Dear Fergus

30 November 2012

FSAS/CM/fb

AQUACULTURE AND FISHERIES (SCOTLAND) BILL: FINANCIAL MEMORANDUM

In response to your letter dated 24 October in relation to the above named Bill, please find enclosed a response from the Food Standards Agency in Scotland (FSAS).

FINANCE COMMITTEE QUESTIONNAIRE

Consultation

1. Did you take part in either of the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

- FSAS staff had extensive discussions with policy leads for water quality issues in Scottish Government. Financial information was provided in the course of these discussions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

- The FM outlines a marginal indirect cost which may fall to FSAS as a result of the Bill. The assumptions in arriving at these costs are not clearly set out. Any additional costs that may fall to FSAS are dependent on the number of active shellfisheries in any designated area, and whether these sites can be covered by pre-existing monitoring points. Under food hygiene legislation, we are required to classify and monitor shellfish production areas. This includes routine testing of shellfish flesh for E.coli, chemical contaminants, marine bioxins and testing for the presence of certain phytoplankton species. The FSA also conducts a sanitary

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survey on any area which may be subject to classification. The cost of a sanitary survey is in the region of £30k. These costs would however be considered ‘business as usual’ costs for FSA should any new, active fisheries come on stream. If the shellfish sector is to grow significantly over the next few years these costs could be significant. Costs to FSA therefore reflect the number of fisheries and their geographic spread. Informal feedback from industry suggests that there is capacity within existing classified areas to increase production. On that basis, the FM correctly reflects the potential for marginal year on year monitoring cost increases (for classification purposes only) arising indirectly from the Bill. It assumes that newly classified areas will fit within pre-existing monitoring frameworks for more expensive elements of the programme.

- FSAS expects to be a member of the working group mentioned in para 322 and we believe that there is the potential to reduce costs on regulators through increased cooperation.

3. Did you have sufficient time to contribute to the consultation exercise?

   - Yes.

   Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

   - Yes, subject to the caveat outlined in my response to question 2.

5. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

   - Yes, subject to the caveat outlined in my response to question 2.

6. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

   - Yes, subject to the caveat outlined in my response to question 2 and any Governmental budgetary constraints that may apply in future.

7. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
Yes, subject to the caveat outlined in my response to question 2.

Wider Issues
8. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes, from an FSAS perspective, subject to the caveat outlined in my response to question 2. No other costs have been considered at this stage. Whether it remains appropriate for Government to pay in full for official controls in relation to food is subject to consideration currently at an EU level. The outcome of these discussions in the longer term has the potential to influence some of the costs outlined in the FM.

We also note the considerable costs that Scottish Water have invested and plan to invest in order to protect shellfisheries up to 2015. Given that wider diffuse pollution may be, proportionally, more significant for shellfisheries in Scotland than elsewhere in the UK, would it be appropriate to consider alternatives to capital spending alone by Scottish Government in terms of risk management in designated areas? We look forward to working with Scottish Government, Scottish Water, SEPA and industry in order to consider how best the risks associated with pollution events might be mitigated in future in a more cost efficient way through the working group mentioned at paragraph 322

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Yes, subject to the caveat outlined in my response to question 2. These cannot currently be quantified in full.

Yours sincerely

[Signature]

PROFESSOR CHARLES MILNE
Director, Scotland