



Jersey

# **SEA FISHERIES (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 1998**

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## SEA FISHERIES (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 1998

### Contents

#### Regulation

1	Application .....	5
1A	Prohibition on selling, etc. of sea fish coming from unlicensed fishing boat ..	5
2	Prohibition of the use of certain substances .....	6
3	Prohibition of the deposit or discharge into the sea of certain matter .....	6
4	Restrictions relating to ormers .....	6
5	Fishing for soft-shelled spider crabs banned in certain periods.....	6
5A	Protection of soft-shelled spider crabs from damage by gear .....	7
6	Prohibition of the taking of sea fish by foul hooking.....	7
7	Requirements of escape gaps in parlour pots .....	7
8	Requirement for marking of fishing gear.....	8
8A	Interpretation of this Regulation and Regulations 8B, 8C, 8D and 8E.....	8
8B	Requirement for marking of shellfish pots .....	9
8C	Permits in respect of shellfish pots.....	11
8D	Pot tags .....	12
8E	Pot tags issued before 6th February 2007.....	12
9	Citation.....	12

#### ENDNOTES

**13**

Table of Legislation History .....	13
Table of Renumbered Provisions .....	13
Table of Endnote References .....	13





Jersey

## SEA FISHERIES (MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 1998<sup>1</sup>

**THE STATES**, in pursuance of Articles 2, 5, 8 and 29 of the [Sea Fisheries \(Jersey\) Law 1994](#), having consulted with the Secretary of State and obtained his concurrence, have made the following Regulations –

Commencement [[see endnotes](#)]

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### **1 Application**

These Regulations apply to Jersey and the territorial sea of Jersey.

#### **1A Prohibition on selling, etc. of sea fish coming from unlicensed fishing boat<sup>2</sup>**

- (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.

- (2) In this Regulation –

“fishing licence” means a licence or permit authorizing fishing unconditionally or subject to certain conditions and granted by the authority of any country or territory that is empowered to authorize fishing by that boat;

“unlicensed fishing boat” means a fishing boat in respect of which no fishing licence is in force, whether or not the boat is registered in any country or territory.

**2 Prohibition of the use of certain substances**

No person shall use or cause to be used in the sea any explosive, poisonous or noxious substance with intent to take or destroy sea fish.

**3 Prohibition of the deposit or discharge into the sea of certain matter**

No person shall deposit or discharge or cause to be deposited or discharged into the sea any ash, cinders, oil spirit or petroleum spirit.

**4 Restrictions relating to ormers**

- (1) Subject to paragraph (2), no person shall, at any time other than on a permitted day –
  - (a) fish for or take ormers (*Haliotis tuberculata*);
  - (b) retain fresh ormers in his or her possession; or
  - (c) export fresh ormers from Jersey.
- (2) Paragraph (1) does not apply to any person –
  - (a) acting with the authority of the Minister, for the purpose of –
    - (i) scientific investigation, or
    - (ii) transplanting ormers from one fishing ground to another; or
  - (b) exercising a right of fishery conferred by a licence issued by the Minister pursuant to Regulation 3(1) of the Sea Fisheries (Establishment and Regulation of Fisheries) (Jersey) Regulations 1998.
- (3) In this Regulation “permitted day” means any day which –
  - (a) falls between 30th September and 1st May next; and
  - (b) is the first day of a new moon, the first day of a full moon, or –
    - (i) for the purposes of paragraph (1)(a) and (c), one of the 3 days immediately following such a day, or
    - (ii) for the purposes of paragraph (1)(b), where the possession is on a vessel, one of the 3 days immediately following such a day and where the possession is on land, one of the 5 days immediately following such a day.<sup>3</sup>
- (4) No person shall export from Jersey an ormer that is not a fresh ormer.<sup>4</sup>

**5 Fishing for soft-shelled spider crabs banned in certain periods<sup>5</sup>**

- (1) This Regulation applies to a spider crab (*Maja brachydactyla*) that –
  - (a) has cast, or appears to have cast, its shell within the preceding 5 months; and
  - (b) possesses one or both of the following characteristics –
    - (i) sharp and unworn walking legs,

- (ii) absence of barnacles, sponges and other marine animals from its carapace.
- (2) A person must not –
  - (a) fish for or take a spider crab to which this Regulation applies; or
  - (b) store a live spider crab to which this Regulation applies, during a period specified by the Minister by Order under this Regulation.
- (3) A period so specified cannot exceed 3 months.
- (4) In this Regulation –

“store” means to keep in a vivier located on land, in a nourrice or in any other container.

## **5A Protection of soft-shelled spider crabs from damage by gear<sup>6</sup>**

- (1) A person must not use passive gear during a specified period and in a specified area of the sea.
- (2) In this Regulation –

“passive gear” means fishing gear for which the catch operation does not require an active movement of the gear, and includes –

  - (a) a gillnet;
  - (b) an entangling net;
  - (c) a trammel net; and
  - (d) a trapnet;

“specified” means specified by the Minister by Order under this Regulation for the purpose of the protection of spider crabs to which Regulation 5 applies.

## **6 Prohibition of the taking of sea fish by foul hooking**

- (1) Subject to paragraph (2), no person shall use or cause to be used for the purpose of fishing for sea fish any hooks and lines which include any instrument or device, such as a murderer, fluke bar, strokehaul or snatch, calculated to foul hook any fish.
- (2) In this Regulation the expression “sea fish” does not include sand eels (*Ammodytes*) or squid and cuttlefish (*Cephalopoda*).

## **7 Requirements of escape gaps in parlour pots**

No person shall use or cause to be used for the purpose of fishing for sea fish any parlour pot, of whatever material constructed, unless –

- (a) it has at least one unobstructed escape gap which shall be located in the lowest part of the parlour area on a side or sides of the parlour or the bottom of the parlour pot; and

- (b) it is so designed and constructed and each escape gap is of sufficient size that there may be easily passed through the escape gap and completely inserted into the parlour pot, whether the parlour pot is wet or dry, a rigid box-shaped gauge which –
  - (i) in the case of an escape gap located on a side of the parlour pot, shall be a gauge 79 millimetres wide, 44 millimetres high and 100 millimetres long, and
  - (ii) in the case of an escape gap located on the bottom of the parlour pot, shall be a gauge 199 millimetres wide, 44 millimetres high and 100 millimetres long.

## **8 Requirement for marking of fishing gear**

- (1) Except as provided in paragraph (3), no person shall leave or cause to be left in or on the sea any fishing gear unless the fishing gear, or a buoy attached by a line to the fishing gear, is indelibly and distinctly marked with –
  - (a) in the case of fishing gear left from a Jersey fishing boat or from any other fishing boat registered under the laws of any other place, the number assigned to the boat on registration or, if none, the name of the boat; and
  - (b) in any other case, the name and address of the owner of the fishing gear,and the marking conforms with the requirement described in paragraph (2).<sup>7</sup>
- (2) The requirement is that the marking is plainly visible on or above the surface of the sea –
  - (a) in the case of fishing gear left on the surface of or partially submerged in the sea, at all times; and
  - (b) in the case of fishing gear left fully submerged in the sea, for a period of not less than one hour in each period which commences at high water and ends at the next high water.
- (3) No person shall be required to mark fishing gear used in connection with mariculture which is left by him or her or caused by him or her to be left in or on the sea in exercise of a right of fishery conferred by a licence issued by the Minister pursuant to Regulation 3(1) of the Sea Fisheries (Establishment and Regulation of Fisheries) (Jersey) Regulations 1998.
- (4) In this Regulation, “fishing gear” means any pot, trap, net or other fishing gear, or any store box or nourrice or any other thing used in connection with fishing, the keeping alive of fish or mariculture.

## **8A Interpretation of this Regulation and Regulations 8B, 8C, 8D and 8E<sup>8</sup>**

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](#);

“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<sup>9</sup>**

- (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<sup>10</sup>**

- (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<sup>11</sup>**

- (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 6th February 2007<sup>12</sup>**

- (1) A device that is, before 6th February 2007, 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 6th February 2007, 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.

**9 Citation**

These Regulations may be cited as the Sea Fisheries (Miscellaneous Provisions) (Jersey) Regulations 1998.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Sea Fisheries (Miscellaneous Provisions) (Jersey) Regulations 1998	R&O.9209	11 March 1998
Sea Fisheries (Miscellaneous Provisions) (Amendment No. 2) (Jersey) Regulations 2002	<a href="#">R&amp;O.89/2002</a>	11 September 2002
Sea Fisheries (Miscellaneous Provisions) (Amendment No. 3) (Jersey) Regulations 2003	<a href="#">R&amp;O.6/2003</a>	11 February 2003
States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005	<a href="#">R&amp;O.132/2005</a>	9 December 2005
Sea Fisheries (Miscellaneous Provisions) (Amendment No. 4) (Jersey) Regulations 2007	<a href="#">R&amp;O.23/2007</a>	6 February 2007
Sea Fisheries (Miscellaneous Provisions) (Amendment No. 5) (Jersey) Regulations 2009	<a href="#">R&amp;O.65/2009</a>	20 July 2009
Sea Fisheries (Miscellaneous Provisions) (Amendment No. 6) (Jersey) Regulations 2014	<a href="#">R&amp;O.84/2014</a>	8 July 2014

### Table of Renumbered Provisions

Original	Current
9	spent, omitted from this revised edition
10	9

### Table of Endnote References

- <sup>1</sup> *These Regulations have been amended by the States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> *Regulation 1A*
- <sup>3</sup> *Regulation 4(3)*
- <sup>4</sup> *Regulation 4(4)*
- <sup>5</sup> *Regulation 5*
- <sup>6</sup> *Regulation 5A*
- inserted by R&O.65/2009*
- amended by R&O.89/2002, R&O.6/2003*
- inserted by R&O.6/2003*
- substituted by R&O.84/2014*
- inserted by R&O.84/2014*

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- <sup>7</sup> Regulation 8(1)                      *amended by R&O.23/2007*  
<sup>8</sup> Regulation 8A                      *inserted by R&O.23/2007*  
<sup>9</sup> Regulation 8B                      *inserted by R&O.23/2007*  
<sup>10</sup> Regulation 8C                      *inserted by R&O.23/2007*  
<sup>11</sup> Regulation 8D                      *inserted by R&O.23/2007*  
<sup>12</sup> Regulation 8E                      *inserted by R&O.23/2007*