

## **RURAL ECONOMY AND CONNECTIVITY COMMITTEE**

### **POST LEGISLATIVE SCRUTINY**

#### **SUBMISSION FROM FISHERIES MANAGEMENT SCOTLAND**

Fisheries Management Scotland is the representative body for District Salmon Fishery Boards and Fisheries Trusts. We welcome the opportunity to provide views to the REC Committee. We have limited our comments to the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 and the Aquaculture and Fisheries (Scotland) Act 2007.

#### **Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003**

As the Committee will be aware the Scottish Government announced in 2014 that a programme of wild fisheries reform would be taken forward. A consultation on draft provisions for a Wild Fisheries (Scotland) Bill and draft wild fisheries strategy was launched in 2016. In early 2017, Scottish Ministers announced that their ambitions for wild fisheries reform had been reduced. However, we understand that it is still the intention of the Scottish Government to bring forward a Bill in the current Parliamentary term.

Fisheries Management Scotland are actively engaged in this process. We have two places on the Scottish Government Stakeholder Reference Group which was established to inform detailed proposals for legislation. We are working with our membership to develop proposals for change, including (but not limited to):

- Duties on Scottish Ministers
- Funding of fisheries management
- Fisheries Management Planning
- National Wild Fisheries Strategy
- Ensuring that the good governance requirements on DSFBs operate effectively and avoid duplication of effort;
- Ensuring that the constitution of DSFBs remains fit for purpose.

On the basis that it is still the intention for Scottish Ministers to bring forward new legislation, we do not consider that specific post legislative scrutiny of the 2003 Act is necessary at this time.

#### **Aquaculture and Fisheries (Scotland) Act 2007**

Fisheries Management Scotland gave evidence to the Committee on 14<sup>th</sup> March, and many of the points we raised are pertinent to the Aquaculture and Fisheries (Scotland) Act 2007. We have subsequently provided written evidence to the Committee. We will not repeat our response here, but the following summary points demonstrate the current issues (from our perspective) in the 2007 Act (as amended in 2013).

- The powers of the fish health inspectorate are limited to the health and welfare of farmed salmon, and take no account of the needs of wild salmon out with the pens. Section 6 of the 2007 Act allows Scottish Ministers (via FHI) to serve an enforcement notice with the purposes of: the prevention, control and reduction of parasites; the containment of fish; the prevention of escape of fish; and the recovery of escaped fish. However, this power cannot be deployed to address a situation where significant impacts from sea lice or escapes (for example through genetic introgression with wild fish) are identified. It is important to emphasise that the needs of farmed and wild fish are quite different here. Large farmed salmon, in the second year of production (which tends to be the point at which lice levels build up)

can withstand far more sea lice than a juvenile Atlantic salmon or sea trout can cope with. The relative numbers of farmed and wild fish in the area are also a key factor. The number of farmed fish in an area, and therefore the number of potential vectors for sea lice and disease, is significantly magnified by the presence of farmed fish. Therefore it may be necessary to manage sea lice down to levels well below what is required for the health and welfare of farmed fish, in order to ensure that wild fish are not significantly impacted. We do not believe that the 2007 Act allows this to be implemented and therefore we believe that the powers of fish health inspectors should extend beyond the health and welfare of farmed fish, to allow impacts on wild fish to be considered.

- The 2007 Act does not set limits on the number of sea lice per fish, or the number of sea lice per management area. We consider that this is a particular weakness in the Scottish regulatory regime, in comparison with other jurisdictions. Scottish Ministers have agreed a voluntary approach whereby salmon farms are asked to report to Scottish Ministers when sea lice numbers exceed 3 lice per fish and should sea lice numbers exceed 8 lice per fish an enforcement notice may be served. As far as we are aware, this policy does not allow the Fish Health Inspectors with the ability to address any issues that they could not already address under their existing powers. As stated in the SAMS report to the ECCLR committee: “the legislative and voluntary frameworks that underpin the management of lice levels on farms are not transparent. They appear neither to be succeeding in controlling sea lice, nor capable of addressing the environmental effects of the lice.”
- Section 3 of the 2013 Aquaculture and Fisheries (Scotland) Act, allows Scottish Ministers to prescribe technical requirements for equipment, impose requirements in relation to training employees in the installations, maintenance or operation of equipment and ensuring compliance with the requirements – the Scottish Technical Standard. The standard was published in 2015 (Fisheries Management Scotland sat on the working group), but the regulations to put these standards in place have not been brought forward.
- Sections 7 and 8 of the 2007 Act allows Scottish Ministers, by order, to approve a code of practice for the purposes of: giving practical guidance to persons who carry on a business of fish farming or shellfish farming; promoting what appear to the Scottish Ministers to be desirable practices; with respect to
  - The prevention, control and reduction of parasites
  - The containment of fish on fish farms
  - The prevention of escape of fish from fish farms
  - The recovery of escaped fish

The powers under sections 7 and 8 have not been used, and indeed we do not believe that the current Code of Good Practice developed by the SSPO would be sufficient to protect wild fish. If such powers were to be used, we consider that Scottish Ministers should develop a statutory code, rather than adopting an existing one.

- Section 1 and 2 of the 2007 Act enable Scottish Ministers to obtain information, by order, for the purposes of obtaining information in relation to the prevention, control and reduction of parasites. As stated in our response to the REC Committee inquiry on salmon farming in Scotland, we believe that *weekly*, farm by farm publication of data on sea lice, mortalities and disease should be a statutory requirement and

should be published by the individual companies, rather than the SSPO. This is consistent with the view of the ECCLR Committee:

*59. The Committee also considers that the industry must be required to publish data on salmon mortality on a farm by farm basis and publish accompanying information on disease issues that might be associated with that mortality. The industry should also be required to publish consistent and comparable weekly historic data sets on salmon mortality on a farm by farm basis from the time records are available. There should be no delay in the industry publishing this information and so this should also initially be published on a voluntary basis by the end of April 2018.*

*60. This reporting should be a statutory obligation to ensure transparency and facilitate public access to information, particularly as not all salmon farmers are members of the SSPO.*

- The 2007 Act was amended in 2013 to require all fish farms located within a farm management area to be party to a *farm management agreement* (where there are two or more companies in the farm management area) or a *farm management statement* (where a single company operates within the farm management area). These documents set out arrangements for fish health management; management of parasites; the movement of live fish on and off the farms; the harvesting of fish; and the fallowing of the farms after harvesting. In other words, there are a number of issues included in these agreements/ statements which are of wider issue to wild fish and environmental interests. Fish farming does not take place in isolation (other than in closed containment) but instead takes place within a shared space with other users. We consider that this process should be much more inclusive and transparent in order that the views of such interests can be formally considered in farm management.