

Spey Fishery Board & The Spey Foundation - First Draft Response

The Spey Fishery Board (SFB) is writing on behalf of both the Board and its sister organisation, the Spey Foundation, in response to the Scottish Government's invitation to comment on its Consultation on Wild Fisheries Reform in Scotland. The SFB is one of 41 District Salmon Fishery Boards (DSFBs) around Scotland, having been founded in 1863. Indeed, of those, it is one of the "Big Four" DSFBs, alongside the Tweed Commission and the Tay and Dee District Salmon Fishery Boards. It employs nine full-time and one part-time members of staff to manage a significant river system, the salmon angling on which generates in excess of £15 million per annum for the local economy and employs over 360 full-time equivalent staff in hotels, restaurants, bed & breakfast houses and local shops.

Working alongside the SFB, the Spey Foundation is a charitable company limited by guarantee, which conducts scientific research into all aquatic species within the Spey catchment and thereby provides advice to the SFB and others involved in the management of the river and its tributaries. We believe we are well-placed, therefore, to comment on the Scottish Government's proposals for the reform of wild fisheries management in Scotland and, henceforth, any comments by the SFB are made on behalf of both organisations.

However, the views of the SFB or the Spey Foundation are not necessarily those of "private heritable salmon fishing interests" on the Spey and we should clarify that neither organisation represents the proprietors.

Chapter 1: National Wild Fisheries Strategy

Since September 2015 the Group has been meeting on a regular basis to develop the Strategy which aims to provide:

- A long-term vision for managing and developing Wild fisheries in Scotland (The Strategy);
- An outline methodology for achieving that vision (a Governance and Accountability Framework which ensures that everyone operates within a clear and robust framework for decision making and accountability designed to achieve successful delivery of the purpose, aims, and objectives.);
- A structure for greater stakeholder involvement on the development and management of Wild Fisheries in Scotland.

In common with the provisions for a draft Bill, this Strategy will continue to be developed during the consultation process.

Q1. Are you content with the structure and content of the draft National Wild Fisheries Strategy?

- 1.1 We are broadly content with the **overall structure** of the strategy.
- 1.2 It is fundamental that the national strategy must be driven by local priorities as well as international obligations. Local needs must inform national policy, and requirements identified at national level should generally be capable of being co-ordinated and delivered locally. So a strong two-way relationship will need to exist between national strategy and local management priorities. We would recommend that a formal conduit/interface between local and national management be implemented to ensure that this is achieved.
- 1.3 In light of the above, we believe that science should be the servant of management and the primary focus of scientific research at both local and national levels should be to support fishery management decisions, rather than to promote scientific research per se. Inconsistencies in methodology and reporting, as well as gaps in data also need to be addressed, as does the national coordination of local research, some of which may have national benefits. An example of the latter is the current research being undertaken by some organisations to track the movement of smolts into and through the coastal and marine environment; so far this has been sporadic and lacked any coordination or joined-up thinking. This has been particularly evident with the Moray Offshore Renewables project.
- 1.4 We recognise the desire to promote and develop commercial interests and thereby increase responsible access to angling opportunities for all species. However, the primary focus for a national strategy must be on fishery management, rather than the enhancement of angling opportunities. If there are more fish in the rivers, the economic benefits – not just angling, but the associated benefits they bring to the wider economy as well – will follow. Fish are part of a much wider ecosystem and there will be some species which may have no angling or commercial interest, but will nonetheless have conservation and management needs. This, in turn, raises a further point about the delineation of

	<p>management responsibilities for such species and the question of who will provide the resources for delivering such work.</p> <p>1.5 There is no indication within the draft National Strategy as to how the Scottish Government will conduct the necessary monitoring to comply with its international obligations, or how it will ensure that that is reported. We would be grateful for an explanation as to how this will be achieved.</p> <p>1.6 We note that Section 2 of the draft Bill provides for consultation on a draft National Wild Fisheries Strategy. However, Section 3, which explains the subsequent revision of the Strategy, does not make any provision for consultation. We believe that if you are consulting on a Strategy at the start, you should also consult on its revision.</p>
<p>Q2. Which of the current areas within the draft Strategy would you prioritise, and why?</p>	<p>2.1 We would suggest that the current layout of the four themes already provides the appropriate prioritisation: Protecting and Growing the Resource; Science and Research; Partnership and Engagement; and Promotion.</p>
<p>Chapter 3 Wild Fisheries (Scotland) Bill Part 1 - Administration & Management of wild fisheries <i>Introduction</i> The purpose of this Chapter is to describe in more detail the provisions at Part 1, and to explain those areas where further refinement may be required. <i>Detailed provisions of Part 1</i> Section 1 places an overarching duty on the Scottish Ministers to promote the conservation of freshwater fish and best practice in the management of wild fisheries. Section 1 should be read in conjunction with Section 43 which defines ‘conservation’ and ‘management’. Section 2 requires the Scottish Ministers to prepare a National Wild Fisheries Strategy and lay the Strategy before the Scottish Parliament. Section 3 sets out the process by which the Strategy should be reviewed and revised.</p> <p>These are new elements of the fisheries management system which, alongside the sections relating to FMOs, set out the overall balance of powers and duties between national and local functions. Such duties in part reflect the Scottish Ministers’ international obligations under the Habitats Directive and the Convention for the Conservation of Salmon in the North Atlantic Ocean.</p>	
<p>Q3. Do you agree with the</p>	<p>3.1 We are in broad agreement with the high level duties proposed for Scottish Ministers, although we recommend that 1 (1) (b) be amended to read, “best practice in the management and development of</p>

<p>proposed high level duties on Scottish Ministers?</p>	<p>wild fisheries”. We recognise that under section 43, the Scottish Government takes account of the social and economic benefits of the management of wild fisheries. However, some fish species may require management actions without any economic or social benefit subsequently being derived, because there is no commercial fishery for them. In this respect, we believe it is important to recognise the need for development as being a potentially separate issue to management and we recommend it is included in the Bill.</p> <p>3.2 These powers are very broad and there is currently no detail on how they will operate in practice, or how they will relate to and interact with delivery at local level. We would therefore like to see some clarity as to how such powers will sit alongside the responsibilities of the proposed network of FMOs.</p> <p>3.3 In Section 4 (1) (b) (ii) there is reference to the collection of information relating to the “condition” of freshwater fish caught in wild fisheries. We believe that any assessment of condition is subjective and should not therefore be included in legislation. We submit that it would be more appropriate to refer to information relating to fish weight, rather than condition.</p> <p>3.4 In section 4 (1) (c) there is a requirement to provide Ministers, “with any information that they may request”. We believe that this should be amended to read, “may reasonably request”. This would provide an opportunity for confidentiality, particularly with regard to commercially sensitive information. The same comment applies to Chapter 2, section 8 (5), which we suggest should be amended to refer to information that Scottish Ministers “may reasonably require” in an application to form an FMO.</p> <p>3.5 Section 4 (2) (c) identifies, “any person carrying out operations or activities in, or in the vicinity of, the fishery”. We believe that this definition should be clarified and expanded. For example, significant volumes of the upper River Spey are diverted by Rio Tinto Alcan and Scottish & Southern Energy for the generation of hydro-electricity; there are twenty-nine distilleries around the catchment which divert water for the production of whisky; SEPA and SNH conduct operations within the fishery; and there are other water sports users such as the paddling fraternity. We therefore suggest that a more inclusive definition be included here.</p> <p>3.6 Section 4 also makes references to an “authorised person” exercising powers under this legislation. We accept that there will be many occasions when the “authorised person” will be an employee of the</p>
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Fishery Management Organisation (FMO). However, there will also be occasions when this is not the case. We submit that when an “authorised person” who is not part of the FMO is exercising powers under the legislation within an area where an FMO is in operation, that that FMO is consulted about those activities beforehand.

3.7 Sections 4 and 5 refer to entering and taking access to a wild fishery. We accept that access to a wild fishery will be necessary for the purposes of sampling and tagging. However, we believe that some regard to privacy also has to be afforded to such access. These wild fisheries are in themselves significant businesses which also sustain a significant element of the local economy and provide hundreds of local jobs. Whilst access for research purposes may be a necessity, it should not be at the expense of compromising the operations of the businesses involved. So we submit that the draft should be amended to read, “reasonably enter and take responsible access”.

3.8 Section 5 (1) (a) relates to an authorised person taking and retaining fish and taking samples from fish within a fishery. We think that there should be more clarity to this and that it should include a definition of the purposes for this. Furthermore, would an FMO have the opportunity to influence this?

Section 4 sets out the powers for the Scottish Ministers to undertake research or inquiries and obtain information. Section 5 allows the Scottish Ministers to sample or tag fish for scientific purposes or for ascertaining whether an offence is being or has been committed. These sections reflect s64 and s64A of the 2003 Act. Section 6 places a duty on the Scottish Ministers to divide Scotland into areas, to be known as Fisheries Management Areas (FMAs). This section allows FMAs to be identified by reference to a map. The number or geographical boundaries of FMOs will not be set in primary legislation.

We are working closely with our Stakeholder Reference Group and the wider sector to develop proposals for Fisheries Management Areas. This work is ongoing, but we wish to give stakeholders a clearer idea of our current thinking. We recognise the importance of retaining local knowledge and buy-in, but equally we recognise that FMOs must be of sufficient size and capacity to deliver the ambitions of the sector and achieve economies of scale sometimes absent within the existing structures.

Current thinking suggests that this would result in a total number of FMAs in the region of 12 to 18. This is on the basis that below 12 is likely to result in over centralisation and loss of local input while above 18 is unlikely to deliver the rationalisation and critical mass that is both possible and required. These remain working numbers and in no way reflect final thinking. The numbers set out above take into account a number of criteria, including: catchment units; biological and geographic factors; capacity, skills, resources and assets; local engagement; and the number and type of fisheries requiring management.

Q4. Do you agree that the criteria set out in paragraph 31 are the correct criteria for identifying the number of FMAs?

4.1 We broadly agree with the criteria outlined in paragraph 31, but with the caveats outlined below.

4.2 We have previously acknowledged the Government's desire to ensure an appropriate balance of economies of scale and its suggestion that there is potential to integrate fishery management with wider catchment management frameworks, specifically in response to the EU Water Framework Directive. This might appear entirely logical in theory, but significant difficulties can arise when trying to apply this in practice. So whilst the geographical coverage of an FMO may look reasonable on a map, the ability of staff to travel around too large an area may significantly hinder the delivery of fishery management objectives in practice. Cultural affinities as well as geography are also important factors and these must also be considered in determining appropriate FMO boundaries. In this respect, we believe it is essential that these discussions are locally-driven to ensure ownership of solutions and, most importantly, retain active local engagement.

4.3 In light of 4.2 above, we believe it is premature for the Scottish Government to determine the numbers of Fishery Management Organisations that should exist, before the industry has had an opportunity to fully consider and determine its future.

Section 8 sets out the process by which Fisheries Management Organisations will be designated. The policy intention is to invite FMO applications for FMAs rather than impose a requirement for an FMO in all areas. The basis for this is that we believe that becoming an approved FMO will carry significant advantages for local fisheries management, including access to a range of powers in addition to a number of responsibilities is preferable to imposing an FMO on a particular area. We consider that this approach will result in stakeholders seeing benefit in forming FMOs, ultimately covering all of Scotland.

Q5. Do you agree that the legislation should not include a specific requirement to have an FMO in every part of Scotland?

- 5.1 No. We believe that the FMO network should cover the whole of Scotland. There are presently gaps in coverage and this risks the delivery of both local and national strategies and, thereby, the fulfilment of national and international objectives and responsibilities. To this end, we believe that there should be a clear commitment by the Scottish Government in its National Strategy to require, if necessary in due course, the national coverage of freshwater fishery management.
- 5.2 We recognise that it may be difficult to compel the creation of FMOs, but we believe there must be sufficient drivers, incentives and political will (both national and local) built into the process to ensure that gaps in management areas are avoided.

It is intended that prospective FMOs should submit an application to Scottish Ministers including a range of information as described in section 8 and an outline draft of a local fisheries management plan. The application process is designed to ensure that the Scottish Ministers can be satisfied that the prospective FMO is suitably representative of local interests and has the capacity, skills and experience necessary to deliver the objectives, priorities and policies of the National Wild Fisheries Strategy and local fisheries management plan. This is intended to reflect the principle of 'approved body status'. The draft provisions neither require, nor preclude, FMOs from being constituted as charities. We have considered the views of stakeholders and our Stakeholder Reference Group and the clear message is that form should follow function. Section 8 uses the term 'person' which is defined in the Interpretation and Legislative Reform (Scotland) Act 2010 and includes a body of persons corporate or unincorporated and a partnership constituted under the law of Scotland.

Q6. Do you agree with the proposed approach to designation of FMOs?

- 6.1 We agree with the principles behind the application process that have been outlined, namely the requirement to satisfy Scottish Ministers that a prospective FMO is suitably representative of local interests and has the necessary capacity, skills and experience to deliver national and local fisheries management requirements. However, we do not support the failure to determine the constitutional form of FMOs and the suggestion that this should be left to the relevant FMO on the basis that form should follow function.
- 6.2 We have previously outlined our support for the Scottish Government's proposals that FMOs will need to be of sufficient size and capacity to deliver the functions expected of them. In this respect, they will

need a critical mass in terms of staffing to delivery fishery management plans and operate the organisations, particularly if a broader “all species” remit is to be fulfilled, rather than the current salmo-centric role currently undertaken. However, we believe that the level of staffing in each FMO should be driven by function, rather than form, because different areas of Scotland will require differing approaches to be adopted. Some areas may need more protection and enforcement, while others may need more scientific research.

6.3 We do not believe that it is appropriate for a Fishery Management Organisation to be a charity. We explained in our previous consultation response that independent legal advice had been received by the ASFB and RAFTS. This had confirmed that whilst a charitable body could enforce the law in respect of wildlife and environment offences, private property rights and the enforcement of offences under the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 could not be carried out by a charity, except insofar as such enforcement is consistent with furthering the charity’s proper aims. We are led to believe that OSCR was less concerned by this issue, although it (OSCR) had concerns regarding the developmental role that was anticipated for FMOs, the commercial benefits from which might sit uncomfortably alongside charitable aims.

6.4 We are convinced, though, of the need to sustain the considerable voluntary contributions that we and many other fishery management organisations around Scotland currently receive. In some cases, this may be by way of voluntary financial donations; in others, it may be corporate funding from distilleries, wind farms or other organisations who want to fulfil a particular environmental objective; and in others, it is a significant amount of voluntary time and help that is provided by Ghillies, proprietors and local angling enthusiasts to the running and operations of the present organisations. We therefore recommend that consideration be given to enabling the FMOs to establish special relationships, either with a national charity which would act as a facilitator for a network of FMOs, or with local charities, in order to harness and retain these considerable voluntary contributions to fishery management.

6.5 Charitable status should not, however, govern the overall modus operandi of a Fishery Management Organisation because it is not fit to do so, being wholly inconsistent with some of the roles and responsibilities that the FMO will be expected to fulfil.

6.6 Above all, we are concerned that the failure to determine the constitutional form of FMOs risks undermining the Scottish Government’s stated aim of establishing a network of FMOs, operating pan-

	<p>Scotland to an “all species” remit, with approved body status that ensures they are fit for purpose for the twenty-first century. FMOs will all operate with the same remit; they will all fulfil local and national (and thereby international) requirements; and they will all need to demonstrate the fulfilment of the same obligations for transparent accounting and governance. It is only logical, therefore, that they should share the same constitutional form.</p> <p>6.7 We recommend that, in light of our earlier comment regarding the powers and duties of Scottish Ministers, the wording in part 9 (1) (b) be amended to read, “best practice in the management and development of those wild fisheries.”</p>
<p>Section 10 places a duty on FMOs to prepare a local fisheries management plan and to submit the plan to the Scottish Ministers for approval. We have suggested that this should be completed within 3 months of the FMO’s designation. We are considering whether a degree of flexibility should be built into this timeframe but, because we consider the plan-led approach to be the cornerstone of the fisheries management system, we also consider that the plan should be prepared, agreed and approved as soon as possible after designation. We have also taken into account the fact that an outline draft plan will have been submitted as part of the original application process.</p>	
<p>7. Do you agree with the proposed approach and timeline for approval of local fisheries management plans?</p>	<p>7.1 We agree with the proposed approach, although we consider that a period of three months is an unreasonable timeframe for the completion of such a substantial piece of work. We think that six months would be more appropriate.</p> <p>7.2 Fishery Management Plans have been in place for many years on the Spey and have successfully formed the basis on which the majority of our operations are undertaken. However, these Fishery Management Plans on the Spey have hitherto primarily focussed on salmon and more resources will be required for the successful adoption and implementation of an all species remit. The issue of resourcing, though, is addressed elsewhere in this consultation.</p> <p>7.3 We note that there is no stipulation within the draft Bill as to the length of time these fishery management plans should operate. Previously, the Scottish Government had suggested a preference for them to operate within a three-year framework. We explained in our response to the previous consultation that this might be appropriate for other business planning and funding cycles, but we believe that a five-year framework would be more appropriate for fishery management planning purposes. This, in particular, relates to the fundamental principal for fishery management to be evidence-based and the practicalities of undertaking appropriate scientific research and monitoring to ensure that that evidence is robust. A five-year framework would also chime well with the life cycle of Atlantic salmon.</p>

Section 9 describes the general duty of FMOs to promote the conservation of freshwater fish and best practice in the management of wild fisheries and to act in accordance with the National Wild Fisheries Strategy and the local fisheries management plan. This section places further emphasis on the plan-led approach. Sections 11-17 set out the good governance requirements for FMOs and include a specific power for the Scottish Ministers to issue guidance. These sections largely mirror the good governance requirements detailed within the 2003 Act (introduced by the Aquaculture and Fisheries (Scotland) Act 2013). We believe that these requirements have been working well and reflect good practice.

Sections 18 and 19 set out the Scottish Ministers' powers to investigate the activities of an FMO and the action that the Scottish Ministers may take following such an investigation. Section 19 allows the Scottish Ministers to issue a direction to an FMO and, should the FMO fail to comply with that direction, Ministers may revoke the FMO's designation. Section 20 allows such a decision to be reviewed by an independent person.

Q8. Do you agree with the proposed approach to good governance and investigation of FMOs?

- 8.1 Broadly yes, with the caveats below. As stated above, these largely mirror the good governance requirements of existing legislation.
- 8.2 The provisions under section 11 (3), which would require an FMO to arrange for a draft of its Annual Report to be considered at a public meeting before it is finalised, appear to be particularly onerous. An Annual Report is a factual document; it reports what has happened during the reporting period, what the organisation has done in response and it is approved by its management board or committee. Under the 2013 legislation, District Salmon Fishery Boards are also required to state what they will be doing subsequently. An Annual Report is not a discussion document, though, and should not be subject to public consultation. After all, corporate shareholders are not provided an opportunity to comment on a draft of a corporation's Annual Report; they may question the corporation about its activities at the Annual General Meeting, but this is a separate issue to commenting on a draft of its Annual Report. We therefore submit that this should be re-drafted to, "The Organisation must arrange for the report to be considered at a public meeting of the Organisation....."
- 8.3 Under section 13, relating to Annual Public Meetings, part (2) should be amended to delete, "a draft of" in light of the comments in 8.2 above.
- 8.4 We believe that Section 13 (8) (a) should be amended to read, "a draft minute of the meeting". Ideally, this should be approved at the next meeting before it is published, but if it is published beforehand it should certainly be so as a draft, until such time as it can be approved.
- 8.5 We welcome the proposal under section 17 which provides that guidance may be issued on compliance with governance requirements. We recommend that this guidance should be produced as a priority, so

	<p>as to help ensure consistency of reporting between FMOs, as well as consistent interpretation of the responsibilities placed upon them.</p> <p>8.6 The power of investigation in sections 18 and 19 is noted. We recognise that this may be a logical function of any governance framework, but there is always the potential for irksome and unfounded complaints which may have considerable implications and risks for organisations, staff and assets. The Scottish Government must be able to judge these accordingly, so that time and resources are not wasted unduly on dealing with unfounded complaints. We therefore recommend that clear guidelines be produced to govern when and how this power might come into force.</p> <p>8.7 With regard to the review of revocation of designation in section 20, sub-section (8) appears to be incomplete. It talks of the revocation being suspended, but begs the question, “What next?” Would the Scottish Government potentially take it over? Bearing in mind that membership of the FMO may largely consist of volunteers, we believe that more thought and greater clarity needs to be given to this.</p>
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Financing the fisheries management system was one of the key issues raised during the consultation and it remains one of the most important elements of this process. There remains further work to do on this issue.

Section 22 sets out the framework through which we propose that the system will be financed in future. This will allow the detail of the system to be set out in regulations, which will be subject to further Parliamentary scrutiny.

Section 22 allows the Scottish Ministers to make provision for a wild fisheries levy on owners or occupiers of fisheries for all species. The purpose of the levy is to meet, or contribute towards expenditure incurred, or to be incurred, by the Scottish Ministers or FMOs in promoting the conservation of freshwater fish and their habitats, best practice in the management of wild fisheries and otherwise in performing functions under the Act. The intention is that the levy will be used to fund local fisheries management functions, and will not be diverted to national functions.

Subsection (5) will allow different provision to be made for different wild fisheries and different species of fish. Whether the wild fisheries levy will ultimately be extended to fisheries other than salmon fisheries has yet to be determined. We recognise the concern that salmon fishery proprietors should not be the sole source of funding for all-species management. We are also mindful of concerns raised by stakeholders that the potential income would not be significant, and that such an approach may have the potential to impact the ambition to increase angling participation, promotion and development. However, in recognition of the concerns expressed, particularly by angling clubs accessing fishing on minimal, peppercorn rents, subsection (4)(d) provides for additional flexibility in allowing exemptions, discounts, remissions or repayments.

Subsection (4) (j) allows functions relating to the wild fisheries levy to be delegated to FMOs. This will include determining the rates of levies and their administration, collection and enforcement. Sufficient safeguards remain within the draft legislation will be incorporated within any subsequent Regulations to address the management of such delegated authority.

Q9. We seek your views on the proposed approach to the wild fisheries levy.

9.1 We accept that the current salmon assessment should remain the principal source of funding for fishery management bodies for which Atlantic salmon and sea trout are the primary species from which economic activity is derived. However, In light of the Scottish Government proposals for FMOs to adopt an all species remit, we have always maintained that it is inappropriate to expect salmon fishery proprietors to fund the management of all other fisheries as well.

9.2 We accept that owners of some fishing rights are able to derive an economic gain through the exploitation of a natural resource, and that the beneficiary of that resource should make a contribution towards its management. However, just because a right to fish exists does not automatically mean that a commercial gain is guaranteed and we would recommend that only those fresh water fisheries with

the potential to generate economic gain should be considered for making contributions towards fishery management. We would therefore support the extension of the responsibility for paying the levy to owners of fishing rights on a case by case basis, rather than a blanket-type approach. In this respect, we welcome the proposals outlined in part 22 subsection (5), which will allow different provision to be made for different wild fisheries and different species of fish.

9.3 We explained in our response to the previous consultation that the principle resource required by fish is water and we believed that the Scottish Government should explore the taxation of other users of this valuable natural resource. Significant volumes of the upper River Spey are diverted by Rio Tinto Alcan and Scottish & Southern Energy for the generation of hydro-electricity; there are twenty-nine distilleries around the catchment which divert water for the production of whisky; and there are other water sports users such as the paddling fraternity. All of these other users have a duty of care and offer the potential to make a contribution towards the management of the natural resource that they all utilise. In line with the first of the Scottish Government's three overarching objectives for wild fisheries management (providing comprehensive protection and improvement of Scottish freshwater fish and the habitats they depend on), we would like to reiterate that we believe that this should also be explored.

9.4 We welcome the proposals contained in part 22 sub-section (4), which allow functions relating to the wild fisheries levy to be delegated to FMOs, including the determination of the rates of levies, as well as their administration, collection and enforcement. Part of the success of the current assessment system has been the collection of local "taxation" which has subsequently been spent locally. This in turn has generated significant voluntary contributions, both financially and in time/effort, for the delivery of fishery management objectives. We made clear in our response to the previous consultation that should the assessment be collected centrally rather than locally, we had grave concerns that these voluntary contributions would cease.

9.5 We also welcome the Scottish Government's stated intention that the levy will be used to fund local fisheries management functions and will not be diverted to national functions. In this respect, we submit that section 22 (3) (a) parts (i) and (ii) should be amended at the end of each to read, "within the Fishery Management Organisation area."

9.6 We note that section 22 (4) (h) provides for income from levies to be retained by the Scottish Ministers

	<p>or FMOs. The text then goes on to explain what provisions may be made for income from levies retained by FMOs, but there is no further reference as to what happens to income from levies retained by Scottish Ministers. We submit that this needs to be clarified.</p>
<p>The Scottish Ministers have an existing policy not to introduce rod licencing in Scotland. We recognise that Scotland is unusual in that there is no direct angler contribution towards management costs. This is in contrast to most other countries where anglers pay a fee directly to the management authority. These fees are usually in addition to a separate payment to the owner/manager of the fishery for permission to fish.</p> <p>Whilst recognising that some stakeholders have previously expressed concern about the possibility of a rod licence, we have received a strong message across a range of stakeholders that they consider that the current level of finance within the system would not be sufficient to fully fund fisheries management across Scotland. The analyses undertaken by the SRG and the wider sector would support this assertion. We also recognise that there are parts of Scotland where the existing levy system (and probably a levy extended to fisheries for all species) would not adequately fund fisheries management.</p> <p>The stakeholder reference group has recommended that a ‘management and development levy’, raised from persons who fish in wild fisheries, should be considered as an additional funding mechanism. Support for such an approach is dependent on such a levy to be set at a level that represents ‘good value for money’ for all anglers while raising sufficient funds to make a meaningful and identifiable contribution to support the delivery of management and angling participation, promotion and development objectives.</p> <p>It is important to make clear that having identified that the current level of finance within the system would not be sufficient to fully fund fisheries management, the SRG have been looking at alternative means to fund the system. In recognition of the differing opinions on how this might be addressed we have not developed outline clauses in this respect but instead will explore this issue further through an online dialogue approach. This is an area where we would wish to engage directly with those who may be impacted.</p> <p><i>Other Issues</i></p> <p>One element of the designation of FMOs that we are still considering is whether the designation of FMO status should be reviewed from time to time to be sure of their effectiveness balanced alongside a degree of certainty required to make them an attractive proposition for would be applicants.</p>	
<p>Q10. Should Scottish Ministers have the power to review the designation of FMO status?</p>	<p>10.1 Yes. The new FMO structures will need an appropriate time for transition, so that they can adapt to the requirements placed upon them. This will not happen overnight. However, once established, Ministers should have the power to review the designation of FMO status to ensure that they are acting responsibly, effectively and with due governance, accountability and transparency. This will ensure that the new system remains fit for purpose for the 21st century.</p>

<p>Q11. If so, what would be an appropriate period for such a review?</p>	<p>11.1 We would recommend a period of not less than five years from the date of inception. This will allow sufficient time for the new organisations to demonstrate effective delivery of their initial fishery management plans.</p>
<p>During the consultation on broad principles, a number of respondents highlighted the importance of FMOs having an appropriate level of influence on planning of developments. In particular, concern was raised at the prospect of loss of the current statutory status that District Salmon Fishery Boards have in the planning process for fish farming. We are still exploring the issue of the role of FMOs in the wider planning process, but it is our intention to pursue an amendment to the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 to ensure that FMOs are statutory consultees for fish farming planning applications.</p>	
<p>Q12. Do you agree that FMOs should be statutory consultees for fish farming applications?</p>	<p>12.1 Yes. This is already afforded to District Salmon Fishery Boards and we believe that it is essential that it is carried forward to the new FMOs.</p>
<p>Q13. Should we consider whether FMOs should be statutory consultees for any other types of development?</p>	<p>13.1 The Spey Fishery Board has successfully fulfilled its role as a Statutory Body and we are concerned that the loss of statutory status could significantly neuter the effectiveness of future FMOs. In particular, we have found that large commercial organisations take notice of views proffered by Statutory Bodies, particularly regarding planning applications, which they might otherwise ignore if tendered by a lesser body.</p> <p>13.2 We therefore believe that there should be a statutory requirement for FMOs to be consulted on planning applications which might impinge upon or affect wild fish and/or fisheries. We recognise that it may, at times, be difficult to determine what should or should not be defined as a planning matter that would require such consultation and we would not want small FMO administrations to be inundated with consultations. In this respect, they should not necessarily be Statutory Consultees. We believe it is important, though, that FMOs have a sufficiently high profile and position within the established planning systems (consistent with the proposed plan-led approach) to be consulted on appropriate local developments which might affect their remit for all species freshwater fisheries management.</p>

Chapter 4

Salmon & Freshwater Fisheries (Scotland) Bill

Part 2 – Regulation of wild fishing and fisheries

Introduction

The purpose of this Chapter is to describe in more detail Part 2, and highlight the areas which we still need to develop further.

Detailed provisions of Part 2

Section 23 provides a power to make conservation regulations for or about the conservation of fish, the habitats of those fish, and for the protection and management of wild fisheries. Sections 24-32 make further provision about the use of such conservation regulations.

The approach to conservation measures is designed to simplify and consolidate a number of provisions from the 2003 Act including general regulations, close times, baits and lures regulations, carcass tagging and conservation regulations.

There has been considerable interest among stakeholders in the approach to, and the retention of, weekly and annual close times. Much of that has been in the context of its relevance and enforceability going forward and the compatibility of such an approach with other legislation. Section 24 allows conservation regulations to make provision for or about fishing for, taking or killing freshwater fish, including during a specified period or periods. We have asked our Stakeholder Reference Group to consider further the future approach to weekly and annual close times for all species, in the light of the wider themes of increasing access to fishing, the approach to conservation limits and the enforcement of any future regime, particularly in relation to coastal netting.

It is intended that, in addition to the power of Ministers to bring forward legislation in this area, local conservation measures implemented at the request of FMOs should also be possible. It is intended that such local measures would not be subject to Parliamentary scrutiny. National measures undertaken by the Scottish Ministers would continue to be subject to negative Parliamentary procedure.

Q14. Do you agree that local conservation measures, agreed by FMOs at a local level, could be made by the Scottish Ministers without being subject to Parliamentary scrutiny?

14.1 Yes. We would welcome the introduction of a provision for FMOs to seek local statutory measures from Scottish Ministers, without being subject to Parliamentary scrutiny.

14.2 In line with the Scottish Government’s fundamental principles for the management of wild fisheries, we believe that this must be evidence-based, local and supported by a regulatory and enforcement system which is robust, proportionate and consistent. By removing the need for conservation measures to be subject to Parliamentary scrutiny, it should also provide greater flexibility to ensure that they may be implemented rapidly, where there is the justification for doing so.

14.3 It is not clear in paragraph 52 of Chapter 4 whether it will be the FMOs or the Central Unit which will be responsible for setting weekly or annual close times and we would be grateful for clarity.

Section 28 (in combination with Section 27) would allow conservation regulations to make provision for licensing the taking and killing of freshwater fish.	
Q15. Do you agree with the approach to conservation regulations?	<p>15.1 In our response to the 2015 consultation on the principles behind wild fisheries reform, we acknowledged that current legislation gives the Scottish Parliament the ability to regulate the killing of wild salmon. We also said that under an all species remit, we agree that it is appropriate for powers to be available to Scottish Ministers to control exploitation of any of Scotland’s wild fish species where this is done for conservation purposes.</p> <p>15.2 We therefore generally support the proposed approach to conservation regulations, albeit that they appear to be all-encompassing and wide-ranging.</p> <p>15.3 We broadly support the model that has been produced to determine the Conservation Status of rivers. However, we have significant concerns about some of the data and the methodology that has been used to populate this model. A considerable amount of work will need to be undertaken to enhance and refine this before it can be considered an effective tool for the determination of a river’s conservation status. We urge the Scottish Government to treat this as a top priority in its programme of wild fisheries reform.</p>
Q16. We would welcome any specific comments you have in relation to section 23-32 of the draft provisions.	<p>16.1 We welcome section 23 (2) (a) which makes provision delegating functions to FMOs, although we note that the Regulations “may” make this provision, rather than “will” and we would like further detail on what is envisaged.</p> <p>16.2 We note that section 24 (c) prohibits the return of dead fish to the water. This would appear to be at odds with the Conservation Order currently in place which requires that ALL fish caught before the 1st April are returned to the water.</p> <p>16.3 We welcome section 25 which provides scope to address the construction and alteration of dams and other structures, the alteration/removal of natural obstacles and the alteration of watercourses, as well as protecting fish from predation, parasites and disease.</p> <p>16.4 We are concerned and disappointed to see the provisions of section 28 which relate to Wild Fisheries Licensing Schemes. We had understood that this was not to be progressed, following the Scottish Government’s decision to categorise rivers according to their Conservation Status. We suspect that it may relate to netting, but the draft is not specific and it needs to be clarified. Furthermore, it is</p>

	<p>not clear whether FMOs will also be responsible for netting, an issue on which the draft is noticeably silent.</p> <p>16.5 There is no scope within section 28 for consultation on this significant issue which caused us, and other significant salmon rivers around Scotland, to submit comprehensive objections to the Scottish Government in 2015.</p> <p>16.6 However, we are particularly concerned at the potential for netting stations to undertake fishing for research purposes. The Scottish Government has already taken the step, which we have welcomed, to prohibit the taking/killing of salmon out-with estuary limits for three years. We believe that to allow research fishing to be undertaken by nets is contrary to the conservation benefits that are sought and sends conflicting signals to international observers.</p>
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Section 33 makes provision for fishing without permission. We are suggesting that a consistent approach is taken across all species, whereby it would become a criminal offence to permission.

Section 34 and Schedule 1 prescribe the lawful methods of fishing for or taking freshwater fish. This largely replicates the existing situation, with the exception of fishing for freshwater fish species (other than salmon and sea trout). Following discussion with stakeholders and the SRG, we propose that the only legal method of fishing for freshwater fish species (other than salmon and sea trout) will be by rod and line. The table in Schedule 1 sets out more clearly the different available methods according to species and geographical location.

Elements of Part 2 to be developed further

The remainder of the second chapter of Part 2 will deal with specific offences and powers to authorise introductions and activities which would otherwise be illegal (such as electrofishing).

Our policy intention is to take a consistent approach to all offences across all species. The existing offences and enforcement powers have evolved over a number of decades. As a consequence they can be difficult to understand and enforce. We wish to address these issues, whilst also broadening the offences to reflect the all species approach being adopted throughout the legislation.

As currently drafted the provisions are deliberately silent on offences as we will look to tease out the enforceability of existing offences with the relevant bodies, including the Bailiff Development Group, and options for alternative forms of prosecution (for example fixed penalty notices). We are also looking at a more pragmatic rationalisation of the existing offences and commensurate levels of fines.

Enforcement is a significant aspect of any legislation and we remain committed to develop this in partnership with practitioners and the wider sector. It is our intention that the Scottish Ministers will be responsible for licensing introductions, and licensing fishing by otherwise illegal methods.

Q17. Are there specific examples of issues with the offences in the 2003 Act that we should be aware of in developing the framework for an all species management system?

17.1 We welcome the proposals in section 33 which make provision for fishing without permission a criminal offence and which suggest that a consistent approach is taken across all species. The present system regarding fishing for both migratory and non-migratory fresh water species without legal right or written consent is complex and needs to be revised and improved.

17.2 We therefore support the Government in its work to develop a legislative framework which would provide equal protection for all fish species by making it a criminal offence to fish for, take or kill any species of freshwater fish. This will remove ambiguity for the general angling public.

17.3 This new offence, though, will also require greater enforcement activity if the new regulatory

framework is to be adhered to. This will put considerable and increased strain on already stretched resources and, if it is to be undertaken effectively, it is likely that the broader duties currently undertaken by water bailiffs, such as habitat restoration, are likely to suffer. Here on the Spey, that would have a significant impact on a river designated as a Special Area of Conservation and Site of Special Scientific Interest.

17.4 It is currently not an offence to fish for brown trout and other freshwater fish in waters which are tidal and navigable. These have a general public right of freshwater fishing. Nonetheless, some anglers exercise this right in anticipation of catching salmon or sea trout, but when approached by a water bailiff will claim that they are fishing for brown trout. This may be an issue for the Bailiff Development Group to address. However, given the Scottish Government's stated intention of providing equal protection for all fish species, we believe that the Government should take this opportunity to close this anomalous loophole by removing the public right to fish without permission in tidal and navigable waters.

17.5 We do not yet know whether the new structure for fisheries management in Scotland, with the adoption of an all species remit, will be sufficient in itself to secure responsible access to sustainable fishing for non-salmonid species. Furthermore, we understand that the Scottish Government intend to dispense with Protection Orders. It is not clear how the Government will ensure that this fits with its aspiration of increasing social inclusion in angling. We are, however, concerned to ensure that the public have access to trout fishing in the catchment without impinging on current proprietorial rights.

17.6 We are also concerned about the introduction of stocked fish in to areas that are accessible to salmon, particularly when those are within rivers designated as Special Areas of Conservation for salmon.

14 Chapter 5

Salmon & Freshwater Fisheries (Scotland) Bill

Part 3 – Enforcement

Introduction

The purpose of this Chapter is to describe in more detail Part 3, and highlight the areas which we still need to develop. The draft clauses in Annex D are limited to the appointment process for Bailiffs and wardens.

Detailed provisions of Part 3

Section 35 sets out the process for appointment (often referred to as ‘warranting’). The Scottish Ministers may authorise water bailiffs to operate in either a single area, or potentially, any part of Scotland. The draft also reflects the continuation of local and national appointment.

Q18. Do you agree that the appointment of water bailiffs/wardens could be for more than one FMO and potentially nationwide?

18.1 Yes. Here on the Spey, the Board’s Water Bailiffs are only warranted once they have passed the Institute of Fisheries Management exam in Fisheries Law and Bailiffing. They are also required to attend annual training/CPD in order to retain those warrant cards. Standards of bailiffing knowledge and training have rightly improved considerably over the last ten years or so, particularly as Water Bailiffs have powers of arrest, search and seizure. The knowledge required, and the warrant that flows from it, is not specific to one catchment or FMO area, though. It is applicable nationwide. We believe that it is only therefore correct that, whilst a water bailiff might be employed locally, their warrant should empower them nationally.

18.2 The Spey Board operates a coastal patrol boat which is also utilised, under contract, by other District Salmon Fishery Boards around Scotland. However, our Head Bailiff, who also coxswain’s the patrol boat, only has enforcement powers over the Spey catchment and its immediate neighbours. If we are asked to undertake a patrol for a DSFB further afield (e.g. the Ness or the Forth) our staff need to be accompanied by a local water bailiff from those catchments because they (the SFB staff) do not currently have the appropriate enforcement authority for those catchments. This is anomalous and should be corrected in the forthcoming legislation.

18.3 It should also be noted that illegal fishers are not always local individuals. Indeed, some who have operated in the North East of Scotland are known to have travelled from and reside within South West Scotland. We therefore believe that the ability to extend the area of operation by having water bailiffs empowered nationally will allow for much improved co-ordination of enforcement activity between areas and improve detection of illegal activity.

<p>As highlighted in our previous consultation, we consider that water bailiffs should continue to be employed and managed at a local level. The continuation of the ability to appoint bailiffs at a local level represents a change from the Wild Fisheries Review report. We have listened to stakeholders' concerns about centralisation and we consider that the governance and accountability framework established in Part 1, will give Scottish Ministers the necessary assurances for such authorisation to take place at a local level. We will continue to keep this under review as thinking on the current and future powers for these roles develops.</p>	
<p>Q19. Do you agree that the appointment of bailiffs and wardens should continue to take place at both a local or national level?</p>	<p>19.1 Yes. We recognise that the majority of water bailiff appointments are likely to be made by Fishery Management Organisations. However, particularly during the transition phase from the current to the new system of fishery management, there could be parts of Scotland that do not have an FMO and yet still need fishery protection and enforcement. Appointments are therefore likely to be necessary at both local and national levels.</p>
<p>Section 36 is designed to complement the offence of fishing without legal right or written permission. Section 37 and 38 set out water bailiffs' powers of enquiry and entry. The wider powers of water bailiffs are still under development. A number of stakeholders have expressed a desire for the term 'water bailiff' to be changed for the new legislation. A number of suggestions have been made including 'fisheries officer', 'fisheries enforcement officer' and 'river officer'.</p>	
<p>Q20. Do you agree that we should consider a new title for the role of water bailiff?</p>	<p>20.1 Yes. The term 'water bailiff' is antiquated and has inappropriate connotations. We understand that the ASFB's Bailiff Development Group is generally supportive of considering a new title for this type of appointment, and would be open to considering the options of "Fisheries Officer", "Fisheries Enforcement Officer" or "River Officer". However, the latter is perhaps not as appropriate as water bailiffs also protect the coastal as well as the riverine environments.</p>
<p>Following advice from stakeholders, we have also suggested that the role of fishery warden is included in the draft provisions as an additional tier of enforcement officer, in addition to the role of water bailiff. The more limited powers of wardens are set out in section 39-41. It is anticipated that the role of fishery warden will be a voluntary role, primarily focussed on checking the right of individuals to fish, but also providing a useful point of contact for anglers and other users of the resource. It should be emphasised that Water bailiffs will have much more extensive powers than wardens.</p>	
<p>Q21. Do you agree that there are advantages in having a second tier of enforcement officer, primarily focussed on checking permits and providing information?</p>	<p>21.1 Yes, although we believe that this should not be obligatory. The proposals to make fishing without permission a criminal offence for any freshwater fish species will require an increased level of enforcement activity for warranted water bailiffs. We have already explained in our response to question 17 that this will put considerable and increased strain on already stretched resources. A second tier of enforcement officer – albeit voluntary and with reduced powers – could provide an increased visible deterrent to illegal fishing activity and potentially cover gaps that may be created by enforcing the new legislative framework.</p>

	<p>21.2 Section 39 (4) enables FMOs to suspend or terminate the appointment of a Warden that it has made itself and section 39 (5) enables Scottish Ministers to suspend or terminate the appointment of a Warden made either by an FMO or by Scottish Ministers. However, we believe that there must be some recourse whereby the FMO may suspend or terminate the appointment of a Warden who has been appointed by Scottish Ministers. It is possible that a Warden appointed by Scottish Ministers – perhaps in a Fishery Management Area that lacks an FMO initially – subsequently takes inappropriate actions when an FMO is subsequently formed and the FMO should have the ability to address this.</p> <p>21.3 In furtherance of 21.2 above, we believe that where there is an FMO in place, that FMO’s systems and modus operandi should be monitored or audited in the event of an investigation into malpractice. However, where Bailiffs/Wardens are operating in an area for which an FMO is not in place, the actions of the individuals themselves should be monitored and audited.</p>
<p>Elements of Part 3 to be developed further As currently drafted the provisions do not cover the powers of water bailiffs beyond the specific powers of enquiry and entry set out in sections 37 and 38. We wish to look at the powers of enforcement officers in parallel with our work on offences referred to in Chapter 4. We will take this forward with the relevant bodies, including the Bailiff Development Group. Enforcement is a significant aspect of any legislation and we remain committed to develop this in partnership with practitioners and the wider sector. Our policy intention is that the powers of water bailiffs will be broadly similar to the current powers, but will apply to offences relating to all species (rather than just salmon and sea trout).</p>	
<p>Q22. What issues in relation to powers and enforcement do you consider are barriers to providing appropriate protection to our wild fisheries and fishing?</p>	<p>22.1 We are fortunate that Spey Bailiffs have access to Police National Computer (PNC) checks. This provides invaluable information on the historical background of individuals that water bailiffs maybe about to approach. For employees working in sometimes remote locations, without access to back-up and support, this can be particularly advantageous for health & safety purposes, as well as for reasons of professionalism. However, this access to PNC checks is not pan-Scotland and there are many water bailiffs who are unable to benefit from it. We believe that this is something that could be addressed, facilitated by the Scottish Government.</p> <p>22.2 Training and CPD for water bailiffs is an issue that should become more formalised. We have already said that standards of bailiffing knowledge and training have rightly improved considerably over the last ten years or so, particularly as Water Bailiffs have powers of arrest, search and seizure. However, there is still considerable scope for improvement before the industry is at a comparable standard to Police Scotland. We know that the Scottish Government intends to include training and</p>

	<p>CPD within its programme of wild fisheries reform, but we would like to highlight it as a priority area for development so that fisheries protection and enforcement may be undertaken to even higher professional standards.</p>
<p>Chapter 6 Salmon & Freshwater Fisheries (Scotland) Bill Part 4 – General</p>	
<p>Introduction - The purpose of this Chapter is to provide clarity on the terminology deployed throughout the draft provisions and its general interpretation.</p>	
<p>Q23. Are the terms used throughout the draft provisions clear and unambiguous?</p>	<p>23.1 We are concerned that the definition of “Wild Fishery” in section 42 (4) should be re-visited. There are significant areas of catchments that are vital for spawning and juvenile fish habitat which need to be considered for fishery management purposes, but which equally are not suitable for angling purposes. Whilst these areas do not attract fishing, they are still vital components of the fishery and so we believe that they should be incorporated into the definition of a “wild fishery”.</p> <p>23.2 We note that in section 42 (3), “Fish” does not include shellfish. We question why this has been specifically excluded when the Spey has an internationally-renowned freshwater pearl mussel population.</p>

Chapter 7 - Assessing impact

Strategic Environmental Assessment

In accordance with the requirements of the Environmental Assessment (Scotland) Act 2005, the potential scope and content of the draft Bill provisions and the draft national strategy were reviewed against the statutory criteria set out in the Act, to ascertain whether they would be likely to have significant effects on the environment. It is worth noting that many of the freshwater fisheries management activities addressed by these draft policy instruments are already taking place in many areas of Scotland. However, they provide an opportunity to extend these to the whole of Scotland, across all freshwater fish species, and to provide improved integration and communication between the various agencies, organisations and stakeholders involved in freshwater fisheries management. Based on the evaluation against the statutory criteria, the Scottish Government has concluded that they may give rise to environmental effects. As a result, our view is that strategic environmental assessment is required at this stage.

A strategic environmental assessment has been undertaken and the results are set out in the Environmental Report that sits alongside this consultation document.

Business and Regulatory Impact Assessment

The Scottish Government is committed to consulting with all parties potentially affected by proposals for new regulation, or where any regulation is being changed significantly. All policy changes, whether European or domestic, which may have an impact upon business or the third sector should be accompanied by a Business and Regulatory Impact Assessment (BRIA).

The BRIA helps policy makers to use available evidence to find proposals that best achieve the policy objectives while minimising costs and burdens. Through consultation and engagement with business, the costs and benefits of the proposed legislation can be analysed. It also ensures that any impact on business, particularly small enterprises, is fully considered before regulations are made.

A detailed Business and Regulatory Impact Assessment (BRIA) will be developed as part of the accompanying documents for the Bill when it is laid in the Scottish Parliament. For the purposes of this consultation we have not looked to develop a draft BRIA, not least as we are still engaging with stakeholders around the makeup of the future legislation, much of which would not benefit from speculation at this juncture.

However to assist that process going forward we anticipate that we will be soon be in a position to publish our independently commissioned work on the economic and social value of all of Scotland's wild fisheries. This will provide up to date information on the value of Scotland's wild fish resources and help inform the development of policy in the future. We will do our best to ensure that this is available during the consultation period. At this stage we want to invite information on the potential impact of the proposals outlined in this consultation.

Q24. What do you consider would be the key resource issues for an FMO under the proposed new regulatory structure?

24.1 In our response to last year's consultation on the principles behind wild fisheries reform, we said that we accepted that the current salmon assessment should remain the principal source of funding for fishery management bodies for which salmonids are the primary species from which economic activity is derived. However, the current resources will not fulfil the Scottish Government's proposal that FMOs should adopt an "all species" remit if they are to be effective and it is clearly inappropriate to expect salmon fishery proprietors to fund the management of all other fisheries as well.

24.2 There is the potential, if the all species remit is to be properly addressed and fulfilled, for an increase in administrative and reporting requirements. We have also highlighted in our response to earlier questions the additional pressure that will be placed upon already stretched existing resources in areas such as enforcement. Additional funding will therefore need to be secured if all of this is to be achieved.

24.3 We also said in our response to last year's consultation that the principle resource required by fish is water and we believe that the Scottish Government should explore the taxation of other users of this valuable natural resource. Significant volumes of the upper River Spey are diverted by Rio Tinto Alcan and Scottish & Southern Energy for the generation of hydro-electricity; there are twenty-nine distilleries around the catchment which divert water for the production of whisky; and there are other water sports users such as the paddling fraternity. All of these offer the potential to make a contribution towards the management of the natural resource that they all utilise and we believe that this should be explored.

24.4 We are also concerned by the assets currently held by District Salmon Fishery Boards (DSFBs) around Scotland. These have been collated over time and, in the cases of vehicles and equipment, provide essential tools for the conduct of fishery management. We are still seeking legal advice as to what should or could happen to these assets in the event that the DSFB ceases to exist. It could lead to a significant shortfall if these assets are not passed on to any successor organisation. In which case, there would be a requirement to raise funding for the procurement of essential equipment to establish the FMOs, as well as to enable their daily functions and ongoing operating costs. This is something that will require careful consideration.

Q25. What other information do we need to consider in developing a BRIA for the Bill when it is laid before the Scottish Parliament?

25.1 We made clear in our opening remarks that this response was being sent on behalf of the Spey Fishery Board and the Spey Foundation. Whilst the Scottish Government may consider it as a single response to its consultation, we would like to point out that this response is being submitted on behalf of seventeen members of the Spey Fishery Board and fourteen members of the Spey Foundation Committee. It has also been presented to a Public Meeting which has also endorsed it. We therefore request that the Scottish Government affords it more gravity than that of a single response.

25.2 We have already said that we accept that the current salmon assessment should remain the principal source of funding for fishery management bodies for which salmonids are the primary species from which economic activity is derived. However, it is inappropriate to expect salmon fishery proprietors to fund the management of all other fisheries as well and additional funding will therefore need to be secured if this is to be achieved.

25.3 We accept that owners of some fishing rights are able to derive an economic gain through the exploitation of a natural resource, and that the beneficiary of that resource should make a contribution towards its management. However, just because a right to fish exists does not automatically mean that a commercial gain is guaranteed and we would recommend that only those fresh water fisheries with the potential to generate economic gain should be considered for making contributions towards fishery management. We would therefore support the extension of the responsibility for paying the levy to owners of fishing rights on a case by case basis, rather than a blanket-type approach. This will need careful consideration during the development of a BRIA.

25.4 Equally, there may be some areas or species of fish (such as eels) which are not economically viable and will not therefore generate assessment revenue, but which may still be in need of fishery management. These, too, may require additional funding if the management of those areas is to be successfully achieved and will need to be considered within the BRIA.

25.4 We would also like to reiterate here our answer to question 24 in part 24.2, with regard to the other significant users of water within and throughout the catchment. All of these offer the potential to make a contribution towards the management of the natural resource that they all utilise and we believe that this should be explored.