

POLICY NOTE

THE PROTECTION OF SEALS (DESIGNATION OF HAUL-OUT SITES) (SCOTLAND) AMENDMENT ORDER 2017

SSI 2017/63

The Protection of Seals (Designation of Haul-out Sites) (Scotland) Amendment Order 2017 (“the Order”) amends The Protection of Seals (Designation of Haul-Out Sites) (Scotland) Order 2014 and is made by the Scottish Ministers in exercise of the power conferred by section 117 of the Marine (Scotland) Act 2010 (“the Act”) and all other powers enabling them to do so.

Policy Objectives

1. The purpose of the Order is to designate a seal haul-out site adjacent to the mouth of the River Ythan, where harassing a seal (intentionally or recklessly) will be an offence. The Natural Environment Research Council (NERC), which has a statutory duty to provide scientific advice on seal management, developed the scientific methodology used to identify this site.
2. Section 117 of the Act provides for Scottish Ministers, after consulting NERC, to designate by order haul-out sites, where harassing a seal (intentionally or recklessly) will be an offence. A haul-out site is a location on land where seals come ashore at times to rest, breed, have pups or moult.
3. Section 117 is designed to offer protection to seals whilst they are on land, when they are at their most vulnerable. This is considered a suitable and proportionate measure. Section 117 is not designed to protect all seals at all times because this would entail risks of preventing the use of non-lethal deterrent measures as an alternative to shooting and of potentially unintended restrictions on wildlife tourism, public access and leisure activities.

Policy Background

4. Scotland has more seals than the rest of the European Union combined – 100,000 grey seals and a minimum of 21,300 common seals. The story of seal management in Scotland therefore represents a significant example of conservation success and provides the basis for much wildlife tourism around our coasts.

Consultation

5. As required by section 117 of the Act, the NERC was consulted about this proposed site and its advice formed the basis for identification of the site.
6. In addition, a public consultation with a wide range of stakeholders took place between 7 September and 4 December 2015. This included representatives from a range of marine industries, conservation and welfare NGOs and scientists. In these discussions and the

responses received, there were concerns that the originally proposed site would restrict public access for leisure to, or fishing from, the opposite banks of the river.

7. The site was therefore revised to focus on the area of the north bank actually used by the seals. This revised site has received considerable support from NGOs and scientists and acceptance from public access interests and most fisheries. There remains one direct objection from a fishery owner to the designation of the Ythan Estuary seal haul-out site by this Order.

Impact Assessments

8. An equality assessment was not required.

Financial Effects

9. A Business and Regulatory Impact Assessment (BRIA) has not been carried out for this Order which should have no financial effects on the Scottish Government or the public purse and the instrument is not expected to have any financial impact upon existing businesses. No BRIA was undertaken for the principal Order made in 2014, which designated 194 sites around Scotland.

Scottish Government
Marine Scotland Directorate

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