POLICY NOTE

THE CONSERVATION OF SALMON (SCOTLAND) AMENDMENT REGULATIONS 2019

SSI 2019/56

Policy Objectives

1. Salmon is a protected species under the EU Habitats Directive and the Scottish Government will continue to follow the principles and policies set out in the Directive following the UK's withdrawal from the European Union. In addition, the North Atlantic Salmon Conservation Organisation (NASCO[1]) 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). Salmon continue to face many pressures in the marine and freshwater environment and there is an ongoing need to ensure and to demonstrate that any killing of wild salmon in Scottish waters is sustainable. In addition, greater protection and enhancement of stocks will help to maximise the socio-economic benefits that flow from them.

2. The Conservation of Salmon (Scotland) Amendment Regulations 2019 amend the Conservation of Salmon (Scotland) Regulations 2016 ('the 2016 Regulations') which make provision for the conservation of salmon in Scotland. 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 being in poor conservation status.

3. 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. This assessment is carried out annually. Where an area of inland waters includes a SAC 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. The assessment process entails the collation of information on population levels of salmon in each area based on rod catch statistics and other data including information from in-river fish counters.

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[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.

4. Since the introduction of the 2016 Regulations, Marine Scotland has engaged with the sector to develop and improve the annual conservation assessment process and the robustness of the data used in the assessment. In the past year, for example, Marine Scotland has refined the methodology used to define egg deposition targets, moving from an all-Scotland to more specific targets for individual rivers or assessment groups. The impact of this change has been to reduce the egg targets used in the assessments.

Legislative Context

5. 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. The Conservation of Salmon (Scotland) Regulations 2016 were made in February 2016 and came into force on 31 March 2016. Previous Amendment Regulations, reflecting developments in the assessment process and the outcomes of the annual assessment came into force on 1 April 2017 and 2018. The purpose of the current Regulations is to amend the 2016 Regulations to reflect the most recent stock assessment, for the 2019 fishing season.

The Regulations

6. The Conservation of Salmon (Scotland) Amendment Regulations 2019 amend the 2016 Regulations. Regulations 2(2) and (3) amend the 2016 Regulations by removing regulation 3(2A) which 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. Both rivers are assessed at Grade 1 for 2019 and therefore this provision is no longer required. Regulation 2(4) substitutes schedule 2 of the 2016 Regulations. Schedule 2 describes the areas of inland waters where there is a prohibition on the retention of any salmon caught.

Consultation

7. In accordance with paragraphs 10 and 11 of schedule 1 of the 2003 Act, the Scottish Ministers have consulted with such persons they considered appropriate and have given notice of the general effect of their proposals by way of an advertisement in three national newspapers. The consultation period ran from 25 October to 23 November 2018.

8. A total of 39 responses were received to the consultation and, in accordance with paragraphs 12 and 14(1) of schedule 1 of the 2003 Act, Ministers have considered each of these. The representations covered a range of issues, from those who objected to rivers being assessed at Grade 3 (mandatory catch and release); several submissions questioning the assessment approach; and a number who consider a higher grading awarded for this year could be seen as counter-productive given the overall downward trend in salmon numbers and the difficult fishing conditions in 2018.

9. Marine Scotland has responded to each of the submissions received, with a view to answering the points made. In one case, missing catch data was obtained for fisheries in the

North Harris SAC, which had the effect of raising the grading from Grade 3 to Grade 1, allowing the exploitation of salmon in the new season. Ministers did not, however, consider that any other changes were required to the proposals as advertised.

Impact and Financial effects

10. A **Business and Regulatory Impact Assessment (BRIA**) has been prepared for these Regulations.

Marine Scotland
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