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Finlay Carson MSP  
Convener  
Rural Affairs and Islands Committee

By Email: [rural.committee@parliament.scot](mailto:rural.committee@parliament.scot)

28 May 2024

Dear Finlay,

### **Interim crab and lobster management measures for Scottish waters**

Thank you for your letter of 10 May 2024 regarding concerns raised with the Committee in response to new landing controls for crab and lobster. The three temporary measures, introduced on 12 May 2024 via licence conditions, prohibit any UK commercial fishing vessel fishing in Scottish waters from:

- 1) retaining onboard, landing, offering for sale or consigning a berried (egg bearing) lobster (*Homarus gammarus*);
- 2) retaining onboard, landing, offering for sale or consigning a berried (egg bearing) brown crab (*Cancer pagurus*); and,
- 3) deploying creels, pots or traps within any part of Scottish inshore waters (0-6 nautical miles), if the vessel is greater than 12 metres overall length and caught over 200 tonnes of brown crab and/or lobster during any 12 month period(s) from 2020 onwards.<sup>1</sup>

The measures were introduced due to increasing concern about the health of these stocks. The latest stock assessments show that crab and lobster stocks are being exploited at or above fishing maximum sustainable yield ( $F_{MSY}$ ) in most inshore waters and that picture is supported by anecdotal evidence from across our stakeholder network.<sup>2</sup> Whilst I am expecting the findings from updated crab and lobster assessments later this year, doing nothing in the interim period to help protect the stocks is not an option and this was a view shared by our co-management group (the Inshore

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<sup>1</sup> with the exception of the inshore waters surrounding St Kilda (Hirta and Boreray), Flannan Isles, Rockall, Sula Sgeir, North Rona, Sule Stack, and Sule Skerry

<sup>2</sup> [Crab and lobster fisheries - stock assessments: results 2016 to 2019 - gov.scot \(www.gov.scot\)](http://www.gov.scot/resources/documents/2020/06/20200606_Crab_and_lobster_fisheries_-_stock_assessments_results_2016_to_2019.pdf)

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Subgroup of our overarching Fisheries Management and Conservation Group (FMAC)). Action is required in order to turn the situation around and ensure the sustainable use of our seas.

To that end, in early 2024, my officials undertook a period of intense engagement with our FMAC Inshore Subgroup to consider the viability of a range of potential interim measures. The subgroup comprises circa thirty organisations spanning fishing associations, environmental groups and our Regional Inshore Fisheries Groups (RIFGs) who in turn held meetings around Scotland and engaged with the fishers/other stakeholders that they represent.

The papers produced and notes of those discussions at the FMAC Inshore Subgroup are published online and set out the various options considered and why in particular these three controls were pursued.<sup>3</sup>

I do however recognise the unique situation in the Solway Firth, given that it is not currently one of the recognised crab and lobster assessment areas. I have therefore given my officials instructions to undertake additional, bespoke work to improve the evidence base for the area this year and, in the longer term, develop an appropriate time series of data for the Solway. The local vessels participating in the gathering of this targeted scientific data this year will be issued with relevant permissions to continue to land, sell and consign berried lobsters.

These interim measures are part of an overarching improvement plan for inshore fisheries management in Scotland and, as set out below in response to the specific queries posed in your letter, have been well publicised.

### **Reasons for the introduction of the interim measures and the aims of the “controls on creel fishing vessels of more than 12 meters overall with a track record of landing more than 200 tonnes of crab and/or lobster in any 12 month period since 2020”**

Please see text above.

### **The powers under which these interim measures will be introduced**

The Scottish Government has powers to use licences to regulate sea fishing under the Fisheries Act 2020.<sup>4</sup>

### **How the interim measures will be enforced**

In relation to the first and second licence condition (as set out in the opening paragraph of this letter), assessing catches for egg-bearing females is conversant with checks already routinely carried out by enforcement officers, such as ensuring a crab/lobster is above the minimum landing size.

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<sup>3</sup> [Meetings and papers](#)

<sup>4</sup> [Fisheries Act 2020 \(legislation.gov.uk\)](#)

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In relation to the third licence condition (as set out in the opening paragraph of this letter), vessels which are 12 metres and over in length are required to be fitted with a Vessel Monitoring System (VMS), this is a tracking device.

### **The available penalties for failure to comply with the interim measures**

The Marine Directorate of the Scottish Government determines whether it is appropriate to refer a case of non-compliance to the Crown Office and Procurator Fiscal Service or offer a Fixed Penalty Notice depending on the severity of the offence, the public interest and previous history. Scottish Ministers have the power to issue a Fixed Penalty Notice up to £10,000. The published guidance sets out the scale used to determine the level of fine issued.<sup>5</sup>

If a case were to be referred to the Crown Office and Procurator Fiscal Service, a fine of up to £50,000 could be issued. The level of fine is a matter for the sheriff to decide.

### **How long the interim measures will be in place for**

The interim measures are being kept under review, however I anticipate they will be in place for the 2024 summer fishery. As set out above, I am anticipating updated scientific advice later this year when a wholesale review will be carried out.

### **Whether the stakeholder engagement, both before and after the decision to introduce the interim measures was made, and whether the affected fishers were provided with full details of the vessel licence condition before publication on the Scottish Government's website on 10 May**

Through the RIFGs and FMAC Inshore Subgroup, the Scottish Government engaged extensively with fishers and representatives to agree on the interim measures. The reach of these stakeholders is significant, with 250 businesses estimated to have been consulted at meetings held around the coast.

There was also good coverage of the co-management initiative in the trade press, including significant coverage in the Fishing News on 15 February 2024, and our activity on social media – both before and after the decision to introduce the interim measures - reached circa 15,000 industry stakeholders who follow us.<sup>6 7 8 9</sup>

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<sup>5</sup> [Marine compliance: fixed penalty notices - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2024/05/03/20240503-scottish-crab-and-lobster-management-improvements-from-may/)

<sup>6</sup> [Scot Gov Marine on X: "A huge thanks to the well-represented group of stakeholders who attended our inshore fisheries meeting today As part of our co-management approach, these inshore & shellfish organisations continue to engage with hundreds of fishermen on views for improving fisheries management https://t.co/9UrxufZds" / X \(twitter.com\)](https://twitter.com/ScotGovMarine/status/1786123456789)

<sup>7</sup> <https://blogs.gov.scot/marine-scotland/2024/05/03/scottish-crab-and-lobster-management-improvements-from-may/>

<sup>8</sup> [Scot Gov Marine on X: "🦀 From 12 May 2024, selected interim measures will be implemented in Scotland 🌊🦀🦞 prohibition on landing egg-bearing crab & lobster 🌊🦀🦞 controls on creel fishing vessels of more than 12m landing more than 200t of crab &/or lobster in any 12-month period https://t.co/qroNaDxfhk https://t.co/x77rmWGHCg" / X \(twitter.com\)](https://twitter.com/ScotGovMarine/status/1786123456789)

<sup>9</sup> [Scot Gov Marine on X: "Rural Affairs Secretary @mairigougeon's #ScottishSkipperExpo speech highlighted co-management is at the front of decisions & policies to deliver sustainable fisheries 🌊🦀🦞 This approach was applied to the](https://twitter.com/ScotGovMarine/status/1786123456789)

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Marine Directorate compliance officers also engaged with fishers during routine inspections and conversations. Posters detailing the new measures were issued to crab and lobster fishers and also displayed at various locations around the coast.

### **Whether the licence condition will only apply to Scottish vessels and if so, whether the Scottish Government has requested the other UK vessel licensing authorities implement licence conditions on their vessels to ensure alignment with the interim measures**

At the request of the Scottish Government, the other UK Fisheries Administrations have introduced reciprocal licence conditions. Therefore all UK vessels fishing in Scottish waters are bound by the measures.

### **What impact assessments were carried out into the effect of the interim measures on individual fishers, particularly in those areas where no stock assessments have been carried out**

Assessments were made on the potential impact of the interim measures, however there simply was not enough time to carry out a full business and regulatory impact assessment (BRIA). The co-management group last met on 16 April 2024 to discuss potential interim measures but had my officials then undertaken a full BRIA, involving significant data gathering, the assessment would not have been completed until after the 2024 main fishing season. This would have undermined the key objective of preserving the stocks.

The absence of stock assessment data and sampling data in the Solway is unfortunate but is due to relatively low landings in this area. UK landings of lobster into Scotland from the Solway (ICES statistical rectangles 38E5 and 38E6, 2013-2022) accounted for between 2% and 5% of total lobster landings into Scotland, with the majority of these landings (between 95% and 99%) from 38E5. The Solway is currently included in the Marine Directorate's market sampling programme with the focus typically on scallops because of the higher landings in this area. However, as set out in my opening remarks, we have already committed to improving the crab and lobster data in this area.

Elsewhere in Scotland the data consistently shows that our current management measures for crab and lobster are not sufficient. In the impact assessments undertaken, the reasonable assumption was made that the areas that were not sampled would follow a similar average to those that had. This assumption was reinforced by the relatively small level of variation between the sampled areas suggesting that there was a similar average across Scotland.

It is in our interests to protect brooding shellfish and alleviate pressure on stocks to help ensure sustainability for Scotland's most prominent inshore fisheries. Egg bearing individuals can be put back alive and caught at a later point in the year. These measures are in line with controls already adopted by other parts of the UK and in Shetland. Prohibiting the landing of egg-bearing lobster is not unusual, and is in place throughout England, including in the southern part of the Solway.

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[shellfish management improvements from 12 May. Info](#)  <https://t.co/mXoq6LSFKv> <https://t.co/VJeUSNbTRd> / X (twitter.com)

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**Whether the Marine Directorate has any plans to update the scientific assessments (which appear to span 2016-2019) on which these measures are based and, if so, the timescale for this and whether this will address data gaps in the Solway Firth;**

As set out above, I am anticipating updated scientific advice later this year. This has been clearly set out to stakeholders who have engaged in the process.

Our crab and lobster assessment areas have not historically included the Solway Firth, however as my officials have set out to the Dumfries and Galloway Static Gear Association, we are keen to build up a time series of data for this area and have committed to undertaking additional work in the shorter term. My officials are engaging with local fishers in this process.

**How the effectiveness of the measures will be monitored and evaluated**

These are short-term interim measures introduced in response to the latest stock advice. The intention is to consult later this year on a package of proposals for wider inshore management improvements and will include seeking views on these interim measures.

**Whether effort (creel) limits were considered as an alternative approach and, if so, why this approach was not preferred;**

As set out in the published material, creel limits were considered in our engagement via FMAC Inshore Subgroup. However, in isolation, creel limits are unlikely to bring fishing effort in line with  $F_{MSY}$  and their use would generate significant enforcement challenges, until the inshore vessel tracking policy has been progressed following consultation in late 2023. Creel limits may form one of our longer-term policy developments.

**Whether – if the decision is taken to make the interim measures permanent – this would be implemented by subordinate legislation to allow parliamentary scrutiny of this decision;**

Following the public consultation later this year it may be the case that legislation is introduced to the Scottish Parliament for some national inshore fisheries management measures.

However, subject to the outcome of that consultation, I think there will be a careful balance to be struck between the use of legislation and the development of a more responsive, agile, regional inshore fisheries management model fit for purpose.

**The “overarching improvement roadmap to inshore fisheries management in Scotland” and “related key transformational projects” referred to in the Marine Directorate blog and to what extent these will be informed by the evaluation of inshore fisheries pilots.**

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The documents published online set out the three primary elements to our 'inshore roadmap':

- to introduce shorter-term interim measures for the 2024 crab and lobster fishery;
- to consult on a broad package of inshore management proposals later in 2024; and,
- to progress complementary transformational projects including inshore vessel tracking, update and improve our inshore evidence base, our Future Catching Policy and reviewing our RIFG network.

In particular, learning from our Outer Hebrides Inshore Fisheries Pilot has helped inform our inshore tracking policy.

I hope this information is helpful.

Yours sincerely,



**MAIRI GOUGEON**

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