

OVERVIEW OF SCOTTISH SECTORAL QUOTA MANAGEMENT GROUPS

1. Introduction

Since the introduction of Total Allowable Catches (“**TACs**”) for certain fish stocks, the UK Fisheries Administrations (“**FAs**”) have devolved quota management responsibility to industry bodies. The Scottish Government has seen value in allowing private entities to manage quota as it gives the fishing industry greater independence for managing the fisheries resource in an efficient and sustainable way.

Over the years, a system has evolved whereby sectoral quota management responsibility has largely been devolved to Fisheries Producer Organisations (“**POs**”) recognised under EU legislation (Regulation (EU) No 1379/2013 on the common organisation of the markets in fishery and aquaculture products, the “**CMO Regulation**”). POs are allocated quota that is roughly equivalent to the Fixed Quota Allocation Units (“**FQAs**”) held by the PO and the FQA units on licences associated with the PO. Sectoral management responsibility includes a requirement to manage and monitor the uptake of quota by vessels operating in the PO and allows these groups the right to partake in swaps of quota with other groups (POs and Fisheries Administrations) and international swaps of quota.

Following on from the publication of a National Discussion paper on the Future of Fisheries Management (“**FFM**”) in Scotland last year, the Scottish Government will publish a future management strategy which will set out our approach and priorities and consult on policies and management improvements which we will deliver in order to ensure our seas remain productive and sustainable for future generations.

To inform the FFM process and future policy, legal entities, other than POs recognised under EU legislation, are to be permitted to have sectoral quota management responsibility on a trial basis until 31 December 2021. In Scotland, we will grant recognised Quota Management Groups (“**QMGs**”) many of the same sectoral quota management responsibilities as POs currently have.

To become a recognised sectoral QMG, a legal entity will need to apply to the Scottish Government and demonstrate how it: (i) meets the essential criteria for QMGs; and (ii) will help the Scottish Government to achieve its aims for Scottish seas. The recognition of sectoral QMG status is subject to the organisation continuing to meet the criteria and objectives for QMGs. These include reporting requirements which will provide Marine Scotland with a fuller understanding of how a sectoral group utilises the quota, a national asset, allocated to it on an annual basis.

In trialling sectoral QMGs, the Scottish Government’s aim is to confer sectoral quota management rights and responsibilities to organisations that demonstrate they have the necessary expertise, systems and processes in place to manage the quota on behalf of the vessels they administer in an effective, transparent and accountable manner which will return significant benefits to Scotland. QMGs are expected to work with Marine Scotland to broaden Marine Scotland’s understanding of the sea fisheries sector in Scotland.

2. Background to Quota Management Groups

Marine Scotland, acting on behalf of Scottish Ministers, currently grants sectoral quota management responsibility to Scottish POs. This quota management function was first devolved to POs in the 1980s, in addition to the functions attributed to POs under EU legislation.

2.1 Why conduct a trial for QMGs now?

In Scotland, the situation has evolved to the current one where some legal entities appear to seek, or maintain, PO status in order to obtain quota management responsibility under the UK and Scottish quota management rules, as opposed to obtain the rights and responsibilities conferred on POs under the CMO Regulation. Scottish POs have effectively managed the quota allocated to them and helped ensure that quota is utilised efficiently. However, this is an opportune moment to allow legal entities, other than POs recognised under the CMO Regulation, to manage quota on a trial basis, in-line with Scottish Government objectives, for a number of reasons:

1. POs are regulated by EU legislation. The UK has left the EU and it is therefore appropriate to test alternative arrangements, focused on Scottish Government objectives, for the management of Scottish quota.

2. The operation and management of UK-recognised POs is currently subject to EU infraction proceedings. In general terms, the Commission alleges that UK authorities have failed to adequately verify that POs comply with EU law, as UK POs do not fully meet the recognition criteria contained in the CMO Regulation. QMGs provide an alternative for legal entities, which do not wish to benefit from obtaining or retaining PO status under the CMO Regulation, to manage quota uptake by a common group of vessels, whilst meeting alternative recognition criteria and objectives which are beneficial to Scotland.

3. In March 2019, Marine Scotland launched the *Future of fisheries Management in Scotland: national discussion paper*, part of a major initiative to inform and develop the Scottish Government's strategy for the management of fisheries. The QMG trial will help inform possible future processes that emerge from the FFM initiative.

4. The trialling of QMG arrangements in Scotland provides the opportunity for Marine Scotland to gain a better understanding of the operations of the quota management system, especially how quota, a national asset, is utilised by sectoral groups.

2.2 Exemption from EU competition rules and funding under the European Maritime and Fishery Fund

It should be noted by any PO, which wishes to become recognised as a QMG, that a body cannot have PO and QMG status concurrently. A legal entity which has its PO recognition withdrawn will, as a consequence, be taken out of the scope of the CMO Regulation and thus no longer be exempt from EU competition rules under the CMO Regulation, nor have access to the funding support available to POs under the European Maritime and Fishery Fund. POs are advised to take their own legal advice on these matters.

3. Objectives of sectoral QMGs

Marine Scotland has aligned sectoral QMGs with the purpose and values of the Scottish Government, as set out in the National Performance Framework (<https://nationalperformance.gov.scot/>):

“To focus on creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing, and sustainable and inclusive economic growth.”

The Scottish Government’s National Marine Plan (“**NMP**”) seeks to enable sustainable development and use of Scotland’s seas in a way which will protect and enhance the marine environment whilst promoting both existing and emerging industries (<https://www.gov.scot/publications/scotlands-national-marine-plan/>).

Specifically, to be granted QMG status, legal entities will need to demonstrate in their application form, and in fulfilling subsequent reporting requirements, how they will contribute to the delivery of the following three parts of objectives three and four from the sea fisheries section of the NMP.

The requirements to:

(1) - Optimise annual quota opportunities across Scotland's fish stocks.

QMGs will achieve this objective by meeting the general criteria for QMGs (see section 4 below) and by satisfying obligatory reporting requirements (see section 5 below), in particular through:

- Administering active Scottish commercial fishing vessels which target species managed by a TAC.
- Having systems and processes in place for allocating quota to the vessels it administers in an effective and transparent way.
- Having processes in place for monitoring the uptake of quota by vessels administered by the QMG and by taking action, where necessary, particularly to prevent the QMG fishing in excess of its permitted quota allocation.
- Demonstrating forward planning for the potential utilisation of any quota allocated to the QMG.

(2) - Optimise the sustainable harvesting of wild fish.

Achieved by making a positive contribution to reducing the environmental impact of sea fishing by optimising the sustainable harvesting of wild fish in a manner that extends beyond conservation legislation:

- The use of fishing gear that minimises unwanted catch; and/or
- Conducting fishing operations in a manner that seeks to minimise unwanted catch.

(3) - Support Scottish communities where fishing is a viable career option and value is added throughout the supply chain maximising the contribution fisheries makes to Scotland.

- Achieved by:
 - Utilisation of Scottish ports and landing facilities; and/or
 - The organisation promoting new entrants into the industry or taking steps to support career progression of existing crew members; and/or
 - Supporting jobs in Scottish communities in addition to those directly related to catching sea fish.

In addition we will seek information on steps being taken by the QMG to reduce wider environment impact. Such as steps being taken to help reduce greenhouse gas emissions by vessels administered by the QMG.

4. General requirements for sectoral QMG recognition

- A QMG must have legal personality.
- The headquarters must be registered in Scotland.
- Only Scottish vessels, which are registered in a port in Scotland, can operate within a sectoral QMG.
- At least two active fishing vessels with associated commercial fishing licences must operate in the QMG for which the organisation has quota management responsibility.
- Sectoral quota management responsibilities are granted to a QMG for TAC stocks only.
- Vessels administered by the QMG must be sufficiently economically active in its area of operation - this is specified in detail in the application form for QMGs and the accompanying guidance. The QMG will have to satisfy collective, economic activity criteria based at national and district levels.

- A QMG must demonstrate that it has the expertise to manage the activity of commercial sea fishing vessels.
- A QMG must demonstrate effective systems and processes for managing the utilisation of quota allocated to the QMG and for individual vessels administered by the QMG. This includes having transparent, internal quota management rules and a designated individual with responsibility for managing quota allocated to the QMG and for monitoring quota uptake by vessels.

5. Annual reporting requirements for QMGs

- I. The QMG will submit by 31 March (or at a subsequent date set by Marine Scotland), on a template to be issued by Marine Scotland, a report which will detail:
 - Expected targets for landings and associated quota uptake for all TAC stocks in the commenced calendar year.
 - Where the QMG does not intend to fish the quota allocated to it, set out how the allocated quota will be utilised (for example, if quota is to be swapped away what it is envisaged the fishing opportunity will be exchanged for).
 - How the operation of the QMG will align with Scottish Government objectives (see Section 3 above) and allow Marine Scotland to assess whether the QMG continues to meet the general recognition criteria (see Section 4 above).
 - Other information requested to help ensure that Marine Scotland can fully assess the utilisation of Scotland's national asset, fish quota, by recognised Scottish QMGs or broaden our understanding of sea fisheries generally.
- II. By 31 January of the subsequent year, the QMG will submit, on a template to be issued by Marine Scotland, a report on quota utilisation over the course of the preceding calendar year. In particular, this report will review:
 - Differences between the planned landings and the utilisation of quotas allocated to the QMG (as per the QMG's initial report) and the final year position. Where expected targets are not met an explanation is to be included in the report.
 - A review of all quota exchanges during the course of the year and details of what this fishing opportunity was exchanged for.

- Details of any breaches of permitted fishing catches by individual vessels operating in the QMG and internal actions taken.
- Demonstrable evidence of how the QMG aligned with Scottish Government objectives for sea fisheries (see Section 3 above).
- Other information requested to help ensure that Marine Scotland can fully assess the utilisation of Scotland's national asset, fish quota, by recognised Scottish groups or broaden our understanding of sea fisheries generally.

6. Conferral of sectoral quota management responsibilities to QMGs

Following successful conclusion of the application process for sectoral QMG status, Marine Scotland will enter into an agreement with the QMG, in which sectoral quota management responsibilities will be granted to the QMG and which will detail the rights and obligations attached to sectoral quota management responsibilities.

The duration of the agreement is for a maximum period of two years, until 31 December 2021. The conferral of sectoral quota management responsibilities to a QMG under the agreement is conditional on the QMG adhering to the terms of the agreement and meeting the conditions for QMGs at all times. If the QMG fails to adhere to any of the terms under the agreement, Scottish Ministers reserve the right to suspend or remove the sectoral quota management responsibilities from the QMG.