

Briefing for the Citizen Participation and Public Petitions Committee on PE1951: Reinstate inshore coastal limit on the use of dredge and trawl fishing gears, submitted by Alistair Bally Philp on behalf of The Scottish Creel Fisherman's Federation

Background overview of issues raised by the petition

The petitioner is seeking the reinstatement of a ban on mobile dredge and bottom-trawling fishing gears within sea areas extending three miles from Scotland's coast.

The petitioner attributes removal of a previous three-mile limit to declines in fish stocks and proposes that its reinstatement would provide environmental and socio-economic benefits.

Background on the 'three-mile limit'

The petitioner refers to a "historic three mile coastal limit" on the use of mobile dredge and bottom-trawling fishing gears. The petition does not provide background information on this limit; however, the petitioner's organisation (the Scottish Creel Fishermen's Federation) published a report '[The 3 Mile Limit: a case for a sustainable fishery](#)' which sets out a case for its reinstatement. This report argues:

"reinstatement of the three-mile limit is not just possible or plausible, but is presently the best chance we have of preserving and allowing some recovery of our inshore fisheries for the future."

The history of the three-mile limit is long and complex. Implementation of the three-mile limit adapted over the 19th and 20th centuries in response to socio-economic and conservation concerns related to evolving fishing practices.

A comprehensive overview of historic fishing regulation in Scottish Waters is set out in the [1970 Cameron Report on the Regulation of Scottish Inshore Fisheries](#). This report presented findings of a Committee established to review the law governing the methods of sea fishing in Scottish coastal waters. A short summary of key points related to historical regulation of inshore fishing in Scotland is provided below.

- Until the early years of the nineteenth century the two principal methods of catching sea fish (excluding shellfish) in Scottish waters were line and driftnet fishing.
- Around 1840, the use of trawling methods began to develop. Some fishermen using traditional methods opposed these new techniques and petitioned for the Government to ban their use.
- In 1851, the Government banned any method other than traditional 'drift-netting' for catching herring. Further Acts in 1860 and 1861 strengthened enforcement powers.
- A Royal Commission was appointed in 1862 "to enquire into the operation of the laws relating to trawling for herrings on the coasts of Scotland".
- The Commission reported in 1863 and concluded that recent legislation unnecessarily restricted fishing activity and suppressed invention by prohibiting new and more productive forms of labour and that the legislation "arose out of the ill-will and conflicts engendered among the rival sets of fishermen".
- In 1864, another Royal Commission was appointed to investigate (amongst other things) whether any of the methods of catching fish in the sea fisheries of the UK involved a "*wasteful destruction of fish or spawn, and if so, whether any legislative restrictions of such methods would result in an increase in the supply of fish.*"
- The Commission concluded that beam trawling was not "not a wastefully destructive" fishing method and advised that restricting this method would not be beneficial.
- Complaints by fishermen using traditional methods about the impact of trawling, particularly by steam powered vessels, continued and was subject to further Royal Commissions in 1878 and 1883. These reached similar conclusions, finding no evidence of harm to fish health or spawning. However, these reports found that steam trawlers were causing considerable damage to drift-net and hook-and-line fishing gear.
- This led to the Sea Fisheries (Scotland) Amendment Act of 1885 which provided byelaw making powers to restrict or prohibit any fishing methods deemed to be 'injurious'. Byelaws were subsequently made under this act banning trawling on the east coast from North Berwick to Caithness. In 1889, prohibition of trawling was extended to cover all inshore waters within three miles of the coast under the Herring Fishery (Scotland) Act.
- Throughout the late 19th to early 20th century, further byelaws were made relaxing the ban in some areas or introducing new restrictions as newer, more efficient and productive fishing methods continued to develop.
- In the early 1950s, a market for nephrops (langoustine) began to emerge. The otter trawl method that was largely prohibited was found to be most effective at targeting this species. New byelaws permitting otter trawling for nephrops in the Firth of Forth, Moray Firth and Firth of Clyde were then made to encourage development of this new fishery.

Conclusions of The Cameron Report

The Cameron Report considered both the socio-economic and conservation value of inshore fisheries regulation in Scotland. With regards to conservation, it concluded:

“The existing regulations governing methods of fishing cannot be justified on grounds of conservation. None of the methods employed in inshore waters at present, including purse seining and pair trawling, is of itself more injurious to stocks than any other”.

It further recommended that continuing the present prohibitions was no longer justified and that removal of restrictions on inshore trawling would be *“on balance, more beneficial to fishing communities than a continuation of restrictions.”*

Removal of the three-mile limit

Consideration of the Cameron report contributed to the [Inshore Fishing \(Scotland\) Act 1984](#) which repealed restrictions on trawling within the three-mile limit.

When the Bill was introduced, [the Minister of State set out the following justification for repeal of the three-mile limit:](#)

“Scotland has a large coastline and there are many parts of it where static gear fishermen do not fish or where there are no concentrations of immature fish. It is, therefore, unreasonable to prevent the mobile gear fishermen from having access to these waters. It is also a wasteful use of our enforcement resources to have to police a three-mile limit around the whole of the coast.”

Environmental impact

The petitioner links the removal of the three-mile limit to declines in fish populations. Direct cause and effect are difficult to establish due to the complexity of marine ecosystems and very few studies have investigated the impact of this policy.

However, [a 2010 study linked declines in whitefish populations in the Firth of Clyde to the removal of the three-mile limit.](#) The study states:

“The conclusion seems inescapable that trawling closures provided important partial refuges for many commercially important whitefish species from the late 19th century up until 1962 and 1984 when they were reopened. The protected effects of trawl closures were most likely achieved through a combination of habitat protection and reduced fishing pressure. The high fishing effort and damage to seabed habitats which immediately followed the re-opening of areas closed to trawling

appears to have precipitated the complete collapse of the Clyde's demersal fin-fisheries.”

The study further states “there is no direct evidence to link the removal of this refuge to the fisheries collapse” but points to evidence of trawling closures in the US, Canada and Iceland having positive effects on fish populations.

Objections to proposals to reintroduce a three-mile limit

In October 2020, [the Scottish Fishermen’s Federation \(SFF\) published a response to the SCFF proposals for re-introducing the three-mile limit](#). The response disputes the historical interpretation of the three-mile limit put forward by the SCFF and the proposed benefits of its reintroduction. It states:

“[...] the request for a 3-mile limit could be seen as a very protectionist argument, keeping the grounds inside the 3-mile limit open for only one type of fishing and will only suit those who fish that gear, displace others, but not on the basis of science that demonstrates this is necessary for the right protection to sensitive environments and features.”

In June 2022, the SFF published a further report titled [‘spatial squeeze in fisheries’](#). This report modelled three future scenarios of future fisheries management measures to attempt to quantify the cumulative impact on commercial fishing of increased competition for space in the marine environment. This included a ‘worst case scenario’ of a ban on bottom trawling in all MPAs and within three nautical miles of the coast. The report concludes that:

“The displacement of fishing activity under these scenarios could be significant, and of an order of magnitude that cannot be absorbed by the remaining fishing grounds. This could lead to reductions in output and job losses in the fishing industry, and upstream and downstream impacts on associated land-based industries, with particular effects in coastal communities.”

Environmental impact of trawling

There has been increasing concern among environmental organisations about the impact of the bottom-towed fishing gear on seabed habitats. This topic is also the subject of increasing scientific investigation.

Scientific evidence shows that bottom-towed fishing gear such as trawling and dredging can cause damage to seabed habitats. For example, [a 2017 study](#) estimated that 14% of marine animal biomass was removed by [beam trawls](#), 20% for [towed scallop dredges](#) and 41% for [hydraulic dredges](#) per pass. The study also found recovery time took up to 6.4 years post-trawling. However, the severity of impact depended on the nature of the seabed environment on which the fishing gear was deployed.

[A more recent 2022 study](#) studied the impacts of trawling on seabed habitats in the Mediterranean Sea before, during and after COVID-19 lockdown periods to examine the recovery of seabed habitats during cessation of fishing activity. The study concluded the following key findings for this location:

“This study shows that just one month of non-fishing is sufficient to allow for the recovery of benthic biodiversity. Finally, this exceptional lockdown period due to the COVID-19 pandemic points to the high resilience of the macrobenthic community after the cessation of trawling disturbances, which affects the interface between the sediment and the bottom layer of the water column and has widespread negative impacts on benthic communities and marine habitat.”

Under the [Marine \(Scotland\) Act 2010](#), Scottish Ministers are required to undertake an assessment of the condition of the Scottish Marine area to support its National Marine Plan. [The most recent assessment was undertaken in 2020](#). Among its headline findings was the following:

“Pressures associated with bottom-contacting and pelagic fishing continue to be the most geographically widespread, direct pressures across the majority of Scottish Marine Regions and Offshore Marine Regions.”

Scottish Creel Fishermen’s Federation Judicial review

The petition mentions the Scottish Government’s rejection of an inshore fisheries pilot proposed by the SCFF in the Inner Sound of Skye that was subject to a judicial review.

The Scottish Government had launched its [Inshore Fisheries Pilots initiative](#) with the aim of looking at alternative forms of inshore fisheries management. Marine Scotland sought proposals from the commercial fishing industry for sites to be considered for the pilot scheme, with the intention of investigating:

- a localised approach to fisheries management, where fishing interests will be involved in developing distinct local arrangements; and
- the consequences of separating different methods of fishing, such as creeling (e.g. static gear and mobile gear) within specified areas.

The scheme proposed by the SCFF was designed to provide evidence on the environmental and economic benefits of static-gear fishing compared to trawling in Scotland’s inshore Nephrops (langoustine) fishery. The SCFF argued the decision to reject the Pilot was unlawful because the Scottish Government did not assess the proposal in accordance with its own published criteria.

Further details of the judicial review can be found in the document below:

<http://www.scottishcreelfishermensfederation.co.uk/PDF/scff%20briefing%20note.pdf>

On 8 January 2021, [the Court of Session ruled in favour of the SCFF](#), stating that the proposal was turned down by Ministers solely because of the strength of opposition. The judge, Lady Poole, said the SCFF's proposal had not been fairly considered before being rejected.

Scottish Government Action

In September 2021, [the Scottish Government and Scottish Green Party published its shared policy programme](#). This programme committed to a “*step change in marine protection*” to deliver “*good environmental status for all of Scotland’s seas, offshore and inshore.*” This included commitments to increase protection of inshore seabed. Measures to achieve this included a proposal to:

“apply a cap to fishing activity in inshore waters (up to three nautical miles) that will limit activity to current levels and set a ceiling from which activities that disrupt the seabed can be reduced in the light of evidence as it becomes available”

The shared policy programme also commits to:

- Deliver fisheries management measures for existing Marine Protected Areas (MPAs) where these are not already in place, as well as key coastal biodiversity locations outside of these sites, by March 2024.
- Add to the existing MPA network by designating a world-leading suite of Highly Protected Marine Areas (HPMAs) covering at least 10% of our seas.

[The Marine \(Scotland\) Act 2010](#) introduced a general duty on Scottish Ministers and public authorities to protect and enhance the health of the Scottish marine area.

Additionally, the Scottish Government is responsible for observing and implementing international obligations on marine conservation such as the [United Nations Convention on the Law of the Sea](#), the [OSPAR Convention](#) and the [UN Convention on Biological Diversity](#) to name a few.

Some key policy commitments related to marine protection and enhancement are listed below.

- **Fisheries management:** In December 2020, the Scottish Government published its [Future Fisheries Management Strategy](#) which sets out its approach to managing Scotland's sea fisheries from 2020 to 2030. The strategy sets out the following principles of sustainability:
 - Protect our natural marine environment, based on an ecosystem approach

- Maximise opportunity and long term sustainable economic growth for the rural economy
- Secure the future of our fishing industry for future generations

It also provides the following environmental outcomes:

- Our fisheries are managed in a way that protects biological diversity and which ensures that marine ecosystems continue to provide economic, environmental, social and wider benefits based on best available scientific advice.
 - We fish within limits based on the best available scientific advice, using the precautionary principle, and aligned with the delivery of fishing at Maximum Sustainable Yield (MSY).
- **Marine Planning:** Legislation requires the Scottish Government to publish and keep under review a National Marine Plan (NMP) which aims to balance competing demands on marine resources in Scotland's seas. The NMP was first published in 2015 and was most recently reviewed in 2021. Scottish Ministers have yet to make a decision whether to amend or replace the NMP following this review. <https://www.gov.scot/publications/scotlands-national-marine-plan/>. The NMP recognises the impact of trawling and dredging on the seabed and the need to protect seabed habitats. For example, para. 6.41 states: *“Scallop dredging is recognised as having the most significant impact on localised seabed habitats within Scotland’s waters. Fishing using demersal mobile gear can also adversely affect the seabed, causing damage to benthic features and habitats.”* Para. 6.46 states: *“A variety of benthic [seabed] habitats support important demersal fisheries providing essential habitats and nursery, feeding and recruitment areas for fish species. Nephrops also rely on a specific muddy habitat to construct burrows. Additionally, a healthy benthic community may be able to support the recovery of impacted habitats in other areas of the sea and ecosystem resilience will be an important asset in the face of climate change.”*
 - **Marine Protected Areas:** Information on the MPA network in Scotland can be found here - <https://www.gov.scot/policies/marine-environment/marine-protected-areas/>. There has been good progress made by the Scottish Government in establishing a network of Marine Protected Areas since 2014. MPAs now cover around 37% of Scotland's seas. However, there has been criticism about a lack of specific management measures to protect habitats. For example, a recent report by the Marine Conservation Society suggests that only 5% of the UK's MPAs currently ban bottom trawling - <https://www.mcsuk.org/news/marine-unprotected-areas>

- **Priority Marine Features:** In 2014, 81 ‘Priority Marine Features’ (PMFs) were identified in the seas around Scotland. The list, which covers a variety of habitats and species that are a priority for conservation in Scotland’s seas, was developed by Marine Scotland, the Joint Nature Conservation Committee (JNCC) and Scottish Natural Heritage (now NatureScot). While many of these are protected through the existing network of Marine Protected Areas, others occur outside of these areas. Marine Scotland has been consulting on the implementation of management measures to protect the most vulnerable PMFs in Scottish inshore waters (within 6 nautical miles from shore). <https://www.nature.scot/professional-advice/protected-areas-and-species/priority-marine-features-scotlands-seas>
- **Blue Economy Vision:** In March 2021, the Scottish Government published its ‘blue economy vision’ which sets out its long-term ambition for Scotland’s blue economy to 2045. The vision includes six outcomes, including a ‘Natural Capital outcome’ that *“Scotland’s marine ecosystems are healthy and functioning, with nature protected and activities managed using an ecosystem-based approach to ensure negative impacts on marine ecosystems are minimised and, where possible, reversed.”* <https://www.gov.scot/publications/blue-economy-vision-scotland/documents/>
- **Loch Carron MPA:** In 2017, Loch Carron was designated an emergency MPA after local community members reported trawl fishing activity in an area known for its flame shell beds – a habitat identified by Marine Scotland as a Priority Marine Feature (PMF). Local divers provided video footage of the seafloor in the affected area, which showed significant damage to flame shell beds and prompted the urgent response from Marine Scotland. The Loch Carron MPA was given permanent designation in 2019 and prohibits trawling and dredging within the MPA. <https://www.bbc.co.uk/news/uk-scotland-highlands-islands-47746282>
- **Red Rocks and Longay urgent MPA:** On 10 March 2021, Scottish ministers designated an urgent Marine Protected Area (MPA) in the Inner Sound of Skye to protect a flapper skate egg nursery area, called the Red Rocks and Longay MPA. A public consultation was held between February and April 2022 on proposals for a permanent nature conservation MPA in the area. <https://consult.gov.scot/marine-conservation/red-rocks-longay-marine-protected-area/>

Scottish Parliament Action

Scrutiny of matters related to the marine environment conducted by the Environment Climate Change and Land Reform Committee in the previous parliamentary session can be viewed here:

<https://archive2021.parliament.scot/parliamentarybusiness/CurrentCommittees/100300.aspx>

The Rural Affairs, Islands and Natural Environment Committee recently took evidence from stakeholders in consideration of secondary legislation implementing seasonal fishing closures in the Firth of Clyde to protect cod spawning.

The call for views can be accessed here:

<https://yourviews.parliament.scot/raine/the-sea-fish-ssi/>

The Official Report of the evidence session with stakeholders is available here:

<https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=13613>

Chamber debates:

On 15 December 2020, the Scottish Parliament debated a motion on 'no-take zones'. The Official Report of the debate is available here:

<https://www.parliament.scot/chamber-and-committees/official-report/what-was-said-in-parliament/meeting-of-parliament-15-12-2020?meeting=13017&iob=117715>

Parliamentary Questions

<https://www.parliament.scot/chamber-and-committees/official-report/what-was-said-in-parliament/meeting-of-parliament-23-09-2021?meeting=13316&iob=120822#120822>

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