

LINK Marine Task Force Position Statement on Seal Conservation

Aim

The aim of this short position statement is to summarise the current legislation for seal conservation in Scotland and highlight the inadequacies. It is also a joint call for reform of the Conservation of Seals Act 1970 to address those inadequacies and to reflect the need for effective and comprehensive seal conservation measures.

In summary, Scottish Environment LINK would like:

- 1. The Conservation of Seals Act (1970) repealed**
- 2. Seals listed as a protected species under Part 1 of the Wildlife and Countryside Act, thus extending the current closed season to provide year-round protection**
- 3. Only under exceptional circumstances of over-riding wider conservation concern, where all non-lethal means have been tried and failed, any firearm licences could then be issued by Scottish Ministers (following advice from SNH) under the WCA, consistent with the EU Habitats Directive.**

Background

The current legislation covering the conservation of seals is as follows:

Conservation of Seals Act 1970

- Provides legal protection during a closed season (breeding/moulting) period. Grey seals: 1 September – 31 December; common seals: 1 June – 31 August.
- **Section 1** of Act allows shooting of seal during the open season provided the shooter has the appropriate firearm and endorsement to shoot seals. Fish farms can control seals under this section or by using scarring devices.
- **Section 9** “Netsman defence” a defence against prosecution if a seal is shot to prevent damage to fishing net or tackle during the closed season.
- **Section 10** a license may be granted to shoot seals for the purpose of “prevention of damage to fisheries”, provided it complies with the Habitats Directive*.

Fish farms are not included as “fisheries” or “fishing nets and tackle” and can only shoot seals under Section 1 or control them by non-lethal means.

Some problems and omissions of the Conservation of Seals Act:

- Throughout the Act there is a presumption that seals have to be shot and this forms a basis for the Act.
- There is a presumption that random and indiscriminate killing of seals is legitimate provided that favourable conversation status is maintained.
- The Conservation of Seals Act 1970 is incompatible with laws in Northern Ireland and Isle of Man.
- The Act pre-dates the EU Habitats Directive and contravenes Article 15
- The key term “vicinity” used in the Act is not defined
- There is no provision to protect seals from disturbance during the pupping season
- There is no protection for other species of seals such as hooded, and ringed seals that may visit UK
- There is no requirement to record numbers and species of seals shot or to record bullets used.
- There has only ever been one prosecution under the Act.

The EC Habitats Directive, implemented by the Conservation (Natural Habitats) Regulations 1992 (92/43/ECC)

- Both species of seal must have Special Areas of Conservation (SACs) designated
- Atlantic salmon must also have SACs in freshwater only
- Licenses to shoot seals can be applied for the purpose of “conserving a wild stock” or “preventing serious damage to fisheries”
- Article 15 states:

“In respect of the capture or killing of species of wild fauna listed in Annex V (a) and in cases where, in accordance with Article 16, derogations are applied to the taking, capture or killing of species listed in Annex IV (a), Member States shall prohibit the use of all indiscriminate means capable of causing local disappearance of, or serious disturbance to, populations of such species, and in particular:

- (a) use of the means of capture and killing listed in Annex VI (a);*
- (b) any form of capture and killing from the modes of transport referred to in Annex VI (b).”*

Fish farms are not included in the above legislation and cannot therefore apply for a license.

For further information, please contact Marine Conservation Society Mariculture Officer Dawn Purchase on 0131 226 3113 or dawn@mcsuk.org. This position statement is signed up to by the Scottish Environment LINK Marine Task Force, comprising the following organisations

Hebridean Whale and Dolphin Trust
Marine Conservation Society
National Trust for Scotland
RSPB Scotland

Scottish Wildlife Trust
Whale and Dolphin Conservation Society
WWF Scotland

Thanks to funding from the **Esmee Fairbairn Foundation** and **Tubney Charitable Trust**, LINK is stepping up the campaign for a Scottish Marine Bill. For further information visit www.savescottishseas.org.