

E: ms.marinelicensing@gov.scot

Blueshell Mussels
Sparl
Brae
Shetland
ZE2 9QJ

01 February 2019

Dear [Redacted]

**MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING – SECTION 43:
COMPLIANCE NOTICE**

I write to you on behalf of the Marine Scotland - Licensing Operations Team (MS-LOT). MS-LOT is responsible, on behalf of the Scottish Ministers, for licensing deposits in, and removals from, the seas adjacent to Scotland under the Marine (Scotland) Act 2010 (The Act).

It has come to my attention that you have carried on licensable marine activity, namely that you have carried out construction of breakwater at Sparl Brae, Shetland, and have failed to comply with a condition of a marine licence. Namely condition 5 of Marine Licence 06034/16/0

The licensee shall, within 28 days of completion of the works or within 28 days of the date of expiry of the licence, whichever is the sooner, submit a written report to the licensing authority stating the nature and quantity of all substances and objects deposited and/or removed below Mean High Water Springs under authority of the licence. Where appropriate, nil returns shall be provided.

Under section 39(1) of The Act a person who contravenes section 20(1) or fails to comply with the condition of a marine licence commits an offence. Under section 39 (4) of The Act a person guilty of an offence under subsection (1) is liable-

- (a) on summary conviction, to a fine not exceeding £50,000,
- (b) on conviction on indictment, to a fine or to imprisonment for a period not exceeding 2 years, or to both.

Section 43 of The Act provides for the issue of Compliance Notices where subsection (3) is satisfied; *the carrying on of the activity has not caused or is not likely to cause, any of the following*

- (i) serious harm to the environment;
- (ii) serious harm to human health;
- (iii) serious interference with legitimate use of the sea.

MS-LOT is satisfied that carrying out a licensable marine activity and not complying with condition 5 of your marine licence constitutes an offence under section 39(1) of The Act. MS-LOT is also satisfied that serious harm is not likely to be caused to the environment or human

health through the carrying on of the activity and that serious interference with legitimate uses of the sea was not caused.

This letter constitutes a compliance notice under section 43 of The Act.

What you must do

You are required to provide a return as per condition 5 of your marine licence by the 15 February 2019. Where appropriate, a nil return must be provided.

Under section 45(3) of The Act a person who fails to comply with a compliance notice commits an offence. Under section 45(4) of The Act a person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding £50,000 or on conviction on indictment to a fine or to imprisonment for a period not exceeding 2 years, or to both.

Appeals against the compliance notice

A person to whom a compliance notice under section 43 of The Act has been issued by the Scottish Ministers may by summary application appeal to the sheriff of any sheriffdom against the notice.

Further information or guidance

The rules covering marine licensing can be found at Part 4 of the Marine (Scotland) Act 2010. A copy of the Marine (Scotland) Act 2010 can be obtained at:

<http://www.legislation.gov.uk/asp/2010/5/contents>

Further information on marine licensing can be obtained from our website at:

<http://www.scotland.gov.uk/Topics/marine/Licensing/marine>

It is important that you are fully conversant with all of the rules that apply to your activity and your attention is drawn to the advice given above. If you have further questions, please do not hesitate to get in contact using the details below or by e-mailing ms.marinelicensing@gov.scot

Yours sincerely,

[Redacted]

Marine Planning and Policy



E: ms.marinelicensing@gov.scot

East Voe Shellfish Ltd
Sained
East Voe
Scalloway
Shetland
ZE1 0US

01 February 2019

[Redacted]
Dear

**MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING – SECTION 43:
COMPLIANCE NOTICE**

I write to you on behalf of the Marine Scotland - Licensing Operations Team (MS-LOT). MS-LOT is responsible, on behalf of the Scottish Ministers, for licensing deposits in, and removals from, the seas adjacent to Scotland under the Marine (Scotland) Act 2010 (The Act).

It has come to my attention that you have carried on licensable marine activity, namely that you have carried out reclamation of seabed at East Voe, Scalloway, Shetland, and have failed to comply with a condition of a marine licence. Namely condition 5 of Marine Licence 06666/18/0.

The licensee shall, within 28 days of completion of the works or within 28 days of the date of expiry of the licence, whichever is the sooner, submit a written report to the licensing authority stating the nature and quantity of all substances and objects deposited and/or removed below Mean High Water Springs under authority of the licence. Where appropriate, nil returns shall be provided.

Under section 39(1) of The Act a person who contravenes section 20(1) or fails to comply with the condition of a marine licence commits an offence. Under section 39 (4) of The Act a person guilty of an offence under subsection (1) is liable-

- (a) on summary conviction, to a fine not exceeding £50,000,
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- (i) serious harm to the environment;
- (ii) serious harm to human health;
- (iii) serious interference with legitimate use of the sea.



MS-LOT is satisfied that carrying out a licensable marine activity and not complying with condition 5 of your marine licence constitutes an offence under section 39(1) of The Act. MS-LOT is also satisfied that serious harm is not likely to be caused to the environment or human health through the carrying on of the activity and that serious interference with legitimate uses of the sea was not caused.

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It is important that you are fully conversant with all of the rules that apply to your activity and your attention is drawn to the advice given above. If you have further questions, please do not hesitate to get in contact using the details below or by e-mailing ms.marinelicensing@gov.scot

Yours sincerely,

[Redacted]

Marine Planning and Policy

Aquaculture and Fisheries (Scotland) Act 2007

ENFORCEMENT NOTICE

In terms of section 6(1), as read with section 6(2) of the Aquaculture and Fisheries (Scotland) Act 2007 (as amended) ("the 2007 Act"), the Scottish Ministers-

- (a) being satisfied that the person(s) specified in paragraph 1 below ("the relevant person(s)") – carries on a business of fish farming, and
- (b) being satisfied that the relevant person(s) does not have satisfactory measures in place for the purposes of the containment of fish and the prevention of escape of fish in respect of the site(s) specified at paragraph 1 below;

hereby serve this enforcement notice on the relevant person(s) in respect to the fish farming business specified in paragraph 1 below.

In terms of section 6(4) and (6) of the 2007 Act the Scottish Ministers require the relevant person(s) to undertake the execution of the works and taking of the steps specified in paragraph 3 below by the date specified in paragraph 4 below.

1. Relevant person(s): Marine Harvest (Scotland) Limited
Managing Director, [REDACTED]

Issued at: Marine Scotland Science,
Marine Laboratory,
375 Victoria Road,
Aberdeen,
AB11 9DB

Name of fish site: Ardmaddy (FS0464)

Name of fish farming business: Marine Harvest (Scotland) Limited (FB0119)

Address of fish farming business (if different to above):

Marine Harvest (Scotland) Ltd
Stob Ban House
Glen Nevis Business Park
Fort William
PH33 6RX

2. This enforcement notice is served because:

The pen, net and mooring system that is in use for holding aquaculture animals at the site known as Ardmaddy (FS0464) is not considered to be fit for purpose in the current state of repair and deployment, as observed by a Marine Scotland Fish Health Inspector on 15th September 2015.

3. The execution of the following works and the taking of the following steps are considered necessary for the purpose of:

Ensuring that satisfactory measures are in place for the purposes of the containment of fish and the prevention of escape of fish at the site known as Ardmaddy (FS0464).

i. If it is intended to hold aquaculture animals at the site known as Ardmaddy (FS0464) after 30th October 2015, the pen, net and mooring equipment that is in use for holding aquaculture animals at that site must be repaired and deployed in a manner that is appropriate for the environmental conditions predicted to be experienced at the site of deployment.

ii. If it is intended to hold aquaculture animals at the site known as Ardmaddy (FS0464) after 30th October 2015, the relevant person(s) must produce to the Scottish Ministers a report from an independent person of proven or demonstrable competence in relation to the design, installation and operation of aquaculture pen, net and mooring equipment. The report must detail whether the pen, net and mooring equipment is in a suitable state of repair and has been deployed in a manner that is appropriate for the environmental conditions predicted to be experienced at the site of deployment.

iii. If it is not intended to hold aquaculture animals at the site known as Ardmaddy (FS0464) after 30th October 2015, or if the requirements specified in sub-paragraphs i and ii above are not fulfilled by that date, the aquaculture animals that are held at that site must be removed from that site by the date specified in paragraph 4 of this notice.

iv. If it is intended to hold aquaculture animals at the site known as Ardmaddy (FS0464) after 30th October 2015, the relevant person(s) must inform the Scottish Ministers of this decision by 09th October 2015.

4. The requirements specified in paragraph 3 of this notice must be fulfilled by:

30th October 2015

Inspector's name: [REDACTED]

Signed: [REDACTED]

On behalf of the Scottish Ministers

Date: 23rd September 2015

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE UNDER SECTION 6(10) OF THE 2007 ACT, PUNISHABLE UPON SUMMARY CONVICTION BY A FINE NOT EXCEEDING LEVEL 4 ON THE STANDARD SCALE

Please read the following notes carefully. If you are unsure of the implications of this notice, you should seek legal advice.

NOTES

- 1 In terms of section 6(7) of the 2007 Act, the relevant person(s) upon whom this notice is served may appeal by summary application to the sheriff against the notice, before the expiry of the period of 7 days, beginning on the day upon which the notice is served . And where such an appeal is made, the notice is of no effect until the appeal is withdrawn or finally determined.
- 2 In an appeal the sheriff may make such an order as the sheriff thinks fit; and the decision of the sheriff in the appeal is final.
- 3 In terms of section 6(9) of the 2007 Act, it is an offence if, without reasonable excuse, the relevant person(s) named above contravenes this enforcement notice. A person who commits an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- 4 In terms of section 6(11) of the 2007 Act, where the Scottish Ministers are satisfied that an enforcement notice is contravened in respect of the prevention, control and reduction of parasites, they may (whether or not proceedings have been taken for an offence) authorise an inspector to take any action they consider necessary in fulfilment of the requirements of the notice in that regard.
- 5 Under section 6(12) of the 2007 Act, any expenses reasonably incurred by an inspector in taking action authorised (as detailed in paragraph 4 of the enforcement notice) may be recovered by the Scottish Ministers from the relevant person(s) on whom the enforcement notice was served.
- 6 In terms of section 6(13) of the 2007 Act, the Scottish Ministers may publicise the serving of an enforcement notice and may do so to such an extent, in such manner and in such form as they think fit.

Aquaculture and Fisheries (Scotland) Act 2007

ENFORCEMENT NOTICE

In terms of section 6(1), as read with section 6(2) of the Aquaculture and Fisheries (Scotland) Act 2007 (“the 2007 Act”), the Scottish Ministers –

(a) being satisfied that the person(s) specified in paragraph 1 below (“the relevant person(s)”) – carries on a business of fish farming, and

(b) being satisfied that the relevant person(s) does not have satisfactory measures in place for the purposes of the prevention, control and reduction of parasites in respect of the site(s) specified at paragraph 1 below;

Hereby serve this enforcement notice on the relevant person(s) in respect to the fish farming business specified in paragraph 1 below.

In terms of section 6(4) and (6) of the 2007 Act the Scottish Ministers require the relevant person(s) to undertake the execution of the works and taking of the steps specified in paragraph 3 below by the date specified in paragraph 4 below.

1. Relevant person(s):

Grieg Seafood Shetland Limited (company number SC093192)
at the registered office address

Issued at: Marine Scotland Science,
Marine Laboratory,
375 Victoria Road,
Aberdeen,
AB11 9DB

Name of fish site: Score Holms (FS0948)

Name of fish farming business: Grieg Seafood Shetland Limited (FB0440)

Registered office address of fish farming business (if different to above):

Grieg Seafood Shetland Limited
13 Albyn Terrace
Aberdeen
AB10 1YP

(also operating from Gremista, Lerwick, Shetland, ZE1 0PX, the correspondence address provided to the Scottish Government for the authorisation granted under regulation 6(1) of the Aquatic Animal Health (Scotland) Regulations 2009)

2. This enforcement notice is served because:

The measures in place for the prevention, control and reduction of parasites at the site known as Score Holms (FS0948) are not currently deemed satisfactory, following reports of weekly average adult female sea lice counts per fish to Marine Scotland.

3. The execution of the following works and the taking of the following steps are considered necessary for the purpose of:

Ensuring that satisfactory measures are in place for the purposes of the prevention, control and reduction of parasites at the site known as Score Holms (FS0948).

- i. Undertake the most appropriate works or steps, where necessary following veterinary advice, which may include (but not limited to):
 - a. medicinal treatment for sea lice;
 - b. topical bath treatment for sea lice;
 - c. mechanical removal of sea lice;
 - d. use of biological sea lice interventions; or
 - e. reduction of the biomass held on the site.

to ensure that the weekly average adult female sea lice count per fish is below the Scottish Government reporting level of 3.0 by 28 days after the date of this notice.

4. The requirements specified in paragraph 3 of this notice must be fulfilled by:

06 October 2017

Inspector's name [REDACTED]

Signed: [REDACTED]

On behalf of the Scottish Ministers

Date: 08 September 2017

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE UNDER SECTION 6(10) OF THE 2007 ACT, PUNISHABLE UPON SUMMARY CONVICTION BY A FINE NOT EXCEEDING LEVEL 4 ON THE STANDARD SCALE

Please read the following notes carefully. If you are unsure of the implications of this notice, you should seek legal advice.

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Marine Scotland, Marine Laboratory, 375 Victoria Road, Aberdeen AB11 9DB
Tel: 0131 244 3498 email: MS.FishHealth@gov.scot

NOTES

1. In terms of section 6(7) of the 2007 Act, the relevant person(s) upon whom this notice is served may appeal by summary application to the sheriff against the notice, before the expiry of the period of 7 days, beginning on the day upon which the notice is served. And where such an appeal is made, the notice is of no effect until the appeal is withdrawn or finally determined.
2. In an appeal the sheriff may make such an order as the sheriff thinks fit; and the decision of the sheriff in the appeal is final.
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