stated conservation objectives for the Wester Ross MPA insofar as they relate to burrowed mud, circalittoral muddy sand communities, flame shell beds, kelp and seaweed communities on sublittoral sediment, maerl beds, maerl or coarse shell gravel with burrowing sea cucumbers and northern feather star aggregations on mixed substrata. It does so by prohibiting the deployment or use of dredges, and regulating the storage of dredges on fishing vessels, within the MPA (article 4(2) and (3)). Provision is made whereby the deployment or use of a dredge in the MPA for the purpose of saving life or for the purpose of securing the safety of a vessel, aircraft or marine structure is not prohibited under the Order (article 4(4)).

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 the Wester Ross MPA (article 5).

A Business and Regulatory Impact Assessment (“BRIA”) was undertaken for the designation of the Wester Ross MPA. The impact of this Order falls between the lower and intermediate estimates made in that document. Copies of the BRIA are available from Marine Scotland, Victoria Quay, Leith, Edinburgh, EH6 6QQ and on-line at <http://www.gov.scot/Resource/0045/00456468.pdf>

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