



Statutory Document No. 160/07

THE SEA-FISHERIES ACT 1971

THE SEA-FISHERIES (WHELK LICENSING, ETC.) BYE-LAWS 2007

Approved by Tynwald: 21st March 2007

Coming into operation: 1st April 2007

WHEREAS the Department of Agriculture, Fisheries and Forestry has –

- (a) consulted such organisations and authorities as is required by section 2(2A)(a) of the Sea-Fisheries Act 1971¹; and
- (b) satisfied itself as required by section 2(2A)(b) of that Act.

AND in exercise of the powers conferred on the Department of Agriculture, Fisheries and Forestry by section 2 of the Sea-Fisheries Act 1971, and of all other enabling powers, the following Bye-laws are hereby made:-

Citation, commencement and application

1. These Bye-laws may be cited as the Sea-Fisheries (Whelk Licensing, Etc.) Bye-laws 2007 and, subject to section 3(1) of the Sea-Fisheries Act 1971, shall come into operation on 1st April 2007.

Interpretation

2. In these Bye-laws –

“the Act” means the Sea-Fisheries Act 1971;

“the Department” means the Department of Agriculture, Fisheries and Forestry;

“mile” means an international nautical mile of 1,852 metres;

¹ 1971 c.18

"fishing vessel" means a fishing vessel registered in the Isle of Man, United Kingdom or Channel Islands;

"stock cage" means a cage, pot or receptacle used to store whelks 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;

"whelk" means a fish of the species *Buccinum undatum*.

"whelk pot" means any baited pot, receptacle or container with one or more openings or entrances and which is specifically designed for, and capable of, being left at sea to catch whelks;

Restrictions on fishing for whelks

3. (1) No person shall take or kill whelks in the three mile area by using a whelk pot from any fishing vessel otherwise than under and in accordance with the conditions of a licence granted by the Department.

(2) For the purposes of these Bye-Laws the minimum size of a whelk shall be as specified in Schedule 5 to the Sea-Fisheries (Technical Measures) Bye-Laws 2000¹

(3) A person requiring a licence under these Bye-laws shall make written application to the Department and shall supply the Department with such information relating to the application and the intended fishing activities as the Department may require.

(4) A licence shall not be transferable and shall expire on the sale or change of ownership of a vessel.

(5) A licence may be revoked, suspended or varied at any time.

Maximum number of whelk pots

4. (1) The overall maximum number of whelk pots which shall be used within the three-mile area shall be 3,600.

(2) A licence may be issued for up to a maximum of 600 whelk pots.

¹ SD 709/00

Stock cages for storing or holding whelks

5. No persons shall use a stock cage for storing or holding whelks unless –
- (a) they are the holders of a licence granted under bye-law 3(1); and
 - (b) they have notified the Department in writing at least seven days before such use of the exact location of the stock cage.

Marking of stock cages, and of floats and markers attached to whelk pots and stock cages

6. (1) No person shall use a stock cage for holding or storing whelks unless it is clearly and indelibly marked so as to indicate the PLN and the number of the licence granted under bye-law 3.

(2) No person shall use a float or marker attached to a whelk pot or stock cage for storing or holding whelks unless it is clearly and indelibly marked so as to indicate the PLN and the number of the licence granted under bye-law 3.

Catch returns

7. (1) The holder of a licence granted under bye-law 3 in respect of a licensed fishing vessel shall keep and preserve records giving information concerning the vessel, gear and fishing operations by means of a logbook, issued by the Department under the provisions of the Sea-Fisheries (Logbook) Bye-Laws 2006¹.

(2) If the holder of a licence granted under bye-law 3 fails to comply with paragraph (1), the licence shall immediately cease to be valid.

Offences and penalties

8. (1) Any person who contravenes bye-law 3(1) shall be guilty of an offence and shall be liable –

- (a) on conviction on information to a fine;
- (b) on summary conviction to a fine not exceeding £50,000.

(2) Any person who contravenes bye-law 4, 5, 6(1) and (2) or 7(1) of this bye-law shall be guilty of an offence and shall be liable –

- (a) on conviction on information to a fine;
- (b) on summary conviction
 - (i) in the case of a first offence, to a fine not exceeding £5,000;

¹ SD 672/06

(ii) in the case of a second or subsequent offence, to a fine not exceeding £10,000.

Revocation

9. (1) The documents specified in columns 1 and 2 of the Schedule are revoked to the extent shown in column 3 of the Schedule.

(2) Any licence which is in force on the day on which these Bye-laws come into operation and issued under the Sea-Fisheries (Whelk Etc. Licensing) Bye-laws 1994¹ shall, notwithstanding the provisions of bye-law 3, continue to have effect as if it had been issued under these Bye-laws.

Bye-law 9

SCHEDULE

REVOCATION OF PUBLIC DOCUMENTS

<i>Column 1</i> SD No	<i>Column 2</i> Title of Public Document	<i>Column 3</i> Extent of Revocation
279/94	Sea-Fisheries (Whelk Licensing, Etc.) Bye-laws 1994	The whole of the Bye-laws.

Made 18th February 2007

Phil Gawne

Minister for Agriculture, Fisheries and Forestry

¹ GC 279/94

EXPLANATORY NOTE

(This note is not part of the Bye-laws)

The Bye-laws consolidate, with amendments, the Sea-Fisheries (Whelk Licensing, Etc.) Bye-laws 1994. Its provisions deal with a licensing regime for fishing whelks and the use of pots and stock cages for that purpose. The provisions apply only within the three-mile area.

The Bye-laws –

- (a) restrict fishing for whelks except under authority of a licence granted by the Department (bye-law 3);
- (b) confirms the number of pots which may be used by a fishing vessel within the three-mile area to be 3,600 (stipulated in the 1994 Bye-Laws) but allow for licences to be issued for a maximum of 600 pots. Previously there were six licences issued with 600 pots per licence, this change will enable the issue of more licences to cater for those wishing to fish using fewer whelk pots (bye-law 4);
- (c) restrict the use of a stock cage to those people who hold a licence in respect of a registered fishing vessel granted under bye-law 3 (bye-law 5);
- (d) require the holder of a licence granted under bye-law 3 in respect of a registered fishing vessel to keep a logbook concerning the vessel, gear and fishing operations, failure to comply with which leading to the licence immediately becoming invalid (bye-law 6);
- (e) require all pots, stock cages, floats and markers to be clearly and indelibly marked with the PLN of the vessel and the number of the licence granted under bye-law 3 (bye-law 7);
- (f) set penalties for offences against the bye-laws (bye-law 8);
- (g) revoke the Sea-Fisheries (Whelk Licensing, Etc.) Bye-laws 1994, which are replaced by the 2007 Bye-laws (bye-law 9).

