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Rural Affairs and Islands Committee

Subordinate legislation considered by the Rural Affairs and Islands Committee on 28 February 2024



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Rural Affairs and Islands Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands, with the exception of matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland, and Royal Botanic Garden.



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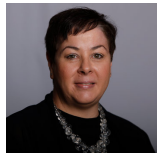
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Executive Summary

1. This report details the Rural Affairs and Islands Committee's consideration of—
 - [Draft Scottish Food Commission \(Appointment\) Regulations 2024](#); and
 - [Sea Fish \(Prohibition on Fishing\) \(Firth of Clyde\) Order 2024 \(SSI2024/6\)](#)

The Committee agreed to recommend to the Parliament that it approve the Scottish Food Commission (Appointment) Regulations 2024.

The Committee did not agree to recommend that the Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2024 be annulled.

The Draft Scottish Food Commission (Appointment) Regulations 2024

2. The Draft Scottish Food Commission (Appointment) Regulations 2024 were laid before the Scottish Parliament on 1 February 2024 and are subject to the affirmative procedure. The draft instrument was referred to the Rural Affairs and Islands Committee for consideration.
3. The purpose of the regulations is to set out the criteria that the Scottish Ministers must have regard to when making appointments to the Scottish Food Commission. The Regulations provide that the Scottish Ministers must have regard to the desirability of a board including a member who is representative of interests in the food business sector or food-related third sector bodies. Additionally, they provide that the Scottish Ministers must have regard to the desirability of a board including a member who has expertise in or experience of food-related issues, including—
 - Social and economic wellbeing
 - The environment
 - Health and physical and mental wellbeing (especially through health and social care services)
 - Economic development
 - Animal welfare
 - Education
 - Child poverty

Delegated Powers and Law Reform Committee consideration

4. [The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 20 February 2024 and agreed that no points arose.](#)

Rural Affairs and Islands Committee consideration

5. At its meeting on 28 February 2024, the Rural Affairs and Islands Committee took evidence on the instrument from Mairi Gougeon, Cabinet Secretary for Rural Affairs, Land Reform and Islands and Scottish Government officials.
6. The Cabinet Secretary made some opening remarks, setting out the purpose and objective of the instrument.
7. The Committee discussed a range of issues with the Cabinet Secretary, including—

- The role of the Scottish Food Commission in supporting food production and wider food security, once established;
 - The role of the Scottish Food Commission in monitoring the national and local authority good food nation plans, once they are published;
 - The composition, expertise and experience of commissioners who will be appointed to the board of the Scottish Food Commission, once established; and
 - How the Scottish Government and the Scottish Food Commission will ensure the perspectives of rural and island communities are considered in the national and local good food nation plans, once published.
8. Following the evidence session, the Cabinet Secretary moved motion S6M-12052—
That the Rural Affairs and Islands Committee recommends that the Scottish Food Commission (Appointment) Regulations 2024 [draft] be approved.
9. The motion was agreed to without division.

The Rural Affairs and Islands Committee recommends that the Scottish Food Commission (Appointment) Regulations 2024 [draft] be approved.

Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2024 (SSI 2024/6)


10. The Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2024 (SSI 2024/6) was laid before the Scottish Parliament on 11 January 2024 and is subject to the negative procedure. The draft instrument was referred to the Rural Affairs and Islands Committee for consideration.
11. The Order will prohibit all methods of fishing within two specified areas of the Firth of Clyde between 14 February and 30 April, during both 2024 and 2025. The Order will apply to British fishing boats that fish in the relevant areas though, in effect, this means that the closure will apply to all fishing vessels and fishing activity as the areas fall within territorial waters. The Order came into force on 14 February 2024.
12. A seasonal spawning closure in the Firth of Clyde has been in place for over 20 years to provide an area to protect cod during their spawning season (14th February – 30th April) from disturbance from fishing activity and promote recovery of the stock. Since its introduction in 2001, the closure has included exemptions to allow Nephrops (langoustine) trawlers, creelers and scallop dredgers to continue to fish in the area, due to the low numbers of cod they catch. The closure has been implemented through a Scottish statutory instrument, latterly on a biennial cycle.
13. On 10 December 2021, the Scottish Government laid the [Sea Fish \(Prohibited Methods of Fishing\) \(Firth of Clyde\) Order 2021 \(SSI 2021/467\)](#). This SSI provided for the closure in 2022 and 2023, with the same exemptions in place as for previous years. The Cabinet Secretary for Rural Affairs and Islands wrote to the Committee on 17 January 2022 to inform it that the 2021 Order was to be revoked and a further order would be laid in its place. The Cabinet Secretary wrote that—

” upon further reflection, I believe that this approach is no longer appropriate. Despite the ongoing seasonal closure, the stock has shown little sign of recovery and as such the Scottish Government has removed the exemptions to maximise numbers.
14. The Scottish Government laid the [Sea Fish \(Prohibition on Fishing\) \(Firth of Clyde\) Order 2022 \(SSI 2022/5\)](#) on 13 January 2022. This SSI removed the exemptions for Nephrops (langoustine) trawlers, creels and scallop dredgers.
15. The Cabinet Secretary for Rural Affairs and Islands wrote to the Committee again on 1 February 2022 to inform it that the 2022 order was to be revoked and a further order would be laid in its place. The Cabinet Secretary wrote that—

” following further discussions with scientists and stakeholders, we believe that it is necessary to make a further adjustment to the closure. In response to legitimate concerns raised by local fishermen, we have reviewed the available scientific evidence to reassure ourselves that this approach is the most appropriate and proportionate.
16. The Scottish Government laid the [Sea Fish \(Prohibition on Fishing\) \(Firth of Clyde\) \(No. 2\) Order 2022 \(SSI 2022/35\)](#) on 1 February 2022. In comparison with previous closures, the closure provided for by the No. 2 Order 2022 was smaller in size but

removed all exemptions, meaning that fishing activity by any method would be prohibited during the ban in order to increase the protection for spawning cod.

17. The 2024 Order provides a continuation of the 2022/23 seasonal closure for 2024 and 2025.
18. The policy note states that, "having considered the wide range of stakeholder comments and given that the best available scientific evidence shows that any activity causing disturbance within 10 metres of the seabed can negatively impact spawning cod, we are confident that prohibiting all fishing activity within the closure area allows the spawning cod the best possible protection at a critical point in their life cycle and therefore the best possible chance of increasing in numbers and making a positive contribution to the broader recovery of cod stocks". It goes on to state that—

 Monitoring carried out by Marine Directorate Compliance during the 2022 and 2023 closure indicated very few spawning cod being caught in the open area surrounding the Clyde closure area. This data suggests either that the closure is in the correct area for spawning or there are not many cod in the Clyde. In the absence of more specific scientific evidence showing the abundance or otherwise of cod in the proposed closed area, Ministers are required to take a precautionary approach to ensure the conservation of the species. They have decided therefore to maintain the closure prohibiting all forms of fishing activity during the closure period.
19. In advance of laying this instrument, [on 11 January 2024, the Minister for Energy and the Environment wrote to the Committee](#) to provide an update on the seasonal spawning closure in the Firth of Clyde. The letter also sets out the changes to the cod stocks in Scottish waters since the previous SSI and includes the reasons behind the Scottish Government's decision to continue the spawning closure, in the same manner as in 2022 and 2023 without exemptions, for the 2024 and 2025 period.
20. [On 1 February 2024, the Committee wrote to the Scottish Government](#) asking for further information on a range of issues relating to the scientific evidence and data underpinning the policy regarding seasonal closures in the Firth of Clyde. [The Minister for Energy and the Environment wrote to the Committee 8 February 2024 providing a response to the points raised by the Committee.](#)

Delegated Powers and Law Reform Committee consideration

21. [The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 23 January 2024 and agreed that no points arose.](#)

Rural Affairs and Islands Committee consideration

22. At its meeting on 28 February 2024, the Rural Affairs and Islands Committee took evidence on the instrument from Mairi Gougeon, Cabinet Secretary for Rural Affairs, Land Reform and Islands and Scottish Government officials.

23. The Cabinet Secretary made some opening remarks, setting out the purpose and objective of the instrument.
24. The Committee discussed a range of issues with the Cabinet Secretary, including—
 - The scientific evidence for the effectiveness of the seasonal closure and the health of cod stocks in the Clyde;
 - The evidence base used to evaluate the impact of different fishing gears on the disturbance of spawning cod;
 - Marine Directorate resource constraints and the impact on data gathering and stock assessment modelling; and
 - The impact on commercial fishing activity and the Scottish Government's decision not to provide financial assistance during the closure period.

Committee consideration of the motion

25. After the evidence session, Rachael Hamilton MSP, moved motion S6M-12276—
That the Rural Affairs and Islands Committee recommends that the Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2024 be annulled.
26. The motion was not agreed to by division (for 4, against 5, abstentions 0).
27. The official report of the meeting can be accessed on the Scottish Parliament's website.

