These documents relate to the Salmon Conservation (Scotland) Bill (SP Bill 20) as introduced in the Scottish Parliament on 28 September 2000

SALMON CONSERVATION (SCOTLAND) BILL

EXPLANATORY NOTES

AND OTHER ACCOMPANYING DOCUMENTS

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Salmon Conservation (Scotland) Bill introduced in the Scottish Parliament on 28 September 2000:

- Explanatory Notes;
- a Financial Memorandum;
- an Executive Statement on Legislative Competence; and
- the Presiding Officer’s Statement on Legislative Competence.

A Policy Memorandum, also prepared by the Scottish Executive, is printed separately as SP Bill 20–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. The Bill is a package of measures giving the Scottish Ministers powers to make regulations for the conservation of salmon and sea trout stocks. It will do this primarily by extending the currently available powers to regulate fishing.

Section 1: Power of Scottish Ministers to make regulations for the conservation of salmon and sea trout

5. This section of the Bill inserts five new sections (10A, 10B, 10C, 10D and 10E) into the Salmon Act 1986 (“the 1986 Act”).

Inserted section 10A: Regulations to assist conservation of salmon

6. Subsection (1) gives those persons specified in section 6(4) of the 1986 Act the power to apply to the Scottish Ministers for regulations to conserve salmon and/or sea trout.

7. Subsection (2) describes the form that an application shall take.

8. Subsection (3) empowers the Scottish Ministers to make such regulations either in response to an application under subsection (1) or of their own accord if they consider that conservation measures are necessary or expedient.

9. Subsection (4) requires the Scottish Ministers to take account of representations from persons with an interest in fishing for or taking salmon or an interest in the environment.
10. Subsection (5) makes clear that the new powers cannot be used to make
provision which could be made under existing powers except in the case of baits and
lures which are separately covered in subsection (6)(b).

11. Subsection (6)(a) confirms that the power conferred by the section extends to
the making of provision to require a proprietor to provide information to a district
salmon fishery board. This is intended to improve the information base of District
Salmon Fishery Boards.

12. Together with subsection (5) subsection (6)(b) gives Ministers powers to make
regulations in relation to baits and lures without having to receive an application
under section 8 of the 1986 Act.

**Inserted section 10B: Powers of enforcement, entry search and arrest**

13. This section extends current enforcement powers under the Salmon and
Freshwater Fisheries (Protection) (Scotland) Act 1951 (“the 1951 Act”) to cover any
measures introduced under the new power conferred by this legislation and provides
scope for additional enforcement powers, which may be deemed necessary.

**Inserted section 10C: Offences, penalties, forfeiture etc.**

14. This section creates offences and provides penalties in relation to a
contravention of or failure to comply with any provision of regulations made under
the new power. It also extends certain provisions of the 1951 Act (sections 7(3)
(evidence), 19(1) (forfeiture) and 20 (disposal of seized fish)) to cover such offences.

**Inserted section 10D: Regulations**

15. Subsection (1) provides that any regulations made will be made by statutory
instrument subject to annulment in pursuance of a resolution of the Parliament.

16. Subsection (2) makes clear that such regulations may make provision for a
whole district or river or any part thereof, that they may apply in relation to any time
or season and that they may apply to any class of fish within the category of fish
covered by the Bill, namely salmon and sea trout.

17. Subsection (3) applies paragraphs 3-8 of Schedule 1 to the 1986 Act (i.e.
provisions relating to consultation, publication and making of the Order) where
regulations are to be made in response to an application to Scottish Ministers.

18. Subsection (4) applies paragraphs 3-8 of Schedule 1 where regulations are to
be made by Scottish Ministers of their own accord.
Inserted section 10E: Application to River Esk

19. This section applies the new provisions to that part of the River Esk that lies in Scotland.

Section 2: Amendment of section 19 of the 1986 Act

20. This section amends section 19 of the 1986 Act which otherwise excludes the application of Part I of the 1986 Act to the River Esk, in consequence of section 10E.

FINANCIAL MEMORANDUM

COSTS ON THE SCOTTISH ADMINISTRATION

21. Salmon fishing rights are private heritable titles held separately from land. Proprietors receive no government funding to maintain their fisheries so legislative change would have only minimal financial implications for the Executive.

COSTS ON LOCAL AUTHORITIES

22. No costs expected.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

23. As fish have become more scarce, income generation has declined both for the fisheries themselves and for the many other businesses in rural areas, such as small hotels that rely on angling tourism. The imposition of restrictions on exploitation would have negligible short term impact but will contribute to securing a future for the sector in the long term.
EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

24. On 28 September 2000, the Minister for Rural Affairs (Ross Finnie) made the following statement:

“In my view, the provisions of the Salmon Conservation (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

25. On 27 September 2000, the Presiding Officer (Sir David Steel) made the following statement:

“In my view, the provisions of the Salmon Conservation (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
SALMON CONSERVATION (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

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