

DRAFT SEA FISHERIES (AMENDMENT) (JERSEY) LAW 200-

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by the Agriculture and Fisheries Committee**



STATES OF JERSEY

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European Convention on Human Rights

The President of the Agriculture and Fisheries Committee has made the following statement -

In the view of the Agriculture and Fisheries Committee the provisions of the Draft Sea Fisheries (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator J.A. Le Maistre**

REPORT

Introduction

On 4th July 2000, following their approval by the States in draft, the Granville Bay agreements, providing for the long-term arrangements for fishing by French and Jersey fishermen in the waters around Jersey and between Jersey and France, were signed on behalf of the British and French Governments. Implementation of the new arrangements on access to these waters requires substantial changes to the existing fisheries legislation in Jersey. This, in essence, is the purpose of the draft Law now presented to the States for approval.

Implementation by France will also require legislation and, under French law, ratification of the agreements themselves has to be approved by the National Assembly. The process for this is well under way, but has been slightly delayed by the elections in France, however, projets de Loi for these purposes have already been presented to the National Assembly and are expected to be considered soon after the elections are over. The agreements will come into effect once each Government has notified the other that their respective procedure for ratification has been completed.

Background

In 2001, Jersey fishing vessels landed some 1680 tons of shellfish and 356 tons of fish from waters around the Bailiwick, including French waters. This is valued at an estimated £9 million, some of which is landed directly into the U.K. and France. A substantial proportion of the catch landed in Jersey is exported to France. If the catches landed (mostly in France) by French vessels fishing in waters under Jersey jurisdiction were included, they would add considerably to these figures. The Jersey industry has a core of some 70 professional vessels and about 250 people are involved in the wider aspects of the industry.

Fishing is essentially hunting in the marine environment and the implementation of detailed conservation strategies is critical if the naturally occurring stocks are not to be over exploited. History is unfortunately littered with events of over-exploitation leading to stock collapse. Common examples are the Newfoundland cod fisheries, the European herring fishery and more recently the U.K. cod fishery.

Locally, much effort has been put into improving the management platform for the conservation of fisheries and the marine environment. Talks began in earnest between Jersey, U.K. and French delegates in the early 1990s, aimed at implementing fair joint access and a sound management system for all participating in the fishery around Jersey and in neighbouring French waters.

The original Treaty in relation to fishing in waters between Jersey and France was made in 1839 and modified, slightly, in 1920 and 1951. Despite these modifications, the 1839 Treaty establishing the "Granville Bay Regime" was totally inadequate for modern fishing practices. Thus, the Agriculture and Fisheries Committee authorized negotiations to create a new treaty that would clarify the situation on access for the local fishing industry and provide for the proper conservation and sustainable exploitation of local fish stocks.

The new agreements establish a maritime boundary between France and Jersey and provide for greatly improved clarity in the arrangements for access for the Jersey and local French fleets and for fisheries in the local area. It is thus directly in line with the Committee's policy of providing a sustainable base for the industry, while securing the best possible access arrangements for it in waters between Jersey and France.

As is mentioned above, the new agreements will not come into force until both the U.K. and French Governments have completed their respective processes for ratification of the agreements. This may take some time, but in the meantime, Jersey needs to put in place the necessary legal framework for implementation of the agreements, even though the new provisions may not be brought into force immediately.

Summary of Granville Bay arrangements

The agreements signed on 4th July 2000 dealt with a number of different aspects needed to implement a new fisheries regime which are described below.

Most importantly, the geographical scope to which the new regime applies is for the first time accurately defined. (It applies to all Bailiwick and French waters between the Roches Douvres and a point half way between Flamanville and Carteret, excluding the 0-3 mile areas and waters east of the A to K Line).

It then sets out access arrangements in these waters and French access is, for the first time, limited to vessels only from

neighbouring ports and a few other vessels that may have historical rights. Fishing in Jersey's 3-6 mile limit, west of the 2° west longitude, is restricted to specific numbers of French vessels and French fishing within 3 miles of the Pierres de Lecc will be phased out over a period of time completely. Jersey access for a specified number of vessels around the Plateau des Roches Douvres and waters adjacent to St. Malo is also defined. An administrative permit scheme for the regulation and control of effort in each others waters is also set out.

Complementary to the access arrangements are procedures for control and administration are set out in the agreements and the maximum levels of penalties for offences are agreed and a procedure for the operation of a Joint Management Committee is described.

The purpose of the amendment

The modifications which need to be made to the Sea Fisheries (Jersey) Law 1994 to enable implementation of the agreements by Jersey are contained in the attached amendment Law. They deal, for the most part, with the need for and the issue of, access and fishing permits, for all fishing boats in the area covered by the access arrangements and prescribing limits of fines under Regulations. The opportunity has been taken to make other "house keeping" amendments of the 1994 Law.

Previously, foreign vessels fishing in Jersey waters could only do so by convention. The amendment provides for such fishing with a licensing system administered by Jersey and the foreign authority concerned.

In particular the amendment adds the concept of "permits" as well as licences to the fishing management system and introduces an appeal system. More detailed administration of the licensing and permit system is also addressed including specific offences for false statements. It introduces maximum fines, which is one of the elements of the Granville Bay agreement, and removes the power of forfeiture of fishing vessels which is now standard practice throughout Europe.

To be able to incorporate the Underwater Fishing Regulations, which are currently triennial Regulations, the power to license people as well as fishing vessels is also made.

More detail on keeping fish whole for landing and when in possession is included, as are powers to define fish stocks in a more detailed way e.g. by sex or particular species. The administration of processing operations for control purposes is also included.

A section dealing with the implementation of certain Community provisions by Regulation is included and the ability to legislate for satellite monitoring and the maintenance and checking of this equipment has also been added. The amendment also sets out more detailed conditions for the seizing and returning of seized fish and gear and includes provisions for compensation.

Members are referred to the detailed Explanatory Note which accompanies the draft Law for a more comprehensive description of its effect.

Manpower and resource implications

It is estimated that this extra administration will be approximately 0.25 of a man year and the extra surveillance needed will be of a similar amount.

Financial implications

The cost implication of one half use of a person of the appropriate grade is £12,187 per annum (current cost).

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 24th May 2002 the Agriculture and Fisheries Committee made the following statement before Second Reading of this projet in the States Assembly -

In the view of the Agriculture and Fisheries Committee the provisions of the Draft Sea Fisheries (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Summary

The object of the amendments contained in this draft Law is to enable the implementation of the Agreement concerning Fishing in the Bay of Granville signed on 4th July 2000. That agreement (and an accompanying note on access) acknowledges that French, Jersey, and certain British, persons have certain rights to fish in the waters around Jersey and between Jersey and France. Those rights are, however, to be subject to a system of access permits and fishing permits issued by Jersey and French authorities (as well as, in some cases, lists). Their issue will depend on factors such as environmental factors, the safeguarding of fisheries, local socio-economic factors and fishing history.

The draft Law inserts substantive provisions in the Sea Fisheries (Jersey) Law 1994 and expands the Regulation-making powers in that Law so that Regulations can be made to implement the Agreement.

Further amendments to the 1994 Law -

- (a) provide for appeals in relation to licences and permits (new **Article 21E**);
- (b) enable Regulations to be made under the Law (instead of under the 1884 Order in Council that enables “triennial regulations” to be made) to require the licensing of divers for shellfish (substitute **Article 2**);
- (c) enable the enforcement provisions of the Law to be used in aid of fisheries provisions made under the European Communities Legislation (Implementation) (Jersey) Law 1996 (new **Article 9A**);
- (d) enable Regulations to be made under the Law about the keeping and processing of fish before it is landed, and relating the methods and instruments that may be used in fishing to such factors as the landing and carriage of fish (e.g. substitute **Article 2**);
- (e) enable Regulations to be made about monitoring the position and other parameters of fishing boats (e.g. substitute **Article 2**);
- (f) make clearer the basis for the determination and charging of fees (new **Article 21D**);
- (g) introduce standard provisions prohibiting false statements when information is furnished under the Law (substitute **Article 21**);
- (h) consistently with the terms of the Granville Bay agreement, remove the power in the Law to cause vessels to be forfeited if used in the commission of an offence but retain the power to impound vessels pending a trial or pending payment of a fine (substitute **Articles 4, 6, 7, 11**);
- (i) consistently with the terms of the Granville Bay agreement, enable Regulations to be made to prescribe limits to the fines for offences against the Law (substitute or amended **Articles 4, 5, 6, 7, 11**); and
- (j) increase to £5,000 (or such other limit as the Regulations under the Law prescribe) the limit on compensation that may be ordered under the Law itself in respect of injury or damage caused by a contravention of the Law (substitute **Article 19(1)**).

The draft Law also makes amendments that introduce or update standard provisions and makes amendments for the sake of textual revision (e.g. substitute or amended **Articles 21, 21A, 22, 23A**).

Note -

Where a penalty is expressed in the proposed Law as a fine not exceeding a specified level “on the standard scale”, this is a reference to the scale set out in the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993. The maximum penalties for each level in that scale are currently -

Level 1	£50
Level 2	£500
Level 3	£2,000
Level 4	£5,000.

Details of amendments

Article 1 introduces “principal Law” as the term to be used in the draft amending Law when it refers to the existing Sea Fisheries (Jersey) Law 1994.

Article 2 of the draft amendments inserts definitions of “British fishing boat”, “fishery officer”, “French fishing boat” and “the Regulations”, the first and third of which are used in the revised provisions dealing with licensing and access, and the second and fourth of which are actually concepts already present in the 1994 Law.

Article 3 makes it clear that the term “country”, used for the sake of brevity, includes every self-governing part of the British Islands.

Article 4 of the draft amendments replaces **Article 2** of the principal Law to widen the scope for the making of Regulations for the regulation of fisheries. In particular, the expanded Article -

enables closer regulation of the processing (and other treatment) of fish before it is landed: **new Article 2(1)(g), (h)**

enables Regulations to require a person or vessel to hold a licence, permit or other qualification: **(2)**

enables regulation of satellite monitoring and other equipment on boats: **(1)(m)-(p)**; see also **(3)**.

Article 5 replaces **Article 3** of the principal Law to maintain the existing offence of breaching Regulations made under Article 2, but also to remove a defence of due diligence, because this defence is inconsistent with provisions elsewhere in the Law that deal with what are in many cases analogous offences.

Article 6 replaces **Article 4** of the principal Law to introduce, in line with the Granville Bay Agreement, the power to set a maximum fine for a breach of the Regulations made under Article 2 and to remove the power to confiscate a fishing boat for such a breach.

Article 7 amends **Article 5** of the principal Law to enable Regulations about fishing gear to be more fine-tuned according to factors like the processing and use of sea fish, and to introduce the power to set a maximum fine for a breach of the Regulations made under the new Article 5.

Article 8 amends **Article 6** of the principal Law to -

enable Regulations about size limits of fish to be more fine-tuned according to factors like the type of fish or place or time or method of fishing

introduce the power to set a maximum fine for a breach of the Regulations made under Article 6

make it clear that there is no power to confiscate a fishing boat for such a breach.

Article 7 of the principal Law enables Regulations to be made to restrict sea fishing in accordance with treaties entered into by the United Kingdom. *Article 9* of the amending Law replaces that **Article 7** to -

enable closer regulation of the processing (and other treatment) of fish before it is landed: **new Article 7(2)(b)**

enable Regulations to require persons or vessels to hold licences or other qualifications: **(2)(e)**

make it clear that the Regulations may apply beyond the territorial sea, as long as they refer to Jersey boats: **(3)**

introduce the power to set a maximum fine for a breach of the Regulations made under Article 7: **(6)**

make it clear that there is no power to confiscate a fishing boat for such a breach: **(7)**.

Article 10 amends **Article 9** of the principal Law to take account of the introduction of permits and other qualifications alongside the existing licensing scheme.

Article 11 inserts **Article 9A** in the principal Law to enable the enforcement under the principal Law of European Community provisions that have been given effect by Regulations under the European Communities Legislation (Implementation) (Jersey) Law 1996.

Article 11 of the principal Law enables Regulations to be made to require licences to carry on sea fishing. *Article 12* of the amending Law replaces that **Article 11** to -

enable Regulations to require the holding of permits or other qualifications, as well as licences: **new Article 11(1)**

expand the range of conditions to which licences etc may be made subject (for example, conditions relating to processing of fish before it is landed): **(7)**

introduce the power to set a maximum fine for a breach of the Regulations: **(17)**

make it clear that there is no power to confiscate a fishing boat for such a breach: **(18)(b)**.

Article 13 amends **Article 12** of the principal Law to take account of the introduction of permits alongside the existing licensing scheme.

Article 14 replaces **Article 13** of the principal Law to take account of the introduction of permits alongside the existing licensing scheme.

Article 15 replaces **Article 15** of the principal Law to restate the powers of fishery officers to take account of the introduction of permits and the presence of Articles like proposed Article 9A, as well as to expand the powers of fishery officers in respect of on-board equipment and to set out what they should do after they seize fish or equipment.

Article 15 also inserts **Article 15A** in the principal Law to elaborate what should be done when fish or equipment is seized by a fishery officer and to introduce a limited obligation to pay compensation for fish seized.

Article 16 replaces **Article 16** of the principal Law to specify, in line with the Granville Bay agreement, a maximum fine for the offence of obstructing a fishery officer, as well as allowing a court to order the forfeiture of fish or equipment (but not of vessels) if it convicts for obstruction.

Article 17 replaces **Article 19(1)** of the principal Law to change, from £2000 to £5000 or another amount prescribed by the Regulations, the amount of compensation that a convicting court may order in respect of an offence under the Law.

Article 18 replaces Articles 20 and 21 of the principal Law with Articles as follows -

Article 20 - courts' powers to order the forfeiture of fish or equipment are amended to make it clear that a court may order forfeiture even if the fish or equipment has been destroyed.

Article 21 - a new provision prohibiting the making of false statements for the purposes of the principal Law.

Article 21A - a revised provision that follows current drafting practice on aiding and abetting the commission of offences and the liability of officers of bodies corporate for offences committed by the bodies against the principal Law.

Article 21B - extensive detail concerning the content of and conditions attaching to licences and permits, including the condition that licences and permits may be revoked or suspended and details as to fees.

Article 21C - power to make Regulations that complement the conditions attaching to licences, including Regulations as to fees.

Article 21D - details as to fees, including that they may be set by Order and that they may relate to the Committee's costs, the value of the relevant licence or permit or other matters.

Article 21E - a statutory right to appeal to the Royal Court about grievances relating to licences and permits.

Article 19 replaces **Article 22** of the principal Law with a more modern general Article concerning the making of

Regulations and Orders, as well as making it clear that Regulations may be framed to depend on factors such as percentage or probability.

Article 20 inserts **Article 23(4)-(7)** in the principal Law to save Regulations and Orders in force under the principal Law immediately before it was amended, as well as to make other savings.

Article 21 inserts **Article 23A** in the principal Law to enable Regulations to be made of a savings or transitional nature, whether in respect of its original enactment or in respect of any amendment to it.

Article 22 sets out the name of the amending Law and provides for its commencement in accordance with an Act of the States.

SEA FISHERIES (AMENDMENT) (JERSEY) LAW 200-

A LAW to amend the Sea Fisheries (Jersey) Law 1994, sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

In this Law the “principal Law” means the Sea Fisheries (Jersey) Law 1994.^[1]

ARTICLE 2

In Article 1(1) of the principal Law^[2] -

(a) before the definition of “the Committee” there shall be inserted the following definition -

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

(b) after the definition of “the extended territorial sea” there shall be inserted the following definition -

“ ‘fishery officer’ means a person appointed under Article 14 as a fishery officer or deemed under that Article to be a fishery officer;”;

(c) after the definition of “foreign fishing boat” there shall be inserted the following definition -

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

(d) after the definition of “police officer” there shall be inserted the following definition -

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

ARTICLE 3

After Article 1(2) of the principal Law^[3] there shall be inserted the following paragraph -

“(2A) For the avoidance of doubt it is hereby stated that a reference in this Law to a country includes a reference to Jersey and any other countries in the British Islands.”.

ARTICLE 4

For Article 2 of the principal Law^[4] there shall be inserted the following Article -

“ARTICLE 2

General power to regulate sea fisheries

- (1) Subject to Article 8, 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 paragraph (5) of Article 6, paragraph (4) of Article 7 and paragraph (13) of Article 11 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 the Island 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 connexion 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.

(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 sub-paragraph (m), (n), (o) or (p) of paragraph (1) 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) Regulations under this Article may be framed so as to apply only in relation to specified descriptions or sexes of sea fish or specified areas, or during specified periods, or according to such other factors as may be specified in the Regulations.

(5) Regulations made under sub-paragraph (e) of paragraph (1) may make provision for or with respect to the payment of fees in connection with the establishment, regulation, protection and development of fisheries.

(6) 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.

(7) Nothing in this Article limits the operation of Article 11”.

ARTICLE 5

For Article 3 of the principal Law^[5] there shall be substituted the following Article -

“ARTICLE 3

Use of boat in contravention of Regulations

Subject to Article 10, 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.”.

ARTICLE 6

For Article 4 of the principal Law^[6] there shall be substituted the following Article -

“ARTICLE 4

Offence of contravening Regulations

(1) Subject to Article 10, 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 possession at the time of the offence.”.

ARTICLE 7

In Article 5 of the principal Law^[7] -

(a) for paragraph (3)(d) there shall be substituted the following sub-paragraphs -

“(d) make the like provision for exemption as is mentioned in relation to nets in sub-paragraph (c) of paragraph (2); or

(e) make provision by reference to the landing, processing, keeping, carriage, sale or use of sea fish.”;

(b) for paragraphs (5) and (6) there shall be substituted the following paragraphs -

“(5) Subject to Article 10, 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.

(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.”.

ARTICLE 8

In Article 6 of the principal Law^[8] -

- (a) in paragraph (1) for the words “and paragraph (6);” there shall be substituted the words “, paragraph (6) and Article 10;”;
- (b) for paragraph (4) there shall be substituted the following paragraphs-

“(4) Any person who contravenes paragraph (1), (3) or (5) 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.

(4A) 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.”.

- (c) in paragraph (5) after the words “paragraphs (6) and (7)” there shall be inserted the words “and Article 10”;
- (d) in paragraph (6) for the words “Paragraph (5);” there shall be substituted the words “Paragraphs (1) and (5)”;
- (e) for paragraph (8) there shall be substituted the following paragraphs-

“(8) 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.

(9) If paragraph (1), (3) or (5) 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).”.

ARTICLE 9

For Article 7 of the principal Law^[9] there shall be substituted the following Article -

“ARTICLE 7

Power to restrict sea fishing

(1) Where it appears to the States necessary or expedient to do so for the purpose of giving effect to 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.

- (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; or
- (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.

(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 sub-paragraph (b) or (c) of paragraph (1), 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 Committee 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 11".

ARTICLE 10

For Article 9(4) of the principal Law^[10] there shall be substituted the following paragraphs -

“(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 11.

(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.”.

ARTICLE 11

After Article 9 of the principal Law¹⁰ there shall be inserted the following Article -

“ARTICLE 9A

European Community provisions

(1) Where Community 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 Communities Legislation (Implementation) (Jersey) Law 1996^[11] -

- (a) if any fishing boat is used for fishing within the extended 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 18, 19, 20 and 21A apply to any such offence in the same way as they apply to offences under this Law; and
- (c) Article 15 confers the same powers (and Article 15A 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.

(2) Without limiting Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996,¹¹ 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 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.

(3) Paragraph (1) has effect except to the extent that other provision is made by Regulations under paragraph (2).

(4) In this Article ‘Community provision’ has the same meaning as in Article 1 of the European Communities Legislation (Implementation) (Jersey) Law 1996.^[12],

ARTICLE 12

For Article 11 of the principal Law^[13] there shall be substituted the following Article -

“ARTICLE 11

Licences and permits

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

(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 sub-paragraph (b) of paragraph (1) may be taken and the offence may be treated for all purposes as having been committed in the Island.

(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; or
- (d) the method of fishing.

(7) A licence or permit under this Article may authorize fishing either unconditionally or subject to such conditions as appear to the Committee 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 Committee 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 sub-paragraph (c) of paragraph (7).

(11) The Committee 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, as the Committee 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.

(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 Committee to be necessary or expedient for the regulation of sea fishing.

(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 Committee may, if it 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.”.

ARTICLE 13

In Article 12(1) of the principal Law^[14] -

- (a) for paragraph (1) there shall be substituted the following paragraph -
 - “(1) The States may by Regulations make provision as to -
 - (a) the manner in which a licence or permit under Article 11 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.”;
- (b) in paragraph (2)(a) after the word “licences” there shall be inserted the words “or permits”.

ARTICLE 14

For Article 13 of the principal Law^[15] there shall be substituted the following Article -

“ARTICLE 13

Provisions supplementary to Articles 11 and 12 - evidence

Where any automatic recording equipment -

- (a) is used in accordance with a condition included in a licence or permit by virtue of Article 11; 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 11, be evidence of the matters appearing from the record.”.

ARTICLE 15

For Article 15 of the principal Law^[16] there shall be substituted the following Articles -

“ARTICLE 15

Powers of fishery officers

- (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 authority, may -
 - (a) detain any person who has committed, or whom he has reasonable cause to suspect of having committed, an offence under this Law or the Regulations or Regulations referred to in Article 9A(1);
 - (b) require the attendance of the master of a fishing boat or any other person on board;

- (c) go on board any fishing boat;
- (d) require any fishing boat to stop and do anything else to enable him 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 custody or possession relating to the catching, landing, sale or disposal of sea fish, and
 - (iii) take copies of any such document;
- (g) if he 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 9A(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 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 suspects on reasonable grounds to have acted in contravention of this Law or the Regulations or Regulations referred to in Article 9A(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 9A(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 paragraph (7) of Article 11,
 - (ii) any equipment required by Regulations under sub-paragraph (m) or (n) of paragraph (1) of Article 2, 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 sub-paragraph (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 sub-paragraph (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 fishing boat to assist him in the performance of his functions;
- (q) while on board a fishing boat 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 9A(1);
- (r) take with him on board a fishing boat, to assist him in performing his functions, any other person and any equipment or materials;
- (s) make on board a fishing boat any examination, or inquiry, that appears to him to be necessary, and without prejudice to the generality of the foregoing, in particular -
 - (i) examine any sea fish on the boat and the equipment and fishing gear of the boat,
 - (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 boat or to its fishing operations or other operations ancillary to its fishing operations or to mariculture,
 - (iii) search the boat 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.

(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 9A(1) has been committed in respect of any fishing boat he may seize and detain any record or other document produced to him 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 take, the boat and its crew to the port in the Island that appears to him to be the nearest convenient port; and
- (b) detain the boat in that port.

(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 boat in port, he 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.

(5) A boat 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 boat was detained is acquitted;
- (c) the boat is seized and detained under Article 18.

(6) A fishery officer may seize -

(a) any sea fish in respect of which he has reasonable cause to suspect that an offence under this Law or the Regulations or Regulations referred to in Article 9A(1) has been committed; and

(b) any net or other fishing gear or instrument -

(i) in respect of which he has reasonable cause to suspect that an offence under this Law or the Regulations or Regulations referred to in Article 9A(1) has been committed, or

(ii) that he 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 fishing boat at the time when an offence under Article 16 is committed on that boat.

(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 15A;

(b) the net, or other gear, is not collected by the owner within six 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 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; or

(b) anywhere else, but only in relation to a Jersey fishing boat.

(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.

ARTICLE 15A

Action where fish or gear seized

(1) If fish is seized under paragraph (6) or (7) of Article 15 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 paragraph (8) of Article 15, the Committee shall give notice of the seizure.

(2) If a net, or other fishing gear or instrument, is seized under paragraph (6) or (7) of Article 15 in the absence of its owner (and of any person who has possession or control of it), the Committee shall give notice of the seizure.

(3) Notice under paragraph (1) or (2) shall -

(a) if the Committee knows who the owner is and his 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 Committee shall pay to the owner of fish seized under paragraph (6) or (7) of Article 15 its reasonable wholesale value (as at the date of the seizure) if -

- (a) the fish seized is disposed of under paragraph (8) of Article 15, 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 Committee knows who the owner is and his 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.”.

ARTICLE 16

For Article 16 of the principal Law^[17] there shall be substituted the following Article -

“ARTICLE 16

Obstruction of officers

- (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 15;
 - (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 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.

(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.”.

ARTICLE 17

For Article 19(1) of the principal Law^[18] there shall be substituted the following paragraph -

“(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.”.

ARTICLE 18

For Articles 20 and 21 of the principal Law^[19] there shall be substituted the following Articles -

“ARTICLE 20

Disposal of forfeitures

(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 paragraph (8) of Article 15.

ARTICLE 21

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 the Regulations.

(2) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 4 on the standard scale^[20] or to both.

ARTICLE 21A

General provisions as to offences

(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 functions of management as if he 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.

ARTICLE 21B

General provisions as to licences and permits

- (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 9A(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 Committee necessary or expedient for the regulation of sea fishing;
- (h) that the Committee 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 sub-paragraphs (a)- (h), as the Committee 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 sub-paragraph (i) of paragraph (2) may be revoked, or modified, by further conditions imposed as referred to in that sub-paragraph.

(5) A notice referred to in sub-paragraph (i) of paragraph (2) 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 Committee necessary or expedient for the regulation of sea fishing, the Committee -

- (a) may refund part or all of any fees paid in respect of the licence or permit, 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.

ARTICLE 21C

Regulations about licences and permits

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;
- (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.

ARTICLE 21D

Fees

(1) Fees, if payable to the States, may, but need not, relate to the costs of the Committee 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 Committee 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.

ARTICLE 21E

Appeals

- (1) Any person aggrieved by -
 - (a) a refusal to grant, vary or renew a licence, or permit, under this Law or 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 twenty-eight days after the day on which he receives notice of the refusal, revocation, suspension, imposition, or variation, as the case may be, appeal to the Royal Court.

(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 Committee.

(4) Once it has heard an appeal under this Article, the Court shall either dismiss the appeal or give the Committee 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 Committee has acted on any directions of the Court given under this Article.”.

ARTICLE 19

For Article 22 of the principal Law^[21] there shall be substituted the following Article -

“ARTICLE 22

Regulations and Orders

(1) The Committee 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 Committee.

(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; or

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

(4) Regulations made under this Law may create an offence punishable by a fine not exceeding level 4 or the standard scale.^[22]

(5) The Subordinate Legislation (Jersey) Law 1960^[23] shall apply to Orders made under this Law.”.

ARTICLE 20

At the end of Article 23 of the principal Law^[24] there shall be inserted the following paragraph -

“(4) Notwithstanding the amendment of Article 2, 5, 6, 7, 11, 12 or 22 or of any other provision of this Law by the Sea Fisheries (Amendment) (Jersey) Law 200-^[25], 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.

(5) Notwithstanding the amendment of any provision of this Law by the Sea Fisheries (Amendment) (Jersey) Law 200-^[26] -

(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 11, an appointment under Article 14, or requirement made (or other exercise of power performed) under Article 15, 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 23A.

(6) 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.

(7) In this Article, ‘amendment’ includes replacement.”.

ARTICLE 21

Before Article 24 of the principal Law^[27] there shall be inserted the following Article -

“ARTICLE 23A

Regulations may make savings and transitional provisions

(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.”.

ARTICLE 22

Citation and commencement

This Law may be cited as the Sea Fisheries (Amendment) (Jersey) Law 200- and shall come into force on such day as the States may by Act appoint and different days may be appointed for different purposes or different provisions of this Law.

[1] Volume 1994-1995, page 137.

[2] Volume 1994-1995, page 139.

[3] Volume 1994-1995, page 140.

[4] Volume 1994-1995, page 141.

[5] Volume 1994-1995, page 142.

[6] Volume 1994-1995, page 143.

[7] Volume 1994-1995, page 144.

[8] Volume 1994-1995, page 145.

[9] Volume 1994-1995, page 146.

[10] Volume 1994-1995, page 148.

[11] Volume 1996-1997, page 4 and Volume 2000, page 29.

[12] Volume 1996-1997, page 3.

[13] Volume 1994-1995, page 149.

[14] Volume 1994-1995, page 153.

[15] Volume 1994-1995, page 154.

[16] Volume 1994-1995, page 155.

- [17] Volume 1994-1995, page 159.
- [18] Volume 1994-1995, page 160.
- [19] Volume 1994-1995, page 161.
- [20] Volume 1992-1993, page 437.
- [21] Volume 1994-1995, page 161.
- [22] Volume 1992-1993, page 437.
- [23] Tome VIII, page 849 and Volume 2001, pages 3 and 4.
- [24] Volume 1994-1995, page 163.
- [25] P.95/2002.
- [26] P.95/2002.
- [27] Volume 1994-1995, page 163.