

Marine Scotland

SCOTTISH QUOTA MANAGEMENT RULES 2021 - INTERIM

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SECTION 1: INTRODUCTION

1.1 These Scottish Quota Management Rules 2021 (“**Scottish QM Rules**”) are published by Marine Scotland. The Scottish QM Rules are about the management of UK fish quotas which Marine Scotland is apportioned by the UK Government.

1.2 These Scottish QM Rules should be read in conjunction with the Rules for the management of the UK’s fisheries quotas in ICES areas I, II, IV, VI and VII (and associated areas) and in Faroese waters (ICES area Vb) (“**UK QM Rules**”), as amended from time to time¹ and the Concordat on Management Arrangements for Fishing Opportunities and Fishing Vessel Licensing in the United Kingdom of 2 May 2012 (“**2012 Concordat**”), as amended from time to time².

1.3 The Scottish QM Rules are administrative. They will be reviewed annually by Marine Scotland, prior to the start of each quota management year (which begins on 1 January), in consultation with representatives of the Scottish fishing industry.

1.4 Marine Scotland reserves the right, after consultation wherever possible, to depart from the Scottish QM Rules.

1.5 See **Annex C** for Marine Scotland contact details.

*Marine Scotland
January 2021*

¹ <https://www.gov.scot/publications/uk-quota-management-rules-2020/>. UK QM Rules are due to be amended at beginning of 2021.

² [Concordat on management arrangements for fishing quotas and licensing in the UK - GOV.UK \(www.gov.uk\)](#)

SECTION 2: ALLOCATION OF SCOTTISH QUOTAS

2.1 Baseline Quota and Additional Quota

“**Baseline Quota**” (also known as “Existing Quota”) is defined as the proportion of the UK total allowable catch (“**TAC**”) share attributed to the UK under the Common Fishery Policy’s relative stability key, plus quota regularly gained due to invocation of Hague Preference³, where applicable. It is the share of the quota which was apportioned to Scottish Ministers while the UK was a Member State of the EU. “**Additional Quota**” is quota which the UK secures as an independent Coastal State above the Baseline Quota.

Sections 2.2 to 2.8 set out rules for the allocation of Scottish Baseline Quota. The consultation on how Additional Quota for 2021 will be allocated will close on 15 January 2021. The method of how any potential Additional Quota for 2021 will be allocated in Scotland will be set out following the closure of the consultation once Marine Scotland has decided on the distribution method.

2.2 Baseline Quota apportioned to Scottish Ministers (Marine Scotland) by the UK Government (see section 2 of UK QM Rules), will be divided by Marine Scotland into 3 amounts assigned to the following three groups:

- i. Scottish registered 10-metres-and-under vessels not attributed to a Scottish Sectoral Group (“**10mu Pool**”);
- ii. Scottish registered over-10-metres-vessels not attributed to a Scottish Sectoral Group (“**O10m Pool**”); and
- iii. Vessels registered in a Scottish port administered by:
 - a) UK Fish Producer Organisations (“**POs**”) recognised under Regulation (EU) No 1379/2013 on the common organisation of the markets in fishery and aquaculture products⁴ (“**CMO Regulation**”) that have been delegated quota management responsibilities on behalf of their members by Marine Scotland;
 - b) Scottish-recognised sectoral Quota Management Group (“**QMGs**”).Scottish managed POs and Scottish QMGs are together referred to as the “**Scottish Sector**” or “**Sectoral Groups**”.

2.3 Marine Scotland also reserves the right to retain Baseline Quota centrally for other purposes.

2.4 The amounts of Baseline Quota allocated directly to the 10mu Pool and O10m Pool is determined by the UK apportionment process. Marine Scotland may allocate Baseline Quota beyond these amounts (see section 2.8 of the Scottish QM Rules). The quotas available to the 10mu Pool and O10m Pool will be held centrally by Marine Scotland and managed on the basis of periodic catch limits.

2.5 The remaining quota held by Marine Scotland will, in general, be allocated to Sectoral Groups in proportion to the number of Fixed Quota Allocation units (“**FQA units**”) held for each stock on licences administered by a Sectoral Group on 1 January of the quota year.

2.6 Additional Baseline Quota obtained in-year by Marine Scotland will normally be distributed through the method outlined in this section 2. In-year reductions will be dealt with on their merits.

Further rules on allocation method for Baseline Quota

³ Hague Preference (“**HP**”) is a Common Fisheries Policy mechanism designed to adjust national fish quota allocations to take account of the needs of certain fisheries dependent areas in northern parts of the UK and in the Republic of Ireland. These arrangements can provide additional fishing opportunities to the UK and the Republic of Ireland when quotas for certain stocks fall below determined trigger levels. When either or both of the UK and Ireland gain from the operating of HP, this is at the expense of the other Member States having quotas in the fishery concerned.

⁴ As it applies in Scotland.

Attribution of FQA units on Scottish licence entitlements and 'holding statements'

2.7 Holders of Scottish administered licence entitlements and holding statements may attribute the associated FQA units to a Sectoral Group, to the 10mu Pool or to the O10m Pool for the calculation of the apportionment by the UK Government under the UK QM Rules and allocation by Marine Scotland under the Scottish QM Rules via submission of an AFL8 form. FQA units which are not attributed to a Sectoral Group, or where an AFL8 return is not submitted prior to the deadline identified on the AFL8 form, will be attributed to the allocations for the 10mu Pool or the O10m Pool. AFL8 forms will be issued to the licence holder in January of each year. It is the responsibility of the licence holder to ensure that the address details are up-to-date. This can be done at your local Marine Scotland Fishery Office.

Special Allocations (see section 5 of the Scottish QM Rules for further details)

2.8 Marine Scotland will make special allocations:

- i. ICES area IVa and IVb Scottish 10mu Pool handline mackerel fishery: 1,000 tonnes (including up to 300 tonnes in ICES area IVb) will be allocated initially for landings by vessels fishing in the 10mu Pool which are authorised to fish by Marine Scotland for mackerel by handline in ICES areas IVa and IVb. The allocated amount will be apportioned among separately managed sub-fisheries in the Moray Firth, Shetland, Orkney and IVb (as set out in sections 5.2-5.5 of the Scottish QM Rules).
- ii. ICES areas VI and VII 10mu Pool handline mackerel fishery: 100 tonnes (over and above the amount apportioned to the 10mu Pool under the UK QM Rules) will be allocated initially for landings by vessels fishing in the 10mu Pool which are authorised to fish by Marine Scotland for mackerel by handline in ICES areas VI and VII.
- iii. NS cod: 50 tonnes (over and above the amount apportioned to the 10mu Pool under the UK QM Rules) will be allocated for landings by vessels authorised to fish by Marine Scotland in the 10mu Pool.

Where, on the basis of predicted uptake, it appears to Marine Scotland that allocations for any of the fisheries in section 2.7 will be not taken in full before the end of the season/year, any remaining quota may be reallocated to Sectoral Groups.

In-year reallocation

2.9 The primary means of maximising uptake of Scottish quota (in so far as such is consistent with market conditions) is the facility for the swapping of quota between Sectoral Groups and groups administered by Marine Scotland. Marine Scotland also reserves the right, after consultation and having regard to an assessment of economic and biological impact, to recover quota from Scottish licensees and reallocate quota where it appears unlikely that Marine Scotland's quota allocations to those licensees will be caught in full. In considering any requests for reallocation of quota, Marine Scotland will, in addition, consider whether licensees making the request have made genuine efforts to acquire additional quota through realistic swaps with licensees who are holding unused quota. Marine Scotland will also, where appropriate, have regard to the views of other UK Fisheries Administrations ("FAs"), particularly in relation to POs that receive allocations from more than one FA.

Arrangements for particular quota stocks and fisheries

2.10 Marine Scotland has no arrangements for quota stocks which are different to those laid out in the UK QM Rules (sections 2.14-2.24 of the UK QM Rules).

SECTION 3: RECOGNITION AND MANAGEMENT OF PRODUCER ORGANISATIONS

Recognition of POs

3.1 Further to paragraph 14 of the 2012 Concordat, Marine Scotland will be responsible for ensuring that POs comply with the recognition criteria for POs as set out in Article 14 of the CMO Regulation.

Grant of sectoral quota management responsibilities to POs

3.2 Further to their recognition as a PO under the CMO Regulation, Marine Scotland may also grant to a PO responsibility for sectoral quota management, thus allowing the PO to receive allocations of quota from Marine Scotland or one of the other UK FAs. The grant and continuation of sectoral quota management responsibility will be subject to conditions set out in section 3 of the UK QM Rules.

Management of POs

3.3 Where Scottish POs elect, in terms of paragraph 7.b. of the 2012 Concordat, to manage their allocations collectively, then Marine Scotland will be responsible for their management.

3.4 Alternatively, where Scottish POs elect to report separately for quota uptake purposes to each UK FA from whom the Scottish PO receives quota, then the Scottish vessels administered by the PO will be treated as a Scottish quota allocation group in terms of section 5 of the Scottish QM Rules. In these circumstances, Marine Scotland will be responsible for the quota allocation for the Scottish vessels only. From 2013, POs must apply to make use of this facility not later than 30 November in the year before the next quota management year.

Closure/opening of PO fisheries

3.5 Wherever possible, Marine Scotland will not close PO fisheries without prior contact with the relevant PO. Where already closed, fisheries will not be re-opened to POs unless so requested. Licence variations to effect fishery closures and openings will normally be posted weekly on the Marine Scotland website at 00.05 hrs on a Friday and have legal effect from 00.01 hrs on a Sunday. To take account of these timings, any requests from POs either to open or close a fishery should be agreed with Marine Scotland quota managers by midday on a Thursday if they are to take effect on the following Sunday.

Variation of individual vessels licences from 2016

3.6 To assist POs during the implementation of the landing obligation, those with Scottish vessels in their membership may enter into a (non-mandatory) agreement with Scottish Ministers whereby they would have the facility to request Marine Scotland (via Marine Scotland Compliance) to vary the licence of named vessels to prohibit them from fishing in a specified sea area (e.g. North Sea) when they have exhausted their individual allocation of a quota stock which they are obliged to land under the terms of the landing obligation. Such a prohibition, if agreed by Scottish Ministers (Marine Scotland), would remain in place until such time as the relevant POs submitted a further request to Marine Scotland to reinstate in the licence the vessel's authority to fish in the relevant sea area.

3.7 Any request from a PO to continue the effect of a variation under these arrangements beyond 31 December will require a fresh request to be made effective from 1 January of the following quota year. In the absence of such a request before the end of a quota management year (31 December), the effect of a variation will lapse at the end of 31 December.

3.8 The template Agreement (shared with all POs on 19 October 2015) sets out a range of responsibilities of both parties, a Sectoral Group and Scottish Ministers (Marine Scotland), and explains how the administrative process will work. Extracts from the Agreement are at **Annex A**.

SECTION 4: SCOTTISH SECTORAL QUOTA MANAGEMENT GROUPS

General

- 4.1 In accordance with the 2012 Concordat and the UK QM Rules, Marine Scotland can recognise legal entities, other than POs recognised under the CMO Regulation, and grant sectoral quota management rights and responsibilities to QMGs.
- 4.2 Sectoral quota management rights and responsibilities are granted to QMGs on a temporary basis until 31 December 2022. This date has been chosen in anticipation of the conclusion of the Future of Fisheries Management initiative which will see new fisheries management arrangements in Scotland.
- 4.3 Unlike POs, QMGs can only administer vessels registered in a Scottish port with a vessel licence issued by Marine Scotland. QMGs can receive UK quota from Marine Scotland only and not from other FAs.
- 4.4 A legal entity cannot be recognised as a QMG and a PO concurrently.

Recognition of QMGs and grant of sectoral quota management responsibilities to QMGs

- 4.5 A legal entity meeting the recognition criteria and objectives for QMGs as set out in sections 4.7 and 4.8 below and further described under [Scottish sectoral Quota Management Groups \(QMGs\) - gov.scot \(www.gov.scot\)](http://www.gov.scot) can apply to Marine Scotland to be recognised as a QMG using the application form (available upon request on: qmgmailbox@gov.scot). Upon successful conclusion of the application process of a QMG, Scottish Ministers will enter into a Service Level Agreement with the QMG. In addition to the UK QM Rules and the Scottish QM Rules, the Service Level Agreement further details the rights and responsibilities of QMGs.
- 4.6 Marine Scotland will verify annually, following submission of the report by 31 March under section 4.9 below, that QMGs continue to meet the recognition criteria and objectives for QMGs under sections 4.7 and 4.8.

General recognition criteria and objectives for QMGs

- 4.7 A QMG must meet the following general recognition criteria:
 - a. A QMG must have legal personality with headquarters in Scotland.
 - b. Only vessels registered in a port in Scotland can operate in a QMG.
 - c. The QMG should have at least two active fishing vessels with associated commercial fishing licences operating in the QMG and the QMG needs to have sectoral quota management responsibilities for those vessels.
 - d. Vessels administered by the QMG must collectively be sufficiently economically active. To be sufficiently economically active a QMG must meet at least one of the following Scottish economic criteria in both Part A **AND** Part B:

Part A – Activity at a national level

- 1. Vessels operated by the QMG dispose of at least 5% of total Nephrops production landed into Scotland by Scottish registered vessels.
- 2. Vessels operated by the QMG dispose of at least 5% of total demersal production (quota species only) landed into Scotland by Scottish registered vessels.

3. Vessels operated by the QMG dispose of at least 5% of total pelagic production (quota species only) landed into Scotland by Scottish registered vessels.

Part B – Activity at an ‘area’ level

1. The number of vessels operated by the QMG is at least 20% of the total number of vessels habitually present in that area.

2. For the fish species or group of fish species for which recognition is sought, the QMG dispose of at least 15% of the total production in the base districts of the Fishery Offices³ where recognition is sought.

3. For the fish species or group of fish species for which recognition is sought, the QMG dispose of at least 30% of the total production in the base district of the Fishery Office where recognition is sought.

e. QMG should have demonstrable evidence of expertise of managing activity of commercial sea fishing vessels.

f. A QMG must have effective systems and processes in place for managing the utilisation of quota by the QMG overall and 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.

g. Have effective arrangements in place for enforcing catch restrictions imposed by the QMG or Marine Scotland through a penalty system in internal rules.

4.8 A QMG must further demonstrate, in the application form and in subsequent biannual reports, as per section below, how the QMG will contribute and has contributed to the delivery of the following three objectives for sea fisheries of the Scottish Government’s National Marine Plan:

a) Optimise annual quota opportunities across Scotland’s fish stocks. QMGs satisfy this objective by meeting the general recognition criteria for QMGs.

b) Optimise the sustainable harvesting of wild fish. This objective can be achieved by making a positive contribution to reduce the environmental impact of sea fishing by optimising harvesting of wild fish, above and beyond applicable legislation, through (a) the use of fishing gear that minimises unwanted catch; and/or (b) conducting fishing operations in a manner that seeks to minimise unwanted catch.

c) 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. This objective can be achieved through (i) the utilisation of Scottish ports and landing facilities and/or (ii) the QMG promoting new entrants into the industry or taking steps to support career progression of existing crew members and/or (iii) supporting jobs in Scottish communities in addition to those directly related to those catching sea fish.

Reporting requirements of QMGs

4.9 QMGs are required to comply with the following reporting requirements: For each year that quota is allocated to the QMG, the QMG should submit:

1. By 31 March, on a template to be issued by Marine Scotland, a report which will detail:

a) Expected targets for quota uptake for the forthcoming quota year.

³ Link to map of base districts of each Fishing Office (<https://www2.gov.scot/Resource/0047/00472575.pdf>).

- b) If the QMG does not intend to fish any of the quota allocated to it, set out how the allocated quota will be utilised (for example, if to be swapped or traded away and, if so, for what the fishing opportunity will be exchanged).
 - c) How the operation of the QMG will align with objectives for QMGs (section 4.8 above) and, to allow Marine Scotland to assess whether the QMG continues to meet the general recognition criteria under section 4.7 above, any changes to the information provided by the QMG to Marine Scotland in the application form referred to under section 4.5 above.
 - d) Other information as requested by Marine Scotland to further our understanding of sea fisheries.
2. By 31 January at the latest of the following year, on a template to be issued by Marine Scotland, a report which will detail:
- a) Comparison between expected uptake of quotas allocated to the QMG and the final year position. Where expected targets for quota uptake are not met an explanation as to why not.
 - b) A review of quota swapped or traded away during the course of the year and details of what this fishing opportunity was exchanged for.
 - c) Details of any breaches of permitted fishing catches by vessels operating in the QMG and action taken.
 - d) How the QMG aligned with Scottish Government objectives for sea fisheries (section 4.8 above).
 - e) Other information as requested by Marine Scotland to further Marine Scotland's understanding of sea fisheries.

The report for the quota year 2022 will need to be submitted by 31 December 2022 at the latest.

Removal of QMG status or suspension of sectoral quota management responsibilities

- 4.10 Marine Scotland reserves the right to have QMG status withdrawn or to suspend sectoral management responsibilities from a QMG, if the QMG (i) breaches obligations under the UK or Scottish QM Rules; (ii) is no longer able to demonstrate to Marine Scotland that it satisfies the general recognition criteria and objectives for QMG under sections 4.7 and 4.8 of the Scottish QM Rules; (iii) does not meet the reporting requirements under section 4.9 of the Scottish QM Rules; or (iv) breaches terms agreed in the Service Level Agreement.

Closure/opening of QMG fisheries

- 4.11 Wherever possible, Marine Scotland will not close QMG fisheries without prior contact with the relevant QMG. Where already closed, fisheries will not be re-opened to QMGs unless so requested. Licence variations to effect fishery closures and openings will normally be posted weekly on the Marine Scotland website at 00.05 hrs on a Friday and have legal effect from 00.01 hrs on a Sunday. To take account of these timings, any requests from QMGs either to open or close a fishery should be agreed with Marine Scotland quota managers by midday on a Thursday if they are to take effect on the following Sunday.

SECTION 5: SCOTTISH QUOTA ALLOCATION GROUPS

- 5.1 UK FAs may establish Quota Allocation Groups (“**QAGs**”) which are only open to fishing vessels that they license.

Handline mackerel

- 5.2 Marine Scotland has established four Scottish QAGs for the management of the North Sea (NS) mackerel stock.
- 5.3 These QAGs are managed centrally by Marine Scotland, in consultation with stakeholders and do not have sectoral quota management responsibility. They comprise vessels fishing in the 10mu Pool licensed by Marine Scotland. These Quota Allocation Groups are:
- i. Moray Firth
 - ii. Shetland
 - iii. Orkney &
 - iv. IVb
- 5.4 Recording of landings are be defined by the vessels’ port of administration
- i. **Moray Firth:** Scrabster, Buckie, Fraserburgh and Peterhead and Ullapool administered vessels based in the following creeks: Inverness, Avoch, Cromarty, Portmahomack, Invergordon, Dornoch, Golspie, Brora, Helmsdale & Balintore
 - ii. **Shetland:** Lerwick
 - iii. **Orkney:** Kirkwall
 - iv. **IVb:** Aberdeen, Anstruther and Eyemouth
- 5.5 Marine Scotland will manage the handline mackerel QAGs in collaboration with interested parties. Quota allocated to each QAG is transferrable between QAGs where it appears to Marine Scotland that a QAG’s quota allocation will not be taken in full.

SECTION 6: ADMISSION TO, AND MOVEMENTS FROM, O10m POOL

6.1 Where a licensed vessel which is currently fishing in the O10m Pool changes ownership, the new owner will require to apply to Marine Scotland if he wishes to continue to fish in the O10m Pool. Any new applicant intending to fish for nephrops will be required to have a minimum of 100 FQA units of nephrops (NS units for vessels based in ICES area IV and WS units for vessels based in ICES area VI). A licence for over 10-metre vessels fishing in the O10m Pool will not be granted until the required FQA units are attached to the licence. It follows, therefore, that any potential purchaser of a Scottish over 10-metre vessel who intends to fish in the O10m Pool should seek clarification with Marine Scotland (via their local Fishery Office) on the entry requirements before any purchase is concluded.

6.2 Marine Scotland may waive the requirement to acquire FQA units in the sole exception that the owner does not intend to catch and land quota stocks with the vessel. In such a case, the owner of the vessel will be required to sign an undertaking that the vessel will not target, catch or land quota stocks (see example at **Annex B**). Marine Scotland reserves the right to review fishing rights of such vessels in the O10m Pool at any time and, if it is evident that the vessel has been catching and landing nephrops, to require the vessel owner to acquire nephrops FQA units as per section 6.1 above if he wishes to continue fishing in the O10m Pool.

6.3 Where a licensed over 10-metre vessel moves from a Sectoral Group to the O10m Pool under the same ownership, or where a licence from a vessel in a Sectoral Group is to be associated with a vessel fishing in the O10m Pool under new ownership, any previous arrangements to transfer quota deriving from the FQA units associated with that licence will not be valid for as long as the vessel remains in the O10m.

6.4 A vessel which was fishing in the O10m Pool at 1 January may switch to fishing against a Sectoral Group's allocation in-year, but no transfer of quota will be made to a Sectoral Group from the O10m Pool allocation in such an event. No vessel fishing against a Sectoral Group's allocation from 1 January will normally be able to revert to fishing against the allocations for the O10m Pool in-year.

6.5 Vessels fishing in the O10m Pool may not lease in quota for their individual use but will fish against the periodic Scottish Over-10-Metre Pool catch limits set by quota managers in Marine Scotland.

6.6 An over 10 metre vessel whose FQA units have been removed from its licence (either in whole or in part) while fishing in the O10m Pool under its existing ownership must reapply to re-join the O10m Pool.

SECTION 7 ADMISSION TO, AND MOVEMENTS FROM, 10mu POOL

7.1 A vessel which was fishing in the 10mu Pool at 1 January, may switch to fishing against Sectoral Group quota allocations in-year, but no transfer of quota will be made to Sectoral Group from the 10mu Pool quota allocation in such an event. No vessel fishing against a Sectoral Group allocation from 1 January will normally be able to revert to fishing against the quota allocations for the 10mu Pool in-year.

7.2 Exceptionally, a Scottish 10-metre-and-under vessel accepted to join a Sectoral Group and is fishing under the management of that Sectoral Group may acquire FQA units but, before re-joining the 10mu Pool, must divest itself of any FQA units associated with its licence.

7.3 Vessels fishing in the 10mu Pool may not lease in quota for their individual use but will fish against the periodic 10mu Pool catch limits set by quota managers in Marine Scotland.

7.4 Where a 10-metre-and-under vessel moves from fishing in a 10-metre-and-under pool from one FA to another, there will be no quota transfer between UKFAs.

*Marine Scotland
January 2021*

AGREEMENT BETWEEN SCOTTISH MINISTERS AND UK FISH PRODUCERS' ORGANISATIONS

This Agreement outlines the relationship between the Scottish Ministers and UK Fish ProducerOrganisations (PO), which are administering Scottish registered vessels, in respect of action which may be taken from 1 January 2016 in the context of the landing obligation.

It is envisaged that the variation of individual fishing vessel licences may be necessary where a vessel operating in a PO has exhausted its allocation of a quota stock which it is obliged to land under the requirements of the landing obligation. In such an instance, a PO may consider that a variation is required to prohibit the vessel from continuing to fish in a specified sea area either for a limited period of time during the quota year (1 January to 31 December) or for the remainder of the quota year.

Upon receipt of a written request by the PO, the Scottish Ministers (through Marine Scotland) will consider exercising their powers under section 4(9) of the Sea Fish (Conservation) Act 1967 to vary such licences in circumstances whereby the Scottish Ministers are satisfied with the PO's conclusion that the licensee/vessel has exhausted its individual quota allocation of the relevant stock(s).

By signing this Agreement below, both parties agree to carry out their respective responsibilities outlined in Schedule 2.

- Schedule 1** - Background
- Schedule 2** - Outline of responsibilities of POs and Scottish Ministers
- Schedule 3** - Notice of Variation: Removal of authority to fish (template)
- Schedule 4** - Notice of Variation: Reinstatement of authority to fish(template)
- Schedule 5A-** Template e-mail for PO to request that the ScottishMinisters issue a licence variation to prohibit a named vessel from fishing in a specified sea area
- Schedule 5B-** Template e-mail for PO to request that the ScottishMinisters issue a licence variation to reinstate authority of a named vessel to fish in a specified sea area
- Schedule 6** - Guidance on process (flow chart)

| | |
|-----------------------------------|--|
| Signed (for/on behalf of PO)..... | |
| Producer Organisation | |
| Position of signatory | |
| Date | |

| | |
|--|--|
| Signed (for/on behalf of ScottishMinisters)..... | |
| Position of signatory in Marine Scotland | |
| Date | |

The PO (through its Chief Executive or designated official) :

a) may, in writing, and at least one week after both parties have signed the Agreement, request that Scottish Ministers vary the licence of individual Scottish-administered vessels operating in the PO to suspend the authority of the vessel to engage in sea fishing activities in specified parts of the sea where the vessel's quota allocation of a quota stock subject to the landing obligation from 2016 has been exhausted. (In making such a request, a PO should bear in mind that variations issued under this Agreement will be **posted** to licence nominees. As such, it will take 48 hours from the day of posting for them to have legaleffect).

b) will provide in writing to Scottish Ministers (through Marine Scotland) the reason behind such a request together with confirmation that the vessel owner/licensee concerned is aware of the request and the circumstances behind it.

c) may recommend the length of the period to which the variation shall apply for up to a specified date in any calendar/quota year (1 Jan to 31 Dec) and to specify the relevant parts of the sea to which the variation should apply.

d) must ensure that, in exercising its responsibilities under these arrangements, any request which may cause Scottish Ministers to vary a licence is objectively justifiable, reasonable, fair and proportionate, takes account of all relevant considerations and risks and does not take into account any irrelevant considerations.

e) must maintain a full record of all relevant documentation leading up to and pertaining to a request to Scottish Ministers to issue a licence variation under the terms of this Agreement and must make such record available to Scottish Ministers should they so request.

f) must maintain an on-going list of all vessels operating in the PO subject to licence variations under these arrangements together with reasons for such variations and must make such record available to Scottish Ministers should they so request.

g) will review and, where appropriate, amend its Quota Management rules, Articles or Memorandum of Association or other relevant internal rules, so as to allow this licensing arrangement with Scottish Ministers to be carried out legitimately under the authority of these rules/articles should the PO chose to avail itself of the facility and, thus, indemnify Scottish Ministers against the costs of any litigation arising from a licence variation made under these arrangements which is based on a challenge to the conclusion in fact that the vessel in question has exhausted its quota allocation from the relevant stock(s).

h) will provide to quota managers in Marine Scotland electronic copies of its Quota Management rules, Articles or Memorandum of Association or other relevant internal rules which may be amended by virtue of these arrangements.

Scottish Ministers :

a) will retain their right to exercise their powers to vary licences (without a specific request from a PO) under section 4(9) of the Sea Fish (Conservation) Act 1967.

b) will consider any request made by a PO in accordance with this Agreement and, if satisfied that it is appropriate to do so, vary a licence as requested by a PO either to remove the authority of a vessel to fish in a specified sea area (see Schedule 3 template) or to reinstate the authority of the vessel to fish in a specified sea area (see Schedule 4 template)

c) reserve the right to refuse to vary a licence as requested by a PO under these arrangements and agree to provide the reasons for any such a refusal.

d) reserve the right to request and be provided with copies of all relevant documentation leading up to and

pertaining to a PO's decision to request the variation of a licence under these arrangements.

ANNEX B

Example of DISCLAIMER TO FISH IN O10m POOL (see section 7.2 above)

Address (please complete)

Date (please complete)

FAO FO (please complete for your port of admin) and Marine Scotland (Access to Sea Fisheries team)

I, the undersigned, agree to the conditional entry of my vessel (please enter RSS, vessel name and licence number) into the O10m Pool on the basis that the vessel will only target non-quota species.

I understand that in the case that landings of quota species are made, Marine Scotland reserves to review the right to fish with the vessel in the O10m Pool.

Yours faithfully

ANNEX C

CONTACTS

Access to Sea Fisheries team

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Quota Manager: Ross Parker

Tel: 0131 244 4766

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Senior Policy Manager (Licensing): Gordon Hart

Tel: 0131 244 4980

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Licensing Manager: Brian Meechan

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General Enquires

Email: accesstoseafisheries@gov.scot

Marine Analytical Unit (Stats)

Data Manager: David Turnbull

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Email: david.turnbull@gov.scot

Data Executive: Patrick McDonald

Tel: 0131 244 6641

Email: patrick.mcdonald@gov.scot

Data Officer: Gail Burns

Tel: 0131 244 6434

Email: gail.burns@gov.scot

Marine Scotland website

<http://www.scotland.gov.uk/About/Directorates/marinescotland>