

Wild Fisheries Reform

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Dear Sirs

Draft Provisions for a Wild Fisheries (Scotland) Bill: Consultation

I wish to make representations on the Draft Provisions for a Wild Fisheries (Scotland) Bill in a number of key areas that I believe the legislation, if enacted or unamended, will have unintended adverse consequences on all Wild Fisheries. These consequences will have a devastating impact on Local Fishing Clubs and individuals who do not own the fishing they currently enjoy.

This response refers specifically to those fisheries that are not within the definition of an Atlantic Salmon Fishery.

Historically Fisheries legislation has been fraught with issues relating to access and both civil / criminal offences relating primarily to salmon fishing. All other fisheries have to varying degrees both criminal and civil protections, which over time have provided access for both clubs and individuals to Non Atlantic Salmon fisheries (NASF's) that are considered to be of low economic value. This draft bill will concentrate the control of NASF's to landowners some of whom merely tolerate access. Combined with Scotland's already concentrated land ownership pattern as currently drafted this Bill will remove protections that currently exist for recreational anglers without the corresponding obligations on owners to provide the necessary permissions to fish.

The draft legislation does distinguish between Atlantic salmon and all other fisheries however great care needs to be taken when applying the same levies and administrative burden to these fisheries. Typically NASF's are of low economic value and generate very meagre incomes for those who own them. It should also be noted that this sector of the fishing population represents the largest section of the angling community in Scotland.

I believe an unintended consequence of this draft bill will be to ensure over time the demise and then closure of low value fisheries, including those fisheries where owners do not want anyone to enter their land to fish. Currently owners of NASF's do not have the protection of the criminal law to stop people fishing on their land unless they apply for a Protection Order (PO). Over generations this has aided the proliferation of local clubs and associations who pay a pepper corn rent to the owner but also self police the fishery. This arrangement has suited many owners and clubs. Under s.33 of the Bill express written permission must be obtained. If no such permission is obtained then a criminal offence will be committed.

In S.22 of the draft bill there is a provision to charge a levy on any other Wild Fishery other than an Atlantic Salmon Fishery. Although it is stated in the consultation that at present there are no plans to do so the impact of imposing a levy combined with the protection of the criminal law will inevitably mean owners will just stop all fishing activity and thereby achieve what some owners have been trying to do for decades, that is preserve the fishing for themselves, exclude ordinary anglers and avoid paying the levy. If no people fish in an area by definition this cannot be defined as a fishery. Following on from this even though the owner of a body of water does not fish it or allow people to fish it they are still entitled to have the protection of the criminal law and the whole

apparatus of the criminal justice system to protect their interests.

It is entirely reasonable for the draft bill to oblige individuals and organisations to obtain express written permission to fish. However without an obligation on an owner to provide reasonable access the unintended consequence will be to concentrate the control of this national resource in the hands of Owners. Provision to obtain the protection of the criminal law already exists under the Protection Order system and it is strictly tied to granting access at a reasonable cost. This works reasonably well however the Bill as currently drafted removes this very important obligation.

As things currently stand, on some waters, non salmon anglers are only reluctantly tolerated because they have to be if the owners want protection under the Protection Order system. Blanket criminalisation will remove the need for Protection Orders and will inevitably result in less access for non salmon anglers. This all seems to fly in the face of the Scottish Government's laudable policy of opening up the countryside for ordinary Scottish people and to provide angling for all.

I would therefore ask that an obligation is placed on owners and occupiers of Wild Fisheries to afford reasonable access. This would not only achieve the aims of the consultation in terms of widening access but cut off a loop hole where owners could avoid the levy and avoid granting access. The current system of Protection Orders already provides for this.

I would be grateful if you could note my consultation response and I look forward to receiving an acknowledgement.

Yours Faithfully
