



## Note on changes to the fixed quota allocation system

### Introduction

1. This paper sets out guidance on the arrangements applying to the transfer of fixed quota allocation (FQA) units from 1 September 2002. It also explains new arrangements which will allow producer organisations (POs) to manage quota on behalf of vessels of 10 metres and under in their membership from that date. Further guidance may be obtained from the fisheries department contacts listed in Annex A.

2. The arrangements apply only where the holder of a licence entitlement wishes to separate FQA units from his licence entitlement. No action is required where all the FQA units are to remain with the licence entitlement as the units will automatically transfer with that entitlement.

**3. Where an entitlement holder wishes to separate FQA units from his licence entitlement, he must ensure that the separation has been completed before the licence entitlement is transferred.** Once the licence entitlement has been transferred to a new holder, the previous holder will have no authority to separate the FQA units associated with it.

### Background

4. The FQA system was introduced on 1 January 1999. Annual quota allocations made to POs and the non-sector are based on the FQA units associated with the licences of the over 10 metre fishing vessels in membership of these groups at 1 January each year. Allocations for the 10 metre and under fleet are based on units held collectively by fisheries departments in a single pool. For most stocks FQA units reflect fishing activity during the reference period 1994-1996.

5. Under the present arrangements it has only been possible to transfer FQA units with a vessel licence; the licence and FQA units could not be separated. In August 2002, and following a review of the operation of FQAs, fisheries departments announced changes which would, in certain circumstances, provide for FQA units to be transferred **separately** from licences. The following paragraphs explain how the new arrangements will work.

### Licence entitlements: separation and transfer of FQA units

6. From 1 September 2002 it will be possible to separate FQA units as part of a licensing transaction, namely:

- a) whenever a licence entitlement is created
- b) at any time between the creation of an entitlement and its placement on a fishing vessel.

7. Such units may be transferred to:

- licences already on fishing vessels (including vessels 10 metres and under)
- other licence entitlements

- “dummy licences” held by producer organisations
- a holding statement under the replacement vessel provisions (see paragraph 18).

8. During the life of a licence entitlement there is no restriction on the number of occasions on which FQA units may be transferred from the entitlement. All or some of the units may be transferred and may be split between more than one recipient licence/licence entitlement/dummy licence/FQA replacement vessel holding statement.

9. To affect a transfer of FQA units, the entitlement holder(s) must complete a copy of form FQA 2. To obtain an FQA 2, the entitlement holder(s) should contact the relevant fisheries department (see list of contacts at Annex A), providing details of the licence entitlement number. The form, which will show the FQAs recorded for the licence in the FQA register, will then be issued by the fisheries department to the entitlement holder for completion: it must also be signed by the holder(s) of the recipient licence/ entitlement. A specimen of this form is included at Annex B.

10. Once the FQA 2 has been properly completed both by the donor and the recipient, **it is the donor’s responsibility to ensure that the FQA 2 is returned to the appropriate Fisheries Department**, but a copy should be retained by both the donor and recipient for future reference.

11. If the donor intends to transfer FQA units from his licence entitlement to two or more recipients, a separate FQA 2 will be required for each recipient licence.

**12. On receipt of the completed FQA 2 the fisheries department will copy it to the POs of both the donor and the recipient.** The fisheries department will amend the FQA register to reflect the approved transfer and will issue an FQA statement to donor and recipient to show the revised units, as recorded on the register, associated with their licences. Where fisheries departments receive an application to place a licence entitlement upon a vessel, and an application has already been made to transfer FQA units from that licence entitlement, the placement of the entitlement will not be processed until the transfer of FQA units has been completed.

13. The arrangements set out above are also subject to the following conditions:

a) **A licence entitlement cannot be placed back (either singly or as part of an aggregation) by the original holder of the entitlement, or any subsequent holder, onto the vessel from which it arose if any of the FQA units have been transferred from the entitlement.** The only exceptions are if the entitlement holder is able to:

- reinstate the units which had been transferred from the licence
- add to the entitlement other FQA units which have the cod equivalent of those which had been removed.

If any owner wishes to utilise these provisions he should contact the relevant fisheries department. This limitation supports the decision to restrict the transfer of FQA units to genuine licensing transactions, thus precluding the temporary creation of licence entitlements in order to move units from one licence to another without entitlements moving between vessels.

b) **A licence entitlement, from which FQA units have been separated, may not be placed on a vessel fishing in the non-sector, either singly or as part of a licence aggregation.** This restriction is complementary to that in the current quota management rules which prevents the owner of a PO vessel from removing its FQA units and joining the non-sector (paragraph 11.8 of the 2002 Quota Management Rules). Therefore, from 1 September 2002, no vessel will be allowed to fish in the non-sector unless its licence carries the units associated with that licence

## Transfer of FQA units from “frozen” licences

14. Under arrangements announced in November 1995, fisheries departments will not normally agree to the transfer of licences from vessels which are under investigation by departments or which are subject to court proceedings for fishing offences. Such restrictions (known as the “freezing” of the licence) apply until the investigation or court proceedings have been concluded and any fines or costs paid.

15. Where a licence is “frozen” under these arrangements, Departments will not permit the transfer of any FQA units associated with the licence until the freeze has been lifted.

## Allocation of track record

**16. These arrangements provide for the transfer of FQA units only.** There is no provision for the transfer of track record. Consequently track record for any non-quota stocks will remain with the licence entitlement arising from the vessel that caught these stocks.

## Replacement vessels

17. Special arrangements have been made to allow a vessel owner to retain his FQA units where the vessel owner is:

- disposing of the existing vessel together with its licence
- disposing of the existing vessel and licence separately **and** intends to acquire a replacement vessel.

18. In these circumstances the owner may retain separately on a temporary basis some or all of his FQA units for the purpose of associating them with the licence of a replacement vessel. Owners wishing to make use of this provision should contact their fisheries department (see Annex A) for an application form FQA 3 (copy at Annex C). Upon receipt of a completed application the relevant fisheries department will amend the FQA register and issue an FQA holding statement.

19. Under the replacement vessel arrangements there is a one-off opportunity to transfer all or some FQA units to other licence entitlements/licences/PO dummy licences or to other fishermen holding units under the replacement vessel provisions. If the vessel owner wishes to take the one-off opportunity he should, after receiving his FQA holding statement (paragraph 18) follow the FQA 2 procedures outlined in paragraphs 9 to 12 above. Once the opportunity has been taken, it will not be possible to transfer further units prior to the transfer of the remaining units to the licence of the replacement vessel. However, if the holder of an FQA holding statement acquires FQA units from others who are eligible to transfer them (such as licence entitlement holders) they may be added to his FQA holding statement.

20. Holders of FQA holding statements at 1 January each year will have the opportunity to attribute the FQA units on their statements to a PO or the non-sector for the purposes of counting towards the quota allocations of the group in question. Such attributions will be on an annual basis and will cease once the FQA units have been transferred to the licence of the replacement vessel.

21. The following conditions will also apply to the replacement vessel arrangements:

- a) The FQA holding statement will be valid for **one year**, subject to any extension approved by fisheries departments. Such an extension may be granted for a second year and exceptionally for a third. In each instance, the vessel owner will need to set out a case for an extension to be granted. Fisheries departments will also require evidence (such as in the form of a contract) of a binding commitment to acquire a replacement vessel, with a firm date for delivery.
- b) If the arrangements to acquire a replacement vessel collapse, the holder of the FQA holding statement must write to the relevant fisheries department as soon as possible setting out the position. The department will consider any request for the units to be transferred to another licence or entitlement in the light of the circumstances of the case. Fisheries departments reserve the right to cancel or re-deploy the FQA units on the holding statement as they see fit.
- c) It is **not** possible to transfer an FQA holding statement unless such action is necessitated by a change in business ownership.

## **Retrospective application of the new arrangements**

22. The arrangements set out above will apply retrospectively to licence entitlements in existence during the period 9 October 2001 to 31 August 2002. Therefore:

- a) where a licence entitlement, which was in existence between those dates, remains as an entitlement on or after 1 September 2002, the entitlement holder can simply apply for the transfer of FQA units under the procedure set out above
- b) where a licence entitlement was placed or aggregated onto a vessel between 9 October 2001 and 31 August 2002, the fisheries department will write to the current holder of the licence giving him the option of transferring the FQA units which had been associated with the entitlement in question.

## **Sectoral management of vessels 10 metres and under**

23. From 1 September 2002 POs will be able to manage "sectoral" quota allocations for vessels of 10 metres and under in the same way as for vessels over 10 metres.

24. No quota transfer will be made to POs from the 10 metre and under fleet's "pool" of quota allocations in respect of vessels fishing against PO allocations. Instead, such vessels will have to fish against quota:

- a) made available by the PO from its existing quota allocations
- b) leased in by the vessel owners or by the PO on their behalf
- c) generated by FQA units acquired by 10 metre and under vessel owners.

25. The following arrangements and conditions will apply.

- a) With immediate effect the owners of 10 metre and under vessels will have the opportunity to acquire FQA units and to associate these with their vessel licences.
- b) It will be open to 10 metre and under vessel owners to obtain FQA units from the licences of over or under 10 metre vessels but only from:
  - those eligible to transfer FQA units under the provisions of paragraphs 6-22 above
  - other 10 metre and under vessels, whose owners wish to rejoin the 10 metre and under pool (see below)

- the FQA unit holdings of successful applicants under the 2001/2002 decommissioning schemes
  - the FQA units associated with licence entitlements to be used for engine power purposes (for which separate transfer arrangements exist).
- c) A 10 metre and under vessel owner wishing to join a PO may acquire FQA units while fishing in the 10 metre and under pool but must take up sectoral management within a PO by the end of the year following the year in which he first acquired FQA units.
- d) The sectoral management arrangements for 10 metre and under vessels will operate in the same way as for vessels over 10 metres. In other words, if a PO has sectoral management responsibilities for both whitefish and pelagic stocks, a 10 metre and under vessel will fish against PO allocations for both. Where the PO only manages whitefish allocations, its 10 metre and under vessels will fish against the 10 metre and under pool allocations for pelagic stocks and the owner must dispose of any FQA units for pelagic stocks.
- e) The owners of 10 metre and under vessels who have elected to fish against a PO's allocations **must** complete EU logbooks and submit landing declarations in the same way as for vessels over 10 metres.
- f) It will be open to a 10 metre and under vessel to switch to fishing against PO allocations in-year, provided that the vessel has secured PO membership not only for the remainder of the current year but also for the entirety of the following year.
- g) No vessel fishing against a PO allocation will be able to revert to fishing against the 10 metre and under fleet's pool allocations in-year.
- h) Before rejoining the 10 metre and under pool a vessel will have to divest itself of any FQA units associated with its licence, by transferring them to another vessel licence/licence entitlement/PO dummy licence or FQA replacement vessel holding statement.

## **Application of arrangements to 10 metre and under vessels**

25. The arrangements for the transfer of FQA units, and for replacement vessels, set out in paragraphs 6 to 21 will also apply to 10 metre and under vessels. FQA units may be transferred from over 10 metre licence entitlements to 10 metre and under licences/ entitlements, and vice versa.

**Fisheries departments**

**1 April 2010**

## **Annex A**

### **For licences administered from ports in England and Wales**

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### **For licences administered from ports in Scotland**

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### **For licences administered from ports in Northern Ireland**

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