EXECUTIVE NOTE

THE ANNUAL CLOSE TIME (PERMITTED PERIODS OF FISHING) (RIVER DEE (ABERDEENSHIRE) SALMON FISHERY DISTRICT) ORDER 2012

SSI 2012/210

Purpose of the instrument

1. The Annual Close Time (Permitted Periods of Fishing) (River Dee (Aberdeenshire) Salmon Fishery District) Order 2012 ("the 2012 Order") contains provision for the extension of the rod fishing season on the River Dee and its tributaries in Aberdeenshire. The 2012 Order extends the period when it is permitted to fish by rod and line during the annual close time from 1 February to 10 February and from 27 August to 15 October.

Legislative context

2. Section 37 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 ("the 2003 Act") enables Ministers to make an Order prescribing the dates of the annual close time in salmon fishery districts. The 2012 Order prescribes the periods within the annual close time when it is permitted to fish for and take salmon (as defined in section 69(1) of the 2003 Act and commonly known as salmon and sea trout), by rod and line. Different provision can be made for different parts of a district.

3. The River Dee District Salmon Fishery Board applied for an annual close time order in terms of section 37 of the 2003 Act to apply specifically to the River Dee and its tributaries within the district. Following receipt of the application, and in accordance with paragraphs 10 and 11 of Schedule 1 of the 2003 Act, Ministers consulted with such persons as they considered appropriate on the application and directed that the Board give notice of the effect of the proposals by way of advertisement. In accordance with paragraph 12 of Schedule 1 to the 2003 Act, Ministers considered 16 objections in relation to the application and determined to make the Order on a permanent basis as applied for by the Board.

Policy background

4. The vision for Scotland is to have sustainably managed freshwater fish and fisheries resources that provide significant economic and social benefits for its people. The Scottish Government seeks to do this in partnership with local managers and others based on the best available scientific advice. Scottish Government policy is to seek to conserve salmon through voluntary measures wherever possible with local managers and interests.

5. The annual close time on the River Dee extends from 27 August to 10 February the following year. It has been permitted to fish by rod and line during the annual close from 1 February to 10 February and 27 August to 30 September since 1950 (SSI 1950/229). The Annual Close Time (Permitted Periods of Fishing) (River Dee (Aberdeenshire) (Salmon Fishery District) Order 2008 (SSI 2008/19) made provision for a further trial season extension from 1 October to 15 October which expired in 2011.

6. The Board operates a voluntary Dee Conservation Code (the Code) which restricts fishing to a catch and release basis throughout the season. During the trial season extension the Code also restricted fishing to downstream of Aboyne Bridge. The evidence gathered from the trial fishery demonstrated that provided adequate care is taken during catch and release, subsequent survival of Atlantic salmon is high.

7. The River Dee is designated as a Special Area of Conservation (SAC) under the European Union's Habitats Directive (Council Directive 92/43/EEC). As competent authority, Ministers have undertaken a Habitats Regulations Assessment (HRA) as required under the Conservation (Natural Habitats, & c.) Regulations 1994. The HRA concluded that the permanent extension to the fishing season is unlikely to have a significant effect on the conservation objectives of the SAC and spawning behaviour of Atlantic salmon on the river.

Consultation

8. On receipt of the Board's application Marine Scotland Science, Scottish Natural Heritage and the Scottish Environment Protection Agency were consulted in accordance with paragraph 10 of Schedule 1 to the 2003 Act. In response to the statutory public consultation of the Board's proposals under paragraph 11 of Schedule 1 to the 2003 Act, 95 responses were received. 75 responses were supportive of the application, 16 objected and 4 agreed that the extension should be granted but felt it should be restricted to the lower River Dee downstream of Banchory.

9. Objectors were concerned about the impact of the extension on the river's SAC status; increased fishing pressure on vulnerable stocks; poor fish handling; reduced spawning fitness; increased fish mortality and poor compliance with the Code. They questioned the scale of the economic benefits against the perceived detrimental effects on salmon stocks. Assurance was sought that the assessment of the application would be subject to independent scientific advice and an HRA completed. After due consideration of the objections Ministers concluded that the objections did not outweigh the case made by the Board for a permanent season extension, which was supported by advisors, and on balance it is proportionate to make the extension sought.

Impact and financial effect

10. The Board, as local managers, will keep the status of the stocks under review and assess the continued sustainability of the season extension. The Board will publish the results of the data collected during its annual assessment and the level of compliance with the Code. The Code is reviewed annually by the Board and adopted by proprietors at the Annual General Meeting. If required, Scottish Ministers have powers to make statutory conservation regulations under section 38 of the 2003 Act.

11. Although the Order applies to the entire River Dee and its tributaries, the Board's voluntary Code restricts fishing during the period 1 October to 15 October to the portion of the river downstream from Aboyne Bridge. In practice, this means that only a proportion of proprietors choose to let their fishing during the extension.

Marine Scotland
Scottish Government
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