

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)

YES

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)

Form a panel of knowledgeable/experienced arbiters, as suggested, with the arbiter in each case having the ability to determine who should be responsible for the costs. Except in most unusual cases, there should be no call on the public purse.

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)

At the time consent is granted, there should be a time limit for a site to be developed based on the plans submitted. If, after the passage of that period of time the site has not been developed, then the consent should lapse/be revoked. There would need to be an appeals procedure to deal with exceptional circumstances.

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)

Failure to develop in accordance with the consent and for serious and/or persistent breach/abuse of the consent.

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)

Information should be published monthly and by site. Why should we be perceived internationally as the "dirty" cousin when the parents companies of most Scottish operators comply already with similar requirements. The status quo is NOT good for the image of Scotland.

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)

Quarterly submission of regular data, with action thereon to be under the control of SEPA, on a site by site basis.

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

Wellboats

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

YES

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)

Not Applicable.

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, but the devil would be in the detail !

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

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

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

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 : Developed by the ASFBs

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

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)

NO

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

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)

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

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)

NO.....Collection and monitoring would be totally impractical.

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)

None as a matter of routine, but there MAY be a case for covering exceptional circumstances.

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)

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

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

ONLY where abuse and/or damage to the environment is proven.

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

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

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, or even higher !

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

YES. Higher for persistent breach where it is commercially expedient to tolerate the FPNs as an acceptable cost of doing business “profitably”

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. Should be made to encompass ALL shellfish.

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, but with caution.

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)

Not applicable.

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)

Not applicable.