

# **Consultation on the Recommendations from The Scottish Licensing Review Working Group**

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# Consultation on the Recommendations from the Scottish Licensing Review Working Group

## CHAPTER 1: INTRODUCTION

1.1 In 2009, the Scottish Licensing Review Working Group (SLRWG), a joint industry/Marine Scotland group, was established. The membership was set up to represent each catching sector rather than geographical locations. The industry members of the SLRWG (as at last plenary session held on 12<sup>th</sup> June 2013) are:

Clyde Fishermen's Association  
Fishermen's Association Ltd  
LHD Ltd  
Mallaig and North West Fishermen's Association  
Marine Scotland  
Scallop Association  
Scottish Pelagic Fishermen's Association  
Scottish Fishermen's Federation  
Scottish White Fish Producers' Association  
Western Isles Fishermen's Association

1.2 The remit of the group was to carry out a full review of the licensing arrangements in Scotland, with a view to informing future policy developments and, where appropriate, recommending changes to the current licensing system in operation.

1.3 This consultation is in union with wider considerations and decisions designed to allow Scotland along with other UK Fisheries Administrations, to have a greater degree of control over the management of fishing opportunities and their identified fishing fleets, all within a UK-wide quota, effort management and licensing system. Marine Scotland's recently published Aid to Adapt Action Plan shows the Scottish Government's commitment to making 'changes to licensing systems that will reduce costs and add significantly to the flexibilities available to licence holders'.

1.4 Fishing activity remains an integral component of many of our Scottish coastal communities. Licensing is an important and well established management tool with which we can manage entry and effort in a way best suited to individual fisheries and the communities which depend upon them.

1.5 This consultation document sets out the recommendations from the SLRWG and, following consideration, subsequent Scottish Government proposals. The primary objectives are to:

- introduce greater flexibility in the licensing system
- ensure management arrangements maintain proper controls that are light touch, effective and business-friendly

- support the needs and aspirations of a sustainable industry and associated marine environment

1.6 We believe the proposals in this consultation are positive and forward looking for all concerned and the Scottish Government seeks your views on each of the proposals and encourages you to respond.

## **CHAPTER 2: PURPOSE OF THE CONSULTATION**

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

2.1.1 The purpose of this consultation is to seek the views of all stakeholders, including fishermen's associations, producers' organisations and other relevant organisations, businesses and individuals, with a direct interest in Scottish sea fishing, on the proposals arising from the work of the SLRWG.

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

2.2.1 We believe the changes proposed offer a more flexible, simple, effective and business-friendly licensing process, ensuring the necessary controls are easy to understand and not a burden on fishing businesses. Importantly, they are designed to maximise opportunities for individual Scottish fishers and the fishing fleet collectively.

### **2.3 Who might be affected by the proposals?**

2.3.1 The fish catching sector operating in Scotland and all Scottish-administered licence and entitlement holders will be directly affected by these proposals. There may also be impacts for licence transactions involving other UK Fisheries Administrations. Some of the potential effects may be changes to current licence structures, the process of licensing vessels and the validity of licence entitlements (those that are not currently placed upon a vessel).

### **2.4 What will be the financial impacts?**

2.4.1 It is envisaged that the proposals will involve minimal, if any, new public expenditure or operational costs to industry.

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

2.5.1 The views and suggestions provided in 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 other factors, including any other available information and research evidence.

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

2.6.1 The Scottish Government generally allows 12 weeks for consultations. However this consultation is specific to fishing vessel licensing, with limited public interest, therefore this consultation period will last for 8 weeks. Comments are therefore requested by 10<sup>th</sup> February 2014.

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

2.7.1 The Scottish Government welcomes your comments on the proposals and your responses to the following questions taken from Chapter 3.

### **Question 1: Capacity Penalties**

**Do you agree that capacity penalties on licence aggregations bring unnecessary costs to industry and should therefore be removed?**

### **Question 2: Licence categories**

**A) In light of the forthcoming landing obligation, do you agree that there is a need to change the current licensing structure?**

**B) Do you agree with a proposal to have only one 10m & Under Licence and one Over 10m Licence?**

**C) Do you agree that the lowest common denominator (see section 3.2.3) should apply when transferring or aggregating a licence within Scotland?**

### **Question 3: Mismatches**

**A) Do you agree to the removal of the mis-match provisions on transactions involving the use of dis-aggregated entitlements?**

**B) Do you agree to the proposed change in the way mis-match provisions will be recorded on the licence?**

### **Question 4: The validity period for unattached licence entitlements (shelf life)**

**Do you believe the entitlement validity period should be extended to a 10 year period?**

### **Question 5: Scallop and Shellfish Entitlements**

**Do you agree with the Scottish Government's proposal for the removal of scallop entitlements that have not been used within the last seven years i.e. entitlements that have not been placed on board a vessel that is rigged and operational within the fishery?**

### **Question 6: New Entrants**

**Do you agree with the concept of licensing incentives to support and promote a new entrants scheme to the Scottish fishing industry?**

### **Question 7: Days at Sea/Effort Eligibility**

**A) Do you agree with the removal of CRZ eligibility completely?**

**Or**

**B) Do you agree that CRZ eligibility should be kept, with an updated reference period that will roll forward annually?**

**We are inviting written responses to this consultation paper by 10<sup>th</sup> February 2014.**

Please send your completed response to:

[vessel\\_licensing@scotland.gsi.gov.uk](mailto:vessel_licensing@scotland.gsi.gov.uk) (vessel\_licensing@scotland.gsi.gov.uk)

Or

Ingrid Drever  
The Scottish Government  
Marine Scotland  
Area 1B - South  
Victoria Quay  
Edinburgh  
EH6 6QQ

The Scottish Government may make the responses to this consultation paper available to the public and to the Scottish Parliament unless you ask for your response not to be published which will then be treated as confidential, and we will treat it accordingly. We will acknowledge responses and may publish an analysis of the responses after the consultation. If you respond to this consultation you are requested to complete the enclosed respondent information form attached at Annex C. This will ensure that we handle your responses appropriately.

## CHAPTER 3: PROPOSALS FOR IMPLEMENTATION

### 3.1 Capacity Penalties

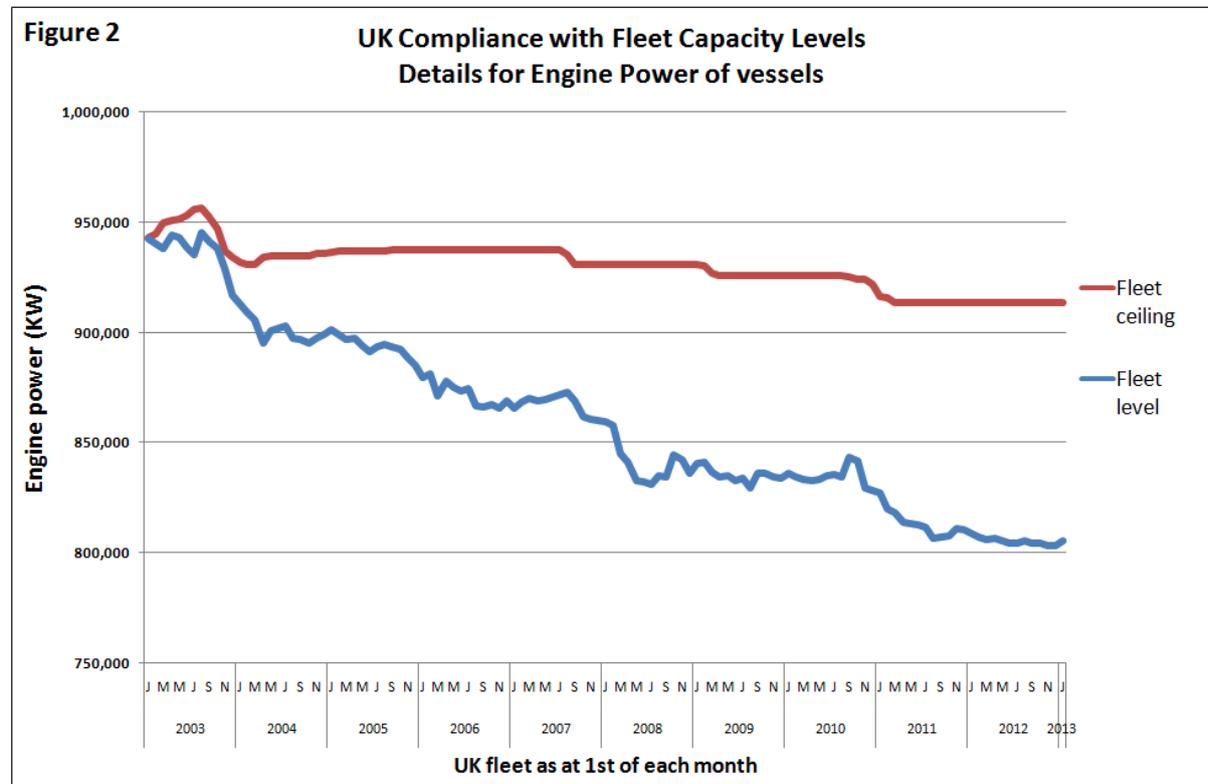
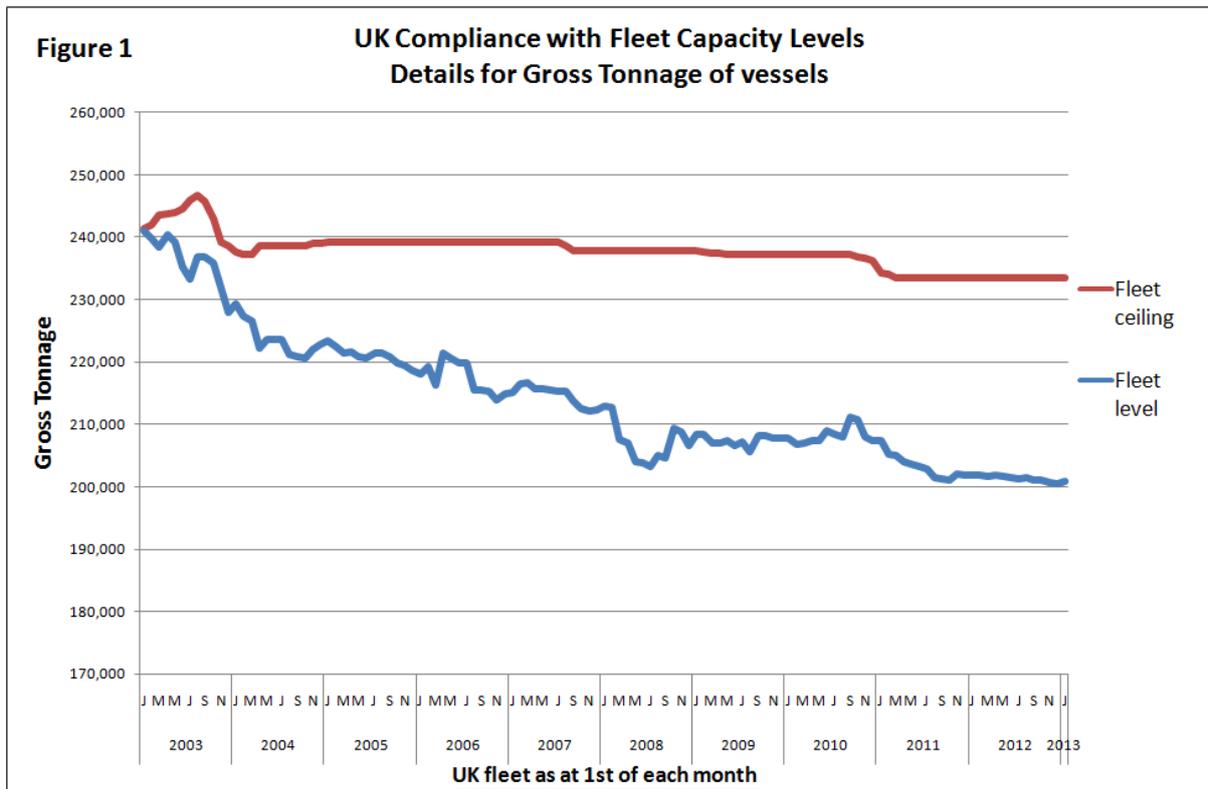
3.1.1 Capacity penalties were originally introduced to reduce the overall UK fleet capacity and ultimately fishing effort, to ensure that we were within the ceiling set by the European Commission for the UK.

3.1.2 Currently, a capacity penalty of 5% is paid on both the kilowatts and tonnage, in transactions involving the aggregation of two or more full licence entitlements (AFL7). When elements of kilowatts and/or tonnage from disaggregated licence entitlements (ALF19) are used to license a vessel by either single licence transfer or by aggregation, then a capacity penalty of 10% is payable on those elements. For licence transactions involving the use of both full and disaggregated entitlements, a capacity penalty rate of 5% is applied against both the kilowatts and tonnage of the full entitlement and a capacity penalty rate of 10% is applied against the elements of kilowatts and/or tonnage from the disaggregated entitlement(s).

3.1.3 The industry representatives of the SLRWG feel that capacity penalties are now a business constraint which adds unnecessary cost and they would like to see capacity penalties removed. Marine Scotland agrees that with the current process there are unintended costs to businesses. However, this feature does have a genuine deliverable benefit in that it allows the close monitoring of fleet capacity headroom which in turn could be re-allocated to assist initiatives in support of the fleet. The position will be reviewed continuously by Marine Scotland who will retain the option of re-introducing capacity penalties if a future need is demonstrated.

3.1.4 The tables below, extracted from the UK Fleet Capacity Report 2012, suggest that there is currently potential headroom between the UK fleet ceiling and the fleet level on tonnage and engine power which might be accessed to issue new licences – see *Section 3.7 New Entrants* for further information on this proposal. Please note that any headroom must be calculated taking into account both active and inactive entitlements.

# UK Fleet Capacity Report 2012



## Question 1

**Do you agree that capacity penalties on licence aggregations bring unnecessary costs to industry and should therefore be removed?**

### 3.2 Licence categories

3.2.1 There are currently two distinct fleet bands for licensing purposes:

- a) vessels over 10 metres overall length; and
- b) vessels of 10 metres and under overall length.

Within the higher length band there are three licence categories which apply:

- Category A (including all Pelagic): stocks which are at greatest risk and are subject to quotas
- Category B: stocks which are generally at less risk than Category A stocks, but are still subject to quotas
- Category C: stocks which are not considered to be at an immediate risk and are generally not subject to quotas.

For vessels in the lower length band, all vessels receive a Category A licence.

3.2.2 The SLRWG was unanimous that a clear division needs to be maintained between the '10 metre and Under' and 'Over 10 metre'. The impending landing obligation means that no TAC (Total Allowable Catch) & Quota species will be permitted to be returned to the sea once caught. The current licence categories determine which species a fisherman is allowed to catch.

Under a landing obligation, fishers would not be permitted to discard unauthorised or unwanted catches currently determined by their licence category. Therefore, we propose to introduce one '10m and Under' licence and only one generic 'Over 10m licence', thus introducing a more streamlined and fit for purpose licensing structure which also offers greater flexibility to meet the needs of fishers. The new two licence structure would mean that pelagic licences would no longer be separate but would instead be converted into an 'Over 10m' licence. The Scottish Government would monitor this change to ensure that no individual anomalies occur and that other UKFAs (UK Fisheries Administrations) have a clear understanding of this new system.

3.2.3 Where current licences hold additional entitlements (for example a shellfish entitlement) these would be carried forward onto the new licence. **It is worth noting that because shellfish and scallops are not TAC and Quota species they are not subject to the landing obligation.** Where a licence is transferred or aggregated within Scotland we propose to continue with the 'lowest common denominator' rule. For example, if a licence with a shellfish entitlement is

aggregated with a licence which does not have a shellfish entitlement, the resulting licence will not have a shellfish entitlement attached.

## Question 2

- A) In light of the forthcoming landing obligation, do you agree there is a need to change the current licensing structure?**
- B) Do you agree with a proposal to have only one 10m & Under licence and one Over 10m licence?**
- C) Do you agree that the lowest common denominator should apply when transferring or aggregating a licence within Scotland?**

### 3.3 Mis-matches

3.3.1 There may be cases where it proves difficult to find an exact match in transactions to license a new vessel and to allow for this minor mis-matches (additional kW or tonnage given) in licensing transactions were introduced in November 1999. To assist in the transfer of licences, minor mis-matches of up to:

<i>Vessel Group</i>	<i>Tonnes</i>	<i>kW</i>
10 metres & under	1	5
Over 10 metres	2	10

are accepted in licence transfer transactions. However application of a mis-match is subject to the following:

- After the capacity penalty is applied against both tonnage and kW, at least one of the parameters (tonnage or engine power) must be fully met by the donor entitlement(s).

3.3.2 Prior to relaxed dis-aggregation arrangements in January 2009, dis-aggregated licences (AFL19s) could only be used in single licence transfers. However, under the new arrangements the use of elements from dis-aggregated licences in transactions to 'top-up' the tonnage and/or kilowatts of a vessel was allowed which became subject to a certain amount of regular abuse.

### **For example**

In an extreme recent case, a relatively small 10m & under licence was acquired by a Scottish owner and then split into 14 shares. That owner then proceeded to place 12 of those shares repeatedly onto one of his vessels, making full use of the 5 kW mismatch on each occasion. Eleven of the licences were then removed at each stage creating 11 new AFL7s with the last share staying on the vessel. Another share was placed on another of this owner's vessels, this time taking advantage of the 1 tonne mismatch allowance.

3.3.3 These actions have involved an inordinate amount of time and effort, by both HQ and Fishery Office staff, and this is clearly not what the mis-match provisions were designed for.

3.3.4 If capacity penalties are removed from all licence transactions (see Question 1), offering increased flexibility to licence a vessel, then it should be possible for owners to licence their vessels, acquiring exactly whatever tonnage and/or kilowatts they require from a dis-aggregated licence entitlement(s) (AFL19s), without recourse to the mismatch provisions. Therefore, Marine Scotland proposes to remove the mis-match provisions on transactions involving the use of dis-aggregated entitlements.

3.3.5 However, for transactions not involving the use of dis-aggregated entitlements, it may still be the case that it proves difficult to find an exact match from available entitlements. Instead of using the mis-match in the licence calculation, Marine Scotland proposes to allow a fishing vessel licence to be short of either tonnage or kilowatts up to the amount detailed below:

<i>Vessel Group</i>	<i>Tonnes</i>	<i>kW</i>
10 metres and under	0.5	5
Over 10 metres	2	10

For example: an over 10m vessel is 40 tonnes and 180 kilowatts and the owner can only source a licence that is for 40 tonnes but 174 kilowatts. Marine Scotland would allow this licence to be used as it is within the 10kW limit, and the figure printed on the fishing vessel licence would be 174.

### **Question 3**

**A) Do you agree to the removal of the mis-match provisions on transactions involving the use of dis-aggregated entitlements?**

**B) Do you agree to the change in the way mis-match provisions will be recorded on the licence?**

### 3.4 The validity period for unattached licence entitlements (shelf life)

3.4.1 Currently licence entitlements which are unattached to vessels are valid for a period of up to five years before they expire. The SLRWG has proposed that the validity period for unattached licence entitlements should be removed, for over 10m vessels, for both economic and business planning purposes, but that the current validity period of five years be retained for 10m and under vessels.

3.4.2 The Scottish Government's view is that the current process has been helpful in allowing us to measure what is happening in the industry with vessels' activities. However, the Scottish Government is prepared to consider extending the five year shelf life restriction for both vessel groups to 10 years, as it is logical from both an economic and business planning point of view.

#### Question 4

**Do you believe the entitlement validity period should be extended to a 10 year period?**

### 3.5 Scallop and Shellfish licensing entitlements

3.5.1 The SLRWG has considered the issue of latent capacity and latent entitlements for both the scallop and shellfish sectors. The Industry representatives expressed concerns over both sectors. In particular, the Industry feel that opportunities in the scallop sector are seriously diminishing.

3.5.2 The Scottish Government's view is that subsequent analysis of the figures clearly does not support the perceived concern surrounding latent entitlement or capacity within the shellfish sector. However, the latent capacity of the scallop sector, on review, has proven to be justifiably different, both from an economic perspective and in relation to the actual use of entitlements. As of 31<sup>st</sup> December 2012 there were **153** active vessels with scallop entitlements<sup>1</sup> in the Scottish fleet. Of those **153** active vessels, **46** had never used their entitlement in any of the years between 2003 and 2012 and of the **107** who had used that entitlement to fish for scallops just **97** did so by means of mechanical dredge. Only **44** vessels had used that entitlement in all the years in that 10 year period and just six of these vessels fished in 2012.

3.5.3 Management of scallop entitlements has been problematic with industry expressing concerns that opportunities in the scallop sector are seriously diminishing. One option under consideration to tackle the problem of latent capacity is to permanently remove the scallop entitlement from any vessel that has never used it within the last seven year period. An appropriate period of notice (6 months) before removal of the scallop entitlement would be given to the vessel owner to allow for activation of the entitlement, should the vessel owner choose to do so, to

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<sup>1</sup> A scallop entitlement is a specific authority required to fish for scallops (*pecten maximus* (king scallops)) using mechanical dredging gear.

preserve the status of the vessel's scallop entitlement and avoid the permanent removal of that entitlement. By "activation" we mean that within the six-month period the vessel owner could have the vessel inspected by Marine Scotland in order to prove that it is rigged and operational within the Scallop fishery.

3.5.4 The Scottish Government believes it is appropriate to remove latent entitlements that have not been used in the last seven years. Discussions took place with the SLRWG to establish the mechanisms to deliver this. The previous qualifying criteria were: owners of vessels over 10 metres in length able to demonstrate that they held licences or licence entitlements with a history of having caught a minimum of one tonne of scallops using mechanical dredging gear in any calendar year during the period 1<sup>st</sup> January 1994 to 31<sup>st</sup> May 1998, or those who could demonstrate an enforceable financial commitment to introduce a vessel for scallop fishing, were eligible to apply under the new arrangements and have licences allocated.

3.5.5 However, to provide maximum confidence in landings data to be used in the issuing of scallop entitlements we propose to apply the following qualifying criteria:

3.5.6 If a vessel has landed scallops at any point within the last seven years (since the introduction of *The Registration of Fishsellers and Buyers and Designated Auction Sites (Scotland) Regulations* in 2005) they will retain their scallop entitlement. Those who have not landed scallops within the seven year period will be given six months to activate it their entitlement. The recipient vessel must be rigged and operational, or the entitlement will be removed. It should be noted that Marine Scotland is committed to reviewing and releasing additional scallop entitlements in the future should such action be required.

#### **Question 5**

**Do you agree with the Scottish Government's proposal for the removal of scallop entitlements that have not been used within the last seven years i.e. entitlements that have not been placed on board a vessel that is rigged and operational within the fishery?**

### **3.6 ELECTROFISHING OF RAZORFISH**

#### **Background**

3.6.1. Increasingly over the last 18 months or so Marine Scotland, the police and local MSPs have received complaints from fishermen and other interested parties concerned about the effect electro fishing may have on stocks of razor fish and the wider marine ecosystem around the Scottish coast.

3.6.2. Whilst it is not illegal in itself to fish or dive for razor clams, electrofishing is the illegal practice involving passing an electric current into the seabed. Some vessel operators have been using the technique, banned by the EU since 1998, to gather

significant quantities of razor clams worth several thousand's at current market prices in a single fishing trip.

3.6.3. The boats involved in this fishery have generators on board which produce electric currents to stun the clams into emerging from the seabed. They are then loaded into sacks and hoisted into the boats to land and sell. All sales must be recorded through the Registered Buyers and Sellers Scheme administered by Marine Scotland.

3.6.4. Reports of the harvesting of razor fish using electricity are very much of interest to Marine Scotland. This form of fishing is currently illegal and Marine Scotland continues to deploy Marine Protection Vessels (MPVs), working closely with the local Fishery Offices, to specifically target potential electro-fishing vessels in Scottish waters in order to stop this unauthorised activity. Other avenues may also offer realistic opportunities to achieve this objective and these are actively being explored.

## **Actions**

3.6.5. The new provisions introduced through the Aquaculture and Fisheries (Scotland) Act 2013 (in force from 16 September 2013) have further strengthened Marine Scotland's hand in addressing how the illegal equipment used in electro-fishing is seized and dealt with:

- Fixed Penalty Notice (FPN) consultation with industry is due to commence with the level of FPN being increased to a maximum of £10,000. Sections 60 and 61 of the Act.
- New additional powers for British sea-fishery officers (BSFO's) are fully covered under the Act from Sections 35 to 58 and in particular Section 39 the power to inspect and seize objects suspected to be in use for commercial sea fishing such as generators, cables, probes being used for electro fishing.

3.6.6. Marine Scotland is currently considering new licence conditions focusing on creating a specific additional authority, with tougher and more enforceable conditions to minimise the risk of electro-fishing. This initiative will require anyone involved in the razor fishery to make a specific application for an authorisation allowing them to prosecute the fishery through legal means. As part of the application process a vessel inspection will be required and checks will be made with HSE and MCA to ensure that all necessary authorisations are in place prior to the Marine Scotland licence being issued. It is currently envisaged that applications will be invited in the New Year with inspections undertaken and new razorfish licences issued by April 2014.

3.6.7 The SLRWG endorses this action.

### **3.7 New entrants' scheme**

3.6.1 The Scottish Government wishes to work with the fishing industry to restore the identity and status of fishing as an occupation of choice, including for young people in our coastal communities and beyond. Failure to address the problems in attracting crews for the future may have an adverse economic or social consequence for Scotland's fishing communities and wider economy. We understand there are a number of barriers for any person seeking to establish a new fishing business, including access to a licensed vessel and, where relevant, access to catching opportunities and time at sea. The costs of entry have increased as some catching opportunities have become more scarce and the costs of vessel building or refurbishment have increased.

3.7.2 The Scottish Government is committed to supporting and incentivising new entrants into the industry where they wish to embark on the first steps to operating their own vessel. It may be possible to consider the issue of new licences within strict eligibility criteria in aiding this ambition. Industry members of the SLRWG are, in principle, supportive of moves to help new entrants where there is headroom on licensing but would want the specific detail of any scheme to be discussed in advance, seeking to ensure that all possible consequences are fully explored, such as any potential detrimental impact on existing fisheries due to additional capacity.

3.7.3 The Scottish Government will consider what might be done to encourage new entrants into the fishing industry. Although any scheme would apply to both small and large businesses in the same way, it is likely to be more appealing to smaller businesses. Such a proposal could involve offering licensing incentives to first time vessel owners.

#### **Question 6**

**Do you agree with the concept of licensing incentives to support and promote a new entrants scheme to the Scottish fishing industry?**

### **3.8 Days at Sea/Effort Eligibility**

3.8.1 Currently, to have Cod Recovery Zone (CRZ) eligibility, a vessel must have a record of fishing with a regulated category of gear in any part of the CRZ for a minimum of 10 days (240 hours) at any time during the calendar years 2004-2010. This allows the vessel to apply for an allocation of days at sea for the gear categories it is eligible for. In keeping with the proposal to make licensing simpler Marine Scotland proposes to make CRZ eligibility a simpler process and has suggested two possible options, as detailed below:

### Option 1

3.8.2 Marine Scotland is willing to abolish CRZ eligibility completely, with the proviso that the Scottish Government reserves the right to allocate fishing opportunities and impose temporary constraints where appropriate. This would offer flexibility within the fleet and would mean licences could be aggregated together without factoring in TR1<sup>2</sup> or TR2<sup>3</sup> eligibility. However, the significant risk of this option is that if an increased number of vessels decided to apply for an allocation of effort in a particular gear category, the amount of potential days allocated per vessel could be significantly lower, as well as kW-day uptake being higher, possibly to an extent that exceeded the control total, causing the fishery to close.

3.8.3 If industry is willing to accept this significant risk, Marine Scotland would be open to implementing this option.

### Option 2

3.8.4 Alternatively, Marine Scotland could keep CRZ eligibility but with the reference period being updated to the period 2006 to 2012 and with an annual roll forward thereafter. Therefore, if a new vessel started fishing in 2012 (with no history) they would need to lease in days to allow them to fish. As long as they used those days in any part of the CRZ for the minimum number of days as prescribed, they would then be eligible to apply for an allocation in the following year. The aggregation of licences would therefore remain the same. If the resultant licence was to require TR1 eligibility the licences/entitlements would all need to be TR1.

387.5 As of July 2013, there are 452 active vessels with CRZ eligibility in Scotland; 194 TR1, 208 TR2 and 50 for the remaining gear categories. A rolling reference period would see movement in the region of 6-15 vessels a year between TR1 and TR2 (based on current data) as we catch up with changes in fishing activity. Abolishing eligibility completely will open Marine Scotland up to the potential risk of all 452 vessels applying, for example, for a TR1 allocation. However, this is unlikely to happen as vessels would be expected to seek an allocation of effort more suited to their quota holding.

3.8.6 Again, in the transfer or aggregation of licences, if either option was to be adopted, receiving administration rules would apply.

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<sup>2</sup> Whitefish (TR1) Gear

Vessels using gear type TR1, which includes bottom trawls, seines and similar towed gears, excluding beam trawls, of mesh size equal to or larger than 100mm are typically used to target whitefish.

<sup>3</sup> Nephrops (TR2) Gear

Gear type TR2 includes bottom trawls, seines and similar towed gears, excluding beam trawls, of mesh size equal to or larger than 70mm and less than 100mm. These gears typically target nephrops and fishing activity by these vessels is concentrated in the Moray Firth, the Firth of Forth, the Fladen ground and along the west coast of Scotland.

**Question 7**

**A) Do you agree with the removal of CRZ eligibility completely?**

**Or**

**B) Do you agree that CRZ eligibility should be kept, with an updated reference period that will roll forward annually?**

## Annex A History of Fishing Vessel Licensing

The following paragraphs summarise the history and describe the current system of fishing licence issue and administration within Scotland and the UK.

1. The powers of UK Fisheries Ministers to license UK fishing vessels and to control fishing derive from the Sea Fish Conservation Act 1967, and from Statutory Instruments made under the Act, primarily the Sea Fish Licensing Order 1992 (SI 1992 No 2633, as amended). Subject to one or two very minor and limited exceptions, the Order prohibits UK registered or British owned vessels from fishing commercially for sea fish, except in accordance with a licence.
2. The licence enables UK Fisheries Administrations to control the activities of the UK fishing fleet, in line with EU and UK objectives for fleet and catch management. The grant of a licence is a matter of discretion, not of right. Ministers exercise their discretion in using licensing powers to such an extent as appears to them necessary or expedient for the regulation of sea fishing.
3. Initially all vessels over a certain size (10 metres registered length) were required to obtain a licence before fishing for pressure or non-pressure stocks. Pressure stock licences were only issued to fishers who had vessels with a history of such fishing prior to 3<sup>rd</sup> February 1984, or who had entered into an enforceable financial commitment to purchase or build a vessel. Non-pressure stocks at that time remained freely available.
4. Despite the introduction of restricted pressure stock licences, the fishing effort directed against these and other stocks continued to grow. In order to relieve the pressure, further restrictions on the availability of licences were introduced. In 1985 and 1986, additional stocks were re-classified as pressure stocks, and further stocks were designated as non-pressure stocks.
5. In February 1990, the definition of vessel length was changed so that licences were required for vessels over 10 metres overall length. Then, in May of that year, licensing was further extended to cover fishing for all species, whether or not subject to TACs (Total Allowable Catch), (except salmon and migratory trout) in domestic waters by vessels over 10 metres overall length. The species covered by this extension of licensing were called “Miscellaneous Species” resulting in Miscellaneous Species Licences (MSLs).
6. As from 1<sup>st</sup> May 1993, licensing was extended to vessels of 10 metres overall length and under. Licences were issued to all 10 metre and under vessels with a proven history of fishing in the period 28<sup>th</sup> February 1991 to 27<sup>th</sup> February 1992 and to those whose owners were able to demonstrate an enforceable financial commitment to purchase or build a 10 metre or under vessel. This measure means that all commercial UK fishing vessels must have a licence, irrespective of length, and there are a finite number of licences in issue. New vessels can therefore only be licensed if an existing vessel of similar or greater capacity gives up its licence.

7. In 1994 a review of licensing was carried out to try to simplify the overall structure and administration of licensing. The review endorsed the continuation of the main licence types for pressure stocks, non-pressure stocks and miscellaneous species, but re-named these Category A, B and C licences respectively. It also recommended making all licences transferable.
8. In March 1999 a report by the Fishing Vessel Licensing Review Working Group was published. The Report recommended that the existing licensing regime should generally be retained, but with some changes. These changes included up-grading moratorium licences, and those Category B licences to which were attached individual species licences to full Category A status. These changes took effect from 1<sup>st</sup> May 1999.
9. Rules designed to simplify licence transfer arrangements were introduced on 19<sup>th</sup> June 2000. Under these arrangements a revised form AFL7 (*Establishment or transfer of an entitlement and transfer of a licence*) enabled three types of licence transactions to be carried out:
  - establishing the right to apply for a licence
  - arranging transfer of a licence entitlement
  - enabling current licence holders to transfer the entitlement to their licences to third parties

These new arrangements were designed to help speed up the process of licence entitlement transfers, especially in those cases where a licence transferred with the vessel to which it was previously attached.

## **Annex B 8-10 metre licence capacity aggregation limit for fast workers (creel vessels)**

**This section has been provided for reference only.**

If the earlier stated principle of removing capacity penalties is taken forward, the current aggregation provisions, as detailed below, would no longer exist and the need to consider exemptions for fast creel workers would be removed.

The SLRWG had previously requested the introduction of a rule for fast workers (creel vessels) in the 8 to 10m band of the 10m and under sector, which would exempt those particular vessels from the 150kW limit on the aggregation of licences as this could have positive safety implications and result in improving business flexibility.

Currently aggregations involving the 10 metres and under fleet are subject to capacity limits. This is applied to the engine power of the recipient vessels as follows:

- Vessels between 8-10 metres overall length = 150kW
- Vessels under 8 metres overall length = 100 kW

Capacity aggregation limits for the 10 metre and under fleet have applied since 1996. Previously these were linked to Vessel Capacity Units (VCUs), but from 14<sup>th</sup> November 2005, the limits are now applied to the engine power (kW) rating of the vessel to be licensed from the aggregation. The limits do not apply where vessels are licensed by single licence transfers.

### **What was the objective/history of introducing rules for the 8-10 metre vessels?**

In 2000 it was identified that there was a trend in vessel length towards the highest end of the 10 metres and under spectrum and a potential for much increased fishing effort from the so called “super under 10m boats”. It was at that time that the idea of additional segmentation of the 10 metres and under fleet was discussed. Options put forward were:

- ring fencing the under 8m sector of the fleet in a relatively relaxed fashion, or
- operating a fixed gear element separately from the towed gear element.

The subsequent recommendation was that action should be taken to constrain fishing effort within the 10m & Under fleet by prohibiting the aggregation of licences from vessels under 8m onto vessels 8-10m from January 2001. Additionally and from the same date, a limit of 70 VCUs (subsequently changed to 100kW) was applied to the aggregation of licences onto vessels below 8m.

The sharp increase in the construction of highly efficient vessels between 9 and 10 metres prompted Fisheries Administrations to introduce monthly catch limits for North Sea Nephrops and to extend these arrangements subsequently to Area VII and West of Scotland Nephrops.

## Annex C The Scottish Government Consultation Process

### Responding to this consultation paper

We are inviting written responses to this consultation paper by 10<sup>th</sup> February 2014. Please send your completed response to:

[vessel\\_licensing@scotland.gsi.gov.uk](mailto:vessel_licensing@scotland.gsi.gov.uk) (vessel\_licensing@scotland.gsi.gov.uk)

Or

Ingrid Drever  
The Scottish Government  
Marine Scotland  
Area 1B - South  
Victoria Quay  
Edinburgh  
EH6 6QQ

If you have any queries contact Ingrid Drever on 0131 244 6593 or by email at [ingrid.drever@scotland.gsi.gov.uk](mailto:ingrid.drever@scotland.gsi.gov.uk).

We would be grateful if you would use the consultation questionnaire provided as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government now has an email alert system for consultations (**SE consult**: <http://www.scotland.gov.uk/consultations/seconsult.aspx>). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SE consult complements, but in no way replaces Scottish Government distribution lists, and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

### Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public.

Please complete and return the **Respondent Information Form**: which forms part of the consultation questionnaire as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore

have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

The **Respondent Information Form** is attached. It is also available online at: <http://www.scotland.gov.uk/Publications/2008/06/decapitalisation/rif/>

### **Next steps in the process**

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library (see the enclosed Respondent Information Form), these will be made available to the public in the Scottish Government Library. You can make arrangements to view responses by contacting the Scottish Government Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

### **What happens next?**

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision.

### **Comments and concerns**

If you have any comments about how this consultation exercise has been conducted, please send them to:

Gordon Hart  
The Scottish Government  
Marine Scotland  
Area 1B - South  
Victoria Quay  
Edinburgh  
EH6 6QQ  
Email : [gordon.hart@scotland.gsi.gov.uk](mailto:gordon.hart@scotland.gsi.gov.uk)

# Consultation on the Recommendations from the Scottish Licensing Review Working Group



## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

Forename

### 2. Postal Address

<input type="text"/>		
Postcode	Phone	Email

### 3. Permissions - I am responding as...

Individual	/	Group/Organisation
<input type="checkbox"/>		<input type="checkbox"/>
Please tick as appropriate		

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

**Please tick as appropriate**

Yes  No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

**Please tick ONE of the**

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

**Please tick as appropriate**

Yes  No

**following boxes**

Yes, make my response, name and address all available

**or**

Yes, make my response available, but not my name and address

**or**

Yes, make my response and name available, but not my address

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**

**Yes**

## CONSULTATION QUESTIONS

### Question 1: Capacity Penalties

Do you agree that capacity penalties on licence aggregations bring unnecessary costs to industry and should therefore be removed?

Comments:

### Question 2: Licence categories

A) In light of the forthcoming landing obligation, do you agree that there is a need to change the current licensing structure?

B) Do you agree with a proposal to have only one 10m & Under Licence and one Over 10m Licence?

C) Do you agree that the lowest common denominator (see section 3.2.3) should apply when transferring or aggregating a licence within Scotland?

Comments:

**Question 3: Mismatches**

A) Do you agree to the removal of the mis-match provisions on transactions involving the use of dis-aggregated entitlements?

B) Do you agree to the proposed change in the way mis-match provisions will be recorded on the licence?

Comments:

**Question 4: The validity period for unattached licence entitlements (shelf life)**

Do you believe the entitlement validity period should be extended to a 10 year period?

Comments:

**Question 5: Scallop and Shellfish Entitlements**

Do you agree with the Scottish Government's proposal for the removal of scallop entitlements that have not been used within the last seven years i.e. entitlements that have not been placed on board a vessel that is rigged and operational within the fishery?

Comments:

**Question 6: New Entrants**

Do you agree with the concept of licensing incentives to support and promote a new entrants scheme to the Scottish fishing industry?

Comments:

**Question 7: Days at Sea/Effort Eligibility**

A) Do you agree with the removal of CRZ eligibility completely?

Or

B) Do you agree that CRZ eligibility should be kept, with an updated reference period that will roll forward annually?

Comments:

## The Scottish Government Consultation Process

Consultation is an essential and important aspect of the Scottish Government's working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. In general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a consultation paper inviting answers to specific questions or more general views about the material presented. Consultation papers are distributed to organisations and individuals with an interest in the issue, electronically or in hard copy and are placed on the Scottish Government's consultations webpage to allow for participation from a wider audience.

All Scottish Government consultation papers and related publications (e.g. analysis of response reports) can be accessed at <http://www.scotland.gov.uk/consultations>

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

**While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.**

## **Annex D      List of Consultees**

Aberdeen Fish Producers' Organisation  
Clyde Fishermen's Association  
Clyde Inshore Fisheries Group  
Community of Arran Seabed Trust  
Convention of Scottish Local Authorities (COSLA)  
The Crown Estate  
Cumbria Inshore Fisheries and Conservation Authority  
Department of Agriculture and Rural Development  
Department for Environment, Food and Rural Affairs  
Dumfries and Galloway Council  
Fife Fishermen's Association  
Fishermen's Association Ltd  
Galloway Static Gear Fishermen's Association  
HM Coastguard  
Isle of Man Government  
Klondyke Fish Producers' Organisation  
Lunar Fish Producers' Organisation  
Mallaig and North West Fishermen's Association  
Manx Fish Producers' Organisation  
Marine Conservation Society  
Marine Stewardship Council  
Ministry of Defence  
Moray Firth Inshore Fisheries Group  
North East of Scotland Fishermen's Organisation  
North West Inshore Fisheries Group  
Northern Fish Producers' Organisation  
Northern Ireland Scallop Association  
Northern Irish Fish Producers' Organisation  
Orkney Fish Producers' Organisation  
Outer Hebrides Inshore Fisheries Group  
RSPB Scotland  
Scallop Association  
Scottish Fish Producers' Organisation  
Scottish Fishermen's Federation  
Scottish Natural Heritage  
Scottish Sea Angling Conservation Network  
Scottish White Fish Producers' Association  
Sea Angling Federation  
Seafish  
Shetland Fish Producers' Organisation  
Small Isles and Mull Inshore Fisheries Group  
South East Inshore Fisheries Group  
South West Fish Producers' Organisation  
UK Association of Fish Producer Organisations  
Welsh Government  
West of Scotland Fish Producers' Organisation  
Western Isles Fishermen's Association  
WWF Scotland

## Consultation Core Recipients

### **COSLA**

Rosebery House  
9 Haymarket Terrace  
Edinburgh  
EH12 5XZ  
E-mail: [carol@cosla.gov.uk](mailto:carol@cosla.gov.uk)

### **Local Authorities**

[Local Authority Chief Executives](#)

**Clerk of the Committee** at the Scottish Parliament with an interest in your consultation

[Scottish Parliament Staff Directory](#)

**Relevant Committee Liaison Officer (CLO)**

**Scottish MEPs** (usually sufficient to send notification or link to consultation)

[Scottish MEPs](#)

### **Equality and Human Rights Commission**

The Optima Building,  
58 Robertson Street,  
Glasgow  
G2 8DU  
Email: [scotland@equalityhumanrights.com](mailto:scotland@equalityhumanrights.com)

### **Scottish Government Library**

**SPICe library** (5 copies, accompanied by a compliment slip with contact details should more be requested)

**The Six Legal Deposit Libraries** (legal deposit of any publication is required by law, see <http://www.legislation.gov.uk/ukpga/2003/28/contents>)

*The National Library of Wales, Aberystwyth*

*The National Library of Scotland, Edinburgh*

*The Bodleian Library, University of Oxford*

*Cambridge University Library*

*The Library of Trinity College, Dublin*

Copies for the five libraries listed above should be sent to the [Agency for the Legal Deposit Libraries](#)

***The Agency for Legal Deposit Libraries:***

161 Causewayside  
Edinburgh  
EH9 1PH

The ***British Library*** has its own legal deposit office:

Legal Deposit Office  
Boston Spa  
Wetherby  
LS23 7BY  
01937 546267 (serials)  
[legal-deposit-serials@bl.uk](mailto:legal-deposit-serials@bl.uk)

**Annex E**

**SLRWG membership (as at last plenary session held on 12<sup>th</sup>  
June 2013)**

Clyde Fishermen's Association  
Fishermen's Association Ltd  
LHD Ltd  
Mallaig and North West Fishermen's Association  
Marine Scotland  
Scallop Association  
Scottish Pelagic Fishermen's Association  
Scottish Fishermen's Federation  
Scottish White Fish Producers' Association  
Western Isles Fishermen's Association



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