

POLICY NOTE

THE TWEED REGULATION (SALMON CONSERVATION) ORDER 2016

SSI 2016/118

Purpose of the Instrument

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

Legislative Context

2. Article 54(1) of the Scotland Act 1998 (River Tweed) Order 2006 ('the 2006 Order') enables the Scottish Ministers to make an Order considered necessary or expedient for the conservation of salmon. In accordance with paragraphs 8, 9, 10 and 12 (1) of Schedule 2 to the 2006 Order, 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 local newspapers. In accordance with paragraph 10 of Schedule 2 to the 2006 Order, Ministers considered 6 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 a single river stock basis and that action should be taken to reduce the risks posed by any

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.

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 Order and separate 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 Order is 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 Order has moved away from a licensable activity in response to original stakeholders’ concerns and instead to one that looks to categorise fishery areas in relation to their conservation status.
7. The Order places 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. The inland waters within the Tweed district include 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 therefore 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 of inland waters including the SAC. The impact of fishing on the conservation objectives of the 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.
9. The Order is 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 Order stakeholder engagement has continued. This has included regular meetings and discussions with representatives of the River Tweed Commission and those directly impacted by the prohibition on the killing of Atlantic salmon in Scotland out-with inland waters. The Order not only reflects 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 within the Tweed district. That level of stakeholder dialogue will continue as we take forward the Order.

Impact and Financial effects

13. A combined **Business and Regulatory Impact Assessment (BRIA)** has been prepared for the Order and The Conservation of Salmon (Scotland) Regulations 2016.

Wild Salmon and Recreational Fisheries
Marine Scotland
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