

Aquaculture and Fisheries (Scotland) Bill

David Ford – Fisheries Bill Team, SEERAD

Questions and Answers

Unfortunately some speakers did not identify themselves when asking questions.

Unidentified speaker

I think possibly one of the problems with the hatchery situation that we have been faced with is, because of the blanket ban on particular types of treatments, we are allowed to give fish in captivity. In the wild sector, our fish will never get to the food chain; not for years or months or whatever. Keeping brood stock has become very stressful to people who are trying to enhance their river stocks, purely and simply because they have to replace them every year rather than the norm of being able to feed on the kelts etc. Anyway, I digress. Basically these localised and I mean, localised, hatcheries should be exempt from the constraints of blanket coverage where these fish are never going back into the food chain.

David Ford - SEERAD

Well, we can record that as one of the points made that, where it's demonstrably local, there should be a derogation and we can take a note of that.

Doug Brown - River Kelvin

The situation here; I think you got carried away quite a bit, where you have got two small hatcheries and a hundred and thirty miles of river – it's small boys wanting to play with toys and they always get ambitious. Every little hatchery gets ambitious and they want to try something else. They become rocket scientists. I've seen it over years and years. I did it myself as a boy. They have got great aspirations and they have two old baths or something like that. They have more deaths than they ever reared and at the end of the day they start moving stock from one place to the other. It's in their tiny little heads to do it and especially hybrids. They want something with a fancy tail or a different spot and you are better – if the Clyde can't maintain its own stock, one hundred and thirty five miles, it never will do and it's only the quality of the water that will increase the population of fish in the Clyde, whether it's salmon, sea trout or brown trout. We have experienced that in other places and there are hatcheries that boys play with are no use.

Nick Yonge - River Tweed -Commissioners

I wanted to make a general comment about the consultation, because I have looked at these from the Scottish Executive and, before that the Department, for some thirty odd years now and this is probably one of the best ones I have ever seen. I think reflects well on the actions of the Forum because, being an iterative process, you have obviously come up with something which certainly, my Chairman read and said “ yes, yes, yes, yes” right the way

through – but that’s for the wild fish lobby. I suspect those in aquaculture, which I was formerly connected with, may have a different view. I think the balance between aquaculture and wild fisheries is extremely important to establish. In our view on Tweed, the Report that you had commissioned several years ago, on the value of wild fisheries, got this severely wrong and in fact it’s worth several times the value that was put on it by the Executive. Anyway, enough said. It was worth more than golf and that’s put it on the map but actually we think it was worth a lot more than that but aquaculture too is worth a lot to the rural economy. The problem is that aquaculture has changed dramatically in the last five years. Certainly, it’s extremely marginal operation now. All those operating in it are operating on extremely low costs and are making very little money. Market prices are very low and when you have a situation like that, there are inevitably going to be some people who will take shortcuts, cut corners, not perhaps do the job as well as they might do as if they had plenty of margin. So, unfortunately, this Regulator is going to be required and the sort of controls on aquaculture, which the industry probably don’t want, are going to have to come to control a few that operate poorly, which is a great shame, Can I just say, we welcome the consultation and we will be putting in the detailed report. I don’t know what sort of level of detail you want to go to on the questions this morning. Perhaps a little steerage on that would be helpful.

David Ford

That might partly depend upon time as much as anything. So, we are doing reasonably well at the moment. So, if people have key points, we can write them down. If we begin to run out of time, we might have to move on. To come back to your point about the level of regulation; inevitably, with the best will in the world, some people might sometimes cut corners. I would have to stress that the industry as a whole, if you read their code of practice, it is surprisingly good and that is an indication that they do want to take steps themselves to control their own business interests because it does help with public confidence as much as anything. That code of practice will be audited by an independent auditor, which is no mean feat. In a sense, you might call them nuggets that will be there for the key points and I think it’s very likely to be a sub-set of what is in the industry’s code in itself and it really is there to help smooth out any non-conformers that are there. So, with, if you like, checks and balances to make sure that the Regulator is exercising its powers fairly, justly and taking account of relevant factors and ignoring irrelevant factors, things that are already safeguarded under administrative law, but with appropriate transparency and checks for the Regulator, then aquaculture, I think, will probably be comfortable enough with the bill but it is something with on-going discussions. We will get the feedback and it’s not necessarily, I think you are absolutely right, there is a balance to be struck but I actually believe, maybe I’m an optimist, but I believe that the aquaculture industry and the freshwater fisheries industry have an awful lot of the same goals in common and therefore I don’t think there is as much of a chasm as might be perceived sometimes. Perhaps our MBE in the audience may require.

Jane Wright - Rivers & Fisheries Trust of Scotland

Could you tell us what connections, or, if, you have spoken to our friends in England about? I’m particularly concerned about the transfer of large numbers of Rainbow Trout to commercial fisheries in Scotland, a lot of which comes from England, and my colleagues in that industry tell me that they signed a certification of disease-free status when the fish arrive at the fishery. It would seem to me much more sensible if this certification was actually provided before the fish ever set off from where they were coming from, and also to point out people in the industry don’t have time to check when the tank arrives whether these fish are

free, for instance from Argulus, which is the freshwater louse which ties in with the question whether sea lice should be the only parasite under the Regulator, because, in fact, there is a cross-over there to the freshwater section which isn't hinted at in the consultation document. We now have Argulus in, as far as I know, at least five commercial fisheries in Scotland, several of which transfer would be possible to the wild fish sector because they are parts of large river systems and I think that I would ask the Executive to take this up with DEFRA to see if we can't come up with a disease-free certification system that covers the whole of Scotland and England for commercial Rainbow Trout suppliers and probably suppliers of some coarse fish which may have problems.

David Ford

So, that would be a supplier side certification – yes, we are certainly looking at that and in discussions with DEFRA because it does make sense. There are a lot of cross-border movements and we would certainly want to link into things like the CEFAS database, so we will explore that and with the parasite control. Yes, its question is in the document “do we want to refer to parasites more widely in the enabling power” and there is a good example of why we might wish to do that .So, that's a good kind of feedback.

Richard Allan - Garthdee Angling club

On the fish management side of the fish farming, you mentioned, at the present moment, the fish farmers can insure for the loss of stock. I wonder if that should perhaps be made illegal. It might give them a little more enthusiasm to protect what they have got, and on the engineering side of the fish farms, I don't know, it may already be the case that they have regulatory inspections of the equipment. It would seem, from an engineering point of view that a competent person-inspection of their plant and machinery would be a reasonable thing to, say, at six-monthly intervals, with perhaps bi-annual inspections ashore. Perhaps there should also be some engineering standards laid down that these plants should comply with, taking account of weather episodes etcetera. And, while I've got the microphone, the inspection of fish. It talks about vets but perhaps not any vet who is experienced in dogs should be allowed to certify. It should be somebody with proper experience and perhaps Biologists might also be a satisfactory person to look at, but I just think you should take a little care about whom. Thank you.

David Ford

Yes, again. That's useful to get that in writing as well; cage standards and engineering standards is one thing that we have a working group looking at. They won't report until late summer, I think, so again there wouldn't be any detail in the bill in June but it is something that will be looked at. And, again, the industry's code of practice does make reference to engineering standards and cage inspections. Maybe we should have a quick word from the industry.

Sid Patten - Scottish Salmon Producers Organisation

A lot has been said this morning about the industry's code of good practice and an earlier speaker mentioned the difficulties as far as the margins within the industry are concerned. He didn't mention, but I'm sure he knows, the risks that are associated with salmon farming as well. Therefore, it has to be applauded, surely, that the industry has gone to such trouble and

investment to create this code of good practice, which I understand is robust and seems to be supported by everyone who has been involved in it. Where there is confusion, however, and I think the industry perhaps would expect that, you know those operators who are not operating to the standards would have to be regulated in some way and therefore legislation may require to be brought in. The confusion still arises that, where does the bill start and the code of good practice end? - or the other way around. How is it that, after imposing, or at least introducing, such a code, the regulation appears to still be required? - and, as I say, it's causing a lot of confusion in the minds of those who are operating in this very difficult industry.

David Ford

If I can give a brief explanation. Some of that is to do with the facts of law and what is suitable for legislation and what is not suitable for legislation and in broad terms a code of practice is not for legislation. It's not a legal document. It's written in a different way and it is often written to be aspirational and something that will bring up standards, not only for good practice but better practice. Law is something that, in some ways, is more precise and separate and the two do work together. Often you can have a policy aim, whereby you want to improve standards but they have to be done with the two sides, if you like, working in tandem; which is, you have certain legal minima below which thou shalt not fall but on top of which there is an encouragement and an acknowledgement and a recognition of the fact that a lot of good practice will go further. So, even when there is a link, let's say if there were Ministerial adoption of a code of practice, it is still a matter of law that a breach of the code of practice is not, legally speaking, an offence and adhering to a code of practice is not legally speaking a defence. However, they can be taken into account and have a strong legal effect and that, in broad terms, is what the Regulators who must divest themselves properly and fairly can be legally obliged to have regard to a code of practice so there would be a link. However, that would be to say that they have regard to a code of practice in the exercise of their powers. Therefore, they do need powers to exercise- which is why there needs to be something in the bill that gives them the powers; let's say, certain standards of containment, and certain standards of control of sea lice or whatever. Now, if somebody is following the code of practice, then the Regulator would have no strong grounds, or even reasonable grounds, to enforce any powers because there wouldn't necessarily be a problem. You have to have the powers written for everybody but they would really only be used where there would be a problem, which is likely to be with the companies that are not complying. It's not possible in law to write something that says "we have these powers to enforce control of x, y or z but only to people we don't like or at people" – they have to be written for everybody, that's a simple matter of law. It has to be fair and equitable. In practice, and this is where you can clarify things with the guidance, with the code of practice with criteria, it will be that a Regulator is looking for areas where there is a problem and therefore it would be not only inappropriate, it would actually probably be illegal to try and enforce some criteria where there wasn't a problem because that would be unnecessary, and administrative orders cover that. So, the link can be made explicit. Nevertheless, you still need to have powers that have to be written, applying to everybody because it is discriminatory to do otherwise.

Sid Patten - Scottish Salmon Producers Association.

Since I have got the microphone, can I just come back? I think that's fair but at the same time will it be possible to write into the legislation that there will be deemed to satisfy if an

operator is, in fact, complying with and is properly certified to the industry's code of good practice – will that deem to satisfy be in the legislation?

David Ford

On a legal point, the answer to that has to be no. I have looked at various codes. The Pollution Code, for example, and they all say, by the way, adhering to this is not in itself, I think that's the important thing, not of itself a defence. However, you can clearly point to it and it's an approach. What we will have to do, and we will do both when we present the draft bill and when the act itself comes into power, is, it will have accompanying guidance notes and we can do quite a lot in there, I think, to try and explain the situation because I appreciate, it could look, on the face of it, oh this is horrible, this is instantly jumping up and down on everybody for everything. That's not the case, but you have to write it for everything to be able to catch people where it isn't appropriate. So, I hope, that at least addresses some of the issues but we look forward to an on-going debate.

Sid Patten - Scottish Salmon Producers Association

Thank You.

David Mackenzie - British Hydropower Association and Association of Electricity Producers.

Whilst not wishing to not support this bill, there is one concern I have in terms of the hydro industry and that's where there is a proposal, in paragraph one hundred, to prohibit the obstruction of fish. Currently, the schedule nine-three-three of the Electricity Act states that a person authorised to operate or supply electricity and the Secretary of State shall avoid, so far as possible, and these are important words, so far as possible, causing injury to fisheries or to their stock of fish in any waters. What I am concerned about – there's nothing in this bill that suggests that, in future, weirs on rivers or, indeed, weirs on lochs, will be acceptable for producing hydro electricity for small projects. We have a situation that we are already governed under the European Water Directive. We are already governed under the Scottish bills, which adopted the European Directive and this would just be a further extension, capable of more interpretation in terms of what can be done in the hydro industry. It is a large contributor to the economy of Scotland and anything which inhibits future development or indeed, may ask for retrospective action for anything built would be, in my view, a retrospective step backwards.

David Ford

We will take a note of that. We certainly look across to the Electricity Act at the moment, so we will keep following the principles in that, I think, to make sure that there isn't a conflict. The important thing with this current bill is that it doesn't conflict with existing legislation or European legislation or other aspects that could create a problem. Now, I think I have been looking too much to the right – I see there are several hands on the left hand side, if I may pass across.

Steve Tapley - New General Secretary of the Pike Anglers Alliance for Scotland

My major concern with your issues on the miscellaneous amendments to the freshwater fisheries isn't the banning of live bait. Our concerns within the pike world are; how are you going to police this, because, at the present time, we can't police the legislation that's in place now effectively. So, my concerns are; are the Executive going to put money into this system, so this system can be policed correctly? Otherwise, you are making a law that cannot be backed up.

David Ford

Well, part of the process, when we introduced the bill in June, is to produce what's called a financial memorandum, that covers in some quite detail the costs both to the private industry but also the public authorities that have to enforce the Act and that would be addressed in that. It's certainly not a good idea to bring in laws that are totally un-enforceable. However, you can bring in laws that are enforceable. Some people may break them, that's a fact of life. You can't say that nobody would ever break a certain law, but the enforcement issue is an important part that we will look at as part of bringing in the legislation.

Alistair McKeef - Chairman Pike Anglers Alliance for Scotland

Chapter ten on fish movements of wild fish specifically excludes movement, within the legislation, with regard to ornamental fish. Were there any reasons why ornamental fish were excluded from this legislation, given that the recent Cairngorms non-native fish project proved that ornamental fish were the largest vector for the introduction of non-native species?

David Ford

Dave, do you have a reply to that? OK, we took it as a given but we can look into the issue.

Inaudible further question.

David Ford

Ornamental fish are currently excluded under the English legislation, the section thirty legislation as far as I am aware, and we were following that as the model. However, if there's an issue with that we can look at it but it's a starting point – again this is not the bill. These are open proposals. Move on to Mark first.

Mark Bilsby – Dee District Salmon Fishery Board

The consultation mentions extending the fish obstruction legislation to other species and, while this may be beneficial, the system as it stands, following successful prosecution, only raises a small fine. It's up to a maximum of two thousand five hundred pounds for obstructing the passage of fish. For a first offence, it's only likely to be two hundred and fifty pounds. Is it possible to include a clause in the legislation, whereby the owner of the obstruction would be instructed by the Courts to remove or allow fish passage at all reasonable flows?

David Ford

It's possible to include something like that in the legislation – so you can propose it.

I think the gentleman at the back wants to make a subsequent point too.

Steve Tapley - Chairman Pike Anglers Association for Scotland

About these ornamental fish – we have a present problem on the Loch Rannoch area, where people have emptied their pond and dumped it into our system where the fish are thriving and we cannot wipe them out with rotenone, or poison the fish because there is a dragonfly larvae that lives in the water that is very rare. So, they don't want to wipe out the whole system because they don't want to kill the dragonfly. Yet they are prepared to let non-indigenous species live in there and thrive and run the possibility of moving into Loch Rannoch would then move the whole system in the same predicament. We need to have some form of legislation, to restrict people in ornamental pond movement.

David Ford

Well, we will take that as a comment to feed in, I take that as a strong agreement from the whole Forum, actually, so that is a powerful note.

Rob Marie - General Secretary of the Pike Anglers Club of Great Britain.

The main complaint that you have with live baiting is the movement of fish. So, surely, if you set up the laws correctly for fish movements similar to section thirty and policed that effectively and get headline prosecutions if you catch anybody, there is no reason to ban live baiting, as long as the live baits are caught on sites and used on the water they were caught on.

David Ford

The difficulty with that exemption, if you like, for catching the live bait on site is a provability issue. It's very hard to know that the live bait came from the exact local area or was brought in and that was the reason behind the proposal for the total ban It's a lot easier to enforce because, then, if you have a bucket of live bait next to you, then you shouldn't have it. But we can take that point on board that a local exemption.

Rob Marie- General Secretary of the Pike Anglers Club of Great Britain.

There's also, which you can do in England and Wales, where you can apply for a section thirty to get licensed health-checked fish and take those to a water and fish with them. So, why don't you put that in place, so that, if somebody has got a bucket of live bait, where's your licence to have those live baits? You can also dye spot them as well to prove that they have come from a fish farm, so you can trace those fish all the way back to where they came from.

David Ford

We can take that as a comment then that.

Inaudible speaker

David Ford

That point that was made was that, if you are bringing in a section thirty-type movement, whereby you can have the health check and certify the fish where they come from, could you effectively then have licensed live bait? – that gets over the point, I hope.

Cameron Durie - Environment Agency in England and Wales

I'm Cameron Durie, from the Environment Agency in England and Wales, where we have experience of Section thirty and in many cases Section thirty works, because there is a huge body of people who are actually keen to comply with regulations and to act environmentally responsibly. The trouble with Section thirty is, what it doesn't deal with is, the people who belong to another group entirely. We have found that one of the biggest problems with Section thirty is it's an end of the pipe provision. So that, you only have offences created when people are actually on the banks of a water, about to introduce fish or have actually introduced them without consent. We feel that's rather late in the process and what we probably need as well is something that controls or enables enforcement organisations to get involved in consignments of fish on the move. So that, rather than actually having to come across this whole business at the end of the system, either just before fish are introduced, or in fact after they are introduced, causing the environmental damage, so all you get is a prosecution but not the ability to stop the environmental damage. We think there is a need to deal with the consignment and movement process and that's being looked at in England and Wales just now. When you come to the second point, or another point that was made at the back of the room in relation to Section thirty authorisations for live bait – yes, in general in England and Wales, it's true we have the ability to authorise live bait sourced from fish farms and used by Pike Anglers here, around the country, in different places in the country. The problem we have got here is that that was not an adequate mechanism for stopping the rather more general use of live bait, which was acquired from garden ponds and from the local canal and various other places and shipped around by those who weren't keen on being caught by the statutory provisions. So, when we came to protecting rare fish populations, we found that there were enough examples of fish being introduced by those who had no interest in complying with the regulations to cause us major, major environmental problems. What we did there was to actually introduce a ban on the use, not just of live bait, but of dead freshwater fish baits as well, to avoid fish being carried live to the site, tapped on the head and subsequently used as bait. So, that's why the dead bait ban was introduced; because there was nothing to stop a number of people actually tipping the live bait into the water at the end of the process, at the end of the fishing process, or accidental escapes. So, we felt, to protect our rare fish populations in the Lake District, there was nowhere else to go other than a ban on live and dead freshwater fish as bait. But we do not have a perfect system in England and Wales at all. But probably any aspect of the system, but certainly in relation to fish movements, we have some way to go yet.

David Ford

Yes, I think there is probably no such thing as a perfect system. But, if we can improve things, I take your point about the end of pipe – the consultation paper we have refers to prohibiting the introduction of fish into inland water but also the keeping and transportation of. So, it is looking in our consultation at covering the same sort of ground. Again, that's the sort of detail that would not be ready in June, because the enabling power would be turned in those ways but would be fleshed out again collaboratively so that we can get some kind of, I don't know, "son of Section thirty," whatever you may call it, that could work and be suitable

for Scottish conditions. And that's a very elegant summing up of the fact there are two sides to the live bait issue and again we would look at the whole thing in total before bringing forth proposals. And, similarly, the proposals in June are open to further debate in the Parliament and may be changed, so it's worth looking at the fact there are two sides to every story, pretty much.

John Prince - Clausebon River Fishings, River Nith.

As we move to a wider management structure, could we take the opportunity to provide those with the responsibility of managing with full, free and open statistics? At the moment, for instance, a River Board can ask the Executive for the location of a fish farm, or land fish farm but the Executive is not allowed to tell the River Board its location. It can be found sometimes on an ordnance survey map. For instance, Ministry of Defence establishments are shown on ordnance survey maps. So, we shouldn't go down that road. But also, when it comes to fish catches, the very base level for managing salmon, these are held under lock and key and it doesn't improve the situation for those who have to manage. Surely the time has come now to make it full, free and open and not try and fight it through on the Freedom of Information Act.

David Ford

We are taking a note of that – it's certainly important to get appropriate statistics where necessary.

Ron Woods -Scottish Federation for Coarse Angling

A gentleman here mentioned the question of sufficient penalties to dissuade people from obstructing the passage of spawning fish. Can I raise that in relation to the proposal to prevent unlicensed culling and eradication? It, I would suggest, is essential that the penalties for this are severe and that, among other things, anyone who is found to have done so can be ordered to make restitution by way of replacing the stocks. Is it, can you confirm whether it's in your mind to ensure that sufficient penalties are in place to ensure that nobody is persuaded to buy themselves through this, if you like?

David Ford

Well, the level of fines is a detail that we haven't reached yet but it is clearly something we would consider, as would be the restitution argument. How practical that is, is again a question to be looked at.

Matt Mitchell - United Clyde Angling

In the upper reaches of the Clyde system, we have an infestation of American Signal Crayfish and for the past seven years we have been running an effort to contain them, if not eradicate them. We have SEERAD licences for this, which allows us to catch, handle and destroy the signal crayfish. Unfortunately, there is a loophole in the law here, because the licences are only valid if the landowner allows you access and agrees with the project. In the past few months, unfortunately for us, the major landowner in the area has changed his mind and doesn't want the crayfish removed. So, we can now not access the ground to try and stop the spread of this invasive, dangerous American signal crayfish, which threatens the whole Clyde

system. Can the legislation, which is going to be brought in, ensure that we can be given access to protect our river?

David Ford

It's an open question, one that we were looking at, as to whether you can force access. It is also a question as to whether that is really something which is for this bill or whether it is something for an Environment Bill, because it is to do with ecosystems and biodiversity but both questions are being addressed and looked at so I can give you an open "maybe".

Peter Reith - Federation of Border Angling Associations.

I'm particularly glad to see that suggestions that the Protection Orders could be more flexible have been taken on board. If owners run the real risk of losing their protection, if they fail to make sufficient waters available for public access for trout and grayling fishing, then this will put clubs and associations in a far better position to achieve greater access. The risk, however, is that the threat, the risk has to be a real one and it's important to have a fast mechanism for investigating and enforcing the requests to partially remove protection from specific stretches of water. In other words, it shouldn't be delayed for months on end by having to go up through the process to the Minister.

David Ford

I think we would have to design a system for identifying non-compliance and working out that action. So, again, that wouldn't be. That detail wouldn't be in the bill in June but it is something that would have to be considered.

Kemp Meikle – Mid Clyde Angling Association

Just a question raised by one or two of the comments in relation to the passage of spawning fish. Are you aware; is the team aware, of any prosecutions under the current legislation for salmon?

David Ford

Personally speaking, I'm not.

Kemp Meikle

Well, we have a situation on one of the major tributaries on the Clyde, where there is a major problem with an existing weir. Now, we have taken it to the Procurator Fiscal to discuss it but, as far as she is aware, there are no prosecutions under that legislation. It does seem a bit disingenuous, to say the least, to extend legislation to brown trout and other spawning fish, when the major species has not been tested

David Ford

I will take that as a point.

Nick Yonge - River Tweed Commissioners

Can I just add something on that, because I am not sure if I am good enough to quote the Salmon and Fish Passes Act to you. But the wording of it, and this is where the devil lies, is it says it shall allow free passage of fish at such times as they would normally make passage, or something to that effect. Someone will be able to quote it better than I, and that's the problem, because you can't actually define the time they would normally make passage and that's why it is so hard to enforce. If you could address that one as well, it would be most helpful.

David Ford

Yes, certainly the consultation does lay open the chance to address any anomalies in the existing law and that might be one of the kind of anomalies that we might look at, as the way of reducing barriers to sensible enforcement action.

Michael Brady - Loch Lomond Angling Improvement Association.

I would firstly like to congratulate everyone involved in the document itself and the consultation papers – in particular. I came here to the last Fisheries Forum where I first listened to Gordon Brown and it seems that he has turned into a bit of an Action Man for the freshwater fisheries. So, I have been used to dealing for years with the Scottish Executive and they have become masters, certain individuals, of obstacles; “oh, you can't do this”, or “it's too this and it's too that.” He seems to have removed a lot of these obstacles. Having said that, there is one item that I would hope, perhaps, to have a wee look at and it concerns the introduced ban on the rod-caught salmon. I said at the time to the Executive that it doesn't work – they said it “does and nobody else complained other than yourselves and the Tweed.” So, I did a wee bit of Media involvement and sent the newspapers to various restaurants and said go and sell your fish and you will have no problems. So, they did an article and it proved my point that everyone, bar one restaurant, was willing to accept it. Now, last year, we had major problems with some of the restaurants and they are moving away from farmed salmon with the negative response and are now going for wild salmon. Last year it was twelve pounds a pound that you could get for spring salmon – this year it's on a similar level and I know that poaching is starting to show its ugly head again, because people have been able to go into restaurants and sell these fish and it is going to start to get worse because more people are operating catch and release. We are all doing our bit to protect the salmon and the problem with this bill is that there is no obligation on the person selling the salmon to prove that he has a netting right and he has been able to do it. So, he can have twenty salmon and say what he likes and the onus is not on him to prove the point. Neither is the onus on the person that receives these fish and neither can he be prosecuted if he does receive these fish and that's totally wrong and that has to be looked at and has to be tightened up.

David Ford

OK, I can take that on board.

Jim Henderson - River Nith

I would like to bring to your attention an increasing problem, on the south west coast of Scotland, of gillnet fisheries and estuarial waters and increasingly this is getting worse year on year with people supposedly fishing for mullet and sea bass. Unfortunately, their by catch

is quite significant numbers of salmon and sea trout. I just wonder whether anything could be done by way of licensing these gillnets, if they are bona-fide fisheries, for mullet or sea bass.

David Ford

Yes, it is within the ability of the current law to draw up something like that under, particularly in estuaries. It is possible to be looked at. So, it is not something, strictly speaking, for this current bill because I think the ability already exists under current law. But it is something I will pass on to the policy head to deal with, to look at in its separate context.

Jim Henderson - River Nith

And whilst I have got the mike; if I may; just under miscellaneous amendments to existing legislation. As an enforcement officer working at the coal face, this has concerned me for a few years, the fact that we don't have the right of arrest for obstructing a bailiff in the course of his duties. I think that is a real serious sort of flaw and I think that something should be done with that.

David Ford

Okay.

Andrew Graham Stewart - Writer on freshwater fisheries and salmon rivers.

Really, leading on from what Jim Henderson just said – the problem of gillnets is that the possession is legal, the sale of such nets is legal but the use is illegal – this is an anomaly which has long frustrated those trying to manage fisheries around the Scottish coast. The proliferation of these nets is, if anything, increasing and leading on from what the gentleman in black was just saying about the price of salmon, there is an incredible incentive to go out and buy these nets, put them in the sea and use them and they are completely indiscriminate. Not only do they take large numbers of salmon and sea trout, but other species such as otters, basking sharks, dolphins etcetera. It really is high time that this loophole in the existing legislation was closed.

David Ford

Yes – we will take that into account.

Bert Johnston - River Tweed Commissioners

Can I refer back to Peter Reith's comment about access and protection? Now, the Tweed has something like two thousand miles of fishable bank and, of that, eighteen hundred miles or round about eighteen hundred miles is available through ticket, mostly through the club's associations. But we are well aware that there are a few miles here and there that could be made public. Is it the view of the Act that every proprietor should allow private access to his water, perhaps keeping the house frontage private, or are there any sort of guidelines at all?

David Ford

Well, the increased access is not down to individual proprietors as much as the protection area or the area as a whole, and I think it's unlikely to pin it down that you must, on that ten feet of bank, let somebody in.

Bert Johnson. River Tweed Commissioners

Well, where does flexibility come in then? Is it only people who have previously allowed protection and taken it away that is likely to have protection?

David Ford (tape starts mid sentence)

The thing we need to do for the law is to put in the flexibility and then for enacting it ...

Bert Johnson - River Tweed Commissioners

So, the criteria are not there yet.

David Ford

Not yet. Again, we are talking about the broad empowering.

Frank Spencer-Nairn - River Beauly DSFB

A subject not addressed in the Consultation would appear to be Research. Are we confident that current on-going arrangements are adequate and secure? I mean, it's obviously an area where collaboration between private and public interests is appropriate. So, my question is, should the future of Research be addressed in the Bill? – I mean, after all, the Minister this morning mentioned that what we are talking about has budget considerations, implications.

David Ford

I wouldn't have thought this was one for the Bill – pass to the right.

Malcolm Beveridge - FRS Freshwater Laboratory.

The work that is carried out at the Lab is done, it's agreed, in consultation with the Scottish Executive. There are opportunities at the moment for people who feel that there are particular issues that should be Research carried out into, to lobby the Executive and, indeed, make representation to ourselves. I know that Gordon is keen to open this process up even further in future to ensure that the work of the laboratory and others involved in fisheries research is as strongly aligned as possible as to the needs of managers and other user groups.

Gordon Brown

Thanks for that Malcolm. Can I just say that the Executive, it's not just me, but I am very keen on it, that the annual review of our research programme and the forward look that we take has always been an internal process – we do it amongst ourselves by and large. We are very keen to open that process up to stakeholder engagement and scrutiny of our research programmes before they are agreed. We are still thinking, I will be honest, about just how to do that. But that is a very real issue – in fact it's going to be discussed, I think, later this week

at the Fisheries Research Strategy Board which the Executive participates in. I don't want to pre-empt this afternoon's discussion about the Forum and whether you think it's a good idea and what its future agenda should be. But that strikes me as a place that we could discuss research needs in the future and maybe that's one of the agenda items. Again, if you think it's a good idea for the Forum to continue, that's one of the agenda items we should maybe take a note of.

Jane Wright - Rivers & Fisheries Trust of Scotland

The Regulator would presumably be very highly qualified in his business and I imagine he will be attending or reporting back to Boards, Trusts in that specific area, what problems he has found or not.

David Ford

The Regulator certainly will have expertise and, where they don't have it for certain issues, they will be able to sub-contract it. We envisage the Regulator working too, because he will be working on behalf of Scottish Ministers, working to the Scottish Executive. In fact, it may even be part, for example of the proposal in the consultation was part-FRS part-the Scottish Executive itself. The question of reporting more widely, I think, has to be looked at. There are issues of transparency on the one hand and commercial confidentiality on the other and that would need to be looked at in detail, but I think the most important thing is that the Regulator will, yes, both be expert and open as much as is possible and sensible.

Dr David Summers. Tay District Salmon Fishery Board.

I was interested to see, in point number ninety, that a significant proportion of the salmon caught in the Tay every year, in the Executive's opinion, are being caught unlawfully – the point about harling – but I'm also heartened to see that the Executive wants to close this loophole that they believe exists. However, I notice in the next point that it's recommended that harling be restricted to two rods per angler. I just want to make a point that we have discussed this issue with a number of our representatives. It is a slightly more complicated issue which I would like to discuss with you but, in the meantime, I would be quite keen to find out what the thinking was behind the two rods.

David Ford

I think the thinking behind it was what it is practical for an angler in a boat to be able to reach conveniently, because they have to be able to get to the rod in a relatively short time. I have to say, the number came to me, as far as I knew, drawn out from discussions within the Forum or the Forum Steering Groups. So, I have to confess that I didn't go into great details as to why specifically two. But if you have a view on the number, then absolutely feed it in, in your response.

Jim Allingham. North & West Salmon District Fishery Board

I just want to go back a few minutes to the points that were being made about the sale of rod-caught salmon and, now Gordon Brown has heard me in a former life on this subject, I can never understand why, if it's an offence to sell, in this case rod-caught salmon, it's not also an offence to buy them because there are many small outlets, hotels etcetera, etcetera up and

down the country, that are quite prepared, no questions asked, to take fish as they appear, probably knowing full well how they have been caught. I can't see how we can't have a level playing-field on this.

David Ford.

Okay, we have noted that point.

Anthony Steel – Annan District Salmon Fishery Board

My name is Anthony Steele and I am a fanatical sea trout fisherman, in fact organise a sea trout festival and was Chairman of the Sea Trout Group. I think there is a confusion, this may tie in with protection orders, in that the definition of a sea trout and the definition of a brown trout is all muddled, both in Law and in reality. I mean, I can't tell the difference sometimes. I have to get my colleague, just here, to look at scales under a microscope. I think that, to tell the difference between a brown trout and a sea trout, in fact some people argue that they are identical, and yet in certain places you are allowed legally to fish for sea trout and yet you are not legally allowed to fish for brown trout or vice versa. The law at the moment is very muddled on that one and I think this is an ideal opportunity to rectify that.

David Ford

Okay, I take that point on board. I think I would agree with you on it being muddled.

Robert Greenhill – Stranraer and District Angling Association

On the question of rod-caught fish being sold, and everybody seems to be referring to salmon, and now there is reference to sea trout, my view to that as a sport that no rod-caught fish should be sold of any species of any kind.

David Ford

Okay, that's a fair point and particularly if certain species come under pressure.

Jane Wright - Rivers and Fisheries Trust of Scotland

It is an issue that I have brought up at several of the Highlands & Islands Agricultural fora and other meetings lately; which is that the compensation, or the financial assistance to boards and trusts who have incurred costs from escapes from Fish Farms. This financial assistance will not be very great, because these escapes, on the whole, don't cost a huge amount of money but to the boards and trusts who incur those costs, it really is quite meaningful funding that they are having to put into these incidents, and I'm quite disappointed that this hasn't been covered in the Bill, because, it seems to me a polluter pays issue, on the other hand it could be done either by a bond put up by the fish-farming industry but that would tie money up, which could probably be used better elsewhere and it was suggested to me that it might come under the compensation part of the Bill for compulsory slaughter and maybe, whereas it is not totally linked to compulsory slaughter, it might be compensation or financial assistance to boards and trusts to cover those costs and I would ask you to think about that, please.

David Ford

That's one noted I believe.

Name of speaker inaudible

Regarding rod rests; why four?

David Ford

Again, four was a number that was presented to me that had apparently come out of discussions within the Steering Group, so I have to say I can't actually answer that but I'm assuming that other heads than mine thought of that.

Name of speaker inaudible

As an Enforcement Officer I would say two. I totally disagree with any more than there should be no rod rests.

Michael Brady – Loch Lomond Angling Association

Just a quick point on the issue of the two rods and harling; I don't know if many of the respondents have actually done this type of work but, on Loch Lomond, one of the most practised methods for the last hundred years has been trolling and the average rod angler will use three rods. I have been doing this myself for twenty-five years and I have never had any problem because the boat was always moving. It is slightly different from harling in that you don't have the movement in the boat and often, when the fish is taken in the troll, after it's had its brief run, it's simply staying there and you are virtually walking the fish as you would if you happened to be playing it and wanting to move it. So, there is never any problem with that and I can see a major, major problem with trying to enforce that on Loch Lomond because these guys have been doing that for a hundred years and they haven't had a problem with it.

David Ford

So, when you are talking about trolling, you are talking about three really, yes?

Michael Brady

In fact some of them use five.

John Prince Closeburn Castle Fishings

We seem to be buying out all coastal netting that I think we would agree to be the trend for the future. In Scotland, this will leave haaf netting. I am all for haaf netting but it does seem to be recreational and it seems completely unfair that they should be able to sell their salmon. I'm not trying to stop haaf netting – let's just not sell them.

David Ford

Okay, we will take that as a point to look at.

We still have another forty-five minutes, so there is time for people to come up with further points, or are we managing to exhaust the subject?

Unidentified speaker

I have got one more question regarding rod rests and, as a water bailiff for my own farming association really; the practice of rod rests, the future legislation in the Bill. Is it still including, basically, the rule that a rod rest, unattended, is a set line for game fishing?

I'm referring to the four rods in coarse fishing being allowed and also, where coarse fishing is allowed, with four rods. Will it be allowed in waters which have mixed species of fish – trout, sea trout and salmon? Thank you.

David Ford

The principle in the proposals was that you had to be in attendance, when you are using the rod rests so I think that part – you won't be allowed to, although how you define "in attendance"; but you have to be able to reach them, I think adequately. As for whether it would be used in waters with mixed fish, because the risk is then you could be foul hooking – it's one to look at.

Seymour Munro - Atlantic Salmon Trust

One of the - going back to live bait; I think the key issue we were discussing in the Steering Group was the ethics of live bait and the feeling of whether it is actually moral to use a live species to catch another species and I think the majority view was that it was immoral and it was important that we kept our house in order, or put our house in order and was seen to put our house in order by others, who might like to cause trouble amongst fishery managers and fisherman. So, I think the ethical argument about the use of live bait is just as important as the movement argument.

David Ford

I have no doubt that the ethical argument will be brought up in the Parliament as the Bill proceeds.

Kenny MacDonald - Federation of Highland Angling Clubs

We actually look after the Upper Spey Protection Order as part of our business. We provide a liaison committee for that purpose and have done very effectively for many, many years. Previous to myself, it was Bill Brown - Robbie Brown for those who know him. It works particularly well, the bait, in a protection order. One of the reasons is that it does have a liaison committee. The liaison committee, though not particularly strict, does pick up on all and everything that's happened throughout the year on the particular stretch of water it covers. So, my take on it is that liaison committees, if made compulsory, will provide a monitor that will alleviate the problems that you supposedly have with Protection Orders that don't work effectively. Further to that, contiguous fisheries - we feel they shouldn't be covered by the protection offered to those who subscribe to the protection order principle. SANA provide a committee, who look at these things when they are applied for – the

suggestion would be that if there were half a dozen owners, and three of them didn't want to join, you would have a bit policed and a bit not policed and it would become untidy. The committee that refers it to yourselves should have a mandate on ninety per cent of the owners up-front agree in principle to take the protection order on board. If you make that a minimum requirement, then you won't have all the comings and goings and to-ings and fro-ings. If they actually take the spirit of the protection order on board one hundred per cent hopefully, as it does with ourselves in the North, then there are no problems with taking over new leases, renewing leases, stocking and so on and so forth and the Scottish Office, as I did just the other week, were supplied with a very comprehensive report from the Badenoch Angling Club and ourselves on the current state of affairs with that protection order. No grey areas, no problems, the i's dotted and the t's stroked. The liaison committees should be there – whether you pay me to go to them or not is a different thing.

David Ford

So, in a sense you are talking about a sort of threshold for a minimum number of per cent of landowners, who should be in the protection order.

Gordon Brown

Could I just take us momentarily back to the live bait question? Now, I may need to draw on the help of some of my Steering Group, but my recollection was that the live bait issue and the proposed ban was linked to the issue of fish movements and the fish movement regime that we might introduce and not strictly linked to welfare or ethics. Seymour is right, though. The Steering Group did discuss, inevitably, the welfare and ethical issues but that is not the driver as I recall it for the proposal on live bait.

Peter Maitland - Fish Conservation Centre

Related to the question of ethics, there is a major anomaly in the British legislation in handling fish. I, as an angler, would be allowed to stick as many hooks as I want into a live fish, chuck it into water and hope that it may live for quite a long time. But I, as a Scientist, would not be able to study effects of such a procedure. I would need a licence to handle vivisection and I would need very, very expensive premises in order to carry out this research. So, there is a major anomaly here that society is posing us in relation to handling and pain in fish.

David Ford

Okay, we will note that.

Alistair Stephen - Institute of Fisheries Management

Can I just add; as far as I recall, the discussions around the issue of live bait were very much centred on the fish movement issue and the biological consequences of fish movement and we did not specifically deal with the ethics.

Nick Yonge - River Tweed Commissioners

Just on the issue of live fish movement; there is a major problem with live fish movement control – we definitely need to have it. It exists in the rest of the British Isles. We don't have

it in Scotland and I think it is widely accepted that we need it. The real reason for that is twofold. The first is that it is the method of choice for disease movement. Most diseases get moved by live fish – they can get moved by dead fish as well. VHS was introduced in Denmark, from feeding dead trash fish from the sea but *Gyrodactylus* is well-known to be moved by live fish movement, so we need to have that control. But there is another reason too, and that is for Bio-security and with regard to freshwater movements, it has already been mentioned today. Large volumes of water are moved with fish and, if we are going to control the movements of non-indigenous species in Scotland, we have got to control those movements of fish because, with them, come all sorts of larvae and other small fish which go through nets and just come in with the water. Just back on the disease again, there is a big problem with identifying what disease-free means . Disease-free means free of notifiable diseases – Argulus for example is not a notifiable disease and therefore is not covered by any kind of paperwork from the Executive. I don't know if it is notifiable in England. I don't think it is so. Argulus can readily move up here. There is no control on it and indeed, if you contact the Marine Lab, they won't actually do anything about it because it is not part of their remit to deal with it. So, I think we have got to be very clear about what diseases are that we want to control and it is not just the notifiable ones that are important.

David Ford

That is a fair point.

Alistair Stephen - Institute of Fisheries Management

On the issue of fish movements; again, the one thing that I don't think has been spoken about so far this morning is the effect of the movements on the genetics on the fish within Scotland. We are all assuming that District Fishery Boards are doing a good job in stocking the way they do and movements of trout around the country. There is a lot of scientific evidence now coming to light that a lot of the stocking that has been done over the last hundred years has, at best, been neutral and, at worst, considerably damaging to the native populations. So, that it is more than just a disease issue.

David Ford

We are not taking, at least my understanding is we are not taking, native to mean native to Scotland. A fish that is appropriate in Dumfries and Galloway may not be appropriate in Tayside, even though it is the same species. So, I think that will be taken into account.

Lawson Devereux - Salmon and Trout Association

The first dozen questions of the question and answer form are about the powers, control and breadth of job of the Regulator and one of the first questions you were asked this morning was; will the Bill be watered down? One way to water down the bill is to under-fund the Regulator. Can you give any assurances that won't happen?

David Ford

Well, I go back to what I said about the Bill being introduced alongside a financial memorandum and that will send out a signal as to what the Executive believes it will cost to

fund the Regulator and that will be open to everybody to have a look at and that is about as much – unless Gordon wants to say some more.

Gordon Brown

We are acutely aware that there are public expenditure implications associated with this Bill and it is not the only thing coming along that has public expenditure implications. Dave Wyman and his team are dealing with the introduction for the negotiation and introduction of a Fish Health Directive, a new Fish Health Directive, and there are spending implications in there. We go through now in the Executive, every couple of years, a spending review and you can rest assured that we are not just looking one or two years ahead. We are looking at least five years down the line. Indeed, the issue of future management arrangements has been a very strong argument in the Steering Group associated with this Forum, that we needn't bother looking at future management arrangements unless we take very clear account of the associated spending needs. And there has been quite a plausible case put up for a public/private partnership when it comes to meeting with spending. Now, it depends when we are going to see these new management arrangements, but it is possibly in the next parliament. If we are lucky, it could even be beyond that. So, there is another public expenditure pressure. So, I just want to reassure you that we are looking very carefully at the costs of proposals and we are not just looking short-term. We are looking long-term as well. I am flagging those up with Ministers who will, I am sure, take very careful account of them.

Mark Pattinson - Loch Carron Estate

The Minister mentioned the value to Tourism of salmon farming and, indeed, it has been estimated that one thousand pounds per salmon caught is the value to the community. I understand there are in excess of possibly seventy thousand salmon caught last year, which is seventy million pounds added to the community. Can we be assured that the Regulator will have sufficient funds then, to be able to advance the number of salmon caught? - and I would suggest that the Tyne would be a good example whereby it was stocked. Admittedly, not indigenously, but all the way from the Scottish rivers and therefore we shouldn't necessarily focus too much on total indigenous. For instance, in our river, the Kishorn, we have stocked very successfully, with the help of the salmon farm factory, where they have been kept entirely separately and the river has prospered but the fish has come from the neighbouring Applecross river.

David Ford

That is a sensible point.

Alastair Stephen

So far, there has been very little discussion, until the last couple of minutes, about the Aquaculture section of your proposals but I think I wouldn't be alone in saying that that is the most important part of your proposals. It really is vital and why has there been very little discussion? - because, I basically think the room is in broad agreement that you have done a pretty good job in getting the proposals up in front. I did hear a gentleman in the front from the Salmon Producers' Association discuss something earlier. I would say that it is quite clear that a Regulator must enforce minimal standards and a code of good practice should enforce a much higher level than minimal. It should be something to aim at and something much better

than minimal and therefore I urge you to keep a Regulator to enforce the minimal standards as well. I think that some better sea lice data could come about in your data collection and it may be that more powers might be needed by the Regulator to actually close down farms that are not doing their jobs really well, as an absolute last resort. But I do commend you for the proposals on Aquaculture that have been put forward. I beg you not to let them get watered down at all because then, the Minister said, it was a balance – it is a balance but the balance will have tipped the other way if there is any watering down of those proposals.

David Ford

I think it is fair to say the code of practice goes wider than the regulation, as well as deeper and there are proposals in the consultation paper about the possibility of closing farms under the re-location part and these are open questions at this stage.

I have stunned you all in to silence again – this is quite worrying.

Ronnie Picken - SANA

In your introduction, you touched on the protection of wild fish stocks – he also mentioned the word predation. Can we take it that there is going to be a look at formulating a realistic predation policy as regards the birds? I am thinking, in terms of in England, there will be licences for three thousand cormorants to be culled this year. I would think that Scottish freshwater fisheries are equally as valuable as the English freshwater fisheries. So, why is there the difference between the two countries? Two of our members who applied for licences recently have been refused. It is not a level playing-field – it is time this was looked at properly.

David Ford

I don't think this is something, strictly-speaking, for this bill because it is under existing legislation and it's how it is implemented, I think, but it is a policy issue we can take on board.

Ronnie Picken - SANA

Well, you did mention the protection of fish stocks and you did mention predation.

David ford

I take the point on board.

Nick Yonge

I think it is very important that these live fish movement controls are incredibly robust because some people in this room are just about to launch a campaign in Brussels to try and prevent live fish imports from the EU and other European countries into the British Isles . It's long been recognised in the Aquaculture sector and I would be interested to know. I should have lobbied my salmon colleagues in the back there, but certainly the trout farming industry has always recognised that salmon farming industry always used to recognise the absolute folly of allowing live fish imports into the UK and indeed that's why it is enshrined in the 'thirty-seven act. If we don't have here our own robust live fish movements, all that lobbying

and, hopefully, success we are going to achieve in Europe is going to be nothing. Could we hear what – it is not really to do with the Bills.

David Ford

You are quite right. You have put your finger on it. It is not to do with the Bill on the basis that it's an occupied field with European legislation. That said, it is something on a policy level that we are looking at. I don't know if Dave Wyman wants to say a word or two about that. You don't want to? Strictly speaking, it is an occupied field. It's not to do with the Bill. So, from my point of view, I can't do anything – my hands are tied.

Unidentified speaker

Strange; someone was brave enough to mention predation. Can I mention the unmentionable that seals are really a serious effect on wild salmon?- probably much more so than the anglers and they certainly have increased dramatically in the last twenty or thirty years in our estuaries and indeed some of them come ten miles up the river. My own suggestion is that the Loch Ness Monster is in fact a seal.

David Ford

I take the viewpoint. I think, having spoken to our Lawyers, seals is going to be beyond the scope of this legislation but it is a well-known problem.

Michael Brady

If I don't mention the word seal – one thing I would like to say is there is seal-scaring equipment available now and in operation, working successfully within the aquaculture industry . Unfortunately, we have major problems and so have many other rivers with seals now preying on salmon and sea trout stocks. Is there anything being done to manufacture one of these effective seal-scarers for the rivers, the mouth of the rivers?- and also the other point would be that in the medium to long-term, ideally probably quicker, but in the medium term, could we look at the balance in estuaries? That's a lower national level to see whether or not the fish populations in general, in relation to birds, mammals and things – you know, something needs to be done with that because it's all very well saying let's kill the seals. All I'm interested in is that they don't enter the rivers. But, at the same time, there is a major problem in the estuary with sea trout stocks being hammered by them and the big question that everyone is asking is; are there sufficient other fish, now that the trawling fraternity are so efficient at removing other white fish? That is, the balance being destroyed. We have seen the carry-on with the sparlings and the sand eels and things. Is there something going to take place that is going to look at these for the estuaries?

David Ford

Pass that to Malcolm Beveridge.

Malcolm Beveridge - Fisheries Research Services

There is quite a lot of work going on at the moment, among all the different interested parties, to try to nail this issue of exactly what seals do and do not eat in Scottish rivers and we have

got work going on, on the east coast. There's work going on, on the west coast and, hopefully, within a year or two, we will have some much better answers. But, I think, these groups that have been set up in the last two to three years have really progressed things, made a lot of progress in putting together the right research questions and doing the research that needs to be done to answer these questions, possibly not the same with birds.

David Ford

I think there is also a lot of work going on, on what you might call the ecosystem-based approach to fisheries management in the Scottish coastal forum and in the wider marine side of things, which are all going on – a bit beyond the scope of this Bill again, I think, but the questions are being looked at.

Kenny MacDonald - The Federation of Highland Angling Clubs.

I keep getting fobbed off with stories about people making research into what a seal eats or doesn't eat, if they are suffering from types of anaemia because they don't have enough crustaceans in the estuaries to eat, which is a fact in the Moray Firth. But what nobody requires to tell me; two hunting seals in the six miles of the River Ness during November, when they are sitting on spawning redds. That pair can attend to twenty, thirty, forty, one hundred thousand eggs in a day- hen fish aborting the young. They really are something that shouldn't be in the rivers, particularly when spawning fish are going to cut redds. We return five hundred fish in the nets and we think we are doing well – ten minutes later, these fellows come soaring into one of the pools and they ruin a hundred thousand in half an hour. Now, maybe my arithmetic is a wee bit wrong, I don't know. It doesn't add up and somebody suggested a method of, you know, scaring the seals. I think Mosser make one.

David Ford

I take your point. Seals are clearly an important issue. However, I have to underline they are not something that can be addressed in this Bill because of the scope of the Bill. That said, there are other parts of the Executive that look at seals in the round and there is the research. I know it sounds a bit like a fob-off but if I can, maybe, part place at this stage and address the parts of the Bill that we can deal with at this stage.

Unidentified speaker

I think what several speakers have been alluding to is the fact that when it comes to the interests of anglers and angling, they are under-represented and there is a story with regard to cormorants. There is a fine one there, where it is clear that issues of wild life, I guess the RSPB were the ones whose views prevailed and is it perhaps a factor that the Regulator should have. One of his responsibilities might be to give a balance by representing anglers views or the ? as far as anglers are concerned.

Gordon Brown

Just while Andy is exercising across the floor again, this issue of birds and seals I'm quite interested in and your frustrations over it. I can tell you it's a frustration, too, for colleagues of mine who have to deal with the applications to shoot birds and shoot seals. They are very difficult issues, from memory, and forgive me if I don't get this entirely right. The issue is

usually about damage to fisheries and proving that. So, the submissions that people make for shooting seals or birds really need to be made as robust as possible and with the very best of information that can be mustered, because part of the process involves playing in other advisors to Ministers, such as SNH for example and others. Now, what we are left, at the end of the day trying to do, is balance all of this and it is extremely difficult. I hope we make a reasonable fist of it. No, you are shaking your head we are not. We keep trying. I suppose my message to you would be try to get as much into the original application as possible, as much evidence as possible. I saw some smiles at the fact that we have got research activities that look at the insides of seals stomachs to see what they are consuming, but that is the sort of information and evidence-gathering that we need to take, in reaching decisions. So, I would just make the plea to you to make your applications as robust as possible and we will keep trying. I hope that hasn't brought all these hands up.

Laurence Larmour - Fisheries Officer Lochaber DSFB

Given that the primary aim of fisheries legislation is to protect and conserve fish stocks for the future and not to persecute anglers, how can I, as a Water Bailiff, conserve juvenile fish stocks on Lochs which have an open season, because of the presence of escaped rainbow trout?

David Ford

I'm not sure I picked up the question in terms of.....

Laurence Larmour

Well, on a loch which has rainbow trout, anglers do not observe a closed season. Why is it not possible, for example, to designate waters as coarse fisheries, brown trout fishery, rainbow trout fishery or mixed fishery, thereby ensuring that a closed season can be observed?

David Ford

That's something we can put in for consideration or note it down.

Laurence Larmour

While I have got the mike; the chap behind me has referred to the problem with crayfish and not getting access if he threatened the landowner, who was being obstructive with obstructing a water bailiff, in the course of his duties, to protect salmon and trout stocks. I think it's under section twenty three. Also, the disturbing redds is an offence. So, I think, maybe, if he had a word with his bailiff, he could be a bit more pro-active.

David Ford

Okay – that's helpful

Dr David Mackay – Scottish Anglers National Association

If I may just return to the broad sweep of the Aquaculture Bill for a moment; no matter how laudable a code of good practice is, and it is laudable even after thirty years of the industry being formed, I speak with forty years' experience as a Regulator and no code of good practice is a substitute for firm regulation, properly enforced and seen to be enforced. These are the three legs of the stool, which you have to put together to make this work and I would be very disappointed if the code of good practice was seen as a reasonable substitute for regulation because, whether it be in farming, steelmaking or anything else, codes of good practice are fine but they need the backing of solid regulation to make them work. Thank-you.

David Ford

I think I made it clear that we don't view the code of good practice as a substitute for legislation and the legislation is there as a minimum backstop underground.

Alan Ayre – The Grayling Society

We know lot about salmon; we know a little bit about trout; we know nothing, virtually, about grayling, nor our coarse fish stocks in our rivers and the only things about data collection in this document refer to salmon returns and it would be very useful if the Executive could see their way to doing something about recording anglers' concerns about fish stocks in the future and if anglers could be persuaded to make a return to the regulator, perhaps over their concerns, it would be very useful in the future.

David Ford

That's helpful and I think the issue of information and catch statistics is very important. Probably one that's best addressed under, in some way, under the unitary authority and future management structure, when you've got the unitary authority dealing with all species and I think, in that context, the whole data issue for catch could be worked up. I think, if I can draw the session to a close and ask Gordon to wrap up

Gordon Brown

Thanks very much, David, for facilitating that last couple of hours. I think the Bill team are more expert on all these issues than I am. I think you have left us with quite a range of issues to reflect upon. I think that's one of the great benefits of having a session like this, where we can eyeball one another and there will be the opportunity to go on talking over lunch and later today. So, thank you very much for that. I think that was an excellent couple of hours and, as I say, you have left us with quite a lot to think about.