



Jersey

AQUATIC RESOURCES (JERSEY) LAW 2014

Official Consolidated Version

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AQUATIC RESOURCES (JERSEY) LAW 2014

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AQUATIC RESOURCES (JERSEY) LAW 2014

A **LAW** to make provision for the management of aquatic resources other than sea fish.

Commencement [[see endnotes](#)]

1 Interpretation and application

(1) In this Law, unless the context requires otherwise –

“aquatic area” means an area of the marine environment from which aquatic resources may be taken, such area being measured with reference to an area of the sea-bed, including, if appropriate, any part of the sea shore;

“aquatic resources” mean any marine aquatic species, other than sea fish;

“boat” means a vessel of whatever size, and in whatever way propelled, which is used for any of the following –

- (a) taking aquatic resources from the marine environment; and
- (b) cultivating aquatic resources in the marine environment with a view to taking them subsequently;

“court” means the Royal Court;

“gear” means any net, container, pot, trap or other object used for taking or storing aquatic resources or in connection with the taking or storing of aquatic resources;

“marine environment” means, in relation to Jersey, any part of its territorial sea, sea-bed or beach and includes any man-made thing such as ropes, chains, walls or other structures on the sea bed or suspended in the sea;

“master” includes a skipper or any other person who is for the time being in command or charge of a boat;

“Minister” means the Minister for the Environment;

“officer” means a person appointed under Article 6 as an officer or deemed under that Article to be an officer;

“police officer” means a member of the Honorary Police or the States of Jersey Police Force;

“Regulations” means Regulations made by the States under this Law;

“sea fish” means fish of any description found in the sea, including shellfish, and any part of such fish;

“shellfish” includes crustaceans and molluscs of any kind and any spat or spawn of shellfish;

“to take” in relation to aquatic resources, means, for the purpose of exploitation or other use (whether or not commercial) either or both of the following –

- (a) to remove aquatic resources in any manner from the marine environment;
- (b) to transport aquatic resources to shore following their removal from the marine environment;

“vessel” includes any ship or boat, or any other description of vessel used in navigation.¹

- (2) Save as is specifically provided otherwise, this Law applies to Jersey and the territorial sea of Jersey.
- (3) For the avoidance of doubt a reference in this Law to a country includes a reference to Jersey and any other countries in the British Islands.
- (4) A reference in this Law to an Act of the United Kingdom is a reference to that Act as amended from time to time and includes a reference to that Act as extended or applied by or under another Act.

2 General power to regulate use of aquatic resources

- (1) The States may make Regulations for any of the following purposes, namely –
 - (a) for restricting or prohibiting the taking of aquatic resources or any method of taking aquatic resources from the marine environment or for requiring aquatic resources to be taken by any specified method or instrument;
 - (b) for controlling the establishment of, and for regulating, protecting and developing, aquatic areas in relation to all or any specified kinds of aquatic resources;
 - (c) for requiring the marking or identification of any gear, including any gear used for keeping alive aquatic resources that are intended to be left in or on the sea before being taken from the marine environment;
 - (d) for requiring any gear carried by any boat to comply with such requirements as to construction, design, material or size as may be specified in the Regulations;
 - (e) for requiring that a boat (wherever registered) carry when it is in the territorial sea such equipment (including, but not restricted to, equipment designed to allow the position of the boat to be monitored) as may be specified in the Regulations;
 - (f) for requiring that a boat registered in Jersey, wherever it may be, carry such equipment (including but not restricted to, equipment designed to allow the position of the boat to be monitored) as may be specified in the Regulations;
 - (g) for requiring that any equipment carried as referred to in sub-paragraph (e) or (f) be obtained, maintained or operated in such manner as may be specified in the Regulations;
 - (h) for prohibiting or restricting any action that may interfere with any equipment as referred to in sub-paragraph (e) or (f), or the operation of such equipment, or with any data recorded, transmitted or received by it, or any action which would compromise the integrity of such equipment;
 - (i) for prohibiting the use of any explosive or poisonous or noxious substance with intent to take or destroy aquatic resources;

- (j) for restricting or prohibiting the deposit or discharge of any matter detrimental to the marine environment in connection with taking aquatic resources;
 - (k) for specifying the use to which aquatic resources taken may be put or restricting or prohibiting the processing of aquatic resources before or after being taken from the marine environment, or requiring aquatic resources to be kept in some specified condition or kept in some specified environment after being taken from the marine environment;
 - (l) for restricting or prohibiting the sale or use of aquatic resources;
 - (m) for restricting or prohibiting the exportation from Jersey of aquatic resources;
 - (n) for granting licences or permits, whether by the Minister or another specified person for any of the following –
 - (i) taking aquatic resources from the marine environment,
 - (ii) the development of aquatic areas,and for conditions attached to such licences or permits;
 - (o) for specifying the form and manner in which a licence or permit shall be granted or applied for, or a variation or renewal applied for or effected or a revocation or suspension effected;
 - (p) for requiring an application for a licence or permit to be accompanied by such information as may be specified by the person to whom the application is made relating to the environmental impact of any activity for which the licence or permit is required, such person, in making any requirement for such information, having regard to the scale of such activity and any similar activities carried on (or proposed to be carried on) by any person;
 - (q) for specifying the time when a licence or permit, or a variation, revocation or suspension, shall have effect;
 - (r) for fees to be charged for any licence or permit, including a fee for an application for such licence or permit and for annual fees following the grant of a licence or permit;
 - (s) for the disposal of any aquatic resources taken in contravention of the Regulations or any licence or permit under the Regulations in such manner as may be specified in the Regulations, including forfeiture or return to the marine environment;
 - (t) for requiring the keeping of records, and the furnishing of returns and reports.
- (2) Regulations made under paragraph (1) may –
- (a) include provisions –
 - (i) requiring that a person involved in the taking of aquatic resources or otherwise involved in activities concerning an aquatic area (whether directly or indirectly) must be the subject of a licence, permit, or other qualification, granted by a specified person or specified authority of a specified country (which may include Jersey),
 - (ii) for determining whether any person involved in the taking of aquatic resources or otherwise involved in activities concerning an aquatic area (whether directly or indirectly) is a fit and proper person, and
 - (iii) for licences or permits to be granted in respect of named boats to the owners or charterers of any such boats;

- (b) be framed so as to apply only in relation to specified species of aquatic resources or specified areas, or during specified periods, or according to such other factors as may be specified in the Regulations; and
 - (c) prescribe a maximum fine for contravention of any Regulation.
- (3) Regulations under this Article may not be made so as prejudicially to affect any right on, to or over any portion of the sea or the sea-shore enjoyed by any person under any enactment or grant from the Crown, without the consent of that person.

3 Offence of contravening Regulations

- (1) Subject to Article 5, a person who contravenes any Regulation made under Article 2 shall be guilty of an offence and liable –
 - (a) to a fine, if the Regulations have not prescribed a maximum fine for the purposes of this paragraph; or
 - (b) to a fine not exceeding the maximum so prescribed, if the Regulations have done so.
- (2) The court by which the offender is convicted may order the forfeiture of –
 - (a) anything used in committing the offence (other than a boat);
 - (b) any aquatic resources that were taken in contravention of the Regulations.

4 Liability where boat used in contravention of Regulations

- (1) If a boat is used in any manner constituting a contravention of any Regulation made under Article 2, or any such Regulation is contravened in the case of a boat, the master, owner and the charterer (if any) shall each be guilty of an offence under Article 3.
- (2) Paragraph (1) is without prejudice to whether or not any other person is liable for an offence under such Regulations.

5 Exemption for scientific research

- (1) Nothing in Regulations made under Article 2 shall apply in relation to anything done under the authority of the Minister for the purpose of carrying out scientific research.
- (2) In granting an authorization for the purpose of this Article, the Minister –
 - (a) must specify the description of person or the name of the person covered by the authorization; and
 - (b) may specify conditions attached to the authorization.
- (3) A person shall not be guilty of an offence under Article 3 by reason of anything done or omitted to be done by the person in the course of scientific research if it is done or omitted under the authority of the Minister for the purposes of this Article and in accordance with any conditions specified by the Minister.

6 Officers

- (1) The Minister may appoint one or more persons as officers for the purposes of this Law.

- (2) In addition to officers appointed under paragraph (1), the following persons shall be deemed to be officers for the purposes of this Law –
- (a) the Harbour Master and Deputy Harbour Master;
 - (b) an assistant Harbour Master;
 - (c) a person who is a British sea fishery officer by virtue of section 7 of the Sea Fisheries Act 1968 of the United Kingdom; and
 - (d) a police officer.

7 Powers of officers

- (1) For the purposes of enforcing this Law or the Regulations, an officer, on producing if required to do so some duly authenticated document showing his or her authority, may –
- (a) detain any person who has committed, or whom the officer has reasonable cause to suspect of having committed, an offence under this Law or the Regulations;
 - (b) go on board any boat;
 - (c) require any boat to stop and to do anything else to enable him or her to board it;
 - (d) stop, enter and search any vehicle and examine any aquatic resources in it;
 - (e) enter (at any reasonable time) any premises (other than a dwelling) used for carrying on any business in connection with the treatment, storage or sale of aquatic resources and without prejudice to the generality of the foregoing –
 - (i) examine any aquatic resources on the premises,
 - (ii) require any person on the premises to produce any documents in his or her custody or possession relating to the taking, landing, sale or disposal of aquatic resources, and
 - (iii) take copies of any such document;
 - (f) if the officer has entered premises pursuant to sub-paragraph (c) and has reasonable cause to suspect that an offence under this Law or the Regulations has been committed –
 - (i) search the premises for any documents, or for any other thing, that may be evidence of such an offence,
 - (ii) require any person on the premises to do anything that appears to the officer to be necessary for facilitating the search, and
 - (iii) seize and detain any document produced to him or her under sub-paragraph (c) or any document, or other thing, found during a search under clause (i);
 - (g) require any person who claims to be the holder of a licence, or permit, granted under this Law or the Regulations to produce that licence or permit;
 - (h) require a person to produce any record, or other document, that the person is required to create, maintain or hold under this Law or Regulations;
 - (i) examine and take copies of any such record or other document or of a licence or permit granted under this Law or Regulations;
 - (j) while in a vehicle or in any place other than a dwelling, search for and examine any instrument or receptacle used in catching, carrying holding or storing

- aquatic resources or search for, examine and take samples of any matter the deposit or discharge of which is restricted or prohibited under this Law or Regulations; or
- (k) require any record, or other document, referred to in this paragraph to be rendered in a visible and legible form or a form in which it may be removed.
- (2) An officer may seize –
- (a) aquatic resources in respect of which he or she has reasonable cause to suspect that an offence under this Law or Regulations has been committed; and
- (b) any gear or other object –
- (i) in respect of which the officer has reasonable cause to suspect that an offence under this Law or Regulations has been committed, or
- (ii) that the officer has reasonable cause to suspect has been used for taking aquatic resources in respect of which any such offence has been committed.
- (3) An officer may sell, destroy or otherwise dispose of any aquatic resources seized under paragraph (2) if the officer considers that it is not practicable to maintain the aquatic resources in a suitable condition pending notice being given under Article 8.
- (4) An officer may sell, destroy or otherwise dispose of any gear seized under paragraph (2) if –
- (a) notice of the seizure has been given under Article 8;
- (b) the gear is not collected by the owner within 6 months after the notice is given; and
- (c) a court has not ordered the forfeiture of the gear.
- (5) Where an officer who is not a police officer detains any person in pursuance of this Article, he or she shall immediately report the matter to a police officer.
- (6) The powers conferred on an officer by this Article may be exercised in Jersey or within the seaward limits of the territorial sea.
- (7) The powers of detention of persons, entry and search conferred on an officer by this Article shall be in addition to and not in derogation from any powers of detention, entry or search given to a police officer under any other enactment.

8 Action where aquatic resources or gear seized

- (1) If aquatic resources are seized under Article 7(2) in the absence of its owner (and of any person who has possession or control of the aquatic resources), and the aquatic resources are not sold, destroyed, or otherwise disposed of under Article 7(3), the Minister shall give notice of the seizure.
- (2) If gear is seized under Article 7(2) in the absence of its owner (and of any person who has possession or control of it), the Minister shall give notice of the seizure.
- (3) Notice under paragraph (1) or (2) shall –
- (a) if the Minister knows who the owner is and his or her address, or can by reasonable inquiry discover those matters, be in writing served by post on the owner; or
- (b) in any other case, be in writing published in the Jersey Gazette.

- (4) The Minister shall pay to the owner of aquatic resources seized under Article 7(2) the reasonable wholesale value of the aquatic resources (as at the date of the seizure) if –
- (a) the aquatic resources are disposed of under Article 7(2), but not by returning or passing the resources to the owner (or to any person who had possession or control of the aquatic resources immediately before seizure); and
 - (b) the Minister knows who the owner is and his or her address or can by reasonable inquiry discover those matters.
- (5) Paragraph (4) does not apply –
- (a) if the aquatic resources are returned immediately to the marine environment from which they were taken;
 - (b) if a court has ordered the aquatic resources to be forfeited under this Law;
 - (c) if sale of the aquatic resources would be contrary to this Law or any other enactment;
 - (d) if a court has ordered that, in all the circumstances, payment under paragraph (4) is unwarranted; or
 - (e) in circumstances prescribed by the Regulations.

9 Obstruction of officers

Any person who –

- (a) fails without reasonable cause to comply with any requirement imposed by an officer under the powers conferred on such officers by Article 7;
- (b) without reasonable excuse prevents, or attempts to prevent, any other person from complying with any such requirement; or
- (c) intentionally obstructs any such officer in the exercise of any of those powers, shall be liable to a fine.

10 Protection of officers

- (1) An officer shall not be liable to any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on the officer by Article 7 if the court is satisfied that the act was done in good faith, that there were reasonable grounds for doing it and that it was done with reasonable care and skill.
- (2) Paragraph (1) does not apply to any act or omission that is unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).

11 Recovery of fines

Where a fine is imposed on the master, owner or charterer or a member of the crew of a boat who is convicted of an offence under this Law, the court may authorize the Viscount to seize and detain the boat and its gear and any aquatic resources and any property of the person convicted for the purpose of levying the amount of the fine.

12 Compensation for damage caused by offence

- (1) Where, on convicting a person of an offence under this Law or under Regulations, it appears to the court that personal injury or damage to property has been caused by the offence, the court may order the person convicted to pay, in addition to any fine, a reasonable sum, not exceeding £5,000 (or, if the Regulations prescribe another maximum, that other maximum instead), as compensation for the injury or damage, and the sum when recovered shall be paid to the person who has suffered the injury or damage.
- (2) The provisions of this Article shall not be taken to derogate from any right of a person who has suffered personal injury or damage to property in consequence of an offence under this Law to recover in respect thereof damages in civil proceedings.

13 Disposal of forfeitures

- (1) If a court orders the forfeiture of any aquatic resources or gear under Article 3, the aquatic resources or gear may be disposed of as the court directs and any proceeds realized by the disposal shall be paid to the income of the States.
- (2) The court may order the forfeiture, and direct the disposal, of aquatic resources under paragraph (1) even if the aquatic resources have already been sold, destroyed or otherwise disposed of under Article 7(2).

14 False statements

- (1) A person shall not knowingly or recklessly make any statement, or provide any information, that is false or misleading in a material particular in or in connection with any application, or in providing any information, under this Law or Regulations.
- (2) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term of 12 months and to a fine of level 4 on the standard scale.

15 Evidence

Where any automatic recording equipment is required to be carried by a boat in accordance with Regulations under Article 2, any record produced by means of that equipment or partly by that and partly by other means, shall, in proceedings for an offence under this Law, be evidence of matters appearing from the record.

16 General provisions as to offences

- (1) Where an offence under this Law or the Regulations committed by a company, limited liability partnership or separate limited partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the company; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or company to the penalty provided for that offence.

- (2) Where the affairs of a company are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with his or her functions of management as if the member were a director of the company.

17 Fees

- (1) Fees, if payable to the States, may, but need not, relate to the costs of the Minister in administering this Law, the commercial value of the aquatic area, licence or permit concerned, the profits of the business conducted by virtue of the licence or permit, or any other factor.
- (2) Where this Law confers power to make Regulations with respect to fees, those Regulations may provide for amounts of fees to be prescribed by the Minister by Order under this Law and those fees (whether prescribed by Regulations or by Order) may, but need not, relate to the costs of administering this Law, the commercial value of a licence, permit or aquatic area to which the fee relates, the profits of the business to which the licence or permit relates, or any other factor.

18 Appeals

- (1) Any person aggrieved by –
 - (a) a refusal to grant, vary or renew a licence, or permit, under this Law or Regulations;
 - (b) the revocation or suspension of a licence, or permit, under this Law or Regulations; or
 - (c) the imposition of any conditions on a licence, or permit, under this Law or the Regulations, or the variation of the conditions to which such a licence or permit is subject, or a refusal to vary those conditions,may within 28 days after the day on which the person receives notice of the refusal, revocation, suspension, imposition, or variation, as the case may be, appeal to the court.
- (2) Once it has heard an appeal under this Article, the court shall either dismiss the appeal or give the Minister such directions as the court thinks fit as respects the licence or permit that is the subject of the appeal and may make such interim order as it thinks fit.

19 European Community provisions

- (1) Where Community provisions that are restrictions or prohibitions relating to aquatic resources are given effect by Regulations made under Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, subject to anything to the contrary in those Regulations, Article 7 confers the same powers (and Article 8 applies to those powers) in relation to the enforcement of such restrictions or prohibitions as it does in relation to the enforcement of this Law.
- (2) Without limiting Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, the States may, by Regulations under this Law, make such provision as appears to them to be requisite for the enforcement of any Community provision that is given effect as referred to in paragraph (1) and such Regulations may in particular contain provisions that (with any necessary modifications) apply, or correspond to, any provisions of this Law.

- (3) In this Article “Community provision” has the same meaning as in Article 1 of the European Communities Legislation (Implementation) (Jersey) Law 1996.

20 Regulations and Orders

An Order or Regulations may contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister or the States, as the case may be, to be necessary or expedient for the purposes of the Order or Regulations.

21 ²

22 Citation

This Law may be cited as the Aquatic Resources (Jersey) Law 2014 and shall come into force on such day or days as the States may by Act appoint.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Aquatic Resources (Jersey) Law 2014	L.11/2014	17 September 2019 (R&O.75/2019)	P.114/2013
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	R&O.158/2015	1 January 2016	P.46/2015 (re-issue)

°Projets available at www.statesassembly.gov.je

Table of Endnote References

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- ¹ Article 1(1) *amended by R&O.158/2015*
² Article 21 *spent, omitted*