



**SCOTTISH  
FISHERMEN'S  
FEDERATION**

# THE 3-mile Limit HISTORY AND FACTS AN SFF PERSPECTIVE

# Introduction

The Scottish Fishermen's Federation (SFF) is a democratically constituted industry group set up in 1973 and its key aims are:

- ◆ **Preserve and promote the collective interests of the Scottish Fishermen's Federation constituent associations.**
- ◆ **Ensuring a viable and sustainable future for the fleet in terms of both economics and environmental responsibility.**
- ◆ **Working to improve the perception of the fishing industry, attracting new entrants and ensuring professional standards of training and safety.**

Fishing in Scotland has evolved and developed over many generations, due to the fantastic resource that abides in our waters. From the early days, it provided much needed employment and good protein for coastal communities and now it has become an essential part of the economy around Scotland's coastline and Islands.

The fishing industry, being a traditional user of the sea, has always continued about its business, catching fish and shellfish. In order to improve sustainability, management developed to control quota fisheries, and a degree of shore side representation evolved to cover these matters. With the increasing interest in marine management in all its forms, it is fast becoming a crowded policy arena, which the fishing industry has had to adapt to.

The fishing industry is inextricably connected with the environment it depends upon and shows a strong intent to respect and protect it. It is also fundamental to acknowledge that the fishing industry has an unquestionable, inherited link to the Scottish identity.

In the new global paradigm of sustainable, green politics, there has been a rapid increase of campaigns by environmental Non-Governmental Organisations (eNGOs). Mainly using social media, the campaigns are often critical and attack certain types of fishing. In some of these cases a compromise or consensus is difficult to find, but, even so, the SFF policy has always been one of seeking an honest, open dialogue. The SFF looks to prioritise science-based, pragmatic positions which recognise the role of the International Conference on Exploration of the Sea (ICES)<sup>1</sup> and the precautionary principle. Going forward the SFF as representatives of primary producers of food is conscious of the debate on provenance, which we would gladly engage with to help improve consumers knowledge of the food supply chain.

The idea of reinstating the old concept of a 3-mile limit to exclude mobile gear vessels has now been brought forward by multiple eNGOs. This idea, the history of which is described in the following paragraph is, de facto, opposed by a majority of fishermen across all sectors. The campaign culminated in articles in the Press & Journal in 2019, and has now a coalition, seeking to lobby government to e-introduce a ban on mobile gear inside the 3-mile limit.

Due to the evolution of fisheries management over the last 50 years, the fleet structure is vastly different than when the 3-mile limit was originally rescinded. Because of this, the SFF believes that the 3-mile limit will not help sustainability, and that conservation needs to be dealt with by evidence through the Marine Scotland & Stakeholders Process using the strongly established MPA and PMF framework.

In this paper the SFF has set out its views, analysing the history of the 3-mile limit, the development of the static and mobile *Nephrops* fleets, and what we believe is a fair and sensible approach to the question, "is there a need for a 3-mile limit?"

<sup>1</sup> ICES website



# History of the 3-mile limit

The 3-mile limit as we understand it in the modern paradigm didn't exist until the 19<sup>th</sup> century. Seaboard limits were simply implemented to define control of all marine resources and to illustrate power of individual nations. Countries continued to develop these "territorial waters" through many different ideas and methodologies; e.g. measuring in leagues, the length of an arrow flight or the distance a cannon-ball flew. Eventually this led to the international acceptance of nautical limits for territorial waters<sup>2</sup>.

The first "3-mile limit" in the United Kingdom (UK) was implemented in Yarmouth in the early 18<sup>th</sup> century (1718), to prevent smuggling. The United States (US) introduced their first formal 3-mile limit in 1793. When the UK became a dominant international power between 1800 and 1914 due to the extent of its empire and the strength of the Royal Navy, many countries followed rules similar to those in the UK. As a result, many countries implemented the 3-mile limit<sup>3</sup>.

Between 1839 and 1882, there were five international conventions on territorial waters. These concluded in the International Agreement of 1882, which specified the three-mile limit as we know it today. This three-mile limit can be defined as "limiting the seaward extension of a coastal state's territorial jurisdiction at the outer boundary of a zone of water extending three (nautical) miles from the shore (low-water mark) of that state"<sup>4</sup>.

In 1883, the UK enforced the three-mile limit across its entire empire in the Sea Fisheries Act, as the "exclusive right to fish". This was extended in 1889 by the Herring Fishery (Scotland) Act, which banned trawling 3 miles around (most parts of) the coast due to concerns of declining catches<sup>5</sup>. Additional laws were implemented to enforce this limit, like the Illegal Trawling (Scotland) Act of 1934<sup>6</sup>. Scallop dredging was never included by these limits, perhaps related to the fact that commercial scallop dredging originated in the early 1930s on the West Coast of Scotland and developed rapidly in the '60s and early '70s<sup>7</sup>. Also, fishing by scallop dredgers in the Scottish 0 to 6nm zone only takes place in 13% of the sea area<sup>8</sup>.

The 1964 Fisheries Limits Act amended the regulations to the UK fisheries, with an exclusive limit of 6-miles and a 12-mile limit with partial access for other nations. This Act was brought in line with the European Union (EU) regulations in 1974, which included an exclusive 6-mile limit, a 12-mile limit with partial access and a 200 mile or median line boundary. The most recent legislation gives the interpretation of Scottish inshore waters as a 6-mile limit and rescinded the 3-mile limit<sup>9</sup>.

Now that the UK is negotiating an exit from the EU, the fishing industry understands that UK limits will revert to the United Nations Law of the Sea: Exclusive management out to 200 miles or median line.<sup>10</sup>

<sup>2</sup> (Swarztrauber, 1970)

<sup>3</sup> Same as (1)

<sup>4</sup> Same as (1) and (2)

<sup>5</sup> Same as (1) and (2) and (3)

<sup>6</sup> (Scottish Government, 1934)

<sup>7</sup> Scottish Government

<sup>8</sup> Marine Scotland – private discussions

<sup>9</sup> (Scottish Government, 1984)

<sup>10</sup> (United Nations (UN), 1982)





# Introduction to the Scottish *Nephrops* fishing fleet

It is difficult to determine which vessels in the Scottish fishing fleet are dependent on 3-miles close to shore. Many vessels fish both in- and outside these 3 miles. Using data published as Scottish Sea Fisheries Statistics, Table 1 gives an overview of the *Nephrops* fishing fleet, divided by the way they target their catch. This paragraph will describe the increase in vessel numbers, then move onward to tonnage and capacity later in this chapter. Unfortunately, the data Marine Scotland hold prior to 1995 does not provide a complete picture particularly for the number of <10m vessels and their activity, so that year was chosen as the best representation of the fleet.

YEAR	NEPHROP CREEL	LANDED(T)	TRAWLERS	LANDED (T)
1995	202	833	368	13311
1998	151	N/A	311	19400
2003	346	1588	296	20589
2013	351	1638	241	16829
2018	310	1335	214	16797

**TABLE 1** | *An overview of the fishing vessels dependent on Nephrops<sup>11</sup>*

In 1995, there were 202 *Nephrops* creel vessels. This number increased, apart from a blip in 1998, to 310 in 2018, an estimated growth of over 50%. The number of *Nephrops* trawlers, has steadily declined from 368 vessels in 1983 to 214 in 2018, a loss of about 42%.

Looking at the tonnage caught per vessel, Marine Scotland's statistics show an average of 4.1T/ creel vessel in 1995, going up to 4.6T in 2013 and falling back to 4.3T in 2018. For trawlers, the tonnage remained almost the same from 69.56T in 2003, to 69.83T in 2013 and up to 78.5Tn 2018.

The conclusions which can be drawn from this data, are shown in table 2.

	CREEL	TRAWL
NUMBER OF VESSELS	Increased	Decreased
TONNAGE / VESSEL	Peaked in 2013, 2018 very similar to 2003	roughly similar over time before peaking in 2018

**TABLE 2** | *Overview of conclusions based on the data in table2.*

<sup>11</sup> (Scottish Sea Fisheries Statistics, n.d.)

In terms of value, the 2017 report, *Analysis of the Nephrops Industry in Scotland*<sup>12</sup>, breaks the fleet into 2 creel sectors, over & under 10m and 6 trawl sectors, North Sea & West of Scotland by under 10m, 10-15m and over 15m. While there are clear discrepancies in earnings and profits between larger trawlers and smaller creelers, it is interesting to note that the Gross Value Added per Full Time Employee is similar across the fleet.

The study concludes that there is no real evidence that creeling is more economically beneficial than trawling, and the competitiveness analysis showed the larger creelers and the trawlers were remarkably similar. The study also concludes that the diversity of the sector is well suited to the geography of Scotland, and is as a whole beneficial to the peripheral regions in which it operates.

As we note that the trawlers' catch has not reduced in line with the reduction in number of vessels, it is not unreasonable to expect that the creel sector's catch would have increased over time, due to:

- ◆ **Technological advances in vessels. Vessel design have become stronger and more advanced through the years meaning vessels are now able to safely work more grounds and venture further afield.**
- ◆ **The amount of gear per vessel. A Marine Scotland report<sup>13</sup> concluded that the amount of gear worked per vessel has increased, up to 2500 *Nephrops* creels on one vessel<sup>14</sup> was noted in the survey.**

However, the data presented above show that is not the case. Possible reasons for the lack of increase over time could be a decline in the catch-per-unit-effort (CPUE) of the creel sector. Anecdotal evidence from active fishers, with which even those who support reintroduction of the 3-mile limit agree, is that they have to fish more creels to maintain the same catch and there is more competition for grounds due to the increase of gear per vessel.

According to the Creel Fishing Effort Study<sup>13</sup> the biggest concern for creel fishermen in the past was losing their gear to trawlers or dredgers, whilst this concern faded into second place in 2017. This can simply be explained by the trawl fleet being reduced in numbers by around 50% and the growth of the creel sector. It seems that the first concern for the creel fleet nowadays is the competition with their peers for space.

<sup>12</sup> *Analysis of nephrops industry in Scotland (2017)* Anderson Solutions

<sup>13</sup> *Creel Fishing: Effort Study (2017)*, Scottish Government

<sup>14</sup> (Scottish Sea Fisheries Statistics, n.d.)



Many creel fishers admit that they would not survive now on the number of creels they started out with in the past. Creel fishermen are beginning to understand this problem and have started to ask for the introduction of management, as without this, the fishery cannot continue sustainably<sup>15</sup>.

The most recent Marine Scotland consultation on the issue of creel limits in 2013 concluded that there was no need for creel limits to be set. However, in the years since then many of the Inshore Fisheries Groups Management Plans<sup>16</sup> have considered that to maintain/improve the fishery, creel limits of some description, would be an appropriate part of a suite of management measures in their jurisdiction.

<sup>15</sup> West Coast Inshore Fishing Group Minutes, January 2020

<sup>16</sup> Regional Inshore Fishing Group Management Plans can be found on the RIFG Website



## Other sectors' views & SFF counterpoints

The various groups campaigning for the 3-mile limit lists the benefits of the 3-mile limit as solving gear conflict, giving opportunity to expand the creel sector, expanding the marine protected areas and protecting nursery grounds for fish and shellfish.

## SOLVING GEAR CONFLICT

The SFF welcomes every opportunity to try and solve gear conflict, but questions whether it will be solved by simply implementing a 3-mile limit. The campaigners don't ask for a strict gear-separation; they expect mobile gear to avoid the area inside 3-miles while the creel fleet – potentially expanded - are still planning to fish outside the 3-mile limit. The SFF believe that co-existence is better than exclusion, so the problem will not be solved; it will be moved outside the 3-mile limit.

## EXPANDING THE *NEPHROPS* CREEL SECTOR

The SFF also questions the opportunities to expand the creel sector. There is currently no limit to the number of creels a fisherman can deploy, or the soak time, and it is thought that the number of creels deployed rose significantly in the last few years<sup>17</sup>. This development is part of the reason for the increase in gear conflict, but there are also other reasons for concern.

The impact of expanding the creel sector are unknown, and should be researched thoroughly before sustainability claims can be supported. There are many unknown factors, like the stock status of the fished species, the exact number of creels deployed, the soak time, the number of "ghost"-creels on the seabed, the sustainability of the catches and the market for these species. An example is the export market for brown crab to China, which began for UK fishers in 2015. China has since twice ceased imports from the UK and at those times the demand & price has declined dramatically<sup>18</sup>. We have also now seen the impact of COVID-19 on all sectors of entire shellfish fleet, wiping out the market. Under these circumstances, it is questionable whether an expansion of the creel sector is sustainable, therefore we must revert to the precautionary principle and model or other forms of assessing both the benefits and impacts should be undertaken before there is any further expansion.

<sup>17</sup> Anecdotal evidence from fishers

<sup>18</sup> DEFRA

To suggest that converting trawl or dredge vessels to creel vessels could be seen as mitigation for the ban on mobile gear is avoiding the problems of displacement for these vessels and ignoring the increased number of creels in an already constrained area. Furthermore, to maintain current market supplies, the number of vessels will need to increase from around 200 creel vessels to over 2000 creel vessels in order to catch the same amount of prawns the whole fleet currently lands<sup>19</sup>. The same study identifies the diversity of the *Nephrops* industry as a strength. By using the figures from the Creel Fishing Effort Study<sup>20</sup>, there is already an estimation of 1.2 million *Nephrops* creels on the West Coast of Scotland, so where would a ten-fold increase such as that go?

Lastly, this suggestion could simply be interpreted as one sector trying to secure access to grounds over another sector.

## PROTECTION OF MARINE FEATURES

The SFF is supportive of the Marine Protected Area (MPA) network and the additional protection of the Priority Marine Features (PMF), when there is scientific justification. Scientists in SFF and its constituent associations are actively engaging with Marine Scotland to determine appropriate protection and the minimisation of interaction/interference with the fishing activities. The SFF considers the advice given to Marine Scotland by Scottish Natural Heritage and agrees this is the most appropriate way to develop fisheries management measures to protect sensitive features, always bearing in mind that the measures relate to protection of features, and are not there to serve the purpose of fisheries management.

The SFF is also involved with the Regional Inshore Fisheries Groups (RIFG) to support further management and conservation measures where necessary (i.e. protecting spawning grounds with voluntary closures like the herring spawning areas off Gairloch). As long as ICES advice states that to protect nursery grounds, all activity should be banned there, we cannot agree with claims that only certain types of fishing should be allowed inside spawning areas. If these nursery grounds are indeed in need of protection, apply a precautionary approach, and we would agree with scientifically justified closures through legislation or voluntarily where appropriate through the RIFGs. However, the SFF would be extremely concerned about any calls for the inappropriate use of MPAs and other forms of protection to favour one sector over another. MPAs and other forms of protection must be identified and legislated based on a robust framework and scientific evidence, and appropriate engagement with all parts of industry.

<sup>19</sup> Anderson Solutions (2017), Analysis of nephrops industry in Scotland

<sup>20</sup> Creel Fishing: Effort Study (2017), Scottish Government



# Conclusions

The SFF supports a sustainable harvesting of the national resource, acknowledging that fishing does not operate in 100% of Scottish seas, but recognises that a healthy and well managed ecosystem ensures the best catches. However, the 3-mile limit, with its historic basis as described in this paper, was never intended to be a mechanism for fisheries management and environmental preservation. It was never meant to cause a division between fishing methods, hence we cannot support a radical and unjustified proposal such as closing off to mobile gear the full 13,790<sup>21</sup> km<sup>2</sup> Scottish territorial sea baseline to 3nm. If additional areas or features need protection, their inclusion in the existing conservation and management framework, should be pursued through robust scientific evidence.

The 3-mile limit proposals are defined by the issues between the mobile and static sector in the west of Scotland. There is little *Nephrops* creel fishing on the east coast, so the mobile and static interaction there is limited to crab and lobster fleets, which have also grown significantly. Furthermore, any accidental interference between mobile and static vessels is largely dealt with by the fishers involved.

As the trawl fleet on the west coast has shrunk, the previously trawled grounds were taken up by creels. Now the creel sector has expanded so much that the mobile gear vessels are even more restricted in their activity. Therefore, the request for a 3-mile limit could be seen as a very protectionist argument, keeping the grounds inside the 3-mile limit open for only one type of fishing and will only suit those who fish that gear, displace others, but not on the basis of science that demonstrates this is necessary for the right protection to sensitive environments and features.

All fishing methods, mobile and static, will impact on the environment in some way, just as navigation, tourism, offshore energy generation or even just weather do; this is a fact everyone needs to accept as a compromise in the wider concept of securing food. If areas or features are found to need extra protection, the SFF welcomes their inclusion in the existing management frameworks, based on objective evidence.

<sup>21</sup> (Scottish Government, 2019)

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Scottish Fishermen's Federation  
24 Rubislaw Terrace, Aberdeen, AB10 1XE  
Telephone 01224 646944 | Email [sff@sff.co.uk](mailto:sff@sff.co.uk)

  [www.sff.co.uk](http://www.sff.co.uk)