

STATES OF JERSEY



SEA FISHERIES BAG LIMITS (S.R.4/2010): RESPONSE OF THE MINISTER FOR ECONOMIC DEVELOPMENT

Presented to the States on 8th June 2010
by the Minister for Economic Development

STATES GREFFE

Ministerial Response: S.R. 4/2010

Ministerial Response required by 28th May 2010

Review title: **Sea Fisheries Bag Limits**Scrutiny Panel: **Economic Affairs****Introduction:**

Overall the Minister is content with the manner in which the review was conducted although some issues seem to have been misunderstood and these are detailed in the responses

Findings:

	Findings	Comments
1	The Assistant Minister for Economic Development withdrew P58/2009 Sea Fisheries (Bag Limits) (Jersey) Regulations 200- without advance notification to the Panel. This was discourteous not only to the Panel and all of the stakeholders who had contributed to the Panel's ongoing Review, but also undermines the work and role of Scrutiny.	It is not unusual for a proposition to be withdrawn without notice where circumstances make such action appropriate as it was in this case. For absolute clarity copies of subsequent correspondence between the Minister and the chairman of the Scrutiny Panel are attached in appendix A
2	The Panel could find only limited evidence of any other jurisdiction proposing or introducing Bag Limits for the purpose of supporting a local commercial fishing industry.	Many jurisdictions state that they have bag limits in place to 'share the resource'. i.e. Australia for all fish, France for Ormers, whelks, scallops, lobster and crab and some UK Sea Fishery Committee districts for lobster. This is in areas where commercial exploitation is also allowed. These jurisdictions allow continued commercial fishing often with comparatively large quotas but they have seen it equitable or fair to also limit amateur fishing. This information is a matter of public record and should be available to the Scrutiny Panel
3	Bag Limits are common place elsewhere for the purpose of well evidenced conservation reasons. Indeed, a well evidenced conservation case for Bag Limits presented for a threatened marine species is likely to be accepted across the stakeholder groups, although it would need to be applied across the commercial and recreational sectors.	Bag limits are commonplace elsewhere but importantly they are often in place where the fish stock is not threatened with extinction and commercial fishing is allowed to continue often on a large scale.

4	Guernsey makes use of its licensing scheme to control catches, for example to issue licenses to vessels entitled to fish for shellfish, and those that do not have such a licence are only permitted to catch 5 lobsters and 25 crabs per day.	Jersey has the same system although the number of lobsters permitted is 15, crabs are the same as Guernsey.
5	Stock controls being considered for the recreational sector must in future be accompanied by reasonable controls on the commercial sector.	The commercial sector is currently controlled by quota measures on many finfish species and limitation on gear .i.e. pot numbers. There are no such controls on amateurs.
6	There are apparent inadequacies in the vessel licensing system in Jersey. There are currently about 164 licensed (J registered) boats, but this is not a fixed limit because of the open market for licences throughout the U.K., Jersey and Guernsey.	The vessel licensing system is the same as that in Guernsey and the UK to enable licences to be transferable. If the limit was fixed it would mean a renegotiation of the Jersey-UK Fisheries Management Agreement and exclusion of Jersey vessels to UK waters and have no consequence to amateur fishermen.
7	There are insufficient levels of control over the licence system in the Island.	As above.
8	The Panel has serious concerns about the 'official' representation of leisure anglers on The Marine Resources Advisory Panel and concludes that it was not reflective of a significant proportion of leisure anglers' views.	The Marine Resources Panel representative for leisure anglers has since been changed. This Panel may consider requesting representatives' ballot their members on important issues in the future.
9	The failure to consult widely led to the Minister proposing defective Regulations. Wider consultation would have ensured a more inclusive process with all views taken into account, and a lot of Scrutiny members and Officers time spent on the matter could have been saved.	The Marine Resources Panel dealt with this issue on at least three occasions over many months and received agreement in writing for the proposal from the angling representative. The regulations as lodged were not defective as they would have achieved the objectives set by the Marine Resources Panel.
10	No economic impact study into the effects of black fish sales on the commercial fishing industry has been undertaken.	The evidence submitted by the commercial industry was accepted at face value and in any event it is extremely difficult when trying to evaluate illegal sales to get a reliable response.
11	The proposed introduction of the Bag Limits, encompassing all leisure anglers, appeared to be a wholly disproportionate response to the problems faced by the authorities in policing and securing convictions under current legislation.	Leisure anglers are regularly inspected for minimum sizes of their catch. It would take very little extra effort to count the number of fish in addition to assessing the size of each one.

12	The Panel supports the principle of Bag Limits for conservation purposes but is concerned that the limit of 20 would be an unnecessary tool to achieve that end in the case of ormers, as there are existing measures in place under current legislation that protect ormers from commercial levels of exploitation.	20 is the same limit as in Brittany – harmonisation was being sought.
13	The extent to which unlicensed commercial fishing (and sales of those fish) contributes to the commercial problems outlined as the key reason for proposing Bag Limits for lobster and bass, has not been established.	It has been established by the Scrutiny Panel see paragraph 19
14	Despite claims from the Minister for Economic Development that the introduction of Bag Limits would be good for tourism, no evidence was found to support this. Indeed, the Panel understands that there has already been a negative impact on tourism resulting from the proposals for Bag Limits.	It was the angling Marine Resources Panel member that initially suggested bag limits were good for Tourism and evidence from other jurisdictions indicates that well regulated fisheries are attractive for Tourism. The Scrutiny Panel should provide the evidence for the negative impact referred to.
15	There is a general lack of data around Jersey's marine resources which is a barrier to achieving informed policy development.	Significant research and data collection is carried out and resources are generally directed towards the key commercial species.
16	It is currently illegal for a non licensed fisherman to fish commercially in Jersey waters, although selling his catch is currently only evidence of a possible illegal act, that of catching those fish. Clearly, policing the catching of fish is more difficult than policing the sale of those fish.	This has been addressed by an addition to the Sea Fisheries (Miscellaneous Provisions) (Amendment No.5)(Jersey) Regulations 2009.
17	Despite reassurances of the possibility of using more voluntary fisheries officers on an occasional basis, and that bag limits are almost self-policing as 90 per cent of boats at least that go to sea go from the same slipways and everybody sees what everybody else is landing, the Panel found that the capacity of the Fisheries and Marine Resources Section to police and enforce the Bag Limits was limited.	Anglers are regularly inspected for minimum size – counting the catch is a very small extra piece of work. (see also paragraph 11)

18	The Fisheries and Marine Resources Section has very limited resources and is unable to effectively enforce the current legislation, which has significantly narrower targeting, and could not be expected to police and enforce the Regulations that targeted almost 1800 leisure anglers.	We would welcome the evidence that Jersey is any worse than any other jurisdiction in regard to enforcing legislation. In fact we understand generally fishermen accept that we have better control than neighbouring jurisdictions.
19	There is an issue with some non-licensed fishermen selling their catches, but the Panel found this to be a practice carried out by only a very limited number, approximately 20, of the near 1800 leisure anglers in the Island, particularly on any significant level. Indeed, this was openly accepted across the stakeholder groups, including the Minister for Economic Development. In addition, most of these are known to the authorities.	20 leisure fishermen selling wet fish on the open market can have a dramatic effect on the market place in a small community.
20	From a policing aspect putting the onus on a commercial purchaser to prove that they purchased their fish from a legitimate source would be simpler than the current system of proving illegal sale. However, this is just one small aspect of the necessary policing.	We welcome this suggestion which will be examined.
21	The tagging of fish initiative adopted by the commercial fishermen was sound in principle.	Agreed. This initiative was agreed by the Marine Resources Panel and paid for by States of Jersey funds.

Recommendations:

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
1	The Assistant Minister should fully explain publicly the decision to withdraw P58/2009 Sea Fisheries (Bag Limits) (Jersey) Regulations 200- and confirm any future intention to bring this or a related proposition to the States.		Accept	Copies of correspondence attached (appendix A)	Done
2	The responsible Minister should develop conservation policy around spawning and minimum fish sizes.		Accept	Minimum size and spawning stock biomass enhancement measures are examined alongside other management measures.	Ongoing
3	The Fisheries and Marine Resources Section should be provided with adequate research resources to provide fuller information on Jersey's marine environment in order to better inform policy development.		Accept		When resources become available.
4	<p>More work should be undertaken to assess the viability of amending current legislation or introducing new legislation, other than Bag Limits, to address the specific issue of the commercial sale of fish by non-licensed fishermen, and to find a solution which reconciles the interests of all fishing sectors and is feasible and effective.</p> <p>This work should include:</p> <ul style="list-style-type: none"> a) examination of different ways of placing a burden of proof on the commercial purchaser regarding the provenance of their fish, including tagging systems b) a review of the licensing system c) monitoring and improving the understanding of fish stocks d) imported fish (wild and farmed) <p>Any future development of such proposals should include a full stakeholder consultation.</p>		<p>Accept</p> <p>Accept</p> <p>Reject</p> <p>Accept</p> <p>Accept</p>	<p>a) This has been addressed by Sea Fisheries (Miscellaneous Provisions) (Amendment No.5)(Jersey) Regulations 2009</p> <p>b) Licences only apply to commercial fishermen.</p> <p>d) This recommendation is not understood.</p>	<p>Done</p> <p>N/A</p> <p>Ongoing</p>

Conclusion:

- c) The Scrutiny panel conclusions are noted and the acceptance by the States of Jersey of the Sea Fisheries (Miscellaneous Provisions) (Amendment No.5)(Jersey) Regulations 2009 should address many of the areas of concern. The whole subject of fish conservation and exploitation is constantly under review.



Scrutiny Office

Connétable L Norman
Economic Development
Jubilee Wharf
Esplanade
St Helier
JE1 1BB

Our Ref: 515/16

21st January 2010

Dear Connétable Norman

Economic Affairs Scrutiny Panel

Bag Limits

You will recall that the Economic Affairs Scrutiny Panel was a significant way into its Review of *P58/2009 Draft Sea Fisheries (Bag Limits) (Jersey) Regulations 200-* when you took the decision in the States on 13th July 2009 to withdraw the proposition. As we move towards completing our report the Panel would like to take the opportunity to ask you to confirm why you took the decision to withdraw the proposed Regulations and what plans you have, if any, to bring back related proposals.

If you require any further information, I would ask that in the first instance you notify our Officer on the Review Tim Oldham (Tel: 441067 or t.oldham@gov.je)

Thank you for your assistance.

Yours sincerely

A handwritten signature in black ink that reads "Mike Higgins". The signature is written in a cursive style with a long horizontal stroke at the end.

Deputy M R Higgins
Chairman
Economic Affairs Scrutiny Panel

Economic Development Department

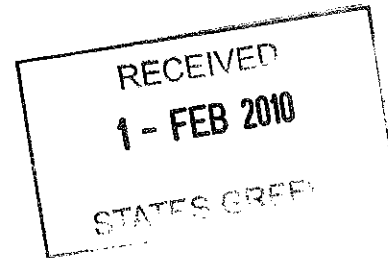
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States 
of Jersey

Your Ref: 515/16

26 January 2010

The Chairman
Economic Affairs Scrutiny Panel
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Dear Chairman

Bag Limits

Thank you for your letter dated 21 January 2010.

The States approved the Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 5 (Jersey) Regulations on July 13, 2009 as a result of which our professional and licensed fishermen now have more of a level playing field than previously compared with their counterparts elsewhere in Europe.

In view of this, and the original support of the Angling Association for Projet 58 having been removed, I decided that it was not appropriate to create further restrictions at that time.

It is not my intention to bring forward any related proposals in the foreseeable future.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'L' followed by a long horizontal stroke and a smaller flourish at the end.

Connétable Len Norman
Assistant Minister for Economic Development



Scrutiny Office

Connétable L Norman
Economic Development
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Our Ref: 515/16

24th February 2010

Dear Connétable Norman

**Economic Affairs Scrutiny Panel
Bag Limits**

Thank you for letter dated 26th January 2010, in which you informed us that you don't intend to bring Bag Limits proposals forward in the foreseeable future. You also stated that States approval of Draft Sea Fisheries (Miscellaneous Provisions) Amendment No. 5 (Jersey) Regulations resulted in more of a level playing field than previously for our professional and licensed fishermen, compared with their counterparts elsewhere in Europe.

For our understanding please could you:

- Explain exactly how the approval of Draft Sea Fisheries (Miscellaneous Provisions) Amendment No. 5 (Jersey) Regulations created more of a level playing field?
- Explain why the aforementioned Regulations and P58/2009 Draft Sea Fisheries (Bag Limits) (Jersey) Regulations Bag Limits were both brought forward if one set was apparently sufficient?
- Tell us when and where the support of the Angling Association was expressed, the evidence for this support, and full details of the change of heart of this Association?

If you require any further information, I would ask that in the first instance you notify our Officer on the Review, Tim Oldham (Tel: 441067 or t.oldham@gov.je)

Thank you for your assistance.

Yours sincerely

Deputy M R Higgins
Chairman
Economic Affairs Scrutiny Panel

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Deputy M R Higgins
Chairman
Economic Affairs Scrutiny Panel
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15 March 2010

Our ref: 6.1.32

Your ref: 515/16

Dear Deputy Higgins

RESPONSE TO SCRUTINY LETTER REF. BAG LIMITS DATED 24 FEBRUARY 2010

- *Explain exactly how the approval of the Draft Sea Fisheries (Miscellaneous Provisions) Amendment No 5 (Jersey) Regulations created more of a level playing field?*

The Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003 created an offence of fishing in the territorial sea without a licence. Fishing for pleasure was exempted. Those regulations did not create any offences (other than the normal aiding and abetting) in respect of selling fish, landing fish for commercial purposes from a fishing boat, buying fish caught from an unlicensed boat etc. In consequence they allowed fishermen to catch fish from an unlicensed vessel outside the territorial sea and then to land and sell those fish in Jersey. In order to prove an offence of fishing without a licence, it was necessary to prove that fish caught from an unlicensed vessel were caught in the territorial sea and were then used for purposes other than pleasure.

Fishing licences can cost a significant amount of money and yet fishermen could quite legitimately catch fish outside the territorial sea and sell them without a licence. This potentially allowed them to sell the fish at a lower cost and to operate with significantly lower operating costs than a licensed commercial fisherman.

The Sea Fisheries (Miscellaneous Provisions) Amendment No 5 (Jersey) Regulations effectively close this loophole:

- (1) No person shall sell any sea fish or, with the intention of selling them, process, keep or carry any sea fish, that :
- (a) have been landed in Jersey having not previously been landed elsewhere:
and
 - (b) the person knows, or ought reasonably to suspect, have been caught by,

or landed or transhipped from, an unlicensed fishing boat.

In effect, if fish are landed into the Island directly from a fishing boat, then they cannot be sold, kept or processed with the intention of selling them, unless the fishing boat is licensed either in Jersey or another jurisdiction.

This legislation is more readily enforceable than the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003 in that it is not necessary to prove that the fish being sold were caught in the Jersey territorial sea.

- *Explain why the aforementioned Regulations and P58/2009 Draft Sea Fisheries (Bag Limits) (Jersey) Regulations were both brought forward if one set was apparently sufficient?*

The proposed Bag Limits regulations had two primary objectives, to better protect primarily the ormer stocks and to a degree the bass and lobster stocks and to assist in assuring that boat fishermen selling lobsters or bass are licensed.

In terms of better protecting the ormer stock, the Sea Fisheries (Miscellaneous Provisions) Amendment No 5 (Jersey) Regulations have no impact and therefore no overlap with the proposed Bag Limits regulations.

In respect of lobster and bass, for the reasons stated above the objectives are partially met by the Sea Fisheries (Miscellaneous Provisions) Amendment No 5 (Jersey) Regulations. The Bag Limit regulations proposal did however go much further, in that they removed the need for an enforcement officer to prove the sale of lobsters and bass. In effect, if a fisherman in an unlicensed boat, a person in a vehicle or a merchant had in their possession more lobsters than the bag limit, then unless they could prove that the shellfish came from a licensed boat, they were in breach of the regulation. This removed the need for surveillance to ensure that fish were first landed from a boat and then used for purposes other than pleasure and would save officer time and potential intrusion into the private life of members of the public.

- *Tell us when and where the support of the Angling Association was expressed, the evidence for this support, and full details of the change of heart of this association?*

In respect of support for the measure, the following evidence is recorded:

(It is understood that minutes of the Fisheries and Marine resources panel have already been forwarded to you.)

35th Meeting 17 May 2006 "*name deleted*" representing Jersey Recreational Fishermen's Association (JRFA) present. Minute 2.15. The JRFA now supported the introduction of a bag limit for the species (bass).

36th Meeting 19 July 2006 "*name deleted*" representing Jersey Recreational Fishermen's Association (JRFA) present. Minute 8.1. A figure of 5 bass per person was agreed. This measure would apply to recreational fishermen.

"*name deleted*" e-mail of 27 September apologising for absence from 37th Meeting. "we favour a 5 bass bag limit".

38th Meeting 12 December 2006. "*name deleted*" representing Jersey Federation of Anglers present. Minute 4.5. Although the majority of anglers would support the introduction of bag limits the representative for angling did foresee certain objections to the legislation being raised particularly from those who saw the measure as a denial of a source of income. Shore angling which did not at present require a licence for fish to be sold would be affected by this legislation.

In respect of the apparent change of heart, this view was not represented until the Scrutiny process commenced and the only information received is that which was submitted to scrutiny or presented by the media.

Yours sincerely

Constable Len Norman
Assistant Minister
Economic Development Department