

POLICY NOTE

THE CONSERVATION OF SALMON (ANNUAL CLOSE TIME AND CATCH AND RELEASE) (SCOTLAND) REGULATIONS 2014

SSI 2014/327

Purpose of the instrument

1. The Conservation of Salmon (Scotland) Regulations 2014 (“the 2014 Regulations”) contain provision for the conservation of salmon across Scotland (with the exception of the Border Rivers Esk and Tweed where separate legislative arrangements prevail due to the cross-border management of fisheries in those areas). The 2014 Regulations extend the annual close time in Scotland to 31 March (30 April in the Esk Salmon fishery District) and require the release of all salmon within the extended close time. Certain exemptions apply in the Annan and Eachaig Salmon Fishery Districts. The general effect of the instrument is to ensure that no salmon is taken during the early part of the season.

Legislative context

2. Section 38(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (“the 2003 Act”) enables Ministers to make Regulations if they consider it is necessary or expedient to do so for the conservation of salmon. Section 38(5)(c) allows regulations, in particular, to prescribe, for any salmon fishery district, the dates of the annual close time for salmon and the periods within that time when it is permitted to fish for and take salmon by rod and line. In accordance with paragraphs 10 and 11 of schedule 1 to the 2003 Act, Ministers consulted with such persons as they considered appropriate and gave notice of the general effect of the proposal by way of an advertisement in 3 national newspapers. In accordance with paragraph 12 of schedule 1 to the 2003 Act Ministers considered 45 representations and objections in relation to the proposal and determined to alter the proposal to extend the annual close time to 30 April for the Esk Salmon Fishery District.
3. A mandatory catch and release scheme for rod and line fishing during the spring season already applies to the Annan Salmon Fishery District by virtue of the Conservation of Salmon (River Annan Salmon Fishery District (Scotland) Regulations 2012 which prohibit the retention of rod caught salmon during the period from 25 February to 31 May in each year when the Regulations have effect. The 2014 Regulations therefore do not make new provision for catch and release in the Annan Salmon Fishery District.
4. The annual close time for the Eachaig Salmon Fishery District runs from 1 September to 30 April and the prescribed period, when it is permitted to fish for and take salmon by rod and line, is 1 September to 1 October. The 2014 Regulations therefore do not extend the annual close time for this district as fishing cannot already occur before 1 May. Therefore there is no extended close time period during the spring and no catch and release requirement is introduced in these Regulations as fishing cannot occur during the spring in that area.

Policy background

5. A nationwide voluntary agreement involving members of the Salmon Net Fishing Association of Scotland (SNFAS) had been in place for a number of years which had the effect of delaying netting activity until 1st April each year. SNFAS members voted to end that voluntary agreement prior to the commencement of the 2015 season with individual netsmen and Boards negotiating at a local level on the timing of the start of net fishing in the spring period. While SNFAS members and other netsmen eventually opted not to fish for the first 6 weeks of the season, it remains the case that there is an absence of certainty as to when spring fishing may actually resume. SNFAS have yet to make any public statement about the 2015 season. While the previous and existing voluntary measures are welcomed, it remains the case that the current status of stocks in Scotland requires protection to preserve existing levels, where these are stable, and to seek to achieve an increase in stock levels in areas where they are in decline. Spring stocks are of particular concern as this is the time when the salmon are at their most vulnerable.
6. In acknowledging its international obligations, the Scottish Government has been considering what action it could take in response to the various data that is collected regarding adult salmon abundance and most particularly the recent report from Marine Scotland which provided an overview of the current status of Scottish Stocks. www.scotland.gov.uk/Resource/0044/00446406.pdf
7. It is clear from the latest analysis that across Scotland while reported rod catches in the summer and autumn have increased over the period 1952-2013, catches in the spring have generally declined, stabilising at a low level in recent decades. Within this trend there is some acknowledged regional variation, with some areas showing an increase in spring rod catches, some a decline and most showing no trend. However, catches in all areas are currently low when compared to levels throughout the period 1952-2013.
8. As a consequence it is considered that statutory measures are required following the end of the voluntary agreement in order to protect the current stock status and, should there be any further decline, to have that appropriately assessed and attributed. This does not negate the ability to agree further voluntary measures that go beyond the statutory minimum. That very much remains within the gift of others and will be encouraged.
9. The Regulations will apply throughout Scotland (with the exception of the Border Rivers) as the scientific evidence demonstrates that stock levels are in decline across the country. National measures are also required to encompass all areas even those where there are known inactive netting stations to address concerns that these may become operative if the measures were focussed only on areas where netting currently takes place. This will address any risk of netting displacement which might occur if the Regulations were not to apply on a national level. On this basis, the measures are considered to be both proportionate and expedient.

Consultation

10. In accordance with paragraph 10 (as read with paragraph 9) of schedule 1 of the 2003 Act, Scottish Ministers discussed the conservation measure at length with colleagues within Marine Scotland and Marine Scotland Science. Under the requirements of

schedule 1, paragraph 11 of the 2003 Act, notice of the general effect of the proposal was provided in 3 national newspapers. This was supplemented by a target email to a number of national representative bodies. A total of 45 responses were received from a range of interests including anglers, proprietors, representative bodies and conservation groups. The majority of respondents were supportive of the proposal however there was a clear view that the proposal should have gone further although that observation offered no commentary on its wider socio/economic impact. We are aware that many anglers practise catch and release well beyond 31 March in line with local conservation policies. The operation of the Regulations will be reviewed on an annual basis taking into consideration Marine Scotland's annual stock assessment which is published alongside its national catch returns. The regulation will underpin any current voluntary arrangements. Further and more extensive voluntary practices can be put in place where there is local agreement.

11. After due consideration of the representations and objections Ministers concluded that these did not outweigh the overwhelming case for statutory conservation measures, which was supported by the majority of consultees, and on balance the scientific data supports the assertion that this measure remains proportionate and necessary/expedient.

Impact and financial effects

12. We engaged with a number of representative bodies and individual businesses during the consultation period and specifically sought information on the potential financial impact of the proposed conservation measure. Netting interests and a number of angling proprietors highlighted that the measure had financial implications however none quantified the extent nor provided any financial information. We are aware that under the previous voluntary arrangements a number of netting companies received compensation which varied considerably. A number of angling interests held the view that taking away the 'choice' to retain fish may put some people off fishing in Scotland. It is unclear whether this would result in a loss of revenue as these anglers may be displaced by those who are more conservation minded. These aspects would be considered as part of any wider review of the operation of the Regulations. There are no financial implications for the Scottish Government from this measure.

**Marine Scotland
Salmon and Recreational Fisheries Team
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