

REGULATORY IMPACT ASSESSMENT

The Prohibition of Fishing for Scallops (Scotland) Order 2003

Purpose and Intended Effect of Measures

1. Scallop stocks are under increasing pressure and their condition gives cause for concern. The latest stock assessment from FRS Marine Laboratory has demonstrated that most of the main management areas show declining biomass and uncertain or declining recruitment. The report also concluded that any stock stability or recovery is threatened by increasing fishing pressure and is exacerbated by the unpredictable effects of effort transfer caused by closures due to Amnesic Shellfish Poisoning (ASP).
2. As scallops are not subject to quota restrictions, technical measures are necessary to help conserve stocks. The Department has been in discussion with key stakeholders for a number of years to develop technical conservation proposals to help protect scallop stocks.
3. The measures to be introduced under this Statutory Instrument will limit fishing pressure on, and therefore protect, scallop stocks across the Scottish zone. They should give protection to stocks already under pressure due to increased fishing effort and problems of effort transfer caused by Amnesic Shellfish Poisoning. Future catch opportunities and the long-term sustainability of both the stocks and the scallop industry should be promoted by these measures.

Risk Assessment

4. Around 150 Scottish-based vessels landed over 8,000 tonnes of scallops using dredges in 2002. The value of these landings came to £13 million. The majority of these vessels will not be affected by the dredge limits as they do not use more than the specified maximum number of dredges per side. However, some vessels will be required to reduce the number of dredges per side which are being used which will reduce effort on the stocks. The limits will also prevent other vessels from greatly increasing the number of dredges per side which they use, which would significantly heighten pressure on the stocks.
5. The Scottish Executive is also concerned that, if no action is taken, those vessels which currently hold a scallop entitlement on their licence but do not use it may transfer into the scallop sector as opportunities decline elsewhere without being subject to any conservation measures. This could only have a damaging impact on already vulnerable stocks.

Options

6. Five options were identified:
 - A) Do nothing and introduce no legislation;
 - B) Implement the full package of measures as they currently exist;

- C) Delay and conduct another consultation on the full package of measures;
- D) Scrap the existing package and develop a new set of proposals;
- E) Adopt a phased approach, which would:
 - (i) implement those measures which are fully developed;
 - (ii) consult further on the technical details of dredge specification and conduct a study into the weekend ban; then implement the measures depending on the results of the study and consultation;
 - (iv) working closely with stakeholders, develop a long-term management strategy for the scallop fishery to either augment or replace the short-term measures.

Equity and Fairness

7. Each of the above options would apply equally to all British fishing vessels in the Scottish zone with a scallop entitlement on their fishing licence. There is no option which is obviously more or less fair and equitable than any of the others.

Benefits

8. Option A: The latest scientific advice has demonstrated that the health of Scottish scallop stocks gives cause for concern. To take no action to protect the stocks would be irresponsible and could precipitate further stock decline which would, in the longer term, be very damaging to the scallop sector.
9. Option B: This would implement a full range of measures to protect the scallop stocks (dredge limits, weekend ban in a restricted area plus other detailed technical measures). However, the Executive accepts that there are concerns about the financial implications of the weekend ban which requires to be fully assessed before taking a decision to introduce a ban. Some of the technical details of dredge specification can also be improved but these improvements require further discussion with industry experts.
10. Option C: The scallop stocks remain in need of protection and the latest scientific advice clearly advises that the measures should not be delayed any further. The Executive has been in close contact with the scallop sector on this issue and is well aware of the views and arguments on all sides. A re-consultation would also be unlikely to yield any new information that we are not aware of, and post consultation, the position would almost certainly be the same. In the meantime, protective measures would have been delayed a few extra months to the detriment of the condition of the scallop stocks.
11. Option D: Given the current divisions in the industry there is a reasonable case for convening a group of the major players and devising new proposals from scratch. However, the process of developing proposals has been demonstrated to be slow and this approach would delay any protection for the stocks even further than Option C. There is also no guarantee that any new proposals could be agreed which would be better for the scallop stocks.
12. Option E: The phased approach includes some of the positive aspects of the above options. Phase one will provide immediate protection for the stocks through the dredge

and bycatch limits and the prohibition on the use of blinders. Phase two will develop the technical details further and introduce them in an amending SI as soon as possible. A study will also be conducted into the economic impact of the weekend ban before any decision is taken on whether to implement the ban. The third phase will be the development, through the Scottish Scallop Advisory Committee (SSAC) of a long-term strategy for scallop management, with a commitment to repealing or amending the SI if and when a more sophisticated strategy has been agreed.

13. The limits on the maximum number of scallop and French dredges will limit the number of dredges which can be used at any one time by a UK vessel in different parts of the Scottish zone. This is intended to limit overall catches of scallops, thus helping the stock to remain within sustainable levels and also to limit the damage dredges cause to the sea bed. The 20% bycatch limit of king scallops should prevent vessels targeting queen scallops taking a large quantity of king scallops while remaining exempt from the conservation regulations which apply to vessels targeting king scallops. The prohibition on the use of any device liable to obstruct or diminish the dimensions of the belly rings of the dredges (so called “blinders”) should help prevent catches of undersized scallops.

Compliance Costs for Business

14. The proposed legislation mostly reflects current good practice and the industry will not be required to purchase any new fishing gear to comply with the Order.
15. The Scottish fleet is nomadic and works all around the Scottish zone and also into other UK waters. The zonal dredge limits will therefore affect different vessels in different ways. Some may find that some, but not all, of their working pattern is affected (i.e. they will need to reduce the number of dredges in some areas which they fish but not in others). Most vessels do not use more than the set limits of scallop dredges and so should not be affected. The Executive has been informed that around six vessels on the West Coast and around six vessels beyond twelve miles will be required to reduce the number of dredges they currently use. This could well lead to a corresponding reduction in income for these vessels.

Results of Consultation

16. A formal consultation on a wider range of scallop technical conservation proposals (including a weekend ban and technical aspects of dredge design) was conducted in spring 2001. The responses to the consultation were broadly in favour of the proposals.
17. Informal contacts have continued since the consultation was completed, including two full meetings with key industry representatives at which the proposals were discussed in detail. It is as a result of these meetings, that Executive decided to conduct a study into the wider implications of the weekend ban and to further develop the precise technical details of the dredge design requirements before legislating for these proposals.

Summary and Recommendations

18. The stocks remain in a serious condition and action is needed to help protect them without further delay. This Order will introduce some core measures now and permit the

introduction of additional complementary measures once they have been further developed and their implications fully considered.

Enforcement, Sanctions, Monitoring and Review

19. The Scottish Fisheries Protection Agency will undertake enforcement. The regulation will be monitored and reviewed in the context of the development of a long-term strategy for management of the scallop sector. As part of this, a review of the Regulatory Impact Assessment will also be conducted by 30 June 2005 by which time it should be possible to ascertain the actual impact of the Order.

DECLARATION:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by the Responsible Minister: _____

Date of Regulatory Impact Assessment: **July 2003**

SEERAD: Sea Fisheries Division
July 2003