



Water Environment and Water Services (Scotland) Act 2003
Water Environment (Controlled Activities) (Scotland) Regulations 2011
Appeal Decision Notice

Decision by Scott Ferrie and Robert Seaton, Reporters appointed by the Scottish Ministers

- Appeal references: ENVE-003-033 to ENVE-003-219, ENVE-003-221 to ENVE-003-253, and ENVE-003-256 to ENVE-003-295
- Appeals by the appellants listed in the appendix to this decision in respect against the issue of notices of variation by SEPA of licences issued under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 for controlled activities at the fish farms listed in the appendix to this decision
- The variations made: the introduction in the licences of a new controlled activity “operation of a marine pen fish farm” and conditions requiring the regular monitoring and reporting of number of sea lice, the regular reporting of number of farmed fish, and – for some licences – a maximum number of sea lice permitted at the farm

Date of appeal decision: 30 October 2026

Decision

We allow the appeals and quash the notices of variation.

Introduction

This decision and procedure in this appeal

1. The 259 appeals to which this decision relates are made against notices of variation issued by SEPA under regulation 22 of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (referred to below as “CAR”). A number of matters were raised by the appellants in those appeals about the lawfulness of SEPA’s decision to issue the notices of variation. With the acquiescence of the parties, we determined that we should resolve those legal issues in a preliminary hearing before addressing other matters raised in the appeals. We undertook, having considered parties’ submissions, either to give a decision on the appeals or to give a preliminary view on the legal issues that would inform further process after the preliminary hearing. In the event, we have been able to reach a decision on the appeals.

2. Parties made a number of written submissions to which we refer:

- Each appellant provided appeal statements in support of their appeals.
- SEPA made a response to all the appeals collectively by a statement in May 2025 (which we refer to as “SEPA’s May Statement”).
- The appellants then gave replies to SEPA’s May Statement.
- Since SEPA’s May Statement expressly did not answer all matters raised by the appellants, we provided an opportunity for SEPA to complete its response. For this

purpose, it provided a second statement in September 2025 (SEPA's September Statement").

- The appellants then had an opportunity to reply to SEPA's September Statement.
- We subsequently issued 14 questions in respect of legal issues raised in the appeals. The parties each gave a response to these, and then had the opportunity to reply to each other.
- Owing to a conflict of interest of SEPA's advocate, parties agreed that matters relating to the appeal relating to Beinn Reithe fish farm (ENVE-003-103) should be dealt with separately by written submissions, and so a separate September statement was submitted by SEPA in respect of that appeal. Our question 14 related specifically to that appeal, and so SEPA also gave a separate answer to that question.
- There have also been submissions from Salmon Scotland, the representative body of the salmon-farming industry, and from a number of other third parties. Like the appellants, Salmon Scotland made representations on the legality of the notices of variation.

3. The appellants, SEPA and Salmon Scotland took part in the preliminary hearing on 10 December last year to address the questions we had asked.

4. This decision sets out our answers and our reasons for reaching them for each of the 14 questions that we asked.

5. We are grateful to parties for their extensive and helpful submissions made both in writing and at the hearing. We have not sought to summarise the submissions put to us, but have referred to them where necessary in our reasoning. This decision should be read alongside the answers parties gave to our questions and their replies to each other in respect of those answers.

6. The notices of variation to which these appeals relate were made under CAR, and the appeals have proceeded according to the procedure set out in CAR. Since the appeals were made, CAR has been revoked and replaced by the Environmental Authorisation (Scotland) Regulations 2018 (EASR).

7. During the course of our consideration of these appeals, one appeal, reference ENVE-003-220 in respect of the Loch Erisort fish farm, was withdrawn.

Background

The origin and consultation on the sea-lice framework

8. In 2018, following reviews carried out by the Scottish Parliament's Environment, Climate Change and Land Reform Committee and Rural Economy and Connectivity Committee, the Scottish Government established a Salmon Interactions Working Group (SIWG). That group reported in 2020. In its response to the SIWG recommendations, the Scottish Government in October 2021 designated SEPA as the lead body responsible for managing the risk to wild salmonids from sea lice from fish farms. The government's response states that it considered wild salmonids should be safeguarded (in respect of interactions with sea lice from fish farms) by robust conditions in licences rather than by conditions in planning permission. It stated further:

"The Scottish Environment Protection Agency (SEPA) has the powers to control any activity which directly or indirectly is likely to have a significant impact on the water

environment. The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (“CAR”) established controls over specified activities liable to cause significant adverse impacts on the water environment out to a distance of 3 nautical miles, with the aim of protecting and improving Scotland’s water environment to a classification of good ecological status. Good ecological status of rivers and lochs is dependent on the condition of wild salmon populations in those water bodies and protection of the water environment must take account of the composition, abundance and age structure of freshwater fish fauna.”

9. The response also stated that SEPA was to consult on an “adaptive spatially-based risk assessment framework which will be applied through [CAR]”.

10. Meanwhile, in 2019, as an interim measure, the Scottish Government advised planning authorities that environmental management plans (EMPs) should be standard for any new consents for marine aquaculture where there is a potential for sea-lice interaction with wild fish. A practice had developed previously of requiring EMPs with such terms by condition in planning permission for some marine-pen fish farms. As a consequence, many – though not all – marine-pen fish farms have conditions requiring the approval and implementation of EMPs with provision for control of sea lice with a view to protection of wild salmonids.

11. Control of sea lice at fish farms is also regulated under part I of the Aquaculture and Fisheries (Scotland) Act 2007. We understand from SEPA’s 2023 consultation document that this legislation has been interpreted as having the purpose of addressing issues relating to health of farmed fish, rather than any impact on wild fish.

12. SEPA published consultation documents in December 2021 (SEPA document 10) and subsequently in May 2023. The first consultation document explained that in nearly 60 percent of salmon rivers across Scotland, including the west coast and Western Isles, salmon populations have a poor conservation status. The Scottish Government had identified 12 sources of pressures on salmon stocks, one of which arose from sea lice from marine finfish farms. The intention of the proposed framework was to manage risk to wild salmon from this source.

13. The document explained that the sea louse is a parasite of salmon and trout in the sea, and feeds on skin, blood and mucus of its host. It stated that infestation of young wild Atlantic salmon by small numbers of sea lice can result in physiological challenges, secondary infections, and death, and further that sub-lethal sea lice infestations may also affect growth of wild salmonid fish during the marine phase of their lifecycles.

14. SEPA proposed a framework to manage the risk. Wild-salmon-protection zones (WSPZs) would be designated at narrow or constrained areas of sea such as sea lochs and sounds in which wild salmon post-smolts would be concentrated as they migrated to the open sea. These were identified in the document. A threshold for sea-lice exposure would then be applied within the zones. This was proposed as cumulative exposure for one day to a concentration of 0.7 infective-stage sea lice per square metre over the upper two metres of the sea. The document stated that “when exposure is greater than the proposed threshold, there is an increasing risk of significant impacts, including mortality, among wild salmon in their sea phase.” The proposal was to use models for screening. This would identify whether a proposed new fish farm required further assessment by the applicant to quantify its effect on sea-lice concentration in a WSPZ. If a proposed fish farm could not meet the threshold, it would not be authorised.

15. As regards existing farms, the consultation document stated SEPA would focus initially on the risk to wild salmon from harmful increases in infective-stage sea lice when determining applications for increases in the number of fish farmed. The consultation also stated that permits for existing farms would be changed in two ways. First they would include conditions that ensured controls prevented the number of sea lice from increasing. Second, they would require provision of information to SEPA that would allow calculation of the number of juvenile lice hatching from lice at the farm and resulting in infective-stage sea-lice concentrations in WSPZs. This information was said to be required so that the additional effect of a development proposal on infective-stage lice densities in the WSPZs could be assessed. It was also said to be necessary “because more information is needed to enable an assessment of whether the operation of existing farms is resulting in a hazard to wild salmon populations” and “some of this information will be provided through the implementation of the proposed framework”.

16. There was also a proposal that SEPA’s approach to licensing should be adaptive. In other words, it could change, for instance to refine modelling, allow for technological innovation, or for increase in capacity for development from a fall in existing sea-lice concentration (including as a consequence of actions by operators of existing farms to control sea lice). This was said to be an advantage over what could be achieved under the land-use planning system. It appears to us to be implicit that the adaptive approach was intended to apply to the authorisations of existing fish farms.

17. No proposal was made in respect of sea trout, although they also could be infested with sea lice. Proposals were to be brought forward once sufficient knowledge was available.

18. In its May 2023 consultation document (SEPA document 4), SEPA consulted on detailed proposals for a risk-based framework for managing interaction between sea lice from open-net pen finfish farms and wild salmonids in Scotland. The proposals related to WSPZs proposed along the west coast and around the Western Isles of Scotland. The proposed WSPZs were identified in the document and were somewhat different from those previously proposed. There was to be a further consultation on WSPZs for sea trout in the Northern Isles during 2024. The proposal was to apply controls from 16 March to 30 June each year. This was with a view to protecting wild salmon post-smolts between 1 April and 30 May and juvenile sea trout to 30 June. The controls to be imposed in respect of sea lice for the purpose of protecting wild fish were said to be stricter than those required (under the Aquaculture and Fisheries (Scotland) Act 2007, as we understand it) for protection of the health of farmed fish.

19. The consultation proposed that licence controls should apply to new fish-farm developments and increases in the fish numbers at existing farms from the end of 2023. Progressively from the first half of 2024, conditions for control of sea lice were proposed to be added to licences of “those existing fish farms that contribute significantly to the concentration of sea lice to which wild salmonids are exposed in WSPZs”. The conditions were said to be designed so that, during the smolt-migration window, current performance on sea-lice management was maintained and increase in sea-lice numbers avoided. There was also a proposal to begin work on assessing whether action was required to reduce contribution of particular fish farms to exposure of wild salmon post-smolts to infective-stage sea lice.

20. For modelling of available capacity in each WSPZ, an interim approach was taken in which it was assumed that all fish farms were working at full permitted biomass and there was an average 0.4 sea lice for each adult female. This generated a simple relative ranking

of the potential sea-lice-infestation pressure on salmon post-smolts for all WSPZs. This ranking was to be used to triage WSPZs to prioritise, for further screening, those in which the method indicates infestation pressure to be high. The screening models were said to allow the calculation of the contribution that individual farms made to concentration of infective-stage sea lice. A farm's contribution to salmon post-smolts' exposure to sea lice was said to be highly dependent on the location chosen for the development, according to the model. The risk categorisation for each existing farm identified those likely to pose the greatest risk to wild salmon post-smolts if the number of adult female sea lice is not controlled. It was said to be "a relative risk" (page 30, paragraph 3.8.4) that "does not imply impact. Its purpose is to help prioritise where further assessment is required." According to the model, 59 existing farms were said to make a negligible contribution to concentration of infective-stage sea lice. 84 farms were modelled as being in the lowest risk category, taking account of the remaining WSPZ capacity.

21. The consultation document stated that the objectives for regulation of an existing site were (a) preventing deterioration of the environment and (b) reducing the impact on the environment of existing activities where they are resulting in impacts on the status of the water environment. As regards point (a) the consultation document stated:

"We set permit conditions to control activities that have the potential to cause significant adverse impacts. Normally, this is done as part of the application process. If a site's permit does not cover an activity, or have suitable conditions relating to an activity, carried on at the site that has the potential to cause adverse impact, we will normally amend the permit to cover the activity. In doing so, we will include suitable conditions to ensure the activity is managed to prevent an increase in pressure likely to cause deterioration of the water environment. ... These "no-deterioration" conditions enable the activity to continue without affecting its normal performance. ... To enable us to protect salmonid populations against deterioration, we propose to vary permits for existing farms to include the following permit conditions ...

- For all farms, monitoring and reporting conditions requiring the collection and submission of weekly sea lice counts between 16th March and 30th May.
- For all farms, monitoring and reporting conditions requiring the submission of weekly estimated fish numbers 16th March and 30th May [*sic*].
- For farms categorised as medium risk, considerable risk or high risk, conditions limiting the maximum number of adult female sea lice on the farm to the typical maximum for that farm. [*Such conditions were referred to in the consultation as "standstill conditions"*].

Our proposal to include monitoring and reporting conditions in all permits would enable us to use the reported information:

- For assessing compliance with sea lice limit conditions, where applicable.
- For re-running and improving screening assessments, including assessments of the contributions of individual farms to infective-stage sea lice exposures.
- To provide accurate input data for further, targeted assessments of risk using refined models.

By re-running and improving screening assessments, we will be able to review the risk categorisation of individual farms, taking account of changes over time, including improved understand [*sic*] of local patterns of sea lice dispersion and wild salmonid post-smolt movements. The outcomes of updated assessments of risk would be used to:

- Identify and target any further action necessary to prevent deterioration, such as adding, or revising, sea lice control conditions in farm permits.

- Advise farmers on the outcomes of their management of sea lice and our latest assessments of environmental capacity.
- Help identify if, and where, action to reduce infestation pressure on wild salmon may be required.”

22. Although arrangements to protect wild salmon were proposed to extend to 30 May, a level of protection was proposed for sea trout, extending to 30 June. Although this is referred to in the consultation document only in respect of proposed new farms (or extensions), it is implicit that it was intended to apply also to regulation of existing farms.

23. As regards ensuring compliance, SEPA proposed that it should focus its regulatory effort on farms categorised by the model as posing a high risk or considerable risk to wild salmonids if lice on the farms was not well controlled. For other farms (which we understand meant all other existing fish farms, whatever their risk categorisation in the model), SEPA would check data submissions, carry out random checks, and re-assess risk categorisation if new data suggested that was necessary.

24. The consultation referred to the Scottish Government’s identification of SEPA as lead body responsible for managing interaction between sea lice from fish farms and wild salmonids. It stated that this would remove the need for planning authorities to require EMPs in respect of sea-lice management under the land-use planning system.

25. Reference was also made to further environmental monitoring to support implementation and adaptation of the proposed regulatory framework. An assessment was made of social, economic and environmental implications of the proposed sea-lice regulatory framework.

26. SEPA produced a response to feedback it had received in this consultation (SEPA document 11). This made several modifications to its proposals. These modifications included changes relating to sea trout. The period of monitoring and reporting of sea lice was to be extended from 31 May to 30 October. This was said to be so that SEPA “had the information needed to help inform the adaptive management of risks to sea trout, which, in contrast to wild salmon post-smolts, remain in coastal waters throughout much of the year.” Although standstill conditions on the number of sea lice were to be imposed for farms other than those in the lowest risk category, there were to be no standstill conditions for sea lice after 31 May (although these had originally been proposed to apply to 30 June for protection of sea trout). There was to be a monitoring programme designed to assess whether there is evidence of impacts on sea trout related to sea lice and to improve understanding of habitat use by sea trout. Where evidence was found of adverse effects on sea trout, SEPA stated it would take further measures requiring monitoring and reduction of the level of sea lice being produced on farms. The assessment of the social, economic and environmental implications of the proposed framework was updated in the light of the consultation responses in an addendum to SEPA’s response.

The service of the notices of variation

27. SEPA issued notices of variation for 260 then-existing licences held by operators of marine pen fish farms between 23 December 2024 and 20 February 2025. The existing licences authorised the controlled activities of (a) the discharge to the water environment of fish excreta, uneaten food and other substances as listed in this permit; and (b) the abstraction of more than 10m³/day of seawater¹. The notices provided for licence variations

¹ In SEPA’s September Statement, it refers to seven fish farms for which the licence refers to “the operation of a marine pen fish farm including the abstraction of water and the discharge to the water environment of fish excreta, uneaten food

that introduced a new authorised activity, “the operation of a marine pen fish farm” and new licence conditions requiring:

- (i) sea lice counting and recording between week 12 and week 44 of the year (between March and October);
- (ii) the reporting of fish numbers over the same period; and
- (iii) for some but not all licences, limits on the number of adult female sea lice in the pens at the authorised place.

Related definitions of terms (such as a definition of “adult female sea lice”) were also added.

28. A “CAR licence decision document” was issued along with the variation notices. It provided information about the decision to issue the variation notices. A document in similar form was issued with each notice.

29. The licence decision document includes a section B, headed “background, pre-app and mitigation” which gives some explanation about why the notices were issued. In this section, the document states that SEPA had committed to including conditions in respect of sea lice providing for reporting on numbers and (for 62 sites) a “standstill” condition. The reporting condition required operators to submit data weekly on sea-lice counts between week 12 of the year and week 44 of the year. Counts are to be made in accordance with the Measurement Assurance Certification Scotland (MACS) standard. A “standstill” condition set limits on both the total number of adult female sea lice permitted on the farm and a limit on the four-week rolling mean. This limit is to apply from week 12 to week 22 of the year. Sea-lice numbers were to be calculated by multiplying the average number of adult female sea lice per fish estimated from weekly sea lice counts by the estimated number of farmed fish at the time of the count. The document states that the farms to which standstill conditions are applied have been assessed, using sea-lice-screening modelling, as making large contributions to infective stage sea lice in WSPZs relative to other farms. Although the document is not explicit about the origin of the standstill limits, we understand that they were based on data or an estimate of sea lice found at the farm before the notice of variation was served.

30. The document goes on to state (in section C: conservation test) that there is no change to the current impact or operation of the site as part of the variation, and (in section D: advertising consulting) that advertising and consultation are not required because there is no increased risk to the environment. Section E confirms that there is no change to maximum biomass, mixing zone area, bath medicines, in-feed medicines or other information. Section F indicates that there is a requirement for monitoring but no change to environmental risk. Section G provides a timeline of action, which sets out various steps SEPA states it took before issuing the notices.

The order in which we deal with the questions

31. We consider below the answers to our 14 questions. We will deal with the questions in order, with the exception of questions 4 and 5. We will deal with those together, since it appears to us that the issues involved cannot easily be separated, and we will deal with them before question 2. There was considerable overlap in parties’ submissions on these questions and on our question 2 (on whether “operation of a marine pen fish farm” is a

and other substances as listed in this permit” as the authorised activity on the main part of the licence. However, in schedule 1, where the authorised activities are specified, there is not a reference to “the operation of a marine pen fish farm” only to the latter two activities. Reading these licences as a whole, it appears to us that they did not identify “the operation of a marine pen fish farm” as an authorised activity. However, that is not really a substantial issue in these appeals.

controlled activity). We thought it was best to deal with the question of the meaning of “likely significant adverse impact on the water environment” raised by questions 4 and 5 first, and then focus on the issue of the definition of the controlled activity in answering question 2. We have also dealt with the answer to our two questions on Convention rights, questions 12 and 13, together.

Reporters’ reasoning on questions

Question 1: *SEPA has objected to certain questions as originally drafted by the reporters for the preliminary hearing on the basis of a distinction that the reporters drew between*

- (1) “unmitigated adverse impacts” defined as follows: “the adverse impacts (or likely adverse impacts) of an activity as assessed without regard to measures being taken to mitigate those impacts”, and*
- (2) “residual adverse impacts” defined as follows: “the adverse impacts (or likely adverse impacts) of an activity that actually occur (or are likely actually to occur) notwithstanding any measures taken to mitigate such impacts”*

In its objection, SEPA said the following: “SEPA do not consider the distinction between “unmitigated adverse impacts” and “residual adverse impacts” to be helpful or appropriate, and that it should be removed. SEPA did not make any such distinction between hypothetical and actual impacts associated with the carrying on of any activity.”

In its statement of October 2025, SEPA says the following:

“2.19.6 The starting point for seeking to vary the licences, and to add marine pen fish farming as an activity in particular, is regulation 3(1)(g) of the CAR. It covers “any other activity which directly or indirectly has or is likely to have a significant adverse impact on the water environment”.

2.19.7 It is quite clear that marine pen fish farming is an “activity”. ...

2.19.8 It is clear that what needs to be considered in terms of that provision is the activity absent any mitigation, e.g. conditions, to limit its impact. It is the presence of activity of such a nature which requires to be controlled.”

The reporters request that SEPA explain how its comment on the reporters’ questions and their case as stated in these paragraphs of its October 2025 statement are compatible.

32. This question arose because – as set out in the question – SEPA made an objection to our original draft of the questions for the hearing. The question does include a minor error: it referred to SEPA’s September statement as having been made in October.

33. In its response to this question, SEPA acknowledged that paragraphs 2.19.6 to 2.19.8 of its September Statement accurately set out its position. In paragraphs 2.19.21 to 2.19.38 of the September statement, SEPA also set out that, for the purpose of regulations 11(2), 12, 13, 15(1)(b) and 15(6), mitigation was to be taken into account in determining whether those regulations applied. SEPA re-affirmed this position at the hearing.

34. We are at a loss, then, to understand why SEPA objected to the distinction drawn in our original draft of the questions between “unmitigated adverse impacts” and “residual adverse impacts” as we had defined them. SEPA asserted that it did not “understand the

two stances to be incompatible”, though it is very difficult to see how they could be compatible. SEPA did not take the opportunity we had provided to give any further substantial explanation in writing, other than by referring to a distinction between unmitigated and *adverse* impacts, which we had not made. It appears to us to be either an error or an evasion.

35. Nonetheless, since SEPA’s substantive position was clear, we did not find it necessary to pursue this issue at the hearing.

Question 4: *Whether, when deciding if an individual activity has or is likely to have a significant adverse impact on the water environment for the purposes of CAR 3(1)(g), SEPA must have regard to the extent to which the impacts of that activity are already subject to controls and mitigation under other regulatory regimes (e.g. planning)*

No assumption

Question 5: *Whether SEPA was required to meet the procedural requirements of CAR regulations 11, 12, 13, 14, 15(1) and 15(6) before taking a decision to issue the variations to licences.*

Assumptions: Sea lice dispersing from the Appellants’ marine pen fish farms that are subject of the appeals are likely to have significant adverse impact on the water environment (if this matter is assessed without regard to measures currently being taken under CAR or any other regulatory regime to mitigate those impacts), unless the measures are taken that are required by SEPA in conditions of the licences as varied.

The central issue

36. The question of what “significant adverse impact on the water environment” means when used in CAR, and specifically, whether it can mean something different in part I of CAR from what it means in part III (or part V) of CAR is central to the answer to these questions.

37. SEPA varied the appellants’ licences to include “operation of a marine pen fish farm” as a controlled activity on the basis that such an operation fell within the definition of “controlled activity” in CAR regulation 3(1)(g). SEPA states that operation of a marine pen fish farm is an activity that is likely to have a significant adverse impact on the water environment. However, SEPA argues that it was not required to take the procedural steps in regulations 11(2), 12, 13, 15(1)(b) and 15(6) that apply to the licensing of an activity that SEPA considers has or is likely to have a significant adverse impact on the water environment.

38. The appellants take the view that SEPA cannot consistently hold that operation of a marine pen fish farm is a controlled activity under regulation 3(1)(g) on the basis that it is likely to have a significant adverse impact on the marine environment, but at the same time that the deemed application for variation to introduce that controlled activity into their existing licences does not engage the provisions of regulations 11(2), 12, 13, 15(1)(b) or 15(6).

39. For convenience, in order to address arguments put to us by parties, in this discussion, we draw the distinction (as set out in our question 1) between the impact an activity is likely to have on the water environment but for mitigation applied by its operator

and its actual impact following mitigation applied by the operator. We will refer to the former as “the unmitigated impact” and the latter as “the residual impact”.

The legislation

40. The origin of CAR lies in a European Union (EU) directive, the Water Framework Directive (WFD). The WFD provided a framework for the protection and securing of good ecological status for inland surface waters, transitional waters and groundwater. To achieve this, member states were required to adopt river basin management plans. In implementing the programmes and measures specified by such plans, member states were required by WFD article 4(1) to implement necessary measures to prevent the deterioration of the status of all bodies of surface water (though this is subject to certain limited exceptions set out in article 4(7)). Since the Retained EU Law (Revocation and Reform) Act 2023 took effect, the WFD (as it stood at the time the United Kingdom left the EU) has been assimilated EU law in Scotland.

41. The WFD was implemented in Scotland by the Water Environment and Water Services (Scotland) Act 2003 (WEWSA), and by CAR, made under WEWSA. The requirement for authorisation under CAR of certain controlled activities is one of the principal measures underpinning the river basin management plans required by WFD and WEWSA. In determining an application for an authorisation under CAR, SEPA is expressly obliged to apply the requirements of the WFD, and in particular the provisions of its Article 4 (see CAR regulation 15(1)(e)).

42. WEWSA part 1 deals with protection of the water environment. Its section 1 sets out a general purpose for part 1. This is “to make provision for or in connection with protection of the water environment, including making provision, and enabling provisions to be made, for and in connection with implementing [the WFD]”. “Protection of the water environment” is stated to mean:

- “preventing further deterioration of, and protecting and enhancing, the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on those aquatic ecosystems,
- promoting sustainable water use based on the long-term protection of available water resources,
- aiming at enhancing protection and improvement of the aquatic environment through, amongst other things, specific measures for the progressive reduction of discharges, emissions and losses of priority substances and the cessation or phasing out of discharges, emissions and losses of the priority hazardous substances,
- ensuring the progressive reduction of pollution of groundwater and preventing further pollution of it, and
- contributing to mitigating the effects of floods and droughts,

with a view to contributing to the achievement of [the following] aims ...

- the provision of a sufficient supply of good quality surface water and groundwater as needed for sustainable, balanced and equitable water use,
- a significant reduction in pollution of groundwater,
- the protection of territorial and other marine waters, and
- achieving the objectives of international agreements, including those which aim to prevent and eliminate pollution of the marine environment, ...”

43. Scottish Ministers and SEPA are required to exercise their functions under WEWSA part 1 so as to secure compliance with the requirements of the WFD (and a similar requirement applies to other authorities too in respect of certain other statutory regimes, including planning authorities in respect of the town and country planning regime).

44. WEWSA chapter 2 deals with river basin management planning and chapter 3 provides Ministers power to make provision to regulate any activity as they consider necessary or expedient for the purposes of protection of the water environment. It was under this power that CAR was made.

45. CAR regulation 3(1) paragraphs (a) to (g) identify a number of activities as controlled activities, which require authorisation. The list at paragraphs (a) to (f) (with the possible exception of letter (a), to which we will return) identifies specific activities, although the definition is broad in some cases. At the end of the list is 3(1)(g): “any other activity which directly or indirectly has or is likely to have a significant adverse impact on the water environment.” There is perhaps some superficial ambiguity in the form of regulation 3(1). Given the terms of 3(1)(g), it might be thought that the controlled activities listed must all be activities that have or are likely to have a significant adverse impact on the water environment in order to be controlled activities. However, SEPA agreed at the hearing that, read in the context of CAR as a whole, the activities listed in regulations 3(1)(a) to (f) are controlled activities whether or not they have or are likely to have a significant adverse impact on the water environment. In our view, this is clearly the correct interpretation. One item listed in 3(1)(a) to (f) is expressly defined by reference to its having a significant adverse impact on the water environment (the carrying out of building or engineering works, or works other than construction or alteration of impounding works in the vicinity of inland water or wetlands that have or are likely to have such an impact). By implication, the other items listed in (a) to (f) do not have to have such a degree of impact in order to be controlled activities. It is also implicit in the provisions of CAR part III that a controlled activity may or may not have a significant adverse impact on the water environment.

46. We consider that regulation 3(1)(g) is to be understood as a backstop provision. If an activity falls outwith the description of any of those defined in (a) to (f), but has or is likely to have a significant adverse impact on the water environment, then it also is a controlled activity by virtue of regulation 3(1)(g). It appears to us that having such a backstop provision secures the implementation of the requirement of WFD article 4(1). Although regulations 3(1)(a) to (f) cover a wide range of activities, regulation 3(1)(g) covers off the possibility that an activity that is not expressly controlled by those previous provisions has a degree of impact that requires authorisation in the context of WFD article 4.

47. Regulation 4 prohibits any person from carrying on, or from causing or permitting others to carry on any controlled activity except insofar as it is authorised under CAR and carried out in accordance with that authorisation. A failure to comply with regulation 4 is an offence under regulation 44(1)(a).

48. CAR part III sets out procedure for determining an application for authorisation for a controlled activity. By effect of CAR regulation 23(1), regulations 11, 12, 13, 14, 15(1) and 15(6) apply when SEPA is considering variation of an authorisation as if an application had been made for the variation by the responsible person or operator of the controlled activity. Insofar as those regulations applied, compliance with them was required for SEPA to issue the notices of variation to which the appeal relates.

49. Regulation 11 sets out the form and content of applications for authorisation. Regulation 11(1) applies to applications generally. It requires that an application must be

accompanied by an application fee and such information as SEPA may reasonably require. Regulation 11(2) applies where SEPA considers that the controlled activity is likely to have a significant adverse impact on the water environment. It requires the applicant to provide certain information, including:

- a description of the controlled activity,
- a description of measures envisaged to mitigate and, if possible, remedy significant adverse impacts on the water environment,
- the data reasonably required by SEPA to identify and assess the main impacts the controlled activity is likely to have on the water environment,
- an outline of the main alternatives studied by the applicant and the main reasons for the choice made, taking into account the environmental effects, and
- a non-technical summary of this information.

Until 2017, there was also a requirement to provide such other information specified in Annex IV of the EIA Directive as SEPA considered relevant to determination of the application, though this was revoked by the Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017.

Regulation 11(3) provides that SEPA must only require an application to be accompanied by the information in paragraph (2) insofar as it considers the information is reasonably necessary to determine the application and reasonably capable of being compiled by the applicant, having regard to current knowledge and methods of assessment, among other factors.

50. Regulation 14 deals with requests by SEPA for further information. Regulation 14(5) requires that, if SEPA considers in the light of the further information that the controlled activity is likely to have a significant adverse impact on the water environment, then regulation 11(2) applies. This suggests that SEPA is to keep the question of whether a controlled activity in respect of which an application is made is likely to have a significant adverse impact under consideration throughout the application period.

51. Regulation 11(4) to (8) provide a mechanism by which an applicant can request determination of what information must accompany an application before making the application, and SEPA can determine that. Since the notices of variation were served by SEPA, those provisions were not used. Regulation 11(9) provides that SEPA must, on request, give a statement of the reasons for its assessment of whether or not the controlled activity in respect of which an application has been made for authorisation is likely to have a significant adverse impact on the water environment.

52. Regulation 12 applies if SEPA receives an application for a controlled activity that it considers likely to have a significant adverse impact on the water environment or on the interests of other users of the water environment. It requires SEPA to consult any public authorities as appear to it to have an interest. Regulation 13 applies in similar circumstances. It provides SEPA with the power to advertise such an application to the public and seek public comment.

53. Regulation 15(1) sets out what SEPA must do before determining an application in respect of authorisation of a controlled activity. 15(1)(a) requires SEPA to assess the risk to the water environment posed by the carrying on of the activity referred to in the application. Regulation 15(1)(b) applies if the application is in respect of an activity that SEPA considers has or is likely to have a significant adverse impact on the water environment. It requires SEPA to:

- assess the indirect effects of that impact on any other aspects of the environment likely to be significantly affected;

- consider any likely adverse social and economic effects of that impact and of any indirect environmental effects identified; and
- consider the likely environmental, social and economic benefits of the activity.

Paragraphs (c) and (d) of regulation 15 require SEPA to assess the impact of the controlled activity on the interest of other users of the water environment, and assess what steps may be taken to ensure efficient and sustainable water use. Paragraph (e) includes the requirement, referred to above, to apply the requirements of the WFD in determining applications, as well as certain other EU directives referred to in CAR part 1 of Schedule 4. Paragraph (f) requires that SEPA have regard to certain specified legislation, including the Conservation (Natural Habitats &c.) Regulations 1994.

54. Regulation 15(6) applies if SEPA determines an application in respect of a controlled activity it considers is likely to have a significant adverse impact on the water environment. For such an application, it must make public, along with its decision, the main reasons for the decision, the matters it considered, and details of any conditions to which any authorisation granted is subject.

Reporters' reasoning

55. There is nothing in CAR that expressly indicates the words “significant adverse impacts on the water environment” are intended to mean something different in the different parts of CAR where they occur (including parts I, III and V). We therefore need to examine whether a different meaning is implicit.

56. The cases of *R (The Good Law Project) v Electoral Commission* [2018] EWHC 2414 (Admin) and *R (The Good Law Project v Electoral Commission* [2020] 1 WLR 1157 set out the relevant principles of statutory interpretation:

- The words of a statute are to be interpreted in the sense which best reflects their ordinary and natural meaning and accords with the purposes of the legislation.
- It is generally reasonable to assume that language has been used consistently by the legislature so that the same phrase, when used in different places in a statute will bear the same meaning on each occasion.
- It is generally reasonable to assume that Parliament intended to observe the principle against doubtful penalisation: the principle that a person should not be subjected to a penalty – particularly a criminal penalty – except on the basis of clear law. A criminal statute should generally be construed strictly and any ambiguity or doubt about its meaning resolved in favour of the narrower interpretation, so as to avoid doubtful penalisation.

57. As regards regulation 3(1)(g), SEPA does not claim that the operation of any of the fish farms to which the appeals relate does in fact have a residual significant adverse impact on the environment or that it is likely to have such an impact. SEPA argues that, as a generic activity, the fish farms would be likely to have such an impact if mitigation is disregarded. SEPA refers to evidence demonstrating that there is a risk that sea lice from aquaculture facilities negatively affect populations of salmon and sea trout if not appropriately managed. As regards the application of regulations 11(2), 12, 13, 15(1)(b) and 15(6), SEPA argues that the authorisations imposed by the notices of variation and the conditions attached to them ensure that the operation of the fish farms would not have a significant residual adverse impact and that consequently the requirements of those regulations do not apply.

58. On the face of it, SEPA's interpretation of CAR is contrary to the usual assumption, referred to in the *Good Law Project* cases, that language in statutes is used consistently. SEPA's interpretation does have as a consequence that certain actions would fall within the scope of the criminal offence in regulation 44 that would not otherwise fall within it on other interpretations. We would have to find a compelling reason to imply the interpretation for which SEPA argues.

The role of regulations 11(2), 12, 13, 15(1)(b) and 15(6)

59. Regulations 11(2), 12, 13, 15(1)(b) and 15(6) in CAR part III, taken together, provide a special procedure for authorisation of controlled activities that SEPA considers have or are likely to have a significant adverse impact on the water environment.

60. These provisions are modelled on legislation for environmental impact assessment (EIA). Between 2011 and 2017, CAR was the legislation that transposed the requirement for EIA for irrigation projects into Scots law. At that time, it was these provisions that were intended to cover the procedural requirements of the EIA Directive. EIA is a public process, in which the interested public and the government's expert advisors have the opportunity to comment on the likely significant effects on the environment of a proposed project and on means of mitigating such effects with a view to informing decision-making. Even though separate EIA legislation was made for irrigation projects in 2017, these procedural elements of part III have remained in place (only with the removal of the requirement under regulation 11(2) to provide information required under article IV of the EIA Directive). Given this origin, it appears to us that an understanding of law on EIA will shed light on the interpretation of these regulations. Like EIA, the provisions require a screening judgement to determine whether they apply (the screening criterion being whether the activity has or is likely to have a significant adverse impact on the water environment). Then, if the screening judgement is positive, a substantive assessment is required involving provision of information of a minimum standard, and opportunities for public participation and consultation of public bodies.

61. The minimum information requirement in regulation 11(2), the consultation requirement in regulation 12, and the power to advertise an application to the public in regulation 13 are evidently intended to be applied at an early stage in consideration of an application. In this respect we agree with the appellants, and in particular with Bakkafröst's submissions. There would be no point in seeking information from the applicant, in holding a consultation, or in seeking public comment at a late stage in SEPA's consideration of an application for authorisation, if it had already reached a view on determination of the application.

62. Regulation 11(2) refers expressly to the provision of information by the applicant on measures envisaged in order to mitigate and, if possible, remedy significant adverse impacts on the water environment. The regulation plainly contemplates SEPA making a judgement on the likely significant impacts of the activity before the applicant provides information on proposed mitigation. This presents a difficulty for SEPA's case that it is implicitly the residual (post-mitigation) impact that SEPA must make a judgement on in determining whether regulation 11(2) applies (and 12 and 13 too). If information on mitigation is to be provided, how then can SEPA take into account mitigation in reaching the view that there is no likelihood of a significant adverse impact and therefore no need to apply regulations 11(2), 12 and 13?

63. SEPA's argument that regulation 11(1) provides an alternative means to regulation 11(2) for it to obtain information on mitigation and hence on the residual effects of

an activity for which an application is made (and that regulation 11(2) consequently is “largely otiose”) ignores what is the evident purpose of regulation 11(2). The purpose is clearly to set a minimum standard for information to be provided in support of an application for authorisation in respect of a controlled activity that SEPA considers would have or would be likely to have a significant adverse impact on the water environment. Such a minimum standard is also set by EIA legislation. It is on the basis of this minimum standard of information that consultation and any advertisement for public comment could be carried out.

64. It appears to us that the terms on which a controlled activity is carried out, the application for which is subject to the special regime in CAR part III regulations 11(2), 12, 13 and 15(1)(b), and in particular, any proposed mitigation of the activity’s potential adverse impacts are an issue in whether or not it ought to be authorised. If there is a consultation or invitation to comment on the authorisation of a controlled activity, such terms are a matter that would form part of the consultation or what was to be commented on. If SEPA could in every case rely on regulation 11(1) to obtain information on mitigation in order to make a judgement on the residual impact of an activity without going through the process in regulations 11(2), 12 and 13, that would subvert the purpose of those latter regulations. SEPA’s interpretation would shut out consultation or public comment, even if there was uncertainty at an early stage about whether proposed mitigation would prevent a significant adverse impact or, where a proposed mitigation was complex and unfamiliar, whether it might have such impacts itself.

65. We acknowledge that there will be circumstances, as SEPA points out, in which an established and uncontroversial mitigation is available that will ensure a controlled activity will not have a significant adverse impact on the water environment. In such circumstances, we acknowledge (as SEPA argues) it might well be perceived as onerous for SEPA, applicants and consultees to apply the processes in regulations 11(2), 12, and 13.

66. We have referred to the difficulty that the reference to mitigation in regulation 11(2) presents for SEPA’s case on the interpretation of that regulation. We understand the primary position of at least some of the appellants to be that “significant adverse impact” in regulation 3(1)(g) is to be understood as referring to the residual impact of the activity. The appellants also take the view that “significant adverse impact” has the same meaning throughout the regulations. For the reasons we have set out above, we doubt that both those propositions can be correct. If mitigation is to be considered in the application process for authorisation of a controlled activity that is likely to have a significant adverse impact on the water environment, then we doubt that “significant adverse impact” can be read simply as referring - in regulations 11(2), 12 and 13 at least - to the residual impact.

Whether “significant adverse impact on the water environment” in regulation 3(1)(g) can mean the unmitigated impact

67. If it cannot be concluded that “significant adverse impact on the water environment” refers in CAR part III to the residual impact, this raises the question of whether “significant adverse impact on the water environment” might refer to the unmitigated impact of an activity throughout CAR: in regulation 3(1)(g), in CAR part III, and also in CAR part V (on enforcement).

68. In its submissions in respect of our question 14 on the Beinn Reithe fish farm, SEPA gives a succinct explanation of its approach to regulation 3(1)(g):

“1.8 Marine pen fish farming is, SEPA contends, an activity for the purposes of regulation 3(1)(g). That provision, in SEPA’s view, is engaged when the generic activity that is being carried on is likely to have a significant adverse impact on the water environment absent mitigation (as secured by SEPA under CAR). Disregarded mitigation may (a) take the form of licence conditions applied to reduce or control risk ... and, in this instance, (b) the operator’s use of technology by which the adverse impact of carrying on the activity is to be (or is intended to be) reduced or controlled. It is because marine pen fish farming is, as a generic activity, likely to have a significant adverse impact on the water environment that CAR 3(1)(g) is engaged in this instance, and that is so regardless of the fact that the appellant will use a semi-enclosed design at the site.

1.9 Were it to be otherwise an absurd situation would result, insofar as an operator carrying on an activity which, in generic terms, has or is likely to have an adverse impact on the water environment would be outwith the scope of regulation 3 of CAR, and, hence, outwith the regulatory framework established by CAR, by virtue, simply, of adopting a technological solution intended to reduce or control adverse impacts that would otherwise arise as result of the carrying on of the activity.

1.10 SEPA would therefore be unable (under CAR 8(2)) to impose such licence conditions, including conditions in the form of monitoring requirements, as it considers necessary or expedient for the purpose of protecting the water environment, notwithstanding that an activity, which in generic terms (i.e. absent the ability of SEPA to secure control under CAR) is likely to have a significant adverse impact on the water environment is being carried on.”

69. There are several reasons we consider this cannot be correct. Our first reason relates to the practicability of carrying out an assessment of a generic activity and whether as a consequence it is merely a hypothetical activity that would consequently be assessed. The second relates to whether “operation of a marine pen fish farm” can be treated under regulation 3(1)(g) as a description of a controlled activity similar to the statutory descriptions in regulations 3(1)(a) to (f). The third relates to the implications for criminal liability. We also make an observation in respect of regulation 32 on enforcement notices that suggests “significant adverse impact” cannot be read throughout CAR as referring to the unmitigated impact.

(a) Can an assessment of whether a generic activity has a significant adverse impact on the water environment be done in practice?

70. We have found SEPA’s submissions on what exactly it assessed by way of a generic activity obscure. However, what we understand is that it does not take into account the design, location or any active mitigation involved in the operation of any particular fish farm.

71. As regards design, Beinn Reithe provides an example of the difficulties involved in SEPA’s approach. The proposal for the Beinn Reithe fish farm uses a semi-closed-pen system, which is new to Scotland, though used elsewhere. Planning permission was granted for it at appeal (PPA-002-2020). The reporter’s report describes it as follows:

“1. The proposed fish farm would use a semi-closed containment system (SCCS) to rear Atlantic Salmon. This is different from the open-net salmon farms used elsewhere in Scotland. There would be an inner net where fish are held, surrounded by an opaque, impermeable outer membrane. Loch water would be continually pumped in from a depth of at least 20 metres. There would be outlet pipes so that

there would be a circulation of water. It is intended that most of the waste food and faeces would be collected in a sump at the bottom of the membrane and pumped onshore for treatment. The shore base would include office, storage and workshop buildings, oxygen vessels, feed silos, a water treatment plant with wastewater storage tank, a mortality handling station, grid connection infrastructure and back-up generators.”

72. The reporter had to assess the effects of sea lice from farmed salmon on wild fish, and in particular whether there would be a significant adverse impact on salmon as a feature for which the Endrick Water Special Area of Conservation (SAC) was designated. He described the issue as follows:

“81. Sea lice infestation of wild salmon can increase the incidence of infestation on local wild fish populations. Infective sea lice are generally understood to occupy the top 10m of the water column, although studies have suggested that larvae could be found down to 17m depth. The outer membrane would be impermeable to sea lice. Water would be pumped into the fish farm enclosure from depths of at least 20m depth. In addition, the constant turnover of the water would help flush any sea lice out of the system before they become established on a host fish. As a further safeguard, the [Farm Environmental Management Plan] would include regular sea lice fish checks and, if necessary, measures to mitigate infestation. The effect of sea lice interactions on wild salmon is assessed as negligible, and not significant.”

73. The reporter then went on to accept this assessment and find that there was no likely significant effect on the SAC. Ministers accepted the reporter’s reasoning on this in their decision granting permission for the fish farm. We cited their findings in framing our question 14. Ministers found in respect of the application for planning permission that:

“the means of ensuring there is little or no sea lice infestation – the impermeable barrier and the drawing-in of water from a depth at which lice are not present – would appear to provide a very strong basis for concluding that the incidence of sea lice would be very low indeed.”

74. SEPA’s September statement on Beinn Reithe suggests, notwithstanding Ministers’ findings, that “insufficient evidence [had] been provided to demonstrate that sea lice will be excluded from the site” even though it acknowledged the “potential” of semi-closed fish pens to reduce the risk posed to wild salmon and sea trout from sea lice compared with conventional open-pen fish farms. This is a remarkable position, given Ministers’ findings on the planning application. The possibility that there might be some sea lice at a fish farm does not amount to a mechanism or pathway by which a significant impact would be likely to occur. But it is also, really, beside the point. SEPA’s position is that it is the generic activity to be assessed, disregarding the technology of the cage system.

75. But it cannot sensibly be said that there is a generic design for a fish farm. Different designs are possible, none of which can be said to be generic. It is difficult to see how SEPA could rationally have carried out an assessment even of a generic operation without making an assumption about what the design of the fish farm would be. It would appear (given Ministers’ findings) that for such an assessment, SEPA would have had to assume a different design for the generic activity from the design actually proposed at Beinn Reithe. It is hard to see how it could have reached the conclusion that a significant impact was likely otherwise.

76. SEPA takes a similar position in respect of the location of a fish farm. Although SEPA carried out modelling of the impact of interaction of sea lice from fish farms with wild salmon in WSPZs, this modelling has been used only in determining the conditions that should apply to an authorisation. It has not been used to determine whether the operation of any particular fish farm is a controlled activity. Consequently we understand that location in relation to WSPZs has been disregarded in determining whether the generic activity of operation of a fish farm is likely to have a significant adverse impact on the water environment. That SEPA disregards location in determining whether the regulation 3(1)(g) test is met is confirmed by SEPA's Regulatory Position Statement of 2nd September 2025, Sea Lice Regulatory Conditions. The position statement indicates that an operator may provide evidence to demonstrate that, because of the location of the fish farm, it is not necessary or expedient to impose monitoring and reporting conditions or stand-still conditions in respect of the operation. SEPA would still, though, require authorisation of the operation and impose conditions requiring notification and investigation of a sea-lice infestation.

77. But there is no such thing as a generic location. Different locations relative to a WSPZ or to a trout river must have different impacts. The outcome of modelling referred to in SEPA's 2023 consultation document and May Statement indicated that a large number of existing fish farms would make a negligible contribution to sea lice within a WSPZ. SEPA has acknowledged that the degree of impact will depend on location in its assessment of what conditions to impose. If, in some cases, an actual fish farm would make a negligible contribution to sea-lice concentrations in a WSPZ or trout river, it is difficult to see how SEPA could arrive at the finding that it is likely to have a significant adverse impact on the water environment by effect of such a contribution. To arrive at such a finding in its assessment of a generic operation, it would have to have assumed a location relative to a WSPZ or trout river that was different from that of the actual fish farm.

78. Similar reasoning can be applied in respect of active measures taken by a fish farm as part of its operation to control sea lice. The lice level on any particular farm (and hence any consequent impact the operation of the farm might have on the marine environment in that respect) is not directly related to the number of fish on the farm, but to the way a farm is managed. For the purpose of a generic assessment, SEPA disregards what is done in the course of operation of any particular fish farm, and assesses instead a generic fish farm that takes no measures as part of its operation to control sea lice. This must necessarily include the assumption that the generic fish farm is operated unlawfully, since even measures taken at any particular fish farm to meet the requirements of the Aquaculture and Fisheries (Scotland) Act 2007 part 1 (including the requirement to take steps to prevent, control and reduce sea lice) and any measures required by the EMP for such a fish farm must be disregarded. While management systems might be better or worse at particular fish farms, there is no basis for a finding that such a management system (with no mitigation) would be present at every particular actual farm, or that if a farm was operated unlawfully, no steps would be taken by the relevant regulator to correct that.

79. So, first, it appears to us to be very difficult in practice to separate mitigation from the activity itself, in order to arrive at a generic activity. Even to put the issue in these terms stretches the meaning of the word "mitigation" thin, so that it refers to any individual characteristics of a fish farm's operation that might affect sea lice levels.

80. Second, there is a question about the value of any attempt to do this. It is not actually clear whether SEPA went through the process at all of considering what assumptions it should make about the generic operation of a fish farm – for instance, about matters such as location, design and management – before arriving at the conclusion that such a generic

operation was likely to have a significant adverse impact on the water environment. What is clear is that it did not assess the impact of any particular fish farm on the water environment before concluding that there was such an impact. In short, SEPA's assessment of a generic operation is (at best) an assessment of a hypothetical situation, not any actual operation. It would seem that, insofar as it did consider the assumptions it should make about a generic activity, the assumptions it made were such as themselves to provide the answer to the question of whether the activity was likely to have a significant adverse impact. The outcome of such an assessment provides no useful information about whether any actual operation would be likely to have such an impact.

81. In *Queisser Pharma GmbH & Co KG v Bundesrepublik Deutschland* (Case C-282/15), the Court of Justice of the European Union dealt with assessment of risk to human health in the licensing of pharmaceuticals. The court at paragraph [60] found that a precautionary approach may be taken where there is uncertainty, such that protective measures are taken without having to wait until the reality and seriousness of such a risk is fully demonstrated. However, the assessment of risk cannot be based on purely hypothetical considerations.

82. The precautionary principle applies also in EU environmental law, and is expressly referred to in the recitals of the WFD. The principle in *Queisser* applies in the present case. Consequently, we accept it is appropriate for SEPA to take account of uncertainty in respect of the likelihood of success of mitigation measures (or factors such as design or location, if they are not to be understood as mitigation measures) in determining whether an activity is likely to have a significant adverse impact on the water environment for the purpose of CAR regulation 3(1)(g). But SEPA cannot ignore the mitigation measures actually taken, or the actual location or design, and assess instead a hypothetical fish farm operation.

83. We do not see a means by which an assessment can be made of the operation of a(n unmitigated) generic fish farm, either in practice or in law, that would demonstrate the operation of any particular fish farm had a significant adverse impact on the water environment for the purpose of regulation 3(1)(g).

(b) Whether “operation of a marine pen fish farm” can be treated as if it was a description of a controlled activity similar to those in regulation 3(1)(a) to (f)

84. The effect of SEPA assessing a generic activity for the purpose of regulation 3(1)(g), appears to us to be that SEPA treats “operation of a marine pen fish farm” as if it was defined by CAR as a controlled activity in the same way as regulations 3(1) paragraphs (a) to (f) define other specific controlled activities. Its logic is that there is no need to determine whether the operation of a particular farm has a significant adverse impact, because “operation of a marine pen fish farm” is determined at a generic level to be a controlled activity.

85. We see no justification for such an approach in the statute. We have found that the purpose of regulation 3(1)(g) is to act as a backstop. It does not identify an activity as a controlled activity other than by reference to its degree of impact. It is to ensure that such activities as have or are likely to have a significant adverse impact on the water environment, but that do not fall within the categories in regulation 3(1)(a) to (f), still require authorisation. The assessment of the degree of impact relates to the specific instance of the activity. It is not the role of regulation 3(1)(g) to identify new *categories* of activity, equivalent to those identified in regulations 3(1)(a) to (f). If the Scottish Government had wished the operation of every marine pen fish farm automatically to require authorisation under CAR without further consideration as to whether the particular operation was likely to have a

significant adverse impact on the water environment, it would have created a category expressly within regulation 3(1) defining either “operation of a marine pen fish farm” or relevant aspects of such operations as controlled activities.

(c) the extent of criminalisation

86. Pursuing a controlled activity without authorisation is unlawful under CAR regulation 4 and consequently an offence under regulation 44. The necessary implication of SEPA’s interpretation of regulation 3(1)(g) is that a person commits a criminal offence by pursuing a controlled activity under that regulation without authorisation, whatever mitigation measures they have actually taken to ensure that there is no such impact, even if the measures taken are plainly established and uncontroversial. Such a person would be just as liable for the criminal offence as a person who had pursued (without authorisation) an activity that had actually had (or had been likely to have) a (residual) significant adverse impact on the water environment and had not taken any steps to prevent such an impact. It appears to us that this would criminalise a wide range of unauthorised activity that, because of plainly established and uncontroversial measures already taken, is not actually likely to have a significant adverse residual impact on the water environment. Given it is implicit to SEPA’s position that even such factors as design and location are to be disregarded in determining whether an activity is a controlled activity under regulation 3(1)(g), the range of activities criminalised would be sufficiently extensive, in our view, that it would not be easy to identify what activities required authorisation. Potentially a large proportion of human activity would be likely individually or cumulatively to have a significant adverse impact on the water environment, if done in some particular way or at some particular place. Many people would be liable for the offence without even realising that an authorisation might be required.

87. We acknowledge that, in determining whether to refer a case for action under the criminal law, SEPA can and – according to its guide to the CAR regulations (production 84) and its guidance on the use of enforcement action – would take into account the circumstances in which an offence was committed in determining whether to take action to secure a prosecution. However, we do not consider that SEPA’s policy approach to prosecution is sufficient to render the issue of criminalisation hypothetical, as SEPA argues. After all, a policy not to prosecute does not give any legal certainty. It is still a matter for SEPA how the policy is applied and whether it is applied. Even if the policy did give certainty, criminalisation can have effects (particularly for a business) that go beyond the impact of prosecution or any penalty. For instance, it might be necessary for a business to secure a letter of comfort that it would not be prosecuted in order for the business to be sold. For individuals, where disclosure requirements or a fit-and-proper-person test apply for some employment or licence, the commission of an offence, even if not prosecuted, may have to be disclosed.

88. We doubt that criminalisation in such wide and uncertain terms could have been intended.

Observations about regulation 32

89. If “significant adverse impact” were to be read as referring to the unmitigated impact throughout CAR, then that would have an implication for the use of enforcement notices under regulation 32. Under regulation 32(2)(b), there are three bases on which an enforcement notice may be served, one of which is that SEPA is of the opinion that a controlled activity has caused, is causing or is likely to cause significant adverse impacts on the water environment or any part of it. Regulation 32(4) requires then the revocation of an

enforcement notice, if the adverse impacts or likely adverse impacts on the water environment have ceased and are unlikely to recur, and any remedial mitigating or preventative steps required by SEPA have been carried out. If “significant adverse impact” is intended to refer to the unmitigated impact throughout CAR, then it would seem that regulation 32(4) would only require the revocation of a notice served on such a basis if the controlled activity ceased entirely. If this is what had been meant, the drafter would surely have said so in terms. This raises another doubt (to add to our comments above on SEPA’s interpretation of regulation 3(1)(g)) that “significant adverse impact” can refer to the unmitigated impact throughout CAR.

90. From SEPA’s answer to our question 6, we understand that SEPA regards the reference in regulation 32(1)(b)(ii) to “significant adverse impact” as being to the residual impact of a controlled activity. This difficulty we have noted in respect of regulation 32(4) would therefore not arise on SEPA’s interpretation of regulation 32(1)(b)(ii).

91. However, it appears to us that, if SEPA’s interpretation is accepted, it would face a difficulty taking in enforcement action under regulation 32. On SEPA’s interpretation, it would have to reach a view on the effectiveness of mitigation before arriving at an opinion on whether there is likely to be a significant adverse (residual) impact, which would be necessary for it to have the power to serve an enforcement notice in respect of an activity that is alleged to be having such an impact. There will be circumstances in which the effectiveness of a complex or novel mitigation will be unknown. It follows that such an interpretation could present a practical difficulty for SEPA if it has to reach a firm view on the effectiveness of such a mitigation before it can serve an enforcement notice.

SEPA’s arguments in support of its position

- (a) that the WFD requires activities that, but for mitigation, would cause deterioration in the status of a body of surface water to be subject to authorisation

92. At the hearing, SEPA argued that its interpretation of CAR is necessary to meet requirements of the WFD. Leaving aside the express requirements in WFD article 11 for prior regulation of certain specified activities (operation of a marine pen fish farm is not among these), we do not see any general requirement in the WFD for the prior regulation of an activity that does not and is not likely (having regard to the precautionary principle) actually to cause deterioration in the status of any body of surface water. We do not see any basis therefore on which the WFD would require authorisation of an activity that does not and is not likely (having regard to the precautionary principle) actually to have a significant adverse impact on the water environment.

- (b) that it would be impossible in an authorisation to condition activities that were controlled activities under regulation 3(1)(g) so as to ensure that they did not have a significant adverse impact

93. As we have set out above, SEPA argued that if its reading of regulation 3(1)(g) is not correct, a difficulty would arise with imposition of conditions on an authorisation. It described this as leading to an absurdity that if, in regulating an activity that (disregarding mitigation) was likely to have a significant adverse impact on the water environment, it imposed conditions in a CAR authorisation to prevent such an impact from occurring, that would put the activity regulated outside the scope of regulation under CAR.

94. This argument elides the difference between a regulatory requirement to carry out mitigation and the mitigation itself. Just because SEPA cannot impose a condition does not

mean that mitigation will not form part of the activity. Just because SEPA could not impose conditions on an activity (because it was not a controlled activity) does not mean that there would be no consequence if the person pursuing the activity failed to apply mitigation. If “significant adverse impact” in regulation 3(1)(g) is read as the impact following mitigation (rather than the impact of a generic, unmitigated activity), a person pursuing an (unauthorised) activity in such a way that it was likely to have a significant adverse impact on the water environment would be liable for the criminal offence under regulation 44. SEPA could also serve an enforcement notice under regulation 32 in those circumstances. If SEPA was concerned to ensure that people pursued activities other than those falling within regulations 3(1)(a) to (f) in a way that was not likely to have a significant adverse impact on the water environment (hence incurring criminal liability), it could issue advice on what mitigation it considered would prevent such a likely impact.

95. We cannot say we regard it as problematic in principle that SEPA would not have power as a regulator to place conditions on an activity that does not expressly require authorisation under regulations 3(1)(a) to (f) and is not actually likely to have a significant adverse impact on the water environment (once mitigation and any other relevant factors such as design and location have been taken into account). If SEPA considers such an activity should be regulated, then it could request the Scottish Ministers to amend CAR accordingly. We therefore do not perceive an absurdity in taking a different view on the interpretation of regulation 3(1)(g) from SEPA.

96. However, if regulation 3(1)(g) does refer simply to the residual impact, we do acknowledge that SEPA could find itself in a difficult position as a regulator in several circumstances. It appears to us that uncertainty about the effectiveness of mitigation could cause considerable practical difficulties. We have given the example above, in the context of enforcement, of a situation in which a complex and untested mitigation was proposed that was claimed to eliminate any likelihood of a significant adverse impact. On the interpretation that it is the residual impact that regulation 3(1)(g) refers to, SEPA could only accept or reject such a claim in determining whether the activity was a controlled activity. It would not have power to require authorisation and impose conditions to ensure that such a complex or untested mitigation was applied as proposed, to ensure its effectiveness was monitored, and to take any measures necessary to rectify problems. We have also noted the difficulty in taking enforcement action in those circumstances. Another example might arise where complex issues arose in respect of assessing cumulative impacts. Even if a mitigation was known to be effective at controlling a solus impact, there might be a situation in which there was uncertainty about its effectiveness in controlling a complex cumulative impact. We will return to this issue.

(c) the parallel with regulation 3(1)(a) in respect of mitigation

97. At the hearing, SEPA drew a parallel between its interpretation of regulation 3(1)(g) and its interpretation of regulation 3(1)(a). Regulation 3(1)(a) defines activities liable to cause pollution to the water environment as being controlled activities. SEPA argued that it cannot take into account mitigation in determining whether an activity is “liable to cause pollution”, and that it is simply applying the same approach for regulation 3(1)(g).

98. While the interpretation of regulation 3(1)(a) is not actually a matter we require to determine, it appears to us that SEPA is wrong: we consider SEPA can and should take mitigation into account in determining whether an activity is controlled under regulation 3(1)(a). We understand “liable to cause pollution” as meaning “capable of causing pollution”. The issue put by SEPA appears to us to raise this question: Are activities that have been designed in such a way that they are incapable of causing pollution controlled

activities simply because they might have been designed in another way that was capable of causing pollution? In our view, they are not, and so would not fall within the scope of regulation 3(1)(a). It appears to us, though, that no more than the bare capacity of an activity (taking account of any mitigation forming part of it) to cause pollution is sufficient to bring it within regulation 3(1)(a). Mitigation will often not be sufficient to ensure an activity is incapable of causing pollution. Even where mitigation is applied to an activity, it may well still fall within the wide scope of regulation 3(1)(a) and consequently require authorisation. Regulation 3(1)(g) provides a higher test in respect of the activities that fall within its scope.

(d) the parallel with regulation 3(1)(a) in respect of criminalisation

99. At the hearing, SEPA argued that it is not unusual for an activity to be discovered to be unlawful under regulation 3(1)(a) in cases in which a substance, previously thought harmless when released to the water environment, was subsequently found to be a pollutant. It follows that someone pursuing an activity that involved release of such a substance to the water environment would have been committing an offence, even though they had taken the greatest care not to pollute the environment. By analogy SEPA argued that an activity previously thought not to be likely to have a significant adverse impact on the water environment could subsequently be found likely to have such an impact. The effect of the strict liability for the section 44 offence is such that the offence would already have been committed before the discovery of the adverse effect, even though neither the people pursuing the activity nor SEPA were aware of that. We accept this. We acknowledge that SEPA might properly reach a conclusion that new evidence had emerged in respect of sea lice that would mean it considered itself obliged to take action now, when it had not taken action previously, even though the law had not changed. But this does not appear to us to have any implications for the issue in respect of interpretation of regulation 3(1)(g) that we are addressing.

(e) that CAR regulation 8(5)(a) specifies matters to which SEPA must have regard when considering whether to grant an authorisation or impose conditions and does not refer to other regulatory regimes or other efforts at mitigation generally

100. SEPA makes this point in its May Statement. Regulation 8(5)(a) specifies matters to which SEPA must have regard in determining an application for authorisation for a controlled activity. It does not address matters relevant to resolution of the prior question of whether an activity is a controlled activity. The question SEPA must answer in determining whether an activity falls within the scope of regulation 3(1)(g) is whether the activity has or is likely to have a significant adverse impact on the water environment. Nothing in regulation 8(5)(a) restricts what matters may be considered in arriving at a conclusion on that question.

(f) that Ministers directed SEPA it was to be the lead regulator for interactions of sea lice from farmed salmon with wild salmonids

101. Even if Ministers had taken a position on the interpretation of regulation 3(1)(g), we would still, in this appeal, have to consider whether their interpretation was correct. But there is nothing in Ministers' response to the Salmon Interactions Working Group that indicates they have taken any specific view on the interpretation of that regulation. As we have already pointed out, SEPA can still act as a lead regulator for interaction of sea lice from fish farms with wild salmonids even if not all fish farm operations are likely to have a significant adverse impact on the water environment (or even if none do, in the ordinary course of operations).

A view on how CAR should be interpreted

102. We have found difficulty in interpreting the statute in the way SEPA says it should be interpreted. We have also, however, found difficulty in interpreting “significant adverse impact on the water environment” to mean consistently either the residual impact or the unmitigated impact of an activity. So the question of how the statute ought to be interpreted is still unanswered. The determination of these appeals does not necessarily turn on our giving a positive answer to this question. Nonetheless, we put forward the following as our proposed answer.

103. The question of whether mitigation should be taken into account in determining whether there is likely to be a significant effect on the environment has arisen in caselaw on screening for EIA. This was addressed in the English case cited to us of *R (Swire) v Secretary of State for Housing, Communities and Local Government* [2020] EWHC 1298 (Admin), which in turn cited *Gillespie v First Secretary of State* [2002] EWCA Civ 400, [2003] Env LR 663 and *R (Lebus) v South Cambridgeshire DC* [2002] EWHC 2009 (Admin), [2003] Env LR 17. In *Gillespie*, cited with approval in *Swire*, Laws LJ said:

"46. ...Where the Secretary of State is contemplating an application for planning permission for development which, but for remedial measures, may or will have significant environmental effects, I do not say that he must inevitably cause an EIA to be conducted. Prospective remedial measures may have been put before him whose nature, availability and effectiveness are already plainly established and plainly uncontroversial; though I should have thought there is little likelihood of such a state of affairs in relation to a development of any complexity. But if prospective remedial measures are not plainly established and not plainly uncontroversial, then as it seems to me the case calls for an EIA. If then the Secretary of State were to decline to conduct an EIA, as it seems to me he would pre-empt the very form of enquiry contemplated by the Directive and Regulations; and to that extent he would frustrate the purpose of the legislation."

104. It appears to us that a similar approach is to be taken in the construction of CAR. We consider regulations 11(2), 12, 13, 15(1)(b) and 15(6) first, which – as we have said – have a similar role to the processes of EIA screening and EIA. Where mitigation measures are proposed whose nature, availability and effectiveness are plainly established and plainly uncontroversial and would ensure a proposed activity would not have or be likely to have a significant adverse impact on the water environment, then it appears to us SEPA should properly make a judgement that the proposed activity would not be likely to have such an impact. This is just as a *Gillespie* indicates a planning authority should do in screening for EIA. In such circumstances, the further requirements of regulations 11(2), 12, 13, 15(1)(b) and 15(6) would not apply. If mitigation measures proposed are not plainly established or plainly uncontroversial, then it appears to us that SEPA should reach a judgement that the further requirements of those regulations do apply: information required under regulation 11(2) should be sought, consultation should be carried out as required by regulation 12, and advertisement should be considered under regulation 13.

105. The requirement under regulation 11(2) for information to be provided on mitigation would not present a difficulty for this interpretation. Information would need to be provided on mitigation and it would need to be considered by the special procedure set out in those regulations, unless the mitigation was already plainly established and uncontroversial and ensured the activity in question was not likely that there would be a significant impact. This approach would provide for the application of the precautionary principle where there is uncertainty about the effectiveness of mitigation.

106. If regulation 3(1)(g) were then to be interpreted consistently, it appears to us that that would address the various difficulties that arise in respect of interpretation of “significant adverse impact” either as the residual impact or unmitigated impact. The difficulty of distinguishing the generic activity from the mitigation would not arise, since it would be the likely significant effects of the actual proposed activity including any mitigation (while applying the precautionary principle in respect of uncertainty) that would be taken into account in the judgement of whether the activity fell within regulation 3(1)(g). Where the whole activity (including mitigation measures) was found – applying the precautionary principle – to be likely to have a significant adverse impact it would be a controlled activity, and conditions could be applied to secure any proposed mitigation measures. There would not be the difficulty that SEPA would have to resolve uncertainties about the effectiveness of mitigation measures to address either solus or cumulative impacts that would otherwise be significant before taking regulatory action. SEPA would, for instance, have power to require authorisation of (or take enforcement action in respect of) an activity likely to have a significant adverse impact (if not authorised) without necessarily having first reached a final conclusion on effectiveness of complex or untested mitigation measures. Conversely, there would not be a requirement to obtain authorisation for an activity in which the person pursuing the activity had incorporated an established and uncontroversial mitigation that would ensure it was not likely to have a significant adverse impact. The pursuit of such an activity in this latter category without authorisation would not be a strict-liability offence, so a wide and ill-defined group would not be criminalised.

Conclusion on the meaning of “significant adverse impact on the water environment”

107. In view of these points, we tender the view an interpretation of CAR that is consistent with the decision in *Gillespie* is the best interpretation, and best accords with the purpose of the WFD. We acknowledge that we may be wrong, and that CAR might be read such that references to a likely significant adverse impact are to a likely residual impact (though we have noted a number of significant difficulties in doing so consistently). Since the latter is a narrower interpretation in terms of the scope of potential criminal liability, we acknowledge that the principle of doubtful penalisation might tell against the interpretation we have put forward. However, we consider our interpretation a better fit with the legislation.

108. We do not consider that the references in the legislation to a “significant adverse impact” can plausibly be read as being references simply to an unmitigated impact assessed in the way SEPA has argued it should be. Even if we were to read the statute in that way, we do not see a justification for reading similar language differently in different parts of the statute, as SEPA suggests it should be. We have found no compelling reason to do so, given that we consider better interpretations are available that do not involve criminalisation of a wide and ill-defined group of people. We agree with the appellants that the principle against doubtful penalisation applies. Therefore we would resolve the ambiguity in the statute (insofar as it exists) in favour of a narrower interpretation in terms of the scope of criminalisation. For these reasons we reject SEPA’s interpretation of regulation 3(1)(g).

109. If “significant adverse impact” is to be read throughout CAR as referring to the residual impact, then the answer to question 4 would be that SEPA must have regard to controls and mitigation forming part of the activity in determining whether it falls within the scope of regulation 3(1)(g) whether those controls and mitigation are imposed by other regulatory regimes or not. If this is correct, then it is plain that the appeals must succeed. This is because SEPA has acknowledged that the residual impact of the operation of the appellants’ fish farms is not significant. Consequently, the operation of the appellants’ fish

farms would not fall within regulation 3(1)(g), so would not be a controlled activity, and SEPA would have no power to impose authorisations.

110. If what we regard as the better interpretation of regulation 3(1)(g) is accepted, then the answer to question 4 again is that SEPA should have had regard to controls and mitigation to which the existing operations are subject (whether those are applied by other regulatory regimes or otherwise) in reaching a determination on whether those operations fell within the scope of regulation 3(1)(g). Consequently, SEPA's understanding of the legal basis on which it issued the notices of variation was flawed.

111. It is not clear to us that that by itself must be fatal to SEPA's case, though. It may be that, if we had not found the appeals must be granted for other reasons, we could still have considered the questions of whether the controls and mitigation applied in the operation of particular fish farms were established and uncontroversial and whether those fish farms, insofar as they were subject to established and uncontroversial controls, were likely to have a significant adverse impact on the water environment either individually or cumulatively. That would appear to be a matter of evidence, rather than a legal issue (such as we have undertaken to address in this decision). We have not therefore reached a concluded view that our answer to question 4 is fatal to SEPA's case in these appeals.

112. This takes us to the answer to our question 5. Since we consider the reference to "significant adverse impact on the water environment" in regulation 3(1)(g) is to be read in the same way as similar expressions in part III regulations 11(2), 12, 13, 15(1)(b), and 15(6), we find that – in order for variation of a licence for an activity that was a controlled activity under regulation 3(1)(g) to be made by SEPA – the law required those procedural requirements in part III to be followed.

SEPA's argument that, notwithstanding the engagement of regulations 11(2), 12, 13, 15(1)(b) and 15(6), the appeals should still be rejected

113. Given our finding on question 5, we next have to address SEPA's arguments to the effect that, even if regulations 11(2), 12, 13, 15(1)(b) and 15(6) were engaged, they do not provide a basis on which the notices should be quashed.

114. SEPA did not carry out the consultation required by regulation 12. It had not sought the information from the appellants under regulation 11(2) that would have provided the basis for such a consultation. We do not agree that it was sufficient for SEPA to rely on the consultation it had carried out in respect of its proposed sea lice framework. Each activity requiring authorisation is specific to its location and to the particular mitigation measures applied. There is no basis for supposing that public authorities would have had nothing to add to comments they had made on the formulation of an approach to authorisation in respect of authorisation in a particular case.

115. There is no basis to argue that, since it is for SEPA to make a judgement on what public authorities to consult, SEPA therefore did not need to consult any. For that argument to be sustained, SEPA would at least have had to have made a judgement that there were no public authorities that had an interest and therefore it did not need to consult any in performance of its regulation 12 obligation. It is clear from SEPA's primary position that it did not consider consulting public authorities at all, and so it did not make any judgement on which authorities it should or should not consult.

116. Similarly, although SEPA does have discretion as to whether to advertise an application under regulation 13 for public comment, SEPA – in our view – is at least

required to consider how it should exercise that discretion. It is clear from SEPA's primary position that it did not at any point consider whether it should advertise the deemed applications for the variation notices for public comment.

117. In our view, SEPA's failure to consult on or advertise the applications or even to consider whether to do so did lead to substantial prejudice to the appellants. It is possible that, if SEPA had understood the procedural requirements correctly, it might not have considered there was any public authority with an interest and might have exercised its judgement not to advertise the deemed applications. That cannot be known, though, and is far from being the inevitable outcome. It cannot be known what the outcome of consultations might have been, or what responses from members of the public might have been if they had been given an opportunity to comment on the deemed applications. There is at least a reasonable possibility that evidence would have been provided in response to consultation or advertisement that would have changed SEPA's view on the applications, for instance on what conditions ought to be applied or whether the activity was a controlled activity at all. We are not persuaded that, had SEPA understood the statutory requirements correctly, it could not have made a difference to the outcome.

118. SEPA's duty under regulation 15(1)(b) to consider any environmental, social and economic benefits and adverse effects of the controlled activity applies in respect of each decision on an application for a controlled activity that is likely to have a significant adverse impact on the water environment. SEPA did not perform this duty. It is not sufficient for SEPA to argue that the duty was discharged by the discussion in its consultations on the sea lice framework of the social and economic effects of the framework. It is the particular circumstances in each case that are to be examined. If it is implied in SEPA's case that consideration of social and economic effects of its policy could have made no difference to the outcome, we reject that. SEPA's response to consultation on the sea lice framework in brief included conclusions that the implementation of the framework generally would not lead to a moratorium on fish farm development, would not have a significant effect on overall farmed salmon and rainbow trout production and would have limited adverse implications for the economy. Even if that assessment is accepted, it is an assessment made at a national level. It says little about the economic or social effects at the level of a particular fish farm.

119. We acknowledge that, in accordance with section 20A of the Environment Act 1995, SEPA is required, in general terms, to carry out the functions conferred on it under any enactment for the purposes of protecting and improving the environment. This does not provide SEPA with immunity from compliance with an express statutory duty under another statute. The requirement to consider environmental, social and economic effects of a controlled activity that is likely to have a significant adverse impact on the water environment is part of the function that SEPA exercises under CAR. Plainly CAR envisages that an authorisation for a controlled activity may be granted if justified by environmental, social or economic benefits, notwithstanding any significant adverse impact of the activity on the environment. Even if the question had come down to the balance of a significant adverse impact on the water environment and any environmental, social or economic benefits, section 20A does not make SEPA's decision to issue the notices of variation inevitable.

120. Consequently, the appellants were substantially prejudiced also by SEPA's failure to consider the factors it was required to consider by regulation 15(1)(b). Furthermore, in failing to consider the matters it is required to consider by regulation 15(1)(b), SEPA failed to take into account a consideration material to its decision in respect of each notice of variation.

Whether it is possible at appeal to rectify a failure by SEPA to apply the requirements of regulations 11(2), 12, 13, and 15(1)(b)

121. We asked parties whether it would be possible for us, if we found that the part III procedural requirements of regulation 11(2), 12, 13, and 15(1)(b) applied, to take procedural steps in the course of the appeals to rectify the failure to adhere to the procedure (or at least to rectify any prejudice that arose from such a failure). However, we accept that there is no statutory power for us to do so provided in CAR part VIII, which deals with appeals. Even if we had the statutory authority, we do not consider it would be sensible or fair to the appellants to take such steps as part of a formal appeal procedure.

Conclusion

122. We therefore find that, even assuming SEPA can establish that the operation of the appellants' marine pen fish farms is a controlled activity under regulation 3(1)(g), SEPA's failure to take the procedural steps required in regulations 11(2), 12, 13, and 15(1)(b) is fatal to the licence variations. We would grant the appeals on this basis.

Bakkafrost's argument that CAR regulation 3(1)(g) is not capable of regulating the interaction of sea lice from marine-pen fish farms and wild salmonids.

123. Bakkafrost argued that CAR regulation 3(1)(g) is not capable of regulating the interaction of sea lice from marine-pen fish farms and wild salmonids. It argues that, since sea lice are naturally occurring (and not a substance, pathogen or pollutant), they do not cause deterioration of the aquatic ecosystems that they are part of.

124. We did not address this argument of Bakkafrost's at the hearing and have not reached a concluded view on it. We express scepticism, though, that it can be correct.

125. We acknowledge that sea lice are a naturally occurring species in the water environment. But marine-pen fish farms are not a naturally occurring feature of the water environment. In the WFD annex V, the composition and abundance of fish fauna are factors in determining the ecological status of inland waters and transitional waters. If it is accepted that the operation of marine-pen fish farms can individually or cumulatively cause an unnatural concentration of sea lice in certain waters and if it is also accepted that this can have a significant adverse impact on the abundance of wild salmonids such that there is a deterioration in the ecological status of inland waters or transitional waters (both these matters being an issue for evidence), on the face of the matter, we do not see a difficulty in finding that this would be a significant adverse impact on the water environment in terms of CAR regulation 3(1)(g). This is notwithstanding that both sea lice and wild salmonids occur and interact naturally in the water environment without the presence of fish farms. It also does not appear to us that only a substance, pathogen or pollutant can have a significant adverse impact on the water environment. It may be that there is more to be said on this topic, though.

Question 2: *In principle, is "operation of a marine pen fish farm" a controlled activity under CAR regulation 3(1)(g)?*

Assumption: Sea lice dispersing from marine-pen fish farms that are the subject of the appeals are likely to have a significant adverse impact on the water environment (if this matter is assessed without regard to measures currently being taken under CAR or any

other regulatory regime to mitigate those impacts) unless the measures are taken that are required by SEPA in conditions of the licences as varied.

A preliminary matter: the form of the assumption attached to the question

126. SEPA took issue with the assumption attached to the question. It stated the following:

“3.1 ... strictly accurately the assumption necessary to answer the above question is not that sea lice dispersing from marine pen fish farms are likely to have significant adverse impact, but rather that the operation of a marine pen fish farm is likely to have that impact and is the controlled activity under regulation 3 of CAR. This is the controlled activity that is the subject of the appeals.

3.2 We would clarify that the activity is the operation of a marine pen fish farm involving the propagation and cultivation of salmonids resulting or likely to result in the dispersal of sea lice from those farms, and that activity has that likely impact – but within the scope of CAR the broader description of the controlled activity is limited in any case, based on current scientific evidence, to the discharge activities that are currently licensed and the operation activity. It is, SEPA considers, incomplete to refer to the activity that is the subject of the appeals as “sea lice dispersing from marine-pen fish farms” and unnecessary to limit the assumption in this way.”

127. The point of our asking this question was to elicit whether a controlled activity could properly be defined in the terms SEPA had set out in the licence variations (“operation of a marine pen fish farm”). In dealing with this question, we wanted to isolate that issue from the issue of the impact of sea lice dispersing from fish farms. In formulating the assumption, we had not intended it to identify a controlled activity. If we had accepted SEPA’s objection, it appears to us that the assumption for which SEPA argues would itself have provided the answer to the question. We do not consider that that would have been a useful exercise. Notwithstanding SEPA’s position, it appears to us that both it and the appellants were able to give a substantive answer to the question in the form we had put it. We do not consider that SEPA was disadvantaged in any way by the form of our question.

The reporters’ reasoning

128. We agree with the appellants in referring to *Prestcold (Central) v Ministers of Labour* [1969] 1 WLR 89 (1968) that the “other” activities to which regulation 3(1)(g) refers must have that a degree of commonality with the activities previously listed in paragraphs (a) to (f) of that regulation. We consider that “operation of a marine pen fish farm” describes an enterprise comprising multiple activities (two of which are already authorised and others of which do not require authorisation). This does not appear to us to be the nature of the description of the activities listed in (a) to (f). Those paragraphs appear to us to be more specifically focused on particular activities that have or have the potential to have adverse impacts on the water environment. We agree with the appellants that “operation of a marine pen fish farm” is a description of a similar order to “operation of a farm”, or “operation of a distillery”. While these are enterprises that can involve controlled activities requiring authorisation under CAR, that does not justify treating the whole enterprise as a controlled activity.

129. We reject SEPA’s analogy with the pollution prevention and control (PPC) regime. We agree with the appellants that that regime is intended to regulate installations and all

their polluting activities, while CAR is designed to address impacts on the water environment.

130. We consider this is an issue about scale and specificity of the activity described, not about the use of the word “operation” or about a contrast in the dictionary definition of the words “activity” and “operation”. We acknowledge, as SEPA pointed out, that “operation of impounding works” is expressly capable of being a controlled activity. Both “activity” and “operation” are broad terms, and we acknowledge that they are sometimes capable of being used interchangeably. Our view is that the description should capture the particular activity that has the significant adverse impact that is subject to control under CAR rather than an enterprise of which the activity that has a significant adverse impact is one element.

131. Furthermore, since regulation 3(1)(g) applies to “any *other* activity”, we do not consider it can be intended generally to identify anything as a controlled activity in terms that would wholly encompass activities that are already controlled activities under other paragraphs of regulation 3(1). SEPA’s description in this case of the controlled activity as “operation of a marine pen fish farm” would wholly encompass the two controlled activities under regulations 3(1)(a) and (3)(1)(b) already authorised in the existing (pre-variation) licences.

132. It is not clear where the limits of “operation of a marine pen fish farm” lie. This is important because, if SEPA’s view was correct that it is a controlled activity requiring authorisation, then its pursuit without authorisation would be a criminal offence. This links to the issue we have already discussed in relation to questions 4 and 5. SEPA acknowledged its case entailed that any person involved in carrying on the operation of a fish farm, including the appellants’ employees, would be committing an offence. SEPA’s definition of the activity, taken together with SEPA’s position that it is the unmitigated impact of a generic activity that should be considered in determining whether there is likely to be a significant adverse impact, would result in the criminalisation of an extraordinarily large set of people (in circumstances where there may not in reality have been any likelihood of a significant adverse impact). There needs to be a degree of clarity as to what is criminalised. We do not consider that the description “operation of a marine pen fish farm” provides it.

133. SEPA argues that controlled activities can be broadly defined in authorisations and that this is demonstrated by the activities that are authorised in CAR itself by effect of regulation 6 and schedule 3. These include “keeping of livestock” and “cultivation of land”. The purpose of the schedule 3 authorisations is to exempt from the requirement for specific authorisation certain common activities for which there are established means to minimise impacts on the water environment. While schedule 3 shows it is possible for an authorisation to be put in broad terms, more specific terms might be expected for an authorisation for which an express application or deemed application is made. We do not find the comparison between these authorised activities and “operation of a marine pen fish farm” is such that it persuades us the latter is an adequate description.

134. The appellants have listed a number of activities involved in operating a marine pen fish farm that do not have a significant adverse impact on the water environment: the placing of equipment in the water, the repair and removal of equipment, the use of vessels, transferring fish into pens, taking measures to prevent predator interactions with fish in pens and cleaning nets and pens. SEPA argued that there are, similarly, multiple activities involved in keeping of livestock and cultivation of land that are not in themselves controlled activities. Keeping of livestock, SEPA argues, might be said to include working in the office – for instance, administering staff pay, or charging automatic feeders, or repairing fences. We would suggest that there is a distinction to be drawn between activities ancillary to a

controlled activity and activities that form part of an overall operation or enterprise that is said itself to be a controlled activity. The example activities referred to by the appellants actually form part of the operation of a marine pen fish farm, while the activities listed by SEPA are merely ancillary to the keeping of livestock. A person repairing a fence is not actually keeping livestock, while a person cleaning a pen is doing something that forms part of the operation of a marine pen fish farm.

135. Whether or not we are correct on this latter point, it appears to us a recent change to the law indicates that a narrower definition of the controlled activity would be required. The Environmental Authorisations (Scotland) Amendment Regulations 2026 amended the Environmental Authorisations (Scotland) Regulations 2018, extending their effect to the Scottish Marine Area between the three-mile and 12-mile limit. The 2018 regulations as amended identify as a controlled activity an “activity carried out in the course of operation a fish farm ... which directly or indirectly has or is likely to have a significant adverse impact on any part of the water environment in the Scottish Marine Area”. This does not appear to us to be capable of identifying “operation of a fish farm” itself as a controlled activity. Since, as the policy note states, the amendment is intended to bring consistency with existing legislation within the three-mile limit, we find that “operation of a marine pen fish farm” is not capable of being a controlled activity under regulation 3(1)(g) in that area either.

136. SEPA suggested at the hearing that, if “operation of a marine pen fish farm” was found not to be a sufficient description, we might impose an alternative. It suggested, by analogy to the authorisation in article 6 and schedule 3 of “the keeping of livestock”, a description along the lines of “keeping of salmonids in a marine pen” or “keeping of salmonids in an open marine pen”. Although SEPA took the view that there was effectively no difference in this description from “operation of a marine pen fish farm”, it suggested it would go some way to addressing concerns about the description.

137. For the reasons we have set out, we disagree with SEPA that there is effectively no difference between their suggestion for an alternative description and “operation of a marine pen fish farm”. Several of the appellants, including Scottish Sea Farms, argued that such a description was still not sufficiently specific. We would tentatively say that it appears to us such a description may be sufficient since it relates to the activity that is said to cause the significant adverse impact. It does not appear to us it would be necessary for the description to capture all the factors that cause the significant adverse impact to be likely to arise in the particular instance for the description to be sufficient. However, SEPA’s suggestion was made only at the hearing itself, not in submissions. To inform our view, we would have wished there to be a full opportunity for the appellants and other parties to comment on such a description. We therefore have not reached a concluded view on whether such a description would be sufficient or whether we have power, in our decision, to impose a change to a description in such terms. Given our findings on other questions, we do not consider it necessary to do so in order to reach a decision on these appeals.

138. We asked parties to comment on another possible description of the authorised activity. This was “permitting the dispersal of sea lice from a marine pen fish farm”. We suggested this on the basis that it would be narrower than “operation of a marine pen fish farm”. We accept that there are most likely insuperable difficulties with such a description: an operator cannot really be said, except in the most etiolated way, to be “permitting” the dispersal of sea lice, and it would also not actually identify an activity the operator was carrying out.

Question 3: *Whether “operation of a marine pen fish farm” can lawfully be added as a new controlled activity by way of a variation to an existing licence under CAR regulation 22?*

Assumption: Sea lice dispersing from marine-pen fish farms that are subject of the appeals are likely to have a significantly adverse impact on the water environment (if this matter is assessed without regard to measures currently being taken under CAR or any other regulatory regime to mitigate those impacts), unless measures are taken that are required by SEPA in conditions of the licences as varied.

The relevant legislation:

139. Under CAR regulation 10, if it appears to SEPA that a person is carrying on a controlled activity that has not been authorised under CAR regulations 7 or 8, then SEPA may treat the activity as an activity in respect of which an application has been made. SEPA may then, as it thinks fit, grant an authorisation under regulation 7 or 8. If it does so, it must give notice to the responsible person or to the operator that it is doing so, and it must charge the relevant fee for the (deemed) application. The procedural provisions of CAR part III apply as they would to any other application.

140. Under regulation 21, SEPA is required periodically to review existing authorisations granted under regulations 7 and 8. It may do so at any time.

141. Under regulation 22, either as a result of such a review or otherwise, SEPA may vary an authorisation already granted under regulation 7 or 8. Regulation 22(2) says that “a variation ... may include removing, adding or amending any condition of an authorisation”. Regulation 23 then provides the procedure.

142. Under regulation 30, if there is more than one authorisation applying to controlled activities which are carried on by the same responsible person or operator, SEPA may replace those authorisations with a consolidated authorisation subject to the same conditions as the authorisations being replaced.

143. Under regulation 50(c), a person aggrieved by the terms and conditions attached to that person’s authorisation in accordance regulation 7 or 8 may appeal against SEPA’s decision. Regulation 52(2) then provides that the bringing of an appeal relating to the conditions attached to authorisation under regulation 7 or 8 does not have the effect of suspending the operation of the conditions. We note that regulation 50(c) refers to an appeal against the *terms* and conditions of an authorisation, while regulation 52(2) refers to an appeal relating to the *conditions* of an authorisation. It is not clear to us why no provision has been made in regulation 52(2) for an appeal in respect of the *terms* of an authorisation. However, in the absence of an express provision in regulation 52(1) that an appeal in respect of the terms of an authorisation has the effect of suspending the authorisation, it appears to us that such an appeal also does not have the effect of suspending the authorisation. There is also no suspension of SEPA’s decision where an appeal is made against a SEPA decision suspending or revoking an authorisation (given under regulation 29) and where an appeal is made against an enforcement notice (issued under regulation 32(2)).

144. The arrangements in respect of appeal against a variation notice are different. Under CAR regulation 50(d), a person who has been served with a variation notice under regulation 23(3) or is aggrieved by the conditions attached to the variation notice may appeal against SEPA’s decision. Under CAR regulation 52(1), if such an appeal is made then the variation notice will not take effect until the day following the day on which the appeal is finally determined or withdrawn.

Reporters' reasoning

145. We are not convinced that CAR regulation 22(2) limits the variation of a licence by SEPA to removing, adding or amending any condition of an authorisation (as some of the appellants have argued). If it did, it appears to us that the regulation would not use the word “include”. If there was an intention to limit SEPA’s power of variation of existing authorisations solely to varying conditions, the statute would have said so directly. Furthermore, there would not have been a need in regulation 50(d) to provide a person who had been served with a variation notice to appeal against the notice. It would have been sufficient simply to provide an opportunity for a person aggrieved by the conditions attached to the variation notice to appeal against the notice.

146. That said, we consider that there must be a limit on what can be achieved by a variation of an existing authorisation if the term “variation” is not to be deprived of its ordinary meaning. While, in our view, SEPA can do more than simply vary conditions, it cannot do more than vary the existing authorisation. Variation cannot be used fundamentally to change the nature of the activities regulated.

147. In the hearing, we raised with SEPA’s advocate, Mr James Findlay KC, the issue of whether, in his view, there was a limit on what could be achieved by variation. He acknowledged that there may be a limit, and suggested it might involve authorising a different activity in a different place (though he said he had not considered that issue since his view was that it was not directly relevant to the hearing). He pointed out that what was at issue in the present appeals is variation to include authorisation of related activities at the same location by the same operator.

148. We acknowledge that, given the power to consolidate authorisations under regulation 30, a single authorisation is capable of authorising more than one controlled activity. No power to vary is included in the regulation 30 consolidation power. The regulation provides expressly that the consolidated authorisation is to be subject to the same conditions as the previous authorisations. We find it implicit that there is also no power to change the description of the controlled activities under regulation 30.

149. On the basis that an authorisation can cover more than one controlled activity, Mr Findlay argued that SEPA did have power, by variation of an authorisation under regulation 22 and 23, to introduce an additional controlled activity into an existing authorisation. He argued that the effect was the same as imposing authorisation on controlled activity using the power under regulation 10 at a site where there was an existing authorisation, then consolidating the authorisations under regulation 30. Using regulations 22 and 23 was simply taking one step instead of two.

150. We acknowledge that there can be circumstances, such as those in *Cusak v Harrow LBC* [2013] 1 WLR 2022, where there are overlapping powers in a statute and where an authority might choose between those powers. However, the court in *Cusak* made clear that the history of the Highways Act 1980 was relevant to its finding, in respect of the interpretation of that Act, that there were two overlapping powers to erect barriers at an access to a road, which the roads authority could choose between. The Highways Act 1980 consolidated a number of provisions from different statutes made at different times. The two provisions that were at issue in *Cusak* had their origins in different statutes and were simply brought together in the consolidation.

151. While there have been several amendments to CAR, the relevant elements of regulations 10, 22 and 23 have not been amended since the regulations were made. There

appears to us to be no obvious reason why the author of the regulations would have provided two different powers by which SEPA could regularise a controlled activity that has been pursued without authorisation, such that SEPA has different options for proceeding.

152. In our view, CAR regulation 10 is the means by which it is intended SEPA can require an unauthorised controlled activity to be regularised. It is headed “SEPA’s power to impose authorisation”. It provides discretion to SEPA as to whether to treat an activity as an activity in respect of which an application has been made. We understand this to be a discretion, not a duty, because SEPA might wish to take enforcement action or refer the matter for prosecution instead of authorising the activity. The requirement under regulation 10(3) to give notice to the responsible person or operator of SEPA’s decision to exercise its power under regulation 10(1) is an important element of procedure. It formalises the commencement of the process of deemed application and provides the responsible person or operator with an opportunity to respond to SEPA’s decision under regulation 10(1).

153. If we were to agree with Mr Findlay that one step could be made under regulation 22 and 23 rather than two steps under regulations 10 and 30, then this procedural requirement in regulation 10(3) would be missed out. Furthermore, if a new controlled activity could be introduced by a licence variation, no fee would be required for the deemed application. We do not see why the author of the CAR regulations should have intended that SEPA would have power effectively to waive the fee for a deemed application simply because the deemed applicant has an existing authorisation for a different controlled activity. If Mr Findlay were correct, then whether or not a fee was required for the deemed application would be an arbitrary outcome of SEPA’s choice of procedure.

154. In describing the statutory provisions, we noted a contrast in the operation of appeal provisions in respect of regulation 10 as compared with how they operate in respect of regulation 23. Where an authorisation has been issued by SEPA on the basis of a deemed application under regulation 10, an appeal does not suspend the effect of the authorisation, (or at least does not suspend the effect of its conditions if no appeal can be taken in respect of the authorisation itself). It appears to us that the intention is to ensure that, if an existing controlled activity is regularised, the authorisation will come into effect notwithstanding any dispute over the precise terms. This appears to us to be in line with the purposes of the legislation, in particular to prevent deterioration of the status of a body of surface water. There could be adverse impact on the water environment if a dispute over the terms of an authorisation were to suspend the authorisation’s effect (or effect of any disputed conditions) until the dispute was resolved. This is comparable to the arrangement for suspension or revocation of an authorisation or for an enforcement notice, the effect of which is also not suspended by an appeal. Again, suspension could result in an adverse impact on the water environment. In contrast, a variation of an existing authorisation is suspended if an appeal is made in respect of it. In such a case, therefore, the existing authorisation will remain in place and continue to control the activity, and so (presumably) continue to protect the water environment, notwithstanding any changes that the variation notice might have sought to make to the precise terms on which the controlled activity is authorised. It appears to us this confirms that a notice of variation is intended to relate to the terms of the existing controlled activity, not to provide for authorisation of a new controlled activity.

155. Consequently we find that SEPA can only impose an authorisation for a controlled activity under regulation 10. We do not consider an authorisation for a controlled activity can be imposed by a variation to an existing authorisation for a different controlled activity under regulation 23.

156. For this reason, assuming that “operation of a marine pen fish farm” is capable of being a controlled activity, we still find that SEPA had no power to issue licence variations under regulation 23 to introduce that new controlled activity into existing licences for other controlled activities.

157. We asked parties whether a mistake by SEPA as to the power under which it could impose an authorisation would be sufficient for its notices of variation to be quashed. Parties agreed at the hearing that it was sufficient. We agree too. Given our answer to this question, we find the appeals must therefore succeed.

Question 6: *A number of the licence variations that are subject to the present appeal, such as the variation to licence CAR/L/1016128 (appeal reference ENVE-003-128) introduce only conditions requiring counting, recording and reporting of sea lice numbers and counting and reporting of fish stock numbers. With specific regard to these cases:*

- a. Whether those conditions alone can remove the likelihood of the activity having significant adverse impacts on the environment such that compliance with the procedural requirements of CAR regulations 11, 12, 13, 14, 15(1) and 15(6) was not required in relation to variation notices that are subject to appeal?*
- b. Whether such a condition, in the absence of any other measure in the licence as varied for steps to be taken associated with the data reported, can in law be necessary or expedient for the purposes of protection or enhancement of the water environment or protection of the interests of other users of the water environment as required by CAR regulation 8(2)?*

Assumption:

As regards (a): SEPA’s position – that it is entitled to take account of the conditions it intends to impose on a SEPA initiated variation when applying the requirements of those regulations – is correct in principle.

As regards (b): That operation of a marine-pen fish farm is capable of being a controlled activity under CAR regulation 3(1)(g)”

Reporters’ reasoning:

158. SEPA acknowledges that the monitoring and reporting conditions do not by themselves amount to a mitigation resulting in a significant adverse impact associated with operation of a marine pen fish farm not being likely. It argues in reply to our question 6(a) that the monitoring conditions, taken together with conditions specifying the authorised location, maximum biomass and minimum fallow period of a fish farm and with its enforcement powers under CAR (particularly regulation 32), do have that effect. It could reach this judgement without going through the procedure in regulations 11(2), 12, 13, 15(1)(b) and 15(6). For that reason, compliance with those procedural provisions was not required.

159. Our comments here examine primarily whether SEPA’s response to these questions can be accepted on the assumption that their position in respect of the answers to questions 4 and 5 is accepted. Some of the appellants’ arguments return to the issue of whether regulation 3(1)(g) can be taken as referring to the significant adverse impact of an activity disregarding mitigation. We do not intend to deal here in detail with those arguments, since we have already considered SEPA’s position in that respect above. For instance, if it is accepted that regulation 3(1)(g) refers to the significant adverse *unmitigated* impact of an activity while the CAR part III provisions refer to any significant adverse *residual* impact it might have, then it must be accepted that SEPA should not rely on conditions of an existing licence to judge that operation of a fish farm is likely to have a

significant adverse impact on the environment for the purpose of regulation 3(1)(g), but can rely on existing licence conditions to make a judgement that it is not likely to have a significant adverse impact for the purpose of the part III provisions.

160. As regards SEPA's reliance on conditions of the existing CAR licences at the appeal sites (relating to authorised location, maximum biomass and minimum fallow period), these cannot be sufficient in themselves to prevent a significant adverse (residual) impact from becoming likely. If they were, then SEPA could not rationally have reached the view that imposition of a requirement for monitoring and reporting of sea lice levels was also necessary or expedient.

161. In its September response, SEPA confirms its position that the monitoring and reporting conditions "are designed to provide SEPA with the information it needs to be able to intervene should sea lice numbers on the farms rise and, cumulatively, or in isolation lead to a likely increased impact on the water environment". With specific regard to the monitoring conditions, SEPA argued in its May Statement that these allowed it, in respect of wild salmon populations, to track changes in sea lice numbers on farms, assess the risk posed if sea lice numbers are increasing and intervene if necessary to prevent significant adverse impacts (or further significant adverse impacts) on wild salmon by requiring operators to control rises in sea lice numbers (for instance by imposing appropriate sea lice limits). In Northern Isles farms, where impact on sea trout, not wild salmon, was the issue, SEPA argued that the monitoring and reporting conditions would allow them to assess the consequences of rises in sea lice numbers on farms for the concentration of sea lice in sea areas likely to be used by sea trout, prioritise environmental monitoring of sea trout based on concentrations of sea lice found, and intervene if necessary to prevent significant adverse impacts (or further significant adverse impacts) on sea trout by requiring operators to reduce sea lice numbers on relevant farms.

162. In response to our question 6, as regards what SEPA's "intervention" would be, SEPA refers expressly to its power to serve an enforcement notice under CAR regulation 32. There are three bases set out in regulation 32(1)(b) for issue of an enforcement notice. One of these relates to discharge of hazardous substances and pollutants, and so is not relevant to sea lice. A second relates to contravention of an authorisation for a controlled activity. This would not be a basis for enforcement action against an operator who was complying with all the relevant conditions of an authorisation (not only the sea-lice monitoring condition, but also conditions on location of the fish farm, maximum biomass and minimum fallow period). The only basis for enforcement action, therefore, would be in regulation 32(1)(b)(ii): that the controlled activity has caused, is causing or is likely to cause significant adverse impacts on the water environment or any part of it.

163. It is implicit in SEPA's case that the trigger in regulation 32(1)(b)(ii) for issue of an enforcement notice is that an activity is likely to have a significant adverse *residual* impact on the water environment. It would not be rational for SEPA to authorise an activity on the basis it considers that activity is not likely to have a significant adverse residual impact, and then take enforcement action on the basis that it is likely to have a significant adverse impact if unmitigated.

164. Since a significant adverse residual impact must be likely for SEPA to take enforcement action under regulation 32(1)(b)(ii), it follows that SEPA cannot rely on that enforcement power to prevent such an impact from becoming likely in the operation of one of the fish farms to which this question relates. If such an impact can become likely while the holder of the authorisation for operation of the fish farm continues to comply with its

requirements, then it must follow that the monitoring and reporting condition together with the regulation 32 enforcement power does not provide a mitigation sufficient to prevent a significant adverse (residual) impact from becoming likely.

165. SEPA has options for action other than the exercise of its enforcement power under regulation 32 on receiving data under the monitoring and reporting condition. It might contemplate introducing a new condition (perhaps a maximum limit on sea lice at the farm) by a further variation notice with a view to preventing a significant adverse impact from occurring. However, any option SEPA has depends upon it considering in the future evidence reported from monitoring and taking as-yet-unspecified action in order to prevent a significant adverse (residual) impact from becoming likely. Further, in order for SEPA – in determining the deemed application for the notices of variation – to have reached the conclusion that regulations 11(2), 12, 13, 15(1)(b) and 15(6) were not engaged, it must have assumed that its as-yet-unspecified future action would be effective to prevent a significant impact from becoming likely.

166. In *R. (on the application of Swire) v Secretary of State for Housing, Communities and Local Government* [2020] Env. L.R. 29, the court dealt with a challenge to a screening opinion for EIA. Development of housing was proposed on a site that had been used for disposal of cattle suffering from bovine spongiform encephalitis (BSE). There was limited evidence on the presence or nature of contamination from BSE-infected carcasses at the site, on the hazards that any such contamination might have presented for future residents, or on any safe or effective methods of detecting, managing or eliminating any such contamination and hazards. Nonetheless, in screening the development for EIA, the council found that there would not be a significant effect on human health or the environment arising from any such contamination. It did so by relying on a condition requiring remediation of the land on the basis of a method statement to be submitted for approval under the condition. No specific measures were identified to ensure there would not be a significant effect. The court found that a screening authority must have sufficient evidence of the potential adverse environmental impacts and the availability and effectiveness of the proposed remedial measures to make an informed judgment that the development would not be likely to have significant effects on the environment and consequently that EIA was not required. The council simply relied on the success of its future actions. It did not know what those would be, so it did not have sufficient evidence to reach the conclusion that EIA was not required. Its screening opinion and the related planning decision were quashed.

167. We have already found that EIA caselaw is relevant to the interpretation of CAR regulations 11(2), 12, 13, 15(1)(b) and 15(6) and that the test for application of those regulations is similar to screening for EIA. We consider that the *Swire* case indicates the evidence SEPA should have in determining whether those regulations apply. Consequently, we agree with the appellants that SEPA could not properly rely on the effectiveness of unspecified future measures to reach the conclusion that an activity was not likely to have significant adverse impact on the water environment (and so that regulations 11(2), 12, 13, 15(1)(b) and 15(6) were not engaged).

168. However, we also note a relevant distinction from *Swire*. In *Swire*, the planning authority was not in a position to say what contamination was present, what its effects would be, or how any such effects might be prevented. That does not appear to be so in the present cases. Even if there is a question between parties about the impact of sea lice from fish farms on wild salmon, there are familiar methods for controlling sea lice on fish farms. For the set of fish farms for which standstill conditions were imposed, SEPA set a maximum limit on the number of sea lice. It had sufficient confidence that the limit would be met using existing methods for lice control that it considered that there would be no significant residual

impact on the water environment for those farms, and consequently that the procedure in regulations 11(2), 12, 13, 15(1)(b) and 15(6) was not engaged. SEPA portrays the decision not to impose a stand-still condition on other fish farms as an advantage for the fish-farm operator. It is far from clear to us that it is. If SEPA relies on monitoring and reporting to draw its attention to a change in the level of sea lice of a degree such that it ought to take action, then SEPA presumably has a view presently on the circumstances in which it would take action. But it does not make those circumstances clear on the face of the consent. This arrangement appears to us to lack the transparency that is required of regulators by the Scottish Regulators' Strategic Code of Practice.

169. Leaving this latter point aside, we agree with the appellants for the reasons we have set out that the monitoring and reporting conditions, even taken together with the other conditions and statutory provisions to which SEPA refers, cannot be said to remove the likelihood of the controlled activity having significant adverse impacts on the water environment for the purpose of the judgement required for the application of CAR regulations 11(2), 12, 13, 15(1)(b) and 15(6). The conditions and powers to which SEPA refers provide no effective steps to prevent such an impact. In answer to our question (a), therefore, the variation notice could not properly have been issued without complying with procedures in CAR regulations 11(2), 12, 13, 15(1)(b) and 15(6), even standing SEPA's position in respect of the interpretation of those regulations and regulation 3(1)(g).

170. The appeals also succeed on this basis.

171. While CAR regulation 8(2) does expressly permit inclusion of monitoring conditions in an authorisation, such conditions must still be necessary or expedient for the purposes set out in that regulation. In view of SEPA's submissions, we understand the purpose of the reporting and monitoring conditions to be the protection of the water environment. Since the conditions do not actually achieve the protection of the water environment, they are neither necessary nor expedient. This provides the answer to our question (b).

Question 7: *Whether SEPA is entitled to conclude that activities are likely to have a significant adverse impact on the water environment based on the material to which it did have regard, including its Sea Lice Regulatory Framework (including its Sea Trout Framework) and associated modelling relative to particular sites without taking account of empirical site-specific evidence of actual sea lice numbers (and any impacts arising from them) at the operational marine-pen fish farm in question.*

(a) Whether in principle under CAR the imposition of authorisation on an existing unlicensed activity can be justified by reference to evidence of a likely significant adverse impact (rather than evidence of an actual significant adverse impact).

Assumption: That operation of a marine-pen fish farm is a capable of being a controlled activity under CAR regulation 3(1)(g).

Reporters' reasoning

172. SEPA's answer to our question 7 is twofold. First, it argues that it is not a pre-requisite to an activity being a controlled activity within the meaning of regulation 3(1)(g) that there is direct empirical evidence of actual sea-lice numbers or impacts arising from that activity at each fish farm to which the appeals relate. Indeed, since regulation 3(1)(g) applies where a significant adverse impact is likely, empirical evidence of actual harm may not be available. SEPA argues that it was reasonable for it to have regard to the evidence to which it did (including the Sea Lice Regulatory Framework and associated modelling) in determining that the operation of the fish farms to which the appeal relates would have a

significant adverse impact on the water environment. Second, SEPA did have regard to site-specific evidence, as set out at paragraph 2.2.3 of its September statement.

173. SEPA produced site-specific modelling data. It used this in determining what conditions were to be attached to authorisations for operation of the marine pen fish farm granted by the notices of variation. It is clear from SEPA's submissions, though, that site-specific data was not taken into account in determining, for each of the appellants' farms to which the notices relate, that the operation was likely to have a significant adverse impact on the water environment for the purpose of CAR regulation 3(1)(g).

174. As we have discussed above, SEPA took the view that operation of a marine pen fish farm was an activity requiring authorisation on the basis that, as a generic activity, disregarding mitigation, it would be likely to have a significant adverse impact on the water environment. The logical consequence of SEPA's approach is that site-specific data (influenced as it would have been by mitigation, design and location of a particular fish farm) would have been irrelevant to its assessment of whether the operation of a generic fish farm was a controlled activity under regulation 3(1)(g).

175. The modelling data SEPA produced was expressly an assessment of relative risk, not an assessment of impact. A finding from modelling that the operation of one fish farm represents a higher risk and another a lower risk does not demonstrate that any is likely (or is not likely) to have a significant adverse impact on the water environment.

176. We asked parties in our sub-question 6(a) whether under CAR the imposition of authorisation on an existing unlicensed activity can be justified by reference to evidence of a likely significant adverse impact (rather than evidence of an actual significant adverse impact). We consider that it is conceivable that a situation might arise in which a person has started pursuing an activity that is likely to have a significant adverse impact on the water environment, but that has not yet had such an impact. It would run counter to the purpose of the regulations if SEPA had to wait until an actual significant adverse impact occurred before it could treat such an existing activity as a controlled activity (or before it took enforcement action). So our interpretation is that an existing unauthorised activity can be a controlled activity on account of any significant adverse impact it is likely to cause (as well as any it has actually caused).

177. In answering questions 4 and 5, we found two possible interpretations for "significant adverse impact on the water environment" in CAR regulation 3(1)(g). Evidence in respect of actual impacts of an existing activity would be relevant on both interpretations to determining whether a significant impact was likely. And evidence of impacts from other sites where similar activities were pursued would also be relevant of course.

178. We agree with the appellants that SEPA, before exercising a power under CAR to require authorisation of an existing activity is under a duty so to inform itself as to arrive at a rational conclusion. This is the duty in *Secretary of State for Education and Science v Tameside MBC [1977] A.C. 1014* at 1065B and *R. (on the application of Plantagenet Alliance Ltd) v Secretary of State for Justice [2014] EWHC 1662 (Admin)*. Because of its position on the interpretation of CAR regulation 3(1)(g), even insofar as SEPA has investigated site-specific impacts of the operation of any of the fish farms, it did not take them into account before determining that such an activity was likely to have significant adverse impacts. In failing to do so, it could not assess or take account of matters such as the effectiveness of measures taken by farm operators to prevent or manage sea-lice infestations. This is so, even though SEPA acknowledged effectiveness of measures taken

by farm operators to be a factor that the numbers of sea lice in coastal waters and WSPZs depended upon.

179. Since SEPA did not fulfil its duty to inform itself so as to reach a rational conclusion, we find that the appeals succeed also in this respect.

Question 8 - *With reference to paragraph 2.16.3 of SEPA's October response, whether – in the absence of legally binding modifications of existing planning permissions that are subject to conditions regulating sea lice – the proposed variations are likely to result in a duplication of regulatory control.*

No assumption.

180. The question relates to EMPs required by condition of planning permission and containing provisions for control of sea lice for the purpose of protection of wild salmonids and for monitoring and reporting of their numbers.

181. This question is substantially answered by the conclusions we have reached on questions 4 and 5. It was not sufficient for SEPA to assess a generic activity, disregarding mitigation, to determine that operation of a marine pen fish farm fell within the scope of CAR regulation 3(1)(g).

182. It is possible for two sets of regulatory controls to overlap without their duplicating each other. We have been told that the imposition of controls in respect of sea lice in part 1 of the Aquaculture and Fisheries (Scotland) Act 2007 is for the purpose of protecting the health of farmed fish, and not to prevent impact on wild fish. If that is so, then given their different purposes, the controls under the 2007 Act and those under CAR need not duplicate each. Since the controls are imposed for different purposes, there might be good reasons for their having different requirements.

183. Plainly the imposition of SEPA's new controls in respect of interaction of sea lice from farms with wild salmonids alongside existing controls in EMPs for the same purpose would have led to a duplication of regulation at least in the short to medium term. There would have been duplication because EMP controls on sea lice have substantially the same purpose as regulation by SEPA under CAR in respect of sea lice. It does not matter that SEPA would have taken a different approach from that in EMPs.

184. We acknowledge that Ministers, given their powers in respect of the planning system, can take steps for the phasing out of EMPs, whatever the precise mechanism would be by which this would be achieved and however long it might take to complete. SEPA would be entitled to take Ministers' position on EMPs into account in considering the continuing effectiveness of controls imposed by EMPs. Nevertheless, SEPA ought to have considered the effectiveness of controls in EMPs insofar as they would continue to apply and how a transition might be achieved.

185. At a practical level, SEPA's response (paragraph 3.2.4 of its reply to the appellants' answers to our questions) that it would be for the operators to engage with the planning authorities to obtain reassurance that EMP controls would not be enforced does not appear to be consistent with the principles of better regulation to which both the Scottish Regulators' Strategic Code of Practice and the Statutory Guidance on the General Purpose of SEPA refer. SEPA was aware of the potential duplication and was in a position to raise it with the relatively few planning authorities that deal with fish farming. It could have sought to reach a common view, so far as possible, on the way forward before serving the notices

of variation. It could have adjusted the notices of variation to take account of remaining controls in existing EMPs, insofar as they would be enforced by planning authorities. To leave the matter for individual negotiation by the appellants with planning authorities was unlikely to lead to a regulatory arrangement that was consistent, transparent, accountable or properly targeted. It does not appear to us to be in line with SEPA's commitment to work closely with planning authorities to establish working arrangements in respect of EMPs, given at paragraphs 8.5 and C.21 of its 2021 consultation document.

Question 9 *Whether, in particular, the reporting conditions imposed by SEPA are consistent with Chapter I of the Competition Act 1998*

Assumption: That operation of a marine-pen fish farm is a licensable activity under CAR regulation 3(1)(g).

186. The Competition Act 1988 prohibits agreements between undertakings, decisions by associations of undertakings, or concerted practices that have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom.

187. SEPA will at times, as part of its regulatory role, have to request information from those they regulate that is confidential, and that should not be published. As a public body, SEPA must handle information within a statutory framework. It cannot give an undertaking that information is to be confidential that will apply notwithstanding the statutory requirements placed on it.

188. Express provision is made on the handling of commercially confidential information in part VI of CAR. This prohibits the publication on the public register maintained in accordance with CAR of information relating to the affairs of any business which is commercially confidential, unless the business consents or SEPA is directed to publish the information by Scottish Ministers. There are provisions for a person providing information under a requirement of a CAR authorisation to apply to have that information treated as commercially confidential, and for SEPA to give that person an express opportunity to object to inclusion in the register of information it considers might be commercially confidential. There is an opportunity to appeal against a decision by SEPA to publish information before the information is published.

189. SEPA has stated that it would only publish information reported to it under CAR if it determined that the information was not commercially confidential (subject to any Ministerial direction to the contrary).

190. Similarly, although SEPA is subject to freedom of information legislation (including both the Environmental Information (Scotland) Regulations 2004 and the Freedom of Information (Scotland) Act 2002), such legislation does not generally require it to publish information that is commercially confidential. Commercial confidentiality of information held by a public body like SEPA can in some circumstances be overridden if the public interest in publication of the information outweighs the public interest in confidentiality being maintained.

191. There is no dispute in the present case that some of the information SEPA has required to be reported, for instance on live fish numbers, would be commercially confidential. But given the public interest in ensuring that competition is not prevented, restricted or distorted, it would seem likely that the public interest would favour its disclosure only in very particular and limited circumstances.

192. There is nothing in what SEPA is requiring in terms of reporting to them information on fish numbers that, in our understanding, would be formally inconsistent with the requirements of the Competition Act. It is theoretically conceivable that SEPA and Scottish Ministers might at some point take a view on what is commercially confidential, or what should be published notwithstanding its confidentiality that is in conflict with the views of the Competition and Markets Authority as to what might be a practice causing a distortion of competition. The appellants have not, however, suggested circumstances in which there was any tangible prospect of such a situation arising. We do not consider that the prospect of such a situation arising is sufficiently real as to be enough, by itself, to make imposition of the reporting condition unlawful or otherwise unacceptable.

193. The appellants have suggested that unlawful action, such as a cyber-attack, might cause release of data from SEPA. Further, it is argued that the collection of live information on fish numbers would create a honeypot for such an attack. That may be so. However, that is an argument about whether the arrangement made by SEPA for collection of such information is sensible, not an argument about whether it is lawful. It would be a matter for evidence, and goes beyond the scope of this decision.

Question 10: *Whether any failure by SEPA to meet any obligations it has under sections 4 and 5 of the Regulatory Reform (Scotland) Act 2014 and the Scottish Regulators' Strategic Code of Practice is an issue for the reporters in the appeal.*

Assumption: That operation of a marine-pen fish farm is a licensable activity under CAR regulation 3(1)(g).

194. SEPA makes the submission that the duty in section 4(1) of the Regulatory Reform (Scotland) Act 2014 (the 2014 Act) does not apply to it.

195. Section 20A of the Environment Act 1995 (the 1995 Act) provides for a general purpose of SEPA. SEPA is to carry out the functions conferred on it under the Environment Act and other enactments for the purpose of protecting and improving the environment (including managing natural resources in a sustainable way). In carrying out its functions for that purpose, SEPA must (except to the extent that it would be inconsistent with its purpose) contribute to improving the health and well-being of people in Scotland and to achieving sustainable economic growth. Section 31 of the 1995 Act provides a power for Ministers to give guidance to SEPA with respect to the carrying out of its duties under section 20A. Section 20A was inserted in the Environment Act 1995 by section 51 of the 2014 Act.

196. Section 4 of the 2014 Act made general provision on the duty of regulators (including SEPA) in respect of sustainable economic growth. This provides in subsection (1) that, in exercising its regulatory functions, each regulator must contribute to achieving sustainable economic growth, except to the extent that it would be inconsistent with the exercise of those functions to do so. The section also provides for Ministers to give guidance to regulators with respect to the carrying out of the duty imposed by subsection (1) and requires regulators to have regard to such guidance. It appears that the Scottish Regulators' Strategic Code of Practice (the Regulators' Code) was intended to provide the statutory guidance for section 4(1), although that is not expressly stated in the Regulators' Code.

197. The two sections are not in absolutely the same terms. Nonetheless, section 20A of the 1995 Act appears to us to be a provision to the same effect as section 4 of the 2014 Act. Consequently, in accordance with subsection 4(5) of the 2014 Act, we do not consider

that, strictly speaking, the section 4(1) duty applies to SEPA. Our view on this appears to be confirmed by the explanatory note for the clause of the bill that became section 51 of the 2014 Act. It follows that any guidance in the Regulators' Code on the section 4(1) duty does not formally apply to SEPA.

198. However, there is separate provision in section 5 of the 2014 Act for issue of a code of practice. It is expressly under this section that the Regulators' Code was issued. The Code states at its paragraph 8 that it applies to SEPA. Furthermore, SEPA stated in its May 2023 consultation document on the sea lice framework that, in preparing the framework, it followed the Regulators' Code. Since we have found that SEPA's duty under section 20A of the 1995 Act is to the same effect as the section 4(1) duty, it seems to us that any guidance given on the performance of that duty in the Regulators' Code would be relevant to SEPA's achievement of its section 20A purpose. The Regulators' Code, and any failures by SEPA to meet it, does therefore appear to us to be relevant to our decision.

199. In any case, there are some requirements in the statutory guidance to SEPA on its section 20A objective similar to those in the Regulators' Code. These include a requirement to adopt the "better regulation principles". We understand that these are that regulation should be transparent, accountable, consistent, proportionate, and targeted only where needed. Even if the Regulators' Code was not relevant to our decision, the requirements of the guidance on SEPA's section 20A objective would be.

200. In answer to question 10, therefore: if the appeals were to proceed any further, the issue of whether the service of the notices of variation adhered to the Code (and/or to the statutory guidance on the section 20A objective) would be relevant. We have already referred to a failure by SEPA in respect of the Code in dealing with questions 6 and 8 above.

Question 11: *Whether the reporters need to consider, in the context of the appeals, if the reasons given by SEPA in its decision document for service of the licence variations are adequate.*

201. SEPA argues that it was not under a statutory duty under regulation 15(6) to give reasons. In view of our answers to questions 4 and 5, we find SEPA's position to be incorrect.

202. We have already reached a view that SEPA was acting on the basis of a misconception of its powers in serving the notices of variation. Since the reasons SEPA gave in its decision document did not properly address why SEPA considered the operation of each fish farm was a controlled activity, it seems to us that such reasons as SEPA gave were inadequate.

203. That leaves the question of whether we should grant the appeals on the basis that SEPA gave inadequate reasons for its decisions (separately from the other bases on which we have found the appeals succeed). We have not reached a concluded view on that.

Questions 12: *Whether SEPA's notices varying the licences are capable of constituting an interference with the appellants' right to peaceful enjoyment of their possessions under article 1 protocol 1 (A1P1) of the European Convention on Human Rights.*

Question 13: *If as a matter of law, SEPA was not entitled to issue the variation notices, whether the notices represent an unlawful interference with the appellants' right to peaceful enjoyment of possessions under article 1 protocol 1 of the European Convention on Human*

Rights, on the basis that such interference was not provided for by law and was contrary to the principle of lawfulness.

204. We address both these questions together.

205. A1P1 provides:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

206. SEPA’s notices of variation purported to amend existing licences. A first question, therefore, would be whether the licences themselves are a possession of the appellants for the purpose of A1P1, and consequently whether an amendment to them by SEPA amounts to an interference with their peaceful enjoyment of those possessions.

207. In *R (Nicholds) v Security Industry Authority* [2007] 1 WLR 2067, the English High Court found that a distinction was to be drawn between rights which had a monetary value and could be marketed for consideration and rights which could not. Examples of marketable rights included licences for radio spectrum or the former European Union milk quotas. However, the licence in question, a licence to work as a door supervisor, was not marketable and had not been obtained at a market price. Such a licence was not a possession for the purpose of A1P1. *R (New College) v Secretary of State for the Home Department* [2011] EWHC 856 Admin confirmed this distinction. A licence for an educational institution to act as an immigration sponsor for overseas students was also not marketable acquired at a market value, so not a possession.

208. Even though there are no provisions in SEPA’s present licences that would formally prevent their assignation or would prevent the change of ownership of the licensee, we do not find them to be of a marketable type. The degree of contingency of the right conferred by the licence on the actions of the licensee and the particular personnel responsible for the licensed activity and SEPA’s powers to remove or amend existing licences makes them quite unlike the examples of marketable rights given in *Nicholds*. It does not appear to us that they are marketable rights in that sense. They are not possessions of the appellants for the purpose of A1P1.

209. The *Nicholds* and *New College* cases are compatible with the cases of *Tre Traktor AB v Sweden* (A/159) and *O’Sullivan McCarthy Mussel Development Ltd v Ireland* (application 44460/16), which are judgments of the European Court of Human Rights. In both cases the economic interests connected with the running of the business (a restaurant in *Tre Traktor* and mussel farming in *O’Sullivan McCarthy*) were found to be “possessions” for the purpose of A1P1. The revocation of a licence to serve alcohol in *Tre Traktor*, the maintenance of which was one of the principal conditions for carrying on the restaurant business, and the alteration of a licence for fishing for mussel seed in *O’Sullivan McCarthy* to include temporary prohibition of the activity could take place were both found to be an interference with those possessions. The judgment in *O’Sullivan McCarthy* cites *Malik v. the United Kingdom*, no. 23780/08, 13 March 2012, at paragraph 94:

“[I]n cases involving the suspension or revocation of licences and permits or the refusal to enrol a person on a list of individuals entitled to practise a particular profession, the Court has tended to regard as a “possession” the underlying business or professional practice in question. Restrictions placed on registration, licences or permits connected to the work carried out by the business or the practice of the profession are generally viewed by the Court as the means by which the interference with a business or professional practice has taken place.”

210. SEPA has accepted that a variation of an existing licence to include a new controlled activity and new restrictions, as in the present case, is capable of being an interference with an A1P1 right on this basis. SEPA argues on the basis of *Tre Traktor* and *O’Sullivan McCarthy* that such an interference would only occur to the extent that the licence variation adversely affects the goodwill of the underlying business or has an appreciable adverse impact on an economic interest. We agree.

211. It appears to us that, among other matters, the requirement for a licence for the appellants to continue their existing business of operating marine pen fish farms, the power that confers on SEPA to control various aspects of the business, the particular cost of monitoring and reporting data to SEPA are all capable of affecting goodwill for the underlying business or of having an appreciable adverse impact on the appellants’ economic interests. We consider that, for us to reach a concluded view would require evidence on such matters to be led and tested.

212. An interference with the A1P1 right may be justified if it is for the purpose of the state enforcing such laws as it deems necessary to control the use of property in accordance with the general interest. Since we have found that SEPA has not acted lawfully in issuing the notices of variation, any interference with the appellants’ A1P1 rights if they came into effect could not be justified on this basis. Consequently, if we were to find on the evidence that there was an interference with the A1P1 right, the appeals would succeed also on this basis.

213. Even if it had already been demonstrated on the evidence that the notices of variation were an interference with A1P1 right, we would not make a finding here that an unjustified interference has already occurred by issue of the notices of variation. That is because the effect of the notices was suspended pending the appeals (and they will not now take effect, given our findings on other questions).

Question 14. *Beinn Reithe fish farm (appeal ENVE-003-103 in respect of licence CAR/L/SEPA2021-728) has a semi-enclosed design. In considering planning appeal PPA-002-2020 by Loch Long Salmon for the Beinn Reithe fish farm, Scottish Ministers found as follows at paragraphs 26 to 27 of their decision letter dated 25 August 2025:*

“26. The Scottish Ministers agree with the reporter (paragraphs 158 – 161) in considering sea lice risk and that there is no sound basis for taking a precautionary approach purely on account of any notion that the technology which would be used is untested. The means of ensuring there is little or no sea lice infestation – the impermeable barrier and the drawing-in of water from a depth at which lice are not present – would appear to provide a very strong basis for concluding that the incidence of sea lice would be very low indeed. The Scottish Ministers note there are monitoring and mitigation measures in the Draft Farm and Environmental Management Plan (FEMP).”

27. The Scottish Ministers agree with the reporter's conclusions (paragraph 298 – 299) that there is no imperative to dismiss the appeal by adopting a precautionary approach, as introduced by NPF4 policy 4 and as identified in the National Marine Plan, in assessing the planning merits and the potential effects of the development."

The reporters understand from SEPA's October submission:

- *that SEPA acknowledges it did not take account of the semi-enclosed system at Beinn Reithe in determining that it should impose authorisation of the activity of "operation of a marine pen fish farm" at Beinn Reithe by variation of the licence for the fish farm,*
- *that SEPA took this view on the basis that "the technology [of semi-enclosed pens] has not previously been used in Scotland. Accordingly, without evidence of effectiveness of the system to be adopted and its configuration being provided, SEPA cannot reasonably be satisfied of the extent to which semi-enclosed pens to be used at Beinn Reithe will mitigate, in practice, the contribution of the farm to sea lice concentrations in the sea."*

Given the finding of Ministers on the effectiveness of semi-enclosed fish pen technology set out above, can the reporters lawfully make a finding in the present appeal that the operation of Beinn Reithe fish farm is likely to have a significant adverse impact on the water environment by effect of sea lice dispersing from the fish farm on the basis of the reasoning offered by SEPA and without further evidence before them to contradict the findings of Ministers in planning appeal PPA-002-2020?

214. We acknowledge, as SEPA argues, that the grant of planning permission does not remove the need to seek other statutory consents and that it does not imply those consents will be forthcoming. That does not mean that the facts as found by Ministers in the course of determining a planning appeal can subsequently be disregarded in determining an application for a CAR licence.

215. SEPA argues that the design of the cages is mitigation, which is to be disregarded in determining whether the operation of a marine pen fish farm is an activity likely to have a significant adverse impact on the water environment for the purpose of regulation 3(1)(g). We have dealt with that argument in our answers questions 4 and 5. We reject it.

216. The question of the impact of sea lice on wild salmonids was a central issue considered in detail in the determination of the planning appeal. SEPA did not allege any new facts or changed circumstances that would have cast doubt on the facts as established by Ministers in respect of the design of the proposed Beinn Reithe cages. In particular, it has not produced site-specific evidence that would suggest Ministers' findings in respect of the effectiveness of the cage system were incorrect. Ministers found that there was no sound basis for taking a precautionary approach. This is precisely what SEPA is doing in taking the view that the design of the cages should be disregarded. In the absence of any evidence that would suggest the findings of Ministers were wrong or out of date, we see no legal basis upon which we can set them aside.

217. SEPA refers to the imposition of a condition requiring an EMP that would include requirements for monitoring of sea lice including weekly lice counts for a sample of fish and for controls to be applied in certain circumstances. Planning permission and CAR licensing are governed by different statutes with different criteria. Ministers have powers to impose such controls under planning permission. It is clear from Ministers' reasoning that the EMP added to the assurance that they had found was already provided by the design. As we

have found in dealing with questions 4 and 5, both the measures taken under the EMP and the design of the fish farm would be relevant to determining whether its operation was likely to have a significant adverse impact on the water environment for the purpose of CAR regulation 3(1)(g).

218. We are reticent about making a finding that an appeal under CAR must succeed on the basis of findings in a planning appeal. But Ministers addressed issues of impact of sea lice from the fish farm on wild salmonids, including on salmon as a feature for which a SAC was designated, and found that there was no significant effect. We consider that, to succeed, SEPA would have had to provide evidence that contradicted Ministers' findings, or showed they were out of date, or that there was some other compelling reason why they were not relevant. SEPA's present case is far from achieving that. We cannot see that any other conclusion is possible.

219. Appeal ENVE-003-103 succeeds on this basis.

Conclusion

220. In view of our answers to questions 3, 5, 6, 7 and 14, the appeals must succeed.

221. It was agreed at the hearing that any motion by parties for expenses would be addressed following this decision. The reporters would request, if any party wishes to make such a motion, that it should be made within 21 days after the date of this decision.

Robert Seaton
Assistant Chief Reporter

Scott Ferrie
Chief Reporter

Appendix:

Appeal Reference	In respect of variation to licence reference	by appellant	Site Address
ENVE-003-033	Car/L/1000843	Scottish Sea Farms Ltd	Mpff Creran A, Loch Creran, Argyll, PA38 4BA
ENVE-003-034	CAR/L/1003887 VAR03	Mowi Scotland Ltd	Kingairloch, Loch Linnhe, Inverness-Shire, PH33 7AE
ENVE-003-035	CAR/L/1017374	Bakkafrost Scotland Ltd	Taranaish, Breasclete Pier, Breasclete, HS2 9ED
ENVE-003-036	CAR/L/1009643 C1/ VAR06	Mowi Scotland Ltd	Maol Ban Fish Farm, Sconser, Isle Of Skye, IV49 9AN
ENVE-003-037	CAR/L/1156482 VAR05	Mowi Scotland Ltd	Isle Of Scalpay, By Isle Of Skye, IV49 9AL
ENVE-003-038	CAR/L/1002346 VAR03	Mowi Scotland Ltd	Balmeanach, Braes, Isle Of Skye, IV48 8TD
ENVE-003-039	CAR/L/1157209 VAR04	Mowi Scotland Ltd	Sconser, Isle Of Skye, IV40 8NY
ENVE-003-040	CAR/L/1009963 VAR05	Mowi Scotland Ltd	Loch Seaforth, Isle Of Harris, HS3 3BD
ENVE-003-041	CAR/L/1168182 VAR02	Mowi Scotland Ltd	By Crossaig, Kilbrannan Sound, Argyll, PA29 6YQ
ENVE-003-042	CAR/L/1098675	Bakkafrost Scotland Ltd	Sgeir Dughall, Kenmore, IV54 8XH
ENVE-003-043	CAR/L/1009974 VAR05	Mowi Scotland Ltd	Noster Fish Farm, Loch Seaforth, Isle Of Harris, HS3 3BD
ENVE-003-044	CAR/L/1010773	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Gob A Bharra, Tarbet Road, Ardrishaig, PA30 8ET
ENVE-003-045	CAR/L/1010775	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Ardcastle, Crarae, By Furnace, PA32 8YA
ENVE-003-046	CAR/L/1010817	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Ardgaddan, Tarbet Road, Ardrishaig, PA30 8ET
ENVE-003-047	CAR/L/1000801	Kames Fish Farming Ltd	Marine Pen Fish Farm , Shuna Castle Bay, Argyll And Bute, PA31 8UB
ENVE-003-048	CAR/L/1015860	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Meall Mhor, Tarbet Road, Ardrishaig, PA30 8ET
ENVE-003-049	CAR/L/1009031	Scottish Sea Farms Ltd	Mpff Dunstaffnage, North Of Ganavan Hill Dunbeg, Argyll And Bute, PA37 1QG
ENVE-003-050	CAR/L/1003894/VAR03	Loch Duart Plc	Marine Pen Fish Farm, Eileen Ard, (Laxford Site 3), IV27 4ST
ENVE-003-051	CAR/L/1148485	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Portree Outer, Portree, IV51 9PN
ENVE-003-052	CAR/L/1010606	Scottish Sea Farms Ltd	Mpff Scallastle Bay, Sound Of Mull, Argyll, PA65 6BA
ENVE-003-053	CAR/L/1100544	Bakkafrost Scotland Ltd	West Strome Marine Pen Fish Farm, Midstrome, Lochcarron, IV54 8YH
ENVE-003-054	CAR/L/1015831	Scottish Sea Farms Ltd	Mpff Camas Doun Point, Site 2, Loch Kishorn, IV54 8XB
ENVE-003-055	CAR/L/1009162 C1/VAR04	Mowi Scotland Ltd	Loch Sunart, Liddesdale By Strontian, Inverness-Shire, PH36 4HX
ENVE-003-056	CAR/L/1004062/C1/VAR03	Scottish Sea Farms Ltd	Marine Pen Fish Farm, Allt A Chois, (Kishorn North Shore), IV54 8XA

ENVE-003-057	CAR/L/1004071	Scottish Sea Farms Ltd	Marine Pen Fish Farm, Earnsaig, Also Known As Nevis A, PH41 4PL
ENVE-003-058	CAR/L/1009962	Mowi Scotland Ltd	Mpff Callert (Leven), Loch Leven, North Ballachulish, Invernes-Shire, PH49 4HL
ENVE-003-059	CAR/L/1004072/VAR04	Scottish Sea Farms Ltd	Marine Pen Fish Farm, Stoull, (Nevis B), PH41 4PL
ENVE-003-060	CAR/L/1109280/VAR004	Kames Fish Farming Ltd	Mpff Rubh An Trilleachain (Shuna South West) , PA34 4UE
ENVE-003-061	CAR/L/1002326	Scottish Sea Farms Ltd	Marine Pen Fish Farm Fiunary, Sound Of Mull, Argyll,
ENVE-003-062	CAR/L/1010433 VAR03	Mowi Scotland Ltd	Loch Duich, By Letterfearn, Kyle Of Lochalsh, IV40 8HA
ENVE-003-063	CAR/L/1002353	Scottish Sea Farms Ltd	Marine Pen Fish Farm , Ardintigh (Loch Nevis C), Mallaig,
ENVE-003-064	CAR/L/1003492	Scottish Sea Farms Ltd	Marine Pen Fish Farm Creran B, Loch Creran, Argyll, PA38 4BA
ENVE-003-065	CAR/L/1040427/VAR004	Loch Duart Plc	Sound Of Harris, Groay-Lingay, HS5 3UE
ENVE-003-066	CAR/L/1009968 C1/VAR06	Mowi Scotland Ltd	Loch Linnhe, Gorsten,, By Fort William, Inverness-Shire, PH33 6SH
ENVE-003-067	CAR/L/1002890 VAR04	Mowi Scotland Ltd	Loch Greshornish, Edinbane, Isle Of Skye, IV51 9PU
ENVE-003-068	CAR/L/1025571 VAR03	Mowi Scotland Ltd	Cheesebay, Lochportain, Isle Of North Uist,
ENVE-003-069	CAR/L/1105276	Mowi Scotland Ltd	Mpff Creag An Sagairt West, Loch Hourn, By Arnisdale, IV40 8JB
ENVE-003-070	CAR/L/1000891	Bakkafrost Scotland Ltd	Marine Pen Fish Farm, Rubha Stillaig, Loch Fyne, PA21 2DA
ENVE-003-071	CAR/L/1010002	Mowi Scotland Ltd	Camas An Leim, Loch Torridon, By Shieldaig, Strathcarron, IV54 8XW
ENVE-003-072	CAR/L/1002350	Bakkafrost Scotland Ltd	Marine Pen Fish Farm, 8A Lisgarry Place , Loch Portree (Torvaig), IV51 9BD
ENVE-003-073	CAR/L/1002917	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Aird Ardheslaig, Kenmore By Shieldaig, Ross-Shire, IV54 8XH
ENVE-003-074	CAR/L/1003088	Bakkafrost Scotland Ltd	Marine Pen Fish Farm, Quarry Point, Crarae, PA32 8YA
ENVE-003-075	CAR/L/1004053 VAR05	Mowi Scotland Ltd	Meavaig, Isle Of Harris, HS3 3AU
ENVE-003-076	CAR/L/1002327 C1/VAR03	Mowi Scotland Ltd	Loch Alsh, By Kyle Of Lochalsh, Inverness-Shire, IV40 8DN
ENVE-003-077	CAR/L/1013016 VAR03	Mowi Scotland Ltd	Loch Seaforth, Isle Of Harris, HS3 3AG
ENVE-003-078	CAR/L/1009970 C1/VAR05	Mowi Scotland Ltd	Ardgour Marine Pen Fish Farm, Loch Linnhe, Fort William, PH33 7AA
ENVE-003-079	CAR/L/1001806 C1/VAR03	Mowi Scotland Ltd	Ardintoul Marine Pen Fish Farm, By Glenelg, IV40 8EG
ENVE-003-080	CAR/L/1004226 VAR02	Mowi Scotland Ltd	Bagh Dail Nan Ceann Marine Pen Fish Farm, Loch Shuna, Argyll And Bute, PA33 1BW
ENVE-003-081	CAR/L/1010432 C1/VAR06	Mowi Scotland Ltd	Cairidh Marine Pen Fish Farm, Loch Ainort, Isle Of Skye, IV49 9AN

ENVE-003-082	CAR/L/1003721	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Strondoir Bay, Tarbert Road, Ardrishaig, PA30 8ET
ENVE-003-083	CAR/L/1004153	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Kenmore Bay (Loch A Chracaich), Kenmore By Shildaig, Strathcarron, IV54 8XH
ENVE-003-084	CAR/L/SEPA2021-100	Scottish Sea Farms Ltd	Marine Pen Fish Farm Shuna Island, PA38
ENVE-003-085	CAR/L/1174430 VAR05	Mowi Scotland Ltd	Marine Pen Fish Farm Grey Horse Channel Outer, Cheesebay, Lochportain, Isle Of North Uist,
ENVE-003-086	CAR/L/1011922 VAR03	Mowi Scotland Ltd	Groatay, Cheesebay, Lochportain , Isle Of North Uist,
ENVE-003-087	CAR/L/1000800 VAR03	Mowi Scotland Ltd	Craobh Haven, , Sound Of Shuna,, Argyll, PA34 4SZ
ENVE-003-088	CAR/L/1000810 VAR03	Mowi Scotland Ltd	Port Na Cro Fish Farm, Craobh Haven, Sound Of Shuna, Argyll, PA34 4RB
ENVE-003-089	CAR/L/1002889 VAR03	Mowi Scotland Ltd	Portnalong Fish Farm, Loch Harport, Portnalong, Isle Of Skye, IV47 8SD
ENVE-003-090	CAR/L/1042067 C1/VAR04	Dawnfresh Farming Ltd	Sailean Ruadh, Taynuilt, Argyll, PA37 1RG
ENVE-003-091	CAR/L/1010474	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Glennan Bay, Millhouse, Tighnabruaich, PA21 2DA
ENVE-003-092	CAR/L/1010476	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Tarbert South, Tarbert Road, Ardrishaig, PA30 8ET
ENVE-003-093	CAR/L/1018068 VAR04	Dawnfresh Farming Ltd	Airds Bay , By Taynuilt, Argyll, PA37 1RG
ENVE-003-095	CAR/L/1191011	Organic Sea Harvest Ltd	Balmaqueen Fish Farm, Isle Of Skye, IV51 9HZ
ENVE-003-096	CAR/L/1189257	Organic Sea Harvest Ltd	Culnacnoc Salmon Farm By Staffin, Sound Of Raasay, Isle Of Skye, IV51 9JW
ENVE-003-097	CAR/L/1016553	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Plocropol, Cuddy Point, Scalpay, Isle Of Harris, HS4 3YD
ENVE-003-098	CAR/L/1003090	Bakkafrost Scotland Ltd	Marine Pen Fish Farm, Loch Fyne, Crarae, Furnace, Argyll, PA32 8YA
ENVE-003-099	CAR/L/1189305	Organic Sea Harvest Ltd	Eilean Flodigarry Fish Farm, Trotternish, Isle Of Skye, IV51 9XA
ENVE-003-100	CAR/L/1003718	Bakkafrost Scotland Ltd	Marine Pen Fish Farm, Strone, Toward, Dunoon, Argyll, PA23 7UJ
ENVE-003-101	CAR/L/1003879	Bakkafrost Scotland Ltd	Marine Pen Fish Farm, Loch Roag, Gravir Outer, Gravir Pierhead, South Lochs, Isle Of Lewis, HS2 9QX
ENVE-003-102	CAR/L/1188372	Organic Sea Harvest Ltd	Invertote Salmon Farm Farm By Staffin, Sound Of Raasay, Isle Of Skye, IV51 9JX
ENVE-003-103	CAR/L/SEPA2021-728	Loch Long Salmon Ltd	Beinn Reithe Marine Pen Fish Farm, Loch Long, Argyll, PA22 3AJ
ENVE-003-104	CAR/L/1005041	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Vacasay, Loch Roag, Isle Of Lewis, HS2 9DW
ENVE-003-105	CAR/L/1011812	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Vuia Mor South, Loch Roag, Isle Of Lewis, HS2 9HL

ENVE-003-106	CAR/L/1109859/VAR03	Kames Fish Farming Ltd	Mpff Loch Pooltiel, Milovaig, Glendale, Isle Of Skye, IV55 8WR
ENVE-003-107	CAR/L/1033617	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Eport Outer (Sgeir N Lolla), Isle Of North Uist, HS6 5EX
ENVE-003-108	CAR/L/1002991/VAR03	Loch Duart PLC	Marine Pen Fish Farm, At Leinish Bay, Loch Dunvegan, IV55 8ZT
ENVE-003-109	CAR/L/1000197/VAR03	Kames Fish Farming Ltd	Mpff Eilean Coltair, Loch Melfort, Kilmelford, PA34 4XD
ENVE-003-110	Car/L/1003268	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Ardyne (Baigh Au Sgairbh), Ardyne Point, Argyll And Bute, PA23 7UJ
ENVE-003-111	CAR/L/5004991	Bakkafrost Scotland Ltd	Marine Pen Fish Farm West Gigha, Ardlamey, Argyll And Bute, PA41 7AD
ENVE-003-112	CAR/L/1015850	Bakkafrost Scotland Ltd	Marine Pen Fish Farm St Molios , Lamash Bay, Isle Of Arran, KA27 8NL
ENVE-003-113	CAR/L/1108041	Bakkafrost Scotland Ltd	Mpff Sgian Dubh, Loch Striven, Argyll And Bute, PA22 3AX
ENVE-003-114	CAR/L/1004080	Bakkafrost Scotland Ltd	Marine Pen Fish Farm, North Harris, Scotasay, Cuddy Point, Scalpay, Isle Of Harris, HS4 3YD
ENVE-003-115	CAR/L/1003957	Cooke Aquaculture Scotland Ltd	Bay Of Cleat, South Marine Pen Fish Farm, Papa Sound, KW17 2DB
ENVE-003-116	CAR/L/1015868	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Tuath (Rubha Na Gall) , Loch Tuath, Argyll And Bute, PA73 6LZ
ENVE-003-117	CAR/L/1002966/VAR03	Loch Duart Plc	Marine Pen Fish Farm At South Ford, Holmar, Western Isles, HS8 5NY
ENVE-003-118	CAR/L/1003893/VAR03	Loch Duart PLC	Marine Pen Fish Farm, At Eilean A Mhadaidh (Laxford Site 2), Loch Laxford, IV27 4SS
ENVE-003-119	CAR/L/1002967/VAR03	Loch Duart Plc	Marine Pen Fish Farm At Sandavaig (South Ford) , Holmar, Western Isles, HS8 5NY
ENVE-003-120	CAR/L/1003953	Cooke Aquaculture Scotland Ltd	Bay Of Ham, Marine Pen Fish Farm, Rousay Sound, KW17 2PR
ENVE-003-121	Car/L/1003897/Var03	Loch Duart Plc	Marine Pen Fish Farm, Calbha Site 7, North Calba Bay, Eddrachillis Bay, Eddrachillis, IV27 4TH
ENVE-003-122	CAR/L/1185105	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Mill Bay, KW17 2AS
ENVE-003-123	CAR/L/1185723	Cooke Aquaculture Scotland Ltd	Bay Of Holland, Marine Pen Fish Farm, Bay Of Holland, KW17 2AN
ENVE-003-124	CAR/L/1003895/VAR03	Loch Duart PLC	Marine Pen Fish Farm, At Calbha Site 5 (Calbha Beag), Eddrachillis Bay, IV27 4TH
ENVE-003-125	CAR/L/1000808	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Geasgill, Ulva Ferry, Isle Of Mull, PA73 6LY
ENVE-003-126	CAR/L/1001791	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Kyles Vuia East, Miavaig Pier, Uig, Isle Of Lewis, HS2 9HW
ENVE-003-127	CAR/L/1003896/VAR03	Loch Duart Plc	Marine Pen Fish Farm At Calbha Site 6, (East Rubha Mhucard), Eddrachillis Bay, IV27 4TH

ENVE-003-128	CAR/L/1016128	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Ness Of Copister, Hamna Voe, Yell, ZE2 9BA
ENVE-003-129	CAR/L/1003866	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, North Sandwich, Bluemul Sound, ZE2 9DF
ENVE-003-130	CAR/L/1003961	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Pegal Bay, Scapa Flow, KW16 3NU
ENVE-003-131	CAR/L/1008751	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Point Of Burkwell (Site 5), Bluemull Sound, ZE2 9DL
ENVE-003-132	CAR/L/1003958	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Scarfhall Point, Papa Sound, KW17 2DN
ENVE-003-133	CAR/L/1016129	Cooke Aquaculture Scotland Ltd	Flaeshins , Marine Pen Fish Farm, Colgrave Sound, ZE2 9DJ
ENVE-003-134	CAR/L/1108748	Bakkafrost Scotland Ltd	Mpff Reibinish, East Loch , Tarbert, HS3 3DX
ENVE-003-135	CAR/L/1015768/VAR03	Loch Duart Plc	Marine Pen Fish Farm, Oldany, Eddrachillis Bay, Highland, IV27 4JF
ENVE-003-136	CAR/L/1108277/VAR03	Loch Duart Plc	Marine Pen Fish Farm, Corlarach, Loch Dunvegan, IV55 8WF
ENVE-003-137	CAR/L/1001808/VAR03	Loch Duart PLC	Marine Pen Fish Farm, At Badcall Site 11, (Eilean Riabhach), IV27 4TH
ENVE-003-138	CAR/L/1151722	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Skelwick Skerry, The North Sound, KW17 2DD
ENVE-003-139	CAR/L/1001812/VAR03	Loch Duart Plc	Marine Pen Fish Farm, At Badcall Site 10, (North Eilian Na Bearachd), IV27 4TH
ENVE-003-140	CAR/L/1132960	Loch Duart Plc	Marine Pen Fish Farm Ru Chorachan, Loch Snizort , Isle Of Skye, IV51 9XL
ENVE-003-141	CAR/L/1109999 VAR06	Mowi Scotland Ltd	Isle Of Muck, Mallaid, Inverness-Shire, PH41 2RP
ENVE-003-142	Car/L/1021927Var03	Mowi Scotland Ltd	Loch Craignish, Lochgilphead, Argyll, PA31 8SR
ENVE-003-143	CAR/L/1152492	Mowi Scotland Ltd	An Camas East, Scotland, HS8 5TP
ENVE-003-144	CAR/L/1152492	Mowi Scotland Ltd	An Camas, Western Isles, HS8 5UD
ENVE-003-145	CAR/L/1005091	Cooke Aquaculture Scotland Ltd	Vee Taing Marine Pen Fish Farm, Uyea Sound, ZE2 9DL
ENVE-003-146	CAR/L/1001826/VAR03	Loch Duart PLC	Marine Fish Farm At Drumbeg, (Loch Dhrombaig), IV27 4NL
ENVE-003-147	CAR/L/1004229	Cooke Aquaculture Scotland Ltd	West Fara Marine Pen Fish Farm, Scapa Flow, KW16 3PQ
ENVE-003-148	CAR/L/1109424	Bakkafrost Scotland Ltd	Mpff Scadabay, Loch Grosebay, Western Isles, HS3 3ED
ENVE-003-149	CAR/L/1001832/VAR03	Loch Duart PLC	Marine Pen Fish Farm,, Outer Bay, Loch Droighniche, IV27 4NJ
ENVE-003-150	CAR/L/1003886	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, South Head Of Mula (Site 3), Bluemull Sound, ZE2 9DW
ENVE-003-151	CAR/L/1166445	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Gravir West, Calbost, Western Isles, Scotland, HS2 9QR
ENVE-003-152	CAR/L/1008781	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, South Of Holm Of Heogland (Site 4), Bluemull Sound, ZE2 9DW

ENVE-003-153	CAR/L/1174722	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Vuia Mor North, Geshader, Western Isles, Scotland, HS2 9HL
ENVE-003-154	CAR/L/1181033	Bakkafrost Scotland Ltd	Marine Pen Fish Farm North Arran, Laggantuin, North Ayrshire, KA27 8JD
ENVE-003-155	CAR/L/1182245	Bakkafrost Scotland Ltd	Marine Pen Fish Farm North Raasay, Creag An EÀ²in, Highland, Scotland, IV40 8PF
ENVE-003-156	CAR/L/1002918/VAR03	Loch Duart PLC	Marine Pen Fish Farm, At Uig Bay, Loch Snizort, IV51 9AD
ENVE-003-157	CAR/L/1178003 VAR02	Mowi Scotland Ltd	Ardentinny, Argyll And Bute, PA23 8TP
ENVE-003-158	CAR/L/1010472VAR02	Mowi Scotland Ltd	Craobh Haven, Sound Of Shuna, Argyll And Bute, PA34 4SZ
ENVE-003-159	CAR/L/1003063	Cooke Aquaculture Scotland Ltd	Bay Of Vady, Marine Pen Fish Farm, Rousay Sound, KW17 2QD
ENVE-003-160	CAR/L/1112630	Bakkafrost Scotland Ltd	Mpff Greanamul, South Of Greanamul, Western Isles, HS7 5QH
ENVE-003-161	CAR/L/1005096	Cooke Aquaculture Scotland Ltd	Hogan (Site 1) Marine Pen Fish Farm, Gruting Voe, Shetland Islands, ZE2 9NL
ENVE-003-162	CAR/L/1003874	Cooke Aquaculture Scotland Ltd	Bow Of Hascosay, Marine Pen Fish Farm, Hascosay Sound, ZE2 9BU
ENVE-003-163	CAR/L/1099909VAR02	Mowi Scotland Ltd	Craobh Haven, Sound Of Shuna, Argyll And Bute, PA34 4SZ
ENVE-003-164	CAR/L/1003889 C1/VAR03	Mowi Scotland Ltd	Ardmair - (Isle Martin), Ullapool, Wester Ross, IV26 2TN
ENVE-003-165	CAR/L/1002887 VAR01	Mowi Scotland Ltd	Ardnish, Loch Ailort, Inverness-Shire, PA34 4SZ
ENVE-003-166	CAR/L/1004195	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Stead Of Aithness, Aith Voe, ZE2 9ND
ENVE-003-167	CAR/L/1003012 C1/VAR03	MOWI Scotland Ltd	Ardressie A - Little Loch Broom, By Ullapool, Wester Ross, IV23 2QZ
ENVE-003-168	CAR/L/1003867	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Turness, Skuda Sound, ZE2 9DL
ENVE-003-169	CAR/K/1003009 VAR03	Mowi Scotland Ltd	Ardressie B - Little Loch Broom, By Ullapool, Wester Ross, IV23 2QZ
ENVE-003-170	CAR/L/1082027	Bakkafrost Scotland Ltd	Mpff Eughlam North, Loch Roag, Western Isles, HS2 9LZ
ENVE-003-171	CAR/L/1136531	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm, Uyea Isle, Uyea Sound, ZE3 9JN
ENVE-003-172	CAR/L/1005095	Cooke Aquaculture Scotland Ltd	Burrastow , Marine Pen Fish Farm, Vaila Sound, ZE2 9PG
ENVE-003-173	CAR/L/1033775	Loch Duart Plc	Marine Pen Fish Farm At Gob Na Hoe, Borreraig Road, Borreraig, IV55 8ZY
ENVE-003-174	CAR/L/1004032	Cooke Aquaculture Scotland Ltd	Holm Marine Pen Fish Farm, Gruting Voe, Shetland, ZE2 9NP
ENVE-003-175	CAR/L/1008750	Cooke Aquaculture Scotland Ltd	Wick Of Belmont North Marine Pen Fish Farm, Bleumull Sound, ZE2 9DF
ENVE-003-176	CAR/L/1001968 VAR04	Mowi Scotland Ltd	Loch Skipport, South Uist, HS8 5NS
ENVE-003-177	CAR/L/1008947	Cooke Aquaculture Scotland Ltd	Wick Of Garth Marine Pen Fish Farm, Bluemull Sound, ZE2 9DF
ENVE-003-178	CAR/L/1000844	Scottish Sea Farms Ltd	Mpff - Bloody Bay, Sound Of Mull, PA75 6RG

ENVE-003-179	CAR/L/1185816	Cooke Aquaculture Scotland Ltd	Wick Of Gruting Marine Pen Fish Farm, Off Fetlar, ZE2 9DJ
ENVE-003-180	CAR/L/1178014 VAR02	Mowi Scotland Ltd	South Bute, Isle Of Bute, Argyll And Bute, PA20 9NH
ENVE-003-181	CAR/L/1003872	Cooke Aquaculture Scotland Ltd	Balta Island Marine Pen Fish Farm, Balta Sound, ZE2 9TW
ENVE-003-182	CAR/L/1004225	Cooke Aquaculture Scotland Ltd	Kirk Noust Marine Pen Fish Farm, Rousay Sound, Orkney Islands, KW17 2PU
ENVE-003-183	CAR/L/1096609 VAR03	Mowi Scotland Ltd	Gasaigh Island, Lochboisdale, Isle Of South Uist, HS8 5TW
ENVE-003-184	CAR/L/1004201	Cooke Aquaculture Scotland Ltd	Wick Of Vatsetter Marine Pen Fish Farm, Colgrave Sound, ZE2 9BU
ENVE-003-185	CAR/L/1000890/C1	Scottish Sea Farms Ltd	Mpff - Port Nan Ledaig (Lismore B), Loch Linne, PA34 5UQ
ENVE-003-186	CAR/L/1088166	Loch Duart Plc	Marine Pen Fish Farm At South Ford East (Gashernish East), Holmar, Western Isles, HS8 5NY
ENVE-003-187	CAR/L/SEPA2021-126	Mowi Scotland Ltd	Lochboisdale, Isle Of South Uist, Western Isles, HS8 5TW
ENVE-003-188	CAR/L/1025370	Cooke Aquaculture Scotland Ltd	Lee Of Burrafirth Marine Pen Fish Farm, Aith Voe, Shetland, ZE2 9NW
ENVE-003-189	CAR/L/1004196	Cooke Aquaculture Scotland Ltd	Basta Voe North Marine Pen Fish Farm, Basta Voe, ZE2 9DG
ENVE-003-190	CAR/L/1002914	Scottish Sea Farms Ltd	Mpff - Tanera 1, Summer Isles, IV26 2YN
ENVE-003-191	CAR/L/1002916	Scottish Sea Farms Ltd	Mpff - Eilean Fada Mor, Summer Isles, IV26 2YP
ENVE-003-192	CAR/L/1003109	Scottish Sea Farm Ltd	Marine Pen Fish Farm - Sian Bay, Loch Eriboll, IV27 4AD
ENVE-003-193	CAR/L/1009965 VAR03	Mowi Scotland Ltd	Marine Pen Fish Farm Loch Sunart, Laga Bay, Acharacle, PA80 5XF
ENVE-003-194	CAR/L/1120220	Mowi Scotland Ltd	Marine Pen Fish Farm Caolas A Deas East, Loch Shell, Eishken, HS2 9RG
ENVE-003-195	CAR/L/1120218 VAR02	Mowi Scotland Ltd	Marine Pen Fish Farm Caolas A Deas West, Loch Shell, Eishken, HS2 9RG
ENVE-003-196	CAR/L/1121785 VAR03	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Druimyeon Bay, Isle Of Gigha, PA41
ENVE-003-197	CAR/L/1110925 VAR02	Mowi Scotland Ltd	Marine Pen Fish Farm Rubha Garbh, Urugaig, Isle Of Colonsay, PA61
ENVE-003-198	CAR/L/1124848 VAR03	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Maragay Mor, Kallin, Western Isles, HS6 5HY
ENVE-003-199	CAR/L/1003960	Cooke Aquaculture Scotland Ltd	Lyrawa Bay Marine Pen Fish Farm, Scapa Flow, Orkney Islands, KW16 3NU
ENVE-003-200	CAR/L/1001809 C1/VAR04	Mowi Scotland Ltd	Marine Pen Fish Farm Little Loch Broom, Corry, Ullapool, IV23 2SF
ENVE-003-201	CAR/L/1178037 VAR02	Mowi Scotland Ltd	Marine Pen Fish Farm Cumbrae, Isle Of Cumbrae, KA28 0HQ
ENVE-003-202	CAR/L/1003110/C1	Scottish Sea Farms Ltd	Mpff - Kempie Bay, Loch Eriboll, IV27 4UL
ENVE-003-203	CAR/L/1003486/C2	Scottish Sea Farms Ltd	Mpff - Achnacroish (Walters Lismore East), Lynn Of Lorn, PA34 5UJ

ENVE-003-204	CAR/L/1003493	Scottish Sea Farms Ltd	Marine Pen Fish Farm - Fishnish A Fish Farm, Fishnish Bay, Sound Of Mull, PA80 5XU
ENVE-003-205	CAR/L/1009972	Mowi Scotland Ltd	Glencripesdale, Loch Sunart, Laga Bay,, Acharacle, PH36 4JN
ENVE-003-206	CAR/L/1003494	Scottish Sea Farms Ltd	Mpff- Fishnish B Fish Farm, Fishnish Bay, Sound Of Mull, PA65 6BA
ENVE-003-207	CAR/L/1095612	Mowi Scotland Ltd	Hellisay, Sound Of Hellisay, Ardveenish, Isle Of Barra, HS9 5YA
ENVE-003-208	CAR//1022266	Mowi Scotland Ltd	Inverawe, Loch Etive, By Taynuilt, Argyll & Bute, PA35 1HU
ENVE-003-209	CAR/L/1008759/C1	Scottish Sea Farms Ltd	Mpff - Charlottes Bay (Kerrara B), Firth Of Lorn, PA34 4PE
ENVE-003-210	CAR/L/1152362	Mowi Scotland Ltd	Isle Of Rum, By Mallaig, Inverness-Shire, PH43 4RR
ENVE-003-211	CAR/L/1008832	Scottish Sea Farms Ltd	Mpff - Port Na Moralachd (Lismore A), Loch Linne, PA34 5UN
ENVE-003-212	CAR/L/1015867/C1	Scottish Sea Farms Ltd	Mpff - Achintraid (Kishorn Site 1), Loch Kishorn, IV54 8XB
ENVE-003-213	CAR/L/1100533	Scottish Sea Farms Ltd	Mpff - Kishorn Outer (Kishorn West), Loch Kishorn, IV54 8XE
ENVE-003-214	CAR/L/1028518 VAR04	Mowi Scotland Ltd	Marulaig Bay, Loch Boisdale, Isle Of South Uist, HS8 5TP
ENVE-003-215	CAR/L/1178035	Mowi Scotland Ltd	Little Cumbrae, Isle Of Little Cumbrae, North Ayrshire, KA28 0DL
ENVE-003-216	CAR/L/1004208	Cooke Aquaculture Scotland Ltd	Basta Voe North West (Kirkabister) Marine Pen Fish Farm, Basta Voe, ZE2 9DF
ENVE-003-217	CAR/L/1129789 VAR03	Mowi Scotland Ltd	Loch Erisort - North Shore East, Loch Erisort - Keose, Isle Of Lewis, HS2 9NW
ENVE-003-218	CAR/L/1003877	Cooke Aquaculture Scotland Ltd	Basta Voe South Marine Pen Fish Farm, Basta Voe, ZE2 9DF
ENVE-003-219	CAR/L/1111048	Cooke Aquaculture Scotland Ltd	Bastaness Marine Pen Fish Farm, Hascosay Sound, ZE2 9DF
ENVE-003-221	CAR/L/1099410	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Eilean Raineach, East Loch Tarbert, Western Isles, HS3 3BP
ENVE-003-222	CAR/L/1002965	Mowi Scotland Ltd	Loch Sunart, By Kilchoan, Inverness-Shire, PH36 4LF
ENVE-003-223	CAR/L/1129793 VAR03	Mowi Scotland Ltd	Tabhaigh Fish Farm, Loch Erisort, Keose, Isle Of Lewis, HS2 9NN
ENVE-003-224	CAR/L/1004213	Cooke Aquaculture Scotland Ltd	Bay Of Cleat North Marine Pen Fish Farm, Papa Sound, KW17 2DB
ENVE-003-225	CAR/L/1102386	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Gometra, Loch Tuath, Argyll And Bute, PA73 6NA
ENVE-003-226	CAR/L/1010366/VAR03	Mowi Scotland Ltd	Port Na Mine (Etive 3), (Inverawe) By Taynuilt, Argyll And Bute, PA35 1HU
ENVE-003-227	CAR/L/1020918 VAR03	Mowi Scotland Ltd	Port Na Moine, Loch Craignish, By Lochgilphead, PA31 8QN
ENVE-003-228	CAR/L/1004078 VAR02	Mowi Scotland Ltd	Sgeir Bhuidhe - Loch Erisort, Keose, Isle Of Lewis, HS2 9NN
ENVE-003-229	CAR/L/1003899	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm - Carness Bay , The String, KW15 1UF

ENVE-003-230	CAR/L/1003062	Cooke Aquaculture Scotland Ltd	Marine Pen Fish Farm - Chalmers Hope , Scapa Flow, KW16 3NU
ENVE-003-231	CAR/L/1082725	Cooke Aquaculture Scotland Ltd	Cava South Marine Pen Fish Farm, Scapa Flow, KW17 2RD
ENVE-003-232	CAR/L/1103991	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Maaey, East Of Loch Uiskevagh, Western Isles, HS7 5QD
ENVE-003-233	CAR/L1004036	Cooke Aquaculture Scotland Ltd	Cloudin Marine Pen Fish Farm, Vailia Sound, ZE2 9PG
ENVE-003-234	CAR/L/1140563	Bakkafrost Scotland Ltd	Marine Pen Fish Farm Eughlam South, Loch Roag, Western Isles, HS2 9LT
ENVE-003-235	CAR/L/1003873	Cooke Aquaculture Scotland Ltd	Djuba Wick Marine Pen Fish Farm, Colgrave Sound, ZE2 9DJ
ENVE-003-236	CAR/L/1191746	Cooke Aquaculture Scotland Ltd	East Moclett Marine Pen Fish Farm, North Sound, KW17 2BU
ENVE-003-237	CAR/L/1001927	Cooke Aquaculture Scotland Ltd	Winna Ness Marine Pen Fish Farm, Uyea Sound, ZE2 9DL
ENVE-003-238	CAR/L/1161484	Bakkafrost Scotland Ltd	Marine Pen Fish Farm East Tarbert Bay, Sound Of Gigha, Buteshire, KA27 8HH
ENVE-003-239	CAR/L/1002919	Loch Duart Plc	Marine Pen Fish Farm At Reintraid, Highland, IV27 4HP
ENVE-003-240	CAR/L/1002919	Loch Duart Plc	Marine Pen Fish Farm At Caolas Loch Portain, Loch Maddy, Isle Of North Uist, HS6 5AT
ENVE-003-241	CAR/L/1002915	Scottish Sea Farms Ltd	Marine Pen Fish Farm - Tanera 2, Summer Isles, IV26 2YN
ENVE-003-242	CAR/L/1008806/C1	Scottish Sea Farms Ltd	Marine Pen Fish Farm - Dubh Sgeir (Lismore North), Loch Linnhe, PA34 5UL
ENVE-003-243	CAR/L/1008861	Scottish Sea Farms Ltd	Marine Pen Fish Farm - Spelve B (Dalnaha), Loch Spelve, PA65 6BD
ENVE-003-244	CAR/L/1188421	Scottish Sea Farms Ltd	Marine Pen Fish Farm - Horse Island, Inner Minch, IV26 2YG
ENVE-003-245	CAR/L/1157278	Scottish Sea Farms Ltd	Hunda North, East Ayre, , Orkney Islands, KW17 2SW,
ENVE-003-246	CAR/L/1157275	Scottish Sea Farms Ltd	St Margarets Hope (Lober Rock), Lowertown Road, Lowertown, KW17 2TL
ENVE-003-247	CAR/L/1143253	Scottish Sea Farms Ltd	Westerbister, Tongue Of Gangsta, KW17 2RZ
ENVE-003-248	CAR/L/1132115	Scottish Sea Farms Ltd	Wyre Gairsay, Hen Of Gairsay, Orkney Islands, KW17 2TY
ENVE-003-249	CAR/L/1003931	Scottish Sea Farms Ltd	Mpff Shapinsay, Veantrow Bay, Stronsay Firth, KW17 2DZ
ENVE-003-250	CAR/L/1003954	Scottish Fish Farms Ltd	Mpff - Puldrite Bay, Wide Firth, KW15 1DH
ENVE-003-251	CAR/L/1003956	Scottish Fish Farms Ltd	Mpff Eday Sound (Noust Geo), Eday Sound, KW17 2AA
ENVE-003-252	CAR/L/1015854	Scottish Sea Farms Ltd	Mpff - Bring Head Hoy, Scapa Flow, KW16 3XZ
ENVE-003-253	CAR/L/1015855	Scottish Sea Farms Ltd	Mpff Toy Ness, Scapa Flow, KW17 2RB

ENVE-003-256	CAR/L1131788 VAR02	Mowi Scotland Ltd	Shore Road, Carradale - North, Campbeltown, PA28 6RY
ENVE-003-257	CAR/LL/1078064 VAR02	Mowi Scotland Ltd	Shore Road, Carradal - South, Campbeltown, PA28 6RY
ENVE-003-258	CAR/L1000811 VAR02	Mowi Scotland Ltd	Craobh Haven, Soiund Of Shuna, Argyll And Bute, PA34 4TZ
ENVE-003-259	CAR/L1002920	Scottish Sea Farms Ltd	Mpff Spoose Holm (Oxna) , The Deeps , Shetland Islands, ZE2 9XU
ENVE-003-260	CAR/L1002983	Scottish Sea Farms Ltd	Mpff - North Of Papa, The Deeps, Shetland Islands, ZE2 9XW
ENVE-003-261	CAR/L/1002998	Scottish Sea Farms Ltd	Mpff- North Voe, Linga Sound, Shetland Islands, ZE2 9AD
ENVE-003-262	CAR/L/1003004	Scottish Sea Farms Ltd	Mpff - Cole Deep, Gon Firth, Shetland Islands,
ENVE-003-263	CAR/L1003056	Scottish Sea Farms Ltd	Mpff - Setter Voe, The Deep, Shetland Islands, ZE2
ENVE-003-264	CAR/L/1003059	Scottish Sea Farms Ltd	Mpff- West Of Burwick, Bur Wick , Shetland Islands, ZE2
ENVE-003-265	CAR/L/1003070	Scottish Sea Farms Ltd	Mpff- North Havra, The Deeps, Shetland Islands, ZE1
ENVE-003-266	CAR/L1003902	Scottish Sea Farms Ltd	Mpff - Lippie Geo (Site2), Clift Sound, Shetland Islands, ZE2
ENVE-003-267	CAR/L1003903	Scottish Sea Farms Ltd	Mpff - Mangaster Voe Inner, Mangaster Voe, Shetland Islands, ZE2
ENVE-003-268	CAR/L/1003907	Scottish Sea Farms Ltd	Mpff - Vidlin Outer, Vidlin Voe, Shetland Islands, 1167790
ENVE-003-269	CAR/L/1003928	Scottish Sea Farms Ltd	Mpff- Vidlin North, Vidlin Hoe , Shetland Islands, ZE2
ENVE-003-270	CAR/L/1003929	Scottish Sea Farms Ltd	Mpff - Swining Vow Site 3 (Collafirth Ness), Swining Voe, Shetland Islands, ZE2
ENVE-003-271	CAR/L/1003943	Scottish Sea Farms Ltd	Mpff - South Sound Mangaster Voe, Mangaster Voe, Shetland Islands, ZE2
ENVE-003-272	CAR/L/1004031	Scottish Sea Farms Ltd	Mpff - Bight Of Foraness, Swinnister Voe, Shetland Island, ZE2
ENVE-003-273	CAR/L/1004035	Scottish Sea Farms Ltd	Mpff - Taing Of Railsborough, Cat Firth, Shetland Islands,
ENVE-003-274	CAR/L/1004042	Scottish Sea Farms Ltd	Mpff - Olnafirth South (Site 1), Olnafirth, Shetland Islands,
ENVE-003-275	CAR/L/1004206	Scottish Sea Farms Ltd	Mpff Fore Holm,
ENVE-003-276	CAR/L/1004045	Scottish Sea Farms Ltd	Mpff - Snarraness Voe, Snarraness Voe, Shetland Island,
ENVE-003-277	CAR/L/1004210	Scottish Sea Farms Ltd	Mpff Holms Geo (Site 3), Scotland, ZE2
ENVE-003-278	CAR/L/1004055	Scottish Sea Farms Ltd	Mpff- Collafirth Delting Site 3, Colla Firth, Shetland Islands, ZE2
ENVE-003-279	CAR/L/1004217	Scottish Sea Farms Ltd	Mpff Easter Score Holm,
ENVE-003-280	CAR/L/1004988	Scottish Sea Farms Ltd	Mpff Slocka (Site C), Scotand,

ENVE-003-281	CAR/L/1005048	Scottish Sea Farms Ltd	Mpff Papa, East Head Of Scalloway, Hamnavoe, Shetland, ZE2 9JY,
ENVE-003-282	CAR/L/1005092	Scottish Sea Farms Ltd	Mpff Setterness South Fish Farm, Scotland,
ENVE-003-283	CAR/L/1010455	Scottish Sea Farms Ltd	Mpff East Of Langa, Hamnavoe, Shetland, ZE2 9JY
ENVE-003-284	CAR/L/1015763	Scottish Sea Farms Ltd	Mpff Linga (South Of Linga), Mossbank, Shetland, ZE2 9TQ,
ENVE-003-285	CAR/L/1015765	Scottish Sea Farms Ltd	Mpff Laxfirth Voe East (Site 2), Gott, Shetland, ZE2 9XT
ENVE-003-286	CAR/L/1016872	Scottish Sea Farms Ltd	Mpff Teisti Geo, Scotland,
ENVE-003-287	CAR/L/1018474	Scottish Sea Farms Ltd	Mpff South Voe Of Gletness, Scotland,
ENVE-003-288	CAR/L/1025503	Scottish Sea Farms Ltd	Mpff Hamar Sound, Hillswick, Shetland, ZE2 9RW
ENVE-003-289	CAR/L/1025504	Scottish Sea Farms Ltd	Mpff Geo Of Valladale (Urafirth), Hillswick, Shetland, ZE2 9RW
ENVE-003-290	CAR/L/1034670	Scottish Sea Farms Ltd	Mpff Bellister, Garths, Shetland, ZE2 9PR
ENVE-003-291	CAR/L/1078468	Scottish Sea Farms Ltd	Mpff Setterness North, Scotland, HU 4813 7227
ENVE-003-292	CAR/L/1168083	Scottish Sea Farms Ltd	Mpff - Dury Voe (Swarta Skerry), Dury Voe, Shetland Islands, ZE2
ENVE-003-293	CAR/L/1094695	Scottish Sea Farms Ltd	Mpff Hamnavoe, Lunnaness, Hamnavoe, Shetland, ZE2 9QF
ENVE-003-294	CAR/L/1108670	Scottish Sea Farms Ltd	Mpff East Of Papa Little, Scotland,
ENVE-003-295	CAR/L/5005080	Scottish Sea Farms Ltd	Mpff - Billy Baa, The Deeps, Shetland Islands,