



## Briefing for the Public Petitions Committee

**Petition Number:** [PE1519](#)

**Main Petitioner:** John F. Robins on behalf of Save Our Seals Fund

**Subject:** Save Scotland's Seals

Calls on the Parliament to urge the Scottish Government to stop issuing licences permitting salmon farming, salmon netting and salmon angling interests to shoot and kill seals in Scottish waters and instead require that salmon farmers either move their farms into on-shore tank systems or legally require marine salmon farmers to install and maintain the high-strength, high tension predator exclusion nets they require to meet their legal obligation under the Animal Health & Welfare (Scotland) Act 2006 to protect their stock from the attention of predators. We further ask that the Scottish Parliament ask the Scottish Government to legislate to close down all salmon netting stations in Scottish waters thus allowing tens of thousands of Atlantic Salmon and sea trout to return to their native rivers to breed.

### SEALS

Two seal species, the grey seal *Halichoerus grypus* and harbour or common seal *Phoca vitulina*, are present around the coast of Scotland in internationally important numbers.

Both grey and harbour seals are listed in Annex II of the EU Habitats Directive (92/42/EEC), requiring specific areas to be designated for their protection. 34 Special Areas of Conservation (SAC) have been designated for grey seals, 14 of which are in Scotland, and 23 for harbour seals, 16 of which are in Scotland.<sup>1</sup>

Approximately 38% of the world's grey seals breed in the UK and 88% of these breed at colonies in Scotland with the main concentrations in the Outer Hebrides and in Orkney. There are also breeding colonies in Shetland, on the north and east coasts of mainland Britain and in SW England and Wales.

Approximately 30% of European harbour seals are found in the UK. Harbour seals are widespread around the west coast of Scotland and throughout the Hebrides and Northern Isles. On the east coast, their distribution is more

<sup>1</sup> Using JNCC SAC search facility by species:  
[http://jncc.defra.gov.uk/protectedsites/SACselection/SAC\\_searchpage.asp](http://jncc.defra.gov.uk/protectedsites/SACselection/SAC_searchpage.asp)

restricted with concentrations in the major estuaries of the Thames, The Wash, Firth of Tay and the Moray Firth. Scotland holds approximately 79% of the UK harbour seal population, with 16% in England and 5% in Northern Ireland.<sup>2</sup>

Under the Conservation of Seals Act 1970 and the Marine (Scotland) Act 2010, the Natural Environment Research Council (NERC) has a duty to provide scientific advice to government on matters related to the management of seal populations. NERC has appointed a Special Committee on Seals (SCOS) to formulate this advice. This advice is published annually.

The most recent advice was [published](#) in 2013. The advice estimates a total UK population in 2012 of 112,300 grey seals and 37,300 harbour seals.

The advice includes information on population trends in grey and harbour seals. Although the number of grey seal pups throughout Britain has grown steadily since the 1960s when records began, the advice is that there is clear evidence that the population growth is levelling off in all areas except the central and southern North Sea where growth rates remain high. The numbers born in the Hebrides have remained approximately constant since 1992 and growth has been levelling off in Orkney since the late 1990s.

The advice explains that harbour seal counts were stable or increasing until around 2000 when declines were seen in Shetland (which has declined by 30% since 2000), Orkney (down 75% since 2000) and the Firth of Tay (down 85% since 2000). However, other regions are now stable following a period of decline (the Moray Firth) and some have been largely continually stable (west coast of Highland region and the Outer Hebrides). Research into the causes of the decline in harbour seals is continuing. This is currently focussed on the potential for competition with grey seals through investigations into dietary and foraging area overlap; investigations into the impact of disease, particularly the ingestion of toxins from harmful algae and physical trauma<sup>3</sup> as a major cause of mortality in some regions.

The Conservation of Seals Act 1970 prohibited taking seals during a close season (01/09 to 31/12 for grey seals and 01/06 to 31/08 for harbour seals) except under licence. The Act also allowed for specific Conservation Orders to extend the close season to protect vulnerable populations. After consultation with NERC, three such orders were established providing year round protection to grey and harbour seals on the east coast of England and in the Moray Firth and to harbour seals in the Outer Hebrides, Shetland, Orkney and the east coast of Scotland between Stonehaven and Dunbar (effectively protecting all the main concentrations of harbour seals along the east coasts

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<sup>2</sup> The SCOS 2013 report states that there are no established haul-out sites in Wales

<sup>3</sup> The SCOS 2013 report states: "research into the causes of the recently identified unusual mortalities ("corkscrew" seal deaths) is continuing. The hypothetical link between these traumatic deaths and ducted propellers is being tested using scale models in industrial test facilities. The latest results have been published in a report: <http://www.smru.st-and.ac.uk/documents/1926.pdf>. The hypothesis that seals are acoustically attracted to certain propellers is also being tested in the SMRU captive seal facility and in the wild through behavioural sound playback studies."

of Scotland and England). Seals could be killed or taken in the conservation areas under licence. Seals could also still be killed or taken both during the close season and in the conservation areas under the so-called “netsman’s defence” provided by s.9(1)(c), which allowed the killing or attempted killing of a seal to prevent it from causing damage to a fishing net or fishing tackle.

## **Scottish Parliament Action**

### **Part 6 of the Marine (Scotland) Act 2010**

Parliament passed the Bill which has been enacted as the Marine (Scotland) Act 2010 on 4 February 2010. Part 6 of the Act makes new provision for protecting seals in Scotland, and regulating the killing or taking of seals under licence. Section 130 of the Act repeals the Conservation of Seals Act 1970 in Scotland. Section 107 of the Act provides that killing, injuring or taking of a live seal, intentionally or recklessly is an offence. Exceptions to this are to alleviate suffering, or under licence granted by Scottish Ministers. Licences can be granted for a number of purposes including for the protection of fisheries and fish farms, for scientific and welfare reasons, for conservation reasons, and to control disease. Before granting a licence to kill seals to prevent damage to a fishery or fish farm, Scottish Ministers must have regard to any information about damage to the fishery or fish farm concerned, or other fisheries or fish farms in the vicinity or of a similar type. They must also consider the effectiveness of non-lethal methods of preventing seal damage. Section 129 of the Act requires Scottish Ministers to review and report on the operation of the seal licensing regime by January 2016, and every five years subsequently.

The Act allows Scottish Ministers to designate haul-out sites<sup>4</sup> where it is an offence to recklessly or intentionally harass seals. The Protection of Seals (Designation of Haul-Out Sites) (Scotland) Order 2014 was laid on the 26 June 2014 and came into force on the 30 September 2014. It designates 194 haul out sites where it is an offence to intentionally or recklessly harass a seal. Maps of the sites are available on the Scottish Government [website](#).

The Act allows Scottish Ministers to designate seal conservation areas in Scotland. Ministers are required to give special consideration to licence applications to kill or take seals in such areas. Before granting a licence they must be satisfied that there is no satisfactory alternative means of achieving the purpose of the licence application; and they must be satisfied that the killing would not be detrimental to the favourable conservation status of seal populations. On 31 January 2011, Scottish Ministers designated 4 seal conservation areas around Scotland under the Marine (Scotland) Act 2010 to protect vulnerable local populations of common seals. The areas cover Moray Firth, Shetland and Orkney, East Coast of Scotland and the Western Isles.<sup>5</sup>

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<sup>4</sup> Sites where seals come out of the water e.g. to rest, sleep, breed

<sup>5</sup> The areas are highlighted on the following map:

<http://www.scotland.gov.uk/Topics/marine/Licensing/SealLicensing/map>

## **The Aquaculture and Fisheries (Scotland) Act 2013**

Parliament passed the Bill which has been enacted as the Aquaculture and Fisheries (Scotland) Act 2013 on the 15 May 2013. Section 3 of the Act allows Scottish Ministers, through subordinate legislation, to set technical standards for the equipment used in fish farming, and requires fish farmers to train their staff in the proper use of that equipment. The main motivation of the provision is to improve the standard of equipment used to prevent escapes of farmed fish, which can impact on wild fish. As part of its work on the Bill at Stage 1, the Rural Affairs, Climate Change and Environment Committee took evidence about the problem of seal predation of farmed fish, and the use of “seal scarers” at fish farms.<sup>6</sup> In its Stage 1 report the Committee concluded:

123. The Committee acknowledges the threat seal attacks pose to both the commercial performance of fish farms, and to the wider marine environment in terms of the impact on the number of escapes. However, the Committee notes concerns raised about the number of seals which are being shot at fish farms as part of predator control.

124. The Committee welcomes the efforts being made in some parts of the aquaculture industry to pursue alternative measures, in terms of netting and other equipment, which would prevent seals being able to break through into farm cages.

125. The Committee acknowledges that audio seal scarers may be a cost effective option to keep seals away from fish farms. However, it believes it is essential that such devices are as humane as possible. The Committee therefore recommends the Scottish Government works with the aquaculture industry to ascertain how effective and widespread the use of such devices is, in order to establish clear guidelines on their use.

126. The Committee welcomes the work being done by the University of St Andrews [Sea Mammal Research Unit] to develop an audio device which is as humane as possible for seals and does not harm other species and is encouraged that the device has secured investment, and a technology licence, which may see it established in the market place as a viable solution for the aquaculture industry. The Committee recommends the Scottish Government continues to work with the University of St Andrews to encourage further investment in, and development of, the device.

### **Scottish Government Action**

In October 2002 a Scottish Seals Forum was established to bring together stakeholders with an interest in seal issues. The Forum provides an opportunity to exchange information relevant to the conservation and

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<sup>6</sup> See pages 21-23 of the Committee’s Stage 1 report, available here: [http://www.scottish.parliament.uk/S4\\_RuralAffairsClimateChangeandEnvironmentCommittee/Reports/rur-13-01w.pdf](http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/Reports/rur-13-01w.pdf)

management of Scottish seal populations and is supported by a Working Group which carries forward the work of the Forum between meetings.

Marine Scotland are the licensing authority for seals under the Marine (Scotland) Act 2010 and licences are issued annually authorising the killing or taking of seals for a number of activities including research, to protect the health and welfare of farmed fish and to prevent serious damage to fisheries or fish farms. Before granting a seal licence Marine Scotland must have regard to any information they have about damage which seals have already done to the fishery or fish farm concerned and the effectiveness of non-lethal alternative methods of preventing seal damage to the fishery or fish farm concerned.

Licences must specify the method of killing or taking the seals, the maximum number of seals that can be killed or taken, the reporting requirement and details on the steps which must be taken in order to reduce the risk of unnecessary suffering if a seal is injured while attempting to kill or take it. A seal licence that authorises killing must specify the type of firearm which must be used, the weather conditions in which a person may attempt to shoot a seal, the distance the person should be away from the animal while shooting and prohibit shooting from an unstable platform. It also includes information on the recovery of the carcass and may include other conditions such as areas where shooting can take place, species of seal that can be taken or killed, the circumstances in which seals may be taken or killed and any period when they may not be taken or killed.

Licence applications are assessed against Potential Biological Removal (PBR) for each of the seven Management Regions (East coast, Moray Firth, Shetland, Orkney and the North coast, Outer Hebrides, West Highland, South-West Scotland) which have been defined by the Sea Mammal Research Unit (SMRU) to include a metapopulation of seals. PBR is the number of individual seals that can be removed from the population without causing a decline in the population and is calculated annually by SMRU using the latest seal counts.

Information on licences issued to kill seals is published annually on the Scottish Government [website](#). The webpage states that for 2013 Marine Scotland received 59 applications for seal licences and 52 licences have been granted: three licences are pending issue, three licence applications were denied and one withdrawn. The summary of the data presented includes the following points:

- 43% of all licences have shot no seals at all during 2013.
- Licencees are following the principle that seals should only be shot as a last resort.
- Around 38% of shooting has occurred at fish farms and 62% at fisheries during the third year.
- 105 seals have been shot across 216 individual fish farms and 169 seals across over 40 river fisheries and netting stations during 2013

The annual report of the Special Committee on Seals includes responses to questions from Defra, Marine Scotland and Natural Resources Wales. Marine Scotland develops the questions it poses working with the Scottish Seals Forum. These questions and a link to the advice received, are [posted](#) on the Scottish Government website.

The [2013 advice](#) includes responses to the following questions, posed by Marine Scotland:

Q. What is the current state of knowledge of interactions between seals and salmon netting stations and possible mitigation measures? And what new research might be usefully done in this area?

A. Studies suggest that specialist seals are responsible for the majority of seal activity and presumably predation events at netting stations. Acoustic deterrent devices (ADDs) are effective in reducing seal activity and predation. In a recent study during periods when the ADD was switched on, significantly fewer seals were observed and significantly more fish were landed per hour than when the ADD was switched off

Q. What is the current state of knowledge of interactions between seals and fin fish farms and possible mitigation measures?

A. Current studies have found that there does not seem to be any relationship between damage levels at different salmon farm locations and the proximity or local density of seals. ADDs are also used to deter seals from these sites but there are concerns about their effect on cetaceans and the need to ensure they operate reliably. Increased or improved application of standard husbandry techniques, notably cage structure and net tensioning, can substantially reduce the incidence of seal damage to farmed salmon.

Q. What, if any, changes are suggested in the Permitted/Potential Biological Removals (PBRs) for use in relation to the seal licence system?

A. No changes are suggested to the Permitted/Potential Biological Removals method used in relation to the seal licence system.<sup>7</sup>

The Scottish Government held a consultation in 2011 on proposals to designate seal haul out sites under the Marine (Scotland) Act 2010. In response to the consultation, Marine Scotland asked Sea Mammal Research Unit to undertake a review of all sites on the original list and as a result the total numbers of sites was increased from 146 to 194, including additional grey seal breeding sites. The revised list of 194 seal haul-out sites were designated through The Protection of Seals (Designation of Haul-Out Sites) (Scotland) Order 2014 which came into force on 30 September 2014. The Scottish Government has worked with other organisations to produce the [Moray Firth Seal Management Plan](#), which is the first strategic attempt to

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<sup>7</sup> The responses quoted are the emboldened summary of the response included in the report. Additional information is provided by the Special Committee on Seals in each response.



address the whole issue of the impact of seal predation on salmon fisheries in a co-ordinated way. It seeks to answer many outstanding questions, in particular, the extent to which seals affect salmonid<sup>8</sup> fisheries and whether this can be effectively addressed through focused seal management. It established the principles that informed Part 6 of the Marine (Scotland) Act 2010.

In relation to the Aquaculture and Fisheries (Scotland) Act 2013 powers to set technical standards in relation to fish farming equipment, a [Containment Working Group](#) was established in 2013 under the auspices of the Ministerial Group for Sustainable Aquaculture (MGSA) building on the work of the Improved Containment Working Group.

The Group's agreed deliverables are:

- To deliver a Scottish Technical Standard for fish farm equipment and associated guidance by 2015
- Inform draft regulations in relation to Scottish technical requirements enabling provision in the Aquaculture and Fisheries (Scotland) Act 2013 by 2015

The first stage (literature review) of evaluating and assessing the relative effectiveness of acoustic deterrent devices and other non-lethal measures on marine mammals has been completed.<sup>9</sup> The Scottish Government is in discussions about further research in this area.

## **SALMON NETTING**

Salmon, sea trout and brown trout can be exploited in Scotland using a range of methods. Salmon and sea trout are caught using rod and line for sport and using nets for food. Sport (game) fishing for salmon, sea trout and brown trout takes place in rivers, streams and lochs right across Scotland. Net fishing takes place in a limited number of stations along the coast and in estuaries (see map overleaf).

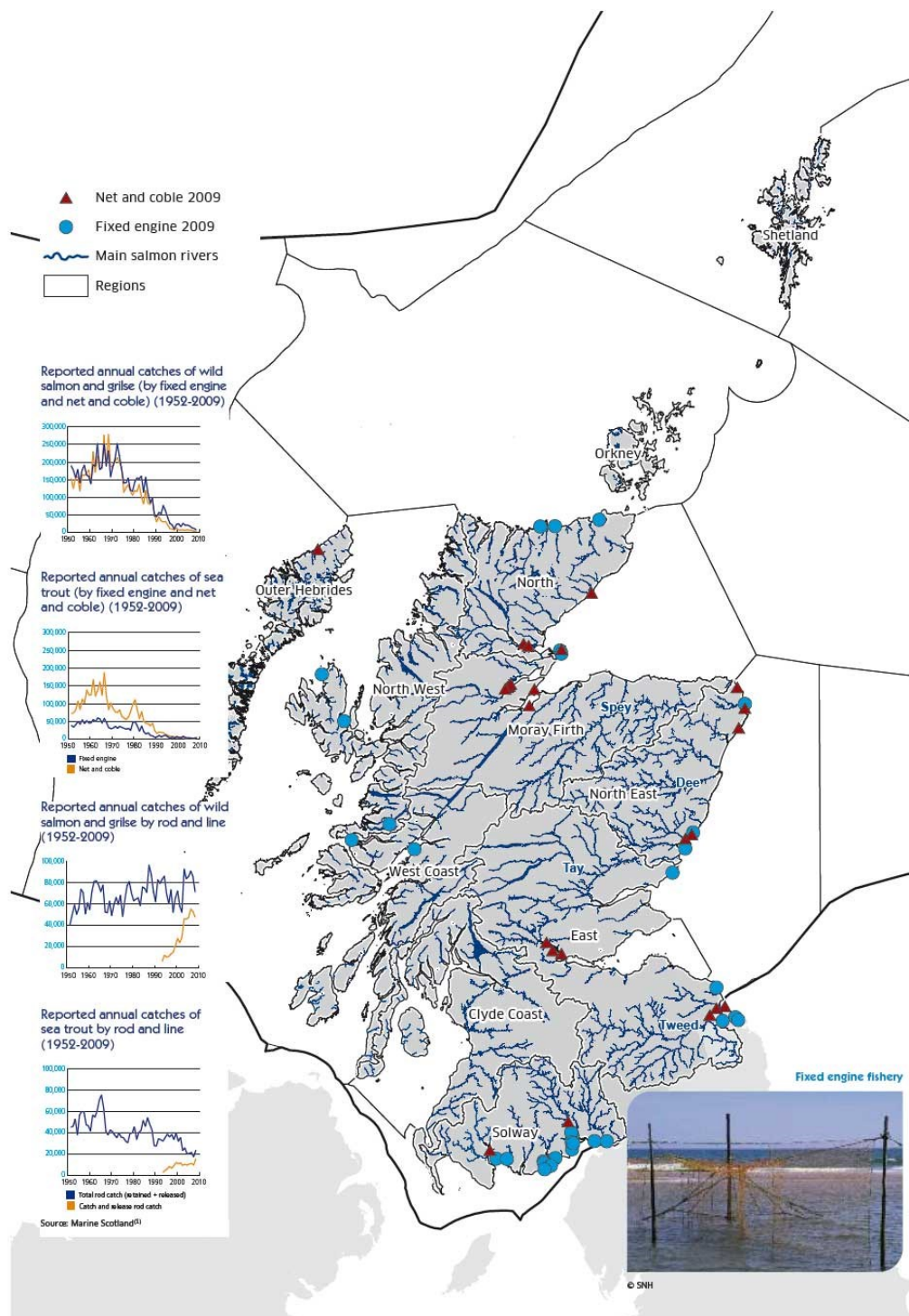
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<sup>8</sup> Salmonids include salmon and sea trout, a migratory form of brown trout

<sup>9</sup> The report can be downloaded here:

<http://www.scotland.gov.uk/Resource/0046/00462305.pdf>

## Map 1 - Main salmon rivers and netting stations



Source: Scottish Government, Scotland's Marine Atlas, 2011

The total annual catch of salmon (through all means) has declined over the past sixty years. The total rod and line catch increased from around 40,000 in the 1950s to around 100,000 in 2010, since when it has declined with 67,468 salmon caught in 2013 (80% of salmon caught in 2013 were released, compared to less than 8% in 1994 when this information was first recorded). Over this period, net fishing catch has declined dramatically (from near

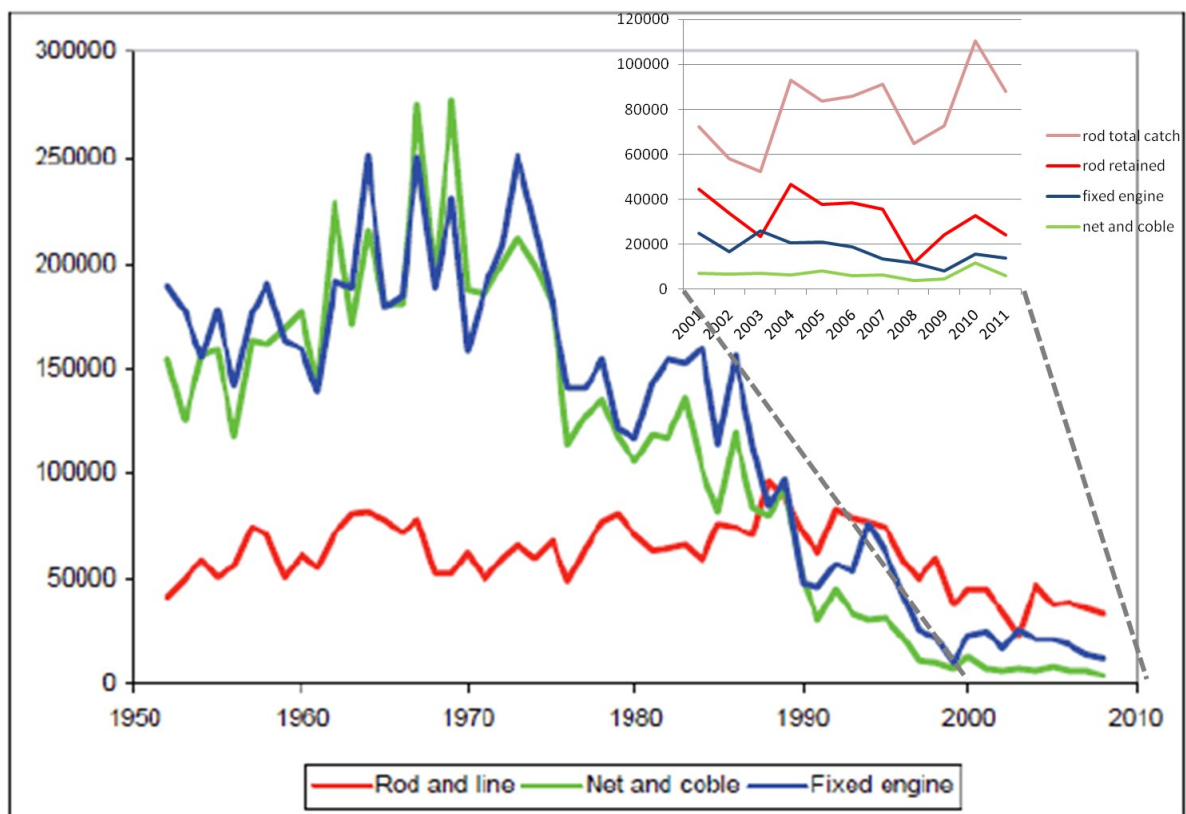


500,000 in the 1960-70s to 24,370 in 2013) and effort has been reduced over the same period as a combination of conservation measures, netmen leaving the fishery and buyouts from angling interests have taken effect. Sea trout catch has declined from all methods of fishing.<sup>10</sup>

The decline of exploitation through net fisheries has acted to buffer the decline in salmon entering rivers. The recent increase in rod catch, coupled with the high levels of catch and release, is regarded as evidence of increases in the number of fish entering fresh waters. However, spring salmon (those caught in spring) remain at historically low levels.

In August 2014 the Scottish Government announced it would [consult](#) on two conservation measures for spring salmon to be introduced in 2015. These are to make catch and release of spring salmon compulsory, and to delay the start of the salmon netting season throughout Scotland.

**Graph 1. Comparison of catch from different methods since the 1950s for salmon. Inset shows data from last decade including the rod catch which is returned to the river.**



Source: [SPICe Briefing 12-68 Aquaculture and Fisheries \(Scotland\) Bill](#)

<sup>10</sup> Scottish Government, Salmon Fishery Statistics: 2013 Season: <http://www.scotland.gov.uk/Publications/2014/09/5184/0>

## Scottish Parliament and Scottish Government action

The Scottish Government established the Freshwater Fisheries Forum which worked to produce a [Strategic Framework](#) for the sector with the shared vision: "Scotland will have sustainably-managed freshwater fish and fisheries resources that provide significant economic and social benefits for its people". The strategic framework sets out the areas where more work is needed to meet the vision and a series of priorities for action (Scottish Government 2008).

One priority identified was to develop a strategy for the management of Scotland's mixed stock salmon and sea trout fisheries. A group of angling and netting interests was established and met to discuss issues of common interest. The group produced a final report but it was not possible for all interests around the table to agree the report so the chair put it forward as his own [recommendations](#).

A ban on the sale of salmon caught by rod and line has been in place since 2002. The Aquaculture and Fisheries (Scotland) Act 2013 introduced a power for Ministers to require wild salmon caught in net fisheries to be tagged, to improve traceability.

During parliamentary scrutiny of the Aquaculture and Fisheries (Scotland) Bill<sup>11</sup> in 2012/13, the Scottish Government announced its intention to establish a further, formal review of wild fisheries in Scotland. In its Stage 1 Report<sup>12</sup> on the Bill, the Rural Affairs, Climate Change and Environment (RACCE) Committee recommended that the review should consider salmon netting, among a number of issues the Committee recommended the review should consider.

On 14 January 2014, the Minister for Environment and Climate Change wrote<sup>13</sup> to the Committee to inform it of the launch of the Wild Fisheries Review, and the appointment of Andrew Thin (who took up his appointment in March 2014), the outgoing Chair of Scottish Natural Heritage, as the Chair of the review.

The Minister wrote<sup>14</sup> again to the Committee on 27 February 2014 with information on the remit, scope and structure of the review, confirming that it

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<sup>11</sup> Aquaculture and Fisheries (Scotland) Bill. Available at

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/55381.aspx>.

<sup>12</sup> Scottish Parliament Rural Affairs, Climate Change and Environment Committee. Stage 1 report on the Aquaculture and Fisheries (Scotland) Bill. Available at:

[http://www.scottish.parliament.uk/S4\\_RuralAffairsClimateChangeandEnvironmentCommittee/Reports/rur-13-01w.pdf](http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/Reports/rur-13-01w.pdf).

<sup>13</sup> Letter from the Minister for Environment and Climate Change, 14 January 2014. Available at:

[http://www.scottish.parliament.uk/S4\\_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/2014.01.14\\_-\\_Minister\\_Wild\\_Fisheries\\_Review.pdf](http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/2014.01.14_-_Minister_Wild_Fisheries_Review.pdf).

<sup>14</sup> Letter from the Minister for Environment and Climate Change, 27 February 2014. Available at:

[http://www.scottish.parliament.uk/S4\\_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/2014.02.17\\_-\\_Minister\\_Wild\\_Fisheries\\_Review.pdf](http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/2014.02.17_-_Minister_Wild_Fisheries_Review.pdf).

would formally begin on 3 March 2014 and take around six months to conclude its work with a report to the Minister. This would put the timing of the report approximately at September 2014. The Minister states that he will then “consider any recommendations made and will consult on any subsequent proposals to implement a new management regime.”

The Scottish Government’s website<sup>15</sup> states that the aims of the review are to:

- develop and promote a modern, evidence-based management system for wild fisheries fit for purpose in the 21st century and capable of responding to the changing environment; and
- manage, conserve and develop our wild fisheries to maximise the sustainable benefit of Scotland’s wild fish resources to the country as a whole and particularly to rural areas.

The review concluded on 8 October 2014 and submitted its final [report](#) and recommendations to the Minister for Environment and Climate Change.

**Tom Edwards**  
**Senior Research Specialist**  
19 November 2014

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<sup>15</sup> Scottish Government. Wild Fisheries Review webpages. Available at:  
<http://www.scotland.gov.uk/Topics/marine/Salmon-Trout-Coarse/fishreview>.