



Jersey

**SEA FISHERIES (LICENSING OF  
FISHING BOATS) (JERSEY)  
REGULATIONS 2003**

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Jersey

## SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 2003

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Jersey

## **SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 2003<sup>1</sup>**

**THE STATES**, in pursuance of Articles 7, 12, 13 and 29 of the Sea Fisheries (Jersey) Law 1994,<sup>2</sup> have made the following Regulations –

Commencement [[see endnotes](#)]

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### **PART 1**

#### **PRELIMINARY**

##### **1 Interpretation**

In these Regulations, unless the context otherwise requires –

“access permit” means an access permit granted as referred to in Regulation 2;

“address for service”, in relation to an owner or charterer of a fishing boat, means the address for service for the time being provided by the owner or charterer to the Minister in accordance with Regulation 8;

“Agreement” means the Agreement concerning Fishing in the Bay of Granville between the United Kingdom and the Republic of France, signed on 4th July 2000;

“Area” means the waters referred to as such in the Agreement;

“electronic means” includes facsimile transmission and any method of transferring data by computer;

“exchange of notes” means the exchange of notes that is associated with the Agreement and concerns access to fishing in certain zones in the Bay of Granville area;

“fishing boat licence” means a licence granted as referred to in Regulation 2;

“fishing permit” means a fishing permit granted as referred to in Regulation 2;<sup>3</sup>

“Law” means the Sea Fisheries (Jersey) Law 1994;<sup>4</sup>

“overall length”, in respect of a fishing boat, means the distance in a straight line between the foremost point of the bow and the aftermost point of the stern –

- (a) the bow being taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but to exclude bowsprits and safety rails; and
- (b) the stern being taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark, but to exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers’ ladders and platforms;

“place of business”, in relation to an owner or charterer of a fishing boat, means any place at which the owner or charterer carries on any business;

“registered office” in relation to an owner or charterer of a fishing boat, being an owner or charterer that is a body corporate, means the registered office of the owner or charterer;

“territorial sea” means the territorial sea of Jersey;

“Zone A”, “Zone B”, “Zone C”, “Zone D”, “Zone E” or “Zone F” means the waters referred to as such in the exchange of notes.

## **PART 2**

### **RESTRICTIONS ON SEA FISHING**

#### **2 Fishing in the territorial sea of Jersey: licences, permits and lists<sup>5</sup>**

- (1) In the territorial sea, fishing by a British fishing boat is prohibited unless authorized by a fishing boat licence granted by the Minister.
- (2) In any part of the Area (except Zone C and Zone D), being a part that is within the territorial sea, fishing by a French fishing boat is prohibited unless authorized by an access permit that has been granted by an authority of the French Republic and is in force in respect of the boat and the part.
- (3) In any part of the Area, being a part that is within the territorial sea, fishing by a British fishing boat is prohibited unless authorized by an access permit that has been granted by the Minister and is in force in respect of the boat and the part.
- (4) In Zone A or Zone B, fishing by a French fishing boat is prohibited unless the boat is referred to in the lists in force for that Zone under the exchange of notes and the boat is the subject of an access permit that has been granted by an authority of the French Republic and is in force in respect of the boat.
- (5) In Zone C or Zone D, fishing by a French fishing boat is prohibited unless the boat is referred to in the lists in force for that Zone under the exchange of notes and the fishing is authorized by an access permit that

has been granted by an authority of the French Republic and is in force in respect of the boat and the Zone.

- (6) In the part of the territorial sea that is specified in paragraph 9(b) of the exchange of notes (that is, the whelk box), fishing by a French fishing boat is prohibited unless there is an access permit in force in respect of the boat and the boat is fishing only for whelk.
- (6A) In any part of the Area, being a part that is within the territorial sea, fishing with beam trawls by any fishing boat is prohibited unless authorized by a fishing permit that has been granted by the Minister or an authority of the French Republic and is in force in respect of the boat and the Area.<sup>6</sup>
- (7) For the avoidance of doubt, it is hereby declared that, for the purposes of this Regulation, if something is not done in accordance with the terms or conditions of a licence, an access permit or a fishing permit it is not authorized by that licence, access permit or fishing permit.<sup>7</sup>

### **3 Fishing by Jersey boats in adjacent waters: licences and permits<sup>8</sup>**

- (1) In any part of the Area, being a part that is within the territorial sea of France, fishing by a Jersey fishing boat is prohibited unless authorized by –
  - (a) a fishing boat licence valid for that part; and
  - (b) an access permit valid for that part and granted by the Minister.
- (2) In Zone E or Zone F, fishing by a Jersey fishing boat is prohibited unless the boat is referred to in the lists in force for that Zone under the exchange of notes and the fishing is authorized by an access permit that has been granted by the Minister and is in force in respect of the boat and the Zone.
- (2A) In any part of the Area, being a part that is within the territorial sea of France, fishing with beam trawls by a Jersey fishing boat is prohibited unless authorized by a fishing permit that has been granted by the Minister and is in force in respect of that boat and the Area.<sup>9</sup>
- (3) For the avoidance of doubt, it is hereby declared that, for the purposes of this Regulation, if something is not done in accordance with the terms or conditions of a licence, an access permit or a fishing permit it is not authorized by that licence, access permit or fishing permit.<sup>10</sup>

#### **3A Fishing in the Frouquier Aubert protected area<sup>11</sup>**

- (1) In this Regulation –

“protected area” means that part of the territorial sea near the Frouquier Aubert buoy that is bounded by straight lines drawn in the sequence –

  - from 49 05.10N 02 00.00W to 49 05.10N 01 55.00W
  - from 49 05.10N 01 55.00W to 49 02.50N 01 55.00W
  - from 49 02.50N 01 55.00W to 49 02.50N 02 00.00W

from 49 02.50N 02 00.00W back to 49 05.10N 02 00.00W,

as determined in accordance with the World Geodetic System 1984;

“restricted trawl” means any trawl that is not designed to operate exclusively on the seabed and includes any trawl that does not have fitted to it attachments designed to protect the trawl from damage resulting from contact with the seabed.

- (2) In the protected area, fishing –
- (a) with a restricted trawl; or
  - (b) with a trawl towed by more than one boat,
- is prohibited unless authorized by a fishing permit that has been granted –
- (c) by the Minister; or
  - (d) by an authority of the French Republic,
- and is in force in respect of the boat or boats and the protected area.
- (3) For the avoidance of doubt, it is hereby declared that, for the purposes of this Regulation, if something is not done in accordance with the terms or conditions of a fishing permit it is not authorized by the fishing permit.
- (4) If a fishing boat –
- (a) is in the protected area;
  - (b) has a restricted trawl on board; and
  - (c) does not have permission to use that trawl at that time by a fishing permit granted under paragraph (2),
- the restricted trawl must be stowed in accordance with the conditions mentioned in paragraph (5).
- (5) Those conditions are that –
- (a) apart from its weights, the trawl must be carried wholly inboard;
  - (b) all nets and trawlboards and weights must be disconnected from their towing or hauling wires or ropes;
  - (c) all trawlboards must be secured at deck level or carried below deck; and
  - (d) all nets that are on deck or above deck must be securely lashed to some part of the superstructure of the fishing boat.

#### **4 Requirement to carry access permit**

If an access permit is in force in respect of a boat, the permit shall be carried on the boat –

- (a) in the case of a Jersey fishing boat, whenever it is in the Area;
- (b) in the case of a French fishing boat, whenever it is in any part of the territorial sea; or
- (c) in the case of any British (but not Jersey) fishing boat, whenever it is in the territorial sea.



**4A Requirement to carry fishing permit<sup>12</sup>**

If a fishing permit is in force in respect of a boat, the permit shall be carried on the boat –

- (a) in the case of a Jersey fishing boat, whenever it is in the Area;
- (b) in the case of a French fishing boat, whenever it is in a part of the Area, being a part that is within the territorial sea; or
- (c) in the case of a British (but not Jersey) fishing boat, whenever it is in a part of the Area that is within the territorial sea.

**5 Exception**

The prohibitions in Regulations 2 and 3 shall not apply in respect of –

- (a) fishing by a boat when the fishing is only for the pleasure of persons conveyed on the boat and the boat is used only for the purpose of conveying persons wishing to fish for pleasure;
- (b) fishing operations that, under the authority of the Minister, are conducted for the purpose of scientific investigations.

**PART 3**

**LICENCES AND PERMITS**

**6 Classes of licences and permits**

- (1) There shall be 2 classes of fishing boat licences, namely –
  - (a) a class A licence, for a fishing boat with an overall length that exceeds 10 metres; and
  - (b) a class B licence, for a fishing boat with an overall length that does not exceed 10 metres.
- (2) There shall be 1 class of access permit.
- (3) There shall be one class of fishing permit.<sup>13</sup>

**7 Charges for licences and permits**

- (1) The charge payable for the grant of a fishing boat licence shall be such amount as the Minister has prescribed by Order.
- (2) The charge payable for the grant of an access permit or a fishing permit (or both of them) shall be such amount as the Minister has prescribed by Order.<sup>14</sup>
- (3) A charge referred to in paragraph (1) or (2) shall be payable –
  - (a) by the person to whom the licence, access permit or fishing permit is granted; and

- (b) on the first grant of the licence, access permit or fishing permit to the person in respect of the fishing boat named in the licence, access permit or fishing permit.<sup>15</sup>
- (4) If, instead of (or on the expiry of) that licence, access permit or fishing permit, any other licence, access permit or fishing permit is granted subsequently to the same person in respect of the same fishing boat, no charge shall be payable for the grant of the subsequent licence, access permit or fishing permit.<sup>16</sup>
- (5) The Minister may, by Order, prescribe charges for the purposes of paragraph (1) or (2).

## **8 Address for service on owner or charterer**

- (1) An owner or charterer of a Jersey fishing boat who applies to the Minister for a fishing boat licence for that boat shall, subject to paragraph (1B), provide the Minister with an address for service in Jersey.<sup>17</sup>
- (1A) An owner or a charterer of a fishing boat that is not a Jersey fishing boat who applies to the Minister for a fishing boat licence for that boat shall, subject to paragraph (1B), provide the Minister with an address for service in –
  - (a) Jersey; or
  - (b) the country or place in which that fishing boat is registered.<sup>18</sup>
- (1B) An address for service that is required to be provided under paragraph (1) or (1A) –
  - (a) shall not include an address for service that is a post office box; and
  - (b) shall be stated in writing and shall accompany the application referred to in paragraph (1) or, as the case may be, (1A).<sup>19</sup>
- (2) An owner or charterer may from time to time change the address for service by notice in writing to the Minister.
- (3) A change of address for service shall take effect on notice being given to the Minister in accordance with paragraph (2) or on such later date as may be specified in the notice.

## **9 Grant of licence or permit**

Subject to Regulations 11 and 12, a licence, an access permit or a fishing permit is granted in respect of a fishing boat by delivering it to the owner or charterer of the fishing boat in one of the following ways –

- (a) personally, in which case it shall take effect on receipt;
- (b) by leaving it at the owner's or charterer's address for service, place of business or registered office, or in the hands of any person in any of those places, in which case it shall be treated as having been delivered and shall take effect 24 hours after it is left;
- (c) by transmitting it to the owner or charterer by electronic means at the address for service, place of business or registered office, in which case it

shall be treated as having been delivered and shall take effect 24 hours after it is transmitted;

- (d) by sending it to the owner or charterer by post at the address for service, place of business or registered office, in which case it shall be treated as having been delivered and shall take effect –
  - (i) 48 hours after it is sent, if that period does not expire on a Sunday or on a day that is a bank holiday or public holiday in the place to which it is sent, or
  - (ii) if the period does expire on such a day, then at the end of the next day that is not a Sunday or a bank holiday or public holiday in that place.<sup>20</sup>

#### **9A Limit on grant of fishing permit<sup>21</sup>**

For the purposes of –

- (a) Regulations 2(6A) and 3(2A); and
- (b) the grant, by the Minister, of a fishing permit authorizing fishing with beam trawls by a Jersey fishing boat in the Area, being a fishing permit required by Regulations 2(6A) and 3(2A),

the Minister shall, when considering an application for such fishing permit, ensure that not more than 5 such fishing permits shall be in force at any one time.

#### **10 Variation, suspension or revocation**

- (1) Subject to Regulations 11 and 12, the variation, suspension or revocation of a licence, an access permit or a fishing permit is effected by giving notice of the variation, suspension or revocation to the owner or charterer of the fishing boat to which the licence, access permit or fishing permit relates, in one of the following ways –
  - (a) personally, in which case the variation, suspension or revocation shall take effect 24 hours after receipt of the notice;
  - (b) by leaving it at the owner's or charterer's address for service, place of business or registered office, or in the hands of any person in any of those places, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect 48 hours after the notice is left;
  - (c) by transmitting it to the owner or charterer by electronic means at the address for service, place of business or registered office, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect 48 hours after the notice is transmitted; or
  - (d) by sending it to the owner or charterer by post at the address for service, place of business or registered office, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect –

- (i) 72 hours after the notice is sent, if that period does not expire on a Sunday or on a day that is a bank holiday or public holiday in the place to which it is sent, or
  - (ii) if the period does expire on such a day, then at the end of the next day that is not a Sunday or a bank holiday or public holiday in that place.<sup>22</sup>
- (2) Subject to Regulations 11 and 12, the variation, suspension or revocation of a licence, an access permit or a fishing permit may alternatively be effected by giving notice of the variation, suspension or revocation to the master of the fishing boat to which it relates, in one of the following ways –
  - (a) personally, in which case the variation, suspension or revocation shall take effect on receipt of the notice; or
  - (b) by transmitting it to the master by electronic means while the master is aboard the fishing boat, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect 24 hours after the notice is transmitted.<sup>23</sup>
- (3) Notwithstanding paragraphs (1) and (2), the variation, suspension or revocation of –
  - (a) all licences or all permits;
  - (b) all licences, or all permits, authorizing fishing for one or more specified descriptions of sea fish;
  - (c) all licences, or all permits, authorizing fishing in one or more specified areas;
  - (d) all licences, or all permits, authorizing fishing by one or more specified methods; or
  - (e) all licences, or all permits, authorizing fishing by reference to a combination of any 2 or more of the matters referred to in subparagraphs (b), (c) and (d),

may be effected by publishing notice of the variation, suspension or revocation in the Jersey Gazette, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect 48 hours after the end of the day on which the notice is published.

- (4) A notice so published –
  - (a) shall provide that it applies to all licences or all permits; or
  - (b) shall specify those licences, or permits, to which it relates by reference to a description of sea fish, area or method or any combination of them,

but need not specify the names or port letters and numbers of the fishing boats, or the names of any owners, charterers or masters of any fishing boats, to which the variation, suspension or revocation relates.<sup>24</sup>

- (5) In this Regulation –
  - (a) in paragraph (3), “all permits” means all access permits and all fishing permits; and
  - (b) in paragraph (4), “all permits” means all access permits and all fishing permits.<sup>25</sup>

**11 Delivery or notification by several modes<sup>26</sup>**

Subject to Regulation 12, if –

- (a) a licence, an access permit or a fishing permit; or
- (b) a notice of the variation, suspension or revocation of a licence, an access permit or a fishing permit,

is delivered or given by more than one mode, it shall be treated as having been delivered or given and the licence, access permit or fishing permit or the variation, suspension or revocation shall take effect at the earliest of the times prescribed by these Regulations in respect of the modes by which the licence, access permit or fishing permit or notice is delivered or given.

**12 Deferred effect<sup>27</sup>**

Where –

- (a) a licence, an access permit or a fishing permit; or
- (b) a notice of the variation, suspension or revocation of a licence, an access permit or a fishing permit,

specifies on its face that the licence, access permit or fishing permit, or the variation, suspension or revocation, shall take effect at a time that is later than a time prescribed by these Regulations in respect of any mode by which the licence, access permit or fishing permit or notice is delivered or given, the licence, access permit or fishing permit, or the variation, suspension or revocation, shall take effect at the time shown on the face of the licence, access permit, fishing permit or notice.

**12A Period for which licence in force<sup>28</sup>**

- (1) A fishing boat licence shall, subject to its suspension or revocation, be in force on and from the date on which it takes effect until the end of the granting period within which it takes effect.
- (2) Paragraph (1) applies to a Class A licence and a Class B licence referred to in Regulation 6(1).
- (3) In this Regulation, “granting period” means –
  - (a) the period that commences on 1st January 2007 and ends on 31st December 2008; or
  - (b) a period, determined in accordance with paragraph (4), that follows the period specified in sub-paragraph (a), or comes at a later time.
- (4) For the purposes of paragraph (3)(b), a period that follows the period specified in paragraph (3)(a), or comes at a later time to that period, shall –
  - (a) commence on the second anniversary of the commencement date of the preceding granting period; and
  - (b) end on the 31st December of the year following the year in which it commences.

- (5) This Regulation shall apply to a fishing boat licence that takes effect on or after 1st January 2007.

### **13 Effect of lodging appeal**

- (1) If an appeal is lodged under Article 28 of the Law against the revocation or suspension of a licence, an access permit or a fishing permit after the revocation or suspension has taken effect, the licence, access permit or fishing permit comes back into force as from the time when the appeal is lodged.<sup>29</sup>
- (2) If an appeal is lodged under Article 28 of the Law against the revocation or suspension of a licence, an access permit or a fishing permit before the revocation or suspension has taken effect, the licence, access permit or fishing permit continues in force even after the revocation or suspension would, but for this Regulation, have taken effect.<sup>30</sup>
- (3) A licence, an access permit or a fishing permit in force by virtue of this Regulation continues in force by virtue of this Regulation until whichever of the following events occurs first –
- (a) the relevant appeal is withdrawn by the appellant;
  - (b) the relevant appeal is dismissed by the Court;
  - (c) the Minister acts, in relation to the licence, access permit or fishing permit, on any directions of the Court given under Article 28 of the Law;
  - (d) the licence, access permit or fishing permit expires.<sup>31</sup>

## **PART 4**

### **MISCELLANEOUS**

### **14 Maximum penalties**

For the purposes of Article 12(17) of the Law,<sup>32</sup> the maximum penalty is £20,000 in respect of the first conviction of a person for an offence against that Article or £40,000 in respect of a second or subsequent conviction of a person for an offence against that Article.

### **15 Repeal and savings**

- (1) The Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 1996 are repealed.
- (2) Notwithstanding any other provision of these Regulations, if an application for a licence was made in respect of a fishing boat after the making of the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 1996, but before the latter Regulations came into force, and the application has not been determined before the date of repeal of those Regulations, the activity in respect of which the licence was sought continues to be authorized in respect of that fishing boat until the application is determined.

- (3) A licence that, but for the repeal of the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 1996, would have continued in force shall be taken to have been granted under these Regulations and shall remain in force until such day as it would have expired but for that repeal unless it is sooner revoked or suspended.

## **16 Citation**

These Regulations may be cited as the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003	R&O.103/2003	1 January 2004
States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005	R&O.132/2005	9 December 2005
Sea Fisheries (Licensing of Fishing Boats) (Amendment) (Jersey) Regulations 2006	R&O.78/2006	16 August 2006
Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 2) (Jersey) Regulations 2006	R&O.92/2006	21 September 2006
Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 3) (Jersey) Regulations 2007	R&O.57/2007	25 April 2007
Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 4) (Jersey) Regulations 2009	R&O.37/2009	6 May 2009

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
1(1)	1
1(2)	spent, omitted from this revised edition

**Table of Endnote References**

- <sup>1</sup> *These Regulations have been amended by the States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> *chapter 14.825*
- <sup>3</sup> *Regulation 1(1) definition inserted by R&O.78/2006*
- <sup>4</sup> *chapter 14.825*
- <sup>5</sup> *Regulation 2 heading amended by R&O.78/2006*
- <sup>6</sup> *Regulation 2(6A) inserted by R&O.78/2006*
- <sup>7</sup> *Regulation 2(7) amended by R&O.78/2006*
- <sup>8</sup> *Regulation 3 heading amended by R&O.78/2006*
- <sup>9</sup> *Regulation 3(2A) inserted by R&O.78/2006*
- <sup>10</sup> *Regulation 3(3) amended by R&O.78/2006*
- <sup>11</sup> *Regulation 3A inserted by R&O.37/2009*



- <sup>12</sup> Regulation 4A inserted by R&O.78/2006  
<sup>13</sup> Regulation 6(3) inserted by R&O.78/2006  
<sup>14</sup> Regulation 7(2) amended by R&O.78/2006  
<sup>15</sup> Regulation 7(3) amended by R&O.78/2006  
<sup>16</sup> Regulation 7(4) substituted by R&O.78/2006  
<sup>17</sup> Regulation 8(1) substituted by R&O.57/2007  
<sup>18</sup> Regulation 8(1A) inserted by R&O.57/2007  
<sup>19</sup> Regulation 8(1B) inserted by R&O.57/2007  
<sup>20</sup> Regulation 9 amended by R&O.78/2006  
<sup>21</sup> Regulation 9A inserted by R&O.78/2006  
<sup>22</sup> Regulation 10(1) amended by R&O.78/2006  
<sup>23</sup> Regulation 10(2) amended by R&O.78/2006  
<sup>24</sup> Regulation 10(4) amended by R&O.78/2006  
<sup>25</sup> Regulation 10(5) inserted by R&O.78/2006  
<sup>26</sup> Regulation 11 substituted by R&O.78/2006  
<sup>27</sup> Regulation 12 substituted by R&O.78/2006  
<sup>28</sup> Regulation 12A inserted by R&O.92/2006  
<sup>29</sup> Regulation 13(1) amended by R&O.78/2006  
<sup>30</sup> Regulation 13(2) amended by R&O.78/2006  
<sup>31</sup> Regulation 13(3) amended by R&O.78/2006  
<sup>32</sup> chapter 14.825