EXECUTIVE NOTE

THE CONSERVATION OF SEALS (SCOTLAND) ORDER 2007 SSI/2007/126

The above instrument was made in exercise of the powers conferred by section 3(1) of the Conservation of Seals Act 1970 ("the 1970 Act"). The instrument is subject to a negative resolution procedure.

Policy Objectives

In addition to the close seasons for seals provided for in section 2(1) of the 1970 Act, the purpose of the instrument is to prohibit the killing, injuring or taking of common seals in a defined area around the Shetland and Orkney Islands and along the east coast from Garron Point, north of Stonehaven to Torness Point, south of Dunbar, in the period from 23 March 2007 onwards.

It is important to introduce this measure to offer additional protection to a sensitive and potentially vulnerable common seal population in these three areas following recent reductions in common seal numbers there. The three areas encompass four Special Areas of Conservation (SACs) designated under the EU habitats Directive, which include common seals as a qualifying interest of the site. The seal survey figures recorded by the Sea Mammal Research Unit are as follows:

Location	**2001**	**2006**
Shetland	4883	3021
Orkney	7752	4256
Firth of Tay	668 (2002)	342

It is not possible to suggest, at present, a plausible explanation for this reduction in common seal numbers. It is also unclear whether this reduction is a short term or longer term phenomenon. It is considered unlikely that any single factor is responsible.

There is no evidence of common seals moving to adjacent regions that might explain the reduction in the Northern Isles although there is some evidence of such movement into the Firth of Forth that might explain part of the reduction in the Tay.

The geographic spread of the reduction suggests causes that are active across the Northern Isles and the East Coast. It is unlikely to be a direct result of the Phocine Distemper Virus (PDV) outbreak in 2002 since no large numbers of carcasses were reported at that time. It is also perhaps unlikely to be a direct result of shooting since there have been no reports of the kind of scale of shooting that might be required and no evidence of unusual numbers of carcasses during this period in the areas most affected. In addition, known instances of shooting in the West of Scotland have apparently not had the same result.

In the face of this reduction in numbers, there is a risk that additional human pressure from shooting might threaten the “favourable conservation status” of the common seals in the four SACs. **This Order is therefore being put in place in response to statutory scientific advice as a proportionate precautionary response in line with the Executive’s obligation under The Habitats Directive (Directive 92/43/EEC on the Conservation of Natural**

Habitats and of Wild Flora and Fauna) to maintain common seals at favourable conservation status. The Order also satisfies the statutory test in Section 3 of the 1970 Act as necessary for the proper conservation of seals. The Order will remain in place while common seal numbers continue to be monitored and the nature and causes of the recent reduction are investigated. The status of the Order will be reviewed in the light of any findings.

The Natural Environment Research Council's Special Committee on Seals and Scottish Natural Heritage support the introduction of this Order.

The Executive's Scottish Seals Forum, which includes representation from conservation animal welfare, salmon fishery and aquaculture interests, broadly accepts the need for the Order. This opinion was not shared by its sea fishery or salmon netting representatives who are not convinced about these reductions in common seal numbers. A SEERAD undertaking to monitor the affected common seal populations and review the order in light of the results should satisfy their concerns.

The Order will provide a regulatory framework for development of one or more well-monitored local management plans (along the lines of the successful Moray Firth pilot) which will seek to balance the conservation of seals with the preservation of sustainable fisheries.

Consultation

The Scottish Executive has consulted with the Natural Environment Research Council in accordance with Section 3(1) of the 1970 Act.

Financial Effects

The Order has no financial effect on the Scottish Executive, local government or on business. As a result no Regulatory Impact Assessment has been completed.

Scottish Executive Environment and Rural Affairs Department
February 2007