

Case ID: IESS.21.021

Description: Consideration of the licencing and enforcement regimes in respect of the use of Acoustic Deterrent Devices in the marine environment

Background to ESS involvement – Acoustic Deterrent Devices (“ADDs”) have been used in the aquaculture industry to prevent seal attacks at fin fish farms, but these devices can also disturb European Protected Species (EPS) such as dolphins and porpoises. These species are protected under the Conservation (Natural Habitats, &c.) Regulations 1994 (“the Habitats Regulations”).

Under these regulations, an ADD which disturbs protected species can only be used if the operator has obtained an EPS licence. A March 2021 Scottish parliamentary report indicated a peak use of ADDs in 2019, when these were deployed at approximately 90% of fin fish farms in Scotland. However, to date, no EPS licenses have been granted for any of these farms.

In November 2021, Environmental Standards Scotland (ESS) received a representation regarding Marine Scotland’s duty to ensure that the aquaculture industry complies with the Habitats Regulations. The representation expressed concerns that fish farm operators had been using ADDs without a licence, and queried the sufficiency of Marine Scotland’s investigation and enforcement actions to stop such practices.

Outcome – ESS scrutinised Marine Scotland’s compliance processes and sought supporting information from them to assess their fitness, specifically whether they were sufficiently robust enough to protect EPS in line with the requirements of the Habitats Regulations.

ESS made recommendations for improvements to Marine Scotland’s compliance process, which were implemented by Marine Scotland. ESS also requested that Marine Scotland release public updates on the progress of their compliance works, to which they agreed. As a result of this, ESS considers that informal resolution has been achieved, as Marine Scotland have taken reasonable corrective actions in response to our comments and we have, at present, no ongoing concerns about Marine Scotland’s proposed approach to compliance.

Link to full report – [Marine Scotland Informal Resolution Report](#)