



SEA FISHERIES (LICENSING) (FISHING VESSELS) REGULATIONS 2021

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Statutory Document No. 2021/0344

*Fisheries Act 2012*

SEA FISHERIES (LICENSING) (FISHING VESSELS) REGULATIONS 2021

*Laid before Tynwald:**Coming into Operation:**1 April 2022*

The Department of Environment, Food and Agriculture makes the following Regulations under sections 37, 38 and 73(1)(b) of the Fisheries Act 2012 having —

- (a) consulted in accordance with section 83(2) and (5)(a) of that Act; and
- (b) satisfied itself as required under section 83(5)(b) of that Act.

1 Title

These Regulations are the Sea Fisheries (Licensing) (Fishing Vessels) Regulations 2021.

2 Commencement

These Regulations come into operation on 1 April 2022.¹

3 Interpretation

In these Regulations —

“**British fishing vessel**” means a fishing boat which is registered —

- (a) as a fishing vessel in the Isle of Man under section 49 (grant or refusal of applications for registration of fishing vessels) of the Merchant Shipping Registration Act 1991; or
- (b) as a fishing boat (however described) in any part of the United Kingdom or the Channel Islands under legislation which has the equivalent effect in that part of the United Kingdom or in the

¹ Section 83(3) of the Fisheries Act 2012 specifies that regulations shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which they are laid or at the next following sitting resolves that they shall be annulled, the regulations shall cease to have effect.

Channel Islands, as the case may be, as section 49 of the Merchant Shipping Registration Act 1991 has in the Isle of Man,

and in relation to which there is a valid British sea fishing licence;

“British sea fishing licence” means an official document issued by a British licensing authority that confers the right to undertake sea fishing from a named fishing vessel, in accordance with any conditions attached to that official document, within the area of the sea that is regulated by the British licensing authority that issues that official document;

“British licensing authority” means —

- (a) the Department of Agriculture, Environment and Rural Affairs, a department of the Northern Ireland Executive;
- (b) the Marine Management Organisation, a body established further to section 1 of the Marine and Coastal Access Act 2009 (of Parliament);
- (c) the States of Jersey;
- (d) the States of Guernsey;
- (e) the Scottish Government; or
- (f) the Welsh Government;

“EU fishing vessel” means a fishing boat —

- (a) that is registered in a member state of the European Union as a fishing boat (however described) under legislation which has the equivalent effect in that member state as section 49 of the Merchant Shipping Registration Act 1991 has in the Isle of Man; and
- (b) in relation to which there is a valid EU sea fishing licence;

“EU sea fishing licence” means an official document issued by a member state of the European Union that confers the right to undertake sea fishing from a named fishing boat within the area of sea that is regulated by that member state in accordance with any conditions attached to that official document;

“qualifying EU fishing vessel” means an EU fishing vessel that the Department has determined has been used for fishing activity in the territorial waters of the Isle of Man on more than 10 days in any of the following periods —

- (a) 1 February 2017 to 31 January 2018;
- (b) 1 February 2018 to 31 January 2019;
- (c) 1 February 2019 to 31 January 2020;

“recreational fishing vessel” means any vessel, boat or personal water craft used wholly for the purpose of conveying persons fishing solely for pleasure or intending to fish solely for pleasure;

“territorial waters of the Isle of Man” shall be construed in accordance with regulation 4;

“**valid British sea fishing licence**” means a British sea fishing licence that has not expired, been cancelled or is not suspended;

“**valid EU sea fishing licence**” means an EU sea fishing licence that has not expired, been cancelled or is not suspended;

“**valid sea fishing licence**” means a valid sea fishing licence that has not expired, been cancelled or is not suspended.

4 Application of regulations

- (1) These regulations apply in relation to the territorial waters of the Isle of Man that lie within 12 nautical miles of the baselines 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 for such baselines adjacent to the United Kingdom.
- (2) These Regulations do not apply to any person fishing solely for pleasure, or intending to fish solely for pleasure –
 - (a) from a recreational fishing vessel; or
 - (b) from a fishing boat, as long as at the time during which the fishing boat is at sea for the purpose of enabling a person to fish for pleasure, it is not also used for commercial purposes connected with the sale, exposure for sale or offer for sale of any sea-fish.

5 Prohibition on fishing without a licence

A person on a fishing boat in the territorial waters of the Isle of Man must not fish for, take or kill any sea fish otherwise than in accordance with a valid sea fishing licence granted by the Department.

6 Application for, and renewal of, a sea fishing licence

- (1) An application for, or renewal of, a sea fishing licence must be made in a paper or electronic form, as required by the Department, and contain such information as may be specified by the Department.
- (2) Where an application under paragraph (1) is in respect of, a sea fishing licence for an EU fishing vessel, the application must include evidence of the actual extent and nature of fishing activity that was carried out by the EU fishing vessel in the territorial waters of the Isle of Man during the period beginning on 1 February 2017 and ending on 31 January 2020.
- (3) An application for a sea fishing licence or for the renewal of a sea fishing licence must be accompanied by the fee specified in the Schedule.
- (4) The fee shall be refundable in respect of a sea fishing licence which is not granted by the Department.

7 Determination of fishing activity by an EU fishing vessel and decision whether to grant licence

- (1) The Department may refuse to grant a sea fishing licence in respect of an EU fishing vessel if the Department determines that the EU fishing vessel is a not qualifying EU fishing vessel.
- (2) The Department may grant a sea fishing licence in respect of a qualifying EU fishing vessel subject to such conditions or limitations as appear to the Department to be necessary or expedient for the regulation of fishing and, in particular, may have regard to the actual extent and nature of fishing activity undertaken by that qualifying EU fishing vessel in the period commencing 1 February 2017 and ending on 31 January 2020 when deciding which conditions or limitations are to apply to that qualifying EU fishing vessel.
- (3) The Department must notify the applicant or the authority of the State acting on behalf of the fishing boat owner, as soon as reasonably practicable —
 - (a) of its decision whether to grant a sea fishing licence under this regulation and the reasons for its decision, including reasons for its determination;
 - (b) if it has decided to grant a sea fishing licence, the conditions and limitations that apply in relation to that licence; and
 - (c) the right under regulation 12 to review and appeal the decision of the Department.

8 Grant of sea fishing licence in respect of British fishing boat

- (1) The Department may grant a sea fishing licence upon an application it receives in respect of a British fishing boat, subject to such conditions as appear to the Department to be necessary or expedient for the regulation of fishing.
- (2) The Department must notify the applicant or the person acting on behalf of the applicant, as soon as reasonably practicable —
 - (a) of its decision whether to grant a sea fishing licence under this regulation and the reasons for its decision;
 - (b) if it has decided to grant a sea fishing licence, the conditions and limitations that apply in relation to the licence; and
 - (c) the right under regulation 12 to review and appeal the decision of the Department.

9 Duration of sea fishing licence

A sea fishing licence granted in relation to a British fishing vessel or a qualifying EU fishing vessel —

- (a) is issued with effect from the date that the Department grants the licence; and
- (b) expires on 31 March following the date on which the licence is issued, unless cancelled under regulation 10 before that date.

10 Cancellation of a sea fishing licence

- (1) A sea fishing licence is automatically cancelled with immediate effect on the occurrence of any of the circumstances set out in paragraph (2).
- (2) The circumstances are —
 - (a) the ownership of the fishing boat is transferred;
 - (b) in the case of a fishing boat that was issued with a British sea fishing licence, the fishing boat is no longer a British fishing vessel; or
 - (c) in the case of a fishing boat that was issued with an EU sea fishing licence, the fishing boat is no longer a qualifying EU fishing vessel.

11 Suspension of a sea fishing licence

- (1) Where a change described in paragraph (2) occurs in respect of a fishing boat that is licensed under these Regulations, the sea fishing licence is suspended with immediate effect until —
 - (a) the change has been notified to the Department, and the Department has received such information as may be specified by the Department in respect of the change, and the fee for a replacement sea fishing licence has been paid to the Department; and
 - (b) the Department has issued a replacement sea fishing licence.
- (2) The changes referred to in paragraph (1) are that there is any change to the —
 - (a) information relating to the nominee of the fishing boat;
 - (b) information relating to the owner of the fishing boat;
 - (c) sea fishing licence details made at the licence holder's request;
 - (d) fishing boat's registration details, being the fishing boat's —
 - (i) name;
 - (ii) port letters and numbers;
 - (iii) register number; or
 - (iv) flag state; or
 - (e) fishing boat's technical details, being the fishing boat's —
 - (i) length;
 - (ii) breadth;
 - (iii) tonnage; or

- (iv) engine power.
- (3) The Department must issue a replacement sea fishing licence as soon as reasonably practicable upon being notified in accordance with paragraph (1), having received such information as may be specified by the Department in respect of the change, and having received the fee required under that paragraph.
- (4) A sea fishing licence is suspended with immediate effect if the fishing boat –
 - (a) sinks;
 - (b) is scrapped; or
 - (c) is for any reason deregistered.
- (5) If the Department is satisfied that circumstances have changed such that a fishing licence that has been suspended under paragraph (4) no longer needs to be suspended, the Department, upon application of owner of the fishing boat and upon payment of the fee for the issue of a replacement sea fishing licence specified in the Schedule, may issue a replacement sea fishing licence.

12 Review and appeal of a decision of the Department

- (1) An applicant for a sea fishing licence, within 30 days of receiving notification by the Department of the Department's decision to refuse to grant the sea fishing licence or to grant it with conditions or limitations, may request in writing that the Department review its decision, stating the grounds on which the review is requested.
- (2) The review request will be considered by an officer of the Department who had no involvement in the original determination ("reviewing officer").
- (3) Within 90 days of the review request being received the reviewing officer must –
 - (a) notify the applicant that the decision has been upheld; or
 - (b) notify the applicant that the reviewing officer has revised the decision and provide the applicant with the revised decision.
- (4) When notifying the applicant of the decision under paragraph (3), the reviewing officer must give reasons for the decision.
- (5) An applicant or person or authority of the State acting on behalf of the fishing boat owner, may appeal to the court of summary jurisdiction against the decision of the reviewing officer within 28 days of being notified of the decision under paragraph (3).

13 Provision of a duplicate sea fishing licence

The fee specified in the Schedule is payable for the issue of a duplicate fishing licence for any reason other than those circumstances referred to in regulation 10.

14 Revocations

The Sea Fishing Licensing (No. 2) Regulations 2018² are revoked.

MADE 3 NOVEMBER 2021

CLARE BARBER

Minister for Environment, Food and Agriculture

² SD 2018/0336.

SCHEDULE

[regulations 6, 11 and 13]

SEA FISHING LICENCE FEES

Sea fishing licence type	Fee
New or renewal <i>[regulation 6]</i>	£345
Replacement <i>[regulation 11]</i>	£44
Duplicate <i>[regulation 13]</i>	£29

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations provide that a person on a fishing boat in the territorial waters of the Isle of Man must not fish for, take or kill any sea fish in the territorial waters of the Isle of Man otherwise than in accordance with a sea fishing licence granted by the Department. A sea fishing licence may contain conditions or limitations as provided for by section 38 of the Fisheries Act 2012 and regulations 7 and 8.

Regulation 3 defines the terms used in these Regulations (and referred to in this explanatory note).

Recreational fishing vessels, including fishing boats and personal water crafts such as kayaks, paddleboards and jet-skis, are exempt from this prohibition provided that such a vessel is being used wholly for the purpose of conveying persons intending to fish solely for pleasure and, in respect of fishing boats, they are not being used at the same time for commercial purposes connected with the sale, exposure for sale or offer for sale of any sea-fish.

Persons engaging in recreational sea fishing may still be subject to licence requirements set out in other regulations made by the Department, such as the Recreational Sea Fishing (Bass) Regulations 2016 [SD 2016/278] or the Sea Fisheries (Lobster and Crab) (Recreational Licensing) Regulations 2015 [SD 2015/0039].

Regulation 6 sets out the process that applies in relation to an application for a sea fishing licence.

Regulation 7 sets out how the Department decides whether it may grant a sea fishing licence to an EU fishing vessel and the conditions or limitations to which the licence may be subject; and regulation 8 provides for the granting of a sea fishing licence in respect of a British fishing vessel. Both regulation 7 and 8 require the Department to notify their decision and the review and appeal process described in regulation 12.

Regulation 9 provides for the duration of a sea fishing licence.

Regulation 10 describes when a sea fishing licence is automatically cancelled.

Regulation 11 describes changes concerning a fishing boat that must be notified to the Department and provides for the sea fishing licence to be suspended until the Department receives the notification, information about the changes and the prescribed fee, after which it may issue a replacement sea fishing licence.

Regulation 12 describes the process for reviewing or appealing a decision of the Department under these Regulations.

Regulation 13 enables the Department to require the payment of a fee for issuing a duplicate licence in circumstances other than those prescribed in regulation 11.

Regulation 14 revokes the Sea Fishing Licensing (No. 2) Regulations 2018 [SD 2018/0336].

Finally, the Schedule sets out the sea fishing licence fees.