

2024 Scottish Additional Quota Consultation

Partial Business and Regulatory Impact Assessment

October 2023

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1. Title of Proposal

The Allocation of Scottish Additional Quota from 2024 – Consultation Document

2. Purpose and Intended Effect

2.1 Background

The Marine Directorate of the Scottish Government is consulting on amending the policy approach to the allocation of Scotland's share of Additional Quota (AQ) (that is the share of quotas for fish stocks that has increased following the UK leaving the EU). This change in the administrative processes for the allocation of fish quotas (as set out in the Scottish Quota Management Rules) gives rise to a need to consult.

This partial BRIA accompanies the consultation on the way that AQ should be distributed.

2.2 Objective

The Marine Directorate is seeking views on a number of options for the allocation of Scotland's AQ.

Such as:

- Allocation on the basis of previous catches by vessels (catches based on Historic Track Record (HTR)).
- Allocating quota with a view to increasing socio-economic benefit (such as widening the pool of vessels able to fish for a particular species)
- Seeking to allocate fish quota to vessels that tend to use fishing methods and gears with a low environmental impact

Specific proposals (and some broader concepts) are detailed below for the allocation of AQ that will be distributed along with Existing Quota (the share of quota that the UK had before EU exit) amongst Fish Producer Organisations, Scottish-recognised sectoral Quota Management Groups and Scottish registered vessels not attributed to a Sectoral Group (the 'non-sector') that fish in ICES fishing areas in UK coastal waters and in the waters of other Coastal States with whom the UK has access arrangements.

The method of quota allocation to be utilised as a result of the consultation will be in line with requirements set out in Section 25 of the Fisheries Act 2020, the Joint Fisheries Statement and relevant regulatory and Scottish Government objectives. The methodology or combination of methodologies chosen as a result of this consultation will be set out in an Outcome of Consultation Report and the Scottish Quota Management Rules.

The Quota Management Rules will be published in 2024.

2.3 Rationale for Government Intervention

Scottish Ministers are one of the UK national fishing authorities and exercise their responsibilities under the Fisheries Act 2020 through the Marine Directorate. Ministers are committed to consulting with industry representatives, communities and others on how best to realise appropriate environmental, economic and social benefits in line the Fisheries Act 2020. The following National Performance Framework outcomes are supported by the allocation of AQ:

- Economy
- Communities
- Fair Work and Business
- Poverty
- Environment

AQ presents an opportunity to the Scottish fishing industry and related coastal communities

3. Consultation within Government

There have been discussions with various officials across the Marine Directorate.

4. Public Consultation

There have been discussions with Scottish sectoral groups and a meeting with some environmental organisations. There is due to be further engagement as part of the consultation process.

Responses to a previous public consultation on the allocation of AQ from 2020 have also informed proposals.

5. Business

As set out in Section 4 above, there have been discussions with Scottish sectoral groups. Businesses will be invited to respond to the public consultation. The Access to Sea Fisheries Team has an extensive list of points of contact to ensure that there will be a suitably broad level of business engagement.

6. Options Considered

6.1 Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector Groups

This is the 'Do Nothing' Option as it is a continuation of the methodology used to distribute AQ in 2021-23. As a result, these Options have been combined in the analysis below.

6.1.1 Proposal

The HTR method allocates fishing quota based on what a vessel landed previously for each fish stock. Under this option, the share of AQ each vessel receives would be based on the vessel's share of all landings (across active vessels in that year) for that stock during the identified reference period - we propose to use 2015-19.

Distribution of AQ, based on the HTR of vessels over a recent reference period, would increase allocations to vessels which have landed those quota species in the recent past. This would take account of in-year quota adaptations, where vessels have acquired additional fishing opportunities (such as through swaps of quota) and landed that fish product.

The HTR method restricts access to Additional Quota primarily to vessels in Fish Producers Organisations, Quota Management Groups and non-sector vessels over 10 metres in length. The Scottish Government recognises that this restricts the ability of new sector entrants and smaller vessels in the non-sector to access Additional Quota. To help mitigate against this downside, Special Allocations reserve a portion of Additional Quota to the pool of non-sector vessels under 10 metres in length.

6.1.2 Sectors and Groups Affected

- UK Fish Producers Organisations, Scottish recognised Quota Management Groups, fishing vessels not associated with either of the above (the 'non-sector').

6.1.3 Benefits

This is the 'Do Nothing' option so has no additional benefits.

6.1.4 Costs

This is the 'Do nothing' option so has no additional costs.

6.2 Option 2 - Allocation of Fishing Opportunities Equally Between All Vessels or a Section of Vessels

6.2.1 Proposal

This distribution methodology considers sharing AQ between the fleet, or a specific segment of the fleet, in an equal manner.

We wish to explore views on two mechanisms under this option both of which were suggested in responses to the previous consultation:

1 – Distribute all AQ equally between all active vessels.

2 – Distribute pelagic AQ equally between active pelagic vessels (specifically, the large pelagic vessels that target these species).

6.2.2 Sectors and Groups Affected

As for Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector Groups **Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector G**

6.2.3 Benefits

Under distribution mechanism 1: active commercial vessel in the Scottish fleet would be eligible for a share of Scotland's AQ. This would allow each vessel the potential to develop their fishing opportunities and potentially expand the socio-economic benefit arising.

Under distribution mechanism 2: pelagic AQ only would be allocated to the recognised 21 pelagic vessels that target these species. Some pelagic vessels have been replaced during the track record period for HTR and would otherwise be ineligible for AQ. Due to the small number of vessels, there is a limited market for the leasing/swapping of pelagic quota in any year. This contrasts to the position with some demersal stocks, where there are greater opportunities to swap quota. For example, with quota holders based elsewhere in the UK.

6.2.4 Costs

Under distribution mechanism 1 there are identified issues:

- Not all vessels operate in the fishing areas where there is AQ and so those vessels would not practically be able to catch any such quota allocated to them.
- Not all fishing vessels have the capability of fishing for stocks for which the UK has AQ. For example, it would not be possible for most creel vessels to switch to fish for stocks caught by trawled methods.
- This approach may encourage quota trading (as vessels allocated fishing quota for species they do not intend to target seek to swap this to others in the fishing fleet). Scottish Government policy is to encourage quotas to be held by those who can fish them and to prevent them becoming a speculative asset.
- For some stocks, an equal share of AQ divided across all Scottish vessels would provide each party with an insignificant allocation to develop their fishing opportunities and potentially expand the socio-economic benefit arising. For example, North Sea ling AQ has ranged between 55-61 tonnes since 2021 and would equate to 20-25kgs per vessel. So, the resultant quota distributed between vessels would be negligible.

Under distribution mechanism 2, The arising benefits would be limited to a small number of vessels targeting pelagic species. A potential criticism of this approach could be that it rewards a subset of the fishing industry with AQ. Particularly in relation to AQ for some pelagic stocks the available share of quota has been much more significant than gains seen for many key demersal stocks.

6.3 Option 3 – Landings into Scottish Ports

6.3.1 Proposal

It is acknowledged by the Scottish Government that landings into Scotland extend the social and economic benefit arising from Scottish quota beyond those involved in the catching of fish, as this sees greater activity in Scotland's ports, processing sectors and other onshore industries.

It must be recognised when considering this option that in 2023 the economic link licence condition (for all over 10 metre licences) was amended to ensure a greater socio-economic benefit is returned to Scotland for those species with the greatest landed value into Scotland. The option explored here would be in addition to the amended economic link provisions.

Bearing the amended economic link conditions in mind, the proposal asks for consultees to consider whether landings into Scotland should be used as a basis for distributing:

- I. all stocks (including those stocks covered by the amended economic link conditions)
- II. or only those stocks for which economic link provisions do not apply (stocks other than the 8 key stocks identified in the outcome of consultation).

Essentially, under this option the proposal would be that all or a proportion of AQ is awarded to vessels based on their landings of particular stocks in a qualifying period.

In contrast to the economic link licence condition where total landings of all species covered by it are used to consider compliance with the licence condition.

For example, if a vessel recorded landings of North Sea plaice into Scotland, within an identified reference period, then it would be awarded a portion of Scotland's AQ for North Sea plaice.

6.3.2 Sectors and Groups Affected

As for Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector Groups

6.3.3 Benefits

Proceeding with this option aligns with new economic link licence conditions¹, which were amended to ensure greater socio-economic benefit returned to Scotland for those species with the greatest landed value into Scotland.

It directly supports benefiting many Scottish Government aims and objectives and is in line with National Marine Plan, especially the following objective in the Sea Fisheries section of the plan.

- 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.

6.3.4 Costs

Vessels land catches into ports for a variety of reasons including proximity, prices achieved, operational efficiencies, limited domestic processing sector and market and buyer preferences. There may be costs to vessels in landing to Scotland instead of another country, however the intention is for the AQ unlocked by landing here to offset these costs.

6.4 Option 4 – Access to Additional Quota for Vessels with Independent Accreditation

6.4.1 Proposal

To be considered for 2025 onwards.

Under this option the allocation of AQ would be made to vessels with an independent accreditation in recognition of standards achieved for conditions aboard the vessel or potentially, the manner in which fishing operations have been conducted.

The proposal is that a vessel must be an active Scottish pelagic vessel which is certified by a scheme such as the “Responsible Fishing Vessel Standard” (RFVS²), or an agreed alternate scheme. Nine active Scottish pelagic vessels would have been eligible in 2023.

This could be utilised as a stand-alone basis for allocating quota or linked to other options set out in this consultation document. So, a vessel would get all or a portion of AQ under these three options based on having such a standard.

In order to provide sufficient time and opportunity for vessels to apply for the scheme and for evaluation to take place it would not be fair to impose this eligibility requirement from 2024.

¹ From 1 January 2023, eligible vessels, catching over 10 tonnes of the 8 key species are required to land a specified portion of these species into Scotland or transfer a portion of quota to the Scottish Government in return.

² Previously the Responsible Fishing Scheme and managed by Seafish.

For 2025, it is proposed that eligibility for AQ for pelagic species be linked to pelagic vessels being accredited under the RFVS, or an agreed alternate.

A similar eligibility mechanism may be applied to AQ for demersal and *Nephrops* species.

6.4.2 Sectors and Groups Affected

As for Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector Groups

6.4.3 Benefits

This option links economic benefits of access to AQ to higher onboard standards of welfare for crew, potentially the manner in which fishing operations are carried out and enhancing the attractiveness of fishing as a career.

6.4.4 Costs

Vessels require to pay for certification schemes to apply for AQ and may elect not to do this if the perceived or real cost is greater than the benefits to be gained from additional AQ fishing opportunities.

6.5 Option 5 - Exceptionally Providing AQ as a Result of Lost Fishing Opportunities

6.5.1 Proposal

There are competing uses for Scotland's seas with different sectors and industries seeking to make use of the marine space. There are a number of policies under development which may change the fishing opportunities available for fishing vessels in the future. It is possible that in these circumstances interventions by the Scottish Government could result in the removal of established fishing opportunities leaving no ready alternative for some vessels. In exceptional circumstances, where this potentially jeopardises the ongoing viability of a fishing business, AQ offers the potential for the Scottish Government to use fishing quotas to help mitigate impacts on such vessels and support them to diversify their fishing operations.

Under such a scenario, the Scottish Government could intervene to provide an alternative fishing opportunity from AQ – as far as possible commensurate with the value of the fishing opportunity lost.

Taking this step would require careful consideration to ensure vessels were capable of using the AQ opportunity, the potential financial impact on the business of the intervention and a requirement for clear evidence that alternative fishing opportunities were not available to the impacted vessel. The allocation of any quota in these circumstances would require to be open and transparent.

6.5.2 Sectors and Groups Affected

As for Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector Groups

6.5.3 Benefits

This option may provide a route to continued business activity in the circumstances outlined above.

6.5.4 Costs

Moving from an established fishing activity to target a new species in a new area is not a like-for-like replacement and individual vessels would need to make a decision on whether AQ would be economically viable for them. In some cases, it will be, in others it may not be so while AQ could be used to cushion the impact of a change in fishing opportunities it is not a guarantee of continuation of activity at the same level. It would not be Scottish Government policy to make AQ available on a routine basis for this purpose and there would need to be focused messaging to ensure it is not interpreted as a compensation route in all circumstances.

6.6 Option 6 – Application by Sectoral Groups on Specific Environmental Criteria

Under this option it is proposed that a portion of AQ is set aside and Sectoral Groups (Producer Organisations and Quota Management Groups) are invited to apply for this quota on behalf of some or all of the Scottish vessels that they represent.

Sectoral Groups are bodies recognised by a UK Fisheries Administration. They are devolved quota management responsibilities under the UK and national rules of the Fisheries Administration which recognises them. It should be noted that Scottish licensed fishing vessels can be in membership of a Sectoral Group recognised and operating under the rules of a Fisheries Administration in another part of the UK. So, we envisage that Sectoral Groups outside of Scotland would be able to access this quota on behalf of their Scottish administered vessels.

Applicants would need to demonstrate how the utilisation of this quota would deliver one or both of the environmental criteria below:

- the use of selective fishing gear (above and beyond legally mandated requirements).
- the use of fishing techniques that have a reduced impact on the environment (for example that use less energy or cause less damage to habitats).

6.6.1 Sectors and Groups Affected

As for Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector Groups

6.6.2 Benefits

This option links access to AQ to the use of fishing gear or techniques with increased selectivity or reduced environmental impact. Access to this quota may offset the financial costs of purchasing such equipment or amending fishing techniques.

6.6.3 Costs

There would likely be a cost to vessels to change fishing gear with increased selectivity or conducting fishing operations associated with a reduced environmental impact.

6.7 Option 7 - A Mix of the Above Options

The options listed above present a range of methods by which AQ could be allocated. Another option would be to adopt a mix, for example as has been done in the Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector Groups (Do Minimum) where historic trends and specific sectoral allocations were used. Other alternative mixes of options could be:

- Option 2 - Allocation of Fishing Opportunities Equally Between All Vessels or a Section of Vessels and Option 5 - Exceptionally Providing AQ as a Result of Lost Fishing Opportunities
- Option 3 – Landings into Scottish Ports and Option 4 – Access to Additional Quota for Vessels with Independent Accreditation
- Any further combination as judged by Scottish Ministers to be appropriate and in compliance with law and in accordance with relevant Scottish Government policy.

7. Regulatory and EU Alignment Impacts

7.1 Intra-UK Trade

No options expected to impact upon provisions of the Internal Markets Bill.

7.2 International Trade

The proposed consultation criteria do not have the potential to affect imports or exports of a specific good or service, or groups of goods or services.

The proposed consultation criteria do not have the potential to affect trade flows with one or more countries.

The proposed consultation criteria do not include different requirements for domestic and foreign businesses.

7.3 EU Alignment

The Fisheries Act 2020 revoked the EU Common Fisheries Policy. EU Member states have the power to allocate received quota as they see fit in an analogous manner to the UK.

8. Scottish Firms Impact Test

To be completed during formal consultation.

9. Competition Assessment

Explain whether proposals will have an impact on competition ensuring you provide evidence to back up any statements you make.

- Will the measure directly or indirectly limit the number or range of suppliers

Option 1 – A Combination of A) Historic Track Record (HTR) (Of Landings) and B) Special Allocation for the Non-Sector Groups places a barrier to new entrants to the Scottish fishing sector, as there is no way to accumulate a historic track record and thus qualify for quota allocation, excepting via Special Allocations. However, there are already barriers to entry such as obtaining finance for vessels and crew that are arguably greater than those imposed by the proposed allocation methodology of AQ.

Special Allocations are a way to address this over time.

- Will the measure limit the ability of suppliers to compete

Option 3 – Landings into Scottish Ports may affect the ability of suppliers to compete. Vessels land catches into ports for a variety of reasons including proximity, prices achieved, operational efficiencies and buyer preferences. There may be costs to vessels in landing to Scotland however the intention is for the additional quota unlocked by landing here to offset these costs.

Option 4 – Access to Additional Quota for Vessels with Independent Accreditation may limit the ability to compete if pelagic vessels elect not to apply for certification, thus ruling themselves out of receiving that portion of AQ. However, receiving the full allocation would be a clear incentive to participate in the scheme. We see little reason for any of our pelagic vessels not to be able to be accredited and it may ultimately enhance their marketing options whilst delivering improved standards of crew employment and welfare.

Option 6 – Application by Sectoral Groups on Specific Environmental Criteria may affect the ability of supplies to compete. Qualification will be limited to those fishing using gear that has increased selectivity (beyond the limits legally mandated) and the use of fishing techniques with a reduced environmental impact

- Will the measure limit suppliers' incentives to compete vigorously

No option limits incentives to compete.

- Will the measure limit the choices and information available to consumers

No option limits choice and information available to consumers.

10. Consumer Assessment

The overall catch of fish associated with distribution of AQ will not change and therefore there should be no impact upon availability to consumers.

11. Test Run of Business Forms

If, following the consultation, we do introduce Option 6 and application forms are introduced we will test these with recipients should the decision be made to introduce these at the appropriate time.

This is also the case with any forms introduced in the 'Call for Evidence' section.

12. Digital Impact Test

- Does measure take account of changing digital technologies and markets

No option should be affected by changing digital technologies or markets.

- Will measure be applicable in a digital/online context

No.

- Is there a possibility the measures could be circumvented by digital/online transactions

No.

- Alternatively, will the measure only be applicable in a digital context and may have an adverse impact on traditional or offline businesses

No.

- If the measure can be applied in an offline **and** online environment will this in itself have any adverse impact on incumbent operators

This is not applicable as the product is physical.

13. Legal Aid Impact Test

The rules are not expected to have an effect on the use of legal aid.

14. Enforcement, Sanctions and Monitoring

The enforcement of vessels operating within quota restrictions in sea fishing licences is undertaken by Scottish Sea Fisheries Officers. The monitoring of fishing activity and fishing vessels is undertaken daily.

Monitoring of quota utilisation is applied retrospectively and in conjunction with the sectoral groups. Where groups exceed their quota limits at the end of the calendar year, quota penalties and deductions can be applied to the group's quota allocation in the following year.

To avoid such scenarios, a revocation of the authorisation to fish for an individual vessel or all vessels, managed by a group can be applied to the appropriate fishing licence(s).

It is unlikely, unless specified in the outcome decision, that additional monitoring/enforcement or sanctions will arise from the allocation of Additional Quota.

15. Implementation and Delivery Plan

The Quota Management Rules will be published in 2024. They will be circulated by email and published on the Scottish Government website.

16. Post-implementation Review

The options in the consultation seek to fix the AQ allocation methodology until end 2026. Review would be carried out ahead of this date.

17. Summary and Recommendation

Which option is being recommended and why? Refer to analysis of costs and benefits in reaching the decision. Summarise in table below:

No option is being recommended in advance of consultation. Following analysis and consideration of consultation responses, a recommendation will be made to Ministers.

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: economic, environment, social, policy and administrative
1 (Do Nothing)	Neutral.	Neutral.
2	Equal benefit among vessels; rebalance away from dominant quota holders; proportionally more fish caught with lower impact gears	Unwanted quota may lead to swapping and other speculative use of assets.
3	Aligns with Scottish Government policy to link	There may be costs to vessels in landing to Scottish ports if their

	economic activity with the local area.	normal practice was to land elsewhere.
4	Links economic gain from AQ with higher working standards for crew.	Accreditation has a time and financial cost to be borne by vessels.
5	Balances continued activity with other uses of marine space.	No guarantee of like-for-like continuation of activity. Risks perception of AQ as a compensatory scheme.
6	Incentivises the use of gear with increased selectivity and fishing techniques or reduced environmental impact.	May be a cost to vessels to vessels in adaptation.
7	Allows flexibility to adopt criteria in compliance with law and accordance with policy.	Some administrative and policy costs to determine the correct mix of approaches.

18. Declaration and Publication

'I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



Date: Tuesday 17 October 2023

Minister's name: Mairi Gougeon

Minister's title: Cabinet Secretary for Rural Affairs, Land Reform and Islands

Scottish Government Contact point: Malcolm MacLeod



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