

# **Partial Business and Regulatory Impact Assessment**

## **The Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2023**

June 2023

# Partial Business and Regulatory Impact Assessment (to be updated after consultation)

## Title of Proposal

The Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2023

## Background

In response to the International Council for Exploration of the Sea (ICES) advice on the poor state of cod stocks in ICES Division 6a (west of Scotland), the European Union (EU) introduced a number of temporary closures in 2000 and 2001 to protect adult cod during the spawning season in both the Irish Sea and the Firth of Clyde.

Since 2002, the decision to implement the closure in the Firth of Clyde has rested with the Scottish Government and during this time a closure has been in place each year by means of either an annual or biennial Scottish Statutory Instrument (SSI).

Between 2002 and 2021, the SSI included exemptions to allow *Nephrops* trawlers, creels and scallop dredgers to continue to use the area due to the low numbers of cod that they catch. Despite the ongoing seasonal closure, the stock has shown little sign of recovery. Therefore, the Sea Fish (Prohibition on Fishing) (Firth of Clyde) (No. 2) Order 2022 came into force on 12 February 2022 and ran until 30 April 2023 to continue the spawning closure for 2022 and 2023 without any exemptions.

This Order maximised protection for cod in the closed area by minimising the potential disturbance caused by fishing activity. The adoption of these additional measures created consistency with management in other areas, including the UK National North Sea Cod Avoidance Plan, which covers closure areas for all gear types (excluding pelagic which do not fish close to the seabed). The complete closure is also in line with the commitments set out in the Bute House Agreement between the Scottish Government and the Scottish Greens and our shared aim to restore marine habitats in Scotland's inshore waters.

## Objective and Rationale

To protect cod in two specified areas of the Firth of Clyde from being fished or disturbed during the spawning period on a recognised spawning ground.

We wish to sustain appropriate measures that meet as far as possible the following aims:

- a. to offer effective protection to the local spawning cod stock, as a contribution to the wider recovery of cod stocks;

- b. to complement, as far as possible, other west of Scotland cod recovery or other stock management measures;
- c. and to ensure the seasonal closure is in line with other management measures in Scottish waters, including the National Cod Avoidance Plan.

Since 2001, a specific area (consisting of two spawning areas) in the Firth of Clyde has been closed to fishing each year, during the spawning period, between 14 February and 30 April (the closure period) in order to protect spawning cod. Since 2002, the Scottish Government has had responsibility for the closure which has been implemented on an annual or biennial basis via a Scottish Statutory Instrument (SSI). In 2022, the measures were strengthened by removing previous exemptions and thus give the best possible chance for cod to spawn.

There is evidence to suggest that seabed disturbance may have an impact on spawning cod. Cod mate using a “lekking” system. Males take possession of seabed areas, which they protect from other males, and attract females by “grunting.” Males may also follow females through the water column to 10m above the seabed while mating. During this period, cod are focussed on mating and therefore are very vulnerable to fishing. If they are disturbed, they are unlikely to return and may not mate that year. It is this evidence which led to the strengthening of the closure in 2022 in order to maximise protection for the spawning cod.

Given the available evidence, and lack of recovery of cod in the area to date, the Scottish Government maintains the view that the strengthened closure offers increased protection to spawning cod at a crucial time in their life cycle.

This aligns with our Future Fisheries Management Strategy which makes a commitment to work with our stakeholders to deliver an ecosystem based approach to fisheries management, including considering additional protections for spawning and juvenile aggregation areas in Scottish waters.

By adopting this SSI the Scottish Government helps safeguard cod stocks for the future and contributes towards objectives under the National Performance Framework, in particular the National Outcome “*We value, enjoy, protect and enhance our environment*” and the National Indicator measuring the “*Sustainability of fish stocks*”.

## **Consultation**

### **Within Government**

In preparing the material for the consultation we have consulted with colleagues within Marine Scotland including science, nature conservation, fisheries management policy and compliance.

### **Public Consultation**

A 12 week public consultation is scheduled to take place between June and September 2023.

This section will be updated following public consultation.

### **Business**

Representatives of the fishers who would primarily be affected by the closure will be contacted as part of the public consultation. These businesses will be consulted in the development of the proposed legislation via their fisheries associations and through public consultation. In particular The Clyde Fishermen's Association, whose fishermen predominantly work in and around the area affected, will be consulted and we welcome their feedback.

This section will be updated following public consultation.

### **Options**

#### **Option 0 – Do nothing (closure lapses and is removed)**

This would allow all fishing activities to return to the closure area. Removing the closure provisions altogether would place the Clyde cod stock at unacceptable risk of further depletion, unless appropriate alternative measures were introduced in its place. Due to the risk of further stock depletion this is not a preferred option.

#### **Option 1 (preferred option) – Reinstate legislation to maintain closure as in 2022-23 (no exemptions)**

The status quo option is to maintain the closure that was in place for 2022 and 2023, with no fishing activity permitted in the restricted area during the closure (14<sup>th</sup> of February to 30<sup>th</sup> April). This would be a straight forward rollover of the 2022 legislation, including the revision to a more targeted area.

#### **Option 2 – Maintain closure but reinstate some or all exemptions**

This option would maintain some protection for spawning cod, but would allow certain fishing activity to resume within the closure area. Previously an exemption applied to Nephrops trawlers, creels and scallop dredgers to continue to use the area and so this could be reinstated. Previous engagement has suggested that industry and some NGOs would be supportive of some exemptions being reinstated. The creel sector were particularly critical of the removal of their exemption as this was considered to be a low impact fishing method. Despite the low impact, there is still some disturbance caused which is considered likely to impact upon spawning.

This is not the preferred option, as the Marine Scotland Compliance monitoring of catches and landings for 2022 and 2023 indicated very few spawning cod being caught in the surrounding open area suggesting that the closure is in the correct area for spawning, and in the absence of any additional evidence to suggest otherwise, it seems prudent to continue to maximise the protection for spawning cod without reintroducing exemptions. This gives the stock the best possible chance of spawning and therefore increasing in number. The impacts on industry are considered to be relatively small scale during the 11-week closure period.

### **Option 3 – Maintain closure and strengthen measures**

Increase restrictions either through expanded time period, area, or other measures. Whilst the existing measures are considered to be in the right place at the right time to protect spawning cod in the Clyde, the spawning closure is not sufficient on its own for the recovery or maintenance of a sustainable cod stock. Further measures may be introduced as wider Future Catching Policy work in future, however it is not for the Clyde cod spawning closure to implement this on a wider scale and thus is not a preferred option.

### **Option 4 – No closure but seek voluntary agreement to not fish during the spawning season**

Legally there would be no restrictions in place but the Scottish Government would seek voluntary agreement from local fishers to not fish during the spawning season.

### **Sectors and groups affected**

It is anticipated that the Scottish Government's preferred option to maintain the closure with no exemptions will primarily affect fishing vessels belonging to the Nephrops trawl fleet, the pots and traps fleet. In the case of the removal of the closure entirely, the whitefish trawl fleet would also be affected. Some impacts are expected on fish processing businesses and the supply chain for all options.

### **Benefits**

#### **Option 0 (do nothing)**

It is difficult to quantify the costs or benefits in Option 0 relative to the other options because the closure has been in effect every year since 2001. Prior to this time, fishing conditions were very different and direct comparison cannot be made. As a result it becomes challenging to compare and contrast the time before the closure and the present day to quantify the cost or benefit of not having the closure in place now. We are clear, however, that we have a responsibility to protect cod populations as suggested by the evidence.

Demersal and shellfish fishermen would be able to fish unhindered in the specified area all year round, avoiding any potential short-term cash-flow problems that might be caused by temporarily prohibiting activity in the Firth of Clyde.

#### **Option 1 (preferred option – maintain closure without exemptions)**

Prohibition of all fishing activity within targeted areas where the science suggests cod are most likely to spawn provides comprehensive protection to spawning areas, and therefore provides a much higher chance of stock recovery and future fishing opportunities. While spawning, cod are extremely vulnerable to fishing activity. They are focussed on mating, and the males are unwilling to leave their hard-won leks, so both sexes are less likely to try and evade oncoming fishing gear. Physical disturbance during mating will disrupt the activity and potentially destroy the lek areas, and cod so disturbed may not return (and therefore may not spawn that year). Prohibition of all fishing activity should significantly mitigate this risk. The closure has been shown to be broadly making progress towards delivering the objectives, evident by the positive compliance with the closure.

Maintaining the status quo for the next two years would ensure continued protection for cod without making any drastic changes that may undermine the wider work being undertaken with regards to changes occurring from the ICES cod benchmark and other marine enhancement measures in case this work may envelop the closure area. To change the closure again so quickly without any substantial new evidence to inform the policy would make it difficult to understand the impact of a strengthened closure on cod spawning and would not be consistent with the available evidence.

Prohibition of all fishing activity without exemption would create consistency with the management of other areas of Scottish waters, namely the UK National North Sea Cod Avoidance Plan, which includes closure areas for all gear types (excluding pelagic), and the recent emergency Marine Protected Area (MPA) designation in certain areas of the Inner Sound, where there is now a prohibition on bottom contact fishing activities including creeling, in order to protect the critically endangered flapper skate nursery area.

Measures to recover cod are expected to benefit demersal fisheries targeting other demersal fish by reducing the risk of fishery closures from choke species, with the West of Scotland whitefish landings valued at almost £25m in 2021<sup>1</sup>. Measures to help recover cod stocks, such as the current and proposed Firth of Clyde closure, are therefore important – as with other measures - to ensure fishermen are afforded adequate opportunities to fish other demersal species in the long term.

This option is expected to have the greatest impact on mitigating the impact on cod as well as allowing for their recovery. This will have subsequent benefits for other demersal fisheries which are impacted by the risk of cod acting as a choke species to the fishery as it will allow them to continue fishing without further risking stock collapse.

### **Option 2 (maintain closure, allowing exemptions)**

The closure protects spawning areas to some extent, and as such provides a higher chance of stock recovery and future fishing opportunities than a do-nothing approach. This will have subsequent benefits for other demersal fisheries which are impacted by the risk of cod acting as a choke species, although due to allowing some fishing activity the benefits are expected to be lower than Option 1.

Implementing the closure subject to the same exemptions as those implemented in the years prior to 2022 provides a degree of consistency that will help to avoid disruption to fishing patterns established since 2001, and will help ensure fishermen comply with the restrictions. This is evident in that there has been almost 100% compliance with the closure since its establishment in 2001.

Benefits to the Nephrops trawl and creel fishers would be the same as the costs expected for this fleet in Option 1 from re-gaining access to lost fishing grounds, as noted in the cost section below for Option 1 the latest estimate is a 4% drop in landings from the restriction.

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<sup>1</sup> [Scottish Sea Fisheries Statistics 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scottish-sea-fisheries-statistics-2021/pages/1-introduction.aspx)

### **Option 3 (maintain and strengthen closure)**

The closure, as in recent years, protects spawning areas to some extent, and as such provides a higher chance of stock recovery and future fishing opportunities. Continuing the closure whilst strengthening the measures would provide the cod with an ever better opportunity for recovery which would benefit both the ecosystem within the Clyde and the longer term sustainability of the fisheries in the area.

### **Option 4 (no legislated closure, seeking voluntary agreement)**

This ranges from no benefit for cod spawning to as much as expected in Option 1 depending on adherence. However, even a small number of vessels not adhering could result in significant loss of benefit and so any benefits from this option are tentative.

### **Summary of Benefits**

The costs and benefits laid out have not been monetised at this stage for the partial BRIA beyond a high level assessment. Sufficient data is not yet available to appropriately monetise the impacts: an in-depth assessment for the final BRIA is planned using provisional 2022 data which has just been published along with the latest 2023 data if suitable and available in time. This will allow a more complete picture of the impact given the multiple other factors such as Covid-19 recovery and the significant rise in fuel prices.

#### Option 0

- No further restrictions on fishers during this period preventing any cash-flow issues or displacement.

#### Option 1

- Strengthened protections for cod to improve stock size.
- Consistency in approach to cod protections.
- Improved resilience for the wider whitefish fleet against area closures.

#### Option 2

- Some protections for cod to improve stock size.
- Consistency in closure with previous years (prior to 2022) which gives more fishing opportunity.
- Some resilience for the wider whitefish fleet against area closures.

#### Option 3

- Strengthened protections for cod to improve stock size.
- Improved resilience for the wider whitefish fleet against area closures.

#### Option 4

- Possible increased protection to cod to improve stock size.
- Possible improved resilience for the wider whitefish fleet against area closures.

## Costs

### Option 0 (do nothing)

Under this option there is a potential environmental loss of an iconic and one of the highest value per tonne<sup>2</sup> fish species from the West of Scotland.

Not maintaining a closure in the Firth of Clyde could be deleterious to the cod stock, particularly given the likelihood of increased fishing pressure displaced by conservation measures in the Irish Sea. The most recent scientific advice from ICES for cod in ICES area 6a (west of Scotland)<sup>3</sup> – which includes the Firth of Clyde - shows that recruitment of cod has been very low since 2001. The current spawning stock biomass is extremely low and when the Maximum Sustainable Yield (MSY) approach is applied there should be zero catches during 2023 and 2024. New advice is due to be released by ICES in September. Regardless of the new advice, spawning areas will remain an important priority for stock management.

If the cod stocks become depleted further this would have long term financial costs to the fishing sector. Fishermen would be at high risk of losing this valuable resource altogether, as would the marine ecosystem. West of Scotland cod landed by Scottish vessels in 2021 had a value of £2.7m<sup>4</sup>, with the value per tonne being one of the highest for Scotland's main commercial species.

As restrictions were strengthened in 2022-23 removing these now would mean the impacts and possible benefits of a full closure will not be properly understood.

### Option 1 (preferred option – maintain closure without exemptions)

Given the size of the closure was reduced by 28% in 2022, the potential costs of this option are mitigated by the fact that the closure is more targeted, focusing on those sediment areas the spawning cod are known to prefer, and allowing fishers to continue to fish in areas of other sediment types. Nonetheless, there are potential costs for fishermen in prohibiting all fishing activity during the closure period in 2024 and 2025.

Between 2017 and 2020, there have been 67 distinct vessels that were recorded as fishing in the Clyde cod area during the restriction, of which 8 were under 10 metres. For 2021-2022, this figure had dropped to 54 vessels of which 7 were under 10 metres. While the VMS data has allowed an accurate count of fishing in the over 12m fleet, the data for the under 12m fleet fishing in the area may be less reliable due to its estimation from local fishery office interaction. As such there may be more under 12m vessels affected that we are unaware of.

While the value of landings from the Clyde cod area during the restricted period only represent around 5% of the total annual landing value between 2017-2021 of all species caught by vessels who utilised the exemption, on average around £642,000 of the £12.4 million landed for this fleet, it can have disproportionately large effect on a few vessels. For example, 4 of the 61 vessels in 2019 had landings from the Clyde

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<sup>2</sup> [Scottish Sea Fisheries Statistics 2021 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

<sup>3</sup> [Cod \(Gadus morhua\) in Division 6.a \(West of Scotland\) \(figshare.com\)](http://figshare.com)

<sup>4</sup> [Scottish Sea Fisheries Statistics 2021 - gov.scot \(www.gov.scot\)](http://www.gov.scot)



cod area that represented more than 25% of their annual catch value. However, the vessels that see a large share of their value coming from this area change year on year, with only 3 vessels seeing more than 10% of their value consistently come from this period in 2017-2019, and none seeing more than 20% of their value coming from this period in 2017-2019 (data excluding 2020 & 2021 due to Covid-19). This suggests that the impact from the restrictions may be through reduced flexibility in fishing patterns which will indirectly affect the fleet year to year depending on other external factors, rather than a direct and certain reduction to the revenues of specific vessels.

Noting the above caveat, provisional data from 2022 indicates landings for the fleet estimated to be affected by the removal of *Nephrops* exemptions saw an 18% decrease in 2022 compared with 2021. This is against a 14% decrease seen in the national *Nephrops* landings with decreases expected to be predominantly from increases in fuel price. This suggests a possible 4 percentage point decrease in landings due to loss of access by the fleet, however, this is only a single year's data while the fleet adjusts and landings remain below pre covid levels. As such the true long term figure may differ significantly from this.

While some vessels may be able to move into other grounds, some vessels may struggle to do so, particularly smaller vessels during this part of the year due to bad weather, and would compete for space with other established users on new grounds. This possible reduction in catch would then have knock on impacts on shore based businesses which could see less fish to process and less services needed by the fishing vessels. As whitefish trawling has not been permitted since 2001 it is unclear if these vessels would choose to use the ground and if this would improve their fishing productivity resulting in increased revenue, although, as these fisheries are normally restricted by quota it is unlikely landings would increase. However, as noted previously due to the length of the closure and the conditions at the time being significantly different this is very difficult to quantify.

The proposed closure area is within the wider ICES Division 6a, which for 2023 has a total allowable catch (TAC) of 1,210 tonnes and currently a 1 tonne bycatch limit and 5% or less of total catch per trip for cod.

This option would also entail some costs to the Scottish Government for compliance monitoring of the closure.

### **Option 2 (maintain closure, allowing exemptions)**

There are no additional short-term financial costs associated with implementing the closure on the same basis as years previous to 2022 (i.e. with exemptions to the closure for vessels fishing with a scallop dredge, a creel, or a trawl used for fishing for *Nephrops*) for a further 2 years. As whitefish trawling has not been permitted since 2001 it is unclear if these vessels would choose to use the ground and if this would improve their fishing productivity resulting in increased revenue, although, as these fisheries are normally restricted by quota it is unlikely that landings would increase. However, as noted previously due to the length of the closure and the conditions at the time being significantly different, this is very difficult to quantify.

The proposed closure area is within the wider ICES area 6a, which for 2023 has a total allowable catch (TAC) of 1,210 tonnes and currently a 1 tonne bycatch limit and 5% or less of total catch per trip for cod.

There are ecological costs – activity which causes disturbance within the spawning grounds is understood to have an impact on the spawning cod, by making spawning more difficult. This is likely to lead to a further depletion of the cod stock, which could negatively impact the fishing industry in the medium to long-term.

This option would also entail some costs to the Scottish Government for compliance monitoring of the closure.

### **Option 3 (maintain and strengthen the closure)**

There would be additional costs for industry to those discussed under maintaining the closure if additional measures were introduced, although it is difficult to assess the cost without identifying specific further measures. This would likely also entail further costs to the Scottish Government in terms of compliance measures.

### **Option 4 (no legislated closure, seeking voluntary agreement)**

This option would see the same costs in term of Scottish Government's compliance activities as to understand and measure adherence would necessitate compliance resources being allocated to this project. Voluntary reduction in fishing activity will cost fishers who adhere, but if not all fishers adhere there is a risk that no benefits are conferred to cod resulting in costs both to a subset of fishers and to the cod stock.

This option would likely have the same costs as option 1 only with lower benefits, with some costs from option 0 depending on voluntary compliance. As compliance checks would still have to be conducted to understand adherence but they would have no power to enforce the activity and thus would have no deterrence effect.

### **Summary of Costs**

The costs and benefits laid out have not been monetised at this stage for the partial BRIA beyond a high level assessment. Sufficient data is not yet available to appropriately monetise the impacts, an in depth assessment for the final BRIA is planned using provisional 2022 data which has just been published along with the latest 2023 data if suitable and available in time. This will allow a more complete picture of the impact given the multiple other factors such as Covid-19 recovery and the significant rise in fuel prices.

#### **Option 0**

- Further depletion and possible loss of iconic and valuable demersal species.
- Loss of future fishing opportunities both from loss of cod and possible ramifications from closing fisheries to protect remaining stocks.

#### **Option 1**

- Reduction in fishing due to removal of fishing grounds.
- Cost to onshore businesses as a result of less fish and Nephrops to process and transport.
- Cost to the Scottish Government in enforcing compliance.

#### Option 2

- Possible reduction in whitefish trawl fishing due to removal of fishing grounds.
- Possible costs to onshore businesses from less whitefish.
- Disturbance to Cod spawning resulting in slower or possibly no recovery.
- Cost to the Scottish Government in enforcing compliance.

#### Option 3

- Costs in addition to those in option 1 on the fishing fleet with likely further costs on Scottish Government compliance.

#### Option 4

- Risk of further depletion and possible loss of iconic and valuable demersal species.
- Cost to fishers for those voluntarily not fishing.

## **Regulatory And EU Alignment Impacts**

### **Intra-UK Trade Impacts**

There is not expected to be any impact on intra-UK trade as the market access for goods and services remain the same under all options, only impacting where and when fishing may take place affecting all fishers. Nor does this unduly affect fishers from other UK regions with most affected fishers being based in Scotland.

### **International Trade**

There will be no impact on international trade into and out of Scotland from the implementation of the Clyde cod spawning closure.

### **International Standards**

Given this is a domestic policy, the measure is unlikely to impact on international standards.

### **EU Alignment**

Given this is a domestic policy, the measure is unlikely to impact on the Scottish Government's policy to maintain alignment with the EU. This was previously an EU policy, and there continues to be a linked closure in the Irish Sea.

### **Scottish Firms Impact Test**

All fishing vessels affected can be considered small businesses. These businesses will be consulted in the development of the proposed legislation via their fisheries associations and through public consultation. In particular The Clyde Fishermen's Association, whose fishermen predominantly work in and around the area affected, will be consulted.

The SSI will not affect quota levels and should not prevent fishermen catching their full quota over the course of the year, although there may be some short term effect on cash flow during the closure. Nearby areas, such as the North Channel and the remainder of the Firth of Clyde will remain open, with the aim of enabling fishermen

to work elsewhere during the closure. However, Option 1, or 3 will continue to have an impact on fishing vessels used to working in the more targeted closed areas, particularly small creel vessels who may struggle to move on, due to increased fuel costs and the existing high levels of activity in static ground in surrounding areas.

### **Competition Assessment**

There is not expected to be an overall negative impact on competition arising from this regulation. Exempted fishing that would now be disallowed under the preferred option accounted for around 1% of the total value and tonnage of Nephrops in Scotland and represented around 5% of the affected fleet's value between 2017-2021. The preferred policy of maintaining the restriction is expected to displace fishers to other nearby grounds as the quota available would remain the same.

There is a risk that the closure may result in some fishers landing less or leaving the market due to the increased cost of transit to alternate fishing grounds, the inability to utilise alternate fishing grounds due to weather, or the lower productivity of alternate fishing grounds which could result in a reduced range of suppliers. However, if this occurs it should only impact a small number of suppliers and should not change incentives or prevent the remaining fishers from competing. This is not expected to occur though as analysis of landings between 2017-2019 indicate that very few vessels consistently use the restricted area each year and that the restriction will likely remove their flexibility rather than being a known reduction in landings.

The regulation will not lead to a differentiation in costs between new and existing fishermen. The regulation is unlikely to affect the market structure. The measures will apply to all British vessels in the specified areas of Scottish waters. In effect the closure will apply to all vessels because the area falls within territorial waters.

### **Consumer Assessment**

The Clyde closure regulation is not expected to have a significant impact on the price of Nephrops to the market nor on the availability of Nephrops. The preferred option to maintain no exemptions would continue to affect around 1% of the total value and tonnage of Nephrops landed in Scotland pre-restriction change and around 5% of the value caught by the affected fleet in the Clyde area pre-restriction change between 2017-2021. Given the size of the impact, the large international market for Nephrops and the national supply chain for food products this is not expected to have a significant impact.

However, there could be local price and availability issues where local businesses purchase directly from fishers. While this is a risk it is expected that this could be mitigated in large part by fishing being displaced to nearby areas, with the landings of Nephrops from these alternative sites remaining below pre-covid levels (as does most Nephrops fishing in Scotland) suggesting that there is supply available to meet demand.

## **Test run of business forms**

There are no plans that continuing the Clyde cod spawning closure will result in the creation of new forms for businesses to deal with, or result in amendments of existing forms.

## **Digital Impact Test**

The Clyde Cod spawning closure will not be impacted by changes in processes moving online.

## **Legal Aid Impact Test**

Maintaining a closure in 2024 and 2025 would not give rise to increased use of legal processes or create new rights or responsibilities and should therefore have no new impact on the legal aid fund.

## **Enforcement, Sanctions And Monitoring**

Enforcement would be undertaken predominantly by Marine Scotland Compliance, operating under Scottish legislation. If the measures are found to have been contravened, a fine not exceeding £50,000 may be levied on summary conviction and an unlimited fine on indictment. The court can also order the forfeiture of any fish in respect of which the offence was committed and of any net or gear used in the commission of the offence. On summary conviction, if the court does not order the forfeiture of fish, it may impose an additional fine not exceeding the value of the fish.

Marine Scotland Science is responsible for monitoring levels of fishing activity and the effect of particular fishing methods on stocks in Scottish waters, within the framework of a strategic work programme determined by the Scottish Government. It will be possible to review the effect of these measures by assessing landings data from before and after their introduction.

Since introducing the changes to the closure in 2023, Marine Scotland Compliance have undertaken increased monitoring of the closure.

## **Implementation and Delivery Plan**

Subject to the consultation and Ministerial agreement, it is proposed to lay the Order on 14 December 2023 in order for the closure to come into effect on 14 February 2024.

## **Post-implementation review**

As during the 2022 and 2023 closures Marine Scotland will carry out monitoring to monitor compliance with the closure and monitor cod catches within the surrounding area. Stakeholder meetings will also be carried out to seek feedback.

## **Summary and recommendation**

It is proposed that, in order to provide cod with the best chance of recovery, the Clyde cod spawning closure remains in situ for the spawning period of 2024 and 2025 without any exemptions, as in 2022 and 2023.

#### Option 0 – Do nothing

- Total benefit per annum (economic, environmental, social)
  - Possible increased fishing for whitefish fleet.
  - Increased fishing from previously exempted fleet.
- Total cost per annum (economic, environmental, social, policy and administrative)
  - Further depletion and possible loss of iconic and valuable demersal species.
  - Loss of future fishing opportunities both from cod and possible ramifications from closing fisheries to protect remaining stocks.

#### Option 1 - Preferred option, maintain closure without exemptions

- Total benefit per annum
  - Strengthened protections for cod to improve stock size.
  - Improved resilience for the wider whitefish fleet against area closures.
- Total cost per annum
  - Reduction in fishing due to removal of fishing grounds.
  - Cost to onshore businesses in less fish and Nephrops to process and transport.
  - Cost to the Scottish Government in enforcing compliance.

#### Option 2 - Maintain closure, allowing exemptions

- Total benefit per annum
  - Some protections for cod to improve stock size.
  - Increased fishing from previously exempted fleet.
  - Some resilience for the wider whitefish fleet against area closures.
- Total cost per annum
  - Possible reduction in whitefish trawl fishing due to removal of fishing grounds.
  - Possible costs to onshore businesses from less whitefish.
  - Disturbance to cod spawning resulting in slower or possibly no recovery.
  - Cost to the Scottish Government in enforcing compliance.

#### Option 3 - Maintain and strengthen closure

- Total benefit per annum
  - Strengthened protections for cod to improve stock size.
  - Improved resilience for the wider whitefish fleet against area closures.
- Total cost per annum
  - Costs in addition to those in option 1 on the fishing fleet with likely further costs on Scottish Government compliance.

#### Option 4 - No legislated closure, seeking voluntary agreement

- Total benefit per annum
  - Possible increased protection to cod to improve stock size.
  - Possible improved resilience for the wider whitefish fleet against area closures.
- Total cost per annum
  - Risk of further depletion and possible loss of iconic and valuable demersal species.
  - Cost to fishers for those voluntarily not fishing.

**Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

Mairi Gougeon  
Cabinet Secretary for Rural Affairs, Land Reform and Islands

**Date:****Scottish Government Contact Point:**

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Marine Scotland Sea Fisheries



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