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Llywodraeth Cymru
Welsh Government

Welsh Government Consultation Document

Whelk Management Measures 2020

Introducing an authorisation scheme and an associated flexible landing cap for UK vessels taking whelk (*Buccinum undatum*) with pots in the Welsh zone.

Date of issue: 16 March 2020

Action required: Responses by 7 June 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This Wales only consultation sets out proposals to introduce:

- An authorisation scheme for all UK vessels taking whelks with pots in the Welsh zone, and
- An annual limit on the total amount of whelk that can be taken from the Welsh zone, and
- A flexible monthly landing cap for authorised vessels.

How to respond

Responses can be submitted by email, post or via an online form on the Welsh Government website at www.gov.wales/consultations

E-mail/postal responses should be sent to the address below to arrive by 7 June 2020 at the latest. Please insert 'Whelk Management Measures 2020 Consultation' in the e-mail subject box.

By email:

marineandfisheries@gov.wales

By Post:

Whelk Management Measures 2020 Consultation
Marine and Fisheries Division
Welsh Government Office
Sarn Mynach
Llandudno Junction
Conwy
LL31 9RZ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:

Whelk Management Measures 2020 Consultation
Marine and Fisheries Division
Welsh Government Office
Sarn Mynach
Llandudno Junction
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LL31 9RZ

Email: **marineandfisheries@gov.wales**

Telephone: 03000 253500

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

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Section A: Introduction

Background

1. The Welsh Government is committed to the conservation and sustainable management of fisheries informed by robust scientific evidence. We want Wales to be able to meet the needs of current and future generations, by creating and maintaining a healthy marine environment and supporting a profitable, stable and diverse fishing industry.
2. Currently, subject to minor exceptions, individuals can only take whelk in the Welsh zone using licensed and registered fishing vessels.
3. Following a consultation on 'Sustainable Management Measures for the Welsh Whelk Fishery' in 2017 the Welsh Government increased the minimum landing size to 55mm in July 2019¹. The minimum size will increase again to 65mm in July 2020 and applies to all UK vessels taking whelks in the Welsh zone² (which includes the territorial sea out to 12nm).
4. In addition, in June 2019 the Minister for Environment, Energy and Rural Affairs announced the Welsh Government's intention to introduce:
 - A quarterly landing cap of 60 tonnes of whelk per vessel, from January to September each year, for all UK vessels fishing for whelk in the Welsh zone.
 - A quarterly landing cap of 15 tonnes of whelk per vessel, during the biologically sensitive period from October to December each year to protect breeding whelks.
5. After further consideration of the available evidence, recent whelk landing data and the views of industry about the status of the fishery, the Welsh Government recognises there is still a need for landing caps to conserve stocks and ensure the sustainability of the Welsh whelk fishery.
6. The Welsh Government is now proposing to introduce a whelk authorisation scheme and an overall annual limit on the amount of whelk that can be taken from the Welsh zone. This annual limit will be linked to a revised flexible monthly landing cap on the amount of whelk each vessel can take.

¹ <http://www.legislation.gov.uk/wsi/2019/1042/made>.

² The Welsh zone is defined by Article 3 of and Schedule 1 to the [Welsh Zone \(Boundaries and Transfer of Functions\) Order 2010/760](#).

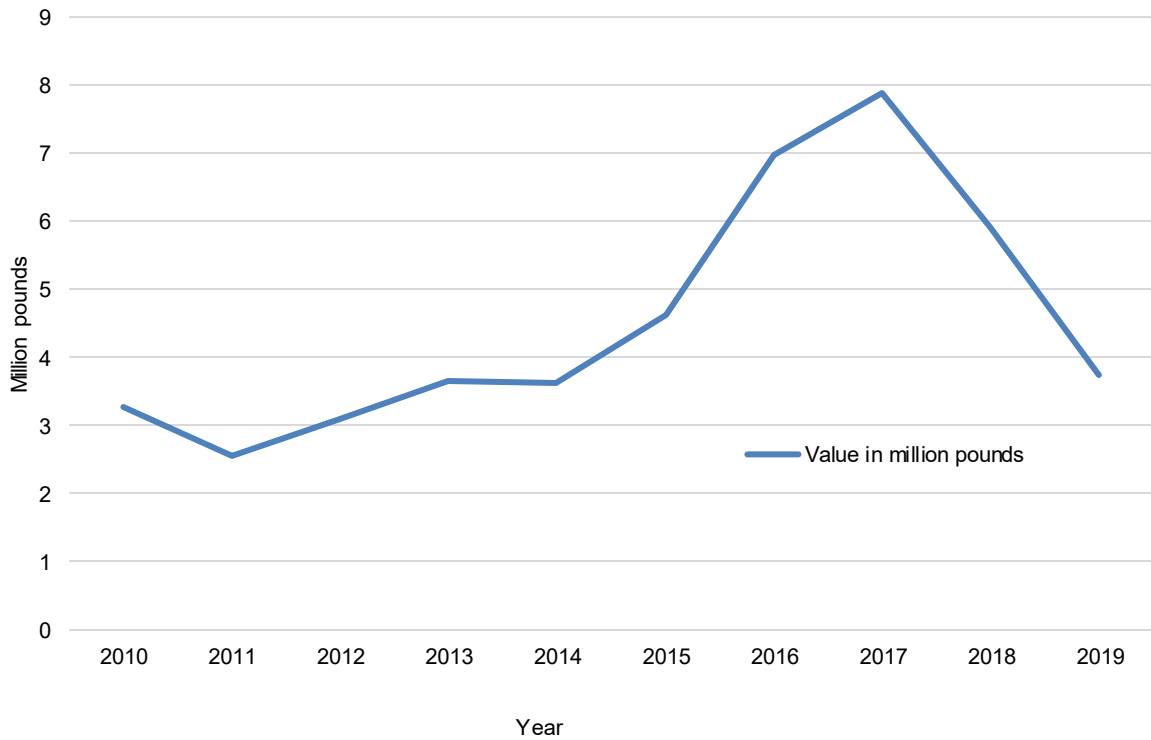
7. Introducing an authorisation scheme for vessels fishing for whelk in the Welsh zone (which includes but is not limited to the territorial sea out to 12nm) was supported by 94% of respondents to the 2017 consultation on 'Sustainable Management Measures for the Welsh Whelk Fishery'³. Additionally, 67% of respondents supported the introduction of flexible conditions to the authorisation which could be reviewed periodically, with 76% supporting a cap on the weight of whelk that could be landed each month.
8. In this consultation we are seeking views on our detailed proposals to introduce:
- An authorisation scheme for all UK vessels taking whelk with pots in the Welsh zone,
 - An annual limit on the total amount of whelk that can be taken from the Welsh zone, and
 - A flexible monthly landing cap for authorised vessels.

Why are additional management measures needed?

9. Whelks are an important commercial non-quota shellfish with landings from the Welsh zone valued at approximately four million pounds in 2019 (see Figure 1). The Welsh whelk fishery saw a steep rise in landings during the period 2015-2017, (see Figure 2) largely driven by an increasing value per tonne (see Figure 3). Landings fell in 2018 and 2019.

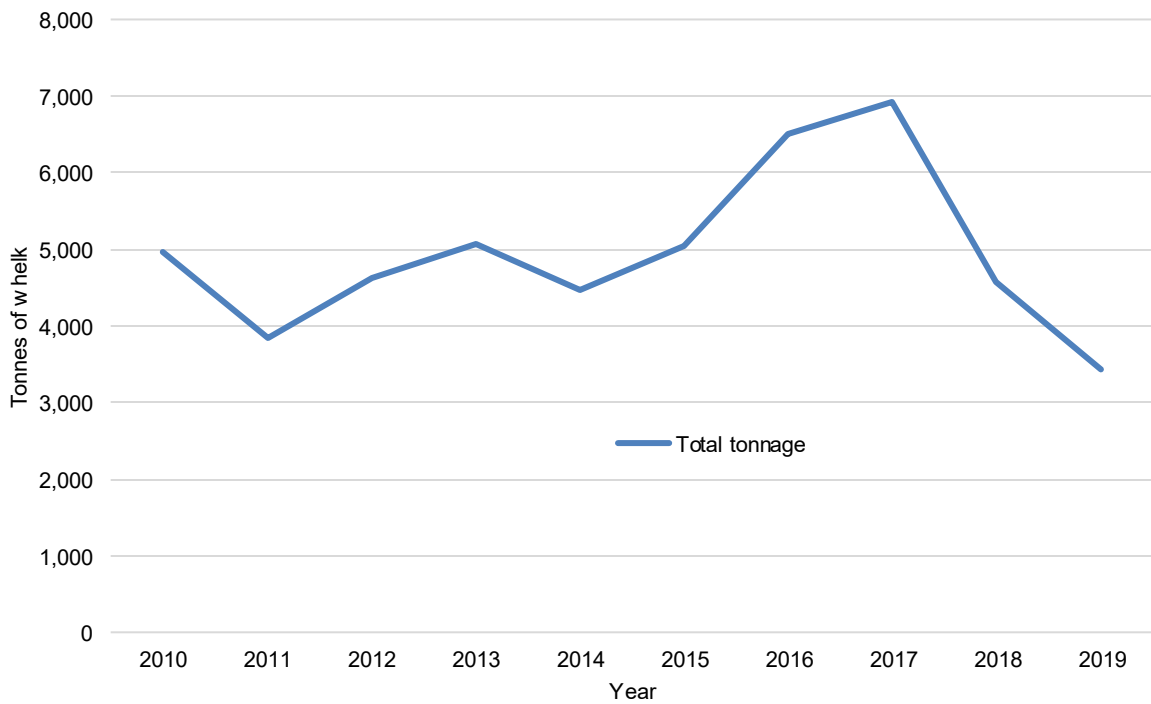
³ https://gov.wales/sites/default/files/consultations/2018-01/summary_of_responses-en_0.pdf.

Figure 1: Overall value of whelk landed into Wales by UK vessels



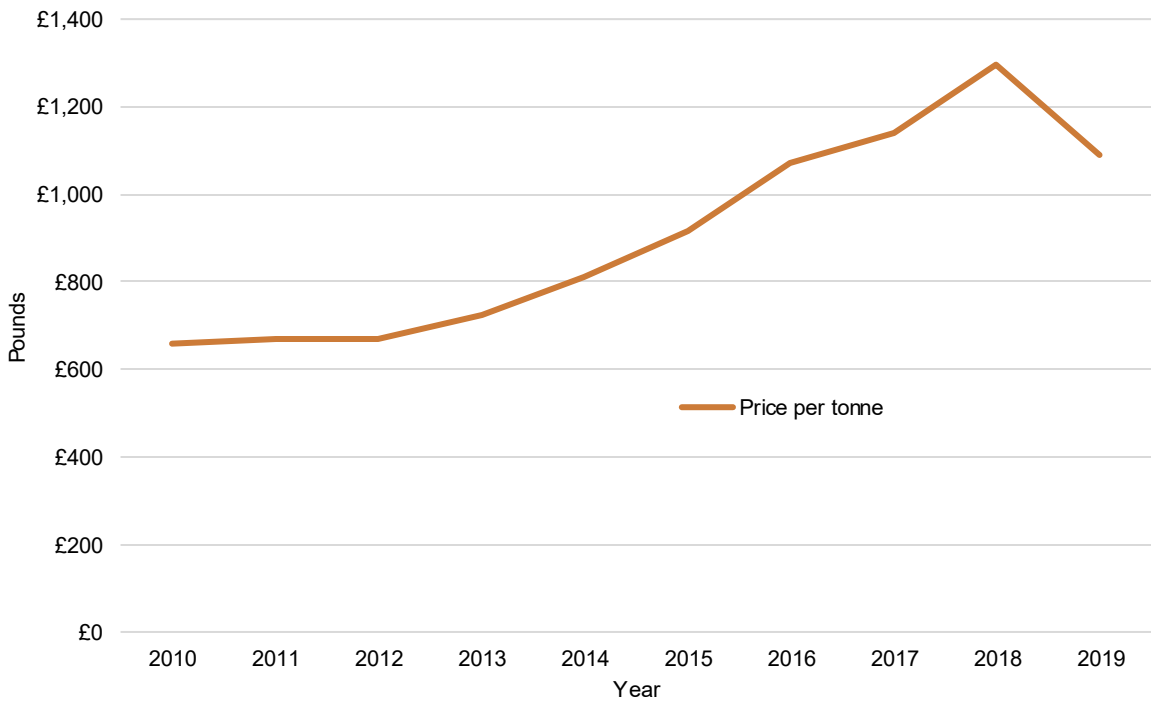
Source: MMO January 2020

Figure 2: Quantity of whelk landed into Wales by UK vessels



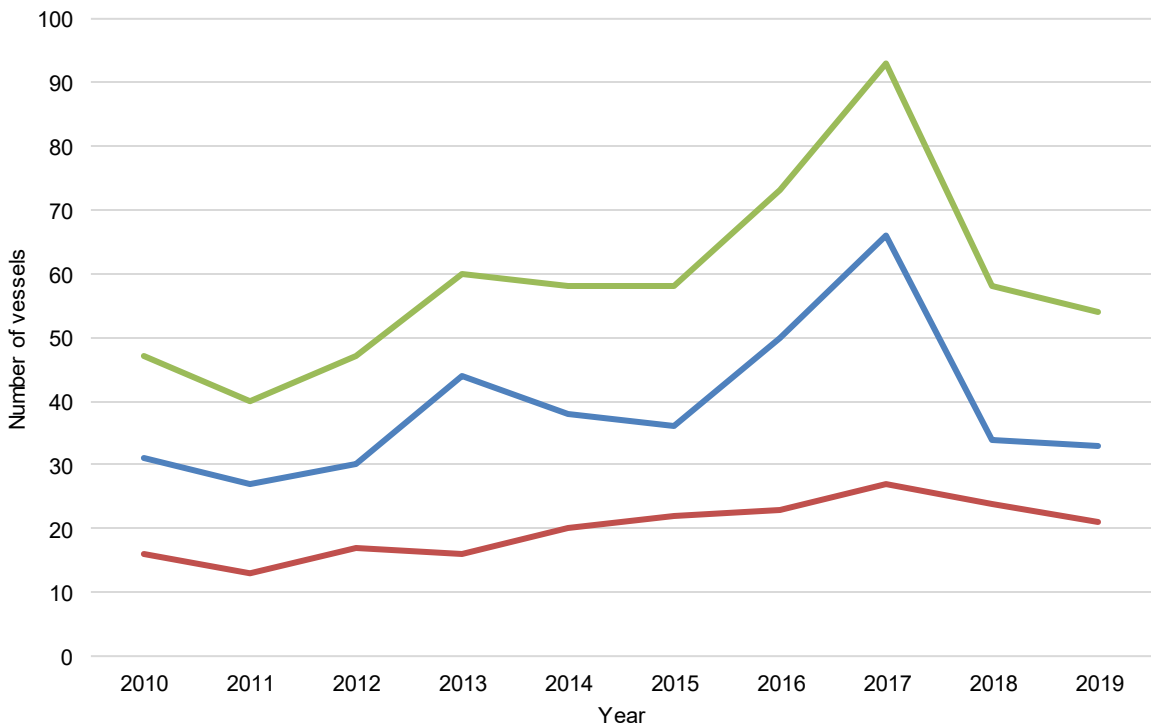
Source: MMO January 2020

Figure 3: Annual average whelk price per tonne



Source: MMO January 2020

Figure 4: Number of UK vessels landing whelk into Wales



Source: MMO February 2020

— Number of vessels 10m and under — Number of vessels over 10m — Total number of vessels

10. At present, the reduced landings in 2018 and 2019 cannot be attributed to a specific cause. This reduction may have been influenced by a combination of factors such as a reduction in the number of vessels fishing for whelks (see Figure 4), the increase in the minimum landing size (July 2019) or adverse weather conditions.
11. Almost all whelks are caught in baited pots, although some are taken as a bycatch of other fisheries. At present the minimum landing size is the only species-specific management measure in place for whelk.
12. Whilst the increased minimum landing size will protect the majority of whelks until they have bred at least once, the Welsh Government are also commissioning a stock assessment to inform future management of the whelk stock.
13. Now the UK has left the EU, more UK fishers may target whelks as prices have increased in recent years and they are primarily exported to non-EU countries. These factors increase the likelihood of over exploitation of this non-quota stock in the near future and necessitates the introduction of new management measures to conserve stocks.

What measures are being proposed?

14. The Welsh Government intends to refine the landing caps proposals announced in June 2019 (see paragraph 3 above). We now propose to introduce the following whelk management measures throughout the Welsh zone:
 - i. The introduction of annual whelk authorisations (either a permit or a licence) for all UK vessels taking whelk with pots except those:
 - Which are under 10 metres in length and which do not have an engine to power the vessel, or
 - Which are wholly used for the purpose of conveying persons wishing to fish for pleasure
 - ii. An annual fee for each whelk authorisation (no charge will be made in the first year of the scheme's operation).
 - iii. An 'annual limit' on the total amount of whelk to be taken from the Welsh zone by UK vessels in a year. The Welsh Government recognises that issuing a landing cap without controlling the total amount of whelk landed could lead to unsustainable fishing pressure.

- iv. A flexible monthly landing cap introduced as a condition of the whelk authorisation. The landing cap will limit the amount of whelk each vessel may take with pots during a given month in order to ensure the annual limit (see iii) is not exceeded. The landing cap may vary up or down.
- v. Any measures identified as a result of the required Habitats Regulation Assessment⁴. Welsh Ministers must implement such measures and, if any are required, they will appear on the face of the legislation establishing the new authorisation scheme.

15. Authorisation conditions may be added, removed or varied from time to time as required to regulate the fishery.

16. The measures proposed in this consultation may necessitate consequential amendments to relevant Welsh Government Fisheries Byelaws⁵ currently in force.

17. There will no longer be a requirement for additional controls during a specific biologically sensitive period (October to December). Landings are usually lower during this period because sexually mature whelks do not tend to feed. Consequently, they are not attracted to baited pots at a time when adverse weather condition usually limits fishing activity.

18. Initially, these measures will apply only to UK vessels. Once the post-Brexit regulatory and legislative framework has been determined, the Welsh Government will consider whether to apply these measures to non-UK vessels.

⁴Section 63 of [The Conservation of Habitats and Species Regulations 2017](#)

⁵ <https://gov.wales/sea-fisheries>

Section B: Details of proposed whelk authorisations

Authorisation application process

19. We propose the whelk authorisations will be valid for one year from the beginning of March through to the last day of February the following year. This annual period broadly aligns with the biological cycle of the Welsh whelk stock.
20. Each December, an 8 week application window will open prior to the commencement of the fishery in March. Should an applicant miss the window, late applications will be possible. Authorisations granted in respect of late applications will have the same flexible monthly landing cap with the same end date as authorisations applied for in-time.
21. All authorisations will cease to be valid on the last day of February following their granting, regardless of when they were applied for. For example, if an authorisation is granted on 21 July 2022, it will cease to be valid on 28 February 2023.
22. If these measures are introduced, it is intended the first application window would open towards the end of 2020 or early in 2021, with the first whelk authorisations being issued for the beginning of March 2021.

Charging a fee for authorisations

23. In the second and each subsequent year of the authorisation scheme we propose to charge a fee for whelk authorisations. The fee will reflect the costs of administering the scheme (excluding enforcement) and stock assessment surveys.
24. Welsh Government will use the first year of the scheme, for which there will be no charge, to gather information about the cost of managing the fishery thereby ensuring the cost of authorisations in subsequent years is accurately calculated and proportionate.
25. Welsh Government will consult on both the methodology for calculating the fee and the actual amount charged before the fee is implemented. That consultation may be limited to those with a direct interest in the fees concerned and will be held before the fees are applied.
26. Applicants who apply after the authorisation window has closed will still have to pay the full cost of that year's authorisation fee.

Scope and transfer of authorisations

27. Under the new authorisation scheme we propose that no individual will be able to take whelk without an authorisation unless using a vessel:

- Which is under 10 metres in length and is not powered by an engine, or
- Which is wholly used for the purpose of conveying persons wishing to fish for pleasure

28. Individual authorisations will be linked to named vessels. Authorisations will not be transferable between owners. Owners can request a change to the named vessel on their authorisation if they replace their vessel. There will be no charge for changing vessel details.

29. Fishing masters will be able to fish the vessel named on the authorisation on behalf of the vessel owner. Owners, masters and charterers will be jointly and severally liable for any offences committed.

30. The details required for a whelk authorisation are set out in **Box 1**

Box 1: Applicant details for a whelk authorisation

1. Vessel owner contact details, including:
 - Full name
 - Address
 - Telephone number
 - Email address (if available)
2. Vessel / licence details (if applicable), including:
 - Name of vessel
 - Port Letters and Numbers
 - Register of Seamen and Shipping number
 - General fishing licence number

The annual limit

31. To conserve stocks we intend to set an annual limit on the total amount of whelk which can be taken using pots from the Welsh zone.

32. In the first instance, we propose to set the annual limit at 5298 tonnes⁶. This is the average annual amount of whelk landed by UK vessels into Wales over a five year reference period 2015 – 2019.

33. In future, the Welsh Government intends to set annual limits based on the results of whelk stock assessments currently being commissioned.

34. We aim to complete the first whelk stock assessment by Spring 2021. This will inform the process outlined in **Box 2** for setting the annual limit for the second authorisation period due to commence in March 2022.

35. The annual limit may be varied annually, based on the latest evidence on whelk abundance.

36. Once stock assessment data is available, the annual limit will be set using the procedure outlined in **Box 2** (which will be published in a Welsh Government guidance document).

Box 2: Annual limit review procedure

1. **July** – Analysis and production of a summary report based on available and relevant evidence, such as:

- Scientific and survey data relating to whelk populations in the Welsh zone
- Scientific advice from CEFAS or other appropriate organisations
- Catch and landings information collected via catch returns, logbook and e-logbook
- Data / information supplied by fishers
- Any relevant and appropriate nature conservation assessment
- Advice provided by Natural Resources Wales
- Information from any other relevant sources

The summary report will recommend an annual limit for the coming year and set out the reasoning for that limit.

2. **August to October** – Consultation with existing or potential authorisation holders on the content of the summary report by such methods as Welsh Ministers consider appropriate.

⁶ Average landings from figure 2 over 5 year period: 5054 tonnes in 2015, 6509 tonnes in 2016, 6923 tonnes in 2017, 4563 in 2018 and 3441 in 2019

3. **November** – The Welsh Government determines and publishes the new annual limit on which the monthly whelk landing cap will be based.
4. **December** – The annual 8 week application window opens.

Flexible monthly cap condition

37. We propose allocating a flexible monthly landing cap to each vessel as a condition of their whelk authorisation.
38. Informed by the annual limit of 5298 tonnes (see paragraph 32 above) and historic fishing activity patterns we propose to allocate each vessel (regardless of size) an initial 50 tonne per month landing cap.
39. The landings of whelk by authorised vessels will be actively monitored against the annual limit of 5298 tonnes. We will ensure the annual limit of 5298 tonnes of whelk is not exceeded by adjusting the authorisation's monthly landing cap (up or down) as the authorisation period progresses. Based on data from previous years, it is highly unlikely more than a small proportion of authorised vessels will take their full monthly landing cap.
40. It is our intention to allow the 5298 tonnes to be taken across a 12 month period, through active management of the monthly landing cap. This will ensure there is enough whelk available for a sustainable year round fishery. However, in the event of an environmental or management emergency, the flexible monthly cap would be determined primarily by the need to conserve whelk stocks, rather than in relation to the annual limit. It would be possible, if the need arose, to close the fishery by reducing the monthly landing cap to zero.
41. The monthly landing cap will be reviewed and, if necessary, varied on a monthly basis. However, if an environmental or management need arises more frequent review and variation may be necessary.
42. Welsh Government will notify authorisation holders of any changes to the monthly landing cap.
43. Managing the fishery in the way described above should avoid fishers being pressured to take the landing cap in dangerous weather conditions during the winter months.

Additional authorisation conditions

44. We propose authorisation holders will be required under conditions to their authorisation to:

- I. Provide statistical information to the Welsh Government to enable stock assessments calculations. This may include data on numbers of pots fished, amount of undersized whelk returned to the sea, locations of fishing activity etc.
- II. Provide landings data direct to the Welsh Government.
- III. Retain and land only whole whelk, in their shell.
- IV. Have an active and functioning Vessel Monitoring System on board when taking whelk with pots in the Welsh zone.

45. For the purposes of conserving the whelk stock it will be possible to add new conditions to the authorisation and to vary the conditions from time to time. Such conditions will be proportionate, and, where appropriate, based on scientific evidence or administrative need.

Section C: Implementation

How will the proposals be implemented?

46. Welsh Ministers will use appropriate legislation to introduce a whelk authorisation scheme with flexible conditions as outlined in this consultation. The conditions attached to the whelk authorisation would be altered by the Marine and Fisheries Division of the Welsh Government from time to time as required in order to manage the fishery sustainably.

What will the effect of the proposals be?

47. It will be a criminal offence:

- i. For UK vessels to take whelk with pots in the Welsh zone without a valid whelk authorisation.
- ii. To contravene a condition of the whelk authorisation for example landing more than the flexible monthly landing cap permits in a calendar month.

Who will be affected by the proposals?

48. All UK vessels fishing for whelks with pots in the Welsh zone will require an authorisation (save for those falling within the exceptions given at paragraph 27 above). Owners, masters and charterers of any such vessels will be jointly and severally liable for breaches of the authorisation scheme.

What are we hoping to achieve?

49. This package of measures is intended to provide the Welsh Ministers with flexible powers to conserve whelk stocks. In the short term, they will prevent further increases in exploitation of whelk beyond current levels and ensure the stability of the fishery. In the longer term they will conserve stocks of Welsh whelk and help to ensure the sustainability of the fishery.

Whelk Management Measures 2020

Consultation Response Form

Name _____

Address _____

Organisation
(if applicable) _____

Telephone No. _____

Email Address. _____

What is your involvement in the fishing industry?

- Commercial Fisherman
- Recreational Fisherman
- Merchant/Processor (please state) _____
- Environment / Conservation
- Other (please state) _____
-

1. Do you agree with the Welsh Government's primary objective to conserve whelk stocks and thereby stabilise the Welsh whelk fishery?

Yes No No comment

2. Do you agree it should be prohibited for UK vessels to take whelk with pots from the Welsh zone without an authorisation?

Yes No No comment

3. Do you agree authorisations should be issued annually from the period beginning of March in one year to the end of February in the following year?

Yes No No comment

4. Do you agree the Welsh Government should charge a fee for an authorisation?

Yes No No comment

5. Do you agree with the process to set future landing caps in Box 2?

Yes No No comment

6. Do you agree it should be prohibited for vessel owners to fish beyond the authorised monthly landing cap?

Yes No No comment

7. Do you agree authorisation holders should provide statistical information to the Welsh Government, such as numbers of pots fished, amount of undersized whelk, location of fishing activity etc. to assist with stock assessment calculations?

Yes No No comment

8. Do you agree authorisation holders should be required to gather data (as described in paragraph 44) to assist with stock assessment calculations?

Yes No No comment

9. Do you agree authorisation holders should provide landings data direct to Welsh Government?

Yes No No comment

10. Do you agree the Welsh Government should ban authorised vessels from retaining or landing de-shelled whelk?

Yes No No comment

11. Do you agree authorisation holders should be required to have an active and functioning Vessel Monitoring System on board when fishing whelk with pots in the Welsh zone?

Yes

No

No comment

12. We would like to know your views on the effects of issuing whelk authorisations with a flexible landing cap on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Please enter your response here:

13. Please also explain how you believe the issuing of whelk authorisations with a flexible landing cap could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English Language.

Please enter your response here:

14. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter your response here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: