

STATES OF JERSEY



DRAFT SEA FISHERIES (MISCELLANEOUS PROVISIONS) (AMENDMENT No. 4)(JERSEY) REGULATIONS 200

Lodged au Greffe on 10th November 2006
by the Minister for Planning and Environment

STATES GREFFE



Jersey

DRAFT SEA FISHERIES (MISCELLANEOUS PROVISIONS) (AMENDMENT No. 4)(JERSEY) REGULATIONS 200

REPORT

Jersey and French commercial fishermen have adopted systems to regulate the number of pots used by them in the Bay of Granville to catch crabs and lobsters, but those systems depend on “tags” being fitted to all such pots. France has already introduced legislation to reinforce this requirement for the French part of the area and Jersey fishermen are currently required by the conditions of their fishing licences to fit the tags in the Jersey part of the area. These regulations require French fishermen working pots in the Jersey part of the area to fit tags to their pots thus harmonising the situation for Jersey and French fishermen; both French fishermen and administrators have agreed to such regulations. The approval of the draft regulations has also been obtained from the U.K. Secretary of State in accordance with the provisions of the Jersey/UK Fisheries Management Agreement and the Sea Fisheries (Jersey) Law 1994.

There are no financial or manpower implications arising from these Draft Regulations.

Explanatory Note

Regulation 1 identifies that the Regulations (the “principal Regulations”) being amended are the Sea Fisheries (Miscellaneous Provisions) (Jersey) Regulations 1998.

Regulation 2 enables the requirement under Regulation 8 of the principal Regulations that fishing gear be marked to be satisfied by marking a buoy attached to the fishing gear.

Regulation 3 inserts proposed Regulations 8A to 8E.

Proposed Regulation 8A sets out interpretation provisions to be included in the principal Regulations.

Proposed Regulation 8B establishes a requirement that no person shall carry a shellfish pot on a fishing boat, or work a shellfish pot, unless there is a pot tag, or a lost pot tag, attached to the pot.

However, this requirement does not apply in relation to –

- (a) persons fishing for pleasure;
- (b) persons acting for the purpose of scientific investigation;
- (c) a moored boat, if there are the requisite number of pot tags, or lost pot tags, on the boat; or
- (d) the situation where the French authorities, or the Minister, under Regulation 8C, have permitted the requirement not to apply.

Proposed Regulation 8C provides for the issue of permits by the Minister for the purposes of Regulation 8B set out in paragraph (d) above.

Proposed Regulation 8D provides for the issue of pot tags, or lost pot tags, by a person authorized by the Minister.

Proposed Regulation 8E enables pot tags, or lost pot tags, issued by persons before these Regulations came into force to remain valid.

Regulation 4 sets out the name by which the Regulations may be cited and specifies that the Regulations shall come into force 7 days after they are made.



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Arrangement

Regulation

- 1 Interpretation
- 2 Regulation 8 amended
- 3 New Regulations 8A, 8B, 8C, 8D and 8E inserted
- 4 Citation and commencement



Jersey

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Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Articles 2, 4, 25, 26 and 29 of the Sea Fisheries (Jersey) Law 1994^[1] and having consulted with and obtained the concurrence of the Secretary of State, have made the following Regulations –

1 Interpretation

In these Regulations, “principal Regulations” means the Sea Fisheries (Miscellaneous Provisions) (Jersey) Regulations 1998^[2].

2 Regulation 8 amended

In Regulation 8 of the principal Regulations, in paragraph (1), for the words “unless it” there shall be substituted the words “unless the fishing gear, or a buoy attached by a line to the fishing gear,”.

3 New Regulations 8A, 8B, 8C, 8D and 8E inserted

After Regulation 8 of the principal Regulations there shall be inserted the following Regulations–

“8A Interpretation of this Regulation and Regulations 8B, 8C, 8D and 8E

In this Regulation and Regulations 8B, 8C, 8D and 8E, unless the context otherwise requires –

‘French authority’ means the Préfet de Haute-Normandie or the Préfet de Bretagne or another person designated the responsibility for the issue of permits, licences or authorities in relation to sea fisheries in Upper Normandy and Brittany;

‘harbour’ means any harbour, whether natural or artificial, and includes any port, dock, pier, jetty or quay, and any waters in which sea-going vessels can obtain shelter or ship or unship goods or passengers;

‘Harbour Master’ has the meaning it has in the Harbours (Administration) (Jersey) Law 1961^[3];

‘lost pot tag’ means a tag, intended to be attached to a shellfish pot, that –

- (a) has been issued under Regulation 8D(2)(b); or
- (b) is a device, known in France as a ‘marque-perdue’, issued in substitution for a ‘marque’ by a person authorized to do so by the French authority;

'pot tag' means a tag, intended to be attached to a shellfish pot, that –

- (a) has been issued under Regulation 8D(2)(a); or
- (b) is a device, known in France as a 'marque', issued by a person authorized to do so by the French authority;

'shellfish' means any of the following –

- (a) a lobster (*Homarus gammarus*);
- (b) a crawfish (*Palinurus spp.*);
- (c) an edible crab (*Cancer pagurus*);
- (d) a velvet crab (*Necora puber*);
- (e) a spider crab (*Maja brachydactyla*);
- (f) a green crab (*Carcinus maenas*);

'shellfish pot' means a pot used for, or intended to be used for, catching shellfish;

'work', in relation to a shellfish pot, includes to work by setting, rising or leaving the pot in the sea.

8B Requirement for marking of shellfish pots

- (1) No person shall carry a shellfish pot on a fishing boat, or work a shellfish pot from a fishing boat, unless the requirements of paragraph (2) are complied with.
- (2) The requirements are –
 - (a) that there shall be attached to the pot a pot tag or a lost pot tag; and
 - (b) that, in the case of –
 - (i) a pot tag, the pot tag specifies the registration number that has been allocated to the boat under the law of the country under which the boat is registered, and the year or years for which the pot tag is valid, or
 - (ii) a lost pot tag, the lost pot tag specifies the year or years for which the lost pot tag is valid.
- (3) Paragraph (1) does not apply in respect of a shellfish pot that is–
 - (a) carried on a fishing boat during a voyage on which it was used, or is or was intended to be used, only for the pleasure of persons conveyed on the boat; or
 - (b) worked from a fishing boat only for the pleasure of persons conveyed on the boat, if the boat is used only for the purpose of fishing for pleasure and conveying persons wishing to fish for pleasure.
- (4) Paragraph (1) does not apply to any person acting with the authority of the Minister for the purpose of scientific investigation.
- (5) Paragraph (1) does not apply to a person in respect of shellfish pots that are, on a fishing boat, being prepared by or on behalf of the person for working from the fishing boat, if –
 - (a) the boat is registered under the law of a country;
 - (b) the boat is either –
 - (i) alongside in a harbour, or
 - (ii) on a permanent mooring that has been authorized by or on behalf of the Harbour Master for use by boats; and
 - (c) there are on the boat a total number of the following –

- (i) valid pot tags that display the registration number that is, under the law of the country under which the boat is registered, allocated to that boat, and the year or years for which the pot tags are valid,
 - (ii) valid lost pot tags that display the year or years for which the lost pot tags are valid,

that is equal to or more than the number of shellfish pots on the fishing boat.
- (6) A requirement specified in paragraph (2) does not apply in respect of a shellfish pot being carried on, or worked from, a boat –
 - (a) if the boat is registered under the law of a country;
 - (b) if the French authority permits the requirement specified in paragraph (2) not to apply in relation to the pot, or a permit issued by the Minister under Regulation 8C in relation to the pot specifies that the requirement does not apply;
 - (c) if the permission or permit referred to in sub-paragraph (b) is carried on the boat and
 - (d) where the permission or permit referred to in sub-paragraph (b) is given subject to a condition, if that condition has been complied with.
- (7) For the purposes of Article 4 of the Sea Fisheries (Jersey) Law 1994, the maximum fine in respect of a person found guilty of an offence against that Article committed in respect of paragraph (1) of this Regulation shall be–
 - (a) £20,000 if the person has not previously been found guilty of an offence against that Article in relation to a contravention of that paragraph; or
 - (b) £40,000 if the person has previously been found guilty of an offence against that Article in relation to a contravention of that paragraph.

8C Permits in respect of shellfish pots

- (1) A person who is an owner, master, or charterer, of a British fishing boat may apply to the Minister for the grant of a permit for the purposes of Regulation 8B(6).
- (2) The Minister may, after receiving an application from an owner, master, or charterer, of a British fishing boat, grant to him or her a permit specifying that –
 - (a) a requirement specified in Regulation 8B(2) does not apply in respect of a shellfish pot being carried on, or worked from, the boat or a British fishing boat that is being used in substitution for that boat; or
 - (b) a requirement specified in Regulation 8B(2) does not apply in respect of a shellfish pot being carried on, or worked from –
 - (i) the boat, or
 - (ii) a British fishing boat that is being used in substitution for that boat, if the conditions, if any, specified on the permit are complied with.
- (3) A permit granted under paragraph (2) shall remain in force for the period specified by the Minister on the permit.
- (4) The Minister may only grant a permit under paragraph (2) to a person if the Minister is satisfied that it is impractical or impracticable for the person, or a person acting on behalf of the person, to comply with the requirement that is specified in Regulation 8B(2) and is referred to on the permit.
- (5) The Minister may, by notice in writing to a person, revoke a permit granted to the person under paragraph (2) if the Minister is satisfied that it is no longer impractical or impracticable for the person, or a person acting on behalf of the person, to comply with the requirement referred to on the permit.

8D Pot tags

- (1) A person who is an owner, master, or charterer, of a British fishing boat may apply, to a person authorized by the Minister for the purposes of this Regulation, for the issue of a pot tag or a lost pot tag.
- (2) A person authorized by the Minister for the purposes of this Regulation may issue to an owner, master, or charterer, of a British fishing boat –
 - (a) a pot tag, of a type approved by the Minister, that displays the registration number that is, under the law of the country under which the boat is registered, allocated to that boat, and the year or years for which the pot tag is valid; or
 - (b) a lost pot tag, of a type approved by the Minister, that displays the year or years for which the lost pot tag is valid.
- (3) A person authorized by the Minister for the purposes of this Regulation may only issue a pot tag under paragraph (2)(a) in accordance with the directions of the Minister.
- (4) Subject to any directions of the Minister, a person authorized by the Minister for the purposes of this Regulation shall determine the year or years for which a pot tag, or a lost pot tag, issued by the person shall be valid.
- (5) A person authorized by the Minister for the purposes of this Regulation may only issue a lost pot tag under paragraph (2)(b) if the person is satisfied that the lost pot tag is required to replace a pot tag, issued under this Regulation to the owner, master, or charterer or a person acting on behalf of the owner, master, or charterer, that has been lost.

8E Pot tags issued before commencement of Regulation 8D

- (1) A device that is, before the commencement of Regulation 8D, issued by the Jersey Fishermen's Association in relation to a pot and that is –
 - (a) referred to by that association as a pot tag, shall be taken to be a pot tag, issued under Regulation 8D(2)(a), in relation to the pot; or
 - (b) referred to by that association as a lost pot tag, shall be taken to be a pot tag, issued under Regulation 8D(2)(b), in relation to the pot.
- (2) A device that is, before the commencement of Regulation 8D, issued in relation to a pot by a person authorized to do so by the French authority and that is –
 - (a) referred to by that person as a 'marque', shall be taken to be a pot tag in relation to the pot for the purposes of these Regulations; or
 - (b) referred to by that person as a 'marque-perdue', shall be taken to be a lost pot tag in relation to the pot for the purposes of these Regulations."

4 Citation and commencement

- (1) These Regulations may be cited as the Sea Fisheries (Miscellaneous Provisions) (Amendment No. 4, (Jersey) Regulations 200-.
- (2) These Regulations shall come into effect 7 days after they are made.

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- [1] *chapter 14.825*
- [2] *chapter 14.825.80*
- [3] *chapter 19.060*