

Rural Affairs and Islands Committee

1st Meeting, 2024 (Session 6), Wednesday, 17
January

Subordinate legislation

Introduction

1. This paper supports the Committee's consideration of three negative Scottish statutory instruments, including –
 - The Meat Preparations (Import Conditions) (Scotland) Amendment Regulations 2023;
 - The Conservation of Salmon (Scotland) Amendment Regulations 2023; and
 - The Bovine Semen (Scotland) Amendment Regulations 2023.

Parliamentary procedure – negative instruments

2. The negative parliamentary procedure is set out in Chapter 10 of the Parliament's Standing Orders. Instruments subject to the negative procedure come into force on a specified date and remain in force unless it is annulled by the Parliament. Thus, the Parliament does not need to agree to the instrument in order for it to come into force.
3. The Parliament may, however, and on the recommendation of the lead committee, recommend the instrument be annulled within 40 days of the instrument being laid. Any MSP may by motion propose to the lead committee that the committee recommends "that nothing further is to be done under the instrument". Any motion for annulment would be debated by the lead committee and a report made to Parliament.

Meat Preparations (Import Conditions) (Scotland) Amendment Regulations 2023

Title of Instrument:	Meat Preparations (Import Conditions) (Scotland) Amendment Regulations 2023
Type of Instrument:	Negative
Laid date:	7 December 2023
Reporting deadline:	29 January 2024
Coming into force:	1 February 2024
Instrument drawn to Parliament's attention by DPLRC:	No
Instrument made using powers conferred by:	Trade in Animals and Related Products (Scotland) Regulations 2012
Supporting documentation:	Policy note attached Annexe A

Purpose of the instrument

1. The purpose of the instrument is to allow for the importation of [meat preparations](#) which have not been deep frozen from EEA states to continue from 31 January 2024 to 29 April 2024.

Policy objectives

2. The instrument will amend [Commission Decision 2000/572/EC](#) which lays down animal and public health and veterinary certification conditions for imports of meat preparations from third countries.
3. Commission Decision 2000/572/EC contains import conditions, made under Article 8(4) of Council Directive of [Council Directive 2002/99/EC](#), requiring imports of meat preparations from a third country to have been deep frozen at the plant of origin.
4. Regulation 2 of the instrument, amends Article 4za of Commission Decision 2000/572/EC which modifies the import conditions for imports of meat preparations from countries and territories subject to special transitional import arrangements (EEA states, the Faroe Islands, Greenland and Switzerland). It amends Article 4za to provide that the import condition that meat preparations

have been deep frozen at the production plant or plants of origin does not apply until 30 April 2024, where the production plant or plants of origin are in one of those countries or territories.

5. [The Animals, Food and Feed \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2020](#), amended Commission Decision 2000/572, meaning that fresh meat preparations would continue to be able to be imported from territories subject to transitional import arrangements until 1 April 2021. The policy note explains that without this amendment all meat preparations from these specified territories would need to be frozen at the plant of origin prior to importation.
6. Having taken into account the animal health situation in those countries and territories, it was not considered necessary to impose that import condition and as such Commission Decision 2000/572 was first amended by the [Meat Preparations \(Import Conditions\) \(Scotland\) Amendment Regulations 2021](#) to provide that the import condition that meat preparations have been deep frozen at the production plant or plants of origin were not to apply, where the production plant or plants of origin are in one of those territories, firstly until 30 September 2021.
7. This derogation was subsequently extended by the following instruments, considered by the RAI Committee in Session 6 –
 - The Meat Preparations (Import Conditions) (Scotland) Amendment (No. 2) Regulations 2021;
 - The Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021;
 - The Meat Preparations (Import Conditions) (Scotland) Amendment Regulations 202; and
 - The Official Controls and Import Conditions (Transitional Periods) (Miscellaneous Amendment) (Scotland) Regulations 2022
8. The Committee agreed to make no recommendations in relation to the instruments above.
9. The policy note states that “having continued regard to the animal health situation in those countries and territories, these Regulations further extend the derogation, in order to permit the import of fresh meat preparations from those countries and territories to continue in Scotland from 1 February 2024 to 29 April 2024.”
10. The policy note further states that similar provisions are being made by the UK and Welsh Governments with respect to imports of fresh meat preparations into England and Wales.

EU alignment consideration

11. The policy note states that this instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU because it concerns transitional measures regarding sanitary controls on goods entering Great Britain from the EEA following Great Britain no longer being part of the EU's internal market.

Consultation

12. The policy note highlights that Scottish Government officials continue to be in discussions with the UK Government and Welsh Government on the wider long-term position regarding all Prohibited & Restricted goods for imports, as well as those which apply to export, and a short consultation was held on extending this derogation in line with the extension of the transitional staging period.

Impact assessment and financial effects

13. According to the policy note, full impact assessments have not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. There is expected to be no impact on business, charities or voluntary bodies.
14. The Scottish Government has confirmed that no BRIA is necessary, as the instrument has no financial effects on the Scottish Government, local government or on business.

Consideration by the Delegated Powers and Law Reform Committee

15. [The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 19 December 2023 and agreed that no points arose.](#)

Conservation of Salmon (Scotland) Amendment Regulations 2023

Title of Instrument:	Conservation of Salmon (Scotland) Amendment Regulations 2023
Type of Instrument:	Negative
Laid date:	8 December 2023
Reporting deadline:	29 January 2024
Coming into force:	1 April 2024
Instrument drawn to Parliament's attention by DPLRC:	No
Instrument made using powers conferred by:	Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003
Supporting documentation:	Policy note attached Annexe B

Purpose of the instrument

16. The instrument will amend the [Conservation of Salmon \(Scotland\) Regulations 2016](#) ("the 2016 Regulations") which make provision for the conservation of salmon in Scotland. The purpose of the 2016 Regulations is to ensure that the killing of Atlantic salmon in Scotland is managed by assessing and categorising specified areas of inland water in relation to their conservation status.
17. Regulation 2 amends the 2016 Regulations by substituting schedule 2 of the 2016 Regulations to reflect the most recent stock assessment for the 2024 salmon fishing season.
18. [The revised schedule 2 introduced by the 2023 regulations is included on page 2 of the instrument.](#)

Policy objectives

19. The policy note explains that the 2016 Regulations prohibit the retention of Atlantic salmon caught in any coastal waters in a salmon fishery district and in specified areas of inland waters. In addition, Ministers may agree a conservation plan with the local district salmon fishery board or salmon fishery proprietors, particularly in [Special Areas of Conservation](#) (SACs) where stocks have been identified as being in poor conservation status.

20. The 2016 Regulations also place 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. This assessment is carried out annually. Where an area of inland waters includes a SAC, the Scottish Ministers must have regard to the conservation objectives of the SAC when carrying out their assessment. The stated purpose of the assessment is to determine whether killing of salmon is sustainable in the area in question. The assessment process entails the collation of information on population levels of salmon in each assessment area based on rod catch statistics and other data including information from in-river fish counters.
21. The policy note highlights that since the introduction of the 2016 Regulations, Marine Directorate (formerly Marine Scotland) has engaged with the sector to develop and improve the annual conservation assessment process and the robustness of the data used in the assessment. The policy note further states that following scrutiny of the Regulations in 2018 by the Scottish Parliament's Environment, Climate Change and Land Reform Committee, the Scottish Government agreed that no significant changes would be made to the underlying assessment model for a period of at least three years, to provide stability and certainty to the sector. The policy note also highlights that each annual assessment is based on the most recently available data from submitted catch returns and the fish counter network.

Scottish salmon and sea trout fishery statistics 2022

22. [The Scottish salmon and sea trout fishery statistics 2022](#) summarises the salmon and sea trout fishery statistics, based on returns from proprietors, occupiers and agents of fisheries throughout Scotland, for the 2022 fishing season. These statistics are part of a time series which began in 1952 and are collected and collated by the Marine Directorate. The data helps to inform salmon conservation policy. Key points from the summary are set out below –
- Overall, the number of Atlantic salmon caught by Scottish fisheries in 2022 was greater than the previous year.
 - The total reported rod catch of wild salmon for 2022 is 42,204, the fourth lowest since 1952. This is an increase of 16% compared to 2021, and 96% of the previous five-year average.
 - Catch and release in 2022 accounted for 97% of the total rod catch and 99% of the rod caught spring multi sea-winter fish (taken before 1 May).
 - Reported spring catch in 2022 increased by 52% on the coronavirus (COVID-19) affected 2021 season and was 122% of the previous five-year average.
 - Reported retained catch for the net fisheries was among the lowest recorded since 1952. Released net caught fish were reported for the first time in 2021.
 - A total of 17 fish were reported as being of farmed origin, representing 0.04% of the total Scottish catch, by all methods, in 2022.

Consultation

23. To comply with the requirements set out in the 2003 Act, the Scottish Ministers consulted with such persons they considered appropriate and have given notice of the general effect of their proposals by way of an advertisement in three national newspapers. The consultation period ran from 9 August to 8 September 2023.

24. [A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website.](#)

25. With regards to the consultation, the policy note states that –

“As a result of that consultation, a total of 37 written representations were received from individuals and organisations including angling clubs, district salmon fishery boards (DSFBs), and fishery owners. These covered a range of issues, including questioning the assessment approach and methodology. Several of those responding have made similar representations in previous years. Recurring issues or themes raised in the comments also included a number of people commenting on issues relating to the accuracy or otherwise of catch returns submitted by anglers, predation by seals or piscivorous birds or to wider pressures impacting salmon stocks including climate change. Representations that raised issues relating to the proposed river gradings have been considered in finalising the draft Amendment Regulations. Marine Directorate has responded to one substantive submission received, with a view to answering the specific points made.”

26. The policy note highlights that as a result of the representation received, one proposed grading was raised from Grade 2 to Grade 1, for the River Beauuly, although this change did not affect the Regulations as proposed.

27. The river grade determines the management which is required, as set out by Marine Scotland. This advice is as follows:

- Grade 1: Exploitation is sustainable. No additional management action is currently required.
- Grade 2: Catch and release should be promoted strongly to reduce exploitation.
- Grade 3: Catch and release is mandatory as exploitation is unsustainable

28. The table below summarises the changes to river gradings between 2019 and 2024.

Category	2019	2020	2021	2022	2023	2024 (Proposed)
1	48	36	36	37	29	31
2	30	34	35	35	31	30
3	95	103	102	101	113	112

29. [Further information on the annual assessment process and the river grading system is available on the Scottish Government's website.](#)
30. [SPICe has also published a blog on the conservation status of Scotland's salmon rivers.](#)

EU alignment consideration

31. With respect to EU alignment considerations, the policy note states that the 2023 Regulations aligns with the EU Habitats Directive by continuing to prohibit the retention of Atlantic salmon caught in any coastal waters in a salmon fishery district and in specified areas of inland waters.

Impact Assessment and financial effects

32. [A Business and Regulatory Impact Assessment](#) has been completed. The policy note states that the impact of this policy on business is minimal, as the measures will restrict fishing to a catch and release regime in many areas of Scotland.

Consideration by the Delegated Powers and Law Reform Committee

33. [The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 19 December 2023 and agreed that no points arose.](#)

Bovine Semen (Scotland) Amendment Regulations 2023

Title of Instrument:	Bovine Semen (Scotland) Amendment Regulations 2023
Type of Instrument:	Negative
Laid date:	8 December 2023
Reporting deadline:	29 January 2024
Coming into force:	2 February 2024
Instrument drawn to Parliament's attention by DPLRC:	No
Instrument made using powers conferred by:	The Animal Health and Welfare Act 1984
Supporting documentation:	Policy note attached Annexe C

Purpose of the instrument

34. The purpose of the instrument is to amend the Bovine Semen Regulations 2007 which make provision for the collection, processing and storage of bovine semen.

35. The policy note summarises the amendments made by the 2023 regulations as follows—

- to remove the requirement for teaser animals to be approved by the Scottish Ministers when used to assist in the collection of bovine semen at unlicensed premises; and
- to allow for bovine semen collected at unlicensed premises, domestic collection centres or equivalent places in other parts of the United Kingdom to be processed at unlicensed processing premises in specified circumstances.

36. The instrument would also make other changes to the 2007 Regulations to provide clarification or correct terminology in relation to existing requirements.

Policy objectives

37. The 2007 Regulations established two regimes for the collection, processing and storage of bovine semen: one by which semen could be collected and

processed for trade with member states of the European Union; and one by which semen could be collected and processed for use in the UK. The 2007 Regulations were amended by [S.S.I. 2019/71](#) to reflect that the UK is no longer a member of the European Union. As amended, the 2007 Regulations continue to distinguish between bovine semen for trade with member states of the European Union and bovine semen for use in the UK. The policy note clarifies that the main objective of the instrument is largely achieved by the amendment of the rules in the 2007 Regulations regarding bovine semen collected or processed for *domestic* trade and do not involve substantive amendment of the regime regarding semen collected and processed for trade with member states of the European Union.

38. The policy note further clarifies that only minor amendments, for the purpose of providing clarification or correcting terminology, are made to provisions relevant to the regime for bovine semen intended for trade with member states of the European Union.

Use of teaser animal

39. A teaser bull is a term describing a bull whose reproductive system has been surgically altered to render him sterile. The purpose of such bulls is to aid in detection of cows in estrus to facilitate when to artificially inseminate.
40. Regulation 21 of the 2007 Regulations currently provides that no person may use a teaser animal to assist in the collection of bovine semen unless it is approved for that purpose by the Scottish Ministers.
41. The policy note explains that the instrument amends that requirement to remove the need for approval of a teaser animal insofar as it is used to assist in the collection of bovine semen at unlicensed premises. This change also means that the testing regime under the 2007 Regulations for teaser and donor animals will no longer apply to teaser animals used on unlicensed premises.
42. According to the policy note, such approval and testing of teaser animals is considered to be an unnecessary burden, given that the teaser animal is likely to be part of the herd on the farm at which collection takes place.

Unlicensed processing premises

43. The policy note defines “processing” as any of the following: diluting, adding a substance with the intention of prolonging the life of the semen, adding an antibiotic, packing into straws or other receptacles, and freezing.
44. Regulation 24 of the 2007 Regulations currently provides that bovine semen may only be processed at a licensed collection centre or a domestic collection centre.
45. The instrument amends regulation 24 of the 2007 Regulations to allow for processing of bovine semen at unlicensed processing premises but only when certain conditions are satisfied. The semen must not be intended for trade with a member state of the European Union. The semen must have been collected at unlicensed premises, a domestic collection centre or equivalent premises in

another part of the UK. The semen must also be processed under supervision of the centre veterinarian of a licensed collection centre or a veterinary surgeon approved by the Scottish Ministers.

46. The instrument makes various other amendments in connection with the amendment to regulation 24 to allow processing of bovine semen at unlicensed processing premises. The policy note clarifies that “unlicensed premises” and “unlicensed processing premises” are different places, meaning that semen collected at unlicensed premises must be moved to unlicensed processing premises for processing if it is not moved to a collection centre (or equivalent premises in another part of the UK).
47. The policy note states that the processing of bovine semen at unlicensed processing premises is considered appropriate when supervision is undertaken by a suitably experienced veterinarian. Bovine semen cannot currently be processed in Scotland because there are no licensed collection centres or domestic collection centres in Scotland. According to the policy note, the amendments will enable processing of bovine semen in Scotland in the absence of any licensed collection centres or domestic collection centres.
48. As processing of bovine semen at unlicensed processing premises will only be possible in relation to semen which is not intended for trade with a member state of the European Union, and the rules about the origin of semen processed at licensed collection centres remain unchanged, there will be no implications for trade with European Union.

Other amendments

49. Regulation 28 of the 2007 Regulations provides that no person may supply frozen semen or use it in artificial insemination unless it has been stored at a licensed storage centre, a domestic storage centre or equivalent premises in another part of the UK. The instrument amends regulation 28 to clarify that the frozen semen need not be stored in such a place immediately before it is supplied as frozen semen or used in artificial insemination; it must have been *previously* stored at such a place.
50. Schedules 3 and 5 of the 2007 Regulations respectively set out the duties of centre veterinarians at licensed collection centres and domestic collection centres. Paragraph 2 of Part 1 of both of those schedules requires centre veterinarians to mark “each individual dose” of bovine semen collected at the centre with specified information. Part 3 (concerned with processing of bovine semen) of both of those schedules contains a duty to mark “each individual dose” of bovine semen processed in the centre with the same specified information as required under Part 1. According to the policy note, the reference to “each individual dose” in Part 1 of both of schedules 3 and 5 is considered to be problematic because packing of semen into individual doses of semen would amount to processing of semen.
51. The instrument amends paragraph 2 of Part 1 of both schedules 3 and 5 to provide that each individual “collection” of semen collected at the centre is marked with the specified information. This, according to the policy note, will

clarify that semen must be marked with the specified information upon collection and achieve alignment with current EU law, which expressly requires that all packages of semen, regardless of whether split into doses, are stored in such a way that the required information can be readily established.

EU alignment consideration

52. The policy note clarifies that the instrument is primarily concerned with changes to the regime under the 2007 Regulations regarding bovine semen collected and processed for domestic trade, which is not regulated by EU law. The current law of the European Union regarding the collection, processing and storage of bovine semen, found in Commission Delegated Regulation (EU) 2020/686, sets out rules regarding trade between member states of the European Union.

53. The policy note states that where the instrument makes changes to rules relevant to bovine semen collected and processed for trade with member states of the European Union, they are minor in nature and are consistent with Regulation (EU) 2020/686. Otherwise, the instrument is not relevant to the Scottish Government's policy to maintain alignment with the law of the European Union.

Consultation

54. The policy note sets out the bodies consulted by the Scottish Government, which includes—

- Scottish Dairy Cattle Association,
- Scottish Dairy,
- British Cattle Veterinary Association,
- NFU Scotland,
- Redpath Farms,
- AB Europe,
- Scottish Beef Association.

55. The consultation took place for three weeks from 14 July 2023 to 4 August 2023, seeking views from the above stakeholders on the two main objectives of the instrument and the amendments to regulation 28 of the 2007 Regulations. According to the policy note the consultation in relation to the amendments to Part 1 of schedule 3 (records of enzootic bovine leukosis and marking of semen doses) and Part 1 of schedule 5 (records of enzootic bovine leukosis and marking of semen doses) of the 2007 Regulations was not considered necessary.

56. The policy note states that there were two responses, one of which referred to a proposal for amendment with which the Scottish Government has since chosen not to proceed. The other response was positive about the proposals and agreed that the regulations should be updated.

Impact assessment and financial effects

57. A Business and Regulatory Impact Assessment (BRIA) has been completed and

the policy note highlights that the main impacts on business are to allow bovine semen to be processed at unlicensed processing premises, thereby avoiding the need for semen to be sent for processing in other parts of the UK, and to allow use of teaser animals at unlicensed processing premises, thereby avoiding the need for the testing of such animals that is associated with the approval process. According to the policy note, these changes have the potential to reduce costs for farmers and other operators.

Consideration by the Delegated Powers and Law Reform Committee

58. [The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 19 December 2023 and agreed that no points arose.](#)

For decision

59. The Committee is invited to consider any issues that it wishes to raise in relation to these instruments.

**Rural Affairs and Islands Committee clerks
January 2024**

Policy Note

The Meat Preparations (Import Conditions) (Scotland) Regulations 2023

SSI 2023/367

1. The above instrument is made in exercise of the powers conferred by paragraph 10A(1) of schedule 2 of the Trade in Animals and Related Products (Scotland) Regulations 2012 and all other powers enabling the Scottish Ministers to do so.
2. The instrument is subject to negative procedure.

Purpose of the instrument

3. To allow import of meat preparations which have not been deep frozen from EEA states to continue from 31 January 2024 until 29 April 2024, in line with the UK Government and the Welsh Government.

EU Alignment Consideration

4. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU because it concerns transitional measures regarding sanitary controls on goods entering Great Britain from the EEA following Great Britain no longer being part of the EU's internal market. These measures will not create any barriers to re-entry to the European Union.

Policy Objectives

5. These Regulations amend Commission Decision 2000/572/EC laying down the animal and public health and veterinary certification conditions for imports of meat preparations from third countries.
6. Commission Decision 2000/572 is retained direct minor EU legislation and contains import conditions, made under Article 8(4) of Council Directive 2002/99/EC, requiring imports of meat preparations from a third country to have been deep frozen at the plant of origin. The Animals, Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020, originally made an amendment to Commission Decision 2000/572 meaning that fresh meat preparations would continue to be able to be imported from territories subject to transitional import arrangements until 1 April 2021. Countries subject to special transitional provisions are Members of the European Economic Area (EEA), the Faroe Islands, Greenland and Switzerland. Without this amendment all meat preparations from these specified territories would need to be frozen at the plant of origin prior to import.

7. Having regard to the animal health situation in those countries and territories as mentioned above, it was not considered necessary to impose that import condition and as such Commission Decision 2000/572 was first amended by the Meat Preparations (Import Conditions) (Scotland) Amendment Regulations 2021¹ to provide that the import condition that meat preparations have been deep frozen at the production plant or plants of origin were not to apply, where the production plant or plants of origin are in one of those territories, firstly until 30 September 2021. This derogation was subsequently further extended by the following instruments:

- The Meat Preparations (Import Conditions) (Scotland) Amendment (No. 2) Regulations 2021²;
- The Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021³;
- The Meat Preparations (Import Conditions) (Scotland) Amendment Regulations 2022⁴
- The Official Controls and Import Conditions (Transitional Periods) (Miscellaneous Amendment) (Scotland) Regulations 2022⁵
- Having continued regard to the animal health situation in those countries and territories, these Regulations further extend the derogation, in order to permit the import of fresh meat preparations from those countries and territories to continue in Scotland from 1 February 2024 to 29 April 2024. Similar provision is being made by the UK and Welsh Government with respect to imports of fresh meat preparations into England and Wales.

Consultation

8. Scottish Government officials continue to be in discussions with the UK Government and Welsh Government on the wider long-term position regarding all Prohibited & Restricted goods for imports, as well as those which apply to export, and a short consultation was held on extending this derogation in line with the extension of the transitional staging period.

Impact Assessments

9. Full impact assessments have not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. There is expected to be no impact on business, charities or voluntary bodies.

Financial Effects

10. The Minister for Energy and the Environment confirms that no BRIA is necessary, as the instrument has no financial effects on the Scottish Government, local government or on business.

¹ S.S.I. 2021/161

² S.S.I. 2021/288

³ S.S.I. 2021/432

⁴ S.S.I. 2022/193

⁵ S.S.I. 2022/371

Policy Note

The Conservation of Salmon (Scotland) Amendment Regulations 2023

SSI 2023/372

1. The above instrument is to be made in exercise of powers conferred by section 38(1) and 6(b) and (c) and paragraphs 7(b) and 14(1) of schedule 1 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003. The instrument is subject to negative procedure.

Summary

2. The Conservation of Salmon (Scotland) Amendment Regulations 2023 amend the Conservation of Salmon (Scotland) Regulations 2016 (“the 2016 Regulations”) which make provision for the conservation of salmon in Scotland. Regulation 2 amends the 2016 Regulations by substituting schedule 2 of the 2016 Regulations. The purpose of the current Regulations is to amend the 2016 Regulations to reflect the most recent stock assessment for the 2024 salmon fishing season.

Policy Objectives

3. The North Atlantic Salmon Conservation Organisation (NASCO) 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). Salmon continue to face many pressures in the marine, coastal and freshwater environment and there is an ongoing need to ensure and to demonstrate that any killing of wild salmon in Scottish waters is sustainable. In addition, greater protection of stocks will help to maximise the socio-economic benefits that flow from them.
4. The Conservation of Salmon (Scotland) Amendment Regulations 2023 amend the 2016 Regulations which make provision for the conservation of salmon in Scotland. The purpose of the 2016 Regulations is to ensure that the killing of Atlantic salmon in Scotland is managed by assessing and categorising specified areas of inland water in relation to their conservation status. The 2016 Regulations prohibit the retention of Atlantic salmon caught in any coastal waters in a salmon fishery district and in specified areas of inland waters. In addition, Ministers may agree a conservation plan with the local district salmon fishery board or salmon fishery proprietors, particularly in Special Areas of Conservation (SACs) where stocks have been identified as being in poor conservation status.
5. The 2016 Regulations placed 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. This assessment is carried out annually. Where an area of inland waters includes a SAC, the Scottish Ministers must have regard to the conservation objectives of the SAC when carrying out their assessment. The purpose of the assessment is to determine whether killing of salmon is sustainable in the area in question. The assessment process entails the collation of information on population levels of salmon in each assessment area based on rod catch statistics and other data including information from in-river fish counters.

6. Since the introduction of the 2016 Regulations, Marine Directorate (formerly Marine Scotland) has engaged with the sector to develop and improve the annual conservation assessment process and the robustness of the data used in the assessment. Following scrutiny of the Regulations in 2018 by Scottish Parliament's Environment, Climate Change and Land Reform Committee, the Scottish Government agreed that no significant changes would be made to the underlying assessment model for a period of at least three years, to provide stability and certainty to the sector. Each annual assessment is, however, based on the most recently available data from submitted catch returns and the fish counter network.

EU Alignment Consideration

7. Atlantic salmon is a protected species under the EU Habitats Directive (Council Directive 92/43/EEC). Following the UK's withdrawal from the European Union, the Habitats Directive became a part of retained EU law applicable in the UK.
8. The Conservation of Salmon (Scotland) Amendment Regulations 2023 aligns with the EU Habitats Directive by continuing to prohibit the retention of Atlantic salmon caught in any coastal waters in a salmon fishery district and in specified areas of inland waters. This maintains and advances the high standards that Scotland shares with the EU on environmental protection.
9. Section 38(1) of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 ("the 2003 Act") enables the Scottish Ministers to make regulations considered necessary or expedient for the conservation of salmon. The Conservation of Salmon (Scotland) Regulations 2016 were made in February 2016 and came into force on 31 March 2016. Subsequent Amendment Regulations, reflecting developments in the assessment process and the outcomes of the annual assessment, came into force on 1 April in each year since 2016. The purpose of the current Regulations is to amend the 2016 Regulations to reflect the most recent stock assessment for the 2024 fishing season.
10. The Conservation of Salmon (Scotland) Amendment Regulations 2023 amend the 2016 Regulations. Regulation 2 amends the 2016 Regulations by substituting schedule 2 of the 2016 Regulations. Schedule 2 describes the areas of inland waters where there is a prohibition on the retention of any salmon caught.

Consultation

11. To comply with the requirements of paragraphs 10 and 11 of schedule 1 of the 2003 Act, the Scottish Ministers have consulted with such persons they considered appropriate and have given notice of the general effect of their proposals by way of an advertisement in three national newspapers. The consultation period ran from 9 August to 8 September 2023.
12. As a result of that consultation, a total of 37 written representations were received from individuals and organisations including angling clubs, district salmon fishery boards (DSFBs), and fishery owners. These covered a range of issues, including questioning the assessment approach and methodology. Several of those responding have made similar representations in previous years. Recurring issues or themes raised in the comments also included a number of people commenting on issues relating to the accuracy or otherwise of catch returns submitted by anglers, predation by seals or piscivorous birds or to wider pressures impacting salmon stocks including climate change. Representations that raised issues relating to the proposed river gradings have been considered in finalising the draft Amendment Regulations. Marine Directorate has responded to one substantive submission received, with a view to answering the specific points made. Additionally, an outcome report answering the general points raised across all other representations has been produced.
13. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website.
14. As a result of the substantive representation received, one proposed grading was raised from Grade 2 to Grade 1, for the River Beauly, although this change did not affect the Regulations as proposed.

Impact Assessments

15. A Business and Regulatory Impact Assessment (BRIA); Island Communities Impact Assessment (ICIA); and Data Protection Impact Assessment (DPIA) have been completed on the amendment regulations and the BRIA has been attached to these regulations. An Equality Impact Assessment (EQIA) has not been completed for these Amending Regulations as they do not impact on specific protected characteristics set out in the Equalities legislation. All individuals are still permitted to fish for salmon, it is only the retention of salmon which has been prohibited in certain inland waters.
16. A new Strategic Environmental Assessment (SEA) has not been completed in implementing these Amending Regulations as one was conducted in April 2015, when the Conservation Regulations were first implemented. However, these regulations continue to align with the following environmental principles:
 - a. protecting the environment should be integrated into the making of policies
 - b. the precautionary principle as it relates to the environment; and
 - c. preventative action should be taken to avert environmental damage.

Financial effects

17. A **Business and Regulatory Impact Assessment (BRIA)** has been completed and is attached. The impact of this policy on business is minimal, as the measures will restrict fishing to a catch and release regime in many areas of Scotland.

**Marine
Directorate
December 2023**

Policy Note

The Bovine Semen (Scotland) Amendment Regulations 2023

SSI 2023/370

1. The above instrument was made in exercise of the powers conferred by section 10(1) and (2) of the Animal Health and Welfare Act 1984. The instrument is subject to negative procedure.

Summary

2. The instrument amends the Bovine Semen Regulations 2007 (“the 2007 Regulations”) which make provision for the collection, processing, and storage of bovine semen. The main objectives of the instrument are as follows:
 - to remove the requirement for teaser animals to be approved by the Scottish Ministers when used to assist in the collection of bovine semen at unlicensed premises,
 - to allow for bovine semen collected at unlicensed premises, domestic collection centres or equivalent places in other parts of the United Kingdom to be processed at unlicensed processing premises in specified circumstances.
3. The instrument makes other changes to the 2007 Regulations to provide clarification or correct terminology in relation to existing requirements.

Policy Objectives

Overview

4. The 2007 Regulations established two regimes for the collection, processing and storage of bovine semen: one by which semen could be collected and processed for trade with member states of the European Union; and one by which semen could be collected and processed for use in the UK. The 2007 Regulations were amended by S.S.I. 2019/71 to reflect that the UK is no longer a member of the European Union. As amended, the 2007 Regulations continue to distinguish between bovine semen for trade with member states of the European Union and bovine semen for use in the UK.
5. The main objectives of the instrument are largely achieved by amendment of rules in the 2007 Regulations regarding bovine semen collected or processed for domestic trade and do not involve substantive amendment of the regime regarding semen collected and processed for trade with member states of the European Union. Only minor amendments, for the purpose of providing

clarification or correcting terminology, are made to provisions relevant to the regime for bovine semen intended for trade with member states of the European Union.

6. Under the 2007 Regulations, bovine semen may be collected at unlicensed premises (e.g. on a farm), licensed collected centres or domestic collection centres. A licensed collection centre is a place licensed for the collection, processing and quarantine of bovine semen intended for trade with a member state of the European Union. A domestic collection centre is a place licensed for the collection, processing and quarantine of bovine semen not intended for trade with a member state of the European Union.

Use of teaser animals

7. Regulation 21 of the 2007 Regulations currently provides that no person may use a teaser animal to assist in the collection of bovine semen unless it is approved for that purpose by the Scottish Ministers. The instrument amends that requirement to remove the need for approval of a teaser animal insofar as it is used to assist in the collection of bovine semen at unlicensed premises. This change also means that the testing regime under the 2007 Regulations for teaser and donor animals will no longer apply to teaser animals used on unlicensed premises. Such approval and testing of teaser animals is considered to be an unnecessary burden, given that the teaser animal is likely to be part of the herd on the farm at which collection takes place. This change was requested by a stakeholder.

Unlicensed processing premises

8. "Processing" means any of the following: diluting, adding a substance with the intention of prolonging the life of the semen, adding an antibiotic, packing into straws or other receptacles, and freezing. Regulation 24 of the 2007 Regulations currently provides that bovine semen may only be processed at a licensed collection centre or a domestic collection centre.
9. The instrument amends regulation 24 of the 2007 Regulations to allow for processing of bovine semen at unlicensed processing premises but only when certain conditions are satisfied. The semen must not be intended for trade with a member state of the European Union. The semen must have been collected at unlicensed premises, a domestic collection centre or equivalent premises in another part of the UK. The semen must be processed under supervision of the centre veterinarian of a licensed collection centre or a veterinary surgeon approved by the Scottish Ministers.
10. The instrument makes various other amendments in connection with the amendment to regulation 24 to allow processing of bovine semen at unlicensed processing premises. "Unlicensed premises" and "unlicensed processing premises" are different places, meaning that semen collected at unlicensed premises must be moved to unlicensed processing premises for processing if it is not moved to a collection centre (or equivalent premises in another part of the

UK).

11. Processing of bovine semen at unlicensed processing premises is considered appropriate when supervision is undertaken by a suitably experienced veterinarian. Bovine semen cannot currently be processed in Scotland because there are no licensed collection centres or domestic collection centres in Scotland. The amendments will enable processing of bovine semen in Scotland in the absence of any licensed collection centres or domestic collection centres. As processing of bovine semen at unlicensed processing premises will only be possible in relation to semen which is not intended for trade with a member state of the European Union, and the rules about the origin of semen processed at licensed collection centres remain unchanged, there will be no implications for trade with European Union. A stakeholder requested that processing at unlicensed processing premises be allowed.

Other amendments

12. Regulation 28 of the 2007 Regulations provides that no person may supply frozen semen or use it in artificial insemination unless it has been stored at a licensed storage centre, a domestic storage centre or equivalent premises in another part of the UK. The instrument amends regulation 28 to clarify that the frozen semen need not be stored in such a place immediately before it is supplied as frozen semen or used in artificial insemination; it must have been *previously* stored at such a place. This amendment has been requested by a stakeholder.
13. Schedules 3 and 5 of the 2007 Regulations respectively set out the duties of centre veterinarians at licensed collection centres and domestic collection centres. Paragraph 2 of Part 1 of both of those schedules requires centre veterinarians to mark “each individual dose” of bovine semen collected at the centre with specified information. Part 3 (concerned with processing of bovine semen) of both of those schedules contains a duty to mark “each individual dose” of bovine semen processed in the centre with the same specified information as required under Part 1. The reference to “each individual dose” in Part 1 of both of schedules 3 and 5 is considered to be problematic because packing of semen into individual doses of semen would amount to processing of semen.
14. The instrument amends paragraph 2 of Part 1 of both schedules 3 and 5 to provide that each individual “collection” of semen collected at the centre is marked with the specified information. This will clarify that semen must be marked with the specified information upon collection and achieve alignment with current EU law, which expressly requires that all packages of semen, regardless of whether split into doses, are stored in such a way that the required information can be readily established.

EU Alignment Consideration

15. The instrument is primarily concerned with changes to the regime under the 2007 Regulations regarding bovine semen collected and processed for domestic trade, which is not regulated by EU law. The current law of the European Union regarding the collection, processing and storage of bovine semen, found in Commission Delegated Regulation (EU) 2020/686, sets out rules regarding trade between member states of the European Union.

16. Where the instrument makes changes to rules relevant to bovine semen collected and processed for trade with member states of the European Union, they are minor in nature and are consistent with Regulation (EU) 2020/686. Otherwise, the instrument is not relevant to the Scottish Government's policy to maintain alignment with the law of the European Union.

Statement required by the European Union (Withdrawal) Act 2018 - why the Scottish Ministers consider that there are good reasons for the amendment of regulations made under section 2(2) of the European Communities Act 1972

17. The Cabinet Secretary for Rural Affairs, Land Reform and Islands has made the following statement under paragraph 16(2) of schedule 8 of the European Union (Withdrawal) Act 2018:

18. "Regulation 14 of the Bovine Semen (Scotland) Amendment Regulations 2023 ("the instrument") amends Part 1 and Part 3 of schedule 3 of the Bovine Semen (Scotland) Regulations 2007 ("the 2007 Regulations"). In my view there are good reasons for the amendments made by the instrument to Part 1 and Part 3 of schedule 3 of the 2007 Regulations.

19. Part 1 of schedule 3 of the 2007 Regulations sets out the duties of centre veterinarians in licensed collection centres regarding marking of bovine semen. Paragraph 2 of Part 1 of schedule 3 of the 2007 Regulations currently provides that the centre veterinarian must ensure that each individual *dose* of semen collected at the centre is clearly marked in such a way that certain specified information can be readily established. Regulation 14 of the instrument amends paragraph 2 of Part 1 of schedule 3 of the 2007 Regulations so that the centre veterinarian is required to mark each individual *collection* of semen collected at the centre. A "collection" means a quantity of semen taken from a donor at any time. Regulation 14 of the instrument also amends the heading of Part 1 of schedule 3 of the 2007 Regulations.

20. I consider the amendments to Part 1 of schedule 3 of the 2007 Regulations to be appropriate in order to clarify that semen must be marked with the specified information upon collection and thereby ensure alignment with EU law regarding the marking of semen in licensed collection centres. Regulation 14 amends paragraph 2(b) of Part 3 of schedule 3 of the 2007 Regulations in consequence of an amendment to paragraph 1 of schedule 7 of the 2007 Regulations by regulation 16(a) of the instrument, which I also consider to be appropriate."

Consultation

21. The Scottish Government consulted with the following bodies:

- Scottish Dairy Cattle Association,
- Scottish Dairy,
- British Cattle Veterinary Association,
- NFU Scotland,

- Redpath Farms,
- AB Europe,
- Scottish Beef Association.

22. The initial consultation took place for three weeks from 14 July 2023 to 4 August 2023, seeking views from the above stakeholders on the two main objectives of the instrument and the amendments to regulation 28 of the 2007 Regulations. Consultation in relation to the amendments to Part 1 of schedule 3 and Part 1 of schedule 5 of the 2007 Regulations was not considered necessary.

23. As a result of that consultation, there were two responses, one of which referred to a proposal for amendment with which the Scottish Government has since chosen not to proceed. The other response was positive about the proposals and agreed that the regulations should be updated.

Impact Assessments

24. A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached.

Financial Effects

25. A BRIA has been completed and is attached. The main impacts on business are to allow bovine semen to be processed at unlicensed processing premises, thereby avoiding the need for semen to be sent for processing in other parts of the UK, and to allow use of teaser animals at unlicensed processing premises, thereby avoiding the need for the testing of such animals that is associated with the approval process. These changes have the potential to reduce costs for farmers and other operators.

Scottish Government
Agriculture and Rural Economy Directorate
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