

SECTION 1 - THE SUSTAINABLE DEVELOPMENT OF AQUACULTURE

Farm Management Agreements (FMAs)

1. Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement (FMA), with sanctions for failure to do so, or to adhere to the terms of the agreement? (Page 9)

YES x

NO

Appropriate Scale Management Areas (MAs)

2. Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative areas? (Page 9)

YES

NO X

Management Measures and Dispute Resolution

3. Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements? (Page 10)

YES x

NO

4. How do you think such a system might best be developed? (Page 10)

Answer:

Proposal: establish an expert panel for potential dispute resolution and arbitration in regard to FMAs

Unused Consents

5. Do you agree we ought to review the question of unused consents? (Page 11)

YES

NO X

6. What do you consider are suitable options to promote use or relinquishment of unused consents? (Page 11)

Answer:

There are some specific issues in respect of “orphaned” CAR consents that need to be addressed. There is a small number of legacy sites where the status and ownership are uncertain, which need to be addressed. There needs to be consistency with terminology in approach to this by Marine Scotland. Any revoking of unused “consents” which would render an approved, but inactive, site unusable would represent theft of private assets by Marine Scotland. With regards to all other consents, the transfer into the Town and Country Planning system was to make sites a heritable asset. Marine Scotland cannot abandon that position.

7. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents? (Page 12)

YES

NO X

8. Should any such power relate to all or to particular consents (and if the latter, which)? (Page 12)

Answer:

There is a specific issue with “orphaned” CAR consents which can be dealt with administratively within existing legislation by SEPA. There are a few legacy sites where their status is uncertain. These can be addressed through the Audit and Review process.

There is a need for Marine Scotland to review the operation of the Locational Guidelines system.

Collection and Publication of Sea-lice Data

9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data? (Page 13)

Answer:

The Scottish Government should endorse the use of SSPO’s Health Database. The Scottish Government should re-engage with a process similar to the Tripartite Working Group.

Surveillance, Biosecurity, Mortality and Disease Data

10. Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatment and production as set out above? (Page 16)

YES

NO

11. What are your views on the timing and frequency of submission of such data? (Page 16)

As per the recommendations of the Healthier Fish Working Group

Biomass Control

12. Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them necessary and appropriate – for example to address concerns about fish health and welfare? (Page 16)

YES

NO

Wellboats

13. Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on wellboats? (Page 17)

YES

NO

Answer:

We are opposed to undefined enabling legislation. We propose a technical working group on future wellboat design.

Processing Facilities

14. Do you think Scottish Ministers should be given additional powers to place controls on processing plants? (Page 17)

YES

NO

Seaweed Cultivation

15. Do you agree that the regulatory framework should be the same for all seaweed farms? (Page 18)

YES X

NO

16. Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing? (Page 17)

YES

NO X

17. If not, what alternative arrangements would you suggest? (Page 18)

Answer:

*As things stand, responsibility for all aquaculture planning is with the Local Authority as stated above. We would welcome this proposal only if it involved **all aquaculture development** passing to the marine licensing system.*

Commercially Damaging Species

18. Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species? (Page 19)

YES

NO

Answer:

- 1. No, not without qualification. The case, including the triggers for action and the need for democratic accountability and limits on powers, needs to be more fully considered.*
- 2. In the case of an identified problem, such as is the case with *Mytilus trossulus*, we would be wholly supportive of the proposal.*

SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS

19. Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry? (Page 21)

YES X

NO

SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS

Sea-lice

20. Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken, in appropriate circumstances and potentially as part of a wider suite of protection measures? (Page 23)

YES

NO

Containment and Escapes

21. Do you agree we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical Standard? (The technical content of the standard would be defined separately.) (Page 25)

YES

NO

Tracing Escapes

22. Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes? (Page 26)

YES

NO

SECTION 4 - SALMON AND FRESHWATER FISHERIES MANAGEMENT

Modernising the Operation of District Salmon Fishery Boards

23. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently? (Page 29)

YES X NO

24. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries? (Page 29)

YES X NO

25. If yes, should such Code of Good Practice be statutory or non-statutory? (Page 29)

YES x NO

Answer:

Non-statutory. On the basis of our experience, the proposed wild salmon and freshwater fisheries Code of Good Practice should be non-statutory, but should be made a requirement for fishery proprietors in DSFB areas (or where Marine Scotland fulfils that function). It should also be independently audited by a UKAS accredited auditor.

Statutory Carcass Tagging

26. Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout? (Page 31)

YES X NO

Fish Sampling

27. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis? (Page 32)

YES x NO

SECTION 6 - PAYING FOR PROGRESS

46. Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities? (Page 43)

YES x

NO

47. If you do not agree that there should be charging provisions, how do you envisage ongoing and new work to assist in management and development of the aquaculture and fisheries sectors should be resourced? (Page 43)

A full and comprehensive public review of Marine Scotland, as well as detailed evaluation of the potential market for its services will have to be undertaken before such a proposal can be properly made.

48. If no new way of resourcing such activity can be found, what activities do you suggest might be stopped to free up necessary funds? (Page 43)

This question starts from an incorrect premise. To undertake the kind of privatisation this consultation is proposing will require a full and comprehensive independent review of Marine Scotland, including a detailed evaluation of the potential market for its services.