

# Promoting Best Practice for Inshore Fisheries: Outcome Report on a consultation on measures for hobby/unlicensed fishermen in Scottish inshore waters

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## **Introduction**

This report summarises responses to questions posed in the Consultation on measures for hobby/unlicensed fishermen in Scottish inshore waters and provides an analysis of the views received and highlights areas of consensus and divergence. Marine Scotland's next steps are also given. The consultation ran from 30 January 2015 to 31 May 2015.

## **Background**

The Inshore Fisheries Management and Conservation Group (IFMAC) established a short-life working group to discuss the issue of hobby/unlicensed fishermen and report back with possible actions to reduce the incidence of unlicensed fishing.

Fishing vessels that fish commercially and land their catch for profit in the UK must firstly hold a valid Certificate of Registry and be registered with the Register of Shipping and Seamen at Cardiff. In addition they must also hold a valid UK fishing vessel licence issued by a UK Fisheries Administration.

The licence specifies conditions which must be adhered to by vessel owners when fishing activity is being pursued. It authorises the sea areas in which a vessel can fish and the species of fish that can be targeted, and is the mechanism of control that enables UK Fisheries Administrations to regulate fishing under the quotas (TACs) set and allocated annually to the UK under the EU Common Fisheries Policy.

No licence is required by ordinary members of the public who wish to fish for pleasure. Unlicensed fishing vessels may not sell their catch, nor may fish be bought from an unlicensed vessel. The Registration of Buyers and Sellers Scheme requires all buyers and sellers of first sale fish to be registered, and that all auction sites of first sale fish and shellfish are designated. Registration as a buyer is not required when purchases of first sale fish direct from a fishing vessel are wholly for personal consumption and less than 30 kg.

By its very nature, the illegal selling of catch for profit by hobby/unlicensed fishermen is difficult to measure; however, there is evidence to suggest this is a significant issue around the Scottish coast in particular hotspots. The problem also increases during spring/summer months.

There is also evidence to suggest that the problem exists in relation to fishing for crabs and lobsters with creels and also in relation to diving for scallops – which can be harder to monitor as this activity can be undertaken from beaches etc.

Current EU legislation allows fishing for personal consumption but does not define what this means. Reports have been received of unlicensed creelers using hundreds of pots and scallop divers collecting several large sacks of scallops in one day's fishing.

EU legislative provisions require that all fisheries products (subject to the exception noted below), are first marketed or registered at a registered auction centre or to registered buyers or to producer organisations. Registration is free. However, a buyer acquiring fisheries products of an amount up to 30 kg which are not placed on the market but are used only for private consumption are exempted from this requirement.

There are safety issues in relation to unlicensed fishermen as they may not have the relevant safety certificates or be complying with best practice. There are also public safety and health concerns due to the untraceability of produce and the possibility of shellfish being sourced from areas affected by toxins, particularly if harvested from waters that have not been tested for toxins and classified as safe.

Over fishing and non-compliance with regulations on landing sizes may impact on the long term sustainability of stocks. When licensed fishermen see unlicensed fishermen selling their catch for profit without any apparent hindrance to their efforts they believe there is not a level playing field. As a result, it can be difficult to persuade commercial fishermen to embrace voluntary activities such as data gathering or management measures that can have a long term benefit for the fishery.

## **Report findings**

1. The IFMAC working group identified a number of possible actions to reduce the incidence of unlicensed fishermen selling their catch for profit which can be broadly split into two distinct areas:

- Educational / Awareness raising, including:
  - Trade press articles
  - Notices reminding fisheries of legislation at particular hotspots
  - Notifications of sub-standard water classification to be posted at those sites
  - Liaising with trade bodies and local organisations to highlight issues
  - Liaison with local authorities regarding their food safety policies to include importance of sourcing
  - Liaison with Environmental Health officers regarding importance of reputable sourcing
- Legislative, including consideration of;
  - Permits for unlicensed/hobby fishermen
  - Creel limits and/or tagging
  - Landing limits for different species
  - Personal Consumption Definitions/changes to the exemption in the current provisions relating to the register of buyers and sellers of fisheries products.

It is the legislative options that Marine Scotland sought views on in this consultation which was launched on 30 January 2015. Following a 5 week extension the consultation closed on 31 May 2015.

The consultation sought views on eight points. The first question requested views on introducing a permit system for hobby fishermen.

**Question 1: Should a permit system be introduced for fishermen not fishing from a licensed fishing vessel?**

The second and third question sought views on creel limits and tagging.

**Question 2: Should a maximum limit be set for the numbers of creels that can be set by unlicensed/hobby fishermen?**

**Question 3: If you have answered 'Yes' to Question 2, what should be the maximum number of creels that can be set by a hobby fishermen?**

The fourth and fifth questions were in relation to landing limits.

**Question 4: Should daily catch or landing limits be introduced for certain species?**

**Question 5: If you have answered 'Yes' to question 4 what species should be covered and what do you consider to be an acceptable limit for each species for hobby fishermen to land?**

The sixth question sought views on the use of keep boxes.

**Question 6: Should the use of keep boxes by unlicensed / hobby fishermen be banned?**

The final questions sought views on whether personal consumption should be defined in law.

**Question 7: Should legislation define what is meant by 'personal consumption'?**

**Question 8: If you answered 'yes' to Question 7, how should 'personal consumption' be defined - by weight or number, depending on species, or by some other means?**

The consultation set out the background to each question and sought views on proposed changes.

## Consultation Responses and Next Steps

A total of 54 responses were received. 33 from individuals, 15 from organisations directly involved in fishing and/or representing fishermen and 6 responses were from other organisations, including environmental organisations and local authorities.

### Permits for unlicensed/hobby fishermen

The introduction of a requirement for unlicensed/hobby fishermen to hold a permit is in place in some other parts of the UK and in conjunction with other measures has been viewed as contributing to the reduction in unlicensed fishermen selling their catch for profit. A permit could state clearly what hobby fishermen were permitted to do and include limits on species, numbers or the amount allowed for personal consumption etc.

#### Question 1: Should a permit system be introduced for fishermen not fishing from a licensed fishing vessel?

Total	Individuals	Fishing Organisations	Other Organisations
Yes 38 70%	Yes 24 73%	Yes 11 73%	Yes 3 50%
No 15 28%	No 9 27%	No 4 27%	No 2 33%
Total 53 98%	Total 33 97%	Total 15 100%	Total 5 83%

Comments from the consultation included:

*“Yes, This means that people must apply for a license, therefore they cannot say they are unaware of any regulations they must abide by. All regulations/conditions can be outlined in the application or on the license.”*

*“Yes, A permit system has been used successfully in other areas of the UK and would be relatively easy to introduce and would bring some form of traceability to what levels of effort is being used by non-licensed vessels.”*

*“No. Many recreational sailors occasionally fish from their boat for consumption on board or for a beach barbecue and it would seem inappropriate to require this low intensity activity to be licensed”*

The majority of individuals and fishing organisations responding were in favour of the introduction of a permit system for fishermen not fishing from a licensed vessel.

A number of reasons were provided by those against the measure, ranging from a belief that this would legitimise unlicensed fishermen, add bureaucracy for hobby fishermen, and that Marine Scotland would not have resources to implement such a measure.

**Marine Scotland Response** – Marine Scotland believes that the introduction of a permit system for hobby fishermen would be an important step forward in reducing the impact of unlicensed fishermen. Other parts of the UK, such as the Northumberland IFCA have introduced a permit system that they believe is working well.

A permit for hobby fishermen would set out exactly what was permitted by hobby fishermen, whether that be landing limits, gear limits or that the catch could not be sold for commercial gain.

Fishermen would have to be either licensed and fishing on a commercial basis, or a hobby fishermen abiding by the rules stated on the permit. This would aid in enforcing regulations and reduce the ability of unlicensed commercial fishermen hiding in legislative shadows.

A permit system would not need to be costly or difficult to implement. A system could, for example, be introduced allowing permits to be applied for and issued on-line, and we would envisage that fishing without a permit or commercial license would be illegal.

Current legislation does not allow Marine Scotland to create a permit system for hobby/unlicensed fishermen. Marine Scotland will monitor the effectiveness of other actions taken, such as introducing landing limits for hobby/unlicensed fishermen. If additional measures are considered to be necessary then Marine Scotland will seek to introduce legislation that would allow for the creation of a permit system.

### **Creel Limits/tagging**

There is anecdotal evidence to suggest that some unlicensed fishermen are laying numerous creels whilst claiming they are fishing for pleasure and retaining catch for personal consumption. It is difficult to monitor the position as creels are often not identifiable and therefore cannot be conclusively attributed to unlicensed fishermen.

A requirement for every fishermen to tag each creel with a specified amount of information would allow identification of the owner of the creel. This would enable enforcement of any fixed upper limits on the number of creels that can be set by unlicensed/hobby fishermen, ultimately allowing for the removal of untagged creels or creels set in excess of numbers allowed for hobby fishermen. Northern Ireland, for example, does not allow hobby or unlicensed fishermen to use more than five pots or to use a stock cage (keep box).

### **Question 2: Should a maximum limit be set for the numbers of creels that can be set by unlicensed/hobby fishermen?**

Total	Individuals	Fishing Organisations	Other Organisations
Yes 51 94%	Yes 31 94%	Yes 15 100%	Yes 5 83%
No 2 4%	No 2 6%	No 0 0%	No 0 0%
Total 53 98%	Total 33 100%	Total 15 100%	Total 5 83%

Comments from the consultation included:

*“Yes, At the moment without any defined number unlicensed boats are breaking no rules fishing hundreds of creels.”*

*“Yes. This should be introduced alongside a requirement for all commercial fishermen to tag individual creels. All untagged creels in fleets above the legal limit would be illegal”*

*“Although it is difficult to gauge when fishing activity moves from a hobby and personal consumption activity to a part time commercial activity there needs to be a distinction between the two. It seems reasonable that hobby fishermen are limited to five tagged creels or pots with a greater number of creels moving the activity to a commercial level which requires a fishing vessel licence.”*

**Question 3: If you have answered ‘Yes’ to Question 2, what should be the maximum number of creels that can be set by a hobby fishermen?**

**Overall:** A wide variety of numbers were suggested for creel limits, from 1 to 30. The mean average figure suggested is 6 creels. 21 respondents suggested 5 creels was an appropriate limit and the next most popular answer was 10 creels suggested by 7 respondents.

**Individuals:** Suggested creel limits varied from 1 to 30. 12 respondents suggested 5 creels was an appropriate limit and the next most popular answers were 10 or 3 creels which were both suggested by 4 respondents.

**Fishing Orgs:** Suggested creel limits varied from 2 to 10. 6 respondents suggested 5 creels was an appropriate limit and the next most popular answer was 10 creels suggested by 3 respondents.

**Other Orgs:** 3 organisations expressed an opinion on the maximum number of creels that should be permitted. All suggested 5 was an appropriate limit. .

Comments from the consultation included:

*“Five creels seems more than adequate. There is a limit on the number of shellfish that can be consumed by one family in a week....”*

*“Two creels is enough to catch a crab or lobster to make a meal and keep it fun”*

**Marine Scotland Response –** Marine Scotland supports the right for individuals to enjoy fishing as a hobby and the use of creels is an integral part of that. However, it is not acceptable for unlicensed fishermen to use this as a smoke screen for commercial activity. Marine Scotland is of the opinion that it is therefore reasonable to set a limit on the number of creels that may be used by hobby/unlicensed fishermen.



Current legislation does not allow for Marine Scotland to impose a limit on the number of creels that can be deployed by hobby fishermen. Marine Scotland believes that imposing a limit on non-commercial fishermen would be a useful tool to reduce the impact of unlicensed fishermen.

Current legislation does not allow Marine Scotland to act immediately on this issue. Marine Scotland will monitor the effectiveness of other actions taken, such as introducing landing limits for hobby/unlicensed fishermen. If additional measures are considered to be necessary then Marine Scotland will seek to introducing legislation that would allow for the requirement for hobby/unlicensed fishermen to tag their creels that will allow for identification of the owner. .

### Landing limits for different species

There is evidence that some unlicensed fishermen are landing amounts of fish for ‘personal consumption’ far in excess of what might be considered a ‘reasonable amount’, which is a subjective phrase and open to wide interpretation. Measures could be introduced that establish clear maximum daily catch or landing limits that were more readily enforceable. A ban on the use of keep boxes could also help prevent any minority of unscrupulous fishermen claiming that catches over the daily limit were caught previously and stored.

### Question 4: Should daily catch or landing limits be introduced for certain species?

Total	Individuals	Fishing Organisations	Other Organisations
Yes 46 85%	Yes 28 85%	Yes 13 87%	Yes 5 83%
No 5 9%	No 4 12%	No 1 7%	No 0 0%
Total 51 94%	Total 32 97%	Total 14 84%	Total 5 83%

Comments from the consultation included:

*“To reinforce creel or pot limits a limit to fish landed should also be introduced.*

*”yes for all species, otherwise it will be impossible for MS Compliance to enforce activities undertaken by hobby fishermen.”*

*“2 lobster and 5 crab would fill a good big pot and give you more than u could eat in one go”*

**Question 5: If you have answered ‘Yes’ to question 4 what species should be covered and what do you consider to be an acceptable limit for each species for hobby fishermen to land?**

**Overall:** A range of opinions were put forward but it is clear that a daily catch limit of some kind is supported, particularly for lobsters and crab.

**Individuals:** A wide variety of responses were received. It is clear that a catch limit is favoured and a range of opinions exist over what species should be covered and what limits should be set. 26 out of 33 responses stated lobsters should be covered and 19 thought that crabs should also be included (some respondents also differentiated between different species of crab). Others thought all species should be covered and a small number included finfish in their responses. Daily catch limits suggested averaged at between 1 and 2 per day for lobsters (but varied from 2 per week to 5 per day) and 3-4 per day for crabs (but varied from 4 per week to 10 per day) although there was some distinction between levels for different crab species.

**Fishing Orgs:** Most respondents stated crab (various) and lobster should have daily catch limits set and a lesser number also thought Nephrops and scallops should also be similarly treated. 3 commented that all commercial species should be covered by a daily catch limit. A minority of respondents suggested what the limits should be which varied between 1 and 4 for lobster, 2 and 5 for crab and 10 for Nephrops.

**Other Orgs:** A variety of answers were received, including suggestions that limits should cover all commercial species, and be based on expert advice, ‘reasonable limits’ should be imposed or that lobster and crab only should have limits set.

Comments from the consultation included:

*“..... This allows hobby fishermen to catch their dinner but not adversely affect the commercial fishery.”*

*“catch limits would have to be reasonable. For instance, velvet and green crabs would be expected to be caught in much larger numbers than lobsters.”*

*“The daily limit set should be in line with what is considered to be adequate for an averaged sized family meal.”*

**Question 6: Should the use of keep boxes by unlicensed / hobby fishermen be banned?**

Total	Individuals	Fishing Organisations	Other Organisations
Yes 47 87%	Yes 29 88%	Yes 14 93%	Yes 4 67%
No 6 11%	No 4 12%	No 1 7%	No 1 17%
Total 53 98%	Total 33 100%	Total 15 100%	Total 5 84%

Comments from the consultation included:

*“If someone is fishing for their dinner, as a hobby fishermen should be, there is no reason to have a keep box.”*

*“yes, if it’s a hobby and restricted to what you can reasonable eat, should be no need for a keep box.”*

*“No, but they should be subject to catch limits (Qu 5). It is reasonable to use a keep box to retain shellfish for later personal consumption.”*

**Marine Scotland Response** – It is clear from the responses that there is wide support for the principle that fishermen who are not licensed to fish on a commercial basis should have restrictions in place to limit the number per species of fish that they can take.

Any restrictions put in place need to be proportionate and allow for a reasonable level of personal consumption. Restrictions should also be enforceable. Marine Scotland believes that it is reasonable to set limits on what can be caught by a hobby fishermen. This will vary by species and be sufficient to allow a hobby but will not allow unlicensed fishermen to argue that catches of significant size are for personal consumption.

It also clear that there is a desire to remove the ability of hobby fishermen to use keep boxes to store catches from previous day’s fishing activities. Marine Scotland is of the view that hobby fishermen should only be catching and landing small amounts for their own use. By allowing hobby fishermen to utilise keep boxes a route is provided for unscrupulous fishermen to flout any change in legislation, and catch an amount higher than any daily limit set. If challenged the fishermen could claim that part of the catch was from a previous day’s fishing and had been stored in a keep box.

Current legislation does not allow Marine Scotland to implement a ban on the use of keep boxes for unlicensed fishermen but when a suitable opportunity arises Marine Scotland will seek to introduce primary legislation that would allow for the ban on the use of keep boxes by hobby/unlicensed fishermen.

Marine Scotland intends to bring forward secondary legislation within the current legislative framework to set limits on what an unlicensed fishing boat can catch within specified areas within Scottish waters.

Northern Ireland introduced legislation (The Unlicensed Fishing for Crabs and Lobster Regulations (Northern Ireland) 2008) that limits the landing or retention on a boat of more than two lobsters or 5 crabs and this is an example of the kind of measure that Marine Scotland would like to see introduced in Scotland. The legislative framework in which we operate means that limits will have to be set by species and amount of that species that can be caught rather than landed and we will focus on the most popular species, including nephrops, lobsters, crabs and scallops. These measures will bring clarity to what hobby/unlicensed fishermen are able to catch and make enforcement more straight forward.

Current legislation does not allow us to ban hobby/unlicensed fishermen from using keep boxes, however, we will consider introducing such a ban at the earliest reasonable opportunity, if other measures do not address the issues raised by unlicensed fishermen.

## Personal Consumption Definitions.

Current legislation allows for fishing for personal consumption but does not define what this means. There have been reports of unlicensed fishermen setting significant numbers of pots and scallop divers bringing ashore enough scallops to fill several large sacks of scallops yet still claiming they are for personal consumption.

### Question 7: Should legislation define what is meant by ‘personal consumption’?

Total	Individuals	Fishing Organisations	Other Organisations
Yes 43 79%	Yes 27 82%	Yes 12 80%	Yes 4 67%
No 10 19%	No 6 18%	No 3 20%	No 1 17%
Total 53 98%	Total 33 100%	Total 15 100%	Total 5 84%

Comments from the consultation included:

*“If it is clearly defined, people know what they are allowed to do and what they are not allowed to do”*

*“without such a definition, it remains open to interpretation, and thus more difficult to enforce”*

*“No. The ban on selling is sufficient. Surplus shellfish could be given to friends or relatives.”*

### Question 8: If you answered ‘yes’ to Question 7, how should ‘personal consumption’ be defined - by weight or number, depending on species, or by some other means?

**Overall:** Almost 80% of those responding to the consultation consider that legislation should define what is meant by personal consumption. Some respondents considered the definition should be defined by number, species, weight or a combination of all three.

Over 80% of responses indicated that number should be a key factor in any definition and accompanying statements appear to indicate that one factor is the ease of understanding this would provide fishermen and enforcement officers.

Around 80% of respondents indicated that a definition of personal consumption should include a reference to numbers of fish with most of the remainder suggesting species should be factor. Accompanying comments would suggest that there is little difference between these opinions i.e. define by number per species. Some suggested that number should be a factor rather than weight for practical reasons allowing enforcement officers and fishermen to monitor catch without the need to carry scales. A small number of respondents suggested that finfish might be better defined by weight whilst shellfish by number.

**Individuals:** 56% favoured a numerical definition of personal consumption and 22% favoured a species based definition. In practical terms comments would suggest there is a broad consensus between the two responses that definition should be based on a defined number per species. Less than 10% favoured using weight as a basis for defining personal consumption.

**Fishing Orgs:** 67% of responses suggested defining personal consumption by number and 8% by weight. The remainder (25%) suggested a definition factoring numbers and/or weight.

**Other Orgs:** A numerical basis for defining personal consumption was expressed by all those providing an opinion.

Comments from the consultation included:

*“Number per species. This means an on the spot judgement can be made if too much has been taken....”*

**Marine Scotland Response –** There is clearly a demand for placing some kind of limit on what hobby/unlicensed fishermen may catch. Opinions favour either defining personal consumption by species and/or by numbers.

Defining personal consumption isn't a straight forward issue. Should the definition be set at a level that only takes into account the need of the individual fishermen or include his or her family? How would we define the family? What if fishing for a celebratory meal for an extended family? Does this mean that individual fishermen would have different landing limits depending on their circumstances? How would this be enforced? If enforcement is to be successful then a hobby/unlicensed fishermen and enforcement officers need clarity over what can or cannot be caught.

Having given further consideration to this matter and reflecting on the responses, Marine Scotland is of the view that defining personal consumption in a fair manner and in a way that would be enforceable would be a significant challenge. We therefore propose to focus on setting limits on what unlicensed fishing boats may fish for in Scottish waters. We believe this will be clearer to hobby fishermen and aid enforcement efforts.

## **Annex A**

### **Respondents to the Consultation**

#### **Group/Organisation**

Scottish Creel Fishermen's Federation  
Scottish Creelers and Divers  
North Minch Shellfish Association  
Fife Fish Producers Organisation  
The Scottish Whitefish Producers Association  
Scottish Fishermen's Federation  
Inshore Fishermen's Alliance  
South West Inshore Fisheries Group  
Fife Creel Fishermen's Association  
MNWFA  
10mu Association  
Western Isles Fishermen's Association  
Outer Hebrides Inshore Fisheries Group  
North East Creel & Line Association  
Orkney Fisheries Association  
RSPB  
The National Trust for Scotland  
Argyll & Bute Council  
Comhairle nan Eilean Siar  
Royal Yachting Association Scotland

#### **Individual responses\***

James Cameron  
A Hughson  
James Hawkins  
James Downie  
Edwin Flett  
Sally Campbell  
Allan Beckett  
Seun Ayorinde  
Alexander Wiseman

\*names only released where permission granted



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