

Rural Affairs and Islands Committee  
Wednesday 4 March 2026  
9th Meeting, 2026 (Session 6)

## Note by the Clerk on the Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2026 (SSI 2026/57)

### Overview

1. At this meeting, the Committee will consider the following Scottish statutory instrument (SSI), which is subject to the negative procedure.<sup>1</sup> The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

**Title of instrument:** [The Water Environment \(Shellfish Water Protected Areas: Designation\) \(Scotland\) Order 2026](#) (SSI 2026/57)

**Laid under:** sections 5A(1) and (6) of the [Water Environment and Water Services \(Scotland\) Act 2003](#)

**Laid on:** 2 February 2026

**Procedure:** Negative

**Deadline for committee consideration:** 16 March 2026 (Advisory deadline for any committee report to be published)

**Deadline for Chamber consideration:** 17 March 2026 (Statutory 40-day deadline for any decision whether to annul the instrument)

**Commencement:** 19 March 2026

### Purpose of the instrument

3. Shellfish Water Protected Areas (SWPAs) are a zone of coastal water or transitional water that are designated to protect shellfish stocks and preserve the conditions for sustainable shellfish production. Under provisions in the Water Environment and Water Services (Scotland) Act 2003, the Scottish Ministers may, by order, designate a SWPA and must review them periodically.
4. In 2025, the Scottish Government initiated its most recent review of SWPA designations. This included launching a [consultation from 7 July to 29 September 2025 on its proposed changes to the designation zones](#).

---

<sup>1</sup> Further information about secondary legislation and the negative procedure is available on the [Parliament's website](#)

5. The purpose of this instrument is to implement changes to the SWPA designated zones following the outcome of the Scottish Government's review. In particular, the instrument would create 15 new SWPAs, revoke three existing SWPAs and incorporate these three areas into three of the new SWPAs designated by the Order.
6. Further details relating to the location of all 15 SWPAs can be found in the policy note accompanying the instrument. Individual maps for each site have also been published alongside the instrument [and are available on the Scottish Government's website](#).
7. The policy note for this instrument states that while, consultation responses "demonstrated strong support" for new designations, "a significant number of respondents raised concerns regarding the proposed de-designations, particularly around the criteria used to identify sites for de-designation". As a result, the Scottish Government has committed to "undertake a review of the criteria used to identify potential changes to SWPA designations before taking forward any de-designations".
8. The policy note accompanying the instrument is included in the annexe. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:
  - [business and regulatory impact assessment \(BRIA\)](#)
  - [child rights and wellbeing impact assessment \(CRWIA\)](#)

## **Delegated Powers and Law Reform Committee consideration**

9. The DPLR Committee considered the instrument on 17 February 2026 and reported on it in its [19<sup>th</sup> Report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument.

## **Committee consideration**

10. So far, no motion recommending annulment has been lodged.
11. Members are invited to consider the instrument and decide whether there are any points they wish to raise.

## **Clerks to the Committee February 2026**

## Policy note for the Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2026

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.

**RAI/S6/26/9/5**  
**Annexe A**

- 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

<b>SWPA Name</b>	<b>Map Number</b>
Bay of Skall	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.

**RAI/S6/26/9/5**  
**Annexe A**

Article 6 of the Water Framework Directive<sup>2</sup> 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 criteria used to identify potential changes to SWPA designations before taking forward any de-designations.

---

<sup>2</sup> 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

**RAI/S6/26/9/5**  
**Annexe A**

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, NatureScot, 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

**RAI/S6/26/9/5**  
**Annexe A**

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