

THE FISHING INDUSTRY ACT

The Fishing Industry (Spiny Lobster) (Amendment) Regulations, 2014

In exercise of the power conferred upon the Minister by section 25 of the Fishing Industry Act, the following Regulations are hereby made:-

Citation. 1. These Regulations may be cited as the Fishing Industry (Spiny Lobster) (Amendment) Regulations, 2014, and shall be read and construed as one with the Fishing Industry (Spiny Lobster) Regulations, 2009 (hereinafter referred to as the principal Regulations).

Amendment of regulation 2 of principal Regulations. 2. Regulation 2 of the principal Regulations is amended by inserting in their correct alphabetic sequence the following –
““approved storage facility” means a storage facility approved under regulation 7(2);
“authorized storage facility” means a storage facility designated under regulation 7(1);”.

Amendment of regulation 3 of principal Regulations. 3. Regulation 3 of the principal Regulations is amended by –
(a) re-numbering paragraph (1) as regulation 3;
(b) deleting the words “paragraph (2)” and substituting therefor the words “regulations 4 (2), 4A(4) and 7D”; and
(c) deleting paragraph (2).

Amendment of regulation 4 of principal Regulations. 4. The principal Regulations are amended by deleting regulation 4 and substituting therefor the following –

“Declaration to sell, export or process spiny lobster during close 4. – (1) Where –
(a) a licensed fisherman;
(b) middleman;

season.

- (c) an owner or operator of a commercial cold storage establishment, hotel or eating establishment or similar entity which offers spiny lobster meat to its patrons; or
- (d) any other person,

has possession of any spiny lobster that was lawfully fished before the date of commencement of a close season, and is desirous of selling, exporting or processing that spiny lobster within twenty-one days of the commencement of a close season, that person shall declare, in writing, to the Minister the quantity of spiny lobster in that person's possession.

(2) Notwithstanding regulation 3, where spiny lobster is declared under paragraph (1), that spiny lobster may be sold, exported or processed within twenty-one days after commencement of the close season.

(3) A declaration made under paragraph (1), shall specify whether the spiny lobster in possession is –

- (a) the whole lobster;
- (b) the tail;
- (c) the head;
- (d) the head meat;
- (e) the tail meat; or

(f) any other category specified by the
Minister,

and shall be submitted to the Minister for
consideration within seven days of the
commencement of the close season. ”

**Insert new
regulation 4A
in principal
Regulations.**

5. The principal Regulations are amended by inserting next after
regulation 4 the following —

**“ Application
for storage
of spiny
lobster
during close
season.**

4A. — (1) A licensed fisherman who is desirous
of having any spiny lobster that was lawfully fished
and is in his possession before commencement of a
close season, made available for sale, export or
processing after the end of that close season, may
apply to the Minister for an authorization to store
the spiny lobster that is his possession for the
duration of the close season.

(2) An application under paragraph (1)
shall be made, in writing, and —

(a) shall include —

(i) a detailed description of the spiny
lobster that the applicant intends to
store, including the matters
prescribed in regulation 4(2) and
any spiny lobster by-product or
extract;

(ii) a declaration by the applicant as to
whether the spiny lobster that is

the subject of the application will
be sold, exported or processed at
the end of the close season;

- (iii) the name and address of the
approved storage facility where
the applicant intends to store the
spiny lobster for the duration of
the close season; and
- (iv) where the applicant intends to
export the stored spiny lobster,
the application shall be
accompanied by a certified copy of
a valid licence to export or enter
for export aquaculture, inland or
marine product or its by-product
granted under the Aquaculture,
Inland and Marine Products and
By-products (Inspection and
Licensing) Act.

(3) An application under paragraph (1)
shall be submitted to the Minister for consideration
no later than the 15th day of April.

(4) The Minister may authorize the storage
of spiny lobster for the duration of the close season
where the Minister is satisfied that –

- (a) where the applicant intends to export

spiny lobster, and the applicant is the holder of a valid licence to export or enter for export aquaculture, inland or marine product or its by-product granted under the Aquaculture, Inland and Marine Products and By-products (Inspection and Licensing) Act; and

- (b) the information supplied by the applicant is consistent with the findings of any inspections conducted by a Fishery Inspector.

(5) Where the Minister grants an authorization under paragraph (4), the Minister shall issue to the person the authorization, in writing, subject to such terms and conditions, if any, which shall –

- (a) describe and state the quantity of the spiny lobster that has been authorized for storage during the close season;
- (b) identify the approved storage facility where the applicant intends to store the spiny lobster;
- (c) state the period during which the spiny lobster is to be stored; and
- (d) include any other matters as the Minister may determine.

(6) Where a licensed fisherman has been granted authorization under paragraph (4) is informed that an approved storage facility named in the authorization for storage of spiny lobster is unable or unwilling to store the spiny lobster, the person who made the application shall advise the Minister, in writing, of any change in arrangements for storage at least twenty-four hours before the date of intended delivery of the spiny lobster to another approved storage facility.

(7) In this regulation "certified copy" means a copy certified, on presentation of the original document, by a Justice of the Peace or a public officer appointed for the purpose by the Minister."

**Amendment
of regulation
5 of principal
Regulations.**

6. The principal Regulations are amended by deleting regulation 5 and substituting therefor the following –

**" Power to
enter
premises, etc.**

5. – (1) A Fishery Inspector may enter at all reasonable times –

- (a) any premises he knows or reasonably believes to be under the control of a person in possession of spiny lobster;
- (b) the premises of a person referred to in regulation 4;
- (c) an authorized storage facility or an approved storage facility;

- (d) devices or containers in which he knows or reasonably believes spiny lobster are confined.

(2) Where an approved storage facility receives for storage or releases from storage any spiny lobster, a Fishery Inspector shall inspect the spiny lobster –

- (a) at the time of delivery for storage or release from storage, as the case may be, to ensure that the quantity and description of spiny lobster conforms with the authorization issued by the Minister before the approved storage facility stores the spiny lobster or releases from storage the spiny lobster at the end of the close season; and

- (b) on completion of an inspection, where the Fishery Inspector is satisfied that the spiny lobster presented for storage or release from storage, as the case may be, conforms with the authorization of the Minister, the Fishery Inspector shall give a written approval for the approved storage facility to accept the spiny lobster for storage or to release it, as the case may be.

(3) The approval of a Fishery Inspector shall –

- (a) identify the Fishery Inspector conducting the inspection;
- (b) state the date on which and place where the inspection was conducted;
- (c) refer to the relevant authorization for storage and identify the licensed fisherman to whom it was granted and the approved storage facility;
- (d) state whether the quantity and description of spiny lobster conforms with the authorization for storage;
- (e) state whether the Fishery Inspector approves the storage or release of the spiny lobster;
- (f) include any other matter that the Minister may specify.

(4) The Fishery Inspector's approval shall be provided to the relevant approved storage facility and the licensed fisherman whose spiny lobster has been authorized for storage during the closed season."

**Amendment
of regulation
7 of principal
regulations.**

- 7. The principal Regulations are amended in regulation 7 -
 - (a) in paragraph (1), by deleting the words "storing fish and fish products" and substituting therefor the words "storing spiny lobster";
 - (b) by deleting paragraph (2) and substituting therefor the following –

“(2) The Minister may, in writing, approve a facility, for the storage of spiny lobster during a close season.

(3) A Fishery Inspector shall from time to time, inspect each authorized storage facility or approved storage facility.”.

**Insert new
regulation 7A
in principal
Regulations.**

8. The principal Regulations are amended by inserting next after regulation 7 the following –

**“Application
for storage
of spiny
lobster.**

7A. – (1) An approved storage facility shall -

- (a) only accept for storage or store spiny lobster during a close season on presentation of and in accordance with an authorization for storage issued by the Minister;
- (b) not release or deliver from storage spiny lobster during a close season;
- (c) accept, receive, release or deliver spiny lobster for storage during a close season in the presence of and with the approval, in writing, of a Fishery Inspector issued under regulation 5(2).

(2) An approved storage facility that stores spiny lobster shall keep a record for at least seven years of all authorizations and Fishery Inspector approvals in respect thereof.

(3) For the avoidance of any doubt, an authorization by the Minister under regulation 4A

(4) specifying a named authorized storage facility does not oblige that storage facility to enter into a

contract with any person for the storage of spiny lobster or compel the named storage facility to accept spiny lobster for storage.

Revocation of designation of storage facility.

7B. – (1) Where the designation of an authorized storage facility is revoked the facility shall not accept for storage any seized spiny lobster.

(2) Where the approval of an approved storage facility is revoked the facility shall not accept for storage any spiny lobster authorized for storage by the Minister.

(3) Where a facility referred to in paragraph (1) or (2), at the time of revocation of designation or approval, as the case may be, has in storage any spiny lobster that spiny lobster may remain in storage remain in storage at that facility under the supervision of a Fishery Inspector for one month from the date of revocation of designation or such other period as the Minister may, in writing, determine.

Access to stored spiny lobster.

7C. – (1) Subject to paragraph (2), no person shall access, handle or interfere with any spiny lobster in storage at an approved storage during a close season.

(2) Subject to paragraph (2), no approved storage facility shall permit any person access to spiny lobster held in storage at that facility during a close season.

(3) Paragraph (1) or (2) does not apply where

the spiny lobster, while in storage, is accessed or handled by –

- (a) a Fishery Inspector; or
- (b) any person, in the interests of safeguarding or securing the spiny lobster, including preserving the condition thereof, where there is an event outside the control of the operator of the approved storage facility, including –

- (i) earthquake, hurricane, flood or other natural disaster event;

- (ii) civil unrest, riot, or an act of a third party.

(4) Where a person gains or is given access to or handles the stored spiny lobster under paragraph 3(b) to preserve that spiny lobster, the operator of the approved storage facility shall –

- (a) notify the Minister as soon as practicable; and
- (b) give a report in writing, to the Minister and, on request, the licensed fisherman to whom authorization for storage was given whose spiny lobster has been accessed or handled while in storage.

Transitional. 7D. In respect of a close season in effect during the year of publication of these Regulations in the *Gazette*, an application made under regulation 4A may be made before the 1st day of May, and any spiny lobster in the possession of an applicant that is the subject of such an application, having been lawfully fished in accordance with the Act, shall not be subject to seizure by a Fishery Inspector and the applicant shall not be liable under regulation 8.”.

Dated this

17th day of April, 2014.



**Minister of Agriculture
and Fisheries**