



Jersey

SEA FISHERIES (TCA – LICENSING OF FISHING BOATS) (AMENDMENT OF LAW AND REGULATIONS) (JERSEY) REGULATIONS 2021

Contents

Regulation

PART 1	3
AMENDMENT OF SEA FISHERIES (JERSEY) LAW 1994	3
1 Amendment of Sea Fisheries (Jersey) Law 1994	3
2 Article 1 (interpretation) amended	3
3 Article 7 (power to restrict sea fishing) amended	3
4 Article 9 (restriction on fishing by foreign fishing boats) amended	4
5 Article 10 (European Union provisions) amended.....	4
6 Article 12 (licences and permits) amended	4
7 Article 18 (obstruction of officers) amended	5
8 Article 20A (further provisions relating to fines) inserted.....	5
9 Article 23 (false statements) amended	5
10 Article 26 (Regulations about licences and permits) amended.....	5
11 Article 29 (Regulations and Orders) amended	6
PART 2	6
AMENDMENT OF THE SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 2003	6
12 Amendment of the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003	6
13 Regulation 1 (interpretation) amended.....	6
14 Regulation 2 (fishing in the territorial sea of Jersey: licences, permits and lists) substituted.....	7
15 Regulation 3 (fishing by Jersey boats in adjacent waters: licences and permits) substituted	7
16 Regulation 3A (fishing in the Frouquier Aubert protected area) amended ...	8
17 Regulations 4 (requirement to carry access permit) and 4A (requirement to carry fishing permit) substituted	8
18 Regulation 6 (classes of licenses and permits) amended	8
19 Regulation 7 (fees for license and permits) amended.....	8
20 Regulation 8 (address for service on owner or charterer) amended	8
21 Regulation 9 (grant of licence or permit) amended	9

22	Regulation 9A (limit on grant of fishing permit) amended	9
23	Regulation 10 (variation, suspension or revocation) amended	9
24	Regulation 11 (delivery or notification by several modes) amended	10
25	Regulation 12 (deferred effect) amended	10
26	Regulation 12A (period for which licence in force) amended	10
27	Regulation 13 (effect of lodging appeal) amended	10
28	Regulation 14 (maximum penalties) deleted	10
PART 3		11
<hr/> CITATION AND COMMENCEMENT		11
29	Citation and commencement	11
ENDNOTES		12
<hr/> Table of Endnote References		12



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Made

23rd April 2021

Coming into force

30th April 2021

THE STATES make these Regulations under Articles 2, 7, 12, 13 and 29 of the Sea Fisheries (Jersey) Law 1994¹ and Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014² –

PART 1

AMENDMENT OF SEA FISHERIES (JERSEY) LAW 1994

1 Amendment of Sea Fisheries (Jersey) Law 1994

This Part amends the Sea Fisheries (Jersey) Law 1994³.

2 Article 1 (interpretation) amended

In Article 1 –

- (a) after the definition “police officer” there is inserted –
“ “qualifying vessel” is construed in accordance with Article FISH.10 of the TCA and includes a vessel that is a substitute vessel under Article 7(2)(j) of this Law;”;
- (b) after the definition “shellfish” there is inserted –
“ “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;”.

3 Article 7 (power to restrict sea fishing) amended

In Article 7 –

- (a) in paragraph (1) after “giving effect to” there is inserted “the TCA or”;

- (b) in paragraph (2) after sub-paragraph (i) there is inserted –
- “(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 qualifying vessel as construed in accordance with Article FISH.10 of the TCA, or
 - (ii) a vessel that replaces a qualifying vessel (“a substitute vessel”) or replaces another substitute vessel and which uses the same method and gear as the vessel it replaces and does not exceed any of 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) –
 - (A) engine power,
 - (B) length overall,
 - (C) breadth,
 - (D) gross tonnage.”;
- (c) after paragraph (2) there is inserted –
- “(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.”.

4 Article 9 (restriction on fishing by foreign fishing boats) amended

In Article 9(3) after “shall each” there is inserted “commit an offence and”.

5 Article 10 (European Union provisions) amended

In Article 10(1)(a) for “extended territorial sea” there is substituted “territorial sea”.

6 Article 12 (licences and permits) amended

In Article 12 –

- (a) in paragraph (1) – and (b) for “in any specified area of the territorial sea” there is substituted “in the territorial sea or any specified area of the territorial sea”;
 - (i) in sub-paragraph (a) for “in any specified area of the territorial sea” there is substituted “in the territorial sea or any specified area of the territorial sea”,
 - (ii) in sub-paragraph (b) for “in any specified area outside the territorial sea” there is substituted “outside the territorial sea or any specified area outside the territorial sea”,
- (b) in paragraph (2) for “in the specified area” there is substituted “or in a specified area”;
- (c) in paragraph (6) after sub-paragraph (d) there is inserted –

- “(e) using a specified description or quantity of gear, or both.”;
- (d) in paragraph (10) after “of paragraph (7)(c)” there is inserted “, including by reference to any method specified in the TCA”;
- (e) in paragraph (11) after “in such form” there is inserted “and in such manner”;
- (f) after paragraph (12) there is inserted –
 - “(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.
 - (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.”.

7 Article 18 (obstruction of officers) amended

In Article 18 for “shall be liable to a maximum fine of £50,000 in respect of the first conviction of the person for an offence against this Article or £100,000 in respect of a second or subsequent conviction of the person for an offence against this Article” there is substituted “is liable to imprisonment for a term of 2 years and to a fine”.

8 Article 20A (further provisions relating to fines) inserted

After Article 20 (recovery of fines) there is inserted –

“20A Further provisions relating to fines

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.”.

9 Article 23 (false statements) amended

In Article 23(2) for “12 months and to a fine of level 3 on the standard scale” there is substituted “2 years and to a fine”.

10 Article 26 (Regulations about licences and permits) amended

In Article 26 after sub-paragraph (d) there is inserted –

“(da) the address (including an email address) for service of documents and notices;”.

11 Article 29 (Regulations and Orders) amended

In Article 29(3) after sub-paragraph (c) there is inserted –

- “(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;”.

PART 2

AMENDMENT OF THE SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 2003

12 Amendment of the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003

This Part amends the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003⁴.

13 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) the definitions “access permit” and “Agreement” are deleted;
- (b) in the definition “Area” for “Agreement” there is substituted “former Agreement”;
- (c) after the definition “electronic means” there is inserted –
““EU fishing boat” means a fishing boat that is registered in a member State of the European Union;”;
- (d) in the definition “exchange of notes” for “Agreement” there is substituted “former Agreement”;
- (e) in the definitions “fishing boat licence” and “fishing permit” for “granted as referred to in Regulation 2” there is substituted “issued by the Minister under these Regulations”;
- (f) after the definition “fishing permit” there is inserted –
““former Agreement” means the agreement, concerning fishing in the Bay of Granville, together with the associated exchanges of notes, made between the Government of the United Kingdom and Northern Ireland and the French Republic signed on 4 July 2000, which came into force on 1 January 2004 and which was terminated on 31 January 2021 by Article FISH.19.2 of the TCA;”;
- (g) after the definition “territorial sea” there is inserted –

““whelk box” means the geographical area described in paragraph 9 of the exchange of notes, also known as and referred to as Zone D1;”.

14 Regulation 2 (fishing in the territorial sea of Jersey: licences, permits and lists) substituted

For Regulation 2 there is substituted –

“2 Fishing in the territorial sea: licences and permits

- (1) Fishing in the territorial sea by any fishing boat is prohibited unless authorised by a fishing boat licence issued by the Minister.
- (2) Fishing with beam trawls in the territorial sea by any fishing boat is prohibited unless authorised by a fishing permit that has been issued by the Minister.
- (3) A fishing boat licence may be issued to an EU fishing boat only if that boat –
 - (a) is a qualifying vessel; and
 - (b) has a valid national licence or any authorisation required by regional, national or international law.
- (4) For the purposes of this Regulation, no action is authorised by a fishing boat licence or a fishing permit unless it is done in accordance with the conditions of that fishing boat licence or fishing permit.”.

15 Regulation 3 (fishing by Jersey boats in adjacent waters: licences and permits) substituted

For Regulation 3 there is substituted –

“3 Fishing by Jersey boats outside the territorial sea: licences and permits

- (1) Unless authorised by a fishing boat licence issued by the Minister, fishing by a Jersey fishing boat is prohibited outside –
 - (a) the territorial sea;
 - (b) the territorial sea of Guernsey; and
 - (c) the EEZ of the United Kingdom, as defined in Article FISH.3 of the TCA.
- (2) A fishing boat licence authorising fishing in the territorial waters of member State of the European Union may –
 - (a) only be issued in respect of a boat which is a qualifying vessel; and
 - (b) only authorise fishing in those waters to the extent demonstrated by the vessel’s fishing activity under Article FISH.10 of the TCA.

- (3) For the purposes of this Regulation, no action is authorised by a fishing boat licence or a fishing permit unless it is done in accordance with the conditions of that fishing boat licence or fishing permit.”.

16 Regulation 3A (fishing in the Frouquier Aubert protected area) amended

In Regulation 3A –

- (a) sub-paragraph (2)(d) is deleted;
- (b) for paragraph (3) there is substituted –

“(3) For the purposes of this Regulation, no action is authorised by a fishing permit unless it is done in accordance with the conditions of that fishing permit.”.

17 Regulations 4 (requirement to carry access permit) and 4A (requirement to carry fishing permit) substituted

For Regulations 4 and 4A there is substituted –

“4 Requirement to carry fishing boat licence or fishing permit

- (1) A fishing boat fishing in the territorial sea must carry –
 - (a) the fishing boat licence issued in respect of it; and
 - (b) in the case of an EU fishing boat, its national licence and any authorisations required by regional, national or international law.
- (2) A Jersey fishing boat fishing outside the territorial sea must carry the fishing boat licence issued in respect of it.”.

18 Regulation 6 (classes of licenses and permits) amended

In Regulation 6(1) “, access permit” is deleted in both place it occurs.

19 Regulation 7 (fees for license and permits) amended

In Regulation 7 –

- (a) in paragraph (1)(b) for “an access permit or fishing permit (or of both permits)” there is substituted “a fishing permit”;
- (b) in paragraph (2) after “to which paragraph (1) refers” there is inserted “and the period of the duration of a fishing boat licence or fishing permit for which the fee is payable”;
- (c) in paragraphs (3) and (4) “, access permit” is deleted.

20 Regulation 8 (address for service on owner or charterer) amended

In Regulation 8 –

- (a) for paragraphs (1) and (1A) there is substituted –
 - “(1) An owner or a charterer of a fishing boat who applies to the Minister for a fishing boat licence must, subject to paragraph (1B), provide the Minister with –
 - (a) if the fishing boat is a Jersey fishing boat, an address for service in Jersey;
 - (b) if the fishing boat is not a Jersey fishing boat, an address for service in Jersey or in the country or place where that fishing boat is registered; and
 - (c) a valid email address.”;
 - (b) in paragraph (1B) –
 - (i) for “paragraph (1) or (1A)” there is substituted “paragraph (1)”,
 - (ii) in sub-paragraph (b) “or, as the case may be, (1A)” is deleted;
 - (c) after paragraph (3) there is inserted –
- “(4) Where the address (including an email address) provided under paragraph (1) changes or ceases to be used and the owner or charterer does not notify the Minister within the period ending 7 days after the date the address changes or ceases to be used, the owner or charterer commits an offence and is liable to fine of level 3 on the standard scale.”.

21 Regulation 9 (grant of licence or permit) amended

In Regulation 9 –

- (a) for “licence, an access permit” there is substituted “fishing boat licence”,
- (b) in sub-paragraph (c) after “or registered office,” there inserted “or to the email address provided under Regulation 8(1).”.

22 Regulation 9A (limit on grant of fishing permit) amended

In Regulation 9A –

- (a) in sub-paragraph (a) for “Regulations 2(6A)” there is substituted “Regulations 2(2)”;
- (b) in sub-paragraph (b) –
 - (i) for “in the Area” there is substituted “in the territorial sea”,
 - (ii) for “Regulations 2(6A)” there is substituted “Regulations 2(2)”.

23 Regulation 10 (variation, suspension or revocation) amended

In Regulation 10 –

- (a) in paragraph (1) –
 - (i) for “licence, an access permit” there is substituted “fishing boat licence”,

- (ii) for “licence, access permit” there is substituted “fishing boat licence”,
- (iii) in sub-paragraph (c) after “or registered office,” there inserted “or to the email address provided under Regulation 8(1),”;
- (b) in paragraph (2) for “licence, an access permit” there is substituted “fishing boat licence”;
- (c) in paragraph (6)(b), clauses (i) and (iii) are deleted.

24 Regulation 11 (delivery or notification by several modes) amended

In Regulation 11 –

- (a) in sub-paragraphs (a) and (b) “, an access permit” is deleted;
- (b) “, access permit” is deleted in both places.

25 Regulation 12 (deferred effect) amended

In Regulation 12 –

- (a) in sub-paragraphs (a) and (b) “, an access permit” is deleted;
- (b) “, access permit” is deleted in each place.

26 Regulation 12A (period for which licence in force) amended

In Regulation 12A after paragraph (5) there is inserted –

- “(6) A fishing boat licence issued on or after 1st May 2021 may be issued or renewed for a period of up to 3 years.
- (7) A fishing boat licence issued in respect of a foreign fishing boat ceases to have effect during any period when the national licence in respect of that boat has been terminated, revoked or suspended.”.

27 Regulation 13 (effect of lodging appeal) amended

In Regulation 13 –

- (a) in paragraphs (1), (2) and (3) “, an access permit” is deleted;
- (b) in paragraphs (1), (2) and (3)(c) and (d) “, access permit” is deleted.

28 Regulation 14 (maximum penalties) deleted

Regulation 14 is deleted.

PART 3

CITATION AND COMMENCEMENT

29 Citation and commencement

These Regulations may be cited as the Sea Fisheries (TCA – Licensing of Fishing Boats) (Amendment of Law and Regulations) (Jersey) Regulations 2021 and come into force 7 days after they are made.

ENDNOTES

Table of Endnote References

<i>1</i>	<i>chapter 14.825</i>
<i>2</i>	<i>chapter 17.245</i>
<i>3</i>	<i>chapter 14.825</i>
<i>4</i>	<i>chapter 14.825.56</i>