

Government Response: The Cockle Fishing Management and Permitting (Specified Area) (Wales) Order 2024

Technical Scrutiny Point 1: The Welsh Government accept the point raised and will take steps to correct this. As the term “manteisio ar” does not appear in the text of the legislation, Welsh Government are satisfied this difference does not undermine the legal effect of the instrument.

Technical Scrutiny Point 2: The Welsh Government accept the point raised and will take steps to correct this. The Welsh Government are satisfied that the incorrect placement of the definition does not undermine the legal effect of the instrument.

Technical Scrutiny Point 3: In relation to point a), the Welsh Government accepts the point raised and will take steps to correct this. The Welsh Government is satisfied these minor differences do not undermine the legal effect of the instrument. In relation to point b), a line of text has been erroneously omitted from the definition. An amendment will be brought forward to rectify this.

Technical Scrutiny Point 4: The Welsh Government accept the points raised and will take steps to correct this. The Welsh Government is satisfied the placement of the definition and the other minor points raised do not undermine the legal effect of the instrument.

Technical Scrutiny Point 5: In article 8(3) the intention is to refer to the period of any given permit period and not to the definition of the “single permit period”. The term “permit period” takes its ordinary meaning. The Welsh Government are satisfied no additional definition is required. However, steps will be taken to ensure equivalence between the English and Welsh texts.

Technical Scrutiny Point 6: The reference in article 9(1)(b) to a “specified cockle bed” is to a particular cockle bed to be specified in the permit conditions. The term takes its ordinary meaning. The Welsh Government is satisfied no additional definition is required.

Technical Scrutiny Point 7: The Welsh Government agrees with the point raised. An amendment will be brought forward to rectify this.

Technical Scrutiny Point 8: The parentheses draws attention to Orders for marine conservation in relation to Wales and the Welsh Zone because it is intended that an offence under section 139 of the 2009 Act is limited to a contravention of orders made under those listed sections. The Welsh Government considers this is clear and that no additional clarification is required.

Technical Scrutiny Point 9: The intention in article 12(1)(c) and paragraph 5 of Schedule 2 is to refer to the period of any given permit period and not to the definition of the “single permit period”. The term “permit period” takes its ordinary meaning. The Welsh Government is satisfied no additional definition is required.

Technical Scrutiny Point 10: The Welsh Government agrees with the point raised and will take steps to correct this typographical error.

Technical Scrutiny Point 11: The Welsh Government agrees with the reporting point and will take steps to address this. “Bernir” is the better term and “barnu” is the glossary term for “deem”.

Technical Scrutiny Point 12: Article 13 of the Order makes provision about the production of permits. There is a clear, enforceable requirement to produce a permit if requested to do so.

Paragraph 9 of Schedule 2 introduces a permit condition requiring permit holders to carry their permit at all times while gathering cockles from a cockle bed. This is for the purpose of producing the permits when requested.

The Welsh Government is satisfied no further clarification is required in this provision.

Technical Scrutiny Point 13: The proposed amendments, taken in the order they are set out in paragraph 2(6) of Schedule 3, mean that the first reference in 8(1) is dealt with in paragraph 2(6)(a) and the only other reference to “shellfish” which then remains is dealt with in paragraph 2(6)(b). The Welsh Government is satisfied that no additional clarification is required.

Technical Scrutiny Point 14: The Welsh Government agrees with the reporting point and steps will be taken to correct the omission.

Technical Scrutiny Point 15: The Welsh Government agrees with the reporting point and steps will be taken to remove remaining references to “cockle” from Byelaw 13A of the Byelaws of the former North Western and North Wales Sea Fisheries Committee.

Technical Scrutiny Point 16: The Welsh Government agrees with the reporting point and steps will be taken to correct the reference to the Byelaws.

Technical Scrutiny Point 17: In relation to article 9(4), the Welsh Government agrees with the reporting point and steps will be taken to replace the verb “will”.

In relation to article 12(1)(b) and (c), the Welsh Government agrees with the reporting point and steps will be taken to replace the verb “will”.

In relation to article 16(2), the Welsh Government agrees with the reporting point and steps will be taken to replace the verb “will”.

Otherwise, the Welsh Government does not consider the use of “will” in this Order requires clarification.

Merit Scrutiny point 19: In light of the need to balance resources so as to deliver priority Welsh Government legislative projects in 2022 and 2023, work on this Order did not proceed continuously between mid-2022 and mid-2024. Work on the production of this Order accelerated significantly in 2024 alongside the development of the operational infrastructure (e.g. the electronic permitting system and maps). The establishment of a new framework for permitting of the cockle fishery in relation to Wales inevitably entailed detailed consideration by officials and lawyers of the scope and the effect in practice of the proposed provisions of the Order which took longer than anticipated.

Merit scrutiny point 20: As indicated in the Explanatory Memorandum, maps have been made available online. Maps of the individual fisheries are also provided with permit conditions. However, the point is noted and the Welsh Government will consider an amendment to the Order to add clarity.

The Welsh Government aim to bring forward legislation which will make the required corrections by Spring 2025.