



Jersey

# **SEA FISHERIES (JERSEY) LAW 1994**

## **Official Consolidated Version**

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Jersey

## SEA FISHERIES (JERSEY) LAW 1994

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Jersey

## SEA FISHERIES (JERSEY) LAW 1994<sup>1</sup>

A **LAW** to make provision for the regulation of sea fishing and the conservation of sea fish; to make provision for the regulation of mariculture, for the licensing of fishing boats, for controls on the possession and sale of sea fish, for the appointment and duties of fisheries officers and for connected matters<sup>2</sup>

Commencement [[see endnotes](#)]

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### 1 Interpretation and application

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

“British fishing boat” means a fishing boat that is registered in the British Islands;

“extended territorial sea” has the same meaning as in the [Territorial Sea \(Consequential Provisions\) \(Jersey\) Law 1994](#);

“fishery officer” means a person appointed under Article 15 as a fishery officer or deemed under that Article to be a fishery officer;

“fishing boat” means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing or in the sea fishing service;

“foreign fishing boat” means a fishing boat which is not registered in any part of the British Islands;

“French fishing boat” means a fishing boat that is registered in France;

“Jersey fishing boat” means a fishing boat which is registered in Jersey;

“mariculture” means the breeding, rearing or cultivation of sea fish whether or not for human consumption;

“master” includes in relation to any vessel, the person for the time being in command or in charge of that vessel;

“Minister” means the Minister for the Environment;

“Order” means an Order made under this Law by the Minister;

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

“qualifying vessel” means –

(a) a qualifying vessel within the meaning of Article 502.2(a) of the TCA (“a TCA vessel”); or

(b) a vessel that is a substitute vessel under Article 7(2)(j) of this Law;

“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, whether fresh or frozen, cured or otherwise preserved;

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

“TCA” means the trade and cooperation agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in Brussels and London on 30th December 2020;

“vessel” includes any ship or boat, or any other description of vessel used in navigation.<sup>3</sup>

- (2) Save as is specifically provided otherwise, this Law applies to Jersey and the territorial sea of Jersey.
- (3) For the avoidance of doubt it is stated that a reference in this Law to a country includes a reference to Jersey and any other countries in the British Islands.<sup>4</sup>
- (4) Unless the context requires otherwise, a reference in this Law to an enactment, including an enactment of the United Kingdom, is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied by or under another enactment, including any other provision of that enactment.

## 2 General power to regulate sea fisheries<sup>5</sup>

- (1) The States may make Regulations for any of the following purposes, namely –
- (a) for restricting or prohibiting any method of fishing for sea fish or the use of any instrument for fishing for sea fish and for determining the size of mesh, form and dimensions of any instrument for fishing for sea fish;
  - (b) for restricting or prohibiting the fishing for, taking or retention in possession of sea fish;
  - (c) for requiring the sorting of sea fish;
  - (d) except in the cases referred to in Article 6(6), Article 7(4) and Article 12(13) – for requiring the return of sea fish to the sea;
  - (e) for controlling the establishment of, and for regulating, protecting and developing, fisheries for all or any specified kind of sea fish;
  - (f) for prohibiting the use of any explosive or poisonous or noxious substance with intent to take or destroy sea fish;
  - (g) for specifying the use to which sea fish taken may be put or restricting or prohibiting the processing of sea fish before it has been landed, or requiring sea fish to be landed whole or requiring sea fish to be kept whole or in some other specified condition or kept in some specified environment, while it is on a boat;

- (h) for restricting or prohibiting the landing, processing, keeping, carriage, sale or use of sea fish, whether or not by reference to the methods or instruments employed in catching, landing, processing, keeping, carrying, selling or using it;
  - (i) for restricting or prohibiting the exportation from Jersey of sea fish;
  - (j) for requiring the marking or identification of any pots, traps, nets or other fishing gear or any store box or nourrice or any other thing used in connection with fishing or the keeping alive of sea fish or with mariculture, that is, or is intended to be, left in or on the sea;
  - (k) for restricting or prohibiting the deposit or discharge of any matter detrimental to sea fish or sea fishing;
  - (l) for requiring the keeping of records, and the furnishing of returns and reports;
  - (m) for requiring that a fishing boat (wherever registered) carry when it is in the territorial sea any equipment (including, but not restricted to, equipment designed to allow the position of the boat to be monitored) in accordance with the Regulations;
  - (n) for requiring that a Jersey fishing boat, wherever it may be, carry any such equipment in accordance with the Regulations;
  - (o) for requiring that any equipment carried as referred to in sub-paragraph (m) or (n) be obtained, maintained or operated in accordance with the Regulations;
  - (p) for prohibiting or restricting any action that may interfere with any such equipment or its operation, or with any data recorded, transmitted or received by it, or compromise the integrity of the equipment.<sup>6</sup>
- (2) Regulations made under paragraph (1) may include provisions requiring that a person or a boat be the subject of a licence, permit, or other qualification, granted by a specified person or specified authority of a specified country in order to take sea fish or requiring that a person not take sea fish by, or except by, specified methods or instruments.
- (3) Regulations made under paragraph (1)(m), (n), (o) or (p) may include provision for or with respect to the admissibility and evidentiary value of data obtained from equipment referred to in that sub-paragraph.
- (4) Without limiting the operation of paragraphs (4A) to (4D), Regulations made under this Article may be framed so as to apply only to such descriptions or sexes of sea fish, to such areas, during such periods, or according to such other parameter or factor, as may be provided for in those Regulations.<sup>7</sup>
- (4A) Regulations made under paragraph (1)(a) or (b) may make provision for the Minister to specify by Order –
- (a) the description, or sex, of sea fish;
  - (b) the area of the sea;
  - (c) the period; or
  - (d) any other parameter, or factor, of a class prescribed by those Regulations, to, during or according to which those Regulations shall apply.<sup>8</sup>
- (4B) The Minister may make Orders for the purposes of Regulations referred to in paragraph (4A).<sup>9</sup>

- (4C) Regulations made under this Article shall apply to the description, or sex, of sea fish, to the area of the sea, during the period, and according to the parameters or factors, to the extent that those matters are specified in those Regulations.<sup>10</sup>
- (4D) Regulations made under paragraph (1)(a) or (b) shall apply to the description, or sex, of sea fish, to the area of the sea, during the period, and according to the parameters or factors, specified by an Order under paragraph (4B) to the extent that those matters are not specified in those Regulations.<sup>11</sup>
- (5) Regulations made under paragraph (1)(e) may make provision for or with respect to the payment of fees in connection with the establishment, regulation, protection and development of fisheries.
- (6) An Order, or Regulations, made 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.<sup>12</sup>
- (7) Nothing in this Article limits the operation of Article 12.

### **3 Use of boat in contravention of Regulations<sup>13</sup>**

Subject to Article 11, if a fishing boat is used for fishing in any manner constituting a contravention of any Regulations made under Article 2, or any such Regulation is contravened in the case of any fishing boat, the master, the owner and the charterer (if any) of the fishing boat shall each be guilty of an offence against Article 4.

### **4 Offence of contravening Regulations<sup>14</sup>**

- (1) Subject to Article 11, a person who contravenes any Regulations made under Article 2 shall be guilty of an offence and liable –
  - (a) if the Regulations have not prescribed a maximum fine for the purposes of this paragraph – to a fine; or
  - (b) if the Regulations have done so – to a fine not exceeding the maximum so prescribed.
- (2) The court by which the offender is convicted may order the forfeiture of anything (other than a fishing boat) used in committing the offence and of any sea fish illegally taken by the offender or in his or her possession at the time of the offence.

### **5 Mesh of nets**

- (1) The States may make Regulations for securing that nets and other fishing gear carried by any fishing boat comply with such requirements as to construction, design, material or size, including (in the case of nets) size of mesh, as may be prescribed by the Regulations, and any Regulations under this Article may be framed so as to apply only in relation to fishing for specified descriptions of sea fish, to specified methods of fishing or to fishing in specified areas or during specified periods.<sup>15</sup>
- (2) Regulations under this Article prescribing minimum sizes of mesh may also –
  - (a) prescribe the manner in which the sizes of mesh are to be measured and, in the case of any class of nets, prescribe different sizes for the nets when in different conditions;

- (b) make provision for securing that the restrictions imposed by the Regulations are not evaded by the use of any nets in such manner as practically to diminish their mesh, or by covering of nets with canvas or any other material, or by the use of any other artifice; or
  - (c) provide for exempting any nets from any such restrictions as aforesaid, either generally or in relation to particular fishing boats or classes of fishing boats, if and so long as such conditions as may be imposed by or under the Regulations are complied with.
- (3) Without prejudice to paragraph (2), Regulations under this Article may, in relation to any fishing gear –
  - (a) restrict the manner in which it may be used;
  - (b) prescribe the manner in which its size is to be measured;
  - (c) make provision for securing that the restrictions imposed by the Regulations are not evaded;
  - (d) make the like provision for exemption as is mentioned in relation to nets in paragraph (2)(c); or
  - (e) make provision by reference to the landing, processing, keeping, carriage, sale or use of sea fish.<sup>16</sup>
- (4) Nothing in any Regulations under this Article shall apply in relation to fishing operations which, under the authority of the Minister, are conducted for the purpose of scientific investigation or for the purpose of transplanting fish from one fishing ground to another.
- (5) Subject to Article 11, if any Regulation under this Article is contravened in the case of a fishing boat, the master, the owner and the charterer (if any) shall each be guilty of an offence and liable –
  - (a) if the Regulations have not prescribed a maximum fine for the purposes of this paragraph – to a fine; or
  - (b) if the Regulations have done so – to a fine not exceeding the maximum so prescribed.<sup>17</sup>
- (6) The court by which a person is convicted of an offence under paragraph (5) may order the forfeiture of any net or other fishing gear (other than the fishing boat) used in committing the offence and of any sea fish in the possession of the offender at the time of the offence.<sup>18</sup>

## 6 Size limits for sea fish

- (1) Subject to paragraph (2), paragraph (7) and Article 11, no person shall land, sell, expose or offer for sale or retain in the person's possession, any sea fish of any description being a fish of a smaller size than that prescribed in relation to sea fish of that description by Regulations made by the States.<sup>19</sup>
- (2) Paragraph (1) shall not be taken to restrict the landing of fish taken in the course of fishing operations which, under the authority of the Minister, are conducted for the purpose of scientific investigation.
- (3) If the States by Regulations so direct, no person shall land, sell, expose or offer for sale or retain in the person's possession any lobster which is carrying spawn attached

to the tail or some other exterior part of the lobster, or which is in such a condition as to show that, at the time when it was taken, it was carrying spawn so attached.

- (4) Any person who contravenes paragraph (1), (3) or (6) shall be guilty of an offence and, for each offence, shall be liable –
  - (a) if the Regulations have not prescribed a maximum fine for the purposes of this paragraph – to a fine; or
  - (b) if the Regulations have done so – to a fine not exceeding the maximum so prescribed.<sup>20</sup>
- (5) The court by which a person is convicted of an offence under paragraph (4) may order the forfeiture of anything (other than a fishing boat) used in committing the offence and of any fish in respect of which the offence was committed.<sup>21</sup>
- (6) Subject to paragraphs (7) and (8) and Article 11, where, in the course of any fishing operations conducted by means of a fishing boat, any sea fish of any description, being a fish of a smaller size than that prescribed in relation to sea fish of that description by Regulations under paragraph (1), is taken on board the boat, that fish shall be returned to the sea forthwith.<sup>22</sup>
- (7) Paragraphs (1) and (6) shall not apply in relation to fishing operations which, under the authority of the Minister are conducted for the purpose of scientific investigations or for transplanting fish from one fishing ground to another.<sup>23</sup>
- (8) Regulations under paragraph (1) may provide for exempting any fishing boat from the obligation to comply with the requirements of paragraph (6), if and so long as such further conditions as may be imposed by or under the Regulations are complied with; and if and so long as such further conditions (if any) as may be so imposed are complied with, any fish retained on board under such an exemption shall be excepted from the prohibitions of paragraph (1).<sup>24</sup>
- (9) Regulations made under paragraph (1) may be framed so as to apply only in relation to specified descriptions or sexes of sea fish or specified areas, during specified periods, specified methods of fishing, specified equipment, or according to such other factors or combination of factors, as are specified in the Regulations.<sup>25</sup>
- (10) If paragraph (1), (3) or (6) is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) shall each be guilty of an offence under paragraph (4).<sup>26</sup>

## **7 Power to restrict sea fishing<sup>27</sup>**

- (1) Where it appears to the States necessary or expedient to do so for the purpose of giving effect to the TCA or any convention or agreement for the time being in force between Her Majesty's Government in the United Kingdom and the Government of any other country, the States may make Regulations prohibiting or restricting in any area specified in the Regulations –
  - (a) all fishing for sea fish;
  - (b) fishing for any description of sea fish specified in the Regulations; or
  - (c) fishing for sea fish by any method specified in the Regulations,by such fishing boats or classes of fishing boats as may be specified in the Regulations.<sup>28</sup>

- (2) Regulations made under paragraph (1) may –
- (a) impose conditions as to time, place, means, methods, equipment, catch or class (including sex) of fish;
  - (b) impose conditions restricting or prohibiting the processing of sea fish while it is on a boat, or as to the use to which the sea fish taken may be put or as to the processing of sea fish before it has been landed, or requiring sea fish to be landed whole or requiring sea fish to be kept whole or in some other specified condition or kept in some specified environment, while it is on a boat;
  - (c) impose conditions specifying which persons may fish;
  - (d) impose conditions specifying which boats may be used in fishing (including specifying the country, or place, of registration, the provenance or the home port of the boats or specifying that a boat be listed on a list furnished to a specified authority of any country or specifying some other characteristic of a boat);
  - (e) require that a person or vessel be the subject of a licence, permit, or other qualification, granted by a specified person or specified authority of a specified country;
  - (f) relate to the keeping of records;
  - (g) require that a person or vessel carry a licence or permit or that a person produce, on demand by a fishery officer, a licence or permit (or any record that is required to be kept whether that requirement is contained in the Regulations or in any other law of any country);
  - (h) provide that any condition that could be prescribed by the Regulations may be imposed instead in a licence, or permit, granted under this Law or the Regulations, to the extent that such a condition is not inconsistent with the Regulations;
  - (i) provide that a person or authority who may grant a licence, or permit, under this Law or the Regulations may, in deciding whether to make the grant, or what conditions to impose on the licence or permit (whether at the time of the grant or at any other time), take into account the need to safeguard a fishery, the need to safeguard the environment, socio-economic factors, historical factors and such other matters as the person or authority considers relevant; or
  - (j) provide that a person or authority who may grant a licence under this Law or the Regulations must do so only if –
    - (i) the vessel is a TCA vessel, or
    - (ii) the vessel is a vessel that replaces a TCA vessel (“a substitute vessel”) or replaces another substitute vessel, and
      - (A) which uses the same method and gear as the vessel it replaces and does not exceed any of the following characteristics of the vessel it replaces, as measured in accordance with Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining the characteristics for fishing vessels (OJ L 169, 30.6.2017, p.1) –
        - (I) engine power,
        - (II) length overall,

- (III) breadth,
  - (IV) gross tonnage, or
  - (B) which the Minister decides to accept as a substitute vessel, having regard to the policy published by the Minister from time to time.<sup>29</sup>
- (2A) The States may by Regulations amend the characteristics referred to in paragraph (2)(j)(ii) and the method by which they are measured or determined.<sup>30</sup>
- (3) An area specified in the Regulations may include an area outside the territorial sea if, to the extent that the Regulations refer to the latter area, they do so only to prohibit or restrict fishing by Jersey fishing boats or a class of Jersey fishing boats.
- (4) Subject to paragraph (5), where, in the course of fishing operations, any sea fish is taken, being sea fish that is of a description the fishing for which is prohibited by Regulations made under paragraph (1)(b) and (c), the fish shall be returned to the sea forthwith.
- (5) A prohibition, restriction, condition or requirement imposed by or under this Article shall not apply in relation to fishing conducted under the authority of the Minister for the purpose of scientific investigation or for the purpose of transplanting fish from one fishing ground to another.
- (6) Where any fishing boat is used in contravention of any Regulations under paragraph (1), or paragraph (4) is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) shall each be guilty of an offence and liable –
- (a) if the Regulations have not prescribed a maximum fine for the purposes of this paragraph – to a fine; or
  - (b) if the Regulations have done so – to a fine not exceeding the maximum so prescribed.
- (7) The court by which a person is convicted of an offence under paragraph (6) may order the forfeiture of any net or other fishing gear (other than the fishing boat) used in committing the offence and of any fish in respect of which the offence was committed.
- (8) For the purposes of paragraph (6), if the Regulations require something to be done or carried on a fishing boat, or require a fishing boat to be equipped in a certain way, then if the thing is not done or carried on the boat, or the boat is not so equipped, the boat shall be taken to be used in contravention of those Regulations.
- (9) In proceedings for an offence under paragraph (6) –
- (a) any licence (or permit) that was granted as referred to in the Regulations by an authority of a party to a convention or agreement as mentioned in paragraph (1) and was carried on the fishing boat at the time when the offence is alleged to have occurred;
  - (b) a duly authenticated copy of such a licence (or permit);
  - (c) any list referred to in the Regulations and relating to the fishing boat; or
  - (d) a duly authenticated copy of such a list,
- shall be received in evidence without further proof and shall, unless the contrary is proved, be sufficient evidence of any fact or matter contained in it.

- (10) In paragraph (9), “duly authenticated” means bearing the stamp or seal of the person or authority who granted the licence or permit or who maintains the list.
- (11) Nothing in this Article limits the operation of Article 12.

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## 9 Restriction on fishing by foreign fishing boats

- (1) No foreign fishing boat may enter the territorial sea except for a purpose recognized by international law, or by any convention for the time being in force between Her Majesty’s Government in the United Kingdom and the government of the country in which the boat is registered, and any such boat which enters the territorial sea –
  - (a) shall return outside the territorial sea as soon as the purpose for which it entered the territorial sea has been fulfilled; and
  - (b) shall not be used for fishing or for attempting to fish while in the territorial sea.
- (2) The fishing gear of a fishing boat which is prohibited by this Article from being used for fishing in the territorial sea shall, while the boat is in the territorial sea, be stowed in accordance with Regulations made by the States.
- (3) If this Article is contravened in the case of any fishing boat the master, the owner and the charterer (if any) shall each commit an offence and be liable to a fine and the court by which the offender is convicted may order the forfeiture of any sea fish or fishing gear found in the boat or taken or used by any person from the boat.<sup>32</sup>
- (4) This Article shall not prohibit or restrict fishing by a foreign fishing boat in any area of the territorial sea if the boat meets the requirements specified in relation to that area and that fishing by or under Article 12.<sup>33</sup>
- (5) This Article shall not prohibit or restrict fishing by a foreign fishing boat in any area of the territorial sea if the fishing is carried out in accordance with special provision made by arrangement between Her Majesty’s Government in the United Kingdom and the government of the country in which the boat is registered.<sup>34</sup>

## 10 European Union provisions<sup>35</sup>

- (1) Where EU provisions that are restrictions or prohibitions relating to sea fishing, the processing of sea fish or the placing on the market of sea fish are given effect by Regulations made under Article 2 of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) –
  - (a) if any fishing boat is used for fishing within the territorial sea, or any Jersey fishing boat is used for fishing anywhere, in contravention of such restriction or prohibition, the master, owner and charterer (if any) of the boat shall each be guilty of any offence, and liable to any penalty, prescribed by those Regulations;
  - (b) Articles 20, 21, 22 and 24 apply to any such offence in the same way as they apply to offences under this Law; and

- (c) Article 16 confers the same powers (and Article 17 applies to the latter powers) in relation to the enforcement of such restrictions or prohibitions as it does in relation to the enforcement of this Law.<sup>36</sup>
- (2) Without limiting Article 2 of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#), the States may, by Regulations under this Law, make such provision as appears to them to be requisite for the enforcement of any EU provision that is given effect to 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.<sup>37</sup>
- (3) Paragraph (1) has effect except to the extent that other provision is made by Regulations under paragraph (2).
- (4) In this Article “EU provision” has the same meaning as in Article 1 of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#).<sup>38</sup>

## 11 Exemptions for mariculture

- (1) A person shall not be guilty of an offence mentioned in paragraph (5) by reason of anything done or omitted by the person in the course of mariculture if it is done or omitted under the authority of an exemption granted by the Minister under this Article and in accordance with any conditions attached to the exemption.
- (2) The Minister may by Order grant exemptions for the purposes of this Article, and any such exemption may –
- (a) make different provision for different methods of mariculture and for different circumstances; and
- (b) specify conditions to which the exemptions are subject.<sup>39</sup>
- (3) It shall be a defence for a person charged with an offence under Article 3, 4 or 6 to show that the person believed on reasonable grounds that the fish with respect to which the offence is alleged to have been committed were produced by mariculture.
- (4) In paragraph (3) the reference to fish produced by mariculture does not include fish bred, reared or cultivated in captivity which have later been released or have escaped to the wild.
- (5) The offences referred to in paragraph (1) are offences under Article 3, 4, 5, 6 or 7.

## 12 Licences and permits<sup>40</sup>

- (1) The States may by Regulations provide –
- (a) that in the territorial sea or any specified area of the territorial sea fishing by a fishing boat (wherever registered) is prohibited unless authorized by a licence granted by the Minister, a permit granted by the Minister or another specified person, or another qualification, or a combination of 2 or more of such things;
- (b) that outside the territorial sea or any specified area outside the territorial sea fishing by a Jersey fishing boat is prohibited unless so authorized.<sup>41</sup>
- (2) Regulations under this Article may apply to fishing generally or in a specified area or to fishing –

- (a) for a specified description of sea fish;
- (b) by a specified method;
- (c) during a specified season of the year or other period; or
- (d) by boats registered in a specified country,

and whether the Regulations are general or limited in scope, they may provide for exceptions from the prohibitions contained in them.<sup>42</sup>

- (3) Where any vessel is used in contravention of any prohibition imposed in Regulations under this Article, the master, the owner and the charterer (if any) shall each be guilty of an offence and proceedings for a contravention of Regulations made under paragraph (1)(b) may be taken and the offence may be treated for all purposes as having been committed in Jersey.
- (4) For the purposes of paragraph (3), if the Regulations require something to be done or carried on a fishing boat, or require a fishing boat to be equipped in a certain way, then if the thing is not done or carried on the boat, or the boat is not so equipped, the boat is taken to be used in contravention of any prohibition imposed in Regulations under this Article.
- (5) Regulations may make provision for or with respect to licences, permits and other qualifications for the purposes of this Article.
- (6) A licence or permit under this Article shall be granted in respect of a named vessel and to the owner or charterer of the vessel and may authorize fishing generally or may confer limited authority by reference, in particular, to –
  - (a) the area within which fishing is authorized;
  - (b) the periods, times or particular voyages during which fishing is authorized;
  - (c) the descriptions and quantities of fish that may be taken;
  - (d) the method of fishing; or
  - (e) using a specified description or quantity of gear, or both.<sup>43</sup>
- (7) A licence or permit under this Article may authorize fishing either unconditionally or subject to such conditions as appear to the Minister to be necessary or expedient for the regulating of fishing (including conditions that do not relate directly to fishing), and in particular a licence or permit may contain conditions –
  - (a) as to the landing of sea fish taken under the authority of the licence or permit (including specifying the port at which the catch is to be landed);
  - (b) as to the use to which the fish taken may be put or as to the processing of the fish before it has been landed, or requiring the fish to be landed whole or requiring sea fish to be kept whole or in some other specified condition or kept in some specified environment, while it is on a boat; or
  - (c) restricting the time that a vessel named in the licence or permit may spend at sea (whether for the purpose of fishing or otherwise),and if such a condition is not complied with, the master, the owner and the charterer (if any) of the vessel named in the licence or permit shall each be guilty of an offence.
- (8) The conditions subject to which a licence or permit under this Article is granted may differ as between different vessels or vessels of different descriptions.

- (9) A licence or permit containing a condition restricting the time that a vessel named in the licence or permit may spend at sea may make provision as to the circumstances in which time is, or is not, to count as time spent at sea.
- (10) The Minister may by Order make provision as to the principles on which the time that vessels spend at sea is to be arrived at for the purposes of any condition included in a licence or permit by virtue of paragraph (7)(c), including by reference to any method specified in the TCA.<sup>44</sup>
- (11) The Minister may require the master, owner or charterer (if any) of the vessel named in the licence or permit to provide such information, in such form and in such manner, as the Minister may specify to that person, and a person who fails, without reasonable excuse to comply with such a requirement shall be guilty of an offence.<sup>45</sup>
- (12) The licensing power, and power to grant permits, conferred by this Article may be exercised so as to limit the number of fishing boats, or of any class of fishing boats, engaged in fishing in any particular area, or in any area for any description of fish, to such extent as appears to the Minister to be necessary or expedient for the regulation of sea fishing.
- (12A) The Minister may issue a licence only in respect of a fishing boat that is not a Jersey fishing boat if it is –
- (a) a qualifying vessel; and
  - (b) has a national licence and any other authorisations required by regional, national or international law.<sup>46</sup>
- (12B) If the Minister considers it appropriate, the Minister may make public a record of all licences and replacement licences issued to all fishing boats and the details of the conditions of each licence.<sup>47</sup>
- (13) Where Regulations under this Article prohibit fishing in a specified area for a specified description of sea fish, there shall, except so far as the Regulations provide otherwise, be returned to the sea forthwith any sea fish of that description taken on board a fishing boat in that area.
- (14) Where the Regulations referred to in paragraph (13) apply only to fishing by a specified method or during a specified period or by boats of a specified description, paragraph (13) applies only if the fish are caught by that method, during that period or by a boat of that description.
- (15) Where paragraph (13) is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) shall each be guilty of an offence.
- (16) If a licence or permit is suspended or revoked the Minister may, if he or she considers it appropriate in all the circumstances, refund the whole or any part of the charge made for the licence or permit.
- (17) A person guilty of an offence under this Article shall be liable –
- (a) if the Regulations have not prescribed a maximum fine for the purposes of this paragraph – to a fine; or
  - (b) if the Regulations have done so – to a fine not exceeding the maximum so prescribed.
- (18) The court by which a person is convicted of an offence under paragraph (3), (7) or (15) may order –

- (a) that the owner or charterer (if any) of the vessel used to commit the offence, or as the case may be, of the vessel named in the licence (or permit) of which a condition is broken, be disqualified for a specified period from holding a licence or permit under this Article in respect of that vessel; and
- (b) the forfeiture of any fish in respect of which the offence was committed and of any net or fishing gear (other than the vessel) used in committing the offence.

### **13 Regulations supplementary to Article 12**

- (1) The States may by Regulations make provision as to –
  - (a) the manner in which a licence or permit under Article 12 shall be granted or applied for, or a variation or renewal applied for or effected or a revocation or suspension effected; and
  - (b) the time when a licence or permit, or a variation, revocation or suspension, shall have effect.<sup>48</sup>
- (2) Without prejudice to the generality of paragraph (1), Regulations under this Article may include provision –
  - (a) for documents to be delivered, or notices given, to the nominees of persons to whom licences or permits are granted;
  - (b) for documents or notices to be treated as delivered or given if they are posted or otherwise communicated in accordance with the Regulations;
  - (c) for notices to be given by publication in newspapers;
  - (d) as to the transitional effects of variations.<sup>49</sup>
- (3) Regulations under this Article may make different provision for different cases.

### **14 Provisions supplementary to Articles 12 and 13 – evidence<sup>50</sup>**

Where any automatic recording equipment –

- (a) is used in accordance with a condition included in a licence or permit by virtue of Article 12; or
- (b) is used to record information transmitted or derived from equipment used in accordance with such a condition,

any record produced by means of the automatic recording equipment, or partly by those and partly by other means, shall, in any proceedings for an offence under Article 12, be evidence of the matters appearing from the record.

### **15 Fishery officers**

- (1) The Minister may appoint one or more persons as fishery officers for the purposes of this Law.
- (2) In addition to fishery officers appointed under paragraph (1), the following persons shall be deemed to be fishery officers –
  - (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.

## 16 Powers of fishery officers<sup>51</sup>

- (1) For the purposes of enforcing this Law or the Regulations, a fishery 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 fishery officer has reasonable cause to suspect of having committed, an offence under this Law or the Regulations or Regulations referred to in Article 10(1);
  - (b) require the attendance of the master of a vessel or any other person on board;
  - (c) go on board any vessel;
  - (d) require any vessel to stop and do anything else to enable him or her to board it;
  - (e) stop, enter and search any vehicle and examine any fish in it;
  - (f) 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 sea fish or with mariculture and without prejudice to the generality of the foregoing –
    - (i) examine any fish on the premises,
    - (ii) require any person on the premises to produce any documents in his or her custody or possession relating to the catching, landing, sale or disposal of sea fish, and
    - (iii) take copies of any such document;
  - (g) if the fishery officer has entered premises pursuant to sub-paragraph (f) and has reasonable cause to suspect that an offence under this Law or the Regulations or Regulations referred to in Article 10(1) 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 (f) or any document, or other thing, found during a search under clause (i);
  - (h) require any person who claims to be the holder of a licence, or permit, granted under this Law or the Regulations (or granted by a person specified by the Regulations or an authority so specified of any country) to produce that licence or permit;
  - (i) require any person whom he or she suspects on reasonable grounds to have acted in contravention of this Law or the Regulations or Regulations referred to in Article 10(1) to produce any licence or permit held by the person, being

a licence, or permit, granted under this Law or the Regulations (or granted by a person specified by the Regulations or an authority so specified of any country);

- (j) require a person to produce any record, or other document, that the person is required to create, maintain or hold under this Law or the Regulations or Regulations referred to in Article 10(1), or under any other law of any country, being a law that relates to sea fishing or to fishing boats;
- (k) require any person on board a fishing boat to produce –
  - (i) any automatic recording or transmitting equipment used in accordance with a condition included in a licence by virtue of Article 12(7),
  - (ii) any equipment required by Regulations under Article 2(1)(m) or (n), or
  - (iii) any record produced by means of equipment referred to in clause (i) or (ii), or partly by those and partly by other means;
- (l) search the boat for any such equipment or record as is mentioned in subparagraph (k), and require any person on board the boat to do anything that appears to the officer to be necessary for facilitating the search;
- (m) examine or test any such equipment or record;
- (n) examine and take copies of any such record or of a licence or permit granted under this Law or the Regulations (or granted by a person specified by the Regulations or an authority so specified of any country);
- (o) seize and detain any such equipment or record as is mentioned in subparagraph (k) for the purpose of enabling that equipment or record, or any record produced by means of that equipment, to be used in evidence in proceedings for an offence;
- (p) require any person on board a vessel to assist him or her in the performance of his or her functions;
- (q) while on board a vessel or 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 sea fish or search for, examine and take samples of any matter the deposit or discharge of which is restricted or prohibited under this Law or the Regulations or Regulations referred to in Article 10(1);
- (r) take with him or her on board a vessel, to assist him or her in performing the fishery officer's functions, any other person and any equipment or materials;
- (s) make on board a vessel any examination, or inquiry, that appears to him or her to be necessary, and without prejudice to the generality of the foregoing, in particular –
  - (i) examine any sea fish on the vessel and the equipment and fishing gear of the vessel,
  - (ii) require the production of any licence, or permit, granted under this Law or the Regulations (or granted by a person specified by the Regulations or an authority so specified of any country) or the production of any record, or other document, relating to the vessel or to its fishing operations or other operations ancillary to its fishing operations or to mariculture,

- (iii) search the vessel for any such documents and require any person on board to do anything that appears to the officer to be necessary for facilitating the search, and
  - (iv) take copies of any such document; or
  - (t) 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.<sup>52</sup>
- (2) If a fishery officer has reasonable cause to suspect that an offence under this Law or the Regulations or Regulations referred to in Article 10(1) has been committed in respect of any vessel the fishery officer may seize and detain any record or other document produced to him or her or found on board, and, whether or not the officer has seized or detained any such record or document, the officer may –
  - (a) require the master to take or may himself or herself take, the vessel and its crew to the port in Jersey that appears to the fishery officer to be the nearest convenient port; and
  - (b) detain the vessel in that port.<sup>53</sup>
- (3) Nothing in paragraph (2) shall permit any record or document required by law to be carried on board any boat to be seized or detained except while the boat is detained in port.
- (4) If a fishery officer detains a vessel in port, he or she shall serve on the master a notice stating that it is to be detained until the notice is withdrawn by the service on the master of a further notice signed by such an officer.<sup>54</sup>
- (5) A vessel detained under paragraph (2) may be detained under that paragraph only until the occurrence of whichever of the following events occurs first –
  - (a) the notice relating to the detention is withdrawn under paragraph (4);
  - (b) every person tried in respect of an offence relating to the facts on the basis of which the vessel was detained is acquitted;
  - (c) the vessel is seized and detained under Article 20.<sup>55</sup>
- (6) A fishery officer may seize –
  - (a) any sea fish in respect of which he or she has reasonable cause to suspect that an offence under this Law or the Regulations or Regulations referred to in Article 10(1) has been committed; and
  - (b) any net or other fishing gear or instrument –
    - (i) in respect of which the fishery officer has reasonable cause to suspect that an offence under this Law or the Regulations or Regulations referred to in Article 10(1) has been committed, or
    - (ii) that the fishery officer has reasonable cause to suspect has been used for catching any sea fish in respect of which any such offence has been committed.
- (7) A fishery officer may seize any sea fish, or any net or other fishing gear, that is on board a vessel at the time when an offence under Article 18 is committed on that boat.<sup>56</sup>
- (8) A fishery officer may sell, destroy or otherwise dispose of any sea fish seized under paragraph (6) or (7).

- (9) A fishery officer may sell, destroy or otherwise dispose of any net, or other fishing gear, seized under paragraph (6) or (7), if –
  - (a) notice of the seizure has been given under Article 17;
  - (b) the net, or other 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 net or other gear.
- (10) Where any fishery 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.
- (11) The powers conferred on a fishery officer by this Article may be exercised –
  - (a) in Jersey or within the territorial sea, in relation to any vessel, whether it is a fishing boat or not; or
  - (b) anywhere else, but only in relation to a Jersey fishing boat.<sup>57</sup>
- (12) The powers of detention of persons, entry and search conferred on a fishery 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 law.

## **17 Action where fish or gear seized<sup>58</sup>**

- (1) If fish is seized under Article 16(6) or (7) in the absence of its owner (and of any person who has possession or control of the fish), and the fish is not sold, destroyed, or otherwise disposed of, under Article 16(8), the Minister shall give notice of the seizure.
- (2) If a net, or other fishing gear or instrument, is seized under Article 16(6) or (7) 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 fish seized Article 16(6) or (7) its reasonable wholesale value (as at the date of the seizure) if –
  - (a) the fish seized is disposed of under Article 16(8), but not by returning or passing it to its owner (or to any person who had possession or control of the fish immediately before it was seized); 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 fish is thrown back into the sea forthwith after being seized;
  - (b) if a court has ordered the fish to be forfeited under this Law;
  - (c) if sale of the fish would be contrary to the law;

- (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.

## **18 Obstruction of officers<sup>59</sup>**

- (1) Any person who –
  - (a) fails without reasonable cause to comply with any requirement imposed by a fishery officer under the powers conferred on such officers by Article 16;
  - (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, is liable to imprisonment for a term of 2 years and to a fine.<sup>60</sup>
- (2) In addition, if the offence took place on a fishing boat, the court by which the offender is convicted may order the forfeiture of any fish on board the boat at the time of the offence and of any net or fishing gear on board the boat at that time.

## **19 Protection of officers**

A fishery officer shall not be liable to any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on the fishery officer by Article 16 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.

## **20 Recovery of fines**

Where a fine is imposed on the master, owner or charterer or a member of the crew of a fishing boat who is convicted of an offence under this Law, the court may –

- (a) authorize the Viscount to seize and detain the boat and its gear and catch and any property of the person convicted for the purpose of levying the amount of the fine; and
- (b) if the boat is a foreign fishing boat, order it to be detained for a period not exceeding 3 months from the date of the conviction or until the fine is paid or the amount of the fine is levied, whichever occurs first.

## **20A Further provisions relating to fines<sup>61</sup>**

Where a fine is imposed on the master, owner or charterer or a member of the crew of a fishing boat –

- (a) the Viscount may inform the Minister of the person on whom the fine was imposed and the amount of any fine that has not been paid or levied; and
- (b) the Minister may suspend the operation of a licence until the fine is paid or the amount of the fine is levied, whichever occurs first, and where a licence has been suspended the Minister may not issue another licence in substitution of the suspended licence.

## **21 Compensation for damage caused by offence**

- (1) Where, on convicting a person of an offence under this Law or the 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.<sup>62</sup>
- (2) Article 20 shall apply in relation to compensation adjudged or ordered to be paid by the master, owner, charterer or member of the crew of a fishing boat as it applies in relation to a fine imposed on such a person.
- (3) 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.

## **22 Disposal of forfeitures<sup>63</sup>**

- (1) If a court orders the forfeiture of any sea fish, net, fishing gear or instrument under this Law, the fish, net, gear or instrument 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 sea fish under paragraph (1) even if the fish has already been sold, destroyed or otherwise disposed of under Article 16(8).

## **23 False statements<sup>64</sup>**

- (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 the Regulations.
- (2) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.<sup>65</sup>

## **24 General provisions as to offences<sup>66</sup>**

- (1) Where an offence under this Law or the Regulations committed by a limited liability partnership or company 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.

- (3) Any person who aids, abets, counsels or procures the commission of an offence under this Law or the Regulations shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

## **25 General provisions as to licences and permits<sup>67</sup>**

- (1) A licence, or permit, granted under this Law or the Regulations shall be in writing.
- (2) A licence, or permit, granted under this Law or the Regulations is subject to the following conditions –
- (a) such conditions as are imposed by or under this Law or by or under the Regulations;
  - (b) that the licence or permit takes effect on the date when it is granted or, if a later date is specified in it or the Regulations otherwise provide, on the date so specified or provided for;
  - (c) that the licence or permit is in force for the period provided for by or under the Regulations, or if the Regulations make no such provision, until 31st December immediately following the grant of the licence or permit;
  - (d) that the licence or permit may be renewed at the discretion of the person or authority who has power under this Law or the Regulations to grant licences and permits;
  - (e) that the licence or permit is not transferable from person to person or boat to boat or in any other sense;
  - (f) that the licence or permit may be suspended or revoked if any condition applicable to the licence or permit is not complied with or a restriction or prohibition imposed under this Law or the Regulations or Regulations referred to in Article 10(1) is contravened by a person to whom the licence or permit has been granted or is contravened on or in the use of the boat named in the licence or permit;
  - (g) that the licence or permit may be suspended or revoked if suspension or revocation appears to the Minister necessary or expedient for the regulation of sea fishing;
  - (h) that the Minister may by notice impose further conditions on the licence or permit, whether or not those conditions effectively restrict or prohibit the activities that may be carried out under the licence;
  - (i) such conditions, not inconsistent with the conditions referred to in subparagraphs (a) – (h), as the Minister imposes in the licence or by notice to the person or persons to whom the licence or permit has been granted.
- (3) The conditions to which a licence, or permit, granted under this Law or the Regulations is subject may, if the Regulations so provide, include conditions as to the payment of fees, whether on or before the grant or renewal of the licence or permit, on the submission of returns in relation to the activity to which the licence or permit relates or on any other basis.
- (4) The conditions imposed under paragraph (2)(i) may be revoked, or modified, by further conditions imposed as referred to in that sub-paragraph.
- (5) A notice referred to in paragraph (2)(i) may be given –

- (a) in the case of a condition imposed on one or more licences or permits severally – by service on the owner, charterer or master of each boat to which the licence or permit relates; or
  - (b) in the case of a condition imposed on one or more licences or permits as members of a class of licences or permits – by notice in the Jersey Gazette or by service as referred to in sub-paragraph (a).
- (6) For the purposes of this Article, service may be effected personally, by post, by electronic means or in such other manner as the Regulations specify.
- (7) If a licence, or permit, granted under this Law or the Regulations is suspended or revoked because suspension or revocation appears to the Minister necessary or expedient for the regulation of sea fishing, the Minister –
- (a) may, refund part or all of any fees paid in respect of the licence or permit if in all the circumstances it would be just, but is not required to do so; and
  - (b) may pay compensation for any loss directly or indirectly suffered as a result of the suspension or revocation, but is not required to do so.

## **26 Regulations about licences and permits<sup>68</sup>**

Where this Law confers power to make Regulations with respect to licences or permits, those Regulations may include provisions for or with respect to any of the following matters concerning licences or permits –

- (a) applications for them;
- (b) their grant, renewal or variation;
- (c) their suspension or revocation;
- (d) the imposition of conditions on them, or the variation of conditions to which they are subject, either generally or in a particular case;
- (da) the address (including an email address) for service of documents and notices;
- (e) the service of notice and the effect of any defect in the service of notice;
- (f) fees to be paid in relation to activities carried out under licences or permits, or in relation to applications for them or their grant or renewal or the variation of the conditions to which they are subject.

## **27 Fees<sup>69</sup>**

- (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 fishery, 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 fishery to which the fee relates, the profits of the business to which the licence or permit relates, or any other factor.

**28 Appeals<sup>70</sup>**

- (1) Any person aggrieved by –
  - (a) a refusal to grant, vary or renew a licence, or permit, under this Law or the Regulations;
  - (aa) a refusal to grant an agreement in principle to grant a fishing boat licence for a substitute vessel under the Regulations;
  - (b) the revocation or suspension of a licence, or permit, under this Law or the 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 Royal Court.<sup>71</sup>

- (2) Any appeal under this Article may be heard and determined in term or in vacation.
- (3) On the hearing of an appeal under this Article, the Court may consider any evidence or other matter whether or not, at the time when the action appealed against was taken, the evidence or other matter was available or known to the Minister.
- (4) 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.
- (5) The Regulations may make provision for or with respect to staying, or reducing, the effect of any refusal, revocation, suspension, imposition, or variation, appealed against until the appeal has been withdrawn by the appellant or dismissed by the Court, or the Minister has acted on any directions of the Court given under this Article.

**29 Regulations and Orders<sup>72</sup>**

- (1) The Minister may by Order make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Law by Order of that Minister.
- (2) The States may by Regulations make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Law by Regulations.
- (3) An Order or Regulations made under this Law may –
  - (a) make different provision in relation to different cases or circumstances;
  - (b) apply in respect of particular persons or particular cases or particular classes of persons or particular classes of cases, and define a class by reference to any circumstances whatsoever;
  - (c) specify matters absolutely or in terms of proportion or probability, whether the power to make the Regulations or Order is expressed absolutely or otherwise;

- (ca) prescribe the form of a licence or permit;
  - (cb) require that fishing boats have on board and make use of prescribed equipment capable of relaying the boat's location or position in real time to a prescribed monitoring facility; or
  - (d) 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.<sup>73</sup>
- (4) Regulations made under this Law may create an offence punishable by a fine up to level 3 on the standard scale.<sup>74</sup>
- (5) <sup>75</sup>

### 30 Repeal and saving

- (1) Notwithstanding the repeal of the Sea-Fisheries (Jersey) Laws 1962 to 1992 –
- (a) any Regulations made under those Laws which have effect; and
  - (b) any appointment of a fishery officer under those Laws which is subsisting,
- on the commencement of this Article shall continue to have effect as if made under this Law, save that any such Regulations shall not apply to the extended territorial sea.
- (2) The provisions of this Law are in addition to and not in derogation of, the provisions of any other enactment relating to sea fishing and, in particular to the provisions of –
- (a) the Sea Fisheries Act 1868 of the United Kingdom;
  - (b)
  - (c) the Sea Fisheries (Shellfish) Act 1967 of the United Kingdom;
  - (d) the Sea Fish (Conservation) Act 1967 of the United Kingdom;
  - (e) the Sea Fisheries Act 1968 of the United Kingdom; and
  - (f) the Fishery Limits Act 1976 of the United Kingdom.<sup>76</sup>
- (3) Notwithstanding the amendment of Article 2, 5, 6, 7, 12, 13 or 29 or of any other provision of this Law by the Sea Fisheries (Amendment) (Jersey) Law 2002, a Regulation or Order in force under or as referred to in that Article or provision immediately before the amendment takes effect shall continue in force afterwards –
- (a) as if it had been made under the Article of the same number; or
  - (b) as if it were in force under or as referred to in the corresponding provision.<sup>77</sup>
- (4) Notwithstanding the amendment of any provision of this Law by the Sea Fisheries (Amendment) (Jersey) Law 2002 –
- (a) a defence available under this Law immediately before that amendment takes effect shall continue to be available in respect of an offence committed before that time;
  - (b) a licence in force under this Law immediately before that amendment takes effect shall continue in force in the same terms and under the same conditions as it would have if that amendment had not taken effect;

- (c) a disqualification, revocation, or suspension, under Article 12, an appointment under Article 15, or a requirement made (or other exercise of power performed) under Article 16, of this Law that has any force or effect immediately before that amendment takes effect shall be taken to continue under the corresponding provision of this Law as so amended;
  - (d) in general, anything done under this Law before that amendment that has any force or effect immediately before that amendment takes effect shall be taken to have been done under this Law as so amended, subject to any express or implied provision to the contrary in this Law or the Regulations made under Article 31.<sup>78</sup>
- (5) However, an order for forfeiture of a fishing boat that has not taken effect immediately before that amendment takes effect shall be taken to be of no effect.<sup>79</sup>
- (6) In this Article, “amendment” includes replacement.<sup>80</sup>

### **31 Regulations may make savings and transitional provisions<sup>81</sup>**

- (1) The Regulations may make provisions of a savings or transitional nature consequent on the enactment of this Law or on any amendment of this Law.
- (2) Any such provision may, if the Regulations so provide, take effect from the day on which this Law comes into force or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its promulgation, the provision does not operate so as –
  - (a) to affect, in a manner prejudicial to any person (other than the States or any administration of the States (whether established or unestablished)), the rights of that person existing before the date of its promulgation; or
  - (b) to impose liabilities on any person (other than the States or any administration of the States (whether established or unestablished)) in respect of anything done or omitted to be done before the date of its promulgation.

### **32 Citation**

This Law may be cited as the Sea Fisheries (Jersey) Law 1994.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	*Projet No (where applicable)
Sea Fisheries (Jersey) Law 1994	<a href="#">L.19/1994</a>	9 November 1994 <sup>84</sup> ( <a href="#">R&amp;O.8746</a> )	
Sea Fisheries (Amendment) (Jersey) Law 2002	<a href="#">L.44/2002</a>	1 January 2004 ( <a href="#">R&amp;O.102/2003</a> )	<a href="#">P.95/2002</a>
Transfer of Functions (Environment and Public Services Committee) (No. 2) (Jersey) Act 2004	<a href="#">R&amp;O.133/2004</a>	23 November 2004	<a href="#">P.137/2004</a>
States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005	<a href="#">R&amp;O.132/2005</a>	9 December 2005	<a href="#">P.216/2005</a>
States of Jersey (Transfer of Functions No. 2) (Planning and Environment to Economic Development) (Jersey) Regulations 2006	<a href="#">R&amp;O.137/2006</a>	13 December 2006	<a href="#">P.125/2006</a>
Sea Fisheries (Amendment No. 2) (Jersey) Law 2012	<a href="#">L.36/2012</a>	23 November 2012	<a href="#">P.119/2011</a>
European Union Legislation (Implementation) (Jersey) Law 2014	<a href="#">L.28/2014</a>	31 October 2014	<a href="#">P.164/2013</a>
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	<a href="#">R&amp;O.158/2015</a>	1 January 2016	<a href="#">P.46/2015</a> (re-issue)
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )	<a href="#">P.87/2015</a>
Sea Fisheries (Amendment No.3) (Jersey) Law 2017	<a href="#">L.14/2017</a>	13 May 2017	<a href="#">P.128/2016</a>
Sea Fisheries (TCA – Licensing of Fishing Boats) (Amendment of Law and Regulations) (Jersey) Regulations 2021	<a href="#">R&amp;O.54/2021</a>	30 April 2021	<a href="#">P.38/2021</a>
Legislation (Jersey) Law 2021	<a href="#">L.8/2021</a> ( <a href="#">R&amp;O.112/2021</a> )	28 September 2021	<a href="#">P.26/2021</a>
Sea Fisheries (TCA – Licensing of Fishing Boats) (Amendment of Law and Regulations – No. 2) (Jersey) Regulations 2023	<a href="#">R&amp;O.10/2023</a>	14 February 2023	<a href="#">P.115/2022</a>

\*Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
1(2A)	(3)
1(3)	spent, omitted from this revised edition
(4)	spent, omitted from this revised edition
(5)	1(4)
6(4A)	(5)
(5)	(6)
(6)	(7)
(7)	(8)
(8)	(9)
(9)	(10)
9A	10
10	11
11	12
12	13
13	14
14	15
15(1)(j)	16(1)(i)
(k)	(j)
(l)	(k)
(m)	(l)
(n)	(m)
(o)	(n)
15A	17
16	18
17	19
18	20
19	21
20	22
21	23
21A	24
21B	25
21C	26
21D	27
21E	28
22	29
23(1)	spent, omitted from this revised edition
23(2)	30(1)
(3)	(2)
(4)	(3)
(5)	(4)
(6)	(5)
(7)	(6)
23A	31
24	32

## Table of Endnote References

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- <sup>1</sup> *This Law has 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*
- This Law has been further amended by the States of Jersey (Transfer of Functions No. 2) (Planning and Environment to Economic Development) (Jersey) Regulations 2006. The amendments give effect to the transfer of functions from the Minister for Planning and Environment to the Minister for Economic Development.*
- <sup>2</sup> *Long title* amended by L.36/2012
- <sup>3</sup> *Article 1(1)* amended by L.44/2002, L.36/2012, R&O.158/2015, R&O.54/2021, R&O.10/2023
- <sup>4</sup> *Article 1(3)* inserted by L.44/2002
- <sup>5</sup> *Article 2* substituted by L.44/2002
- <sup>6</sup> *Article 2(1)* editorial change, “Subject to Article 8,” deleted
- <sup>7</sup> *Article 2(4)* substituted by L.36/2012
- <sup>8</sup> *Article 2(4A)* inserted by L.36/2012
- <sup>9</sup> *Article 2(4B)* inserted by L.36/2012
- <sup>10</sup> *Article 2(4C)* inserted by L.36/2012
- <sup>11</sup> *Article 2(4D)* inserted by L.36/2012
- <sup>12</sup> *Article 2(6)* substituted by L.36/2012
- <sup>13</sup> *Article 3* substituted by L.44/2002
- <sup>14</sup> *Article 4* substituted by L.44/2002
- <sup>15</sup> *Article 5(1)* editorial change, “Subject to Article 8,” deleted
- <sup>16</sup> *Article 5(3)* amended by L.44/2002
- <sup>17</sup> *Article 5(5)* substituted by L.44/2002
- <sup>18</sup> *Article 5(6)* substituted by L.44/2002
- <sup>19</sup> *Article 6(1)* amended by L.44/2002
- <sup>20</sup> *Article 6(4)* substituted by L.44/2002
- <sup>21</sup> *Article 6(5)* inserted by L.44/2002
- <sup>22</sup> *Article 6(6)* amended by L.44/2002
- <sup>23</sup> *Article 6(7)* amended by L.44/2002
- <sup>24</sup> *Article 6(8)* editorial change, “Subject to Article 8,” deleted
- <sup>25</sup> *Article 6(9)* substituted by L.44/2002
- <sup>26</sup> *Article 6(10)* inserted by L.44/2002
- <sup>27</sup> *Article 7* substituted by L.44/2002
- <sup>28</sup> *Article 7(1)* amended by R&O.54/2021
- <sup>29</sup> *Article 7(2)* amended by R&O.54/2021, R&O.10/2023
- <sup>30</sup> *Article 7(2A)* inserted by R&O.54/2021
- <sup>31</sup> *Article 8* repealed by L.14/2017
- <sup>32</sup> *Article 9(3)* amended by R&O.54/2021
- <sup>33</sup> *Article 9(4)* substituted by L.44/2002
- <sup>34</sup> *Article 9(5)* inserted by L.44/2002
- <sup>35</sup> *Article 10* inserted by L.44/2002, heading amended by L.28/2014

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- <sup>36</sup> Article 10(1) amended by L.28/2014, R&O.54/2021
- <sup>37</sup> Article 10(2) amended by L.28/2014
- <sup>38</sup> Article 10(4) amended by L.28/2014
- <sup>39</sup> Article 11(2) amended by L.36/2012
- <sup>40</sup> Article 12 substituted by L.44/2002
- <sup>41</sup> Article 12(1) amended by R&O.54/2021
- <sup>42</sup> Article 12(2) amended by R&O.54/2021
- <sup>43</sup> Article 12(6) amended by R&O.54/2021
- <sup>44</sup> Article 12(10) amended by R&O.54/2021
- <sup>45</sup> Article 12(11) amended by R&O.54/2021
- <sup>46</sup> Article 12(12A) inserted by R&O.54/2021
- <sup>47</sup> Article 12(12B) inserted by R&O.54/2021
- <sup>48</sup> Article 13(1) substituted by L.44/2002
- <sup>49</sup> Article 13(2) amended by L.44/2002
- <sup>50</sup> Article 14 substituted by L.44/2002
- <sup>51</sup> Article 16 substituted by L.44/2002
- <sup>52</sup> Article 16(1) amended by L.36/2012
- <sup>53</sup> Article 16(2) amended by L.36/2012
- <sup>54</sup> Article 16(4) amended by L.36/2012
- <sup>55</sup> Article 16(5) amended by L.36/2012
- <sup>56</sup> Article 16(7) amended by L.36/2012
- <sup>57</sup> Article 16(11) amended by L.36/2012
- <sup>58</sup> Article 17 inserted by L.44/2002
- <sup>59</sup> Article 18 substituted by L.44/2002
- <sup>60</sup> Article 18(1) amended by R&O.54/2021
- <sup>61</sup> Article 20A inserted by R&O.54/2021
- <sup>62</sup> Article 21(1) substituted by L.44/2002
- <sup>63</sup> Article 22 substituted by L.44/2002
- <sup>64</sup> Article 23 substituted by L.44/2002
- <sup>65</sup> Article 23(2) amended by L.1/2016, R&O.54/2021
- <sup>66</sup> Article 24 inserted by L.44/2002
- <sup>67</sup> Article 25 inserted by L.44/2002
- <sup>68</sup> Article 26 inserted by L.44/2002, amended by R&O.54/2021
- <sup>69</sup> Article 27 inserted by L.44/2002
- <sup>70</sup> Article 28 inserted by L.44/2002
- <sup>71</sup> Article 28(1) amended by R&O.10/2023
- <sup>72</sup> Article 29 substituted by L.44/2002
- <sup>73</sup> Article 29(3) amended by R&O.54/2021
- <sup>74</sup> Article 29(4) amended by L.1/2016
- <sup>75</sup> Article 29(5) deleted by L.8/2021
- <sup>76</sup> Article 30(2) amended by L.36/2012
- <sup>77</sup> Article 30(3) inserted by L.44/2002
- <sup>78</sup> Article 30(4) inserted by L.44/2002
- <sup>79</sup> Article 30(5) inserted by L.44/2002
- <sup>80</sup> Article 30(6) inserted by L.44/2002
- <sup>81</sup> Article 31 inserted by L.44/2002
- <sup>84</sup> except Article 1(1) definition of “extended territorial sea”, Article 8 and Article 23 the words “save that any such Regulations shall not apply to the extended territorial sea” which came into force 31 March 1997 (R&O.9064)