



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 27 March 2013

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
12th Meeting 2013, Session 4

CONVENER

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

DEPUTY CONVENER

*Graeme Dey (Angus South) (SNP)

COMMITTEE MEMBERS

*Jayne Baxter (Mid Scotland and Fife) (Lab)

*Claudia Beamish (South Scotland) (Lab)

*Nigel Don (Angus North and Mearns) (SNP)

*Alex Fergusson (Galloway and West Dumfries) (Con)

*Jim Hume (South Scotland) (LD)

*Richard Lyle (Central Scotland) (SNP)

*Angus MacDonald (Falkirk East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Tavish Scott (Shetland Islands) (LD)

Paul Wheelhouse (Minister for Environment and Climate Change)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Committee Room 6

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 27 March 2013

[The Convener *opened the meeting at 09:37*]

Subordinate Legislation

Financial Assistance for Environmental Purposes (Scotland) Order 2013 (SSI 2013/74)

The Convener (Rob Gibson): Good morning, everybody, and welcome to the 12th meeting in 2013 of the Rural Affairs, Climate Change and Environment Committee. Members and the public should turn off their mobile phones, BlackBerrys and other electronic devices, because leaving them in flight mode or on silent will affect the broadcasting system.

Agenda item 1 is consideration of an instrument that is subject to negative procedure, the title of which is given on the agenda. Members should note that no motion to annul has been lodged. I refer members to the clerk's paper.

Does the committee agree that it does not wish to make any recommendations on the instrument?

Members indicated agreement.

Aquaculture and Fisheries (Scotland) Bill: Stage 2

09:38

The Convener: Agenda item 2 is the second day of stage 2 of the Aquaculture and Fisheries (Scotland) Bill. I welcome Paul Wheelhouse, who is the Minister for Environment and Climate Change and the member in charge of the bill. Good morning, minister.

The Minister for Environment and Climate Change (Paul Wheelhouse): Good morning.

The Convener: I also welcome the minister's officials, whom I ask him to introduce. They very nearly outnumber members.

Paul Wheelhouse: I come well armed. Alastair Mitchell, who is head of aquaculture policy, is immediately to my right. Carole Barker-Munro, who is head of salmon and recreational fisheries policy, is also to my right. Ewen Milligan is head of enforcement operations and David McLeish is from the office of the Scottish parliamentary counsel. To my left are Lindsay Anderson, who is from the Scottish Government legal department, and Jeff Gibbons, who is the bill team leader. Norman Macleod has not made it.

The Convener: Thank you very much, minister.

After section 2

The Convener: We start with amendments on enforcement notices and revocation of licences for fish farms. Amendment 53, in the name of Jayne Baxter, is grouped with amendment 54.

Jayne Baxter (Mid Scotland and Fife) (Lab): The Association of Salmon Fishery Boards and other wild fisheries organisations have been informed by the fish health inspectorate that the enforcement provisions of the Aquaculture and Fisheries (Scotland) Act 2007 do not extend to the health and welfare of wild fish. In its stage 1 report, the committee requested clarification that the provisions in the 2007 act extend to enabling action regarding lice outbreaks among wild fish. The minister has subsequently provided that clarification, but the provisions in the 2007 act relate only to parasites in fish farms and shellfish farms.

The fish health inspectorate should be able to utilise its powers where there is evidence that a fish farm is failing to contain lice at safe levels for local salmonid populations—for example, where there is evidence of a lice epizootic among nearby populations of wild fish coinciding with high levels of sea lice on the farmed fish.

In its consultation on the Aquaculture and Fisheries (Scotland) Bill, the Scottish Government asked the following questions. First, it asked:

“Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them necessary and appropriate—for example to address concerns about fish health and welfare”?

Secondly, it asked:

“Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents”?

Following significant support for both those proposals, Marine Scotland responded:

“SEPA can already reduce biomass consent in certain circumstances. We will consider further non-legislative solutions and have begun discussion with SEPA about these matters.”

On revocation of licences, the response was simply:

“We do not intend to progress these proposals at this time.”

The committee has heard clear evidence of the relationship between biomass and sea-lice infestation pressure on wild fish. Given that the Scottish Environment Protection Agency considers the effects of sea lice to be ultra vires, it is therefore vital that the committee is absolutely clear that Scottish ministers have a power to vary a licence that has been issued by SEPA.

There is significant concern among a range of stakeholders that revocation of licences is not currently possible. Given that Marine Scotland science is unable to give definitive predictions as to the effect of a farm site being in a particular location, and taking into account the fact that most developments receive permanent planning consent, such a power is potentially important as our understanding of the interaction between aquaculture and wild salmonids improves.

I move amendment 53.

Paul Wheelhouse: Amendment 53 would extend and expand the criteria according to which an enforcement notice could be served under the Aquaculture and Fisheries (Scotland) Act 2007 to encompass circumstances relating to protection of wild salmonids and containment of parasites. Although protection of wild fish is important—indeed, many of the provisions in the bill will help to enhance protection of wild fish as well as building on current best practice for fish farm health management—I do not believe that amendment 53 will be effective.

Existing provisions in the 2007 act currently provide the ability to assess the measures that are in place on a farm to control sea lice. The source and spread of such parasites, which occur

naturally in the wild, are by extension outwith the control of the farmer. Legislation that seeks to control their source and spread will therefore be unworkable. In addition, amendment 53 does not address the issue of inspection powers, which might be needed to complement that power.

Amendment 54 would provide in statute the ability for Scottish ministers to direct SEPA to revoke controlled activities regulations licences or to reduce the biomass of fish that is allowed to be farmed at a particular site, should there be problems that cannot be dealt with through other enforcement measures. We have previously said that ministers can already direct SEPA to reduce biomass under certain conditions that are beyond the powers that it has traditionally used to reduce biomass in managing discharges to the marine environment.

I have put on record my intention to progress the issue through non-legislative means, so although I agree with the principle of amendment 54, I believe that it is unnecessary. I oppose amendments 53 and 54 and ask the committee to do the same.

Jayne Baxter: I thank the minister for his comments, although they are disappointing. I am interested in his comment that he is keen to progress the matter through non-legislative measures, but I will press the amendments, in any case.

The Convener: The question is, that amendment 53 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 53 disagreed to.

Amendment 54 moved—[Jayne Baxter].

The Convener: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 54 disagreed to.

Section 3—Technical requirements for equipment used in fish farming

09:45

The Convener: Amendment 70, in the name of Tavish Scott, is grouped with amendments 71, 72, 55, 73 to 75, 56, 76 and 18.

Tavish Scott (Shetland Islands) (LD): The Government has set a target of growing production in the fish farming industry by 50 per cent by 2020. That is by any standards an exacting target, as Claudia Beamish pointed out when we considered amendments last week. In my estimation, if the Government is to hit its target—never mind ask the industry to hit it—it must accept, at the very least, that the framework that the bill provides must allow it to do so.

In amendment 70 and the related amendments in my name, I seek to ensure, once again—this relates to points that I made last week—that the Government does not try to micromanage the industry. A sensible working group, which involves the industry and Government and operates under the auspices of the ministerial group on aquaculture, which is chaired by the minister, defines a set of standards for use across the industry. That means that those standards are agreed and can be introduced and monitored across the industry. It seems to me—until now, it has seemed to the Government—that that is a sensible way to achieve not just the higher industry standards that Government and the industry are looking for, but higher environmental standards, which are of interest to committee members and to stakeholders who have a great interest in the industry.

It was not sensible of the Government to draft section 3 using the word “requirements”. That will stifle improvement and innovation, because every time a change is necessary, action might subsequently be needed. Whether that will be the case is not clear from the explanatory notes or

from any other documents that have been brought before Parliament in respect of the bill.

I suggest that the word “standards” be used, instead of “requirements”. The purpose of the working group is to achieve standards. That is an eminently sensible way forward, which has worked in the past, so I see no need to change the approach. Furthermore, if the Government is minded to force through section 3 with its current wording, every technical change in fish husbandry will have to be approved by Marine Scotland and there will, again, be enormous interest in ministerial decision making. As I made clear last week, I am pretty concerned about the potential for ministerial decision making to be scrutinised on a very regular basis by parliamentarians, whatever side they are on in relation to the industry.

I am trying to save the minister from unintended consequences of his bill. The use of the word “standards” would be appropriate in the context of a bill that is seeking to facilitate the achievement of the Government’s and the industry’s production targets.

I recognise the merit in Jim Hume’s proposed wording in relation to training requirements. It would be eminently sensible for the industry to achieve the standards that are envisaged in amendments 55 and 56.

I move amendment 70.

Jim Hume (South Scotland) (LD): I will speak to amendments 55 and 56.

Given what we have heard in evidence and in much of the correspondence that all committee members have received, it is evident that escaped farmed fish are a cause for concern. Escapes are often due to equipment failure or predator attack. However, the improved containment working group recognised that, in 2010, 29.5 per cent of escapes were due to human error. It is fair to say that the committee recognised that, too.

My amendments 55 and 56 would allow training to become part of the technical standard, in line with the proposal of the original aquaculture technical research forum. I hope that fellow members recognise the usefulness of the amendments.

Paul Wheelhouse: The provisions to introduce technical requirements for equipment that is used in fish farms were developed and informed by the improved containment sub-group of the ministerial group on aquaculture, to which Tavish Scott referred. That expert group comprises fin-fish farmers, trade associations, suppliers and manufacturers of fish farm equipment such as nets, pens and moorings, and insurers and regulators.

The provisions were not developed in isolation, but reflect a general desire for common standards across the industry that are appropriate and proportionate. The bill contains an enabling power, which will permit the detail to be laid out in subordinate legislation, given that the requirements that are to be prescribed under regulations are likely to change as a result of technological advances and the evolution of best practice in the industry.

Tavish Scott made a point about growth in the industry. I recognise the 50 per cent figure, but I alert the committee to the fact that we are looking to achieve a 32 per cent increase from a 2011 baseline by the target date.

A regulation-making power enables ministers to respond to issues more readily and flexibly than would prescribing the relevant standards in primary legislation. That is the background. Before today, I was not clear about why Tavish Scott lodged his amendments to seek to replace "requirements" with "standards", but I am now slightly clearer about that.

The regulations will set out the requirements that equipment is to meet. Those requirements will set minimum design and other standards that equipment must meet, but they might also create obligations in terms of maintenance and installation of equipment, which would not be referred to as "standards". The requirements in paragraphs (d) to (f) of section 3(3) relate to providing information, giving access, co-operation, keeping records and notification of equipment failures. Those requirements are not really standards and it would be wrong to label them as such, as amendments 73 to 75 would.

There are requirements that set standards, but other requirements are about wider issues. I therefore do not consider that Tavish Scott's amendments would enhance the provision in any way; in fact, they could restrict the power. I ask the committee to reject amendments 70 to 76.

I recognise the reasoning behind Jim Hume's amendments, which would ensure that regulations that were made under the power in section 3 could require fish farm operators and their staff to be appropriately trained to use fish farm equipment that adheres to the new technical standards. I recognise that such training would militate against escapes that were due to human error. I am well aware that the issue is important and that it was raised a number of times at stage 1. In its stage 1 report, the committee concluded that training is best handled by the fish farming industry and that we should look at how best to consider progress on delivering good practice via the ministerial group on aquaculture, which is to be known as the ministerial group on sustainable aquaculture, and

with the advice of its improved containment working group.

Training is an important aspect of the work to develop technical standards. In addition to the requirement for equipment to meet technical specifications, work will cover operational procedures, codes of practice, operators manuals and training of operators, to ensure that equipment is used appropriately and that procedures are followed correctly.

As I have said, we are working with the industry to ensure that staff are appropriately trained. That builds on the best practice workshops and in-house schemes that the industry has introduced. I have also asked the MGSA's improved containment working group to consider training to prevent escapes that are due to human error.

Amendment 56, which would include a requirement for fish farmers to retain training records, seems to be entirely sensible. It would have the desired effect of allowing inspectors to check that staff have been appropriately trained. However, given that amendments 55 and 56 are interrelated, I do not wish to consider either of them in isolation at stage 2, or in haste. We will come back at stage 3 with further thoughts.

Government amendment 18 is a direct response to concerns that the Subordinate Legislation Committee raised at stage 1, and to wider policy considerations. That committee was concerned that section 3 would enable the Scottish ministers to delegate to third parties the power to prescribe in regulations a technical requirement for fish farming equipment. That was not our intention, so we seek to make it clear that requirements will be set in regulations only by the Scottish ministers.

I invite the committee to resist amendments 70 to 76.

I invite Jim Hume not to move amendments 55 and 56 on the basis that we will come back at stage 3 with further thoughts. I also invite the committee to accept amendment 18.

Alex Fergusson (Galloway and West Dumfries) (Con): I want to seek clarification from Tavish Scott because I am tempted to support his amendments. I struggle with how to put this, but I will liken the business of the equipment that is used in fish farming to a car. I suggest that his first two amendments refer to the overall car at the end of the process and it seems to me that there is some legitimacy for standards to be imposed on the overall make-up of a car. The other amendments seem to refer to bits of the car, such as the engine, wheels or whatever, for which there is slightly less relevance for standards, as opposed to requirements. I wonder whether he would comment on that in his summing up in order to satisfy me that the standards are relevant the

whole way through the process rather than just at the start.

Nigel Don (Angus North and Mearns) (SNP):

Alex Fergusson's question is interesting and I am sure that Tavish Scott will want to consider it. We are arguing about words, which we sometimes have to do. I take the minister's point that in the context, "requirements" appears to be a wider word than "standards", which is why the draftsmen are telling us that that word should be used. On that basis, it seems to me that the minister has a fair point that we would want to support.

On amendment 18, I note the concerns of the Subordinate Legislation Committee about delegation of powers and I am grateful to the minister for the amendment, which is the right thing to do in the context of delegated powers.

The Convener: I invite Tavish Scott to wind up and to press or withdraw the amendments.

Tavish Scott: I will take those points in not-quite reverse order. First, to deal with Mr Fergusson's car analogy—at least it was not a tractor he used; we would have had a long debate on that—the simple answer is that there is an industry and government working group that involves, as the minister said in his introduction, stakeholders from across the industry and from outside the industry, as well as technical experts from the Government and Marine Scotland. In my humble estimation that group should be more than able to deal with the body but also the contents of the body as well, depending on which analogy we wish to follow.

I want to make two other points on the minister's response. His answer on the detail is that we will get yet more legislation and yet more opportunities in Parliament. With the greatest of respect, I say that subordinate legislation tends to get nodded through the Parliament. I have been here a long time, as others of us have, and I do not remember too many bits of subordinate legislation ever coming under any kind of sustained scrutiny, which is in my view a failure of the Parliament, and not a failure of the Government that proposed the subordinate legislation. The idea that that will lead to a day-by-day, real hard assessment of another change to a requirement is cloud-cuckoo-land and will give the Government carte blanche.

The minister said it himself; he used the phrase "restrict the power". He does not want the amendments to restrict the power of the Government. I do want to restrict the power of the Government: I think that it is taking far too much power and it cannot have it both ways. I take the minister's point regarding a 32 per cent increase in production from a 2011 baseline, and we can play around with figures but, irrespective of the figure, if the Government wants the industry to grow and

develop, it cannot keep taking more powers to restrict and micromanage the industry. That is what is going on in section 3.

Nigel Don prefers the word "requirements" because, as he very fairly put it, it is "wider"; he was quite right about that. The Government wants wider wording because that gives it more latitude and more ability to control the industry. The Government has to explain what it wants to do. No ministerial explanation that I have heard—today and all through the passage of the bill since its introduction—has made it absolutely clear that the Government wants to impose a set of greater regulations on the industry and therefore to restrict its ability to make changes to its operational practices.

What we are heading for is operational involvement by the Government, through Marine Scotland, in the day-to-day commercial activities of an industry. If that is what the Government wants it should say so, and I will press the amendments.

The Convener: The question is, that amendment 70 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 70 disagreed to.

10:00

Amendment 71 moved—[Tavish Scott].

The Convener: The question is, that amendment 71 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)

Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 71 disagreed to.

Amendment 72 moved—[Tavish Scott].

The Convener: The question is, that amendment 72 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
 Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 72 disagreed to.

Jim Hume: I appreciate what the minister said and I trust him, but in the spirit of democracy, I will move amendment 55.

Amendment 55 moved—[Jim Hume].

The Convener: The question is, that amendment 55 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 55 disagreed to.

Amendment 73 moved—[Tavish Scott].

The Convener: The question is, that amendment 73 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
 Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 73 disagreed to.

Amendment 74 moved—[Tavish Scott].

The Convener: The question is, that amendment 74 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
 Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 74 disagreed to.

Amendment 75 moved—[Tavish Scott].

The Convener: The question is, that amendment 75 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
 Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 75 disagreed to.

Amendment 56 moved—[Jim Hume].

The Convener: The question is, that amendment 56 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 56 disagreed to.

Amendment 76 moved—[Tavish Scott].

The Convener: The question is, that amendment 76 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 76 disagreed to.

Amendment 18 moved—[Paul Wheelhouse]—and agreed to.

Section 3, as amended, agreed to.

Section 4—Meaning of “wellboat”

The Convener: The next group is on wellboats: definition and enforcement notices. Amendment 77, in the name of Tavish Scott, is grouped with amendments 19, 20 and 58. I note that, if amendment 77 is agreed to, I cannot call amendment 19 as a result of pre-emption.

Tavish Scott: The purpose of amendment 77 is to recognise that the bill’s definition of “wellboat” is not adequate, because it covers many more vessels and boats than are used as wellboats.

I do not know whether the minister heard about the issue in Eyemouth but I can assure him that I certainly heard about it on Lerwick pier over the weekend. The discussion is being taken forward by boat owners, the industry and other users of the sea, particularly those in the fishing industry, and I hope that the Government recognises that it has basically got the definition wrong.

As a result, amendment 77 seeks to set out as a definition the best example that I could come up with: one based on the vessel’s “registration or insurance documentation”. I am not suggesting that the definition is perfect—indeed, I do not know what would be perfect—but it seems to tighten up a definition that I am sure the minister does not want to include boats that are simply not used for such purposes.

Amendment 58 seeks to ensure that, when the Government lays a charge or recovers expenses, such charges or expenses should be detailed to those who find themselves at the end of such moves. That is only right; after all, I do not think that any of us would pay our lawyer’s or accountant’s fees without asking for a breakdown. It allows us to dispute figures and, if a lawyer is involved, we can—as no doubt we have all had occasion to do—take him to the clerk of the sheriff court. It just seems like good governance that, in such areas of activity, the Government should set out the details of charges, and that is simply what amendment 58 seeks to achieve.

I move amendment 77.

Paul Wheelhouse: Amendments 19 and 20 seek to do the same thing, but from different angles. I should say, though, that I understand the industry’s concerns about the definition of “wellboat”, which Tavish Scott has expressed so well on its behalf.

Section 4 defines the meaning of “wellboat” for the purposes of section 5, in which ministers take powers to regulate control and monitoring of operations of wellboats in Scotland. At present, there is no statutory definition of the term. The bill as introduced contains a definition that, it could be argued, might include every vessel used in fish farming, including static feed barges and other work boats. However, that is clearly not our intention.

I have to say that amendment 77 in the name of Tavish Scott lacks specification and, in essence, means that a vessel is a wellboat if the registration document says so. If the registration document says that the vessel is a cargo boat, the regulations cannot apply, even when the vessel is carrying out the functions of a wellboat.

We have taken a different approach and have defined the purposes for which a wellboat could be used. We aim to take a risk-based approach to

regulations, specifying standards for the tasks and functions that pose the greatest risk to fish health and welfare and the environment. Amendments 19 and 20, therefore, clarify the policy intention not to include work boats and feed barges used in the industry, and they add the function of grading fish, which, according to fish farmers and wellboat operators, is a common use.

Amendment 58 would require a statement of expenses to be provided when the Scottish ministers seek to recover expenses incurred in the enforcement of wellboat regulations. Such a provision is already implicit in giving effect to the bill as drafted, but I will consider the matter further and, if necessary, lodge an amendment at stage 3.

For those reasons, I ask Tavish Scott to withdraw amendment 77 and not to move amendment 58, and I ask the committee to accept amendments 19 and 20.

Tavish Scott: I am happy not to move amendment 58, given the minister's assurances. His comments are fair enough. I think that the requirement for a statement of expenses should be explicit in the bill, but I take his point.

I will press amendment 77, because I would like to see what consultation the minister has with the industry that demonstrates that his proposal meets the objective, which I suspect we share, of not including in the definition vessels that are clearly not for salmon farming in any respect. If by stage 3 he can demonstrate that that has happened through one of the aquaculture working groups or whatever, I will be more than happy not to bring back the amendment at that stage but, for the purposes of today, I will press it just to ensure that we have that explicitly on the record.

The Convener: The question is, that amendment 77 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

Abstentions

Fergusson, Alex (Galloway and West Dumfries) (Con)

The Convener: The result of the division is: For 1, Against 7, Abstentions 1.

Amendment 77 disagreed to.

Amendments 19 and 20 moved—[Paul Wheelhouse]—and agreed to.

Section 4, as amended, agreed to.

Section 5 agreed to.

Section 6—Enforcement notices

The Convener: The next group is on the appeals and applications procedure. Amendment 21, in the name of the minister, is grouped with amendments 57, 22 to 24, 37 and 40.

Paul Wheelhouse: All the amendments in the group, except amendments 23 and 57, make express provision for appeals and applications to the sheriff to be made by way of summary application. I emphasise that, were the express provision not included in the bill, the affected sections would still have the same effect, as the default rule is that an application or appeal to the sheriff under an enactment is by way of summary application unless the enactment provides otherwise. However, the Sheriff Court Rules Council would prefer it if each of the sections with a right of appeal specified the method by which the appeal is to be brought, to make that perfectly clear. Therefore, the amendments are simply to improve clarity and do not change the effect of the bill in any way.

Similarly, amendment 23 follows advice from the Sheriff Court Rules Council that it would be preferable if the bill made explicit provision for the court in which an appeal will be heard. Amendment 23 therefore makes it clear that any appeal against the decision of the sheriff relating to a control scheme—which must be on a point of law only—lies with the Court of Session and not the sheriff principal. That should remove any ambiguity. From a practical perspective, the higher court has the benefit of avoiding layers of appeal, which might bring with them unhelpful and costly delays in seeking a resolution.

Tavish Scott's amendment 57 would double the length of time that a master, owner or operator of a wellboat has to appeal against an enforcement notice to a sheriff. I am not clear why 14 days is considered more appropriate or who is suggesting that the current timescale needs to be revised. Marine Scotland has received no representations on the issue. The approach proposed in the bill is not inconsistent with existing legislation. The key issue for all concerned is for such matters to be dealt with as quickly as possible.

For those reasons, I urge the committee to accept amendments 21 to 24, 37 and 40 and to resist amendment 57.

I move amendment 21.

Tavish Scott: The minister might have answered this, but the point that I wanted to test

through amendment 57 is about consistency in the bill. In section 16, on page 16, where the Government details appeals in connection with emergency action notices, the proposal is for a 14-day period for appeal. However, in section 6, the appeal period is only seven days. There might be good reasons, legal or otherwise, for the difference between those periods, and the minister might have given them. If he can illustrate to me that the bill is consistent in respect of those two sections, I will be more than happy not to move amendment 57.

Paul Wheelhouse: I recognise the point that Tavish Scott makes. However, I am led to believe that moving to 14 days for this particular provision would be inconsistent with other legislation. Therefore, I urge the committee to resist the amendment in Tavish Scott's name.

Amendment 21 agreed to.

10:15

The Convener: Tavish, do you intend to move amendment 57?

Tavish Scott: With respect, I am not sure that I understood the answer to my question, so I will move the amendment.

Amendment 57 moved—[Tavish Scott].

The Convener: The question is, that amendment 57 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 57 disagreed to.

Section 6, as amended, agreed to.

Section 7—Marine enforcement officers' functions

Amendment 58 not moved.

Section 7 agreed to.

Sections 8 and 9 agreed to.

Section 10—Orders under section 9(1): samples and surveillance

The Convener: The next group is on the surveillance of commercially damaging species. Amendment 59, in the name of Tavish Scott, is the only amendment in the group.

Tavish Scott: I absolutely accept the importance of the work that is undertaken by the regulatory bodies—in this case, Marine Scotland. That is clear and, rightly, is part of the relationship between the industry and the regulatory body. However, with amendment 59, I want to ensure that the purposes, the specific measures and the duration of the activities are crystal clear.

I hope that that is consistent with the theme of all the amendments that I have lodged in respect of the bill, which is to ensure that, at all times, the Government and its regulatory bodies are crystal clear about the purpose of what they are doing.

I accept the need for the work—that, of course is the case—but the nature of that work must be detailed. The purpose of the amendment is to ensure that.

I move amendment 59.

Paul Wheelhouse: I accept the concerns that Tavish Scott has expressed, but I do not think that this amendment is necessary and I believe that it might lead to delays in the successful control of commercially damaging species.

I believe that the amendment is unnecessary, given that there is already provision in section 10(3)(d) for an order to include provision about the matters that a programme of surveillance is able to address. We have received no representations from the shellfish industry, which is most likely to be impacted by the issue and which has experienced the circumstances in which the powers would be used and the type of surveillance that would be undertaken.

Further, I believe that the amendment could be damaging—unintentionally, I am sure—given that it would require agreement on the detail of the surveillance activities to be reached with the fish or shellfish farmer themselves. That could weaken the measures that are required or lead to a delay in their implementation that, ultimately, could lead to delays in the successful control of commercially damaging species. I therefore urge the committee to resist amendment 59.

Tavish Scott: I do not mean to delay successful control but, on the minister's point about there having been no representations, it is sometimes the job of parliamentarians to guess what might happen as a result of the proposals in bills. There are plenty of examples that I can think of over the past years where the consequences of a bill have become apparent only later, and the affected

industry has popped up to ask why we did not do something or ask appropriate questions at the time.

The minister made a point about the possibility that the amendment could weaken or delay the control of a disease problem or otherwise damaging set of circumstances. There is no way that any commercial business will delay or weaken a measure that will lead to the control of that situation, because it will lose money every day that the situation continues. I do not think that the minister's point is legitimate.

The industry and the Government should expect of each other a degree of clarity and assuredness around what they are doing. After all, it would be open to the Government to interpret how the proposal in amendment 59 would operate, if it were to become part of statute. I do not think that it would be beyond the wit of clever officials to do that, so I do not think that there are legitimate concerns about the proposal, which would strengthen the bill and—more to the point—make it clear what is being sought. I therefore press the amendment.

The Convener: The question is, that amendment 59 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 59 disagreed to.

Section 10 agreed to.

Sections 11 to 14 agreed to.

Schedule 1—Commercially damaging species: control schemes

Amendments 22 and 23 moved—[Paul Wheelhouse]—and agreed to.

Schedule 1, as amended, agreed to.

Section 15 agreed to.

Section 16—Appeals in connection with emergency action notices

Amendment 24 moved—[Paul Wheelhouse]—and agreed to.

Section 16, as amended, agreed to.

Sections 17 to 19 agreed to.

After section 19

The Convener: The next group is on marine fish farms: planning. Amendment 25, in the name of the minister, is the only amendment in the group.

Paul Wheelhouse: Amendment 25 relates to the audit and review process, which is a time-limited process run by the Scottish Government to determine planning permission for marine fish farms that were in existence before responsibility for marine aquaculture developments was transferred to local authorities in 2007. Ministers currently have the ability to grant planning permission by individual application or by order for specific classes of development covering multiple sites.

Amendment 25 addresses an issue that has been identified with the Town and Country Planning (Marine Fish Farms Permitted Development) (Scotland) Order 2011, which granted planning permission for classes of fish farms situated in “marine waters” specified in the order. Unfortunately, the description of “marine waters” used in that order has resulted in a number of fish farms having been given planning permission without having gone through the appropriate audit and review process.

Amendment 25 will enable those farms to be placed in the same position as they were in before the order was made, ensuring in the process that they are not disadvantaged. They will then be taken through the audit and review process as necessary.

I emphasise that this is largely a technical amendment that will not affect fish or shellfish farms other than those that I have outlined above.

I move amendment 25.

Alex Fergusson: I seek clarification from the minister on a point. I am entirely likely to have got it wrong, but I would appreciate clarification. My understanding is that the audit and review process will not be subject to any level of public scrutiny, unlike the case for a normal planning application. Does the minister feel that that is something that might be addressed in the name of openness and transparency in the process?

Paul Wheelhouse: I am happy to address that point. Certainly, I recognise that amendment 25

has been introduced at a late stage to address a problem that has been identified. There is an issue to do with the consultation, as the member has identified. Amendment 25 will affect only existing fish farms that are in operation and that unfortunately received planning permission unintentionally due to incorrectly defined terminology in the 2011 order.

If it would help the member, I can explain some of the technical issues, which might clarify where we are coming from on the amendment.

Subsection (2) of the proposed new section will enable the Scottish ministers to grant planning permission for the operation of an individual marine fish farm, either by order or by application to them. Subsection (3) ensures that the farms are not disadvantaged under that process. The appropriate date is the later of 31 March 2014 or the date of expiry of the consent in place on 1 April 2007 under which the fish farm is authorised to operate.

Subsection (3) provides also that, when planning permission is revoked by order before the appropriate date, planning permission will not be required as a result of the previous grant of permission by the 2011 order until the appropriate date for the fish farm. That will ensure that any farms that have had planning permission revoked because that permission had been granted inadvertently will be in the same position as they were in before the order was made.

The provisions in an order are designed to ensure that appropriate checks and balances are put in place to take account of the environmental context in which the fish farm is to be granted permission. I assure the member that the environmental factors will be considered as part of the audit and review process. We can come back to the committee in advance of stage 3 with guidance about what the implications might be for a consultation.

Amendment 25 agreed to.

The Convener: Thank you, members. I suspend the committee for a couple of minutes to allow the officials for the next stage of the committee to enter.

10:26

Meeting suspended.

10:31

On resuming—

Section 20—District salmon fishery boards: openness and accountability

The Convener: The next group is on the governance of district salmon fishery boards. Amendment 26, in the name of the minister, is grouped with amendments 27 to 29.

Paul Wheelhouse: As the committee turns to part 2 of the bill, I would like to take the opportunity to remark on its policy themes and provide some context for your considerations, if that is acceptable.

Good governance and the promotion of openness, transparency and accountability are key themes that run through part 2. I am pleased that the committee, in its stage 1 report, welcomed the good governance obligations as a necessary and welcome step in improving accountability and openness in boards' affairs. I am also pleased that the ASFB has indicated its support for new responsibilities to be placed on DSFBs, and we will work with it to develop guidance for boards on complying. We are mindful that boards vary in size and resources. I know that that is a matter of concern to a number of committee members.

As I said at stage 1, the bill is the first step in delivering our manifesto commitment to modernise the management structures of salmon and freshwater fisheries. The second step is an independent review, which I anticipate will commence this summer, that is designed to deliver a management system that is robust, sustainable and fit for purpose in the 21st century. The committee's stage 1 report indicated support for our two-stage approach and recommended a number of areas that might usefully be examined. The committee's views are helpful and will inform the scoping process.

In the meantime, the bill places on DSFBs good governance obligations that are designed to drive forward and roll out best practice in conducting business. The obligations are founded on behaviours and practices that are well accepted as the norm in the public sector landscape. DSFBs are not public bodies, but their functions are set out in statute and they have statutory responsibilities. The obligations are designed to promote openness, transparency and accountability in the conduct of their affairs.

I have lodged minor amendments to the section on good governance to streamline a particular process to be followed by the clerk to the board and to clarify use of the ministerial power to modify the good governance obligations by order. Improving public access to and involvement in the meetings of DSFBs is a key tool in promoting

transparency and accountability and fostering community involvement in the boards' activities. It is right that boards are open and accessible to those with an interest in fisheries and that they seek to include the public in their affairs. In addition to a general presumption that all meetings of DSFBs will be open to the public and publicised as such, the bill includes specific requirements to hold an annual public meeting and to notify it and the annual proprietors meeting to the general public, salmon anglers and netmen and Scottish ministers.

Those notification requirements must, of course, be proportionate and workable in practice. At stage 1, there were discussions about how the clerk to the board might fulfil a notification requirement to inform salmon anglers and tenant netmen in their district. In response to that feedback, I have lodged an amendment to streamline the notification procedure. It can reasonably be expected that those groups will be informed either by the general notification obligations placed on the clerk or through the representatives who are co-opted on to the board in accordance with schedule 2 to the 2003 act. Amendment 26 removes the specific requirement for DSFBs to give notice of their annual public meeting and the annual meeting of proprietors to salmon anglers and tenant netmen in their district.

The bill includes a power for Scottish ministers to amend the good governance provisions by order. It is important that there is flexibility for the obligations to be modified to reflect changes in the governance landscape without the need for primary legislation. However, I note the Subordinate Legislation Committee's observation at stage 1 that the modification power as drafted is too wide in scope and could allow for dilution or, in fact, removal of the requirements. I agree that use of the power should be qualified to bring it into line with the scope of the power contained in new section 46F(1)(b) of the 2003 act to add further requirements. Amendments 27, 28 and 29 will ensure that modification can be made only for specified purposes that are associated with promoting openness, accountability, propriety and good governance.

I move amendment 26.

Jim Hume: Amendment 26 will remove the requirement to send notice to salmon anglers and tenant netmen. I appreciate that it would be difficult to identify all salmon anglers and that that would obviously be quite expensive. I had thought that perhaps an amendment to require notice to be sent to a representative of salmon anglers and tenant netmen might have been more appropriate, but of course tenant netmen and salmon anglers are already on district salmon

fishery boards. If the minister can assure me that he wants that to continue, I will be happy to support amendment 26.

Paul Wheelhouse: I agree with Jim Hume that it is good that the groups that he mentioned are represented on fishery boards. That is a means by which notification can be communicated and I assure him that that is our intention.

Amendment 26 agreed to.

Amendments 27 to 29 moved—[Paul Wheelhouse]—and agreed to.

Section 20, as amended, agreed to.

Section 21—Duty to consult and report before making certain applications

The Convener: The next group is on applications for orders and regulations under the 2003 act. Amendment 30, in the name of Paul Wheelhouse, is grouped with amendments 32, 34, 33 and 5. If amendment 32 is agreed to, amendment 3 is pre-empted. I ask the minister to move amendment 30 and speak to all the amendments in the group.

Paul Wheelhouse: District salmon fishery boards have statutory responsibilities to protect and improve salmon fisheries in their district and a number of powers to draw on to allow them to do so. In keeping with the themes of openness, accountability and transparency, the bill seeks to improve boards' engagement with all relevant interested parties and the wider public, to promote professional, science-based management. I acknowledge their local management role and responsibilities and my preference is for DSFBs to develop and implement voluntary, locally agreed management measures, without recourse to intervention by national government or to statute.

Of course, that may not always be possible and the 2003 act provides that boards can apply to Scottish ministers for statutory measures. Where such measures are requested, it is my and Parliament's expectation that the need for and impact of applications should be well evidenced. The bill will introduce a requirement on applicants—which, in practice, will be DSFBs—to consult known interested parties and the general public on management measures that they consider to require statutory backing and give regard to the representations that they receive. I want boards to reach out to the communities in which they operate, to inform and evidence their management plans. The requirement to consult prior to the submission of an application for statutory measures fits with the themes of openness, accountability and transparency.

The amendments in this group deal with the specific issue of how boards engage with the

general public and report back to the wider community. During stage 1, there was discussion of the proportionality of the requirements and the perceived administrative and financial burdens of requiring boards to publish a notice in a local newspaper. I have listened to those concerns and Government amendments 30, 32 and 33 seek to reduce the number of times that a board is required to publish a notice in a local newspaper from three to two. That way, we will reduce the administrative and financial burden on boards but uphold the policy objective of meaningful consultation with the public.

Alex Fergusson's amendments 3, 4 and 5 would also have the effect of reducing the administrative and financial burden on boards, but I believe that they go too far and would mean that the essence of meaningful consultation would be lost. Relaxing the procedures by which the applicant should report back to the wider public community on the outcome of a consultation represents a loss in the accountability process. I believe that there is a need for safeguards to ensure that there is proper publicity for all interested parties. Removing the requirement to consult after ministers have assessed an application but before the measure is made would remove a vital part of the process in schedule 1 to the 2003 act, which is linked to the potential calling of a local public inquiry. I urge members to resist amendments 3, 4 and 5.

I share the committee's observation that boards vary in size and resources; Alex Fergusson has made that point on previous occasions. I do not wish to place disproportionate burdens on them, but there is a balance to be struck. I consider the costs that are associated with pre-application consultation, as the process is modified by amendments 30, 32 and 33, to be proportionate, and I encourage members to support those amendments.

I move amendment 30.

Alex Fergusson: I entirely agree that this is indeed a question of proportionality.

As the minister said, section 21 includes a duty on the district salmon fishery boards to consult and report before making certain applications. I do not have a problem with that general principle at all but, without amendment, the requirement will compel district salmon fishery boards to publish or advertise in a newspaper twice during the process—I accept that the minister's amendments will reduce the number of times on which that has to be done from three to two. However, under schedule 1 to the 2003 act, they will also have to do so once at the end of the process, so there will still be a requirement to publish a notice in a newspaper three times. I feel that that is overly prescriptive, especially for some of the smaller boards and particularly when we consider that it is

more than likely that many of the interested parties or stakeholders—if we would like to call them that—will be represented on the boards in the first place.

My amendments would continue the requirement to publish but would remove the necessity and the not inconsiderable cost of having to do so in a newspaper after the first instance. There are ways to publish other than in a newspaper.

I think that my amendments 3 and 4 would fulfil the understandable need for consultation and the provision of information, but in a more proportionate and—if I may say so—slightly less dictatorial manner. Amendment 5 seeks to make a drafting change that would allow ministers to waive the obligation to give notice under paragraph 11(1) of schedule 1 to the 2003 act if they believe that adequate notice has already been given.

Jim Hume: On Alex Fergusson's amendments 3 and 4 to remove the need to advertise in a newspaper more than once, I think that the minister will know that in the area that both of us cover there are several local newspapers. It would be possible to advertise in a very small newspaper that covered just Selkirk, say—I will use the *Selkirk Weekend Advertiser* as an example. That might be the cheapest option for the Tweed board, but it would not cover the whole area. Therefore, I have sympathy with what Alex Fergusson is trying to do and will support his amendments.

The Convener: I ask the minister to wind up and to try to get some more product placement into proceedings.

Paul Wheelhouse: Despite being accused of being dictatorial, I will resist the urge to respond, as I think that I have made all the points that I need to make.

The Convener: The question is, that amendment 30 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Hume, Jim (South Scotland) (LD)

Abstentions

Fergusson, Alex (Galloway and West Dumfries) (Con)

The Convener: The result of the division is: For 5, Against 3, Abstentions 1.

Amendment 30 agreed to.

10:45

The Convener: If amendment 32 is agreed to, amendment 3 will be pre-empted.

Amendment 32 moved—[Paul Wheelhouse].

The Convener: The question is, that amendment 32 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

The Convener: The result of the division is: For 5, Against 4, Abstentions 0.

Amendment 32 agreed to.

The Convener: Amendment 4, in the name of Alex Fergusson, has already been debated with amendment 30.

Alex Fergusson: Given that any order on the River Bladnoch would have to be published in *The Galloway Gazette*, the *Stranraer and Wigtownshire Free Press* and *The Galloway News*, I will move amendment 4.

Amendment 4 moved—[Alex Fergusson].

The Convener: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 4 disagreed to.

Amendment 33 moved—[Paul Wheelhouse].

The Convener: The question is, that amendment 33 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

The Convener: The result of the division is: For 5, Against 4, Abstentions 0.

Amendment 33 agreed to.

Amendment 5 moved—[Alex Fergusson].

The Convener: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 5 disagreed to.

Section 21, as amended, agreed to.

Section 22—Carcass tagging

The Convener: The next group is on salmon carcass tagging. Amendment 89, in the name of Alex Fergusson, is grouped with amendments 90 and 34.

Alex Fergusson: I think that this is quite a simple issue. In our stage 1 report, the committee very much supported the individual numbering of tags and made it quite clear that any tagging scheme that did not include individually numbered tags would essentially be rendered ineffective.

Any tagging scheme must be about traceability. Returning to the agricultural theme that Tavish

Scott introduced, with his tractor, I should say that as a former sheep farmer I am well aware that every sheep that goes to slaughter must have an ear tag—one in each ear, in fact—for identification purposes. Those tags are individually numbered and every movement of each animal is logged and recorded. As a result, every animal can be identified and is traceable throughout its entire life.

Without the individual numbering of tags and recording of the use of those tags, any wider benefits of a tagging scheme—for example, any scheme to minimise the market for illegally caught fish—will be completely lost. With no traceability and no means of control over tags that had been issued or even copied, the scheme would be wide open to abuse. Amendment 89, therefore, proposes that any tagging scheme that is introduced use individual uniquely numbered tags that must be recorded in a manner to be determined by ministers.

As for amendment 90, new section 21A(4) of the 2003 act, as inserted by section 22, states:

“A person commits an offence if the person ... sells, offers or exposes for sale, or has in the person’s possession, any salmon ... that has not been tagged in accordance with regulations ... or ... from which a tag has been removed”.

However, there is no specific offence of buying an untagged fish.

In sections 16, 17 and 19 of the 2003 act, there are specific offences for buying as well as selling. In proposing amendment 90, I seek to tidy up what I see as a loophole in this legislation that would make it illegal to sell but not illegal to buy a rod-caught salmon.

I move amendment 89.

Paul Wheelhouse: The committee has noted the significant support for the introduction of a carcass-tagging scheme and agreed that an enabling power is the appropriate vehicle to bring that forward. However, although there is considerable support for a scheme, there is no agreement at present between sectors on what the scheme would—or should—look like.

Alex Fergusson’s amendments seek to prescribe the enabling power, restricting the flexibility of Scottish ministers to make provision for a carcass-tagging scheme. That approach presents difficulties and I urge members to resist amendment 89. I appreciate Alex Fergusson’s good intentions, but the amendment presents us with some problems.

The purpose of enabling powers is to allow ministers to make certain provisions. The detail of the carcass-tagging scheme will be set out in regulations in due course—an approach that has been approved by the committee. I have made

clear my intention to consult fully on the detail of the scheme before bringing regulations to Parliament. I note the point that Tavish Scott made earlier on the degree of scrutiny hereafter, but I will certainly do whatever I can to ensure that there is appropriate scrutiny of this.

I note the preference of the committee and of others for numbered tags. That will be a key element of the consultation with all interested parties, as will the impact of the scheme on individual businesses.

Seeking to introduce this style of technical detail via primary legislation is not standard practice because of the requirements of the European Union technical standards directive. The directive requires that member states notify the European Commission about any new measures that they introduce that might create a technical barrier to trade. A notified provision is subject to a minimum standstill period before it can come into force, which can be up to 18 months. That notification process would have implications for the bill timetable as a whole if it was enacted.

Turning to amendment 34, in my name, the bill provides that the carcass-tagging regulations may modify part 5 of the 2003 act. Part 5 of the act deals with enforcement, including the powers of bailiffs and wardens. I note and concur with the Subordinate Legislation Committee’s view that affirmative procedure be followed where regulations seek to amend primary legislation. Amendment 34 requires that affirmative procedure is followed if the carcass-tagging regulations seek to amend part 5 of the act to make use of the bailiffing and wardening systems for the scheme. I therefore encourage members to support amendment 34.

Amendment 90 seeks to modify the offence provision that is associated with the carcass-tagging regulations to make the purchase of salmon that is not tagged in accordance with the regulations an offence. I understand that this is due to concerns, as set out by Alex Fergusson, about a perceived loophole in the law with regard to the purchase of rod-caught salmon. The bill as introduced has the potential to close that loophole because the term “possession” includes possession as a result of purchase. I am not persuaded that inclusion of the word “buys” is necessary at this time and therefore I do not support the amendment. If there are wider concerns about the offences that are associated with salmon fishing, they are best considered in the context of the forthcoming work to review more broadly the management of salmon and freshwater fisheries in Scotland. I urge members to resist amendment 90.

Claudia Beamish (South Scotland) (Lab): For the record, I highlight my commitment to trying to

take forward identification by number tags, but in this instance I take the minister's point—he has clarified how that could proceed. It is extremely important that there is wide-ranging consultation before that comes forward.

Alex Fergusson: I am far from convinced that including the requirement for tags to be individually numbered at this stage of the legislation would in any way detract from further negotiations, discussions or consultations on the issue. I hear what the minister says about delaying the bill's timetable—obviously one does not wish to do that. However, this is a hugely important issue and one on which there is considerable concern and a great level of agreement in the committee.

I am inclined to seek to withdraw amendment 89, because I would like to come back to the matter at stage 3. That is what I propose to do.

On amendment 90, I hear what the minister says. If I understand him correctly, he is saying that “possession” includes possession through purchase. Will the minister clarify that point?

Paul Wheelhouse: That is my understanding of what the term in the bill specifies.

Alex Fergusson: I am satisfied with that answer, although I still think that the word “buys” leaves no room whatever for dubiety. On that basis, I will move amendment 90 and seek to withdraw amendment 89.

Amendment 89, by agreement, withdrawn.

Amendment 90 moved—[Alex Fergusson].

The Convener: The question is, that amendment 90 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 90 disagreed to.

Amendment 34 moved—[Paul Wheelhouse]—and agreed to.

Section 22, as amended, agreed to.

Sections 23 and 24 agreed to.

Section 25—Monitoring and evaluating the effects of orders

The Convener: The next group is on monitoring and evaluating the effects of the orders. Amendment 6, in the name of Alex Fergusson, is grouped with amendments 7, 35, 8, 9, 36 and 10.

Alex Fergusson: Amendments 6, 8 and 10 are principally about proportionality. It is not at all unreasonable that ministers should be able to impose conservation measures on any board or individual proprietor in the right circumstances, and it is right that those measures should be properly monitored and evaluated—I do not have an issue with that.

However, as we are aware, and as I have said with regard to previous amendments, boards vary widely in size, resources and levels of expertise. In such a situation, one size does not necessarily fit all, and a greater degree of proportionality is required in the process.

When a board applies proactively for an order, discussions will take place with the appropriate officials on the required levels of monitoring for proper evaluation even before there is agreement on whether to go ahead with the proposed actions. Under the bill, ministers could take out an order entirely on their own initiative and place a legally binding monitoring requirement on the board or proprietor without any prior discussion or consultation whatsoever. I am not saying that ministers would do so, and I agree with Tavish Scott that the current minister would not, but he will not be there for ever—promotion beckons, I am sure.

It is entirely possible that such an order could be made without there having been any sense locally that it was even needed, and that the measure would therefore be imposed almost unnecessarily. That seems to be rather two-handed in this day and age of openness and consultation. Amendments 6, 8 and 10 would simply ensure that Scottish ministers have a duty to consult the relevant stakeholders prior to taking out any orders, and that those consultations would include the financial implications—the cost, in other words—of any actions to be taken.

I think that we would all want ministers and Government to act fairly, reasonably and responsibly in taking such decisions. If ministers have a duty to consult on the cost of their proposed actions, on which my amendment 6 would insist, there is bound to be a more reasonable outcome in respect of any obligations that are placed on district salmon fishery boards and on individual proprietors.

11:00

Amendments 7 and 9 are also about proportionality. Section 25 could criminalise district salmon fishery boards if they failed to monitor the effects of an order. The sanction that has been set is at level 4 on the standard scale. According to the Scottish Government's website, level 4 is

"the lowest that can reasonably be made as an alternative to a custodial sentence"

and is

"appropriate for offences posing more appreciable or culpable risks to health or safety, such as careless driving."

I cannot see how that level of sanction will encourage people to give of their time to help in the work of district salmon fishery boards, which rely greatly on voluntary input. Such a sanction can act only as a huge disincentive.

If the Scottish Government believes that a criminal offence is appropriate, surely a level 3 sanction would be more appropriate. According to the same website, level 3

"is commonly the penalty for serious nuisances and is also used for serious breaches of administrative procedures, perhaps motivated by financial or other reward."

That seems to me to be an altogether more appropriate level of sanction. I strongly emphasise that no one is against monitoring or evaluation of orders. However, I seek to ensure that we keep the issue in perspective.

I move amendment 6.

Paul Wheelhouse: I have already spoken about the role of district salmon fishery boards as local managers of salmon fisheries. I highlighted the Government's preference for locally agreed voluntary conservation measures where those are needed. I have made clear the expectation that, where statutory measures are sought, the need and impact should be clearly evidenced.

I will pick up on a couple of Alex Fergusson's points. I recognise where he is coming from, but I emphasise that the Government would never introduce secondary legislation without consultation. I will come on to the fine structure in a moment, but I point out that it is the district salmon fishery boards, and not their individual members, that would be liable for fines. Further, the 2003 act already has similar provisions in place.

I have made it clear that I do not wish to place a disproportionate burden on boards. I recognise that that is the main driver behind Alex Fergusson's amendments—throughout the process, he has sought to take account of the different sizes and resources of boards. His amendments 6, 8 and 10 would place responsibility on the Scottish ministers to consult

on any monitoring and evaluation requirements that they wish to impose on boards, hence my comment about the Government's approach to secondary legislation. It is hard to argue that, where a national intervention is required to resolve local management issues, there should not be a responsibility on local managers to monitor the impact of that intervention in line with ministers' expectations. Indeed, if we expect a district salmon fishery board to bring forward a business case, appropriate monitoring and evaluation arrangements should be integral to that.

Monitoring is a recognised way of assessing efficacy and promoting science-based management of fisheries. There is broader interest in the effectiveness of measures that are given statutory approval by the Parliament. All parties have a responsibility to share information widely to aid national understanding of fisheries management tools. In practice, monitoring plans should form part of the case for measures and will be discussed between the board and the Scottish Government during the assessment of the application in each case. That discussion will include financial costs. It is not in anyone's interest for the Government to impose disproportionate financial burdens on boards. On that basis, I recommend that members resist amendments 6, 8 and 10.

Amendments 7 and 9 would reduce the level of fine that is capable of being levied on conviction for the offence of failing to monitor regulations or orders under sections 33 and 37 of the 2003 act. Monitoring and evaluation of management measures are a key component of fisheries management, so there must be a sanction for failure to comply, and the level of fine must act as a deterrent.

As I said, the fine would apply to the board rather than to individuals. I recognise Alex Fergusson's point about disincentives in relation to people joining district salmon fishery boards, but it would be the board, not the individual, that would be liable for the fine. I consider that failure to take action to monitor statutory measures is a serious offence that merits a maximum fine of £2,500 rather than £1,000. I therefore urge members to resist amendments 7 and 9.

Amendments 35 and 36, in my name, have been lodged in response to discussion with stakeholders about the nature of the offence of failure to monitor. Due to the nature of the activity and the enforcement systems, a number of offences in the 2003 act can be prosecuted on single witness evidence. However, on reflection, I am of the view that the offences of failure to monitor under sections 33 and 37 of the act should be subject to the usual Scots law rules of

evidence, and that corroboration should therefore be required.

Members will be aware that wider steps will be taken by the justice secretary in the forthcoming criminal justice bill, which will, if passed by Parliament, lead to the abolition of the need for corroborated evidence for all offences. That should not stop members agreeing to my amendments, which deal with a very specific offence. However, members will want to note the wider developments.

I ask members to support amendments 35 and 36.

Alex Fergusson: I hear what the minister says about his willingness to address some of these issues in secondary legislation. However, I come back to the point that has already been made by members: secondary legislation does not receive a sufficient level of scrutiny—if it receives any—in the Parliament. That is not a fault of any Government or individual; it is a fault of the structure of the Parliament. Those of us who have been here long enough realise that that is the case. Therefore, I intend to press amendments 6, 8 and 10.

On amendments 7 and 9, I did not find the minister's answer entirely convincing. I think that he said that individuals would not be required to pay any sanction against them. My understanding is that an order can be taken out against an individual just as it can be taken out against a board, and therefore surely the individual would be liable for any sanction that was imposed. I would be happy if the minister were to clarify that.

Paul Wheelhouse: It comes down to whether a company or, in this case, a board has a legal identity, and that is what would be prosecuted for any offence. That is my understanding. Therefore, the board would be liable for the fine, not the individuals who are members of the board. That is our interpretation of the law, although I appreciate that Mr Fergusson may not agree with that.

Alex Fergusson: It is not that I agree or disagree, but that I find the position unsatisfactory—it is not entirely clear.

Paul Wheelhouse: We can write to the committee to give clarity on that point in advance of stage 3, if that would be beneficial.

The Convener: That would be helpful.

The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 6 disagreed to.

Amendment 7 moved—[Alex Fergusson].

The Convener: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 7 disagreed to.

Amendment 35 moved—[Paul Wheelhouse]—and agreed to.

Amendment 8 moved—[Alex Fergusson].

The Convener: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 8 disagreed to.

Amendment 9 not moved.

Amendment 36 moved—[Paul Wheelhouse]—and agreed to.

Amendment 10 moved—[Alex Fergusson].

The Convener: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 10 disagreed to.

Section 25, as amended, agreed to.

Sections 26 to 28 agreed to.

Section 29—Offences exempted by permission or consent: power to attach conditions etc

The Convener: The next group is on offences exempted by permission or consent. Amendment 60, in the name of Jim Hume, is grouped with amendment 61.

Jim Hume: Amendments 60 and 61 would strengthen the bill. Where district fishery boards are active, there is often a well-established history of electrofishing by those boards. That is of course important in recording the health of our rivers and burns. If others are to electrofish in the same waters as boards, it is important that boards are consulted on that; otherwise, sampling could occur at similar times, which could have a negative effect, especially on juvenile fish and invertebrates. Electrofishing is fairly harmless but, if young stocks were perhaps exposed to it twice on the same day, that could result in a negative consequence.

At present, district fishery boards must request consent to electrofish for research purposes in close times. The same goes for collecting brood stock for hatcheries to restock rivers. That is an anomaly and a waste of valuable Government resource. Electrofishing has no long-term effect on river stock and, as I said, it gives valuable information to help with the health of our rivers; using caught brood stock for hatcheries when that

is appropriate also helps. Electrofishing should not be labelled in the same way as rod fishing, which is—rightly—subject to the laws of close times.

Amendment 60 would free up Government resource and stop district fishery boards wasting time and money on continually requesting consents from ministers. Consent for such activities would be allowed at appropriate times throughout the year for scientific and conservation reasons.

I move amendment 60.

Paul Wheelhouse: I clarify for Mr Hume's benefit that, as I understand it, electrofishing could inadvertently—rather than deliberately—catch species such as the eel, which is protected. That would contravene requirements to protect that species, so electrofishing requires regulation.

In its stage 1 report, the committee endorsed the bill's general principles. The bill seeks to promote openness, transparency and accountability, as I have said. It seeks to enhance salmon management through a more robust and consistent consenting regime that promotes science-based management.

Amendment 60 does not reflect those general principles or the direction of travel. It would give district salmon fishery boards powers to consent to and carry out activities that would otherwise be illegal during the annual and weekly close times. Close times have a clear and important purpose, which is salmon conservation. They are set out in statute, and variations require ministerial and parliamentary approval.

Ministers therefore have a legitimate interest in the oversight of activities that are undertaken in the periods that are set aside for conservation purposes. I am not persuaded that ministers should relinquish responsibility for that oversight, for the reasons that I have given.

Relevant to the discussion is the stage 1 evidence that the committee received from Scottish Natural Heritage, which had concerns about some boards' ability to comply with their obligations, particularly in relation to consenting activities. Notably, SNH supports strongly the power in the bill for ministers to revoke, remove, restrict or modify district salmon fishery board powers to consent to salmon introductions. SNH does not support amendment 60.

Given that context, I urge members to resist amendment 60. It would represent a backwards step on openness and transparency and it would dilute ministers' legitimate interest in activities that are carried out during annual and weekly close times.

Amendment 61 introduces a statutory requirement for boards to be consulted when

someone seeks to obtain permission from Scottish ministers to carry out activities related to non-salmonid fish that would otherwise be illegal. I recognise that the issue behind the amendment is a desire to manage the interaction between the salmon and freshwater fishery sectors. Both sectors carry out activities in the same environment and it is right that there is closer engagement between the two.

However, although the amendment creates a statutory obligation for boards to be consulted on non-salmon activities, there is no parallel obligation on boards to consult with freshwater interests. That would create an imbalance between the sectors, resulting in a hierarchy rather than a level playing field. The issue of how different fisheries interact with one another is a key point for the forthcoming review. I have made it clear that I want to look at the management of Scottish fisheries as a whole, and that will include how they interact with one another.

In the meantime, I consider that greater focus can be placed on encouraging all parties to engage with one another to develop joint approaches to undertaking work on each river. I recommend to members that they resist amendment 61.

11:15

The Convener: I invite Jim Hume to wind up and to indicate whether he will press his amendments.

Jim Hume: I will press both amendments 60 and 61.

I believe that, given their local setting, district fishery boards are in a good position almost to guarantee that electrofishing will not be duplicated in an area, albeit that different species may be involved.

I still believe that there may be a negative impact or unintended consequences. I would appreciate it if the minister would take the two amendments and consider them. I am sure that they will not be agreed to today but I shall press them.

The Convener: The question is, that amendment 60 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)

Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

Abstentions

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 5, Abstentions 2.

Amendment 60 disagreed to.

Amendment 61 moved—[Jim Hume].

The Convener: The question is, that amendment 61 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

Abstentions

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 5, Abstentions 2.

Amendment 61 disagreed to.

Section 29 agreed to.

After Section 29

The Convener: The next group is on regulations on the right to buy salmon fisheries. Amendment 62, in the name of Claudia Beamish, is the only amendment in the group.

Claudia Beamish: There is significant potential for netting effort to increase in future, although whether that will happen is uncertain. The high price of wild salmon and sea trout has meant that a number of previously dormant and lightly fished stations have been reopened. Analysis of the district assessors valuation rolls by the ASFB demonstrated that there were at least 129 dormant netting stations of varying sizes, which have the potential to come back into operation.

My view is that when a netting station is put up for sale or is to be leased by a third party, the relevant district salmon fishery board should, in the interests of salmon conservation, have a statutory right of first refusal before any proposed sale or lease of that netting operation could proceed. Such a right would not be prejudicial to the fishery owner, who would still receive appropriate compensation for the value of the

fishery. Therefore, the private heritable rights of the fishery owner would be protected.

That would not prevent such fisheries from continuing to operate but it would prevent a significant increase in commercial exploitation—there is a risk of such an increase—which would fly in the face of internationally accepted best practice. A concern about netting in relation to mixed fisheries has also been raised with us.

During stage 1, the minister emphasised his concern that decommissioned sites remain decommissioned. However, there is currently no mechanism to ensure that that happens.

In cognisance of Willie Cowan's concern—Mr Cowan is a Scottish Government official—that provision for a scheme to grant to district salmon fishery boards the right to buy salmon fishing rights would be a substantial amendment to the bill at stage 2, amendment 62 is designed simply to give the Scottish ministers the power to introduce such a measure through secondary legislation. I support conferring on the Scottish ministers the power to grant salmon fishery boards the right of first refusal in purchasing dormant coastal fishing rights.

I move amendment 62.

Alex Fergusson: I am broadly supportive of amendment 62. As well as having the many benefits that Claudia Beamish mentioned, it would give district salmon fishery boards the opportunity to purchase salmon netting rights for conservation reasons. Conservation was quite a large feature of the evidence that we took, and its consideration is a good reason for supporting amendment 62.

Paul Wheelhouse: I was a little surprised that amendment 62 was lodged, although I appreciate the explanation that Claudia Beamish has given. In its stage 1 report, the committee signalled its support for my two-stage approach to delivering modernised management structures for salmon and freshwater fisheries. I specifically indicated that the management of coastal netting should be considered in the context of the forthcoming independent review.

I hear what Claudia Beamish is saying about providing enabling powers, which could be used subsequently.

I am committed to salmon conservation—let me be clear about that. The Scottish Government has obligations to the European Union and commitments to the international community, which we take seriously. Such factors are a key driver of the forthcoming review. We must have a management system that is fit for purpose in the 21st century.

The Scottish Government promotes size-based management of fisheries. The ownership of a

fishing right is not in itself an evidence-based management tool for the conservation of salmon stocks; ultimately, what matters is how the right is exercised and managed. District salmon fishery boards and the Scottish ministers have a range of tools to manage and control how fishing rights are exercised.

As I made clear, my preference is for locally agreed voluntary conservation measures, where there is evidence that such measures are needed. If local voluntary approaches cannot be agreed, applications for statutory measures can be made. The bill strengthens ministers' powers to make conservation measures, and we are far from complacent. That is why we view the bill as the first step—I stress “first step”—in modernising the management regime, and it is why I announced the forthcoming independent review.

Given the wider context, I am not convinced that amendment 62 is necessary. I also have reservations about the potential impact of introducing controls over private property rights. I urge members to reject amendment 62.

Claudia Beamish: I listened carefully to the minister and I note what he said about the independent review. I agree with Alex Fergusson that conservation is important. I will press amendment 62, because I would like the enabling power to be provided for in the bill.

The Convener: The question is, that amendment 62 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 4, Against 5, Amendments 0.

Amendment 62 disagreed to.

Sections 30 to 32 agreed to.

Section 33—Power of sheriff to order release of vessels

Amendment 37 moved—[Paul Wheelhouse]—and agreed to.

Section 33, as amended, agreed to.

Sections 34 to 43 agreed to.

After section 43

The Convener: The next group is on offences and powers of entry under fisheries legislation. Amendment 38, in the name of the minister, is grouped with amendments 39, 41, 42, 44 and 45.

Paul Wheelhouse: Fishing for cockles in the Solway Firth is currently prohibited through an order made under section 1 of the Inshore Fishing (Scotland) Act 1984. The order prohibits fishing for cockles, so it is the act of fishing that enforcement officers must gather sufficient evidence of. Doing that for an act that is rarely, if ever, witnessed by the authorities is very problematic. Health and safety considerations mean that enforcement officers cannot easily venture out on to the sands where illegal cockle fishing takes place. I am sure that all members are aware of the tragic events in Morecambe Bay and know the dangers therein.

Amendment 38 will allow the courts to infer that illegal fishing has taken place, or was just about to take place, from the circumstantial evidence available. Amendment 44 makes similar provision for regulated fishery orders under the Sea Fisheries (Shellfish) Act 1967, which may become relevant should a legal fishery for cockles in the Solway Firth be opened at some point in the future. Those measures are being brought in to improve enforcement action against illegal cockle fishing in the Solway Firth, but they will apply more widely to other orders made under the 1984 act, which prohibits sea fishing in specified areas, as well as to regulated fishery orders made under the 1967 act. They will therefore improve enforcement of other measures in inshore waters around Scotland.

Amendments 39 and 45 have been introduced to complement existing enforcement powers in respect of illegal fishing under the 1984 act and the 1967 act. I have introduced the amendments as part of a package of measures that we are taking to tackle illegal fishing on the Solway Firth. Points of access to the foreshore along the coastline of the Solway Firth are limited. Points of vehicular access to the foreshore from the public road network include private roads over private land. Intelligence that has been gathered by Marine Scotland and its partner agencies suggests that illegal cockle pickers have used private roads or private land to access the foreshore and then go on to the cockle beds. Marine Scotland's enforcement officers encounter resistance from the landowners when they try to use the same roads to gain access to the foreshore to intercept illegal cockle pickers.

The amendments will give enforcement officers a power of entry to land that will allow them to insist on access where the landowner seeks to prevent it; allow officers to remove any obstacles that have been placed in the road to block their

path; and confer a power of arrest on police officers where the landowner wilfully obstructs the enforcement officers. The powers of entry will apply to Crown land, which is relevant to the majority of foreshore around Scotland, but they will not apply to Her Majesty's private estates.

It is extremely challenging for Marine Scotland and its partner agencies to gather primary evidence of illegal cockle fishing. In the past, that has often limited and precluded enforcement action, including prosecution. These amendments will allow enforcers to act where there is only circumstantial evidence of illegal fishing, which will result in demonstrable and visible improvements to the enforcement regime.

Moving away from cockles and turning to fisheries control provisions more generally, I note that amendments 41 and 42 concern section 31 of the Fisheries Act 1981, which creates offences and confers inspection powers for effective enforcement of European Union obligations relating to sea fishing where an order has not been made under section 32 of the 1981 act. At present, the scope of section 31 is limited to the activities of fishing vessels. The amendments will increase the scope of the 1981 act to cover shore-based activities of sellers, buyers and transporters of fisheries products in the absence of an order being placed. They will also mirror provisions that are already in place for England and Wales.

I move amendment 38.

Alex Fergusson: I will speak for once in praise of the minister for introducing these amendments. As he is well aware, they are the product of much lobbying over the past two years and further back, as poaching along the Solway has always been an enormous problem. For many of the reasons that the minister has mentioned, on many occasions the poachers' gangs have been able to cock a snook at authority and, to all intents and purposes, simply walk off with their ill-gotten gains.

I very much welcome the measures that have been taken, which I believe have already had some effect on the policing of illegal fishing, although it continues and always will. The measures are timely, because there is an open meeting on 3 April in Dumfries to try to come to an agreement on a model of fishery to be opened later this year. That is as welcome as these measures are, and I commend the Government for introducing them. I am so pleased with them that I am not even going to question the other amendments in the group.

11:30

Claudia Beamish: I identify myself with the remarks made by the minister and Alex Fergusson about making the legislation more robust and

enabling the police to do a more effective job in stopping this dreadful illegal trade and the threat that it poses to people out on the very dangerous Solway Firth. However, I seek clarification from the minister on the position with Crown land. I believe that you said that entry on to it is not allowed. What is the reason for that?

Paul Wheelhouse: Most of the foreshore, which as members will know belongs to the Crown Estate, will be covered by the provisions.

Claudia Beamish: I am sorry—I must have misunderstood.

Paul Wheelhouse: However, we are making an exemption for Her Majesty's own properties for security reasons and so on.

Claudia Beamish: Can you clarify why that exemption is being made? I apologise for not framing my initial question appropriately.

Paul Wheelhouse: It is probably in relation to security matters, but we can clarify that for the committee if it assists.

Jim Hume: We should note that every member who has spoken on these amendments—a number of South Scotland MSPs and the MSP for Galloway and West Dumfries—represents the Solway area, is very aware of the huge problems down there and supports what the minister is doing. I presume that we will keep an eye on what happens to ensure that the new powers on circumstantial evidence are not abused—I am sure that they will not be—but I support the minister in his endeavours to tackle illegal cockling.

Paul Wheelhouse: Speaking as another South Scotland MSP, I think that the measure is important and certainly welcome the committee's support for it.

Amendment 38 agreed to.

Amendment 39 moved—[Paul Wheelhouse]—and agreed to.

Schedule 2—Forfeiture under section 41 or 42

Amendment 40 moved—[Paul Wheelhouse]—and agreed to.

Schedule 2, as amended, agreed to.

Section 44—Modification of the Fisheries Act 1981: enforcement of EU rules

Amendments 41 and 42 moved—[Paul Wheelhouse]—and agreed to.

Section 44, as amended, agreed to.

Sections 45 and 46 agreed to.

Section 47—Protection and improvement of shellfish waters

The Convener: The next group is on technical and procedural issues. Amendment 43, in the name of the minister, is grouped with amendments 46 to 48.

Paul Wheelhouse: These amendments are technical and procedural in nature. Amendment 43 is a minor drafting amendment that seeks to alter the way in which the bill amends section 9 of the Water Environment and Water Services (Scotland) Act 2003 to make a clearer distinction between SEPA's objective setting for shellfish water protected areas and objective setting for water bodies in general by referring to those duties in separate subparagraphs. It is expected that separate regulations will be brought forward under section 9 of the 2003 act to deal with, on the one hand, objective setting for shellfish water protected areas and, on the other, objective setting for water bodies in general, and this minor technical amendment will facilitate the drafting of separate regulations while leaving unchanged the legal effect of the amendment made by section 47(4) of the bill.

Amendment 46 to 48 are consequential on amendment 43 and seek to ensure that any regulations in relation to the new powers to impose charging in connection with fisheries functions will be subject to the affirmative procedure. I listened carefully to stakeholder concerns and the comments from both the committee and the Scottish Law Commission, and I believe that this is an appropriate way forward. I invite the committee to agree to amendments 43 and 46 to 48.

I move amendment 43.

The Convener: No other member wishes to speak. I do not think that you need to wind up, minister.

Amendment 43 agreed to.

Section 47, as amended, agreed to.

Section 48 agreed to.

After section 48

Amendments 44 and 45 moved—[Paul Wheelhouse]—and agreed to.

Section 49 agreed to.

The Convener: We will have a short suspension for a comfort break before we proceed with section 50.

11:36

Meeting suspended.

11:42

On resuming—

Section 50—Power to charge in connection with fisheries functions

The Convener: The next group is on power to charge in connection with fisheries functions. Amendment 78, in the name of Tavish Scott, is grouped with amendments 79, 80, 81, 91, 82, 83, 84, 85, 86, 87, 92 and 88.

Tavish Scott: First, I apologise to the convener for making him read that great long list. Had I and the chamber desk been able to draft one amendment that would have done all that I am seeking, believe me we would have done so. However, in moving amendment 78, I want to talk about the Government's ability to charge for the "services", rather than "functions", that it will now need to undertake because of its sweeping powers under the bill.

An important point to reflect on is that Marine Scotland, which is the Government's principal agency for fish farming, has three functions: enforcement of regulation, scientific research and policy. Without a shadow of a doubt, those three functions are distinct and need to be dealt with separately in any proposed charging regime. Otherwise, there will be a self-evident conflict of interest. That is the purpose behind these amendments.

To take one industry example, with the powers that it is taking under the bill Marine Scotland will be able to undertake additional site visits, make requests for information and engage in active day-to-day management scrutiny of the commercial functions of a fish farm. Potentially, all those services could now be charged for, and that is why my amendments seek to separate out the different services.

Last week and today, the Government resisted other amendments in my name that in some way—perhaps not completely—would have restricted the involvement, which will now undoubtedly happen, of Marine Scotland and the Government in the day-to-day management decisions of commercial operations. I think that that was a mistake and the Government will rue the day that it took all those powers, which will surely be on the statute book shortly. A commercial industry that operates in a highly intensive and competitive international market, with a high growth target that has been agreed by the Government, will now have additional bureaucratic and cost hurdles. The purpose of the amendments is to have those costs detailed in

respect of the charges that will now be levied for services that Marine Scotland provides. It is important to reflect those charges, the purpose behind the charges, which part of Marine Scotland will charge for the particular services and why the charges are being levied.

11:45

The amendments in this group go some way—following the same principle that I have followed for all the other amendments that I have previously lodged at stage 2—towards achieving the necessary degree of transparency for how the Government and Marine Scotland will operate and intervene in commercial decisions. The amendments also assist in ensuring transparency regarding the statutory functions of, for example, the fish health inspectorate and regarding the charges that may be levied without statutory or regulatory underpinning through the powers that the Government is taking.

The Government needs to recognise—and I hope that it wants to recognise—that the industry can buy specialist knowledge and services from third-party contractors, including those that operate in the international marketplace. Where such a service is more cost effectively procured by the industry, I do not believe that it should be forced on the industry that only Marine Scotland should provide that service. However, that is the manner in which the bill is drafted.

Marine Scotland has an important role in ensuring that its charging is transparent and relates to the service—not the function—that it is providing, and that there should be opportunities, where appropriate, for that service to be provided by bodies that are not part of the Government, for reasons to do with the conflict of interest that is inherent in the bill.

I hope that, in lodging this group of amendments in that spirit, I can commend to the committee and other members the principle that, where a charge is being imposed on a commercial industry, the industry should, at the very least, expect the charge to be very detailed and clear.

I move amendment 78.

Alex Fergusson: I am largely supportive of all the amendments in the group, but I wish to ask Tavish Scott about amendment 86. Can he clarify why he believes that such a degree of specificity is so important? I have slight concerns over that, because I do not see an awful lot wrong with the current wording. I ask him to expand on that when he winds up.

Paul Wheelhouse: There are a number of common themes in these amendments, and I recognise the passion with which Tavish Scott is

putting forward the case on behalf of the industry. Amendments 78 to 81, 83 to 85, 87 and 88 seek to replace the principle of charging for the carrying out of fisheries functions with that of charging for the carrying out of fisheries services. I am not altogether clear—at least, I was not clear about it until today—as to which definition of a service was being applied, and I struggle to understand the arguments for why such an approach would be preferable.

As far as I am aware, only one stakeholder has expressed a view similar to that expressed by Tavish Scott today, and that was based on concerns about the principle of the Scottish Government charging for its own core functions or for services that have already been provided by preferred commercial suppliers—and Tavish Scott has picked up on that point. That is not the case, in our view.

As I explained at stage 1, the primary purpose of the provisions is to promote the effective use of resources. As regards any charges that are payable under regulations that are made using the power in the bill, a person is required to pay a charge only if and in so far as the person is someone in relation to whom a fisheries function has been carried out. In addition, the charge may not exceed the reasonable cost that is incurred in carrying out the function. The charge must relate to the function in respect of which it is charged, and it may not generate a surplus.

Amendments 91 and 82 seek to shape any future charging regulations. Amendment 82 is unnecessary, as section 50(1) already requires the regulations to specify the particular fisheries functions in relation to which they apply. Amendment 91—I say this with no disrespect intended—seems to be confused as to whether it is for or against charges for functions rather than charges for services.

I have already made it clear that it is the Scottish Government's intention to consult fully before any regulations are made under the power. I have heard several times the concerns that Alex Fergusson and Tavish Scott have expressed today about secondary legislation, and I take that on board, but we have committed to having consultation. That commitment has been placed in the bill, and that, along with the fact that the committee has accepted the earlier amendment that will require any regulations that are made to be subject to affirmative procedure, suggests that the detail should be left for that process.

Amendment 86 also seeks to define those whom we should consult. The bill makes clear that, before making regulations,

“Scottish Ministers must consult such persons as they consider appropriate.”

There are already well-established administrative procedures for consultations, and I see no reason why we should not continue in that fashion in the future. In some respects, had a similar approach been taken with some of the amendments that are before us, we might not be discussing them today.

Amendment 92 seeks to place on ministers a requirement to prepare and publish a report on the operation of the regulation within a specific time period. Although I fully accept that it is desirable that the operation of any regulations that are made using the power should be reviewed on a regular basis, I think that the timescale should be determined as part of the wider policy development. On that basis, I think that it would be wrong to determine that period now.

I invite the committee to resist amendments 78 to 81, 91, 82 to 87, 92 and 88.

Tavish Scott: Mr Fergusson makes a reasonable point on amendment 86. Whether the amendment adds to or subtracts from the bill, or does nothing, is a question of balance. I am more than happy to reflect on that point.

On the minister's arguments, it cannot be the case both that I am making this case on behalf of the industry and that only one stakeholder has responded in support of it. That does not seem to me to be a consistent argument. The minister has constantly said that during this debate. Let me be clear. This industry matters to my part of the world and to Scotland. It also matters to the Government, because every time that Alex Salmond or Richard Lochhead goes overseas to make the case for Scottish food, they make a big thing about salmon. They are right to do so. I applaud that activity. However, you cannot on one hand trot around the world saying that people should buy Scottish salmon and, on the other, impose on the industry a lot of extra costs and bureaucratic hurdles, which is what this bill does. I therefore have grave reservations about the sweeping powers that the Government is taking.

Ministers and Governments—I do not mean just Mr Wheelhouse and just this Government—always say that it is best to leave the detail to subsequent secondary legislation, with all the internal problems that go along with that. The purpose of these amendments is to achieve a degree of clarity in the bill on important areas of Government and Marine Scotland activity that otherwise will not be scrutinised closely. I am sure that the convener and the committee see the relevant bodies reasonably regularly, but that is different from the aspects of those activities being laid down in statute. If at least some of the aspects are not laid down formally in statute, which will allow the formal process of primary legislation to achieve the clarity in the bill that the industry and, I suspect, a lot of stakeholders want, the proposal

will leave ministers open to a vast amount of parliamentary activity in respect of the functions that they are taking on. The precedent that is being set is quite important, and I therefore urge the committee to give some consideration to the amendments that I have moved.

The Convener: The question is, that amendment 78 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fergusson, Alex (Galloway and West Dumfries) (Con)
Hume, Jim (South Scotland) (LD)

Against

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 78 disagreed to.

Tavish Scott: I will spare the committee the need to vote on the rest of the amendments in the group, as there is no point. Having had the vote on amendment 78, I will not move the rest.

Amendments 79 to 81, 91, 82 to 87, 92 and 88 not moved.

The Convener: I thank Tavish Scott for not moving the remaining amendments in the group, which has helped us enormously, although it has not impeded the essential debate.

Section 50 agreed to.

Section 51—Fixed penalty notices

The Convener: The final group is on reports on fixed-penalty notices. Amendment 64, in the name of Tavish Scott, is the only amendment in the group.

Tavish Scott: The purpose of amendment 64 is to ensure that the Government publishes a record of how many fixed-penalty notices are issued in a period—I suggest three months, although that could be discussed, as I recognise that there will be different views—and the consequences of those fixed-penalty notices. That is important from a number of perspectives, not least of which is the fact that the bill makes a new power with regard to a commercial industry. Such activity used to be handled through the sheriff court. I have some pretty grave concerns about how that was done in the past, as I think a number of us may have. I do not believe that the regulatory authorities did the

industry or any industry stakeholder any favours by failing in some circumstances to make appropriate prosecutions when that would have clearly been the right thing to do.

I appreciate that the Government is finding a different way to deal with such matters, but I am not convinced that it is the right one. Frankly, on the basis of what has gone before, there is not much point in worrying about one's personal point of view. I simply suggest that amendment 64 will at least mean that there will be some transparency around what will take place after the bill is passed. I appreciate that the reporting period—in other words, the time when such notices are publicly intimated—could be a different duration.

I move amendment 64.

Paul Wheelhouse: I invite Mr Scott to withdraw amendment 64 for reasons that I will explain. If I do not persuade Mr Scott, I urge the committee to resist amendment 64.

I have no difficulty in principle with the publication of statistical data and I support the principles behind amendment 64. However, the reporting interval of three months that amendment 64 envisages lacks flexibility. Moreover, it is inconsistent with the treatment of statistical data on fixed-penalty notices in other regulatory regimes.

Fixed-penalty notices form part of wider criminal justice disposals. Statistical data on certain road traffic offences and fiscal fines, for example, is published as part of the Scottish Government's statistical bulletins annually. Much of the existing statistical data is published voluntarily and there are not many examples of statutory requirements to publish statistical data relating to the criminal justice system. Section 306 of the Criminal Procedure (Scotland) Act 1995 is one such example, but in that case the requirement is to publish certain relevant information in each year.

The publication of statistical data on fixed-penalty notices relating to the bill should be treated no differently, and to do otherwise by setting a quarterly statutory interval for publication, rather than an annual target, might set an unhelpful precedent that could go beyond the current bill.

As part of the Scottish Government's response to the committee's stage 1 report on the bill, I have given a commitment to publish statistics on fixed-penalty notices, so the general thrust of what is contained in Mr Scott's proposal will be delivered without the need to put the requirement on a statutory footing. I am more than happy to restate our commitment to publish statistical data on the use of fixed-penalty notices. If I have not persuaded Mr Scott to withdraw amendment 64, I urge the committee to resist it.

Tavish Scott: Those are reasonable arguments, although the argument that an amendment would set a precedent that might go further in other areas never wins me over. Our job, as parliamentarians, is to push on such points. Governments can always argue that they do not want such precedents set.

Rather more seriously, the main points that Mr Wheelhouse makes are entirely fair. The only thing that I ask, for the record, is that by the time we get to stage 3 that issue will have been discussed with those who may be affected by it and things will have been broadly agreed. If that will happen, I will be more than happy to withdraw amendment 64.

Amendment 64, by agreement, withdrawn.

Section 51 agreed to.

Section 52—Subordinate legislation

Amendments 46 to 48 moved—[Paul Wheelhouse]—and agreed to.

Section 52, as amended, agreed to.

Sections 53 to 57 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the Aquaculture and Fisheries (Scotland) Bill. Members should note that the bill, as amended, will now be reprinted and will be available on the web tomorrow morning.

The Parliament has not yet determined when stage 3 will take place, but members can now lodge stage 3 amendments with the legislation team at any time. Members will be informed of the deadline for lodging amendments once it has been determined.

I thank the minister and his officials for their contribution and members of the committee for their detailed scrutiny of the bill, which was most welcome.

Meeting closed at 12:01.

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