

## POLICY NOTE

### THE RAZOR CLAMS (PROHIBITION ON FISHING AND LANDING) (SCOTLAND) ORDER 2017

SSI 2017/419

The above instrument was made in exercise of the powers conferred by sections 5(1)(a) and (b) and (2), 6(1) and (3), 22(2) and 22A of the Sea Fish (Conservation) Act 1967.

The instrument is subject to negative procedure.

#### Policy Objectives

The policy objectives to be realised in respect of the instrument is to prohibit fishing for razor clams (*Ensis* spp.) in Scottish waters and the landing of razor clams in Scotland, except in two specific situations:

- i. for scientific investigation authorised by Scottish Ministers; and
- ii. for traditional hand gathering of razor clams from the shore. A person carrying out such harvesting is allowed to take up to 30 razor clams per day.

Razor clams are a valuable shellfish stock that live burrowed in some Scottish inshore waters. In recent years it has been clear from around the coast that almost all razor clams have been caught by fishing with electricity, which is illegal at the moment under EU law (the Technical Conservation Regime, Council Regulation (EC) No 850/98). Fishing with electricity can be very efficient, with the risk that too many fish are caught, potentially damaging stocks.

In 2014, the Scottish Government introduced new Razor Fish Licences to seek to reduce illegal electrofishing. The Government also deployed Marine Protection Vessels and other Compliance resources into inshore areas to deter illegality and sought to prosecute those responsible.

Measures introduced by the Government to limit unlicensed activity have had limited success because enforcement of the EU electrofishing ban is very difficult as vessels need to be caught with gear deployed.

However a 2014 study by Marine Scotland Science “*Electrofishing for Razor Clams (Ensis siliqua and E. arcuatus): Effects on Survival and Recovery of Target and Non-Target Species*” (Scottish Marine and Freshwater Science Volume 5 Number 14) concluded that electrofishing appears to be a relatively benign way of harvesting razor clams when compared to other conventional methods, such as dredging. So the Government has also been considering whether fishing with electricity can be a safe and sustainable fishing method, if it is properly regulated and catches are controlled.

The instrument therefore restricts fishing for razor clams in Scottish waters and the landing of razor clams in Scotland, thereby helping to combat illegal practices prevalent in the commercial razor clam fishery in Scotland. It provides for a scientific trial to explore the viability of a regulated razor clam electrofishery within sustainable limits. It also provides an

exemption for hand gathering razor clams from the shore, individuals collecting razor clams for personal consumption are allowed up to 30 razor clams per day.

## **Consultation**

There is no statutory requirement to consult on this instrument, however, the Government issued a public consultation in August 2016 about the regulated use of electricity in the razor clam fishery. The consultation ran for 6 weeks and concluded on 30 September 2016, with 104 responses received. The consultation document, published responses, consultation analysis and the Government's response can be accessed on the Scottish Government website.

The consultation generated a mix of views both for and against the regulated use of electricity in the razor clam fishery. The Government considers that many of the concerns raised relate to the novelty of the electrofishing method, the current lack of data on sustainable harvest rates and longer term impacts of the electrofishing method. This instrument therefore provides for a scientific trial of the electrofishing method to seek to address these matters. The secondary legislation will ensure the integrity of the trial and provide it with a sound enforcement basis.

Both prior to and after the public consultation in 2016, the Government has been actively discussing the future management of the razor clam fishery with a diversity of interested stakeholders. Notes of these discussions can be accessed on the Scottish Government website.

## **Impact Assessments**

A copy of the Business and Regulatory Impact Assessment is attached.

## **Financial Effects**

The current illegal practices prevalent in the commercial razor clam fishery makes the potential cost of introducing the Order difficult to quantify. The data available is of limited use, it is considered likely that many of those involved in the fishery try to disguise the amount of razor clams being landed because landing significant catches suggests that electricity was used during harvesting.

The measures will not give rise to further costs to the Scottish Government. Costs for the enforcement agencies involved in detecting and deterring illegal activity are likely to be significantly reduced by this legislation.

**Scottish Government  
Marine Scotland**

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