POLICY NOTE

THE SEA FISH (PROHIBITED METHODS OF FISHING) (FIRTH OF CLYDE) ORDER 2021

SSI 2021/467

1. This Order was made in exercise of the powers conferred by sections 5(1)(a) and (2), 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 of the Firth of Clyde (a recognised spawning ground) from being fished (subject to certain exemptions) 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 (subject to certain exemptions) during their spawning season. The Scottish Ministers make the Order in exercise of the powers conferred by sections 5(1)(a) and (2), 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. Certain methods of fishing are exempt from the prohibition. The closed area is split into two zones. In the larger and more easterly zone (specified in Article 3(1)(a) of the Order and diagonally hatched on the illustrative map accompanying the Explanatory Note), scallop dredging, creel fishing and trawls for Norway lobsters are permitted throughout the closure period. In the smaller zone, which is a strip of water at the mouth of the Firth of Clyde (specified in Article 3(1)(b) of the Order and horizontally hatched on the illustrative map), there is no exemption for Norway lobsters trawls, but scallop dredging and creeling is permitted.

5. Article 2(2) of the Order describes that a trawl is deemed to have been used for the purpose of fishing Norway lobsters if the catch retained on board a fishing boat is at least 30% by weight of Norway lobsters.

6. The Order is not to be read as allowing any fishing for sea fish in any part of the area described in Article 3(1)(a) which is otherwise prohibited by the South Arran Marine Conservation Order 2015.

7. 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

8. 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.

9. 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. Some responses called for a wider review of the closure and exemptions, along with consideration for a wider package of fishing management measures.

10. Provisions for such a closure have been set in place annually/biennially since 2001 and stakeholders have been consulted each time it has been renewed.

Consideration of the Exemptions and Future Work

11. In January 2020, when the 2019 SSI was making its passage through Parliament, the Convenor of the Rural Environment and Connectivity Committee, acting upon representations from The Community of Arran Seabed Trust (COAST), requested that the exemptions, from the prohibition to fish, for Nephrops trawlers, creels and scallop dredges were removed from the 2019 and any forthcoming Clyde Cod closure SSI. In response to that request, the then Cabinet Secretary committed "…to use the period before the next iteration of the Order (due in force in 2022) to consider the case for the exemptions more closely. Through further consultation with stakeholders, this will consider current science, cod bycatch levels, achieving consistency with conservation measures currently being introduced for cod in the North Sea, and other factors related to Clyde fisheries."

12. EU Exit and the Covid-19 pandemic limited the team's ability to respond to the Convenor's request in 2020 and 2021; however, the intention had been to consult on this matter in summer/autumn of 2021 in respect of this Order.

13. On 1 September 2021, the Scottish Government and the Scottish Green Party (SGP) published a shared policy programme, setting out areas of collaboration over the current parliamentary term. This document sets out a number of policy objectives which will potentially affect the Firth of Clyde, including:
    - Enhanced fisheries management measures for existing Marine Protected Areas (MPAs) and other key coastal biodiversity sites;
    - Designating a suite of Highly Protected Marine Areas (HPMAs) covering at least 10% of Scotland's seas; and
    - Additional specific evidence-based measures to protect the inshore seabed.

14. The Scottish Government and the SGP plan to consult as soon as practicable on these policy objectives. It is likely that such consultations will take a more holistic approach, including the area of the Firth of Clyde covered by this Order. As such, for this Order we sought views only on the extension of the closure, maintaining the same exemptions that had been in place in previous years.

15. In the event that the planned Scottish Government and SGP consultations have no bearing on the exemptions in the Firth of Clyde cod closure area, we will act on the Convenor's request as part of the next biennial consultations in 2023.

Impact Assessment

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

Financial Effects

17. 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.

18. 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.

19. A seasonal closure of the specified area in the Firth of Clyde has applied since 2001.

Scottish Government
December 2021