

2021 No. 463

ENVIRONMENTAL PROTECTION

MARINE MANAGEMENT

**The Red Rocks and Longay Urgent Marine Conservation
(No. 2) Order 2021**

Made - - - - at 10.20 a.m. on 9th December 2021

Laid before the Scottish Parliament at 3.00 p.m. on 9th December 2021

Coming into force - - - - 16th December 2021

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 93(1) of the Marine (Scotland) Act 2010^(a) 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^(b).

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 Red Rocks and Longay Urgent Marine Conservation (No. 2) Order 2021 and comes into force on 16 December 2021.

(2) This Order remains in force until the end of 16 March 2022.

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,

“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,

(a) 2010 asp 5.

(b) 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 (No. 2) Order 2021 (“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.

“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,

“fishing by hand” means the catching, or collection, of fish or shellfish (or any attempt to catch or collect fish or shellfish) without the deployment or use of any fishing gear,

“fishing gear” means any demersal gear, passive gear, pelagic trawl, rod and line, handline, or any other device used for fishing purposes, and includes any rope or wire associated with the gear,

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

“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,

“pelagic trawl” means any trawl or encircling net which has no contact with the seabed during a fishing operation, and includes any rope or wire associated with the gear,

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

“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 (No. 2) Order 2021(a),

“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 (No. 2) Order 2021.

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.

(a) The Red Rocks and Longay Nature Conservation Marine Protected Area (No. 2) Order 2021 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.

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) fishing by hand,
- (e) diving,
- (f) the carrying out of any form of dredging,
- (g) the anchoring of a vessel,
- (h) the fixing of moorings or anchors to the seabed,
- (i) the depositing (by any means) on the seabed of anything,
- (j) the removal (by any means) of anything from the seabed,
- (k) the construction, alteration or improvement of any works,
- (l) the deposit or use of any explosive substance or article either in the sea or on or under the seabed,
- (m) the incineration of any substance or object on any vehicle, vessel, marine structure or floating container,
- (n) the scuttling of any vessel or floating container,
- (o) the killing, taking, destruction, molestation 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 Order 2021(a) is revoked.

MAIRI GOUGEON
A member of the Scottish Government

St Andrew’s House,
Edinburgh
At 10.20 a.m. on 9th December 2021

(a) S.S.I. 2021/131.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order furthers the stated conservation objectives for the Red Rocks and Longay Nature Conservation Marine Protected Area (No. 2) Order 2021 (“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”), in order to protect flapper skate (*Dipturus intermedius*) and their eggs.

This Order is made on an urgent basis under section 88(1) of the Marine (Scotland) Act 2010 (“the 2010 Act”). In accordance with section 88(1)(b) of the 2010 Act, this Order remains in force for a specified period. In accordance with section 88(5) of the 2010 Act, the Scottish Ministers must keep under review the need for this Order to remain in force.

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.

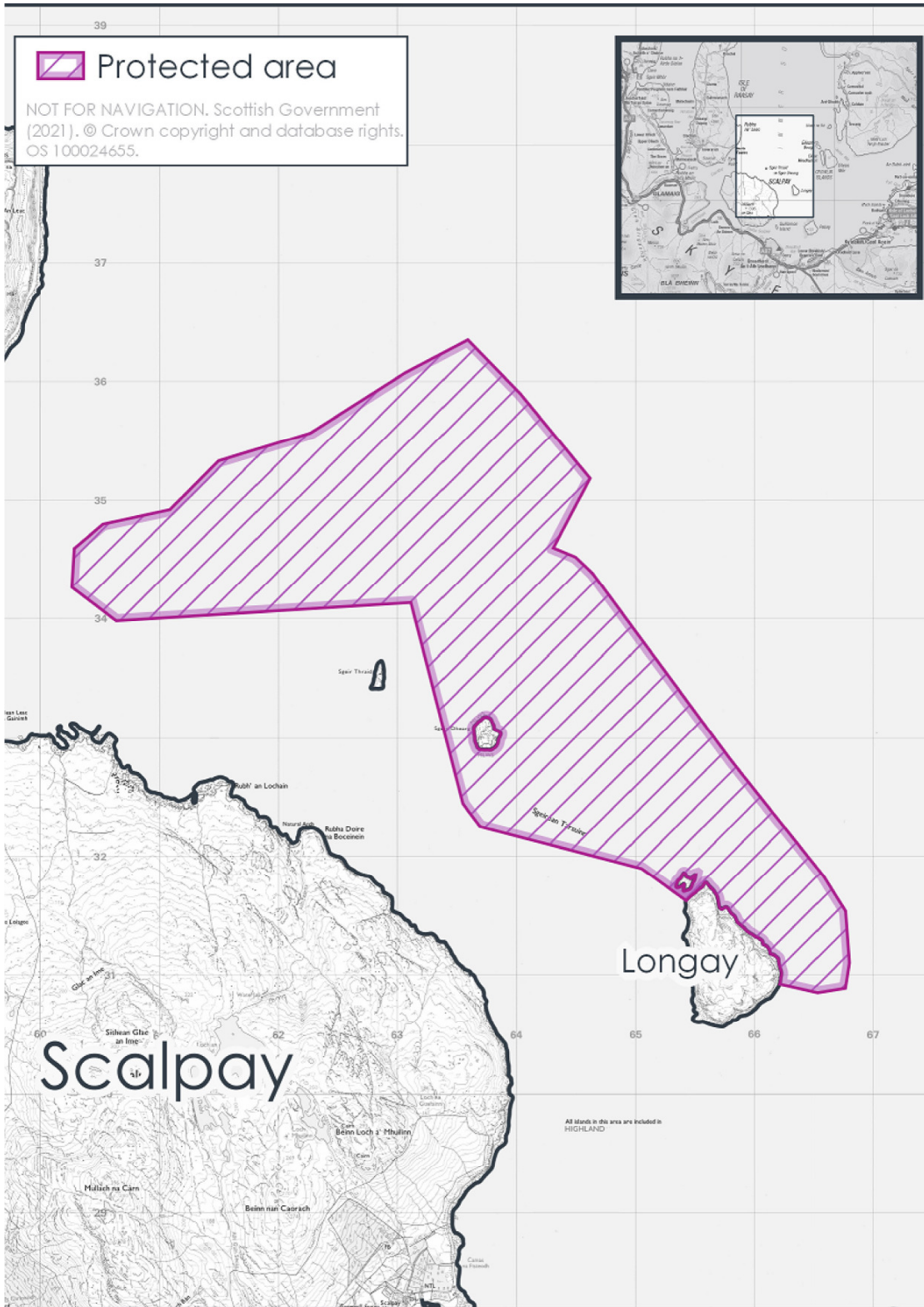
Article 7 provides that section 97(1)(b) (exceptions to offences etc.) of the 2010 Act does not apply in relation to an offence under section 94 of that Act of contravening this Order, or an offence under section 95 of that Act committed in relation to the protected area.

Article 8 revokes the Red Rocks and Longay Urgent Marine Conservation Order 2021. The provision made by that Order is re-made by this Order except for a change in the extent of the area protected that reflects a change in the extent of the area designated by the MPA Order. The definition of “the Red Rocks and Longay MPA” in article 2 of this Order refers to the area designated as a nature conservation marine protected area by the MPA Order.

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.

Impact assessments have not been provided due to the urgent nature of this Order.

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



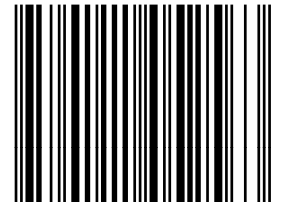
© Crown copyright 2021

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen's Printer for Scotland.

£9.75

<http://www.legislation.gov.uk/id/ssi/2021/463>

ISBN 978-0-11-105256-3



9 780111 052563