

Rural Affairs and Islands Committee
c/o Clerk to the Committee The Scottish
Parliament
Edinburgh
EH99 1SP

The Animal Law Foundation
71-75, Shelton Street
Covent Garden
London

By email: rural.committee@parliament.scot

5 June 2024

Dear Sirs or Madams,

Re: Inquiry into salmon farming in Scotland

1. We are The Animal Law Foundation, a charity focused on the proper application of animal welfare legislation throughout the UK.
2. We write in relation to The Committee's follow-up inquiry into the implementation of the Rural Economy and Connectivity Committee's (RECC) session 5 report recommendations¹ for salmon farming within Scotland. This inquiry was agreed following the Committee's meeting on 10 May 2023².
3. This inquiry is currently stated to look at the report's recommendations and assess where progress has been made across four themes:

¹

<https://digitalpublications.parliament.scot/Committees/Report/REC/2018/11/27/Salmon-farming-in-Scotland#Summary-of-conclusions-and-recommendations>

²

<https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/RAI-10-05-2023?meeting=15305&iob=130528>

- a. environmental impacts and regulatory reform
 - b. animal welfare
 - c. interactions with wild salmon
 - d. economic and social benefit
4. To assist with the inquiry, we wish to raise our concerns in regards to certain areas of the fish farming industry, particularly as it pertains to the application of animal welfare law.

Regulatory reform and Animal Welfare

5. We note that a number of your recommendations relate to the regulatory framework that is currently in place, and are pleased to see that the limitations of the current framework have been acknowledged and are included within the recommendations. We are pleased to see that the Committee recommended that a comprehensively updated package of regulation should be developed by Marine Scotland and other regulatory bodies, both to ensure the sector will be managed effectively and to provide a strong foundation on which it can grow in a sustainable manner³. We are also pleased to see that it had been recommended that Marine Scotland be tasked with taking responsibility in delivering the necessary improvements and in taking on an overarching coordinating role⁴.
6. Farmed fish are protected under the Animal Health and Welfare (Scotland) Act 2006 legislation in Scotland. Legal requirements include meeting their welfare needs, such as a suitable environment, and sparing them unnecessary suffering. Fish are also included under assimilated Council Directive 93/119/EC⁵ which was implemented into Scottish law via The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012⁶ which means that fish are to be protected from avoidable pain, distress or suffering or at the time of their killing.

³ Recommendation 60 at paragraph 497 of report, <https://digitalpublications.parliament.scot/Committees/Report/REC/2018/11/27/Salmon-farming-in-Scotland#Summary-of-conclusions-and-recommendations>

⁴ Recommendation 59 at paragraph 494

⁵ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1993:340:0021:0034:EN:PDF>

⁶ <https://www.legislation.gov.uk/ssi/2012/321/contents/made>

There are also The Welfare of Animals (Transport) (Scotland) Regulations 2006⁷ which means that amongst other requirements, fish must be transported in a way that does not cause injury or undue suffering to them.

7. Despite the legal protections in place, welfare breaches on fish farms are revealed time and time again in undercover investigations. We believe that the main reason for this is that there are no regulations or guidance on how to meet the legal requirement. Instead the industry has been left to interpret what these provisions mean. For example, what is a suitable environment for a fish and how do you spare unnecessary suffering. We argue that the current situation is far from adequate and reform is needed.
8. Instead the industry has been largely left to self regulate in the form of the Code of Good Practice. The Code of Good Practice does not contain any detail on how to comply with welfare law. There are also countless welfare issues the COGP remains silent or vague on, such as stunning at slaughter, the welfare requirements of cleaner fish, carefully separating dead and live fish, and enrichment.
9. Previously the Scottish Government has stated that this is not needed as the Code of Good Practice is sufficient and that a breach could constitute a breach of section 24, this being the requirement to meet an animal's needs. Despite this, there have been various examples of breaches of the COGP, such as the use of thermolicers within fish farms, which involves submerging the fish in lukewarm water in an attempt to clean them of any lice that may be upon their bodies. This process involves funnelling the fish through tubes into the water bath, which can often be 20 degrees warmer than the regular temperature of the water in which salmon live and thus can cause them pain and cause a significant decrease in their welfare. These machines are at odds with paragraph 5.10 of Chapter 5 of the COGP, which states that equipment should be designed in such a way as to avoid creating welfare problems for the fish. These machines can cause harm and suffering to fish. Yet, to the best of these animal groups' knowledge and to the best of our knowledge, no prosecutions have been brought against a fish farm for a breach of section 24 or any other welfare offence. There have also been numerous undercover investigations carried out by animal protection organisations which show further breaches of the COGP including unnecessary handling of live fish (which could be a potential breach of Chapter 5, paragraph 5.40 and 5.31, which states that live fish should only be removed from water and handled when absolutely necessary, and they should

⁷ <https://www.legislation.gov.uk/ssi/2006/606/contents>

never be lifted by the tail or their gills, but supported across their whole body), overcrowding (which could be a potential breach of Chapter 5, paragraph 5.51 which states that crowding must be kept to a minimum, and paragraph 5.64 which states that stocking densities should be monitored in relation to fish health, behaviour and water quality to ensure that fish welfare is not compromised).

Implementing recommendations

10. In addition to the regulatory and animal welfare improvements that would come with official guidance, we also believe that official guidance would be an appropriate vehicle for ensuring that the recommendations are adequately implemented to tackle:

- a. Increased mortalities
- b. Sea lice and disease
- c. Confusion as to the regulatory framework

11. The specific recommendations that official guidance would assist are:

a. **RECOMMENDATION 10**

The Committee welcomes the statement in the Scottish Government's Fish Health Framework that ambitious targets should be agreed "to achieve a significant and evidenced reduction in mortality for salmon and trout" and that these should be world-leading. However, it is strongly of the view that practical action is also required and that there should be a process in place which allows robust intervention by regulators when serious fish mortality events occur. It considers that this should include appropriate mechanisms to allow for the limiting or closing down of production until causes are addressed.

b. **RECOMMENDATION 15**

The Committee notes the various views expressed in evidence relating to the different sea lice trigger levels and thresholds that are applied by the industry itself and by Marine Scotland for reporting and intervention purposes. It considers that the work of the FHF provides an opportunity to remove confusion around this issue and develop proposals that are appropriate both to the fish health management needs of the Scottish industry and to the regulatory regime. It considers, however, that these

should be challenging and set a threshold that is comparable with the highest international industry standards. (see paragraph 195)

c. RECOMMENDATION 16

Whilst the Committee recognises that it will take time for the outcomes of the FHF sea lice workstream to emerge, it is strongly of the view that there should in general terms be a move away from a voluntary approach to compliance and reporting with regard to sea lice infestation. The working group should therefore seek to bring forward proposals which make compliance and reporting a mandatory requirement. (see paragraph 196)

d. RECOMMENDATION 17

The Committee notes the concerns expressed in evidence that enforcement action in relation to breaches of sea lice levels has not been sufficiently robust to date. It is therefore of the view that if the revised compliance policy is to be effective it must be robust, enforceable and include appropriate penalties. (see paragraph 197)

e. RECOMMENDATION 59

The Committee also notes and shares the concerns expressed in evidence that the current consenting and regulatory framework which is spread across several regulatory bodies is confusing and is poorly coordinated. It is of the view that the co-ordination of and interaction between the various elements of the regulatory regime needs to be significantly improved. The Committee recommends that Marine Scotland should be tasked with taking responsibility in delivering the necessary improvements and in taking on an overarching co-ordinating role.

f. RECOMMENDATION 60

The Committee is therefore of the view that maintaining the status quo in terms of the regulatory regime in Scotland is not an option. It considers that there is a need to raise the bar in Scotland by setting enhanced and effective regulatory standards to ensure that fish health issues are properly managed and the impact on the environment is kept to an absolute minimum. The Committee therefore recommends that a comprehensively updated package of regulation should be developed by Marine Scotland and other regulatory bodies, both to ensure the sector will be

managed effectively and to provide a strong foundation on which it can grow in a sustainable manner.

Conclusion

12. There are legislative protections given to promote the welfare of fish; however, there is little evidence that these are being followed. We believe that official guidance is needed to ensure that the laws are being enforced effectively and that the welfare of the fish on fish farms is being treated as a priority.
13. Whilst there is a Code of Good Practice in place, this is evidently not sufficient to meet the welfare needs of fish nor is it adequate guidance on how industry can meet their legal requirements.
14. Official guidance would ensure regulatory conformity and compliance and assist with implementing recommendations.

Yours faithfully

The Animal Law Foundation