
SCOTTISH MINISTERIAL ORDER

ENVIRONMENTAL PROTECTION

MARINE MANAGEMENT

**Fetlar to Haroldswick Nature Conservation Marine Protected
Area Order 2016**

Made - - - - 2016

Coming into force - - 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 67(1)(a), 68, 69, 74 and 79(1) of the Marine (Scotland) Act 2010.

In accordance with section 68(1) of that Act the Scottish Ministers consider it desirable to make this Order for the purposes of conserving marine flora and fauna, marine habitats and types of such habitats and features of geomorphological interest.

In accordance with section 68(2) of that Act the Scottish Ministers have had regard to the guidance prepared and published by them which sets out scientific criteria to inform their consideration of whether the area designated as a Nature Conservation Marine Protected Area under this Order should be so designated.

In accordance with section 68(4) of that Act the Scottish Ministers have had regard to the extent to which the designation of the area would contribute towards the development of a network of conservation sites.

In accordance with section 79(5) of that Act the Scottish Ministers have had regard to any obligations under EU or international law that relate to the conservation or improvement of the marine environment.

In accordance with section 75(1) of that Act the Scottish Ministers have—

- (a) published notice of their proposal to make this Order; and
- (b) consulted such persons as they consider are likely to be interested in or affected by the making of this Order.

Citation and commencement

1. This Order may be cited as the Fetlar to Haroldswick Nature Conservation Marine Protected Area Order 2016 and comes into force on 2016.

Interpretation

2. In this Order—

“co-ordinate” means a co-ordinate on the World Geodetic System 1984 Datum and co-ordinate reference system(a);

“mobile species of marine fauna” means a species of marine fauna with the ability to move freely between different locations that may be within, or outwith, the boundary of the Fetlar to Haroldswick MPA;

“protected feature” has the meaning given by article 4; and

“supporting feature” means a relevant physical, chemical or biological condition or process within the Fetlar to Haroldswick MPA which supports the protected feature in achieving favourable condition.

Area designated

3.—(1) The area of the Scottish marine protection area described in paragraph (2) is designated as a nature conservation marine protected area, to be known as “Fetlar to Haroldswick MPA”.

(2) The area is the marine area described in Schedule 1.

(3) In paragraph (2) “marine area”, in relation to the area designated, means—

- (a) any area of seabed or other land (whether or not covered by water) seaward of the mean high water spring tide within that area; and
- (b) all of the water covering any part of that seabed or other land.

Protected Features

4. The protected features of the Fetlar to Haroldswick MPA are specified in Schedule 2.

Conservation objectives

5.—(1) The conservation objectives of the Fetlar to Haroldswick MPA are that the protected features—

- (a) so far as already in favourable condition, remain in such condition; and
- (b) so far as not already in favourable condition, be brought into such condition, and remain in such condition.

(2) In paragraph (1) “favourable condition”, with respect to a marine habitat, means that—

- (a) its extent is stable or increasing; and
- (b) its structures and functions, its quality, and the composition of its characteristic biological communities are such as to ensure that it is in a condition which is healthy and not deteriorating.

(3) In paragraph (2)(b) the reference to the composition of the characteristic biological communities of a marine habitat includes a reference to the diversity and abundance of species forming part of, or inhabiting, that habitat.

(4) For the purposes of paragraph (1) any temporary deterioration in condition is to be disregarded if the marine habitat is sufficiently healthy and resilient to enable its recovery from such deterioration.

(a) Definitions of World Geodetic System 1984 Datum and coordinate reference system are available via EPSG Geodetic Parameter Registry as EPSG:6326 (<http://epsg.io/6326-datum>) and EPSG:4326 (<http://epsg.io/4326>) respectively.

(5) In paragraph (1) “favourable condition”, with respect to a mobile species of marine fauna, means that—

- (a) the species is conserved or, where relevant, recovered to include the continued access by the species to resources provided by the MPA for, but not restricted to, feeding, courtship, spawning or use as nursery grounds;
- (b) the extent and distribution of any supporting features upon which the species is dependent is conserved or, where relevant, recovered; and
- (c) the structure and function of any supporting feature, including any associated processes supporting the species within the MPA, is such as to ensure that the protected feature is in a condition which is healthy and not deteriorating.

(6) In paragraph (1) “favourable condition”, with respect to a feature of geomorphological interest, means that—

- (a) its extent, component elements and integrity are maintained;
- (b) its structure and functioning are unimpaired; and
- (c) its surface remains sufficiently unobscured for the purposes of determining whether the conditions in paragraphs (a) and (b) are satisfied.

(7) For the purpose of determining whether a feature of geomorphological interest is sufficiently unobscured under paragraph (6)(c), any obscuring of that feature entirely by natural processes is to be disregarded.

(8) For the purpose of determining whether a protected feature is in favourable condition within the meaning of paragraph (2), (5), (6), any alteration to that feature brought about entirely by natural processes is to be disregarded.

Revocation

6. The Fetlar to Haroldswick Nature Conservation Marine Protected Area Order 2014(a) is revoked.

Cabinet Secretary for Rural Affairs, Food and the Environment

St Andrew’s House,
Edinburgh
2016

(a) The Fetlar to Haroldswick 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.

SCHEDULE 1

Article 3

Area designated – boundary lines

For the purposes of article 3 the area of the Scottish marine protection area described in this Schedule is the area enclosed by the boundary lines which are described in Table 1, but excepting from the area described in Table 1 the areas enclosed by the boundary lines which are described in Table 2.

The boundary lines are, in each case, described by reference to—

- (a) the co-ordinates of the points joined by the line; and
- (b) a topographical description of the line.

Table 1 – Outer boundary

<i>Boundary Line</i>	<i>Set of co-ordinates of points which the boundary line joins</i>	<i>Topographic description of boundary line</i>
1.	A, B	Geodesic line
2.	B, C	Geodesic line
3.	C, D	Geodesic line
4.	D, E	Mean high water spring tide
5.	E, F	Geodesic line
6.	F, G	Geodesic line
7.	G, H	Geodesic line
8.	H, I	Mean high water spring tide
9.	I, J	Geodesic line
10.	J, K	Geodesic line
11.	K, L	Geodesic line
12.	L, M	Mean high water spring tide
13.	M, N	Geodesic line
14.	N, O	Geodesic line
15.	O, P	Geodesic line
16.	P, Q	Mean high water spring tide
17.	Q, R	Geodesic line
18.	R, S	Geodesic line
19.	S, T	Geodesic line
20.	T, U	Mean high water spring tide
21.	U, V	Geodesic line
22.	V, W	Geodesic line
23.	W, X	Mean high water spring tide
24.	X, Y	Geodesic line
25.	Y, Z	Geodesic line
26.	Z, AA	Geodesic line
27.	AA, AB	Mean high water spring tide
28.	AB, AC	Geodesic line
29.	AC, AD	Geodesic line
30.	AD, AE	Geodesic line
31.	AE, AF	Mean high water spring tide
32.	AF, AG	Geodesic line
33.	AG, AH	Geodesic line
34.	AH, AI	Geodesic line
35.	AI, AJ	Mean high water spring tide

36.	AJ, AK	Geodesic line
37.	AK, AL	Geodesic line
38.	AL, AM	Geodesic line
39.	AM, AN	Mean high water spring tide
40.	AN, AO	Geodesic line
41.	AO, AP	Geodesic line
42.	AP, AQ	Geodesic line
43.	AQ, AR	Mean high water spring tide
44.	AR, AS	Geodesic line
45.	AS, AT	Geodesic line
46.	AT, AU	Geodesic line
47.	AU, A	Mean high water spring tide

Where—

- “A” is 60° 46.812' N, 000° 46.836' W;
- “B” is 60° 35.134' N, 000° 43.565' W;
- “C” is 60° 32.361' N, 000° 47.661' W;
- “D” is 60° 33.506' N, 001° 00.969' W;
- “E” is 60° 35.865' N, 001° 03.388' W;
- “F” is 60° 35.944' N, 001° 03.429' W;
- “G” is 60° 35.961' N, 001° 03.612' W;
- “H” is 60° 35.931' N, 001° 03.717' W;
- “I” is 60° 36.241' N, 001° 04.021' W;
- “J” is 60° 36.299' N, 001° 04.064' W;
- “K” is 60° 36.309' N, 001° 04.268' W;
- “L” is 60° 36.288' N, 001° 04.362' W;
- “M” is 60° 36.647' N, 001° 04.138' W;
- “N” is 60° 36.618' N, 001° 04.152' W;
- “O” is 60° 36.608' N, 001° 04.117' W;
- “P” is 60° 36.620' N, 001° 04.062' W;
- “Q” is 60° 40.322' N, 000° 59.819' W;
- “R” is 60° 40.346' N, 000° 59.699' W;
- “S” is 60° 40.436' N, 000° 59.696' W;
- “T” is 60° 40.432' N, 000° 59.898' W;
- “U” is 60° 40.628' N, 000° 59.649' W;
- “V” is 60° 40.630' N, 000° 59.610' W;
- “W” is 60° 40.992' N, 000° 58.606' W;
- “X” is 60° 41.045' N, 000° 57.962' W;
- “Y” is 60° 41.021' N, 000° 58.129' W;
- “Z” is 60° 40.950' N, 000° 58.129' W;
- “AA” is 60° 40.940' N, 000° 57.970' W;
- “AB” is 60° 41.206' N, 000° 55.352' W;
- “AC” is 60° 41.187' N, 000° 55.237' W;
- “AD” is 60° 41.282' N, 000° 54.893' W;

“AE” is 60° 41.370' N, 000° 54.939' W;
 “AF” is 60° 41.249' N, 000° 54.308' W;
 “AG” is 60° 41.252' N, 000° 54.501' W;
 “AH” is 60° 41.171' N, 000° 54.504' W;
 “AI” is 60° 41.167' N, 000° 54.312' W;
 “AJ” is 60° 41.093' N, 000° 54.319' W;
 “AK” is 60° 41.062' N, 000° 54.419' W;
 “AL” is 60° 40.997' N, 000° 54.374' W;
 “AM” is 60° 40.999' N, 000° 54.267' W;
 “AN” is 60° 45.142' N, 000° 49.997' W;
 “AO” is 60° 45.147' N, 000° 50.002' W;
 “AP” is 60° 45.138' N, 000° 50.049' W;
 “AQ” is 60° 45.120' N, 000° 50.034' W;
 “AR” is 60° 45.633' N, 000° 50.500' W;
 “AS” is 60° 45.501' N, 000° 50.445' W;
 “AT” is 60° 45.499' N, 000° 50.220' W; and
 “AU” is 60° 45.606' N, 000° 50.069' W;

Table 2 – Hamars Ness Ferry Terminal, Fetlar

<i>Boundary Line</i>	<i>Set of co-ordinates of points which the boundary line joins</i>	<i>Topographic description of boundary line</i>
1.	AV, AW	Geodesic line
2.	AW, AX	Geodesic line
3.	AX, AY	Geodesic line
4.	AY, AV	Mean high water spring tide

“AV” is 60° 37.796' N, 000° 55.983' W;
 “AW” is 60° 37.831' N, 000° 55.769' W;
 “AX” is 60° 37.759' N, 000° 55.687' W; and
 “AY” is 60° 37.731' N, 000° 55.866' W.

SCHEDULE 2

Article 4

Protected features

<i>Protected feature</i>	<i>Type of feature</i>
Black guillemot	Mobile species
Cirralittoral sand and coarse sediment communities	Habitat
Maerl beds	Habitat
Horse mussel beds	Habitat
Kelp and seaweed communities on sublittoral sediment	Habitat
Shallow tide-swept coarse sands with burrowing bivalves	Habitat
Marine Geomorphology of the Scottish Shelf Seabed	Geomorphological

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates the Fetlar to Haroldswick MPA as a nature conservation marine protected area. The area designated is defined in article 3 and Schedule 1. The protected features of the marine protected area are specified by article 4 and Schedule 2. The conservation objectives of the marine protected area are set out in article 5.

This Order revokes the Fetlar to Haroldswick Nature Conservation Marine Protected Area Order 2014 (“the 2014 Order”). This Order re-makes the 2014 Order and corrects defects made within that Order.

A Business and Regulatory Impact Assessment (“BRIA”) has been prepared in relation to this Order. Copies of the BRIA and maps of the marine protected area are available from Marine Scotland, Victoria Quay, Leith, Edinburgh, EH6 6QQ and on-line at www.scotland.gov.uk/Topics/marine/marine-environment/mpanetwork/developing.