

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FISHERIES BILL

Ninth Sitting

Monday 17 December 2018

(Afternoon)

CONTENTS

CLAUSES 23 TO 28 agreed to.
SCHEDULE 4 agreed to.
CLAUSE 29 agreed to.
SCHEDULE 5 agreed to.
CLAUSES 30 TO 37 agreed to.
SCHEDULE 6 agreed to.
Adjourned till this day at Seven o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Friday 21 December 2018

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The Committee consisted of the following Members:

Chairs: SIR DAVID CRAUSBY, JAMES GRAY, †DAVID HANSON, MR LAURENCE ROBERTSON

- | | |
|---|---|
| † Aldous, Peter (<i>Waveney</i>) (Con) | † O'Hara, Brendan (<i>Argyll and Bute</i>) (SNP) |
| † Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | Pennycook, Matthew (<i>Greenwich and Woolwich</i>) (Lab) |
| † Carmichael, Mr Alistair (<i>Orkney and Shetland</i>) (LD) | † Pollard, Luke (<i>Plymouth, Sutton and Devonport</i>) (Lab/Co-op) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Smith, Owen (<i>Pontypridd</i>) (Lab) |
| † Duguid, David (<i>Banff and Buchan</i>) (Con) | † Stewart, Iain (<i>Milton Keynes South</i>) (Con) |
| † Eustice, George (<i>Minister for Agriculture, Fisheries and Food</i>) | † Sweeney, Mr Paul (<i>Glasgow North East</i>) (Lab/Co-op) |
| † Grant, Bill (<i>Ayr, Carrick and Cumnock</i>) (Con) | Tracey, Craig (<i>North Warwickshire</i>) (Con) |
| † Hill, Mike (<i>Hartlepool</i>) (Lab) | Gail Poulton, Lis Gerhold, <i>Committee Clerks</i> |
| † Hollinrake, Kevin (<i>Thirsk and Malton</i>) (Con) | |
| † Jones, Mr Marcus (<i>Nuneaton</i>) (Con) | |
| † Lefroy, Jeremy (<i>Stafford</i>) (Con) | |
| † Morris, James (<i>Halesowen and Rowley Regis</i>) (Con) | † attended the Committee |

Public Bill Committee

Monday 17 December 2018

(Afternoon)

[DAVID HANSON *in the Chair*]

Fisheries Bill

4.30 pm

The Chair: I welcome colleagues to a potentially full Monday.

Clause 23

DISCARD PREVENTION CHARGING SCHEMES

Mr Alistair Carmichael (Orkney and Shetland) (LD): I beg to move amendment 103, in clause 23, page 13, line 28, at end insert—

“(c) where monies raised through a charging scheme are spent.”

To bring transparency over use of money raised through a charging scheme, and to allow for it to be argued for a revenue to be ringfenced to be spent on research and investment in the industry.

The Chair: With this it will be convenient to discuss amendment 104, in clause 23, page 14, line 7, at end insert—

“(8) The Secretary of State must publish a report every year that reviews the charging scheme. This review will include—

- (a) the amount of revenue raised through the scheme, and
- (b) the use of revenue raised through the scheme.”

To require the Secretary of State to publish an annual review of the charging scheme.

Mr Carmichael: It is a pleasure to be back here under your chairmanship, Mr Hanson. If you will indulge me, I will say a brief word about the conduct of the Committee's business, which has been exemplary so far. We have managed to get through a lot of business. Nobody has taken too long, but we have managed a thorough exploration of the issues. You might be aware, Mr Hanson, that this week is significant for fishing communities, coinciding as it does with the advent of the annual December Fisheries Council in Brussels. Many of us here represent fishing communities and we know the importance of having the best possible representation at the highest possible level from our own Government. It is a fairly common view within our communities that the Minister should be there in attendance if possible. We therefore wish to finish the business of the Committee tonight if possible. Obviously, the matter is of long-term importance, but, for the communities that we represent, what happens in Brussels in the next day or two will be significant.

The Chair: I am grateful to the right hon. Gentleman for his comments, but it is a matter for every member of the Committee to determine when we complete our

business. Sittings are planned until Wednesday, but if Members restrain themselves, completing business tonight could be achieved.

Mr Carmichael: Indeed, Mr Hanson. I will simply say this: not only from the point of view of those of us who represent fishing communities, but from the point of view of Parliament as a whole, it will do no harm for MPs to be seen at least in this regard as behaving like mature grown-ups.

The Committee will be aware that clause 23 seeks to introduce a discard prevention charging scheme for those who, for whatever reason, have taken over-quota fish. The amendments try to add a little more focus to that. Amendment 103 allows for the money taken from these finds to be ring-fenced and a specific purpose for the money to be identified. The specific purpose that I have in mind relates to fisheries management, conservation, and perhaps maritime or marine environmental schemes—measures of that sort. Given the general nature of the Bill, and with a view to the durability of the legislation, we have not sought to tie the hands of any future Minister with regard to what that specific purpose might ultimately be. It is a fairly novel approach to a scheme of this sort, but it is not without precedent.

The precedent that springs most readily to mind is the aggregates levy, which allowed money to be ring-fenced for spending in communities situated next to aggregate excavation quarries because they were in some way affected by the industry. It would be a very good signal to send, and such a measure would bring about a bit of confidence in the industry itself with regard to how the discard prevention charging scheme is administered.

Amendment 104 would make provision for an annual review to account for the money raised and how it has been spent. That would follow on naturally from amendment 103—if the Committee were minded to incorporate such a measure. It is an important point, but not one that at this stage, subject to what I might hear from the Minister, I intend to push to a vote.

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): It is good to see everyone back here. I think we all agree that discards should be prevented, and we all want more sustainable forms of fishing, but the discard ban that will kick in on 1 January worries fishers from Cornwall and Plymouth to Peterhead and Fraserburgh. They worry that their boats will be tied up because the ban will prevent them from going to sea.

We need a system that prevents discards and means fish caught without a quota are not wasted, chucked overboard or discarded. We heard in our evidence sessions from Aaron Brown of Fishing for Leave, who feels there are major problems with this part of the Bill. Helen McLachlan, and Debbie Crockard of the Marine Conservation Society, referred to the uncertainty about the consequences—intended and, importantly, unintended—of the scheme. Even Dr O'Brien did not entirely convince us that he knew how the scheme would work.

The amendments tabled by the right hon. Member for Orkney and Shetland seem entirely sensible, but we are not convinced that the Government have suddenly found the right answer. It undermines this enabling Bill to set out the scheme in such detail without any scope

for piloting or consultation to see what works and to develop the detail of the scheme in collaboration with fishers and marine conservation organisations.

I therefore would be grateful if the Minister answered a few questions about this part of the Bill. Where did the basis for the scheme come from? Are there any precedents in other countries? What evidence did the Department draw on when designing the scheme? What industry views were sought, what opinions were given, and how were they taken into account? Why does the Department consider that it is not appropriate to conduct a pilot or trial to test the key elements of the scheme before it is enshrined in primary legislation? Under the scheme, what will happen to the fish that are landed? How will the Department avoid requiring fishers to go to and from harbour to land fish, thereby increasing their carbon footprint?

The Minister for Agriculture, Fisheries and Food (George Eustice): It is, perhaps, pertinent that the right hon. Member for Orkney and Shetland raised the December Council, since it will be dominated by the issue of choke species and making the discard ban work in practice. I can briefly reassure him that I joined our delegation by conference call at eight this morning and again at two, and I plan to be on the first train out there tomorrow, when the substantive negotiations will take place. In the meantime, my noble Friend Lord Gardiner is covering proceedings.

We looked at the idea of a discard prevention charging scheme because we all know, as we approach the final year of the landing obligation, that there are challenges with making it work as far as choke species are concerned. The shadow Minister, the hon. Member for Plymouth, Sutton and Devonport, asked whether there is precedent for such a scheme. Iceland and New Zealand both have similar schemes, with a kind of overage charge.

I was attracted to that idea because it is rather similar to what we did when we first introduced dairy quotas. Initially, if a farmer went over his quota for milk production, he had to pour the milk down the drain—he could not sell it at all. The super levy was then developed, which meant he could sell it but there would be no economic value to him for producing it. We seek to do something similar here. We will establish a national reserve of quota to underpin the discard prevention charge. Rather than coming up with lots of complex rules, like we have now, to try to find exemptions or other de minimis ways of managing the discard ban, we want to ensure that there is no financial incentive for fishermen to target those fish. However, we do not want to prevent them from landing those fish should they run into stocks they had sought to avoid.

The shadow Minister also asked about consultation. This idea was set out in some detail in our White Paper. Since the White Paper was published, my officials have travelled the country—they have visited fishing communities from Newlyn right up to the north of Scotland—to talk to the industry about the plans we have outlined. I think it is fair to say that the industry recognises that there are many challenges with making the discard ban and the landing obligation work in practice as well as in theory. That is why it is open to this approach, which has a proven track record in some countries.

Finally, the shadow Minister mentioned that we had put the scheme in the Bill without having a pilot or any detailed consultation. I reassure him that clause 23(1) is clear that this will be done through regulations. Before we lay those regulations, we absolutely will consult thoroughly with the industry to ensure that we get the scheme design right. I also reassure him that it is absolutely my intention that we will pilot the scheme before rolling it out nationally. It is obviously quite an important policy and will be quite an important departure from the scheme we have now, and we want to make sure that we have the design right. I hope that, having given that reassurance, the right hon. Member for Orkney and Shetland will not feel the need to press the amendments to a vote.

Mr Carmichael: I am not entirely sure that the Minister embraced the substance of the amendments—that the money raised by this scheme could be ring-fenced, and that there should be some reporting mechanism or accountability for it. I am not trying to be difficult. Perhaps the Minister would like to intervene on me?

George Eustice: I did indeed miss out a part of my notes. I reassure the right hon. Gentleman that we are absolutely committed to transparency, and that existing Treasury rules require us to publish this information. Under the Government Resources and Accounts Act 2000, the Treasury has already directed the Department for Environment, Food and Rural Affairs to prepare, for each financial year, consolidated resource accounts detailing the resources acquired, held or disposed of, and the Department's use of resources during the year. If the intention behind the amendment is that the money should be ring-fenced for conservation purposes, that is set out in clause 27(3)(c).

The Chair: This is an intervention, Minister.

Mr Carmichael: I am grateful to the Minister for that helpful intervention. I and others strongly suspected that the Treasury would be the least fond of this proposal. The Minister has confirmed those suspicions. However, that is not an unreasonable explanation, and on that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

George Eustice: I think we covered the key issues of the clause when I set out the purpose and the thinking behind the charging scheme.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

MEANING OF “CHARGEABLE PERSON” AND
“UNAUTHORISED CATCH OF SEA FISH”

Peter Aldous (Waveney) (Con): I beg to move amendment 94, in clause 24, page 14, line 17, after “Organisation” insert “or an Inshore Fisheries and Conservation Authority”.

The Chair: With this it will be convenient to discuss the following:

Amendment 95, in clause 24, page 14, line 23, after “Organisation” insert

“or an Inshore Fisheries and Conservation Authority”.

Amendment 96, in clause 24, page 14, line 26, after “Organisation” insert

“or an Inshore Fisheries and Conservation Authority”.

Amendment 99, in clause 29, page 17, line 37, after “MMO” insert

“or on the Inshore Fisheries and Conservation Authorities”.

Amendment 100, in clause 29, page 17, line 38, after “MMO” insert

“or on the Inshore Fisheries and Conservation Authorities”.

Amendment 101, in clause 29, page 17, line 39, after “power of” insert “either”.

Amendment 102, in clause 29, page 17, line 39, after “MMO” insert

“or the Inshore Fisheries and Conservation Authorities”.

Peter Aldous: It is a pleasure to serve under your chairmanship, Mr Hanson. The amendments are more of the probing variety and are not quite as intimidating and long as they might appear. They relate to clauses 24 and 29, which concern the charging arrangements for the administration of the disposal of English fishing opportunities.

I seek to address three issues through this group of amendments. First, I would add to the marine functions for which charges can be made. Secondly, I would expand the provisions to allow inshore fisheries and conservation authorities, not only marine management organisations, to recoup costs. Thirdly, while the level of charges is not likely to be great, I think it would be appropriate, wherever possible, to direct these funds to preserving English fisheries for future generations.

This particular group of amendments would allow IFCAs, not only the MMO, to recoup costs. I would welcome clarification from the Minister on whether it is appropriate to add IFCAs to the clause. If he does not think that it is, I seek his assurance as to why.

Luke Pollard: I will be brief. The hon. Member for Waveney raises some good points. I asked for further clarity on the role of IFCAs previously, because it seems to be an area that is missing from large parts of the Bill. I would be grateful if the Minister responds to that.

George Eustice: To reassure my hon. Friend the Member for Waveney, we have not included IFCAs in the clause in the way that his amendments suggest, in common with similar amendments that he has tabled, because IFCAs do not have any role in quota management. It is not appropriate for them to be covered by this clause, which is explicitly in relation to the discard prevention charge.

IFCAs do not carry out the functions for which we want the MMO to charge. In essence, the funding mechanisms for IFCAs are also different from the MMO. IFCAs are funded by a levy charged to their sponsoring local authorities. They receive around £8.7 million for that. Local authorities have a legal duty to pay the levy. Recovered courts costs awarded from successful prosecutions also appear as revenues. IFCAs are encouraged to explore ways of supplementing their income by creating

commercial revenues—through survey work, for example. Their funding model is very different. They have no role in quota management and it is not appropriate to bring them within the scope of these clauses.

4.45 pm

IFCAs are already able to charge for permits under their bylaw-making powers in the Marine and Coastal Access Act 2009. That means that where, for instance, they issue a permit to allow people to catch cockles, they are able to charge to cover the cost of issuing that permit. There are other provisions in other pieces of legislation that give them some charging powers that are appropriate, but it would not be appropriate to give them a role in an area that is entirely managed by the MMO.

Peter Aldous: I am grateful for the Minister’s clarification of that issue, particularly that IFCAs do not have a role in quota management and that they have alternative funding arrangements. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

George Eustice: The purpose of the clause is simply to provide the meaning of “chargeable person” and “unauthorised catch at sea fish” in respect of the discard prevention charging scheme. Subsection (1) provides that the chargeable persons under a scheme must be holders of English sea fishing licences or producer organisations that have at least one member that is an English sea fishing licence holder. Producer organisations are included as chargeable persons as they frequently manage quota on behalf of their members and distribute quota between the members. Subsection (2) gives the meaning of unauthorised catch of sea fish; unauthorised catch means catch in excess of the amount authorised by the MMO for that vessel or producer. Subsection (3) provides flexibility so that a scheme may determine what catch is to be deemed as authorised by the MMO.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Clause 25

CATCHES SUBJECT TO A CHARGE IGNORED FOR CERTAIN REGULATORY PURPOSES

Question proposed, That the clause stand part of the Bill.

George Eustice: Briefly, the sole purpose of this clause is to ensure that fishermen are not further penalised for processing unauthorised catch if they have complied with the discard prevention charging scheme. The clause provides that where a charge is payable under the scheme, the scheme may provide that the fishing activity that led to the charge may be ignored in determining whether there has been a breach of a licence requirement. That means that, under the scheme, if a charge is paid as required for an unauthorised catch, no further action will be taken.

Question put and agreed to.

Clause 25 accordingly ordered to stand part of the Bill.

Clause 26

CHARGE COLLECTORS

Question proposed, That the clause stand part of the Bill.

George Eustice: The purpose of this clause is simply to enable the Secretary of State, when setting up a charging scheme, to determine the functions of a charge collector, together with certain details such as terms of appointment and termination of the charge collector. Subsection (1) states that the Secretary of State can appoint a charge collector to administer the scheme and to specify the terms and termination of their appointment and functions they will carry out. Subsection (2) details the nature of the functions that may be conferred on the charge collector. Subsection (3) provides that the scheme may allow for duties to be placed on a charge collector after their appointment has been terminated. Subsection (4) allows a scheme to contain provision about appeals against decisions of charge collectors. Subsection (5) provides for the possibility that any expenditure incurred by the charge collector when exercising their functions can be recovered.

Mr Carmichael: Can the Minister confirm that, although these provisions exist, they are permissive and it would remain possible for Government Departments to carry out those functions?

George Eustice: Yes, that is absolutely the case. Indeed, it is likely to be the case that the Marine Management Organisation would perform those functions on behalf of the Government. The clause simply provides the opportunity for others to be involved, should that be required.

Question put and agreed to.

Clause 26 accordingly ordered to stand part of the Bill.

Clause 27DISCARD PREVENTION CHARGING SCHEMES:
SUPPLEMENTARY PROVISION

Question proposed, That the clause stand part of the Bill.

George Eustice: Clause 27 is about supplementary provisions. It includes provisions for a discard prevention charging scheme to include provisions for unpaid charges to be recovered as a debt, for masters of fishing boats to be jointly liable with licence holders for charge payments, and for how charge collectors must manage the receipt of charges. It also allows the Secretary of State to exercise discretion in the functioning of the scheme and to delegate any of their functions under the scheme. The clause provides necessary detail on the scheme to ensure its proper functioning.

Luke Pollard: I am grateful to the Minister for setting that out. I have a question for him on this scheme, in relation to equal access and shared access to waters. He is setting out a scheme for English fisheries, but could he set out what happens in the event of a fishing boat leaving English waters and travelling through to Scottish waters, for instance, and there being discards en route at some location between? Is there a way of meshing this together perfectly with what happens with a Scottish

discard scheme to ensure that there are no loopholes because of the transition between two national fisheries areas?

George Eustice: The shadow Minister makes an important point. As I have said all along, this Bill tries to sit within our somewhat complex devolution settlement. I will make two points. First, Scotland is facing exactly the same challenges that we in England are facing, with regard to making the discard ban work in practice as well as in theory. From discussions with officials, I am aware that the Scottish Government are interested in looking at a similar scheme for fishermen in Scotland. It may be that this is something we can work on together across the UK.

Secondly, to answer the hon. Gentleman's specific point about how we would deal with catches, some of which might have been caught in Scotland and some of which might have been caught in England, we have quite a detailed system of catch reporting. They have to log catches. We have vessel monitoring systems so that we know where vessels are catching fish. We have trained operators in our control room in Newcastle who monitor fishing patterns and can identify suspicious behaviour, such as a fishing vessel fishing in one area and then driving around to pretend it has fished in another, and we have ways of reconciling fishermen's landing records with their catch records to ensure that we can manage this as an England-only scheme, should that be necessary.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clause 28FINANCIAL ASSISTANCE: POWERS OF SECRETARY OF
STATE

Luke Pollard: I beg to move amendment 108, in clause 28, page 16, line 25, at end insert—

“(f) the gathering of scientific data relating to fishing, including but not limited to carrying out stock assessments, vessel monitoring and recording fishing catches.”

This amendment would enable financial assistance to be provided for scientific data collection.

The Chair: With this it will be convenient to discuss the following:

Amendment 98, in clause 29, page 17, line 21, at end insert—

“(e) commissioning scientific research to support—

(i) fish stock management, food security and biodiversity, and

(ii) the development of low impact fishing techniques.

(f) any other administrative function relating to fisheries management.”

Amendment 109, in clause 31, page 18, line 24, at end insert—

“(d) the gathering of scientific data to inform management of fish stocks.”

This amendment would add scientific data collection to the conservation purpose for which Clause 31 enables the Secretary of State to make regulations.

[The Chair]

New clause 21—*Proceeds of charges and fees*—

“(none) Any proceeds or charges received by the Secretary of State, the Marine Management Organisation or any Inshore Fisheries and Conservation Authority pursuant to sections 22, 23 or 29(3) shall be used to preserve the English fishery for future generations, which shall include—

- (a) the commissioning of scientific research to support effective stock management and biodiversity;
- (b) the commissioning of scientific or technical research into, and the development of, low impact fishing techniques;
- (c) the administrative functions relating to fisheries management of the Secretary of State, the Marine Management Organisation and the Inshore Fisheries and Conservation Authorities; and
- (d) such other objectives as may be set out in a JFS or SSFS.”

Luke Pollard: Amendment 108 would make it possible to provide funding for data collection, scientific research and better vessel monitoring. Just about everyone in this debate supports better data. Fishers would like the opportunity to prove that they are behaving sustainably and that there are more fish in the water than the scientists say. It would be money well spent, given the extra potential revenue if fisheries were recovered to their optimum economic output.

UK seas have historically been an abundant source of food, income and employment, but they are failing to meet their full potential. Government figures show that two thirds of our main commercial fish stocks are depleted, overfished or at risk of being depleted, or their status is unknown. With better scientific understanding of our fish stocks and the impact of fishing, fisheries management would be more effective, helping stocks to recover and our marine ecosystem to flourish.

Funding data collection makes good economic sense because the cost of stock assessments is very reasonable. Sustain calculates an initial cost of £190 million and then £19 million annually to assess all deficient stocks. Conservative estimates suggest that would catch £150 million more fish in the UK if all stocks were managed at their economic optimum. Better data could allow management to be more precise and responsive. It could give fishers the evidence that they argue for, for increased catches where sustainability is proven.

Data deficiency is a significant issue for the UK fishing fleet. Poor data is affecting the management of commercial opportunities for the most important species in the UK. As we heard in our evidence sessions, data deficiency is one of the main reasons why much of the fish caught in UK waters cannot be marketed as sustainable. For fishing to be sustainable there must be sufficient understanding of the population of the targeted species, and of the impact of fishing and/or the status of the sea floor ecosystems. Without that data, boats can be considered ineligible for Marine Stewardship Council certification, or receive a lower rating on the Marine Conservation Society’s “Good Fish Guide”. With better data, more UK fisheries would be eligible for sustainability certification, or would receive a better rating from the MCS. That would allow them access to the best markets for fish, including UK public sector catering.

In a recent report, Sustain found that UK fisheries are not verifiably sustainable and are losing out on millions of pounds’-worth of business, because companies look abroad for fish that meet their sustainable buying policies. Data deficiency particularly disadvantages small-scale fleets—80% of the stocks targeted by the large industrial fleet have stock assessments, whereas only 12% of those targeted by small-scale English fleets have adequate data to achieve sustainability certification. It is unfair on smaller boats if, even when they fish sustainably, they are unable to prove it. That is why amendment 108 would include the gathering of scientific data on fishing in the key provisions of the Bill. Amendment 109 would amend clause 31 to make

“the gathering of scientific data to inform management of fish stocks”

an additional conservation purpose under the Bill. So data collection and data deficiency would be dealt with in those two separate areas.

Peter Aldous: I want to speak to amendment 98 and new clause 21. The amendment would make two additions to the list of what are called “relevant marine functions”, for which charges can be made. The first addition, following on from the remarks of the hon. Member for Plymouth, Sutton and Devonport, would be the commissioning of

“scientific research to support...fish stock management, food security and biodiversity”.

Improving our science is very important. Secondly, the amendment would add a general

“administrative function relating to fisheries management”.

New clause 21 sets out three uses for which the proceeds could be used: the commissioning of scientific research to support effective stock management and biodiversity; the commissioning of scientific research into the development of low-impact fishing techniques; and

“the administrative functions relating to fisheries management of the Secretary of State, the Marine Management Organisation and the Inshore Fisheries and Conservation Authorities”.

It is important to incentivise the collection of scientific data and research so as to support fish stock management and biodiversity. Fisheries science and accurate data are essential, as things move forward, to put fisheries management on to an effective footing that will be sustainable in the long term. I look forward to hearing the Minister’s plans for that.

George Eustice: I understand that the amendments tabled by the hon. Member for Plymouth, Sutton and Devonport, on financial assistance, and those tabled by my hon. Friend the Member for Waveney, relating to the power to impose charges, have at their heart a concern that we need better quality scientific data. We have discussed that on a number of occasions. I broadly agree. We have made some good progress; stocks that were of data-limited status have moved on to have full stock assessments. There is undoubtedly further to go.

DEFRA already pays the Centre for Environment, Fisheries and Aquaculture Science to gather the data as part of its service level agreement. The issue is whether there is a need for clause 28 to include an additional purpose in relation to science. Our view is that there is not, for a number of reasons. First, the European Maritime and Fisheries Fund, which is an EU fund, does indeed have a category for enforcement and science.

That is made available to national Governments for doing the relevant work. Clearly, in an era where we are funding national Government activities directly from the Treasury we do not need a separate provision in the way that we do in the EMFF.

Our view is therefore that future grants to replace the EMFF should be directed at the fishing industry and aquaculture, to support those areas, and that the funding for the activities of CEFAS and science should come from the Government, and the powers to do that obviously already exist through the normal channels—the spending review processes and the funding that we make available to CEFAS through our service-level agreement with it.

5 pm

As for making available additional financial resources, it is our view and our intention, which we point to in our White Paper, that some of the money raised from tendering—new quota and new fishing opportunities as we depart from relative stability—could be available for this purpose, to support additional investment in science. It is entirely reasonable to say that, as we gain additional fishing opportunities, some of the money raised from that should support science. It is also my view that some of the money from the discard prevention scheme could also go to supporting science, particularly to support more selectivity. Finally, clause 31, which we will obviously come on to, includes lots of provisions and purposes that will enable us to collect data and information relating to catches, which would inform our scientific knowledge.

Therefore, I understand the important point that the hon. Member for Plymouth, Sutton and Devonport and my hon. Friend the Member for Waveney are making—we do need to fund science—but I do not think that it is appropriate to put that in these particular clauses. However, it is something that we are absolutely committed to doing. Indeed, I hope that when we consider the Bill on Report I will be able to give more information on how we intend to focus the discard prevention levy or charge and any moneys raised from the tender of future fishing opportunities to support this scientific objective.

Luke Pollard: I must say that I am troubled by a number of things that the Minister has said in his response. Given that the Government have not yet committed to replacing every single penny within the EMFF funding for our coastal communities, I do not think that we should base opposition to this amendment on trust that Treasury Ministers will side with us when it comes to delivering out the pennies because, quite simply, I do not trust the Treasury to fund our fishery science sufficiently on this issue. That is why an amendment that would provide for the Secretary of State to give factual assistance on the basis of supporting science is an absolutely key part of this process, because it would send a message about the tone and clarity that the Government are seeking to create that the funding of fishery science, the funding of stock levels and the funding of the ability to address data deficiency is a key priority.

We have already heard that there are a number of aspects to the Bill that are troubling in relation to the lack of clarity on data funding, and I have to say that I found the Minister's reply unconvincing. I am glad that

he is considering bringing elements back on Report, because clearly there is a problem here that he and his team have highlighted. I think this area is very important, so I will not withdraw the amendment.

Question proposed, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 12]

AYES

Carmichael, rh Mr Alistair	Pollard, Luke
Debonnaire, Thangam	Smith, Owen
Hill, Mike	Sweeney, Mr Paul

NOES

Aldous, Peter	Jones, Mr Marcus
Duguid, David	Lefroy, Jeremy
Eustice, George	Morris, James
Grant, Bill	Stewart, Iain
Hollinrake, Kevin	

Question accordingly negated.

Luke Pollard: I beg to move amendment 111, in clause 28, page 16, line 25, at end insert—

“(1A) The Secretary of State must conduct a consultation on exercising the power to give financial assistance under subsection (1) to promote the development of sustainable public access to recreational fishing opportunities for the fish catching sector and leisure and tourism industries, taking into account socio-economic factors.”

The Chair: With this it will be convenient to discuss new clause 25—*Recreational fishing*—

“(1) When any provision of this Act, including provisions inserted into other Acts by this Act, requires or permits the Secretary of State to consult with any person considered appropriate, the Secretary of State must consult with persons representing the practice of recreational fishing.

(2) The Secretary of State shall publish an annual report providing an assessment of the extent to which the provisions of this Act have—

(a) promoted recreational fishing, and

(b) had economic benefits attributable to the promotion of recreational fishing by the provisions of this Act.

(3) The first report under subsection (2) shall be published no more than 12 months after this section comes into force.”

This new clause would require the Secretary of State to consult on providing financial assistance for the promotion of recreational fishing, and to include representatives of recreational fishing when conducting a consultation under any other provisions of the Bill.

Luke Pollard: On Second Reading, I said that recreational fishing is entirely absent from the Bill at a meaningful level and that is not good enough. Recreational fishing is a vibrant, growing and important part of our coastal communities and needs due recognition by Ministers in the Fisheries Bill. Labour's proposals are designed to give recreational fishing the prominence that a sector of this economic size deserves.

In the evidence session held by the Select Committee on Environment, Food and Rural Affairs on Wednesday, Martin Salter from the Angling Trust talked about the vital economic link between recreational angling and coastal communities. The Bill is an opportunity to drive and create greater economic activity in our coastal

[*Luke Pollard*]

communities. Mr Salter mentioned the booming recreational fishing sectors of Cape Cod and Florida, which are worth billions of dollars, as examples of what could be achieved in coastal communities in the UK. Wealth generated by recreational fishing boosts other industries such as tourism, including the bed-and-breakfast trade and all other aspects of hospitality and tourism.

Coastal communities depend on economic activity generated by the recreational fishing industry, but for recreational fishing to thrive and have a positive impact on our coastal communities, the industry needs investment, sustainable waters and healthy fish stocks. Amendment 111 would bring recreational angling within the new Government grants that will replace the European maritime and fisheries fund. The UK was allocated £190 million of EMFF funding for 2014 to 2020. It is vital that every penny from the EMFF be matched after we leave the European Union, but, sadly, Ministers have made no such commitment to date.

As well as the economic importance of recreational fishing to coastal communities, this activity plays a big part in the culture of those communities. Sea angling brings with it many social and health and wellbeing benefits. For children and young people, it is often their first experience of interacting with the natural world. The Bill must give us the ability to support recreational fishing. It could provide opportunities for young people to get involved in recreational fishing and encourage them to pursue a career or lifelong hobby in this sector. Nurturing this industry is crucial, because we know that that could lead to a renaissance of our coastal communities.

“Sea Angling 2012”, the study of recreational sea angling carried out by the Centre for Environment, Fisheries and Aquaculture Science for the Department for Environment, Food and Rural Affairs, shows that total resident sea angler spending in 2012 was estimated to be £1.23 billion, equivalent to £831 million of direct spending, excluding imports and taxes. That directly supported 10,400 full-time jobs and almost £360 million of gross value added. The total economic impact was £2.1 billion of spending, supporting 23,600 full-time equivalent jobs and almost £980 million of GVA once indirect and induced effects were accounted for. That is a huge contribution to our coastal towns and cities.

Owen Smith (Pontypridd) (Lab): My hon. Friend is making a compelling case for including recreational fishing in the Bill. Does he agree that we are only starting to scratch the surface of the economic contribution that recreational fishing could make to our economy, and does he further agree that the Government could do so much to encourage, in particular, greater tourism into this country to take advantage of its great recreational fishing opportunities, if they were to highlight the importance of that in the Bill itself?

Luke Pollard: I thank my hon. Friend for that intervention: he is exactly right. Indeed, this weekend I had conversations with Destination Plymouth about the new tourism marketing plan for my own city. We were talking about how the value of recreational angling and sea fishing could be further embedded as part of the tourism product for the far south-west, which would create more jobs, so he is exactly right.

Coastal communities benefit when good fishing attracts anglers. Let us not tie any Minister’s hands but explicitly lay out in the Bill that they have the power to award recreational fishing the grants it needs to grow our economy and grow the love of our marine environment.

New clause 25 also relates to the ability to provide financial assistance for recreational fishing and its importance as part of the wider development of sustainable practices in recreational fishing. According to figures from DEFRA—the Minister’s own Department—recreational fishing and sea angling are worth about £2 billion to the UK economy, generate about 20,000 jobs and support thousands of coastal businesses. Sometimes the economic benefits of the recreational sector can outweigh those of the commercial sector, but as we have heard from my hon. Friend the Member for Pontypridd, it is not spoken about enough. We need to be louder and prouder about the contribution that recreational angling can make to our coastal towns.

In this Committee’s evidence sessions on the Bill, the Angling Trust rightly said that one of the “great failures” of the common fisheries policy was the failure to recognise recreational angling as a legitimate stakeholder in European fisheries. The Bill could put right that failure of the CFP. We could do that today by stating in the Bill that the UK Government recognise recreational sea angling as a direct user and legitimate stakeholder in the fisheries. That would be a win-win situation, as it would add to the very welcome news that we will have access to EMFF funding—I hope the Minister will confirm that. We need recreational fishing to be loud and proud on the face of the Bill, to send a message to the people engaged in the sector that we want that part of the economy to grow further, and that we value it.

Mr Carmichael: I agree with just about everything the hon. Gentleman has said. This is a good example of how a small measure of Government investment could have a transformative effect and bring manifold returns. Some decades ago, the Highlands and Islands Development Board installed mooring buoys throughout the highlands and islands, which allowed many yachtsmen and other sailors to enjoy that part of the countryside. It brought in a tremendous amount of income, and tourism burgeoned over the years. The same is possible for those who are trying to increase recreational angling.

The hon. Gentleman’s amendment is very modest: it requires that consultation be held. It does not bind any Minister or future Minister to do anything. It is pretty clear that if we just leave this and wait for something to happen, it almost certainly never will.

George Eustice: I declare an interest: my brother is a keen angler who targets bass off the Cornish coasts, so I regularly hear from him about these issues.

Owen Smith: I am also a recreational sea angler for bass. Does the Minister agree that we could do much more for our economy in many parts of the country—not just the south-west, but off Wales and Scotland—if we did more to promote the prospect of bass angling?

George Eustice: It would be something if we could conserve bass. Indeed, that will be another important agenda item at this year’s December Council.

Owen Smith: Does the Minister agree that one of the ways in which we might conserve bass is by reserving those stocks solely for recreational angling?

George Eustice: I would not reserve them solely for recreational angling, but I have been in the vanguard of arguing for them to have a more generous bag limit than the Commission has hitherto granted.

I know that the Angling Trust has been promoting the amendment, and I am a big fan of Martin Salter. I bumped into him after the evidence session when he raised these points, and I said that I felt that he had a rather “glass half empty” view. As the shadow Minister knows, clause 28(1)(e) is absolutely explicit that we are creating powers to give financial assistance for “the promotion or development of recreational fishing.”

That is a first. The EMFF and the European schemes have never had any provision whatever for targeted grant support for recreational angling.

Mike Hill (Hartlepool) (Lab): Hartlepool has a much-depleted offshore fleet these days, so recreational fishing is very much in the ascendency, particularly because we have got wrecks that generate good fish stocks. Does the Minister agree that that is important for tourism?

George Eustice: Yes, I very much agree. I hail from a Cornish constituency that is surrounded by water, so recreational angling is an important tourist activity. These issues are indeed very important. I have seen estimates that put the commercial value of recreational fishing at about £2 billion. We always have to be slightly suspicious of some of these figures, but there is no doubt that it is a commercially important sector.

Amendment 111 and new clause 25 seek to achieve slightly different things. With respect to amendment 111, I do not think that it is necessary to require a consultation, since in clause 28(1)(e) we have taken—for the first time and with very good reason—a power to give grants for recreational fishing. As I have said many times, DEFRA needs no encouragement to issue consultations. We have regular consultations on all sorts of issues—I think last year we had something like 50—and sometimes only a handful of people reply. I can guarantee the Committee that before introducing any grant scheme under clause 28(1), we would consult on its design and purpose, so I do not think that it needs to be placed in statute that we must run a consultation.

5.15 pm

New clause 25, which seeks to address the issue from a slightly different angle, would require consultation on relevant provisions and the publication of an annual report to demonstrate how we are supporting recreational fishing. It is based on a potentially stronger argument than amendment 111, so I undertake to the shadow Minister, the hon. Member for Plymouth, Sutton and Devonport, that I will consider whether we can tweak clause 2 on Report to include among the socioeconomic purposes for coastal communities, to be set out in the Secretary of State fisheries statement, a specific reference to recreational fishing and the potential economics of it.

I think that that is the right way to address the issue, because the SSFS sets out our overall approach to the socioeconomic of fishing. Just as clause 2 is the right place to determine issues such as fishing opportunities

for the inshore fleet, it might also serve the hon. Gentleman’s purpose if we make a tweak that refers specifically to recreational angling. He will understand that I need to have conversations across Government to get agreement for that, but having spoken to Martin Salter of the Angling Trust, I think that such a change would go some way towards mollifying his fears—he might even end up taking a “glass half full” view of the Bill.

Owen Smith: I have seen Mr Salter with a glass full or half full on many occasions.

George Eustice: I am sure that the hon. Gentleman has; I think I have, too.

Having given an undertaking to look specifically into the possibility of making reference to recreational angling in the SSFS, where it best sits, I hope that the hon. Member for Plymouth, Sutton and Devonport will not see the need to press his amendment.

Luke Pollard: I thank the Minister for taking recreational sea angling and fishing so comprehensively on board in his response. It is good to hear that he intends to issue a consultation before any powers under clause 28(1)(e) are used. That commitment delivers on the intent of our amendment 111, and I am pleased that he is taking on board the concern expressed by recreational fishers that they should be given greater prominence in the Bill.

With respect to new clause 25, I will look carefully at what the Minister brings back on Report. There is an opportunity to do much more on recreational fishing; if he brings back the new clause, the Bill will be the better for it. On the basis of the commitments he has given, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 28 ordered to stand part of the Bill.

Schedule 4

FINANCIAL ASSISTANCE

Question proposed, That the schedule be the Fourth schedule to the Bill.

George Eustice: The Committee has already discussed the substance of the issues to which schedule 4 relates. The schedule will allow Wales and Northern Ireland to establish grant schemes after the UK’s withdrawal from the EU. Its provisions essentially mirror those set out in clause 28, which provide powers to introduce schemes of financial assistance for industries related to fish or fish farming, as well as for the purpose of improving the marine and aquatic environment or—as we have just discussed—promoting recreational fishing. The powers replace and broaden existing domestic funding powers, which are in the Fisheries Act 1981.

Question put and agreed to.

Schedule 4 accordingly agreed to.

Clause 29

POWER OF MARINE MANAGEMENT ORGANISATION TO IMPOSE CHARGES

The Chair: I call Peter Aldous to move amendment 97.

Peter Aldous: I will speak briefly, because this amendment covers the issues that I addressed in my previous two amendments, and which the hon. Member for Plymouth, Sutton and Devonport also referred to. As far as the future funding of science is concerned, I was reasonably

[Peter Aldous]

content with the response that the Minister provided. I look forward to seeing the further details, to which he referred, on Report. I acknowledge and take on board his explanation that it is not appropriate for IFCA to be funded in this particular way. On that basis, I will not be moving the amendment.

The Chair: In that case we will move on to an amendment that will be moved. I call Luke Pollard potentially to move amendment 70.

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): I beg to move amendment 70, in clause 29, page 17, line 42, leave out “negative” and insert “affirmative”.

I am definitely moving the amendment, which seeks to remove the negative procedure in relation to clause 29 and replace it with the affirmative procedure. The amendment reflects concerns expressed by fishers about the increasing powers of the MMO, which is developing the ability to impose charges without sufficient accountability and scrutiny of that work.

The amendment is designed to catch the Minister’s eye so that he can reassure us that the MMO will use any powers it is given wisely, to ensure that charges are proportionate and, importantly, that before any charges are imposed, there is sufficient consultation with fishers to ensure that those charges are correct and proportionate.

Given the considerable amount of concern expressed by fishers, it is important that there is sufficient parliamentary procedure, which is why we suggest the affirmative procedure. However, if the Minister can give a good answer as to why that should not be required, I would be prepared to withdraw the amendment.

George Eustice: We have had a number of discussions about the use of the negative procedure. As I have pointed out before, the Delegated Powers and Regulatory Reform Committee considered the procedures for all delegated powers in the Bill and commented:

“Of the Bill’s 15 delegated powers that have a parliamentary procedure, only four are solely governed by the negative procedure, and justifiably so.”

It is usual for fees and charges imposed by arm’s length bodies to be set out in regulations made under the negative procedure. A recent example is the power of the Secretary of State to charge fees through regulations under the Ivory Bill, which will also use the negative procedure. We have considered the issue, but we think we have struck the right balance between the need for parliamentary scrutiny and the need to update MMO charges through secondary legislation.

If we were to accept this amendment and do use the affirmative procedure, every change made to the charges would have to go through an affirmative parliamentary process. We think that is excessive. We already have strict and tight Treasury guidance on when one can and cannot charge, and how one can charge for such charges that are passed on, and that is very much on a cost-recovery basis. That provision is set out in detail in other Government rules and guidance.

Luke Pollard: I invited the Minister to provide reassurance that the MMO would use the charging powers proportionately and subject to consultation. Could he say something about his approach to that?

George Eustice: I draw the hon. Gentleman’s attention to clause 29(7), which makes provision for consultation. I confirm that we would consult the industry before introducing such charges.

Luke Pollard: I appreciate that clarification. It is important that the Minister takes on board the concerns of fishers about the role and remit of the MMO in relation to the new powers that the Bill gives him. On the basis of the reassurance that he has given, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 29 ordered to stand part of the Bill.

Schedule 5

POWER OF NORTHERN IRELAND DEPARTMENT TO IMPOSE CHARGES

Luke Pollard: I beg to move amendment 76, in schedule 5, page 44, line 9, leave out “negative” and insert “affirmative”.

Briefly, the amendment seeks to amend schedule 5 to provide the affirmative resolution in relation to powers given to the relevant Northern Ireland Department. I would like to invite the Minister to comment.

Importantly, in the absence of devolution to the Northern Ireland Executive and the Northern Ireland Assembly at the moment, as the Assembly is not sitting, how can we ensure that there is sufficient scrutiny of those powers to the devolved Administration? In other circumstances, whether in Wales or Scotland, the powers would be given appropriate scrutiny in those devolved bodies.

George Eustice: The solution to the problem that the hon. Gentleman highlights is to get a political Administration back in Northern Ireland. We have that challenge on many fronts; this is one of the lesser challenges we face in the absence of a political Administration in Northern Ireland.

Our intention is that the Bill is built to last and that it will give us a basis and a framework with which to manage fisheries for at least the next few decades—I hope so, but obviously things change. The Bill is therefore built in the expectation that a political Administration will be back in place in Northern Ireland, as it should be. Indeed, I am sure we all hope that that might even happen before the provisions of the Bill commence.

The hon. Gentleman makes an important point about the lack of an Administration in Northern Ireland. We all know that the solution is not to amend the Bill but to get an Administration back in Northern Ireland. Again, I point out paragraph 7 of the schedule, which gives a clear undertaking that there must be a consultation before any regulations can be introduced under the negative procedure, even for Northern Ireland.

Luke Pollard: On the basis of the Minister’s response, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the schedule be the Fifth schedule to the Bill.

George Eustice: Briefly, the schedule allows the Northern Ireland Department to make regulations to enable it to charge for its exercising of relevant marine functions. After the regulations are laid, the Northern Ireland Department will be able to charge to ensure that the taxpayer does not have to foot the bill for expenses related to fisheries. Through the change, it is intended that the Government should neither profit at the expense of the consumer nor make a loss. It is a cost-recovery provision, which mirrors what is in the clauses that we discussed earlier for England.

Question put and agreed to.

Schedule 5 accordingly agreed to.

Clause 30

SEA FISH INDUSTRY AUTHORITY: FEES FOR SERVICES
PROVIDED FOR INDUSTRY IN EU

Question proposed, That the clause stand part of the Bill.

George Eustice: The Sea Fish Industry Authority—Seafish—is a levy-funded, UK-wide body set up to promote the consumption of seafood, protect the reputation of the industry and provide information, evidence and advice for decision making in the supply chain. It may provide services for persons in the sea fish industry within and outside the UK. It is required to charge in full for such services provided to those from non-EU states, but section 3(5) of the Fisheries Act 1981 prevents it from charging those from EU states more than those from the UK. The clause will remove that provision.

We are including the clause in the Bill because the power in section 8(1) of the European Union (Withdrawal) Act 2018 may not be used to make regulations that impose or amend fees. In practice, Seafish sets out all of its charges across recovery levels, so the clause will not result in any practical change. However, it is important that no distinction is made between services provided to EU and to non-EU companies once the UK leaves the EU.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Clause 31

POWER TO MAKE PROVISION ABOUT FISHERIES,
AQUACULTURE ETC

Question proposed, That the clause stand part of the Bill.

5.30 pm

George Eustice: The clause will provide the Secretary of State with the powers necessary to manage our fisheries when we leave the EU and operate as an independent coastal state, enabling us to comply with the UK's international obligations, manage our fisheries and keep pace with changes to EU law. When we leave the EU, it will be vital that the UK has measures in place to implement its international obligations and to move away from the common fisheries policy measures incorporated in retained EU law under the EU withdrawal Act.

Fisheries, and the management of the impact of fisheries on the marine environment, are dynamic, changing throughout the year. To manage fisheries effectively, we

need delegated powers to be able to respond quickly to scientific advice. The CFP is due to be reviewed in the next few years. We need to ensure that the UK can introduce measures where appropriate for UK fisheries management. The clause confers regulatory updating powers on the Secretary of State. Equivalent powers are conferred on Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland; we understand that Scotland will make its own legislative arrangements in respect of the powers set out in the clause.

The powers in the clause are necessarily quite broad in scope. In recognition of that, we have introduced several constraints to limit the powers as far as possible. They must be exercised for a purpose listed in subsection (1); they can only be exercised for the matters listed in subsection (4); and they cannot create criminal offences punishable by imprisonment. I hope I have been able to explain the purpose behind the clause, to ensure that we can have a dynamic and clear ability expeditiously to make minor technical changes to the technical conservation regulations that are important in fisheries.

Luke Pollard: Notwithstanding my earlier remarks, it is good to see the word “aquaculture” making it into the Government’s Bill at this point. I make fond mention of the occasion on which the Minister decided not to take amendments because of the mention of the aquatic environment. I am sure that aquaculture and the aquatic environment will make appearances later that will highlight the error of the Minister’s ways in his earlier remarks.

Question put and agreed to.

Clause 31 accordingly ordered to stand part of the Bill.

Clause 32

SECTION 31: INTERPRETATION

Question proposed, That the clause stand part of the Bill.

George Eustice: Briefly, the clause simply provides interpretation for certain terms related to fisheries used in clause 31. This is important to ensure that restrictions placed on the power in clause 31 are effective in limiting its scope to fisheries. It is a simple clause that deals with interpretation.

Question put and agreed to.

Clause 32 accordingly ordered to stand part of the Bill.

Clause 33

POWER TO MAKE PROVISION ABOUT AQUATIC ANIMAL
DISEASES

Question proposed, That the clause stand part of the Bill.

George Eustice: The shadow Minister will note that the word “aquatic” has arrived again. However, this clause is slightly different, since it relates to replacing provisions dealing with fish health in particular once we leave the EU and lose some of the powers in the European Communities Act 1972.

[George Eustice]

The clause confers delegated powers on the Secretary of State to make changes to aquatic animal health legislation, as opposed to the management of the aquatic environment. Corresponding powers are conferred on Scottish and Welsh Ministers and DAERA in Northern Ireland by schedule 6. Primarily, the clause will ensure that the domestic aquatic animal health regime can be amended and updated after we leave the EU in order to preserve the UK's high aquatic health status both in relation to aquaculture and the health of wild aquatic animals. The clause will allow the Secretary of State to regulate matters relating to the importation, exportation, movement, storage or handling of fish or other aquatic animals; products derived from fish; and any other thing that the Secretary of State considers may carry, or otherwise affects the prevalence of, a disease of fish or other aquatic animals.

The powers conferred by the clause will enable the UK to respond to new and emerging aquatic disease threats and disease outbreaks and to fulfil its international obligations as part of any future trade agreements. The clause is therefore essential to maintaining the high health status. I should point out that in 2009 the Diseases of Fish Act 1983 was repealed. We then relied on the European Communities Act 1972 to make changes to our regime for controlling fish and other aquatic diseases. The clause ensures that we have the powers we need to be able to continue to do that, as we lost the Diseases of Fish Act in the repeal of 2009 and we are now on the threshold of losing the powers that we have under the European Communities Act.

Question put and agreed to.

Clause 33 accordingly ordered to stand part of the Bill.

Clause 34

SCOPE OF REGULATIONS UNDER SECTION 31 OR 33

Question proposed, That the clause stand part of the Bill.

George Eustice: Clause 34 defines and limits the scope of regulation-making powers in clauses 31 and 33, ensuring that the devolved status of fisheries is respected. Subsection (1) allows for regulations made under clauses 31 and 33 to confer a function, including the imposition of fees. Subsection (2) allows for the creation of criminal offences, but not offences punishable by imprisonment. Subsection (3) states that regulations made under clauses 31 or 33 cannot include provisions that are within the competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly unless the provision is merely incidental or consequential.

Subsection (4) further restricts the use of powers under clauses 31 and 33 as the regulations may not be used to modify functions held by Welsh Ministers in relation to the enforcement of sea-fishing licences and regulating the conduct of fishing operations. Subsection (5) restricts the use of powers under clauses 31 and 33 so that they may not modify fisheries administrations' functions relating to the licensing of fishing boats under any of the provisions in clauses 9 to 13 and schedule 2. Finally, subsection (7) sets out the broad scope of the

power to amend any enactment. That will be essential for modifying retained EU law after our exit from the European Union.

In summary, the clause places limitations on the exercise of powers in clauses 31 and 33, predominantly to ensure that there is no encroachment on the devolution settlement that we have. I beg to move that the clause stand part of the Bill.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Clause 35

SCOPE OF REGULATIONS UNDER SECTION 31 OR 33

WHERE CONSENT OBTAINED

Question proposed, That the clause stand part of the Bill.

George Eustice: This clause is about ensuring there is an ability—notwithstanding the fact that clause 34 is clear that it does not cut across the devolution settlement—to put in place a framework with the consent of each part of the UK so that a single authority can act with the consent of the others in an area that would otherwise be devolved. Subsections (1) to (3) require consent from the Scottish or Welsh Ministers or the Northern Ireland Department for regulations under clauses 31 and 33 to make provisions in areas of devolved competence. Subsection (4) requires consent from the Scottish and Welsh Ministers and the Northern Ireland Department for regulations on matters relating to powers to license fishing boats. I beg to move that the clause stand part of the Bill.

Question put and agreed to.

Clause 35 accordingly ordered to stand part of the Bill.

Clause 36

PROCEDURAL REQUIREMENTS FOR REGULATIONS UNDER SECTION 31 OR 33

Luke Pollard: I beg to move amendment 71, in clause 36, page 22, line 24, leave out “negative” and insert “affirmative”.

Briefly, we tabled the amendment so that we could ask the Minister to explain why he believes that the negative procedure is the best option for this clause.

George Eustice: As I said, the Government have considered carefully the delegated powers in the Bill and the procedures that should apply to regulations. I will not rehearse the points I made about delegated powers and the precedents for this, but I will give the hon. Gentleman an indication of the technical issues that regulations under this part of the Bill may deal with. They may cover issues such as the catching, landing or selling of sea fish below a certain size—the minimum conservation reference size, as it is sometimes called—and the design of sea-fishing equipment. They may involve introducing a new selectivity measure for the squid fishery off the coast of his constituency, for instance. They may also involve minor issues to do with monitoring or enforcement of compliance.

We have a large number of technical conservation regulations under the existing common fisheries policy—some 90 bodies of regulations cover all sorts of things, from landing sizes to mesh sizes and from closures to prohibitions on landing small-eyed ray. Those are generally dealt with through delegated Acts that come from the Commission. We must have the power to make in-year amendments so that we can react quickly to changing circumstances by taking a stock off the prohibited list or putting it back on, and it is important that we have the ability to act expeditiously to manage our marine environment. Given that we have some 90 bodies of EU regulations and some 300 or 400 different technical regulations in total, I question whether there is appetite in this place for debating each and every one of those changes. The situation can be very dynamic and dozens of changes are made in a typical year.

On that basis, I hope that the hon. Gentleman does not see the need to press the amendment to a vote, and that I have been able to reassure him why we chose the negative resolution procedure rather than the affirmative procedure in this case.

Mr Carmichael: I have lost count of the number of debates I have sat through in which we discussed whether to use the negative or affirmative procedure—“must” or “may”—but on this occasion the hon. Member for Plymouth, Sutton and Devonport hits on a substantial point.

As we heard, the scope of regulations made under clauses 31 and 33 is defined by clause 34, which provides *inter alia* in subsection (2) that regulations made under clauses 31 or 33

“may create a criminal offence, but not one punishable with imprisonment.”

I am not surprised that imprisonment is not included, because I suspect the bulk of the offences created would be committed primarily by bodies corporate rather than private individuals. Notwithstanding that, offences created by regulations of this sort often attract financial penalties that run to several thousand pounds—sometimes tens of thousands of pounds—so they are not insignificant.

I deeply regret not challenging the Minister on this point when we debated clause 34.

George Eustice: I draw the right hon. Gentleman’s attention to clause 36(2), which sets out clearly:

“Regulations under section 31 or 33 are subject to the affirmative resolution procedure”

if they cover a number of issues, including anything creating a criminal offence. Subsection (3) relates to the use of negative procedure on regulations left after those that fall under subsection (2) are taken out.

Mr Carmichael: That answers my point. I do not think I need detain the Committee any longer.

5.45 pm

The Chair: I call the Minister—sorry, Mr Pollard.

Luke Pollard: You are getting ahead of yourself, Mr Hanson. I am not a Minister yet, but the coming general election will be upon us soon.

I am grateful for the Minister’s response. As he said, there will be a large number of changes. He might want to reflect on how any changes made under negative procedure can be reported in the Secretary of State’s fisheries statements, even though it is not necessarily required to do so.

There is an opportunity. Because we are expecting the Minister to deliver so much change in the first couple of years after we leave the common fisheries policy, having it summarised and repeated annually would enable greater scrutiny and understanding of those changes. That would be beneficial not only for the fishing industry but for those who seek to scrutinise the work of Government. On the basis of the Minister’s response, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

George Eustice: I think we covered the key parts of the clause earlier. I again simply highlight that it sets out a number of cases where it is appropriate to use the affirmative resolution procedure under subsection (2). That includes any regulations that impose fees or create a criminal offence. The remainder of the largely technical conservation measures that are of a lower order and need to be changed regularly are provided for under the negative resolution procedure under subsection (3).

Question put and agreed to.

Clause 36 accordingly ordered to stand part of the Bill.

Clause 37

POWERS OF SCOTTISH MINISTERS, WELSH MINISTERS
AND NI DEPARTMENT

Question proposed, That the clause stand part of the Bill.

George Eustice: The clause simply serves to enable schedule 6, which will provide Scottish Ministers, Welsh Ministers and the Northern Ireland Department with the powers necessary to manage fishery and agriculture industries in line with devolved competences. In doing so, the clause is part of a framework that allows Scotland, Wales and Northern Ireland to meet their obligations under the UN convention on the law of the sea and the UN fish stocks agreement.

Mr Paul Sweeney (Glasgow North East) (Lab/Co-op): The Labour party fully supports the clause pertaining to schedule 6, which we will elaborate on later.

Question put and agreed to.

Clause 37 accordingly ordered to stand part of the Bill.

Schedule 6

POWERS TO MAKE FURTHER PROVISION: DEVOLVED
AUTHORITIES

Mr Sweeney: I beg to move amendment 77, in schedule 6, page 45, line 43, leave out “negative” and insert “affirmative”.

[Mr Sweeney]

We tabled the amendment because the schedule allows for the transfer of powers to Scottish Ministers and the power to make provisions on issues such as aquatic and animal diseases. The schedule will allow Scottish Ministers to make provisions for

“the purpose of monitoring, controlling, preventing or eradicating diseases of fish or other aquatic animals...in particular...provision regulating the importation, exportation, movement, storage or handling of...fish or other aquatic animals...products derived from fish or other aquatic animals...any other thing that the Scottish Ministers consider may carry, or otherwise affect the prevalence of, a disease of fish or other aquatic animals.”

We want to change that to an affirmative procedure because it will be a much better way of doing things.

Alan Brown (Kilmarnock and Loudoun) (SNP): The amendment is a step too far. There is sufficient protection for affirmative resolutions under clause 36 and paragraph 3(2) of the schedule, as the Minister pointed out. The Scottish Government need some leeway to be able to use the negative resolution procedure, and I do not think there is any need for this amendment. I would like to know whether the Labour party sought any assurances from the Scottish Government on whether they thought this amendment was necessary. I suggest that if the Scottish Government had wanted such an amendment, they would have tabled it themselves.

George Eustice: This is in many ways a mirror amendment to one we discussed earlier. It is unusual for me to agree with the hon. Member for Kilmarnock and Loudoun, but he makes an important point: if we have just agreed one set of provisions giving the right to use the affirmative or negative resolution for England, it would suggest that we do not trust Scotland if we said that all their resolutions should be subject to the affirmative procedure. What is good for one part of the UK should be good for Scotland as well. I do not think this amendment is appropriate.

I can confirm to the hon. Gentleman that this has been put in at the request of the Scottish Government. We worked closely with all the devolved Administrations to understand what they would like included in the Bill on their behalf, and this particular section dealing with the ability to fight aquatic diseases is understandably very important to Scotland, given that it has such a large salmon farming industry. It is at the request of the Scottish Government that this has been included in the way that it has. I think it is right that we treat the Scottish provisions in the same way that we treat the English provisions. I hope the shadow Front Bench will not see the need to press this particular amendment.

Mr Sweeney: We have been pretty consistent throughout the process in saying that we think affirmative measures are better because they provide extra scrutiny and extra control, and we think that is beneficial.

Alan Brown: On that point, given that the hon. Gentleman's colleagues consistently say that the Scottish Labour is the party of devolution, does he agree that if Labour is the party of devolution, it should respect devolution rather than trying to make legislation here that the Scottish Government have not asked for?

Mr Sweeney: I do not think that is how devolution works. Devolution is a collaborative process. That is my reading of it. It is not a zero-sum game.

Mr Carmichael: Does the hon. Gentleman agree that, even where the Government in Edinburgh have agreed something with the Government in London, neither Government should expect to be immune from scrutiny by Parliament?

Mr Sweeney: I absolutely agree with that. In any system of democracy, at every tier there should be an element of interface and interaction, and that will be an ongoing process. It is not about a gradualist approach to independence, which is how the Scottish National party would like to view devolution. That is not how we view it. I will conclude, because there is no point in labouring this—pardon the pun—by saying that we accept that there is no agreement. It is unfortunate that we keep losing these votes on the negative emphasis versus the affirmative, but we are where we are in terms of the arithmetic. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the schedule be the Sixth schedule to the Bill.

George Eustice: We have already covered part 1 of schedule 6, which specifically relates to the powers taken for Scotland to manage aquatic and animal diseases. I will briefly comment on parts 2 and 3, which make provisions for both Welsh Ministers and the Northern Ireland Administration. Hon. Members will have noted that the provisions for Wales and Northern Ireland are different from those for Scotland in that parts 2 and 3 also have provisions that mirror clause 31. In other words, schedule 6 gives Welsh Ministers and the Northern Ireland Administration the ability to make those technical conservation measures that we discussed earlier in the context of clause 31 for England.

I should point out that at this stage that, when the Bill was drafted, Scottish Ministers said that they did not want those provisions included in the Bill on their behalf. We understood that at that point they might have been considering doing this themselves through their own legislation. However, we have recently been told by Scottish Ministers that that position has changed and they would like us to perhaps consider at a later stage of the Bill adding powers for Scotland akin to those afforded in parts 2 and 3 for Wales and Northern Ireland.

This is obviously an issue that we will discuss further with Scottish Ministers. It is complicated by the fact that they have not yet confirmed that they will grant a legislative consent motion for the Bill. Nevertheless, I thought I should highlight to members of the Committee why there is a difference between part 1 for Scotland, and parts 2 and 3 for Wales and Northern Ireland.

Question put and agreed to.

Schedule 6 accordingly agreed to.

Ordered,

That further consideration be now adjourned.—(Iain Stewart.)

5.55 pm

Adjourned till this day at Seven o'clock.