

STATES OF JERSEY



DRAFT SEA FISHERIES (BAG LIMITS) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 16th May 2016
by the Minister for the Environment

STATES GREFFE



Jersey

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REPORT

These draft Regulations are part of a package of measures to protect bass stocks, and provide the mechanism whereby the Minister can, by Order, implement a limit of the number of fish that can be taken. Bag limits are a common management tool employed in many jurisdictions to restrict the retention and subsequent landing of fish and shellfish by those fishing for recreational purposes. Commercial fishermen are restricted to the amount they can catch by different mechanisms, predominantly the imposition of quotas.

Currently there is no limit to the number of fish, including bass, that can be taken by recreational fishermen. This is seen as an anomaly given the many restrictions, including prohibition for some species, in place for commercial fishermen. The use of bag limits allows individuals fishing for pleasure to continue to do so, but puts in place an upper limit that prevents unreasonable exploitation of the stock. It is proposed that bass have a bag limit that is the same as that put in place on the EU-wide basis. This is important, as it ensures consistency that assists officers in enforcement.

A bag limit for ormers (*Haliotis tuberculata*) has been discussed in Jersey for a long time, and has received significant support. There are limits on the number of ormers that can be retained in both Normandy and Brittany. There is also no established commercial fishery (although some ormers are sold). To reduce the law drafting and general administrative burden, a bag limit for ormers is included, despite this package of measures being implemented primarily for stock management of bass.

Bag limits for bass are already in force in European waters, including around France and the UK, and for retention of ormers in France.

Financial and manpower implications

As a single amendment there are no financial or manpower implications. However, as part of the package of measures for the protection of bass stocks, the amendments to existing Regulations and the new Regulations together create a requirement for a significant amount of new regulation, enforcement and administrative capacity within the Marine Resources Section of the Department of the Environment. Consequently, the compliance workload associated with the introduction of these measures will require either additional staff or diversion of existing resources from other projects in the short to medium term.

Explanatory Note

These Regulations will impose bag limits – per person and per vessel – on the taking of various kinds of sea fish. They will also impose requirements to return fish taken in excess of bag limits to the water.

Regulation 1 defines expressions that are used in the Regulations. In the calculation of a bag limit, undersized fish may be disregarded. (Such fish must themselves be returned to the water in any event due to Regulations governing minimum size limits.)

Regulation 2 contains exceptions to the restrictions. They will not apply to operations that are carried out, under the authority of the Minister for the Environment for the purposes of scientific investigations or to transplant fish from one fishing ground to another.

Regulation 3 enables the Minister, by Order, to specify the maximum number of fish that may be taken or retained by reference to various parameters or factors set out in the Regulation. The specifications in terms of maximum numbers of fish are to be known as “bag limits”.

Regulation 4 requires a person who takes a personal bag limit of fish of a particular description from the water on one day to return immediately to the sea any other fish of the same description that he or she subsequently takes on that same day.

If a vessel takes a bag limit of fish on a particular day, the Regulation also requires a person who subsequently takes a fish of the same description on the vessel on that day to return it promptly to the sea.

Fish must be returned to the water in the same condition, as nearly as practicable, as that in which they are taken. It is immaterial whether they are dead or alive.

If Regulation 4 is contravened in respect of a fishing boat, then by reason of Article 3 of the Sea Fisheries (Jersey) Law 1994 the master, owner and charterer of the vessel are each guilty of an offence under Article 4 of the Law. Any person who actually contravenes the Regulation also commits an offence under that Article of the Law.

Regulation 5 prohibits the retention of fresh fish by a person in excess of the bag limit for the species concerned. The prohibition applies whether the fish kept exceed the personal bag limit or the bag limit per vessel.

A person also contravenes Regulation 5 if he or she causes or knowingly permits fresh fish exceeding the bag limit per vessel for that species to be retained on a vessel.

However, the Regulation does not apply to the possession of fish by a person who acquires them after they were landed.

If the Regulation is contravened in respect of a fishing boat, the master, owner and charterer are by reason of Article 3 of the Law each guilty of an offence under Article 4 of the Law. A person actually contravening the Regulation is also guilty of an offence under that Article of the Law.

Regulation 6 imposes a maximum fine of £20,000 on a person who commits an offence under Article 4 of the Law.

Regulation 7 provides a statutory defence for any person who is charged with an offence of contravening Regulation 5, if he or she proves that the number of fish retained in excess of a bag limit were not taken in contravention of Regulation 4.

Regulation 8 specifies how the Regulations may be cited. It also provides that they will come into force 7 days after being made by the States.



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Arrangement

Regulation

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Jersey

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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 2 and 29 of the Sea Fisheries (Jersey) Law 1994¹, and having consulted with and obtained the concurrence of the Secretary of State, have made the following Regulations –

1 Interpretation

In these Regulations –

“fish” means sea fish, not being of a smaller size than that prescribed by Regulations under Article 6 of the Law in relation to sea fish of that description;

“Law” means the Sea Fisheries (Jersey) Law 1994².

2 Limit of application of Regulations

These Regulations do not apply to operations that are conducted under the authority of the Minister –

- (a) for the purposes of scientific investigation; or
- (b) for the transplanting of fish from one fishing ground to another.

3 Bag limits

- (1) The Minister may by Order specify the maximum number of fish that may be taken or retained for the purposes of these Regulations by reference to –
 - (a) any description or sex of fish;
 - (b) any area of the sea;
 - (c) any day;
 - (d) any person or class of persons;
 - (e) any vessel or class of vessel.

- (2) A specification of a maximum number of fish made by the Minister under paragraph (1) is referred to in these Regulations as a “bag limit”.
- (3) If the specification is limited by reference to the maximum number of fish that may be taken by any person it is referred to in these Regulations as a “bag limit per person”.
- (4) If the specification limited by reference to the maximum number of fish that may be taken by any vessel it is referred to in these Regulations as a “bag limit per vessel”.

4 Catch not to exceed bag limits

- (1) A person who on any day has taken the bag limit per person of any description of fish must immediately return to the sea any other fish of that description that he or she subsequently takes on that day.
- (2) If the bag limit per vessel of a description of fish is on any day taken by a vessel, a person who subsequently takes any other fish of that description on that day on that vessel must immediately return it to the sea.
- (3) A fish that is required to be returned to the sea under this Regulation must be so returned, as nearly as practicable, in the same condition as that in which it was taken, whether it is dead or alive.

5 Restrictions on retention of fresh fish in excess of bag limits

- (1) A person must not retain in his or her possession any fresh fish exceeding a bag limit for that description of fish.
- (2) A person must not cause or knowingly permit to be retained on a vessel any fresh fish exceeding the bag limit per vessel for that description of fish.
- (3) Nothing in this Regulation applies to the possession of fish by a person who acquired the fish after they were landed.

6 Penalty

A person who is guilty of an offence under Article 4 of the Law by reason of a contravention of Regulation 4 or Regulation 5, is liable to a fine of £20,000.

7 Statutory defence

Where a person is charged with an offence under Article 4 of the Law by reason of a contravention of Regulation 5 by any person, it is a defence to prove that the number of fish retained in excess of a bag limit for fish of that description was not taken in contravention of Regulation 4.

8 Citation and commencement

These Regulations may be cited as the Sea Fisheries (Bag Limits) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

¹ *chapter 14.825*
² *chapter 14.825*