

POLICY NOTE

THE CONSERVATION OF SALMON (SCOTLAND) REGULATIONS 2016

SSI 2016/115

Purpose of the Instrument

1. The Conservation of Salmon (Scotland) Regulations 2016 ('the 2016 Regulations') makes provision for the conservation of salmon in Scotland. A separate instrument, the Tweed Regulation (Salmon Conservation) Order 2016, makes parallel provision for the Tweed district. The purpose of the 2016 Regulations is to ensure that the killing of Atlantic salmon in Scotland will be managed by assessing and categorising specified areas of inland water in relation to their conservation status. The Regulations then prohibit the retention of Atlantic salmon in Scotland out-with inland waters and in specified areas of inland waters. In addition Ministers may agree a conservation plan with the local district salmon fishery board or salmon fishery proprietors.

Legislative Context

2. Section 38(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 ('the 2003 Act') enables the Scottish Ministers to make regulations considered necessary or expedient for the conservation of salmon. In accordance with paragraphs 10, 11, 12 and 14 (1) of schedule 1 to the 2003 Act, the Scottish Ministers have consulted with such persons they considered appropriate and given notice of the general effect of their proposal by way of an advertisement in 3 national newspapers. In accordance with paragraph 12 of schedule 1 to the 2003 Act, Ministers considered 258 representations and objections in relation to the proposal and determined to progress without any alterations to the original proposal regarding the assessment requirements and the prohibition on the retention of salmon. A decision was made to extend the power to agree a conservation plan to all areas of inland water, irrespective of their conservation status.

Policy Background

3. The report of the independent Wild Fisheries Review (WFR), [published](#) in October 2014, recommended that, in advance of consideration of the broader reform agenda for wild fisheries, Ministers take immediate action to conserve wild Atlantic Salmon by introducing as soon as practicable a ban on killing except under licence.
4. Salmon is a protected species under the Habitats Directive. In addition, The North Atlantic Salmon Conservation Organisation Fishery (NASCO ¹), to which the European Union is a party, provides guidance that makes it clear that fisheries are best managed on

¹ The Convention for the Conservation of Salmon in the North Atlantic Ocean is a multilateral agreement which came into force on 1st October 1983. Its aim is to promote the conservation, restoration, enhancement and rational management of salmon stocks in the North Atlantic through international co-operation. The EU is one of the contracting parties. One of the measures in the Convention is the prohibition of fishing for salmon outwith the 12 mile zone in coastal States (article 2.2). It also makes general provision regarding the availability, and sharing, of statistics for catch as well as stocks and the provision of scientific data. NASCO, the North Atlantic Salmon Conservation Organisation, is the international organisation established by the Convention.

a single river stock basis and that action should be taken to reduce the risks posed by any Mixed Stock Fisheries (those fisheries exploiting salmon from more than one river). NASCO has recommended ‘that conservation limits and management targets be set for each river and combined as appropriate for the management of different stock groupings defined by managers’ and ‘that stocks be maintained above conservation limits by means of management targets’ .

5. There is a need to ensure and be seen to be demonstrating that any killing is sustainable. In addition, greater protection and enhancement of stocks will help to maximise the socio-economic benefits that flow from them. Salmon continue to face many pressures in the marine and freshwater environment and the latest Marine Scotland Science stock status [report](#) for 2014 shows a decline in stocks over the last few years
6. In looking to progress the original recommendation Ministers have looked to ensure that the Regulations are targeted at improving the conservation status of salmon by managing the pressure of exploitation on the weakest stocks within Scotland's domestic waters. The Regulations are designed to complement, not replace, other management activities being undertaken at local, national and international level in the interests of conservation. The approach in the Regulations has moved away from a licensable activity in response to original stakeholders’ concerns and instead to one that looks to categorise fishery district in relation to their conservation status.
7. The Regulations place a statutory duty on the Scottish Ministers to carry out an assessment of the stock levels for salmon in inland waters for the purposes of establishing the conservation status of salmon in defined areas. Where an area of inland waters includes a special area of conservation (a “SAC”), being an area where Atlantic salmon is identified as a species native to a protected habitat under the Habitats Directive. The Scottish Ministers must have regard to the conservation objectives of the SAC when carrying out their assessment. The purpose of the assessment is to determine whether fishing is sustainable in the area in question. The assessment process will entail the collation of information on population levels of salmon in each area based on catch statistics. It is intended that the assessment will be carried out on an annual basis
8. The assessment will determine the conservation status for each area and SAC. The impact of fishing on the conservation objectives of each SAC and the ecological requirements of Atlantic salmon form part of the wider consideration of the likely significance of the effect netting/angling may have on our designated sites. Where there is a favourable conservation status for an area or SAC it will be accorded a grade 1 or 2 status. For those areas where there is no favourable conservation status for Atlantic salmon, a grade 3 status will be applied. Those areas listed in Schedule 2 to the Regulations, where retaining salmon is prohibited, are those areas which have been accorded category 3 status.
9. The Regulations are being progressed in response to growing concerns about Scotland’s salmon stocks, the need to more ably demonstrate compliance with EU and international obligations; and the need to take action to ensure that they are protected for the future.

Consultation

10. Since February 2015, Ministers have conducted a series of linked public [consultations](#) on proposed conservation measures to regulate the killing of wild salmon. This included a consultation around the Strategic Environmental Assessment – Environmental report was undertaken. Marine Scotland officials also participated in a number of drop in sessions coordinated alongside the wild fisheries reform agenda and an online dialogue discussion was conducted for a full week, exploring a number of issues identified during the consultation process and during the discussion forum itself.
11. Ministers listened to, and acted upon, these concerns and consulted on revised conservation measures while still retaining the fundamental principle that any killing of wild salmon - a protected species – must be sustainable and does not present a threat to vulnerable stocks.
12. Through the development of the Regulations stakeholder engagement has continued. This has included regular meetings and discussions with the Salmon Net Fishing Association of Scotland and those directly impacted by the prohibition on the killing of Atlantic salmon in Scotland out-with inland waters. The Regulations not only reflect a significant amount of stakeholder consultation and engagement, where every opportunity has been made to enable contributions to the developing proposals, but also acknowledge the role of the management measures already in place across Scotland. That level of stakeholder dialogue will continue as we take forward the Regulations.

Impact and Financial effects

13. A combined **Business and Regulatory Impact Assessment (BRIA)** has been prepared for these Regulations and The Tweed Regulation (Salmon Conservation) Order 2016.

Wild Salmon and Recreational Fisheries
Marine Scotland
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