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WELSH STATUTORY INSTRUMENTS

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**2013 No. 2020 (W. 198)**

**SEA FISHERIES, WALES  
SHELLFISH**

**The Mumbles Oyster Fishery Order 2013**

<i>Made</i>	- - - -	<i>11 August 2013</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>15 August 2013</i>
<i>Coming into force</i>	- -	<i>10 September 2013</i>

The Mumbles Oyster Company Limited (Company Number: 08181012) (“the Grantee”) made an application to the Welsh Ministers for an order conferring a right of several fishery under section 1 of the Sea Fisheries (Shellfish) Act 1967(1) (“the Act”).

The Welsh Ministers prepared a draft order and served a copy of it on the Grantee in accordance with paragraph 1 of Schedule 1 to the Act.

The Grantee caused printed copies of the draft Order to be published and circulated, and gave notice of the application, in accordance with paragraph 2 of Schedule 1 to the Act.

No objections to the making of the Order were received.

In the opinion of the Welsh Ministers the following Order should now be made.

The Welsh Ministers make the following Order in exercise of the powers conferred by section 1 of the Act which are now vested(2) in them.

**Title, commencement and application**

1.—(1) The title of this Order is the Mumbles Oyster Fishery Order 2013 and it comes into force on 10 September 2013.

(2) This Order applies in relation to Wales.

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- (1) 1967 c. 83. Section 1 of the Act was amended by section 15(1) and (2) of the Sea Fisheries Act 1968 (c. 77); section 1 of the Sea Fisheries (Shellfish) (Amendment) Act 1997 (c. 3); section 9(1) of, and paragraph 15 of Schedule 2 to, the Fishery Limits Act 1976 (c. 86); sections 202(1), (2) and (3), 203 and 321 of, and Part 5(A) of Schedule 22 to, the Marine and Coastal Access Act 2009 (c.23). The Act is to be read with section 15(3) to (5) of the Sea Fisheries Act 1968 (c.77). Schedule 1 to the Act was amended by section 15(7) of the Sea Fisheries Act 1968 (c.77), section 31(6) of the Criminal Law Act 1977 (c.45), sections 37 and 46 of the Criminal Justice Act 1982 (c.48) and section 202(4), 214(1) to (4) and 321 of, and Part 5(A) of Schedule 22 to, the Marine and Coastal Access Act 2009 (c.23)
- (2) Functions of the appropriate Minister (as defined in section 22(1) of the Act) in section 1 of the Act are exercisable in relation to Wales by the Welsh Ministers by virtue of article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32)

## Interpretation

### 2. In this Order—

“the Area” (“*yr Ardal*”) means the area of Swansea Bay which is in the vicinity of the Mumbles and described in the Schedule to this Order;

“co-ordinate” (“*cyfesuryn*”) means a co-ordinate of latitude and longitude on the World Geodetic System 1984;

“the fishery” (“*y bysgodfa*”) means the right of several fishery created by article 3 of this Order;

“the Grantee” (“*y Granti*”) means the Mumbles Oyster Company Limited (Company Number: 08181012) whose registered office is at 17 Trem y Mynydd, Burry Port, Carmarthenshire, SA16 0FZ or such other person as is for the time being entitled to the fishery;

“native oyster” (“*wystrysen frodorol*”) means any shellfish of the type *Ostrea edulis*;

“statutory undertaker” (“*ymgymerydd statudol*”) means any person who is, or is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990<sup>(3)</sup>; and

“Wales” (“*Cymru*”) has the meaning given in section 158 of the Government of Wales Act 2006<sup>(4)</sup>.

## Right of fishery

3. Subject to the provisions of this Order, the Grantee has the right of several fishery for native oysters within the Area for a period of 15 years starting on 10 September 2013.

## Marking of limits of the Area

4. The Grantee must mark out the limits of the Area in such manner as the Welsh Ministers may from time to time direct and must maintain those markers in position and good repair.

## Catch Return

5.—(1) The Grantee must submit to the Welsh Ministers a catch return—

(a) for the period from 10 September 2013 to 31 March 2014 on or before the 31 July 2014; and thereafter

(b) for the period from 1 April to 31 March on or before the 31 July in the year during which that period ends.

(2) A catch return for the purposes of paragraph (1) must record —

(a) the annual total live weight of seed native oysters laid down on the fishery;

(b) the location from which the seed native oysters were sourced;

(c) the annual total live weight of all native oysters taken from the fishery;

(d) the location from which the native oysters were taken; and

(e) such further information as may be required by the Welsh Ministers and notified to the Grantee from time to time.

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(3) 1990 c.8.

(4) 2006 c.32. There are amendments to section 158 of the Government of Wales Act 2006 which are not relevant to this Order.

### **Accounts of income and expenditure, other information and inspection**

6.—(1) The Grantee must give to the Welsh Ministers annual accounts of the Grantee's income and expenditure under this Order.

(2) Without prejudice to paragraph (1), the Grantee must comply with any request made by the Welsh Ministers for information relating to this Order.

(3) The Grantee must allow any person authorised by the Welsh Ministers to inspect the Area and all accounts and other documents in the possession of the Grantee relating to this Order, and must give that person any information relating to these matters which that person may require.

### **Rights of the Crown**

7. Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown, and in particular nothing in this Order authorises the Grantee to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatever description belonging to her Majesty in right of the Crown and under the management of the Crown Estate Commissioners.

### **Rights of statutory undertakers**

8. Nothing in this Order affects prejudicially the exercise of any statutory functions by a statutory undertaker.

### **Assignment**

9. The Grantee may not without the prior written consent of the Welsh Ministers assign or in any other way transfer this right of fishery to any other person.

11 August 2013

*Alun Davies*  
Minister for Natural Resources and Food, one of  
the Welsh Ministers

## SCHEDULE

Article 2

## DESCRIPTION OF THE AREA

That part of the bed of the sea in Swansea Bay, in the vicinity of the Mumbles, extending to approximately 35 hectares, which lies within a line joining the co-ordinates numbered 1 to 4 in the table below.

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	51.57604837	-3.96530328
2	51.57260254	-3.96075898
3	51.56864837	-3.96893939
4	51.57214733	-3.97334138

## EXPLANATORY NOTE

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

This Order confers on the Mumbles Oyster Company Limited (Company Number: 08181012) (“the Grantee”) a right of several fishery for native oysters (*Ostrea edulis*) over an area of approximately 35 hectares in Swansea Bay which is in the vicinity of the Mumbles for a period of 15 years starting on 10 September 2013.

The extent of the fishery is defined using the co-ordinates set out in the Schedule to this Order and is shown for illustrative purposes only on a map which is available for inspection (subject to prior appointment) at the offices of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

Article 3 confers the right of several fishery.

Article 4 requires the Grantee to mark the limits of the fishery in such manner as the Welsh Ministers may from time to time direct and to maintain those markers in position and good repair.

Article 5 requires the Grantee to submit an annual catch return.

Article 6 requires the Grantee to provide annual accounts and to comply with all requests for information made by the Welsh Ministers. It also requires the Grantee to allow any person authorised by the Welsh Ministers to inspect the area of the fishery and all accounts and other documents in the possession of the Grantee relating to this Order and that area.

Article 7 provides that nothing in this Order will affect prejudicially the rights of the Crown and Article 8 provides that nothing in this Order will affect prejudicially the exercise of any statutory functions by a statutory undertaker.

Article 9 prohibits the assignment or other transfer of the right of several fishery created by this Order without the prior written consent of the Welsh Ministers.

Section 5(1) of the Sea Fisheries (Shellfish) Act 1967 provides that where the Welsh Ministers are not satisfied that the Grantees are properly cultivating or carrying into effect the restrictions and regulations contained in the Order, the Welsh Ministers may make a certificate to that effect which will absolutely determine the fishery in relation to the area in respect of which the certificate has been made.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.