

**2019 No. 25**

**ENVIRONMENTAL PROTECTION**

**MARINE MANAGEMENT**

**WILDLIFE**

**The Medway Estuary Marine Conservation Zone Designation  
(Amendment) Order 2019**

*Made* - - - - *20th May 2019*  
*Coming into force* - - *31st May 2019*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 116(1) and 122(1), and in accordance with sections 117(1), (2) and (7), 118(1) and (6), and 123(1), of the Marine and Coastal Access Act 2009(a).

The Secretary of State thinks it desirable to make this Order for the purpose of conserving the species of marine fauna referred to in article 2(4) of this Order.

The Secretary of State has 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 123(5) of that Act.

The Secretary of State has—

- (a) published notice of the proposal to make this Order in accordance with section 119(2) and (3) of that Act, and
- (b) consulted persons who the Secretary of State thinks are likely to be interested in, or affected by, the making of this Order in accordance with section 119(4) of that Act.

**Citation and commencement**

**1.** This Order may be cited as the Medway Estuary Marine Conservation Zone Designation (Amendment) Order 2019 and comes into force on 31st May 2019.

---

(a) 2009 c.23. See section 116(5) for the definition of “appropriate authority”.

## **Amendment to the Medway Estuary Marine Conservation Zone Designation Order 2013**

**2.**—(1) The Medway Estuary Marine Conservation Zone Designation Order 2013(a) is amended as follows.

- (2) In article 2 (interpretation)—
- (a) in the definition of “protected feature” omit “, in relation to the Zone,” and “and”; and
  - (b) for the definition of “the Zone”, substitute—
    - ““Zone 1” means the area designated by article 3(1) as a marine conservation zone;
    - “Zone 2” means the area designated by article 3(2A) as a marine conservation zone.”.
- (3) In article 3 (area designated)—
- (a) in the heading, for “Area” substitute “Areas”;
  - (b) in paragraph (1), after “zone” insert “and may be referred to as “Zone 1 of the Medway Estuary Marine Conservation Zone””;
  - (c) in paragraph (2), after “described in” insert “Table 1 of”;
  - (d) after paragraph (2), insert—
    - “(2A) The area described in paragraph (2B) is designated as a marine conservation zone and may be referred to as “Zone 2 of the Medway Estuary Marine Conservation Zone”.
    - (2B) The area is the marine area enclosed by the two boundary lines which are described in Table 2 of Schedule 1 in each case by reference to—
      - (a) the co-ordinates of the points joined by the line, and
      - (b) a topographical description of the line.”;
  - (e) in paragraph (3), for “paragraph (2)” substitute “paragraphs (2) and (2B)”;
  - (f) in paragraph (4), for “The Zone” substitute “Together Zones 1 and 2”.
- (4) For article 4 (protected features) substitute—

### **“Protected features**

**4.**—(1) The protected features of Zone 1 are the features specified in Schedule 2 and smelt (*Osmerus eperlanus*).

(2) The protected feature of Zone 2 is smelt.”.

- (5) In article 5 (conservation objective)—
- (a) in the heading, for “objective” substitute “objectives of Zone 1”;
  - (b) in paragraph (1), for the words from “objective” to “features” substitute “objectives of Zone 1 in respect of the protected features of Zone 1 specified in Schedule 2 is that they”;
  - (c) in paragraph (2)—
    - (i) in sub-paragraph (a), for “the Zone” substitute “Zone 1”, and
    - (ii) in sub-paragraph (b), for “within the Zone” substitute “specified in Schedule 2 and within Zone 1”; and
  - (d) after paragraph (6) insert—
    - “(7) The conservation objective for smelt in Zone 1 is the same as the conservation objective for smelt in Zone 2, as specified in article 6 but as if the references to Zone 2 in that article were references to Zone 1.”.
- (6) After article 5 insert—

---

(a) Ministerial Order 2013 No. 14, made on 21st November 2013.

## “Conservation objectives of Zone 2

6.—(1) The conservation objectives of Zone 2 in respect of smelt (*Osmerus eperlanus*) are that—

- (a) the habitat used by members of that species for the purposes of spawning (“spawning habitat”)—
  - (i) so far as in favourable condition, remain in such condition; and
  - (ii) so far as not already in favourable condition, be brought into such condition and remain in such condition; and
- (b) the population of smelt—
  - (i) so far as in favourable condition, remain in such condition; and
  - (ii) so far as not already in favourable condition, be brought into such condition, and remain in such condition.

(2) In paragraph (1), “favourable condition”—

- (a) with respect to spawning habitat within Zone 2, means that the habitat is of sufficient quality and quantity to enable members of the species using the habitat to survive, aggregate, nest, lay or fertilise eggs during breeding; and
- (b) with respect to the population of smelt within Zone 2, means that the composition of the population in terms of number, age and sex ratio is such as to ensure that it is maintained in numbers which enable it to thrive.

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

(7) In Schedule 1—

- (a) in the heading, for “Area” substitute “Areas”;
- (b) before the table, insert—

“Table 1 – Zone 1”; and

- (c) at the end, insert—

“Table 2 – Zone 2

| <i>Boundary line</i> | <i>Set of co-ordinates of points which boundary line joins</i> | <i>Topographical description of boundary line</i> |
|----------------------|--|---|
| 1.                   | I, J   | Follows mean high water line                      |
| 2.                   | J, I   | Geodesic line                                     |

where—

“I” is 51° 22' 25.686" N and 00° 28' 16.856" E; and

“J” is 51° 22' 33.653" N and 00° 28' 12.521" E.”.

20th May 2019

*Thérèse Coffey*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Medway Estuary Marine Conservation Zone Designation Order 2013 (Ministerial Order 2013 No. 14) to designate as a marine conservation zone an area contiguous to the Medway Estuary Marine Conservation Zone designated in 2013. Together the two zones may be referred to as the Medway Estuary Marine Conservation Zone. The Order adds smelt (*Osmerus eperlanus*), which is a species of marine fauna, as a protected feature in the Medway Estuary Marine Conservation Zone. The conservation objectives of the Medway Estuary Marine Conservation Zone are set out in the Order, as amended, in article 5 and new article 6.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at <https://www.gov.uk/government/consultations/marine-conservation-zones-third-tranche-of-designations>.