

**Rural Affairs and Islands Committee**  
**Wednesday 11 February 2026**  
**6th Meeting, 2026 (Session 6)**

## **Note by the Clerk on the Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026 (SSI 2026/10)**

### **Overview**

1. At this meeting, the Committee will consider the following Scottish statutory instrument (SSI), which is subject to the negative procedure.<sup>1</sup> The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

**Title of instrument:** [The Sea Fish \(Prohibition on Fishing\) \(Firth of Clyde\) Order 2026 \(SSI 2026/10\)](#)

**Laid under:** Sections 5(1)(a), 5(2) and 20(1) of the [Sea Fish \(Conservation\) Act 1967](#)

**Laid on:** 16 January 2026

**Procedure:** Negative

**Deadline for committee consideration:** 23 February 2026 (Advisory deadline for any committee report to be published)

**Deadline for Chamber consideration:** 24 February 2026 (Statutory 40-day deadline for any decision whether to annul the instrument)

**Commencement:** 14 February 2026

### **Purpose of the instrument**

3. The policy note for the 2026 order states the order “maintains the same protections afforded by the previous closure, prohibiting all fishing activity within ... two areas of the Firth of Clyde from 14 February until 30 April, for 2026, 2027 and 2028”.
4. The policy note also states the order “prohibits fishing activity within ...[an] area of the Firth of Clyde for all vessels without a valid track record during 2026, 2027 and 2028 in order to prevent further increases in cod mortality”. The note states this area will also be subject to a targeted scientific programme (TSP).
5. The TSP would be a “collaborative programme [which] will take place throughout the year” and would “pave the way for future management of this stock where the

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<sup>1</sup> [Further information about secondary legislation and the negative procedure is available on the Parliament's website](#)

impact of all fishing sectors on cod mortality, as well as the distribution and dynamics of spawning and juvenile cod are better understood and used to inform adaptive management”.

6. The policy note is set out in Annex A to this paper.
7. The [Scottish Government consulted on the future of the Clyde seasonal closure beyond 2026 in August and September 2025.](#)
8. The [Scottish Government published its analysis of the consultation on the Clyde Seasonal Closure 2026 to 2028 and its response to the consultation on 16 January 2026.](#)

## **Delegated Powers and Law Reform Committee consideration**

9. The [DPLR Committee considered the instrument on 27 January 2026 and made no recommendations in relation to the instrument.](#)

## **Rural Affairs and Islands Committee consideration**

10. The [Committee took evidence from a range of stakeholders at a roundtable on 28 January 2026.](#)
11. Following the Committee’s roundtable discussion, the [Convener wrote to the Scottish Government](#) and the [Cabinet Secretary](#), in her letter dated 4 February 2026, provided further information on the instrument.
12. The Committee’s adviser on fisheries policy, Professor Paul Fernandes, Professor of Fisheries Science and Technology at Heriot Watt University, has provided a technical and policy commentary on the Cabinet Secretary’s response. This is attached at Annex B.
13. The Committee has been sent the following correspondence in relation to the 2026 order—
  - [Letter from the Sustainable Inshore Fisheries Trust, dated 30 January 2026, providing further comments on the instrument.](#)
  - [Letter from OpenSeas, dated 29 January 2026, setting out a summary of its assessment of the instrument against statutory and policy obligations.](#)
  - [Letter from the Scottish Creel Fishermen’s Federation, dated 28 January 2026, responding to the discussion at the stakeholders’ roundtable.](#)
  - [Paper setting out the key outputs from the Clyde cod stock assessment conducted by the University of Strathclyde.](#)
  - [Briefing from Scottish Environment LINK, dated 26 January 2026, on the instrument.](#)

- [Letter from the Scottish Creel Fishermen's Federation, dated 23 January 2026, setting out its position on the instrument.](#)
- [Letter from the Scottish Creel Fishermen's Federation, dated 21 January 2026, setting out its view about issues and omissions in the Scottish Government's analysis of consultation responses.](#)
- [Letter from the Sustainable Inshore Fisheries Trust, dated 19 December 2025, which highlighted its concerns](#) that “this process is fatally flawed and [calling on the Scottish Ministers] to return with a new consultation which accurately reflects the science”.

14. On 5 February 2026, Tim Eagle lodged a motion to annul the instrument—

S6M-20686: That the Rural Affairs and Islands Committee recommends that the Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026 (SSI 2026/10) be annulled.

15. The Committee will take evidence from the Cabinet Secretary at agenda item 2 and consider the motion to annul at agenda item 3.

**Clerks to the Committee**  
**February 2026**

**Policy note for the Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026 (SSI 2026/10)**

The above instrument was made in exercise of the powers conferred by sections 5(1)(a), 5(2) and 20(1) of the Sea Fish (Conservation) Act 1967 and all other powers enabling them to do so. The instrument is subject to negative procedure.

**Summary**

The purpose of the Instrument is to support the recovery of the cod stock in the Firth of Clyde while maintaining the appropriate balance of our environmental and socio-economic obligations under the Fisheries Act 2020.

**Policy Objectives**

Since 2002, seasonal restrictions on certain fishing activities have been applied annually in a designated area of the Firth of Clyde between 14 February and 30 April to protect spawning cod. From 2022, this included removal of historic exemptions for creel vessels, *Nephrops* trawlers and scallop dredgers, in an effort to improve the likelihood of cod stock recovery.

Despite ongoing management efforts, cod in the Clyde have shown limited signs of improvement and this stock is thought to be at a level that could undermine recovery. Our scientific advisors consider that there is potential for stock recovery but it requires a long-term commitment to improving the evidence base and implementing adaptive management that responds to emerging evidence, rather than relying solely on the current closure.

The objective of this policy is to maximise the potential for cod recovery in the Firth of Clyde. This will be accomplished, taking a proportionate approach that strikes a balance between environmental and socio-economic obligations under the Fisheries Act 2020.

The order maintains the same protections afforded by the previous closure, prohibiting all fishing activity within the following two areas of the Firth of Clyde from 14 February until 30 April, for 2026, 2027 and 2028:

**Part 2 (North Area)**

- A 55° 30.000' N 005° 05.472' W
- B 55° 30.000' N 005° 00.000' W
- C 55° 23.820' N 005° 00.000' W
- D 55° 23.820' N 005° 24.600' W
- E 55° 30.000' N 005° 24.600' W
- F 55° 30.000' N 005° 19.947' W

**Part 3 (South Area)**

- A 55° 25.713' N 005° 32.426' W
- B 55° 26.100' N 005° 31.920' W
- C 55° 17.220' N 005° 16.860' W
- D 55° 10.680' N 005° 14.700' W
- E 55° 12.960' N 005° 08.940' W
- F 55° 13.860' N 005° 00.000' W

G 55° 06.797' N 005° 00.000' W  
H 55° 00.000' N 005° 02.496' W  
I 55° 00.000' N 005° 05.170' W  
J 55° 00.000' N 005° 10.120' W  
K 55° 00.000' N 005° 21.000' W  
L 55° 17.962' N 005° 47.914' W  
M 55° 25.088' N 005° 33.303' W  
N 55° 25.392' N 005° 33.065' W

The instrument also prohibits fishing activity within the following area of the Firth of Clyde for all vessels without a valid track record during 2026, 2027 and 2028 in order to prevent further increases in cod mortality. This area will also be subject to a Targeted Scientific Programme (TSP). This collaborative Programme will take place throughout the year, within the area described at Part 1. It will pave the way for future management of this stock where the impact of all fishing sectors on cod mortality, as well as the distribution and dynamics of spawning and juvenile cod are better understood and used to inform adaptive management. The TSP will be authorised by Ministers' powers under section 9 of the Sea Fish (Conservation) Act 1967.

**Part 1**

O is 55° 00.000' N 005° 10.120' W  
P 55° 00.000' N 005° 21.000' W  
Q 55° 17.962' N 005° 47.914' W

**UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, The Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

**EU Alignment Consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

**Consultation**

A public consultation ran from 31 July until 25 September 2025 seeking views on a range of proposals and asking respondents to suggest alternative or complimentary approaches.

The 44 responses reflected highly diverse perspectives on all the proposals and other potential approaches, varying both across stakeholder groups and within them. In interpreting these responses care was taken to balance the analysis,

recognising that some organisational submissions often reflect the views of multiple members or sectors.

Responses demonstrated strong engagement and high awareness of Clyde cod recovery. While there was support for protecting spawning cod, respondents differed on whether the current closure design, timing, and duration represent the most effective or proportionate approach. There was opposition to retention of the seasonal closure in its current form until 2028 and scepticism about its benefits. The range of views expressed highlighted the challenges in developing management options and pointed to a more holistic approach.

Responses to the consultation supported a collaborative approach to the TSP, working in partnership and putting fishers at the centre of this process supported by scientists.

We acknowledge consultation responses regarding critical knowledge gaps on spawning distribution and stock structure. This supports a broader adaptive approach to management, one led by science. The introduction of access control to the Firth of Clyde for the next three years is intended to support the TSP, and help ensure fishing mortality does not increase.

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.

## **Impact Assessments**

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached to this instrument. An Equality Impact Assessment (EQIA) has not been completed for this instrument as there are no direct or indirect effects on specific protected characteristics set out in the Equalities legislation, and a Fairer Scotland assessment is available on the Scottish Government website. The instrument has no direct or indirect effect on children or young people.

A full Island Communities Impact Assessment (ICIA) has not been completed as the instrument is not likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities). A Strategic Environmental Assessment (SEA) has not been completed because this is not a new policy.

No adverse impacts were identified in relation to matters of children's rights and wellbeing, or data protection and privacy.

When preparing this legislation, the Scottish Government has considered and had due regard to the environmental principles contained within the UK Withdrawal from the European Union (Scotland) (Continuity) Act 2021 ('the Continuity Act').

## **Financial Effects**

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

Analysis suggests that maintaining the status quo of no exemptions for *Nephrops* trawlers or creel vessels could cost the fishing sector between £182,000 and £969,000 per year, in 2024 prices. This is a cost of between £4,000 and £19,000 per affected vessel per year, or between 2% and 9% of their total landings. The total number of affected vessels fell from 60 in 2021 to 49 in 2024.

We consider that there will be no measurable cost to businesses as a result of the access limit as vessels who have a track record of fishing in this area will be able to continue to do so.

**Scottish  
Government  
Marine Directorate**  
13-JAN-2026

**Technical and Policy Commentary on the Draft Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026 by Professor Paul Fernandes, Professor of Fisheries Science and Technology at Heriot Watt University**

**1. Purpose and status of this note**

This note is submitted to assist the Rural Affairs and Islands Committee in its scrutiny of the draft *Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026*. It provides comment and advice relating to the Cabinet Secretary's letter of 4 February 2026, with a focus on scientific coherence, evidential standards, and policy effectiveness. This note does not introduce new evidence, but interrogates the internal consistency of the justification presented.

**2. Misalignment between evidence and management objective**

The letter explicitly acknowledges that:

- cod productivity in the Clyde has remained relatively high;
- spawning limitation is unlikely to be the primary constraint on recovery; and
- fishing mortality has historically been excessive.

Despite this, the proposed SSI continues to be framed primarily around *protecting spawning cod* through a seasonal closure. This represents a fundamental misalignment between the diagnosed cause of stock depletion and the management response. Where mortality, rather than productivity, is the limiting factor, measures aimed at reducing spawning disturbance cannot reasonably be expected to deliver recovery.

**3. Precaution and evidential standards**

The justification for extending the closure relies heavily on precaution, despite repeated acknowledgements that:

- there is no direct evidence from the Clyde that fishing activity, particularly by creels, disrupts cod spawning;
- the magnitude of any fishing related disturbance relative to other natural and anthropogenic disturbances (e.g. shipping) have not been assessed;
- the hypothesis underpinning spawning-area protection has been weakened by observations of spawning cod outside the closure.

While precaution is a legitimate component of fisheries management, its application must remain proportionate and evidence-informed. In this case, precaution is invoked to sustain an existing measure whose effectiveness has not been demonstrated, rather than to target the principal, evidence-backed source of mortality. This reverses the normal logic of evidence-based policy-making.

**4. Effectiveness and displacement of fishing effort**

The letter suggests that retaining the closure may reduce localised fishing mortality. However, no credible mechanism is presented by which overall fishing mortality on Clyde cod would be reduced. In particular:

- Nephrops trawling effort is not removed, but displaced spatially;
- displacement risks concentrating effort elsewhere rather than alleviating pressure; and
- no stock-level reduction in mortality is demonstrated.

A demonstrable reduction in aggregate fishing mortality is absent, so claims that the SSI will help prevent further decline are not substantiated.

## **5. Internal inconsistency on bycatch priorities**

The Strathclyde assessment, drawing on data from 1985–2019 (with gaps in some aspects of the data prior to 2002), identifies Nephrops trawl bycatch as the dominant source of fishing mortality since 2005. Nevertheless, the letter argues that management responses are contingent on improving understanding of creel bycatch, which is acknowledged to be unquantified and, at present, largely anecdotal.

This creates a material inconsistency: robust evidence identifying a primary pressure is effectively deprioritised, while uncertainty around a secondary pressure is used to delay targeted management action. Such an approach risks undermining both proportionality and the use of credible scientific evidence.

## **6. Data gaps and observer coverage**

The letter highlights shortcomings in the evidence base, including pre-2002 gaps in discard and bycatch data, and post-2019 data required to update the assessment, yet does not adequately explain why these gaps persisted for several years. In particular:

- why data prior to 2002 remain on paper records despite requests for their recovery;
- there was no discard sampling from the Nephrops fleet between 2020 and 2023;
- sampling since 2024 has been extremely limited; and
- claims that observers cannot be deployed on creel vessels are contradicted by published evidence of observer deployment on small-scale vessels elsewhere in Scotland.

Statements that the TSP will resolve these issues are not accompanied by clear commitments on scale, coverage, or implementation.

## **7. Role and limits of the Targeted Science Programme**

The TSP is presented as justification for extending the closure, yet the programme's stated priorities do not include a direct evaluation of the effectiveness of the closure itself. This creates a circular logic in which a measure is retained to facilitate research, while the research does not explicitly test whether the measure is warranted.

More broadly, repeated references to future consultation and forthcoming work risk substituting process for action, particularly where the best available evidence already points clearly to the main source of mortality.

## **8. Concluding observation**

Taken as a whole, the rationale for extending the Clyde closure rests on precautionary arguments that are weakly connected to the acknowledged evidence base. The continued emphasis on spawning protection sits uneasily alongside admissions that spawning is unlikely to be the binding constraint on recovery, and that bycatch-driven mortality remains the principal issue.

In this context, the proposed SSI risks perpetuating an ineffective management approach while imposing continuing socio-economic costs on affected fishing communities. A more coherent and proportionate response would align management measures directly with the dominant, evidence-based drivers of cod mortality in the Clyde.