POLICY NOTE

THE TWEED REGULATION (SALMON CONSERVATION) (No. 2) ORDER 2016

SSI 2016/391

Purpose of the Instrument

1. The Tweed Regulation (Salmon Conservation) (No.2) Order 2016 ('the 2016 Order') makes provision for the conservation of salmon in the Tweed district. A separate instrument, The Conservation of Salmon (Scotland) Regulations 2016, makes parallel provision for the rest of Scotland.

2. The purpose of the 2016 Order is to ensure that the killing of Atlantic salmon in the Tweed district is managed by assessing and categorising specified areas of inland water in relation to their conservation status. The Tweed district is defined in article 2 of the Scotland Act 1998 (River Tweed) Order 2006 ("the 2006 Order"). In addition, Ministers may agree a conservation plan with the River Tweed Commission. Work on the conservation plan template has been continuing through a joint Marine Scotland and Local Fishery Biologist working group. It is intended that the template will be introduced to coincide with the enhanced river by river categorisations for the 2017 season.

3. Article 3(1) prohibits the retention of Atlantic salmon in coastal waters. Article 3(2) prohibits the retention of salmon caught in any inland waters in the Tweed district except salmon caught in the area described in article 2(1)(a) of the 2016 Order. Article 2(1)(a) describes the Tweed and all inland waters which drain, or drain to some extent, to the outflow point at grid reference NU 0100 5228 east of Berwick.

Legislative Context

4. Article 54(1) of the 2006 Order enables the Scottish Ministers to make an Order considered necessary or expedient for the conservation of salmon. In accordance with paragraphs 8, 9, 10 and 12 (1) of Schedule 2 to the 2006 Order, the Scottish Ministers have consulted with such persons they considered appropriate and given notice of the general effect of their proposal by way of an advertisement in 3 local newspapers. In accordance with paragraph 10 of Schedule 2 to the 2006 Order, Ministers considered 3 representations and objections in relation to the proposal and determined to re-advertise the proposal with a revised outflow point for the Tweed special area of conservation (a "SAC") to accommodate all fishing activity which takes place on the Tweed. Ministers considered one further representation in relation to the re-advertised proposal and determined to progress without any further alterations.

Policy Background

5. The report of the independent Wild Fisheries Review (WFR), published in October 2014, recommended that, in advance of consideration of the broader reform agenda for wild fisheries, Ministers take immediate action to conserve wild Atlantic Salmon by introducing as soon as practicable a ban on killing except under licence.

6. Salmon is a protected species under the Habitats Directive. In addition, The North Atlantic Salmon Conservation Organisation Fishery (NASCO [1]), to which the European Union is a party, 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). NASCO has recommended 'that conservation limits and management targets be set for each river and combined as appropriate for the management of different stock groupings defined by managers' and 'that stocks be maintained above conservation limits by means of management targets' .

7. There is an on-going need to ensure and be seen to be demonstrating that any killing is sustainable. In addition, greater protection and enhancement of stocks will help to maximise the socio-economic benefits that flow from them. Salmon continue to face many pressures in the marine and freshwater environment and the latest Marine Scotland Science stock status report for 2015 continues to show a decline in stocks.

8. The Order is targeted at improving the conservation status of salmon by managing the pressure of exploitation on the weakest stocks within Scotland's domestic waters. The Order is designed to complement, not replace, other management activities being undertaken at local, national and international level in the interests of conservation.

9. The Order places 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. The inland waters within the Tweed district include a special area of conservation, being an area where Atlantic salmon is identified as a species native to a protected habitat under the Habitats Directive. The Scottish Ministers must therefore 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 will entail the collation of information on population levels of salmon in each area based on catch statistics. While not a statutory requirement, it is intended that the assessment is carried out on an annual basis until such time that it prove conceivable to undertake assessments for a longer term. This is the second time an assessment of conservation status has been undertaken. Where rod catch and counter data has allowed, individual rivers or groups of rivers have been assessed separately from the fishery district areas which were assessed for the 2016 salmon fishing season.

10. The assessment determines the conservation status for each area of inland waters including the SAC. The impact of fishing on the conservation objectives of the SAC and the ecological requirements of Atlantic salmon form part of the wider consideration of the likely significance of the effect netting/angling may have on our designated sites. Where there is a favourable conservation status for an area or SAC it has been accorded a grade 1 or 2 status. For those areas where there is no favourable conservation status for Atlantic salmon, the retention of salmon has been prohibited, and a grade 3 has been

[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.

accorded. The Order ensures that salmon stocks are protected and any exploitation is sustainable.

Consultation

11. There has been significant consultation on the package of conservation measures to regulate the killing of wild salmon. Marine Scotland has proactivity engaged with the sector in areas with known concerns about the methodology and data used to assess conservation status. This engagement was undertaken during the consultation period to allow respondents to make informed responses about the assessment of conservation status for the forthcoming season.

12. The Order not only reflects a significant amount of stakeholder consultation and engagement, where every opportunity has been made to enable contributions to the developing proposals, but also acknowledge the role of the management measures already in place within the Tweed district. That level of stakeholder dialogue will continue as we take forward the annual assessment of conservation status.

Impact and Financial effects

13. A combined **Business and Regulatory Impact Assessment (BRIA**) has been prepared for the Order and The Conservation of Salmon (Scotland) Amendment Regulations 2016.

Wild Salmon and Recreational Fisheries
Marine Scotland
November 2016