

AQUACULTURE & FISHERIES BILL

Consultation Paper and Draft Regulatory Impact Assessment
December 2005



Aquaculture and Fisheries Bill —Proposals for Consultation

Consultation Paper and Draft Regulatory
Impact Assessment

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Ministerial Foreword



This consultation provides a welcome opportunity for all those with an interest in aquaculture and freshwater fisheries to influence the content of the draft Bill before it is introduced to the Scottish Parliament in June of next year.

On aquaculture, the Bill provides us with an opportunity to take new powers to help realise the 'vision' of the Strategic Framework for Scottish Aquaculture and deliver our partnership commitment to support the aquaculture industry. I believe that only by tackling important issues such as containment, sea lice, fish health and farm relocation, will we deliver an industry that is truly sustainable, diverse, competitive and which operates in harmony with the environment. The proposed provisions represent a statutory minimum that is intended to act as a legal 'backstop' should any companies fail to meet the industry's standards of good practice.

On freshwater fisheries, I have been extremely impressed by the level of debate and discussion within the freshwater community since the launch of the Green Paper on freshwater fisheries in 2001. More recent developments such as the establishment of the Freshwater Fisheries Forum have given our stakeholders a valuable opportunity to formalise their thinking on the future of salmon and freshwater fisheries in Scotland. The proposals in this consultation paper draw heavily on this debate and the actions identified in the Green Paper.

But this consultation paper goes further and looks beyond the Bill and considers factors relating to future management arrangements, access and the related funding issues necessary to enhance the future for anglers, fishery owners and the environment.

These proposals will make a positive and very real contribution not only to aquaculture and freshwater fisheries but to the economy and environment of rural Scotland. I invite you to give your views on any of the issues raised in this paper and use this opportunity to help shape the future sustainability of these vitally important sectors.

A handwritten signature in black ink that reads "Rhona Brankin". The signature is written in a cursive, flowing style.

Rhona Brankin
Deputy Minister for Environment and Rural Development

Responding to this Consultation Paper

We are inviting responses to this consultation paper by 24 February 2006.

You can **respond to this consultation online**, via the consultation web pages of the Scottish Executive website at <http://www.scotland.gov.uk/consultations> (where you can view other consultation papers online) or on the Fisheries Bill web pages at <http://www.scotland.gov.uk/Topics/Fisheries>. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

The Scottish Executive is also **inviting written responses** and would be grateful if you could use the **enclosed questionnaire** and clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received. Please remember to fill in and return your **Respondent Information Form** (enclosed) along with your response. Please send your response to:

Angus Yarwood
Fisheries Bill Team
SEERAD
Room 409, Pentland House
47 Robb's Loan
Edinburgh
EH14 1TY

The Scottish Executive is also holding a number of **consultation meetings** throughout Scotland during the consultation period. These meetings will give you an opportunity to meet representatives of the Aquaculture and Freshwater Fisheries Division to put forward your views in person. The meetings are as follows:

Date	Location	Venue	Start Time
17/01/2006	Lerwick	Lerwick Town Hall	18:00
19/01/2006	Stornoway	Lews Castle College	18:00
23/01/2006	Inverness	Marriott Inverness Hotel	14:00
24/01/2006	Aberdeen	Kings College, Aberdeen University	18:00
25/01/2006	Stirling	Stirling University Management Centre	18:00
30/01/2006	Dundee	West Park Conference Centre	10:00
		<i>This meeting is the Freshwater Fisheries Forum and there is limited seating. Attendance is by invitation on a first come first serve basis. Please contact the number below if you wish to attend.</i>	
01/02/2006	Ayr	Scottish Agricultural College	18:00
02/02/2006	Peebles	Peebles Hotel Hydro	18:00

If you are interested in attending any of these meetings please telephone 0131 244 6175 or e-mail fisheriesbill@scotland.gsi.gov.uk to help us estimate attendance numbers.

The Scottish Executive now has an email alert system for consultations (SEconsult: <http://www.scotland.gov.uk/consultations/seconsult.aspx>). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SEconsult complements, but in no way replaces SE distribution lists, and is designed to allow stakeholders to keep up to date with all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. The **Respondent Information Form** (either enclosed or online) will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Executive are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, these will be made available to the public in the Scottish Executive Library within 20 working days of the closing date and on the [Scottish Executive consultation](#) web pages by April 2006. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting the SE Library on 0131 244 4565. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on content of the draft Bill. We aim to issue a report on this consultation process by Summer 2006 in line with work on the draft Bill.

Comments or complaints

If you have any comments or complaints about how this consultation exercise has been conducted, please send them to Alistair Prior at the above address.

If you have any queries on any of the above please contact Alistair Prior at the above address or call him on 0131 244 6223.

Introduction

1. In 2003, the Scottish Executive published *A Strategic Framework for Scottish Aquaculture* (SFSA) and associated action plans containing 33 priorities for action on economic, environmental and social issues. This included an objective 'to enact legislation governing the aquaculture industry in Scotland. The Executive's consultation paper *Protecting and Promoting Scotland's freshwater fish and fisheries* in 2000 and the subsequent Green Paper of 2001, *Scotland's freshwater fish and fisheries: Securing their future* drew together potential ideas for policy development for freshwater fisheries. Some of the proposals could, and have been implemented by administrative means, but in order to effect some of the changes identified as necessary, it was clear that new or amended legislation was required.
2. There is now an opportunity to bring forward a Bill in the 2006/2007 session of the Scottish Parliament. The Executive has continued to develop its policy ideas in consultation with stakeholders through the Highlands and Islands Aquaculture Forum (HIAF), the Freshwater Fisheries Forum and in a series of ongoing bilateral meetings. This consultation document sets out the Scottish Executive's key proposals to build investor confidence in the aquaculture industry and to protect sustainability and biodiversity of wild fish stocks on which the views of all with an interest in Scottish aquaculture and freshwater fisheries are sought. We will also use this opportunity to address any anomalies that may come to light in existing law.
3. The European Commission is currently consulting with Member States on a new Fish Health Directive. It is possible that the Directive will oblige Member States to legislate in areas of fish health that are addressed in this Consultation Document. We cannot say with certainty when the Directive will come into force or what obligations it will place on Member States, but it may be that the content of the Aquaculture and Fisheries Bill will have to be amended in the light of the pace and nature of negotiations on the Directive.
4. The *Strategic Framework* also contained an objective for the aquaculture trade associations to develop a Code of Good Practice to raise industry standards to their highest level. Work on that Code has now been concluded and it is expected to enter into use from the beginning of 2006. The Executive's proposals are not intended to compete with the industry Code that is being developed. Rather, the proposals set out in this consultation document seek to supplement and complement that Code in driving up standards. It may in time prove useful for the Scottish Ministers to be able to adopt a code of practice and the Executive may consider powers to enable this.
5. Over the past year, the *Freshwater Fisheries Forum* has been developing its thinking on the conservation, management and exploitation of stocks. The Forum set up a management sub-group to look specifically at the issue of a new management structure for freshwater

fisheries in Scotland. Work undertaken by the management sub-group has shown that the most favoured structure would be a 'Unitary Authority' model covering both salmonids and coarse fish. However, it is clear that the work required to develop this approach particularly taking account of the legislative implications of replacing District Salmon Fishery Boards would take longer than the timescale available for this Bill. In addition, any question of changes to the funding of freshwater fisheries should be addressed in conjunction with the development of new management structure. Therefore, this Bill will not address the question of changes to funding or management structures for freshwater fisheries.

6. A future legislative opportunity will have to be sought to enact the new management proposals once they have been developed in detail. In the meantime, Part IV to this document summarises the work of the management sub-group to date and we would welcome any comments on this issue.
7. The publications referenced in this introduction may be viewed online at:
www.scotland.org.uk/Topics/Fisheries/afBill/addread

PART I: AQUACULTURE



PART I — AQUACULTURE

Chapter One

Regulator

Introduction

8. Where possible, the Scottish Executive prefers that a voluntary approach should deliver the required outcomes. Nevertheless, some of the proposals, notably in the areas of parasite control, containment and fish movements will require the oversight of a regulator. The Executive's intention is that any regulator would advise farms and help them achieve best practice. The regulator will also enforce any relevant regulations.

Proposals for a Regulator

9. The Executive anticipates that the Fish Health Inspectorate within the Fisheries Research Services (FRS) could provide a suitable basis of expertise for a Regulator. The proposed Regulator would act on behalf of the Scottish Ministers in conjunction with Scottish Executive Environment and Rural Affairs Department (SEERAD) officials and would liaise closely with other regulatory experts such as the Scottish Environment Protection Agency (SEPA). All subsequent references to 'the Regulator' in this document refer to the Regulator outlined in this paragraph.

Charging

10. The Executive is considering whether the Regulator should be empowered to recover the costs involved in undertaking certain farm inspections through a charge levied on the operator of a fish farm. The question of charging for authorisation of fish movements should also be considered. The Executive proposes an enabling power to allow the possibility of charging should future circumstances require this.

Question 1:

Do you agree that FRS/SEERAD would make the most suitable Regulator?

Question 2:

Should there be an enabling power to permit the option of charging in the future?

Parasite Control

A) PARASITES

Introduction

11. Sea lice (*Lepidoptheirus salmonis* and *Caligus elongates*) are endemic to UK waters and affect salmon and sea trout, both wild and farmed. Wild salmon and sea trout stocks have declined in recent years on the west coast of Scotland. It is sensible to assume that sea lice can play a part in the potential for wild stocks to be impacted by sea lice and that wild and farmed salmonid stocks can play a part with respect to lice transfer between each other where they share the same aquatic environment. It is therefore appropriate that we adopt a precautionary approach when dealing with sea lice on farmed salmonids to ensure appropriate protection is afforded to both wild and other farmed stocks. The salmon farming industry, government and wild salmonid stakeholders have been working collaboratively to determine the interactions between sea lice and farmed and wild salmonids with a view to developing appropriate solutions to ensure the maintenance of healthy stocks of wild and farmed fish.
12. The Executive set up the Tripartite Working Group (TWG) in 1999 to address problems common to both farmed and wild fisheries. TWG objectives are delivered at the local level through voluntary Area Management Agreements (AMAs). A key AMA objective is the target of zero ovigerous female sea lice on salmon farms, particularly during the smolt run between February and June. Similarly, the fish farming industry has drawn up, in conjunction with wild fish interests and the Executive, the *National Strategy for the Control of Sea Lice on Scottish Salmon Farms* (the National Treatment Strategy) which sets out an agreed detailed treatment approach, including levels of lice infestation that trigger treatment. This strategy is currently being updated and should form an integral part of the industry's upcoming Code of Good Practice.

Proposals for a Regulatory Framework

Parasites

13. In the first instance, the main concern is the control of sea lice. However, it may be that in the future, other parasites may prove to be a problem, for example affecting nursery grounds for sea fish. It may therefore be sensible under the precautionary principle to make provision for parasites more generally rather than sea lice in particular. Paragraphs 14-19 focus on sea lice, but these proposals would apply to all parasites.

Question 3:

Should the Bill make provision for parasites in general, or restrict itself only to sea lice?

Regulator

14. The Executive proposes a role for the Regulator to have responsibility for ensuring that good management of sea lice is achieved. The Regulator would have a role in advising farms on best practice, particularly as regards sampling techniques and lice identification. In addition, the Regulator would have an enforcement role. It would have the power to inspect a farm's sea lice monitoring and treatment records on request and if there were evidence of a problem, to have the powers to direct remedial action which could include directing mandatory therapeutic treatment. The Regulator would liaise closely with the company vet and SEPA to ensure that the issues of prescription medicines and discharge consents were taken fully into account.

Question 4:

Should the Regulator have both advisory and enforcement functions?

Data

15. The Executive proposes that fish farm operators be required to provide on request to the Regulator sea lice monitoring and treatment records and to assist the Regulator to establish if sea lice infestation is a problem on the farm at the time of inspection. Failure by the operator to provide treatment information or assist the Regulator on request to establish if there is a sea lice infestation problem would be an offence.

Inspection

16. The Regulator would use its judgement when making requests for monitoring and treatment records to farm operators. They could, for example, make requests as part of a rolling programme of inspections. Alternatively, requests could be made on the basis of other intelligence, including third party notification. The Regulator would only act on third party notification if it believed there to be a strong case to do so.
17. Where louse levels are at or above pre-determined 'trigger' levels, then the Regulator would meet with the operator to discuss reasons why treatment may not have occurred or been effective. The Regulator would take account of the views of the company vet and SEPA before deciding whether a treatment or other action is required. If it is deemed to be necessary, the Regulator would have power to instruct treatment or other actions. The Regulator could decide that the appropriate action is non-therapeutic and may, for example, direct that a fish farm's employees are provided additional training.

Question 5:

What powers should the Regulator have as regards the inspection of data and investigation of potential parasite problems on farms?

Treatment

18. The Regulator should also liaise with SEPA on the issue of discharge consents. It is possible there could be a conflict between required treatment and available discharge consents. The Executive intends to investigate the options for action in such a scenario.

19. Should the Regulator decide that a therapeutic treatment is required then the Regulator would direct the fish farm operator to undertake a specified treatment. Failure to comply with such a direction would allow the Regulator to arrange the necessary treatment through a contractor and for the contractor to subsequently recoup the cost directly from the operator.

Question 6:

Should the Regulator have the power to direct treatment?

Question 7:

Should the Regulator have the power to arrange treatment through a third party contractor where a direction to treat has not been complied with?

Monitoring

20. Once a farm has been subject to mandatory action, it should be the subject of follow-up inspection to ensure that the treatment strategy has been effective. Further treatment may be required should this inspection indicate that lice levels again become too high.

B) Disease

21. Existing powers in relation to notifiable diseases are designed to prevent the spread of disease through restrictions on movements of fish, equipment, etc. The proposals outlined in part A for directing treatments in respect of parasites raises questions about the desirability of enabling the regulator to direct treatments in respect of notifiable diseases. Such directions could apply to treatment in its widest context; it could mean use of therapeutic treatments, vaccination or management strategy. Where the use of therapeutic treatments is desirable then the Regulator would take account of the views of the company vet and SEPA before deciding whether treatment is required. For example, if we failed in our efforts to eradicate another outbreak of Infectious Salmon Anaemia (ISA) we would wish to be able to direct the vaccination of new inputs of stock in order to protect against ISA infection in surrounding waters or farms.

Question 8:

Should the Regulator have the powers to direct treatment for notifiable diseases?

Containment

Introduction

22. There continues to be a high degree of public interest and concern about the numbers of fish farm escapes of salmon (and rainbow trout), and their possible impact on wild stocks. For fish farmers, escapes represent a loss of valuable assets (although to some extent this can be offset by insurance). For conservation and wild fish interests escaped fish have the potential to spread disease, compromise genetic integrity and increase competition in the freshwater environment. Wild Atlantic salmon is a species of European importance, by virtue of it being listed in Annex II of the EC Habitats Directive.
23. In the light of these concerns and the views expressed by the North Atlantic Salmon Conservation Organisation (NASCO) the Executive established a cross-sectoral farmed fish escapes working group in 1998 to look into the issue. (Report of the Working Group on Escapes, 2001 – www.scotland.gov.uk/Topics/Fisheries/afBill/fishesCAPES).
24. The Executive has since introduced a number of mechanisms to deal with containment and escapes, based largely on the recommendations of the working group.
25. It is now standard practice for the Scottish Ministers, in their role as statutory consultees – under the Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999 – to request that operators produce containment measures and contingency plans as part of any new or modified application for a finfish farm.
26. The Scottish Ministers introduced mandatory notification procedures and guidance that apply to all finfish farms in Scotland. The *Registration of Fish Farming and Shellfish Farming Business Order 1985* (as amended by Scottish Statutory Instrument number 2002/193 itself amended by SSI No. 2002/220, www.scotland.gov.uk/Topics/Fisheries/afBill/addsend) require that the Scottish Ministers be notified in writing immediately where there is cause to suspect that an escape has occurred.
27. Containment of fish to prevent escapes is a key priority of the Strategic Framework for Scottish Aquaculture (SFSA). Since the SFSA was published in 2003, a Containment Working Group (CWG) comprised of key stakeholders including Industry and wild fish interests has drafted new Containment Guidance for regulators and industry on behalf of the Highlands & Islands Aquaculture Forum (HIAF), relevant parts of which will be included in the upcoming industry Code of Good Practice.
28. The CWG continues to examine containment issues and will shortly be examining fish farm structure and design issues in greater detail with a view to making recommendations to the Ministerial Working Group on Aquaculture.

Proposals for a Regulatory Framework

29. Progress has been made since 2000 to minimise the risks of escapes from fish farms. The Executive welcomes that fact that the aquaculture industry has played its part in recent years through self regulation. This good practice should nevertheless be underpinned by statutory provisions to ensure that the entire fish farming industry puts measures in place to prevent, and if necessary deal with, fish escapes effectively.

Definition of fish farm

30. The Executive proposes that the following proposals apply to all types of marine and freshwater fish farms, other than restocking hatcheries for wild fisheries and shellfish farms.

Question 9:

Should escapes proposals apply to all the farm types outlined above?

Question 10:

Should shellfish farms and restocking hatcheries be exempted?

Regulator

31. It is proposed that the Regulator will have powers to inspect a farm with respect to the criteria set out in the containment plans with a view to reducing the likelihood of fish escaping. The ability to inspect a farm would not be dependent on an escape or suspected escape taking place. Rather, prevention would be the watchword. If the Regulator found evidence that procedures could be improved, it would have the power to direct the fish farmer operators to take certain specified steps within an agreed timescale with a view to remedying the situation. Failure to comply with such a direction would be an offence.

Question 11:

Do you agree that the Regulator should have powers to inspect and direct with respect to preventing escapes?

Question 12:

Do you agree that the Regulator should have a role in improving containment to prevent fish escapes?

Offence in respect of escapes from fish farms

32. The Executive proposes the creation of a strict liability offence in respect of escapes of finfish from fish farms. In the event of an escape from a fish farm the operator (who would be one or more of the following: the farm owner, the company directors, the farm

occupier (the lessee), the farm operator or the farm manager) would be guilty of an offence, unless they could prove to the court that the operator had taken all reasonable steps to prevent an escape from occurring.

Question 13:

Should the Executive introduce a strict liability offence for escapes from fish farms?

Containment plans

33. Fish farm operators must have in place suitable containment plans with the aim of preventing escapes. Figure 1 outlines the possible content of such plans.

Figure 1

Proposed possible content of containment plans

1. Cages, moorings, nets and cables must be assessed by a chartered or other similarly qualified professional to ensure that they are fit for purpose and put in place in a manner which ensures, as far as practicable, the containment of farmed fish.
2. The chartered (or similarly qualified professional) will provide certification stating that the structural equipment installed on the farm is fit for purpose and appropriately configured for the aquatic environment in which it is placed.
3. Nets and other structural equipment (moorings, cables, etc.) will be subject to an inspection and maintenance plan to meet manufacturers' specifications and recommendations to ensure these elements remain fit for purpose.
4. Fish farmers will ensure that they have appropriate work platforms to allow inspection of cages, which meet with health and safety legislation requirements.
5. Fish farmers and their staff will receive training to and will follow working procedures to minimise any risk of fish escaping due to operational or maintenance failures.
6. Fish farmers will have appropriate security to prevent/monitor theft and vandalism.
7. Inspection of nets and other containment equipment will take place after key activities such as net cleaning or equipment repair.
8. The fish farmer will keep containment records to include contingency plans documentation, a certification of structural equipment and records of inspections to check net and equipment integrity. Also, all repair and maintenance inspection and actions will be recorded and kept for statutory verification.
9. The fish farmer and his staff will co-operate with the Regulator to provide information relevant to containment or suspected/actual escape incident. Also, the fish farmer and his staff will make themselves available and co-operate in any site inspection requested by the Regulator's staff and their advisors.
10. Contingency plans must cover procedures to stop further escapes and recover escaped fish where this is a practical option (Environmental Liability Directive).

Question 14:

What elements should be addressed in containment plans?

Escapes notification

- 34.** The current regulatory regime for fish escapes is provided by the *Registration of Fish Farming and Shellfish Farming Businesses Order 1985* as amended. Experience over the past three years suggests that a minority of operators are not specific enough about the circumstances of an escape (suspected or otherwise) and very often fail to report 'forthwith' as required by current legislation. There has also been criticism from some quarters about the time taken to determine whether or not an escape has actually occurred.
- 35.** What is now proposed is a wider regulatory regime covering the inspection and regulating of containment measures on farms as well as notification procedures. The full suite of proposals will therefore replace the current procedures set out by order.

Proposed notification procedures for fish escapes

- 36.** Your comments are welcomed on the draft proposals below:
- 36.1** Where an operator discovers an escape or suspects there has been an escape from their aquaculture facility, they must report the incident to the Scottish Ministers who would in turn notify such bodies as they deem appropriate.
- 36.2** The Scottish Ministers must immediately be informed in writing of the discovery of an escape or suspected escape.
- 36.3** A written report to the Scottish Ministers must include:
- 36.3.1** the date, estimated time and location of the escape or suspected escape;
 - 36.3.2** the species of finfish that escaped or may have escaped;
 - 36.3.3** the estimated number of finfish that escaped or may have escaped;
 - 36.3.4** the cause or suspected cause of the escape or suspected escape;
 - 36.3.5** the calendar year in which the finfish were stocked at the aquaculture facility;
 - 36.3.6** the average weight of the finfish that have escaped or may have escaped;
 - 36.3.7** the rearing facility from which the finfish were received by the aquaculture facility; and
 - 36.3.8** a record of each drug administered including:
 - 36.3.8.1** the name of the drug;
 - 36.3.8.2** the period of administration, including the dates of commencement and completion of the drug treatment;
 - 36.3.8.3** the name of the prescribing veterinarian;
 - 36.3.8.4** the prescribed withdrawal period; and
 - 36.3.8.5** identification of finfish treated.

Question 15:

Do you have any views on the above proposals?

Powers to investigate incidents

- 37.** Under existing notification procedures the Scottish Executive has no power to investigate a suspected escape where it has been informed by a third party. Up to now the Executive has contacted the operator of the fish farm in question and requested that they establish whether or not there has been an escape. The Executive proposes that the Regulator should have powers to investigate escapes and suspected escapes of fish from fish farms however the intelligence of an escape is received.

Question 16:

Do you agree that the Regulator should have powers to investigate escapes and suspected escapes from fish farms whatever the source of the information?

- 38.** Where an escape has been confirmed and reported in writing to the Scottish Ministers (through the procedures in paragraph 34 above) the Scottish Ministers should have the power to instruct/require the fish farm operator concerned to improve existing procedures for the prevention of escapes (site containment measures and contingency plans) within a reasonable time period.

Data Collection

Introduction

39. At the moment, the only data the Executive receives from the aquaculture industry comes from the annual shellfish and finfish production survey undertaken by the FRS, based on returns submitted by industry on a voluntary basis. The Executive does not currently receive reliable economic information which means it is not in a position to monitor trends, which can complicate matters where it has to deal with trade issues at an international level.

Proposals

40. The Executive proposes that the Scottish Ministers have the powers to oblige the aquaculture industry to submit data that they deem necessary. The data will inform how the Scottish Ministers develop future policies, future decisions and ensure that the industry continues to move towards achieving the SFSA vision of a sustainable, diverse, competitive and economically viable industry.
41. The data submitted will include all data currently obtained through the annual production survey as well as additional economic data from producers and trade bodies. For example, the Scottish Ministers may require farm gate price information and breakdown of cost data and production value and volume. This would give information on company financial performance or cost structures.

Question 17:

What data, in addition to the production survey data, do you believe are appropriate to submit?

Fish Farm Relocation

Introduction

42. The relocation of finfish farms is one of the priorities for action in the SFSA. A location/relocation working group (LRWG) was established and comprises key stakeholders representing the public sector, wildfish interests, the aquaculture industry, environmental NGOs and regulators. The LRWG was tasked to prepare criteria against which to assess whether or not any finfish aquaculture site is poorly located. The main driver for the relocation of fish farms is the potential for finfish farming to adversely affect wild salmonid stocks.
43. The LRWG has adopted a practical approach with a view to eventually drawing together a framework to facilitate relocation. The framework will be informed by work currently being undertaken by FRS and the Scottish Aquaculture Research Forum in addition to pilot relocation studies. The Scottish Executive intends to publish a draft Framework and Environmental Assessment for public consultation in spring 2006.

Proposals for Regulation

Financial assistance for fish farm relocation

44. The Executive proposes that the Scottish Ministers be given powers enabling them to offer financial assistance to fish farm operators who wish to relocate any or all parts of their operations where they are able to demonstrate that there is an environmental benefit from doing so. The enabling provisions should apply to all types of fish farm, in all parts of Scotland in both the freshwater and marine environment.

Question 18:

Do you agree that financial assistance be given to fish farm operators to relocate where there is a clear environmental benefit in doing so?

Powers to close fish farms

45. As a last resort, the Scottish Ministers should have the power to close a fish farm where they believe there is a clear public interest for them to do so, but only where an operator is not prepared or unable to relocate their operations.

Question 19:

Do you agree that the Scottish Ministers should have powers to close fish farms where there is a clear public interest to do so and where owners are not in a position to relocate?

Discretionary Power to Pay Compensation for Compulsory Fish Slaughter

Introduction

46. At the time of the ISA outbreak in 1998/99 there was no compensation for losses due to Executive disease controls. Ministers recognise the possibility that compensation may have a role to play in dealing with future disease outbreaks.

Proposals

47. Compensation on any terms could give rise to substantial costs to the public purse, for which no provision is made in current spending plans and the Scottish Ministers would have to consider carefully whether any such costs could be afforded. The Executive therefore proposes that there should be an enabling power such that the Scottish Ministers could, if they saw fit and without obligation, pay compensation of such amount in what circumstances as they prescribed by statutory instrument, for any fish destroyed for the purposes of disease controls.
48. Any compensation scheme for any given outbreak of disease would be detailed in a Statutory Instrument (SI) which would be consulted on at the time. Any scheme would be funded only on the basis of shared risk. Should a scheme for limited compensation be drawn up under the enabling power outlined above, the Scottish Ministers may be of the view that compensation would be payable only to operators that demonstrated clear evidence of compliance with the industry's Code of Good Practice.

Question 20:

Under what circumstances might it be useful for the Scottish Ministers to have discretionary powers to pay compensation to fish farm operators?

Fish Movements — Fish Farms

The need for control

49. One of the greatest risks of spreading disease is posed by the movement of live fish. This became clear during the outbreak of Infectious Salmon Anaemia (ISA) in 1998/99 when it was confirmed that there was only one source point of infection and that the disease was spread to a further 10 sites in all the main production areas of Scotland. Apparently healthy fish were moved, under veterinary supervision, from infected farms (prior to the infection being discovered) resulting in a subsequent disease outbreak in the receiving sites. While ISA is the main impetus behind bringing in controls, it is important to recognise that novel diseases may arise in the future and that compulsory slaughter could be required for other serious diseases such as Infectious Haematopoietic Necrosis (IHN) and Viral Haemorrhagic Septicaemia (VHS).

Proposals for a Regulatory Framework

50. The Executive is keen to reduce the risk of the introduction and spread of disease into and between fish farms. To do so, there are three main areas we would seek to manage: the movements of all live fish (at all life stages) in and out of marine farm management areas; movements of live fish in and out of freshwater farms; and transportation by wellboats.

Movements of all life stages of live fish in and out of marine farm management areas

51. The ISA Code of Practice advises against movements between management areas (except in certain limited circumstances) as a means of preventing the spread of ISA and other diseases. The experience of ISA leads the Executive to believe that the potential consequences of inadvertent transmission of disease out a local management area are sufficiently serious to justify statutory regulation.
52. The Executive proposes therefore that the consent of the Regulator will be required for movements of live fish out of management areas to be defined in secondary legislation. To move fish without such a consent would be an offence. This would also regulate movements ashore for stripping of broodstock and for processing. The Regulator outlined in paragraph 9 of this document would be responsible for authorising such movements.

Question 21:

Do you agree with the need to regulate live fish movements out of, and between, marine farm management areas?

Movements of live fish in and out of freshwater farms

53. In general, there should be no need to restrict fish movements between freshwater fish farms because the Diseases of Fish Act 1937 as amended gives sufficient powers to be able to deal with an outbreak of a notifiable disease. That said, it would be helpful to include a power in the Bill for a 'standstill provision' that would be able to cover the whole of Scotland and could prevent all movements in the event of an outbreak of a novel disease which would not, by definition, be covered by the above Diseases of Fish Act.

Question 22:

Do you agree there is no general need to restrict live fish movements between freshwater fish farms?

Question 23:

Is the proposed power to bring in a national standstill provision in case of a novel disease appropriate?

Wellboat disinfection

54. A wellboat is a vessel for transporting live fish in tanks. Many of the wellboats operating in Scottish waters subcontract from other countries, notably Norway. The Epizootic Report into Scotland's ISA outbreak suggested the possibility that the virus was accidentally introduced as a result of inadequate disinfection of a wellboat before departure from Norway where ISA has not been eradicated. The Executive proposes to enable the Regulator to be able to inspect any wellboats before they begin operations at a farm. The Regulator would grant an operating licence if it was satisfied that the vessel had been properly disinfected or withhold a licence until disinfection had been carried out to its satisfaction.

Question 24:

Should the Regulator be empowered to licence the transfer of fish by wellboats in Scotland?

PART II: FRESHWATER FISHERIES



PART II — FRESHWATER FISHERIES

Chapter Eight

Gyrodactylus salaris

Introduction

55. *Gyrodactylus salaris* (GS) is an external parasite which affects the skin, gills and fins of salmonids in freshwater. It kills salmon and other species can act as carriers. It is exotic to Great Britain, but its introduction would undeniably have devastating consequences for our wild stocks. It has been recorded in many parts of the European Union and is widespread in Scandinavia. GS was accidentally introduced into Norway in 1975 and has since wiped out wild salmon stocks in more than 40 rivers there. The Norwegians have had an eradication programme in place since the early 1980s. Where eradication has been attempted, this has been successful in the majority of cases.
56. In order to prepare for the possibility that GS is introduced into Scotland, the Executive has recently set up a GS Task Force to research the risks involved, recommend on preventative measures and to draw up contingency plans for action.

Current powers

57. GS is a notifiable disease under Section 4 of the Diseases of Fish Act 1937. Under the provisions of the Act the Scottish Ministers have the power to:
- inspect fish farms and other waters and to take samples;
 - impose movement restrictions on fish, their viscera, eggs and food, to and from and within farms and waters which are infected or suspected of being infected;
 - require the disposal of dead or dying stock and direct the manner of their disposal;
 - grant authority for the removal of fish in infected waters for the purpose of controlling the spread of GS.
58. There are also 'Additional Guarantees' under Commission Decision 2004/435/EC (www.scotland.gov.uk/Topics/Fisheries/afBill/comdec43SEC) which prevent the importation of live salmonids from areas infected by GS. It is unlikely that these could be developed further.
59. The risk is Scotland's exposure should GS be detected here. The Executive believes the powers outlined above should be sufficient to be able to **control** GS were it to arrive. However, the economic and biodiversity consequences of GS taking hold in Scotland are potentially extremely serious, so it is important that the Scottish Ministers have the option of attempting **eradication**.

Proposals for regulation to enable GS to be eradicated

60. To be able to attempt eradication, the Executive is proposing a series of additional powers which could themselves have serious and far-reaching consequences, both for the wider natural heritage and water user interests. Were there to be an outbreak of GS, the Scottish Ministers would require to consider whether eradication was the most

appropriate option in that particular case; taking into account the scale of the problem, the level of risk, the economic and health aspects and their responsibilities under domestic and European legislation, including the Wildlife and Countryside Act, the EC Habitats and Birds Directives, the Dangerous Substances Directive, the Biocides Directive, the EC Directive on Water Quality and the Water Framework Directive. Depending on the size and use of the infected waters, the Scottish Ministers could decide that the eradication option was inappropriate and limit efforts only to controlling the spread of infection using existing powers.

Question 25:

Should the Bill include enabling powers to eradicate GS where the circumstances are appropriate?

To authorise and undertake treatment of infected waters and direct removal of stock

61. The only known ways of eradicating GS are by the addition of chemicals, either Rotenone or aluminium sulphate, to the water system. Both kill the parasite and other invertebrates, but Rotenone also kills the fish. The Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (www.scotland.gov.uk/Topics/Fisheries/afBill/con2003) gives the Scottish Ministers powers in respect of salmon fisheries to exempt chemical treatments and the removal of dead and moribund stock from being an offence. If eradication is to be attempted these provisions may need to be extended to allow for treatment which would otherwise be unlawful under the Controlled Activities Regulations.
62. It is generally accepted that treatment would be beyond the remit of District Salmon Fishery Boards and riparian owners. The Scottish Executive therefore proposes an enabling power for the Scottish Ministers to put in place measures to permit the Scottish Ministers or their agents to apply chemical treatments with the aim of eradicating GS and to authorise, direct and if need be remove dead and moribund stock.
63. In respect of freshwater farms, Ministers should have power to authorise, direct and if need be undertake chemical treatments and removal of dead and moribund stock.
64. These powers would apply to all inland waters, e.g. rivers, lochs, farms and 'put and take' fisheries in catchments where the presence of GS is confirmed.

Question 26:

Should the Scottish Ministers have the power to apply chemical treatments to watercourses for the purpose of eradicating GS?

Question 27:

Should the Scottish Ministers have the power to apply chemical treatments to freshwater farms for the purpose of eradicating GS?

Question 28:

Should the Scottish Ministers have the power to authorise the removal of dead and moribund fish from watercourses for the purpose of eradicating GS?

Question 29:

Should the Scottish Ministers have the power to remove dead and moribund fish from freshwater farms for the purpose of eradicating GS?

Standstill notice

65. The Executive proposes a power enabling the Scottish Ministers to place a standstill notice on all farms and waters – including adjacent catchment areas – preventing the movement of live fish and eggs until the extent of an outbreak had been determined. This will be more extensive than the standstill notice referred to in paragraph 53 in that as well as covering diseased areas it would permit action where there was no evidence for the presence of the disease but where it was thought prudent to apply a precautionary approach in view of the potentially very serious consequences of spread.

Question 30:

Do you agree with the proposal for the Scottish Ministers to impose standstill notices?

To authorise the erection of barriers

66. Part of the Norwegian eradication programme which the Executive considers useful, is the erection of barriers across infected rivers at certain points. The barrier allows water flow but prevents upstream migration of salmonid fish. Below the barrier, the river is treated; above the barrier, the parasite is progressively denied a host as fish migrate down the river resulting in the river becoming disease free without the need to poison all of it.
67. It is proposed that the Scottish Ministers have powers to authorise the erection of such barriers and, if required, to authorise the closure of fish passes. This would take cognisance of relevant regulatory regimes including the land use planning system and the Water Framework Directive as well as provisions in the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 that prohibit the obstruction of the passage of fish. The Scottish Ministers would be responsible for undertaking the work which they would subcontract to relevant bodies.

Question 31:

Do you agree with the powers to erect barriers and close fish passes?

Powers of access

68. The work of treating waters with chemicals, removing fish and erecting barriers will require access to land adjacent to the waters edge. In the vast majority of cases, it is expected that such access will be granted voluntarily by riparian owners. However, to cover any cases where a landowner may wish to restrict access, the Scottish Ministers and their agents will have powers of responsible access to erect barriers.

Question 32:

Should Scottish Ministers and their agents have powers of compulsory access?

Freshwater fish farms

69. GS can reproduce on other species of fish. If these species are farmed in water systems upstream of a barrier, then it would be necessary to clear such farms of fish in order to deny the parasite a host. The Executive proposes that the Scottish Ministers be provided with powers to do this.

Question 33:

Do you agree with the power to require clearance of fish farms in these circumstances?

Disinfection of equipment

70. The GS parasite can survive off its host for a number of days and can be unintentionally transmitted on equipment such as fishing tackle and canoes that come into Scotland from countries affected by GS. Disinfection of imported gear is therefore an important weapon in prevention, to protect Scotland from accidental introduction of the parasite.
71. Some countries, such as Iceland and New Zealand, have disinfection points at ports of entry. The Executive proposes that the Bill include powers to set up such a scheme for the mandatory disinfection of recreational equipment at ports of entry in Scotland with a view to preventing the introduction of GS.

Question 34:

Should powers for mandatory disinfection of recreational gear be introduced?

Amendments to Rules on Access

Introduction

72. Healthy fisheries need healthy fish populations. Conservation and exploitation are interdependent and there is a balance to be struck between fishing effort and protection of the resource. The Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, makes provision for the establishment of protection orders. Under the existing system proposals may be submitted by either riparian owners or occupiers (tenants who by virtue of a lease have fishing rights for freshwater fish) for protection orders covering catchment areas or parts thereof (lochs or systems of lochs and/or rivers). Where a protection order is in force, it is a criminal offence to fish without legal right or written permission from a person having such right. Thus, the effect of a protection order is that in the specified area, fishing without permission is a criminal offence rather than a civil wrong.
73. Applicants seeking a protection order must demonstrate to the Scottish Ministers that they intend to increase permitted fishing in these areas, without compromising the conservation status of the fish present, and must provide details of their proposals for conservation of fish and management of fisheries. Applicants are currently also required by the Executive to set up a Liaison Committee, which is responsible for the co-ordination, implementation and monitoring of the operation of the Protection order.
74. The system of protection orders has encountered considerable criticism from some quarters over the years and this was repeated by many of those who responded to the Executive's consultation paper *Protecting and Promoting Scotland's freshwater fish and fisheries* in 2000 (www.scotland.gov.uk/Topics/Fisheries/atBill/promfish). There is a perception that protection orders have failed in parts of Scotland in their primary objective of guaranteeing increases in angling access as the legislation had intended, largely because voluntary monitoring mechanisms have proved inadequate. Angling access to some stretches of water at the inception of an order has occasionally been reduced over time. Problems have also arisen when new owners of freshwater fishing rights have been unaware of the protection order obligations that accompany those rights. Permit availability has been poorly advertised in some catchments and the delivery of permits in certain areas has been problematic.
75. Over the past year, the Freshwater Fisheries Forum has been looking at the conservation, management and exploitation of stocks, with Partnership Agreement No. 345 (improving access to fisheries) very much in mind and has considered proposals/changes that would require primary legislation. In *Scotland's freshwater fish and fisheries: Securing their future* (www.scotland.gov.uk/Topics/Fisheries/atBill/fishfuture), the Executive proposed reviewing Protection orders with a view to repealing the Freshwater and Salmon Fisheries (Scotland) Act 1976 (now provisions contained principally in

sections 48-51 and 66 of the Salmon & Freshwater Fisheries (Consolidation) (Scotland) Act 2003).

76. It has become clear from many stakeholders through the work of the Forum that until a replacement management structure is in place, it may be premature to radically alter the provisions relating to protection orders. It was also the view of the Forum that protection orders offered some benefits that could usefully be retained under a future management regime. The Forum did, however, recognise a number of shortcomings with the protection orders system which could be addressed by legal or administrative means and these are set out below. The Executive will consider all the options for protection orders, including repeal.

Mandatory liaison committees

77. As mentioned above, the Executive currently requires applicants to set up a Liaison Committee, which is responsible for the co-ordination, implementation and monitoring of the operation of the protection order. This is currently only an administrative measure and the duties undertaken by the liaison committee will in future be taken by any future management body that is developed. However, it will require a legislative slot beyond the present one to bring a new management regime into being, so the Executive proposes to make Liaison Committees mandatory if this can be achieved practicably.

Question 35:

Do you agree with the proposal to make Liaison Committees mandatory?

Abolition of requirement to advertise in the *Edinburgh Gazette*

78. The application process has been identified by stakeholders as costly, cumbersome, and not transparent with respect to the work of the Consultative Committee (an administrative measure established by the Executive to deal with protection order applications). Section 48(9) of the 2003 Act provides that subject to sections 48(7) and 48(8) and Schedule 3 of the 2003 Act has effect as to the procedure in the making, variation and revocation of protection orders. Paragraph 2 of Schedule 3 requires applicants to give notice of the proposals in the *Edinburgh Gazette*. There is clearly a need to ensure that the public are made aware of any application, and what the general effect would be if the proposals were adopted, but whether there is a need for applicants to give notice in the *Edinburgh Gazette* is less clear. The Executive proposes that the 2003 Act be amended so that protection order applications are not required to be advertised in the *Edinburgh Gazette*.

Question 36:

Do you agree with the proposal to remove the requirement to advertise in the *Edinburgh Gazette*?

Question 37:

How else should protection orders be publicised, beyond the requirement set out in the 2003 Act that the applicant give notice in such other newspapers as the Scottish Ministers direct?

Excluding fisheries from the application of a protection order

79. The 2003 Act makes provision for protection orders covering catchment areas or parts thereof (lochs or systems of lochs and/or rivers). To date, when a protection order has been made, it has covered an entire area, irrespective of whether all the riparian owners within that area want to be involved and have agreed to provide increased access. The aim is to make it clear that a protection order can exclude certain fisheries within a catchment or part thereof.

Question 38:

Do you agree with the proposal that protection orders need not cover contiguous fisheries?

Removing fisheries from the prescribed area in a protection order for non-compliance

80. When a fishery or fisheries within a protection order area fail to comply with the requirements on making fishing available, or desire to withdraw from the protection order, it is arguable that unless an application is made to Scottish Ministers to vary the existing order by those eligible to apply for a protection order, the only remedy available under the current provisions is that the order may be revoked, removing the system from the whole prescribed area, even if it is working well elsewhere in the area.
81. To put the situation beyond doubt, the proposals are that the Scottish Ministers be given a power to vary a protection order (without a third party needing to apply for a variation) to remove fisheries. The Bill would also include provisions for the clear advertisement of areas that had been removed from the system so that owners, wardens and, most importantly, anglers, know where the protection order system applies.

Question 39:

Do you agree?

Make existence of a protection order known to property buyers where property changes hands

82. There have been reports that some landowners/riparian owners have bought property, stopped access to fishing and then claimed that they did not know there was a protection order affecting the land they had bought. The Executive intends to explore how prospective buyers could be alerted to the existence of a protection order when buying property with fishing rights, whether it be private housing, commercial property or land.

Question 40:

How should buyers find out/be told that protection orders affect their property and be alerted to what their responsibilities are?

Fish Movements — Wild Fish

Introduction

83. There is a recognition amongst stakeholders that it is important to bring in controls over movements of fish into inland waters and watercourses. The unrestricted introduction of fish into inland waters may have a number of effects:
- introduced fish may carry diseases or parasites, and even the water in which they are transported may carry unwanted passengers which may be introduced if the water is emptied into the receiving pond, loch or river;
 - certain fish species may establish self-sustaining breeding populations in waters that have no history of supporting them, with the reduction in good ecological status that follows;
 - even if the fish do not establish breeding populations, they may compete with native fish for food, space and may predate on the native fish, their fry or their eggs; and
 - even where the fish to be introduced are members of a species already present in the receiving water, they may be genetically distinct. Any breeding with the native fish may have deleterious effects on the genetic integrity of local stock.

Proposals for a Regulatory Framework

84. In parallel with the proposal to prohibit the use of live fish (and other vertebrates) as bait in fishing (paragraph 92), the Executive also proposes to regulate what fish may be put into inland waters. There is general agreement that Section 30 of the Salmon and Freshwater Fisheries Act 1975, applicable in England and Wales, provides a helpful model for regulation of fish movements into inland waters. This states that:

'a person shall be guilty of an offence if he introduces any fish or spawn of fish into an inland water, or has in his possession any fish or spawn of fish intending to introduce it into an inland water, unless he first obtains the written consent of the Environment Agency or the inland water is one which consists exclusively of, or of part of, a fish farm and which, if it discharges into another inland water, does so only through a conduit constructed or adapted for the purpose.'

85. The Environment Agency has a limited remit in Scotland which is restricted to that part of the Border Esk river catchment area which is in Scotland and only in relation to the fisheries issues set out in the Scotland Act 1998 (Border Rivers) Order 1999. The Executive's proposals for the regulation of fish movements will therefore only apply in the rest of Scotland.
86. The Executive proposes a similar 'section 30' power, namely to prohibit the keeping of, the transportation of and the introduction into any inland water (unless it is a fish farm) of, live fish or spawn of fish, without the authority of the Regulator. In addition, it would be an offence to be found in possession of fish or spawn in circumstances which afford

reasonable ground for suspecting that a person intends to introduce them into inland waters.

87. Movements between freshwater fish farms would be exempted. Movements from a fish farm to any other inland water, for example a put and take fishery would be regulated. However, such movements could be regulated by blanket consents from the Regulator. The Executive may also consider enforcement powers for river bailiffs.
88. These proposals do not apply to ornamental fish kept indoors or in a garden pond.

Question 41:

Should the Bill make provision to regulate the movement of fish into inland waters?

Miscellaneous Amendments to Freshwater Fisheries

Introduction

89. As part of the Freshwater Fisheries Forum's work, it gave consideration to possible amendments that could be made to existing freshwater fisheries legislation, with a view to clarifying the law on certain aspects of fishing. The majority of these changes have been broadly agreed by the Forum. Some further proposals which may improve on the existing provisions are also included.

Definition of Fishing by Rod and Line

90. The Executive's Green Paper, *Scotland's Freshwater Fish and Fisheries: Securing their Future* acknowledged that current provisions appear to prohibit the use of more than one rod, and the setting of rods on rod rests. The Executive believes this has the effect of making the following customary methods unlawful:
- *Coarse Fishing* – Common practices include 'ledgering', where a bait or baits are fished using a weighted set of lines, the rod being set on a rod rest and often involves the use of more than one rod;
 - *Harling* – Involves the use of rod and line from a boat by trolling, where baits and lures are trailed behind the boat. This includes trolling for 'ferox' trout.

Proposals for regulation

91. In order to remove any doubt, and ensure that anglers are able to enjoy their sport in a lawful manner, the Executive proposes that the definition of fishing by rod and line be amended as follows:
- *Coarse fishing* – when fishing for non-salmonid fish, no angler should be able to use more than **four** rods and associated rod rests. Although the angler need not retain the rods in his hands, the angler must remain in attendance and be able to retrieve the rod as soon as practicable should a fish take the bait or lure attached to the line associated with any rod;
 - *Harling* – when trolling from a boat for salmon or 'ferox' trout, an angler should be able to use a maximum of **two** rods, which may be held in position in the boat by appropriate rod rests. The angler should be able to retrieve a rod as soon as practicable should a fish take the bait or lure attached to the line associated with any rod.

Question 42:

Do you agree with the proposals to permit the use of rod rests?

Question 43:

Are the limits on the number of rods correct?

Use of live vertebrates as bait

92. There is no restriction in law on the use of live fish or other vertebrates, such as frogs, as bait when angling for all types of fish, except where provisions have been made to prohibit the use of certain baits and lures for salmon fishing in sections 33 and 38(5)b of the 2003 Act. The use of live vertebrates as bait has in some cases resulted in the transfer of live fish to water bodies leading to an increased risk of disease and parasites to existing stocks. Live vertebrates can also impact on the biodiversity of water bodies through competition, predation and in some cases pose a threat to important populations of native species. This was acknowledged by the Green paper, *Scotland's Freshwater Fish and Fisheries: Securing their Future* (2001). Loch Lomond is often used to illustrate the lack of controls on the use of live vertebrates as bait. The loch now supports a number of fish species that were not present in the native fish fauna as little as twenty years ago. One of these species, the ruffe is now the single most numerous fish in the loch and is thought to pose a major threat to the powan, an internationally important fish species, listed in Annex 5 of the Habitats Directive.

Proposals for regulation

93. Given these biodiversity and health risks associated through the use of live vertebrates as bait, the Executive proposes a complete ban on their use, as recommended by the Green Paper.

Question 44:

Do you agree with the ban on live vertebrates as bait?

Use of gaffs, tailers, pike gags and landing nets

94. The use of gaffs, tailers, landing nets and pike gags compromise the health and welfare of freshwater fish.
- *Gaffs* – a gaff is a large, barbless hook attached to a handle, sometimes telescopic, which can be used to hook a fish through the muscle, head or abdomen in order to bring it ashore.
 - *Tailer* – a tailer is a length of multi-stranded wire (usually) attached to a handle, often telescopic, with a small hoop fixed to the free end of the wire. The hoop can be drawn up the wire and fixed to a latch on the handle near where the wire is attached. When the hoop is fixed and a large loop is formed in the wire, it may be passed over the tail of a salmon. A trigger on the handle allows the hoop to be released so that the hoop travels down the wire forming a small loop around the body of the fish just in front of the tail. The fish may then be lifted ashore by its tail.
 - *Pike Gag* – a pike gag is a device used to hold a pike's mouth open after capture so that the hook can be removed. The device has a pair of jaws that may be held closed by hand, but when released is held open by a very strong spring. The action of the

gag in forcing the mouth of a pike open may cause severe injury, including broken or dislocated jaws, especially in smaller pike.

The use of these devices can cause serious injury to the fish being landed, and is incompatible with the adoption of catch and release.

- *Landing nets* – landing nets and keep nets where the material used is made up of traditional knotted mesh net can cause injury to fish enclosed within it. Knotless netting is widely available and widely used.

Proposals for regulation

95. The Executive proposes to prohibit the use of tailers, gaffs, pike gags and landing nets with knotted mesh.

Question 45:

Do you agree with the proposals to prohibit the use of tailers, gaffs, pike gags and landing nets with knotted nets?

Foul-hooking

96. Section 4 of the 2003 Act defines rod and line fishing as meaning 'single rod and line (used otherwise than as a set line or by way of pointing, or by striking or dragging for fish)...' but there are still arguments about what constitutes pointing, striking and dragging. It would be much clearer to anglers, enforcement officers and the courts if the law clearly defined and prohibited foul-hooking. A suggested definition could be: '*foul hooking* means any method of deliberately hooking or attempting to hook a fish other than by inducing the fish to take the hook in its mouth'. The Executive proposes that 2003 Act will be amended to clearly prohibit foul-hooking. Any fish caught other than by the mouth should be released as quickly as possible and with the least amount of injury.

Question 46:

Do you agree that foul-hooking should be clearly prohibited in law?

Close times

97. Weekly and annual close times in respect of fishing for salmon are provided for in sections 13-16 of the 2003 Act. An annual close time for fishing for brown trout is provided for in section 17 of the 2003 Act. It is an offence to fish for or take fish during the specified close time. No close times are provided for in respect of fishing for any other species of freshwater fish. The current lack of provision of close times for the majority of freshwater species means that over exploitation of stocks could become a real possibility.

Proposals for regulation

98. Provision should be made so that allows the Scottish Ministers to make Orders defining annual and weekly close times for freshwater species either upon application to them or of their own accord to allow for the temporary closure of specific fisheries to allow for protection of fish during spawning or other vulnerable periods, but only after appropriate consultation.

Question 47:

Do you agree with the proposals to make provision empowering the Scottish Ministers to make orders specifying annual or weekly close times for freshwater fish?

Prohibit eradication of fish, or adversely affecting their environment

99. There has been concern expressed, particularly by coarse anglers, of the unnecessary and inappropriate killing of some fish, notably, pike. Pike are a top predator and some fishery owners and anglers have attempted to eradicate pike from water bodies with the aim of protecting other fish species. Attempts to manipulate the local ecosystem can be misguided and can have unplanned consequences. The Executive therefore proposes a power to regulate this activity.

Question 48:

Do you agree with this approach?

Prohibit obstruction of fish

100. It is an offence to knowingly obstruct the passage of salmon to their spawning beds/ grounds during the annual close time (section 23(3) of the 2003 Act). However, salmon ascend rivers throughout the year. Other fish also move through rivers and their movements should not be obstructed unnecessarily either. It should be a clearly stated principle that fish should not be deliberately obstructed by physical obstructions at any time. The Executive therefore proposes making it an offence at any time of year to deliberately set in place any device or structure that will obstruct the free passage upstream or downstream of salmon and other freshwater fish.

Question 49:

Do you agree that the current law prohibiting the obstruction of salmon during their spawning runs should be extended as described?

Proposals for regulation

101. The Executive proposes to widen the current rules covering the passage of salmon to cover all species of freshwater fish at all times of year.

Question 50:

Should the Executive widen the existing passage of salmon rules to cover all freshwater fish at all times of year?

Extension of the definition of freshwater fish

- 102.** Unlike the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 the Import of Live Fish (Scotland) Act 1978 includes crustaceans in the definition of 'fish'. Such wider definition would be helpful when measures are required to control invertebrates such as North American Signal Crayfish which is a growing problem in Scottish rivers.

Proposals for regulation

- 103.** The intention is to amend the 2003 Act so that the definition of freshwater fish includes freshwater crustaceans so that adequate controls can be implemented.

Question 51:

Do you agree with the extension of the definition of fish?

PART III: FUTURE FOR FRESHWATER FISHERIES MANAGEMENT



PART III — FUTURE FOR FRESHWATER FISHERIES MANAGEMENT

Chapter Twelve

Possible Management Structures for Freshwater Fisheries

Introduction

- 104.** The *Report of the Scottish Salmon Strategy Task Force*, published in 1997, examined in some detail the structure in place in Scotland for the management of fisheries for salmon and sea trout, and specifically looked at the District Salmon Fishery Board (DSFB) system. It was beyond the remit of the Task Force to consider management of other species of freshwater fish. Nevertheless, the Task Force concluded that whereas there was a need to take account of other species when considering the management of salmon, there were important issues concerning funding, the interactions between fisheries for different species, and the representation of different species interests on any management body.
- 105.** The report *Protecting and Promoting Scotland's Freshwater Fish and Fisheries: A Review*, (The Scottish Executive, SNH; 2000) concluded that:
- 'The management of freshwater fisheries in Scotland lies in the hands of a number of bodies ranging from central government to private individuals. The Scotland-wide, river-by-river salmon fishery district system for the management of salmon fisheries has existed for more than a century, although there are still a number of districts where DSFBs have not been formed. In recent years, a number of Fishery Trusts have been established to provide DSFBs with scientific advice. However, there is no equivalent structure for the management of other freshwater fish. There is a growing awareness of the need for a more holistic approach to management, encompassing not only all of the fish but also the freshwater environment in general.'*
- 106.** The document *Scotland's Freshwater Fish and Fisheries: Securing Their Future*, (Scottish Executive 2001), set out a number of proposals developed to address the observations made by stakeholders in response to *Protecting and Promoting*. . . This document acknowledged some of the issues associated with widening the powers of DSFBs to take in the management of other fish species, and outlined some possible alternative structures, such as that proposed by the stakeholder group 'Angling for Change'.
- 107.** In 2004, the Scottish Freshwater Fisheries Forum was established to consider what steps are necessary to promote access to salmon and freshwater fisheries resources in Scotland, while ensuring that these fisheries are managed in a sustainable way. The Scottish Executive has chaired the Forum, and the Management Sub Group established to look more deeply into the issues raised.
- 108.** The sub-group analysed the various options put forward for future structures for freshwater fisheries. The options studied in detail were:

- Retention of the status quo
i.e. various combinations of District Salmon Fishery Boards, Fisheries Trusts, Liaison Committees, Angling Associations, etc. interacting in different ways in different localities. Data collection, where it takes place, generally co-ordinated via the Scottish Fisheries Co-ordination centre;
- Parallel structure
i.e. Establish new catchment-level management bodies which take responsibility for the management of freshwater species, acting in parallel with District Salmon Fishery Boards;
- Unitary Authority structure
i.e. Abolish District Salmon Fishery Boards. Create entirely new catchment-based umbrella bodies to take responsibility for the management of all species and all waters in the relevant catchment;
- Centralised control
i.e. Create a public body to assume a fisheries management role in Scotland analogous to that held by the Environment Agency in England and Wales;
- 'Stimulated evolution'
i.e. Identify and publicise minimum standards and best practice from current structures. Create incentives (e.g. through conditions for granting protection orders, access to project funding, etc. which encourage/oblige fishery owners seeking public funding or statutory protection to adopt appropriate management structures and practices;
- Expanded Salmon Fishery Boards
i.e. Extend the remit of District Salmon Fishery Boards to encompass the management of all species and all waters in the relevant catchment; and
- Nationalisation
i.e. Take all fisheries, freshwater and migratory, into direct State control.

109. The work undertaken by the Sub Group has shown that the most favoured structure would be a 'Unitary Authority' model covering both salmonids and coarse fish. The Executive is embarking on further work to supplement the initial good work undertaken by the sub-group and to assist in the development of new management structures. **The work required to develop this approach** – particularly taking account of the legislative implications of replacing District Salmon Fishery Boards – **will take longer than the timescale available for this Bill.**
110. The Executive has recently commissioned independent research to undertake a comprehensive assessment of the options available to achieving the Unitary Management of freshwater fisheries in Scotland. The research will also provide approximate costs for the implementation of funding such a management structure. The resulting report will be published by the Executive in the New Year.
111. The sub-group also agreed that whatever management structure finally emerges from this process, it should be an important guiding policy that any fisheries management body would have to adhere to the overarching principle that socio-economic benefits must be optimised. That is to say access to fishing must be maximised within the parameters of sustainability. Just conserving fish stocks would not be sufficient – increased fishing availability would have to be promoted wherever the fish stock situation allowed. The new Unitary Authorities would have the purpose of increasing fishing without compromising stock sustainability.

ANNEXES



Draft Regulatory Impact Assessment

DRAFT PROPOSALS FOR THE AQUACULTURE & FISHERIES (SCOTLAND) BILL

Purpose and intended effect

Objective

1. We now have the opportunity to bring forward a Bill in the 2006/2007 session of the Scottish Parliament. The Executive has continued to develop its policy ideas in consultation with stakeholders through the Highlands and Islands Aquaculture Forum (HIAF), the Freshwater Fisheries Forum and in a series of ongoing bilateral meetings. The attached consultation document sets out the Scottish Executive's key proposals to build investor confidence in the aquaculture industry and to protect sustainability and biodiversity of wild fish stocks on which the views of all with an interest in Scottish aquaculture and freshwater fisheries are sought. The Executive anticipates that the Fish Health Inspectorate within the Fisheries Research Services (FRS) could provide suitable expertise for a Regulator. The proposed Regulator would act on behalf of the Scottish Ministers with SEERAD officials and would liaise closely with other regulatory experts such as the Scottish Environment Protection Agency (SEPA). All subsequent references to 'the Regulator' in this document (except in Part 3), refer to the regulator outlined in this paragraph.
2. Our proposals cover the following areas within the four sectors below and will be considered fully by this Regulatory Impact Assessment.

Aquaculture

Parasite control
Containment
Data collection
Fish farm relocation
Compensation for compulsory fish slaughter
Fish movements – fish farms

Wild and Freshwater Fisheries

Gyrodactylus salaris (GS)
Amendments to rules on access
Fish movements – wild fish
Miscellaneous amendments to existing legislation

Background

3. In 2003, the Scottish Executive published *A Strategic Framework for Scottish Aquaculture* and associated action plans containing 33 priorities for action on economic, environmental and social issues. This included an objective 'to enact legislation governing the aquaculture industry in Scotland'. The Executive's consultation paper *Protecting and Promoting Scotland's freshwater fish and fisheries* in 2000 and the subsequent Green Paper of 2001, *Scotland's freshwater fish and fisheries: Securing their future* drew together potential ideas for policy development for freshwater fisheries some of which require legislative changes to give effect to.

Rationale for government intervention

4. Failure to introduce legislation in these areas will mean that the measures proposed in paragraph 2 (above) will remain outstanding. This is undesirable, given that the proposals will bring benefits to both the rural environment and rural economy.

Consultation to date

5. The proposals have already been subject to wide ranging consultation:
 - The Freshwater Fisheries Forum and Freshwater Fisheries Steering Group made up of key stakeholders have been considering the future of freshwater fisheries. These groups have been chaired by the Executive and their minutes published online. (<http://www.scotland.gov.uk/topics/fisheries/salmon-trout-coarse/fff/forum>)
 - The Highlands and Islands Aquaculture Forum has been debating proposals relating to aquaculture for the past year. This Forum is attended by a range of sector interests including the aquaculture industry.
 - The Executive has also been in bilateral discussions with a range of stakeholder interests over the past year or so.
 - Discussions have also taken place between the Executive and other sections of the public sector, including, local government, SNH, SEPA and FRS.

Issues for discussion

6. The Executive is now consulting on policy proposals that may go into the Aquaculture and Fisheries (Scotland) Bill and this Regulatory Impact Assessment (RIA) is part of the consultation document. Comments on this RIA should therefore also be provided by 24 February 2006.
7. The purpose of this RIA is not to debate the merits of the proposals but rather to identify and analyse the benefits, risks, costs and compliance issues arising from alternative options for taking forward proposals that may create additional costs or burdens for both business and the public sector. We believe that the proposals listed in Paragraph 6 above fall into this category.
8. Views on likely cost implications would be welcome, as would the identification of other aspects of the consultation paper that may create burdens or costs on private and public interests.

Aquaculture

Parasite control

9. In the first instance, the main concern is the control of sea lice. However, it may be that in the future other parasites may prove to be a problem, for example affecting nursery grounds for sea fish, the proposals therefore apply to parasites more generally.
10. Sea lice are endemic to UK waters and affect salmon and sea trout, both wild and farmed. Wild salmon and sea trout stocks have declined in recent years on the west coast of Scotland. It is reasonable to assume that wild and farmed stocks sharing the same environments transfer parasites to each other. As such it is essential that a precautionary approach is adopted and that sea lice is managed and controlled on farmed fish to protect wild stocks and indeed other farmed fish. As such the salmon farming industry, government and wild salmonid stakeholders have been working collaboratively to determine the interactions between sea lice and farmed and wild salmonids with a view to developing appropriate solutions to ensure the maintenance of healthy stocks of wild and farmed fish.
11. The Executive set up the Tripartite Working Group (TWG) in 1999 to address problems common to both farmed and wild fisheries. TWG objectives are delivered at the local level through voluntary Area Management Agreements (AMAs). A key AMA objective is the target of zero ovigerous female sea lice on salmon farms, particularly during the smolt run between February and June. Similarly, the fish farming industry have drawn up, in conjunction with wild fish interests and the Executive, the *National Strategy for the Control of Sea Lice on Scottish Salmon Farms* (the NTS) which sets out an agreed detailed treatment approach, including levels of lice infestation that trigger treatment. This strategy is currently being updated and should form an integral part of the industry's upcoming *Code of Good Practice*.
12. The proposals outlined for directing treatments for parasites raises questions about the desirability of enabling the regulator to direct treatments in respect of notifiable diseases. The Executive is also proposing a role for the regulator to direct treatments for notifiable diseases.

Options

13. Two options have been identified as follows:

Option 1: Do Nothing

Option 2: Regulator to have powers to ensure good management of parasites including the possibility of mandatory treatment, and have powers to direct treatment (in its widest sense) for notifiable diseases.

Costs and benefits

Sectors and groups affected

14. The enabling powers proposed in this Bill would potentially affect fish farmers keeping any finfish, i.e. salmon, cod, haddock, halibut, etc. However, the only issue of direct concern at present, sealice, would directly affect only salmon farmers. The measures would not affect shellfish farmers. The Executive proposes a role for a Regulator to have responsibility for ensuring that good management of sea lice is achieved. The Regulator would have a role in advising farms on best practice. In addition, the Regulator would have an enforcement role. They would have the power to inspect treatment records, establish if there was a sea lice problem on the farm and to have the powers to direct remedial action which could include mandatory therapeutic treatment. The Regulator would liaise closely with the company vet and SEPA to ensure that the issues of prescription medicines and discharge consents were taken fully into account.

Benefits

Option 1

15. Do nothing means continuing to rely on the voluntary approach, which may in some cases result in no overall environmental benefit.

Option 2

16. There are environmental benefits to the environment if sealice levels are controlled effectively, the principal beneficiaries being the wild salmon and sea trout stock and other fish farms in the area. It is difficult to quantify such benefits given that sealice is one of a number of factors that influence the levels of wild salmon and sea trout stocks.

Costs

Option 1

17. If the status quo is maintained, there will be no additional costs either on the fish farming industry or the public purse.

Option 2

18. The Executive believes that the costs to the public purse for work carried out by the regulator will be around £120,000 per annum. There will be no extra cost to the industry where there is no mandatory treatment required. Where mandatory treatment is ordered by the Regulator then we estimate a cost of £40 per tonne of fish treated using existing methods. Where farms comply with the treatment requirements of the National Treatment Strategy, it is not envisaged the Regulator will require mandatory treatment.

Small firms impact test

19. We continue to engage with the finfish farming industry on this issue. During the consultation we intend to carry out a series of roadshows with stakeholders and in the process meet with individual businesses to gain an insight into how our proposals might affect them. This will inform the final RIA.

Test run of business forms

20. We do not intend to introduce any new business forms for this issue.

Competition assessment

21. The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals, i.e. finfish farming.
22. In terms of market share, the aquaculture industry is dominated by salmon production. The salmon farming industry itself is dominated by a very small number of companies. This proposal will not distort or restrict on competition for the production sector within Scotland as all fish farming businesses will be required to comply.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? **Yes**

In the market(s) affected by the new regulation, does any firm have more than 20% market share? **Yes**

In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? **Yes**

Would the costs of the regulation affect some firms substantially more than others? **No**

Is the regulation likely to affect the market structure, changing the number or size of firms? **No**

Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? **No**

Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? **No**

Is the sector characterised by rapid technological change? **No**

Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? **No**

Enforcement, sanctions and monitoring

23. The Proposals could result in the regulator demanding mandatory treatment that could carry a potential cost to the aquaculture industry of £60,000 per treatment for a large 1500-tonne farm using existing treatment methods. Failure to comply with such a direction would allow the Regulator to arrange the necessary treatment through a contractor and for the contractor to subsequently recoup the cost directly from the operator. However, we have yet to establish what form the sanctions, enforcement and monitoring will take. We intend to keep all parties, including business, informed.

Containment

24. There continues to be a high degree of public interest and concern about the numbers of fish farm escapes of salmon (and trout), and their possible impact on wild stocks. For fish farmers, escapes represent a loss of valuable assets (although to some extent this can be offset by insurance). For conservation and wild fish interests; escaped fish have the potential to increase disease risk, compromise genetic integrity and increase competition in the freshwater environment which in turn will have the potential to affect the survival of the resultant progeny.
25. Containment of fish to prevent escapes is a key priority of the Strategic Framework for Scottish Aquaculture (SFSA). Since the SFSA was published in 2003, a Containment Working Group (CWG) comprised of key stakeholders including Industry and wild fish interests has drafted new Containment Guidance for regulators and industry on behalf of the Highlands & Islands Aquaculture Forum (HIAF), relevant parts of which will be included in the upcoming Industry-wide Code of Good Practice.
26. Progress has been made since 2000 to minimise the risks of escapes from fish farms. We welcome the fact that the aquaculture industry has played its part in recent years through self regulation. However, whilst the voluntary approach is very welcome, this good practice should be underpinned by statutory provisions which ensure that the entire fish farming industry puts measures in place to prevent, and if necessary deal with, fish escapes effectively.

Options

27. Two Options have been identified as follows:

Option 1: Do Nothing

Option 2: Operators obliged to prevent fish from escaping, where fish do escape the regulator will have powers to ensure that future escapes are minimised or prevented. The regulator can also report bad practice to the Fiscal which in turn could result in fines being applied to operators.

Costs and benefits

Sectors and groups affected

28. The proposals will affect any fish farmers keeping any finfish, e.g. Salmon, Trout, Cod, Haddock, in both the marine and freshwater environment. The proposals will not affect shellfish farmers. We envisage a role for a regulator that will have powers to inspect a farm with respect to the criteria set out in containment plans with a view to reducing the likelihood of fish escaping. The ability to inspect a farm should not be dependent on

an escape or suspected escape taking place. If the Regulator found evidence that procedures could be improved, they would have the power to direct fish farm operators to take certain specified steps within an agreed timescale with a view to remedying the situation. Failure to comply with such direction would be an offence and could result in legal action and fines being applied.

Benefits

Option 1

29. Where we continue to rely on the voluntary approach to containment this does not necessarily mean that the whole industry is taking effective action to prevent escapes or taking effective action to prevent repeated escapes.

Option 2

30. The proposed regulator will audit sites to ensure that the containment measures across the Industry are robust and effective, to the benefit of both the operator (financially) and the environment. Where fish do escape or where bad practice is identified the regulator will be able to ensure that the operator carries out remediation measures with the aim of preventing further escapes – and so in the long term reduce the financial loss to industry and secure benefit for the environment.

Costs

Option 1

31. If we maintain the status quo, then it is likely that some sections of the aquaculture industry will sustain continued fish losses and financial losses, however there may be a balance here, bad practice may reduce cost but increase the financial risks from escapes. There will be no additional costs for the public purse.

Option 2

32. We believe the costs to the public purse for work carried out by the regulator of a similar amount set out in the previous section on parasite control. There should be no additional costs to Industry as containment is a matter of good practice.

Small firms impact test

33. We continue to engage with the finfish farming industry on this issue. During the consultation we intend to carry out a series of roadshows with stakeholders and in the process meet with individual businesses to gain an insight into how our proposals might affect them. This will inform the final RIA.

Test run of business forms

34. We are proposing new notification procedures for the aquaculture industry to follow in the event of an escape. These procedures will replace existing forms for the notification of escapes. We will develop new forms and test them with the appropriate business organisations and ensure that they are easily accessible, clear, simple and easy to complete.

Competition assessment

35. The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals, i.e. finfish farming.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? Yes
In the market(s) affected by the new regulation, does any firm have more than 20% market share? Yes
In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? Yes
Would the costs of the regulation affect some firms substantially more than others? No
Is the regulation likely to affect the market structure, changing the number or size of firms? No
Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? No
Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? No
Is the sector characterised by rapid technological change? No
Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? No

36. In terms of market share, the aquaculture industry is dominated by salmon production. The salmon farming industry itself is dominated by a very small number of companies. This proposal will not distort or restrict competition for the production sector within the Scotland as all fish farming businesses will be required to comply.

Enforcement, sanctions and monitoring

37. The Proposals could result in expenditure by the operator where the operator is instructed by the regulator to train staff or maintain or replace equipment. A fish farm operator could be fined where the operator cannot demonstrate that it has not taken all reasonable steps to prevent a escapes of farmed fish. We don't know at this stage what form of the sanctions, enforcement and monitoring will take, however we will keep all parties, including business, informed.

Data Collection

38. At the moment, the only information the Executive receives from the aquaculture industry comes from the annual shellfish and finfish production survey undertaken by the FRS, based on returns submitted by industry on a voluntary basis. The Executive cannot ensure it currently receives reliable economic information which means we are not in a position to monitor trends accurately, which can complicate matters where we have to deal with trade issues at an international level.
39. We propose to introduce powers in the Bill that will enable Ministers to introduce secondary legislation which will oblige the aquaculture and related industries to submit data that they are not obliged to submit under existing regimes. The data submitted will include all data currently obtained through the annual production survey as well as additional economic data from producers and processors.

Options

40. Two Options have been identified as follows:

Option 1: Status quo, continue to rely on voluntary submission of data by Industry.

Option 2: Obtain production and economic data from Industry on a statutory basis.

Costs and benefits

Sectors and groups affected

41. The statutory requirement to provide production data will have little impact on existing fish farm producers, for the most part; they already provide the required data on a voluntary basis once a year. The main impact on this sector will be the knowledge that there will be a statutory requirement which is supported by the possibility of a punitive fine for non-compliance. However, the processing sector will, for the first time, be required to provide data with respect to their operations concerning farmed fish; this will be likely be viewed as an additional administrative burden.

Benefits

Option 1

42. If we continue to rely on the voluntary submission of data by the Industry then we will not be in a position to analyse and report accurately on the sustainable development of aquaculture in Scotland.

Option 2

43. Providing the Scottish Ministers with this data will inform how the Scottish Ministers develop future policies to allow them to make future informed decisions which ensures that the Industry continues to move towards achieving the Strategic Framework for Scottish Aquaculture vision of a sustainable, diverse, competitive and economically viable industry. This option will also ensure the provision of industry data despite political differences within the sector, which has led to the withholding of price data in the past.

Costs

Option 1

44. If we maintain the status quo, there will be no additional costs either on the aquaculture industry or the public purse.

Option 2

45. The extra cost burden on Industry will be limited to the submission of data over and above what they currently submit under voluntary arrangements and should be negligible. A study is being taken forward to identify what additional data is required and to identify how it and existing data can be collected efficiently to minimise cost. We believe any additional costs to the public purse can be absorbed within existing working patterns.

Small firms impact test

46. We continue to engage with the aquaculture industry on this issue. During the consultation we intend to carry out a series of roadshows with stakeholders and in the process meet with individual businesses to gain an insight into how our proposals might affect them. We will do likewise with the processing sector. It will prove difficult to identify processors who exclusively process farmed fish or isolate the aquaculture line operation of those businesses that process both farmed and caught fish. It will be vital to work with industry in finding a viable way forward that does not disadvantage part of a sector or a sector as a whole in comparison with agricultural food processing. These actions will inform the final RIA.

Test run of business forms

47. We will develop new forms and test them with the appropriate business organisations and ensure that they are easily accessible, clear, simple and easy to complete.

Competition assessment

48. The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals, i.e. the entire aquaculture production and processing industry.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? **Yes**

In the market(s) affected by the new regulation, does any firm have more than 20% market share? **Yes**

In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? **Yes**

Would the costs of the regulation affect some firms substantially more than others? **No**

Is the regulation likely to affect the market structure, changing the number or size of firms? **No**

Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? **No**

Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? **No**

Is the sector characterised by rapid technological change? **No**

Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? **No**

49. This proposal will not distort or restrict on competition for the production and processing sector in Scotland as all fish farming businesses will be required to comply by providing identical information – a task, to a greater extent, already undertaken on a voluntary basis by the vast majority of the production industry. At an international level, salmon production is dominated by the Norwegian industry. It is our understanding that the Norwegian Government obtains similar data from its industry so the formalisation of data provision in the Scotland is unlikely to cause any disadvantage with respect to international competition. The processing sector has not previously provided this type of information. It will undoubtedly place an additional administrative burden on the sector that processes farmed fish.

Enforcement, sanctions and monitoring

50. We don't know at this stage what form of the sanctions, enforcement and monitoring will take, however we will keep all parties, including business, informed.

Fish Farm Relocation

51. The relocation of finfish farms is one of the priorities for action in the SFSA. A location/relocation working group (LRWG) was established and comprised key stakeholders representing the public sector, wildfish interests, the aquaculture industry, environmental NGOs and regulators to prepare criteria against which to assess whether or not any finfish aquaculture site is poorly located. The main driver (but not the only driver) for the relocation of fish farms is the potential for finfish farming to adversely affect wild salmonid stocks.
52. The LRWG has adopted a practical approach, and has already identified certain fish farm sites that are inappropriately located with a view to eventually drawing together a framework to facilitate relocation. The Relocation Framework will be informed by work currently being undertaken by FRS and the Scottish Aquaculture Research Forum in addition to pilot relocation and ICZM demonstration projects. The Scottish Executive intends to publish a draft Framework for public consultation in Spring 2006 and carry out a strategic environmental assessment to underpin the framework.
53. The Scottish Ministers should be given powers in the Bill enabling them to provide justifiable financial assistance to fish farm operators who wish to relocate any or all parts of their operations where they are able to demonstrate to Ministers that there is an overall environmental benefit from doing so.

Options

54. Two Options have been identified as follows:

Option 1: Do nothing.

Option 2: Financial assistance for farms that wish to relocate or are compelled to cease operating in the public interest.

Costs and benefits

Sectors and groups affected

55. We expect the provision to apply to all types of fish farm, in all parts of Scotland in both the freshwater and marine environment. All fish farms will have the opportunity to apply for financial assistance where they wish to relocate their operations.

Benefits

Option 1

56. Fish farmers will not receive any financial assistance from Scottish Ministers for relocating their operations under current arrangements.

Option 2

57. A grant scheme for fish farmers will promote the relocation of fish farm sites where there is a clear environmental benefit from doing so. We expect the forthcoming framework to inform the final form of the grant scheme.

Costs

Option 1

58. Without financial assistance, the industry may be less inclined to relocate which could result in the continued operation of poorly sited fish farms and an overall cost to the environment.

Option 2

59. There will be costs to the public sector which will depend on the overall size of the budget put aside for any future relocation scheme. For industry the costs will depend on the farm type, size, location, operation, etc. Where Ministers decide that compulsory closure is required then there may be costs to the public purse, this will also depend on the individual farm on a case by case basis and the potential for relocation.

Small firms impact test

60. A pilot relocation project and a whole loch system relocation (ICZM) demonstration project are currently being undertaken and involves a number of fish farm operators. This work will inform the final RIA, as the project will also be taking into account the financial costs and benefits to industry of fish farm relocation, and thus inform the levels of finance required from the public sector to realise the aims and objectives of the framework.

Test run of business forms

61. We will produce new forms for the proposed scheme of financial assistance as we develop our thinking on relocation and will test them with the appropriate business organisations and ensure that they are easily accessible, clear, simple and easy to complete.

Competition assessment

62. The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals, i.e. the entire aquaculture production and processing industry.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? **Yes**

In the market(s) affected by the new regulation, does any firm have more than 20% market share? **Yes**

In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? **Yes**

Would the costs of the regulation affect some firms substantially more than others? **No**

Is the regulation likely to affect the market structure, changing the number or size of firms? **No**

Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? **No**

Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? **No**

Is the sector characterised by rapid technological change? **No**

Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? **No**

63. This proposal will not distort or restrict on competition for the production sector within Scotland as we expect all fish farming businesses to be eligible to apply for financial assistance for relocation.

Enforcement, sanctions and monitoring

64. We have proposed that the Scottish Ministers should have the power to close a fish farm where it can be demonstrated that there is either a clear public interest for them to do so, or that the application of the precautionary principle strongly suggests to the satisfaction of the Ministers that closure is fully justified. However, we have yet to establish what form the sanctions, enforcement and monitoring will take. We intend to keep all parties, including business, informed.

Discretionary Power to Pay Compensation for Compulsory Fish Slaughter

65. At the time of the ISA outbreak in 1998/99 there was no compensation for losses due to Executive disease controls. It became clear that investor confidence in the fish farming industry can be considerably dented when there is no safety net for the effects of government controls.
66. Compensation on any terms could give rise to substantial costs to the public purse, for which no provision is made in current spending plans and the Scottish Ministers would have to consider carefully whether any such costs could be afforded. The Executive therefore proposes that there should be an enabling power such that the Scottish Ministers could, if they saw fit and without obligation, pay compensation of such amount in what circumstances as they prescribed by statutory instrument, for any fish destroyed for the purposes of disease controls.
67. Any compensation scheme for any given outbreak of disease would be detailed in a Statutory Instrument (SI) which would be consulted on at the time. Any scheme would be aimed at providing compensation in respect of fish which could not be presented to market, i.e. those showing signs of clinical disease and would only be funded on the basis of shared risk with a compensation of no more than 50% of the market value of fish. Should a scheme for limited compensation be drawn up under the enabling power outlined above, the Scottish Ministers may be of the view that compensation would be payable only to operators that demonstrated clear evidence of compliance with the industry's Code of Good Practice.

Options

68. Two Options have been identified as follows:

Option 1: Do nothing.

Option 2: Discretionary powers to compensate farmers for fish that show symptoms of disease and have been compulsory slaughtered.

Costs and benefits

Sectors and groups affected

69. The proposals will affect any fish farmers keeping any finfish, e.g. Salmon, Trout, Cod, Haddock, in both the marine and freshwater environment where clearance of the farm is directed in order to eradicate disease. The potential for compensation would mitigate the financial effects of compulsory slaughter. The proposals will not apply to shellfish farmers.

Benefits

Option 1

70. The fish farming industry will continue to rely on self financing to recover the losses sustained through the compulsory slaughter of fish. There will continue to be no costs to the public purse.

Option 2

71. The industry do not currently receive any compensation from the state for compulsory slaughter of fish, so any compensation on a shared risk basis will be of benefit to the industry.

Costs

Option 1

72. There will be no additional costs to either the industry or the public purse.

Option 2

73. The level of compensation (and cost to the public purse) will depend on the structure and scope of any scheme introduced by Scottish Ministers. To illustrate; where a 2,000 tonne farm has an outbreak of a disease, and that disease was within the scope of the compensation scheme then the operator may be eligible for compensation where fish are compulsorily slaughtered. Assuming all fish are slaughtered, and the risk shared between the Executive and the operator is on a 50/50 basis then the Executive would cover the cost of 1,000 tonnes of salmon. If the salmon have reached market size and the market price is £2 per kilo, then the cost to the public purse would be around £2 million. However, this is unlikely, as not all the fish culled would be ready for market or would show clinical signs of disease, so the bill would be less. The detail of any discretionary scheme will need to be worked up but the costs to the public sector could be significant.

Small firms impact test

74. We continue to engage with the aquaculture industry on this issue. During the consultation we intend to carry out a series of roadshows with stakeholders and in the process meet with individual businesses to gain an insight into how our proposals might affect them. This will inform the final RIA.

Test run of business forms

75. We will develop new forms as we develop our thinking on compensation with the appropriate business organisations and test them to ensure that they are easily accessible, clear, simple and easy to complete.

Competition assessment

76. The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals, i.e. the entire aquaculture production industry.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? **Yes**

In the market(s) affected by the new regulation, does any firm have more than 20% market share? **Yes**

In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? **Yes**

Would the costs of the regulation affect some firms substantially more than others? **No**

Is the regulation likely to affect the market structure, changing the number or size of firms? **No**

Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? **No**

Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? **No**

Is the sector characterised by rapid technological change? **No**

Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? **No**

77. This proposal will not distort or restrict on competition for the production sector within Scotland as all affected fish farming businesses be in receipt of compensation, where a scheme exists and thus enabling affected companies to continue trading.

Enforcement, sanctions and monitoring

78. We do not expect any action, as the proposals concern possible payment to the farmer by the Scottish Executive of compensation for fish slaughtered by order of the Regulator.

Fish Movements — Fish Farms

79. The greatest risk of spreading disease and parasites is through the movement of live fish. This became clear during the outbreak of infectious salmon anaemia (ISA) in 1998/99 when it was confirmed that there was only one source point of infection and that the disease was spread to a further ten sites in all the main production areas of Scotland. Apparently healthy fish were moved, under veterinary supervision, from infected farms (prior to the infection being discovered) resulting in a subsequent disease outbreak in the receiving sites. While ISA is the main impetus behind bringing in controls, it is important to recognise that novel diseases may arise in the future.
80. The Executive is keen to reduce the risk of the introduction and spread of disease into and between fish farms. To do so, there are three main areas we would seek to manage: the movements of all life stages of live fish in and out of marine farm management areas; movements of live fish in and out of freshwater farms; and transportation by wellboats (these carry live fish).
81. For marine farms, we propose that the consent of Scottish Ministers will be required for movements of live fish out of management areas which would need to be clearly defined. This would regulate, amongst others, movements onshore for stripping of broodstock and for processing.
82. For freshwater fish farms we are proposing a 'standstill provision' that would be able to cover the whole of Scotland and could prevent all movements in the event of an outbreak of a novel disease which would not, by definition, be covered by the Diseases of Fish Act 1937.
83. For wellboats, we propose to enable the regulator to be able to inspect any wellboat vessel operating in Scottish waters before it begins operations at a farm. The regulator would grant an operating licence if it was satisfied that the vessel had been properly disinfected or withhold a licence until disinfection had been carried out to its satisfaction.

Options

84. Two options have been identified as follows:

Option 1: Do nothing.

Option 2: Improve fish movement controls to and from freshwater farms, marine farms and wellboats.

Costs and benefits

Sectors and groups affected

85. The proposals will affect any fish farmers keeping any finfish, e.g. Salmon, Trout, Cod, Haddock, in both the marine and freshwater environment. The proposals will not affect shellfish farmers. These proposals will also affect well boat operators. There will also be an enhanced role for any regulator administering fish movements. The effect on industry is difficult to predict. Proposed movements between managements areas should be rare if current practice continues. Movements ashore are commonplace but some form of block approval may be appropriate. The standstill provision is a precautionary measure. It may never be needed, but if it is it could create a considerable disruption to trade. Importation of wellboats is also a relatively rare occurrence as they tend to be leased for long periods.

Benefits

Option 1

86. There will be no additional costs for both the Industry and the public purse.

Option 2

87. There will be benefits to the health and welfare of farmed fish through the introduction of controls to reduce the risk of disease between fish farms. A reduction in the disease risk may benefit the Industry, as the frequency of outbreaks will decrease. This would also reduce the possibility of spread of disease and parasites to wild fish.

Costs

Option 1

88. By doing nothing we will not be reducing the risk of disease or the costs borne by the Industry to tackle disease outbreaks.

Option 2

89. There will be costs borne by the public purse, as the fish movements regime will have to be administered. We estimate the costs of administration to the public purse to be in the region of £100,000.

Small firms impact test

90. We continue to engage with the aquaculture industry on this issue. During the consultation we intend to carry out a series of roadshows with stakeholders and in the process meet with individual businesses to gain an insight into how our proposals might affect them. This will inform the final RIA.

Test run of business forms

91. We will develop new forms as we develop our thinking on fish movements with the appropriate business organisations and test them to ensure that they are easily accessible, clear, simple and easy to complete.

Competition assessment

92. The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals, i.e. the entire finfish farming industry.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? Yes
In the market(s) affected by the new regulation, does any firm have more than 20% market share? Yes
In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? Yes
Would the costs of the regulation affect some firms substantially more than others? No
Is the regulation likely to affect the market structure, changing the number or size of firms? No
Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? No
Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? No
Is the sector characterised by rapid technological change? No
Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? No

93. The proposals will not distort or restrict competition in the production sector within the UK as all fish farming businesses will be affected by the proposals. In practice much will depend on the disease status of companies seeking consents.

Enforcement, sanctions and monitoring

94. We don't know at this stage what form of the sanctions, enforcement and monitoring will take, however we will keep all parties, including business, informed.

FRESHWATER FISHERIES

Part Seven

Gyrodactylus salaris

95. *Gyrodactylus salaris* (GS) is an external parasite which affects the skin, gills and fins of salmonids in freshwater. It kills salmon and other species can act as carriers. It is exotic to Great Britain, but its introduction would have devastating consequences for our wild stocks. It has been recorded in many parts of the European Union and is widespread in Scandinavia. It was accidentally introduced into Norway in 1975 and has wiped out wild salmon stocks in more than 40 rivers there.
96. In order to prepare for the possibility that GS is discovered in Scotland, the Executive has recently established a GS Task Force to research the risks involved and draw up contingency plans for action.
97. GS is a notifiable disease under Section 4 of the Diseases of Fish Act 1937. Under the provisions of the Act the Scottish Ministers have the power to:
- inspect fish farms and other waters and to take samples;
 - impose movement restrictions on fish, their viscera, eggs and food, to and from and within farms and waters which are infected or suspected of being infected;
 - require the disposal of dead or dying stock and direct the manner of their disposal; and
 - grant authority for the removal of fish in infected waters for the purpose of controlling the spread of GS.
98. We believe the powers outlined above are sufficient to be able to **control** GS should it arrive. However, the economic and biodiversity consequences of GS taking hold in Scotland are potentially extremely serious, so it is important that the Scottish Ministers have the option of attempting **eradication**.
99. Were there to be an outbreak of GS, the Scottish Ministers would require to consider whether eradication was the most appropriate option in that particular case; taking into account the scale of the problem, the level of risk, the economic and health aspects and their responsibilities under domestic and European legislation. Depending on the size and use of the infected waters Ministers could decide that the eradication option was inappropriate and limit efforts only to controlling the spread of infection using existing powers.

Options

100. Two options have been identified as follows:

Option 1: Status quo.

Option 2: Eradication of GS in affected areas.

Costs and benefits

Sectors and groups affected

- I01.** Where GS is present, it will inevitably lead to the death of wild Atlantic Salmon stocks and so have a detrimental impact on salmon fisheries and the wider rural economy that depends on the salmon fishery, e.g. hotel owners, restaurants, shops, etc. Where eradication is undertaken then the impact will be wider as all fisheries and fish farming activities in the treated area will be adversely affected for possibly an extended period of time. Water users may also be affected, e.g. canoeists, swimmers, water suppliers, energy generators. There may also be an impact on the public sector, as it is likely that substantial resources will be required to eradicate GS.

Benefits

Option 1

- I02.** The benefits of not having undertaking eradication measures will be the minimal cost to the public purse.

Option 2

- I03.** Eradicating GS in a river system would lessen the economic impact on the salmon fishery and the wider rural economy – as salmon stocks would recover in time.

Costs

Option 1

- I04.** The presence of the parasite will have a longer-term (if not terminal) impact on the salmon fishery where eradication measures are not undertaken.

Option 2

- I05.** Where eradication is deemed appropriate by the Scottish Ministers then there will be a cost to the public purse, this will depend very much on the extent of the eradication programme. It is very difficult to be precise at this stage what the costs to the public purse might be, this is something the GS Taskforce will be considering in due course.

Small firms impact test

- I06.** We continue to engage with our stakeholders on this issue. The GS Taskforce will meet with individual businesses to gain an insight into how GS eradication might affect them. This will inform the final RIA.

Test run of business forms

- I07.** We do not intend to introduce forms.

Competition assessment

- I08.** The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? **No**

In the market(s) affected by the new regulation, does any firm have more than 20% market share? **No**

In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? **No**

Would the costs of the regulation affect some firms substantially more than others? **No**

Is the regulation likely to affect the market structure, changing the number or size of firms? **No**

Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? **No**

Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? **No**

Is the sector characterised by rapid technological change? **No**

Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? **No**

109. The freshwater community is constituted of anglers, fishery owners and other water users including, farmers, electricity generators, the whisky industry and canoeists. The impact on businesses is impossible to predict as it will depend on the extent of any outbreak. We do not believe that this proposal will not distort or restrict competition.

Enforcement sanction and monitoring

110. We envisage that the regulator will monitor water systems for the presence of the parasite and would apply controls where it finds it. Any decisions to attempt eradication would be taken by SEERAD and Scottish Ministers. However, we have yet to establish what form the sanctions, enforcement and monitoring will take. We intend to keep all parties, including business, informed.

Amendments to Rules on Access

111. Healthy fisheries need healthy fish populations. Conservation and exploitation are interdependent and there is a balance to be struck between fishing effort and protection of the resource. The Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, makes provision for the establishment of protection orders. Under the existing system proposals may be submitted by either riparian owners or occupiers (tenants who by virtue of a lease have fishing rights for freshwater fish) for protection orders covering catchment areas or parts thereof (lochs or systems of lochs and/or rivers). Protection orders make fishing without permission a criminal offence rather than a civil offence.
112. Over the past year, the Freshwater Fisheries Forum has been developing its thinking on the conservation, management and exploitation of stocks, with Partnership Agreement No. 345 (improving access to fisheries) very much in mind and has considered proposals/changes that would require primary legislation. In *Scotland's freshwater fish and fisheries: Securing their future*, the Executive proposed reviewing protection orders with a view to repealing the Freshwater and Salmon Fisheries (Scotland) Act 1976 (now provisions contained principally in sections 48-51 and 66 of the Salmon & Freshwater Fisheries (Consolidation) (Scotland) Act 2003).
113. It has become clear through the work of the Forum that until a replacement management structure is in place, it would be inappropriate to repeal those provisions of the 1976 Act which are now included in the 2003 Act. This will have to await a future legislative opportunity. Nevertheless, it was the view of the forum that a number of the shortcomings of the protection orders system could be addressed by legal or administrative means and these are set out below.

Options

114. Two Options have been identified as follows:

Option 1: Do nothing.

Option 2: Amend existing legislation to enhance the protection orders system.

Costs and benefits

Sectors and groups affected

I15. The proposed changes are applicable to those fisheries managers who wish to increase access for anglers in their area.

I16. Benefits

Option 1

I17. There are no benefits to be derived from doing nothing.

Option 2

I18. There is broad agreement from our stakeholders that these changes would be advantageous to the angling community and fisheries managers. The benefits are principally environmental with greater protection afforded to those species that are not already covered by existing legislation.

Costs

Option 1

I19. The freshwater fisheries community would continue to be frustrated by the shortcomings of the existing protection order system.

Option 2

I20. We believe the costs to both the private and public sector to be negligible.

Small firms impact test

I21. We continue to engage with the freshwater fisheries community on this issue. During the consultation we intend to carry out a series of roadshows with stakeholders and in the process meet with individual businesses to gain an insight into how our proposals might affect them. This will inform the final RIA

Test run of business forms

I22. We do not intend to introduce forms.

Competition assessment

I23. The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? **No**

In the market(s) affected by the new regulation, does any firm have more than 20% market share? **No**

In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? **No**

Would the costs of the regulation affect some firms substantially more than others? **No**

Is the regulation likely to affect the market structure, changing the number or size of firms? **No**

Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? **No**

Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? **No**

Is the sector characterised by rapid technological change? **No**

Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? **No**

124. The freshwater fishing community is made up of many anglers, angling clubs and fishery owners. The proposals will apply to fisheries owners who wish to improve access, and will benefit anglers who wish to fish in these areas through improved access. We do not believe that this proposal will not distort or restrict competition.

Enforcement, sanctions and monitoring

125. We don't know at this stage what form of the sanctions, enforcement and monitoring will take, however we will keep all parties, including business, informed.

Fish Movements — Wild Fish

- 126.** There is a recognition amongst stakeholders that it is important to bring in controls over movements of fish into inland waters and watercourses. Moving fish from one water body to another can adversely affect the receiving fish population through increased predation and competition for food, by weakening its genetic identity and by disrupting the local ecosystem, particularly if it involves the introduction of alien species. In addition, introducing fish can cause welfare problems if fish numbers rise above the carrying capacity of the water body concerned. Controls for wild fish movements would also control the spread of diseases such as Viral Haemorrhagic Septicaemia (VHS), Infectious Haematopoietic Necrosis (IHN) and parasites such as *Gyrodactylus salaris* (GS).
- 127.** We propose a power to prohibit the keeping of, the transportation of, and the introduction into, any inland water (unless it is a fish farm) of, live fish or spawn of fish, without the authority of the Regulator. In addition, it would be an offence to be found in possession of fish or spawn in circumstances which afford reasonable ground for suspecting that a person intends to introduce them into inland waters.
- 128.** Movements between freshwater fish farms would be exempted. Movements from a fish farm to any other inland water, for example a put and take fishery would be regulated. However, such movements could be regulated by blanket consents from the Regulator. The Executive may also consider enforcement powers for river bailiffs. These proposals do not apply to ornamental fish kept indoors or in a garden pond.

Options

- 129.** Two Options have been identified as follows:

Option 1: Do nothing.

Option 2: Prohibit the introduction of live fish into an inland water; keeping of live fish and transporting of live fish without the authority of a regulator

Costs and benefits

Sectors and groups affected

- 130.** These proposed changes would apply to any parties who wished to introduce live fish into an inland water; transport fish and keep fish except where the fish in question were being put into garden ponds or aquariums.

Benefits

Option 1

- 131.** Moving fish from one water body to another can adversely affect the receiving fish population through increased predation and competition for food, by weakening its genetic identity and by disrupting the local ecosystem, particularly if it involves the introduction of alien species. In addition, introducing fish can cause welfare problems if fish numbers rise above the carrying capacity of the water body concerned. The lack of any movement controls also heighten the risk of disease outbreaks.

Option 2

- 132.** The introduction of controls would substantially reduce the risks outlined in Option 1 above.

Costs

Option 1

- 133.** Where there continues to be a heightened risk to the natural heritage and health status of resident fish populations then the riparian owners and the angling community could face financial hardship in the longer term, as fishery declines.

Option 2

- 134.** The introduction of movement controls will ensure a healthy fishery. There may be costs to the public purse for the administration of such a scheme, in addition to additional financial costs to fisheries. We are proposing to reduce the regulatory cost and burden through an annual licence that would cover all fish movements for an individual enterprise.

Small firms impact test

- 135.** We continue to engage with the freshwater fisheries community on this issue. During the consultation we intend to carry out a series of roadshows with stakeholders and in the process meet with individual businesses to gain an insight into how our proposals might affect them. This will inform the final RIA.

Test run of business forms

- 136.** We will develop new forms as we develop our thinking on fish movements with the appropriate business organisations and test them to ensure that they are easily accessible, clear, simple and easy to complete.

Competition assessment

- 137.** The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? **No**

In the market(s) affected by the new regulation, does any firm have more than 20% market share? **No**

In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? **No**

Would the costs of the regulation affect some firms substantially more than others? **No**

Is the regulation likely to affect the market structure, changing the number or size of firms? **No**

Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? **No**

Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? **No**

Is the sector characterised by rapid technological change? **No**

Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? **No**

- 138.** The freshwater fishing community is made up of many anglers, angling clubs and fishery owners, who will all be equally affected by the proposals. We do not believe that this proposal will not distort or restrict competition.

Enforcement sanction and monitoring

- 139.** We don't know at this stage what form of the sanctions, enforcement and monitoring will take, however we will keep all parties, including business, informed.

Miscellaneous Amendments to Existing Legislation

- I40.** The Freshwater Fisheries Forum was set up in 2004 to consider future requirements for freshwater fisheries. As part of its work, the Forum gave consideration to possible amendments that could be made to existing freshwater fisheries legislation, with a view to clarifying the law on certain aspects of fishing. The majority of these changes have been agreed by the Forum. We have also included proposals that we believe will improve on the existing provisions.
- I41.** The proposed changes are of a technical nature and cover the following areas:
- definition of fishing by rod and line;
 - use of live vertebrate as bait;
 - use of gaffs, tailers, pike gags and landing nets;
 - foul-hooking;
 - close times;
 - prohibit eradication and obstruction of fish; and
 - definition of fish.

Options

- I42.** Two Options have been identified as follows:

Option 1: Do nothing.

Option 2: Introduce technical amendments to existing fisheries legislation.

Costs and benefits

Sectors and groups affected

- I43.** The proposed changes are applicable to the entire freshwater fishing community, and will alter the way in which some anglers fish and riparian owners manage their fisheries.

Benefits

Option 1

- I44.** There are no benefits to be derived from doing nothing.

Option 2

- I45.** There is broad agreement from our stakeholders that these changes would be advantageous to the angling community and fisheries managers. The benefits are principally environmental with greater protection afforded to those species that are not already covered by existing legislation.

Costs

Option 1

146. The freshwater environment in Scotland would not benefit from the changes proposed.

Option 2

147. We believe the costs to both the private and public sector to be negligible.

Small firms impact test

148. We continue to engage with the freshwater fisheries community on this issue. During the consultation we intend to carry out a series of roadshows with stakeholders and in the process meet with individual businesses to gain an insight into how our proposals might affect them. This will inform the final RIA

Test run of business forms

149. We do not intend to introduce forms.

Competition assessment

150. The following table gives an assessment of whether there are likely to be any competition issues in the market affected by the proposals.

In the market(s) affected by the new regulation, does any firm have more than 10% market share? **No**

In the market(s) affected by the new regulation, does any firm have more than 20% market share? **No**

In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? **No**

Would the costs of the regulation affect some firms substantially more than others? **No**

Is the regulation likely to affect the market structure, changing the number or size of firms? **No**

Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet? **No**

Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet? **No**

Is the sector characterised by rapid technological change? **No**

Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products? **No**

- 151.** The freshwater fishing community is made up of many anglers, angling clubs and fishery owners. These proposals will not distort or restrict on competition within the fishing community as all parties will be required to comply.

Enforcement, sanctions and monitoring

- 152.** We don't know at this stage what form of the sanctions, enforcement and monitoring will take, however we will keep all parties, including business, informed.

Summary List of Questions

PART I—AQUACULTURE

CHAPTER 1 REGULATOR

- Question 1: Do you agree that FRS/SEERAD would make the most suitable Regulator?
- Question 2: Should there be an enabling power to permit the option of charging in the future?

CHAPTER 2 PARASITE CONTROL

- Question 3: Should the Bill make provision for parasites in general, or restrict itself only to sea lice?
- Question 4: Should the Regulator have both advisory and enforcement functions?
- Question 5: What powers should the Regulator have as regards the inspection of data and investigation of potential parasite problems on farms?
- Question 6: Should the Regulator have the power to direct treatment?
- Question 7: Should the Regulator have the power to arrange treatment through a third party contractor where a direction to treat has not been complied with?
- Question 8: Should the Regulator have the powers to direct treatment for notifiable diseases?

CHAPTER 3 CONTAINMENT

- Question 9: Should escapes proposals apply to all the farm types outlined above?
- Question 10: Should shellfish farms and restocking hatcheries be exempted?
- Question 11: Do you agree that the Regulator should have powers to inspect and direct with respect to preventing escapes?
- Question 12: Do you agree that the Regulator should have a role in improving containment to prevent fish escapes?
- Question 13: Should the Executive introduce a strict liability offence for escapes from fish farms?
- Question 14: What elements should be addressed in containment plans?
- Question 15: Do you have any views on the above proposals?
- Question 16: Do you agree that the Regulator should have powers to investigate escapes and suspected escapes from fish farms whatever the source of the information?

CHAPTER 4 DATA COLLECTION

Question 17: What data, in addition to the production survey data, do you believe are appropriate to submit?

CHAPTER 5 FISH FARM RELOCATION

Question 18: Do you agree that financial assistance be given to fish farm operators to relocate where there is a clear environmental benefit in doing so?

Question 19: Do you agree that the Scottish Ministers should have powers to close fish farms where there is a clear public interest to do so and where owners are not in a position to relocate?

CHAPTER 6 DISCRETIONARY POWER TO PAY COMPENSATION FOR COMPULSORY FISH SLAUGHTER

Question 20: Under what circumstances might it be useful for the Scottish Ministers to have discretionary powers to pay compensation to fish farm operators?

CHAPTER 7 FISH MOVEMENTS — FISH FARMS

Question 21: Do you agree with the need to regulate live fish movements out of, and between, marine farm management areas?

Question 22: Do you agree there is no general need to restrict live fish movements between freshwater fish farms?

Question 23: Is the proposed power to bring in a national standstill provision in case of a novel disease appropriate?

Question 24: Should the Regulator be empowered to licence the transfer of fish by wellboats in Scotland?

PART II — FRESHWATER FISHERIES

CHAPTER 8 *GYRODACTYLUS SALARIS* (GS)

Question 25: Should the Bill include enabling powers to eradicate *GS* where the circumstances are appropriate?

Question 26: Should the Scottish Ministers have the power to apply chemical treatments to watercourses for the purpose of eradicating *GS*?

Question 27: Should the Scottish Ministers have the power to apply chemical treatments to freshwater farms for the purpose of eradicating *GS*?

Question 28: Should the Scottish Ministers have the power to authorise the removal of dead and moribund fish from watercourses for the purpose of eradicating *GS*?

Question 29: Should the Scottish Ministers have the power to remove dead and moribund fish from freshwater farms for the purpose of eradicating *GS*?

Question 30: Do you agree with the proposal for the Scottish Ministers to impose standstill notices?

- Question 31: Do you agree with the powers to erect barriers and close fish passes?
- Question 32: Should Scottish Ministers and their agents have powers of compulsory access?
- Question 33: Do you agree with the power to require clearance of fish farms in these circumstances?
- Question 34: Should powers for mandatory disinfection of recreational gear be introduced?

CHAPTER 9 AMENDMENTS TO RULES ON ACCESS

- Question 35: Do you agree with the proposal to make Liaison Committees mandatory?
- Question 36: Do you agree with the proposal to remove the requirement to advertise in the *Edinburgh Gazette*?
- Question 37: How else should protection orders be publicised, beyond the requirement set out in the 2003 Act that the applicant give notice in such other newspapers as the Scottish Ministers direct?
- Question 38: Do you agree with the proposal that protection orders need not cover contiguous fisheries?
- Question 39: Do you agree?
- Question 40: How should buyers find out/be told that protection orders affect their property and be alerted to what their responsibilities are?

CHAPTER 10 FISH MOVEMENTS — WILD FISH

- Question 41: Should the Bill make provision to regulate the movement of fish into inland waters?

CHAPTER 11 MISCELLANEOUS AMENDMENTS

- Question 42: Do you agree with the proposals to permit the use of rod rests?
- Question 43: Are the limits on the number of rods correct?
- Question 44: Do you agree with the ban on live vertebrates as bait?
- Question 45: Do you agree with the proposals to prohibit the use of tailers, gaffs, pike gags and landing nets with knotted nets?
- Question 46: Do you agree that foul-hooking should be clearly prohibited in law?
- Question 47: Do you agree with the proposals to make provision empowering the Scottish Ministers to make orders specifying annual or weekly close times for freshwater fish?
- Question 48: Do you agree with this approach?
- Question 49: Do you agree that the current law prohibiting the obstruction of salmon during their spawning runs should be extended as described?
- Question 50: Should the Executive widen the existing passage of salmon rules to cover all freshwater fish and all times of year?
- Question 51: Do you agree with the extension of the definition of fish?

List of Consultees

A & P Tait
A B Associates Shetland
Abbey St Bathans Trout Farm
Aberdeen and District Angling Association
Aberdeen District Angling Association
Aberdeen Fish Curers & Merchants Association
Aberdeen Fish Producers' Organisation
Aberdeen Fish Salesmen's Association Ltd
Aberdeen Harbour Board
Aberdeen Inshore Fish Selling
Aberdeen University
Aberfeldy Angling Association
Advocates for Animals
Ae Fishery
African & Caribbean Network
Airdrie Angling Centre
Aith Salmon Co Ltd
Aladdins Cave
Alex Sandison & Sons Ltd
Allan Water Angling Improvement Association
Alsop Transport Services
Anglers Attic
Anglers Choice
Anglers Conservation Association
Anglers Corner
Anglers Creel
Anglers Den
Anglers Emporium
Anglers Rendezvous
Angling Centre
Angling Centre Stirling Ltd
Angling Foundation
Angling Pursuits
Angling Trade Association
Anglo North-Irish Fish Producers' Organisation
Anglo Scottish Fishermen's Association
Anglo Scottish Shell Fishermen's Association
Anglo-Scottish Fish Producers' Organisation
Angus Stuart
Annan District Salmon Fishery Board
Annan Fishermen's Association
Aqua Farm Ltd
Aquarius
Aquascot Group Ltd
Arachadh Eisg Bruernish
Arbroath Fish Buyers' Association
Arbroath Fish Processors'
Arbroath Fishermen's Association
Ardessie Salmon Ltd
Ardtaraig Farming Company
Ardvar Salmon Ltd
Ardwell Marine
Argyll & The Islands Enterprise
Argyll District Salmon Fishery Board
Argyll Fisheries Trust
Arisdale Smolt Company Ltd
Association of Sea Fisheries Committees of England & Wales
Associated British Ports
Association for the Preservation of Rural Scotland
Association of Regional & Island Archaeologists
Association of Salmon Fishery Boards
Association of Scottish Shellfish Growers
Association of Scottish Stillwater Fisheries
Association of Stillwater Fisheries
Association of Stillwater Game Fishery Managers
Association of West Coast Fisheries Trusts
Assynt Angling Club
Assynt Hydro Ltd
Assynt/Coigach Liaison Committee
Atlantic Freshwater Plc
Atlantic Salmon Conservation Trust (Scotland)
Atlantic Salmon Trust
Atlantic West Salmon Company Ltd
Auchterarder Angling Club

Aurora Environmental
Austen Brown
Avcor Flies
Awe District Salmon Fishery Board
Awe Fisheries Trust
Ayr District Salmon Fishery Board
Ayr Wholesale Fish Buyers' Association
Ayre Salmon Farm Ltd
Ayrshire Rivers Trust
B.M.T. Angling Supplies
Badenoch Angling Club
Balta Island Seafare Ltd
Barony College
Baynes Fishing Tackle
Beaully District Salmon Fishery Board
Beecraigs Trout Farm
Berneray (North Uist) Fishermen Ltd
Bidwells Property Consultants
Big Reel
Birsay Hatcheries
Bishops Bridge Fish Farm Ltd
Bishops Conference Scotland
Bladnoch Bridge Aquatics
Bladnoch District Salmon Fishery Board
Blairgowrie Rattray & District Angling Assoc
BMA (Glasgow)
Border Angling Centre
Bothwell & Blantyre Angling Club
Braebister
Breachin Angling Club
Bressay Salmon
Brian Peterson & Co
Bridge of Allan 76 Angling Club
Bridge of Faillie Smolts Ltd
British Eel Anglers Club
British Halibut Association
British Marine Finfish Association
British Ports Association
British Trout Association
British Waterways
Broom Tackle Box
Brora District Salmon Fishery Board
Broty Tackle Shop
Buckie Inshore Fishselling Co Ltd
Burgon Eyemouth Ltd
Busby Angling Association
C H Haygarth & Sons
Cadderlie Mussels
Cafaro Bros
Caithness & Sutherland Trout Angling Group
Caithness District Salmon Fishery Board
Caledonian Trout Co
Caley Fisheries (Peterhead)
Caley Fisheries Ltd Aberdeen
Caley Fisheries Ltd Fraserburgh
Caley Fisheries Ltd Peterhead
Callander McDowell
Capitol Tackle & Gun Ltd
Carlisle Angling Association
Carloway Seafoods Ltd
Carp Society
Carradale Fishermen Ltd
Carroll Graham Fishing Tackle
Carron Valley Fishery
Cast Around Peebles
Castle Angling Club
Central Scotland Anglers' Association
Chateau Balfreish
Chep UK Ltd
Church of Scotland Offices
City & Guilds Scotland
Clachan Hatchery Ltd
Clamhan Lodge
Clarkston Angling Club
Clearwater Work & Leisure
Cloan Hatcheries Ltd
Clyde & South West Static Gear Association
Clyde Estuary Forum
Clyde Fishermen's Association
Clyde River Foundation
Clydeport Estuary Control
Cobsport
Co-Chomunn na Pairc
Cockenzie & Port Seton Fishermen's
Association
Collafirth Salmon Ltd
College Mill Trout Farm
Comhairle nan Eilean Siar
Commercial Coarse Fisheries Association
Commission for Racial Equality
Commore Angling Club
Community of Arran Seabed Trust
Compassion in World Farming
Conon District Salmon Fishery Board
Consultative Committee on Freshwater
Fisheries
Consultative Committee on Protection
Orders
Convention of Scottish Local Authorities
Co-operative Group (CWS) Ltd

Corrie Mhor Salmon Ltd
 Council for Scottish Archaeology
 Country Life
 Country Sport Shop
 Countrywear
 Couper Seafoods Ltd
 Cowie Fishselling Company Ltd
 Crab Processors Association
 Craftye Fisherman
 Craufurdland Fishery
 Cree District Salmon Fishery Board
 Creran District Salmon Fishery Board
 Creran Oysters
 Cro Lax Ltd
 Croan Seafoods Ltd.
 Crown Estate
 Cullen Bay Angling
 Culnacraig Fish Hatchery
 Cumbria County Council
 Cumbria Sea Fisheries Committee
 Cumbria Wildlife Trust
 D & J Salmon Ltd
 Danny's Den
 David Graham
 David M Brien
 David Pollard
 Dawn Fresh Seafoods Ltd
 Deals on Reels
 Dee (Aberdeen) District Salmon Fishery Board
 Dee (Kirkcudbright) District Salmon Fishery Board
 Dee Salmon Fishery Trust
 Dee Salmon Fishing Improvement Association
 Deep Sea Leisure PLC
 DEFRA (Fisheries Directorate)
 Denholm Fishselling Ltd
 Denny Fishing Tackle
 Department of Trade and Industry
 Department of Agriculture & Rural Development (NI)
 Development Services
 Deveron District Salmon Fishery Board
 Deveron, Bogie & Isla Rivers Charitable Trust
 Dick's Sports Shop
 Disability Rights Commission
 Don (Peterhead) Fishing Co
 Don District Salmon Fishery Board
 Don Fishing Company Ltd
 Doon District Salmon Fishery Board
 Dornoch Firth Fish Farm
 Drummond Fish Farms
 Drumore Produce
 Dumfries & Galloway Angling Association
 Dumfries & Galloway Enterprise Company
 Dumfries & Galloway European Partnership
 Dunbar Trout / Bellhaven Trout Company
 Dunbar Trout Farmers Ltd
 Dunbartonshire Enterprise
 Dunkeld & Birnam Angling Association
 Dunkeld & Burnham Angling Association
 Dunoon & District Angling Club
 Dunstaffenage Marine Laboratory
 Eachaig District Salmon Fishery Board
 Eaglesham Angling Association
 East Coast Licensed Small Boat Association
 East Lothian Angling Association
 East Neuk Initiative
 Eastern Scotland Programme Executive
 Edinburgh University
 Edinburgh Walton Angling club
 Edward Tower Roberts
 Enterprise Ayrshire
 Enterprise North East Ltd
 Environment Agency
 Equal Opportunities Commission
 Ernst & Young LLB
 Esk District Salmon Fishery Board
 European Structural Funds
 European Union Salmon Producers Group
 Evangelical Alliance Scotland
 Eyemouth & District Fishermen's Association
 Eyemouth Fish Merchants Association
 Eyemouth Harbour Trust
 F & D Simpson
 Farming & Wildlife Advisory Group Scotland
 Farne Salmon & Trout Ltd
 Federation of Border Angling Associations
 Federation of Euro Aqua Producers
 Federation of Highland Angling Clubs
 Federation of Highland Angling Clubs & Associations
 Federation of Highlands & Islands Fishermen
 Federation of Scottish Aquaculture Producers
 Fencebay Fisheries
 Ferguson Salmon Ltd
 Fife Creel Fishermen's Association
 Fife Enterprise Ltd
 Fife Fish Producers' Organisation Ltd
 Fife Fishermen's Association

Findhorn District Salmon Fishery Board
Finfish Ltd
Firth of Clyde Forum
Firth of Forth Fishermen's Association
Fish Conservation Centre
Fish Network Ltd.
Fish Salesmen's Association
Fish Scotland
Fish Vet Group
Fisher Foods
Fisheries (Electricity) Committee
Fisheries Research Service
Fishermen's Association Ltd.
Fishermen's Fishselling
Fishermen's Mutual Association (Eyemouth)
Ltd
Fishing Megastore
Fishing SOS Shetland
Fishing Tackle Shop
Fishmongers Company
Fjord Seafood Scotland
Fleet District Salmon Fishery Board
Food Certification (Scotland) Ltd
Food Standards Agency
Forestry Commission Scotland
Forgue Fish Farm
Forth District Salmon Fishery Board
Forth Fisheries Foundation
Forth Valley Enterprise
Forward Scotland
Fossil Fishing
Fossoway Fish Farming Ltd
Fraser's Fishing Tackle
Fraserburgh Harbour Commission
Fraserburgh Inshore Fishermen Ltd
Fraserburgh Trawlers
Fresh Catch Peterhead
Friends of the Earth Scotland
Fyne Tackle
G Duncan Salmon Ltd
G K N Chep Ltd
Gadloch Angling Club
Gala Fish Farming Ltd
Galashiels Angling Association
Galloway Angling Centre
Galloway Fisheries Trust
Galloway Fishermen's Static Gear Association
Game Fisheries Ltd
Gamefish Ltd
Girvan District Salmon Fishery Board
Girvan River Board
Glasgow Angling Centre
Glasgow Art Club Angling Section
Glasgow University
Glen Orrin Fish Farm
Glendale Salmon Ltd
Glendevon Trout Farm
Gonafirth Salmon Ltd
Grampian Enterprise Ltd
Grampian Sea Fishing Ltd
Grayling Society
Greenpeace
Grimersta Estate Ltd
Grimsay Salmon Ltd
Gronidaal
Hall Aitken Associate
Halladale District Salmon Fishery Board
Harris Fish Farming Co Ltd
Hascosay Salmon Farm Ltd
Hebridean Fishery Partnership
Hebridean Salmon Company Ltd
Hebridean Whale and Dolphin Trust
Helmsdale District Salmon Fishery Board
Hennover Salmon Ltd
Heogland Salmon Company
Herring Buyers Association Ltd
Highlands & Islands Enterprise (HIE)
HIE Caithness & Sutherland Enterprise
HIE Inverness & Nairn Enterprise
HIE Lochaber Enterprise
HIE Orkney Enterprise
HIE Ross & Cromarty Enterprise
HIE Shetland Enterprise
HIE Skye & Lochalsh Enterprise
HIE Western Isles Enterprise
Highland Council Harbours
Highland Light & Power Ltd
Highland Salmon Company Ltd
Highland Shellfish Management Association
Highlands & Islands Aquaculture Forum
Highlands & Islands Fishermen's Association
Historic Scotland
Hoganess Salmon Ltd
Hook Line & Sinker
Hooked on Scotland Ltd
Hooks 'N' Looks
Hooktone Ltd
Hoove Salmon Ltd / Papil Salmon Farm Ltd
Househillmuir Fly Fishers
Howietoun Fishery

Hugo Ross – Fishing Tackle Specialists
 Hunter Salmon
 Hydro Seafood GSP Lovat Fisheries
 I C Purdie
 ICI (Dumfries) Angling Association
 Idema Aqua (UK)
 Institute for Chartered Accountants of
 Scotland
 Institute of Aquaculture
 Institute of Fisheries Management
 International Fish Cannery
 Inter-Quo Ltd
 Inverclyde Fly Fishers
 Inveresk Research
 Inverlussa Shellfish
 Inverness Fish Farming
 Invicta Trout Ltd
 Iorsa(Arran) DSFB
 Isle of Man Fishermen's Association
 Isle of Skye Salmon Ltd
 Isleburgh Sea Farms
 J & A Turnbull
 J & H Mitchell W S
 J A J Munro
 J B Angling Centre
 J Graham & Co
 J S Salmon Ltd
 Jack McWatt
 James Crockart & Son
 Jimmy's Fishing Tackle Shop
 John Eccles Hatcheries
 John Noble
 John R Gow
 John Ridgway Salmon Ltd
 Johnson Marine Ltd
 Johnson Sea Farms
 Johnson Shellfish
 Johnston & Carmichael
 Joint Nature Conservation Committee
 Joseph Robertson
 Kames Fish Farming Ltd
 Karen O'Brien
 Kate Fleming
 Keithick Angling Club
 Keltney Burn Hydro Ltd
 Kendal Fish Farms Ltd
 Kenmure Fisheries Ltd
 Kergord Hatchery
 Kerrera Fisheries Ltd
 Kidsons Impey
 Kilbirnie Angling Club
 Killean Salmon Hatchery Ltd
 Kilmarnock Angling Club
 Kindrochet Fish Farm
 Kinloch Damph Ltd
 Kinloch District Salmon Fishery Board
 Kinlochawe Fisheries
 Kinlochbervie Fishselling Co Ltd
 Kinnaird Mill Trout Farm
 Kinross Estate Company
 Kintail Hatchery
 Kirkcudbright Scallop Gear
 Kyle of Sutherland District Salmon Fishery
 Board
 Kyle of Sutherland Fisheries Trust
 Kyles of Bute Salmon
 L S Trout
 Laggan & Sorn District Salmon Fishery Board
 Lakeland Marine Farm Ltd
 Lakeland Smolt Ltd
 Lakeland Unst Ltd
 Lakeland Unst Seawater
 Lanarkshire Development Agency
 Landcatch Ltd
 LANTRA
 Laski Farming Enterprises Ltd
 Laurieston Angling Club
 Law Society of Scotland
 Laxfirth Voe (Salmon) Ltd
 Leiniscal Woodland
 Lerwick Port Authority
 Lewis Salmon Ltd
 LHD Marine Supplies Limited
 Lighthouse Highland Ltd
 Linlithgow Angling Club
 Lithgows Ltd
 Live Shellfish Traders Association
 Liveline Fishing Tackle
 Loch Achonachie Angling Club
 Loch Arkaig Liaison Committee
 Loch Awe Improvement Association
 Loch Duart Ltd
 Loch Fad Fisheries Ltd
 Loch Fitty Trout & Coarse Fishery & Tackle
 Shop
 Loch Fyne District Salmon Fishery Board
 Loch Fyne Oysters Ltd
 Loch Leven Fisheries
 Loch Linnhe Fishermen's Association
 Loch Lochy Fish Farm

Loch Lomond Angling Improvement Association
Loch Lomond Distillery Co Ltd
Loch Morar Liaison Committee
Loch nan Caor Smolts
Loch Shiel Ltd
Lochaber District Salmon Fishery Board
Lochaber Fisheries Trust
Lochaber Ltd
Lochcarron Community Council
Lochinch Angling Club
Lochside Bait & Tackle
Lochside Tackle & Sports
Lossie District Salmon Fishery Board
Lothian & Edinburgh Enterprise
Luce District Salmon Fishery Board
Luig Community Council
Lunar Fishing Co
M H Tackle
M McCowan & Son
MacDuff Shipyards Ltd
MacGregor Supplies Ltd
Machrihanish Marine Farms Ltd
MacKinnons
Mainland Salmon Ltd
Mallaig & North West Fishermen's Association
Mallaig Harbour Authority
Malleny Angling Association
Marine Conservation Society
Marine Environment Research Laboratory
Marine Harvest (Scotland) Ltd
Marine Laboratory
Marine Stewardship Council
Maritime & Coastguard Agency
Messrs Sandisons
Mid Clyde Angling Association
Mid Cottage
MIFA
Migdale Smolts Ltd
Mike's Tackle Shop
Mill of Elrick Fish Farm
Millbrook Fisheries Ltd
Millburn Salmon Hatchery
Millburn Salmon Ltd
Mitchells of Pitlochry
MJM Salmon Ltd
Moffat Fishery
Moray Badenoch & Strathspey Enterprise
Moray Firth Fish Processors
Moray Firth Partnership
Moray Seafoods Ltd
Mortimer Tackle
MEPs, MPs and MSPs
Muckairn Mussels Ltd
Mull District Salmon Fishery Board
Mull Fishermen's Association
Mull Salmon Ltd
Murray Seafoods Ltd
Nairn Angling Association
Nairn District Salmon Fishery Board
National Association for Specialist Anglers
National Association of Fisheries & Angling
National Federation of Anglers
National Federation of Fishermen's Organisation
National Museums of Scotland
National Trust for Scotland
Nautilus Consultants
Naver & Borgie District Salmon Fishery Board
NAWAD
NE of Scotland Fishermen's Organisation Ltd
Ness District Salmon Fishery Board
Newmill Trout & Deer Farm
National Farmers Union Scotland
Nicholas Pearson Associates (Urlar Hydro)
Nith District Salmon Fishery Board
Nomad UK
Norfab Ltd
Norquay Fish Farms
North & West District Salmon Fishery Board
North Atlantic Fisheries College
North Atlantic Salmon Conservation Organisation
North Atlantic Salmon Ltd
North East of Scotland Fishermen's Org Ltd
North Isles Sea Farms
North Isles Seafood Ltd
North Sea Commission Fisheries Partnership
North Uist Estate Trust 1990
North Uist Fisheries Ltd
North West Sutherland Liaison Committee
North Western & N.Wales Sea Fisheries Committee
Northern Ireland Fish Producer's Organisation Ltd.
Northern Ireland Scallop Fishermen's Association
Northern Producers Organisation
Northumberland Sea Fisheries Committee
Nufish Ltd

Oban Port Association
 Ocean Reaper Ltd
 Ochil Foods
 Olnafirth Sea Farm Ltd
 Olympia Pet Centre
 Opus Plus Ltd
 Orchill Loch Trout Fishery
 Orkney Auction Mart
 Orkney Creel Fishermen's Organisation
 Orkney Fish Farmers Association
 Orkney Fisheries Association
 Orkney Marine Hatcheries Ltd
 Orkney Sea Farms Ltd
 Orkney Trout Fisherman's Association
 Orkney Trout Fishing Association
 Ornamental Aquatic Trade Association
 Otter Ferry Seafish Ltd
 Over the Rainbow
 P & J Johnstone Ltd
 P & R Torbet
 P.D. Fishing Tackle
 Pan Fish Scotland Ltd
 Pelagic Freezing(Scotland) Ltd
 Penicuik Fish Farm
 Pentland Fly Fishers
 Peterhead Fish Traders Association Ltd
 Peterhead Fishermen Ltd
 Peterhead Harbour Trust
 Pets Aquarium & Fishing Tackle
 Pike Anglers Alliance for Scotland
 Pike Anglers Club of Great Britain
 Pitlochry Angling Club
 Plasi-Pirks
 Porta Nautica (Tide Tables)
 Portree & Uig Port Users
 Portree Angling Association
 Portree Salmon Farmers Ltd
 Price & Long
 Pulford (Scotland) Ltd
 Punds Voe Salmon Ltd
 R Macleod & Son
 R T Fishing
 Rannoch Angling Association
 Regional Sea Fisheries Inspectorate in Gdynia
 Renfrewshire Enterprise
 Rispond Estate
 Ritchies
 River Annan District Salmon Fishery Board
 River Clyde Fisheries Management Trust
 River Clyde Foundation
 River Clyde Liaison Committee
 River Don Brown Trout Improvement Association
 River Don Liaison Committee
 River Doon District Salmon Fishery Board
 River Doon Salmon Fishery Board
 River Doon Trout Co Ltd
 River Earn Liaison Committee
 River Girvan District Salmon Fishery Board
 River Irvine Angling Improvement Association
 River Kelvin Angling Association
 River Lochy Association
 River Lunan Liaison Committee
 River Ness District Salmon Fishery Board
 River Ruel District Salmon Fishery Board
 River Spey Anglers Association
 River Tummel Liaison Committee
 River Tweed Commissioners
 Rivers & Fisheries Trust of Scotland
 Riverside Tackle
 Rod & Gun Rack
 Rod & Gun Shop
 Rod & Line
 Rona Salmon
 Ross of Mull and Iona Fishermen's Association
 Rothiemurchus Estate
 Royal Commission on Ancient & Historical Monuments Scotland
 Royal Commission on Environmental Pollution
 Royal Institute of Chartered Surveyors in Scotland
 Royal Society for the Protection of Birds
 Royal Society of Edinburgh
 Royal Town Planning
 Ruel District Salmon Fishery Board
 Responsible Use of Medicines in Agriculture Alliance
 RWE npower renewables
 Rysa Salmon Farm
 Salar Ltd
 Salar Smokehouse Ltd
 Salmon & Trout Association Scotland
 Salmon Farm Protest Group
 Salmon Management Company
 Salmon Net Fishing Association of Scotland
 Sarum Foods Ltd
 Scallop Association
 Scallop Dredging Association
 SCAPA
 Schering Plough Animal Health

Scord Salmon (Shetland) Ltd
Scot Trout Ltd
Scot-Caught Sea Fishing Ltd
Scot-prime Seafoods Ltd
Scottish & Southern Energy Plc
Scottish Agricultural Organisation Society
Scottish Anglers National Association
Scottish Association for Marine Science
Scottish Borders Enterprise
Scottish Campaign for Public Angling
Scottish Carp & Koi
Scottish Carp Group
Scottish Churches Parliamentary Office
Scottish Civic Forum
Scottish Coastal Forum CANH
Scottish Coucil Development & Industry
Scottish Countryside Alliance Educational
Trust
Scottish Crannog Centre
Scottish Disability Sport Angling Committee
Scottish Enterprise
Scottish Enterprise Glasgow
Scottish Enterprise Tayside
Scottish Environment LINK
Scottish Environment Protection Agency
Scottish Federation for Coarse Anglers
Scottish Fish Merchants
Scottish Fisheries Co-ordination Centre
Scottish Fishermen's Federation
Scottish Fishermen's Organisation Ltd.
Scottish Fishing Services Association
Scottish Fly Casting School
Scottish Fly Fishing
Scottish Food & Drink Federation
Scottish Food Quality Certification
Scottish Inter Faith Council
Scottish Lame Ducks Angling Association
Scottish Landowners Federation
Scottish National Rural Partnership
Scottish Natural Heritage
Scottish Parliament Environment and Rural
Development Committee
Scottish Pelagic Fishermen's Association
Scottish Power
Scottish Qualifications Authority
Scottish Quality Salmon
Scottish Rural Property & Business
Association
Scottish Scallop Fishermen's Association
Scottish Sea Farms Ltd
Scottish Seafood Processors Association
Scottish Shellfish Marketing Group
Scottish Society of Directors of Planning
Scottish SPCA
Scottish Water
Scottish White Fish Producers Association
Scottish Wildlife Trust
Scottish Women's Convention
Scottish Youth Parliament
Scourie Community Council
Scrabster Harbour Trust
Sea Trout Group
Seaboard Marine Ltd
Seafield Centre
SEAFISH (Industry Authority)
Seafood Scotland 99 Ltd
Seahirst Ltd
Seaward Trawl Management
Selcoth Fisheries Ltd
Setterness Salmon Ltd
Scottish Fisheries Protection Agency
Sgeir Mhor (Salmon) Ltd
Shawater Ltd
Shellfish Association of Great Britain
Shetland Aquaculture
Shetland Catch Ltd
Shetland Enterprise
Shetland Fish Producers Organisation Ltd
Shetland Fish Products Ltd.
Shetland Fishermen's Association
Shetland Halibut Company Ltd
Shetland Islands Smolts Ltd
Shetland Marine Salmon
Shetland Norse Fish Farm Ltd
Shetland Ocean Alliance
Shetland Salmon Farmers Association
Shetland Seafood Quality Control
Shetland Shellfish Management Association
Shian Fisheries Ltd
Shiel Fisheries Action Group
Shin Smolts Ltd
Silloth Solway Shellfisheries
Skaw Smolts
Skelda Salmon Farms Ltd
Skerries Salmon Ltd
Skye & Lochalsh Fishermen's Association
Skye District Salmon Fishery Board
Skye Environmental Centre
Skye Salmon Ltd
Skye Transport

Sloans of Inverurie
 Smiths Fishing Tackle
 Salmon Net Fishing Association of Scotland
 Soarhigh Models Ltd
 Society for the Protection of Salmon & Sea Trout
 Soil Association Scotland
 Solway Firth Handgatherers & Tractor Dredgers Fed
 Solway Firth Partnership
 Solway Fishery
 Solway Shellfish Association
 Solway Shellfish Hand Operators Federation
 Solway Shellfish Management Association
 Somers Fishing Tackle
 South West Rivers Association
 Southside Salmon
 Soval Aquaculture
 Specialist Anglers Alliance
 Specialist Anglers Conservation Group
 Spey District Salmon Fishery Board
 Spey Fishery Board
 Spey Research Trust
 Spikes Plaice
 Sportscotland
 St Andrews Angling Club
 Stagehall Fish Farm
 Stanley & District Angling Club
 Stenness Fish Farm
 Stewarton Angling Club
 Stinchar District Salmon Fishery Board
 Stirling Aquatic Technology Ltd
 Stirling Castle Angling Club
 Stolt Sea Farm Ltd
 Stornoway Angling Association
 Stornoway Fishermen's Co-operative Ltd
 Stornoway Port Authority
 Stranraer & District Angling Association
 Strathclyde European Partnership
 Strathclyde Police
 Strathclyde University
 Strathgryfe Angling Association
 Strathmore Angling Improvement Association
 Subsea Shellfish
 Sunbeam Aquaculture Ltd
 Sustainable Development Commission
 Sutherland Sea Farms Ltd
 Sweening Salmon Ltd
 Tackle & Guns
 Tangles
 Tarbert (Loch Fyne) Harbour Authority
 Tarbert-Argyll Fishermen Ltd.
 Tay District Salmon Fishery Board
 Tay Liaison Committee
 Teacuis Shellfish
 Ten Metre and Under Association
 Terregles Salmon Company Ltd
 Tesco Plc
 The Orvis Store
 The Sports Shop
 The Tackle Shop
 Thomas J Mouat
 Thompson Bros Salmon Ltd
 Thule Fisheries
 Tigh nan Iasgairean
 TMP Worldwide
 Tobermory Fish Co Ltd
 Tobermory Oysters
 Tobson Fish Farms Ltd
 Torhouse Trout Ltd
 Torinturk Fish Farm Ltd
 Torridon & Kinlochewe Community Council
 Torridon Smolts Ltd
 Total Field UK Ltd
 Tummel-Garry Liaison Committee
 Turriff Trophy Centre
 Tweed and Eye Liaison Committee
 Tweed District Salmon Fishery Board
 Tweedside Tackle
 Ugie District Salmon Fishery Board
 Uist Fishermen's Co-operative Ltd
 UK Association of Fish Meal Manufacturers
 UK Association of Fish Producers' Orgs Ltd
 UK Association of Frozen Food Producers
 Ullapool & Assynt Fishermen's Association
 Ulva House Hotel
 United Nations Association
 United Clyde Anglers Protective Association
 United Fish Selling Ltd
 University of Dundee
 University of St. Andrews
 University of Stirling
 Upper Spey Liaison Committee
 Urr District Salmon Fishery Board
 Uyeasound Salmon Co.
 Vementry Salmon
 Viking Fish Farms Ltd
 Viking Salmon Shetland Ltd
 Visit Scotland
 W & J Knox

Wadbister Offshore Ltd
Wales & West Coast Fish Producer's
Organisation
We're Game
Weddell Fish Farms Ltd
Welsh Federation of Coarse Anglers
West Coast Aquaculture
West Coast Sea Products
West Galloway Fisheries Trust
West Lothian Council
West Minch Salmon Ltd
West of Four Fisheries Management Group
West of Scotland Angling Club
West of Scotland Fish Producers'
Organisation Ltd
West Strathclyde Liaison Committee
West Sutherland Fisheries Trust
Wester Ross District Salmon Fishery Board
Wester Ross Fisheries Trust
Wester Ross Salmon Ltd
Wester Sound Salmon Ltd
Western Isles Aquaculture Association
Western Isles District Salmon Fishery Board
Western Isles Fisheries Trust
Western Isles Fishermen's Association
Western Isles Seafood Company Ltd
Westray Processors Ltd (Shellfish)
Westray Salmon
Westside Fishermen Ltd
Westside Salmon
Westward Fishing Company
Whalsay Sea Farm Ltd
Whiteadder Angling Association
Whitelink Seafoods Ltd
Wigtown Fishermen's Association
William Robertson & Co (Fishing Tackle) Ltd
Winchburgh and District Angling Club
Wisco Processing Ltd
Worldwide Fund for Nature, Scotland
Yarrow Fishery

Youngs Bluecrest Seafoods Ltd
Ythan District Salmon Fishery Board

Scottish Local Authorities

Aberdeen City Council
Aberdeenshire Council
Angus Council
Argyll & Bute Council
City of Edinburgh Council
Clackmannanshire Council
Comhairle Nan Eilean Siar
Convention of Scottish Local Authorities
Dumfries & Galloway Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Lothian Council
East Renfrewshire Council
Falkirk Council
Fife Council
Glasgow City Council
Highland Council
Inverclyde Council
Midlothian Council
Moray Council
North Ayrshire Council
North Lanarkshire Council
Orkney Islands Council
Perth & Kinross Council
Renfrewshire Council
Scottish Borders Council
Shetland Islands Council
South Ayrshire Council
South Lanarkshire Council
Stirling Council
West Dunbartonshire Council
West Lothian Council

Respondent Information Form and Consultation Questionnaire

AQUACULTURE & FISHERIES BILL — PROPOSALS FOR CONSULTATION

This form can be completed electronically online at:

<http://www.scotland.gov.uk/Consultations>

You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is. All consultation responses are recorded for analysis; completing this questionnaire online will help the Scottish Executive achieve this more efficiently. However if you prefer to complete a paper copy, please return your completed questionnaire to the address at the end of this form. We are inviting responses to this consultation paper by 24 February 2006.

Please complete the details on the Respondent Information Form below. This will help ensure we handle your response appropriately.

Name:	
Organisation: (if applicable)	
Postal Address:	
Post Code:	
E-mail:	
Telephone Number:	

1. Are you responding as: (please tick one box)

- An individual? (go to Q2a/b and then Q4)
- On behalf of a group or organisation? (go to Q3 and then Q4)

2. INDIVIDUALS

A. Do you agree to your response being made available to the public (in the Scottish Executive library and/or on the Scottish Executive website)?

- Yes (go to 2b below)
- No, not at all (we will treat your response as confidential)

B. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick one of the following boxes)

- Yes, make my response, name and address all available
- Yes, make my response and name available, but not my address
- Yes, make my response available, but not my name or address

3. ON BEHALF OF GROUPS OR ORGANISATIONS

The name and address of your organisation will be made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

- Yes
- No, we will treat your response as confidential

4. SHARING RESPONSES/FUTURE ENGAGEMENT

We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

- Yes
- No

**QUESTIONNAIRE:
AQUACULTURE & FISHERIES BILL — PROPOSALS FOR CONSULTATION**

The Scottish Executive welcomes your comments on all or part of the questions listed below. If necessary continue on an additional page, numbering your answers and firmly attaching them to the end of this document. Please write clearly in **BLACK INK**.

PART I — AQUACULTURE

Chapter 1 Regulator

Question 1: Do you agree that FRS/SEERAD would make the most suitable Regulator?

Question 2: Should there be an enabling power to permit the option of charging in the future?

Chapter 2 Parasite control

Question 3: Should the Bill make provision for parasites in general, or restrict itself only to sea lice?

Question 4: Should the Regulator have both advisory and enforcement functions?

Question 5: What powers should the Regulator have as regards the inspection of data and investigation of potential parasite problems on farms?

Question 6: Should the Regulator have the power to direct treatment?

Question 7: Should the Regulator have the power to arrange treatment through a third party contractor where a direction to treat has not been complied with?

Question 8: Should the Regulator have the powers to direct treatment for notifiable diseases?

Chapter 3 Containment

Question 9: Should escapes proposals apply to all the farm types outlined above?

Question 10: Should shellfish farms and restocking hatcheries be exempted?

Question 11: Do you agree that the Regulator should have powers to inspect and direct with respect to preventing escapes?

Question 12: Do you agree that the Regulator should have a role in improving containment to prevent fish escapes?

Question 13: Should the Executive introduce a strict liability offence for escapes from fish farms?

Question 14: What elements should be addressed in containment plans?

Question 15: Do you have any views on the above proposals?

Question 16: Do you agree that the Regulator should have powers to investigate escapes and suspected escapes from fish farms whatever the source of the information?

Chapter 4 Data Collection

Question 17: What data, in addition to the production survey data, do you believe are appropriate to submit?

Chapter 5 Fish farm relocation

Question 18: Do you agree that financial assistance be given to fish farm operators to relocate where there is a clear environmental benefit in doing so?

Question 19: Do you agree that the Scottish Ministers should have powers to close fish farms where there is a clear public interest to do so and where owners are not in a position to relocate?

Chapter 6 Discretionary power to pay compensation for compulsory fish slaughter

Question 20: Under what circumstances might it be useful for the Scottish Ministers to have discretionary powers to pay compensation to fish farm operators?

Chapter 7 *Fish movements – fish farms*

Question 21: Do you agree with the need to regulate live fish movements out of, and between, marine farm management areas?

Question 22: Do you agree there is no general need to restrict live fish movements between freshwater fish farms?

Question 23: Is the proposed power to bring in a national standstill provision in case of a novel disease appropriate?

Question 24: Should the Regulator be empowered to licence the transfer of fish by wellboats in Scotland?

PART 2 — FRESHWATER FISHERIES

Chapter 8 Gyrodactylus salaris (GS)

Question 25: Should the Bill include enabling powers to eradicate GS *where the circumstances are appropriate?*

Question 26: Should the Scottish Ministers have the power to apply chemical treatments to watercourses for the purpose of eradicating GS?

Question 27: Should the Scottish Ministers have the power to apply chemical treatments to freshwater farms for the purpose of eradicating GS?

Question 28: Should the Scottish Ministers have the power to authorise the removal of dead and moribund fish from watercourses for the purpose of eradicating GS?

Question 29: Should the Scottish Ministers have the power to remove dead and moribund fish from freshwater farms for the purpose of eradicating GS?

Question 30: Do you agree with the proposal for the Scottish Ministers to impose standstill notices?

Question 31: Do you agree with the powers to erect barriers and close fish passes?

Question 32: Should Scottish Ministers and their agents have powers of compulsory access?

Question 33: Do you agree with the power to require clearance of fish farms in the circumstances?

Question 34: Should powers for mandatory disinfection of recreational gear be introduced?

Chapter 9 Amendments to rules on access

Question 35: Do you agree with the proposal to make Liaison Committees mandatory?

Question 36: Do you agree with the proposal to remove the requirement to advertise in the *Edinburgh Gazette*?

Question 37: How else should protection orders be publicised, beyond the requirement set out in the 2003 Act that the applicant give notice in such other newspapers as the Scottish Ministers direct?

Question 38: Do you agree with the proposal that protection orders need not cover contiguous fisheries?

Question 39: Do you agree?

Question 40: How should buyers find out/be told that protection orders affect their property and be alerted to what their responsibilities are?

Chapter 10 Fish movements – wild fish

Question 41: Should the Bill make provision to regulate the movement of fish into inland waters?

Chapter 11 Miscellaneous amendments

Question 42: Do you agree with the proposals to permit the use of rod rests?

Question 43: Are the limits on the number of rods correct?

Question 44: Do you agree with the ban on live vertebrates as bait?

Question 45: Do you agree with the proposals to prohibit the use of tailers, gaffs, pike gags and landing nets with knotted nets?

Question 46: Do you agree that foul-hooking should be clearly prohibited in law?

Question 47: Do you agree with the proposals to make provision empowering the Scottish Ministers to make orders specifying annual or weekly close times for freshwater fish?

Question 48: Do you agree with this approach?

Question 49: Do you agree that the current law prohibiting the obstruction of salmon during their spawning runs should be extended as described?

Question 50: Should the Executive widen the existing passage of salmon rules to cover all freshwater fish and all times of year?

Question 51: Do you agree with the extension of the definition of fish?

Please return your completed form to: Angus Yarwood
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