



**Environment and Rural Development Committee**

**30th Meeting, 2006**

**Wednesday 1 November 2006**

The Committee will meet at 9.30 am in Committee Room 2.

1. **Work programme (in private):** The Committee will consider its future work programme.

*Not before 10.00 am—*

2. **Aquaculture and Fisheries (Scotland) Bill:** The Committee will take evidence at Stage 1 from—

Andrew Wallace, Director, Association of Salmon Fishery Boards;

Hugh Campbell Adamson, Fisheries Bill Team, Scottish Rural Property and Business Association;

Jon Swift, Chairman, Association of Scottish Stillwater Fisheries; and

Alex Stewart, Recorder, Tay Liaison Committee;

and then from—

George Holdsworth, Scottish Policy Officer, Salmon and Trout Association;

Dr David Mackay, Environment Officer, Scottish Anglers National Association;  
and

Ron Woods, Policy Officer, Scottish Federation of Coarse Angling;

and will decide whether to consider the evidence received to date on the Bill in private at its next meeting.

*Not before 11.30 am—*

3. **Budget process 2007-08:** The Committee will take evidence on the Executive's Draft Budget 2007-08 from—

Ross Finnie MSP, Minister for Environment and Rural Development, and David Dalgetty, Finance and Central Services, Scottish Executive;

ERD/S2/06/30A

and will decide whether to consider its draft report in private at future meetings until it is agreed.

**Mark Brough**  
Clerk to the Committee  
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The following papers are attached:

<u>Agenda Item 1</u>	
Paper from the Convener <i>[for Members only]</i>	ERD/S2/06/30/1a
<u>Agenda Item 2</u>	
Paper from SPICe <i>[for Members only]</i>	ERD/S2/06/30/2a
Submission from the Association of Salmon Fishery Boards and the Rivers and Fisheries Trusts of Scotland	ERD/S2/06/30/2b
Submission from the Scottish Rural Property and Business Association	ERD/S2/06/30/2c
Submission from the Association of Scottish Stillwater Fisheries	<a href="#">ERD/S2/06/30/2d</a>
Submission from the Tay Liaison Committee	<a href="#">ERD/S2/06/30/2e</a>
Submission from the Salmon and Trout Association	<a href="#">ERD/S2/06/30/2f</a>
Submission from the Scottish Anglers National Association	<a href="#">ERD/S2/06/30/2g</a>
Submission from the Scottish Federation of Coarse Angling	<a href="#">ERD/S2/06/30/2h</a>
<u>Agenda Item 3</u>	
Extract from Scottish Executive <a href="#">Draft Budget 2007-08</a>	ERD/S2/06/30/3a
Extract from Scottish Executive document, <a href="#">Efficient Government: Efficiency Outturn Report For 2005/06</a>	ERD/S2/06/30/3b
Extract from Scottish Executive document, <a href="#">Draft Budget 2007-08 - Final Report on Spending Review 2002 Targets</a>	ERD/S2/06/30/3c
Briefing note from the Scottish Executive	<a href="#">ERD/S2/06/30/3d</a>
Guidance from the Finance Committee	<a href="#">ERD/S2/06/30/3e</a>
SPICe Briefing 06/77 – <a href="#">Draft Budget 2007-08 Environment and Rural Development Committee</a>	ERD/S2/06/30/3f
Paper from SPICe <i>[for Members only]</i>	ERD/S2/06/30/3g

**SUBMISSION FROM THE SCOTTISH RURAL PROPERTY AND BUSINESS  
ASSOCIATION**

**INTRODUCTION**

The Scottish Rural Property & Business Association (“SRPBA”) is grateful for the opportunity to provide written and oral evidence to the Committee during its stage 1 examination of the general principles of the Aquaculture and Fisheries (Scotland) Bill (“the Bill”).

The SRPBA represents the interests of around 2500 land managers in Scotland. Perhaps unlike most other stakeholder groups that will provide evidence on the Bill, the Association represents those with both fish farming and freshwater fisheries interests. In relation to the latter, the Association has taken an active role on the Freshwater Fisheries Forum Steering Group which assisted the Scottish Executive in the process of producing the Bill.

The Association is supportive of the general principles of the Bill although we do have some concerns regarding a few of the provisions.

**PART 1 – FISH FARMS AND SHELL FISH FARMS**

The SRPBA is supportive of the Bill’s approach to control of parasites and containment/escape on fish farms and shell fish farms. The policy memorandum indicates that the Bill will underpin the current voluntary approach to regulation and that the Bill will provide a “backstop” where voluntary measures are not succeeding. This is the correct approach. It is important that there are robust remedies in place to deter and control those who are not prepared to follow the voluntary route.

**Information**

It is generally welcome to have more openness and sharing of information for the specific purposes of prevention, control and reduction of parasites and containment/prevention of escapes. Indeed any catch information already gathered for freshwater fisheries could also be useful in this regard. This should be used in combination with information on catches already collected each year by Fisheries Research Services (FRS), and should be assembled on a catchment or river basis to make such information more meaningful.

**Definition of Parasite**

The SRPBA agrees with the Bill’s approach and if other species are identified it is right that Ministers should have a power to extend the definition.

### **Penalties**

The Association believes the scale of penalty (level 4 fine) is appropriate and consistent with existing legislation.

### **Code of Practice**

The SRPBA believes that the existing voluntary code which was developed with consensus within the industry and with input from other stakeholders should be used to form the statutory code. The Code of Conduct, and any subsequent alteration must have the support of the industry and other stakeholders.

### **Enforcement**

The Association believes that enforcement and frequency of inspections should be risk based and proportionate and recognise the place of the code. They should be sufficiently frequent to reassure but not so numerous as to be overtly disruptive.

It is also important that inspectors should be appropriately qualified in order to ensure they have the respect of the industry, and the Bill makes no recommendation in this regard. The FRS currently provides expert scientific and technical advice to Government on marine and freshwater fisheries, aquaculture and the protection of the aquatic environment. Their role could be expanded to take on the inspectorate duties, perhaps with input from appropriately qualified representatives from the State Veterinary Service (SVS).

### **Escapes**

It remains a concern of the SRPBA that escapes from fish farms can have an impact on, and could be highly damaging to, wild fish stocks, and that some escapes are preventable. The Bill does attempt to address this issue by allowing enforcement notices to be served on fish farm operators if inspections show that insufficient precautions are in place to contain fish stocks. An alternative approach would be to align escape of farmed fish with escape of other animals. The Animals (Scotland) Act 1987 for example creates duties of care upon keepers of animals on land. Whilst there is no case for the creation of strict liability in the fish farming context (as there is not the same concern about public safety) a statutory duty of care, with reasonable defences where appropriate, should be considered. The SRPBA acknowledges that in the main fish farmers have no desire to see escapes and that some escapes may occur despite all necessary precautions due to uncontrollable events or other unforeseeable risks such as weather.

## **PART 2 – *GYRODACTYLUS SALARIS*: CONTAINMENT AND TREATMENT**

The SRPBA acknowledges the very serious threat posed by Gs. Whilst we welcome the proposals in the Bill for dealing with spread of the disease, we believe that greater efforts must be made to prevent the disease entering the UK in the first place and would support the comments made by the Association of Salmon Fisheries Boards in this regard.

On the issue of compensation the SRPBA believes that the Bill should clarify that the Scottish Ministers have a duty to compensate rather than, as presently drafted, a discretion (see section 19). There is no reason why this issue should be treated differently to compensation on the destruction of livestock for disease prevention and control. We accept that the detail of such compensation should be left to secondary legislation to allow the necessary flexibility.

### **PART 3 – FISHERIES**

Again, the SRPBA broadly welcomes the provisions in this part of the Bill but has a few areas of concern.

#### **Multiple Rods**

We have a concern regarding the legitimisation of multiple rod use. Whilst we appreciate that in some areas this is common practice we concur with the concerns raised by the Association of Salmon Fisheries Boards on this issue. Resourcing of enforcement is also an issue which is not adequately addressed.

#### **Close times**

The SRPBA accepts the principle of creating close times for freshwater fish and agrees that this should assist in conservation of stocks. For consistency and simplicity we believe that the close times for all fish should be fixed in a similar manner i.e. through secondary legislation. There is an anomaly in that the close time for brown trout will remain specified on the face of the 2003 Act.

#### **Conservation measures.**

We welcome the provisions in section 25 regarding conservation if the purpose is to align regulation of freshwater fishing with salmon fishing. “Freshwater fish” for the purposes of this section has the meaning assigned to it in the 2003 Act which means any fish living in freshwater but excluding only salmon and any migratory fish.

Consideration should be given however to how 25 (7) will fit with the existing constitution of Area Salmon Fishery Boards under the 2003 Act. These Boards appoint the bailiffs and there may be an issue about funds of the Boards being used to deal with freshwater fish. There is also the possibility of a conflict of interest for the bailiffs. It would need to be clarified whether they are expected to report to the area/district Board or to the Scottish Ministers or both.

### **PART 4 – MISCELLANEOUS**

#### **Compensation**

As indicated above in the context of compensation for destruction of fish in the event of outbreak of Gs, the SRPBA believes that in section 29 it should be stated that Scottish Ministers have a duty to compensate, not merely an option.

### **Unauthorised introduction**

The 2003 Act is amended to create a new offence of intentionally introducing live fish to inland waters. The term “fish” is not a defined term in the 2003 Act and in the event that similar provisions do not exist elsewhere for shellfish, consideration should be given to adding shellfish to this provision explicitly.

### **Information about fish farming and shell fish farming: economic, social and environmental aspects**

Whilst we appreciate that having information for these purposes would be useful for Government, we are concerned that this section is too woolly. The type of information which may relate to the “economic, social and environmental aspects” of fish farming or shell fish farming is not clear. Businesses will generally be reluctant to incur the additional costs of having to provide additional information where it is not seen to be directly related to the wellbeing of the business or the industry.

## **SCHEDULE**

### **Protection orders**

Some amendments are made to the process of obtaining a Protection Order, which are welcomed, but it is disappointing that the Executive was not in a position to take forward in this Bill the recommendations of the Scottish office Task Force Report on Protection Orders from 1998, particularly in relation to conservation issues.

The Bill proposes that Scottish ministers can require a local inquiry if there is local opposition to a variation of a Protection Order (paragraph 5, page 23). It is not clear what is meant by a local inquiry in this context and this should be clarified. Any inquiry should be limited to the relevant catchment area or part thereof and should be carried out in the context of availability of trout fishing in the area of the original Protection Order. Protection Orders should balance conservation with access.

The Policy Memorandum accompanying the Bill states that “Scottish Ministers have made it clear that the system of protection orders will be revoked” once new management structures are developed. The SRPBA believes this is premature until a consultation with the industry has taken place specifically on this issue to ascertain the relative strengths and weaknesses of the current system and until fully integrated fishery management plans have been developed.

## SUBMISSION FROM THE ASSOCIATION OF SCOTTISH STILLWATER FISHERIES

Further to our submission on the Consultation of the Aquaculture and Fisheries Bill (June, 2006) we would like to thank you for giving the Association of Scottish Stillwater Fisheries the opportunity to act as witness to the Committee on 1<sup>st</sup> November, 2006.

In general the ASSF welcomes the initial response to the consultation. However, there are points that we feel we have to raise, and these are listed below:

**Part 3.1; *Gyrodactylus salaris* (GS) Paragraph 57;** we welcome the proposal to provide an enabling power ***to establish a scheme to make payments to those parties who suffer losses as a consequence of Scottish Ministers exercising their powers in relation to all aspects of GS in the Bill.***

The ASSF asks that such a scheme should take into consideration all relevant losses, both direct and indirect (if applicable), as a consequence of such action.

The ASSF asks that the Committee should consider extending this part of the Bill to include *other* novel diseases and parasites to protect fisheries in the future.

The ASSF is a strong supporter of this proposed Aquaculture and Fisheries Bill and greatly appreciates being involved at an early stage of its consultation. We look forward to attending the Scottish Parliament and continuing this close relationship.



SUBMISSION FROM THE TAY LIAISON COMMITTEE

**Gyrodactylus salaris**

It is important to have measures in place to respond to an out-break. Preventative procedures such as the complete disinfecting of all equipment, including anything connected with water sports, which has been used abroad, and any equipment being brought into the UK. Some form of certificate from an authorised disinfecting centre whether at the point of entry, or from an accepted procedural agreement with another country, would be necessary. Perhaps a disinfecting at point of entry may be more easily controlled? The alternative may be the production of a certificate before being allowed to launch any type of vessel, or be issued with a permit to fish.

On the suspicion of an out-break, procedures for confirmation would require a suitable, but brief time scale, during which all angling, and other water related access should cease. On confirmation it would depend on the location of the fishery and the adjacent fisheries what immediate steps should be taken.

A loch, which is self contained and a put and take fishery with restricted in and out flow, would be an example when treatment could be fairly immediate. There could be treatment along the in and outflow streams for a suitable distance determined from out-break confirmation tests, and barriers could be fairly easily put in place.

A river system with inter connected lochs is an entirely different prospect. If an out-break was confirmed close to the headwaters, it would be safe to assume that the entire system was infected. If an out-break was confirmed close to the tidal water this would cause a different problem in determining quickly the extent of the infection, and any treatment would still effect the remainder of the system.

Migratory fish can travel long distances in the right water conditions, some being caught with full sea lice attached 50 road miles from salt water, so barriers would have little or no effect on a major river system, except perhaps for preventing further fish from entering the treated water.

Self contained purpose built fish farms with controlled water supply and holding pools would be more easily isolated and the extent of any out-break better controlled. However holding nets or ponds, which are sited in, or beside inland lochs, or make use of inland waterways for fresh water supply, would cause greater problems in containment and treatment.

How would the movement of fish eating wild life in a contaminated water system be controlled? Could Herons or similar which carry fish to feed young be instrumental in spreading the problem to unaffected water courses?

Perhaps an example could be taken from the Foot and Mouth measures on access to areas under investigation. To chemically treat an entire river system, as has been carried out elsewhere is a massive undertaking. Large lochs would be more difficult to treat as has been the experience in Norway. Recovery after being given the all clear would be lengthy and require costly monitoring. Norway seems to be the only country which treats an entire system, and it has been found not always to be completely satisfactory.

Sea Loch rearing facilities and hatcheries, if infected could be subject to more immediate confirmation and treatment, being more isolated, but checks on any river close by would be required.

Compensation could depend on market prices for destroyed stock, in a commercial operation. Loss of earnings from letting or leasing beats could be a question requiring guidelines. The time period before clearance is given would also require to be taken into account.

### **Amendments to Rules on Access**

There is no provision in the proposals for the setting up of a form of management structure. Therefore it must be surmised from the clauses contained in the Bill, that existing and any future committee is to be bound by them. It is necessary to make sure there are clear definitions on the membership and powers of a management committee.

Liaison Committees must be mandatory with mandatory powers. There is the opportunity to give these committees real teeth and powers under statute to enforce the principals under which Protection Orders are granted. All committees should have their core representatives from those organisations who represent angling organisations and riparian owners, on the system, together with representatives from environment groups, migratory fish interests, and any other body which accesses the waters within the system. No single group interest should have control. There must be a constitution approved in committee.

Proposals for applying for an order can, with modern technology, can be wide spread on suitable sites on the web. Publicity in the press with meetings open to the public, being advertised in local papers during the build up to the application would bring this to the attention of everyone in a system. The final notice of application could be in local papers and a minimum of two broad sheets, as well as on the web.

Presently the boundaries of the system applying for an order are defined, and if it is granted then all waters and beats are covered by the order. Provision is made in the proposals for exempting defined sections from access for reasons of privacy, safety, and the environment where specific orders are in place to protect such as SSI or similar, or where there is a need for conservation or development programmes. Under the terms of agreement from each riparian owner are defined the number of rods, times and methodology. This framework is the base line from which any management committee can not retreat, only advance in access and improvements. Cost of permits is also defined with usually annual reviews, but there is an obligation to prohibit excessive charges.

Once the order has been granted, it is then that mandatory powers are required to be available to the committee to correctly manage, administer and monitor an order. These are listed as follows, and have been assembled from hands on experience.

1. Access agreements with riparian owners to freshwater fishing, should be legal and binding, and transferable with the sale of property. The document must be part of the legal package of land deeds.
2. Once an agreement is reached for the establishment of an application, and that submission succeeds, then this is the bench mark for progressing to improve in the following years.
3. There should be a review clause for each agreement, but it must be clear that this is entirely separate from any lease agreements with a third party.

4. No alterations to the access terms may be made by any party, with out full consultation prior to any changes being implemented, and after being approved by the committee.
5. It should be mandatory to have all requests for annual returns to be made by the agreed date. Failure to comply should carry a statutory charge.
6. There must be an annual report presented at an AGM, and available to any interested party.
7. All meeting of committee must be in public with perhaps a part in the proceedings when other party's views or questions can be heard.
8. Appointed Wardens must have training and revision meetings and approved in committee prior to their appointment.
9. The committee should carry out monitoring.
10. If after full investigation it is found that any group, or individual, is continually miss using the access to fish, they or the individual should be publicly identified.
11. If a riparian owner is ignoring the agreed access, or is not providing the facilities to fish then that beat should be considered for being removed from an order, after all avenues of consultation have been explored.
12. Wardens should have stronger powers to put illegal anglers off beats when they are not complying with either having permission to fish, in writing, or not following the allowed methods.
13. All anglers must purchase a permit before starting to fish.
14. Confiscation of angling items could be considered with Police involvement, and on payment of a suitable fine to the committee, items could be released. Provided legal action is not pending.
15. The reporting of all miss demeanours must be backed by documentation.
16. The fixing of notices with suitable wording should not be subject to any other legislation but defined in size under a clause in the Bill.
17. Funding should be financed from a levy on permits sold payable with the requested returns and set each year at the AGM. A budget should be prepared
18. There would require to be funding from the executive until a management structure is sufficiently established. There should be a suitable number of full time officials to deal promptly with administration and monitoring.

### **Fish Movements**

All live fish movements into, out of and around a protected system must be advised in advance to the management. The source of the fish and destination will require approval, and production and inspection of certificates from the source essential.

Management and stocking programmes within the protected catchment, involving live fish from the same system, should be subject to the same regulations.

Ornamental fish movements and movement of none native species should be subject to the same regulations.

### **Miscellaneous Amendments**

Rod Rests are presently used when trolling with lures for migratory fish on lochs or harling on rivers. Some fishing deeds allow three others four rods with rests regardless of how many anglers are in the boat. Three seems to be a fair number if this is to be defined for this type of fishing. Ferox Trout fishing by boat uses the same methods. Bank fishing should be with one hand held rod, using fly or lures. Ledgering, for salmonids, is an accepted method of

fishing and the use of a single rod rest could be allowed. Deliberate trolling for trout should not be permitted.

Rod rests are used by coarse anglers and have become very sophisticated with bait indicators etc. Again three in use at any one time by a single angler seems a fair number, whether fishing from a static boat or the shore. Deliberate trolling should not be allowed for coarse fish.

Specific mention should be made on methods for disabled anglers.

Local fishery rules could be framed round the above but not the use of more rods than defined.

Consideration should be given to recommending barbless hooks being used for certain species or during certain months when spawning takes place. Perhaps through local management.

It should be made clear that setline fishing is prohibited, and can be defined as leaving a rod with bait in the water unattended to be retrieved later.

### **Use of Live Vertebrates as Bait**

Totally ban the use of live vertebrates. Pike angling is mostly with dead marine species or bought packaged bait.

### **Use of Gaffs, Tailors, Pike Gags and Landing Nets with Knotted Mesh**

The availability of knotless landing nets makes the use of the above items outmoded and a ban can only assist with the safe return of all undersized fish or catch and release.

### **Foul Hooking**

Define as deliberately catching fish by means other than enticing to take artificial flies, baits or lures by mouth, and make it illegal.

### **Close Times**

Migratory fish have by natural selection differing spawning seasons on separate rivers. The closed season should be left to local management.

Brown Trout do have a much narrower period for spawning, but require sufficient time to recover and therefore the present close season seems appropriate.

Grayling are not found in all systems or throughout systems where they are found. Local management should determine any closed season.

Most coarse fish spawn during the late spring, but local knowledge will be able to determine exactly when each species spawn. Pike are the main species of coarse fish, which are fished for during the winter months. The accepted closed season for spawning and recovery is the month of May on some waters and seems to suit.

The present no fishing rule for migratory fish on a Sunday works very well and allows freshwater anglers access to some beats which it may be difficult to fish on any other day due to being booked.

## **Eradication of Fish or Adversely affect their Environment**

There must be control on the removal of any species and any action, which may disturb the habitat.

There may be occasions when the removal of fish is considered necessary for specific reasons caused by actions out with normal circumstances, or to carry out specific scientific work. Dredging and gravel removal should be addressed, and diversion of watercourses. A clause for considering reasons for such a proposal would be better rather than any prohibition clause.

### **General**

There should be no obstruction of the passage of fish upstream to spawn, passes must be provided where necessary. At the same time there must be no obstruction or activity to prevent fish, which do not move up stream to spawn but move into reeded areas at loch edges or into the lower reaches of rivers. Perhaps the wording for extending the definition of Fish should include all native species.

**Agenda Item 2**

**Environment and Rural  
Development Committee**

1 November 2006  
ERD/S2/06/30/2f

**SUBMISSION FROM THE SALMON AND TROUT ASSOCIATION**

The Salmon and Trout Association wishes to provide a written submission to the call for evidence for the above Bill.

The Salmon and Trout Association is the UK's largest membership organisation relating to game fish and their environment and represents the views of over 100,000 anglers, fishery owners, managers and affiliated trades.

Whilst we support the majority of provisions in the Bill, we believe that there are a number of areas where it could go further to help enhance, protect and promote Scotland's unique and world-renowned wild fish resource.

It should be remembered that freshwater fisheries (both coarse and game) contribute significantly to the Scottish rural economy and, more importantly, have a massive potential for development and expansion. At present, published figures show that anglers (from UK and abroad) contribute significantly to the Scottish economy (£113 million per annum would actually be lost to the economy if angling were to cease, although the annual turnover is much greater than this). The angling industry also supports over 2,800 full time equivalent jobs (plus tens of thousands of volunteer workers) and generates nearly £50 million in wages and self-employment income. It is generally accepted, within the freshwater fisheries industry, that there is massive potential for self-sustainable expansion of the industry with a resulting significant increase in angler spend and job creation in rural areas.

It is therefore of the utmost importance that the provisions within the Bill are effective, meaningful and backed by adequately financed resources so that they do not hinder this potentially very significant, self sustaining expansion of the freshwater fisheries industry in Scotland.

**1 Aquaculture**

We believe that it is absolutely essential that the proposed aquaculture inspectorate, as outlined in the Bill, is given a very clearly defined and very strong enforcement role to enable it to deal with wayward operators. Of particular importance is the need for strong and significant penalties where appropriate. However, this means that the inspectorate must have adequate practical and financial resources.

## **Section 1:7-8 Code of practice for escapes and parasite infection**

We strongly welcome the proposals for an enforced code of practice to deal with fish farm escapes and parasites. It is not possible for us to comment in detail without knowing what the code will actually contain. However, we are very disappointed that the Bill does not confer a liability offence on operators where escapes occurred due to proven negligence. It is an accepted fact that escapes from a fish farm can cause serious damage to wild stocks, and a resulting loss of income and jobs to the freshwater fisheries industry and Scotland as a whole. Escapes are known, for example, to contaminate the genetics of unique wild stocks, spread disease and often, in the case of freshwater escapes, predate to a significant extent on the wild fish that are present. We strongly believe that the Executive should reconsider its position on this extremely important issue.

Whilst seawater to seawater aquaculture transfers are to be dealt with through subordinate legislation, we are extremely concerned that transfers between freshwater to freshwater and freshwater to seawater are not to be regulated. We believe that such regulation is absolutely vital and urge the Committee to question the Executive on this matter.

### **2 Gyrodactylus salaricus (Gs)**

We see Gs as potentially one of the greatest ever threats to freshwater fisheries in Scotland and the UK as a whole. There is no question that if Gs became established in Scotland it will cause irreparable damage to both salmon stocks and the whole of the angling industry in Scotland. It is not over stating the case to say that its introduction would probably cause the near total collapse of angling in Scotland both as a local and tourism resource. If Gs became established in Scotland's major river catchments then it is highly unlikely that it would ever be eradicated due to the physical nature of the waters. We therefore urge the Executive to fully implement the measures outlined in the Bill without delay. A very strong preventative programme and, especially, proper levels of monitoring and enforcement are needed to back these measures up. Because of this, it is absolutely essential that the Executive makes available sufficient financial and practical resources to allow the necessary actions to be taken as soon as possible.

### **3 Fisheries**

Over all we welcome the proposals contained in this section of the Bill. However, we are very disappointed by the fact that there is no reference to the ban on sale or purchase of monofilament gill nets, which currently have no legitimate use in fisheries in Scotland. It is well known that this type of net is regularly used for illegal fishing activities throughout Scotland and, apart from their impact on the valuable wild fish resource, there is often a by-catch of protected and rare animals, such as otters and dolphins.

We have been told that the reason for not banning their sale or purchase is that the EU requires the Government to enable Scottish net manufacturers and producers to trade freely with other EU countries. We do not see how the banning of the sale or purchase of monofilament nets **within** Scotland would affect the manufacturer's ability to **export** to other EU countries. We therefore urge the Committee to raise this matter again with the Executive.

We welcome the amendment to the Protection Order legislation but believe that it would be premature to be talking about revoking the legislation in the future. Where the present system has failed (and we believe the instances of this are far less than is assumed) then we fully support the idea of making sure that such abuses are stopped. However, we believe the present legislation has many strengths (a view strongly supported by proprietors/clubs that are covered by Protection Orders) and that it provides a solid framework to build on. Discussions within the Fisheries Forum and Fisheries Forum Steering Group have demonstrated that many of the criticisms of the present system are unfounded or based on a misunderstanding of what is actually happening on the ground. This is particularly so with regard to available access, where the reality is that there is massive availability and huge numbers of permits are going unsold at any one time. Where there are problems (and they do exist, especially with regard to coarse fishing) then these can usually be solved at a local level.

We strongly believe that any future changes to the Protection Order system should be a move from the present situation (where increased general access is seen as a fundamental) to a new system based on **sustainable** access. We see this as essential for the future well being of our wild fish communities and for angling in general.

We would be grateful for any responses to the points raised above and would be very pleased to be allowed to submit oral evidence on the bill in due course.



**Agenda Item 2**

**Environment and Rural  
Development Committee**

1 November 2006  
ERD/S2/06/30/2g

**SUBMISSION FROM THE SCOTTISH ANGLERS NATIONAL ASSOCIATION**

Scottish Anglers National Association Ltd. is of the opinion that there should be no further dilution of the initial aquaculture proposals in the Bill. We very much appreciate the invitation to give oral evidence on Wednesday, 1<sup>st</sup> November, and are pleased to make the following final submission as requested.

**GYRODACTYLUS SALARIS**

SANA totally agrees that all the proposals in this section are necessary and recognise that should prevention fail very severe measures will be required if GS does reach Scotland. However, there are other circumstances where equally severe measures will be required. It is not impossible that, in future, other parasites and diseases may require similar responses and the opportunity should be taken to make the new legislation cover such eventualities. In particular it is noted that it is proposed that the Scottish Ministers purchase land in Scotland compulsorily for the purpose of dealing with GS. {5A (3)} That will make it possible for the Scottish Ministers and their agents to gain access where a landowner wishes to restrict same.

**PARASITE CONTROL**

The parasite Argulus should be included in the "parasite list". This request is justified by the recent confirmed discoveries of the presence of this parasite in Lindores Trout Fishery in Fife, for the second time in two years, and also in the River Ayr. The ever increasing numbers of fish movements into Scotland correspondingly increases the risk of transmission of this parasite and consequently requires serious measures to prevent further introduction and eradicate it.

**NORTH AMERICAN SIGNAL CRAYFISH**

The continuing spread of this alien species is of great concern. Since their initial discovery in Kirkcudbrightshire in 1995, they have spread throughout the country and are now present in the Clyde, Tweed and Tay catchments, in Fife, Angus and the Lothians. It should be noted that Volunteers on the Clyde have so far disposed of 70,000+ of these creatures, which consume plants, animals, fish eggs and fry, and also cause immense damage to river banks. Prevention of further colonization is imperative, but eradication, however difficult, must be our eventual goal. Two landowners, one in Lanarkshire and one in Angus, are restricting access. There is a strong case to enable compulsory access in those circumstances.

Chinese Mitten Crabs may create similar problems in the future.

## REGULATOR

The replacement of the term "Regulator" with that of "Inspector" is, in our opinion, an error of judgment. All facets of business/industry are subject to regulation, so what is so special about the Salmon Farming Industry? The well being of Scotland's Marine and Freshwater Environment and our Wild Migratory Stocks is at stake and, therefore, a proper regulatory and policing system is required.

## CONTAINMENT

The removal of the "Strict Liability Offence" in relation to fish farm escapes is also, in our opinion, an error of judgment, which is highlighted by the recent discovery of hundreds of escapees, some in excess of 12 pounds, in weight in the River Leven and latterly Loch Lomond. Other escapees have recently been discovered in Loch Sunart and the River Carnoch on the Ardnamurchan Peninsula. Initially no one admitted responsibility for the River Leven and Loch Lomond escapees, but it has now been determined that they originated from an earlier escape from a Loch Striven facility in March. The origin of the Ardnamurchan escapees is presently unknown. Research has shown that the genetic integrity of our wild stocks is seriously damaged by the introduction of farmed salmon into our river systems. Without the "strict liability offence" successful prosecution and hence proper policing of escapes is impossible.

## MONOFIL GILL NETS

We have received plausible explanations why the question of a ban on the sale or supply of monofil gill nets, the use of which is illegal in our waters, was not addressed. However, surely if their use is illegal, their purchase, in the home market, can only be for illegal purposes and the legal loop-hole should be closed.

## FISH FARM RELOCATION

SANA has grave concerns regarding the decision not to legislate for the closure of fish farms for the purpose of re-location. That the "clear public interest" cannot be defined may be quite correct, but the interest of our aquatic environment and wild migratory stocks, which is paramount, could be easily defined, in our opinion.

In 2002, Norway protected the country's most important salmon stocks by banning salmon farms from 34 salmon fjords and salmon rivers (out of 405 wild salmon areas). The Norwegian Parliament is now proposing to increase the protected areas to over 50. In light of the decimation of west coast migratory fish stocks surely legislating for re-location is not only desirable but an absolute necessity.

## FISHING BY ROD AND LINE

SANA is satisfied regarding the basic definition including the number of rods and manner of use for each discipline. However we suspect there could be a bailiffing problem with unscrupulous anglers - seeking trout and migratory fish – using four rods under the guise of being legitimate coarse anglers. There is no objection to coarse anglers using multiple rods, but such illegal use raises the spectre of “gut-hooked” fish, which precludes survivable release. This problem will only arise in joint game and coarse fisheries, but should not in designated game or coarse fisheries.

## SUBMISSION FROM THE SCOTTISH FEDERATION FOR COARSE ANGLING

I am submitting the attached paper by way of evidence concerning the current Aquaculture and Fisheries (Scotland) Bill to the Environment and Rural Development Committee on behalf of the Scottish Federation for Coarse Angling (SFCA).

SFCA is the governing body for coarse angling in Scotland. Coarse angling is the sport of fishing for freshwater species other than salmonids. In Scotland, the most widespread coarse fish species are pike, perch, roach, carp, tench and bream; although there are also localised populations of other species such as rudd, dace and chub that are of interest to anglers where they exist.

SFCA's members include all the significant Scottish coarse angling clubs, covering the full spectrum of coarse angling pursuits. SFCA promotes and facilitates the coaching of young anglers; organises competitive coarse fishing in Scotland; manages the Scottish international match team; and maintains the Scottish record fish list for coarse species. Several of our member clubs run their own fisheries, and SFCA itself is also actively involved in fisheries management through participation in certain scientific Fisheries Trusts, and in the Lowlands Canals Angling Partnership which manages angling on the Forth & Clyde and Union canals. We represent coarse angling interests in dialogue with other stakeholders at national and catchment level, among other things by participating in the Freshwater Fisheries Forum Steering Group (and its management structures sub-committee) and in the Angling Tourism Development Group.

### **INTRODUCTORY NOTE**

SFCA submitted a full response to the consultation paper that preceded the Bill, commenting on all of the proposals put forward at that time. Our evidence for the Committee concentrates on the aspects of the Bill that have the greatest impact on coarse fish populations or coarse angling. Should the Committee wish, we will be happy to amplify our position on any of these or other matters contained in the Bill.

We have structured our submission to follow the order in which items appear in the Bill, and all references correspond to the relevant sub-headings and paragraph numbers in the text of the Bill.

### **PART 1 - FISH FARMS AND SHELLFISH FARMS**

We do not propose to comment on this part of the Bill, which mainly concerns aquaculture carried out in the marine setting and primarily affects salmonid populations. We are aware of, and support, the views of the main angling and fisheries management bodies who have a direct interest in the issues concerned.

### **PART 2 - *GYRODACTYLUS SALARIS*: CONTAINMENT AND TREATMENT**

We do not propose to comment in detail on all aspects of this part of the Bill, but we would wish to voice our concern over the provisions that would allow for large scale eradication

of all species in rivers or catchments where an infestation of GS is detected. We appreciate that the power to apply selective eradication of affected species may have to exist as a last resort. However, that power should not extend to the eradication of stocks of species that are neither affected by nor capable of hosting GS. Nor should it apply to waters within a catchment that are not connected to the river in which the affected salmonid population lives. Stakeholders – including coarse angling interests – must be fully consulted when deciding the measures to be applied in the event of a particular outbreak, and such decisions must start from a presumption that eradication will *not* be the default approach. The implementation of appropriate containment measures is infinitely preferable and we believe that this will suffice in most situations. Where collateral damage to unaffected species, whether wild or introduced, cannot be avoided altogether, it must be kept to an absolute minimum.

### ***Para 19: Scottish Ministers' power to make payments***

We support this measure, but we submit that Ministers should not merely have the *power* to make in compensation for eradication carried out under the GS but be under a statutory *obligation* to do so. Such payments should be calculated by reference to the full current replacement value of the stocks destroyed, and must be available to angling clubs who manage waters on a voluntary basis as well as proprietors who operate fisheries for commercial purposes.

In this context we would wish to point out an inaccuracy in the Financial Memorandum. Para 142 of the Explanatory Notes indicates that the Executive does not envisage that eradication or containment activities would bring any additional costs to bodies, individuals or businesses over and above any costs they may already face as a result of the presence of GS. This may be true of migratory salmonid fisheries, but it is patently untrue in respect of coarse fisheries. Coarse fish are not susceptible to GS, and thus the *only* costs faced by coarse fisheries in the event of an outbreak would be those directly arising from the loss of fish through eradication and the loss of business through containment measures.

## **PART 3 - FISHERIES**

### ***Para 20: Use of gaff, tailer or landing net***

We welcome the measures proposed. They provide essential legislative underpinning for the practice of catch-and-release, which we wholeheartedly support. We have no suggestions for amendments to the text of this part of the Bill.

### ***Para 21: Rod and line***

We particularly welcome the measures proposed to amend the statutory definition of 'rod and line'. This is essential for coarse anglers in Scotland. To pursue our sport we need to be able to employ techniques that involve setting the rod in rests rather than holding it in the hand; and to be able to use more than one rod simultaneously where appropriate. These are appropriate methods for coarse angling and entirely legal in almost every country in the world. They pose no conservation risk.

We also welcome the new definition of 'foul-hooking' and support the Bill's aim of eradicating this practice. It has no place in any legitimate form of angling.

We have no suggestions for amendments to the text of this part of the Bill.

***Para 22: Prohibition against using pike gags and certain keepnets***

We welcome the measures proposed. Pike gags are unnecessary and can be lethal – they have no place in modern angling practice. Properly constructed keepnets are essential to allow competitive coarse anglers to practice catch-and-release, but knotted or metallic mesh is damaging to fish and should rightly be prohibited. We have no suggestions for amendments to this Para.

In addition to the measures set out in Paras 20 and 22, we would invite the Committee to consider adding provisions to prohibit the sale, possession and use of monofilament gill nets (with the exception of tightly regulated use of properly designed multi-panel sampling nets by bona fide scientists in appropriate circumstances) in any freshwater context. These have absolutely no legitimate use in the freshwater environment, and are the “weapon of choice” for inappropriate culling and poaching alike.

***Para 23: Close times for freshwater fish***

We make no comment on whether the measures described in this paragraph ought to be implemented in respect of any salmonids for which such close times do not presently exist. Insofar as they affect coarse fish species, however, we do not support the measures presently set out in the Bill, and would urge the Committee to make substantial amendments.

The Bill would insert two new sub-sections into Section 17 of the 2003 Act. The first of these, proposed as Section 17A, would give Scottish Ministers the power to establish weekly close times in respect of fishing for freshwater fish, mirroring powers that already exist in respect of fishing for migratory salmonids. Weekly close times for migratory salmonids may be a logical and effective conservation measure. Angling and commercial netting for those species is largely based on intercepting fish as they move from the sea to spawning grounds some distance further up the river system. Weekly close times can allow a proportion of the fish entering the river to make that journey unhindered so that the spawning population is maintained. Coarse fish, however, do not migrate through river systems in this way to spawn. They tend to breed in still or slow-moving water, and only move onto their spawning grounds – generally in shallow or weedy water adjacent to where they live through the year – immediately prior to the act of spawning. As a consequence, coarse angling does not exhibit the ‘interception’ dimension that characterises most fishing for migratory species, and thus weekly close times are neither necessary nor likely to be effective as a means of preserving spawning populations. The powers described in the proposed Section 17A are therefore irrelevant to coarse fishing, and we submit that this part of the Bill should be amended to exclude coarse species accordingly.

The proposed Section 17B of the 2003 Act would give Scottish Ministers the power to establish annual close times for freshwater fish other than trout. We have no view on whether such close times ought to apply for salmonids such as char or grayling, but there is no evidence of any conservation need for any national, regional, or species-specific close season for coarse fish in Scotland, and no benefit to be gained by such a measure.

Bearing in mind that all coarse angling is carried out on a catch-and-release basis, populations of wild coarse species such as pike and perch appear in general to be sustainable in the face of current and foreseeable levels of year-round angling, although localised pressure points may exist. On the other hand, stocks of species like carp that seldom reproduce successfully in Scotland need to be replenished periodically regardless of whether a closed season was in force.

Even if it was desirable to establish close seasons for some coarse fish, there is little chance of consistently identifying the appropriate time of year for this. Every coarse species spawns at a different time in the first six or seven months of the year, and in Scotland the time chosen by each species can be unpredictable - owing more to water temperatures than the conventions of the calendar. Spawning times for the same species often vary significantly between waters, even those in comparatively close proximity to each other.

With the benefit of detailed scientific data it may be found that there are grounds for localised restrictions to protect sensitive spawning sites for particular coarse species on some waters at certain times of year. However, national legislation is too blunt an instrument for that purpose. Conservation needs can more effectively be addressed by the adoption of appropriate rules by the individual fisheries concerned. We therefore submit that this part of the Bill should also be amended to exclude coarse species.

If the Committee is not minded to accept our submissions to exclude coarse fish from the provisions in one or both aspects of Para 23, we would nevertheless ask that consideration be given to amending item (6) of the new sub-para 17A and item (7) of the new sub-para 17B. Both of these items say "An order under subsection (1) may specify that the effect of the order is applicable only to a particular part or area of Scotland". In each case we submit that the text should clearly provide for the restriction in question to be applied not just to an entire area or catchment but, where appropriate, to a single river or loch, or to a designated part of a single river or loch.

#### ***Para 24: Exemption from certain offences***

We have no comments or suggestions for amendments in relation to this Para.

#### ***Para 25: Freshwater fish conservation regulations***

In principle, we welcome the provision for Scottish Ministers to make Regulations for the purpose of the conservation of freshwater fish. We do not however agree with the statement in Para 50 of the Policy Memorandum that suggests this can substantially be achieved by giving Ministers the ability to specify particular baits and lures that may be used for freshwater fishing in the same way as they can for salmon under Section 33 of the 2003 Act. It is not the use of particular baits and lures that poses a threat to freshwater fish conservation: it is the irresponsible actions of some fishery proprietors, and that is what the Regulations should seek to control. If any regulation of baits and lures is necessary, appropriate rules can easily be imposed by individual fisheries.

We appreciate that the Committee is not at this time considering the subject matter of specific Regulations that may be made in future. However, the Policy Memorandum mentions the Executive's intention to introduce Regulations under this provision in respect

of certain issues that are of particular concern to coarse anglers. As these matters have been highlighted, we believe it is appropriate to make representations on them.

The most important topic identified for Regulations is the provision of protection for freshwater fish species against removal or activities that adversely affect their environment. This must be a priority for action. Indiscriminate culling of coarse fish, generally by the use of nets, takes place on many waters in Scotland, yet at present the law exercises little control over the removal of freshwater fish by means other than rod and line. The use of electrofishing or poisons is regulated, but under section 2 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 a proprietor or occupier having a right of freshwater fishing may take any freshwater fish other than trout by means of a net or trap without the need for authority from any statutory body.

Section 2 of the 2003 Act should be repealed and replaced by appropriate Regulations controlling all removals other than by rod and line. Regulations should only be allowed where there is a need for selective eradication to eliminate parasitic infection, infectious disease, or newly introduced invasive species. An exception should be made for small-scale capture of fish in the course of bona fide scientific study. However, the system of regulation must not simply provide blanket exemption for any activity that purports to be conducted under any of these headings. Proposals must be subject to rigorous independent scrutiny to ensure that mortalities are kept to a minimum.

In addition, certain measures affecting the aquatic environment – such as lowering water levels at certain times, or installing gabions that obstruct weedbeds and shallow inlets – are carried out either deliberately or without regard to the consequences, and can impede coarse fish from spawning or interfere with the hatching and growth of recently-born juveniles. In some instances, small lochs have even been drained to eliminate native coarse fish before turning them over to commercial fisheries. The power must be provided, and applied, to prevent such activities.

The penalties for breach of these provisions should extend beyond the imposition of fines to include provision to order anyone convicted of such actions to meet in full the costs of replenishing stocks of all species to their pre-existing levels.

The other issue mentioned as likely to be banned by way of Regulations under this provision is the use of live fish as bait. We totally oppose such a ban. It would be both superfluous and disproportionate to the risks it purports to address.

It is claimed by some that discarded or escaped livebaits have been responsible for the introduction of certain species to a number of waters in Scotland. There is no hard evidence for this, but even if it is true it could only account for a tiny fraction of the spread of locally non-native species and the dilution of genetic identity among established species in Scotland. There are several far more significant sources for inappropriate introductions. Most important among these are deliberate stocking by clubs, proprietors or individual anglers, and escapes or discards from aquaculture facilities and garden ponds.

There is no necessary connection or causal link between the use of live fish as bait and the movement of fish between waters. These are two entirely separate issues. The appropriate way to prevent inappropriate introductions and transfers is by legislation directly regulating fish movements. Such legislation is proposed Part 4 of the Bill, and has the support of SFCA. No additional Regulation is required. If the Executive believes it is essential to strengthen this by regulating the use of live fish as bait, the appropriate step would be to bring in provisions analogous to those in Denmark which directly restrict the use of livebaits to fish caught on the same day from the same water where they are being



used. Whilst probably still superfluous, this is workable and would reinforce the message the Executive seeks to convey without alienating the angling community it aims to regulate. SFCA would be happy to work with the Executive and other stakeholders to formulate the details of a Regulation along those lines, and to promote compliance.

***Para 26: Enforcement of Community obligations***

This Para relates to sea fisheries. SFCA has no locus to comment on that subject.

**PART 4 – MISCELLANEOUS**

***Para 27: Unauthorised introduction of fish into certain marine waters***

This Para relates to the marine environment. SFCA has no locus to comment on that subject.

***Para 28: Unauthorised introduction of fish into inland waters***

We welcome the measures proposed. They are an essential step to underpin responsible fisheries management practices.

We have concerns over the item proposed as sub-para (6) of the new para 33A, which says: “A person who commits an offence under this section may be convicted on the evidence of one witness.”. There seems no reason why this should be singled out for exemption from the normal Scots Law principle regarding the need for corroborative evidence, and we submit that the item in question should be struck out. With that exception, we are content with the text as presented.

***Para 29: Payments in respect of fish destroyed***

From the corresponding notes in the accompanying Policy Memorandum, it appears that this provision is primarily concerned with compensation to the operators of aquaculture facilities in certain circumstances. We have no locus to comment on that.

However, if the provisions in question are also applicable to compensation for the tenants or owners of freshwater fisheries in similar circumstances, we would make the same comment in this context as against Para 19 in Part 2 of the Bill. Ministers should not merely have the *power* to make in compensation for fish destroyed under statutory authority; but be under a legal *obligation* to do so. Such payments should be calculated by reference to the full current replacement value of the stocks destroyed, and must be available to angling clubs who manage waters on a voluntary basis as well as proprietors who operate fisheries for commercial purposes.

***Para 30: Payments for certain purposes***

We welcome the measures proposed, and look forward to seeing these powers being applied extensively and judiciously to the benefit of fisheries management for all species in Scotland.

***Para 31: Information about fish farming and shellfish farming: economic, social and environmental aspects***

This Para relates to the aquaculture industry. SFCA has no locus to comment on that subject.

**PART 5 – GENERAL**

We do not propose to make submissions on the items in this Part of the Bill, but we will address relevant items in the schedule of minor and consequential amendments to which Para 34 refers

**Schedule of Minor and Consequential Amendments**

We comment only on Para 5, which puts forward certain amendments to the 2003 Act that are designed to improve the application procedure and operation of statutory Protection Orders under Section 48 of that Act.

Whilst we welcome the measures in this part of the Bill as a step in the right direction, they fall short of the action necessary to remedy the fundamental flaws in the legislation governing access for angling. As it stands, the Bill misses a golden opportunity to address those flaws.

Section 48 allows Ministers to make Protection Orders that give proprietors in designated areas the protection of criminal law against unauthorised fishing for freshwater species in return for granting increased access for angling. In deciding whether to make a Protection Order Ministers must, among other things, “have taken into consideration the need for conservation of any species of fish” (Para 3[d] of S48). These principles are essentially sound; but from a coarse angling perspective Protection Orders have signally failed in their objectives. They have neither opened up a wider range of access, nor protected the fish themselves. Only on Loch Awe does a current PO promote the coarse angling opportunities available in the fishery and encourage the conservation of coarse fish species. Conversely, on many waters covered by POs access to pursue coarse fish is either denied outright, tacitly discouraged, or made effectively meaningless by restrictions on baits, methods or seasons. In addition, there are protected waters where the proprietors cull coarse fish or make it a permit requirement that all coarse fish captured are killed. So, despite the 1976 Act, not only do coarse anglers still face widespread restrictions on the extent to which they can pursue their sport, but under some Protection Orders they are only actually allowed to fish if they are prepared to become complicit in the destruction of the resource they are paying to fish for.

A number of other changes beyond those in the current Bill are needed if Protection Orders are to serve their purpose. A further phase of legislation will be necessary to achieve the optimum linkage between responsible access and properly funded, sustainable management. However, more can and should be achieved at this stage. We invite the Committee to consider the following issues:

- Para 3[b] of Section 48 obliges Ministers, when deciding whether to make a Protection Order, to consult “a body which in their opinion is representative of persons wishing to fish for freshwater fish in inland waters in Scotland”. Such a body has been formed, and is known as the First Minister’s Consultative Committee. This Committee is a crucial

component of the system, but legislation does not specify its status, composition or functions beyond the phrase quoted above. To aid transparency it ought to have a formal constitution, and its make-up must be prescribed to ensure it reflects the appropriate range of interests. As it happens, SFCA was invited to put forward a representative around eight years ago, and we have participated ever since. But it is unacceptable that the Committee exists only by virtue of ministerial preference and that the inclusion of particular organisations lies in the gift of officials or the Chair of the Committee. Relevant interest groups must be able to participate as a matter of right.

- If Protection Orders are to serve their purpose, constructive dialogue between proprietors and anglers must be maintained. In most areas this takes place through Liaison Committees. However, there are presently several Orders covering waters with substantial coarse fish populations in which the Liaison Committees lack representation from coarse anglers. It is no coincidence that access for coarse angling in such areas is more difficult than elsewhere, and is often impeded by unjustified restrictions on fishing methods. The legislation must make it obligatory for Liaison Committees to be formed, and specify their composition to encompass angling interests reflecting the full range of species in the water to be covered by the Order.
- The Bill does not address two key anomalies in the current legislation. Firstly, under Section 11 of the 2003 Act, a person who fishes without legal right or written permission in a “proper stank or loch” (defined as ‘a stank or loch the fishing rights in which are owned by one person’) is guilty of a criminal offence. In effect, this affords the sole proprietors of such lochs the same protection as proprietors covered by a Protection Order, but without the *quid pro quo* of obliging them to offer any form of access whatsoever to anglers. The second is that S26 of the 2003 Act perpetuates long-standing legislation making it a criminal offence to fish without permission for freshwater species in certain rivers draining into the Solway Firth, again without any obligation on the part of proprietors to offer reasonable and responsible access. These anomalies are both inequitable and unacceptable. The protection of criminal law – no matter what the pattern of ownership or location of the fishery - should be afforded *only* where proprietors offer reasonable access for responsible angling. Sections 11 and 26 should be repealed or amended to correspond with the provisions relating to access that apply in Protection Order areas.

## **Budget Process 2007-08**

### **Briefing note from the Scottish Executive**

#### **Reclassification of EU funded Annually Managed Expenditure (AME) into Departmental Expenditure Limit (DEL)**

UK spending on fully EU-funded CAP Support and the EU-funded element of Rural Development measures has been shown in previous plans as AME. From 2006-07 the UK Treasury has reclassified this spending as DEL. This reclassification does not alter the value of underlying provision for payments to beneficiaries but it results in changes to the presentation of the 2006-07 and 2007-08 numbers in the Draft Budget.

Previous publications have shown AME gross spending plans for the range of measures making use of EU Guarantee Account funding. Because the provision was classed as AME rather than DEL, changes in these plans - to reflect changes in demand or in Euro/Sterling exchange rates – had no consequences for the Executive's aggregate DEL budget. Such changes were managed by the UK Treasury within the aggregate UK AME budget.

Reclassification of the spending as DEL requires the treatment of the related EU Guarantee receipts as Income Applied, so that the gross spending on payments to beneficiaries is offset by matching EU funding. In the case of CAP Support spending - which is fully funded by EC receipts – the 2007-08 plans which had previously shown £455m of AME spending, now show DEL spending of nil. As is set out in Table 1.12 on page 27 of the Draft Budget, this has no effect on the planned actual support for farm businesses.

The reclassification reduces the net DEL budget for Rural Development measures, shown on page 21 of the Draft Budget, by the sums of EC Income and funding shown in Table 1.07. Again, this has no effect on previously planned gross provision for payments to beneficiaries. **The Income shown for 2007-08 reflects SR 2004 assumptions about the tailing off of EU funding at the end of the current EU Rural Development Programme. The actual level of EU receipts and therefore of gross spending on Rural Development (as well as the detailed distribution of resources across measures) in 2007-08 are subject to decisions yet to be taken on Scotland's share of allocations from the European Fund for Rural Development, rates of National modulation and on priorities for the new Scottish Rural Development Programme (SRDP).**

The timing of SR 2007 decisions in September 2007, together with the likely timescale for approval of the new SRDP, will allow the presentation of domestic Budget plans for the three years beginning 2008-09 which are consistent with SRDP plans and priorities.

#### **Changes in DEL Treatment of Spending under EU Structural Funds**

There are technical changes also, across the UK, in the presentation of spending by Departments under the EU Structural Funds. Traditionally, Departments have held

DEL cover in their baselines equivalent to the planned gross cost of awards under Structural Fund Programmes – which are 100% funded by the EU. Because Departments have held the gross Budget provision required to make all payments, funding receipts from Brussels have not been required, as Income Applied, to generate the necessary gross spending power. Such receipts have been surrendered to the UK Treasury.

From 2006-07 Treasury changed these rules. EU funding receipts are no longer surrendered to Treasury but are used as Income Applied to support an equivalent sum of gross spending. Those elements of Departments' DEL budgets allocated in previous plans to meet the gross cost of Structural Fund payments were therefore removed. This reduction does not impact on previous spending plans for the measures concerned, because Departments may now use the related EU funding receipts as Income Applied to support that spending.

For SEERAD, the effect is mainly in relation to the EU Financial Instrument for Fisheries Guidance (FIFG). There is no change to planned gross spending on Fisheries Grants in Table 1.09 on page 24 of the Draft Budget but, from 2006-07 the contribution of EC Income is now shown as offsetting these costs. There is a marginal effect also in relation to Rural Development spending on the Highlands and Islands Marketing Scheme and the Agriculture Business Development Scheme which are partly funded from the agricultural structural fund – the Guidance Section of the EAGGF.

## **Efficiency**

The Committee will have considered the Efficiency Outturn Report for 2005-06. Members may find it helpful to have a short report here on current related developments.

The Department remains fully committed to the delivery of efficiency savings across the whole of the ERAD family of agencies and NDPBs (including SEPA). However, in addition to pursuing the achievement of efficiencies within the larger organisations sponsored by the department, the Department also recognises the responsibility to declutter and improve the effectiveness of public services provided by the ERAD family. This has led to the development of "On the Ground" as a mechanism to exploit cross-organisational efficiencies through co-location, sharing of front-desk and other services and to consider the alignment of functions and activities delivered by the various bodies.

The first phase of this work has concentrated on pragmatic projects to resolve existing urgent accommodation needs, for example in Perth (co-locating 33 SEPA staff with SVS and Agricultural Officers) and Inverness (co-locating DCS with SNH at Great Glen House), and simple sharing of ICT support between organisations. This approach is expected to generate some £375,000 in recurring efficiencies by March 2007, increasing to £725,000 by March 2008. Further phases will use business priorities to identify opportunities for shared services and further co-locations.

**Scottish Executive  
October 2006**

**Budget Process 2007 – 08**

**Budget Guidance from Finance Committee to Subject Committees**

**Paper by the Finance Committee's Budget Adviser**

1. The budget process this year is again a short one, because of the postponement of the Spending Review until 2007, there has been no Stage One.
2. Members will also be aware from the figures that this is the tightest budgetary context in this Parliament with spending growing by 2.4 % in real terms over 2006-7.
3. Therefore, there is no need for Committees to make recommendations for additional spending, but proposals to reorder priorities within portfolios would be considered.
4. The document also highlights changes in plans since last year, and Committee comments on these would be helpful.
5. This is the last budget in the current Parliament. The Finance Committee has put considerable effort into improving the quality of financial information in the document. Concerns remain over the Executive's 'objectives and targets' approach. It would be helpful if Committees could reflect on the usefulness of the financial and performance information to them, and suggest ways of improving the presentation of the budget in the next Parliament.
6. In addition, Committees may also feel able to reflect on spending priorities within their portfolios and recommend any programmes they feel need to be prioritised for the next Parliament.
7. Last year, Committees were asked for views on the Executive's Efficient Government Initiative. The Executive has recently published an Outturn Report for 2005-06 and the Finance Committee would be interested in any observations that subject committees may have on Efficient Government within their remit.
8. With these comments in mind, the Finance Committee would welcome responses on the undernoted key topics:
  - a) Is the Committee satisfied with the responses from Ministers to its recommendations for the 2006-7 budget?
  - b) Does the Committee wish to make any comments on the budgetary changes reported in the "New Resources" section?

- c) Does the Committee wish to recommend any transfers of funding between programmes within its portfolio, with an explanation for the proposal?
- d) Does the Committee have any proposals for improving the quality and relevance of financial and performance information in the Draft Budget which could be considered after the 2007 election?
- e) Does the Committee wish to make any recommendations in budget proposals to its successors in 2007? Is there any programme with a clear need for additional expenditure, or which members think is overfunded?

Professor Arthur Midwinter  
September 2006