

**PE1519/E**

Dear Members of the Public Petitions Committee,

I wish to respond to the various submissions made with regards to my Petition.

**The SPICe briefing paper** you received prior to your initial consideration of PE1519 contained a number of inaccuracies. On page two it was stated that:

“The Conservation of Seals Act 1970 prohibits taking seals during a close season (01/09 to 31/12 for grey seals and 01/06 to 31/08 for harbour seals) except under licence. The Act also allows for specific Conservation Orders to extend the close season to protect vulnerable populations. After consultation with NERC, three such orders were established providing year round protection to grey and harbour seals on the east coast of England and in the Moray Firth and to harbour seals in the Outer Hebrides, Shetland, Orkney and the east coast of Scotland between Stonehaven and Dunbar (effectively protecting all the main concentrations of harbour seals along the east coasts of Scotland and England).”

This fails to make clear that under Clause 9. 1(c), [commonly known to as “The Netsmen’s Defence”] of The Conservation of Seals Act anyone with a salmon net, fish farm cage, creel or other fishing gear could shoot seals 365 days a year even in areas in Scotland covered by special Conservation Orders. The Netsmen’s Defence did not cover angling interests as they do not have fishing gear as defined under the 1970 Act. Therefore under the old law angling bodies, because they had no nets to protect, could not shoot seals in areas given Conservation Orders and they could not shoot seals during the close seasons (1<sup>st</sup> June to 31<sup>st</sup> August for common or harbour seals; 1<sup>st</sup> September to 31<sup>st</sup> December for grey seals). Anglers could and occasionally did apply for a special license to shoot seals during the close seasons and under those licenses had to report the number of seals shot. This was why we had the ludicrous situation of official figures showing that only a handful of seals were shot every year – only the small number shot under special licenses were recorded.

Once granted a license under part 6 of the Marine (Scotland) Act 2010 angling bodies can, just like salmon farmers and netsmen, shoot seals 365 days a year including in areas under Conservation Orders for seals! Thus the new legislation has removed what little protection was given to seals under the Conservation of Seals Act 1970.

Please note that when salmon farming first became established in Scotland in the 1970s and 80s I asked that fish farm cages not be given the status of fishing gear under the 1970 Act. The Scottish Office refused my request and classed salmon cage nets as fishing gear giving salmon farmers permission to shoot seals all year round under Clause 9. 1(c). When they took over from the old Scottish Office some Marine Scotland staff claimed to take the stance that 9.1(c) did not cover salmon farms but the police and PFs did not agree and no attempt was ever made to prosecute salmon farmers for shooting seals in the close season.

On page 3 of the SPICe submission it states that Scottish Ministers can set technical standards for equipment used on fish farms and that the Rural Affairs Committee had welcomed efforts made by fish farmers to develop nets which protect salmon. This is very misleading. To properly protect salmon from seal attacks you must use predator exclusion nets set away from the fish farm cages and properly tensioned and maintained to stop seals getting close to the cage nets and to stop seals and dolphins becoming entangled in the nets.

Scottish Ministers do not make the use of predator exclusion nets compulsory. Last year, through Freedom of Information, we discovered that only 9% of salmon farms in Scotland use predator exclusion nets. The rest use large circular cage nets which seals can get right up to. The salmon then go to the other side of the cage to avoid being physically attacked. However this does not meet the requirements of the Animal Health & Welfare (Scotland) Act 2006 which requires all farmers to protect their livestock from the attention of predators. It is for this reason, protection from predators, that most licenses to shoot seals at salmon farms are issued. However, unless you find someone who can shoot seals 24/7 in all weathers, shooting cannot give animals the protection required under the Animal Health & Welfare (Scotland) Act 2006. Unless you bring the farms onshore into enclosed tank and pond systems, only predator exclusion nets can do this.

Page four of the SPICe paper refers to the Scottish Seals Forum. Please remember that membership of this Forum was weighted 3 to 1 in favour of groups supporting or actively involved in seal shooting. Three times I asked to join the Forum and each time I was refused.

On page five the SPICe paper refers to the Government website which states that 43% of seal license holders shot no seals during 2013. It would be more accurate to say that 43% of seal license holders reported that they shot no seals during 2013.

It also repeats the Government claim that Licensees are following the principle that seals should only be shot as a last resort. Quite frankly that statement is utter nonsense when only 9% of salmon farms user predator exclusion nets.

Also on page five the Government website is quoted as referring to the need to improve fish farm cage structure and tensioning of nets to reduce seal damage to farmed salmon. This once again ignores the main reason salmon are shot by fish farmers, to meet the requirements of the Animal Health & Welfare (Scotland) Act 2006. This does not mean only protecting fish from physical injury by seals, it means stopping seals getting close enough to harass and stress the salmon.

I note that by 2015 Government hope to establish a Scottish Technical Standard for fish farm equipment. It will be interesting to see if proper predator exclusion nets are included in that standard.

SPICe also reported that the review of freshwater fisheries including bringing together a group of salmon anglers and salmon netmen "to discuss common interest". It is a pity this grouping did not include any conservation or animal welfare interests as they too are stakeholders in these matters.

On page six SPICe refer to the Moray Firth Seal Management Plan. I attended a Government sponsored meeting on this in Inverness in June 2008. There were 61 delegates attending and as far as I am aware only myself and three others were from pro-seal organisations. Again the Scottish Government did not seem to regard animal protection and conservation groups as stakeholders in this issue. The main speaker was Dr. James Butler formerly of the Spey District Salmon Fishery Board. Marine Scotland flew him in from Australia and his main message was to shoot seals when there was no-one around and get rid of the carcasses before tourists see them.

### **Submission by the Special Committee on Seals (SCOS)**

It is worrying to see that in some places seal licence applicants are asking for permission to shoot a much larger number of seals than they are given permission to shoot. Other sources show that the number of seals shot is often far lower than the number permitted to be shot. If a shooter asks to shoot 60 seals, is given permission to shoot only 30 and then reports shooting only 15 it raises concerns about the accuracy of the returns.

I very much welcome the admission by SCOS that seal shooting is not a last resort and that cost saving is the reason non-lethal methods are not being used. However the statement that anti-predator nets are the cause of large numbers of marine mammal and seabird deaths does not take into account the fact that some fish farmers fail to keep the nets tensioned and some have deliberately set loose anti-predator nets to entangle and drown marine mammals. Predator exclusion nets must be kept tensioned to avoid entanglements.

### **Submission by the Scottish Salmon Producers Organisation (SSPO):**

I can see why the SSPO consider the licensing system is working well. Licenses are easy to obtain and shooting seals is much cheaper than buying, installing and properly maintaining tensioned predator exclusion nets. The scheme is also self-policed and self-audited.

The SSPO highlight their statement that the key statistic is the number of seals shot and not the number of licenses issued. I totally agree, it is just a great pity that there is no external monitoring to confirm the numbers of seals killed.

The SSPO say their members only shoot seals if the measures put in place to exclude seals fail. Their failure is in failing to put in place the measures required to exclude seals. Instead of 9% of salmon farmers using proper anti-predator nets the SSPO should insist that 100% of their members do so.

There is an error in Table 1 in the SSPO response. Their top line figure for "Licenses granted" is not the number of licenses granted but the maximum number of seals permitted to be shot under the granted licenses.

The SSPO claim I do not understand the operation of the licensing system or the nature of seal attacks on farmed fish. I refute that and would suggest that 91% of salmon farmers do not understand their obligations under the Animal Health and

Welfare Act 2006. Seals do not have to physically attack salmon for the farmer to be in breach of the Act. The farmer must stop seals getting close enough to panic and stress the salmon in the farm cages. You cannot do that by shooting, only by exclusion.

On page three of their submission SSPO made the ludicrous suggestion that poultry and pigs would need to be farmed on floating barges to protect them from terrestrial predators. Since the introduction of the Animal Health and Welfare Act 2006 most land based farmers of free range pigs and poultry have installed low voltage electric fencing to keep foxes well away from their stock.

The main reason the SSPO give for rejecting land based enclosed tank farming systems is the cost. This is also the main reason they do not employ predator exclusion nets at their marine farms. Otter Ferry salmon in Argyll could not make a profit from on-shore salmon farming and switched to tank reared halibut which is profitable because consumers are willing to pay a reasonable price for farmed halibut. Currently consumers are used to cheap farmed salmon but shoppers do not realise that the low cost in pounds and pence is achieved through a high cost in damage to the marine environment. If salmon farmers want to continue with marine production they must be prepared to meet the cost of buying, installing and maintaining predator exclusion nets.

The SSPO suggest salmon farming puts £1.8 billion into the Scottish economy and employs 8,000 people. The number of jobs seems extremely high. I wonder if the £1.8B takes into account the fact that circa 70% of farms are Norwegian owned with profits more likely to go to Oslo than Edinburgh.

On page five the SSPO assume my petition calls for "double netting" of fish pens. That is not the case. Predator exclusion nets should be positioned far enough away from the cage nets so that seals cannot make visual contact with the salmon. Properly installed and maintained tensioned predator exclusion nets protect wildlife and do not harm them. Badly installed or deliberately slackened predator nets entangle and drown marine mammals. At least one Scottish salmon farm has been prosecuted for deliberately setting loose nets to drown seals.

Also on page five the SSPO suggest I do not understand the Animal Health and Welfare Act 2006 as it relates to marine fin fish farms. I lobbied for farmed fish to be included in the Act and I understand that part of the Act inside out. Police and a PF agreed with my interpretation of the Act in that it requires salmon farmers to keep seals well away from their stock. By refusing to install predator exclusion nets salmon farmers show they either do not understand the Act or are unwilling to invest the funds required to meet the requirements of the Act.

The SSPO suggest that to protect wild salmon and sea trout stocks consideration should be given to curtailing catches of fish through netting and angling and that it is wrong to penalise net fisheries to favour anglers. This does not take into account the fact that net fisheries cannot return live fish to the water while anglers can operate a catch and release policy. We have asked the Wild Fisheries Review to set rod kill limits as well as abolishing wild salmon netting. If the SSPO want to help wild salmon and sea trout conservation they should get all their members to move onshore thus

eliminating the sealice problem and the annual escape of millions of farmed fish into the wild.

### **Submission by Ian Walker of Marine Scotland**

I would refer you to my comments above about the workings of the Conservation of Seals Act 1970 and how the Marine (Scotland) Act 1970 removes the restrictions on angling bodies shooting seals during the close seasons. Mr. Walker states that under the new Act seal shooting is now “strictly limited and monitored”. I would point out that no inspections of salmon farms are carried out to determine their use of non-lethal seal deterrents and that there is absolutely no monitoring of seal shooting with Marine Scotland relying on returns submitted by the shooters themselves to determine how many seals are shot.

Mr. Walker yet again refers to shooting seals as “a last resort”. I would refer you to my comments above and the submission from the Special Committee on Seals.

It would be nice if Mr. Walker had stated how many licenses have restrictions on close season shooting and if he had said who the mysterious organisations are who are “actively monitoring the system around Scotland”. Perhaps he means voluntary groups like ours and Hunt Saboteurs and Sea Shepherd? As issuer of the licenses to shoot seals it is Marine Scotland who should be actively policing the licensing scheme.

As it is not clear on the Government website I have asked Mr. Walker if licensed seal shooters will be able to shoot seals at the 194 seal haul out sites included in The Protection of Seals (designation of Seal Haul-outs) (Scotland) Order 2014. I await his reply.

It will be interesting to see the outcome of the various working groups and research forums referred to by Mr. Walker. However it would be prudent for Marine Scotland to insist now that marine fin fish farms operating in Scotland install predator exclusion nets just as they have to do other countries where they operate.

I also note that Mr. Walker uses the word “sustainable” when referring to salmon farming. One Government Minister used that word over 10 times in one press release about aquaculture. The fact is that you have to feed circa 3 tonnes of wild fish to the salmon for every tonne of salmon produced. The industry is as sustainable as it is seal friendly.

Yours sincerely,

John F. Robins,  
Save Our Seals Fund