POLICY NOTE

THE WATER ENVIRONMENT (SHELLFISH WATER PROTECTED AREAS: DESIGNATION) (SCOTLAND) ORDER 2026

SSI 2026/57

The above instrument was made in exercise of the powers conferred by section 5A(1) and (6) of the Water Environment and Water Services (Scotland) Act 2003(a). The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to give effect to the outcomes of a statutory review and public consultation on Shellfish Water Protected Areas (SWPAs) in Scotland.

The instrument designates 15 new SWPAs and amends the Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2013 ("the 2013 Order") to revoke the designation of three SWPAs from that Order.

The three SWPAs removed from the 2013 Order are incorporated into three of the 15 new SWPAs designated by this instrument.

Policy Objectives

The purpose of this instrument is to give effect to new designations and changes to existing Shellfish Water Protected Areas (SWPAs) in Scotland following a statutory review and public consultation.

The current designations are set out in the Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2013 (the 2013 Order) and the Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2016 (the 2016 Order). The Annex which accompanies this Policy Note contains a list of the Shellfish Water Protected Areas with reference to the relevant designation Order and associated map number laid with the relevant designation Order. The maps laid with the 2013 and 2016 Orders are all published on the Scottish Government website https://www.gov.scot/publications/shellfish-water-protected-areas-maps/; the maps laid with this Order will be published there in due course.

The policy objective of this instrument is to expand existing protections for shellfish waters by:
• designating 15 new SWPAs; and
• revoking the designations of three existing SWPAs which are incorporated into three of the new SWPAs.

This instrument amends the 2013 Order to remove three existing SWPAs (and associated maps) from the 2013 Order, which are then replaced by three of the 15 new SWPAs designated in this instrument.

Key changes to the existing SWPA designations include:

- This instrument amends the 2013 Order to revoke the SWPA designations assigned to map numbers 8, 64, and 72 laid with the 2013 Order.
- This instrument also consolidates SWPA mapping by merging the three areas removed from the 2013 Order (numbers 8, 64, and 72) into new SWPAs identified in maps 2, 11, and 14 laid with this Order, ensuring continuity of protection.
- The SWPA identified in map number 2 maintains its original name, changes in SWPA 11 and 14 laid with this Order are noted in the table below, reflecting updated mapping and boundary definitions.
- This instrument also designates 12 new SWPAs (identified in maps 1, 3, 4-10, 12-13, and 15 laid with this order).

New designations and consolidations

SWPA Name	Map Number
Bay of Skaill	1
Cat Firth	2 (replaces SWPA identified in map 8 laid with 2013 Order)
Colla Firth	3
Hamar Voe	4
Inner Loch Linnhe	5
Kildonan Bay	6
Kyle of Durness	7
Loch Kanaird	8
Loch Sunart	9
Mid Noost	10
Mid Yell Voe	11 (replaces SWPA identified in map 64 laid with 2013 Order)
Shuna Sound	12
Swining Voe	13
Traigh Mhor	14 (replaces SWPA identified in map 72 laid with 2013 Order)
Ura Firth	15

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

"In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, The Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act."

EU Alignment Consideration

This instrument has no direct impact on the Scottish Government's policy to maintain alignment with the EU.

Article 6 of the Water Framework Directive[1] given effect in Scotland by section 2 of the Water Environment and Water Services (Scotland) Act 2003 requires registers of protected areas to be kept in River Basin Management Plans. The list of protected areas will be updated to reflect the changes effected by this instrument when the next River Basin Management Plan is completed in 2027.

Consultation

Scottish Ministers can designate Shellfish Water Protected Areas under section 5A(1) of the Water Environment and Water Services (Scotland) Act 2003.

The legislation provides that:

- Scottish Ministers may by order designate an area of coastal water or transitional water as a shellfish water protected area; and
- an area may be designated only where Scottish Ministers consider it necessary or desirable for the protection or development of economically significant shellfish production.

Scottish Ministers undertook a statutory review of SWPA designations to ensure that they remain appropriate and aligned with current shellfish production activity.

The review considered:

• current areas of shellfish production; and
• opportunities to improve the accuracy and clarity of SWPA boundaries.

The Scottish Environment Protection Agency (SEPA) undertook an initial review which considered economically significant production to include oyster and mussel production and criteria such as production history, and Food Standards Scotland (FSS) classifications. This identified the potential for 14 new SWPAs, the expansion of one SWPA and the de-designation of 29 existing SWPAs where shellfish production had not been recorded for a continuous period of three or more years.

A public consultation was undertaken on the findings of the statutory review and on proposals for changes to SWPA designations. An interactive mapping tool was developed and published by the Scottish Environment Protection Agency (SEPA) to support the review process and improve understanding and feedback on SWPA boundaries.

Consultation responses demonstrated strong support for the proposed new designations (2 of which incorporated existing SWPAs) and one extended designation and did not note any specific objections to these designations. However, a significant number of respondents raised concerns regarding the proposed de-designations, particularly around the criteria used to identify sites for de-designation.

In light of these responses, Scottish Government's response noted an intention to proceed with the designation of the 14 new and one expanded SWPA, but undertake a review of the

[1] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

criteria used to identify potential changes to SWPA designations before taking forward any de-designations.

This instrument takes forward those proposed designations and also amends the 2013 Order to revoke the designations of the three areas which are incorporated into new SWPAs.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website, it includes, The Scottish Environment Protection Agency, Nature Scot, Food Standards Scotland, The Association of Scottish Shellfish Growers, Seafood Shetland, Argyll and Bute Council, Shetland Islands Council, and Scottish Water.

Effect of the Instrument

As a result of that consultation the following the instrument:

• designates 15 new Shellfish Water Protected Areas; and
• amends the 2013 Order to revoke the designations for three existing Shellfish Water Protected Areas.

In doing so it removes three existing SWPAs (and associated maps) from the 2013 Order, which are replaced by three of the 15 new SWPAs designated by this instrument.

The three SWPAs (identified in map numbers 8, 64 and 72) that are removed from the 2013 Order are areas incorporated within larger or updated SWPAs designated by this instrument with reference to maps numbered 2, 11 and 14 laid with this Order, which will be laid in the Scottish Parliament along with the maps for other areas designated by this instrument.

Impact Assessments

Relevant impact assessments and impact assessment screenings were undertaken to identify potential impacts of the proposal to review Scotland's SWPAs.

Following screening, the following full impact assessments were screened out:

- Equalities Impact Assessment,
- Fairer Scotland Duty assessment,
- Island Communities Impact Assessment,
- Strategic Environmental Assessment.

A Child Rights and Wellbeing Impact Assessment (CRWIA) and Business Regulatory Impact Assessment (BRIA) were completed and are attached.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy is expected to deliver overall benefits to Scotland's businesses.

The BRIA notes positive impacts for shellfish production businesses and potential costs to regulators and Scottish Water, particularly if action is needed to remediate water quality. The BRIA assumes two of the newly proposed areas would require an investigation (led by SEPA) to explore potential impacts on water quality and assumes that investment would be required by Scottish Water to improve water quality. There is significant uncertainty in these figures but it is likely an over estimation. Actions to improve water quality are subject to a disproportionate cost analysis to ensure proposed actions would represent value for money.

Despite the assumptions around the need for investigation and intervention at two SWPAs, the overall benefits are positive, reflecting the benefits to the shellfish industry and local communities of protecting the areas of economically significant shellfish production.

Scottish Government
Directorate for Environment and Forestry

February 2026

Annex

List of 2013 & 2016 Shellfish Water Protected Areas

SWPA Name	Map Number
Ardtoe and Loch Ceann Traigh	1
Arisaig	2
Baltasound Voe	3
Bay of Firth	5
Broadford Bay and Kyle Area	6
Basta Voe, Yell	4
Cais – Bhaigh, Enard Bay	7
Cat Firth	8[2]
Clift Sound	9
Colonsay	10
Cromarty Bay	11
Dales Voe	12
Dornoch Firth	13
East Loch Tarbert	14
East Tarbert Bay	15
Fairlie	16
Gruting Voe	17
Hamna Voe	18
Hawksness	19
Isle of Ulva, Mull (Loch Tuath)	20
Kerrera	21
Kyle of Tongue	22
Kyles of Bute	23
Lamlash	24
Lismore	25
Little Loch Broom	26
Loch a Chumhainn	27
Loch Ailort	28
Loch Ainort	29
Loch Beag	30
Loch Caroy	31
Loch Creran	32
Loch Eil	33
Loch Eishort	34
Loch Eriboll	35
Loch Erisort	36
Loch Etive	37
Loch Ewe	38
Loch Fyne	39
Loch Glendhu	40

[2] SWPA on map 8 – Cat Firth: Revoked by 2026 Order

Loch Gruinart	41
Loch Harport	42
Loch Inchard	43
Loch Kishorn	44
Loch Laxford	45
Loch Leurbost	46
Loch Leven	47
Loch Long	48
Loch Melfort	49
Loch Moidart, South Channel	50
Loch Nevis	51
Loch Roag	52
Loch Scridain	53
Loch Seaforth	54
Loch Slapin	55
Loch Sligachan	56
Loch Snizort	57
Loch Spelve	58
Loch Stockinish	59
Loch Striven	60
Loch Tarbert	61
Lunna	62
Lynn of Lorn	63
Mid Yell Voe	64[3]
Muckle Roe Area	65
North Uist	66
Ronas Voe Area	67
Sandsound Voe	68
Scarvar Ayre, Dales Voe	69
Seil Ardencaple	71
Seil Sound	70
Sound of Barra	72[4]
Sound of Kerrera	73
South Uist	74
South Wick, Cullivoe	75
Stromness Voe	76
Tobermory	77
Upper Loch Torridon	78
Uyea Sound	79
Vaila Sound	80
Wadbister Voe	81
Weisdale Voe	82
West of Scalloway	83
Whale Firth	84
Loch Ryan[5]	-

[3] SWPA on map 64 – Mid Yell Voe: Revoked by 2026 Order

[4] SWPA on map 72 – Sound of Barra: Revoked by 2026 Order

[5] Loch Ryan: designated under order 2016; map is unnumbered as it was the only map laid with the 2016 Order