



BERMUDA

FISHERIES REGULATIONS 2010

BR 55 / 2010

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SCHEDULE

The Minister responsible for Environmental Protection, in exercise of the powers conferred by section 13 of the Fisheries Act 1972, makes the following Regulations:

Citation

- 1 These Regulations may be cited as the Fisheries Regulations 2010.

Interpretation

- 2 (1) In these Regulations, unless the context otherwise requires—
- “Act” means the Fisheries Act 1972;
- “Bermudian status” shall have the meaning ascribed to it under section 4 of the Bermuda Immigration and Protection Act 1956;
- “Chairperson” means the Chairperson of the Council;
- “Council” means the Commercial Fisheries Council established under section 3A of the Act;
- “Department” means the Department of Environmental Protection;
- “Director” means the Director of the Department of Environmental Protection;
- “fisherman” means any person who engages in fishing for reward or who disposes of his catch for financial gain, and includes the operator and crew of a charter fishing vessel but does not include a person engaged in fishing from a foreign fishing vessel;
- “fishing net” has the meaning assigned to that expression in paragraph (2);
- “fishing vessel licence” means a licence to use a fishing vessel issued under regulation 5;
- “fish pot” includes every kind of trap for taking or holding fish;
- “fixed fishing gear” means any fish pot, trap, weir, snare, fixed line or other type of stationary gear that is used for taking fish;
- “fixed line” means any anchored or weighted line rigged with a hook or hooks capable of taking fish independently of a person or fishing vessel;
- “foreign” in relation to a fishing vessel has the meaning assigned to it by section 7(3) of the Act;

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“full-time fisherman” means a person designated as such by the Chairperson under regulation 13;

“holding” in relation to live fish, means storing or retaining;

“lobster” means any crustacea of the family Palinuridae, including spiny, guinea chick or star lobster, or of the family Scyllaridae, including locust or sand lobster;

“owner” in relation to a fishing vessel includes a part owner and any person who has possession of a fishing vessel by virtue of a hire purchase agreement or a demise charter party;

“permanent resident” shall have the meaning ascribed to it under section 23 of the Bermuda Immigration and Protection Act 1956;

“prescribed” in relation to any fee means prescribed by regulations made under the Government Fees Act 1965 ;

“registered fisherman” means a person registered under regulation 12 as a registered fisherman;

“sell” includes offer or expose for sale;

“shellfish” means crustacea and mollusca;

“use” means use for the purpose of taking fish.

(2) “Fishing net” means any form of net for taking or holding fish, namely a bait net, gill net, cast net, seine and trawl which, for the purposes of these Regulations, are defined as follows—

- (a) “bait net” means any surrounding fishing net—
 - (i) the length of which does not exceed 150 feet; and
 - (ii) the depth of which does not exceed 18 feet; and
 - (iii) of which the distance between the knots or intersection of any mesh is not less than one-eighth of an inch nor more than one-half of an inch when measured diagonally at full stretch;
- (b) “cast net” means any circular fishing net which may be deployed by being thrown from the hands, and of which the distance between the knots or intersections of any mesh is not less than one-eighth of an inch (3.2mm) or greater than one-half of an inch (12.7 mm) when measured diagonally at full stretch;
- (c) “gill net” means any fishing net designed or used for entangling fish, and includes bottom and floating entangling gill nets and all nets constructed of monofilament twine, except a cast net;
- (d) “seine” means any net, other than a bait net, used for hauling fish by surrounding the fish;

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- (e) "trawl" means any net used for catching fish by dragging with one or more vessels.

[Regulation 2 paragraph (1) "fixed fishing gear" amended and "fixed line" inserted by BR 118 / 2013 reg. 2 effective 21 December 2013]

Issue of licences by the Director and Chairperson

3 (1) The Director and the Chairperson shall be the authorities responsible for the issue of all licences under these Regulations.

(2) Where the Chairperson is the authority to issue a licence, he shall do so on the advice of the Director.

(3) The Director shall before issuing a licence or before advising the Chairperson under paragraph (2) have regard to—

- (a) the economic condition and safety of the local fishing industry;
- (b) the condition of the marine environment of Bermuda, including but not limited to, the condition of the existing fish populations;
- (c) the number of fishing vessel licences already issued; and
- (d) the promotion, development, improvement or protection of fisheries and the fishing industry in Bermuda.

(4) Nothing in these Regulations shall require the Director to issue any licence or advise the Chairperson to issue any licence if he is of the opinion that the issue of such licence would not be in the interest of the promotion, development, improvement or protection of fisheries and the fishing industry in Bermuda.

Application for fishing vessel licence

4 (1) An application for a fishing vessel licence shall be made by the owner of the fishing vessel, to the Chairperson, setting out the name and address of the owner of the vessel and of each fisherman operating from such vessel and shall be in such form as the Director may determine.

(2) An application under paragraph (1) shall only be made during such period in any year as may be specified by the Director by notice published in the Gazette.

Issue of fishing vessel licence

5 (1) Upon receipt of an application for a fishing vessel licence and the prescribed fee, the Chairperson may issue a fishing vessel licence, valid for one year, ending in March, to the owner of the fishing vessel.

(2) The Director may impose such conditions as he may think fit, on a licence to be issued by the Chairperson under paragraph (1), for the better regulation of the fishing industry and the safety of fishing vessels.

(3) A person shall not be qualified to be issued with a fishing vessel licence under this regulation unless he has Bermudian status, he is a spouse of a person with Bermudian status or he is a permanent resident.

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(4) When the Chairperson issues a fishing vessel licence under paragraph (1), he shall also issue to the owner, a coloured decal in such form as the Director may determine, indicating that the fishing vessel is licensed for the current year.

(5) When the fishing vessel is in use, the owner or the person in charge of the vessel shall exhibit the coloured decal referred to in paragraph (4) on the fishing vessel in respect of which it was issued, in such manner and in such position as the Director may direct, by notice published in the Gazette.

(6) An owner or a person in charge of a vessel who fails to comply with paragraph (5) commits an offence.

(7) Any person, other than a registered fisherman, who uses or allows a person to use a licensed fishing vessel in the exclusive economic zone, commits an offence.

Fixed fishing gear

6 (1) Notwithstanding any provision in these Regulations, it shall be lawful for a person to have in his possession or to use a fixed fishing gear if that person is authorised by a licence issued by the Director or the Chairperson, to have in his possession or to use such gear for any of the following purposes:

- (a) scientific research or experiment;
- (b) exploiting certain marine resources specified in the licence;
- (c) aquaculture.

(2) The Director may impose such conditions as he thinks fit on a licence issued under paragraph (1) and the conditions shall be specified in the licence.

(2A) Nothing in these Regulations permits the use of any hook with fixed fishing gear except where the licence to use such gear permits the use of one or more hooks in the amount and manner set out in the licence.

(3) Any person who is not licensed in accordance with this regulation and who is found in possession of, or using a fixed fishing gear, commits an offence.

(4) Any person who is licensed in accordance with this regulation but uses a fixed fishing gear for a purpose other than for any of the purposes mentioned in paragraph (1), commits an offence.

[Regulation 6 paragraph (2A) inserted by BR 118 / 2013 reg. 3 effective 21 December 2013]

Register of licensed fishing vessels

7 (1) The Chairperson shall keep a register of every fishing vessel in respect of which a fishing vessel licence has been issued which shall set out the name and address of the owner and of each fisherman operating from such vessel and any conditions of the licence imposed under regulation 5(2).

(2) Any person, on payment of the prescribed fee may—

- (a) inspect the register of licensed fishing vessels;

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- (b) require to be furnished with a certificate of the registration in the register of any licensed fishing vessel or owner thereof or with a certified copy of an entry in the register.

(3) A certificate of registration or a certified copy of an entry in the register shall be certified under the hand of an officer of the Department, authorised in that behalf and, if it purports to be so certified, shall in all legal proceedings, whether civil or criminal, be prima facie evidence of the facts certified therein.

Identification marks

8 (1) The Chairperson shall assign a separate identification mark to every fishing vessel licensed and registered under these Regulations and shall enter in the register of licensed fishing vessels and in the fishing vessel licence, the marks so assigned.

(2) Every licensed fishing vessel shall display the identification mark assigned to it, on the sides of the vessel and on the cabin top or the deck in such position as to be visible from above in characters not less than nine inches in height and one and one-half inches in width and spaced not less than three inches apart and the characters shall be marked red, black or such other colour contrasting with the background on which they are displayed as may in any particular case, be approved by a fisheries inspector.

(3) The owner of a licensed fishing vessel who fails to comply with paragraph (2), commits an offence.

(4) Any person who owns or operates any fishing vessel or any vessel which is not a licensed fishing vessel and which is marked with an identification mark which so resembles an identification mark assigned under this regulation as to be calculated to deceive, commits an offence.

(5) Any person whose fishing vessel licence has been suspended or revoked pursuant to any of these Regulations shall, upon such suspension or revocation, immediately remove from the vessel any mark identifying it as a licensed fishing vessel.

(6) A person who fails to comply with paragraph (5) commits an offence.

Transfer of interest

9 (1) A registered owner of a licensed fishing vessel desiring to transfer a licence issued to him under regulation 5 to another vessel he owns, shall make an application to the Chairperson, for such transfer, in such form as the Director may determine.

(2) Upon receipt of an application for the transfer of a licence under paragraph (1), the Chairperson may—

- (a) reissue the licence in respect of the vessel to which the owner wants the licence to be transferred, after making such modifications as the Director may deem necessary for the better regulation of the fishing industry and must continue in force any conditions of the licence imposed by the Director under regulation 5; or
- (b) refuse to permit the transfer of the licence.

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Production of fishing vessel licence

10 (1) The registered owner of a licensed fishing vessel shall produce his licence when so required by a fisheries inspector.

(2) It shall be sufficient compliance with this regulation if the person on whom the requirement is imposed produces such licence at a police station within twenty-four hours of the time of the requirement.

(3) Any person who fails to comply with paragraph (1), commits an offence.

Catch and effort returns

11 (1) The owner or operator of every licensed fishing vessel shall keep a correct daily log of catch and effort statistics relating to the operation of that licensed fishing vessel and shall make a return of the catch and effort statistics, to the Director, at such time and in such form as the Director may determine by notice in the Gazette.

(2) The owner or, as the case may be, the operator of a licensed fishing vessel who fails to keep a correct daily log of catch and effort statistics or make the returns required by paragraph (1), commits an offence.

(3) In the event of a second or subsequent contravention of this regulation, the Chairperson may by notice to the owner, suspend or revoke his fishing vessel licence.

Register of fishermen

12 (1) The Chairperson shall maintain a register containing the names and addresses of all fishermen ordinarily resident in Bermuda.

(2) Any person desiring to be registered as a fisherman shall apply to the Chairperson in writing and pay the prescribed fee, to have his name and address entered in the register of fishermen maintained by the Chairperson under this regulation.

(3) The Chairperson may, upon being satisfied that the applicant is qualified to be registered as a fisherman, register him as a fisherman by entering his name and address in the register of fishermen, subject to such terms and conditions as the Director may think fit, for the better regulation of the fishing industry, and issue the registered fisherman with a photo identification.

(4) In the event of any change of address of a person who has applied to be registered as a fisherman or the change of address of a person registered as a fisherman, the applicant or the registered fisherman as the case may be, shall notify the Chairperson of the new address, within thirty days of the change.

(5) Any registered fisherman who fails to comply with any of the terms and conditions imposed on his licence under paragraph (3) or inform the Chairperson of a change of address as required under paragraph (4), commits an offence.

(6) A person shall not be qualified to be registered as a fisherman unless the person has Bermudian status, is a spouse of a person with Bermudian status or is a permanent resident.

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(7) The registration of any person as a fisherman under this regulation shall expire on 31 March of each year unless renewed upon payment of the prescribed fee for registration.

(8) The Chairperson may strike the name of a person registered as a fisherman, off the register or may refuse to register a person, for stated misconduct.

Designation as full-time fisherman

13 (1) The Chairperson shall, upon receipt of an application and the payment of the prescribed fee, on the advice of the Director, designate a fisherman as a full-time fisherman.

(2) The Chairperson shall from time to time, on the advice of the Director, by notice in the Gazette, publish the criteria for designating a fisherman as a full-time fisherman.

Use of fishing nets

14 (1) In paragraph (1A), “restricted area” means—

- (a) that part of Flatts Inlet lying to the east of the piers of the former railway bridge at Flatts; and
- (b) Harrington Sound.

(1A) Without prejudice to regulations 15 and 16, any person who in a restricted area uses—

- (a) any fishing net other than a cast net; or
- (b) a bait net which exceeds a depth of 12 feet (3.7m),

commits an offence.

(2) Without prejudice to any other provision of law, any person who—

- (a) sets a fishing net in such a manner as to obstruct free access to any channel, pier, dock or landing; or
- (b) sets a fishing net in the exclusive economic zone and does not remove the net within a period of six days from the time it was set; or
- (c) uses a bait net, except for holding fish, other than as a single bait net; or
- (d) uses or has in his vessel a gill net, unless authorised to use or have in his vessel such a net, by a permit issued by the Director in writing,

commits an offence.

(3) Notwithstanding this regulation, the Director may permit any registered fisherman to allow his net to remain in the exclusive economic zone for a period exceeding six days from the time it was set, and such permission may be subject to such conditions as the Director may impose.

(4) Any person who, in any of the places specified in paragraph (1) takes by any fishing net any —

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- (a) yellowtail snapper, hogfish, or any fish of the family Serranidae (including rockfish, hind and grouper); or
- (b) any other fish imported into Bermuda for stock purposes,

commits an offence.

- (5) Notwithstanding any other provision of these Regulations, any person who—
 - (a) uses a fishing net with meshes measuring less than 1/8 inch (3.2mm) when measured diagonally at full stretch; or
 - (b) uses a seine with meshes measuring less than 1/2 inch (13mm) when measured diagonally at full stretch; or
 - (c) uses a trawl with meshes measuring less than 3 inches (76mm) when measured diagonally at full stretch; or
 - (d) not being a registered fisherman operating from a licensed fishing vessel, uses or has in his vessel or on the shoreline any fishing net other than a cast net not exceeding 8 feet (2.4m) in diameter,

commits an offence.

[Regulation 14 paragraph (1) revoked and substituted and paragraph (1A) inserted by BR 55 / 2013 reg. 2 effective 20 June 2013]

General restrictions on taking fish

15 (1) Any person who takes, sells or purchases any fish for purposes other than for use as bait or human or animal consumption, commits an offence.

(2) Nothing in paragraph (1) shall prevent the taking of fish for sport or for the purposes of any private aquarium or personal shell collection or the retention of fish as a trophy.

(3) Any person who takes any bonefish (*Albula vulpes*), or any pompano (*Trachinotus goodei*) otherwise than on a hook and line, commits an offence.

(4) Any person fishing from land who takes or any vessel upon which is found more than one fish of each of the following description—

- (a) *Mycteroperca interstitialis*, which includes Monkey rockfish, Flag rockfish and Salmon rockfish; and
- (b) *Mycteroperca bonaci*, which includes Black rockfish, Runner rockfish and Black grouper,

shall be deemed to have taken the fish within a 24 hour period, unless the contrary is proved and shall be deemed to have committed an offence.

(5) Any person fishing from land who takes or any vessel upon which is found more than ten red hinds (*Epinephelus guttatus*) during the period beginning on 1 May and continuing until the 31 August in any year, shall be deemed to have taken the red hinds

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within a 24 hour period, unless the contrary is proved and shall be deemed to have committed an offence.

(6) Any person, other than a registered fisherman, fishing from land who takes or any vessel, which is not a licensed fishing vessel, upon which is found, more than thirty fish of the following description—

<i>Lutjanus synagris</i>	Lane snapper
	Silk snapper
	Whitewater snapper

shall be deemed to have taken the fish within 24 hours, unless the contrary is proved and shall be deemed to have committed an offence.

(7) Any person who fins a shark at sea, commits an offence.

(8) Any person who takes any marine turtles on any beach or foreshore, commits an offence.

General restrictions on taking lobster

16 (1) Any person who takes, injures, sells, purchases or is found in possession of any lobster, whether alive or dead at any time when the lobster is bearing eggs, commits an offence.

(2) Any person who has in his possession, when on a vessel or while swimming, the tail section of a lobster which has been separated from the remainder of the body of the lobster, commits an offence.

(3) The Director may, upon an application made to him for a licence to take lobsters, made during a period specified by the Director by notice published in the Gazette and the payment of the prescribed fee, issue to the applicant, a licence to take lobsters.

(4) A licence issued under paragraph (3) shall have the following conditions attached to it—

- (a) only a noose or snare of a type approved by the Director may be used for taking lobsters;
- (b) no lobster so taken shall be sold;
- (c) the holder of the licence shall make a return to the Director of catch and effort statistics, which return shall be in such form and shall be made at such intervals of time as the Director shall specify;
- (d) the taking of lobsters shall be done only from such area or areas within the exclusive economic zone as specified in the licence;
- (e) the holder of the licence can take not more than two lobsters during any continuous period of 24 hours;
- (f) such licence shall be valid until 31 August in each year;

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(g) such licence shall not confer a right to take spiny lobsters (*Panulirus argus*) during the period specified in regulation 21.

(5) The holder of a licence issued under paragraph (3) who contravenes any of the conditions specified in paragraph (4) or who takes a spiny lobster (*Panulirus argus*) during the period specified in regulation 21, commits an offence.

(6) If any person, not being the holder of a valid licence issued to him under paragraph (3) authorising him to take lobsters, is found in possession of a lobster on a vessel or onshore, he shall be deemed to have taken the lobster in contravention of these Regulations and shall be deemed to have committed an offence, unless the contrary is proved.

(7) Any person who, not being the holder of a valid licence issued to him under paragraph (3) authorising him to take lobster, is found in possession of an instrument capable of taking lobster, other than a spear, harpoon or other similar device, either on a vessel or while swimming, commits an offence.

(8) Any person who is not licensed to take lobsters under these Regulations, who sells lobster, commits an offence.

General restrictions on landing fish

17 (1) Fish taken at sea must be landed with the skin of the fish, on the fish; fish species specified under regulation 20(2)(b) must be landed whole.

(2) For the purposes of this regulation, fish taken at sea would be considered as landed whole if the head and tail of the fish are attached to the body of the fish.

(3) For the purposes of this regulation, eviscerated fish would be considered as landed whole, if the head and tail of the fish are attached to the body.

(4) For the purposes of this regulation, fish taken at sea will be considered as landed, when the fish is within the inshore areas specified in the Schedule.

(5) A person found in possession of any fish taken at sea that has not been landed whole, commits an offence.

Sale of fish taken from the EEZ

18 (1) A person who buys or sells any fish taken in the exclusive economic zone, commits an offence unless—

(a) the vendor of the fish is a fisherman registered under regulation 12; and

(b) the fish has been taken from a vessel licensed under regulation 5.

(2) A registered fisherman selling fish in compliance with paragraph (1), shall produce his photo identification issued under regulation 12, when required to do so.

(3) Paragraph (1) shall not apply to the sale of fish taken by a registered fisherman using a licensed fishing vessel where the sale takes place in any shop, supermarket, restaurant or any eating establishment.

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(4) Notwithstanding paragraph (3), a person buying fish on behalf of a shop, supermarket, restaurant or any eating establishment shall include the particulars of the fishing vessel licence of the vessel from which the fish was caught and particulars of the photo identification of the registered fisherman who caught the fish, on the sales invoice.

(5) The sales invoice referred to in paragraph (4) shall be signed by the vendor and the purchaser.

(6) All fish intended or exhibited for sale as local fish, shall be clearly identified as being local; every invoice, advertisement or label on the packaged fish, restaurant menu cards or signs exhibited in stores shall clearly state that the fish is local.

(7) Where fish, offered or exhibited for sale, including fish which has been iced, chilled or cut, is represented as being fresh, it must be fish of a quality fit for human consumption.

(8) Fish, offered or exhibited for sale as fresh, shall not include fish which has been frozen, smoked, salted, canned or processed.

(9) Any person who fails to comply with any provision in this regulation, commits an offence.

Sale of imported fish

19 (1) Imported fish, that is, fish taken elsewhere than within the exclusive economic zone, except pelagic fish, that is oceanic fish such as tuna and swordfish, taken in international waters by a vessel licensed under regulation 5, must on importation be clearly identified by species and the country of origin or export, and shall be certified as to its quality by the health authority of the country of origin or export. Such fish shall be subject to examination by a fisheries inspector.

(2) Imported fish shall be sold only on the wholesale market and shall not be retailed to members of the public.

(3) All fish intended or exhibited for sale as imported fish, shall be clearly identified as imported; every invoice, advertisement or label on the packaged fish, restaurant menu cards or signs exhibited in stores shall clearly state that the fish is imported.

(4) Any person who fails to comply with any provision in this regulation, commits an offence.

Protected fish

20 (1) Any person who takes, injures, sells, purchases or is in possession of, any protected fish, commits an offence.

(2) In this regulation, "protected fish" means any fish mentioned in this paragraph if lighter in weight or smaller in size than the size or weight specified herein in relation to such fish—

(a) in relation to spiny lobsters (*Panulirus argus*)—

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- (i) if the tail has not been removed, a size of three and five-eighths inches (92 mm) in length measured from the ridge at the base of the horns to the end of the carapace (back shell); or
 - (ii) if the tail has been removed, a tail weight of 12 ounces, or, if it is impracticable to weigh the tail, a second tail segment (the segment nearest the carapace and having two large spots) of one and three-eighths inches (35mm) measured along the longitudinal axis of the tail;
- (b) in relation to—
- (i) Black rockfish (*Mycteroperca bonaci*) 95cm (37ins) fork length;
 - (ii) Monkey rockfish (*Mycteroperca interstitialis*) 50cm (20ins) fork length;
 - (iii) Red hind (*Epinephelus guttatus*) 35cm (14ins) fork length;
 - (iv) Hogfish (*Lachnolaimus maximus*) 45cm (18ins) fork length;
 - (v) Yellowtail snapper (*Ocyurus chrysurus*) 30cm (12ins) fork length;
 - (vi) Lane snapper (*Lutjanus synagris*) 25cm (10ins) fork length;
- (c) in relation to yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and wahoo (*Acanthocybium solandri*), a weight of 3.2 kgs (7 lbs) and bluefin tuna (*Thunnus thynnus*) a weight of 30 kgs (66 lbs) or 115 cm (45 ins) fork length and Swordfish (*Xiphias gladius*) a weight of 25 kgs (55 lbs) or 125 cm (49 ins) fork length measured from the lower jaw;
- (d) in relation to blue marlin (*Makaira nigricans*) a weight of 114 kgs (250 lbs) and white marlin (*Tetrapturus albidus*) a weight of 23 kgs (50 lbs).

(3) Any person who, not carrying with him, or on the vessel or shore from which he is fishing, a measuring instrument capable of measuring a spiny lobster as specified in paragraph (2)(a) or of measuring a fish specified in paragraph (2)(b), (c) and (d), takes or injures any fish of the species mentioned in paragraph (2), commits an offence.

Closed season for spiny lobsters

21 Notwithstanding regulations 15 and 16, any person who takes, injures, sells, purchases, or is in possession of spiny lobsters (*Panulirus argus*) or any part thereof, during the period beginning on 1 April and continuing until 31 August in any year, commits an offence.

Spearfishing

22 (1) The Director may, upon application for that purpose made during the period specified by the Director by notice published in the Gazette and the payment of the prescribed fee, issue to an applicant, a licence to take fish by spearfishing.

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(2) A licence issued under paragraph (1) shall have the following conditions included in any conditions attached to it—

- (a) the licence shall be subject to paragraphs (3) to (10);
- (b) the licence shall be valid until 31 August in each year; and
- (c) the licensee shall make a return to the Director, of catch and effort statistics in such form and at such intervals as the Director may specify.

(3) Nothing in this regulation shall derogate from or abridge any provision of regulation 20 or 21.

(4) Any person—

- (a) who uses a speargun in taking fish; or
- (b) who uses an aqualung in taking fish by any means,

commits an offence.

(5) Any person—

- (a) who takes or injures any lobster by spearfishing; or
- (b) who takes or injures by spearfishing in any one day more than two fish of any one species; or
- (c) who takes by spearfishing any fish within one nautical mile of the shore of any of the islands of Bermuda,

commits an offence.

(6) Any person who sells any fish taken by spearfishing, commits an offence.

(7) In this regulation—

- (a) “aqualung” means any appliance, apparatus or mechanism whereby a person can continue to breathe when fully submerged in water;
- (b) “spearfishing” means using a spear, harpoon or similar device above or under water except when gaffing a fish caught by a fishing line;
- (c) “speargun” means any weapon, apparatus or mechanism so constructed as to be capable of being used underwater for the discharge (whether complete or partial) of any projectile, whether or not a spear or harpoon.

(8) Any fish found in a vessel in which an aqualung is being carried or any fish found in the possession of any person equipped with an aqualung shall be presumed to have been taken in contravention of paragraph (4), until the contrary is proved.

(9) Any person found swimming within an area in which spearfishing is prohibited by these Regulations, while carrying a spear, harpoon or other similar device, or swimming in an area in which the taking of lobsters by diving is prohibited, while carrying an instrument capable of taking a lobster other than a spear, harpoon or other similar device, commits an offence.

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(10) Subject to these Regulations, any person found with an instrument capable of taking a lobster, or with a spear, harpoon or other similar device and an aqualung in his possession, either when in a vessel or on his person, while swimming, commits an offence.

Grant of licence to use fishing lines rigged with more than 5 hooks

23 (1) The Chairperson may, upon application made to him by a registered fisherman for that purpose, issue to the registered fisherman, a licence to use fishing lines rigged with more than five hooks per line (whether vertically or horizontally) from or independently of a licensed fishing vessel, subject to such terms and conditions as the Director may think fit to impose for the better regulation of the fishing industry.

(2) No person shall use a fishing line rigged with more than five hooks unless he is licensed to do so under these Regulations.

(3) Nothing in this regulation permits a person to use a fixed line.

[Regulation 23 paragraph (1) amended, paragraph (2) revoked and substituted and paragraph (3) inserted by BR 118 / 2013 reg. 4 effective 21 December 2013]

Duty to return fish which may not be taken

24 Where a person takes any fish which cannot lawfully, by reason of any provision in these Regulations or of any order made under sections 4 and 5 of the Act be taken, injured, sold, purchased or kept in possession, it shall be the duty of the person taking the fish to return it immediately into the sea; and if the person fails to do so, he commits an offence.

Using fixed fishing gear

25 Subject to these Regulations, any person who uses any fixed fishing gear for taking fish, commits an offence.

Use of explosives, poison, dredge or trawl

26 (1) Any person who takes or injures any fish by means of any explosive or poisonous substance, commits an offence.

(2) Nothing in paragraph (1) shall apply in relation to any explosive substance utilised—

(a) in connection with the breaking up of any rock or shoal or of any wreck;
or

(b) in connection with the improvement of any ship channel.

(3) Any person who uses any dredge or trawl, commits an offence.

(4) Paragraph (3) shall not apply to any person authorised to use a dredge or trawl by a licence issued to him by the Director and which is used in accordance with the conditions which the Director imposed in the licence on the issue of the licence.

(5) For the purpose of this regulation “dredge” means any device having a rigid frame with a basket, bucket or hose attached, and used by being dragged in contact with the bottom of the sea, or used to scoop or suck fish from the bottom of the sea.

FISHERIES REGULATIONS 2010

Prohibition against introducing live or unfrozen and uncooked fish into waters of Bermuda

27 Any person who introduces into the waters of Bermuda or into any system which discharges untreated wastes into the waters of Bermuda any live or unfrozen and uncooked fish, or any parts thereof, which have been imported into Bermuda, commits an offence, unless he has been authorised to do so by a licence issued to him by the Director and he has complied with the terms and conditions of the licence.

Interfering with fishing gear without consent of owner

28 Any unauthorised person who—

- (a) hauls up, moves, empties or casts adrift any fishing net set for the taking or holding of fish, or fish car set for the storing of fish or any mooring, mark or buoy used in connection therewith, without the consent of the person owning or setting the fish net, fish car, mooring, mark or buoy; or
- (b) removes any fish from any fishing net or fish car without the consent of the person setting the fish net or fish car; or
- (c) hauls up, moves, empties or casts adrift any fixed fishing gear or mooring, mark or buoy used in connection therewith or who removes any fish from a fixed fishing gear without the consent of the owner of the gear and a licence to do so by the Chairperson,

commits an offence.

Punishment of offenders and forfeiture; suspension or revocation of licence

29 (1) Subject to section 14 of the Act, a person who—

- (a) contravenes any provision of these Regulations; or
- (b) in contravention of any term or condition of a licence or permit issued under these Regulations takes or attempts to take any fish,

commits an offence and is liable on summary conviction, to imprisonment for two years or a fine of \$50,000 or both such imprisonment and fine; and any fish taken in contravention of these Regulations and any vessel, instrument or equipment used in such taking may be liable to forfeiture.

(2) Notwithstanding paragraph (1), where a person licensed by the Chairperson or the Director under any provision in these Regulations—

- (a) has violated a term or condition of his licence; or
- (b) has been found guilty of an offence against these Regulations,

the Chairperson or the Director may, in his discretion, after giving the person concerned an opportunity to be heard, suspend or revoke the licence or the term or condition which has been violated or in relation to which the offence was committed.

[Regulation 29 paragraph (1) amended by BR 9 / 2013 reg. 2 effective 1 March 2013; paragraph (1) revoked and replaced by BR 118 / 2013 reg. 5 effective 21 December 2013]

FISHERIES REGULATIONS 2010

Appeals to Minister

- 30 (1) A person aggrieved by a decision of the Director or the Chairperson—
- (a) not to issue a licence;
 - (b) to revoke or suspend a licence; or
 - (c) on any condition subject to which a licence is issued or which is thereafter attached to a licence or any variation of such condition,

may within 21 days from the date of such refusal or revocation, imposition or variation of the condition, or such period as the Minister may allow, appeal in writing to the Minister.

(2) For the purposes of an appeal under paragraph (1), the Director or the Chairperson shall, at the time of giving his decision or not later than five working days after the date on which he makes a decision, give reasons, in writing, for the decision.

(3) After considering an appeal under paragraph (1), the Minister may if he thinks fit, vary the decision of the Director or the Chairperson and such variation shall take effect on such date as the Minister may determine.

(4) The Minister may give his decision as soon as possible after the hearing of the appeal but in no case, later than 10 working days after receipt of the notice of appeal.

(5) When a person gives notice of appeal to the Minister, the Minister may suspend the implementation of the decision of the Director or the Chairperson, pending the outcome of the appeal.

Inspection and enforcement

31 (1) For the purposes of ascertaining whether there is, or has been, any contravention of these Regulations, a fisheries inspector shall have the power to—

- (a) enter any premises or any vehicle, vessel or place where fish may be held;
- (b) haul up and inspect any fishing net, fixed fishing gear or other fishing gear (whether of the foregoing kind or not) and to remove therefrom any fish which cannot lawfully by reason of any provision of the Act or these Regulations be taken, and to seize any such fishing net, fixed fishing gear or other fishing gear which is used or possessed in contravention of the Act or these Regulations;
- (c) require any person suspected of committing or having committed an offence against these Regulations, to give his name and address to him; or
- (d) require the operator of a vessel to stop the vessel.

(2) Where any fishing net, fixed fishing gear or other fishing gear is seized under paragraph (1), the fisheries inspector may cause it to be brought before a court of summary jurisdiction and the court may, after hearing any representations made by the owner thereof, order the destruction or disposal of such fishing net, fixed fishing gear or other fishing gear in such manner as the court may direct.

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(3) Any person issued a licence by the Chairperson or the Director under any provision of these Regulations shall, when required to do so by a fisheries inspector, produce his licence.

(4) It shall be sufficient compliance with paragraph (3), if the person on whom the requirement is imposed produces such licence at the Department of Environmental Protection or a police station within 24 hours of the time of the requirement.

(5) Any person who fails to comply with any requirement imposed on him by a fisheries inspector under paragraph (1) or (3) commits an offence.

(6) Where any unidentified fishing gear or thing is seized under paragraph (1), the Director may order such gear or thing to be destroyed or otherwise disposed of or, if such thing is living, to be released into the sea.

Revocation

32 The Fisheries Regulations 1972 are revoked.

FISHERIES REGULATIONS 2010

SCHEDULE

(Regulation 17)

Fish will be considered “landed” if they are within the following designated areas—

- (a) Sinky Bay
- (b) Hungry Bay
- (c) Devonshire Bay
- (d) Castle Harbour (North of Castle and Nonsuch Islands)
- (e) All bays and waters west of a line running from Gunner Pt., St. David’s and Gates Fort, St. George’s (this includes St. George’s Harbour, Great Bay, Cocoa Bay and Dolly’s Bay)
- (f) Coot Pond
- (g) Ferry Reach (South of the Railway pylons)
- (h) Bailey’s Bay (South of Bay Island)
- (i) Beanie’s Bay
- (j) Burchall Cove
- (k) Flatts Inlet (East of Gibbet’s Island)
- (l) Harrington Sound
- (m) Devonshire Dock
- (n) All bays and waters west of a line running from Cobbler’s Island, Spanish Point and Commissioner’s Pt., Dockyard (this includes Great Sound, Little Sound, Boss’s Cove, Mills Creek and Hamilton Harbour)
- (o) All bays and waters south of a line running from Dockyard Point or Greys Bridge to Kings Point in Sandys Parish (to include Mangrove Bay)
- (p) All bays and waters south of a line running from Kings Point in Sandys Parish to Daniel’s Island, Sandys Parish (this includes Long Bay)
- (q) All bays and waters south of a line running from Daniel’s Island, Sandys Parish to Gunpoint, Sandys Parish (this includes Ely’s Harbour).

Made this 20th day of August, 2010

Minister of the Environment and Sports

FISHERIES REGULATIONS 2010

[Amended by:

BR 9 / 2013

BR 55 / 2013

BR 118 / 2013]