

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)**

The Association do not propose to comment on this point.

YES

NO

Appropriate Scale Management Areas (MAs)

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

The Association do not propose to comment on this point.

YES

NO

Management Measures and Dispute Resolution

The Association do not propose to comment on Question 3 & 4.

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

YES

NO

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

Unused Consents

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

YES

NO

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

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

NO

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

The Association do not propose to comment on Questions 5 to 8

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)

The Association holds no firm view on this but would suggest a form of monitoring and published data might be of use where this could assist in determining how treatment is working.
Assuming the Farms do treat the confined cages.

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)

The Association holds no exact view but an annual publication may be sufficient.

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

NO

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

YES

NO

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

The Association holds no views on Questions 15 to 17.

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

SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS

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

YES

NO

The Association holds no views on this Question.

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

Boards should publish in advance a plan of appropriate action to be carried out over a set time scale, such as twelve months, which would indicate in detail why the work is required and any effects this may have on all fish species along with the habitat.

Time should be given for any reaction to the proposals from angling associations and landowners, before any work is started.

Costs etc should be given with the period of time it is considered the project would take.

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)

A combined Code would be ideal and covering all aspects of all species. Ideally this should be non-statutory where alterations could be introduced but there should be powers for Scottish Government Ministers to make such a Code statutory.

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)

NO

The principal is fine but how would this be enacted. What limit would be set per beat? ? What records would require to be maintained and returns collected? There are too many unknowns to make this work.

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 if this is to develop a genetic data bank on a river basis to ensure there is information available should a particular disease occur or to assist in restocking headwaters with the correct strain of salmonoid. This is a traceable way of ensuring stock is returned to the right river.

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

Any such measure must be fully consulted on by Local Riparian Owners and allow debate as other factors such as Time Share Fishing would be affected. A qualification on like measures may be to assist repopulating of parts of a river which have been devoid of salmon in order to allow stocks to re-establish and be monitored.

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

NO

This is not appropriate without full consultation within each river system as conditions change from system to system and even within large river systems.

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

It would be appropriate for some form of Local monitoring to be in place other wise there would be no bench mark against which to check progress. Such local action could then form part of a wider consultation process.

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)

NO

In the first instance it would be better to form an opinion from local knowledge in an attempt to resolve any difficulty.

Any dispute should have recourse to mediation as a final way to resolve matters. If this was to centre on a measurable loss of revenue to other fishings such as trout or coarse there may be a compensation claim.

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

The collection of Salmon catches is in place but flawed since it is the individual beat or Right which provides the figures and these are not checkable but taken on trust.

To try and get similar data from all other branches of angling would in the Association's view, be virtually impossible and unreliable.

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)

NO ADDITIONAL INFORMATION REQUIRED

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

Provided that the investigator is from outside the system to give the exercise credibility, which an internal check may not have.

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)

NO

This requires more detail in example. If it is to prevent the introduction of stock of any species, which is not from the same genetic data bank as the natural stock, then this would be a case for intervention. This should not occur if there has been proper monitoring of genetic data. The only exception is if the entire stock in a system had been wiped out where a careful re-introduction would require fish from out with the system.

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

See Q35

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)

NO COMMENT

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

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

YES

Although in broad agreement the type of activity which is being discussed in out with the Association's remit
If the Q37 to 40 refer to Off Shore activities then the Association has no direct comment. Proper independent monitoring should be in place.

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

Where such objects are nets with out a recognised legitimate use.

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

NO

The Association has no comment on this

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

In principle with the provision that if such costs are to be recovered from a form of Rod License similar to England and Wales, there must be a considerable proportion of the income raised retained for the benefit of each river system from where the revenue is raised. This money must be used for improvements to fishing habitats for all species and not channelled to where the most income can be derived from lets and permit sales.

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)

Self funding with grant applications for specific projects.

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)

Any decision must be locally based to reduce the spend and free up investment so as to ensure essential work is not stopped but may be phased over a longer period.