



# Association of Salmon Fishery Boards

## Comments on 'Aquaculture and Fisheries Bill Consultation Document'

March 2012

### Introduction

The Association of Salmon Fishery Boards is the representative body for Scotland's 41 District Salmon Fishery Boards (DSFBs) including the River Tweed Commission (RTC), which have a statutory responsibility to protect and improve salmon and sea trout fisheries. The Association and Boards work to create the environment in which sustainable fisheries for salmon and sea trout can be enjoyed. Conservation of fish stocks, and the habitats on which they depend, is essential and many DSFB's operate riparian habitat enhancement schemes and have voluntarily adopted 'catch and release' practices, which in some cases are made mandatory by the introduction of Salmon Conservation Regulations. ASFB creates policies that seek where possible to protect wider biodiversity and our environment as well as enhancing the economic benefits for our rural economy that result from angling. An analysis completed in 2004 demonstrated that freshwater angling in Scotland results in the Scottish economy producing over £100 million worth of annual output, which supports around 2,800 jobs and generates nearly £50million in wages and self-employment into Scottish households, most of which are in rural areas.

We welcome the opportunity to comment on the consultation on the Aquaculture and Fisheries Bill.

### Overarching Comments

- We are encouraged by the content of Section 1 and 3. We believe that the Aquaculture Industry can, in certain locations and at certain times, present significant risks to wild fish. The proposals have the potential to address some of our concerns and we are particularly supportive of: a legal requirement to participate in farm management agreements; powers to revoke consents; powers to require SEPA to reduce biomass consents; powers to determine a lower threshold for sea lice levels above which remedial action needs to be taken; a Scottish technical standard for finfish farm equipment; and powers to take or require samples of fish from fish farms, for tracing purposes.
- We also welcome Scottish Government seeking views on the most appropriate approach to be taken to the collection and publication of sea lice data – a key issue that must be addressed in this legislation. As we set out below, it is vital that there is full public access to such data.
- We welcome many of the proposals laid out in Section 4 as we are confident that DSFBs can demonstrate accountability and transparency via our recently updated Code of Good Practice. We are comfortable with the availability of additional powers to Scottish Ministers, but we believe that these should provide a safety net, **not** a parallel management framework.
- There are a number of other issues which are not addressed by the consultation document. These are set out in our response to Section 7 below.

## Specific comments

### Section 1: The sustainable development of aquaculture

*Q1. 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 with sanctions for failure to do so, or to adhere to the terms of the agreement?*

Yes – this was a clear recommendation of the Ministerial Group on Aquaculture. ASFB believe that a coordinated approach to stocking, fallowing and treatment of sea lice and other disease outbreaks, at a scale appropriate to the potential dispersion of sea lice and other diseases, is an important step in lowering the risks to wild fish arising from aquaculture. We therefore agree that participation in FMAs should be a legal requirement, and that sanctions for failure to adhere to such agreements are appropriate.

However, FMAs do not have any input from wild fisheries interests. One of the identified failings of Area Management Agreements (which did have wild fisheries input) was the requirement for all discussions to take place under a confidentiality agreement. This lack of transparency led to suspicion about the process and ultimately resulted in a lack of wider support for the TWG process. It is therefore important, at the very least, that the proceedings of FMAs, and any data held within that agreement are open and accessible.

*Q2. 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?*

We are concerned that the existing farm management agreements are extremely variable in size. Whilst we recognise that there remains incomplete information and understanding about connectivity between farms and FMAs, it would appear that in some instances, the current FMA boundaries are not primarily based on reasons of good husbandry, biosecurity and control of sea lice. For example, there are individual companies which operate within relatively small geographical areas, but across a number of farm management agreements (in which no other companies participate). From a wild fisheries perspective, FMAs should ultimately be set based on sea lice dispersal models, in order to ensure that coordinated treatment strategies are optimised. Where such models do not currently exist, there should be a general principle of precaution in setting larger, rather than smaller boundaries, in order to minimise the risks of transfer of disease/parasites between FMAs. We would therefore support Scottish Ministers having powers to specify FMA boundaries, particularly as new information becomes available on sea lice dispersal. We support the examples laid out in paragraph 11 as to when such powers could be used. Indeed, we believe that several of the existing FMAs should be consolidated at the earliest possible opportunity.

*Q3. Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements?*

If such a process can increase the effectiveness of such agreements then ASFB would be supportive of an independent arbitration process. As we set out in our comments relating to Q1 above, we believe that the proceedings of FMAs should be open and accessible to wild fishery interests, and on that basis we believe that an arbitration process should be available to resolve disputes relating to FMAs involving all interested parties.

*Q4. How do you think such a system might best be developed?*

No comment.

*Q5. Do you agree we ought to review the question of unused consents?*

Yes.

*Q6. What do you consider are suitable options to promote use or relinquishment of unused consents?*

Paragraph 19 sets out a number of reasons why consents for unused sites may be held, including holding sites as buffer zones, as part of farm management area arrangements to assist in fish health and disease management. We would be extremely concerned if unused consents were the only mechanism available to achieve such an aim. Indeed, as we have stated above, FMAs should be set at an appropriate size, and with appropriate spacing to allow such buffer zones to operate effectively.

The most suitable option to promote use or relinquishment of unused consents will depend on the individual circumstances at the site in question, and with that in mind we can see merit in all of the incentives set out in paragraph 20. However, as highlighted above, there are situations when the most appropriate approach is to revoke a consent and ensure that no further consents are reissued in that area. This mechanism should also be reflected through the marine planning system.

*Q7. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents?*

Yes. Such a power to revoke consents is particularly important as our understanding of the potential interactions between aquaculture and wild salmonids improves. Given that Marine Scotland Science are unable to give definitive predictions as to the effect of a site in a particular location, and taking into account that most developments receive permanent planning consent, it is a concern that such a power does not currently exist.

*Q8. Should any such power relate to all or to particular consents (and if the latter, which)?*

Such a power should relate to all consents for both marine and freshwater production.

*Q9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data?*

The most appropriate approach is for full public access to sea lice data in a disaggregated form. As stated in the consultation document, the Healthier Fish Working Group recommended an industry-run database with publically facing reports on sea lice numbers, aggregated over 6 regional zones. However, the regional zones in question are so large as to make the data impossible to utilise in any sensible way. Indeed, any issues at a local level will be hidden in the 'noise' associated with aggregating over such a large area. For example, during June 2011 lice numbers across the North Mainland region, on average, were 138% above the suggested lice treatment threshold (0.5 adult female lice per fish) and from September-November, for the same region, lice numbers were, on average, 284% above the suggested lice treatment threshold (1 adult female lice per fish). If we assume that most farms in the area were operating in compliance with the Industry Code, this would strongly suggest that some farms in that area had significant problems with sea lice, given that the average over the whole area was over the lice treatment threshold. We are aware of sea lice issues on wild salmonids within this region, but there is currently no mechanism of assessing whether such issues for wild fish relate to lice levels on nearby farms. Even where the industry database shows that, *on average*, lice numbers remain below the suggested lice treatment threshold set out in the industry code, the fact that numbers are aggregated over such a large area means that such a result *does not* demonstrate that there are no issues for wild salmonids at a local level.

Full public access to lice data in Scotland would allow assessments to be made of the success or otherwise of lice control strategies and subsequent impacts on wild fisheries. In addition, full access to lice data would allow the Fish Health Inspectorate to prioritise limited resources on 'problem' sites as part of the on-going farm inspection process.

Another area where access to such data is necessary is the aquaculture planning process. A major concern for wild fisheries interests is the potential for cumulative impacts on fish which often have to negotiate large numbers of farms on their migration to the open ocean. Such cumulative impacts cannot

currently be adequately assessed as part of the planning process, as planners do not have access to lice levels on existing farms in the area. There is a clear trend for fish farm applicants to state that they will adhere to the Code of Good Practice with regard to lice levels and the routine response to this by Marine Scotland Science is to state that if the target is met then the impact will be minimal (despite also stating that current industry practice as laid out in the Code of Good Practice is insufficient to protect wild fish). At the present time there is no way of assessing such claims, and indeed, under some circumstances in some areas we do not believe that operators are capable of meeting such targets (as the industry statistics highlighted above suggest).

The consultation document states that this area remains a key area of contention between aquaculture and salmon and freshwater fisheries interests. However, if the industry is confident that sea lice levels can be controlled in line with the Industry Code (notwithstanding our concerns regarding the adequacy of the current code to protect wild fish – please see our response to Q20), then there should be no concern in making such information public. The consultation document also states that data need to be properly presented, explained and understood, otherwise there is a risk that they may be misinterpreted or misused. If data needs to be explained in order to facilitate understanding, then that is a role for the industry - it is *not* a reason to withhold or otherwise sanitise data. Indeed, full public access to sea lice data is consistent with operating in an open and transparent manner – a vital step for an industry with the potential to have significant environmental effects. There would also be wider benefits in having such data available to academic institutions within Scotland, as part of research into the effects of sea lice, treatment success, resistance to existing treatments and indeed the development of new treatments.

We believe that the principles for collection and publication of sea lice data should be as follows: All farms should report data on a weekly basis to Marine Scotland; sea lice data should be published monthly, on a farm by farm basis, on a publically available webpage (operated by Marine Scotland or the Industry); the webpage could then be used to explain the data in whatever manner is deemed appropriate. However, it is fundamentally important that raw data is available.

*Q10. 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?*

Yes. These recommendations of the Healthier Fish Working Group were not contentious. Such data should be supplied to Marine Scotland and made available via a publically available website.

*Q11. What are your views on the timing and frequency of submission of such data?*

We believe that such data should be submitted on a weekly basis, with the possible exception of treatment notification, which could be collected less frequently.

*Q12. 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?*

Yes. Alongside powers to revoke consents, we believe that this power is a necessary and appropriate response. As we stated in our response to the consultation on permitted development rights for aquaculture<sup>1</sup> SEPA biomass consents under the Water Environment (Controlled Activities) Regulations 2005 are limited to 'discharges' such as fish waste and chemo-therapeutants and these are not currently interpreted as including sea lice. Marine Scotland Science have recently stated that '*adherence to Integrated Sea Lice Management (ISLM) as described in the industry Code of Good Practice may not necessarily prevent release of substantial numbers of lice from aquaculture installations. The CoGP takes no account of farm size, or number of farms in an area, in setting threshold levels for sea lice treatments. This may be appropriate when the aim is to protect the welfare of farmed fish but it will not necessarily*

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<sup>1</sup> Available at: <http://www.asfb.org.uk/wp-content/uploads/2011/06/ASFB-response-to-aquaculture-PDR-consultation.pdf>

*prevent significant numbers of larval lice being shed into the environment, and posing a risk for wild fish particularly in the case of larger farms or management areas holding a large biomass of farmed fish.'* We agree that the absolute number of sea lice released from a farm (which is clearly a function of the overall production biomass) is more important than the relative number of lice per fish. However, as stated above, these factors are not taken into account in SEPA's decision-making process and therefore it is entirely correct that Scottish Ministers should have a power to reduce biomass consents where appropriate. It is important that such powers are available to address concerns relating to the health and welfare of **both** farmed and wild fish. However, as we set out in our response to Section 7, we believe that sea lice emanating from sea cages should be treated in the same manner as other discharges. This would deal with the current lacuna in law with respect to the control of sea lice emanating from cages.

*Q13. Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on wellboats?*

Yes, particularly with regard to fish movement/discharges. Such powers should be taken **and implemented** following enactment.

*Q14. Do you think Scottish Ministers should be given additional powers to place controls on processing plants?*

Yes. Such powers should be taken **and implemented** following enactment.

*Q15. Do you agree that the regulatory framework should be the same for all seaweed farms?*

No comment.

*Q16. Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing?*

No comment.

*Q17. If not, what alternative arrangements would you suggest?*

No comment.

*Q18. Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species?*

No comment.

## **Section 2: Protection of shellfish growing waters**

*Q19. Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry?*

No Comment.

### Section 3: Fish farming and wild salmonid interactions

*Q20. 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?*

Yes. Marine Scotland Science, in responding to fish farm applications, routinely states:

*“However, it should be noted that adherence to Integrated Sea Lice Management (ISLM) as described in the industry Code of Good Practice may not necessarily prevent release of substantial numbers of lice from aquaculture installations. The CoGP takes no account of farm size, or number of farms in an area, in setting threshold levels for sea lice treatments. This may be appropriate when the aim is to protect the welfare of farmed fish but it will not necessarily prevent significant numbers of larval lice being shed into the environment, and posing a risk for wild fish particularly in the case of larger farms or management areas holding a large biomass of farmed fish.”*

ASFB agree with this statement and believe that threshold lice levels, above which remedial action needs to be taken should be changed in order to take into account farm biomass and the cumulative biomass in the local area in order to minimise the risks to wild fish. It is important to note that sea trout are present in inshore areas throughout the year and therefore threshold levels should also be appropriate to the needs of sea trout.

*Q21. 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.)*

Yes. We recognise and support the progress that the industry has made to reduce the number of escapes in Scotland. We also support the work of the Improved Containment Working Group in developing such standards. However, escapes do still occur, and will continue to be an inevitable consequence of fish farming in cages in both seawater and freshwater systems until such time as finfish farming is carried out under closed-containment. The work of the Improved Containment Working Group has also demonstrated that a significant proportion of escapes are not due to equipment failure, but rather to human error (29.5% in 2010). In parallel with developing equipment that conforms to a Scottish Technical Standard, accredited training in the use of such equipment should also be developed and Scottish Ministers should also have powers to require all personnel operating in Scotland to demonstrate competence in the use of equipment.

*Q22. 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?*

Yes. We believe that all companies in the Scottish Industry should provide access to samples to enable escapee fish to be identified to farm of origin. Should genetic sampling prove technically feasible, such sampling would also allow the full assessment of the extent of introgression between farmed and wild fish. Novel genetic techniques based on single nucleotide polymorphism technology currently allow escaped salmon to be identified to the farm of origin. We are aware that some Scottish companies are content to provide this information and we believe that such a scheme should be mandatory across Scotland. We understand that Marine Scotland Science are currently undertaking a scoping study to assess the technical feasibility of identifying escapes and quantifying introgression using genetic methods. Such a power could then be deployed in future, depending on the results of the MSS scoping study.

We are particularly concerned about the risks associated with smolt production in open freshwater cages. Large escape events or ‘drip’ escapes through the use of nets with inappropriate mesh sizes, will result in an increased potential for introgression with wild fish. We now have evidence of drip smolt escapes from several parts of Scotland which are not being caught by the reporting process. Even where introgression does not occur, such escapees will compete with and may displace resident wild fish. Ultimately we believe that there should be a phased withdrawal from smolt production in freshwater

cages, particularly in systems containing migratory salmonids. In the meantime, we believe that all freshwater cage farms should be required to retain genetic samples from each batch of fish to allow escapees to be traced to farm of origin. Where fish can be traced to farm of origin (marine or freshwater) there should be strict liability and a fine proportional to the number of escaped fish recovered.

In addition, we believe that there is also a move in Norway to ensure that all farmed fish are marked with a uniquely numbered tag, again with the purpose of identifying the source of escapes under strict liability. Whilst we accept that this approach would not be practicable in freshwater, we believe that there is merit in this approach for marine cage fish, as it is consistent with the polluter pays principle.

Ultimately, whilst there may be disagreement on the specific means of identifying escaped fish, and in recognition that technical methods will progress over time, we would advocate that the power should be drafted in such a way as to allow samples for tracing purposes to be taken, but without being prescriptive as to the means to achieve this aim.

## Section 4: Salmon and freshwater fisheries management

**General Comments:** The current DSFB organisational structure provides highly effective management of our iconic Atlantic salmon and sea trout fisheries. Its strengths lie in its local self-financing structure, and it is a structure which is highly respected and envied. It is capable of reacting swiftly to changing circumstances, and yet no changes to individual's rights can be made without the sanction of the Minister. Scotland benefits hugely from the management of fisheries by DSFBs. DSFBs are funded by fishery proprietors in the district, to a value exceeding £3.5m in 2010, in the interests of the overall management of the fishery. In addition, Board Members give their time on an entirely voluntary basis. To replicate this management model in the public sector would be massively expensive to the public purse.

The optimistic view painted in paragraph 74 demonstrates that the present management structure is effective. However, it would be wrong to assume that all runs of salmon in all rivers are at their optimum level. Whilst 2010 did indeed see the highest total rod and line catch on record (since 1952) it is important, when drawing comparisons with the past, that we compare like with like. In the 1960s, half a million fish or more were caught annually in Scottish coastal and estuary nets, before salmon were able to access their natal rivers. There was also a catch of over 3000 tonnes at Greenland and the Faroes. The number of salmon returning to Scottish waters is clearly hugely reduced from sixty years ago. Despite strong grilse and summer salmon runs in many parts of Scotland in 2010, it was another poor year for spring salmon. Conversely, in 2011, whilst the spring runs recovered to a degree, the grilse runs were late and weak. Fishery managers manage the resource based on individual stock components (such as spring salmon) rather than on total numbers of fish returning to the river. A healthy run of fish, returning throughout the entire season, contributes to a long angling season which secures employment and is important to the local angling-related economy. Protection of such stocks may, on occasion, require the intervention of Scottish Ministers, via statutory conservation measures.

Paragraph 75, sets out the retention of fish in the fixed engine (15,577), net and coble (11,738), and rod (32,712) fisheries in 2010, but does not comment on the sustainability of these catches, or indeed the contribution to fisheries management arising from these catches. It should be noted that net fisheries accounted for over 45% of the retained catch (19.8% of the total catch), but only contributed 1.3% of the total funding raised by DSFBs for fishery management. This situation is clearly inequitable and should be addressed by the forthcoming legislation.

We welcome many of the proposals laid out in this section as we are confident that DSFBs can demonstrate accountability and transparency via our recently updated Code of Good Practice. We are comfortable with the availability of additional powers to Scottish Ministers, but we believe that these should provide a safety net, **not** a parallel management framework. We would note that should Scottish Ministers elect to take such powers, there are associated financial implications, a point which is particularly relevant given the reduction in public sector budgets highlighted in section 6. We would also note that the consultation document does not clarify what alternative arrangements would be put in place should Scottish Ministers take these powers. One of the great advantages of the current structure of fisheries management in Scotland is that the resource is managed at a local catchment scale rather than centrally, and funding raised locally is spent locally. We believe that this principle of local management remains the foundation of effective fisheries management in Scotland.

*Q23. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently?*

ASFB agree that all DSFBs, as with all bodies, should act fairly and transparently – indeed our Code of Good Practice, which has recently been updated, is designed to ensure just that. Whilst we would not be uncomfortable with the obligation to act fairly and transparently, we are not convinced that a specific duty is the best way to achieve this aim. Indeed, we do not understand how such a duty would work in practice or how DSFBs would demonstrate that they were discharging such a duty. In addition, it is not clear from the consultation document who would judge whether a Board has acted fairly and transparently, or what criteria would be used to determine this? DSFBs have no legal powers to make



statutory regulations without application to Scottish Ministers (e.g. conservation measures, reduction of exploitation (rod and/or net fisheries), methods of fishing etc.). Therefore any such regulations are already subject to due process, consultation and Ministerial approval. It is worth noting, that it is almost inevitable that any such decisions will be perceived as unfair by some stakeholders. Indeed, this difficulty is highlighted by the fact that the consultation includes a section entitled 'dispute resolution'. Despite the requirement for Ministerial Approval, if a stakeholder does not believe that DSFB has acted fairly, then any decision is already subject to judicial review.

We believe the best means of achieving fairness and transparency is adherence to the Code of Good Practice (see below).

*Q24. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries?*

ASFB finalised an updated version of the Code of Good Practice<sup>2</sup> for Boards in November 2011 and therefore we strongly agree that there should be such a code. The code is designed to ensure a rigorous and consistent approach, but one which allows solutions to be tailored to local conditions and catchment management.

We note that it is not clear which code is being referred to in the consultation as we are also aware that the production of a Code of Best Practice for Fisheries Management is also under development. The consultation document also goes further and suggests what the code could include. We address these issues point by point below, but we would make the general point that DSFBs across Scotland vary greatly in terms of size and resources. With that in mind, a 'one size fits all' approach is unlikely to be appropriate across the network.

- *Hold annual open meetings i.e. in addition to the statutory requirement on Boards to call an annual meeting of proprietors.*

We encourage all boards to hold open meetings, and very many do. We are not aware of any boards resisting demands for open meetings.
- *Hold Board meetings in public, unless there is a good reason not to*

The 2003 Act requires DSFBs to call an annual meeting, but does not require DSFBs to hold any further meetings. However, most DSFBs hold a number of Board meetings per year. The cost of moving these meetings to a venue with sufficient capacity for members of the public, would involve a significant expense, which may prove disproportionate for many of the smaller DSFBs. ASFB believe that significant transparency in Board decision making could be achieved by publishing summary reports and/or minutes of meetings and where issues arise from those reports, by inviting evidence/submissions from members of the public, should the latter prove necessary.
- *Publish summary reports and/or minutes of meetings*

This is included as a recommendation in the latest version of the Code of Good Practice (November 2011).
- *Invite evidence from members of the public on matters of public concern*

ASFB would have no difficulty with this in principle. However, it is not clear from the consultation what aspects DSFBs are being asked to take evidence on. The 2003 Act already ensures that salmon anglers and netting interests are represented on DSFBs, in addition to proprietors. A number of DSFBs also invite other bodies to Board meetings, such as SEPA, SNH and local authorities, although we would note it is not always possible for such bodies to make staff available. The present system therefore allows DSFBs to consider a wide range of views in discharging their functions.
- *Consult stakeholders on a wide range of issues*

Again, ASFB would have no difficulty with this in principle. However, it is not clear from the consultation what aspects DSFBs are being asked to consult on. DSFBs cannot make legally

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<sup>2</sup> Available at: <http://www.asfb.org.uk/governance/>

binding decisions without the approval of Scottish Ministers, a procedure with an inbuilt consultation process. If the consultation document is referring to pre-application consultation, we would be supportive of this in principle, but we would again highlight that this may prove disproportionately expensive for some of the smaller DSFBs.

- *Make their Annual report and audited accounts widely available e.g. by publishing on web sites and local distribution*

This is included as a recommendation in the latest version of the Code of Good Practice (November 2011).

Q25. *If yes, do you think such a Code of Good Practice should be statutory or non-statutory?*

We believe that, similar to the Code of Good Practice for Scottish Finfish Aquaculture, the code should be non-statutory in the first instance. However, we would be content if there was a power for Scottish Ministers to adopt the code should they wish to do so in future.

Q26. *Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout?*

Yes, such powers should be taken **and implemented** as soon as possible. A carcass tagging scheme has been in operation in England and Wales since January 2009. Any salmon and sea trout caught by means other than rod and line (i.e. by licensed net or trap) must be tagged with a uniquely numbered Environment Agency carcass tag. This must be attached immediately after capture and remain attached until the fish is processed. Details of the fish and the tag reference numbers must be recorded in an annual log-book (supplied) and returned to the Environment Agency at the end of the year. Further information on the EA scheme is included in the 2009 review of implementation of the Salmon and sea trout carcass tagging and ban on sale byelaws<sup>3</sup>. It is worth noting that during the 2009 season, 36,500 salmon and sea trout were caught, tagged and recorded, with 30,668 of these recorded in the North East of England. The scheme is reported as having been a success: *"Feedback from the netmen has been positive – they can sell fish to a premium market where the buyer can be confident about the source of the fish – the tags are also seen as a sign of quality."* Similar schemes have been in operation in the Republic of Ireland since 2001 and Northern Ireland since 2002. Carcass tagging has been considered both as a quality control measure and as a means to minimise the possibility of illegally caught fish reaching markets or dealers. In combination with the ban on sale of rod caught fish across the UK, any untagged fish would be made unmarketable and clearly identifiable as illegally taken.

It is of note that the EA has identified a loophole in their system that, in the absence of a mandatory carcass tagging system in Scotland and in the Tweed District, illegally caught English fish are reaching the market masquerading as Scottish produce. There are also a number of potential routes for illegally caught Scottish fish to reach the market. Marine Scotland Compliance<sup>4</sup> has noticed a recent upturn in illegal gill netting in Scottish inshore waters. Between June 2009 and August 2010, 17 illegal gillnets were seized by FPV Minna (average length 47m; range 11-87m). There is a continuing, significant problem of wildlife crime in Scotland - the illegal taking of salmon within rivers and estuaries. During 2010, bailiffs employed by 28 of the 41 DSFB's across Scotland (including the River Tweed Commission) seized a further 166 nets of which 49 were recovered in-river and 117 were recovered in estuaries/coastal waters. Declared net catches for 2007-2009 (January-April) were 86, 80 and 145 respectively. However it is difficult to reconcile these figures with the amount of wild Scottish salmon reaching the market prior to the end of April. For example, the number of boxes of "Scotch Wild" salmon (containing on average five, 10lb salmon per box) arriving at Billingsgate Market in London<sup>5</sup> suggests that somewhere between 300 to over 1000 more Scottish salmon are sold than are declared according to the Statistical Bulletin. These figures are estimates as no records are kept as to how many of the fish boxes are full to capacity. However, given that only 30-40% of Scottish spring salmon are

<sup>3</sup> Environment Agency (2010). Salmon and sea trout carcass tagging and ban on sale byelaws: Review of 2009 implementation.

<sup>4</sup> Alistair Beveridge talking at the 2011ASFB Bailiff's Seminar in Stornoway

<sup>5</sup> Official statistics supplied by the Chief Inspector of The Fishmongers' Company

estimated to be sold through Billingsgate, it is clear that illegally caught salmon reaching the market is a significant problem. The reduction of such illegal activity, by significantly reducing the potential market for illegally caught fish, would have a significant conservation benefit for wild salmonids.

There are also potential benefits to the netting industry. In the light of the application to the EU for Protected Geographical Indication (PGI) status for 'Scottish Wild Salmon' it is in the interests of both the netting industry and the Scottish Government to ensure that any Scottish wild salmon reaching the market is traceable and of the highest quality. The quality of illegally caught fish, which would be unlikely to be stored appropriately, could not reach the standards required for PGI status. ASFB are aware that there are a number of distinct carcass-tagging schemes, operated by individual netting operations. Whilst these are non-numbered schemes, operated purely for marketing purposes, the fact that such schemes are in operation demonstrates that these schemes are of value to the netmen. However, unless such schemes are mandatory across Scotland and use uniquely numbered (and recorded) tags, the problems outlined above cannot be addressed.

In 2011, DSFBs applied for a Salmon Conservation Order to introduce a statutory system of carcass tagging for all net caught fish, in line with the rest of the UK. Whilst we believe that the power to introduce such a system already exists under the 2003 Act we are supportive of a system being introduced in Scotland at the earliest possible opportunity.

It is not clear whether the consultation question refers to net caught fish, rod caught fish, or all fish caught in Scotland. However, carcass tagging of rod caught fish may be a useful tool to aid DSFBs in ensuring compliance with their conservation policies. We would therefore suggest that DSFBs should be given a power to introduce a carcass tagging system within their own districts. However, we would note that the existing ban on the sale of rod caught fish across the UK, means that, even without carcass tagging of rod-caught fish, any untagged fish would be unmarketable.

Finally, as mentioned above it is currently illegal to sell rod caught fish. However, it is not illegal to purchase rod caught fish. Once we have a statutory system of carcass tagging in place, we believe that it should be illegal to both sell *and* purchase an untagged fish.

*Q27. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis?*

This was a recommendation of the mixed stock fisheries working group and we agree that the Scottish Government should have the power to ensure that fish genetic samples can be produced where necessary from any salmon fishery. Genetic analysis is a key tool in modern fisheries management, and without such information it is not possible for DSFBs to know the impact of the catch on individual catchments or to apply targeted conservation measures. Access to this information will enable rational management decisions on net fisheries to be made. DSFBs would hope to be able to take such samples with the agreement of proprietors, but agreement from all fisheries within a district is not always possible. ASFB therefore would advocate that such a power should also be available to DSFBs. It is worth noting that the Board and Trust network currently has the capacity to process and analyse such samples.

We believe that genetic samples can be taken without killing the fish in question. However, if such sampling, undertaken on behalf of Scottish Ministers, would be likely to involve killing fish we consider that the DSFB should be fully consulted prior to sampling taking place.

*Q28. Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders?*

ASFB believe that such powers should only be used where there is no DSFB in place. Where a DSFB is in place, and is complying with good practice as set out in the Code of Good Practice, then changes to Salmon District Annual Close Time Orders should be initiated only on the application of the DSFB.

*Q29. Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand?*

The consultation document does not set out the basis or need for combined salmon conservation powers and therefore we are unclear as to what advantage there is in combining these powers. DSFBs across Scotland have applied for both close time orders and conservation measures, sometimes in combination, and we are not aware of a particular problem with this arrangement.

*Q30. Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures?*

This is consistent with evidence based management and on that basis we are supportive of this in principle. However, there would need to be a degree of proportionality in placing monitoring requirements on a DSFB, due to the potential expense and/or expertise required to carry out such monitoring. A partnership approach, between DSFBs, Fishery Trusts and MSS would appear to be a sensible approach here (please see our comments on the National Strategy for Data Collection below).

*Q31. 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?*

Again, we are unclear on the need for a statutory mediation/dispute resolution process. Fisheries management in Scotland largely progresses on a consensual basis. Where it is not possible to reach agreement on a voluntary solution, the legislation allows for DSFBs to apply to Scottish Ministers for e.g. conservation measures, reduction of exploitation (rod and/or net fisheries), methods of fishing etc. The ultimate decision rests with the minister, who will only act after consultation. Assuming that DSFBs are acting in accordance with the Code of Good Practice, and that decisions are therefore justifiable, we believe that it is entirely appropriate for Scottish Ministers ultimately to make such decisions. With regard specifically to compensation arrangements, mediation may prove useful in some instances, but we are not convinced for the need for statutory provisions in this regard.

### **Improved Information on Fish and Fisheries**

General Comments: ASFB agree that there is a need for improved information on fish and fisheries. Between the DSFBs, Fisheries Trusts and MSS there is a significant resource which we feel could be deployed in a more integrated and efficient manner to ensure data collection (whether from catch returns, electrofishing or counters) is consistent and useable. For instance, catch statistics are currently collected by MSS, by DSFBs and by the District Assessor. We would therefore propose a national strategy for the collection of fish data to provide the evidence required for appropriate fisheries management. Such a strategy could be drawn together using the existing structures of the Strategic Framework for Scottish Freshwater Fisheries. For a DSFB to operate effectively, using an evidence-based system of management, it must have access to robust information (e.g. adult returns, juvenile numbers & factors affecting them). A national strategy for the collection of data would identify the roles of Marine Scotland Science, DSFBs, Trusts and individual proprietors in providing this information, and this could be defined through the relevant code of practice or statute. It is also important that this information is used to inform stakeholders and members of the public. Such a strategy would need to be sensitive to the variable resources available to DSFBs/Fishery Trusts across Scotland.

*Q32. Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries?*

We believe that there would be value in collecting effort data, if it could be clearly demonstrated that such data will significantly add to the understanding of fish stocks. We recognise that stock assessment from catch statistics alone is a blunt tool, and any refinement is welcomed. We believe that refinement can be done on specific test sites, and thus avoid the significant extra effort and cost involved in collecting this data nationally. There are a number of potential variables in collecting effort data: the

experience of the angler; the familiarity of the angler with the river; whether fishing effort has occurred during optimal or sub-optimal fishing conditions; if the fishing effort occurred in the presence or absence of an experienced ghillie. In looking at historic records, it should also be noted that changes in technology now mean that an angler using new equipment can cover a greater area of river than before – essentially there can now be greater effort per angler. We are not clear how these factors could be accounted for in what is likely to be a relatively basic measure of effort.

We believe it would also be useful for more information and data to be collected from net fisheries. We believe that netting effort should be more clearly defined (not simply the monthly mean), all instances when leaders are not removed during weekly close times should be reported (see our response to Section 7 below), and number of fish taken from specific nets should be reported (net locations often range from close to river mouths, to several km from river mouths - such a reporting requirement would give an indication of the relative impact of a fishery on specific rivers).

We would support this issue being examined in detail in drawing up a national strategy for the collection of fish data as proposed above. We are aware that MSS are currently undertaking a pilot study on specific indexed rivers to assess the potential value of such data. On that basis, we would be content for Scottish Ministers to take a power to collect effort data, to be utilised on the successful conclusion of the MSS pilot study. We would also highlight that the existing catch statistics database contains a great deal of valuable information and the national strategy could also examine the most effective means of utilising such information.

*Q33. 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?*

Please see our comments above on a national strategy for the collection of fish data.

*Q34. 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?*

Paragraph 104 of the consultation document appears to suggest that this question might be limited to licensing functions on the introductions of salmonids to freshwater. However, we are working under the assumption that this question involves all aspects of the salmon and sea trout fisheries in a district. A number of DSFBs already collect and publish information on catches, conservation policies, monitoring, introductions and enforcement within their districts. We believe that the Code of Best Practice is the best way to ensure that this information is provided, in a consistent manner for all DSFBs. The operation of the Code in this matter could be linked to the proposed national strategy for the collection of fish data.

It is not clear from the consultation document, should such a power be invoked to require a DSFB to undertake additional functions above and beyond their core work, who would be expected to pay for such additional functions. It is important that any such power must be used in a proportionate way, which reflects the resources of the DSFB in question.

*Q35. 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?*

As highlighted in the consultation document ASFB and RAFTS have developed guidance on stocking<sup>6</sup>. ASFB have also developed specific guidance on stocking programmes in Special Areas of Conservation which is currently with SNH for comment. Adherence to this policy is a requirement of the Code of Good Practice and therefore ASFB believe that issues relating to stocking practice should be dealt with through the Code. Where DSFBs are not fulfilling their duties such a power may be useful as a safety net.

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<sup>6</sup> Available at: <http://www.asfb.org.uk/wp-content/uploads/2011/04/ASFB-RAFTS-Salmon-stocking-policy-paper.pdf>

*Q36. If so, why and in what circumstances?*

It is appropriate that Scottish Ministers might use such powers where DSFBs can be demonstrated as not fulfilling their duties. We note that Scottish Ministers already have jurisdiction over fish introductions in those parts of Scotland which are not covered by DSFBs. In addition, Scottish Ministers have jurisdiction over introductions of other freshwater species throughout Scotland. However, we are not aware of any evidence to suggest that the use of regulatory powers is significantly better in those areas of Scotland under the jurisdiction of Scottish Ministers. Indeed, we would argue that some of the most concerning examples of questionable practice occur in such areas. In the specific example of introductions of freshwater fish (other than salmon and sea trout) we believe that DSFBs should be consulted prior to any introductions of fish within that district.

## Section 5: Modernising enforcement provisions

*Q37. Do you agree that strict liability criteria should apply – where they are capable of being applied – for offences related to Marine Licensing requirements insofar as they apply to aquaculture operations and, potentially, in other situations?*

The scope of this question appears to be limited to breaches of the requirements for, or conditions of, Marine Licensing requirements (under the Marine (Scotland) Act 2010), insofar as they apply to aquaculture operations. However, there is no explanation in the consultation document as to the scope of such requirements or conditions. We are in favour of strict liability in principle, particularly with regard to escapes from freshwater and marine cages. Such a system would be consistent with the proposal that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes.

*Q38. 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?*

No comment.

*Q39. Do you agree that we should increase the maximum sum that can be levied through a fixed penalty notice to £10,000?*

No comment.

*Q40. Are there particular regulatory areas that merit a higher or lower maximum sum?*

No comment.

*Q41. Do you agree that we should amend section 30(1) of the Fisheries Act 1981 as proposed?*

No comment.

*Q42. 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?*

No comment.

*Q43. 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?*

No comment.

*Q44. 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?*

No comment.

*Q45. Do you have any views on the proposals to amend the Sea Fisheries (Shellfish) Act 1967 to help make its application clearer?*

No comment.

## Section 6: Paying for Progress

*Q46. 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?*

Our comments here are restricted to the salmon and sea trout fisheries sector. It would have been useful if the consultation document had highlighted exactly which services/benefits are being referred to in relation to salmon and sea trout fishery management.

It would seem reasonable for charges for services/benefits and we believe that SEPA provide a good model here. For generic services such as setting up the framework of Controlled Activities Regulations, data collections standards etc. there is no charge. However, where a specific application is made, SEPA then levy a charge. In operation this appears equitable and proportionate. We would be concerned however, if any such charges were set at a level that put these services out of the reach of the smaller DSFBs.

It is also worth noting that the current CAR regime provides for the waiving of the application fee for an activity which delivers an environmental benefit. It would therefore seem logical that, where there is an application for e.g. conservation measures (where there is likely to be an environmental benefit) there should be no charge. In line with the SEPA model we would also expect Scottish Government to meet certain performance requirements. Specifically, applications to Scottish Ministers should be dealt with, within a statutory timeframe and we would expect the Act to reflect this.

*Q47. 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?*

Again, we limit our comments to the salmon and sea trout fisheries sector. It is worth noting that Scotland gets a huge benefit from the management of fisheries by DSFBs. DSFBs are funded by fishery proprietors in the district, to a value exceeding £3.5m in 2010. Board Members give their time on an entirely voluntary basis. To replicate this management model in the public sector would be massively expensive to the public purse. In addition, DSFBs are consulted on, and expend significant time and effort in responding to, planning applications for wind farms, run of river hydro developments, marine renewable developments, fish farm developments and other developments with the potential to impact on the freshwater or marine environment. Any decisions on the level of charges, or indeed the need for charges, should be taken in the light of the considerable value already provided by DSFBs.

*Q48. If no new way of resourcing such activity can be found, what activities do you suggest might be stopped to free up necessary funds?*

There are a number of ways in which funds could be freed up. We have proposed above a national strategy for the collection of fish data. This could potentially help to refine the operations of MSS, thereby freeing up staff time. We also believe that a closer working relationship between DSFBs and MSS, SEPA and SNH would be valuable in this regard.

We also suggest below that the period in which DSFBs can consent certain activities without applying to Scottish Ministers should be extended. This again would free up scarce Government resources.



## **Section 7: Any other issues**

### **Section 1**

- Paragraphs 37-41 in the consultation document suggest that discharges from wellboats and processing facilities might be an issue with regard to sea lice. As we set out in our answer to Q12 SEPA biomass consents under the Water Environment (Controlled Activities) Regulations 2005 are limited to 'discharges' such as fish waste and chemo-therapeutants, but these are not currently interpreted as including sea lice. If sea lice from wellboats and processing facilities are an issue (and thereby would require filtering measures), then it would appear reasonable that sea lice released from farms are also an issue, and therefore we believe that sea lice emanating from sea cages should be treated in the same manner as other discharges. This would deal with the current lacuna in law with respect to the control of sea lice emanating from cages.

### **Section 3**

- Enforcement notices under s6 of the Aquaculture and Fisheries (Scotland) Act 2007 allow Scottish Ministers to require the execution of such works, or the taking of other steps, with the purpose of the prevention, control or reduction of parasites. However, we have been informed by the Fish Health Inspectorate that any such notices are limited to observed problems with farmed fish and such notices cannot be utilised for the purposed of protection of wild fish. We do not believe that the 2007 Act specifically precludes such action, but if this is the case, we believe that the 2007 Act should be amended to allow such action to take place.

### **Section 4**

- At present, the powers of DSFBs to consent certain activities for the purposes of fisheries management (such as electro-fishing and collection of broodstock for hatchery operations) which would otherwise be illegal are only exercisable outwith the annual close time. During the annual close time, DSFBs need to apply to Scottish Ministers for authorisation to undertake such activities. Annual close times were historically set based on the commercial salmon fishing season with an extension beyond such close times for rod and line fishing. Whilst the definition of the salmon season based on salmon netting may have made sense historically, when salmon netting was the major part of the sector, this is no longer the case. Indeed, the vast majority of DSFBs have little or no netting interests within their districts. It seems incongruous, and a waste of scarce government resources, for DSFBs to have to apply to Scottish Ministers for exemptions from certain offences under the 2003 Act in order to undertake activities (which include essential fisheries management techniques such as electrofishing) during the annual close time, when they do not have to do so at any other time. This places an unnecessary burden on DSFBs and Scottish Government. We therefore propose that the period over which DSFBs can consent such activities should be extended throughout the year. In addition, where the Scottish Government receives an application for electrofishing for other freshwater species in waters containing migratory salmonids where a DSFB exists, we consider that the DSFB should be fully consulted prior to electrofishing taking place. This would allow DSFBs to ensure that any proposed actions or activities taking place within the district do not interfere with, or compromise, existing programmes of routine sampling of juvenile salmon or sea trout.
- It is an offence to fish or take salmon during the weekly close time for net fisheries (6pm Friday – 6am Monday). In the case of fixed engine salmon fisheries (bag or stake nets), this is achieved by removing the 'leader', a net positioned perpendicular to the shore which diverts fish into the salmon net. Removal of the leader prevents fish from entering the nets. It has become apparent that, in some parts of Scotland, the weekly close time is often not observed if, for example, rough sea conditions make it too dangerous to remove the leader. For example, Usan Fisheries near Montrose failed to remove the leaders on their nets on 12 out of 18 weekends in 2011 – equating to a significant increased exploitation of fish throughout the season. We are content that exceptions to the weekly close time should exist and

indeed ASFB do not want to see anyone's life being put at risk. However, we are concerned at the potential for the current exception to the weekly close time to be exploited. The weekly close times were put in place for sound conservation reasons and therefore we believe that, where the close time cannot be adhered to for reasons of health and safety, the leaders should be removed for a corresponding period at the earliest next opportunity. Implicit in this, is the need for a requirement for netsmen to report all such occurrences when leaders are not removed.

- The North Atlantic Salmon Conversation Organisation<sup>7</sup> has successfully negotiated reductions in salmon fisheries in their marine feeding grounds in the North Atlantic. Recently, MSFs have come under increased International scrutiny. NASCO's success in achieving tight restriction of traditional high seas MSFs near Greenland and the Faroes has led to increasing pressure on all parties to the Convention for the Conservation of Salmon in the North Atlantic Ocean to address MSFs in their home waters. As we expect Greenland and the Faroes to adhere to the current tight restrictions on their fisheries, we must keep our own house in order – it would be a disaster for Scottish salmon fisheries if these high sea fisheries were to resume.

The extent of *active* net fisheries in Scotland has declined, particularly since the 1970s when the advent of salmon farming and the availability of cheaper farmed fish to the consumer had a marked effect on the commercial viability of salmon netting for wild stocks. However, since the millennium the price of wild Scottish salmon has increased markedly, and the recent purchase of previously lightly fished netting stations in Caithness by a major Scottish netting interest raises the prospect of an increase in netting effort in coming years. There remain a large and undefined number of inactive netting stations in Scotland, for which the netting rights still exist. The 1997 Report of the Scottish Salmon Strategy Task Force recognised that it would be inappropriate to prohibit the operation of active net fisheries, but that a mechanism should be established to prevent any increase in fishing effort, in line with our International commitments. The report therefore recommended that '*All net fisheries (both outside estuary limits and net and coble fisheries above the head of the tide) operated or genuinely let in any two years in the period 1993 to 1996, inclusive, should be registered, and only those that are so registered should be permitted to continue operating*'. The report also recommended that '*The number of traps fished at a bag-net or stake-net station, or the number of crews working a net and coble station outside estuary limits, should not be greater than those qualifying for registration*'.

Related to the above, ASFB believe that, when a netting station is put up for sale, or is to be leased to a third party (other than the proprietor), the relevant DSFB, or indeed a local angling club should, in the interests of salmon conservation, have a statutory pre-emptive right to purchase (or lease) that netting operation before any proposed sale (or lease) could proceed. Such a mechanism would also prevent an increase in fishing effort, in line with our international commitments.

## Section 5

- There are a number of issues relating to gill netting of concern to salmon interests. The use of monofilament nets in Scottish waters is prohibited. However, many nets being used on the South Scottish coast are *multi-monofilament*. Despite the inclusion of the pre-fix 'multi', these nets are monofilament and are already illegal as highlighted in an English court ruling<sup>8</sup>. The rules regarding gill netting in England have recently changed. Previously gill netting was dealt with under s6 of the Salmon and Freshwater Fisheries Act 1975 (as amended by the Salmon Act 1986) by way of bylaws set by the Local Fisheries Committee. However, the 1975 Act was repealed by the Marine and Coastal Access Act 2009, which set up a new framework for the governance of inshore fisheries via Inshore Fishery and Conservation Authorities (IFCAs). Some IFCAs have used these powers to remake the old sea fisheries

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<sup>7</sup> Established under the Convention for the Conservation of Salmon in the North Atlantic Ocean in October 1983

<sup>8</sup> Brough v National Rivers Authority (1993)

committee by laws prohibiting gill netting within certain specified locations. Such bylaws are in terms similar to the following:

*The placing and use of fixed engines for taking sea fish is prohibited in the following areas except when placed or used in accordance with the following conditions:*

*The headline of every fixed engine shall be at least 3m below the surface of the water at any state of the tide when set in the following areas less than 1 nm from the low water line along the coast and between the following eastward and westward boundaries.*

[All references to fixed engines in the above, refer to gill nets]

Such bylaws, which are also designed to prevent gill nets being placed near river mouths, reduce the likelihood that salmon or sea trout will be intercepted by gill nets set for sea bass or mullet, as salmonids fish generally swim within 3m of the surface and close to the coast. As the law currently stands, it is an offense to take salmon, but this does not prevent salmon being intercepted and killed in gill nets, so long as the fish are not landed. We believe that the Aquaculture and Fisheries Bill presents an opportunity for Scottish Ministers to take a power (if such a power does not already exist under the Inshore Fisheries (Scotland) Act 1984), via the most appropriate legislative vehicle, to regulate gill netting by order, along the lines of the English bylaws suggested above. Such orders should be made by Scottish Ministers under their own volition, or on application by a DSFB.

## Section 6

- The need for the equitable burden of conservation was recognised by the Mixed Stock Working Group. There is currently an imbalance in that burden between the exploiters of the resource. As previously noted, net fisheries accounted for over 45% of the retained catch, but only contributed 1.3% of the total funding raised by DSFBs for fishery management. This situation is clearly inequitable and should be addressed by the forthcoming legislation.

## Other

- There is currently a population of feral beavers on Tayside which has most likely been introduced illegally. It is also possible that some of these animals may have escaped from private collections. In either case, it is important that such animals, which may impede the upstream access of migratory salmonids, are chipped, tested for disease and securely enclosed as a condition of ownership. We would seek assurance that the Wildlife and Natural Environment (Scotland) Act 2011 contains the necessary powers for Scottish Ministers to deal with these issues. If the relevant powers do not exist, we believe that the Aquaculture and Fisheries Bill may provide a legislative vehicle for changes to primary legislation in relation to this issue.

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