

# STATES OF JERSEY



## DRAFT SEA FISHERIES (BAG LIMITS) (JERSEY) REGULATIONS 200-

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Lodged au Greffe on 14th April 2009  
by the Minister for Economic Development

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STATES GREFFE





Jersey

## **DRAFT SEA FISHERIES (BAG LIMITS) (JERSEY) REGULATIONS 200-**

### **REPORT**

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#### **Background**

Drafting work commenced on these Regulations in 2006, and in April 2007 the Minister approved that they be sent to the UK for the Secretary of State's approval. Under the terms of the Jersey/UK Fisheries Management Agreement and in compliance with the Sea Fisheries (Jersey) Law 1994, it is necessary for the Island to obtain such approval before introducing most fisheries Regulations.

Further amendments were subsequently made to the Draft Regulations to include a provision for exemptions, and to take into account comments made by the UK. Following a Ministerial Decision made in July 2008, the present draft was again submitted for the Secretary of State's approval. That approval has now been obtained.

#### **Impact on Jersey fisheries**

The benefit of Regulations setting restrictions on the number of fish or shellfish that may be caught by recreational fishermen – “bag limits” – has long been recognised, both locally and elsewhere. Local recreational scallop divers have been restricted in the number of scallops they may take, since such activity became legal over 10 years ago. In Brittany and Normandy, low water fishermen have been restricted in the number of ormers they may take for many years.

Whilst it is recognised that limiting the number of ormers caught is a conservation measure to protect stocks which are still recovering after a disease, limiting numbers of lobster and bass targets the illegal sale of fish and shellfish by non-licensed fishermen. The fishing industry has called on the Department to introduce legislation which would effectively prevent the sale of “black” fish which results in a reduction in the market price. The Sea Fisheries and Marine Resources Advisory Panel, which has on it leading members from commercial fishing, leisure fishing, angling and fish farming, is unanimous in its support of this measure.

Jersey's fish populations may be exploited by 2 main groups of people: the professional fishermen who have purchased a fishing licence, and the amateur or leisure fishermen. Leisure fishermen are not permitted to sell their catch caught in local waters from a vessel that does not have a fishing licence; however, because certain species attract a high value if sold (in particular lobster and bass), some

unscrupulous individuals that do not have a fishing licence for their vessel are tempted to catch more than they need for themselves and sell the surplus catch.

At present, professional fishermen have either a shellfish qualified licence which allows them unlimited catches of shellfish, or are only allowed to fish for 15 lobsters and 25 crabs per day. No such restriction exists for leisure fishermen, and this legislation would rectify the disparity. The bag limits in the proposed legislation make generous allowance for leisure fishermen fishing for their own consumption.

This legislation serves to limit retention of the named species of fish and shellfish by non-licensed fishermen to a reasonable amount; 20 ormers per person per day, 5 bass per person per day and 5 lobsters per person or boat per day (whilst an individual fisherman may retain up to 5 lobsters, 3 fishermen on one boat would be restricted to a total of 5 lobsters).

Although the majority of recreational fishermen would support the introduction of bag limits, some objections may be raised to this legislation by those who see the measure as a denial of a source of income. Fishermen catching bass from the shore using rod and line, set nets and longlines may currently sell an unlimited number of bass as there is no requirement for them to hold a fishing licence. Whilst some such individuals may see a reduction in income derived from this source, the Regulations allow the Minister to exempt some fishermen who can demonstrate a genuine record of commercial activity (a separate Ministerial Decision will be taken in relation to any such exemptions). It is likely, however, that the principal objectors will be those anglers working from unlicensed fishing boats who will no longer be able to sell significant quantities of bass, and indeed it is the aim of this legislation to deny them that illegal income.

The existence of bag limits for bass would contribute to the increase in angling tourism as it would underline the importance to the Island of efficient management of the fishery.

The legislation denies no-one the right to fish. Fish caught in excess of the bag limit can be put back into the sea or, if fishermen wish to sell their catch and legalise their activity, licences are available for them to buy.

#### **Financial/manpower implications**

There are no additional financial or manpower implications for the States arising from the adoption of these Draft Regulations.

## Explanatory Note

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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.

Initially, the Regulations will only apply to bass, lobsters and ormers.

*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.)

*Regulation 2* contains exceptions to the restrictions.

They will not apply to British and French fishing boats that are authorized to fish commercially in Jersey waters.

They will not apply to operations that are carried out, under the authority of the Minister for Economic Development, for the purposes of scientific investigations or to transplant fish from one fishing ground to another.

*Regulation 3* allows the Minister, on application, to exempt from the requirements of Regulations 4 and 5(1) – so far as they relate to the taking of fish from the sea-shore – commercial fishermen of any class specified by the Minister in a notice in the Gazette.

In doing so, the Minister may limit the exemption by specifying in the notice the species and number of fish to which it applies, and the periods, methods of fishing and areas of the sea-shore in respect of which it applies.

*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 forthwith 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.

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.

*Schedule 1* stipulates bag limits for persons. The limit for bass and lobsters will be 5, and for ormers 20.

*Schedule 2* specifies bag limits for vessels. For lobsters, it will be 5.



Jersey

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### Arrangement

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#### Regulation

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Jersey

## **DRAFT SEA FISHERIES (BAG LIMITS) (JERSEY) REGULATIONS 200-**

*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 1994<sup>1</sup>, and having consulted with and obtained the concurrence of the Secretary of State, have made the following Regulations –

### **1 Interpretation**

In these Regulations –

“bag limit” means a bag limit per person and also means a bag limit per vessel;

“bag limit per person” means, in respect of a description of fish specified in Column 1 of Schedule 1, the number of those fish that are specified in Column 2 of that Schedule;

“bag limit per vessel” means, in respect of a description of fish specified in Column 1 of Schedule 2, the number of those fish that are specified in Column 2 of that Schedule;

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

“Law” means the Sea Fisheries (Jersey) Law 1994<sup>2</sup>.

### **2 Limit of application of Regulations**

(1) These Regulations do not apply to the taking of fish by –

- (a) a British fishing boat; or
- (b) a French fishing boat,

in any part of the territorial sea in which it is authorized to fish under the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003<sup>3</sup>.

(2) These Regulations do not apply to the retention of any fish to which paragraph (1) refers.

- (3) These Regulations do not apply to operations that are conducted, under the authority of the Minister –
  - (a) for the purpose of scientific investigation; or
  - (b) for the transplanting of fish from one fishing ground to another.

### 3 Exemptions

- (1) The Minister may, by notice published in the Jersey Gazette, specify –
  - (a) a class of persons who shall be eligible for an exemption under paragraph (2); and
  - (b) a period during which applications for such an exemption may be lodged.
- (2) On the application in writing of a person of a class to whom paragraph (1) refers, the Minister may in writing grant the person an exemption from the requirements of Regulations 4 and 5(1), so far as those requirements relate to fish that are taken from the sea-shore for commercial purposes.
- (3) The Minister may limit the exemption by specifying in it –
  - (a) a description of fish to which it applies;
  - (b) the number of fish to which it applies;
  - (c) a period during which it applies;
  - (d) a method of fishing to which it applies; and
  - (e) an area of the sea-shore to which it applies.
- (4) An exemption under paragraph (2) shall be subject to the following conditions –
  - (a) that the person to whom the exemption is granted shall carry it at all times while he or she is acting under the exemption;
  - (b) that, if requested by a fishery officer to do so, the person to whom the exemption is granted shall produce it to the fishery officer for inspection;
  - (c) that the person to whom it is granted shall attach to the fishing gear that he or she uses under the exemption a tag approved by the Minister;
  - (d) that the person to whom it is granted shall keep such records as are specified in the exemption of fish taken or retained under the exemption;
  - (e) that the person to whom it is granted shall deliver to the Minister, at such times as are specified in the exemption, such returns and reports as are specified in the exemption of fish taken or retained under the exemption;
  - (f) that the person to whom the exemption is granted shall inform the Minister, within 14 days, of any change in the person's change of residential address or occupation.
- (5) An exemption under paragraph (2) shall cease to have effect if the person to whom it is granted contravenes a condition of the exemption.

**4 Catch not to exceed bag limits**

- (1) A person who on any day takes the bag limit per person of any description of fish shall return to the sea forthwith 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 shall return it to the sea forthwith.
- (3) A fish that must be returned to the sea under this Regulation shall be so returned, as nearly as practicable, in the same condition as that in which it was taken. It is immaterial whether the fish is dead or alive.

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

- (1) A person shall not retain in his or her possession any fresh fish exceeding in number a bag limit for that description of fish.
- (2) A person shall not cause or knowingly permit to be retained on a vessel any fresh fish exceeding in number the bag limit per vessel for that description of fish.

**6 Penalty**

A person who is guilty of an offence under Article 4 of the Law, by reason of a contravention of a provision of Regulation 4 or Regulation 5, shall be 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 a provision 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 200- and shall come into force 7 days after they are made.

**SCHEDULE 1**

(Regulation 1)

**BAG LIMITS PER PERSON FOR FISH**

<b>Column 1</b> <i>Description of fish</i>	<b>Column 2</b> <i>Number of fish</i>
1. Bass ( <i>Dicentrarchus labrax</i> )	5 per person
2. Lobster ( <i>Homarus gammarus</i> )	5 per person
3. Ormer ( <i>Haliotis tuberculata</i> )	20 per person

**SCHEDULE 2**

(Regulation 1)

**BAG LIMITS PER VESSEL FOR FISH**

<b>Column 1</b> <i>Description of fish</i>	<b>Column 2</b> <i>Number of fish</i>
1. Lobster ( <i>Homarus gammarus</i> )	5 per vessel

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- <sup>1</sup> *chapter 14.825*  
<sup>2</sup> *chapter 14.825*  
<sup>3</sup> *chapter 14.825.56*