Written submission from the Spey Fishery Board

The Spey Fishery Board welcomes the draft Aquaculture & Fisheries Bill and appreciates the opportunity to comment on some aspects of the Bill, which the Board believes may have unintended consequences if they are pursued.

The Spey Fishery Board adheres to the DSFB's Code of Good Practice and each year we publish a comprehensive Annual Report, including a financial summary.

We already hold our Annual General Meeting in public and have no difficulty with the principle of open meetings. However, it is important and legitimate that some aspects of meetings can be held in private (e.g. when discussing deployment of bailiffs, CCTV cameras, staff wages etc.). It is also important that DSFBs are able to raise contentious ideas, which may never be taken forward, without concern that these would be taken out of context, given undue weight, or misinterpreted as DSFB policy if aired in a public meeting. Without clear guidance about what it is acceptable to discuss in private, this provision could have the result of inhibiting discussion within meetings. Indeed, potential Board members in some districts in which there are particularly contentious issues to be faced may even be put off from volunteering and giving up their time. This is already an issue in some districts. Furthermore, the cost of moving these meetings to a venue with sufficient capacity for members of the public would involve a significant expense, which may prove disproportionate for many of the smaller DSFBs. We would suggest that a solution would be that the Annual General Meeting should be a public meeting, and that there might be an opportunity for the public to attend part of all other meetings and submit proposals to be considered.

We will implement a formal complaints procedure, if it is required, but we believe that this proposal may be unnecessarily prescriptive. The processing of complaints will usually be undertaken by the clerk and in the case of smaller boards, many employ clerks who are paid at an hourly/daily rate. If processing complaints (which may be ill-founded or arise from single-issue "campaigns") becomes arduous, this will result in resources being diverted from other areas of operation. We are also concerned as to why such a statutory provision is deemed necessary, particularly when it appears to us that public bodies do not operate under a similar requirement.

The Spey Fishery Board welcomes the inclusion of a power to introduce a carcass tagging system in Scotland but we believe that this provision should be delivered in primary legislation. Carcass tagging was a clear recommendation of the mixed stock fisheries working group and there was overwhelming support for this provision in the consultation. Whether delivered via primary or secondary legislation, we would seek a clear assurance that a statutory system, using individually numbered, recorded tags, will be in place in time for the 2014 salmon fishing season. Any system which does not use numbered tags would not allow verification of catch data, nor would it prevent illegal sales of fish from other parts of the United Kingdom (where tags are numbered) or of fish caught by rod and line (sales of which are banned by the 2003 Act). Equally, the Spey Fishery Board, along with many other DSFBs, is strongly in support of a national carcass tagging system for all rod caught fish not returned to the river. We believe that carcass tagging of rod caught fish would be a useful tool to aid DSFBs in ensuring compliance with their conservation policies. Furthermore, we
must emphasise that whilst it is illegal to sell rod caught fish, it is not currently illegal to purchase rod caught fish. Once we have a statutory system of carcass tagging in place, the Spey Fishery Board believe that it should be illegal to both sell and purchase an untagged fish.

The Spey Fishery Board is supportive of the principle provided by Section 25 that will enable Scottish Ministers to impose requirements regarding the monitoring of certain orders which we believe is consistent with evidence-based management. However, this section also makes failure to monitor and evaluate the effects of an order a criminal offence, on which a DSFB may be convicted on the evidence of one witness. This appears to be totally disproportionate, and again, may result in potential Board members being put off from volunteering and giving up their time. We understand that the inclusion of the provision that the Board may be convicted on the evidence of one witness is a drafting error, but we would highlight again that this is disproportionate in the case of a Board failing to meet a monitoring requirement. Finally, we believe that there would need to be a degree of proportionality in placing monitoring requirements on a DSFB, due to the potential expense and/or expertise required to carry out such monitoring, particularly in the case of smaller Boards. We would be concerned if Scottish Ministers were to take "out an order at their own initiative, and then impose a legally binding requirement to monitor such an order on that Board. We therefore believe that Section 25 should only apply where a DSFB or proprietors have applied to Scottish Ministers for such an order.

The Spey Fishery Board is also concerned by any proposal to permit fishing during the weekly close times for net fisheries (6pm Friday - 6am Monday), which for bag or stake net fisheries is achieved by removing the 'leader' of a net and thereby preventing fish from entering the nets. The weekly close times were put in place for sound conservation reasons and were designed to allow a proportion of the salmon run to have free passage into their natal rivers throughout the season. However, in some parts of Scotland, the weekly close time is often not being observed if, for example, rough sea conditions make it too dangerous to remove the leader, resulting in a significant increased exploitation of fish. We are content that exceptions to the weekly close time should exist and we would not want to see anyone's life being put at risk. However, we believe that where the close time cannot be adhered to for reasons of health and safety, the leaders should be removed for a corresponding period at the earliest next opportunity. Implicit in this, is a requirement for netsmen to report all such occurrences when leaders are not removed. We do not support the suggestion from SNF AS that the weekly close time should be abolished and a minimum number of days at sea would be introduced. We do not support this solution for a number of reasons. Such a solution would not allow free passage of fish to their natal rivers throughout the season, would permit additional exploitation on the fragile spring stock component (considered by Marine Scotland Science to include all fish entering the rivers before June) and would result in a considerable increase in exploitation from 128 days to 150 days. This would be absolutely contrary to internationally accepted best practice and agreements on mixed stock fisheries. It would also be unacceptable for such a solution to set a minimum rather than maximum number of days at sea.