



AQUACULTURE AND FISHERIES BILL CONSULTATION

Response on behalf of the Committee of the Fish Veterinary Society

The Fish Veterinary Society (<http://www.fish-vet-society.org.uk>) is a non-territorial division of the British Veterinary Association with a current membership of 110. The Society is a forum for veterinary surgeons, fish health professionals, veterinary students and others with an interest in fish. It promotes fish health and welfare and has a stake in the health management of fish whether farmed, in public aquaria or in the ornamental sector. The diversity of membership reflects the fact that modern approaches to animal health are cross-disciplinary but that veterinarians have a unique and key role as in all livestock sectors.

Our responses to this consultation are confined to those areas in which veterinarians have a legal and/or professional obligation to animals committed to their care and where proposals might have an impact on fish health management or on the relationship which exists between veterinarians and their clients. It is important to state that when a veterinarian accepts a duty of care he/she acquires legal and ethical obligations to the animals and their owners. The actions of veterinarians in the exercise of their professional duty are subject to the Royal College of Veterinary Surgeons' Code of Professional Conduct which includes disciplinary sanctions in the event that the provisions of the Code are deemed to have been breached.

These comments are relevant in considering the implications of any individual or agency acting in a quasi-advisory role in relation to animal health or in promoting any action which may have consequences for animal welfare with potential attendant economic losses.

It is also worth pointing out that in livestock production in this country, the farmed fish sector is unique in that it is distanced from mainstream food animal production and bracketed with the hunting of wild fish while it is, in every way, an agricultural activity. This historical oddity has consequences eg the veterinary profession (practitioners and the state branch) are excluded from farmed fish health policy decisions and, importantly, fish health management as a whole is not 'joined-up' in Scotland as is the objective in terrestrial agriculture where there are close links between practitioners in the field who have frequent contact with farms, and the state branch which forms policy. Finally the 'separateness' of farmed fish from other food animals denies the industry a ready route into the considerable animal health

research resource which exists in Scotland and which serves the other livestock sectors.

It is the context of the foregoing comments [and of the conclusions of the Healthier Fish Working Group (HFWG)], that we make these responses which, while addressing specific questions, point to more fundamental issues for health management in farmed fish in Scotland and the role of Marine Scotland who have acquired by default a role normally filled by the state branch of the veterinary profession.

Andrew Grant MRCVS

On behalf of the Committee of The Fish Veterinary Society

Wednesday, 04 April 2012

CONSULTATION QUESTIONS

SECTION 1 - THE SUSTAINABLE DEVELOPMENT OF AQUACULTURE

Farm Management Agreements (FMAs)

1. Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement (FMA), with sanctions for failure to do so, or to adhere to the terms of the agreement? (Page 9)

YES

NO ✓

- *There is no doubt that collaboration amongst farms in shared waters by way of FMAs can only benefit fish health. However the mere fact that farms may be signatories to a written agreement is no guarantee of successful execution of the conditions attached. Participating companies must have complete ownership of an agreement and its content for it to operate successfully and the intrusion of an un-invited third party, who may find themselves micro-managing what are operational matters, will not contribute to successful operation of FMAs.*

Appropriate Scale Management Areas (MAs)

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

YES

NO ✓

- *The determination of the appropriate area to be the subject of a FMA is best left to the operating companies who have the local knowledge necessary to make that decision. It would be counter-productive for Ministers to intervene where the evidence to propose change is incomplete. If, as knowledge develops to demonstrate connectivity between farms where none was assumed to exist, then it is inconceivable that participating farms would fail to recognise this and act accordingly.*

Management Measures and Dispute Resolution

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

YES

NO

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

Unused Consents

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

YES

NO

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

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

YES

NO

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

Collection and Publication of Sea-lice Data

9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data? (Page 13)

This is the issue of greatest concern. Sea lice have been an area of significant investment and research by industry for decades and there is an extensive literature on the subject. This effort has informed current best practice in Scotland and there are data collection and management initiatives both at the national level and locally. That sea lice remain a serious problem is not a reflection of a lack of commitment, experience and expertise on the part of farmers and their advisors it is simply that animal parasitism is not a problem that can be `solved`.

It has been quite clear for many years the steps that are required to ameliorate the problem and the provision of data to Marine Scotland is not one of them. The proposals do not explain exactly how creating an extra layer of scrutiny will result in betterment; what additional insights, skills and experience will Marine Scotland bring to bear on the problem of sea lice? If the intention is solely to make data publically available then that should be clearly stated since there are no other obvious justifications for the proposals.

Surveillance, Biosecurity, Mortality and Disease Data

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

YES

NO ✓

- *Does Marine Scotland intend to micro-manage the industry? The volume of management data which companies collect is considerable, to attempt to create an all encompassing database would be ambitious, expensive to the taxpayer and of questionable value.*

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

See 10 above

Biomass Control

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

YES

NO ✓

- *If Ministers could have the powers to require or direct SEPA to act to address concerns about fish health and welfare then the opportunity to do so already exists ie to revisit the license constraints presently placed on the efficient use some sea lice medicines.*

Wellboats

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

YES ✓

NO

Processing Facilities

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

YES

NO

Seaweed Cultivation

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

YES

NO

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

YES

NO

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

Commercially Damaging Species

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

YES

NO

SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS

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

YES

NO

SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS

Sea-lice

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

YES

NO ✓

- *The thresholds presently used as triggers for intervention have nothing to do with the well being of the fish and everything to do with the risk of resistance to therapeutants quite contrary to the consultation statement Section 3 para 56. The need to reduce lice burdens below that necessary for the welfare of the fish exerts strong selection pressure on the lice population for resistance. This coupled with constraints on use of medicines undermines the whole effort to follow an integrated management strategy. None of this is new information.*

Containment and Escapes

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

YES

NO

Tracing Escapes

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

YES

NO

SECTION 4 - SALMON AND FRESHWATER FISHERIES MANAGEMENT

Modernising the Operation of District Salmon Fishery Boards

- *Our only observation is that wild salmonid health risk management needs to be to as high a standard as that for the farmed sector since the status of the latter could be compromised by poor standards in the former*

22. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently? (Page 29)

YES

NO

23. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries? (Page 29)

YES

NO

24. If yes, should such Code of Good Practice be statutory or non-statutory? (Page 29)

YES

NO

Statutory Carcass Tagging

25. Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout? (Page 31)

YES

NO

Fish Sampling

26. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis? (Page 32)

YES

NO

Management and Salmon Conservation Measures

27. Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders? (Page 32)

YES

NO

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

YES

NO

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

YES

NO

Dispute Resolution

30. Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures? (Page 33)

YES

NO

Improved Information on Fish and Fisheries

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

YES

NO

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

33. Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout and the fisheries in their district? (Page 34)

YES

NO

Licensing of Fish Introductions to Freshwater

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

YES ✓

NO

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

Movement of live animals is a well recognised hazard in managing animal health. Unregulated and/or unrecorded movements of any live salmonids is a hazard and should be risk assessed regardless of sector.

SECTION 5 - MODERNISING ENFORCEMENT PROVISIONS

Strict Liability for Certain Aquaculture Offences

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

YES

NO

Widening the Scope of Fixed Penalty Notices

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

YES

NO

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

YES

NO

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

YES

NO

Enforcement of EU Obligations Beyond British Fisheries Limits

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

YES

NO

Powers to Detain Vessels in Port

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

YES

NO

Disposal of Property/Forfeiture of Prohibited Items

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

YES

NO

Power to Inspect Objects

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

YES

NO

Sea Fisheries (Shellfish) Act 1967

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

YES

NO

SECTION 6 - PAYING FOR PROGRESS

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

YES

NO ✓

The proposals do not make clear what the services/benefits are, whether they are wanted by industry and what additional value would be added above that already in place through existing healthcare providers.

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

As above, the benefits to farmed salmon health and welfare from additional unspecified public sector services and activities is not clear.

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

As 46 above. If, in addition to their regulatory role, the Fish Health Inspectorate wishes to provide animal health services which are of benefit to farmers, may be legally provided and within their competence, they must demonstrate that they are desired by farmers and will not duplicate existing provision. They would also have to be adequately indemnified for any consequences arising from their actions and be accountable.