



Title: Derogation 6: Covid-19 Fishery Conditions Extension

Relevant MSC program document(s) and clause reference(s):

- MSC Fisheries Certification Process (FCP) v2.2
 - 7.18.1.3
 - 7.18.1.5
 - 7.28.16.1
 - 7.30.5.2

Effective date: 28 March 2021. The derogation applies to any fishery that was certified against v1.3, v2.0 or v2.01 of the Fisheries Standard before 28 March 2021. The derogation also applies to suspended fisheries.

Expiration date: The derogation applies until all eligible conditions have been extended for all applicable fisheries.

Issuing authority and date: Dr Rohan Currey, Chief Science and Standards Officer, 24 February 2021

To: MSC Accredited Conformity Assessment Bodies

Cc: Assurance Services International

1 Objective of the derogation

- 1.1 To extend existing deadlines on eligible conditions by 12 months.
- 1.2 To provide a reprieve to fishery certificate holders that have the potential to face exceptional difficulties in making progress on conditions as a result of the impacts of Covid-19 on fisheries management systems.

2 Derogation requirements

2.1 Eligibility

- 2.1.1 The CAB shall only apply the derogation to conditions that are set against a Performance Indicator listed in Table 1.

2.2 Application of the derogation

- 2.2.1 For certified fisheries, the CAB shall apply the derogation at publication of the next surveillance audit report after 28 March 2021.
 - 2.2.1.1 If the fishery is in a reassessment, the CAB shall apply the derogation at publication of the Final Draft Report.
- 2.2.2 For suspended fisheries, the CAB shall apply the derogation prior to reinstating the certificate as per [GCR 7.4.5 and 7.4.6](#).

2.3 Derogation

- 2.3.1 The CAB shall extend the condition deadline by 12 months.
 - 2.3.1.1 The CAB shall confirm that the condition meets the eligibility criteria in 2.1.1.
- 2.3.2 The CAB shall revise condition milestones to account for the extended deadline.
 - 2.3.2.1 The CAB shall follow [FCP v2.2, 7.18.1.5 a–c](#).
 - 2.3.2.2 The CAB shall allow the client 30 days to revise the client action plan, where necessary.
- 2.3.3 The CAB shall clearly report condition eligibility, extended condition deadlines and revised condition milestones in the Surveillance Report (Sections 5.1 and 5.3).
 - 2.3.3.1 The CAB shall reference this derogation.
 - 2.3.3.2 If the fishery is in a reassessment, the CAB shall clearly report condition eligibility, extended condition deadlines and revised condition milestones in the next assessment report (e.g. Public Comment Draft Report) using the MSC Reporting Template (Sections 5.2.3 and 8.5).

Table 1: Eligible performance indicators

Performance Indicator	Description
1.2.1	Harvest strategy (management)
1.2.2	Harvest control rules and tools
1.2.3	Information / monitoring
2.1.2	Primary species management
2.1.3	Primary species information
2.2.2	Secondary species management
2.2.3	Secondary species information
2.3.2	ETP management strategy
2.3.3	ETP information
2.4.2	Habitats management
2.4.3	Habitats information
2.5.2	Ecosystem management
2.5.3	Ecosystem information
3.1.1	Legal and/or customary framework
3.1.2	Consultation roles and responsibilities
3.1.3	Long term objectives
3.2.1	Fishery-specific objectives
3.2.2	Decision-making processes
3.2.3	Compliance and enforcement
3.2.4	Monitoring and evaluation

FAQs and further guidance

1. Will fishery certificates be extended by 12 months along with the condition extension or will conditions be carried over into the subsequent certificate?

This derogation does not allow fishery certificates to be extended. If the extended condition deadline exceeds the current certificate duration, the CAB should consider the condition as an open condition at reassessment – please refer to FCP v2.2 7.30.5 for more information about open conditions at reassessment and carrying over conditions into subsequent certificate. Instead, the deadline to meet conditions on eligible performance indicators will be carried forward by 12 months.

2. What happens if the condition is not closed by the extended deadline?

If a condition is not closed by the extended deadline, then FCP v2.2 7.28.16.4 applies – suspension of the fishery certificate.

3. Does this derogation apply to new conditions being set during initial fishery assessment, scope extensions or re-assessments conducted after the effective date of this derogation?

No, this derogation applies to existing conditions only. If a CAB considers, at the time of drafting a condition for an in-assessment fishery, that there are exceptional circumstances and that achieving a performance level of 80 may take longer than the period of certification, the CAB may apply FCP v2.2 7.18.1.6.

4. Does this derogation apply to new conditions being set during surveillance audits or expedited audits conducted after the effective date of this derogation?

No, this derogation applies only to existing conditions set before the effective date of the derogation. If a CAB considers, at the time of drafting a new condition, that there are exceptional circumstances and that achieving a performance level of 80 may take longer than the period of certification, the CAB may apply FCP v2.2 7.18.1.6.

5. Does the condition deadline extension apply in addition to the 6-month condition deadline extension applied to all fisheries under the March 2020 Covid-19 derogation?

Yes, fisheries receiving the 12-month extension on eligible conditions under this derogation will effectively see a total extension of 18 months when also accounting for the existing six-month certificate extension delivered via the [Covid-19 derogation](#).

6. Does this extension apply in addition to other extensions previously granted to these conditions?

Yes, this derogation applies on top of existing extensions. This may include, but is not limited to, if:

- The CAB has applied FCP v2.2 7.18.1.6 (when the condition was originally set) due to exceptional circumstances.
- Variations have previously been applied to these conditions.

7. Do CABs need to demonstrate that fisheries are facing difficulties in making progress against eligible conditions in order to apply the derogation?

CABs and fishery certificate holders do not need to demonstrate that they are facing exceptional difficulties in making progress against eligible conditions because of the impacts of Covid-19.

8. Can Fishery Certificate Holders opt out of applying this derogation?

Yes, CABs should inform fishery certificate holders that they may request that no extension is applied to one or more eligible conditions. If the fishery certificate holders request that no extension is applied, the CAB should clearly report this decision in the Surveillance Report or relevant assessment report.

This option ensures that clients can maintain existing timelines where it is preferable to do so. For example, fisheries on track to be eligible for reduced reassessment may choose not to apply this extension to ensure the fishery has no conditions remaining after the third surveillance audit.

9. What if a fishery is facing difficulties in making progress against a condition not listed in Table 1 of the derogation?

The MSC recognise that in some cases, the Covid-19 pandemic may have impacted on progress against conditions on performance indicators not listed in Table 1.

If a fishery is facing difficulties due to Covid-19 in making progress against another condition, including where progress is directly linked to a condition covered under the derogation, the CAB may use a variation request as per GCR 4.12 to seek extension to the deadline for that condition. In this instance, the CAB will need to provide a justification for the request.

To aid consistency, variation requests that seek extension to condition deadlines should include the following scheme requirements:

- FCP 7.28.16.1.b
- FCP 7.28.16.2
- FCP 7.28.16.4

All variation requests will be considered on a case-specific basis by the MSC, and requests and responses will be posted on the MSC website.

10. Does the derogation apply to fisheries with eligible conditions that have already been assessed as behind target at a recent surveillance audit?

Yes, this derogation will apply either at the next surveillance audit or, if the fishery is in a reassessment, during the reassessment. At that time, the CAB shall extend the condition deadline and revise condition milestones as per 2.3 of the derogation. The CAB may re-evaluate progress and performance against the condition taking into account the revised milestones.