

Diving for Scallops & Dredge Oysters checklist

DO

- > Be a responsible fisher and a safe diver
- > Know the rules
- > Measure & count shellfish as you collect them
- > Count what you eat as part of your daily bag limit
- > Decide who will take for safety people (max 2 per vessel) before you dive
- > Ensure your safety people are able to respond to an emergency
- > Remember to use your share with care

DON'T

- > Take excessive amounts
- > Take small shellfish
- > Land shucked shellfish
- > Collect for all people on a boat
- > Collect for safety people when diving from shore



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Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Diving for Scallops and Dredge Oysters

Code of Practice



New Zealand Government



Diving for Scallops and Dredge Oysters

Code of Practice

This code of practice is a summary of the recreational (amateur) fishing laws of New Zealand as they relate to diving for scallops and dredge oysters. It is intended to provide guidance to recreational fishers on the regulations governing the harvest of these shellfish. However, this code does not replace the relevant provisions in Fisheries legislation and is intended as a guide only. You should also be aware that there may be changes in the law from time to time.

Note: Fishery Officers are trained to treat each case on its merits. They have a range of options at their discretion to deal with various levels of offending.

Diving for shellfish

Many recreational fishers around New Zealand collect shellfish such as scallops and dredge oysters by diving. It is an enjoyable way to collect food while exploring underwater. It has minimal impact on the environment and because individual shellfish are selected, there is very little wastage.

When diving for shellfish, you should be aware of the rules governing:

- > **Maximum numbers** (bag limits) and **minimum sizes** (size limits) of shellfish that may be taken or possessed
- > **Sorting and measuring catch** at the first reasonable opportunity
- > **Shucking and eating scallops and dredge oysters on the vessel** - daily bag limit applies and shellfish must still be landed in a measurable state (in the shell)
- > **Taking additional scallops and dredge oysters** in certain circumstances for **safety people** on board a vessel

Maximum numbers and minimum sizes

Know the local rules

Make sure you know what the bag and size limits are in the area you are diving. There are regional differences throughout New Zealand and it is your responsibility to know what they are.

If in doubt:

- > contact your local MFish office
- > check the MFish website fish.govt.nz

Sorting and measuring catch

The obligation to sort and count your catch arises when you legally "take" the shellfish. Exactly when this occurs has been the subject of discussion in the courts. A recent court case concluded that you should count and measure shellfish at the first reasonable opportunity and in that set of circumstances **the first reasonable opportunity was on the seafloor as the shellfish were placed in the dive bag**¹.

¹Freedivers do not have as much time to count and measure on the seafloor so it is reasonable for them to do this at the surface.

The following practical suggestions are designed to help you understand your legal obligations.

Count as you go

You are expected to count each shellfish as you place it in your catch bag.

Note: If you are sharing a catch bag with another diver, you are responsible for counting your own bag limit and the other diver is responsible for counting their bag limit.

Measure as you go

You are also expected to measure as you go. There are many quick and easy ways to measure your shellfish as you collect them and before you place them in your catch bag. For example, you can mark your catch bag handle with the minimum legal size for the shellfish you are collecting.

Re-check your catch & return undersize or excess shellfish immediately

Always make sure you re-count and re-measure your catch as soon as possible after surfacing. If you have accidentally taken too many scallops, or undersized scallops, you must return them, unharmed, to the sea *immediately*.

Immediately is not after you have changed into dry clothes and you are comfortably relaxing with a cold drink and lunch, and it is not after you have picked up anchor and moved to a nicer spot!

Remember that returned fish must be given the best opportunity to survive and should be returned to the same place that they were taken from. Scallops and dredge oysters returned to different habitat types (e.g., rocky reefs, deep water) are not as likely to survive, and are not likely to be part of the spawning population. Similarly, scallops and dredge oysters not returned immediately to the water may die or suffer adverse effects through dehydration and/or overheating.

Ensure your safety while diving

When diving, be aware of tides, swell, visibility and weather. While many people find shellfish delicious, they are not worth risking your life for! If conditions are deteriorating, you might want to postpone your dive rather than collecting shellfish in a hurry.

Shucking scallops and dredge oysters at sea

People can shuck and eat scallops and dredge oysters on board vessels, provided the shellfish are counted as part of their daily bag limit.

Count the shellfish you have eaten as part of your daily bag limit

Regulations to allow people to consume scallops and dredge oysters were made to recognise that eating shellfish is an important part of the recreational experience. It is important that you respect the daily bag limit.

You're only entitled to one bag limit per day, whether you eat it on board or not.

Land scallops and dredge oysters in their shells

You still can't land shucked shellfish. If you are uncertain about how many scallops or dredge oysters you are likely to consume while at sea, don't shuck all of them at once. That way you can still land some of your bag limit if you don't eat all of them.

Diving and safety people

In certain circumstances and within the strict limits described below, divers from a vessel are allowed to take scallops and dredge oysters for safety people on their boat. **It is important to note that scallops and dredge oysters are the only species to which this concession applies.**

Take scallops and dredge oysters for up to two safety people only

The regulations allow extra scallops and dredge oysters to be collected for up to two safety people. No more than two extra bag limits can be taken per vessel, regardless of how many people are diving. So, if you have one safety person on board your vessel, you may only collect one extra bag limit. If you have three safety people on board, you may only collect two extra bag limits, not three.

Make sure your safety person can help in an emergency

The regulations are clear that a safety person must be able to act as a safety person. This means they are able to assist a diver if something goes wrong, and even drive the boat if necessary. Use your common sense to guide you, but remember that children are unlikely to be considered safety people by a Fishery Officer. A friend who has had too many beers, or is asleep in the sun while you are diving will not be much help if something goes wrong.

Plan who will collect the extra shellfish

If there is more than one person diving, it is important that you all decide who will be responsible for gathering extra shellfish for the safety person/people. If all divers decide to collect some extra shellfish, be clear about how many each of you will take, otherwise you may commit an offence.

Note: You cannot collect extra shellfish for safety people if you are diving from shore, regardless of the conditions. For your own safety, you should always dive in pairs. Also, let someone know where you are going and when you will return.

Note: Safety people are responsible for the shellfish that divers have caught for them. Safety people must satisfy themselves that this catch meets all size and bag limits that apply.

