

POLICY NOTE

THE SEA FISH (PROHIBITION ON FISHING) (FIRTH OF CLYDE) ORDER 2022

SSI 2022/5

1. This Order was made in exercise of the powers conferred by sections 5(1)(a), 15(3), 20(1), 22(2) and 22A of the Sea Fish (Conservation) Act 1967. The Order is subject to the negative procedure.

Purpose of the Instrument

2. To protect cod within a specified area (comprised of the two areas detailed below) of the Firth of Clyde (a recognised spawning ground) from being fished during the spawning period in 2022 and 2023. This is in response to the International Council for Exploration of the Sea (ICES) advice on the poor state of cod stocks in ICES area 6a (west of Scotland).

Policy Objectives

3. The purpose of the Order is to protect cod stocks in the Firth of Clyde at a crucial time in their life cycle by prohibiting fishing effort during their spawning season. The Scottish Ministers make the Order in exercise of the powers conferred by sections 5(1)(a), 15(3), 20(1), 22(2) and 22A of the Sea Fish (Conservation) Act 1967.
4. The Order prohibits fishing within a specified area of the Firth of Clyde from 14 February until 30 April, in both 2022 and 2023. A prohibition on fishing within this specified area has been in effect between 14 February and 30 April every year since 2001. In previous years, vessels fishing only with a scallop dredge, a creel or a trawl used for fishing Norway lobsters were exempt from the prohibition on fishing. The specified area is split into two areas. In the larger and more easterly area (specified in Article 3(a) of the Order and diagonally hatched on the illustrative map accompanying the Explanatory Note), scallop dredging, creel fishing and trawls for Norway lobsters were permitted throughout the closure period in previous years. In the smaller area, which is a strip of water at the mouth of the Firth of Clyde (specified in Article 3(b) of the Order and horizontally hatched on the illustrative map), there was no exemption for Norway lobsters trawls, but scallop dredging and creeling were still permitted during the closure period in previous years.
5. This Order prohibits all fishing activity within the specified area of the Firth of Clyde from 14 February until 30 April, in both 2022 and 2023. The Order also revokes both The Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2021 and The Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2019.
6. The Order will apply to British fishing boats that fish in the area, though in effect the closure will apply to all vessels as the area falls within territorial waters.

Consultation

7. The Scottish Government consulted firstly with key stakeholders between 15 September and 13 October 2021 and then with the wider public between 20 October and 04 November 2021.
8. There were 18 responses to the stakeholder consultation and 189 responses from the wider public. Almost all of the responses indicated that they were in favour of the closure continuing into 2022 and 2023. A high proportion of responses also called for some or all of the exemptions to be removed.
9. Provisions for such a closure have been implemented annually/biennially since 2001 and stakeholders have been consulted each time the closure has been renewed.

Prohibition of all fishing activity

10. On 1 September 2021, the Scottish Government (SG) and the Scottish Green Party (SGP) published a shared policy programme, setting out areas of collaboration over the current parliamentary term. The SG-SGP agreement is explicit in seeking to restore marine habitats in Scotland's inshore waters, with the aim of achieving good environmental status, recognising that those waters contain valuable blue carbon hot spots, nursery grounds for fish stocks and an array of rich marine wildlife and biodiversity. Furthermore, the SG-SGP agreement states it will provide additional environmental protection over and above the existing MPA network by establishing sites which will provide protection from all extractive, destructive or depositional activities, including all fisheries.
11. In addition, during the 2021 consultation, concerns were raised that the exemptions undermine the effectiveness of the closure. It would be contradictory to continue to implement exemptions in respect of gears that can catch cod whilst also causing environmental disturbance which will further impact on the success of the spawning cod. Any activity within the spawning grounds is understood to have an impact on the spawning cod, by making spawning more difficult.
12. Prohibition of all fishing activity will create consistency with fisheries management in other areas, namely the UK National North Sea Cod Avoidance Plan, which includes closure areas for all gear types (excluding pelagic), and the recent emergency Marine Protected Area (MPA) designation in certain areas of the Inner Sound, where there is now a prohibition on creeling and diving in order to protect the critically endangered flapper skate nursery area.
13. The Scottish Government has therefore decided to implement a prohibition on all fishing activity for the closed area in 2022 and 2023.

Impact Assessment

14. A Business and Regulatory Impact Assessment has been completed and is attached.

Financial Effects

15. This Order has no bearing on quota, which remains unchanged, and the closure should not prevent skippers from catching their full quota over the duration of the year. At most, the proposed closure may lead to a reduction in fish landings for its duration, and therefore may affect incomes on a temporary basis. The fishermen should not be financially disadvantaged overall. In addition, this closure should protect the stock so that in future years there is a benefit to all fishermen.

16. The Order will not give rise to further costs to the Scottish Government. Enforcement of this Order will be achieved by virtue of existing enforcement powers, implemented by Marine Scotland Compliance.

Scottish Government
January 2022