



Law Society
of Scotland

70
Years
1949-2019

Consultation Response

Proposal to designate a Deep Sea Marine Reserve in
Scottish waters

December 2019



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Marine Law sub-committee welcomes the opportunity to consider and respond to the Scottish Government's consultation on a *Proposal to designate a Deep Sea Marine Reserve in Scottish waters*¹. We do not seek to answer the consultation questions but have the following comments to put forward for consideration.

General comments

We welcome the growing regard given to marine conservation obligations, and particularly note the international commitments to protect the marine environment under the OSPAR Convention which are relevant to the West of Scotland Deep Sea Marine Reserve. However, we also note the increasingly complex landscape of legislation and other regulation covering marine areas, including Particularly Sensitive Sea Areas (PPSA), Marine Environment High Risk Areas (MEHRA), and Emissions/Sulphur Control Areas. As such, in considering any future legislation, there would be merit in reviewing how any proposed measures interact with existing areas and whether the law can be consolidated to ensure it is clear for individuals and businesses.

In relation to fishing, we note the terms of *Regulation (EU) 2016/2336 of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002*². It is important that there is clarity around the regulation of fishing in this proposed marine protected area both for UK and non-UK vessels, and we suggest consideration is given as to the potential impacts on the fishing industry.

¹ <https://www.gov.scot/publications/consultation-proposal-designate-deep-sea-marine-reserve-scottish-waters/>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1573812702501&uri=CELEX:32016R2336>

In light of the UK's withdrawal from the EU, we note the importance of all necessary legal powers and practical resources being in place to ensure that there is adequate protection in practice. This should be considered against the background of the intersection between devolved and reserved matters relating to offshore areas.

We note that a map of the relevant area is available. In the interests of accessibility of the law and clarity and certainty for individuals and businesses, it would be useful to have an indicative map of the areas concerned appended to any designation order made in respect of these areas. This would allow the Marine Protected Area to be easily identified, while the more detailed definition is that with full legal force. There may also be merit in any map showing relevant features of the area, for example shark awareness zones.

For further information, please contact:

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