

SUBMISSION ON PROPOSED AQUACULTURE AND FISHERIES BILL BY PITLOCHRY ANGLING CLUB

Covering Statement

Pitlochry has a large and active angling club, which was established more than a century ago in 1884. Its primary aim has always been to provide good fishing, at reasonable cost, for its members and for visitors to the area. Pitlochry AC comments on the Proposed Aquaculture and Fisheries Bill, both as an owner and tenant of significant migratory and non-migratory fishings in the Tummel/Garry catchment. The Club takes in income from the annual sales of fishing permits and disperses this through Fishery Board levies, charges for leases, overheads for maintaining fishery infrastructure, such as boats, piers and access tracks, and for wardening, some rearing and restocking (loch trout), administration costs and operation of a very successful new website which promotes online permit booking.

Angling is not only about fishing for recreation and enjoyment, although these are essential social aspirations. As economic surveys have shown, and the Scottish Government is well aware, angling is a broad-spectrum industry which is very valuable for the nation. It is self-evident that fishery owners, including ourselves as a club, must endeavour to maintain our income and asset values. Pitlochry AC comments on the Proposed Aquaculture and Fisheries Bill from a broader perspective than simply as users of recreational facilities and fish species for enjoyment.

In regard to Aquaculture, another very important and a rapidly developing industry, intensive salmon farming now means that adult reared salmon already outnumber their wild counterparts by orders of magnitude. Indeed, planned salmon farming production is set to expand considerably, despite deep and long-standing environmental concerns about impacts on wild fish, especially, but not only, in the areas of the country where intensive aquaculture takes place. We applaud measures that have been taken by the industry to improve husbandry and equipment, but recognise that much progress remains to be accomplished. We, therefore, applaud measures contained in the proposed Bill for tighter regulation and coordination of best-practice and which offer greater transparency of data and other previously sensitive information to promote a more productive debate.

We also recognise that the system of Fishery Boards which operates in most areas of Scotland needs improvement, while noting the successful development of Fisheries Trusts and other charitable bodies that often operate in parallel with and complement the Boards. In the absence of Boards with a wider statutory remit, these partnerships of Boards and Trusts, or related bodies, and that of their parent Associations, are welcomed. Development of Codes of Conduct for the wild fisheries sector and greater transparency of Board operations are highly desirable, as with the Aquaculture Industry.

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

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)**

NO

Scottish Ministers should define Management Areas after consultation with the aquaculture industry and other affected parties. There is a critical need to develop a better understanding of lice and disease vector and connectivity between such areas

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

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

Statutory independent arbitration. Not using SSPO alone to choose arbitrators (although their advice should be considered) as this could suggest a lack of independence.

Unused Consents

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

YES

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

Appreciating the need for some sites to be retained for eventual deployment in the following processes of active sites, SEPA should judge whether unused sites are being fairly managed in this way and make their charges accordingly. The current status and plans for all sites should be published every year for public scrutiny.

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

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

To all consents

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)

At a minimum, follow international best practice in accessibility and transparency of sea lice data at individual cage sites. Where there are unacceptable levels of mobile lice, especially leading up to and during the period of smolt migration from nearby rivers, take appropriate action, including possible culling of fish. If any sites are persistently borderline or worse for lice levels, take appropriate measures, including reduction in permitted biomass, or loss of site licence.

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

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

No clear views on this but powers should be available to increase scrutiny at specific sites when Scot Ministers require this.

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

The conservation status of stocks of wild salmonid fish residing in the Management Areas needs to be considered also and not just the **fish health and welfare** of the captive fish.

Wellboats

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

YES

There remains a concern that restrictions on international movements of live fish need to be maintained or strengthened and that the use of wellboats owned by multinational companies is controlled as part of the required precautions for biosecurity.

Processing Facilities

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

YES

Seaweed Cultivation

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

YES

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

YES

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

N/A

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

However, the conservation needs of all native species should be taken into account.

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

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

But inadequate knowledge of connectivity of lice and disease between areas is a serious problem for deciding how large the areas should be where a lower threshold would apply. More research is urgently required here. Also, who will decide which are the “key areas with significant fisheries?” In some cases, catch declines (especially of sea trout) are such that it isn’t fisheries that need to be protected, but underlying wild stocks. Many of these weakened stocks should have increased protection.

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

Not just equipment but protocols for their use etc.

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

More should be done to “mark” individual farmed stocks so that they are traceable. Also, do not neglect the significance of losses of small juveniles from freshwater cages and the need for targeted studies around such sites. Incidence of ripe male parr of farmed origin is a key concern.

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

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

YES

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

non-statutory

Non-statutory at this stage but highly recommended. Where Boards cannot meet the conditions, strong consideration should be given to amalgamation with neighbouring Boards in order to improve by economies of scale.

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

And consideration should be given to statutory carcass tagging of retained rod-caught fish in addition to netted fish.
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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

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

To override Boards on Close Time Orders only in exceptional circumstances

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

YES

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

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

Clearly the best way to achieve satisfactory resolution where parties are vehemently opposed.

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

But hard to specify how comprehensively this can be achieved. Anglers fish for very variable periods of any given day and have widely varying levels of competence and experience. Some fisheries may need to be selected as indicator sites to gain higher quality data.

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)

There would be serious cost implications for Boards as presently operated. Much information can be obtained from Fisheries Trusts, with Govt support.

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

Boards should comment annually on the status and condition of key stocks of salmon and sea trout within their area, including how this information has been obtained, and on measures taken to maintain, or to restore, abundance. They should ensure (if necessary with Govt support) that culling by any fishing method is allowed only where there is a clear spawning surplus at point of origin of these stocks. At the same time, Scottish Ministers should encourage research to establish the impact of mixed stock fisheries that occur in other parts of the home waters ranges of salmon and sea trout and must adopt a Precautionary Approach where detailed studies are as yet inadequate or incomplete.

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

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

For example, in cases of wholly inappropriate stocking and acute cases of biosecurity, such as when there are fears of the spread of pathogens, alien plants and other organisms damaging to the native environment and local wild fish stocks.

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 they apply to aquaculture operations and, potentially, in other situations? (Page 37)

YES

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)

Not sure; the publicity due to prosecution could be an important deterrent.

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)

Not sure

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

YES

Higher - Where there is clear evidence of negligence or intransigence and taking full account of industry Codes of Practise. eg. in relation to severe instances of pollution and disease spread, releases of alien organisms, or evidence of persistent escapes of cultivated fish.

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

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

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

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

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

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

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)

N/A

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)

Don't know