

Landing Obligation: Consultation on how the Discard Transfer quota should be allocated and managed within Scotland

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Landing Obligation: Consultation to consider how the Landing Obligation discard transfer should be allocated and managed within Scotland.

Objective of the Consultation - What is the proposal being considered?

1.1 This consultation considers how the demersal Landing Obligation discard transfer should be allocated and managed by the Scottish Government. The policy decided upon following this consultation will be applied in 2016. Thereafter, the Government will consider allocation options in future years and will do so in particular prior to the implementation of the landing obligation in relation to all quota stocks, in 2019.

What is the 'discard transfer'?

1.2 As discarded fish are often returned to the sea dead or dying, ICES determine total stock mortality by estimating how much fish will be discarded for a given level of landings. In issuing advice for annual landings quotas, ICES currently withhold a proportion of total allowable catch (TAC) to cover estimated mortality occurring as a result of discarding. The balance is then issued as landings quota. This practice seeks to better control fishing mortality.

1.3 As discarding of quota species will cease under the Landing Obligation (outside permitted exemptions) this practice of withholding mortality will no longer be required. The proportion of the TAC traditionally held back to cover mortality from discards can be added to the quota made available to land. Thus, after accounting for residual mortality arising from exemptions allowed for de minimis discarding, total allowable mortality will be available as quota for vessels to land as catches. The Scottish Government will identify the proportion of each relevant quota allocation that ICES considers to be the discard transfer amount in the first year that stocks become subject to the landing obligation. For any given stock this proportion will remain constant thereafter insofar as the Scottish Government maintains an allocation policy that treats this part of the quota differently.

1.4 For any given stock this can be expected to result in a change to the quota than would otherwise have been available. In many cases this may be hoped to deliver a net increase on the previous year's tonnage awarded for any given stock. However, it is important to note that this may not always be the case. Quota identified under the Landing Obligation will be driven by changes in stock health and subsequent scientific advice as total allowable mortality has to be consistent with achieving exploitation levels at Maximum Sustainable Yield (MSY). Therefore while the discard transfer does represent 'additional quota' (than would otherwise have been available) this may simply serve to ameliorate an overall reduction in the TAC, based on ICES advice, if such a reduction is deemed necessary for the sustainability of the stock (for example, it may reduce a decrease in the TAC from -15% to -5%.) Regardless of the overall TAC set, the discard transfer will be identified by the Scottish Government in its allocations.

1.5 At a European level TACs (including the discard transfer element) will continue to be allocated between Member States on the basis of Relative Stability and it is expected that 100% of the assessed discards will be added to relevant quotas. At a UK level discussions will take place between the Fisheries Administrations to agree an allocation mechanism for the discard transfer within the UK.

Desired outcomes

1.6 The Government has identified a number of outcomes which it wishes to achieve from the allocation of the discard transfer:

- fishing rights should remain a Scottish national asset
- quotas should be made accessible to those who can fish them and should not become a speculative asset
- quotas should be distributed in a way which minimises the cost of the landing obligation to the fleet
- quotas should be distributed in a way which supports the adoption of good practice in meeting the requirements of the landing obligation
- quotas should be distributed in a way which makes sense administratively and avoids undue regulatory burden

1.7 We will assess the responses to this consultation and the pros and cons of the possible options in light of these key criteria.

Why are we having this consultation?

1.8 Under the regionalisation process the North West Waters and North Sea groups of Member States have now submitted to the European Commission their joint recommendations for implementation of the demersal landing obligation from 2016. These propose a gradual phasing in of the landing obligation with certain species defining the fisheries to be included in the obligation in 2016.

1.9 These joint recommendations now provide us with an idea of how the demersal Landing Obligation will be phased in from 2016 and therefore allow for this consultation to proceed on a more informed basis. The discard transfer will be applied only to those species which will come within the landing obligation in 2016 and will therefore at that point be partial rather than complete. As more species are phased in to the landing obligation during 2017 and 2018 the discard transfer will also be applied to them, until all species are included in 2019, at which point the discard transfer will be complete.

1.10 The movement of mortality from the 'discard element' of a TAC into quota available to catch and land fish will affect quota levels in a similar way to stock recovery. Under existing Scottish rules any increase in a quota would normally be allocated to Producer Organisations (POs) pro-rata to the FQA units associated with their licensees in their membership.

1.11 However, while the likely outcome of the discard transfer process – a TAC increase – may mirror the effects of stock recovery, the driver of the change in available quota under the Landing Obligation is a different and once-only event. Any increase in the TAC resulting from the discard transfer is the product of a major change in fisheries management that attempts to reduce waste in European fisheries and improve the sustainable exploitation of stocks by increasing the accuracy of mortality assessments. Treating the discard transfer as a normal TAC increase by allocating via the standard allocation method without consideration of alternatives would prevent the Scottish Government from taking action that could assist fleets adapt more successfully to the introduction of the Landing Obligation.

1.12 The Landing Obligation poses significant challenges for the Scottish fishing industry. It represents the most significant change to fisheries management in three decades and in some cases may require a considerable shift in fishing practices. This will become more acute from 2016 as targeted demersal and Nephrops fisheries are gradually phased in.

1.13 With the implementation of the Landing Obligation for pelagic fisheries in January 2015, additional quota from the pelagic discard transfer was allocated to the fleet on an FQA basis. This was on the basis that the additional quota was a marginal consideration - it was relatively small in quantity and shortage of quota was not in 2015 a pressure significantly affecting the pelagic fleet in adjusting to the Landing Obligation.

1.14 The pressures and challenges the Landing Obligation creates for the whitefish and Nephrops fleets are more complex and demanding. These fleets may have to change fishing and business practices significantly, if discarding levels in some fleet segments are as high as often reported.

1.15 Acknowledging the once-only nature of quota changes resulting from the discard transfer presents an opportunity to consider options that might better support the Scottish industry as it makes the transition to full application of the Landing Obligation. The quota awarded through this transfer represents a flexibility that can be used to support the industry as it adapts to new fishing practices. It could also be used to mitigate some of the risk that choke species could undermine the utilisation of larger quotas.

1.16 Alongside the opportunities the discard transfer presents, using it in a way which fails to fully harness its potential for helping the fleet adjust to the Landing Obligation also poses certain risks. There is a risk that quota from the discard transfer will not be used to land previously discarded catch but will instead be used to expand other operations. This approach could reduce the Scottish Government's ability to assist parts of the fleet that may find the transition to the Landing Obligation more challenging. If vessels with discarding problems now are unable to alter their practices to avoid unwanted catch and cannot afford to lease in fish, non-compliance with

the Landing Obligation could be incentivised. With the 'discard element' of the TAC removed, unrecorded and unaccounted mortality from illegal discarding would represent over-fishing and could seriously jeopardise stock health. Resulting stock problems would affect all in future years as TACs reduced. If the effects of choke species are not managed effectively, then there is also a risk of fisheries being closed because of lack of quota.

1.17 The Scottish Government therefore believes that explicit consideration should be given to how the quota that the Scottish Government identifies as the discard transfer should be allocated and whether in particular it should be allocated on a different basis from the standard allocation method. We note also that Defra have already consulted on options for the allocation of the discard transfer in England.

1.18 Several objectives in allocating the discard transfer have been identified in line with maximizing the value to be gained from this one-off process:

- to incentivise changes in fishing practice that support the Landing Obligation;
- to act as a tool to manage the impact of choke species;
- to avoid creating incentives for non-compliance;
- to ensure mortality levels do not increase above and beyond scientific advice;
- to mitigate short term economic challenges by providing additional quota to those vessels which need it as fleets seek to adapt to the Landing Obligation.

What proposals does this consultation consider?

1.19 This consultation presents three options:

Option 1. The discard transfer is allocated to Producer Organisations (POs) on a pre-defined basis, and is thereafter fully under POs' control;

Option 2. The discard transfer is allocated to Producer Organisations once they have met conditions that are defined by the Scottish Government; or,

Option 3. The discard transfer is retained nationally and allocated to individual vessels that pursue agreed objectives.

Option 1. The discard transfer is allocated to Producer Organisations on a pre-defined basis, and is thereafter fully under their control

2.1 Under Option 1 quota resulting from the discard transfer would be allocated to POs according to a pre-defined basis and would thereafter be fully under their control. Several options exist for how the Scottish share of the discard transfer could be allocated to POs. For example the allocation could be made having regard to the FQA holdings of licensees in POs' membership; it could consider FQA holdings only on vessel licences; or, it could reflect recent landings.

Arguments for option 1

2.2 Under this option decision-making is wholly delegated to POs. Once allocated, it is expected that quota will be made available to vessels according to PO rules and thereafter might be transferred or leased between them. This would in general be a market driven process, sometimes regarded as being more efficient than administrative decision making. Systems of PO rules and leasing are already in place and are well understood by the industry. With the allocation process potentially mirroring a routine quota increase, no additional administrative costs would be produced.

2.3 Any additional quota from the Landing Obligation would accrue to vessels on the basis of the agreed allocation method. This would create strong financial incentives upon vessels who currently discard catches for which they hold no quota to alter their practices and avoid unwanted catches. Vessels in this category would have the options of adjusting fishing practices to avoid unwanted catch through improved selectivity (spatial and gear), reducing or changing fishing effort or leasing in additional quota.

Arguments against Option 1

2.4 Delegating allocations of the discard transfer to vessels to POs would mean that vessels encountering particular difficulties would have to source additional quota through the lease market to top up allocations from their PO. The impact that the Landing Obligation would have on the leasing market – in terms of quota availability and lease price – is unclear but an expectation is that demand for quota will increase and with it the price.

2.5 The use of the market to move quota to where it is needed is generally regarded as more efficient than administratively driven allocations, although it is widely acknowledged that the quota leasing market lacks transparency. Quota holders may become more risk-averse in response to the Landing Obligation and prefer to hold on to quota and expand their own operations rather than lease it out and make it available for others. The potential exists for additional quota from the discard transfer to be accessed by those who are willing and able to pay for high leasing prices but 'leaving it to the market' does not take into account the possibility that some fleet segments may be affected more seriously than others and be unable to survive in a tougher market; this raises a question as to whether such segments should be put at risk, or whether their vulnerability should be proactively addressed through the way the discard transfer is allocated.

Option 2. The discard transfer is allocated to Producer Organisations once they have met conditions that are defined by the Scottish Government

3.1 Under this option the discard transfer would be allocated to the POs on pre-defined basis but conditions would have to be met before the allocation was made.

3.2 In order to receive a share of the discard transfer POs would be required to sign up to specified activities that would be agreed with the Scottish Government, which it was considered would incentivise and support changes in practice within their membership.

3.3 Activities and fishing practices that would allow POs access to the discard transfer could include:

- Selectivity improvements (use of specific gear variants);
- Use of additional catch monitoring technologies such as real-time catch mapping projects and the use of sensors
- Use of local buffer/risk pools
- Participation in new trials; and / or
- Adherence to spatial management controls.

Arguments for Option 2

3.4 Option 2 has the potential to deliver the advantages of Option 1 while also driving behavioural change. This option would lead POs to introduce rules that required members to adapt to fishing practices that should better enable them to conform to the Landing Obligation. For such arrangements to work effectively consideration would have to be given to the interaction between these arrangements and those under the Conservation Credits scheme, as well as in relation to minimum standards required under the existing Technical Conservation regime.

3.5 An advantage of Option 2 is that decision-making would be retained locally by the POs who would have a better understanding of the circumstances of individual fishing operations and be able to respond more swiftly to vessel requirements.

Arguments against Option 2

3.6 This option could involve an administrative burden on POs and would be likely to result in increased management costs.

3.7. A relationship between POs and their members that involved a role for the PO in monitoring compliance with rules about fishing practices would be a significant change from the traditional relationship between POs and their members, and arrangements would have to be developed such that POs could become aware of their members' activities while at sea.

Option 3. The discard transfer is retained nationally and allocated to individual vessels that pursue agreed objectives

4.1 Under Option 3 some or all of the discard transfer would be held in a national pool managed by the Scottish Government (or a third party in a manner that would support agreed objectives). As quota in this pool represents quota awarded under the Landing Obligation and was previously unused by the catching sector, this arrangement would be designed to help actively manage the impacts of the Landing Obligation and would not represent a redistribution of current quota holdings.

For example: If ICES had estimated a 5% discard rate for Northern Shelf haddock and therefore 5% of the TAC previously held back was now available to catch and land, this additional quota would be held back and managed with the remainder of the balance allocated according to the standard allocation method.

4.2 The discard transfer element of the quota would be managed and allocated to the industry in a manner that would support the industry as it adapts to the Landing Obligation. Management arrangements would focus upon capturing the potential opportunities provided by the discard transfer to help the fleet adapt to the Landing Obligation while simultaneously protecting the industry against identified risks.

4.3 There are several ways in which quota in such a pool could be managed. For example:

- A Norwegian-style 'Buffer Pool' could be created and managed in a manner that would protect the fleet from unavoidable and unintentional over-quota catches. Access conditions would be put in place to protect against vessels intentionally targeting quota in this pool. These could include use of the quota at nil-profit. These pools could be stock-specific and used to manage access to problem stocks such as West of Scotland cod and whiting. It may be that only a part of the discard transfer would be treated in this way, with the remainder allocated on a pre-defined basis.
- Access and use of the quota could also be designed to focus specifically upon incentivising specific changes in practice. For instance, vessels using specific variants of technical measures could be awarded preferential use of the quota in order to support adaptation and offset risks.

Arguments for Option 3

4.4 This option allows flexibility for vulnerable parts of the fleet to be supported while avoiding a system that directly rewards historical discarding activity. It could do this for the discard transfer only, while leaving pre-existing quota to remain under a pre-defined basis. This approach could improve compliance with the Landing Obligation and support business viability in parts of the fleet vulnerable to the effects of choke species. Overall, this option could mitigate some of the financial pressures of the Landing Obligation.

4.5 With quota management tools similar to this already working in countries like Norway, the administrative burden of this system could be reduced through information sharing and the adaptation of international models to the Scottish quota management system.

4.6 It is important to be realistic about what can be achieved – this option could mitigate some of the pressures of the Landing Obligation but for some stocks there may still be a significant gap between available quotas and likely catches.

Arguments against Option 3

4.7 An argument against the retention of quota is that spikes in leasing price may increase as all available quota is not supplied to the market. Under Option 3, the overall profits of the fleet are likely to be lower than an allocation to POs but profits may be spread over a greater number of vessels and crew-based employment.

4.8 This system could also prove administratively complex and contentious and will result in increased costs to the Scottish Government. Measures would have to be put into place to limit gaming of the system – i.e. vessels intentionally targeting quota in the pool and creating potential for ‘Olympic fishing’.

4.9 Central Government management of such a pool of quota would lessen the ability of Producer Organisations to manage the Landing Obligation at a local level and could block the ability of POs to manage the effects of choke species by limiting their ability to swap quota with others.

4.10 The creation of a pool would not guarantee access to quota when it is needed. Although criteria would be put in place to manage access to the pool, it is feasible that there will be competing ‘bids’ from vessels seeking to access the pool and, with limited quota available, there may not be sufficient quota available for all needs to be met.

Consultation period

5.1 This consultation has been issued in the wake of the recently published joint recommendations for the demersal Landing Obligation in the North Sea and North West Waters regions, the last of which was submitted to the European Commission at the beginning of this month. A number of industry representatives have made clear that they would wish this consultation to be completed as soon as possible, thereby providing as long as possible for decisions to be implemented later this year ahead of commencement of the demersal Landing Obligation next January.

5.2 To respond to these requests we have therefore decided to run this consultation for eight weeks, with a closing date for responses of 18 August 2015.

Responses to the consultation

5.3 Annex A is the consultation Respondent Information Form (RIF). Please e-mail your RIF to:

DiscardTransferConsultation@scotland.gsi.gov.uk

Or post it to:

Scottish Government Discard Transfer consultation
Area 1B-South
Victoria Quay
EDINBURGH
EH6 6QQ

For the attention of: John Robb

If you have any queries, please contact either, in the first instance, John Robb, Head of Quota Management (tel 0131 244 6436) or Greig Chalmers, Access to Sea Fisheries team leader (0131 244 6081)

Handling your response

5.4 We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form which forms part of the consultation questionnaire as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

5.5 All Scottish Government consultation papers and related publications can be accessed at: Scottish Government consultations (<http://www.gov.scot/Consultations/Current>).

5.6 The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. 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; or,
- Be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will, if appropriate, also take account of a range of other factors, including other available information. 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.

5.7 All respondents should be aware that the Scottish Government are 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.

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 in the Scottish Government Library. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

5.8 If you have any comments about how this consultation exercise has been conducted, please send them to the same address as for your response.

Questions:

6.1 Views are sought on the following questions:

- 1) Which is your preferred option? Please explain why and provide any supporting evidence.
- 2) If your preference is for Option 1, on what basis should the discard transfer be allocated between the Producer Organisations?
- 3) If your preference is for Option 2, are there any particular types of conditionality you would like to see associated with the distribution of quota?
- 4) If your preference is for Option 3, how would you like to see the National Pool managed and allocated, that would allow access to those who need it without encouraging vessels to target it?
- 5) Is there an alternative method for allocating the discard transfer between the POs that has not been considered?
- 6) Do you think there are any other unintended consequences from any of the options proposed which have not been explored?
- 7) Are there any specific practical and administrative aspects which you think require to be considered before adopting any of these options?
- 8) Are there are other options for managing the discard transfer, or any variants on the options offered in this paper, that you would like to put forward?
- 9) What period (years) should the policy be put in place for?

*Marine Scotland
June 2015*

Consultation to consider how the Discard transfer should be allocated and managed in Scotland: Respondent Information Form



Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. You can download further copies of this form from the Consultation page on the Scottish Government website:

<http://www.gov.scot/Consultations/Current>

1. Name/Organisation

Organisation Name

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ *Please tick as appropriate*

Surname

Forename

2. Postal Address

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

3. Permissions - I am responding as...

Individual

☐

/ 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

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 ☐

- (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

- (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

1. Which is your preferred option ? Please explain why and provide any supporting evidence.

2. If your preference is for Option 1 - **The discard transfer is allocated to Producer Organisations on a pre-defined basis, and is thereafter fully under their control** - on what basis should the discard transfer be allocated between the Producer Organisations?

3. If your preference is for Option 2 - **The discard transfer is allocated to Producer Organisations once they have met conditions that are defined by the Scottish Government** - are there any particular types of conditionality you would like to see associated with the distribution of quota?

4. If your preference is for Option 3 - **The discard transfer is retained nationally and allocated to individual vessels that pursue agreed objectives** - how would you like to see the National Pool managed and allocated, that would allow access to those who need it without encouraging vessels to target it?

5. Is there an alternative method for allocating the discard transfer between the POs that has not been considered?

6. Do you think there are any other unintended consequences from any of the options proposed which have not been explored?

7. Are there any specific practical and administrative aspects which you think require to be considered before adopting any of these options?

8. Are there are other options for managing the discard transfer, or any variants on the options offered in this paper, that you would like to put forward?

9. What period (years) should the policy be put in place for?



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