INTRODUCTION

1. This supplementary Financial Memorandum has been prepared by the Scottish Executive to accompany the Aquaculture and Fisheries (Scotland) Bill following Stage 2 consideration of that Bill which concluded on 31 January. It has been produced in accordance with Rule 9.7.8B as read with Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

2. The purpose of this supplementary Financial Memorandum is to set out the expected costs associated with the new measures included in the Bill following Stage 2 amendments. The majority of the amendments are technical and do not affect the assumptions in the original Financial Memorandum. This document therefore addresses a new element of policy on sea fisheries which was incorporated into the Bill at Stage 2.

SEA FISHERIES

3. The amended Bill makes provision in relation to the enforcement of existing sea fisheries legislation with respect to administrative penalties for certain sea fisheries offences.

Administrative penalties for certain sea fisheries offences

4. New Part 3A of the Bill introduces a system of administrative penalties for certain sea fisheries offences the use of which would mean that in some cases there is no need for recourse to the court system. The aim of the system would be to improve the effectiveness of sanctions and provide greater deterrence, to divert fisheries offences from the court system where appropriate and thereby reducing the timescales involved. It is also intended to increase consistency and transparency and seeks to protect those who observe the rules, and hence protect the communities for whom fishing is an important part of the economic fabric.

5. In introducing this system several issues were key to the development:
   - that the system is compliant with the European Convention of Human Rights;
   - that the scheme applied in Scotland is consistent with schemes in other parts of the UK whilst taking account of differing legal systems within the UK; and
These documents relate to the Aquaculture and Fisheries (Scotland) Bill as amended at Stage 2 (SP Bill 67A)

- that the system is designed so that any sanctions can be applied to both UK and foreign vessels.

**Costs on the Scottish Executive**

6. The enforcement of sea fisheries legislation in Scotland is carried out by the Scottish Fisheries Protection Agency. The proposals will not add to the running costs of the Agency. There will be some IT development costs in creating a shared information and recording system estimated at up to £25,000, which will be a shared cost between all Fisheries Administrations.

7. It is envisaged that only the more minor and lower impact fisheries offences will fall into the category of being eligible for offer of an administrative penalty. Based on the cases that were referred to court in years 2002-2005 we estimate that in future between 20 and 25 cases a year may be of the type eligible to be offered an administrative penalty. Were each of these cases to receive the anticipated maximum penalty of £2,000 then the Executive could expect to receive a maximum £40,000 to £50,000 in any one year. However, given it is not expected that every offence will attract the maximum penalty, it is likely that the penalty income will fall short of the estimated maxima. The money from these cases would be treated as so-called “Designated Receipts”. The Scotland Act 1998 (Designation of Receipts) Order 2004 (Statutory Instrument 2004 No.953: [www.opsi.gov.uk/si/si2004/20040953.htm](http://www.opsi.gov.uk/si/si2004/20040953.htm)) sets out a range of fines and forfeitures and other receipts which are designated by the Treasury under section 64 of the Scotland Act and which would not accrue to the Scottish Executive.

**Costs on local authorities**

8. The Scottish Executive does not anticipate that the provisions should impose any additional costs on local authorities.

**Costs on other bodies, individuals and businesses**

9. The Scottish Executive does not anticipate that the provisions should impose any additional costs on bodies, individuals and businesses because the system of administrative penalties is given as an alternative to the imposition of a penalty (usually a fine) upon conviction.

**New rules in relation to Regulating Orders made under the Sea Fisheries (Shellfish) Act 1967**

10. The provision at section 25H increases the maximum fine level on summary conviction for an offence under a Regulating Order from £5,000 to £50,000 and makes it easier to revoke a Regulating Order licence by allowing for the discretionary revocation of a licence by the grantee where the licence holder is convicted of one fisheries offence as opposed to the two convictions required at present. The intention is to increase the deterrent to illegal fishing in Regulating Order areas (there are currently two in Scotland) and to make the punishment more proportionate to the offence, especially in the most serious cases.
These documents relate to the Aquaculture and Fisheries (Scotland) Bill as amended at Stage 2 (SP Bill 67A)

Costs on the Scottish Executive

11. The enforcement of sea fisheries legislation in Scotland, including Regulating Orders, is carried out by the Scottish Fisheries Protection Agency. The proposals will not add to the running costs of the Agency.

Costs on local authorities

12. The Scottish Executive does not anticipate that the provisions should impose any additional costs on local authorities.

Costs on other bodies, individuals and businesses

13. The Scottish Executive does not anticipate that the provisions should impose any additional costs on bodies, individuals and businesses. The proposals could, however, result in expenditure by inshore fishermen where they are found to be breaking the law. Persons could be fined up to £50,000 if convicted of an offence under section 25H.

SUMMARY OF COSTS TO THE SCOTTISH EXECUTIVE

<table>
<thead>
<tr>
<th>Proposals\Costs</th>
<th>Recurring</th>
<th>Non-recurring</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Penalties</td>
<td>None</td>
<td>Under £25,000</td>
</tr>
<tr>
<td>Regulating Orders</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Totals</td>
<td>None</td>
<td>Under £25,000</td>
</tr>
</tbody>
</table>
AQUACULTURE AND FISHERIES (SCOTLAND) BILL

SUPPLEMENTARY FINANCIAL MEMORANDUM


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