

The Salmon Net Fishing Association of Scotland

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The Scottish Government
Marine Scotland
1B – North
Victoria Quay
Edinburgh
EH6 6QQ

Dear Sirs,

Aquaculture and Fisheries Bill Response to Consultation Document

On behalf of our Association, I would respond to the Scottish Government's Consultation document on the Aquaculture and Fisheries Bill as follows. In addition I am enclosing the Respondent Information Form, duly completed.

Section 1 Aquaculture

We would like to see Scottish Ministers taking a hard line on the escapement of farmed salmon which cause severe damage to wild stocks. Consent should not be given to moving farm cages into the open waters of the west coast such as the Minch or North Atlantic causing cages to rupture due to severe weather. Farm sites should be encouraged to have tanks onshore with water pumped from the sea and filtered on return to the sea. This would deal with Questions 9 and 18 in this section.

Section 2

Inland farm sites would protect shellfish growing water: Question 19.

Section 3

Inland farm sites would create protection from sea lice and escapement: Questions 20, 21 and 22.

Misleading Description on the Sale of Farmed Salmon

We would ask for this to be looked at by Scottish Ministers. Scottish Farmed salmon is being sold universally as “Scottish Fresh Salmon”. There is no doubt it is fresh, but this is misleading as many people refer to wild salmon as Scottish Fresh Salmon. The title farmed fish should bear is “Scottish Fresh Farmed Salmon”.

Section 4

Question 23: Because of the unequal balance of Upper and Lower Proprietors on District Boards it is impossible to implement fairness and transparency. Sadly, this is not even the case between all Upper Proprietors on the same Board.

Questions 24 and 25: We have answered yes but unfortunately this will never take place under the current management even if Scottish Ministers try to implement this through the Bill. The only way to achieve fairness between the Angling and netting sectors is to remove Netting from the management of District Boards and put the Netting sector under an Inshore Fisheries Management Organisation so that salmon stocks are managed by Marine Scotland directly. The financial assessment implemented by some District Boards is to a crippling level for small fisheries to bear, who, in turn, get little for their money.

We have answered yes to Question 26. Following Recommendation 6 of the Report of the Mixed Stock Salmon Fisheries Working Group, it was decided that the Scottish Government, along with the stakeholders, develop and use a tag as a pilot scheme. This was done on a voluntary basis by 11 Scottish net fisheries, members of our Association. The tag developed by both parties is working extremely well, giving traceability and also providing a great marketing tool, identifying a high quality Scottish food, marked with the Scottish saltire. We would strongly recommend and urge Scottish Ministers to consider the introduction of a statutory carcass tagging scheme for the reasons stated above and also to keep illegal fish off the market. We would also be keen to see Ministers retain the pioneering tag as the statutory carcass tag for Scotland as it is simple and easy to use. However, having to keep a log book and record a tag number and the weight and length of fish would be unworkable, would serve no purpose and would create an unworkable administrative burden on small crews. Marine Scotland receives netsmen’s annual fish returns, including number, weight and fishing effort. This system has worked well for the past 50 years. We would recommend that, in addition to salmon and sea trout killed and tagged by Netsmen, a statutory carcass tag of a similar design should be introduced for salmon and sea trout killed and retained by Anglers, showing the name of the fishery or the river where it was captured. This would also prevent rod caught salmon and sea trout from being sold illegally and would give the legitimately killed salmon and sea trout traceability. To conclude on carcass tagging, we feel that, if the Angling sector does not have a statutory tagging system introduced and having it imposed on the netting sector only, would be a wasted exercise. If rod caught salmon retained was carcass tagged, this would greatly assist the management of the river catches.

Our answer to Question 27 is “yes”. We agree with fish sampling in principle and feel that Scottish Ministers should have powers to sample catches, for various reasons. However, we question the need for this to be in the Bill as our members in the netting

industry have for many years given free access to their catch for research purposes. It is in the interests of both sectors to permit voluntary access and without having statutory powers imposed. Participants will give access to sampling much more freely as in the current practice.

Our answer to Question 2 is “yes”. Scottish Ministers should have the power to initiate change to the annual close time season, but by removing the salmon management from District Boards to the proposed Inshore Fisheries Management Organization, this should give Scottish Ministers, in conjunction with Marine Scotland, a free hand to change the season as sustainably harvestable stocks become available.

Our answer to Question 29 is “yes”. Scottish Ministers should be able to promote combined salmon conservation measures, but with advice from Marine Scotland and with consultation with the stakeholders regarding stocks in specific areas of Scotland and taking into account the Mixed Stock Fisheries recommendation 21 about equal burden sharing through both sectors and not using catch and release as a conservation tool for Anglers.

Our answer to Question 31 is “yes”. Scottish Ministers should have statutory provisions relating to mediation and dispute resolution to resolve disputes around salmon conservation management and related compensation. This would be more relevant if netting is not removed from the management of District Boards.

Our answer to Questions 32 and 33 is “yes”. We feel strongly that effort data should be requested for Rod fisheries and also river condition relating to whether in spate or drought. This would then indicate the conditions regarding fresh or coloured fish within a system.

Additional Important issues which should be considered

Weekly Close Time

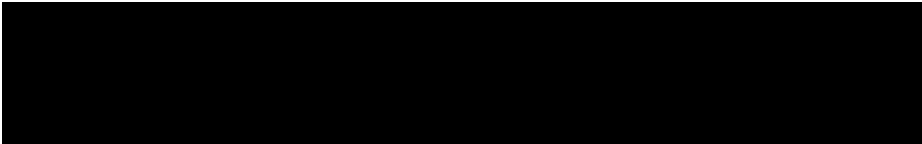
In 1988, Scottish Salmon Net Fisheries were robbed of 18 hours of their weekly working time, (and depending on tides sometimes longer than 18 hours), with no compensation paid. Our members agreed voluntarily to postpone the start of their season for 6 weeks as a conservation instrument for the spring component. Our members have done this continuously since the year 2000 and intend to do so again for season 2012, with no compensation for loss of earnings, in total to date 385 fishing days given up from 2000 to 2011 inclusive. Our members are now looking for restoration of the 18 hours per week from the start of their annually agreed postponed season of six weeks as there is clearly not a stock issue after that time. It is our members' heritable title and should never have been eroded as there was no scientific evidence to back it in the first place. Thirty-five fishing days in the Spring each year should compensate for our members having their 18 hours returned weekly throughout the season when a sustainable harvestable stock is clearly available. The reinstatement of the weekly close time should be considered even if Scottish Ministers do not decide to remove Netting from the District Boards' jurisdiction.

Annual Close Time

Our members would also wish consideration to be given to changing the annual season with reference to current trends of fish runs altering. The indications were that the seasons were changing, perhaps linked with global warming. What netsmen were suggesting was simply a shift in the season as opposed to a straight extension as some Boards were seeking for anglers.

Thank you for the opportunity to respond to the Consultation document.

Yours faithfully,



G. Keith Allan,
Secretary & Treasurer,
The Salmon Net Fishing Association of Scotland.

CONSULTATION QUESTIONS

SECTION 1 - THE SUSTAINABLE DEVELOPMENT OF AQUACULTURE

Farm Management Agreements (FMAs)

1. Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement (FMA), with sanctions for failure to do so, or to adhere to the terms of the agreement? (Page 9)

YES

NO

Appropriate Scale Management Areas (MAs)

2. Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative areas? (Page 9)

YES

NO

Management Measures and Dispute Resolution

3. Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements? (Page 10)

YES

NO

4. How do you think such a system might best be developed? (Page 10)

Unused Consents

5. Do you agree we ought to review the question of unused consents? (Page 11)

YES

NO

6. What do you consider are suitable options to promote use or relinquishment of unused consents? (Page 11)

Relinquish unused consents

7. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents? (Page 12)

YES x

NO

8. Should any such power relate to all or to particular consents (and if the latter, which)? (Page 12)

Collection and Publication of Sea-lice Data

9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data? (Page 13)

Close monitoring on a regular basis on all sites and publish the findings no less than quarterly, also include the chemical data used and how often. Bearing in mind this is being used in a food substance.

Surveillance, Biosecurity, Mortality and Disease Data

10. Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatment and production as set out above? (Page 16)

YES x

NO

11. What are your views on the timing and frequency of submission of such data? (Page 16)

At least quarterly

Biomass Control

12. Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them necessary and appropriate – for example to address concerns about fish health and welfare? (Page 16)

YES x

NO

Wellboats

13. Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on wellboats? (Page 17)

YES x

NO

Processing Facilities

14. Do you think Scottish Ministers should be given additional powers to place controls on processing plants? (Page 17)

YES x

NO

Seaweed Cultivation

15. Do you agree that the regulatory framework should be the same for all seaweed farms? (Page 18)

YES x

NO

16. Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing? (Page 17)

YES x

NO

17. If not, what alternative arrangements would you suggest? (Page 18)

Commercially Damaging Species

18. Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species? (Page 19)

YES NO

SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS

19. Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry? (Page 21)

YES NO

SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS

Sea-lice

20. Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken, in appropriate circumstances and potentially as part of a wider suite of protection measures? (Page 23)

YES NO

Containment and Escapes

21. Do you agree we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical Standard? (The technical content of the standard would be defined separately.) (Page 25)

YES NO

Tracing Escapes

22. Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes? (Page 26)

YES NO

SECTION 4 - SALMON AND FRESHWATER FISHERIES MANAGEMENT

Modernising the Operation of District Salmon Fishery Boards

23. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently? (Page 29)

YES NO

24. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries? (Page 29)

YES NO

25. If yes, should such Code of Good Practice be statutory or non-statutory? (Page 29)

YES NO

Statutory Carcass Tagging

26. Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout? (Page 31)

YES see note NO

Fish Sampling

27. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis? (Page 32)

YES see note NO

Management and Salmon Conservation Measures

28. Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders? (Page 32)

YES NO

29. Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand? (Page 32)

YES NO

30. Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures? (Page 32)

YES see note

NO

Dispute Resolution

31. Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures? (Page 33)

YES

NO

Improved Information on Fish and Fisheries

32. Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries? (Page 34)

YES see note

NO

33. What additional information on the fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances? (Page 34)

Weather conditions, condition and health of fish, fresh run or coloured and a true record of mortality after catch and release.

34. Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout and the fisheries in their district? (Page 34)

YES

NO

Licensing of Fish Introductions to Freshwater

35. Do you agree that Scottish Ministers should have powers to recall, restrict or exclude the jurisdiction of Boards in relation to fish introductions, in certain circumstances? (Page 35)

YES

NO

36. If so, why and in what circumstances? (Page 35)

Ban the introduction of juvenile salmon into fresh water lochs for salmon farming
Close monitoring at the impact of restocking

SECTION 5 - MODERNISING ENFORCEMENT PROVISIONS

Strict Liability for Certain Aquaculture Offences

37. Do you agree that strict liability criteria should apply – where they capable of being applied – for offences related to Marine Licensing requirements insofar as the apply to aquaculture operations and, potentially, in other situations? (Page 37)

YES x NO

Widening the Scope of Fixed Penalty Notices

38. Do you agree that we should extend the use of fixed financial penalties as alternatives to prosecution in relation to marine, aquaculture and other regulatory issues for which Marine Scotland has responsibility? (Page 38)

YES x NO

39. Do you agree that we should increase the maximum sum that can be levied through a fixed penalty notice to £10,000? (Page 39)

YES x NO

40. Are there particular regulatory areas that merit a higher or lower maximum sum? (Page 39)

YES x NO

Enforcement of EU Obligations Beyond British Fisheries Limits

41. Do you agree that we should amend section 30(1) of the Fisheries Act 1981 as proposed? (Page 40)

YES x NO

Powers to Detain Vessels in Port

42. Do you agree that sea fisheries enforcement officers should be given specific power to allow vessels to be detained in port for the purposes of court proceedings? (Page 41)

YES x NO

Disposal of Property/Forfeiture of Prohibited Items

43. Do you agree that sea fisheries enforcement officers should be able to dispose of property seized as evidence when it is no longer required, or forfeit items which would be illegal to use? (Page 41)

YES x NO

Power to Inspect Objects

44. Do you agree that sea fisheries enforcement officers should have the power to inspect objects in the sea and elsewhere that are not obviously associated with a vessel, vehicle or relevant premises? (Page 42)

YES x NO

Sea Fisheries (Shellfish) Act 1967

45. Do you have any views on the proposals to amend the Sea Fisheries (Shellfish) Act 1967 to help make its application clearer? (Page 42)

YES x NO

SECTION 6 - PAYING FOR PROGRESS

46. Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities? (Page 43)

YES x NO

47. If you do not agree that there should be charging provisions, how do you envisage ongoing and new work to assist in management and development of the aquaculture and fisheries sectors should be resourced? (Page 43)

48. If no new way of resourcing such activity can be found, what activities do you suggest might be stopped to free up necessary funds? (Page 43)