

POLICY NOTE

THE CONSERVATION OF SALMON (SCOTLAND) AMENDMENT REGULATIONS 2016

SSI 2016/392

Purpose of the Instrument

1. The Conservation of Salmon (Scotland) Amendment Regulations 2016 amend the Conservation of Salmon (Scotland) Regulations 2016 ('the 2016 Regulations') which make provision for the conservation of salmon in Scotland. A separate instrument, the Tweed Regulation (Salmon Conservation) (No. 2) 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 is managed by assessing and categorising specified areas of inland water in relation to their conservation status. The 2016 Regulations prohibit the retention of Atlantic salmon caught in any coastal waters in a salmon fishery district 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, particularly in Special Areas of Conservation (SACs) where stocks have been identified as in a poor conservation status. Work on the conservation plan template has been continuing through a joint Marine Scotland and Local Fishery Biologist working group. It is intended that the template will be introduced to coincide with the enhanced river by river categorisations for the 2017 season.
2. The Conservation of Salmon (Scotland) Amendment Regulations amend the 2016 Regulations. Regulation 2(2) amends regulation 3 of the 2016 Regulations. Regulation 2(2)(a) provides that the prohibition on retaining salmon caught in any inland waters is subject to paragraphs (2A) and (3). Regulation 2(2)(b) inserts a new paragraph (2A) into the 2016 Regulations and provides that the prohibition on retaining salmon caught in inland waters does not apply to any salmon caught on or after 1st July 2017 in the River Ness and all inland waters which drain, or drain to some extent to the outflow point, but excluding the River Moriston and all areas of inland waters which drain, or drain to some extent, to the outflow point on the north shore of Loch Ness at Invermoriston.
3. Regulation 2(3) and (4) substitutes schedules 1 and 2 of the 2016 Regulations. Schedule 1 of the 2016 Regulations describes the areas in which Scottish Ministers must carry out, or arrange for the carrying out of, an assessment of the conservation status of salmon. Schedule 2 describes the areas of inland waters where there is a prohibition on the retention of any salmon caught and reflects the movement towards an assessment of conservation on a river by river basis.

Legislative Context

4. 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 of 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 of the 2003 Act, Ministers considered 78 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. The representation did, however, lead to some revisions to the provisional gradings for rivers/areas published as part of the consultation process.

Policy Background

5. 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.
6. 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 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’.
7. There is an ongoing need to ensure and be seen to be demonstrating that any killing of wild salmon 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 2015 continues to show a decline in stocks.
8. The 2016 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 2016 Regulations are designed to complement, not replace, other management activities being undertaken at local, national and international level in the interests of conservation.
9. The 2016 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 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.

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.

The assessment process entails the collation of information on population levels of salmon in each area based on catch statistics. While not a statutory requirement, it is intended that an assessment is carried out on an annual basis until such time that it might prove conceivable to undertake assessments for a longer term. This is the second time that an assessment of conservation status has been undertaken. Where rod catch and counter data has allowed, individual rivers or groups of rivers have been assessed separately from the fishery district areas which were assessed for the 2016 salmon fishing season.

10. The assessment determines 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 is accorded a grade 1 or 2 status. For those areas where there is no favourable conservation status for Atlantic salmon, a grade 3 status is 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. The Regulations ensure that salmon stocks are protected and any exploitation is sustainable.

Consultation

11. There has been significant consultation on the package of conservation measures to regulate the killing of wild salmon. Following consideration of the package of measures by the Rural Affairs, Climate Change and Environment Committee earlier this year, Scottish Ministers gave an undertaking to move toward an assessment of conservation status at river level. Marine Scotland have worked with fishery proprietors and lease holders over the summer to identify the numbers of fish taken on a river by river basis within the 109 fishery districts. Marine Scotland has also proactively engaged with the sector in areas with known concerns about the methodology and data used to assess conservation status. This engagement was undertaken during the consultation period to allow respondents to make informed responses to the latest consultation.
12. 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 annual assessment of conservation status.

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) (No. 2) Order 2016.

Wild Salmon and Recreational Fisheries
Marine Scotland
November 2016