



Rivers and Fisheries Trusts of Scotland

Evidence to the Rural Affairs, Climate Change and Environment Committee

Aquaculture and Fisheries (Scotland) Bill – Stage 1

November 2012

Introduction

Formed in 2005, Rivers and Fisheries Trusts of Scotland (RAFTS) is an independent freshwater conservation charity representing Scotland's national network of 25 rivers and fisheries Trusts and Foundations. Our members work across over 90% of Scotland's freshwaters to protect and develop our native fish stocks and populations by undertaking a range of activities including freshwater, river habitat restoration, fish and fisheries monitoring, research and education programmes. RAFTS is the membership organisation of the fisheries and rivers trusts operating in Scotland and is, itself, a charity and company limited by guarantee.

In recent years RAFTS and members have worked closely with Government and its agencies and advisors, particularly Scottish Natural Heritage (SNH), Scottish Environment Protection Agency (SEPA) and Marine Scotland Science (MSS), in a number of freshwater, fishery and biodiversity issues. This has allowed fishery and river trusts with RAFTS to make a positive contribution to the conservation and management of Scotland's freshwaters in areas such as fishery and biosecurity planning, invasive non-native species management, education, salmon genetics, habitat restoration and work on non-salmonid fish species such as eels, sparring, and brown trout.

We welcome the opportunity to comment on the general principles of the Aquaculture and Fisheries (Scotland) Bill.

Overarching Comments

1. Whilst we support the general intentions of the Bill to promote the principles of fairness and transparency in the operation of District Salmon Fisheries Boards (DSFBs) in Part 2 of the Bill we are concerned that these same principles do not appear to be reflected in the provisions of Part 1 in respect of the aquaculture industry; particularly in respect of reporting of sea lice numbers where wild fisheries have a direct interest due to the interactions between sea lice and wild fish.
2. We do not feel that the Marine Scotland Response to the consultation fully explained why some of the proposals consulted upon, particularly those relating to aquaculture, have not been taken forward. Although there may be other mechanisms available to take forward such proposals it would be helpful for these to be confirmed and a timetable for implementation to be provided. Without such confirmation, we would prefer that these proposals, supported by the majority of significant respondents to the public consultation, be included within the Bill.
3. We do not believe that some aspects included in Part 2 of the Bill were specifically consulted on.

Specific Comments

Part 1: Aquaculture

4. S1 sets out a requirement for any person / fish farming business to be part of a farm management agreement or statement. We support this proposal but believe that such agreements / statements should be publicly accessible so that the terms of each and compliance with these terms can be transparently considered. We also consider that existing farm management agreement areas (FMA) are extremely variable in size and are based on aquaculture operational priorities and not necessarily principles of good husbandry, biosecurity and control of sea lice numbers which would enhance wider environmental management and protection. For that reason we supported the proposal that Ministers should have powers to specify FMA boundaries.
5. We support inclusion of Bill provisions which allow the origin of escaped fish to be determined by the use of genetic or other tools. We are concerned about the risks of genetic introgression from farmed fish escapes into wild fish populations and the identification of the source of escapes would be helpful in supporting the improvement of stock containment on farms if problems are systemic and also allow liabilities to be determined.

6. We support the inclusion of a technical standard for equipment used in fish farming. However, as a significant proportion of escapes are due to human error (29.5% of all escapes in 2010) we believe that the technical standard should also require accredited training in the use of equipment for fish farm staff to demonstrate operational competence of operators as well as technical competence of equipment.
7. We welcome the provisions relating to the control and operation of well boats but are not clear as to why open water cages are not subject to similar controls as they would seem to present the same risks to the wider environment.

Other consultation proposals not being taken forward in the current Bill

8. Powers to revoke consents:

A power to revoke aquaculture consents is important. Currently we do not fully understand or are unable to quantify the range of actual or potential interactions between aquaculture and wild salmonids. However, most aquaculture sites currently receive permanent planning consent and so there is a risk that some of these sites may present an unacceptable risk to wild fish or other areas of the environment which is only identified or quantified in the future and which cannot be mitigated. In such circumstances it would seem reasonable to ensure that there is a power to revoke consent from such sites. Although the large majority of substantive consultation responses supported the introduction of this power Marine Scotland have confirmed that they do not wish to progress this proposal. The reason for this decision is not apparent.

9. Collection and publication of sea lice data:

Publication of sea lice data at an appropriate local management scale is one of the key wild fisheries issues in relation to aquaculture as managing and limiting the interaction between sea lice derived from aquaculture and wild fish is critically important to ensuring sustainable wild fish stocks. We believe that publication of sea lice data must take place at a local scale and must demonstrate to the public and wild fisheries managers that lice treatment strategies are being applied robustly and, when threshold values are reached, that these strategies are effective. If successful lice management cannot be demonstrated then management practice on sites should be revised as a result.

Reciprocally, publication of lice numbers and management actions by the industry should clearly demonstrate that the fish farm is able to manage the issue effectively and provide confirmation of this to their reputational benefit. Although Marine Scotland proposed to progress this issue by non-legislative and voluntary means we would strongly prefer a legislative solution to be developed. We are concerned that voluntary agreements may fail to deliver necessary data at appropriate scales or frequencies and that ongoing provision cannot be relied upon in the event of dispute.

The importance of transparency on sea lice data has been highlighted recently which analysed results from previously published experiments involving release of both treated (from lice infestation) and untreated salmon smolts¹. Although high marine mortality naturally affected both treated and untreated salmon groups the study allowed and accounted for this natural mortality and still revealed a large and significant effect of sea lice parasites on adult salmon returns. When natural mortality rates are high, even small additional mortality from parasites can present a large loss in adult salmon returns.

10. Powers to require SEPA to reduce biomass consents:

SEPA biomass consents do not include consideration of sea lice numbers. Marine Scotland Science routinely state that the industry Code of Good Practice takes no account of farm size, or number of farms in an area, in setting threshold levels for sea lice treatments.

These positions in combination mean that the current systems of protection (SEPA Regulation and the industry Code of Good Practice) do not adequately protect wild fish and so we agreed that Ministers should have a power to reduce biomass consents where such action is appropriate for the health of wild fish.

We are not clear whether SEPA could, or would, use any existing powers to reduce the biomass on sites to protect wild fish would seek clarification from SEPA that they consider this to be the case. To date, SEPA appear to have used existing powers to reduce biomass in a very small number of occasions, despite 44% of monitoring surveys between 2009 and March 2012 being deemed by SEPA to be “unsatisfactory”.

11. Powers to determine a lower threshold for sea lice levels above which remedial action needs to be taken:

We consider that the total or absolute number of sea lice released from a farm is more important than the relative number of lice per fish and, therefore, believe that threshold lice levels should be changed to take into account

¹ Krkosek, M., Revie, C.W., Gargan, P.G., Skilbrei, O.T., Finstad, B. and Todd, C.D. (2012) Impact of parasites on salmon recruitment in the Northeast Atlantic Ocean. Proc R Soc B.

farm biomass and the cumulative biomass in the local area to better protect wild fish populations. In simple terms, the existence of many or many large farms in proximity is likely to introduce more sea lice into the environment, even when retaining lice numbers at thresholds below that requiring management intervention, than a small or many small farms who are unable to control lice numbers in this way. Therefore, the option to determine lower thresholds after considering farm and cumulative biomass is important and necessary.

The aquaculture industry already use lower treatment thresholds than proposed in their Code of Practice in some areas and this is welcomed. This is an important action to better protect wild fish and although Marine Scotland consider that this provision can be take forward or implemented more routinely using existing powers we are unclear as to how and when this will be the case.

Other issues relating to part 1

12. Enforcement notices under S6 of the Aquaculture and Fisheries (Scotland) Act 2007 allow Ministers to require work or measures to control or reduce the impact or effect of parasites. We understand from the Fish Health Inspectorate that they interpret that these notices are limited to observed problems with farmed fish so cannot be used to protect wild fish. We do not believe that the 2007 Act specifically precludes action to protect wild fish but, if this is the case, we suggest that the 2007 Act should be amended to notice issue to protect farmed and wild fish.

Part 2: Salmon Fisheries etc.

13. Section 20:

We support the general move to ensure the better governance of the operation of DSFBs. However, we are concerned that many of the specific proposals of the Bill were not offered for consideration in the public consultation exercise and so do not consider the views of those principally involved in these provisions directly or indirectly.

14. We understand that the publication of annual reports and audited accounts by DSFBs is already supported by the Code of Good Practice issued by ASFB to its members and support this. We also support the principle of DSFB meetings being open to the public as long as appropriate safeguards allow private discussion of sensitive issues. Such issues might usefully specified to provide clarification to all parties.
15. Although generally supportive of the principles and intent of the Bill to make the operation of DSFBs more transparent and consistent we have significant concerns as to the actual consequences of the Bill provision if not taken forward proportionately. DSFBs raise their own funds to better and locally manage the fisheries of their District. In many, but not all instances, DSFBs work closely with local rivers or fisheries trusts (RAFTS members) who deliver evidence, data and information to support decision making or who deliver practical conservation measures and practice directly to the benefit of the catchment and often supported by other partners and funding in addition to that provided by a DSFB. If resources of the local DSFB are being diverted on a disproportionate basis towards the governance and transparency provisions proposed and where the penalties (criminal charges) are so severe for individuals providing time to DSFBs we are concerned that there may be consequences both in terms of the resources which remain to support local management and the willingness of any proprietor to take up a DSFB position. Both outcomes would reduce the volume of management work possible on any catchment or even threaten whether a DSFB would exist at all. Many RAFTS members may also be affected as the support provided by DSFBs to many trusts would be reduced if available at all.

The end result here is a genuine threat to the delivery of local management provided within the current administrative and funding model. Whilst it is legitimate to look to improve practice and, if necessary, revise or remove powers it is not clear that the consequences of some of the changes have been fully considered in terms of the actual provision of management within current systems. If any DSFB were to consider the Bill provisions to be too onerous there is nothing to prevent them dissolving the Board itself and so the desired outcome of better and transparent evidence based local management is lost. It is not clear what the response of Ministers would be to this scenario as no alternative management structure or funding model is presented for consideration. It is assumed that the objective is to improve the current management system to make it more fit for purpose as no alternative proposition is set out. However, if the balance of proposals is not carefully considered the current arrangements, which are often effective and affordable when working well, may be lost with no alternative management or financial model available or proposed to replace it.

16. We would support the proposal made by ASFB that adoption of the DSFB Code of Good Practice may provide a proportionate mechanism to secure the necessary improvements to DSFB practice and transparency as an alternative to some of the Bill provisions set out.
17. We support and welcome the provision of a power to introduce a carcass tagging system in Scotland but believe that this should be delivered in primary legislation. Carcass tagging was recommended by the mixed stock

fisheries working group and overwhelmingly supported in the Bill consultation. Regardless of the mechanism used we would hope that a statutory system, using individually numbered and recorded tags, can be put in place quickly.

In our view numbered tags are essential to this measure as without this refinement the system would not allow verification of catch data, prevent illegal sales of fish from other parts of the UK or of fish caught by rod and line. We understand that the ASFB and DSFBs are strongly in support of a national carcass tagging system for all rod caught fish not returned to the river and believe that carcass tagging of rod caught fish would help ensure compliance and delivery of local conservation policies.

18. We support and welcome the provision of a power to take fish or samples for analysis. Genetic analysis is an important and developing tool in modern fisheries management which will support evidence based management decision making in the future and which is already being used by fishery trusts and fishery boards to, for example, determine the effectiveness of hatchery and stocking programmes.
19. S28 includes a power for Scottish Ministers to modify DSFBs functions with respect to consenting of fish introductions (stocking). RAFTS and its members wish to ensure the sound regulation of all fish movements and introductions in Scotland and note that Scottish Ministers also currently regulate for salmon and sea trout where there is no DSFB and for all other freshwater fish in this area.

Regardless of the regulatory body we would wish all fish introductions to;

- Be informed by competent scientific advice which may be provided by a fishery trust but not necessarily so. It is essential that advice is taken and used appropriately;
- Be recorded and available for inspection;
- Have a sound management objective and outcome and have an associated monitoring and assessment programme.

We are content with the current regulatory system when it is operated competently by the regulator. It is our view, however, that there are deficiencies in the current system as operated by both DSFBs and Marine Scotland that should be resolved comprehensively, perhaps by the introduction of a public register of all decisions with the publication of certain agreed information, justification and evidence associated with each introduction and by the formation of an independent or expert panel to ensure decision making is robust.

Other issues

20. Purchase of rod caught fish:
It is illegal to sell rod caught fish but it is not illegal to purchase rod caught fish. When a statutory system of carcass tagging is in place it should be illegal to both sell *and* purchase an untagged fish.
21. Consenting of activities:
In order to deliver administrative efficiencies to DSFBs and Marine Scotland and to allow local management practices such as electro-fishing surveys to be consented as required we support a proposal which allows DSFBs to consent such activities across the year.
22. An end to fishing during weekly close times:
It is an offence to fish or take salmon during the weekly close-time for net fisheries (6pm Friday – 6am Monday). We do not support an end to the current close time arrangement which provides a consistent and clear mechanism to support the conservation and management of exploitation of salmon stocks across the season.
23. Mixed stock fishery expansion:
The operation of MSFs is contrary to internationally accepted best practise because they prevent management of salmon stocks on an individual catchment basis. MSFs, accepting the natural "straying" of fish between catchments, are essentially net fisheries. Currently, there are many dormant netting stations which could be brought back into operation and increase the MSF effort in Scotland. Such expansion would be contrary to agreed conservation principles and so a mechanism is required which prevents the uncontrolled expansion of this effort but protects the heritable rights of the fishery owner and provides for appropriate compensation to be paid if operation of such fisheries is deemed inappropriate in the future.
24. There is currently an imbalance in the financial contributions made to conservation and management by the exploiters of the resource. In 2010, net fisheries accounted for over 45% of retained catch, but contributed 1.3% of the total funding raised by DSFBs for fishery management. We believe that to sustain and develop the current system of evidence based management a means of redressing this imbalance should be sought.