RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

AGENDA

26th Meeting, 2010 (Session 3)

Wednesday 24 November 2010

The Committee will meet at 9.30 am in Committee Room 5.

1. **Wildlife and Natural Environment (Scotland) Bill (in private):** The Committee will consider a draft Stage 1 report.

   *Not before 11.00 am*

2. **Budget Strategy Phase 2011-12:** The Committee will take evidence on the Budget Strategy Phase 2011-12 from—

   - Jim McLaren, President, National Farmers Union Scotland;
   - John Ford, Director of Finance & Corporate Services, SEPA;
   - Lloyd Austin, Head of Conservation Policy, Scottish Environment LINK;
   - Professor Richard Aspinall, Chief Executive, Macaulay Land Use Research Institute;
   - Ian Jardine, Chief Executive, Scottish Natural Heritage.

3. **Subordinate legislation:** The Committee will take evidence on the Scallops (Luce Bay) (Prohibition of Fishing) Order 2010 (SSI/375) from—

   Richard Lochhead MSP, Cabinet Secretary for Rural Affairs and the Environment, Scottish Government.

4. **Subordinate legislation:** Alasdair Morgan to move S3M-7451— That the Rural Affairs and Environment Committee recommends that nothing further be done under the Scallops (Luce Bay) (Prohibition of Fishing) Order 2010 (SSI/375).

5. **Subordinate legislation:** The Committee will take evidence on the draft Fishing Boats (EU Electronic Reporting) (Scotland) Scheme 2010 (SSI 2010/374) from—
Richard Lochhead MSP, Cabinet Secretary for Rural Affairs and the Environment, and Allan Gibb, Head of Sea Fisheries Compliance and Licensing, Scottish Government.

6. **Subordinate legislation:** Richard Lochhead MSP to move S3M-7397— That the Rural Affairs and Environment Committee recommends that the draft Fishing Boats (EU Electronic Reporting) (Scotland) Scheme 2010 (SSI 2010/374) be approved.

7. **Budget Strategy Phase 2011-12 (in private):** The Committee will review the evidence heard earlier in the meeting.

Peter McGrath
Clerk to the Rural Affairs and Environment Committee
Room T3.40
The Scottish Parliament
Edinburgh
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The papers for this meeting are as follows—

**Agenda Item 1**

Draft Report (Private Paper)  
RAE/S3/10/26/1

**Agenda Item 2**

Submissions Pack  
RAE/S3/10/26/2

**Agenda Item 3**

*The Scallops (Luce Bay) (Prohibition of Fishing) Order 2010*  
RAE/S3/10/26/3

**Agenda Item 5**

*Fishing Boats (EU Electronic Reporting) (Scotland) Scheme 2010*  
RAE/S3/10/26/4

**For Information**

Recent Developments  
RAE/S3/10/26/5
Protecting the Environment in a Time of Cuts

This paper summarises the LINK network’s views on how and why Government should aim to protect Scotland’s environment in the leaner economic climate ahead. It was originally drafted to inform discussions with the Environment Minister (14th September 2010) drawing and building on views in LINK’s submission to the Independent Budget. It has been added to since, based on written consultation and a series of internal meetings and external discussions.

Overview

Challenging spending decisions lie ahead for the public sector in Scotland as a consequence of the Westminster Comprehensive Spending Review (CSR), the Independent Budget Review (IBR) and the Scottish Budget Bill, to be published in November 2010. Scottish Environment LINK understands this situation and hopes to contribute fully and realistically to the consequent debates. We aim to provide government and its agencies with realistic comment and advice in this difficult period. We reiterate the principles we set out as a base for decision-making for a September 2010 meeting with the Environment Minister.

We need to apply greater sophistication in defining the success of the economy and society, especially recognition of human wellbeing and environmental sustainability as valid goals rather than simply Gross Domestic Product (as conventionally measured).

We need to recognise the importance of carbon-budgeting. The current carbon assessment of the Scottish budget is a welcome start but must be developed and applied to ensure budget compatibility with Scotland's long term Climate Act reduction targets.

In making spending decisions, priority must be attached to Scotland’s environmental commitments and objectives, such as delivering the Climate Change Act’s Report on Proposals and Policies, commitments to reduce Scotland’s carbon footprint, international and domestic obligations to protect our precious marine environment and our internationally agreed biodiversity and landscape objectives. This, of course, also means avoiding spending in a way that is environmentally damaging.

The value of SEA as a tool is high, but it is not currently fulfilling its potential. There is scope to consider and improve its effectiveness in influencing decisions so that the best climate and environmental outcomes are achieved.

There is a need to ensure that decisions relating to any spending reductions are strategic, and take a long-term perspective – rather than focussing on where ‘pain’ is
least in the short-term, or where a short-term ‘jobs’ gain leaves behind a costly environmental legacy.

We see opportunities to secure revenue for the Westminster and Scottish Governments through green fiscal reform measures. We are aware, however, that use of fiscal mechanisms will be dependent largely on the Calman Commission’s recommendations which the UK Government has indicated it intends to implement. We continue to believe there is a case to stimulate debate and build consensus on the issue of a ‘greener’ tax system – both at UK level and for those fiscal responsibilities that are devolved.

LINK is keen to work with the Scottish Government as it considers options for future spending allocations. We hope any advice, expertise and ‘sounding-board’ function we are able to offer is of value, and we emphasise we are content to do this within the constraints that we know must accompany all such discussions.

LINK will continue its efforts to persuade the Scottish Government and Parliament to give proper consideration to the future of long-term environmental programme budgets in line with the strategic principles outlined here.

The budget cuts are set against a larger debate about the size of government (largely based in the UK debate surrounding the Conservatives’ ‘Big Society’ proposals). We are of the view that sustainability, in a developed country maintaining the minimal functions of a shared public space and democratic planning of development, together with the use of regulatory and fiscal tools to ensure levels of fairness, balance and equality, can be achieved within a wide range of scale of budgets and differing sizes of government apparatus. It is the way in which public funds are spent and the principles applied by government as they take decisions which are decisive here.

LINK believes that we can emerge from this economic situation with a more sustainable Scotland – if the will is there amongst our politicians and civic society.

Spending Prioritisation
We noted with interest that, responding to the Finance Committee’s report on the 2011-12 Budget Strategy Phase on Monday, 9th August 2010, Finance Secretary, John Swinney said “the Scottish Government will prioritise economic recovery, public services and cutting emissions as public spending is squeezed in the years ahead” – and highlighted the Government’s “continued commitment to openness and transparency” in ensuring budget priorities are met.

We warmly welcome this recognition of the crucial, long-term importance of fighting climate change and look forward to the protection of Scotland’s ‘world-leading’ role in this area. We hope that this can be seen as a positive aspect of government policy and are fully in accord with the Independent Budget Review (IBR) when it says that “to avoid year-on-year cuts of a random nature – ‘salami slicing’ – the developing response
needs to be set in a more strategic, longer-term framework and direction of travel.” We will argue strongly that the

Finance Secretary’s commitment on cutting emissions during the period of austerity should be adopted by all as part of the framework for our way forward – and we will continue to pursue all parties to give strong commitments to implementing sustainable development properly in Scotland. Climate change remains the greatest threat to humanity, despite the financial crisis that has erupted since 2008.

In addition, it is becoming ever more apparent that underpinning the fight against climate change is the growing understanding that ecosystem services are inextricably linked to the sustainability of our society. The Economics of Ecosystems and Biodiversity (TEEB) study, backed and promoted by the European Union, continues to reveal that the issues of climate change, ecosystems and biodiversity cannot be separated – and the economic and social costs of ignoring work on ecosystems and biodiversity could be enormously costly to human society across the world.

**Fighting climate change must be a top level priority for Government.**
We have noted that in the Westminster CSR, the UK Government increased spending on the Department of Energy and Climate Change by approximately 16% over the review period, but that it also cut the Department of the Environment and Rural Affairs budget by approximately 31% for the same period. Real fears have been expressed by our colleagues in England that the latter savage cuts will lead to the loss of many advances made in the longer-term programmes of more established techniques of environmental improvement – and that these programmes are inextricably linked with, and a vital component of, the fight against climate change.

Here, we highlight the importance of strands of environmental spending that are not strictly related to cutting emissions, but which also help tackle climate change and support sustainable development (such as the multiple benefits to be gained in the restoration of Scotland’s peat bogs). Many of these areas are underpinned by important international legal obligations and commitments and our performance in Scotland is measured against international comparisons. These include items such as compliance with EU Directives and commitments to improve biodiversity and protect landscapes - for example the achievement of good environmental/ecological status for marine and freshwater habitats.

In Scotland there is a less straightforward, departmental separation between climate and established environment spending. We hope there is also a vastly greater understanding of how closely they are connected than appears to have been the case south of the border.

**LINK supports prioritising key established environmental programmes as an integral part of fighting climate change.**
Much discussion in the Scottish Government and in the political parties in Scotland has been about the role of government in “achieving key outcomes”. It has been argued that
these are the important thing government needs to aim for - as opposed to a crude level of spending. The argument suggests also, that the outcomes do not depend, necessarily, on the mechanism of delivery. This is the point where the discussion of the sizes of budget and extent of the responsibilities of government overlap most markedly. There is, undoubtedly, merit in identifying key outcomes and functions in advance of financial changes, but what should these key outcomes be and how should Government identify them? LINK suggests that one starting point might be EU Directives and other international obligations. This is particularly relevant in the environmental field, where so much law originates in Brussels. Another starting point should be programmes based on existing national legislation – particularly as many of these are intimately concerned with the implementation of international obligations.

Any such identification of key outcomes should be the subject of serious consultation. A rigorous approach is required too, sorting out what is key and what is non-essential and this should not be left too government alone.

**Government must be rigorous in establishing the key outcomes of environmental policy and spending – and must fully consult stakeholders in the process.**

The corollary of the identification of key outcomes is that some of the current work of government is non-key – not essential. LINK members accept that part of the process of adaptation to the new budgets will be that some programmes of government and its agencies might be dropped completely, or performed outside government. Again, a rigorous and consultative approach to identifying such expenditure within the environmental field is required – especially as much apparently non-essential work is in ill-defined areas such as ‘nurturing community engagement’ and ‘promoting the appreciation of nature’. Here, a recognition that economic wealth alone does not determine public wellbeing will be critical to making wise decisions.

**LINK and its members will not shy away from assisting in the identification of nonessential or marginal expenditure.**

We note that existing environment spend is a tiny part of the overall Scottish Budget (after compulsory EU farming subsidy payments are taken out). We will argue below that that irreparable damage could very easily be done to the achievements of decades of good work should the ‘salami slice’ approach be taken with the budget as a whole and, particularly, within the environment budget itself. At all stages of the debate we will argue that the environment budget must not be seen in isolation. It is deeply linked with the budgets for tourism, energy, the food and drink industry, health and almost every important economic and social sector of the Scottish budget as a whole. We believe that it must be seen in this light and not as subsidiary. Environmental protection is central to Scotland’s future and not peripheral in any way. Spending on it should reflect this fact.

**The crucial importance of environmental spending to our economy and society must be recognised in the prioritisation of spending in Scottish budget.**

All of these arguments with regard to prioritisation apply to spending of both capital and revenue funds. Huge importance is attached by LINK to capital investment in housing quality for energy efficiency, the development of renewable energy technologies, public
transport, waste and water management infrastructure and other capital projects which will make us more sustainable. We recognise that such investments offer, also, great potential for protecting levels of employment. We believe, however, that such beneficial capital investments should not be negated by investment in projects which will increase greenhouse gas emissions or otherwise reduce our levels of sustainability.

**LINK will oppose funding on unsustainable capital expenditure projects, and is gravely concerned about reports of the transfer of revenue budget funding to protect spending on such unsustainable projects.**

As an example of our approach we draw attention to one of the most immediate issues of financial decision to be faced by the Scottish Government with regard to sustainable development - the decision of the Westminster Government to abolish the Sustainable Development Commission (SDC) and the resultant issue of what becomes of its Scottish branch. We wrote to the Finance Secretary in August 2010 suggesting that a commitment be made to reviewing the position and retaining the important functions of the SDC in Scotland, based on our view that a strong, independent voice has proved, and will continue to prove, a vital tool in achieving the long-term benefits that sustainable development brings. The Cabinet Secretary’s reply (August) indicates that the Government remains committed to sustainable development and is considering the best way forward, and his answer in Parliament on 11th November 2010 supports an independent auditing function, with announcement of details in the forthcoming Scottish Budget.

We believe that maintaining such an independent voice is one of the “key functions” - essential to ensuring that all Government spending decisions deliver multiple benefits and outcomes. This approach is in line with the Scottish Government’s five strategic objectives, but also with true sustainability. There is a crucial need to assess and understand the impact of public spending on an environmental, social and economic basis as this approach can multiply the outcomes of spending and reduce counter-productive spending.

In addition to the argument as laid out in our letter to the Minister, we note that during the passage of the Climate Change (Scotland) Act it was decided that Scotland should rely on the advice of the independent UK Committee on Climate Change (despite its own admission that its input might be strictly limited by resourcing constraints) – although LINK had argued for the establishment of a separate but linked Scottish Committee. We believe that, in the light of the end of the UK SDC, it is more important than ever that Scotland retains an independent “watch-dog” for sustainability.

**Retaining the independent auditing functions of the SDC as a core purpose of government is an important test case for the Scottish Government’s approach.**

**The future of the environmental civil service and agencies**

Decisions with regard to the SDC are just the beginning of the process of belt-tightening and there will be effects felt, undoubtedly, within the civil service and Government Agencies. The IBR warns of a contraction of public sector employment. Unlike many areas of social policy, the environment, its protection and enhancement, are not heavily
reliant on the provision of public services, but rather on the development and use of legislative, regulatory and other governmental tools. In particular, environmental policy is a matter of setting out to change attitudes and behaviours in all sectors of our community. Heavy dependence on these tools of government for progress places civil service and agency resources at a premium. It is our view that this factor should be a consideration in avoiding the “salami-slicing” approach to any contraction of the environmental public sector.

Some environmental policy delivery is, of course, provided directly in the form of public services. This is particularly the case in our important marine environment, which has seen the creation of Marine Scotland and the passage of the Marine (Scotland) Act within the last year. We hope that the efficiency savings already involved in the merger of the Scottish Fisheries Protection Agency, Fisheries Research Services and other divisions of the civil service will be a consideration as we move forward, and that every effort will be made to continue the radical improvements offered by the new legislation. This is essential in our view given the rapid pace of development in the marine environment, particularly in relation to marine renewables.

Scotland’s international image is dominated by impressions of a high-quality environment – and many major industries such as tourism, whisky and agriculture depend upon maintaining and improving this image. The policing of the regulations which have, by and large, been the main drivers in delivering improvements in the quality of our environment, have been the responsibility of NDPBs such as SEPA and SNH – and the branded parts of the civil service such as Historic Scotland and Marine Scotland. In our view it is important for economic and social as well as for environmental reasons that we preserve and improve this major asset as a vital component of the “strategic, long-term framework” referred to in the IBR. Continued improvement is a key function of government.

The Public Services Reform Act gives the Scottish Government considerable powers to reform, merge or restructure the NDPBs in the interest of efficiency and government simplification. The recent merger of the Deer Commission for Scotland and Scottish Natural Heritage is an example. LINK members have considered these issues and are of the view that, while there is scope for further efficiency and best value gains via the SEARS approach, any major re-arrangement of the environmental Agencies would have detrimental impacts on the work that they do, and quite possibly incur greater cost (particularly bearing in mind that some mergers and major re-organisations have taken place quite recently).

We stress that we are determined to pursue substantive outcomes which benefit people and their environment. We are not of the view that specific government structures are the only way to achieving such outcomes. We remain open to any well-thought out, structural reform that may generate savings and still deliver for the environment. Our approach will remain that we need long-term, strategic and participative approach across the sectors to achieve sustainable development, and this will be aided by effective and efficient structures inside government.
The delivery of substantive environmental outcomes is the central issue rather than the architecture of government – but reorganisation of Government must be done very carefully if it is required.

Any such restructuring must ensure that the resultant architecture of environmental governance avoids confusion as to function and conflicts between different functions. For example quasi-judicial functions should not be mixed with commercial duties, or independent scientific advisory functions should not be shared within a single body with duties entirely dependent on governmental direction. The functions of government require to be distinguished – and to be held separately, where required.

LINK and its members will play a full part in any consultation on proposed restructuring of agencies. We have already held a brief preliminary discussion of the matter with the Minister for the Environment and we call for consultation to take place at the earliest stages possible, in order that any restructuring achieves the confidence of civic society. LINK will continue to discuss the issue of what the core functions of environmental government are, with our November Congress as an initial focus. LINK listing these functions would not necessarily be helpful and we believe that to be government’s job – but broad outlines as to the identification of key outcomes will be made – starting with international obligations and statutory requirements. The corollary of this is that LINK will also be willing to consider areas that might be identified as non-core functions. LINK will also take a serious view as to the separation of executive, quasi-judicial, auditing, advisory and other functions within any hierarchy proposed. We reserve the right to comment on any examples of where core functions were inefficiently performed by government and its agencies.

LINK will participate in any discussions about the architecture of environmental government, and advises that these should be held at the earliest stage possible.

Efficiency savings and economies of scale
A further factor we believe should be considered by the Scottish Government as it faces the tough spending decisions ahead is that the environmental civil service divisions and NDPBs, operating as single units across the whole of Scotland may well have less scope for efficiency savings than comparable public services, where multiplicity offers the possibility of a perhaps painful, but simpler, combination of services (for example between Health Boards or Local Authorities). Similarly, the small size of the existing budget for the environment and rural affairs (once stripped of agricultural subsidy payments) renders it more difficult to find efficiency savings – and means that any cuts are more likely to be of highly substantive impact.

Government must take account of the difficulties and dangers of pruning smaller organisational budgets.
This argument with regard to economies of scale applies in comparison to UK departmental spending also. Because environmental matters are largely devolved, Scotland bears the same responsibility in many matters as Whitehall and Westminster. For example, the transposition of an EU Directive is no less heavy in Scotland, as opposed to England & Wales, because Scotland is geographically smaller. Indeed the
reverse can sometimes be the case. For example, Scotland has many times more than its ‘fair share’ of the rare habitats and species to be protected under the Birds and Habitat Directives.

**Government must take proper account of Scotland’s effective role as an EU ‘member state’ with regards to transposition of EU law – and our unique ecological importance.**

LINK will continue to support the Scottish Government in its pursuit of an equitable and appropriate share of the fossil fuel levy. This is another example of where Scotland’s difference from other parts of the UK (in this case in terms of wind, tidal and wave resources) effects policy on renewable energy – but is an example, also, of where the Scottish Government has distinct responsibilities and duties.

In a further EU consideration we remind the Scottish Government of the danger that Scotland loses EU money if there is a reduced domestic contribution to Rural Development Funds. Our position may appear advantageous in this respect at present but the EU tends to look at historic spend when deciding future budgets, and Scotland has a long record of under-spending in this field. With this comes the threat of loss of EU funding.

**Government must take the issue of EU co-funding of rural development seriously in the light of historical inadequacies in this area.**

If government’s response to climate change remains a meaningful, top priority, LINK does not intend to resort to high visibility, public campaigns in advance of budgetary decisions in the immediate period, or over the coming difficult years. We are critical of those in the country who may be guilty of attempting to defend individual budgets by using ‘scare tactics’. We will warn of the dangers of any over-zealous cutting of environmental expenditure. We reserve, and will exercise, the right, to publicly state our positions in a serious and proportionate fashion.

**Public Services and the Voluntary Sector**

The IBR contains considerable discussion of the suggestion that politicians and civil society need to engage in a debate about the transformation of the organisation and delivery of public services in Scotland. The matter is also being considered by all of the political parties.

While we agree that this is a sensible suggestion, as has been noted above, the delivery of environmental policy is far less the preserve of public service provision than in social policy – and indeed much more subject to other tools of government. There are some areas of policy that might, nevertheless, be delivered by organisations outwith the strict ambit of government. The Environmental NGOs have always been prepared to work in partnership with Government and its Agencies to deliver specific policy objectives, and stand ready to play a part in this debate – and in particular to provide our expertise in the provision of services such as sustainable land management and advice to land managers (subject to the provision of adequate funding resources).
As with other parts of the voluntary sector, the environmental NGOs have demonstrated the capacity, ability, flexibility and willingness to deliver good services (in addition to their pivotal ‘campaigning’ functions) - and to do so in ways that provide exceptional value for money. Any expansion of the range of such services would be difficult, if not impossible, to achieve without our member organisations being in receipt of (a) mutually agreed specifications of the services required (b) adequate and stable funding and (c) suitable guarantees of our freedom to operate as campaigning bodies.

We note, however, that Scottish civic society and the “third sector” is a complex beast with many different models of organisation. This is true of the environmental sector as well, but the members of LINK have always maintained a greater independence of expression and finance than many parts of the wider “third sector”, such as the social welfare NGOs. It is a condition of membership of LINK that an organisation is “citizen led" and this has always been interpreted as meaning having a voluntary membership structure. This fact, and its continuation, will be an important element in any discussion of the transfer of any services.

If LINK member organisations are to take over services currently run by government there must be a recognition that such services have become either (a) a remaining non-key responsibility of Government but outsourced by contract or (b) no longer the responsibility of government but where government has chosen to provide a stable level of support for the common good.

We have yet to have any detail (of even a broad nature) as to what government thinks are the services within the environmental sector that might be transferred to the environmental non-government organisations (eNGOs). It is possible that government might wish to transfer some services currently performed by the Scottish Government itself, its Agencies (NDPBs) and local Authorities.

LINK members are all Non-Government-Organisations and are minded to consider accepting responsibility for services only if they are at the margins and not ‘key responsibilities’ of government. Government must continue to perform key functions such as statutory requirements and meeting international obligations.

It is more probable, however, to see services currently provided by government through arms-length trusts, charitable organisations and other quasi-non-governmental structures as candidates for a transfer. Services in these categories at both Scottish and local government levels that might be considered for transfer will require a clear interpretation as to whether they are to be outsourced, non-key governmental services, or services in the non-governmental sector, prior to any discussion of who runs them. In this respect it would be helpful if the Scottish Government could spell out clearly what it believes might be transferred but also, what it believes constitutes the “third sector”. The sector is very diverse and complex - and eNGOs are different in important respects to other parts, such as the social welfare voluntary organisations, or housing associations. In particular, eNGOs have made a virtue of maintaining financial independence of government in a fashion which does not apply across the sector.
Government should not try to adopt a “one-size-fits-all” approach to the “third sector” when considering the transfer of services. Government is often reluctant, as a matter of fact, to provide funds where the funded bodies are also campaigning bodies. For example, LINK members maintain the right to point out areas where they believe that public funds are being spent on matters which lie outside the real responsibilities of government. This political independence will be jealously guarded. All of LINK’s members are, to a greater or lesser extent “campaigning bodies”.

They have, and intend to retain, the capacity to represent their individual citizen members, contribute to public debate and to criticize government.

The transfer of any services must use a model which guarantees continued NGO independence and campaigning capacity. Environmental NGOs have demonstrated the ability to attract multiple sources of funding for a large variety of projects and services, enabling them to deliver more “bang-per-buck” than 100% government funded models. This financial flexibility is an important part of the ethos and operation of the eNGOs – and parallel in many respects to the campaigning independence described above.

The transfer of any services should use a model which guarantees the required level of financial independence for the NGOs in respect of raising funds from several sources. As argued above, LINK takes this opportunity to insist that there should be a clear demarcation between functions that are a government responsibility and those which are a ‘non-government’ responsibility. It is our view that Government and Agencies have, on occasion, marketed government services (such as season tickets for visits to Historic Scotland sites and National Museums being sold as “memberships”, or the insistent branding of National Nature Reserves) in competition to similar services provided by the eNGOs.

We believe that clear lines must be established as to what is and is not the job of government.

The Independent Budget Review and Conclusion
The IBR report cautioned against ring-fencing budgets as we respond to the cuts in the Scottish Budget. In particular, with regard to health, it suggests that if any ring fencing is adopted then we need a broader interpretation of health spending, which includes non-NHS services that support the health and well-being of the community. LINK and other bodies, including SNH, have long argued that this understanding is part and parcel of truly sustainable development – and that the role the environment plays must be a consideration in this and other key areas of public policy.
On the other hand, the IBR panel was not charged with laying out the full strategic framework and limited itself to noting that “planning for future challenges, such as demographic and environmental change” was a vital element of the process. We endorse this view strongly – noting in passing that, due to the limited use of the public service tool that the environment is virtually invisible within the IBR report. We would add to the IBR report that many, if not most, environmental improvements offer “win-win” long-term savings. For example, a greater emphasis on environmental delivery in Single Farm Payments, woodland management and creation schemes and other land use programmes and the establishment of an ecologically coherent network of marine protected areas, will improve the quality of eco-system services in the reduction of emissions and also lower the costs of the water industry and others by significantly reducing costs associated with diffuse pollution, acidification and specific externalities.

**LINK will continue to press for environmental considerations to be at the heart of our public policy – across all its areas. We believe that protecting and enhancing the environment is essential to the country’s future.**

This document was prepared by Scottish Environment LINK and is supported by the following members:

- Butterfly Conservation Scotland;
- Friends of the Earth Scotland
- Plantlife Scotland;
- RSPB Scotland;
- The National Trust for Scotland;
- Wildfowl and Wetlands Trust;
- Woodland Trust Scotland;
- WWF Scotland:

LINK/ABM - November 2010
RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

RECENT DEVELOPMENTS WITHIN THE COMMITTEE’S REMIT

Note by the Clerk: Each time an agenda and papers for a meeting are circulated to members, a short paper like this one will also be included as a means of alerting members to relevant documents of general interest which they can follow up through the links included.

CAP

The European Commission has issued a communication regarding CAP toward 2020. The communication and related documents can be accessed by using the link here:

Commission Communication on the CAP towards 2020 - Agriculture and rural development - European Commission

Summary of draft TAC and quota regulation for Scottish Fleets for 2011

The Scottish Government has provided figures that relate to species that are commercially fished by Scottish fleets. The table has been attached and “pm” means to be agreed later.
### Summary of draft TAC and quota regulation for 2011

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<th>Stock</th>
<th>2009 UK quota in tonnes</th>
<th>Value (£m) of 2009 Scottish landings</th>
<th>2010 UK quota in tonnes</th>
<th>Scientific advice for % change in TAC for 2011</th>
<th>Proposed % change in TAC for 2011</th>
<th>Resulting global TAC in 2011</th>
<th>Resulting UK quota in 2011</th>
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<td>0.06</td>
<td>80</td>
<td>Reduce catches</td>
<td>0</td>
<td>196</td>
<td>80</td>
</tr>
<tr>
<td><strong>West of Scotland:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West of Scotland Cod</td>
<td>182</td>
<td>0.2</td>
<td>145</td>
<td>No fishing</td>
<td>-50 pm</td>
<td>120</td>
<td>64</td>
</tr>
<tr>
<td>Rockall Cod</td>
<td>182</td>
<td>0.09</td>
<td>48</td>
<td>No advice</td>
<td>-15 pm</td>
<td>68</td>
<td>36</td>
</tr>
<tr>
<td>West of Scotland Haddock</td>
<td>2,737</td>
<td>2.7</td>
<td>2,053</td>
<td>No fishing</td>
<td>-25 pm</td>
<td>2,005</td>
<td>1,561</td>
</tr>
<tr>
<td>Rockall Haddock</td>
<td>4,738</td>
<td>3.6</td>
<td>4,029</td>
<td>-46 pm</td>
<td>-25 pm</td>
<td>3,748</td>
<td>3,022</td>
</tr>
<tr>
<td>West of Scotland Whiting</td>
<td>329</td>
<td>0.4</td>
<td>246</td>
<td>As low as poss</td>
<td>-50 pm</td>
<td>216</td>
<td>124</td>
</tr>
<tr>
<td>West of Scotland Saithe</td>
<td>3,617</td>
<td>2.3</td>
<td>3,443</td>
<td>-13 pm</td>
<td>pm</td>
<td>pm</td>
<td>pm</td>
</tr>
<tr>
<td>West of Scotland Hake</td>
<td>5,190</td>
<td>6.3</td>
<td>5,553</td>
<td>Maintain landings</td>
<td>0</td>
<td>30,900</td>
<td>5,553</td>
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<tr>
<td>West of Scotland Monkfish</td>
<td>1,713</td>
<td>7.1</td>
<td>1,713</td>
<td>No specific advice</td>
<td>-15 pm</td>
<td>4,732</td>
<td>1,456</td>
</tr>
<tr>
<td>West of Scotland Megrim</td>
<td>878</td>
<td>2.8</td>
<td>966</td>
<td>No specific advice</td>
<td>0</td>
<td>3,079</td>
<td>966</td>
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<tr>
<td>West of Scotland <em>Nephrops</em></td>
<td>18,445</td>
<td>37</td>
<td>15,677</td>
<td>-25 pm</td>
<td>-15 pm</td>
<td>13,681</td>
<td>13,357</td>
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<td>West of Scotland Ling</td>
<td>3,645</td>
<td>1.9</td>
<td>2,646</td>
<td>Reduce catches</td>
<td>0</td>
<td>14,164</td>
<td>pm</td>
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<td>West of Scotland Blue Ling</td>
<td>386</td>
<td>0.2</td>
<td>333</td>
<td>No fishing</td>
<td>-15 pm</td>
<td>2,341</td>
<td>pm</td>
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<td>West of Scotland Tusk</td>
<td>123</td>
<td>0.06</td>
<td>83</td>
<td>Reduce catches</td>
<td>0</td>
<td>3,217</td>
<td>pm</td>
</tr>
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<td><strong>Pelagic:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>North Sea Herring</td>
<td>25,275</td>
<td>4.7</td>
<td>24,223</td>
<td>15 pm</td>
<td>pm</td>
<td>pm</td>
<td>pm</td>
</tr>
<tr>
<td>West of Scotland Herring</td>
<td>12,749</td>
<td>14.365</td>
<td>12,246</td>
<td>-8 -8</td>
<td>-8 pm</td>
<td>22,481</td>
<td>pm</td>
</tr>
<tr>
<td>Clyde Herring</td>
<td>800</td>
<td>2.2</td>
<td>720</td>
<td>No advice</td>
<td>pm</td>
<td>pm</td>
<td>pm</td>
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<tr>
<td>Blue Whiting</td>
<td>14,670</td>
<td>0.02</td>
<td>13,141</td>
<td>-93 pm</td>
<td>-93 pm</td>
<td>pm</td>
<td>pm</td>
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<tr>
<td>Mackerrel</td>
<td>183,157</td>
<td>135</td>
<td>173,663</td>
<td>+4 to +13</td>
<td>pm</td>
<td>pm</td>
<td>pm</td>
</tr>
<tr>
<td>ASH</td>
<td>23,430</td>
<td>7.7</td>
<td>21,148</td>
<td>-33 pm</td>
<td>-33 pm</td>
<td>pm</td>
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SCOTTISH STATUTORY INSTRUMENTS

2010 No. 375

SEA FISHERIES

CONSERVATION OF SEA FISH

The Scallops (Luce Bay) (Prohibition of Fishing) Order 2010

Made - - - - 29th October 2010
Laid before the Scottish Parliament 2nd November 2010
Coming into force - - 1st November 2010

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 5(1) and 15(3) of the Sea Fish (Conservation) Act 1967(a) and all other powers enabling them to do so.

Citation, commencement, cessation, effect and extent

1.—(1) This Order may be cited as the Scallops (Luce Bay) (Prohibition of Fishing) Order 2010 and comes into force on 1st November 2010.

(2) This Order remains in force until the end of 28th February 2011.

(3) The prohibition in article 3 has effect during the period from 1st November 2010 until the end of 28th February 2011.

(4) This Order extends to Scotland only.

Interpretation

2. In this Order—

“Luce Bay” means the area comprising that part of the Scottish zone described in the Schedule to this Order;

“Scottish zone” has the meaning assigned to that term by section 126(1) of the Scotland Act 1998(b).

(a) 1967 c.84 (“the 1967 Act”); section 5(1) was substituted by the Fisheries Act 1981 (c.29), section 22(1); section 15(3) was substituted by the Sea Fisheries Act 1968 (c.77), section 22(5), Schedule 1, paragraph 38(3) and amended by the Fishery Limits Act 1976 (c.86), Schedule 2, paragraph 16(1) and the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 43(2)(b). Relevant modifications are contained in the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748), article 5 and the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756), articles 3, 5 and 6. The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46), Section 22(2) of the 1967 Act, which contains a definition of “the Ministers” for the purposes of sections 5 and 15(3), was amended by the Fisheries Act 1981, sections 19(2)(d), (3) and 45. The definition was modified in relation to Scotland by section 22A(12)(b) of the 1967 Act, as inserted by S.I. 1999/1820, Schedule 2, paragraph 43(13).

(b) 1998 c.46. The sea within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976 (c.86)) which is adjacent to Scotland is determined by the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).
Prohibition

3. Fishing for scallops of the species *Pecten maximus* by any fishing boat is prohibited within Luce Bay.

Enforcement

4.—(1) For the purposes of the enforcement of this Order, the powers that may be exercised by any British sea-fishery officer by virtue of section 15(3) of the Sea Fish (Conservation) Act 1967 in relation to any fishing boat within Luce Bay to which the prohibition imposed by article 3 of this Order applies are the powers of a British sea-fishery officer under section 8(2) to (4) of the Sea Fisheries Act 1968(a).

(2) For the purposes mentioned in paragraph (1)—

(a) section 8(3) of the Sea Fisheries Act 1968 shall be construed as if article 3 of this Order were one of the provisions mentioned in section 8(1) of that Act, and

(b) section 8(4) of that Act shall be construed as if article 3 of this Order were one of the provisions mentioned in that subsection and the reference to “British fishery limits” shall be construed as a reference to Luce Bay.

Victoria Quay,
Edinburgh
29th October 2010

**DAVID BREW**
A member of the staff of the Scottish Ministers

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(a) 1968 c.77; section 8(3)(b)-(d) and section 8(4) were substituted by the Fisheries Act 1981 (c.29), section 26(2) and (3).
SCHEDULE

Area to which the Order applies

That part of the Scottish zone contained within a straight line drawn from a point on the mainland at 54°38’05 North latitude and 4°51’3 West longitude (Mull of Galloway) to a point on the mainland at 54°40’6 North latitude and 4°23’45 West longitude (Burrow Head).
EXPLANATORY NOTE
(This note is not part of the Order)

This Order, which extends to Scotland only, prohibits fishing for scallops of the species *Pecten maximus* within Luce Bay (article 3) which is described in the Schedule to the Order (article 2).

The prohibition has effect from 1st November 2010 and applies to any fishing boat within the area of the Scottish zone described within the Schedule to the Order. The Order remains in force until the end of 28th February 2011 at which time the prohibition will come to an end (article 1).

For the purposes of enforcing the Order British Sea Fishery Officers are given the powers provided for by section 8(2) to (4) of the Sea Fisheries Act 1968 as adapted by article 4(2) for the purposes of this Order.

A person who contravenes the prohibition contained in article 3 of this Order is guilty of an offence under section 5(1) of the Sea Fish (Conservation) Act 1967. Penalties applicable to the Commission of such offences are contained in section 11 of the 1967 Act.

No Regulatory Impact Assessment has been prepared for this instrument.
The Scottish Ministers make the following Scheme in exercise of the powers conferred by section 15(1) and (2) of the Fisheries Act 1981(a) and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) This Scheme may be cited as the Fishing Boats (EU Electronic Reporting) (Scotland) Scheme 2010 and comes into force on 2nd November 2010.

   (2) Subject to sub-paragraph (3), this Scheme extends to Scotland and the Scottish zone.

   (3) Insofar as it extends beyond Scotland and the Scottish zone, it does so only as a matter of Scots law.

Interpretation

2.—(1) In this Scheme—

   “application” means an application for grant under this Scheme and “applicant” will be construed accordingly;

   “the appropriate closing date” means such date as the Scottish Ministers may from time to time determine;

   “approval” means approval granted under paragraph 5 of this Scheme;

   “authorised officer” means any officer authorised in writing by the Scottish Ministers for the purposes of this Scheme;

(a) 1981 c.29 (“the 1981 Act”). The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). See section 18(1), as modified by section 18A(7), of the 1981 Act for a definition of “the Ministers” relevant for the purposes of this Scheme. Sections 15(2) and 18(1) were amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820) Schedule 2, paragraph 68(1), (2) and (3) and have effect in relation to Scotland as modified by section 18A inserted by that Order, Schedule 2, paragraph 68(4).
“authorised supplier” means a supplier of software to facilitate the electronic recording and transmission of fishing logbook, transhipment declaration and landing declaration data in accordance with Articles 15, 22 and 24 of the Control Regulation authorised by the Scottish Ministers and specified in a notice under paragraph 4(2);


“grant” means grant under this Scheme;

“relevant condition” means any condition relating to the approval of an application which has been notified to the applicant under paragraph 5(1)(c);

“relevant software” means software to facilitate the electronic recording and transmission of fishing logbook, transhipment declaration and landing declaration data in accordance with Articles 15, 22 and 24 of the Control Regulation; and

“Scotland” and “the Scottish zone” have the same meaning as in section 126(1) of the Scotland Act 1998(b).

(2) Any reference in this Scheme to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(c), which has been recorded and is consequently capable of being reproduced.

**Fishing logbook grants**

3.—(1) Any person who owns a fishing boat which is—

(a) of 12 metres length overall or more; and

(b) is a Scottish-based fishing boat—

may make an application to the Scottish Ministers in respect of that fishing boat for a grant.

(2) The amount of the grant—

(a) must not exceed the cost of purchase or supply of relevant software; and

(b) may be such lesser amount as determined by the Scottish Ministers.

(3) For the purposes of this paragraph—

“port of administration” means the port from which the licence granted in respect of a fishing boat under section 4 of the Sea Fish (Conservation) Act 1967(d) is issued;

“port of registration” means the port at which the fishing boat is registered in the register maintained under section 8 of the Merchant Shipping Act 1995(e); and

“Scottish-based fishing boat” means a fishing boat, the port of administration and port of registration of which are, at the date of the application relating to the fishing boat, a port in Scotland.

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(b) 1998 c.46. The sea within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976 (c.86)) which is adjacent to Scotland is determined by the Scottish Adjacent Waters Order 1999 (S.I. 1999/1126).
(c) 2000 c.7 amended by the Communications Act 2003 (c.21), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158.
(d) 1967 c.84 (“the 1967 Act”); section 4 was substituted by the Fishery Limits Act 1976 (c.86), section 3 and amended by the Fisheries Act 1981 (c.29), section 20; the Sea Fish (Conservation) Act 1992 (c.60), section 1 and the Marine and Coastal Access Act 2009 (c.23), section 4(6). It has effect in Scotland as modified by section 22A of the 1967 Act, as inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 43(13).
(e) 1995 c.21.
Applications

4.—(1) The Scottish Ministers may from time to time invite applications and where they do so the following provisions of this paragraph apply.

(2) The Scottish Ministers must publish in such manner as they consider appropriate a notice inviting applications and specifying—

(a) the authorised supplier;
(b) the appropriate closing date; and
(c) such other matters as they consider it is appropriate for them to have regard to for the purposes of this Scheme.

(3) An application must be lodged with the Scottish Ministers on or before the appropriate closing date in order to be considered for approval except where the Scottish Ministers are satisfied that—

(a) the particular circumstances of the applicant render it unreasonable to expect the applicant’s application to have been lodged by the appropriate closing date; and
(b) in those particular circumstances, the date by which the application was lodged is as early as can reasonably be expected.

(4) An application must be in writing and must—

(a) be made in such form and manner;
(b) include such information and undertakings; and
(c) be delivered to such address,
as the Scottish Ministers may specify in the notice or from time to time require.

(5) An applicant must furnish all such further information relating to the application as the Scottish Ministers may specify in the notice or from time to time require.

Determination of application

5.—(1) As soon as reasonably practicable after the appropriate closing date the Scottish Ministers must—

(a) approve or reject the application;
(b) if the application is approved, determine the conditions, if any, for payment of the grant; and
(c) notify the applicant in writing of the decision and (if appropriate) any conditions which they have determined under sub-paragraph (1)(b).

(2) Without prejudice to the generality of sub-paragraph (1)(b), a condition may be determined which requires the applicant to provide such undertakings as the Scottish Ministers may consider appropriate to the application.

Eligibility for and payment of grant

6.—(1) Subject to sub-paragraph (2) and paragraph 11, applicants whose applications have been approved under paragraph 5 are eligible for payment of grant in accordance with paragraph 7.

(2) No grant may be paid in respect of any fishing boat unless the Scottish Ministers are satisfied that—

(a) the software purchased from the authorised supplier is relevant software; and
(b) any relevant condition has been complied with.

Method of payment

7.—(1) Payment of grant may be made by the Scottish Ministers at such time, or by such instalments at such intervals or times, as they may determine.
The Scottish Ministers may make payment of grant direct to the authorised supplier on behalf of the applicant.

**Review of decision**

8. — (1) This paragraph applies to decisions by the Scottish Ministers to reject an application under paragraph 5(1)(a).

(2) An application for review may be made no later than 3 months from the date of notification of the decision to be reviewed to the Scottish Ministers for a review of that decision.

(3) An application for review must be in writing and specify—

(a) the name and address of the applicant, and where that person is not the person named in the decision, the basis upon which that person is seeking review;

(b) the decision of the Scottish Ministers which is to be reviewed and its date;

(c) full details of the grounds upon which review is sought; and

(d) the change sought to the decision.

(4) An application under this paragraph is to be treated as made if it is received by the Scottish Ministers at the address specified by them for receipt of such applications.

(5) Where an application is made under this paragraph, the Scottish Ministers shall review the decision which is specified in it.

(6) In reviewing a decision the Scottish Ministers may—

(a) consider any document or other evidence produced by the applicant (whether or not that document or evidence was available at the time of the decision);

(b) invite the applicant to provide such further information relevant to the review as they consider appropriate; and

(c) give the applicant an opportunity to give evidence and to make representations in person or through a representative.

(7) Following the review of a decision the Scottish Ministers may—

(a) confirm the decision;

(b) amend or alter the decision in any respect which they consider appropriate; or

(c) revoke the decision in its entirety and substitute a new decision.

(8) The Scottish Ministers must notify the applicant in writing of their decision under sub-paragraph (7) as soon as reasonably practicable.

**Assistance to authorised officers**

9. An applicant or any employee or agent of an applicant must give to an authorised officer such assistance as the officer may reasonably request in order to exercise the powers conferred on the officer by paragraph 10.

**Powers of authorised officers**

10. — (1) An authorised officer may at all reasonable hours and on producing, if required to do so, some duly authenticated document showing the authority of the officer, exercise the powers specified in this paragraph for the purpose of ascertaining whether and to what extent—

(a) a person is entitled under paragraph 3 to make the application;

(b) the application should be or should have been approved;

(c) any relevant condition has been complied with;

(d) the installation of the relevant software is being, or has been, carried out;
(e) any amount of grant is recoverable in accordance with paragraph 11;

(f) an offence under section 17 of the Fisheries Act 1981(a) has been or is being committed.

(2) Subject to sub-paragraph (3), an authorised officer may enter upon any premises which are, or which such officer has reasonable cause to believe are, relevant premises.

(3) The power conferred by sub-paragraph (2) may be exercised in relation to premises used as a dwelling house only where reasonable notice of the intended exercise of the power has been given to all residents of that dwelling house.

(4) Any authorised officer who has entered any premises in accordance with sub-paragraph (2) may inspect those premises and any documents on those premises which are, or which such officer has reasonable cause to believe are, relevant documents.

(5) An authorised officer entering premises by virtue of this paragraph may be accompanied by such other person as the officer considers necessary and sub-paragraphs (2), (4), (6) and (7) and paragraph 9 apply in relation to such other person when acting under the instructions of the officer as if that person was an authorised officer.

(6) An authorised officer may—

(a) require an applicant or an employee or agent of the applicant to produce any relevant document and to supply such additional information in possession of the person or under the control of that person relating to an application as the officer may reasonably request;

(b) inspect any such document and, where any such document is kept by means of a computer, have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with that document;

(c) require that copies of, or extracts from, any relevant document be produced; or

(d) remove and retain for a reasonable period any such relevant document which the officer has reason to believe may be required as evidence of proceedings under this Scheme and, where any such document is kept by means of computer, require it to be produced in a form in which it may be taken away and in which it is visible and legible.

(7) An authorised officer is not liable in any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on the officer by this Scheme if the court hearing such proceedings is satisfied that—

(a) the act was done in good faith;

(b) there were reasonable grounds for doing it; and

(c) it was done with reasonable skill and care.

(8) In this paragraph—

“premises” includes any fishing boat or other vehicle;

“relevant document” means any document relating to the fishing boat in respect of which an application has been made; and

“relevant premises” includes the fishing boat in respect of which an application has been made and any premises in which a relevant document is retained or in which an authorised officer has reasonable grounds to believe such a document may be retained.

Reduction, withholding and recovery of grant

11.—(1) If at any time after the Scottish Ministers have approved an application in respect of any fishing boat it appears to them—

(a) that any relevant condition has been breached or has not been complied with; or

(b) without prejudice to the generality of sub-paragraph (1)(a), that any of the circumstances specified in sub-paragraph (2) exist or have occurred,

(a) 1981 c.29. Section 17 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), section 289G.
they may revoke the approval of such application or withhold the grant or any part of the grant in respect of the application and, where any payment of grant has been made, may recover from the applicant on demand an amount equal to the whole or any part of the payment which has been made, irrespective of whether payment of grant was made to the applicant direct or to the authorised supplier on the applicant’s behalf by virtue of paragraph 7(2).

(2) For the purposes of sub-paragraph (1)(b), the circumstances are that—

(a) the application or any part of it was not an application which the applicant was entitled under paragraph 3 to make;

(b) the applicant or an employee or agent of the applicant—

(i) has failed to give to an authorised officer, or person accompanying such an authorised officer under paragraph 10(5), such assistance as the officer may request under paragraph 9;

(ii) has intentionally obstructed an authorised officer, or person accompanying such an authorised officer under paragraph 10(5), in the exercise of the powers under paragraph 10; or

(iii) has given information on any matter relevant to the giving of the approval or the making of a payment relevant to the approval which is false or misleading in a material respect.

(3) Before revoking an approval or reducing or withholding any grant or making a demand by virtue of sub-paragraph (1), the Scottish Ministers must—

(a) give the applicant a written explanation of the reasons for the step proposed to be taken;

(b) afford the applicant the opportunity of making written representations within such time as the Scottish Ministers consider reasonable; and

(c) consider any such representations.

Interest

12.—(1) Where the Scottish Ministers intend to recover on demand payment of grant in whole or in part in accordance with paragraph 11, they may, in addition, recover interest on that amount at a rate of 1% above LIBOR calculated on a daily basis for the period from the date of payment until the date of recovery.

(2) In any proceedings for recovery under this Scheme, a certificate issued by the Scottish Ministers showing the rate or rates of interest, the amount of such interest recoverable and the period for which interest is calculated, unless the contrary is shown, is conclusive of those matters.

(3) For the purposes of this paragraph “LIBOR”, in relation to any particular day of the month, means the rate of interest per centum notified by the Bank of England on the first working day of the month, rounded if necessary to two decimal places.

RICHARD LOCHHEAD
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
28th October 2010
EXPLANATORY NOTE
(This note is not part of the Scheme)

This Scheme makes provision for the making of grants by the Scottish Ministers in respect of
the purchase of software to facilitate the electronic recording and transmission of fishing logbook,
transhipment declaration and landing declaration data on board fishing boats of 12 metres length
overall or more in accordance with Articles 15, 22 and 24 of Council Regulation (EC)
No. 1224/2009 establishing a Community control system for ensuring compliance with the rules

Applications for grant will be considered in respect of fishing boats meeting the requirements set
out in paragraph 3 of the Scheme. These include requirements that the vessels must have an
overall length of 12 metres or more and must be a “Scottish based fishing boat” as defined in
paragraph 3(3).

Paragraphs 4 and 5 of the Scheme lay down a procedure for the making, consideration and
approval of applications.

Paragraph 6 provides that applicants who have had their application approved under paragraph 5
are eligible for payment of grant and sets out the circumstances in which the Scottish Ministers
will not make payment of grant to an applicant whose application has been approved.

Paragraph 7 provides that the Scottish Ministers may make payment of grant by instalment at
intervals and times determined by them, and that they may make payment of grant direct to the
authorised supplier (defined in paragraph 2) on the applicant’s behalf.

Paragraph 8 provides for a review of a decision of the Scottish Ministers to reject an application
made under this Scheme.

Paragraph 10 sets out the powers of authorised officers (defined in paragraph 2) and paragraph 9
requires any applicant or any employee or agent of an applicant to give such assistance to an
authorised officer as may reasonably be requested.

Paragraph 11 gives the Scottish Ministers power, in certain circumstances, to revoke the
approval of an application or to withhold grant, or any part of it and, where any payment of grant
has already been made, to recover from the applicant a sum equal to grant paid, irrespective of
whether the payment of grant was made to the applicant direct or to the authorised supplier on the
applicant’s behalf.

Paragraph 12 makes provision as to the recovery of interest on sums recovered under
paragraph 11.

Section 17 of the Fisheries Act 1981 creates offences in respect of the production of false
statements or documents in purported compliance with any requirement imposed by any Scheme
made under the Fisheries Act 1981 and wilful refusal to supply information, make returns or
produce documents when required to do so by or under the Scheme.

No regulatory impact assessment has been prepared for this instrument as it has no direct impact
on the costs of businesses, charities or the voluntary sector.