

Scotland's Future Catching Policy Consultation

SG/2022/37

March 2022



Scottish Government
Riaghaltas na h-Alba
gov.scot

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Scotland's Future Catching Policy (FCP) Consultation

Executive Summary

This consultation seeks the views of stakeholders on Scotland's Future Catching Policy (FCP), which will establish a new approach to managing sea fishing activities within Scottish waters and will ensure that the right management measures are in place to support reasonable and pragmatic decision making.

[Scotland's Fisheries Management \(FFM\) Strategy](#)¹ set out a range of principles and commitments intended to deliver a sustainable and responsible approach to fisheries management in Scotland. This includes a commitment to deliver a robust catching policy, in partnership with stakeholders, which would introduce a range of technical and spatial improvements for fisheries vessels, reduce waste, and encourage compliance with legislation.

The development of the FCP will directly support a number of key principles contained within the FFM Strategy, most notably to improve accountability and confidence in sea fishing operations along with demonstrating transparency and credibility in the fisheries management decisions that are taken, and the rules and regulations that are in place.

In taking forward the FCP, Scottish Ministers will be delivering on their obligations under the by-catch objective of the Fisheries Act (2020) and commitments made within the Joint Fisheries Statement (JFS) specifically to 'work in partnership with stakeholders to develop a range of management measures that support fishers to avoid unwanted catches of quota species to reduce unnecessary fish mortality and discarding of fish' and 'working with industry to reduce and, where possible, eliminate bycatch and entanglement of sensitive species'.

The main components of the FCP as set out within this consultation are:

- To put in place additional technical (e.g. gear selectivity) and spatial (e.g. area closures to protect spawning fish) measures, designed to reduce unwanted catch of fish where these are required. Unwanted catch refers to elements of catch which fishers traditionally do not want to land and which would often be discarded. Implementation of effective technical and spatial measures may also help tackle instances of non-fish bycatch, for example, by helping fishers to take positive action to avoid bycatch of species such as seabirds, seals and cetaceans (whales, dolphins and porpoises).
- Any additional technical and spatial measures are anticipated to be introduced on a mandatory, rather than voluntary basis, therefore ensuring a level playing field for all vessels operating in a particular segment of the fishing fleet.
- Measures developed in partnership with stakeholders through a co-management approach, will be reasonable and pragmatic, and adjusted to take account of differences between different parts of the fishing fleet. Any measures will help the fishing industry to fish responsibly, and will support marketability of Scottish fish by demonstrating sustainability. They will also have considerable benefit for fish stocks by ensuring that fishers fish within sustainable limits, will reduce fishing

¹ [Future fisheries: management strategy - 2020 to 2030 - gov.scot \(www.gov.scot\)](#)

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pressure on unwanted catch, including of vulnerable or sensitive species, and will support improvements to biodiversity in Scottish waters.

- In addition, the FCP will introduce a series of changes to current rules around discarding, which are currently set out under the landing obligation (which requires that all fish subject to quota limits are landed unless subject to an exemption). Taking a segment by segment approach, rather than applying a one-size-fits-all approach, will allow us to adjust and simplify existing exemptions and discarding rules to account for variations between fleet segments, whilst ensuring the principles of reducing waste and increasing accountability continue to be met.
- Recognising increasing pressures on available marine space and tensions between some parts of the fishing fleet operating using different types of gear, the FCP consultation also seeks views on additional management measures which might be required for the gillnet and longline fisheries in order to address issues with displacement that can limit the ability of other vessels to avoid unwanted catch.

The Scottish Government proposes that the FCP should take a fleet segment approach, splitting fisheries into seven distinct segments and taking a tailored approach to addressing the individual issues with unwanted or accidental catch and discards associated with each of these segments. The “fleet segment” section further below outlines proposals for each fleet segment in detail, but the following bullets can be used to illustrate the measures being proposed:

1. Pelagic fleet segment (pelagic trawls and purse seiners)
 - Continue to land all fish
 - Enhanced monitoring via Remote Electronic Monitoring (REM)
2. Offshore whitefish fleet segment (large mesh demersal trawls and seine nets)
 - Reduce unwanted catch through additional technical and spatial measures
 - Land all marketable fish (fish above MCRS²)
 - Ability to discard small undersized fish through a blanket de minimis exemption on the proviso that this is fully accounted for
3. Offshore mixed fleet segment (small mesh offshore demersal trawls)
 - Reduce unwanted catch through additional technical and spatial measures
 - Land all marketable fish (fish above MCRS)
 - Ability to discard small undersized fish through a blanket de minimis exemption on the proviso that this is fully accounted for
4. Small inshore mobile fleet segment (small mesh inshore demersal trawls and small mesh seine nets)
 - Further reduce unwanted catch through selectivity improvements and spatial measures where required

² Minimum Conservation Reference Size or “MCRS” is the minimum size that a fish must be in order to be sold for human consumption. The MCRS measure is intended to protect small, undersized fish from being targeted by helping prevent markets for small, undersized fish

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- Ability to discard small undersized fish (below MCRS) through a blanket de minimis exemption on the proviso that this is fully accounted for
 - Ability to discard larger whitefish through a tailored de minimis exemption on the proviso that this is fully accounted for and with the justification of avoiding disproportionate costs
5. Scallop fleet segment
- Non quota species so not subject to landing obligation although some quota species may be caught which would be subject to discarding rules
 - Support scallop fishing in Scottish waters at sustainable levels
 - Support the further roll-out of enhanced monitoring
6. Pots and creels fleet segment
- Low levels of unwanted fish catch in the fishery with discards currently allowed under high survivability grounds.
 - Support shell-fishing in Scottish waters at sustainable levels
 - Non quota species are not subject to landing obligation
 - Other measures may be required to reduce instances of entanglements and accidental bycatch of cetaceans and other marine species
7. Gillnet and longline fleet segment
- Consider additional rules to maximise use of shared marine space and minimise gear conflict
 - Other measures may be required to reduce instances of entanglements and accidental bycatch of other marine species including seabirds

Introduction

Scotland's seas are rich and diverse, with an abundance of fish stocks meaning that Scottish waters are some of the most desirable in the world for sea fishing, both in terms of quality and quantity. There are a significant number of domestic and international fishing vessels operating around the coast of Scotland, fishing for different stocks (including pelagic, demersal and shellfish species) and using a wide variety of fishing methods. These fishing vessels are focussed on harvesting a healthy, nutritious source of food for both domestic and international markets, and play a key economic and social role in rural and island communities.

The abundance of fish in Scottish waters means that a varied industry has developed over time, with many different types of fishing vessels operating as part of a mixed fishery. There are different target species, depending on the type of fishing vessel and where it operates, and different issues around bycatch of other species too. For example, in the whitefish demersal sector, vessels targeting a species such as haddock will often catch many other whitefish species alongside their target e.g. cod and hake. Given the sheer number and variety of fishing vessels present, fisheries management can be complex and challenging and it is often the case that management solutions need to be tailored to take account of the varied situation in which we are operating.

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The breadth of human activity operating at sea inevitably brings consequences and impacts for the natural marine environment. As fisheries managers, we must ensure that fishing activity within Scottish waters is operating sustainably and responsibly, in a way that minimises negative environmental impacts and which secures our natural resources for generations to come. Many of the wide-ranging rules and regulations that are already in place to support responsible and sustainable fisheries management are designed to do just that, ranging from technical conservation measures to manage the type of gear fishers can use and the areas in which they can fish, to the Total Allowable Catches (TACs) that are set in order to limit fishing activity to a level which is sustainable for the stocks concerned.

It is also the case that practices such as discarding need to be properly addressed. Taking account of the level of fishing activity in Scottish waters there is significant potential for environmental and ecological damage through the discarding of fish and non-fish species, dead, back into the sea. Although the introduction of the landing obligation has helped mark a reduction in such discards taking place, it remains an issue that requires focussed and sustained activity to address. One of the key ways in which we can ensure that fishers are operating sustainably is to set limits (TACs) on the amount of fish that can be harvested. In a situation where discards are continuing, without proper controls and accountability in place, it can be difficult to ensure that these limits are being adhered to.

Across the industry, bycatch and entanglements of non-fish species, including cetaceans, seals and seabirds, can also occur and this needs to be tackled. The rules and regulations we have in place to manage fishing activity need to ensure that such catch is minimised and, where possible, eliminated.

Through this consultation the Scottish Government is seeking views on a Future Catching Policy which will take a co-management approach to reducing unwanted catch, tackle the challenges associated with discarding under the current landing obligation by introducing a suite of measures tailored to consider the varied fleet and geographical differences, and provide a means to further enhance our management of fishing activities as set out in our Fisheries Management Strategy.

Background and Current Rules

The landing obligation was introduced incrementally, as part of EU law, between the years 2015 to 2019, with the full landing obligation for quota species taking effect from 2019. As a key part of the EU's Common Fisheries Policy (CFP), it was intended to deliver a step change in tackling discarding from fishing vessels, with a focus on reducing waste and increasing accountability. The landing obligation was introduced with full support of EU Member States, including the UK as an EU Member State at the time, and was intended to respond to significant and wide-ranging calls from members of the public for action to tackle widespread and systematic discarding of fish which was resulting in loss of marketable fish from the food chain and unsustainable fishing practices.

The development of the landing obligation was not, however, without its problems. Whilst the concept of ending discards is a simple one, the reality of how fishing fleets operate, coupled with the range of reasons why discarding occurs in the first place,

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means that implementation has been complex, particular within a mixed fishery context. EU Member States have worked for a number of years to develop operational solutions to the implementation problems although this has not always been successful and has led to a situation where discarding is continuing, albeit at reduced levels.

Under the terms of the European Union (Withdrawal) Act 2018, the majority of EU regulations, including those relating to the CFP, were brought into UK domestic law at the end of the EU exit transition period. This means that current EU rules regarding the landing obligation and technical conservation measures (which help control the type of fishing gear that can be used to target fish) are closely replicated in UK domestic law.

As set out in our Fisheries Management Strategy the Scottish Government remains fully committed to the outcomes underpinning the landing obligation. However, we recognise the continuing challenges with effective implementation, and thus enforcement, that need to be addressed and that is one of the primary drivers behind the FCP.

The Scottish Government's stated aim is that we will seek to maintain and advance the standards set by the EU where possible and where this is in Scotland's interest. In the case of Scotland's FCP, our view is that it will strengthen our ability to reduce waste and increase accountability, by improving the approach taken to reduce unwanted catch and by adjusting the technical rules that are in place. This means that we are proposing deviation on certain technical aspects from EU rules on landing although we will uphold and maintain the principles the EU associates with sustainable and responsible fisheries management. In that way, we can improve accountability and confidence, and create a set of flexible and pragmatic rules which fishers can easily comply with; in this our policy will achieve what the EU wants, but currently isn't always able to do.

The Principles of the Landing Obligation

As stated, the Scottish Government supports the principles underpinning the EU landing obligation regarding reducing waste and increasing accountability. It is at the heart of the FCP that fish above MCRS (excluding prohibited species) will be retained and landed so that marketable fish are not returned dead, to the sea. The FCP will also ensure that additional spatial and technical measures are put in place, in partnership and with buy-in from stakeholders, to reduce unwanted catch (e.g. increased gear selectivity), particularly in relation to undersized and juvenile fish. This will help fishers to avoid catching unwanted catch in the first place, and therefore remove one of the primary reasons that causes discarding to occur.

Accountability and confidence are paramount and the proposed approach is based on the premise that everything caught should be accounted for to assist with monitoring and maintaining sustainable stocks. This complements our approach to extend the requirement under the Bute House Agreement for vessel tracking and monitoring systems across the whole commercial fishing fleet by the end of the current parliamentary session.

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We also believe that developing technologies such as Remote Electronic Monitoring (REM) will have an important role to play in the FCP, both in terms of ensuring compliance and in delivering significant scientific benefits by increasing our knowledge and understanding of at sea operations and fish stocks. Deployment and implementation of REM is subject to a separate Scottish Government consultation, however, we hope that with the right rules in place REM will be embraced as a way of demonstrating compliance with the law, and significantly improving our understanding and knowledge of fish stocks. With this increase in accountability and confidence will inevitably come improvements to the marketability of Scottish catches; increasing buyer/retailer interest both domestically and overseas and ensuring a long-term, sustainable market for the future.

The key features of the FCP are as follows:

- Provides for a clear structure to engage stakeholders in improving rules associated with reducing unwanted catch of fish and other species and improving the selectivity of the different fleet segments e.g. by introducing more selective gear or closures designed to protect spawning fish stocks.
- Supports the aims of the landing obligation by placing accountability and tackling unnecessary waste at its heart whilst seeking to address the main issues with the landing obligation by taking a tailored approach to each fleet segment, rather than a one-size fits all approach.
- Puts in place appropriate discard rules for each fleet segment, tailored to fishing method and type, and with full accountability.
- Delivers credibility and transparency for fishers, Government and members of the public so that we have confidence that we are fishing sustainably and responsibly.

Questions for this section:

Q1: Do you agree that the current rules around the landing obligation need to be adjusted, taking into account regional and sectoral variances with a focus on the landing of marketable fish and avoidance of unwanted catch (in particular, juvenile fish) through various spatial and technical measures? Please set out the adjustments that you think need to be made.

Q2: Do you agree that the FCP should address issues with unwanted catches of fish and accidental bycatch other species, e.g. cetaceans, seals and seabirds where appropriate?

Issues and Challenges

Discarding, both historically and currently, occurs for a multitude of reasons and it is important to understand why, as well as understanding what currently constitutes unwanted catch. When doing this, we should recognise the significance and complexity of Scotland's mixed fisheries and geographical variations in this regard. Unwanted catch in this context means the portion of a fisher's catch which, for the reasons set out below, they would prefer not to keep and instead would wish to discard (or not catch in the first place). Reducing the level of unwanted catch is a central component of the FCP proposal.

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We are also aware of wider issues around bycatch, for example around cetaceans, seals and seabirds, which could be addressed through the introduction of additional effective technical measures and adjusting operational practices while at sea. Such bycatch has a negative impact on fishers, for example reducing the amount of fishing time and gear lost due to entanglements e.g. of whales. It also has a significant impact on the welfare, health and survival of such species and effects the wider operation of the marine ecosystem. There is potential through the FCP process to consider wider issues such as these and to develop new rules, in partnership with the fishing industry and others, to reduce instances and impact of these events.

Reasons for discarding can include:

- Catching fish below the Minimum Conservation Reference Size (MCRS) which have no or minimal economic value but counts against quota
 - The MCRS exists to prevent markets in small fish (which have not yet had the chance to reproduce) from developing, as this would have a detrimental effect on the long-term sustainability of the stock.
 - In general fishers will want to avoid catch of fish below MCRS, however, catches do occur and can result in wholesale discarding taking place. Protecting small fish so that they have the chance to grow and reproduce is vital to the operation of the marine ecosystem and is vitally important from a marine conservation perspective.
- Catch composition rules (largely obsolete now that the landing obligation requires vessels to retain and land everything they catch)
 - These rules exist to prevent vessels from using inappropriate gear to target fish (normally because the gear is unselective and would catch a lot of fish below the MCRS). The rules specify the maximum (or minimum) percentage of the catch by gear type which a species may be.
- 'High grading'
 - This has been an illegal practice since 2011. This is the process of only a certain size of fish being retained on board to meet maximum market value with other fish less valuable but still of marketable size being discarded to maximise the value return against quota usage.
 - This practice can result in large amounts of dead catch being discarded (and usually uncounted) resulting in risks that fishers are operating above sustainable limits, and also meaning significant amounts of waste is occurring.
- Fish with low or no market value
 - Fish with very little to no market value may sometimes be discarded as there is no return for the cost of landing it, plus often significant economic costs to landing it (fuel, hold space, box charges labour, no markets or disposal routes available and often expensive costs for renting quota).

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- Again this can result in significant levels of waste and unsustainable fishing practices.
- Lack of quota
 - Lack of quota is often a reason for fishers to discard large, marketable fish, above MCRS, back into the sea. These fish generally won't survive (although there are some notable exceptions) meaning significant waste of a food product, detriment to the health of the wider fish stock, and impacts for the wider ecosystem.
 - Vessels may have exhausted quota for a particular species, or have no quota to begin with. This can be a particular problem in vessels fishing for non-quota stocks which might indirectly catch a quota species.
 - The cost of leasing quota can often be restrictive e.g. cod can at times run at some £3000 per tonne to lease, which is above what is being realised for the product on the market so in many cases there can actually be a cost incurred to land it, rather than a profit to the business being secured. This acts as a significant disincentive for fishers to land this portion of their catch.
- Accidental catch of sensitive or vulnerable fish and non-fish species
 - This can include species such as many types of sharks (which are prohibited from being landed and must be discarded), bycatch and entanglements of cetaceans (e.g. whales) which can often become trapped in fishing gear, and capture or death of species such as seabirds and seals which can be attracted during fishing operations.
 - There are technical and spatial solutions available (and in development) to help avoid such catches and these can help protect biodiversity and the broader health of the marine ecosystem.
 - In general fishers will want to avoid such catches as they are costly in terms of lost and damaged equipment, and time.

It is worth noting when considering the discarding issue that the reasons listed above do not apply generally across all parts of the Scottish, UK and international fleets. There are many segments within the fishing fleets which define unwanted catch differently. Issues around discarding are complex and the implementation of the landing obligation to date has shown that there are few silver bullets; rather a nuanced approach to tackling discarding is likely to yield more positive results.

These differences between fleet segments and the different reasons for discarding are not acknowledged within the application of the current landing obligation, which instead follows a blanket approach. In suggesting amendments to the landing obligation we suggest that it would make sense to take a more tailored approach which takes account of the differences between different parts of the fleet, addressing the specific issues with unwanted catch and discards associated with the different fleet segments, and applying exemptions in a proportionate and reasonable way, instead of applying measures on a one-size-fits-all basis.

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Fleet Segments

The FCP will take a fleet segment approach by splitting fisheries operating in Scottish waters into 7 distinct segments and taking a tailored approach to addressing the individual issues with unwanted catch and discards associated with each of these segments. Recognising that one size does not fit all, this approach puts in place a process to tackle unwanted catch for each fleet segment differently, whether that be in implementing a more stringent monitoring plan in some of the cleaner (less unwanted catch) segments, or combining selectivity with additional spatial elements in some of the more mixed fisheries segments.

In partnership with stakeholders through the Fisheries Management and Conservation group (FMAC group), the Scottish Government will develop additional mandatory technical and spatial measures as required, through a co-management approach in order to reduce unwanted catch, using the fleet segment approach.

For each fleet segment, we will prioritise the avoidance of unwanted or accidental catch which could include both fish and non-fish species; we will ensure that vessels are doing as much as is possible to avoid unwanted or accidental catch and then we will build in discard exemptions which can help the fleet segment stay operational in circumstances where selectivity for small fish (below MCRS) or other specific species is an issue (for example, implementing a de minimis exemption in areas where vessels face a disproportionate cost when dealing with a very small level of bycatch).

We also aim to be reactive and responsive, able to adjust our approach based on changing circumstances (e.g. in response to challenging stock advice) and to add and remove measures as needed.

The fleet segments are proposed to be divided as follows:

1. Pelagic fleet segment (pelagic trawls and purse seiners)
2. Offshore whitefish fleet segment (large mesh demersal trawls and seine nets)
3. Offshore mixed fleet segment (small mesh offshore demersal trawls)
4. Small inshore mobile fleet segment (small mesh inshore demersal trawls and small mesh seine nets)
5. Scallop fleet segment
6. Pots and creels fleet segment
7. Gillnet and longline fleet segment

The proposed measures to deal with individual fleet segment issues regarding discarding of unwanted or accidental catch are outlined below. Specific measures will likely range as follows:

1. Pelagic fleet segment

As it stands, the pelagic fleet segment can be a clean, non-wasteful fishery without any significant changes to the way they operate specifically in relation to discarding. As part of the FCP, this segment will be required to land all fish (in keeping with the current landing obligation). There is a separate body of work being conducted, with a

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consultation on the full implementation of REM as a means to monitor and enforce this.

2. Offshore whitefish fleet segment

There is scope to reduce unwanted catch for this fleet segment for example through the introduction of additional gear selectivity measures or spatial restrictions to protect spawning fish.

In addition to additional technical and spatial measures, under the FCP we propose that all large marketable fish (i.e. above MCRS) should continue to be landed (unless they have a high chance of survival). We believe that there is no justification for discarding fully grown, marketable fish, and that by using a combination of technical/spatial measures it should be possible to avoid the discarding of marketable catch. We acknowledge the risk presented by choke species and the process outlined further in this document will help us to manage that.

For undersized fish (i.e. below MCRS), we propose allowing discarding by adjusting the current de minimis rules in order to simplify them. We would account for any discarding that took place and significantly improve the way in which de minimis use is recorded so that we could accurately make deductions from the TAC. There will be a separate body of work on how to ensure compliance, with a robust monitoring and evaluation plan put in place.

We propose implementing an exemption margin for below MCRS discards which will be based upon scientific models to predict the levels we would expect from this fleet segment. A deduction would be made from the TAC at the start of the year to account for this. This would simplify the current extensive de minimis exemption list and ensure that we go further in accounting for fish returned to the sea.

3. Offshore mixed fleet segment

There is scope to reduce unwanted catch for this fleet segment for example through the introduction of additional gear selectivity measures or spatial restrictions to protect spawning fish.

In addition to additional technical and spatial measures, under the FCP we propose that all large marketable fish (i.e. above MCRS) should continue to be landed (unless they have a high chance of survival). We believe that, otherwise, there is no justification for discarding fully grown, marketable fish, and that by using a combination of technical/spatial measures it should be possible to avoid the discarding of marketable catch. We acknowledge the risk presented by choke species and the process outlined further in this document will help us to manage that.

In the case of undersized fish (i.e. below MCRS), we propose allowing discarding by adjusting the current de minimis rules in order to simplify them. We would need to account for any discarding that took place and significantly improve the way in which de minimis use is recorded so that we could accurately make deductions from the

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TAC. There will be a separate body of work on how to ensure compliance, with a robust monitoring and evaluation plan put in place.

We propose implementing an exemption margin for below MCRS discards which will be based upon scientific models to predict the levels we would expect from this fleet segment. A deduction would be made from the TAC at the start of the year to account for this. This would simplify the current extensive de minimis exemption list and ensure that we go further in accounting for fish returned to the sea.

4. Small inshore mobile fleet segment

There may be scope to reduce unwanted catch further, although we acknowledge that progress has been made in recent years to improve selectivity. In identifying any additional selectivity measures we would need to ensure we applied any additional measures proportionately, taking account of both the fleet and its environmental impact. Spatial measures may also play an important role, for example in protecting areas of spawning fish.

We propose implementing an exemption margin for below MCRS discards which will be based upon scientific models to predict the levels we would expect from this fleet segment. A deduction would be made from the TAC at the start of the year to account for this. This would simplify the current extensive de minimis exemption list and ensure that we go further in accounting for fish returned to the sea.

For fish above MCRS, we intend to introduce a de minimis exemption for discarding whitefish bycatch on the basis of disproportionate cost. This fleet segment catches very little in terms of whitefish as bycatch, but the discard rate can seem high given that these few catches are usually discarded (e.g. if a west coast prawn vessel catches 2 haddock and discards them, that is 100% discard rate of haddock). For this small amount of whitefish, the costs of disposal can prove burdensome. For example: of the numerous ports located on the West of Scotland none have the facilities to process this fish. There are only two processing plants in Scotland (Shetland and Aberdeen) for rendering whitefish into fishmeal and these are a considerable distance from many of the ports in question. As an example; Mallaig to Aberdeen is 210 miles/338 km, the actual costs incurred per tonne of unwanted whitefish catch is as follows: Transportation = £110.00, Landing costs = £11.00, Storage (while awaiting transport) = £11.00, Box Rental Charges = £44.00, Ice = £15.00. Current rates for fishmeal are in the region of £80.00 per tonne. Therefore, having to land whitefish could lead to losses of £100.00 for every tonne landed primarily due to transport and storage costs.

As it stands, a de minimis exemption is an appropriate means for assisting this fleet segment however, given these figures, we would be keen to support the development of the processing sector when and where it is needed in order to avoid disproportionate costs.

Nevertheless, although levels of bycatch are small per vessel, the cumulative effect on fish stocks and therefore overall sustainability, can be significant and this needs to be taken account of under the FCP development process. By introducing a de minimis for all whitefish bycatch in this segment, this fish will be deducted from the

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TAC based on discard estimates and therefore be fully accounted for, whilst fishers in this smaller fleet segment would not have to shoulder the financial burden of landing. We will want to consider monitoring alongside these measures.

5. Scallop fleet segment

Scallops are a non-quota species and therefore not subject to the landing obligation, although some quota species may be caught along with the target catch which would be subject to discarding rules. We have been working in partnership with the scallop industry over the last two years on the implementation of REM across the fleet. Despite disruption due to Covid-19, such as safe access and sourcing supplies, positive progress with the voluntary installation of REM systems has been made. Subject to a separate consultation, the intention is for legislation to be laid during 2022 which will introduce a mandatory requirement for all scallop dredge vessels operating in Scottish waters to have an operational REM system on board.

The Scottish Scallop Sector Working Group developed a baseline paper in 2021, (building on earlier commissioned research and discussions in Scotland's Regional Inshore Fisheries Groups - rIFGs), which set out a range of possible management measures for this fleet segment. This Group will look at these management measures afresh, in light of the marine protection aspects of the [Scottish Government and Scottish Green Party Shared Policy Programme](#)³, and new King Scallop science stock assessments.

6. Pots and creels fleet segment

This fleet segment catches a combination of quota (Nephrops) and non-quota (including crab and lobster) species. In 2013 the Scottish Government consulted on the introduction of controls to the Nephrops, crab and lobster creel fisheries, including restricting creel numbers, in response to strong calls to do so. The outcome of the consultation noted that while the majority of stakeholders were opposed to introduction of creel limits, some said they might alter their position if they were implemented as part of a broader package along with spatial measures.

We intend to continue with the approach outlined in our [Fisheries Management Strategy](#), to develop a coherent, joined up approach to managing these valuable fisheries and to ensure that the appropriate protections are in place. The questions set out in this consultation are intended to help inform our management approach.

Our network of Regional Inshore Fisheries Groups (rIFG) continues to work with fishers to develop projects for localised fisheries improvement. This work includes the 2017 Inshore Fisheries Pilots Schemes, which saw development of pilots in Mull and the Outer Hebrides, which included trialling controls on static gear effort. These pilots are ongoing and Marine Scotland are continuing to learn from them. Recent work undertaken by the rIFG network on managing creel effort shows a divergence of opinion on creel limits, but agreement that any such measures should take a tailored, regional approach and avoid blanket restrictions.

³ [Scottish Government and Scottish Green Party Shared Policy Programme](#)

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Pots and creels are generally considered to be highly selective, with high survivability and little bycatch of unwanted fish species; currently, discarding of unwanted bycatch is permitted in the creel sector under existing exemptions outlined by the landing obligation. We propose that this should continue. However other measures may be required to reduce instances of entanglements and accidental bycatch of other marine species.

7. Gillnet and longline feet segment

Recognising that there are some pressing issues which need to be addressed with some urgency, particularly around increasing pressure on marine space, the Scottish Government proposes to introduce new rules for gillnet and longline fishing activities. Subject to views further to this consultation we plan on bringing forward a suite of management measures developed in consultation with stakeholders in relation to operating practices of gillnet and longline vessels. These will be practical measures implemented by legislation.

There has been an ongoing issue between gillnet/longline activity and mobile gear. It is a well-known challenge of legitimate fishing activities seeking to operate in the same marine space. Going forward, the Scottish Government proposes introducing new rules that will seek to enhance the ability of these different methods to operate in the same marine space. We will continue to engage closely with existing Scottish operators in developing these ideas and welcome the views of consultees on them. Other measures may be required to reduce instances of entanglements and accidental bycatch of other marine species including seabirds, in some cases these may build on the positive practices already in place in some areas.

Questions for this section:

General

Q3: Do the broad fleet segment categories identified within this section appear correct? If not, please say why.

Q4: Are there any specific geographical differences of the sea which you think we should take account of within the FCP?

Q5: Do you think that the proposed actions for each fleet segment sound appropriate? If not, please say why.

Q6: Given the restrictions relating to available marine space and the need to manage displacement issues, do you think a restriction on gear soak time (the length of time static gear can be left in the water to fish) should be set? If so, for which fleet segments and in what way?

Pots and creels

Q7: Do you think there should be restrictions on the number of creels that can be deployed by a fishing vessel?

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Q8: Do you think creel limits should be set according to geographical area, for example according to rIFG area? If so, tell us how you think an area should be defined.

Q9: Do you think creel limits should be dictated by a) overall length of vessel, b) kilowatt engine power, c) per fisher or d) another metric?

Q10: Do you think a restriction on string length should be set for the Pots and Creels Segment?

Q11: Are there any other additional management measures, such as escape panels soak time restrictions or measures to reduce entanglement of marine species, that we should be considering as part of a package of measures to improve management of the creel sector?

Gillnets and longlines

Q12: Do you agree that we need to develop measures with regards to gillnets and longlines in order to ease the pressure on shared marine space and avoid conflict? If so, what measures do you propose?

Q13: Do you think we should set minimum separation distances between sets of nets or longlines in order to create corridors for mobile vessels to move through? If so, what should this minimum distance be?

Q14: Should we adjust the depth at which gillnets can be set (minimum and maximum) in order to further utilise the marine space and avoid gear conflict? If so, to what?

Q15a: Do you see any need to restrict the numbers of gillnet and longline vessels operating in Scottish waters at any one time?

Q15b: On the same basis should similar restrictions apply to vessels using mobile gear?

Q15c: In consideration of questions Q15a and Q15b should these measures apply generically or in a specific geographical area?

Q16: Are there additional measures that we should be considering, for example to help prevent entanglements in the gillnet and longline fishery?

Additional Selectivity for Directed Fisheries

A range of [technical conservation measures](#)⁴ are already in place which are intended to help deliver responsible and sustainable fishing practices. Over time these rules have grown in number and in complexity, meaning that the range of technical measures that fishers have to comply with are numerous and can often be confusing.

⁴ [Regulation \(EU\) 2019/1241: Technical conservation measures](#)

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As part of a recent reform of the technical conservation measures, a new baseline mesh size of 120mm was introduced for trawl fishing. This was intended to improve selectivity and reduce unwanted catch, whilst also providing for 'directed fisheries' which would be able to use smaller baseline mesh sizes, e.g. if targeting Nephrops or squid. However, within the technical conservation rules, there is no definition for 'directed fisheries' which means that the rules lack clarity.

In order to address the lack of definition and to further increase selectivity and reduce unwanted catch, there are a number of options to be considered, although these are not mutually exclusive and could be used in conjunction:

- Option 1: under the existing technical conservation rules the minimum standard mesh size in Scotland is 120mm unless a vessel is targeting a specific designated species e.g. Nephrops, or if they are using a selectivity device which is proven to be as selective as a 120mm net. Under this option, we could specify that any vessel seeking to use any gear of less than 120mm to target a designated species e.g. Nephrops, would need to ensure that the target species constituted at least 50% of their total catch.
- Option 2: whilst some parts of the fleet, e.g. whitefish vessels, must now use a 120mm net as standard, for other parts of the fleet working under a specific directed fishery (e.g. Nephrops), vessels are often using a less selective net e.g. 80mm. We are proposing to increase selectivity for these vessels. One way to do this would be to introduce a minimum mesh size of 100mm for defined directed fisheries such as Nephrops, with all other trawl fisheries (with the exception of squid and pelagic) required to use a minimum mesh size of 120mm.
- Option 3: Building on Option 2, rather than increasing the baseline meshsize for defined directed fisheries to 100mm, another option would be to increase the effectiveness of Square Mesh Panels via an increase in mesh size and changes to positioning so that they offered an equivalent selectivity to 120mm nets. Our evidence suggests that a 200mm Square Mesh Panel rigged at 9-12m from the cod-line would have similar selectivity as a 120mm cod-end.

As an example, under the above proposal, a vessel currently targeting Nephrops in the muddy area of the Fladdens, in the North Sea, with an 80-99mm cod-end may need to switch to 100mm minimum but, if catching upwards of 50% whitefish, could be required to change their gear back to 120mm at the end of a 24 hour period.

Over the last five years we have seen a marked increase in the number of vessels switching from 80-99mm gear to 100mm and over. In 2016 70% of fishing trips were reported to have been using 80-99mm gear. This percentage has decreased in each subsequent year and fell to 59% in 2020. The use of 100mm and over gear has increased from 26% in 2016 to 34% in 2020.

These measures relate to minimum baseline and technical standards and are in addition to the measures outlined in the sections above relating to unwanted catch.

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Questions for this section:

Q17: Of the options provided in this section, which option (or combination of options) do you think should be introduced, and why?

Q18: Do you foresee any unintended consequences of any of the options described within this section, particularly those intended to increase minimum mesh sizes and adjust the Square Mesh Panel requirements?

Q19: Do you consider there should be an exception for low powered vessels working in inshore waters?

Discard Exemptions

When the landing obligation came into force, a pre-existing management measure of deducting discard estimates from the associated TAC was removed by the EU and subsequently given back to the fishing industry as a “quota uplift”.

To explain, a discard margin or allowance was put in place on a yearly basis, prior to the landing obligation, as a means to account for fish that was being thrown back into the sea. This discard allowance was based on discard estimates modelled by scientists and then subsequently removed from the quota pool each year. When the landing obligation was introduced this margin of accountability was removed and, consequently, additional quota allocated to fishers as an uplift.

TAC deductions continued – and continue - to be made in some circumstances, specifically related to the landing obligation exemptions that are in place. For example, if a de minimis exemption of a certain percentage is permitted for a specific species in a specific part of the fishing fleet, then the corresponding level of quota is deducted from the TAC.

With this in mind, and as mentioned above under the offshore whitefish, offshore mixed and small inshore fleet segments, we will look to make similar deductions for species that are below MCRS. This would mean that fishers could discard this catch under a blanket exemption but the catch would be fully accounted for and factored into stock assessments and quotas. The difference between the FCP and the current landing obligation in this regard, is a much more simple system of discard rules and subsequent deductions, increasing the transparency and accountability of the fisheries in question.

Question for this section:

Q20: Do you foresee any significant issues or unintended consequences of accounting for discards in this way?

Process

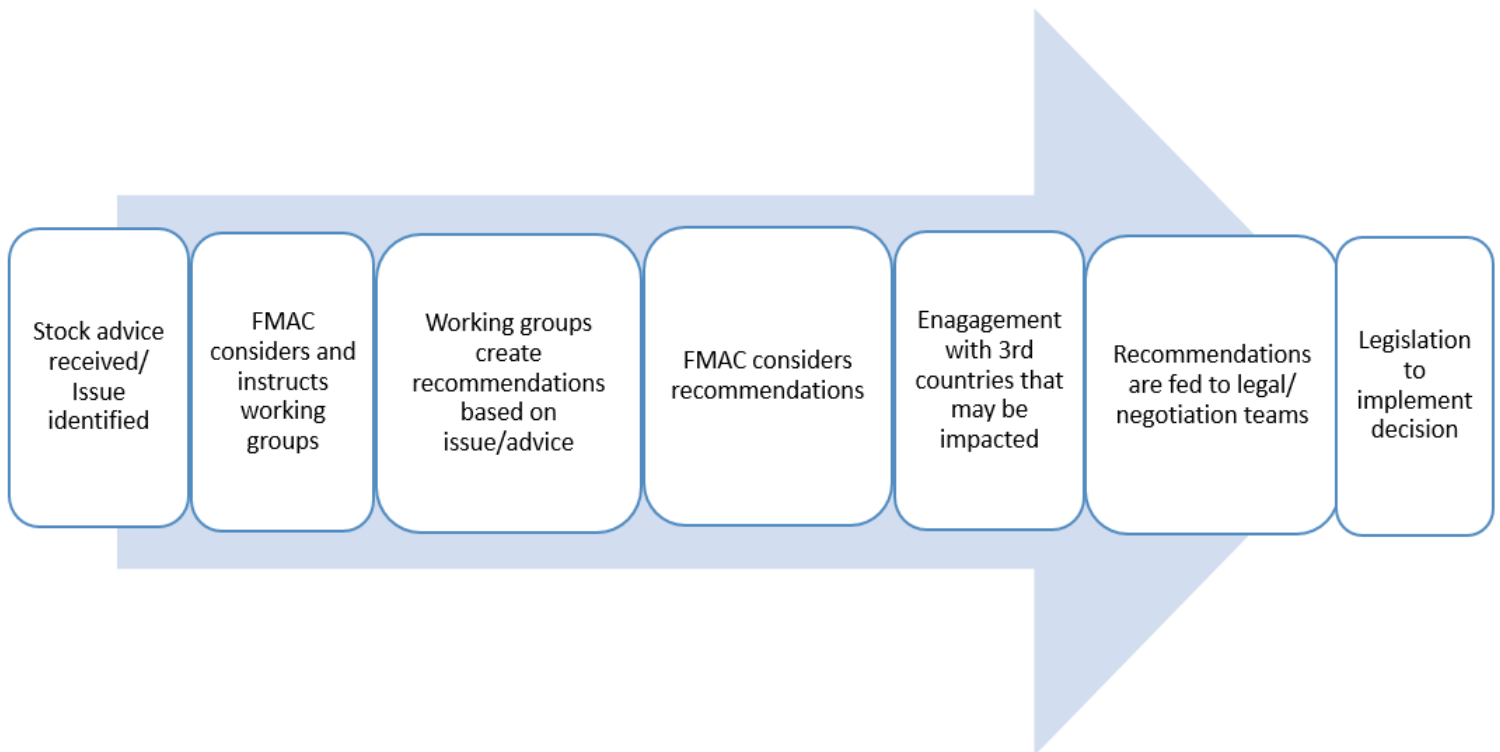
The FCP will implement a new process of engaging with stakeholders to monitor and review the conditions outlined above on an annual basis in order to tailor the measures according to the most up-to-date scientific evidence, taking into account

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stakeholder views and mindful of international negotiations. This process is detailed below.

Following this process allows for a) appropriate involvement of stakeholders in the decision making process, which in turn should support buy-in, b) direct response to state of the stock and ability to feed into negotiating priorities and c) tailored and proportionate approach to reducing unwanted catch for each fleet segment. The first year of this process would inevitably be the most challenging, but as it would repeat yearly, the process could be reviewed and adjusted for improvement.

The suggested process is as follows:



The process would repeat on an annual basis and comprise of the following steps:

- The Fisheries Management and Conservation group (FMAC) meet to review the state of the stock (current and emerging trends) and existing management measures. FMAC instruct working groups at a strategic level to the extent that unwanted catch needed to be addressed
- Working groups (consisting of eNGOs, fishers, industry representatives/experts and Marine Scotland policy, science and compliance staff), for each fleet segment would then consider:
 - ICES advice
 - measures needed (technical and spatial)
 - Fisheries Management Plans (as part of the [UK Fisheries Act 2020](https://www.legislation.gov.uk/ukpga/2020/22/contents)⁵) and make recommendations based on the above
- FMAC would then consider the recommendations
- These recommendations would then support engagement with 3rd countries and inform the wider approach to international negotiations

⁵ <https://www.legislation.gov.uk/ukpga/2020/22/contents>

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- We anticipate that agreed upon measures would be introduced via a Scottish Statutory Instrument (SSI), which would include a formal consultation process and relevant impact assessments. At the moment we anticipate this could be on an annual basis but will depend on the scale of change required.
- This process will supplement but won't replace the current process for stakeholder engagement around international negotiations.
- This process could also be followed on an ad-hoc basis to react to urgent fisheries management issues, if needed.

Based on suggestions from stakeholders, it may be that FMAC could meet on a regular, 'plenary' basis two or three times a year but also institute a mixture of short-life and permanent working groups that are set up at stakeholder and/or government request.

Questions for this section:

Q21: Do you agree that this process is the best way to make management decisions in a cooperative manner? If not, what would you propose?

Q22: Do you foresee any unintended consequences to making decisions this way?

Equivalence

It is a priority of the Scottish Government to ensure equivalence of measures to all vessels fishing in Scottish waters, in order to provide a level playing field. This is in line with our commitments in the Fisheries Act (2020) and the Trade and Co-operation Agreement with the European Union. As part of this process we will liaise with other UK administrations as well as other Coastal States and the European Commission in order to determine how our decisions will affect their vessels when fishing in Scottish waters. This will ensure that the Scottish Government will only introduce measures designed to help successfully manage fisheries rather than benefit any particular fleet.

Further, any additional technical and spatial measures, along with any adjustments to the landing obligation legislation, will be introduced through an SSI to ensure that the rules will apply to all vessels fishing in Scottish waters.

Monitoring and Evaluation

The FCP must be supported by rigorous monitoring and evaluation to ensure its success. We already have extensive compliance tools to meet this requirement however moving forward we would look to add to this toolbox in order to secure a higher level of confidence and accountability. Not only will this be key to ensuring the responsible and sustainable use of fish stocks, but it will also be necessary to ensure the measures implemented through the FCP are working effectively.

The Bute House Agreement endeavours to ensure more effective compliance and monitoring by extending the requirement for vessel tracking and monitoring systems across the whole commercial fishing fleet by the end of the current parliamentary session, as well as increasing capacity and capability in marine monitoring and

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protection. A separate consultation on how REM can be utilised to help us achieve this is underway. During the implementation of the FCP we will also explore in detail how this can be achieved. It is important that we have the right tools in place to monitor all fleets fishing in Scottish waters and implement a robust system to ensure their proper utilisation.

We will also develop specific monitoring and evaluation tools to ensure that we monitor the effectiveness of the FCP over time and to help inform future management decisions.

Q23: Do you have any additional comments to make regarding the Future Catching Policy?

Responding to this Consultation

We are inviting responses to this consultation from 15th March 2022.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/marine-scotland/future-catching-policy>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 7th June.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Catching Policy and Future Fisheries Management Team
Marine Scotland | Sea Fisheries Division | Area 1B North | Victoria Quay | Edinburgh
EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

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Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at FCPconsultation@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

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Respondent Information Form

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual

Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

Publish response with name

Publish response only (without name)

Do not publish response

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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?

Yes

No



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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80435-007-2

Published by The Scottish Government, March 2022

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1018758 (03/22)

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