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Dear Finlay,

Thank you for the email of 4 June 2024 from Emma Johnston, Clerk to the Rural Affairs and Islands Committee. The Committee has asked several follow up questions to Protocol Notification request for The Sea Fisheries (Amendment) (No 2) Regulations 2024. I understand that the Committee is considering this issue on Wednesday 12 June 2024.

Are catch limits currently implemented mainly through licence conditions rather than legislation for other species that are subject to international negotiations? If so, why has this been different for sea bass until now? If not, is removing catch limits from secondary legislation and moving them to licence conditions part of a wider change in policy or is it limited to this specific species?

Seabass is a Non-Quota Stock (NQS). NQS catch limits are typically implemented through licence conditions following the negotiation of international agreements. Sea bass is an important European species and there has been continued concern for the condition of the stock since 2015, where specific legislation was introduced aimed at limiting catches to a sustainable level and to where stocks may recover to earlier levels. Catch allowance varies on the gear type deployed and any permitted vessel must have an established track record which is not transferrable.

Removing sea bass catch limits from secondary legislation and moving them to licence conditions will allow licensing authorities to implement changes to catch limits more efficiently and timeously reflecting the importance of the stock, particularly in the southern waters of the UK. Scotland has only limited commercial interest in this stock with only two under 10 m vessels currently licenced to target sea bass.

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By-catch of sea bass is permitted and restricted by licence condition for vessels without the additional permit operating demersal/seine trawls. This by-catch permission extends to all UK fishing licences.

The notification does not state which enabling power the SI is to be made under. Please identify the enabling power(s).

The enabling powers are powers conferred by Article 15(2) of Regulation (EU) 2019/1241 of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystem through technical measures and now vested in the Secretary of State acting in the capacity of a fisheries administration, and powers conferred by section 36(1)(b) and (c) and section 36(4)(a) and (j) of the Fisheries Act 2020 (FA2020).

Whether the exercise of the enabling power(s) by UK Ministers within devolved competence is subject to a statutory requirement for Scottish Ministers' consent.

Yes, regulations made by the Secretary of State under the exercise of the powers under section 36 of the FA2020 require the consent of the Scottish Ministers where they include a provision which would be within the legislative competence of the Scottish Parliament if included within an Act of the Scottish Parliament, unless the provision is merely incidental to, or consequential on, a provision which would be outside that legislative competence.

Is the current power to change the catch limits on bass subject to a statutory requirement for Scottish Ministers' consent? If so, moving the catch limits from secondary legislation to licence conditions would appear to limit the opportunity for scrutiny by the Scottish Parliament, because at present the Parliament would receive an SI notification for changes to these catch limits but, under this proposal, it would not. Is that correct? What conditions will apply to the UK Ministers' use of the power to specify the catch limits in licence conditions? Will UK Ministers be subject to a statutory requirement to obtain Scottish Ministers' consent before doing so?

Catch limits are subject to international negotiations, and Agreed Record of those negotiations show the level of catch agreed and the tonnage that each Coastal State is taking. In section 23 of the FA2020, powers are granted to the Secretary of State to make a determination on how those fishing opportunities are distributed as a catch quota to the UK. Under section 24 (1), the Secretary of State must consult with the Scottish Ministers (The MMO and other Devolved Administrations) before making that determination.

The power to vary licences flows from the FA2020 (Schedule 3, para 2). However, each Fisheries Administration manages/issues licences for their own vessels as set out in Section 15, which contains limits for vessels licences which can be granted by authorities to vessels from their own area, e.g. a licence in respect of a Scottish fishing boat may be granted by the Scottish Ministers. This means that the consent/agreement must be obtained from each Fisheries Administration to vary the licence condition. If not, then there will not be equality in the licence conditions between different Fisheries Administration vessels. Paragraph 4 of Schedule 3 does allow for requests for equivalence in licensing conditions by licensing authorities in relation to the area for which they are responsible to other authorities for fishing boats of the same description, in so far as the other authority confers authority in the area for which the requesting authority is responsible.

As we have mentioned, Scotland has a very limited interest in commercial sea bass, so the proposal to move to licence conditions from an annual SI to license has a small impact.

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Licence conditions are a lot quicker to update than secondary legislation, which take a minimum of four months (and usually a lot longer) to amend. Moving the catch limits to licence conditions will therefore allow us to respond more quickly to pressures on bass stocks, as changes that are negotiated with the EU in line with the latest evidence will be able to be implemented faster. This allows quicker implementation of conservation measures if required, and faster realisation of economic benefits if the stock improves. As it stands, the EU is currently able to introduce any changes to catch limits promptly at the start of a fishing year on 1 January, while the UK cannot do so until April at the earliest. It is hoped that this amendment will make fishing opportunities between EU and UK fishers more equal.

What Scottish stakeholders were involved in the consultation?

The proportion of Scottish stakeholders who were supportive/not supportive of the proposed changes

If any concerns were raised by Scottish stakeholders

The Committee requests further information about whether the Defra consultation, or other stakeholder engagement, identified any potential disproportionate impacts on particular fleet segments or individual fishers. If any potential disproportionate impacts were identified, how will these impacts be mitigated.

As this public consultation was taken forward by Defra, we sought their input to answer these questions. They have confirmed that no potential disproportionate impacts on particular fleet segments or individual fishers were identified.

We anticipate that this measure will impact a minimal number of Scottish fishers, as there is no recognised sea bass fishery within Scottish waters – according to the UK sea fisheries annual statistics report 2022, there were no recorded landings of bass into Scotland between 2018-2022. As mentioned earlier, there are only two Scottish vessels on the West coast that receive an annual permit for bass.



MAIRI GOUGEON

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