



TRISTAN DA CUNHA

REVISED EDITION OF THE LAWS, 2017

ENVIRONMENT AND NATURAL RESOURCES

FISH AND FISH PRODUCTS (TRISTAN DA CUNHA) ORDINANCE, 2012¹

Ordinance T1 of 2012

In force 1 June 2012

No amendments to 1 November 2017

Subsidiary legislation:

FISH AND FISH PRODUCTS (TRISTAN DA CUNHA) REGULATIONS, 2012

Legal Notice T1 of 2012

FISH AND FISH PRODUCTS (TRISTAN DA CUNHA) ORDINANCE, 2012

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¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

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AN ORDINANCE to regulate the processing, packaging and storage of fishery products to ensure control over the quality of fish products intended for export; and for connected and incidental matters.

**PART 1
PRELIMINARY**

Short title and commencement

1. This Ordinance may be cited as the Fish and Fish Products (Tristan da Cunha) Ordinance, 2012 and comes into force on 1 June 2012.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
“**authorised officer**” means an officer appointed under section 8;
“**Authority**” means the Regulatory Authority appointed under section 3;
“**export**” means commercial trade with a natural or legal person outside Tristan da Cunha
“**factory vessel**” means any vessel on board which fishery products undergo one or more of the following operations:
(a) filleting;
(b) slicing;
(c) skinning;
(d) shelling
(e) shucking;
(f) mincing; or
(g) processing,
followed by wrapping or packaging and, if necessary, chilling or freezing;

“**fish processing establishment**” means any premises where fishery products are prepared, processed, chilled, packaged or stored, but does not include an auction or a wholesale market where fishery products are displayed and sold by wholesale only for the local market;

“**fishery product**” means any cold blooded aquatic animal, or any part or product derived therefrom, intended for food for human consumption, and includes any fish, crustacean, mollusc, echinoderm, holothurian, or aquatic reptile;

“**freezer vessel**” means any vessel on board which freezing of fishery products is carried out, where appropriate after preparation of such products and, where necessary, followed by wrapping or packaging;

“**package**” means the placing of a fishery product in a wrapper or container, or the placing of one or more wrapped fishery products in a second container;

“**prepare**” in relation to fishery products means any operation affecting the anatomical wholeness of the product and includes bleeding, heading, gutting, removal of fins, filleting, slicing, skinning or mincing, and “**preparation**” is to be construed accordingly;

“**process**” in relation to fishery products means any action that substantially alters the initial product, including freezing, heating, smoking, curing, maturing, drying, marinating, or a combination of any two or more of those processes;

“**regulated unit**” means any fish processing establishment, factory vessel or freezer vessel;

“**storage**” means the holding of fishery products, whether before or after preparation, processing or packaging, but does not include the storage of processed fishery products which have been packed in hermetically sealed containers designed and intended to be secure against the entry of hazards.

PART 2 REGULATORY AUTHORITY

Regulatory Authority

3. (1) There is to be a body to be known as the Regulatory Authority for the purposes of this Ordinance to—

- (a) carry out the functions under this Ordinance and any other laws relating to food safety and public health which apply in respect of fishery products; and
- (b) perform such other functions as the Governor considers appropriate in relation to the operation of those laws.

(2) The Governor must by notice in the *Gazette* nominate the Regulatory Authority.

(3) The Authority may, where necessary, assign its functions and delegate its powers under this Ordinance to a Regulatory Authority of another country which has functions and powers similar to those of the Authority.

PART 3 LICENSING REQUIREMENTS WITH RESPECT TO FISHERY PRODUCTS

Sale and export of fishery products

4. (1) No person may process, package or store fishery products intended for

export, otherwise than in a regulated unit in respect of which a licence has been granted under section 5 and which licence is valid at the time of such processing, packaging or storage.

(2) No person may offer for sale for export fishery products, or possess fishery products for the purpose of sale for export, unless such fishery products were—

- (a) landed at a fish landing site designated by the Authority under section 7; and
- (b) prepared, processed, packed and stored in a regulated unit referred to in subsection (1).

(3) This section does not prohibit—

- (a) the bleeding, heading, gutting and removal of fins of fish or fishery products on board a fishing vessel; or
- (b) the preparation, packaging and storing of fishery products at an auction or wholesale market where such products are prepared, packed and stored solely for purposes of display and sale by wholesale to the local market.

Licensing provisions

5. (1) The Authority may grant a licence in respect of a fish processing establishment, factory vessel or fishing vessel that complies with this Ordinance and the regulations issued under section 13.

(2) An application for the grant of a licence must be made in the prescribed form to the Authority and is subject to payment of any fees prescribed from time to time.

(3) A licence granted under subsection (1) is for the period, for the products and processes, and for the markets, and is subject to any terms and conditions, specified in the licence.

(4) The terms and conditions under subsection (3) may include a requirement that every regulated unit referred to in the licence is subject to specific operating and management requirements, including conditions relating to—

- (a) the design, layout and construction of any premises or vessel;
- (b) the design and construction of any equipment used;
- (c) the conduct of any person entering any area in which fishery products are handled; and
- (d) the design and application of appropriate systems for controlling product quality.

(5) If it is expedient for ensuring the quality of exported fishery products, the conditions of any licence granted in accordance with subsection (1) may be varied at any time and without notice by the written order of the Authority.

Revocation and suspension of licence

6. A licence granted under section 5 may be revoked or suspended by the Authority—

- (a) in the case of any failure to comply with a term or condition attaching to the licence, or if any such term or condition is contravened;
- (b) if the regulated unit in respect of which such licence is granted is used in contravention of this Ordinance; or

- (c) if such action is necessary or expedient for ensuring the quality of exported fishery products.

Designated fish landing sites

7. The Authority must by notice in the *Gazette* designate fish landing sites which meet the requirements prescribed by regulation.

PART 4 AUTHORISED OFFICERS

Authorised officers

8. (1) The Governor may authorise any public officer to act as an authorised officer under this Ordinance.

(2) The Governor must issue a certificate of authority to every person authorised under subsection (1).

(3) An authorised officer must, in the exercise of his or her powers under section 9, produce the certificate of authority issued to the officer under subsection (2), if required by any person affected by the exercise of the powers.

Powers and duties of authorised officers

9. (1) An authorised officer may, without a warrant,—
- (a) at any reasonable hour or whenever work is in progress in any regulated unit in which fishery products are believed to be processed, packaged or stored enter and search the establishment or vessel for the purpose of determining the existence, nature and extent of any trade or business in fishery products;
 - (b) examine any fishery product in any regulated unit to which the officer believes this Ordinance applies or might apply, take samples of the product and examine anything which the officer believes is used or capable of being used for the preparation of any fishery product;
 - (c) stop, search or detain any vehicle, vessel or aircraft in which the officer believes any fishery product to which this Ordinance applies is being conveyed, examine the fishery product and take samples of it;
 - (d) open and examine any receptacle or package which the officer believes to contain any fishery product to which this Ordinance applies, examine the product and take samples of it;
 - (e) require the production of any books, documents or other records which the officer believes may contain information relevant to the enforcement of this Ordinance with respect to any fishery product, make copies of them and take extracts from them;
 - (f) seize and detain for as long as is necessary any fishery product, in relation to which the officer believes this Ordinance or the conditions of a licence issued under section 5 apply, and in respect of which the officer believes the provisions of the Ordinance or the conditions of the licence have been contravened; and
 - (g) exercise any other functions assigned to the officer by the Governor.

(2) An authorised officer must release any fishery product that he or she seizes under subsection (1) if satisfied that the provisions of this Ordinance and the conditions of the licence have been complied with.

(3) If an authorised officer has seized any fishery product under this Ordinance and the owner of it, or the person in whose possession it was at the time of the seizure, consents to its destruction or disposal, the fishery product must be destroyed or otherwise disposed of as the officer directs.

(4) If an authorised officer is unable to obtain the consent required under subsection (3) for the destruction or disposal of the fishery product, the officer may with notice to the owner, or the person in whose possession the fishery product was at the time of seizure, apply to the Magistrate's Court for an order for the destruction or disposal of the fishery product and the owner or such person may oppose the application.

(5) If it appears to the Magistrate's Court that the fishery product seized is unfit for human consumption or otherwise unsuitable for export, the court may make an order for its destruction or other disposal as appropriate.

(6) Information relating to any individual business which is obtained by an authorised officer during the course of official control or other activities under this Ordinance must not be disclosed without the consent in writing of the person carrying on the business, except for the purposes of proceedings (whether in court or otherwise) for the enforcement of this Ordinance.

PART 5 APPEAL PROCEDURES

Appeals from decisions of Authority

10. A person aggrieved by the refusal by the Authority to grant a licence, or by a decision by the Authority to attach any condition to a licence, or to suspend or revoke a licence, may appeal to the Governor.

PART 6 OFFENCES AND CRIMINAL PROCEEDINGS

Offences

- 11.** (1) A person who—
- (a) processes, packages or stores fishery products intended for commercial marketing for export in contravention of section 4(1);
 - (b) offers for sale for export any fishery products in contravention of section 4(2);
 - (c) contravenes or fails to comply with any condition attaching to a licence granted under section 5; or
 - (d) contravenes or fails to comply with any regulation made under section 15 which imposes an obligation on a person other than the Authority.

commits an offence.

Penalty: As provided in section 12.

(2) A person requested to give information or assistance to an authorised officer in the execution of his or her functions under this Ordinance, who—

- (a) fails to give the information or assistance reasonably requested or;
- (b) knowingly makes any statement which the person knows or believes to be false or does not believe to be true,

commits an offence.

Penalty: As provided in section 12.

(3) A person who wilfully obstructs an authorised officer in the execution of his or her functions under this Ordinance commits an offence.

Penalty: As provided in section 12.

(4) A person who, without the written permission of an authorised officer, removes, alters or interferes in any way with any fishery product seized under this Ordinance commits an offence.

Penalty: As provided in section 12.

Penalties

12. (1) A person found guilty of an offence under section 11 is liable on summary conviction to a fine not exceeding £10,000 and to imprisonment not exceeding 2 years.

(2) In respect of offences charged under this Ordinance or under any order made under it, and notwithstanding any other law applying in Tristan da Cunha, the Magistrate is hereby given extended jurisdiction to impose any fines up to those specified as maxima.

(3) If a person is convicted of an offence under this Ordinance the court may, in addition to any other penalty,—

- (a) order that any fishery products by means of which or in relation to which the offence was committed be forfeited and upon such order being made the fishery product may be disposed of as the court may direct;
- (b) order that any licence issued under section 5 be suspended or cancelled as the court may direct.

PART 6 MISCELLANEOUS

Regulations

13. The Governor may make regulations for the further and better execution of this Ordinance, and without limiting this power, such regulations may provide for—

- (a) anything which by this Ordinance is required or permitted to be prescribed;
- (b) the amount and nature of any security considered necessary, by way of cash deposit or otherwise, before a licence is issued under section 5, for the due performance or compliance of any condition or restriction to be attached to the licence;
- (c) the enforcement of any security given and the forfeiture or repayment of any cash deposit;
- (d) the form of licences provided for by this Ordinance, the nature of any conditions

or restrictions which may be attached to a licence, and the variation of such conditions;

- (e) the information to be supplied and documents to be produced in connection with an application for a licence, or for the removal or variation of any condition or restriction attaching to a licence;
 - (f) fees to be charged in respect of anything required or permitted to be done under this Ordinance;
 - (g) responsibilities of operators of fishery enterprises with respect to health conditions and requirements relating to the preparation, processing, packaging, storage, transport or distribution of fishery products;
 - (h) the inspection by the Authority, member of the Authority or public officers of any regulated units of persons licensed under this Ordinance and the arrangements for the hygiene thereof;
 - (j) the implementation of any directive, regulation or other law of the Council of the European Communities affecting the health conditions for the production and the placing on either the local or export market of fish or fish products, or which in any manner concerns or affects the objects of this Ordinance.
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