

# Promoting Best Practice for Inshore Fisheries:

## A consultation on measures for hobby/unlicensed fishermen in Scottish inshore waters

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## **Introduction and Background**

The Inshore Fisheries Management and Conservation Group (IFMAC) established a short-life working group to discuss the issue of hobby/unlicensed fishermen and report back with possible actions to reduce the incidence of unlicensed fishing.

Fishing vessels that fish commercially and land their catch for profit in the UK must firstly hold a valid Certificate of Registry and be registered with the Register of Shipping and Seamen at Cardiff. In addition they must also hold a valid UK fishing vessel licence issued by a UK Fisheries Administration.

The licence specifies conditions which must be adhered to by vessel owners when fishing activity is being pursued. It authorises the sea areas in which a vessel can fish and the species of fish that can be targeted, and is the mechanism of control that enables UK Fisheries Administrations to regulate fishing under the quotas (TACs) set and allocated annually to the UK under the EU Common Fisheries Policy.

No licence is required by ordinary members of the public who intend to catch a small number of sea fish for their own consumption. They are not permitted to sell for profit anything they catch.

By its very nature, the illegal selling of catch for profit by hobby/unlicensed fishermen is difficult to measure; however, there is evidence to suggest this is a significant issue around the Scottish coast in particular hotspots. The problem also increases during spring/summer months.

There is also evidence to suggest that the problem exists in relation to fishing for crabs and lobsters with creels and also in relation to diving for scallops – which can be harder to monitor as this activity can be undertaken from beaches etc.

Current legislation allows fishing for personal consumption but does not define what this means. Reports have been received of unlicensed creelers using hundreds of pots and scallop divers collecting several large sacks of scallops in one day's fishing.

EU legislative provisions require that all fisheries products (subject to the exception noted below), are first marketed or registered at a registered auction centre or to registered buyers or to producer organisations. Registration is free. However, a buyer acquiring fisheries products of an amount up to 30 kg which are not placed on the market but are used only for private consumption are exempted from this requirement.

There are safety issues in relation to hobby/unlicensed fishermen as they may not have the relevant safety certificates etc or be complying with best practice. There are also public safety and health concerns due to the untraceability of produce and the possibility of shellfish being sourced from areas affected by toxins, particularly if harvested from unclassified waters.

Over fishing and non-compliance with regulations on landing sizes may impact on the long term sustainability of stocks. When licensed fishermen see unlicensed fishermen selling their catch for profit without any apparent hindrance to their efforts they see that there is not a level playing field. As a result, it can be difficult to persuade commercial fishermen to engage in voluntary activities such as data

gathering and other measures that will have a long term benefit for fisheries management.

## **Report findings**

1. The working group identified a number of possible actions to reduce the incidence of unlicensed fishermen selling their catch for profit which can be broadly split into two distinct areas:

- Educational / Awareness raising, including:
  - Trade press articles
  - Notices reminding fisheries of legislation at particular hotspots
  - Notifications of sub-standard water classification to be posted at those sites
  - Liaising with trade bodies and local organisations to highlight issues
  - Liaison with local authorities regarding their food safety policies to include importance of sourcing
  - Liaison with Environmental Health officers regarding importance of reputable sourcing
- Legislative, including consideration of;
  - Permits for unlicensed/hobby fishermen
  - Creel limits and/or tagging
  - Landing limits for different species
  - Personal Consumption Definitions/changes to the exemption from RBS Regulations.

It is the legislative options that Marine Scotland is seeking views on in this consultation.

## **SECTION 2 -Background on the Consultation Process**

The purpose of this consultation document is to seek the views of those who actively fish in Scottish inshore waters whether as commercial or hobby fishermen, and stakeholders with a wider interest in the marine environment. Responses to this consultation will be used to inform policy development in this area.

The consultation will last for 12 weeks and responses are invited by 24 April 2015.

The views and suggestions received in consultation responses will be analysed and presented to the Inshore Fisheries Management and Conservation Group (IFMAC) the national co-management body for discussion and endorsement of next steps.

Please send your returns or address any queries to:

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If you have any queries please contact the Inshore Fisheries Management and Communities Branch on 0131 244 4756

The Scottish Government may make the responses to this consultation paper available to the public and to the Scottish Parliament. We will acknowledge responses. If you respond to this consultation you are requested to complete the enclosed responded information form attached at Annex I. This will ensure that we handle your responses appropriately.

A consultation report will be published by the Scottish Government.

## Background on the Consultation Process

### What is the aim of this consultation?

2.1 This consultation is about how the Scottish Government can address the issue of unlicensed fishermen selling their catch for profit. There is no desire to prevent hobby fishermen from catching small amounts for personal consumption.

2.2 The aim of this consultation is to build upon the report produced by the short-life working group on hobby/unlicensed fishermen which was presented to IFMAC on 29 September 2014, a copy of which can be found on the Marine Scotland website: <http://www.scotland.gov.uk/Resource/0045/00459878.docx>

2.3 The Report made a number of recommendations, some that could be categorised as educational in nature and others that would require a legislative solution. It is these legislative solutions that are the subject of this consultation together with the opportunity for interested parties to propose relevant solutions.

2.4 Proposals for the implementation of possible measures are discussed.

### Scottish Government Considerations

2.5 The Scottish Government supports the public right to fish for personal consumption. However, this public right should not be used as a smokescreen by unlicensed commercial fishermen to evade licensing and other requirements that the majority of law abiding commercial fishermen comply with.

2.6 The key issue for the Scottish Government is to ensure **proportionality of response to protect the interests of licensed and genuine hobby fishermen while not imposing unnecessarily restrictive practices on the whole fleet or sector**. Scottish Government's principal aim is to identify a balanced and effective policy on reducing the impact of unlicensed commercial fishermen and is acutely aware of the significant impact that unlicensed commercial fishermen can have on others. In consequence it is important that those individuals fishing commercially without a license are subject to enforcement action.

2.7 With any change in policy the Scottish Government will need to take account of the cost of implementing and enforcing any new proposals.

## **SECTION 3: Consultation Objectives**

The working group identified a number of possible actions to reduce the incidence of unlicensed fishermen selling their catch for profit which can be broadly split into two distinct areas; educational and legislative.

The Scottish Government is already considering the 'educational' recommendations and some of these are already being undertaken by Marine Scotland Compliance.

### **Permits for unlicensed/hobby fishermen**

The introduction of a requirement for unlicensed/hobby fishermen to hold a permit has occurred in some other parts of the UK and in conjunction with other measures has been viewed as contributing to the reduction in unlicensed fishermen selling their catch for profit. A permit would state clearly what hobby fishermen were permitted to do and include limits on species, numbers or the amount allowed for personal consumption etc.

#### **Question 1: Should a permit system be introduced for fishermen not fishing from a licensed fishing vessel?**

### **Creel Limits/tagging**

There is evidence to suggest that some unlicensed fishermen are laying numerous creels whilst claiming they are fishing for personal consumption. It is difficult to monitor the position as many of the creels are not identifiable and therefore cannot be conclusively attributed to unlicensed fishermen.

A requirement for every fishermen to tag each creel with a specified amount of information would allow identification of the owner of the creel. This would enable enforcement of any fixed upper limits on the number of creels that can be set by unlicensed/hobby fishermen, ultimately allowing for the removal of untagged creels or creels set in excess of numbers allowed for hobby fishermen. Northern Ireland, for example, does not allow hobby or unlicensed fishermen to use more than five pots or to use a stock cage.

#### **Question 2: Should a maximum limit be set for the numbers of creels that can be set by unlicensed/hobby fishermen?**

#### **Question 3: If you have answered 'Yes' to Question 2, what should be the maximum number of creels that can be set by a hobby fishermen?**

### **Landing limits for different species**

There is evidence that some unlicensed fishermen are landing amounts of fish for 'personal consumption' far in excess of what might be considered a 'reasonable amount', which is a subjective phrase open to wide interpretation and therefore difficult to enforce. Measures could be introduced that establish clear maximum daily catch or landing limits that were more readily enforceable. A ban on the use of keep

boxes could also help prevent any minority of unscrupulous fishermen claiming that catches over the daily limit were caught previously and stored.

**Question 4: Should daily catch or landing limits be introduced for certain species?**

**Question 5: If you have answered 'Yes' to question 4 what species should be covered and what do you consider to be an acceptable limit for each species for hobby fishermen to land?**

**Insert Q6: Should the use of keep boxes by unlicensed / hobby fishermen be banned?**

### **Personal Consumption Definitions.**

Current legislation allows for fishing for personal consumption but does not define what this means. There have been reports of unlicensed fishermen setting significant numbers of pots and scallop divers bringing ashore enough scallops to fill several large sacks of scallops yet still claiming they are for personal consumption.

**Question 7: Should legislation define what is meant by 'personal consumption'?**

**Question 8: If you answered 'yes' to Question 7, how should 'personal consumption' be defined - by weight or number, depending on species, or by some other means?**

## **SECTION 4: Next steps**

6.1 The options outlined in this consultation are at a high level at this stage and if as a result of the consultation it is determined that they should be pursued further consultation and direct engagement with industry will be required. As they involve legislative change any actions taken to implement them will depend on the introduction of new fisheries legislation.

6.2 This consultation forms part of our programme to establish a framework for good governance that is effective and proportionate.

6.3 A consultation report will be published and discussed in due course at the Inshore Fisheries and Conservation Group (IFMAC).

# Annex I - Promoting Best Practice for Inshore Fisheries: A consultation on measures for hobby/unlicensed fishermen in Scottish inshore waters



## RESPONDENT INFORMATION FORM

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

### 1. Name/Organisation

Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

Surname

Forename

### 2. Postal Address

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

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

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

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

Please tick as appropriate

Yes  No

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

Please tick **ONE** of the following boxes

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

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

Please tick as appropriate

Yes  No

Yes, make my response,  
name and address all  
available

**or**

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

**or**

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

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

**Please tick as appropriate**

**Yes**

**No**

## CONSULTATION QUESTIONS

**Question 1: Should a permit system be introduced for each fishermen not fishing from a licensed fishing vessel?**

**Question 2: Should a maximum limit be set for the numbers of creels that can be set by unlicensed/hobby fishermen?**

**Question 3: If you have answered 'Yes' to Question 2, what should be the maximum number of creels that can be set by a hobby fishermen?**

**Question 4: Should daily catch or landing limits be introduced for certain species?**

**Question 5: If you have answered 'Yes' to question 4 what species should be covered and what do you consider to be an acceptable limit for each species for hobby fishermen to land?**

**Question 6: Should the use of keep boxes by unlicensed/hobby fishermen be banned?**

**Question 7: Should legislation define what is meant by 'personal consumption'?**

**Question 8: If you answered 'yes' to Question 7, how should 'personal consumption' be defined - by weight or number, depending on species, or by some other means?**

## **IFMAC – Short-life Working Group – Hobby/Unlicensed Fishermen**

### **Options for reducing the incidence of hobby/unlicensed fishermen selling their catch for profit.**

#### **Introduction**

The working group was established by the Inshore Fisheries Management and Conservation Group (IFMAC) to discuss the issue of hobby/unlicensed fishermen and report back to IFMAC with possible actions to reduce the incidence of this activity.

#### **Background**

Fishing vessels that are registered in the UK are only allowed to fish if they have the necessary licence to do so, and a fishing vessel licence is required (registered with the Register of Shipping and Seamen at Cardiff) to fish commercially for sea fish and land its catch for profit.

The licence specifies conditions which must be adhered to by vessel owners when fishing activity is being pursued. It authorises the sea areas in which a vessel can fish and the species of fish that can be targeted, and is the mechanism of control that enables UK Fisheries Administrations to regulate fishing under the quotas (TACs) set and allocated annually to the UK under the EU Common Fisheries Policy.

No licence is required by ordinary members of the public who intend to catch a small number of fish for their own consumption. They are not permitted to sell anything they catch for profit.

By its very nature, the illegal selling of catch for profit by hobby/unlicensed fishermen is difficult to measure, however, there is anecdotal evidence to suggest this is a significant issue around the coast with particular hotspots. The problem also increases during spring/summer months.

The problem is not restricted to fishing for crabs and lobster with creels, but also diving for scallops (this can be harder to monitor as this activity can be undertaken from beaches etc.)

Current legislation allows fishing for personal consumption but legislation does not define what this means. There are anecdotal reports of unlicensed creelers using hundreds of pots and scallop divers collecting several large sacks of scallops.

The Registration of Buyers and Sellers (RBS) Scheme has been fully operational in Scotland since 2005 and small amounts (25kg) are exempted from the regulations. The regulations require that all buyers and sellers of first sale fish are registered and that all auction sites of first sale fish and shellfish are designated. Registration and designation is free.

Exemption of amounts under 25 kg can provide a loophole/smoke screen for illegal catches that are not for personal consumption. Any offence under the regulations is on the buyer.

There are safety issues to hobby/unlicensed fishermen as they may not have the relevant safety certificates etc or be complying with best practice. There are also public safety concerns due to the untraceability of produce and the possibility of shellfish being sourced from areas affected by toxins, particularly if harvested from unclassified waters.

Over fishing and non-compliance with regulations on landing sizes may impact on the long term sustainability of stocks. When legitimate fishermen see unlicensed fishermen continuing without any apparent hindrance to their efforts they see that there is not a level playing field. It becomes more difficult to persuade these fishermen to engage in voluntary activities such as data gathering and other measures that will have a long term benefit for fisheries management.

Paper 14/4 presented to IFMAC at the 30 January 2014 meeting provides further detail on the issue (included as Annex A).

Marine Scotland (MS) recognises the impact hobby/unlicensed fishermen are having on the commercial fishermen who comply with relevant regulations. It cannot condone where it impinges on operations of legitimate fishermen. Increased competition for marine resources, such as MPAs etc, are also putting additional pressure on inshore fishermen.

MS take this matter seriously and are determined to tackle the problem. For example, Marine Scotland Compliance has recently undertaken a number of RIB patrols during June in Lossiemouth, Hopeman, Portnockie, Portsoy, Gardenstown, Whitehills and Sandhaven in which creels and keep creels were inspected and some lifted. A number of reports about unlicensed fishermen were investigated.

### **Experience of Others**

Northern Ireland and the North Eastern Inshore Fisheries and Conservation Authority (NIFCA) have both attempted to reduce the impact of hobby/unlicensed fishermen in their respective areas.

#### Northern Ireland

Northern Ireland introduced The Unlicensed Fishing for Crabs and Lobster Regulations (NI) 2008 which made it illegal for unlicensed fishermen to:

- Land, bring to land or retain on board a boat more than five crabs or one lobster per boat per day.
- Use more than five pots
- Take on board a boat pots on behalf of anyone else
- Use a stock cage

In addition, any marker buoys or similar floats used to indicate the location of pots must be legibly and indelibly marked with the name of the boat or the name of the owner of the boat from which the pots are set.

Legislation covers lobster and spider, velvet, edible and green crabs. With the benefit of hindsight some officials are of the opinion that the regulations should have covered all relevant species. Nephrops are not included which has provided a loophole for unlicensed fishermen in some circumstances.

There was a desire to introduce a permit system but legal advice at the time suggested that this was not possible.

### North Eastern Inshore Fisheries and Conservation Authority

NIFCA introduced permits for hobby/unlicensed fishermen about 12 years ago. This was as a result of significant numbers of unlicensed fishermen selling their catches on a commercial basis. There were reports of some fishermen landing up to two boxes of lobsters a day yet stating it was for personal consumption.

NIFCA had attempted an education campaign to set out why wholesalers should only buy from legitimate fishermen. However, there was reluctance from many wholesalers to change their practices as they were content to pay cash in hand for a cheaper product.

NIFCA, with support of local fishermen, introduced a bye-law restricting what could be landed by hobby/unlicensed fishermen. Initially only 1 lobster could be landed but this was increased to 2 as it felt that hobby fishermen were being unduly penalised by this.

Within the first year NIFCA estimates that the catch from hobby/unlicensed fishermen reduced by 80%. This was in part due to policing by fishermen themselves and by the fact that NIFCA could confiscate the catch if it was above the permitted level.

Creel limits were introduced 4 or 5 years ago and all creels in NIFCA waters must be tagged. NIFCA can haul any untagged creels which can later be claimed by the owner (although they are rarely claimed).

The number of hobby fishermen with large numbers of creels disappeared overnight.

Tagging of creels is seen as key to the success of creel limits and NIFCA and fishermen will haul untagged creels.

Around 400/500 permits are issued to hobby fishermen every year and the general impression is that it is working very well whereas previously the issue was considered to be getting out of hand.

Permits are currently issued free of charge. Issuing permits at the current level is time consuming and takes up significant staff resources. There is a suspicion that

some families are applying for 4 or 5 permits for all family members. Although the limits are per boat some people are thought to be working on the basis that being caught on the boat is unlikely, whereas being caught on land with more than the permitted landings or equipment is much more likely and therefore they have the requisite number of free permits to cover them. Charging for permits may help reduce this issue.

Not allowing keep boxes for storage of caught lobsters at sea is also seen as key to the success of the scheme as it does not allow a fisherman to claim they are the product of several days fishing.

There was initial scepticism of the scheme which now enjoys wide support.

### **Possible Solutions for Scotland**

The group considered a number of options which may help achieve the objective of preventing hobby/unlicensed fishermen from selling their catch for commercial gain. Some options, it was felt, could be achieved within fairly short timescales where as others would take longer to implement.

#### Measures achievable in the short-term

**Voluntary Wardens** could be recruited by Marine Scotland who could monitor local fishing activity and discuss possible infringements with unlicensed/hobby fishermen.

Issues to Consider - there may be issues over the personal safety of those wardens undertaking this activity, which would have no statutory basis. Marine Scotland would need to undertake a risk assessment and consider issues of personal safety and appropriate training. Resource requirements would also need to be considered as well as on-going funding once established..

**Education** – more could be done to educate a range of sectors on the legislation regarding commercial fishing and the consequences of sourcing seafood from unlicensed/hobby fishermen (it is acknowledged that Marine Scotland Compliance has already undertaken some of these activities). This could include:-

- Trade press – articles in relevant trade press such as Federation of Chefs, hospitality industry etc
- Notices reminding fisheries of legislation at particular hotspots
- Notifications of sub-standard water classification to be posted at those sites
- Liaising with trade bodies and local organisations to highlight issues
- Liaison with local authorities regarding their food safety policies to include importance of sourcing
- Liaison with Environmental Health officers regarding importance of reputable sourcing
- Peer pressure – self-regulation involving IFGs, fishing associations and federations to create a culture of compliance.

Issues to Consider – some activities will need to be undertaken by other bodies. They will need to consider their priorities, resources and what they consider to be value for money.

**Non-fishing Legislation** – can other legislation be used to tackle illegal commercial fishing e.g. documentation for transportation of seafood, water classification etc. For example, the ability to confiscate a catch and /or equipment if an individual cannot show they have the necessary permits etc. to catch or transport shellfish or the ability to confiscate a catch if it is believed it has come from an area closed to fishing due to high toxin levels.

**Responsible Fishing Scheme** – Consideration should be given to encouraging commercial fishermen to sign up for the Responsible Fishing Scheme. The Scheme has been developed to raise standards in the catching sector and was developed in response to the needs of the seafood supply chain to demonstrate their commitment to the responsible sourcing of seafood, a commitment that hobby/unlicensed fishermen would be unable to match.

Based on a Publicly Available Specification from the British Standards Institution (BSi), the Responsible Fishing Scheme is an independent, audited assessment of the application of good practice by a vessel skipper and crew in their fishing operations and covers four key areas, namely: fishing practices, vessel criteria, crew competence and environmental considerations.

#### Measure achievable over a longer period

**Legislation** – in order to control what is removed from the sea, in the longer term consideration should be given to introducing legislation to require:

- **Permits for unlicensed/hobby fishermen** – permit would state clearly what species could be landed and in what quantities i.e. 2 lobsters per day, 10 nephrops per day could be landed. That a maximum number of creels could be used per boat and that keep boxes are prohibited etc.
- **Creel limits and/or tagging** – each fishermen could be required to tag creels to a specified requirement that would allow easy identification of the owner and fixed upper limits of the number of creels per fishermen/boat could be set. MS Compliance would have the authority to remove any unidentifiable creels from the water or if creels exceed more than the permitted number.
- **Landing limits for different species** – a permit could clearly set out the maximum daily catch per permit/boat. For example, it may allow the catch of 2 lobsters per day and/or a specified number of nephrops.
- **Personal Consumption** – consideration to defining what may be removed for personal consumption and/or changes to the exemption from RBS Regulations.

## Issues to Consider

- **Ability of compliance to haul creels and check for tagging/marking etc. –** a key to success would be the ability of MS Compliance to enforce tagging requirements and remove from the water those which are untagged or contravene regulations. This would require access to suitable boats and the use of human resources.
- **Resources required by MS Compliance to enforce rules –** effective enforcement of any new legislation would require additional staff resources as well as access to suitable boats for accessing creels, keep boxes etc.
- **Resources required to publicise and administer permit system –** Resources would need to be allocated to the design of a permit system and the subsequent allocation of permits. Staff resources would be required whether at a central location or at the MS coastal offices. No estimate has been made as to the number of permits that would be applied for but the North Eastern Fisheries and Conservation Authority reports issuing around 400 to 500 permits a year.
- **Proportionality –** any changes need to be proportionate and not create unreasonable burdens or restrictions.

## Conclusion

The IFMAC sub-group on Hobby/Unlicensed Fishermen recommend the above options and submit to IFMAC to consider and make recommendations on which options it would like to see taken forward.



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