

STATES OF JERSEY



DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 2)(PLANNING AND ENVIRONMENT TO ECONOMIC DEVELOPMENT) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 18th October 2006
by the Chief Minister**

STATES GREFFE



DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 2) (PLANNING AND ENVIRONMENT TO ECONOMIC DEVELOPMENT) (JERSEY) REGULATIONS 200

REPORT

1. Introduction

1. The Ministers of Planning and Environment and Economic Development having had the benefit of ten months operating experience, have concluded that the political accountability for the Fisheries functions of the States of Jersey would be better placed with the Minister for Economic Development. The Chief Minister has considered this proposal and agreed to the change.
2. Legislation to enable this transfer has now been prepared, and is being presented to the States for their approval.

2. Background

- 2.1 The fisheries function spans both economic and environmental issues but critical mass issues around, for instance, the operation of the coastal patrol vessel mean that any division of the small fisheries team would not be sensible. This situation was recognised when the functions of the former Agriculture and Fisheries Committee were re-distributed in 2004 and the decision made at that time was to move the fisheries team en-bloc into environment. At an officer level the synergistic relationship with other teams in environment continue to make this the right location.
- 2.2 At a political level it has been found that the majority of ministerial decisions relate to the economic aspects of the Fisheries function, for instance the constant updating of legislation that relates to the harmonisation of the rules governing the fishing industry with the U.K. and France. It has also been the case that negotiations with Guernsey over the fisheries dispute have continued to be led by the Minister for Economic Development for both reasons of continuity and because the main issue at stake is the economic impact on the Jersey fishing industry.
- 2.3 The proposed change will shift political accountability to reflect the economic nature of the majority of the political level activities, but will leave the officer team as part of the Environment Division where it enjoys a productive and supportive relationship with fellow environmental professionals. Both Ministers are confident that this is the optimal arrangement.
- 2.4 The Chief Minister has considered this proposal and agrees it will be beneficial and has therefore supported the change and required that the necessary legislation be prepared.

3. Legislative changes

- 3.1 The legislative changes have now been prepared and are attached for consideration by the Assembly.
- 3.2 Subject to approval by the States, it is proposed that the transfer of responsibility of Fisheries responsibilities from the Minister for Planning and Environment to the Minister for Economic Development should come into force 7 days after these regulations are made.

4. Financial and manpower implications

- 4.1 There are no financial and manpower implications to this proposition.

Explanatory Note

Regulation 1 defines the transferring Minister and the receiving Minister.

Regulation 2 transfers the functions under the Jersey enactments listed in paragraph (1) and the enactments of the United Kingdom listed in paragraph (2) from the transferring Minister to the receiving Minister. Paragraph (3) transfers the rights and liabilities connected with those functions. Paragraph (4) provides that a provision of a contract or other instrument is of no effect to the extent that it would otherwise purport to prevent the transfer effected by paragraph (3). Paragraph (5) provides that the transfer effected by paragraph (3) does not constitute a breach of contract or otherwise give rise to any remedy.

Regulation 3 gives effect to the Schedule.

Regulation 4 provides for the continuation of things done by the transferring Minister as if they had been done by the receiving Minister, and for the continuation of legal proceedings to which the transferring Minister is a party with the substitution of the receiving Minister in his or her place.

Regulation 5 provides for the citation and commencement of the Regulations.

The *Schedule* amends Jersey enactments, and provides for the construction of enactments of the United Kingdom, consequentially upon the transfer.



Jersey

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Arrangement

Regulation

- 1 Interpretation
- 2 Functions and connected rights and liabilities transferred
- 3 Consequential amendments of enactments
- 4 Transitional provisions
- 5 Citation and commencement

SCHEDULE

CONSEQUENTIAL AMENDMENTS AND CONSTRUCTION PROVISIONS

PART 1

ENACTMENTS AMENDED

- 1 Sea Fisheries (Jersey) Law 1994 amended
- 2 Fish Health (Jersey) Regulations 1999 amended
- 3 Sea Fisheries (Logs Books and Landing Declarations) (Jersey) Regulations 2001

PART 2

ENACTMENTS OF THE UNITED KINGDOM CONSTRUED

- 4 Sea Fish (Conservation) Act 1967 of the United Kingdom construed
- 5 Sea Fisheries Act 1968 of the United Kingdom construed



Jersey

DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 2) (PLANNING AND ENVIRONMENT TO ECONOMIC DEVELOPMENT) (JERSEY) REGULATIONS 200

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 29 of the States of Jersey Law 2005^[1], have made the following Regulations –

1 Interpretation

In these Regulations –

“receiving Minister” means the Minister for Economic Development;

“transferring Minister” means the Minister for Planning and Environment.

2 Functions and connected rights and liabilities transferred

- (1) There shall be transferred to the receiving Minister the functions of the transferring Minister under the following enactments and any subordinate legislation made under them –
 - (a) the Sea Fisheries (Jersey) Law 1994^[2];
 - (b) the Fish Health (Jersey) Regulations 1999^[3].
- (2) There shall be transferred to the receiving Minister the functions of the transferring Minister under the following Acts of the United Kingdom as extended to Jersey –
 - (a) the Sea Fish (Conservation) Act 1967 of the United Kingdom –
 - (i) as extended to Jersey by the Sea Fish (Conservation) (Channel Islands) Order 1981^[4], as that Order is amended by the Sea Fish (Conservation) (Channel Islands) (Amendment) Order 2001^[5], and
 - (ii) as amended by the Sea Fisheries Act 1968 of the United Kingdom, as extended to Jersey by the Sea Fisheries (Channel Islands) Order 1973^[6];
 - (b) the Sea Fisheries Act 1968 of the United Kingdom, as extended to Jersey by the Sea Fisheries (Channel Islands) Order 1973.
- (3) All rights enjoyed and liabilities incurred by the transferring Minister in connection with the functions transferred by paragraphs (1) and (2) shall be transferred to the receiving Minister and become the rights and liabilities of the receiving Minister.
- (4) A provision of a contract or other instrument that specifies that a right or liability of the transferring

Minister is incapable of transfer shall, to the extent that it applies to a right or liability transferred by paragraph (3), be of no effect.

- (5) The operation of paragraph (3) shall not be regarded –
- (a) as a breach of contract or confidence or otherwise as a civil wrong;
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
 - (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

3 Consequential amendments of enactments

The Schedule shall have effect to amend enactments and to provide for the construction of enactments of the United Kingdom having effect in Jersey, consequentially upon the transfers effected by Regulation 2.

4 Transitional provisions

- (1) The transfers effected by Regulation 2 shall not prejudice the operation of any appointment, approval, authorization, consent, delegation, determination, direction, instruction, requirement or other thing that is, before these Regulations come into force, made, given or done by the transferring Minister in relation to the functions, rights and liabilities so transferred, but such matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the receiving Minister.
- (2) Anything commenced before these Regulations comes into force by or under the authority of the transferring Minister may, so far as it relates to any of the functions, rights and liabilities transferred by Regulation 2, be carried on and completed by or under the authority of the receiving Minister.
- (3) Where, at the coming into force of these Regulations, any legal proceeding is pending to which the transferring Minister is a party and the proceeding has reference to any of the functions, rights and liabilities transferred by Regulation 2, the receiving Minister shall be substituted in the proceeding for the transferring Minister and the proceeding shall not abate by reason of the substitution.

5 Citation and commencement

These Regulations may be cited as the States of Jersey (Transfer of Functions No. 2) (Planning and Environment to Economic Development) (Jersey) Regulations 200 and shall come into force on 7 days after they are made.

SCHEDULE

(Regulation 3)

CONSEQUENTIAL AMENDMENTS AND CONSTRUCTION PROVISIONS

PART 1

ENACTMENTS AMENDED

1 Sea Fisheries (Jersey) Law 1994 amended

In Article 1(1) of the Sea Fisheries (Jersey) Law 1994, for the definition “Minister” there shall be substituted the following definition –

“ ‘Minister’ means the Minister for Economic Development;”.

2 Fish Health (Jersey) Regulations 1999 amended

In Regulation 2(1) of the Fish Health (Jersey) Regulations 1999, for the definition “Minister” there shall be substituted the following definition –

“ ‘Minister’ means the Minister for Economic Development;”.

3 Sea Fisheries (Logs Books and Landing Declarations) (Jersey) Regulations 2001

In the Sea Fisheries (Log Books and Landing Declarations) (Jersey) Regulations 2001^[7] –

- (a) in Regulation 1, the definition “Department” shall be deleted;
- (b) in Regulations 4 and 5, for the word “Department” there shall be substituted the word “Minister”.

PART 2

ENACTMENTS OF THE UNITED KINGDOM CONSTRUED

4 Sea Fish (Conservation) Act 1967 of the United Kingdom construed

In the Sea Fish (Conservation) Act 1967 of the United Kingdom –

- (a) as extended to Jersey by the Sea Fish (Conservation) (Channel Islands) Order 1981, as that Order is amended by the Sea Fish (Conservation) (Channel Islands) (Amendment) Order 2001; and
- (b) as amended by the Sea Fisheries Act 1968 of the United Kingdom, as extended to Jersey by the Sea Fisheries (Channel Islands) Order 1973,

a reference to the Agriculture and Fisheries Committee shall be construed as a reference to the Minister for Economic Development.

5 Sea Fisheries Act 1968 of the United Kingdom construed

In the Sea Fisheries Act 1968 of the United Kingdom, as extended to Jersey by the Sea Fisheries (Channel Islands) Order 1973, a reference to the Harbours and Airport Committee shall be construed as a reference to the Minister for Economic Development.

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- [\[1\]](#) *chapter 16.800*
 - [\[2\]](#) *chapter 14.825*
 - [\[3\]](#) *chapter 17.245.70*
 - [\[4\]](#) *chapter 14.600*
 - [\[5\]](#) *chapter 14.675*
 - [\[6\]](#) *chapter 14.750*
 - [\[7\]](#) *chapter 14.825.64*