

FISH QUOTAS



Marine Scotland

SCOTTISH QUOTA MANAGEMENT RULES 2022

marinescotland

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SECTION 1: INTRODUCTION

- 1.1 These Scottish Quota Management Rules 2022 (“**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 (“**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 D** for Marine Scotland contact details.

Marine Scotland
4 February 2022

¹ [UK and England quota management rules - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

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

SECTION 2: DISTRIBUTION OF SCOTTISH QUOTAS

- 2.1 Existing (“EQ”) is defined as the proportion of the UK total allowable catch (“TAC”) apportioned to Scotland and as defined in the UK Quota Management Rules.
Additional Quota “AQ” is the defined share of quota, apportioned to Scotland, which the UK secures as an independent Coastal State above the EQ.

Distribution of Scottish share of Existing Quota (EQ)

- 2.2 Marine Scotland will make the following special allocations from Scotland’s EQ share:
- i. Scottish 10mu Pool North Sea mackerel fishery: 1,000 tonnes will be allocated for landings by vessels fishing in the 10mu Pool which are authorised to fish by Marine Scotland for mackerel by handline in ICES areas IVab. The amount will be shared among separately managed sub-fisheries in the Moray Firth, Shetland, Orkney and East Coast (as set out in sections 5.2-5.5 of the Scottish QM Rules).
 - ii. 10mu Pool handline western mackerel fishery: 100 tonnes (over and above the amount apportioned to the 10mu Pool under the UK QM Rules) will be allocated 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 stocks listed in 2.2 will be not taken in full before the end of the season/year, any remaining quota may be redistributed to Sectoral Groups, or may be retained for banking purposes.

- 2.3 The remaining EQ 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) Recognised UK Fish Producer Organisations³ (“**POs**”) which 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**”.

- 2.4 Marine Scotland also reserves the right to retain EQ centrally for other purposes.

- 2.5 The amounts of EQ distributed directly to the 10mu Pool and O10m Pool is determined by the UK apportionment process. Marine Scotland may distribute EQ beyond these amounts (as outlined in section 2.2 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.

- 2.6 The remaining EQ held by Marine Scotland will, in general, be distributed 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.

³ Under Regulation (EU) 1379/2013 which has been retained in UK law and applies in Scotland

- 2.7 In-year changes to Scotland's share of EQ, due to a TAC change, will require a new distribution process to be carried out for any adjusted quotas.

Distribution of Scottish share of Additional Quota (AQ)

- 2.8 Scotland will make a Special Allocation for the following quotas and amounts for the 10mu Pool.
- i. NS Mackerel: 50 tonnes
 - ii. WS Mackerel: 200 tonnes
 - iii. NS Cod: up to a total allocation of 120 tonnes
 - iv. NS Saithe: up to a total allocation of 60 tonnes
 - v. NS Lemon Sole & Witch: up to a total allocation of 15 tonnes
 - vi. NS Anglerfish: up to a total allocation of 30 tonnes
 - vii. NS Skate & Rays: up to a total allocation of 10 tonnes
 - viii. NS Ling: up to a total allocation 15 tonnes
 - ix. WS Ling: up to a total allocation of 20 tonnes
 - x. WS Anglerfish: up to a total allocation of 15 tonnes
 - xi. WS Skate & Rays: up to a total allocation of 25 tonnes
- 2.9 No further share of AQ will be distributed to the 10mu Pool above the shares listed in 2.8 i—ii, or which would otherwise set the aggregated allocation to the 10mu Pool above the totals listed in 2.8 iii-xi.
- 2.10 Vessels fishing in the 10mu Pool will fish against the periodic 10mu Pool catch limits set by quota managers in Marine Scotland.
- 2.11 Where, on the basis of predicted uptake, it appears to Marine Scotland that allocations for any of the stocks listed in 2.8 will be not taken in full before the end of the season/year, any remaining quota may be redistributed to Sectoral Groups, or may be retained for banking purposes.
- 2.12 Scotland will make a Special Allocation of the following amounts for the O10m Pool.
- i. NS Mackerel: 100 tonnes
 - ii. WS Mackerel: 100 tonnes
- 2.13 For stocks other than those listed in 2.12, the O10m Pool will be incorporated into the distribution calculation for remaining AQ in accordance with sections 2.15 - 2.18
- 2.14 There are no individual allocations for vessels in the O10m Pool, they instead fish against the periodic Scottish Over-10-Metre Pool catch limits set by quota managers in Marine Scotland.
Where, on the basis of predicted uptake, it appears to Marine Scotland that allocations for any of the stocks listed in 2.12 will be not taken in full before the end of the season/year, any remaining quota may be redistributed to Sectoral Groups, or may be retained for banking purposes.
- 2.15 Scotland will distribute its remaining AQ on the individual vessels' Historic Track Record (HTR) for recorded landings, for each stock, during the 5-year reference period 2015-19. Vessels over 10m in length, active at 1 January 2022, will be distributed AQ, for respective stocks, on the basis of their HTR share within the total active fleet.
- 2.16 Recorded landings made by vessels inactive at 1 January 2022 have been excluded from calculating the HTR shares.
- 2.17 For vessels replaced during and since the track record period, and which are active at 1 Jan 2022, Marine Scotland has associated the track record of inactive vessels with their direct replacements, where the ownership is identical and where the former vessel meets the following minimum criterion:
Only inactive vessels with 200 tonnes total landings (of quota stocks distributed by Marine Scotland) in the reference period will be included in the calculation of Sectoral Group shares, determined by the membership of the active, replacement vessel.

- 2.18 Recorded landings by non-sector vessels 10m and under in length have been excluded. The HTR of vessels operating in a Sectoral Group will be summed and the distribution of AQ made to the respective Sectoral Group.
- 2.19 Marine Scotland will provide to each Sectoral Group the HTR break-down of each vessel operating in the group.
- 2.20 Each group's distributed figures (EQ and AQ) will be presented separately in the "Scottish Distribution" document and then summed and presented as a total distributed figure for each Sectoral Group.

Attribution of FQA units on Scottish licence entitlements and holding statements

- 2.21 Holders of Scottish administered licence entitlements and holding statements may attribute the associated FQA units, via submission of an AFL8 form, 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 for distribution by Marine Scotland, under the Scottish QM Rules.
- 2.22 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.

In-year re-distribution of Scottish quotas

- 2.23 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 re-distribute quota where it appears unlikely that Marine Scotland's quota distribution to those licensees will be caught in full. In considering any requests for re-distribution 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 distribute quota from more than one FA.

Arrangements for particular quota stocks and fisheries

- 2.24 Marine Scotland has no arrangements, further to sections 2.2 – 2.22 above, for quota stocks which are different to those laid out in section 2 of the UK Quota Management 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 POs⁴.

Grant of sectoral quota management responsibilities to POs

- 3.2 Marine Scotland may grant a PO responsibility for sectoral quota management, thus allowing the PO to receive a distributed share 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 quotas collectively, then Marine Scotland will be responsible for their management.

Closure/opening of PO fisheries

- 3.4 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

- 3.5 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.
- 3.6 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.
- 3.7 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 **AnnexA**.

⁴ As set out in Article 14 of the Regulation (EU) 1379/2013 which has been retained in UK law and applied in Scotland

SECTION 4: SCOTTISH SECTORAL QUOTA MANAGEMENT GROUPS

General

- 4.1 In accordance with the 2012 Concordat and the UK QM Rules, Marine Scotland may recognise legal entities, other than POs and grant sectoral quota management rights and responsibilities to a Quota Management Group (“**QMG**”).
- 4.2 Sectoral quota management rights and responsibilities are granted to QMGs on a temporary basis until 31 December 2024. 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: gmgmailbox@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 Offices⁵ 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 distributed 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 distributed 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.
 - b) If the QMG does not intend to fish any of the quota distributed to it, set out how this quota will be utilised (for

⁵ Link to map of base districts of each Fishing Office
<https://www.webarchive.org.uk/wayback/archive/3000/https://www.gov.scot/Resource/0047/00472575.pdf>

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 distributed 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. East Coast (formerly referred to as “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. **East Coast:** Aberdeen, Anstruther and Eyemouth
- 5.5 Marine Scotland will manage the handline mackerel QAGs in collaboration with inte rested parties. Quota distributed to each QAG is transferrable between QAGs where it appears to Marine Scotland that a QAG’s quota share will not be taken in full.
- 5.6 Marine Scotland reserves the right to manage the four groups as a single, national pool in order to optimise catching opportunities across the coast.

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

- 6.1 Membership of the Scottish O10m Pool is provided for vessels which primarily target nephrops and non-quota species.
- 6.2 Vessels seeking to join the O10m pool and which wish to target nephrops are required to have 100 FQA units of either NS or WS Nephrops attached with the fishing licence associated with the fishing vessel.
- 6.3 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 AnnexB).
- 6.4 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 6.2 above if he wishes to continue fishing in the O10m Pool.
- 6.5 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.
- 6.6 A vessel which was fishing in the O10m Pool at 1 January may switch to fishing against a Sectoral Group's quota 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 quota from 1 January will normally be able to revert to fishing against the quota for the O10m Pool in-year.
- 6.7 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.
- 6.8 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 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 in-year, but no transfer of quota will be made to Sectoral Group from the 10mu Pool in such an event. No vessel fishing against a Sectoral Group from 1 January will normally be able to revert to fishing in the 10mu Pool in-year.
- 7.2 A Scottish 10-metre-and-under vessel accepted to join a Sectoral Group and fishing under the management of that Sectoral Group may acquire FQA units but, before re-joining the 10mu Pool, it must divest itself of any FQA units attached to its licence.
A vessel in the 10mu Pool may not hold FQA units on its associated 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 UK FAs.

Marine Scotland
4 February 2021

ANNEX A

AGREEMENT BETWEEN SCOTTISH MINISTERS AND UK FISH PRODUCERS' ORGANISATIONS

This Agreement outlines the relationship between the Scottish Ministers and UK Fish Producer Organisations (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 holdings 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 holding 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 Scottish Ministers 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 Scottish Ministers 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 Scottish Ministers).....	
Position of signatory in Marine Scotland
Date

Schedule 2 - Outline of responsibilities of POs and Scottish Ministers

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 holding 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 legal effect).

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 holding 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 6.3 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

SCOTTISH HTR SHARES FOR THE DISTRIBUTION OF ADDITIONAL QUOTA in 2022⁶

NB that the NS sprat TAC (SPR4) is managed from 1 July to 30 June

⁶ A table with the 2022 AQ shares, by sectoral group, will be published in early 2022 (around the time of Scottish provisional allocations) to take into account any necessary changes to group shares.

ANNEX D

CONTACTS

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Marine Scotland website

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