

# Final Business and Regulatory Impact Assessment

## Title of Proposal

The Regulation of Scallop Fishing (Scotland) Order 2017

## Purpose and intended effect

- **Background**

The Scottish king scallop fishery is important to many of Scotland's coastal communities. Landings into Scotland were worth £22.8 million in 2015, helping to support jobs at sea and onshore in secondary industries like processing and haulage.

King scallops are primarily caught by dredge but are also fished by hand divers (2015, 621 tonnes were landed by hand divers with a value of £1.9 million).

Boats fishing using dredges can be further differentiated between larger nomadic boats that fish around the UK coast and smaller boats that fish in more localised areas.

In 2013, Marine Scotland commissioned an independent review of the Scottish king scallop fishery: [www.gov.scot/Resource/0045/00450683.pdf](http://www.gov.scot/Resource/0045/00450683.pdf). The review reported a trend towards growing effort in the fishery, and raised concerns over spawning stock biomass (the total weight of fish in a stock that are capable of reproduction).

Assessments by Marine Scotland Science have reported that the health of scallop stocks is mixed, with some areas around the coast stable but others in decline. The most recent management advice is that fishing mortality (effort) should not increase and that measures should be taken to safeguard spawning potential in areas where stocks are low.

### Current regulatory framework

King scallops are not a species covered by a quota set by the EU as a Total Allowable Catch (TAC). The main harvest controls on king scallop fishing within Scottish waters<sup>1</sup> are:

- An EU-set minimum landing size.
- Limits on the number of boats able to prosecute the fishery (boats over 10 metres in length using dredges must have an entitlement attached to their licence permitting them to do so).
- Restrictions on the number of dredges that are permitted. The number of dredges allowed within Scottish waters varies depending on the distance from the shore.
- Seasonal closures on scallop fishing.

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<sup>1</sup> Distinct arrangements apply in Shetland as outlined below.

- The waters surrounding the south west of Scotland (the Irish Sea south of 55°N) are included in a days at sea scheme that limits the time that boats can spend in the area (as a result of the EU-set Western Waters regime<sup>2</sup>). The area included in this scheme is ICES<sup>3</sup> Subarea 7 which covers the English Channel and the Irish Sea.<sup>4</sup>

#### Shetland scallop management

Distinct management measures are in place for king scallops in Shetland. The area's inshore shellfish fisheries, in the waters extending from 0-6 nautical miles from the coast, are managed by the Shetland Shellfish Management Organisation (under a Regulating Order made under the Sea Fisheries (Shellfish) Act 1967). They have achieved Marine Stewardship Council (MSC) certification for their scallop fishery.

#### Wider UK context

King scallop grounds outside of Scotland are also of importance to Scottish boats, in particular the English channel and the Irish Sea. In 2015, Scottish-registered boats landed scallops worth £11.5 million into the rest of the UK. It is important when developing new initiatives to consider:

- The impact that boats displaced from fishing within Scottish waters may have on scallop stocks elsewhere in UK waters.
- Days at sea for boats over 15 metres in length have been restricted in ICES Subarea 7 since 2012 (as a result of the EU-set Western Waters regime).

- **Objective**

The objective of the legislation is to introduce management measures for the king scallop fishery that will help to limit effort in the dredge fishery and maintain or increase spawning stock biomass.

- **Rationale for Government intervention**

The Scottish Government will be contributing positively to the management of the king scallop fishery by increasing the minimum landing size, and restrictions on the number of scallop dredges and length of tow bar that can be used in specified areas within Scottish waters. This is in line with advice from Marine Scotland Science and the recommendations of the independent review into the king scallop fishery.

In the absence of Government intervention, Scotland's king scallop stocks (which are a public resource) could decline as high fishing mortality reduces the spawning stock biomass. This could, in the long term, reduce the potential yield and economic returns of the fishery.

These management measures will also help ensure that Marine Scotland

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<sup>2</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003R1954&from=EN>

<sup>3</sup> International Council for the Exploration of the Sea

<sup>4</sup> Scallop effort by boats over 15 metres in length is also capped in ICES Subarea VIa (to the west of Scotland) by the Western Waters Effort regime. However, this cap has not limited boat activity.

fulfils requirements under the Marine Strategy Framework Directive which requires that commercially exploited shellfish are fished at levels associated with Maximum Sustainable Yield.

The new management measures will contribute to the Scottish Government's National Performance Framework objective of valuing and enjoying our built and natural environment and protecting it and enhancing it for future generations.

## **Consultation**

- **Within Government**

As part of the internal pre-consultation process, discussions took place between Marine Scotland Compliance, Marine Scotland Science and Marine Scotland's Sea Fisheries Division.

- **Public Consultation**

Informed by the independent review, stock assessments, and discussions with members of the fishing industry, Marine Scotland issued a public consultation on management proposals for the Scottish king scallop fishery which took place from 9 October 2014 to 26 January 2015.

The consultation sought views on four areas:

1. Increasing the minimum landing size of scallops
2. Changing licensing arrangements in order to restrict the upsizing of replacement scallop boats (limiting the ability to replace boats with more powerful ones)
3. Introducing restrictions associated with the use of dredges
4. Introducing restrictions on the length of time scallop boats spend at sea

A total of 1,738 responses were received, of which 1,633 were from an online petition, and a further 47 from four organisations and one individual who each submitted multiple responses. The remaining 58 responses came from 31 individuals and 27 organisations.

Respondents represented a broad cross-section of society, including fishermen, environmental groups, processors, local authorities, and the general public.

### Minimum landing size increase

The majority of respondents supported increasing the minimum landing size (MLS) of king scallops from 100 mm to 105 mm. Increasing the MLS to 105 mm takes account of the scientific advice, responses submitted to the consultation, and the impact that a larger size increase (e.g. to 110 mm) could have on catches.

The increase will be reviewed two years after its introduction to analyse its impact and establish whether a further increase, in line with the proposals set out by some of the Regional Inshore Fisheries Groups (RIFGs), should be

introduced.

Shetland will retain a 100 mm MLS, in line with the response from the Shetland Shellfish Management Organisation.

#### Dredge number restrictions

There was strong support for introducing a maximum tow bar length to limit boats to operating no more than 8 dredges per side in the 0-12 nautical mile area. However, a small number of boat operators raised concerns over the potential impact this could have on business viability.

Additional analysis recognised these concerns, therefore boats will be allowed to continue to fish with 10 dredges per side in the 6-12 nautical mile area, provided that they install a remote electronic monitoring system. This will allow Marine Scotland to monitor the number of dredges used and the location of the boat.

#### Other proposals

Changes to licensing arrangements for king scallop boats took effect from 31 March 2015. These limited the number of boats able to dredge for king scallops, and the ability of owners to increase the power of replacement boats. No restrictions are being introduced to limit the length of time that boats can spend at sea as a result of the consultation exercise.

A full analysis of the responses to the consultation is available in the outcome report: [www.gov.scot/Publications/2015/07/4226](http://www.gov.scot/Publications/2015/07/4226).

- **Business**

Discussions have taken place with businesses involved in the king scallop fishery – including representatives of dredging, diving and processing interests – both preceding and during the consultation period.

Marine Scotland has regularly updated industry representatives through the Inshore Fisheries Management and Conservation Group (IFMAC) and RIFGs.

## **Options**

- **Option 1 – Do nothing**

This would maintain the current management arrangements for the Scottish king scallop fishery.

- **Option 2 – Introduce new management measures**

#### Minimum landing size increase

The minimum landing size (MLS) of scallops will be increased from 100 mm to 105 mm around the Scottish coast, excluding:

- The west coast of mainland Scotland south of 55°N (where an EU-set MLS of 110 mm applies for ICES Division VIIa).

- Shetland, which has distinct management arrangements under the Shetland Islands Regulated Fishery Order 2012 (where the MLS will remain at 100 mm).

#### Dredge number restrictions

New management arrangements will be introduced to control and monitor dredge effort in Scottish waters. These arrangements will take the form of two alternative sets of measures.

Under the first set of measures, a fishing boat will be able to fish for king scallops under the following restrictions, and will be required to have a remote electronic monitoring system installed in order to ensure that these restrictions are not evaded:

- In the 0-6 nautical mile area within the Scottish zone, no more than 8 dredges can be deployed from each of the port and starboard sides of the boat (16 dredges in total).
- In the 6-12 nautical mile area within the Scottish zone, no more than 10 dredges can be deployed from each of the port and starboard sides of the boat (20 dredges in total).
- In the 12-200 nautical mile area within the Scottish zone, no more than 14 dredges can be deployed from each of the port and starboard sides of the boat (28 dredges in total).

Alternatively, a fishing boat will be exempt from the requirement to have a remote electronic monitoring system installed if it meets the following conditions:

- While in the 0-12 nautical mile area within the Scottish zone,
  - the total length of any tow bar deployed does not exceed 7.5 metres,
  - no more than 2 tow bars are deployed at any time, and
  - no more than 8 scallop dredges are towed from each side of the boat at any time.
- While undertaking a single fishing trip for king scallops in which the boat dredges in both the 0-12 and 12-200 nautical mile areas within the Scottish zone,
  - the total length of any tow bar deployed does not exceed 7.5 metres,
  - no more than 2 tow bars are deployed at any time, and
  - no more than 8 scallop dredges are towed from each side of the boat at any time.
- The boat dredges solely in the 12-200 nautical mile area within the Scottish zone.

### **Sectors and groups affected**

Scottish and other British fishing boats with a scallop entitlement that currently operate in the Scottish zone, as well as fish merchants and fish processors, will be those most directly affected by the introduction of new management arrangements.

Marine Scotland Compliance will also be directly affected, as they will be responsible for the enforcement of these arrangements.

### **Costs and Benefits**

- **Option 1 – Do nothing**

#### Benefits

- Scottish and other British fishing boats will be able to continue fishing for king scallops in the Scottish zone as per the existing Scottish fisheries legislation.

#### Costs

- Maintaining the current management arrangements would give a greater risk of reduced spawning stock biomass. This in turn could lead to a reduction in yield and economic returns from the fishery.
- There is increasing consumer interest in the provenance of produce. Retailers, such as supermarkets, are making a concerted effort to ensure that the fish they sell come from sustainable sources. Maintaining the current management arrangements could eventually result in the loss of access to markets.

- **Option 2 – Introduce new management measures**

#### Benefits

- Increasing the minimum landing size (MLS) could increase the spawning stock biomass (the total weight of the fish in a stock that are capable of spawning) for scallops around the Scottish coast.
- Increasing the MLS would allow additional growth before harvesting and could improve the long term yield of the king scallop stocks.
- Remote electronic monitoring of boats will aid enforcement by allowing Marine Scotland to monitor fishing activity to ensure that dredge number restrictions are not evaded.
- A maximum tow bar length will aid enforcement and help to reduce fishing effort by physically limiting the number of dredges that can be used in the 0-12 nautical mile area to no more than 8 per side.

## Costs

### ○ Minimum landing size increase

Increasing the MLS from 100 mm to 105 mm is expected to cause a short term reduction in king scallop landings, which may have a consequent impact on businesses.

The independent review of the king scallop fishery identified the West of Kintyre and Clyde assessment areas as those most likely to be impacted by the size increase. Additional analysis has been carried out in order to help quantify the potential short-term reduction in landings for these areas.

Survey and market sampling length frequency data collected by Marine Scotland Science were used to estimate the initial loss of meat yield following an increase in the MLS to 105 mm. These figures are based on sampling over a limited number of years (2012-14) but give an indication of the likely reduction in meat yield.

Using this data it is possible to estimate the financial impact that increasing the MLS would have in its first year of introduction:

- Assuming similar exploitation patterns to 2012-14, increasing the MLS to 105 mm would correspond to a decrease in yield of between 4% to 12% in the West of Kintyre in the short term.

<b>Impact on West of Kintyre assessment area of increasing MLS from 100 mm to 105 mm</b>		
Reduction in catch value based on 2015 landings in first year.	4% lower estimate	12% upper estimate
	£109,971	£329,914

- Assuming similar exploitation patterns to 2012-14, increasing the MLS to 105 mm would correspond to an initial decrease in yield of between 6% to 10% in the Clyde (based on West of Kintyre meat weights as recent data for the Clyde is unavailable).

<b>Impact on Clyde assessment area of increasing MLS from 100 mm to 105 mm</b>		
Reduction in catch value based on 2015 landings in first year.	6% lower estimate	10% upper estimate
	£85,416	£142,361

As it takes on average six months for scallops in these assessment areas to grow from 100 mm to 105 mm, this estimate likely overstates the impact as the majority of newly-undersized animals would be expected to be of harvestable size within one year.

Additionally, provided exploitation rates remain stable in the longer term, the recruitment potential (spawning stock biomass) would on average be expected to increase.

○ Dredge number restrictions

Analysis carried out for the consultation outcome report indicated that 29 boats capable of towing more than 8 dredges per side recorded landings of king scallops in the 6-12 nautical mile area. The relative value of this area varied for each of the boats. However, these new restrictions will give boat owners three options:

1. Fish outside of the 6-12 nautical mile area, either in Scottish waters outside 12 nautical miles or elsewhere around the coast of the UK.
2. Use tow bars in the 6-12 nautical mile area that limit them to fishing with no more than 8 dredges per side. This may require the purchase of new tow bars, estimated to cost £1,200 to £1,800 per bar.

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**Potential cost of boats purchasing new tow bars**

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Cost per bar: £1,200 to £1,800	Cost if <i>all</i> 29 boats purchase new tow bars: £69,600 to £104,400
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3. Install a remote electronic monitoring system which will allow boats to continue to fish with 10 dredges per side in the 6-12 nautical mile zone. Purchasing a system is estimated to cost £5,000 to £6,000.<sup>5</sup>

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**Potential cost of boats purchasing  
remote electronic monitoring (REM) system**

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Cost per boat: £5,000 to £6,000	Cost if <i>all</i> 29 boats purchase REM system: £145,000 to £174,000
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**Scottish Firms Impact Test**

Discussions with businesses active in the sector were vital in informing the independent review of the king scallop fishery.

Marine Scotland also held discussions with a cross-section of the scallop industry to inform the eventual measures – scallop divers, dredge boat operators, industry representatives and processors.

These discussions (as well as responses to the consultation) were particularly important in amending the proposed tow bar length restriction to allow a derogation for boats currently operating 10 dredges per side in the 6-12 nautical mile area, provided a remote electronic monitoring equipment system is installed.

During discussion with some processors, owners of larger boats and their

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<sup>5</sup> Potentially eligible for European Maritime and Fisheries Fund (EMFF) support up to 50% of costs.

representatives, clear concerns were raised over the impact that limiting the time they could spend at sea could have on some business models. This was clearly emphasised in relation to an overnight curfew and the impact it could have on quantity and quality of supply and day-to-day business planning. As a result, national restrictions on the length of time that boats can spend at sea are not being introduced at this time.

### **Competition Assessment**

The management measures are not expected to have any negative impact on Scottish and other British fishing boats that operate in the Scottish zone of British fishery limits.

However, the system requirements of the remote electronic monitoring equipment are currently only fulfilled by one commercially available system of which Marine Scotland is aware. This is a system that is currently being used to successfully monitor dredge activity elsewhere in Europe.

The particular requirement that is only fulfilled by this one system is the ability to view recorded data from a remote location (other monitoring systems currently require Fishery Officers to board and retrieve the system's hard drive).

The ability to view recorded data from a remote location is a clear benefit when dealing with nomadic vessels that may travel great lengths in a single trip. It is understood that other companies are developing similar functionality to allow remote monitoring, though competition is likely to remain limited given the relatively small market.

### **Test run of business forms**

No new business forms will be introduced.

### **Legal Aid Impact Test**

The management measures have been discussed with the Scottish Government Access to Justice Team, who have agreed that they should have no impact on the legal aid fund.

### **Enforcement, sanctions and monitoring**

Marine Scotland Compliance is responsible for the monitoring and enforcement of marine and fishing laws. Fishery Officers have the power to perform inspections of fishing boats at sea or in ports, fish markets and processing factories, in order to ensure compliance with legislation. Where a breach of fisheries regulations has been detected, it will be reported as appropriate to the prosecuting authorities. This can result in a fine of up to £50,000 on summary conviction, or a fine on conviction on indictment.

### **Implementation and delivery plan**

The new management measures will be introduced through new secondary legislation, using the powers conferred by the Sea Fish (Conservation) Act 1967.

The Regulation of Scallop Fishing (Scotland) Order 2017 will come into force from 1 June 2017.

- **Post-implementation review**

Marine Scotland will monitor the impact of the new management measures and consider any practical or unforeseen consequences should they arise.

**Summary and recommendation**

Marine Scotland recommends Option 2. Introducing new management measures for the Scottish king scallop fishery will help to improve the management of fishing effort, and increase the spawning stock biomass.

- **Summary costs and benefits table**

<b>Option 1 – Do nothing</b>	
Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
<ul style="list-style-type: none"> <li>• Scottish and other British fishing boats can continue to fish for king scallops in the Scottish zone as per the existing fisheries legislation.</li> </ul>	<ul style="list-style-type: none"> <li>• Could result in reduced landings, as high fishing mortality reduces spawning stock biomass and fishermen become more dependent on king scallops nearer the current MLS of 100 mm. This could reduce the potential yield and economic returns from the fishery in the long term.</li> <li>• Could result in eventual loss of access to potential markets, due to increasing consumer interest in the provenance of produce. Food retailers are making efforts to ensure that the fish they sell comes from sustainable sources.</li> </ul>
<b>Option 2 – Introduce new management measures</b>	
Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
<ul style="list-style-type: none"> <li>• Increasing MLS will help to increase the spawning stock biomass of king scallops</li> <li>• Increasing MLS will help to improve the long-term yield of stocks, as more king scallops will have the opportunity to reproduce.</li> <li>• Remote electronic monitoring of boats will aid enforcement by allowing Marine Scotland to monitor fishing activity to ensure that dredge number restrictions are not evaded.</li> </ul>	<ul style="list-style-type: none"> <li>• Increasing MLS is expected to cause a short-term reduction in landings. As king scallops take six months on average to grow from 100 mm to 105 mm, it is expected that most will be of harvestable size within one year.</li> <li>• Boats may be required to purchase a remote electronic monitoring system to comply with new dredge management arrangements. Estimated cost is £5,000 to £6,000 per boat.</li> <li>• Boats may be required to purchase new tow bars to comply with new dredge</li> </ul>

- Maximum tow bar length will aid enforcement and help to reduce fishing effort by limiting the number of dredges that can be used in the 0-12 nm area to no more than 8 per side.

management arrangements. Estimated cost is £1,200 to £1,800 per bar.

**Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

**Date:**

**Fergus Ewing**  
**Cabinet Secretary for the Rural Economy and Connectivity**

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