

**From:** [REDACTED]  
**Sent:** 01 July 2016 09:39  
**To:** [REDACTED]  
**Cc:** [REDACTED]

**Subject:** RAZOR FISHING: ELECTROFISHING CONSULTATION

PS/Cabinet Secretary

Copy as above

## RAZOR FISHING: ELECTROFISHING CONSULTATION

Please find here a 3 page routine submission with 3 annexes, about the above. Annex A is a draft consultation paper. This submission seeks the Cabinet Secretary's approval to issue a consultation about the possibility of seeking a derogation from the EU prohibition on electrofishing, to allow that method to be used to fish for Razor Clams.

Please do call if you have any questions.

### Submission



2016-07-01 Razor  
fishing - sub...

### Annex A



2016-07-01 Razor  
fishing - con...

### Annex B



2016-07-01 Razor  
fishing - let...

### Annex C

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From: [REDACTED]  
Sea Fisheries Policy Division  
1 July 2016

Cabinet Secretary for Rural Economy and Connectivity

**RAZOR CLAMS: ELECTROFISHING CONSULTATION**

**Purpose**

To invite the Cabinet Secretary to issue a consultation paper about whether to consider / seek changes to EU law to lift the prohibition on fishing with electricity for razor clams.

**Priority**

2. Routine.

**Consideration**

3. A background note about the Razor Clam fishery is at **Annex C**.

Electrofishing now

4. There has been considerable debate about the safety and sustainability of using electricity in fishing. There is only one legal fishery in EU waters, which is a beam trawl flat fish fishery in the Southern North Sea / Channel, prosecuted by the Netherlands. A recent study by Marine Scotland Science concluded however that electrofishing for Razor Clams is likely to be more environmentally benign than most of the alternative methods.

5. The EU legislation that prohibits electrofishing generally (the 1998 Technical Conservation regulation) is being replaced. A Commission proposal was published in March and will be considered in detail from September onwards. We therefore need to consider whether to seek a derogation from the general prohibition (which is likely to remain).

Economic potential

6. A regulated electro-fishery for Razor Clams involves potential for growth in the rural economy. Recorded landings of Razor Clams declined between 2013 and 2015, but this was probably a result of our activity to combat illegal activity. In 2013 landings value was just under £3 million. At this level, the Razor Clam fishery may not be nationally significant (total shellfish landings value in 2013 was £119 million) but a regulated fishery could provide a useful diversification opportunity in inshore fisheries, particularly on the west coast.

7. What we do not know now is what level of extraction would be possible within a regulated fishery. Stock assessments or a precautionary management regime would be necessary. Assessments need not however involve excessive cost to the Government. They could be biannual or triennial rather than annual; fishing vessels could do the surveys (instead of our survey vessel); and, we might look for an industry contribution (perhaps in kind). Overall costs could be less than £100,000 per annum. In addition to stock surveys, it would also be necessary to undertake statutory environmental assessments of impact prior to the commencement of a regulated fishery. These would be undertaken by Scottish Natural Heritage (SNH).

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(and we would wish to take such steps as are possible to encourage them to return to the fishery). [REDACTED]

14. Were the Government not to seek a derogation (or if it were to seek one and not achieve it) we would then need to consider how to deal with the illegal fishery. In these circumstances our advice would be to seek to close the whole fishery (i.e. making at least the landing of Razor Clams illegal) in light of the continuing widespread use of the illegal electricity method.

**Recommendation**

15. I recommend you:

- i. Authorise a consultation on these issues in terms of the document enclosed at **Annex A**;
- ii. If you are content, write to the relevant Parliamentary committees and opposition spokespersons in terms of the draft text at **Annex B**; or,
- iii. If you are not content to seek a derogation, we recommend that we seek to close the fishery entirely.

**Annexes**

- A Draft consultation document  
B Draft text of letter to Parliamentary committee and MSPs  
C Briefing note on Razor Clams

[REDACTED]  
Sea Fisheries Policy Division

[REDACTED]  
1 July 2016

Consultation, stake holder views and future communication

8. There has been extensive consultation on this issue, including at a stake holder workshop in March 2015. Fishing stake holders and certainly west coast representatives seem likely support seeking a derogation. National environmental organisations accept that the Government has provided credible evidence for considering change [REDACTED]  
[REDACTED]

9. There will be opposition in areas (Clyde, Orkney and the Solway Firth) where the fishery happens now. This is driven by concerns about local impact (e.g. generator noise close to shore) and about the impact on the marine environment (which we believe can be allayed).

10. Opposition will also motivated by concerns about the individuals apparently now involved in the illegal fishery. Marine Scotland shares these concerns. [REDACTED]  
[REDACTED]

It is of course in the nature of an illegal situation that equipment is improvised and operators are not motivated to comply with regulations, whether concerned with sea fisheries or marine or personal safety.

11. There has been regular interest from the local and national media on this issue, mostly from the illegal fishing angle. Indeed, we do not underestimate the potential for the development of an initiative in this area to create controversy. If we sought a derogation it will be necessary to communicate the Government's view clearly (emphasising scientific evidence) and to talk to those that have legitimate concerns. We will also wish to emphasise in communications that the Government is on the side of the legitimate, regulated industry, supporting legal business and local people and is against illegality and dangerous practices. We would wish to emphasise there would be no toleration of illegality. This would be particularly important in the areas where the fishery has been prominent: and we might seek to get this message across in local media and meetings. We will discuss ideas with communications colleagues, and will offer a news release if you are content to proceed.

Referendum on EU membership

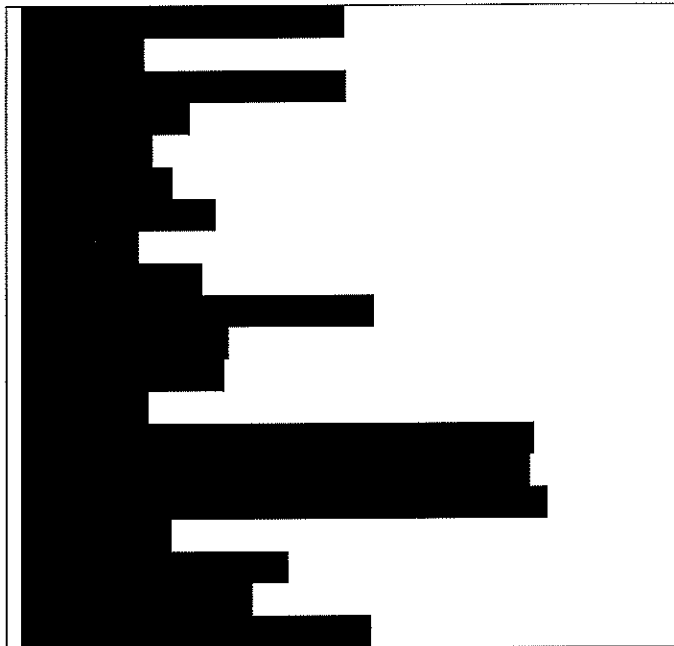
12. The outcome of the referendum on the UK's membership of the EU clearly has very significant implications for the consideration of this issue. If Scotland leaves the EU as part of the UK, then – under present UK constitutional arrangements – it would be for the Scottish Government to decide whether electrofishing should be permitted in Scottish waters. Alternatively, if the present situation develops such that in due course Scotland continues in membership of the EU then the Technical Conservation regulation now under consideration is likely to apply in Scottish waters. Whatever the constitutional framework, there is clearly a fisheries management issue to consider.

Conclusion

13. Electrofishing for Razor Clams has clearly presented difficult fisheries management problems, particularly in terms of enforcing the present law. On balance – while there are legitimate concerns about the individuals now involved in the illegal fishery – our conclusion is that the better approach now is to seek to establish a carefully regulated fishery. We hope that this approach will attract legitimate fishermen more likely to deliver economic benefits

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Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constituent Interest	General Awareness
Cabinet Secretary for Environment, Climate Change and Land Reform					x



## Consultation about electrofishing for razor clams in Scotland

### Purpose

1. The purpose of this document is to seek views about whether the Scottish Government should propose amendment of present legislation so as to permit electro-fishing to be a method by which razor clams may be caught in Scottish sea fisheries.
2. The consultation is only about whether the electro-fishing *method* should be permitted. It is not about how any such fishery might be managed, including for example in relation to any particular controls that might be applied or in terms of any catch limit(s) that may apply to any regulated fishery.

### Introduction

#### Razor clams

3. Razor clams (*Ensis* spp.) (also known as razor fish or, more colloquially, "spoots") are common molluscs found burrowed in sandy inter-tidal and sub-tidal areas throughout Europe. In Scottish waters there are two commercially important species: *Ensis arcuatus*, colloquially known as "bendies"; and the larger pod razor *Ensis siliqua*.

#### Electrofishing

4. Fishing with electricity ("Electrofishing") is illegal, under EU regulations made in 1998. There is a limited derogation from the prohibition that permits fishing with beam trawl using electrical pulse current in a specific area of the southern North Sea. The EU legislation that provides for the prohibition (the "Technical Conservation" regime) is now under review. A European Commission proposal for a new Technical Conservation regulation was made in March 2016. Amendment of that proposal, which is being considered by the European Parliament and the Council of Ministers, could remove the prohibition on electrofishing, either generally or in specified circumstances.

#### Fishing for razor clams

5. It is not illegal, in itself, to fish or dive for razor clams. Razor clams can be harvested by hand by divers or by different types of dredges, including suction dredges. It is considered likely however that almost all fishing for razor clams now undertaken in Scottish waters involves electrofishing. We understand that legal fishing methods do not normally provide economically viable levels of catch, and some may also damage the clams.
6. Razor fishing mostly takes place in sheltered inshore waters around the Scottish coast, with much of the alleged illegal activity occurring within the Firth of Clyde and Luce Bay.
7. Electrofishing involves probes being pulled slowly over the sea bed, or very close to it, from a fishing vessel. The electric field stuns the clams and causes them to suddenly emerge from their burrows. Divers follow the probes, collecting the clams.

#### Action to combat illegal razor clam fishing

8. Marine Scotland Compliance has taken a range of actions to combat illegal electrofishing. In recent years there have been a significant number of seizures of equipment connected to electrofishing and cases where Marine Scotland Compliance has

taken or is considering enforcement action against licensees and others. Marine Protection Vessels have also been involved in seeking to deter and detect illegal activity.

9. Enforcement of the electrofishing prohibition at sea is however very difficult, because it can require Fishery Officers and Marine Protection Vessels to catch vessels 'in the act'. Vessels can sometimes evade detection by quickly dumping probes and other paraphernalia overboard when Protection Vessels come into view. When a Marine Protection Vessel is present in particular areas, landings of Razor Clams fall significantly, but increase when the vessel departs for other tasks or to resupply.

### **Scientific study of electrofishing**

10. Alongside activity to deter and combat illegal fishing, the Government has also been considering whether electrofishing for razors can in fact be conducted safely and sustainably. The safety and sustainability of fishing with electricity have been in dispute for some time and not just within Scotland. To investigate this issue in relation to razor clams, Marine Scotland Science undertook and published, in October 2014, a report: "Electrofishing for Razor Clams: Effects on Survival and Recovery of Target and Non-target Species". The report can be viewed here:

<http://www.gov.scot/Publications/2014/10/8462>

11. The report concluded that electrofishing for razor clams does not have immediate or short-term lethal effects or prolonged behavioural effects on vertebrate or invertebrate species exposed to the electric field generated. The report also concluded that electrofishing is likely to be more environmentally benign than some other traditional methods, such as dredging and salting in the sub-tidal zone. The report did not however attempt to address the question of long-term sustainability of razor clam populations under various levels of commercial fishing activity. It recommends that there be quantitative assessments of stock size as part of any development of a fishery that is sustainable in relation to the size of the resource.

### **Options for policy development: discussion with interested parties**

12. In light of this emerging evidence, and in any case through internal consideration of policy, the Scottish Government has been contemplating whether it might be appropriate now to adopt a new approach to electrofishing, and whether, in particular, it might be appropriate to propose that the fishing method be permitted within a regulated and sustainable fishery.

13. The Government is very aware that there are likely to be different views on this issue, including from persons in favour of developing such a fishery and also from those living in close proximity to inshore fishing areas, who might be anxious about any potential negative effects on their marine and local environment. The Government is conscious of course that the views of interested persons may have been influenced, quite reasonably, by the fact that any electrofishing being prosecuted now is being undertaken illegally.

14. On 30 March 2015 Marine Scotland hosted a meeting in Glasgow to discuss the scientific report referred to above. The meeting was attended by interested parties, including national public bodies, environmental organisations and fishing industry interests.

15. Participants at the workshop discussed a number of issues, and a number of views were offered:

- There needs to be a parallel exercise to understand the current state of the razor stocks and what would be a sustainable extraction rate;
- It was recognised that electrofishing is very efficient in terms of harvesting but also in respect of saving fuel and reducing carbon footprint;
- There could be potential benefits for both traditional fishing communities and other areas where fishing activity has not traditionally been a first choice occupation;
- There are concerns about risks to divers working with electricity under water where they may come into contact with live electrodes: the Health and Safety Executive should provide advice on safe practice;
- Vessel safety and stability protocols would need to be considered;
- Regulation and compliance issues will need to be addressed, perhaps with stricter rules in place during an introductory stage;
- There is potential to supply lucrative export markets, but food safety protocols will need to be followed, for their own purposes of course, but also to protect the integrity and reputation of the Scottish brand; and,
- It would be necessary to ensure the security of Marine Protected Areas and the wider marine environment.

16. Full minutes of the workshop, a list of attendees and copies of the presentations given at the event can be found at:

<http://www.gov.scot/Topics/marine/Licensing/FVLS/razorlicence/razorworkshopminutes>

#### **Interim Government view and consultation question**

17. In light of the evidence now available, the Government is minded, subject to its consideration of any new evidence and of the views expressed in the consultation, to propose that the law be amended to allow for electrofishing to be a legal method for the catching of razor clams.

18. We underline that this interim view relates only to the permissibility of the method. The Government has taken no view about, and would require to consider, the management requirements for a safe and sustainable fishery. This would include ensuring compliance with protected area legislation, and other environmental requirements. It would also be necessary to consider the funding of any necessary preparatory scientific assessments and connected activities.

19. The Government invites views on the following consultation question:

**The Scottish Government welcomes your comments on whether it should propose amendments to legislation such that specified forms of electrofishing would in future be a permitted method for catching razor clams?**

20. Your views are sought by no later than 30 September 2016. Please send your response to [AccesstoSeaFisheries@gov.scot](mailto:AccesstoSeaFisheries@gov.scot) and title your email "Razor consultation".

## **Explanatory note about the consultation**

### **What are we consulting about?**

The purpose of this consultation is to seek the views of all interested parties and ask them to consider whether the Scottish Government should propose amendment of legislation to allow for a regulated razor clam fishery, prosecuted by the use of electricity in a pre-defined manner.

### **Why are the changes proposed?**

Based on our current understanding of the consequences of electrofishing we consider it is appropriate now to consider propose amendment of legislation, while also working to establish and understand the stock and environmental data required to develop a properly-managed fishery.

### **Who might be affected by these proposals?**

The inshore fish catching sector operating in Scotland, onshore processors and exporters and agencies involved in diving and vessel safety. In addition, persons living adjacent to sea areas where such fishing may be conducted or persons also undertaking other activities in such waters. Environmental organisations will have an interest.

### **How will the proposals be taken forward?**

The views provided in the consultation responses will be analysed and used as part of the decision making process. Final decisions on the issues under consideration will also take account of a range of factors, including any other available information and research evidence.

### **By when are comments requested?**

The Scottish Government generally allows 12 weeks for consultations. However, this consultation is concerned with a specific and limited issue about whether to permit fishing for razor clams utilising electricity at levels set by research. The written consultation also follows prior face-to-face consultation with interested parties. In view of the restricted subject matter, prior consultation and the potential requirement to be involved in a current EU legislative processes, we propose that the consultation period be two months, with responses requested by 30 September 2016.

### **What comments are requested?**

Consultation question: The Scottish Government welcomes your comments on whether it should propose amendments to EU legislation such that specified forms of electrofishing would in future be a permitted method for catching razor clams.

### **Distribution of consultation document**

This document has been placed on the Scottish Government website:

[insert address]

It has also been sent to the organisations overleaf:  
Scottish Parliament Environment, Climate Change & Land Reform Committee  
Scottish Parliament Rural Economy & Connectivity Committee

Richard Arkless MP  
Liam McArthur MSP  
Michael Russell MSP  
Finlay Carson MSP

Fisheries Management and Conservation Group  
Inshore Fisheries Management and Conservation Group  
Regional Inshore Fisheries Groups

Health and Safety Executive  
HM Revenue and Customs  
Scottish Natural Heritage  
South Ayrshire Council  
Dumfries and Galloway Council  
Seafish Industry Authority  
Scottish Environment Link

The consultation document has also been sent to a number of persons with whom Marine Scotland has corresponded in relation to this issue.

**Scottish Government**  
**July 2016**

Cabinet Secretary for the Rural Economy and Connectivity  
Fergus Ewing MSP

F/T: 0300 244 4000  
E: scottish.ministers@gov.scot



July 2016

## CONSULTATION ON ELECTRO-FISHING FOR RAZOR CLAMS

I enclose with this letter, for your information, a consultation document that the Scottish Government has today published on its website and has also sent to a number of persons and organisations with an interest in fishing and in particular fishing for Razor Clams.

The consultation document seeks views on whether the Government should propose amendments to legislation such that specified forms of electrofishing would in future be a permitted method for catching razor clams. There is at present a general prohibition (in EU law) on fishing with electricity, with one exception.

The Government is consulting on this issue now because the law that provides for the prohibition is being replaced and there is an opportunity to consider whether it should continue. The issue is also being considered because the Government has noted the conclusions of a scientific study into the effects of electro-fishing for Razor Clams. These issues and other connected issues are explained in the consultation paper.

A deadline for responses to the consultation has been set for 30 September 2016. This deadline has been selected because it is likely that detailed consideration of the relevant EU legislation will take place during the autumn, and the Government will wish to take a view on this matter in those negotiations. The Government is keen to hear views from all persons with an interest, and in particular from fishermen and people in coastal communities where such fisheries might be conducted.

I hope that it is helpful to receive a copy of this consultation paper. If you have any questions about it please do not hesitate to be in contact with my office or with the official responsible for policy on this matter ( [REDACTED] ).

Yours sincerely,

**FERGUS EWING**

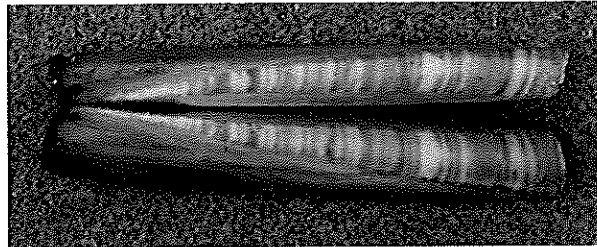
**Suggested recipients:**

Scottish Parliament Environment, Climate Change & Land Reform Committee  
Scottish Parliament Rural Economy & Connectivity Committee  
Richard Arkless MP  
Liam McArthur MSP  
Michael Russell MSP  
Finlay Carson MSP  
(also Liberal Democrat, Green and Labour shadow spokespersons)

## Fishing for Razor Clams: background and options for policy development: June 2016

### Razor clams

- Razor clams (*Ensis* spp.) (also known as razorfish or, more colloquially, "spoots") are common molluscs found burrowed in sandy intertidal and subtidal areas throughout Europe.



- In Scottish waters there are two commercially important species: *Ensis arcuatus*, colloquially known as bendies; and the larger and more valuable pod razor *Ensis siliqua*.

### Electrofishing

- Fishing with electricity ("Electrofishing") is illegal throughout the EU, under EU regulations made in 1998.
- There is a limited derogation from the prohibition that permits fishing with beam trawl using electrical pulse current in a specific area of the southern North Sea. The beam trawl method cannot be used to fish for razor clams.

### Fishing for razor clams

- It is not illegal, in itself, to fish or dive for razor clams. Razor clams can be harvested by hand by divers or by different types of dredges, including suction dredges. Recent intelligence suggests however that all or almost all fishing for razor clams involves electrofishing. Legal fishing methods do not provide economically-viable levels of catch, and can also damage the clams.
- Razor fishing mostly takes place in sheltered inshore waters around the Scottish coast, with much of the alleged illegal activity occurring within the Firth of Clyde and Luce Bay.
- Electrofishing involves probes being slowly dragged across the sea bed, from a fishing vessel. The electric pulse stuns the clams and causes them to suddenly emerge from their burrows. Divers follow the probes, collecting the clams.

### Recent regulatory and compliance action to combat illegal razor clam fishing

- In response to concerns about the effect that electrofishing may have on the marine environment and in any case to combat illegal fishing, the Government introduced legislation in 2013 (The Aquaculture and Fisheries (Scotland) Act 2013) to provide Fishery Officers with new powers to seize objects suspected to be used for commercial sea fishing, including generators, cables and probes potentially being used for electrofishing. There have been 57 seizures connected to electrofishing since the new powers came into effect (out of a total of 63 across all sea fisheries). In addition, there have been/are a total of 36 cases where Marine Scotland Compliance has taken or is considering enforcement action against licensees and others.

- In August 2014 new licensing arrangements were also introduced that required vessels to apply for a specific additional permit to fish for razor clams. Permits are granted subject to a physical inspection of the vessel to seek to ensure that the boat is not equipped for electrofishing. The application process also allows for a cross-check with Health and Safety Executive records, to ensure that divers named on the permit application are appropriately qualified.
- Enforcement of the electrofishing prohibition at sea is very difficult, because it requires Fishery Officers and Marine Protection Vessels to catch vessels 'in the act'. Vessels can generally evade detection by quickly dumping probes and other paraphernalia overboard when Protection Vessels come into view. In the last year Marine Protection Vessel (MPV) *Minna* has expended approximately 60 per cent of her time, roughly 190 days, on this task. When the *Minna* is present in particular areas, landings of Razor Clams fall significantly, but resume when the vessel departs for other tasks or to resupply.
- The new regulatory controls have had some effect. Landings of razor clams have fallen from 859 tonnes in 2013 to 321 tonnes in 2015.
- Razor clam fishing and the persons/businesses presently involved have also attracted the attention of other regulatory bodies and the police. Apart from the HSE, we are aware that HMRC has had concerns around possible money laundering, and Environmental Health Officers have been concerned about fishing taking place in unsuitable waters.

#### Scientific study of electrofishing

- Alongside activity to deter and combat illegal fishing, the Government has also been considering whether electrofishing for razors can be conducted safely and sustainably.
- Marine Scotland Science published a report in October 2014, based on field and laboratory work, that suggested that electrofishing appears to be a relatively benign way of harvesting razor clams when compared with other methods, such as dredging. The study looked only at the short and not long-term effects of the method, and did not assess stocks nor consider appropriate harvesting levels.

#### Consultation with stake holders

- Marine Scotland hosted a consultative workshop (30 March 2015) with public bodies, environmental NGOs and fishermen to discuss the Marine Scotland Science report and to consider whether the Government should seek a further limited derogation from the EU prohibition to allow for a regulated electric razor clam fishery. There was support for a public consultation on the issue.
- Consultation with fishing representatives on this issue has been complicated by the illegal status of the fishery. Individuals have come forward claiming to represent fishermen deploying legal catching methods, but some of those same people were then subject to enforcement action. On balance, we expect that there would be industry support for a regulated fishery.
- Environmental NGOs have been receptive to the work undertaken by Government scientists, but on the whole remain cautious about the possibility of regulated electrofishing.

[REDACTED]

[REDACTED]

Options for policy development

- Officials propose to offer the Cabinet Secretary fuller advice about the options for policy development. It is necessary to come to a view because of the March 2016 publication of a Commission proposal for a new EU-wide regulation on technical conservation in sea fisheries. The Commission proposal continues the present prohibition on electrofishing.
- At present, it appears that there are three broad policy options:
  1. Continue as now, with significant Compliance resources deployed to limit illegal activity;
  2. Prohibit all fishing for razor clams, even with presently-legal methods; or,
  3. Seek EU agreement to an extension to the present derogations for electro-fishing, allowing for regulated electric razor fishing.
- It is important to note that consideration of policy connected to the possibility of a regulated electric razor clam fishery has been limited to date to the question of whether the method might be permitted. No consideration has been given and no assessment made of the requirements and potential costs in relation to stock assessment and any limitation to harvesting that might be required, whether in terms of limiting fishing effort and/or catches.
- It would also be necessary to undertake at least one and probably a number of assessments under the Habitats and Birds Directives before it might be possible to license a regulated fishery.

Sea Fisheries Policy Division  
June 2016

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 29 November 2016 15:48  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Luce Bay update  
**Attachments:** Briefing note, Luce Bay razor clam fishing, 29 November 2016.docx

[REDACTED]

Further to your email below, please find attached a briefing note on razor clam fishing in Luce Bay. Apologies for the slight delay.

Please let me know if you need any further information.

Many thanks

[REDACTED]

Access to Sea Fisheries  
Marine Scotland  
Area 1B South,  
Victoria Quay,  
EH6 6QQ

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Tuesday, 22 November 2016 08:35  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: Luce Bay update

[REDACTED]

As per exchange below, grateful if you could provide a briefing note for me to send to [REDACTED] (say, by end of this week) on electrofishing and sustainability of Luce Bay, with input as necessary from [REDACTED]

Many thanks.

[REDACTED]

**marinescotland**  
Scottish Government | Area 1B-South | Victoria Quay | Edinburgh EH6 6QQ

[REDACTED]

email: [REDACTED]  
w: <http://www.gov.scot/marinescotland>

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**From:** [REDACTED]  
**Sent:** 22 November 2016 08:31  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Luce Bay update

Dear [REDACTED]

Happy to provide an update and, if [REDACTED] wishes, to meet. I suggest we send through the update and then if [REDACTED] wishes to meet to discuss we can fix something up.

[REDACTED]  
[REDACTED]  
**marine scotland**

Scottish Government | Area 1B-South | Victoria Quay | Edinburgh EH6 6QQ

Tel: [REDACTED]  
Mob: [REDACTED]

email: [REDACTED]  
w: <http://www.gov.scot/marinescotland>

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**From:** [REDACTED]  
**Sent:** 21 November 2016 16:44  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Luce Bay update

Dear [REDACTED]

I am writing on behalf of [REDACTED] regarding electrofishing in Luce Bay.

I would be grateful if you could provide us with an update regarding the sustainability of Luce Bay and electrofishing in this area, which has been a matter of concern for many of [REDACTED]

[REDACTED] is happy to meet with you in Parliament or communicate by email to discuss this matter further. Please let me know which method would suit you best.

Many thanks for your assistance in this matter.

I look forward to hearing from you.

Best wishes,

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## Electrofishing for razor clams (*Ensis* sp.), Luce Bay

1. It is legal to fish for razor clams. They can be harvested by hand, by divers or by different types of dredges. However, recent intelligence suggests that all or almost all fishing for razor clams in Scotland involves "electrofishing", an illegal method under EU regulations (the 1998 Technical Conservation regulation).
2. As part of efforts to combat electrofishing, the Scottish Government introduced new powers (Sept. 2013) that allow Fishery Officers to seize objects *potentially* being used for electrofishing e.g. generators. In addition, new, licensing arrangements (introduced Aug. 2014) require operators to apply for a specific permit to fish for razor clams by legal means.
3. Alongside activity to deter and combat illegal activity, the Government has also been considering whether electrofishing can be conducted safely and sustainably. A [2014 study](#) by Marine Scotland Science suggested electrofishing appears to be a relatively benign way of harvesting razor clams compared to other methods e.g. dredging. The study considered the short-term effects on target and non-target species. Further study on longer-term impacts will be required.

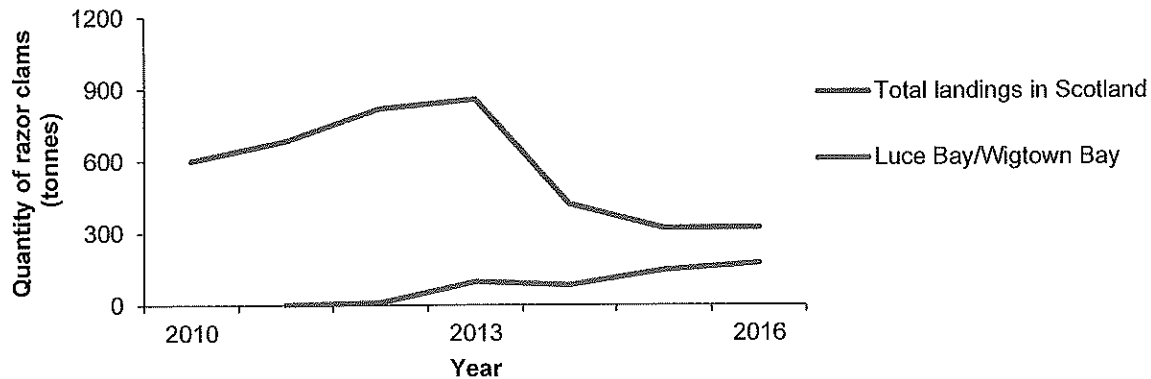
### Electrofishing consultation (16 August 2016 – 30 September 2016)

4. In light of the scientific evidence (para 3) and a European Commission proposal to introduce new Technical Conservation legislation the Government issued a consultation seeking views on *whether electrofishing should in future be a permitted method for catching razor clams?* 104 responses were received (available to view through [this link](#)).
5. Significant opposition came from individuals living in areas where illegal electrofishing is carried out, and 11% of responses cited problems in Luce Bay in particular. These respondents were particularly concerned with: the sustainability of razor clam beds; the impact of electrofishing on the ecosystem; and, how electrofishing would be controlled if it were legalised given the problems enforcing the current law. The Scottish Government is very aware of these issues and recognises that any legalisation of electrofishing would need to be tempered with measures to promote a sustainable and safe fishery. Whilst the 2014 study (para 3) concluded that the gear used in electrofishing has almost no impact on the seabed in comparison to conventional dredge fisheries, it also highlighted the need urgent razor clam stock assessments and further research.
6. There was also strong support for legalising electrofishing, mainly on the grounds that it is a highly selective method of capture producing high quality product with little damage or waste and no by-catch. These responses also tended to acknowledge that a legalised electro-fishery would need to be well regulated to ensure it is sustainable and safe. Many highlighted the social and economic benefits it could deliver to fragile communities if legitimate fishermen were encouraged back into the fishery.

## Luce Bay

### Razor Clams

7. Driven by lucrative overseas markets, the quantity of razor clams landed in Scotland peaked in the early 2010s (see graph below). Recorded landings have declined since new regulatory controls (para 3) came into force, however landings from Luce Bay increased over the same period.



8. Enforcement of the electrofishing ban is very difficult because vessels need to be caught 'in the act'. Vessels can generally evade detection by dumping probes and other electrofishing paraphernalia overboard when Marine Protection Vessels (MPV) come into view. Luce Bay does appear to have been a haven for illegal harvesters: in addition to good fishing grounds and Class A classified waters, it has only one point of access which can be watched. We understand the harvesters have established a network that monitor the movements of MPVs. Indeed, when an MPV is present landings of razor clams decrease significantly, but almost immediately increase once the vessel departs to another task or needs to resupply.
9. Enforcement activity in Luce Bay has resulted in: circa 12 cases being submitted to Marine Scotland Compliance Enforcement Branch with a high percentage of these resulting in enforcement action by way of Fixed Penalty Notices (FPNs); over 20 sets of electric rig e.g. cables, probes and generators being seized or recovered from the sea bed; one unlicensed vessel being seized and the suspension of 12 local vessels' permits, pending investigation or payment of FPNs.

### Special Area of Conservation (SAC)

10. Luce Bay is designated as a SAC under the EU Habitats Directive. Statutory measures were put in place on 8 February 2016 under the "Inshore Fishing (Prohibited Methods of Fishing) (Luce Bay) Order 2015 to protect the site's the features from being damaged by mobile gear fishing. The Order allows scallop dredging on a restricted basis from 1 November to the end of February.
11. The Luce Bay SAC consultation document made it clear that any possible future introduction of a legal electro-fishery in Luce Bay would be subject to the application of marine protected area legislation.

### **Fishing Industry Science Alliance project : razor clam stocks research**

12. The Scottish Government regularly provides research funding between the Scottish catching sector and fisheries scientists. A joint application from the Scottish Association for Marine Science, the Outer Hebrides Inshore Fishery Group (IFG) and the North-west IFG, attracted funding from the Fishing Industry Science Alliance (FISA) project in 2015. The study is testing whether a combination of electrofishing and video-monitoring can be used to assess the stocks of razor clam beds to provide a tool for monitoring harvesting impacts on the stocks without creating serious impacts on the habitat or the razor clams. The project is currently at an advanced stage.

## **Conclusion**

13. The illegal electro-fishery for razor clams in Scotland presents difficult management problems, particularly in terms of enforcing the present law. The Scottish Government is very aware of the concerns of residents living in close proximity to where the fishery happens now, including Luce Bay. Deterring and combatting illegal electrofishing remains an operational priority for Marine Scotland, and we work as part of a multi-agency approach, including with local authorities, Police Scotland and Food Standards Scotland to share knowledge, expertise and intelligence.
14. Marine Scotland also recognises that electrofishing for razor clams offers a significantly less destructive alternative (in terms of impact on the physical environment) to conventional dredge harvesting. We have therefore been proactive in undertaking and supporting research that aids our understanding of electrofishing and the viability and sustainability of the razor clam fishery.
15. In recognising that this is a matter that has provoked strong opinions, the Scottish Government ran a consultation on whether electrofishing should in future be a permitted method for catching razor clams. The Scottish Government hopes to publish a response to the consultation in early 2017.

**From:** [REDACTED]  
**Sent:** 23 February 2017 14:18  
**To:** [REDACTED]  
**Cc:** [REDACTED]

**Subject:** Routine Submission - electrofishing for razor clams - consultation response - 23 February 2017

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Cabinet Secretary for the Rural Economy and Connectivity

Copy: As above

Following the Scottish Government's recent consultation, please find attached a submission regarding electrofishing for razor clams. Apologies for the length of the submission, this is because Annex A (consultation analysis) and Annex B (SG response to the consultation) are included.



2017-02-23  
Submission - elec...

If you require any further information please let me know.

[REDACTED]  
Access to Sea Fisheries  
[REDACTED]

Cabinet Secretary for the Rural Economy and Connectivity

## **Electrofishing for razor clams : consultation response**

### **Purpose**

1. To provide advice, following public consultation, about whether the Scottish Government should take steps to develop a regulated electro-fishery for razor clams.

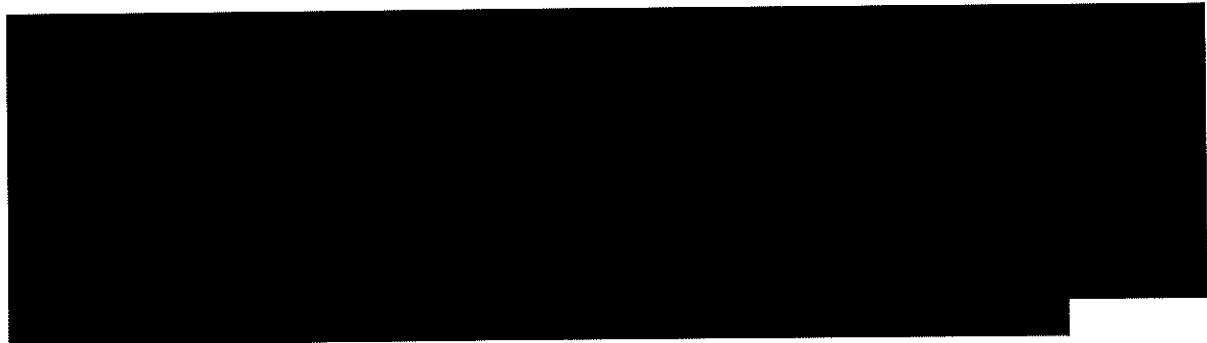
### **Priority**

2. Routine.

### **Summary**

3. The prevalence of harvesting razor clams in Scotland by 'electrofishing', an illegal method under EU regulations, presents difficult fisheries control problems and we consider that a new approach to electrofishing is required. In light of scientific evidence which suggests that electrofishing is more environmentally benign than some other traditional methods (e.g. dredging), we recently consulted on whether electrofishing for razor clams should be made legal. As expected, the consultation generated mixed responses but no unexpected issues were raised. We remain of the view that electrofishing offers a potentially viable, low impact method for the commercial razor clam fishery in Scotland.

4. Razor clams are a non-TAC species, there is no current information on the size or distribution of stocks and it is not possible to speculate whether current harvesting constitutes a sustainable activity. In order to ensure that a razor clam electro-fishery can work profitably while at the same time ensuring that the razor clam grounds can be managed so that they are not fished beyond their natural capabilities, we recommend that we initially seek to develop a controlled trial fishery.



### **Background**

6. Razor clams (*Ensis spp.*) can currently only be legally harvested by hand, by divers or by different types of dredges.

7. However, consistent intelligence suggests that almost all fishing for razor clams in Scotland involves electrofishing. Electrofishing has become the preferred method of commercial harvesting because it is highly efficient and produces fewer damaged clams. But, except for one unrelated derogation, it remains banned across the EU.

8. Alongside activity to deter and combat illegal activity, Marine Scotland (MS) has also been considering whether electrofishing can be conducted safely and sustainably. In 2014, MS Science completed a study examining the short term effects of commercial electro-fishing gear on razor clams and associated non-target species. The study concluded that:

- i. there was limited short term impact on target and non-target species;
- ii. the gear produced almost no impact on the physical environment, unlike legal dredge methods;
- iii. the method of capture is highly selective, producing high quality product with little damage or waste and zero bycatch;
- iv. further research on longer-term impacts of the gear is required; and,
- v. surveys are required to assess size and magnitude of razor clam populations.

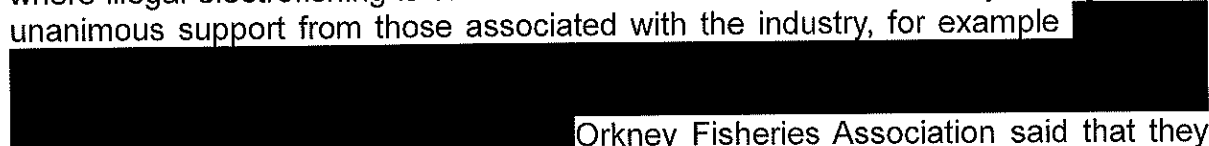
9. In March 2016, the European Commission published its proposal for a new technical conservation regime to replace the 1998 Regulations that currently prohibit electrofishing. In contributing to the development of the new regime the UK has sought a derogation that permits electrofishing in limited circumstances i.e. for the development of innovative gears. Should the finalised new regime provide for such a derogation, it affords flexibility whilst Scotland is in the EU and bound by the CFP.

#### Public consultation (16 August – 30 September 2016)

10. In light of the above the Scottish Government issued a consultation **seeking views on whether electrofishing should in future be a permitted method for catching razor clams?**

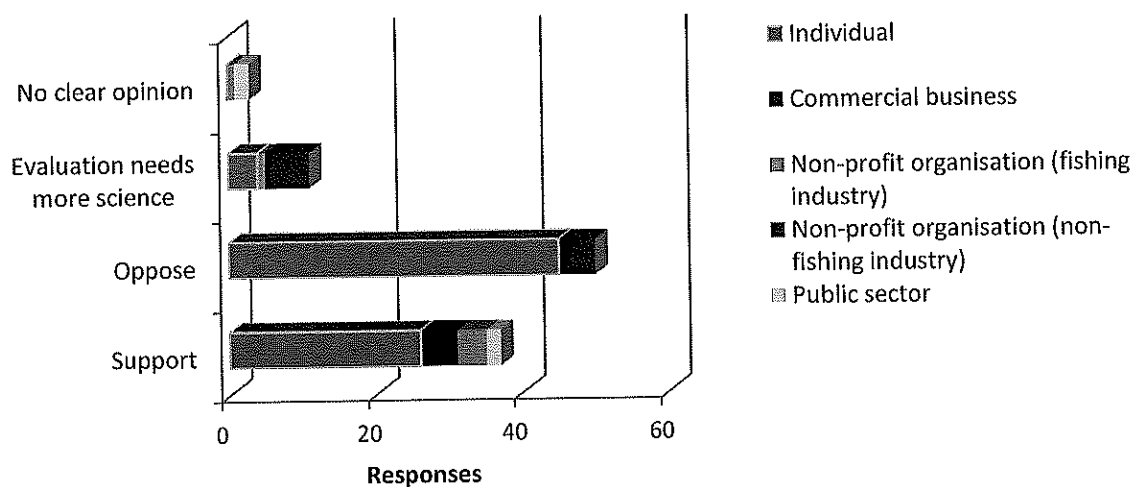
11. There were just over 100 responses to the consultation. There were a mix of views both for and against the legalisation of electrofishing (see Figure 1 below).

12. In general, there was significant opposition from individuals living in areas where illegal electrofishing is carried out now. This was countered by strong but not unanimous support from those associated with the industry, for example

 Orkney Fisheries Association said that they "do not believe that the research has gone far enough to ensure that electro-fishing for razor clams is safe."

13. Environmental NGOs and interested public bodies tended to accept that the Government had provided credible evidence for considering change, but encouraged a cautious approach with more evidence gathering. The response from Scottish Environment LINK included "Small-scale pilot studies on electrofishing as a commercial fishery must be performed, within a management and regulatory framework, with regular monitoring of target and non-target species populations".

**Figure 1. Responses by group: Should electrofishing be a permitted method of catching razor clams?**



14. Respondents not supportive of permitting electrofishing said that they were particularly concerned about: overfishing and the sustainability of razor clam beds; the impact of electrofishing on the entire ecosystem; and, how electrofishing would be controlled if it were legalised given the operational challenges of enforcing the current Regulations. There were no surprise issues raised in the consultation. MS would regard many of the main concerns raised as basic questions to be addressed in the process of developing a safe and sustainable fishery.

15. The strongest arguments for legalising electrofishing are based on the grounds that it is a highly selective method of capture producing high quality product with little impact on the sea bed or non-target species. These responses also tended to acknowledge that a legalised electro-fishery would need to be well regulated to ensure it is sustainable and safe. Many highlighted the social and economic benefits (para 31) it could deliver to fragile communities if legitimate fishermen were encouraged back into the fishery (further consultation analysis is provided in Annex A).

#### Electrofishing for razor clams in Scotland: the current situation

16. The illegal electro-fishery for razor clams in Scotland presents difficult control problems. Enforcement of the electrofishing ban is very difficult because vessels need to be caught 'in the act'. Vessels can often evade detection by dumping the ground-gear electrodes and other electrofishing paraphernalia overboard when Marine Protection Vessels (MPV) come into view.

17. Since August 2014 Scottish vessels have been required to apply for an additional permit to harvest razor clams. Permits are granted to applicants only after a physical inspection of the vessel has confirmed that it is not equipped for electrofishing. 67 such permits have been issued but only around 29 of these have been utilised in 2016. However, intelligence suggests that after inspection and the granting of a permit, almost all vessels revert back to electrofishing. Driven by a lucrative export market, boat operators are willing to accept the risk of being caught, despite increased financial penalties. All the permits that have been issued are due to expire on 31 March 2017.

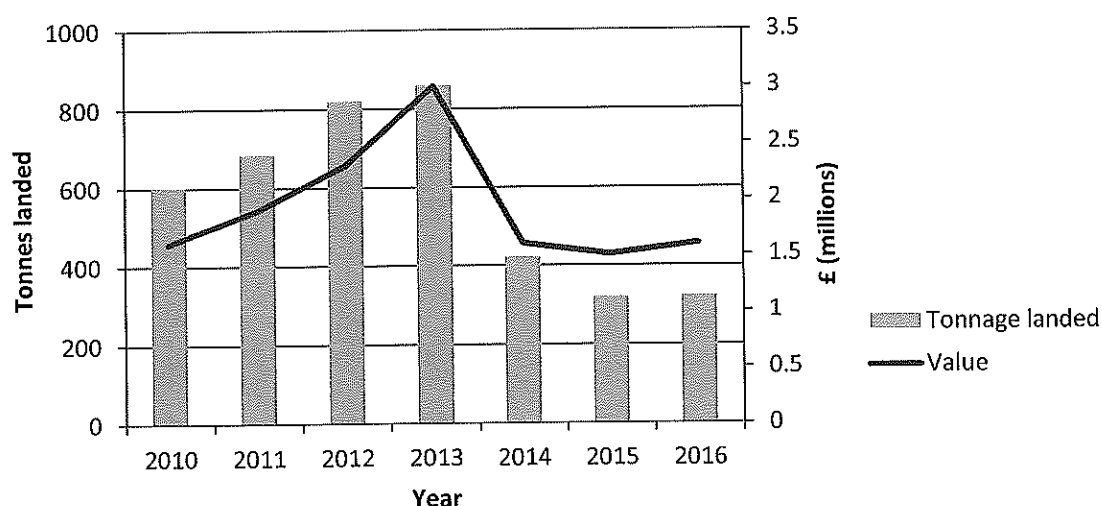
18. Given the widespread and continuing use of illegal electrofishing, significant resources are allocated by MS Compliance to limit illegal activity. In 2016 this equated to around £1.8 million, including approximately 60% of MPV *Minna's* time spent at sea.

19. [REDACTED]

20. In recent years the recorded value of razor clams landed in Scotland averaged £1.6 million per annum (Fig. 2), however it is possible that the actual value of the current fishery is substantially higher than that (para 31). If current levels of harvesting are found to be sustainable, the potential value of a future razor clam electro-fishery provides an opportunity for economic growth in the rural economy.

21. Public concern about the razor clam fishery, and hence political interest, has intensified with the marked increase in landings throughout the early 2010s (see Figure 2 below) and harvesting at protected/sensitive sites. A notable observation from the MS Science research was that there was little opportunity for marketable razor clams to escape capture once the track of a pair of electrodes passes them. This in combination with a relatively slow growth rate and late maturity, makes them potentially vulnerable to overexploitation and could result in the eradication of local populations relatively quickly. Razor clams are a non-TAC species, hence boats that are permitted to harvest them are not currently restricted by catch limits.

**Figure 2. Quantity and value of recorded razor clam landings in Scotland.**



## **Policy options**

22. We consider there are 3 policy options to address the current issues surrounding electrofishing:

### **OPTION 1:**

23. Seek to **close the entire razor clam fishery**, including currently legal methods of harvesting, thereby rejecting the electrofishing method. This could be achieved by imposing, by Order, a fishing prohibition on all boats (Scottish and non-Scottish) that banned commercial levels of razor harvesting. MS Compliance would therefore be able to seek prosecution merely for the carrying of commercial levels of razor clams, and would not have to prove that electrofishing had taken place.

### **OPTION 2:**

24. Under current EU regulations there is a derogation for fishing operations carried out for scientific investigation. The derogation provides an opportunity to **develop a trial razor clam electro-fishery**, in which a limited number of fishing vessels (determined by the area of the trial) could be authorised to undertake scientific research (but on a commercial basis) for a limited period of time.

25. The purpose of the trial would be to investigate the potential of the fishery (e.g. ascertain the size and production potential of the local razor clam populations to ensure the fishery could be operated sustainably with appropriate harvest rates) and further our knowledge of the electrofishing method. It would be necessary to inform, but not seek permission from, the European Commission.

26. Boats approved to participate in the trial could electro-fish, under specified conditions (e.g. constraints to ensure gear used did not move outside the parameters studied by MS Science), during which any catch taken could be sold. Catch reporting by industry would provide real time information on catch rates and population structure. If the trial was successful it could potentially be rolled-out in further areas, under a controlled expansion.

27. The permits that authorise a number of Scottish boats to harvest razor clams (para 17) are due to expire on 31 March 2017. As part of the trial the permits will not be re-issued and no Scottish boats will be authorised to fish for razor clams (by any method) from 1 April 2017. The Government would, through the implementation of licence conditions (para 45) or subordinate legislation (para 23), also close the razor clam fishery to non-Scottish boats not participating in the trial. As a result, the current complexities of enforcing the prohibition would be removed because it would be an offence to simply be in possession of razor clams. A trial electro-fishery would therefore strengthen the hand of MS Compliance enforcement officers against illegal harvesting and deterring illegal electrofishing.

### **OPTION 3:**

28. **Take no action at the present time** and instead wait for legalisation to be delivered through new EU regulation or after the UK exit from the EU, whichever occurs first. In the meantime we would re-issue the current permits which authorise boats to harvest razor clams, and we would anticipate the present illegal activity would continue at similar levels and in the same places as now.

[REDACTED]

### Consideration

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

35.

[REDACTED]

[REDACTED]

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## Conclusions

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



## **Recommendations**

57. We recommend that you agree to seek to develop a limited trial razor clam electro-fishery, as set out in paragraphs 24, 25, 26 & 27.

58. We recommend that you agree to announce the decision on 28<sup>th</sup> April 2017 at the Scottish Inshore Fisheries Conference, Inverness, with the publication of the Government response and consultation analysis (see Annex A and B).

## **Annexes**

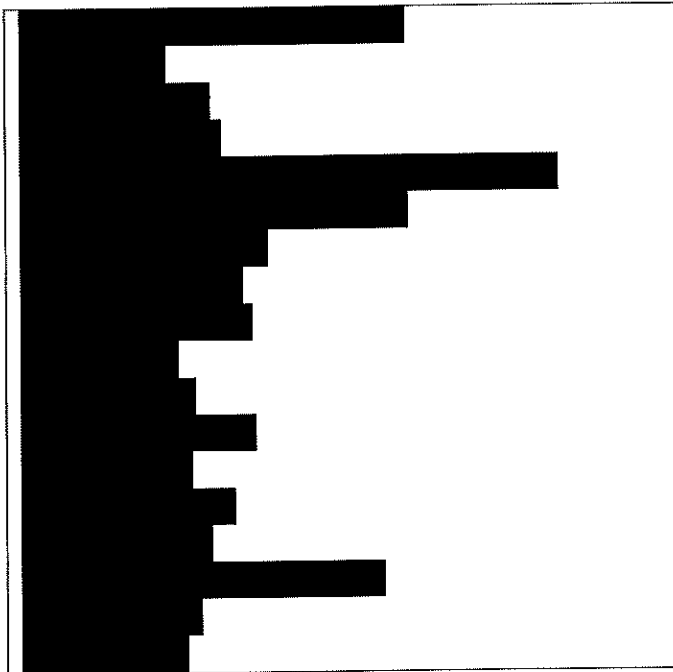
- A Consultation analysis to be published
- B Proposed Government response



Access to Sea Fisheries Branch  
Marine Scotland



Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constituent Interest	General Awareness
Cabinet Secretary for the Environment, Climate Change and Land Reform			X		



### **Consultation analysis: electrofishing for razor clams in Scotland**

#### **Profile of respondents**

1. A total of 104 responses were received; **74% from individuals and 26% from organisations**. There were no campaign responses; however a few duplicate responses were received.
2. Counting duplicate replies once, respondents were divided into one of five categories based on information provided on their Respondent Information Form.

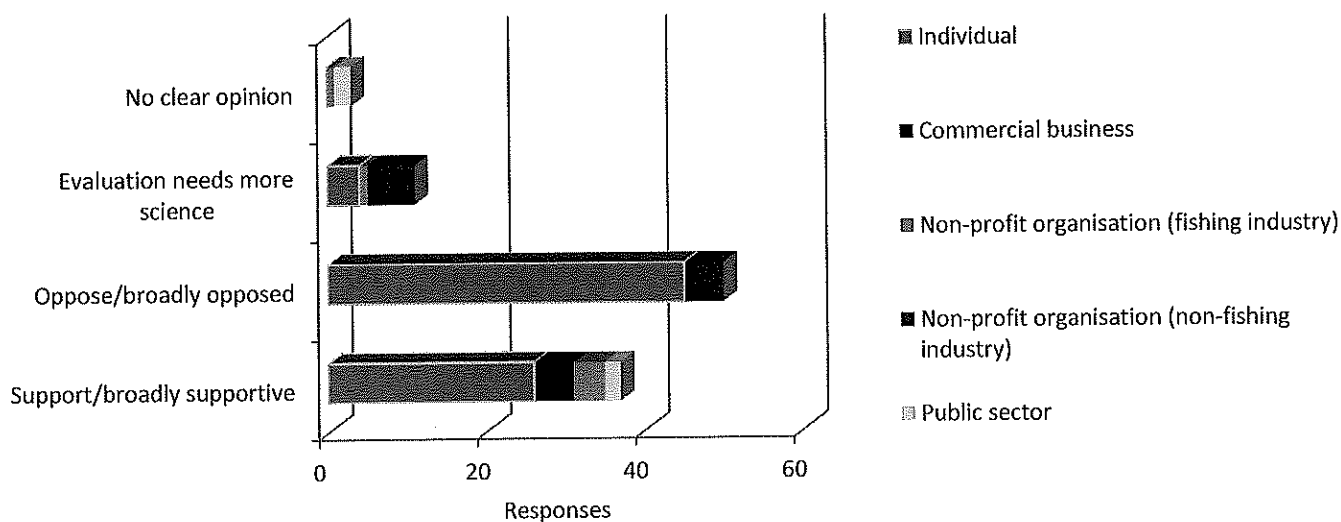
<b>Respondent category</b>	<b>Number</b>	<b>Percentage</b>
Individual	75	74%
Commercial business	5	5%
Non-profit organisation (fishing industry)	6	6%
Non-profit organisation (non-fishing industry)	11	11%
Public sector	4	4%
<b>Total</b>	<b>101</b>	<b>100%</b>

3. Two non-profit organisation (non-fishing industry) respondents endorsed the response from Scottish Environment LINK – as well as providing their own organisational response (which was worded differently, but tended to express the same points). River Ayr District Salmon Fishery Board endorsed the response from Ayrshire Rivers Trust but did not provide further comment.
4. Of the 104 responses received, 92 gave permission for their response to be published by the Scottish Government. These responses can be viewed at [https://consult.scotland.gov.uk/marine-scotland/electrofishing-for-razor-clams/consultation/published\\_select\\_respondent](https://consult.scotland.gov.uk/marine-scotland/electrofishing-for-razor-clams/consultation/published_select_respondent)

#### **Analysis of responses**

5. The consultation sought comments on a single question (qualitative) - whether electrofishing should in future be a permitted method for catching razor clams?
6. Responses were analysed by manually coding the themes identified by each respondent. This allowed trends among respondent groups to be highlighted. Four broad categories were identified:
  - respondents opposed/broadly opposed to permitting electrofishing;
  - respondents supportive/broadly supportive of permitting electrofishing;
  - respondents who felt further scientific investigation is required before the electrofishing method can be properly evaluated; and,
  - respondents who did not express a clear opinion.
7. The majority of individual respondents were not in favour of permitting electrofishing. Commercial businesses and non-profit organisations (fishing industry) tended to be supportive of electrofishing, whilst the majority non-profit organisations (non-fishing industry) welcomed further research (see graph below).

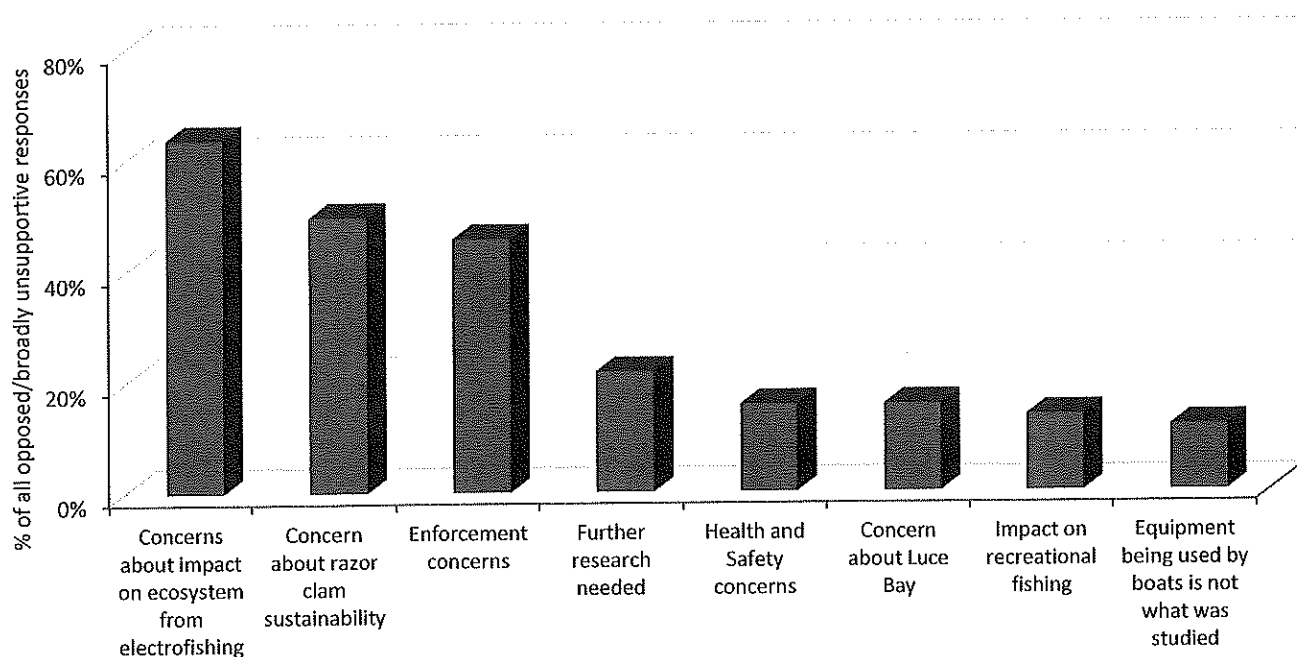
### Responses by group: Should electrofishing be a permitted method of catching razor clams?



### Respondents opposed/broadly unsupportive of permitting electrofishing

8. With duplicate responses excluded, 50% of total responses were opposed/broadly unsupportive of catching razor clams by electrofishing. 90% of responses in this group were from individuals with the remaining 10% from non-profit organisations (non-fishing industry).

### Key themes from responses opposed/broadly unsupportive of permitting electrofishing for razor clams



9. The majority (64%) of respondents in this group said they have concerns that electrofishing has a detrimental impact on the ecosystem, in particular on the benthic community or at different life stages of species. Anglers cited concerns about the effect of electrofishing on species such as tope and bass. Respondents felt that the 2014 study by Marine Scotland Science<sup>1</sup> was light on parameters considered.

10. Half of all respondents in this group expressed concern about the efficiency of the electrofishing method and the sustainability of local razor clam beds. Respondents said that they did not think current razor clam harvesting rates are sustainable. Many felt the efficiency of the method warranted its continued prohibition.

*"There are too many that look at these as a way of making large and quick profit, with no thought about what the sustained impact is on the health of our ocean"*

11. 46% of respondents in this group expressed concern about the current and/or future enforcement of the razor clam fishery. Many questioned how electrofishing would be monitored and controlled if it were legalised.

*"If enforcing a ban on electrofishing of razor clams is difficult to enforce, will regulation of razor clam fishing be improved by legalising electrofishing?"*

12. 16% of respondents in this group documented concerns with current illegal electrofishing practices in Luce Bay. A few other responses cited concerns in other areas including the Clyde, Orkney, Western Isles and Arran.

#### Respondents supportive/broadly supportive of permitting electrofishing

13. With duplicate responses removed, 37% of total responses received were supportive/broadly supportive of permitting electrofishing for razor clams. The group comprised individuals 70%, commercial business 14%, non-profit organisations (fishing industry) 11%, public sector 5%.

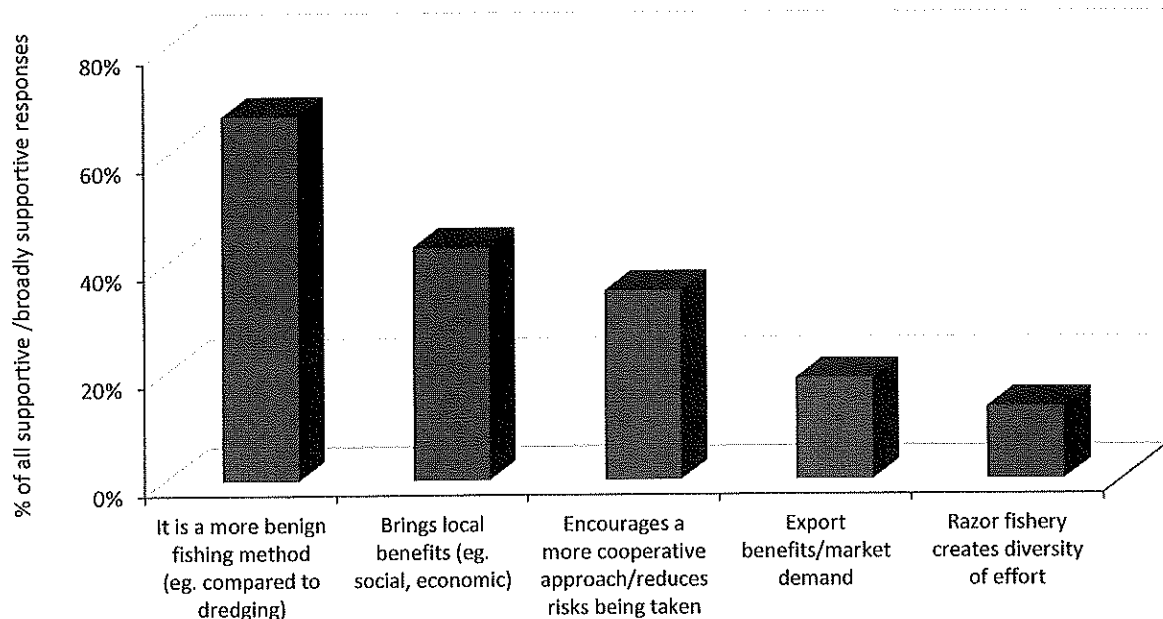
14. All commercial businesses (5) that responded to the consultation were in favour of permitting electrofishing for razor clams.

15. At least 58% of the individuals in this group referred to first-hand experience of electrofishing for razor clams.

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<sup>1</sup> Electrofishing for Razor Clams: Effects on Survival and Recovery of Target and Non-target Species

### Key themes from responses supportive/broadly supportive of permitting electrofishing



16. 68% of respondents in this group stated that they thought electrofishing should be permitted because it is a more benign fishing method compared to other legal methods e.g. dredging. Respondents highlighted the selectivity of the electrofishing method and improved quality of the catch due to reduced physical damage during harvesting.

*"It would seem particularly perverse to apply legal and costly sanctions against people trying to earn a living by the most environmentally friendly means while, permitting and promoting more environmentally intrusive forms of fishing because the most damaging method is less effective at catching."*

17. 43% of all respondents in this group highlighted the benefits they thought a razor clam fishery could bring, in particular economic and employment benefits to rural, fragile communities and the inshore fleet.

*"With good domestic and export markets for razor clams the development of a small scale, well controlled, licensed fishery would be beneficial to fishing communities through the islands"*

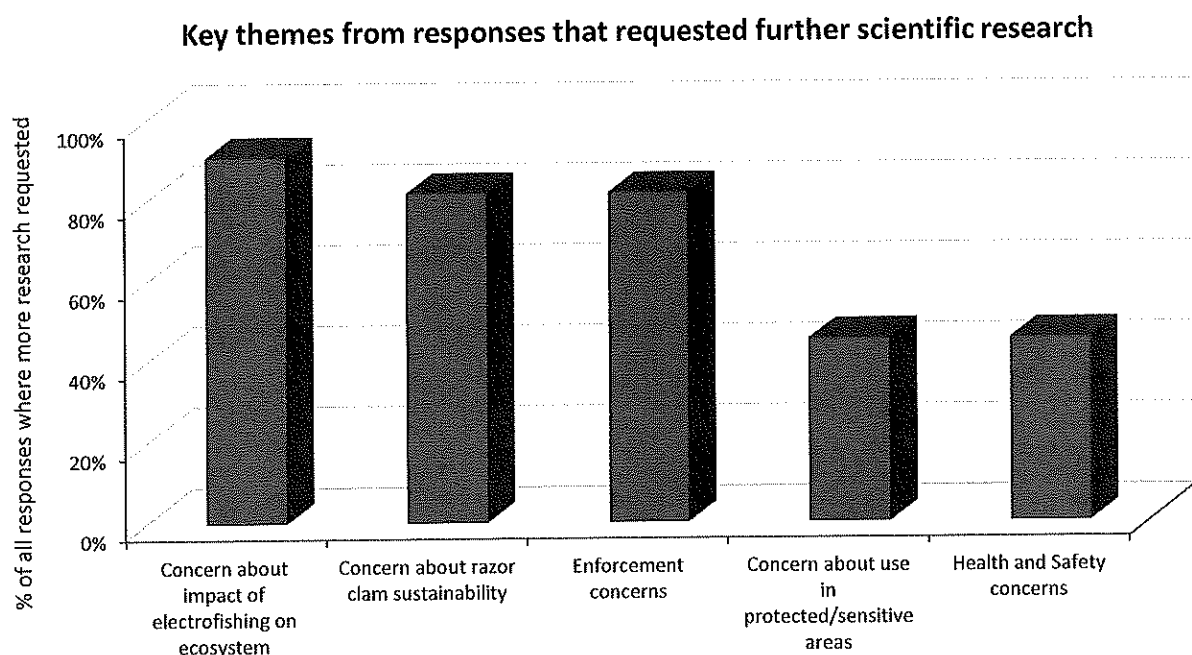
18. 35% of respondents in this group felt that if electrofishing were to be permitted it could encourage a more cooperative approach from the sector by bringing operators in from the dark. This in turn could reduce the 'cowboys' currently involved in the fishery and improve issues such as health and safety.

19. Although the consultation was not about how a razor clam electro-fishery might be managed, many of these responses acknowledged that any such fishery would need to be well regulated to ensure it is sustainable, safe and well-managed.

20. A couple of responses referred to the minimum landing size for razor clams, implying that it should be >100mm. There was a suggestion that Inshore Fishery Groups might be best placed to develop and oversee Management Plans of the razor clam fishery.

### Respondents who consider further research is required in order to evaluate electrofishing

21. With duplicate responses removed, 11% of total responses received concluded that more extensive scientific research was required before electrofishing could be properly evaluated, including 36% individuals, 9% non-profit organisation (fishing industry) and 55% non-profit organisation (non-fishing industry).



22. There is considerable overlap between the key themes from this group and the key themes that emerged from the group of responses opposed to permitting electrofishing (page 2). However, respondents in this group accept that there is credible evidence for considering a new approach to electrofishing because scientific research<sup>1</sup> suggests that electrofishing for razor clams causes fewer negative environmental impacts, when compared to other methods that are legal.

23. Whilst acknowledging the research findings, these responses encouraged a cautious approach and made recommendations on future scientific requirements i.e.:

- assessments of razor clam stock size and distribution;
- research on longer term effects of electrofishing on target and non-target species;
- evidence gathering on suitable minimum landing sizes;
- establish small-scale pilot studies where electrofishing as a commercial fishery is monitored; and,
- Appropriate Assessment as part of the Habitats Regulations Appraisal process.

## Scottish Government response to consultation about electrofishing for razor clams in Scotland.

### Introduction

1. In August 2016 the Scottish Government launched a consultation on whether electrofishing should be a permitted method of fishing for razor clams<sup>2</sup>. The consultation ran for 6 weeks and concluded on 30 September 2016, with 104 responses received. Individual responses were published, subject to permission, in October 2016<sup>3</sup>. An analysis of the consultation is being published alongside this paper.
2. This paper provides a summary of the Scottish Government's response to the key points made by respondents to the consultation, and describes Ministers' decisions with regard to the future of Scotland's razor clam fishery. It also draws together advice received from the European Commission's primary scientific advisor; the Scientific, Technical and Economic Committee for Fisheries.
3. The Scottish Government is grateful for the time that individuals and organisations took to respond to the consultation. Stakeholder expertise and experience is vital to informing policy direction.

### Should electrofishing be a permitted method of catching razor clams?

4. The consultation explained that the Government, in light of scientific evidence<sup>4</sup> which suggests electrofishing could be a low impact method of harvesting razor clams, was considering whether it might be appropriate to adopt a new approach to electrofishing, and whether, in particular, it might be appropriate to propose that the fishing method be permitted within a regulated and sustainable fishery. Comments were welcomed on whether electrofishing should in future be a permitted *method* for catching razor clams?

### What we heard:

5. The consultation generated a diversity of views, with opinions spanning the spectrum from positive to impartial to negative.
6. The key concerns in regards to permitting electrofishing were clear and consistent. In particular, it was felt that not enough is currently known about the potential implications of electrofishing on the wider marine ecosystem and the ability of local razor clam populations to support the electrofishing method.

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<sup>2</sup> <https://consult.scotland.gov.uk/marine-scotland/electrofishing-for-razor-clams/>

<sup>3</sup> [https://consult.scotland.gov.uk/marine-scotland/electrofishing-for-razor-clams/consultation/published\\_select\\_respondent](https://consult.scotland.gov.uk/marine-scotland/electrofishing-for-razor-clams/consultation/published_select_respondent)

<sup>4</sup> <http://www.gov.scot/Publications/2014/10/8462/downloads>

7. Support for the legalisation of electrofishing tended to be on the grounds that it is a very selective method of capture, producing high quality product with little impact on the sea bed. Many respondents felt that a legalised electro-fishery could deliver social and economic benefits to rural, fragile communities.

#### The Scottish Government response

8. We recognise that electrofishing is a matter that divides opinion and generates considerable debate. We agree that current illegal electrofishing practices in Scottish waters are unacceptable; deterring and combatting illegal electrofishing remains an operational priority for Marine Scotland. We appreciate the concerns of respondents living in close proximity to inshore fishing areas who report personal observations of the current illegal fishery.
9. We recognise that whilst scientific research has demonstrated that electrofishing for razor clams causes less physical habitat damage than methods such as dredging and has limited short term impact on target and non-target species, the research also notes the need for stock assessments and further research.
10. We consider that many of the concerns raised in the consultation can be attributed to the novelty of the electrofishing method and we regard many of these as fundamental questions to be addressed in the process of developing any new, safe and sustainable fishery. We agree that surveys would be required to assess the size and magnitude of razor clam populations along with further research on longer-term impacts of the gear.
11. We are committed to promoting the use of environmentally friendly fishing methods and reducing waste (by-catch). Having considered the consultation responses, we remain of the view that the viability of a commercial electro-fishery for razor clams in Scotland should be further examined.

#### **Scientific, Technical and Economic Committee for Fisheries (STECF)**

12. Following a request to the European Commission, STECF recently provided advice on the findings of the scientific evidence<sup>4</sup> that suggests electrofishing is likely to be more environmentally benign than some other traditional methods, such as dredging. STECF's general response was that a careful and staged development of any fishery was desirable, building up information and developing a management plan over time to ensure that the fishery could be operated sustainably. The Committee suggested that future work should be tailored to the specific conditions in the areas where razor clams are found.

## Conclusion and next steps

13. Based on the above, **it is our intention to seek to develop a limited trial razor clam electro-fishery.** The temporally and spatially limited trial will be a scientific investigation designed to gather further information about electrofishing. The Scottish Government will ensure that protected areas continue to be appropriately managed.
14. Preparatory work is underway, with vital input from other public sector stakeholders, to develop the trial and the conditions in which it will operate. In due course, the Government will confirm one or possibly two trial areas where, following initial stock assessments, a limited number of fishing vessels will be permitted to harvest razor clams by electrofishing. Catches reported by these vessels will provide local, real time information about razor clam catch rates and population structure, allowing the potential of the fishery to be investigated. All fishing boats not participating in the scientific trial will be prohibited from landing commercial levels of razor clams.
15. The Government reiterates its gratitude to those who responded to the consultation, and will continue to engage with stakeholders on its approach to Scotland's razor clam fishery.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 15 March 2017 13:35  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Razor licence letter - 1 month extension  
**Attachments:** Razor licence letter to nominees - extension of 2016-17 licence until 30 April 2017.docx

[REDACTED]

Please can you arrange for the attached letter to be sent to all current razor licence nominees tomorrow (16<sup>th</sup>) after 9am.

We will update the SG website tomorrow to say new permits are not currently being issued.

[REDACTED]

Many thanks

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 15 March 2017 10:24  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Razor licence letter - 1 month extension

Yep, happy.

I can get offices to issue this today to all current Permit holders and also issue an instruction that no new razor permits will be considered until further notice, and that any applicants should be informed of this and no applications accepted.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 15 March 2017 10:22  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Razor licence letter - 1 month extension

[REDACTED]

We spoke yesterday re extending 2016/17 razor licences and agreed a one month extension – grateful if you can let me know if you are content with attached letter.

<< File: Razor licence letter - 1 month extension.docx >>

We also agreed that we shouldn't inspect/licence any new boats.

Thanks





## Razor Fish Licence Nominees (2016-17)

16 March 2017

Dear Sir / Madam

### CHANGES TO RAZOR FISH LICENCE

Recipients of this letter will likely be aware that since 18 August 2014 it has been prohibited to fish for, carry or land razor fish (*Ensis* spp) using a domestic fishing licence. Authorisation has instead been given in the form of a specific 'Razor Fish Licence', issued annually at the discretion of Scottish Ministers.

The Scottish Government is actively considering future arrangements for the razor clam fishery. To that end, Scottish Ministers have decided not to issue a Razor Fish Licence for 2017-18. Instead, all current Razor Fish Licences (2016-17) are being extended by one calendar month.

All current Razor Fish Licences are now valid until 2359 hours on 30 April 2017. After this time, unless otherwise notified by Marine Scotland, it will be an offence for all Scottish registered boats to fish for, carry or land razor fish, as provided by the domestic fishing licence. This notice should be stored alongside your 2016-17 Razor Fish Licence.

Future measures for Scotland's razor clam fishery will be announced in due course.

Yours faithfully,

Access to Sea Fisheries Team  
Marine Scotland



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 17 March 2017 17:05  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Tweet about changes to razor Fish license

[REDACTED]

Please see information below.

[REDACTED]

### **SG letter issued to all current Razor Fish Licence Nominees on 16 March 2017**

On 16 March 2017 the Scottish Government issued a letter to all current Razor Fish Licence Nominees. The letter gave notice that:

- Scottish Ministers do not intend issuing a 2017-18 Razor Fish Licence
- Current (2016-17) Razor Fish Licences are being extended by one calendar month i.e. they are now valid until 2359 hours on 30 April 2017.

Licences had been due to expire on 1<sup>st</sup> April 2017. [REDACTED] the letter was issued to all 2016-17 licence holders to provide reasonable notice of the possibility that Ministers might decide, following the consultation, to manage the razor fish fishery in a different way. We anticipate that the Cabinet Secretary may announce the trial electro fishery during April, and therefore this letter allows present arrangements to continue for a month, during which time longer term plans will be confirmed. It is an option of course to extend present licences for further months, but we hope to commence implementation of the trial – starting with surveys – during this summer.

### **Background**

Since 18 August 2014 it has been prohibited to fish for, carry or land razor fish (*Ensis* spp) using a domestic fishing licence. Authorisation has instead been given in the form of a specific 'Razor Fish Licence', issued annually at the discretion of Scottish Ministers.

### **Suggested lines**

The Scottish Government is actively considering future arrangements for the razor clam fishery, including licensing measures. Scottish Ministers have therefore decided not to issue a 2017-18 Razor Fish Licence, in the short-term Ministers have extended 2016-17 Razor Fish Licences by one calendar month. Future measures for Scotland's razor clam fishery will be announced in due course.

[REDACTED]

Marine Scotland  
Area 1B South,

[REDACTED]

[REDACTED]

---

**From:** [REDACTED]

**Sent:** 17 March 2017 16:28

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** FW: Tweet about changes to razor Fish license

Hello [REDACTED]

Mr Ewing has asked for some briefing on the below tweet received this afternoon. .

[REDACTED]

[REDACTED]

All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments. Thank you.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 03 April 2017 16:10  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Razor licence letter to nominees - announcement of trial



Razor licence letter  
to nomine...

Afternoon

Please see attached letter. This letter must be sent to all current holders of a 2016/17 razor permit as soon as possible please.

Thanks

[REDACTED]



## Razor Fish Licence Nominees (2016-17)

03 April 2017

Dear Sir / Madam

Further to my letter of 16 March 2017 I write to inform you that the Scottish Government has announced today that it will authorise a controlled trial of electrofishing for razor clams.

The decision follows last year's consultation about whether electrofishing should in future be a permitted method of catching razor clams. The Government has also published a response to the consultation and an analysis of the consultation responses which are available to view at <http://www.gov.scot/Publications/2017/04/2084> .

Steps are already underway to prepare for a trial and the Government will be consulting with a range of partners, including Fishermen's Associations, about taking the plans for a trial forward.

2016-2017 Razor Fish Licences, which were extended until 30 April 2017, will have effect for a further period to be specified, subject to any controls that Marine Scotland consider necessary.

Yours faithfully,

Access to Sea Fisheries Team  
Marine Scotland

## **Controlled trial of electrofishing**

### **Research to explore new opportunities for razor clam fishing.**

A controlled trial of electrofishing for razor clams has been authorised by the Scottish Government.

The trial will investigate the size and potential for commercial razor clam production and ensure fisheries could be operated sustainably with appropriate harvest rates. This follows the conclusion of a consultation between industry, environmental organisations and local communities.

Marine Scotland will now consult further with partner public bodies, including Scottish Natural Heritage, and with the Scottish Fishermen's Associations to ascertain the best locations for trials to take place.

Rural Economy Secretary Fergus Ewing said:

"Scotland has a rich and diverse natural environment with a coastline that is world renowned – not only for its unique habitats but also for high quality seafood.

"Responses to our consultation and previous research suggests that, where properly applied, electrofishing can be a sustainable and safe method of harvesting razor clams in a way that is less intrusive than traditional methods like dredging.

"We will now undertake scientific trials in specified areas to ensure we fully understand the potential of the industry, and how we best to access the economic possibilities in this area."

### **Background**

Electro-fishing for razors involve probes being slowly dragged across the sea bed, from a fishing vessel. The electric pulse causes the clams to suddenly emerge from their burrows and they are then collected by divers.

Razor clams (*Ensis* spp.) can currently only be legally harvested by hand, by divers or by different types of dredges.

Permissions to undertake electrofishing would require the Scottish Government to inform, but not seek permission, from the European Commission.

A 2014 Marine Scotland study examining the short term effects of commercial electrofishing gear on razor clams and other non-target species which concluded that:

- there was limited short term impact on target and non-target species
- the gear produced almost no impact on the physical environment, unlike legal dredge methods
- the method of capture is highly selective, producing high quality product with little damage or waste and zero bycatch
- further research on longer-term impacts of the gear is required

- surveys are required to assess size and magnitude of razor clam populations

While preparations for the trial are under way, existing permissions to land Razor Clams will continue in effect, subject to any controls that Marine Scotland consider necessary to ensure sustainable harvesting of stocks.

**From:** [REDACTED]  
**Sent:** 05 April 2017 10:16  
**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** LETTER TO RAZOR FISH LICENSEES

Good morning all,

Further to our announcement this week of a controlled trial of electrofishing for Razor Clams, it has been decided to introduce additional controls in the Razor Clam fishery. With effect from 10 April 2017 a daily catch limit of 600kgs will be introduced; and, 2016-2017 razor fish permits issued but not utilised before 31 March 2017 will not be extended beyond 30 April 2017, subject to certain exceptions explained in the letter. The objective of these new measures is to seek to cap effort and catches in the fishery at 2016 levels while preparations are under way for the trial.

I therefore attach to this letter a letter to Razor Fish Licensees, along with an amended licence. **I would be grateful if this letter could be issued as soon as is possible.** [REDACTED]

I also enclose here a list kindly prepared by [REDACTED]. This shows the vessels that we consider will not have their licences extended beyond 30 April. Fishery Offices may well of course receive applications for exceptional treatment during this interim period, and these will be considered on their merits, in the general context of an objective of capping effort.

Best



2017-04-05 Razor  
fishing - let...



Razor Fishing  
Licence - as ame...



2017-04-05 Razor  
fishing - lis...

[REDACTED]  
[REDACTED]  
Sea Fisheries Policy Division: Scottish Government  
[REDACTED]

[REDACTED]

## Razor Fish Licence Nominees (2016-17)

5 April 2017

Dear Sir / Madam

[REDACTED] letter of 3 April 2017 confirmed that 2016-2017 Razor Fish Licences, which had been extended until 30 April 2017, would have effect for a further period.

This letter specifies the period of that further extension, which will be until **31 July 2017**. This extension will only apply to vessels that utilised their 2016-2017 licence to fish and record catches of Razor Fish in the period up to 31 March 2017 and have complied with condition 3 of the current permit for all landings up to 31 March 2017, and to any vessel whose application for a 2016-2017 permit had been submitted prior to but not determined by 31 March.

For the avoidance of doubt, therefore, any 2016-17 Razor Fish Licence for a vessel that is not included within the terms of the preceding paragraph will have no authority to fish for Razors Clams from 00:01 on 1 May 2017.

**Vessels holding a Razor Fish Licence will also, with effect from 00:01 on 10 April 2017, be subject to a daily catch limit.** It will not be permitted for a vessel to catch and retain on board on each day more than **600kgs** of Razor Clams, and no vessel may have on board at any time more than their daily catch allowance.

Marine Scotland considers these further controls appropriate in the context of a precautionary approach to the management of the Razor Clam fishery. Enclosed with this letter is a copy of the amended Razor Fish Licence.

Yours faithfully,

[REDACTED]

[REDACTED]

Marine Scotland

**LICENCE NUMBER:**

**CONDITIONS**

1. This licence is subject to the conditions set out in the Category A, B or C licence in conjunction with which this is held unless a condition in this licence is more restrictive.
2. Your razor licence authorises you to fish for razors in waters suitably classified by the Food Standards Agency (FSA). No fishing operations will be conducted, under the authority of this licence, in waters that are not classified by the FSA unless the activity that you are undertaking has been pre-authorised by the FSA.
3. For vessels 10m and under, vessel owners must complete an accurate landings form (FISH1) in respect of all fish caught and landed. Vessel owners must submit it to their port office of administration by 2359 hours each Monday, detailing the amount of each species and the area of capture as per ICES rectangle, for each trip made for the week ending at 2359 hours on the preceding Saturday. Where vessels are over 10m in length the vessel owner must complete the appropriate logbook.
4. The retained catch of any Razor Fish from the vessel to which this licence relates must be sold either at one of the UK Designated or Registered Auctions during the agreed auction times or to a registered buyer under UK subordinate legislation relating to Buyers and Sellers of First Sale Fish.
5. If the catch from the vessel to which this licence relates is to be transported away from the place of landing it must be accompanied by an FSA shellfish movement document in addition to Statutory transport document requirements.
6. The vessel to which this licence relates shall only carry on board electrical generating equipment required for safe navigation and safe operation of the vessel which has been authorised by Marine Scotland during a pre-licence inspection of the vessel. The vessel shall not carry on board nor deploy into the sea any electrical equipment, including electrical generators, cables, probes, grids or any other equipment capable of transmitting electrical currents to the seabed.
7. In the event of any changes to the application form to which this licence relates, you must notify the administrating Marine Scotland Fishery Office immediately. If you have decided to now use divers, a method not indicated on your application form, you must provide Diving Contractor and Dive Team details prior to the commencement of diving operations. If you have decided to now use a dredge, a method not indicated on your application form, you must present the dredge at an agreed time, date and location with Marine Scotland for inspection prior to commencement of dredging operations.
8. The master, owner, charterer, as appropriate, to the vessel, to which this vessel relates, shall ensure that, no later than **midnight every Friday** in each week, the Scottish Government website page <http://www.gov.scot/Topics/marine/Licensing/FVLS/licencevariations> is viewed, in order to check for notices of variation, suspension or revocation, affecting the licence, which appear on that page.
9. The grant of this licence does not confer any entitlement to any licence or authorisation under any other current or future licensing arrangements.

**LICENCE NUMBER:**

**AUTHORITY**

1. This licence is only valid if it is held in conjunction with a valid Category A, B or C licence held in respect of the above-named vessel.

2. This licence is only valid whilst the details provided in the application for the licence remain the same.

3. Subject to the limitations set out below, and to any prohibition on fishing imposed by order under Section 5 of the Sea Fish (Conservation) Act 1967 (as amended) or by the European Commission under the provisions of Article 36 of Council Regulation (EC) No. 1224/2009 (as amended), this licence hereby authorises the above-named vessel to fish for the descriptions of sea fish listed in Column 1 below in the sea areas set out in Column 2 below. All references to EC or territorial waters of British fishery limits include waters in the Scottish fishery zone and Welsh territorial waters.

**Column 1**  
**DESCRIPTION OF SEA FISH**

**Razorfish (*Ensis spp.*)**

**Column 2**  
**AREAS OF SEA**

**Waters within the  
British Fishery Limits  
(see Condition No. 2 of this licence)**

**LIMITATIONS TO AUTHORITY**

4. This licence is valid from 0001 hours on 01 April 2016 or the date of issue thereof whichever is the later, until 2359 hours on 30 April 2017 subject to any revocation, suspension or variation.

5. The period of validity in paragraph 4 above is extended to 2359 hours on 31 July 2017 in the case of vessels authorised to catch and retain on board Razorfish and fishing for recording such catches, complying with condition 3 above, during the period from 0001 hours on 01 April 2016 up to 2359 on 31 March 2017, and in relation to any other vessel determined at the discretion of the Scottish Ministers.

6. The vessel to which this licence relate may not catch and retain on board more than 600 kilogrammes of Razorfish during any calendar day; and, the vessel may not have on board at any time more than 600 kilogrammes of Razorfish.

7. This licence may be revoked, suspended or varied at any time, by a notice communicated in accordance with The Sea Fishing (Licences & Notices)(Scotland) Regulations 2011.

8. This licence shall also cease to have effect if by virtue of an Order of the Court the licensee has been disqualified from holding a licence in respect of the vessel.

9. **This licence is invalid if any of the details at Sections 1 to 5 on pages 1 and 2 of your domestic (Category A, B or C) licence change.**

1. The purpose of this licence is to enable Fisheries Ministers in the UK, in conformity with the Common Fisheries Policy, to monitor and control the quantity of fish taken by fishing vessels flying the flag of the United Kingdom, Channel Islands or Isle of Man, and to ensure that vessels use appropriate fishing methods.
2. This licence is granted only to the owner(s) or charterer(s) named in respect of the vessel. If there is a change of owner(s) or charterer(s) the licence becomes invalid and an application should be made immediately for a new licence or for the establishment of an entitlement to apply for a licence. Immediate application should also be made for a new licence if there is any change in the particulars of the vessel listed in this licence or if the licence holder joins a producer organisation during the year. Failure to submit such applications within three months will result in the loss of any claim to the licence entitlement.
3. If the vessel to which this licence relates is powered by an outboard motor it will be permissible for the licence holder to operate any make or model of outboard motor, up to the maximum power output specified on the vessel's certificate of registry, and this licence.
4. Section 11 of the Sea Fish (Conservation) Act 1967, as amended, lays down maximum penalties which would apply to the master, owner(s) or charterer(s) of the vessel if found guilty of a contravention of a provision of the licence or of fishing without a licence. The penalty may include a fine on summary conviction which can be up to £50,000 in some cases, and an unlimited fine on conviction on indictment. In addition, the court by which a person is convicted of an offence may, in certain cases, order the forfeiture of any net or other fishing gear used in committing the offence and/or any fish in respect of which the offence was committed or may impose an additional fine to the value of that fish. The court may also order the owner or charterer of the vessel to be disqualified for a specified period from holding a licence in respect of the vessel.
5. This licence may be varied from time-to-time and may be revoked or suspended in part or in whole if it appears to the authority who granted the licence or, on whose behalf it has been granted, that this is necessary or expedient for the regulation of sea fishing, or it is appropriate to do so where there is a contravention of the licence. A licence may be revoked, in particular, should the vessel to which this licence relates be deemed to be in breach of Council Regulation (EC) No. 850/98 Article 31 (1) - fishing with electricity.
6. This licence does not absolve the licence holder from complying with any other laws relating to fishing for the species covered by the licence. In particular, orders under Section 5 of the Sea Fish (Conservation) Act 1967 (as amended) may from time-to-time prohibit fishing for sea fish.  
**The European Commission may also close fisheries under powers conferred by Article 36 of Council Regulation (EC) No. 1224/2009 (as amended) and such closures also override any authority conferred by this licence.**
7. This licence does not entitle the licence holder to fish for the species covered by this licence in waters within the fishing limits of any foreign country where such fishing by vessels flying the flag of the United Kingdom, Channel Islands or Isle of Man in general or the licensed vessel in particular is prohibited by the competent authorities in that country.
8. **This licence is non-transferable.**

**From:** [REDACTED]  
**Sent:** 07 April 2017 12:08  
**To:** [REDACTED]  
**Cc:** [REDACTED]

**Subject:** ROUTINE: INTERIM MANAGEMENT OF RAZOR FISHING

PS/Cabinet Secretary

Copy as above

## ROUTINE: INTERIM MANAGEMENT OF RAZOR FISHING

I thought it might be sensible to offer the Cabinet Secretary a brief update on some management adjustments we made this week in relation to razor fishing, which complemented and were supplementary to the announcement of a commercial trial of electro-fishing for razor fishing. We would not normally brief the Cabinet Secretary about the details of management measures, but are aware that some individuals might seek to approach Mr Ewing directly.

In light of the announcement of the trial, we have now **further extended 2016-2017 razor fish licences**, which had already been extended to the end of April, **to the end of July 2017**. This will allow fishing to continue while preparations are made for the trial.

We have also taken steps to cap effort in the fishery, to mitigate the risk of vessels attempting to increase effort in the fishery, or to increase catches, while it remains open in general. Our general objective is to allow for a fishery no greater than in 2016. Accordingly, we have:

- Introduced a daily catch limit for vessels, of 600 kg per day. The average daily catch in 2016 was just under 500 kg, so this limit provides a more than adequate fishery for vessels. Catch limits are per vessel, and non-tradable; and,
- We have for the moment prevented new vessels from entering the fishery. There are now just over 20 vessels active in the fishery, but another 20-25 hold permits, but did not activate them during the 2016-17 fishery. We think it sensible to prevent new entrants into the fishery now, at least for the next few months. Therefore, razor fish permits that were granted but not utilised up to 31 March will not be extended after the end of April (although we have allowed for some exceptions where vessels applied for permits late in the year, and were not able to use them before 31 March). The revocation of the permit will not of course prevent any vessel from taking part in the commercial trial – applications will be open to all vessels.

These measures will in all likelihood only be in effect for a number of months, before the trial gets under way. But we do consider some additional interim management measures appropriate, to cap effort and to show that the fishery is being managed carefully.

I hope this update is helpful.

[REDACTED]  
[REDACTED] es  
Sea Fisheries Policy Division: Scottish Government  
[REDACTED]

  
**Razor Fish Licence Nominees (2016-17)**

20 June 2017

Dear Sir/Madam

My letter of 5 April 2017 confirmed that specified 2016-2017 Razor Fish Licences would have effect until 31 July 2017. The purpose of this letter is to confirm that licences that were extended further to my letter of 5 April will now be extended again, until **31 October 2017**.

**Vessels with authority to fish continue to be subject to a daily catch limit.** It is not permitted for a vessel to catch and retain on board on each day more than **600kgs** of Razor Clams, and no vessel may have on board at any time more than their daily catch allowance.

For the avoidance of doubt, any 2016-17 Razor Fish Licence that has not been extended further to these arrangements has had no authority to fish for Razors Clams since 00:01 on 1 May 2017.

Marine Scotland considers these further controls appropriate in the context of a precautionary approach to the management of the Razor Clam fishery. A number of recipients of this letter will also be aware that preparations are under way for a scientific trial of electrofishing for razor fish. It is anticipated that this trial may commence on or around 1 November 2017. There will be an open application process for participation in this trial.

Enclosed with this letter is a copy of the amended Razor Fish Licence.

Yours faithfully,



Marine Scotland

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 29 September 2017 07:13  
**To:** [REDACTED]  
**Subject:** Extension to razor fishing licence  
**Attachments:** letter to razor licence nominees - 28.09.17.docx; Razor Fishing Licence - as amended - to 31 January 2018.doc

[REDACTED]

Please can the razor licence extension letter (extension until 2359hrs on 31 January 2018) and the amended licence be sent out by the coastal offices.

Thank you

[REDACTED]

[REDACTED]

[REDACTED]

Marine Scotland  
Area 1B South,  
Victoria Quay,  
EH6 6QQ

[REDACTED]

**Razor Fish Licence Nominees (2016-17)**

28 September 2017

Dear Sir/Madam

letter of 20 June 2017 confirmed that specified 2016-17 Razor Fish Licences would have effect until 31 October 2017. The purpose of this letter is to confirm that these licences will now be extended again, until 1 February 2018.

Vessels with authority to fish continue to be subject to a **daily catch limit**. It is not permitted for a vessel to catch and retain on board on each day more than **600kgs** of Razor Clams, and no vessel may have on board at any time more than their daily catch allowance.

Any 2016-17 Razor Fish Licence that has not been extended further to these arrangements has had no authority to fish for Razors Clams since 00:01 on 1 May 2017.

Marine Scotland considers these further controls appropriate in the context of a precautionary approach to the management of the Razor Clam fishery.

Marine Scotland continues to make preparations for the scientific trial of electrofishing for razor clams, including the launch of the application process for participation in the trial. It is anticipated that the trial may commence on or around 1 February 2018 and recipients of this letter will be notified when the application process commences later this year.

Enclosed with this letter is a copy of the amended Razor Fish Licence.

Yours faithfully,

Access to Sea Fisheries Team  
Marine Scotland

**LICENCE NUMBER:**

**CONDITIONS**

1. This licence is subject to the conditions set out in the domestic licence in conjunction with which this is held unless a condition in this licence is more restrictive.
2. Your razor licence authorises you to fish for razors in waters suitably classified by the Food Standards Scotland (FSS). No fishing operations will be conducted, under the authority of this licence, in waters that are not classified by the FSS unless the activity that you are undertaking has been pre-authorised by the FSS.
3. For vessels 10m and under, vessel owners must complete an accurate landings form (FISH1) in respect of all fish caught and landed. Vessel owners must submit it to their port office of administration by 2359 hours each Monday, detailing the amount of each species and the area of capture as per ICES rectangle, for each trip made for the week ending at 2359 hours on the preceding Saturday. Where vessels are over 10m in length the vessel owner must complete the appropriate logbook.
4. The retained catch of any Razor fish from the vessel to which this licence relates must be sold either at one of the UK Designated or Registered Auctions during the agreed auction times or to a registered buyer under UK subordinate legislation relating to Buyers and Sellers of First Sale Fish.
5. If the catch from the vessel to which this licence relates is to be transported away from the place of landing it must be accompanied by a FSS shellfish movement document in addition to Statutory transport document requirements.
6. The vessel to which this licence relates shall only carry on board electrical generating equipment required for safe navigation and safe operation of the vessel which has been authorised by Marine Scotland during a pre-licence inspection of the vessel. The vessel shall not carry on board nor deploy into the sea any electrical equipment, including electrical generators, cables, probes, grids or any other equipment capable of transmitting electrical currents to the seabed.
7. In the event of any changes to the application form to which this licence relates, you must notify the administrating Marine Scotland Fishery Office immediately. If you have decided to now use divers, a method not indicated on your application form, you must provide Diving Contractor and Dive Team details prior to the commencement of diving operations. If you have decided to now use a dredge, a method not indicated on your application form, you must present the dredge at an agreed time, date and location with Marine Scotland for inspection prior to commencement of dredging operations.
8. The master, owner, charterer, as appropriate, to the vessel, to which this vessel relates, shall ensure that, no later than **midnight every Friday** in each week, the Scottish Government website page <http://www.gov.scot/Topics/marine/Licensing/FVLS/licencevariations> is viewed, in order to check for notices of variation, suspension or revocation, affecting the licence, which appear on that page.
9. The grant of this licence does not confer any entitlement to any licence or authorisation under any other current or future licensing arrangements.

**LICENCE NUMBER:**

**AUTHORITY**

1. This licence is only valid if it is held in conjunction with a valid domestic licence held in respect of the above-named vessel.
2. This licence is only valid whilst the details provided in the application for the licence remain the same.
3. Subject to the limitations set out below, and to any prohibition on fishing imposed by order under Section 5 of the Sea Fish (Conservation) Act 1967 (as amended) or by the European Commission under the provisions of Article 36 of Council Regulation (EC) No. 1224/2009 (as amended), this licence hereby authorises the above-named vessel to fish for the descriptions of sea fish listed in Column 1 below in the sea areas set out in Column 2 below. All references to EC or territorial waters of British fishery limits include waters in the Scottish fishery zone and Welsh territorial waters.

**Column 1**  
**DESCRIPTION OF SEA FISH**

**Razor fish (*Ensis* spp.)**

**Column 2**  
**AREAS OF SEA**

**Waters within the  
British Fishery Limits  
(see Condition No. 2 of this licence)**

**LIMITATIONS TO AUTHORITY**

4. This licence is valid from 0001 hours on 01 April 2016 or the date of issue thereof whichever is the later, until 2359 hours on 31 January 2018 subject to any revocation, suspension or variation.
5. The period of validity in paragraph 4 above is extended to 2359 hours on 31 January 2018 in the case of vessels authorised to catch and retain on board Razor fish and where such catches have been recorded, complying with condition 3 above, during the period from 0001 hours on 01 April 2016 up to 2359 on 31 January 2018, and in relation to any other vessel determined at the discretion of the Scottish Ministers.
6. The vessel to which this licence relate may not catch and retain on board more than 600 kilogrammes of Razor fish during any calendar day; and the vessel may not have on board at any time more than 600 kilogrammes of Razor fish.
7. This licence may be revoked, suspended or varied at any time, by a notice communicated in accordance with The Sea Fishing (Licences & Notices) (Scotland) Regulations 2011.
8. This licence shall also cease to have effect if by virtue of an Order of the Court the licensee has been disqualified from holding a licence in respect of the vessel.
9. **This licence is invalid if any of the details at Sections 1 to 5 on pages 1 and 2 of your domestic licence change.**

1. The purpose of this licence is to enable Fisheries Ministers in the UK, in conformity with the Common Fisheries Policy, to monitor and control the quantity of fish taken by fishing vessels flying the flag of the United Kingdom, Channel Islands or Isle of Man, and to ensure that vessels use appropriate fishing methods.
2. This licence is granted only to the owner(s) or charterer(s) named in respect of the vessel. If there is a change of owner(s) or charterer(s) the licence becomes invalid and an application should be made immediately for a new licence or for the establishment of an entitlement to apply for a licence. Immediate application should also be made for a new licence if there is any change in the particulars of the vessel listed in this licence or if the licence holder joins a producer organisation during the year. Failure to submit such applications within three months will result in the loss of any claim to the licence entitlement.
3. If the vessel to which this licence relates is powered by an outboard motor it will be permissible for the licence holder to operate any make or model of outboard motor, up to the maximum power output specified on the vessel's Certificate of Registry, and this licence.
4. Section 11 of the Sea Fish (Conservation) Act 1967, as amended, lays down maximum penalties which would apply to the master, owner(s) or charterer(s) of the vessel if found guilty of a contravention of a provision of the licence or of fishing without a licence. The penalty may include a fine on summary conviction which can be up to £50,000 in some cases, and an unlimited fine on conviction on indictment. In addition, the court by which a person is convicted of an offence may, in certain cases, order the forfeiture of any net or other fishing gear used in committing the offence and/or any fish in respect of which the offence was committed or may impose an additional fine to the value of that fish. The court may also order the owner or charterer of the vessel to be disqualified for a specified period from holding a licence in respect of the vessel.
5. This licence may be varied from time-to-time and may be revoked or suspended in part or in whole if it appears to the authority who granted the licence or, on whose behalf it has been granted, that this is necessary or expedient for the regulation of sea fishing, or it is appropriate to do so where there is a contravention of the licence. A licence may be revoked, in particular, should the vessel to which this licence relates be deemed to be in breach of Council Regulation (EC) No. 850/98 Article 31 (1) - fishing with electricity.
6. This licence does not absolve the licence holder from complying with any other laws relating to fishing for the species covered by the licence. In particular, orders under Section 5 of the Sea Fish (Conservation) Act 1967 (as amended) may from time-to-time prohibit fishing for sea fish. **The European Commission may also close fisheries under powers conferred by Article 36 of Council Regulation (EC) No. 1224/2009 (as amended) and such closures also override any authority conferred by this licence.**
7. This licence does not entitle the licence holder to fish for the species covered by this licence in waters within the fishing limits of any foreign country where such fishing by vessels flying the flag of the United Kingdom, Channel Islands or Isle of Man in general or the licensed vessel in particular is prohibited by the competent authorities in that country.
8. **This licence is non-transferable.**

**From:** [REDACTED]  
**Sent:** 30 October 2017 15:48  
**To:**  
**Cc:**



**Subject:** Routine submission (for decision) - electrofishing for razor clams trial

Cabinet Secretary for the Rural Economy and Connectivity

Copy: As above

Please find attached a routine submission (for decision) regarding the scientific trial of electrofishing for razor clams.

Regards

[REDACTED]  
Access to Sea Fisheries  
[REDACTED]



submission on  
electrofishing f...



Annex E - letter to  
Committee....

## Scientific trial of electrofishing for razor clams

1. To propose where and when the trial electro-fishery should take place, when it should start and how many vessels should be approved to take part with appropriate catch limits.

2. Routine. It would be helpful to have a response by 6 November.

██████████

[REDACTED]

\_\_\_\_\_

- On 3 April 2017, following consultation, the Scottish Government announced that it will authorise a limited trial of electrofishing for razor clams. The trial is designed to gather baseline data, further our knowledge of the electrofishing method and explore the potential of a commercial razor clam electro-fishery within sustainable limits.

6. The announcement said that the commercial trial will take place in one or two areas around the Scottish coast where a specified number of boats will be authorised to employ the electrofishing method, within specified parameters, in

appropriately classified waters. The development of the trial has attracted significant interest from the press, MSPs, eNGOs and the fishing industry.

7. Fishing with electricity is illegal under EU law, but recent scientific evidence suggests that electrofishing for razor clams is more environmentally benign than other conventional harvesting methods (e.g. dredging). The trial will therefore be authorised under an EU scientific derogation.
8. The trial is currently scheduled to commence on or around 01 February 2018. While preparations are made for the trial, steps have been taken to cap the effort of the fishery in line with 2016 levels, including the introduction of a daily catch limit for Scottish vessels, of 600kg per day.

#### Economic potential

9. Razor clams are a valuable fish stock which has experienced a significant growth in demand in recent years, mainly from the Far East. The electrofishing method, currently employed illegally by the Scottish fleet, produces a higher quality product compared to the dredged clams from Ireland.
10. A regulated razor clam fishery offers potential economic growth to small, local economies and provides a useful diversification opportunity for the inshore fishing sector. In 2016 recorded landings in Scotland valued £2.3 million (see Annex A) but it is possible that the actual value of the fishery could be significantly higher.
11. There are currently 25-30 Scottish administered vessels and 8-10 English administered vessels targeting razor clams in Scottish waters. The two principal exporters/processors are located in Glasgow and Kirkcubright, with a further three key players located on the west coast and one in Methil, Fife.

#### Parliamentary process

12. The draft SSI that will prohibit fishing for razor clams in Scottish waters, except where it takes place through the trial or where it involves only the traditional gathering of a limited number of clams by hand on the shore, will be laid before the Scottish Parliament with a coming into force date of 1 February 2018.
13. The SSI will provide the trial with integrity and a sound enforcement basis. It is essential that the Order is in force when the trial commences.

#### Launch of application process

14. The application form and terms and conditions for the trial are in the final stages of development and we intend to launch the application process in November 2017. All UK registered fishing vessel will be eligible to apply for the trial and applications will be sifted on a number of criteria, including providing strong evidence of a positive economic link to Scotland.

15. On 12 October 2017, officials met key individuals from the razor clam fishery who are leading the development of a representative body for the fishery. The representatives were fully supportive, given the health and safety aspect of the trial, that a high bar (for diving standards and vessel safety) had been set for an application to be successful.

[REDACTED]

### **Candidate trial locations**

17. Marine Scotland has been considering where the trial might take place in terms of commercial viability, enforcement requirements and scientific priorities. Views have also been sought at recent consultation meetings with fishermen, industry representatives and processing/export businesses. A total of 11 candidate locations for the trial were identified as potential trial harvesting sites (see map in Annex B).
18. To an extent, all 11 candidate sites for the trial overlap areas contributing to the Marine Protected Areas (MPA) network, including two particularly sensitive sites – the Sound of Barra and the Solway coast (including Luce Bay) (areas 4 and 10 on map in Annex B). As required, advice was sought from Scottish Natural Heritage (SNH) in relation to the need for Habitats Regulations Assessment and potential impacts/mitigation for protected features.

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## **Recommendations**

49. We recommend that the electrofishing for razor clams trial commences on or around 1 February 2018 and that applications are sought in November. The trial will run under strict terms and conditions. Successful applicants will need to demonstrate appropriate diving and safety standards to discourage low cost operators.
50. We recommend that applications for the trial are invited for the 11 areas identified in Annex B (i.e. option 4) but make it clear that the inclusion of the Solway Firth (Luce Bay) and Sound of Barra is subject to appropriate assessments being concluded successfully. Trial participants will be permitted to electrofish for razor clams in any appropriately classified waters within these larger delineated areas. If any trial area is not utilised Marine Scotland will remove it from the trial.
51. We recommend that each vessel for the trial is initially subject to:
- i. a daily catch limit of 450kg (i.e. a 25% reduction of 2017 catch limit); and,
  - ii. 110 days at sea (this cap on effort will be a new measure for the fishery)

We anticipate the trial can accommodate approximately 20-25 vessels; however, the catch and effort limits above will be subject to review downwards once the number of successful applicants is determined.

52. We recommend that you agree to lay the draft SSI (Annex D) in the Scottish Parliament.
53. We recommend that you sign and send the draft update in Annex E (attached) to the REC and ECCLR Committees

[REDACTED]

Access to Sea Fisheries Branch  
Marine Scotland

[REDACTED]

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constituent Interest	General Awareness
Cabinet Secretary for the Environment, Climate Change and Land Reform			X		

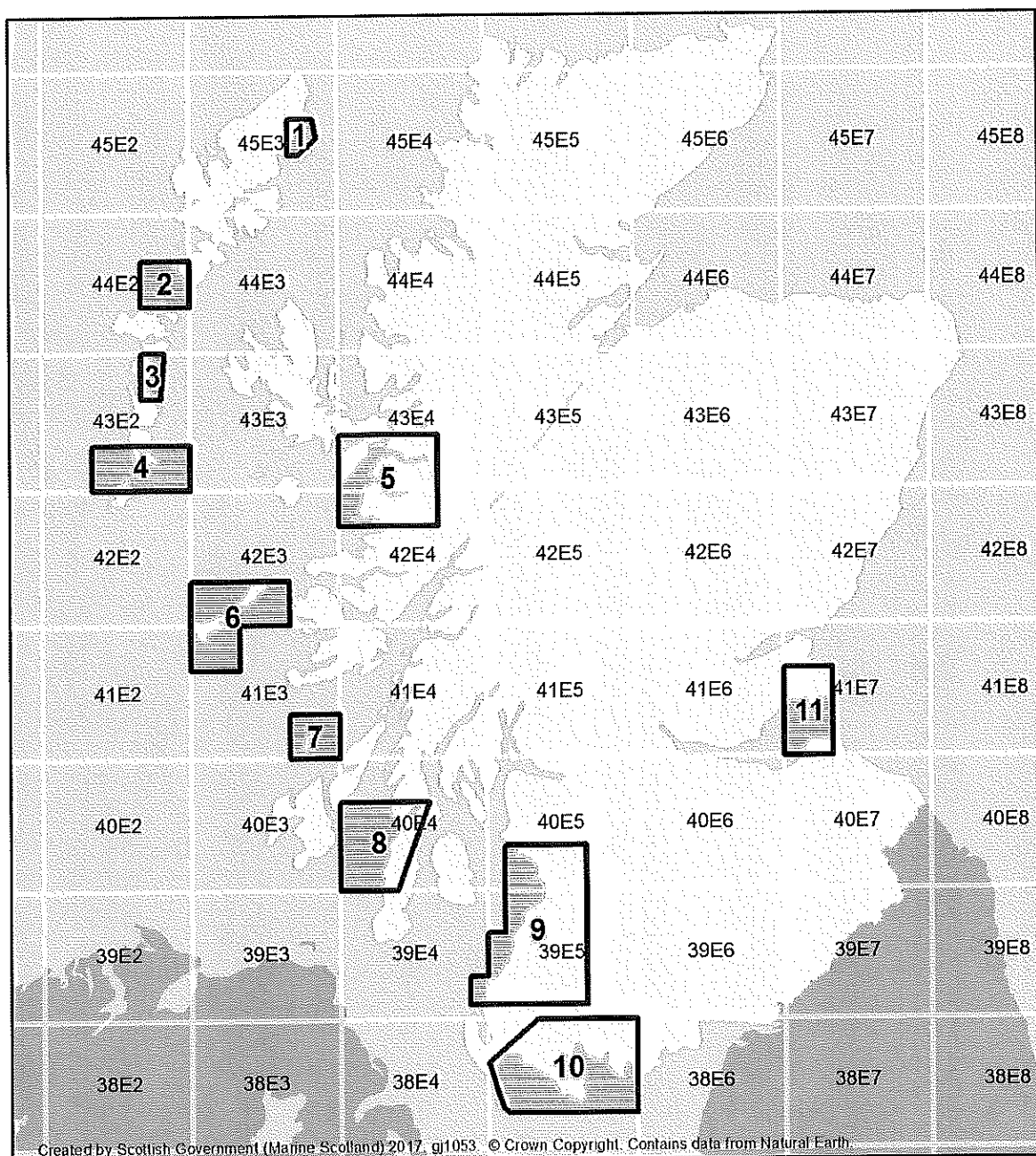
[REDACTED]
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## Annex A

In recent years recorded landings of razor clam into Scotland were:

Year	Quantity (tonnes)	£ (million)
2014	429	1.6
2015	350	1.6
2016	461	2.3

## Annex B



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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## SCOTTISH STATUTORY INSTRUMENTS

2017 No.

## SEA FISHERIES

The Razor Clams (Prohibition on Fishing and Landing) (Scotland)  
Order 2017*Made* - - - - 2017*Laid before the Scottish Parliament* 2017*Coming into force* - - 1st November 2017

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 5(1)(a) and (b) and (2) and 6(1) and (3) of the Sea Fish (Conservation) Act 1967(1) and all other powers enabling them to do so.

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Razor Clams (Prohibition on Fishing and Landing) (Scotland) Order 2017 and comes into force on 1st November 2017.

(2) This Order extends to Scotland and the Scottish zone only.

**Interpretation**

2. In this Order—

“day” means a period of 24 hours beginning and ending at midnight;

“razor clams” means razor clams of the species *Ensis* spp.

“tidal waters” means those parts of the Scottish zone, including the seabed and subsoil, which are enclosed between the boundary line following the mean high water spring mark and the boundary line following the mean low water spring mark.

**Prohibition on fishing for razor clams**

3.—(1) Fishing for razor clams within the Scottish zone is prohibited.

(1) 1967 c.84 (“the 1967 Act”); section 5(1) was substituted by the Marine and Coastal Access Act 2009 (c.23) (“the 2009 Act”), section 198(2), which extends to Scotland by virtue of the Marine (Scotland) Act 2010 (asp 5) (“the 2010 Act”), section 158. Section 5(2) of the 1967 Act was substituted by section 22(1) of the Fisheries Act 1981 (c.29) and amended by the 2009 Act, schedule 15, paragraph 3 which extends to Scotland by virtue of the 2010 Act, section 158. Section 6 was amended by the Fisheries Act 1981 (c.29), section 23(2) and (3); by S.I. 1970/1537, schedule 2, paragraph 10; by S.I. 1974/692, articles 2(1) and 5(3) and schedule 1, Part III; and by S.I. 1999/1820, schedule 2, Part I, paragraph 43 and Part IV, paragraph 1. Sections 5 and 6 of the 1967 Act are modified in relation to Scotland by section 22A(2), (6) and (7) of that Act. Section 22A was inserted by S.I. 1999/1820, schedule 2, paragraph 43(13) and section 22A(6) was substituted by section 159(4) of the 2010 Act. Relevant modifications are contained in S.I. 1999/1748, article 5 and S.I. 1999/1756, articles 3, 5 and 6.

(2) The prohibition in paragraph (1) does not apply to any operations involving fishing for razor clams which, under the authority of the Scottish Ministers, are conducted for the purpose of scientific investigation.

(3) Subject to paragraph (4), the prohibition in paragraph (1) does not apply to fishing for razor clams by hand in tidal waters.

(4) A person fishing for razor clams by hand in tidal waters may take no more than 20 razor clams in any day.

(5) In paragraph (3), “fishing for razor clams by hand” means the taking of razor clams by hand, without the use of any fishing gear or other mechanical device.

#### **Prohibition on landing razor clams in Scotland**

4.—(1) The landing in Scotland of any razor clams caught in the Scottish zone is prohibited.

(2) The prohibition in paragraph (1) does not apply to any operations involving the landing of any razor clams in Scotland or the catching of any razor clams in the Scottish zone which, under the authority of the Scottish Ministers, are conducted for the purpose of scientific investigation.

(3) The prohibition in paragraph (1) does not apply to the landing of razor clams after fishing for those razor clams by hand in tidal waters in accordance with article 3(3) and (4).

A member of the Scottish Government

St Andrew's House,  
Edinburgh

2017

**From:** [REDACTED]  
**Sent:** 30 November 2017 08:32  
**To:** [REDACTED]

**Cc:**  
**Subject:** Trial of electrofishing for razor fish in Scottish waters

Good morning all,

I just wanted to let you all know that we have taken the next steps towards the commencement of our trial of electrofishing for razor fish in Scottish waters this week.

A Scottish Statutory Instrument was signed by our Cabinet Secretary on Tuesday that has the effect of prohibiting all fishing for razor clams in the Scottish zone, except when either gathered by hand at the shore (up to a limit of 30 clams per day) or when conducted as part of a trial authorised by the Scottish Government. The instrument is going through the negative procedure and will come into effect on 1 February 2018.

It is planned that the trial will commence on 1 February and we will be making application forms available from today on our website. We will consider the applications together with colleagues in the MCA and HSE, for their responsibilities. It is expected that the trial will take place in up to 11 specified areas around the coast.

We have been taking the approach of pro-actively publishing material and correspondence with partner public bodies about the trial, and I know we've kept you all informed of developments at our licensing meetings. The web page is here.

<http://www.gov.scot/Topics/marine/Sea-Fisheries/management/razors>

If you do have any questions about the detail, please do contact [REDACTED] here. We will get back to you, although we have a great many razor linked plates spinning at the moment, so I know you'll be patient with us.

I think I have included everyone that should be informed, but please do pass on if I have missed anyone.

[REDACTED]  
[REDACTED]  
Sea Fisheries Policy Division: Scottish Government  
[REDACTED]

# SCOTTISH PARLIAMENT

## WRITTEN ANSWER

1 February 2018

Index Heading: Economy

**Emma Harper (South Scotland) (Scottish National Party):** To ask the Scottish Government what progress has been made with the commencement of a scientific trial of electro-fishing for razor clams.

S5W-14246

**Fergus Ewing:** A scientific trial of electro-fishing for razor clams commences on 1 February 2018 and will initially involve up to 26 fishing vessels operating in Scottish fishing waters. The trial has been developed following a consultation in 2016 about the potential use of the method, which itself followed a research study undertaken in 2014 by Marine Scotland Science. The trial will be conducted under strict controls applied to the places where vessels may fish, the electrical equipment on-board, the time that may be spent at sea and the amount of razor clams which may be caught and landed. Now that the trial has commenced, other fishing for razor clams will be prohibited, except for hand gathering of clams from the beach (up to a maximum of 30 clams), for personal consumption.

Vessels which will be involved in the trial were selected after an application process that was open to all UK registered fishing vessels. Applications were assessed and selected by a cross-departmental panel, which included the Scottish Government, the Health and Safety Executive and the Maritime and Coastguard Agency.

The Scottish Government considers that there is significant potential for positive economic benefit for relevant coastal communities from an appropriately managed electro-fishery for razor clams. The trial will seek to provide useful evidence about how this fishery can be managed effectively and sustainably and about any longer term effects of the specified equipment on the marine environment. The findings from the trial will be considered carefully before any decision is made about the future approach to such fishing.

It is expected that the trial will continue for a number of fishing seasons. The trial has been notified to the European Commission, as is required under EC Regulation 850/98.