



SEA-FISHERIES ACT 1971

**SEA-FISHERIES (POSSESSION OF UNDERSIZED SEA-FISH) BYE-LAWS 2000**

*Approved by Tynwald on 16 January 2001*

*Coming into operation on 1 December 2000*

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

**Citation and commencement**

1. These Bye-laws may be cited as the Sea-Fisheries (Possession of Undersized Sea-Fish) Bye-laws 2000 and, subject to section 3(1) of the Sea-Fisheries Act 1971, shall come into operation on 1 December 2000.

**Prohibition regarding undersized sea-fish**

2. (1) Subject to paragraph (3), no person shall have in his possession, sell, expose for sale or offer for sale in the Island any sea-fish which in respect of species of sea-fish which are specified in column 1 of Schedule 5 to the Sea-Fisheries (Technical Measures) Bye-laws 2000(b) are smaller than the minimum dimensions specified in column 2 of that Schedule.

(2) The measurement of the size of any sea-fish shall take place in accordance with the provisions specified in Schedule 6 to the Sea-Fisheries (Technical Measures) Bye-laws 2000.

(3) This bye-law shall not apply to any sea-fish which has been imported into the Island for retail or other purpose in a frozen, dried, packaged or any other form.

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(a) 1971 c. 18: section 2 was amended by the Fisheries Act 1983, the Statute Law Revision Act 1986, G.C. 121/86 and the Territorial Sea (Consequential Provisions) Act 1991, which added section 2(2A)

(b) S.D. No. 709/00

Price: 50p. Price Code: A

(4) When a question arises under paragraph (3) as to whether or not a person is entitled to rely on the defence provided by that paragraph, it shall rest with the person asserting it to show that he is.

### **Offences**

3. Any person who is in contravention of bye-law 2(1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

### **Due diligence in defence**

4. (1) In proceedings against a person for an offence under bye-law 3 it shall be a defence for him to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information given by another unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular -

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information, and
- (b) to whether he had any reason to disbelieve the information.

(3) Where in any proceedings for an offence under bye-law 3 the defence provided by paragraph (1) involves an allegation that the commission of the offence was due -

- (a) to the act or default of another; or
- (b) to reliance on information given by another,

the person shall not, without the leave of the court, be entitled to rely on the defence unless he has served a notice under paragraph (4) on the person bringing the proceedings not less than seven clear days before the hearing of the proceedings.

(4) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default, or gave the information, as is in the possession of the person serving the notice at the time he serves it.

MADE 30 November 2000

*Alex F Downie, MHK*

Minister for Agriculture, Fisheries and Forestry.

## EXPLANATORY NOTE

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

These Bye-laws complement the provisions of the Sea-Fisheries (Technical Measures) Bye-laws 2000 by making it an offence to possess, sell or expose for sale or offer for sale in the Island any sea-fish which are below the minimum sizes specified in the Sea-Fisheries (Technical Measures) Bye-laws 2000.

The Sea-Fisheries (Technical Measures) Bye-laws 2000 apply provisions in respect of minimum sizes of sea-fish to the catching sector, providing that undersized sea-fish must be returned to the sea immediately.

The Sea-Fisheries (Possession of Undersized Sea-Fish) Bye-laws 2000 provide that individuals or retail outlets possessing, selling or exposing for sale or offering for sale in the Island any undersized sea-fish are committing an offence.

The Bye-laws place an onus on individuals or retail outlets to ensure that fish which are in their possession in the Island do not contravene the requirements regarding minimum sizes.