

Statutory Document No. 2022/0141



Fisheries Act 2012

SEA FISHERIES (LICENSING) (RECREATIONAL CRAB AND LOBSTER) REGULATIONS 2022

Laid before Tynwald:

Coming into Operation:

1 July 2022

The Department of Environment, Food and Agriculture makes the following Regulations under section 45 and 73 of the Fisheries Act 2012.

1 Title

These Regulations are the Sea Fisheries (Licensing) (Recreational Crab and Lobster) Regulations 2022.

2 Commencement

These Regulations come into operation on 1 July 2022¹.

3 Interpretation

In these Regulations —

“**the Act**” means the Fisheries Act 2012;

“**catch returns**” means written record containing the following information —

- (a) name of the licence holder;
- (b) licence number;
- (c) period to which the returns relate;
- (d) declaration signed and dated by the licence holder;
- (e) date fished;
- (f) number of pots lifted;
- (g) number of crabs kept; and
- (h) number of lobsters kept;

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.

“**crab**” means fish of the species *Cancer pagarus*, *Maia squinado* or any other edible crab;

“**declaration**” means a written statement of the following wording —

“I hereby certify that all of the above details are correct to the best of my knowledge and belief. I make this statement in the knowledge that if any details have been falsely or recklessly declared by me, I may render myself liable to prosecution.”

“**Department**” means the Department of Environment, Food and Agriculture;

“**escape gap**” means a rigid opening with an internal rectangular opening of at least 78 millimetres by 44 millimetres attached into any pot on the lower half of that pot and which provides unobstructed exit for crab or lobster smaller than the escape gap opening dimension, but which does not include the opening or entrance into which any crab or lobster may enter that pot;

“**flap**” in relation to the tail from a lobster means any part of the five flaps of the tail fan of any lobster including the telson with anus and left and right uropod, each uropod containing two flaps;

“**lobster**” means fish of the species *Homarus gammarus* or any other edible lobster but does not include the species of fish *Nephrops norvegicus*;

“**mutilated lobster**” means a lobster which has been mutilated in such a manner which could obliterate or hide a V notch;

“**parlour pot**” means any pot —

- (a) which is double-chambered; and
- (b) the second chamber (“the parlour”) of which is so constructed as to prevent or hinder escape;

“**pot**” means any pot, receptacle, trap or container with one or more openings or entrances, which is baited and is capable of being left at sea to catch crab or lobster;

“**recreational fishing vessel**” means any vessel used wholly for the purpose of conveying persons fishing solely for pleasure or intending to fish solely for pleasure;

“**recreational potter**” means a person who fishes solely for pleasure or intends to fish solely for pleasure for lobster or crab from the shore or from a recreational fishing vessel, using a pot;

“**recreational sea fishing licence**” has the same meaning as in section 3 of the Fisheries Act 2012 and “**licence**” is to be construed accordingly;

“**stock cage**” means a cage or pot used to store lobsters, crabs or any other sea-fish in the sea after capture but prior to landing;

“**three-mile area**” means that part of the territorial sea of the Island lying within 3 nautical miles of the baseline from which the breadth of the territorial sea adjacent to the Island is measured;

“**V notch**” in relation to a lobster means a marking in the shape of a letter “**V**” with a depth of a least 5 millimetres cut (for the purpose of identification of particular lobsters) into one of more of the five flaps of the tail fan of any lobster, with the apex of the V positioned inward from the edge of the flap; and

“**vessel**” means a ship, boat, raft or water craft of any description and including non-displacement craft, seaplanes and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle.

4 Requirement to possess a recreational sea fishing licence

- (1) A recreational potter must not fish for lobster or crab using a pot from a vessel or from the shore otherwise than under and in accordance with a recreational sea fishing licence granted by the Department
- (2) A recreational sea fishing licence, is subject to—
 - (a) the requirements of these Regulations; and
 - (b) any condition imposed pursuant to section 45(5) of the Act.
- (3) A licence is non-transferable and remains the property of the Department.

5 Duration for which a recreational sea fishing licence is valid

A licence —

- (a) may be applied for at any time during the period beginning at 00:00 on 1 July and ending at 23:59 on 30 June of the following year;
- (b) expires at the end of the period, regardless of the time within the period at which it was applied for.

6 Restrictions on recreational pot fishing for lobster and crab

Pursuant to section 45(6)(e) of the Act, the Schedule specifies conditions which must be included in a licence.

7 Catch returns

A licensee must submit to the Department catch returns in respect of the period to which the licence relates no later than the 31 July immediately following the end of that period.

8 Offences

- (1) Subject to paragraph 16 of the Schedule, a recreational potter who fails to comply with a condition specified in the Schedule commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) A recreational potter who, knowingly or recklessly, in any record or return makes a statement which is false or misleading in any material respect commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

9 Refusal of grant or renewal, suspension or cancellation of a recreational fishing licence

- (1) The conviction of a licensee for an offence under these Regulations is sufficient basis for the Department to—
 - (a) refuse to grant or renew a recreational fishing licence in respect of that recreational pot holder; or
 - (b) suspend the licence for a specified period; or
 - (c) cancel the licence.
- (2) The failure of a recreational potter to in comply with regulation 7(1) is sufficient basis for the Department to refuse the recreational potter's application for —
 - (a) renewal of his or her licence; or
 - (b) a new licence.

10 Review and appeal of a decision of the Department under regulation 9

- (1) An applicant for a licence, may, within 30 days of receiving notification by the Department of the Department's decision to refuse to grant the licence or to grant it with conditions or limitations, request in writing that the Department review its decision.
- (2) A request under paragraph (1) must state the grounds on which it is made.
- (3) The request will be considered by an officer of the Department who had no involvement in the original determination ("reviewing officer").
- (4) A reviewing officer must either —
 - (a) uphold the decision; or
 - (b) revise it to the extent he or she reasonably considers appropriate, and, in either case, must within 90 days of submission of the request, furnish the applicant with written notification of the outcome of the review.

- (5) Notification to the applicant under paragraph (4) must set out the reasons for the outcome.

11 Fees

The fee for the granting of a new recreational fishing licence or the renewal of such a licence under these Regulations is £10.60.

12 Revocation

The Sea Fisheries (Lobster and Crab) (Recreational Licensing) Regulations 2015² are revoked.

MADE

2022

Signed by the authority of the Minister for Environment, Food and Agriculture

MICHELLE HAYWOOD

Member of the Department of Environment, Food and Agriculture

² SD 2015/0039

SCHEDULE

RESTRICTIONS TO BE INCLUDED IN A LICENCE

[regulation 6]

1. A recreational potter must not fish for crab or lobster in any part of the territorial sea other than within the three-mile area.
2. A recreational potter must not fish for crab or lobster from a vessel other than a recreational fishing vessel.
3. A recreational potter must not fish for crab or lobster from a vessel that is issued a commercial sea fishing licence by either —
 - (a) the Department
 - (b) the Department of Agriculture, Environment and Rural Affairs, a department of the Northern Ireland Executive;
 - (c) the Marine Management Organisation, a body established further to section 1 of the Marine and Coastal Access Act 2009 (of Parliament);
 - (d) the States of Jersey;
 - (e) the States of Guernsey;
 - (f) the Scottish Government;
 - (g) the Welsh Government; or
 - (h) a Member State of the European Union
2. A recreational sea fishing licence granted under regulation 4 is non-transferable.
3. The maximum number of pots which may be used by a recreational potter is 5.
4. A recreational potter must not take, kill, land or have in his or her possession in any one day more than —
 - (a) 2 lobsters;
 - (b) 5 crabs.
5. Despite paragraph 6, a recreational potter may not take more than 7 lobsters per week (being a period of 7 consecutive days).

SCHEDULE

6. A recreational potter must not land, or have in his or her possession at any time, a crab or lobster, alive or dead, that measures below the minimum landing size specified in the Sea Fisheries (Technical Measures) Bye-laws 2003.
7. A recreational potter must not sell, expose for sale or offer for sale any lobster or crab.
8. A recreational potter must not lift, raise, haul, take fish from, re-bait or in any way use or interfere with a pot belonging to another person, without obtaining the Department's prior permission, and must not permit anyone else to do so.
9. A recreational potter must not use any pot unless —
 - (a) it has at least one unobstructed escape gap located on the lower half of the pot and, in the case of a parlour pot, in the parlour; and
 - (b) it is so designed and constructed that each escape gap is of sufficient size that there may easily passed through the escape gap and completely inserted into the pot, whether the pot is wet or dry, a rigid box shaped gauge of at least 78 millimetres wide, 44 millimetres high and 100 millimetres long.
10. A recreational potter must not use a stock cage for storing any sea fish.
11. A recreational potter must not use a pot unless it is securely attached to at least one surface marker by means of rope that is sufficiently weighted so that no section of rope may float on the sea surface.
12. A recreational potter must not use a surface marker unless it is —
 - (a) an inflatable buoy specifically designed for marking the position of equipment in the sea;
 - (b) at least 200 millimetres in diameter or of A0 Size;
 - (c) of a contrasting colour so as to be clearly visible on the surface of the water at all states of the tide;
 - (d) rigged to float on the surface of the water;
 - (e) maintained in good order; and
 - (f) free from obstruction and not attached to any other buoyant article.
13. A surface marker must display the recreational sea fishing licence number of the person it belongs to, in such a way so that the number —
 - (a) is displayed as high above the water as possible;
 - (b) so that it is clearly visible and legible upon inspection;
 - (c) is written in a colour contrasting with the surface on which it is displayed so as to be clearly legible;

³ SD 2000/709

- (d) is the only recreational sea fishing licence number displayed.
14. A recreational sea fishing licence number displayed on a surface marker must not be defaced, altered or allowed to become illegible.
15. A recreational potter must not take, kill, land or possess in the Island or at sea —
- (e) an edible crab carrying spawn attached to its tail or other exterior part of the crab;
 - (f) an edible crab which has recently cast its shell;
 - (g) a lobster carrying spawn attached to its tail or some other exterior part of the lobster if the lobster's condition show that when it was taken, it was carrying the spawn; or
 - (h) a mutilated lobster or V notched lobster.
16. A recreational potter must not possess —
- (i) a detached claw of an edible crab; or
 - (j) a detached tail or claw of a lobster.
17. A recreational potter who —
- (a) unintentionally catches —
 - (i) a crab or lobster of a description specified in paragraph 6 or paragraph 15; or
 - (ii) a detached claw or tail of a description specified in paragraph 16; or
 - (iii) a crab or lobster when the amount specified in paragraph 4 has already been met; and
 - (b) immediately and carefully returns it to the sea,
- does not commit an offence.

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

These Regulations provide for the issue of a recreational fishing licence to individuals who wish to fish for lobster or crab in Manx waters either from any vessel or from the shore, such fishing to be for the individual's personal consumption.

The Regulations provide that a licence is required to undertake recreational pot fishing for crab and lobster. Under these Regulations a licensee must adhere to the conditions and limitations set out in these Regulations, making it a criminal offence to not do so. In addition a licensee must submit a catch return stating how much they caught during the duration of the licence.

These Regulations also provide a mechanism within which the Department may refuse to renew or grant a licence where a recreational potter has contravened any of the conditions set down in the Regulations or has failed to submit the required catch return in the period specified. However an appeal process is also provided by these Regulations.

These Regulations set out a fee of £10.60 for a licence, as well as revoking previous legislation governing the taking of crab and lobster for recreational purposes.