

# Department of Environment, Food and Agriculture

## Rheynn Chymmiltaght, Bee as Eirinyis



**Isle of Man**  
Government

*Reiltys Ellan Vannin*

### Administration of Specific Fishery Authorisations associated with the Isle of Man Sea Fishing Licence

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| Version History |               |  |
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| Version         | Date Approved | Description  |
| 1.0             | 01 Aug 2017   | Administration of Species Specific Licences associated with the Isle of Man Sea Fishing Licences (SF/01/2017)      |
| 2.0             | 02 Feb 2022   | Administration of Specific Fishery Authorisations associated with the Isle of Man Sea Fishing Licence (SF/02/2022) |
| 2.1             | 04 Apr 2022   | v2.0 with amendments and addendum to include consideration of economic link requirements in SFA applications.      |

#### **Purpose:**

The purpose of this policy is to provide updates and revisions to the pre-existing "Species Specific Licensing Policy (SF/01/2017)" relating to the administration of specific fishery authorisations ("SFAs") issued as part of the Isle of Man Sea Fishing Licence, which allow vessels to engage in commercial fishing activity for specific fisheries.

The update and revision of SF/01/2017 is necessary for several reasons;

- i) Learn from the experiences of officers since the policy was introduced 2017, in particular relating to the procedures and in-principle guidelines;
- ii) Act on feedback from licence-holders;
- iii) Introduce changes that more accurately reflect the legal status of *authorisations* as a condition of the IOMSFL, as opposed to a being a separate species specific licence, incorporated into the IOMSFL issued under the Fisheries Act 2012;
- iv) Introduce changes to inflexible prescriptions in the original policy wording; and
- v) Introduce a mechanism by which *latent* authorisations can be managed in-line with GDPR requirements, and without the need for periodic fishery-by-fishery reviews, which is a resource-intensive process.

#### **Interpretations:**

**For the purposes of this policy:**

**Territorial sea** means those waters lying within 12 nautical miles of the baseline from which the breadth of the territorial sea adjacent to the Isle of Man is measured, but not extending beyond a line every point of which is equidistant from the nearest points of such baselines adjacent to the United Kingdom.

**Registered and licenced fishing vessel** means a vessel which is registered in the Isle of Man under the Merchant Shipping (Registration of Fishing Vessels) Regulations 1991, or in the United Kingdom or Channel Islands under equivalent legislation, which has been issued a valid Isle of Man Sea Fishing Licence.

**Isle of Man Sea Fishing Licence** means a licence issued by the Department under Section 37 of the Fisheries Act 2012 to a registered and licenced fishing vessel, which automatically prohibits specific fisheries by condition of licence, except where the same Isle of Man Sea Fishing Licence is issued an authorisation, or "Specific Fishery Authorisation", specified under Section C of the Isle of Man Sea Fishing Licence. An Isle of Man Sea Fishing Licence is considered 'valid' if it is not suspended, cancelled, or expired.

**Specific Fishery Authorisations (SFAs)** confer limited and conditional authority to undertake commercial fishing activity under the general Isle of Man Sea Fishing Licence, which would otherwise be subject to a general prohibition. These authorisations were previously referred to as 'Species Specific Licences'. Specific Fishery Authorisations status may be 'active', 'dormant', or 'latent'.

**Active Authorisation** means an SFA that is allocated to a valid Isle of Man Sea Fishing Licence, the details of which are specified in Section C of the licence.

**Dormant Authorisation** is an SFA that is either i) *on hold* with the Department whilst a replacement vessel is being arranged, or ii) is pending re-allocation to a nominated owner and vessel that is yet to have their Isle of Man Sea Fishing Licence renewed.

**Latent Authorisation** is an SFA that is not allocated to, or on-hold for a nominated person or a registered and licenced fishing vessel, and has reverted to the Department.

**The Department** is the Isle of Man Government Department of Environment, Food and Agriculture (DEFA).

**Independent Scientific Advisors** are individuals or organisations that are contracted to provide the Department with independent scientific advice.

**Advisory Boards** are stakeholder groups that are established under section 36(9) of the Fisheries Act (2012).

### **Background:**

The Department manages the fisheries within the Isle of Man territorial sea through a combination of regulations, byelaws and also through the conditions associated with the Isle of Man Sea Fishing Licence. Under Section 5 of the Fisheries Act 2012, the Department is responsible for the supervision and protection of sea fisheries in the territorial sea, and for fostering the establishment and development of such fisheries.

Isle of Man Sea Fishing Licences are issued by the Department under Sections 37 of the Fisheries Act 2012 (the Act). Section 38, Subsection (2) and (3) enables the Department to confer conditional and limited authority to licences, and subsection (8) enables the Department to vary the authority of a licence if it appears to the Department to be necessary or expedient for the regulation of sea fishing.

**37 Licensing of fishing boats**

- (1) The Department may by regulations provide in any specified area of the sea within the territorial waters of the Island fishing by fishing boats is prohibited unless authorised by a licence granted by the Department (a “sea fishing licence”).

**38 Sea fishing licences**

- (2) A sea fishing licence may –
- (a) authorise fishing generally, or
  - (b) confer limited authority ...
- (3) A sea fishing licence may authorise fishing either –
- (a) unconditionally, or
  - (b) subject to such conditions as appear to the Department to be necessary or expedient for the regulation of sea fishing.
- (8) A sea fishing licence -
- (a) may be varied from time to time; and
  - (b) may be cancelled or suspended;
- if it appears to the Department to be necessary or expedient for the regulation of sea fishing.

Variations to the Isle of Man Sea Fishing licence may relate to the ‘Specific Fishery Authorisations’, which are part of the Isle of Man Sea Fishing Licence and allow limited and conditional commercial fishing activity by the specified vessel in relation to specific fisheries. Authorisations are specified in Section C of the licence.

Engaging in fishing activity without the required authorisation(s) is prohibited by a condition of the Isle of Man Sea Fishing Licence;

*No person shall engage in fishing activity targeting any specific fishery listed in the Schedule Part II unless authorised to do so at section C of their Licence.*

The *extent and nature* of the authorised fishing activity may also be further restricted by regulation, and by licence condition with reference to the Isle of Man Sea Fishing Licence Schedule (Part I).

*No person shall fish within the Isle of Man territorial sea other than in accordance with the tables (Tables of spatial, temporal, gear and quantitative restrictions (by species) in the Schedule Part I.*

**Scope:**

The following policy shall apply to the administration of SFAs, allocated by the Department as part of the Isle of Man Sea Fishing Licence, which authorise registered and licenced fishing vessels to fish in a specific fishery within the Isle of Man territorial sea. SFAs were previously referred to as SSLs, and were administered in line with policy SF/01/2017.

**Policy:**

- Where activity within a specific fishery is to be controlled, the Department may allocate conditional SFAs to a limited number of Isle of Man Sea Fishing Licences that are determined as eligible for access to that fishery.
- SFAs are not a licence issued by the Department (under Section 37 of the Act).
- SFAs are a licence variation (under Section 38 of the Act), which exempts a registered and licenced vessel from a general prohibition in the Isle of Man Sea Fishing Licence.
- Details of SFAs are listed in Section C of the Isle of Man Sea Fishing Licence.
- SFAs are not the property of the licence-holder.
- SFAs are non-transferable, non-saleable, and shall revert to the Department when the details of the Isle of Man Sea Fishing Licence are changed or when the SFA become latent, subject to circumstances and in-principle guidelines described in this policy.
- The Department shall aim to administer SFAs with consistency by taking into account the general considerations outlined in this document, and with reference to the in-principle guidelines; however, the Department reserves the right to assess administrative changes on a case-by-case basis, and/or apply a different policies in respect of SFAs of a specific description.

- Fishing activity must be undertaken in-line with all other conditions of the Isle of Man Sea Fishing Licence, including Section G (Conditions), Section H (Schedule) and Section I (Annexe), and in-line with Isle of Man Regulations.

### **Procedure:**

SFAs may be allocated by the Department to valid Isle of Man Sea Fishing Licences (specified in Section C), and are legally equivalent to a licence condition variation as described in section 38 of the Fisheries Act (2012).

Active SFAs that are allocated to Licences shall authorise a registered and licenced fishing vessel to engage in commercial fishing for specific fisheries in the Isle of Man territorial sea to the extent and nature allowed under the conditions and schedule of the Isle of Man Sea Fishing Licence, and subject to Isle of Man Bye-laws and Regulations. Licence-holders should be aware of the following:

- SFAs are **not** the property of the licence-holder, and remain the property of the Department at all times;
- The Department reserves the right to retain and not re-issue a SFA;
- SFAs are non-transferable, not saleable, and return to the Department on the disposal or loss of the vessel;
- Waiting lists will not be administered for SFAs, and no guarantee will be made as to when such SFAs may become available;
- The Department reserves the right to issue a SFA on a temporary basis or subject to whatever conditions it may deem necessary or expedient to regulate the fishery (in accordance with section 38 of the Fisheries Act 2012).

With regards to the administration of changes to existing SFAs, or creation of additional (new) SFAs, the Department shall consider and take into account the following general considerations:

- operational continuity;
- implications and maintenance of 'track-records';
- fishing opportunities and diversification;
- safeguards against financial speculation on specific fishery authorisations;
- risks to stock(s);
- long-term fishery management plan(s);
- the national benefit to the Island arising from economic-link associated with the authorised activity;
- the Departments Sea Fisheries Strategy;
- recommendations from Advisory Boards, and
- Fishing Plans presented to support applications relating to SFAs (see the relevant application form for more detail).

In relation to the above considerations, licence-holders should be aware that officers of the Department will refer to the following *in-principle operational guidelines*. These guidelines are not prescriptive, and the Department may administer SFAs on a case-by-case basis, without setting a precedent. Where appropriate, these guidelines have noted the officer grade that may undertake operational decisions/actions:

|            |   |
|------------|---|
| <u>AO</u>  | = Administrative Officer of the Fisheries Division                                |
| <u>EO</u>  | = Executive Officer of the Fisheries Division                                     |
| <u>HEO</u> | = Higher Executive Officer of the Fisheries Division (except where noted with *). |
| <u>SEO</u> | = Senior Executive Officer of the Fisheries Division (except where noted with *)  |
| <u>DIR</u> | = Director of Environment   |
| <u>CEO</u> | = Chief Executive Officer, or Deputy Chief Executive Officer                      |

### **Replacing a vessel**

1. Registered and licensed fishing vessels with an active SFA allocated to the Isle of Man Sea Fishing Licence may be replaced by the owner ('*replacement vessel*'). Subject to (2), ownership details of the replacement vessel must be identical in order for SFAs to be carried over to the replacement vessel. The owner will not normally be required to submit an application form for the SFAs to be re-allocated to the replacement vessels licence; however, the Department (HEO), having reviewed the general

considerations of the fishery or fisheries concerned, reserves the right to request an application to be completed if the replacement vessel is considered to represent an increase in fishing capacity.

2. The Department (EO) may consider, on a case-by-case basis, issuing SFA(s) to *replacement vessels* in a different ownership if the new ownership include the same *natural person(s)*. Additional *natural person(s)* (e.g. Company directors) must be justified and not arise from *financial speculation*. In this situation, the Department (EO) may waive the requirement to apply for the SFA(s) that are to be allocated to the replacement vessel (see 24).
3. Active SFAs may be placed *on hold* for an initial period of 12-months to allow for the acquisition and licensing of a suitable replacement vessel, subject to a request being made to the Department (AO). Whilst SFAs are 'on hold' their status is 'dormant'. Stakeholders should maintain contact with the Department whilst an SFA is on-hold, and are responsible for notifying the Department of relevant vessel details at the earliest opportunity.
4. SFAs that are dormant do not authorise commercial fishing activity until they are activated on a registered and licensed fishing vessel and specified in Part C of the relevant Isle of Man Sea Fishing Licence (i.e. 'activated').
5. The Department (EO) may extend the period of time that an SFA can be retained on hold, subject to extenuating circumstances being demonstrated that made the arrangement of a replacement vessel *difficult* (+6 month extension), or *not possible* (+12 month extension). It is the responsibility of the nominated individual to stay in contact with the Department whilst arranging a replacement vessel.
6. 3-months prior to the end of the hold-period, the Department (AO) shall aim to notify individuals/Companies that they have dormant SFAs on hold, and that the SFAs will become latent unless a replacement vessel is arranged.

#### Latent authorisations

7. If a SFA is placed on hold with the Department, and a suitable replacement vessel is not acquired during the specified hold period, the dormant SFA becomes latent and reverts to the Department.
8. If a registered and licensed vessel with active SFAs is disposed of, lost, or de-registered, and the licence-holder does not request that the SFAs be retained on-hold in order to arrange a replacement vessel, then the SFAs become latent and revert to the Department.
9. A licence-holder may voluntarily 'give-up' (release) active SFAs. Where a licence-holder wishes to *release* a SFA, they must do so in writing to the Department, and acknowledge that they also freely give up the track-record associated with the SFA. The SFA will thus become latent and revert to the Department.
10. Latent SFAs automatically revert to the Department, and providing that there are no other considerations that stipulate otherwise, may be made available for application (see 24).

#### Dormant authorisations and licence renewals

11. The Isle of Man Sea Fishing Licence is valid for a specific period of time. At the end of the annual licensing period, active SFAs allocated to a nominated owner and vessel become dormant until the Isle of Man sea fishing licence is renewed for the following licensing period.
12. If the Isle of Man sea fishing licence is not renewed at any point during the following licensing period, all dormant SFAs associated with that vessel become latent and revert to the Department, unless they are placed *on hold* at some point during that period to arrange a replacement vessel (see 3). The Department (HEO) may take into account the period of dormancy already lapsed when specifying the period of time that a dormant SFA may be kept on-hold to arrange a replacement vessel.
13. The Department (HEO), having taken into account the general considerations relevant to a specific fishery, may allow for latent SFAs to be re-activated on the vessel they were previously allocated to if it is re-licensed in a subsequent licensing period, subject to extenuating or mitigating circumstances being put in writing by the nominated owner, which explain why the Isle of Man sea fishing licence was not renewed.
14. Further to 13, re-activation of latent SFAs to the vessel/owner previously associated with that SFA shall be considered on a case-by-case basis and no decision shall set a precedent. The nominated owner may be required to make an application in order for the SFAs to be re-activated (see 24).

#### Upon the death of a licence-holder

15. In the event of a death of a person that held an Isle of Man Sea Fishing Licence (in their own right), any SFAs that were previously allocated to the Isle of Man Sea fishing licence(s) in their name shall become dormant. If the vessel to which the Isle of Man Sea Fishing licence relates is inherited by an individual, or individuals that intend to use the SFA, it will be made available to them (i.e. activated) once the vessel is registered and licensed in their name(s). If the vessel is inherited by an individual, or individuals that have no intention of using the SFA, it shall become latent and revert to the Department.
16. In the event of a death of a person that *jointly* held an active Isle of Man Sea Fishing Licence, the SFA shall be made available to the remaining owner(s) of the registered and licensed fishing vessel that the SFA was allocated to.

#### Company ownership

17. Where an active SFA is issued in respect of a vessel which is in the ownership of a company, any change of ownership of the company, or change in its directorship, will cause the SFA to become latent and revert to the Department, except in those circumstances described in 2.
18. In the event of a Company, in respect of which an Isle of Man Sea Fishing licence had been held, is dissolved or goes into liquidation, any SFAs that were previously allocated to the companies Isle of Man Sea Fishing Licence(s) shall become latent and revert to the Department.

#### Re-issuing active and latent Specific Fishery Authorisation to new owners

19. On the change in ownership of a vessel, the new owner has no *automatic right* to any SFAs previously allocated to that vessel (except where 12 applies 'inherited SFAs').
20. Notwithstanding 19, and other general considerations that may affect whether an SFA is made available, the new owner of a vessel may be presented the opportunity to apply for the SFA to be carried over before it is made available more widely for application by other parties (see 24), assuming it is made available by the Department (HEO).
21. The Department (HEO) reserves the right to retain and not re-issue SFAs (both active and latent), and may take into consideration advice and recommendations received from independent bodies, including but not limited to;
  - a. Advisory Boards; and/or
  - b. Independent Scientific Advisors.
22. Latent SFAs, which have reverted to the Department, may be made available by the Department (HEO) subject to application (see 24).
23. The Department (HEO) reserves the right to re-issue SFAs according to criteria, conditions, adjustment, or restrictions that may reflect the detail presented in the SFA applications, or those recommended by independent bodies, including but not limited to;
  - a. Advisory Boards, and/or
  - b. Independent Scientific Advisors.

#### Applying for Specific Fishery Authorisations

24. Details of SFAs that have reverted to the Department, or have been newly created, may be made available for application. Details of SFAs that become available will be available online and at the DEFA HQ reception.
25. Applications must be completed using the provided form, and outline;
  - a. A fishing plan associated with the activity, including details such as season, area, and fishing effort;
  - b. Expected national benefit (economic-link) to the Isle of Man economy resulting from the authorised activity;
  - c. Any *operational* continuity, e.g. employment, and product supply to processors;
  - d. Consideration of the need/opportunity for *diversification* represented by a SFA;
  - e. Any other pertinent information.
26. Applications will be considered on a case-by-case basis by the Department (HEO).
27. Applications that do not commit to a minimum economic-link to the Island resulting from the activity authorised by the SFA shall be rejected (see 33).

28. The Department (HEO) may refer an *anonymised* application for consideration by relevant Advisory Boards and Independent Scientific Advisors, and may consider the application against any advice or comments received.
29. The Department (HEO) will consider SFA applications against the stated aims and objectives of the Sea Fisheries Strategy and relevant Long-Term Fishery Management Plans as well as wider Government policies and objectives, and notify the applicant of the Departments determination of their application(s).
30. The applicant may request that the Departments (HEO) determination be referred to a review (called a Stage 1 review). The Stage 1 review shall be undertaken by a different officer within the Division (SEO). The Stage 1 review shall consider the application in full and provide a re-assessment of the application. The re-assessment outcome shall be notified to the applicant by the Department (SEO).
31. If the applicant considers that the initial determination of the application, and the re-assessment outcome, were not fair, balanced, or reasonable, they may request that the application decisions be referred for a Stage 2 review, which shall be undertaken by an officer of the Department (DIR or a sub-delegation to an HEO\* within another Division).
32. The Department (DIR) shall notify the applicant of whether the challenge has been upheld, and the final outcome for the application.

#### Economic-link

33. The minimum economic-link requirement for SFA applications from 04 Apr 2022 is to land at least 70% of the catch resulting from the authorised fishing activity into the Island in each licensing period.
34. Further to 33, a failure to demonstrate the economic-link may result in the Department (HEO) making a determination not to reallocate SFAs to an individual's sea fishing licence in subsequent licence periods, and may make the SFA available for application (see 24).
35. The Department may consider mitigating evidence, for example an absence of on-Island market opportunities, when reviewing economic link status.

#### Contacting the Department

36. Isle of Man Sea fishing licence-holders are expected to contact the Department (AO) at the earliest opportunity should they anticipate changes to their vessel, licence, or circumstances which may affect their eligibility for, or ability to prosecute a given fishery. Licence-holders should also communicate any changes in the capacity (size and engine power) of a replacement vessel compared to their previously licensed vessel.

#### **Enforcement:**

Isle of Man Sea Fishing Licence holders are expected to comply with the policy, all relevant legislation and the conditions of the Isle of Man Sea Fishing Licence. Failure to do so can result in enforcement action being undertaken by the Department which may result in prosecution.

#### **Related information:**

Information regarding the Future Fisheries Strategy can be found at:

<https://www.gov.im/about-the-government/departments/environment-food-and-agriculture/fisheries-directorate/future-fisheries-strategy/>

Information on the Department's policies can be found at: <https://www.gov.im/about-the-government/departments/environment-food-and-agriculture/fisheries-directorate/legislation-policy-and-enforcement/>

Information on commercial licensing requirements can be found at: <https://www.gov.im/categories/business-and-industries/commercial-fishing/iom-licencing/>

#### **Licence application form:**

An application form for an Isle of Man Sea Fishing Licence can be downloaded from:

<https://www.gov.im/categories/business-and-industries/commercial-fishing/iom-licencing/> or completed online at <https://www.gov.im/categories/business-and-industries/commercial-fishing/iom-licencing/application-for-a-licence-to-fish-within-the-isle-of-man-territorial-sea/>

### **Frequently asked questions:**

- *Who does this policy affect?*  
This policy is applicable to anybody holding, or applying for, an Isle of Man Sea Fishing Licence that has Specific Fishery Authorisations.
- *What activities does the policy cover?*  
The policy covers the administration of Specific Fishery Authorisations.
- *What species are covered by Specific Fishery Authorisations?*  
The Department is constantly developing fisheries management measures in line with the Future Fisheries Strategy. For full details regarding what activity requires Specific Fishery Authorisations, please contact the Department using the details above for further information.
- *When does this policy take effect?*  
The policy comes into effect on the 01<sup>st</sup> April 2022.
- *How often will the policy be reviewed?*  
This policy will be reviewed at least every 5 years.
- *Why has the department introduced this policy?*  
As increasing numbers of fisheries become subject to limited and conditional authorisation, the Department requires a consistent and simple process by which to administer licences associated with each specific fishery.
- *How was this policy decided upon?*  
The policy is derived from existing individual bespoke licensing policies for certain fisheries, which were discussed and agreed with industry, and also considers certain pieces of older species specific licensing legislation and policy.
- *What authority has the Department got to introduce this policy?*  
The Department is acting in accordance with the Future Fisheries Strategy, approved by Tynwald in 2015 and also within the powers of the Fisheries Act 2012.
- *How will the policy be enforced?*  
The policy will be implemented through the conditions of the Isle of Man Sea Fishing Licence which are enforceable under the Sea Fisheries Act 2012.
- *How do I apply for a licence?*  
To check on the availability of Specific Fishery Authorisations, please contact the Department using the details above. An application form for an Isle of Man Sea Fishing Licence can be downloaded from: <https://www.gov.im/categories/business-and-industries/commercial-fishing/iom-licencing/>
- *Can I be put on a waiting list for a Specific Fishery Authorisations?*  
The Department does not maintain waiting lists for licences.
- *I hold a Specific Fishery Authorisation, can I change my boat?*  
Current licence holders will receive initial consideration with regard to that licence if they wish to replace the vessel to which it relates.
- *I hold a Specific Fishery Authorisation and wish to retire; can I sell or transfer my fishery authorisation to someone else?*  
No, if a vessel is disposed of, or lost, and the licence holder does not wish to pursue the fishery, then the authorisation returns to the Department.
- *I hold a Specific Fishery Authorisation and am having a new boat built but I want to sell my current vessel, can I retain the authorisation?*



Current Specific Fishery Authorisation holders may retain access to an SFA, for an initial period of 12 months, to facilitate the replacement of the vessel to which the licence relates. During this period, the SFA is not 'active' but is 'dormant'. If an appropriate replacement vessel is not acquired during the hold-period, the dormant SFA shall become latent and revert to the Department.

- *I am buying a boat that used to have a Specific Fishery Authorisation; can I apply for this authorisation?*  
On the purchase of a vessel, in respect of which a Specific Fishery Authorisation had been issued, the new owner has no automatic right to the licence. However, if it is to be made available by the Department, then the new owner may apply for it to be carried over to their licence before it is opened up more widely for applications. Note that from the 04 Apr 2022, the Department will not consider applications for SFAs that do not meet the minimum economic-link requirement of landing 70% of catch resulting from the authorised activity into the Island.
- *What other rules apply?*  
Various legislation exists concerning fishing within the territorial sea. For further information contact the Department using the details above or visit:  
<https://www.gov.im/about-the-government/departments/environment-food-and-agriculture/fisheries-directorate/legislation-policy-and-enforcement/>  
or  
<http://www.tynwald.org.im/links/tls/Pages/default.aspx>
- *How do I find out more about licensing?*  
For more information on licensing contact the Department using the details above or visit:  
<https://www.gov.im/categories/business-and-industries/commercial-fishing/iom-licencing/>

**END**