

## 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                      X                      NO

#### Appropriate Scale Management Areas (MAs)

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

YES    NO    X                      MA boundaries should be specified by Scottish Ministers based on best available science provided by Marine Scotland Science in consultation with marine finfish operators.

#### 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                      X                      NO

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

Our only comment is that the arbitrator should be independent of the aquaculture industry

#### Unused Consents

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

YES                      X                      NO

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

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.

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

YES                      X                      NO

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

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)**

The most appropriate approach is for full public access to sea lice data in a disaggregated form. This information is essential for local management of wild salmonid fisheries, as it allows identification of factors affecting wild fisheries that would otherwise be hidden.

**Surveillance, Biosecurity, Mortality and Disease Data**

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

**YES**

**X**

**NO**

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

Monthly

**Biomass Control**

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

YES                      X                      NO

**Wellboats**

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

YES                      X                      NO

**Processing Facilities**

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

YES                      X                      NO

**Seaweed Cultivation**

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

No comment

YES    NO

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

No comment

YES    NO

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

### Commercially Damaging Species

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

YES                      X                      NO

### SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS

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

YES                      X                      NO

### SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS

#### Sea-lice

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

YES                      X                      NO

#### Containment and Escapes

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

YES                      X                      NO

#### Tracing Escapes

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

YES                      X                      NO



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

YES                      X                      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                      X                      NO

**Improved Information on Fish and Fisheries**

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

YES                      X                      NO

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

None
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**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)**

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.

**YES**

**NO**

### **Licensing of Fish Introductions to Freshwater**

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

**YES**

**X**

**NO**

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

It is appropriate that Scottish Ministers might use such powers where DSFBs can be demonstrated as not fulfilling their duties

## **SECTION 5 - MODERNISING ENFORCEMENT PROVISIONS**

### **Strict Liability for Certain Aquaculture Offences**

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

**YES**

**X**

**NO**

### **Widening the Scope of Fixed Penalty Notices**

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

No comment

**YES**

**NO**

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

No comment

**YES**

**NO**

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

No comment

**YES**

**NO**

### **Enforcement of EU Obligations Beyond British Fisheries Limits**



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

No comment

YES

NO

**Powers to Detain Vessels in Port**

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

No comment

YES

NO

**Disposal of Property/Forfeiture of Prohibited Items**

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

No comment

YES

NO

**Power to Inspect Objects**

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

No comment

YES

NO

**Sea Fisheries (Shellfish) Act 1967**

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

No comment

YES

NO

**SECTION 6 - PAYING FOR PROGRESS**

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

YES    X

NO

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

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