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Don Staniford
salmonfarmingkills@gmail.com

Your ref: 202000118346
Our ref: FOI re. seals killed by salmon farmers since 1 January 2020
1 February 2021

Dear Don Staniford,

REQUEST UNDER THE ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (EIRs)

Thank you for your request made by email dated 2 December 2020.

Your request

You asked:

“Please provide information on seals killed (including the reporting of seals killed and any discussions on the killing of seals) by salmon farmers since 1 January 2020.

Please include data, copies of licences, returns, email correspondence, letters (e.g. to NOAA), Cabinet Briefings, discussions of seals being killed and reported and any other information relating to the killing of seals since 1 January 2020.

This information would certainly include any forms or data relating to seals killed to alleviate suffering as detailed via <https://www.gov.scot/publications/marine-licensing-seals-killed-to-alleviate-suffering/>

In terms of data available, Scottish Salmon Watch cannot find any data online for 2020.

Please also provide any information since 1 January 2020 on seals killed illegally or unreported.

Please consider this a FOI request under the relevant FOI and Environmental Information regulations.

Please provide the information electronically in a reasonable format (e.g. do not provide Excel spreadsheets as PDFs as previous FOI replies have done so)."

Response to your request

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39 (2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

1. I am providing copies of some of the information you have requested. Due to the large number of documents (73 PDF items) I will separately email you an invitation to a shared Workspace in an online storage facility called "Objective Connect." This online storage facility is now the Scottish Government's preferred way to share large and/or numerous files. To access the documents via Objective Connect you will need to click on the link provided in my accompanying email. In order to access the shared Workspace files you will need to enter your email address and a password of your choice. You will then be able to enter the Workspace and click on two zipped folders to download all the documents released.

In 2020 there were 27 licences issued by the Marine Scotland Licensing Operations Team (MS-LOT) authorising the killing of seals to protect the health and welfare of farmed fish in Scotland. PDF items 1 to 33 provided to you are copies of all 27 of the original licences issued, and also 6 variations to licences made. These licences were granted by the Scottish Ministers for the period from 1 February 2020 until 31 January 2021.

Data held by Marine Scotland in relation to the killing of seals since 1 January 2020 is either already published online, or found in the form of returns. These returns are completed via web portal only accessible by the applicants themselves, but the information is subsequently reported on our Scottish Government web pages. Please see point 2 of this response below for details of how to access online the data and returns made for 2020 to date.

Under regulation 6(1)(b) of the EIRs, we do not have to give you information which is already publicly available and easily accessible to you in another form or format.

On 28 September 2020 the Scottish Government published a report (the second statutory review of the operation of the seal licensing system in Scotland under the Marine (Scotland) Act 2010) which covers the improvements since the last review and makes recommendations for the future operation

of the system. You may wish to view this report found at the following web link: <https://www.gov.scot/publications/second-review-operation-seal-licensing-system-under-marine-scotland-act-2010/>

2. In your request you stated that “In terms of data available,” your organisation “cannot find any data online for 2020.” The answers to your questions are provided below:

- All data held for 2020 is available online in the Excel file available to download at the top right hand corner of the 2020 tab of the “Marine licensing: seal licensing records” web page that can be found at the following web link: <https://www.gov.scot/publications/marine-licensing-seal-licensing-records-2011-present/pages/2020/>
- I can confirm that all data online is now up to date, which includes removal of the expired link (below) you referred to in your information request: <https://www.gov.scot/publications/marine-licensing-seal-licensing-records-2011-present/documents/seal-licensing---2020-licenses.xml>
- Full lists of seal licences issued annually from 2011 to 2019, by region and company, with the number of seals shot each quarter, by site can be found at the following web link: <https://www.gov.scot/publications/marine-licensing-seal-license-returns-2011-18/>

This data is published at the end of a full licensing year and will be available for the 2020 licences in due course after 31 January 2021 (which is the end date of the 2020 seal licences issued).

- In your email you stated that “the data for 2020 reported by OneKind and The Ferret in June 2020 appears to have vanished.”

I can now confirm that the links you refer to in the articles (links to the articles given below) now work again and refer the reader to the Scottish Government web site where the data to date for 2020 is available: [Marine licensing: seal licensing records, 2011-present - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/marine-licensing-seal-licensing-records-2011-present/pages/2020/)

- <https://www.onekind.scot/ban-on-seal-shooting-must-be-watertight/>
- <https://theferret.scot/seal-shooting-doubles-before-ban-comes-into-force/>

3. While our aim is to provide information whenever possible, in this instance the Scottish Government does not hold any information on seals killed illegally or unreported since 1 January 2020.

Therefore we are refusing part of your request under the exception at regulation 10(4)(a) of the EIRs. The reason why that exception applies is explained in the Annex to this letter.

4. While our aim is to provide information whenever possible, in this instance we are unable to provide some of the information you have requested because exceptions under regulations 10(5)(b) (The course of justice, etc.) and 11(2) (Personal information of a third party) of the EIRs apply to that information. The reason why these exceptions apply is explained in the Annex to this letter.

Your right to request a review

If you are unhappy with this response to your EIRs request, you may ask us to carry out an internal review of the response, by writing to The Director of Marine Scotland, Area 1B South, Victoria Quay, The Shore, Edinburgh, EH6 6QQ or by emailing: Directormarinescotland@gov.scot.

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:
<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>

ANNEX

REASONS FOR NOT PROVIDING INFORMATION

The Scottish Government does not have the information

Under the terms of the exception at regulation 10(4)(a) of the EIRs (information not held), the Scottish Government is not required to provide information which it does not have. The Scottish Government does not have the information you have requested because we do not hold any information on seals killed illegally or unreported from 1 January 2020 to 2 December 2020 inclusive.

This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about seals killed illegally or unreported, clearly we cannot provide information which we do not hold.

Exceptions apply

An exception under regulation 10(5)(b) (the course of justice, etc) of the EIRs applies to some of the information you have requested.

This exception applies as release of this information would, or would be likely to, cause substantial prejudice to our operational and law enforcement capabilities.

This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception.

We recognise that there is some public interest in release because there may be some public interest in Wildlife Crime intelligence held by the Scottish Government. However, this is outweighed by the public interest in not releasing such information which could potentially allow people to examine and analyse our methods and mechanisms of operating and try and identify ways to circumvent them or



otherwise thwart our activity.

An exception under regulation 11(2) (personal information of a third party) of the EIRs applies to some of the information you have requested.

Regulation 11(2) – To the extent that environmental information requested includes personal data of which the applicant is not the data subject and in relation to which either the first or second condition set out in paragraphs (3) and (4) is satisfied, a Scottish public authority shall not make the personal data available.

An exception under regulation 11(2) of the EIRs (personal information of a third party) applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018.

This exception is not subject to the ‘public interest test’, so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exception.

Yours sincerely

Kate Webb

Business Casework Officer - Licensing Operations Team - Marine Planning & Policy

