

**DRAFT SHELLFISH (UNDERWATER FISHING) (JERSEY)  
REGULATIONS 199**

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**Lodged au Greffe on 17th March 1998  
by the Agriculture and Fisheries Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

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### **Explanatory Note**

The effect of these Regulations would be to renew for another three years from 12th April 1998 the provisions of the Shellfish (Underwater Fishing) (Jersey) Regulations 1995 (which are triennial Regulations remaining in force until 11th April 1998).

However they will not apply in the extended territorial sea (as defined in the Territorial Sea (Consequential Provisions) (Jersey) Law 1994).

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, level 1 is £50, level 2 is £500, level 3 is £2000 and level 4 is £5000.

SHELLFISH (UNDERWATER FISHING) (JERSEY)  
REGULATIONS 199

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*(Promulgated on the      day of      199 )*

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**STATES OF JERSEY**

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The      day of      199

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**THE STATES**, by virtue and in exercise of the powers conferred upon them by the Order in Council of the fourteenth day of April 1884,<sup>1</sup> have made the following Regulations -

**Interpretation**

**1.**-(1) In these Regulations -

“breathing apparatus” includes any apparatus used to enable or facilitate respiration under water;

“Committee” means the Agriculture and Fisheries Committee;

“fishery officer” means the Harbour Master, the Deputy Harbour Master, an assistant Harbour Master, a police officer and any person appointed as a fishery officer under paragraph (1) of Article 14 of the Sea Fisheries (Jersey) Law 1994;<sup>2</sup>

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

“permit” means a permit granted under Regulation 3 and “permit holder” shall be construed accordingly;

<sup>1</sup> Recueil des Lois, Tomes IV-VI, page 46.

<sup>2</sup> Recueil des Lois, Volume 1994-1995, page 154.

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

“sea” does not include the extended territorial sea as defined in paragraph (1) of Article 1 of the Territorial Sea (Consequential Provisions) (Jersey) Law 1994;<sup>3</sup>

“shellfish” includes any crustaceans and molluscs of any kind and any spat or spawn of shellfish, but does not include crabs;

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

(2) A reference in these Regulations to a Regulation by number only and without further identification is a reference to the Regulation of that number in these Regulations.

(3) A reference in a Regulation in these Regulations to a paragraph, sub-paragraph or clause by number or letter only and without further identification is a reference to the paragraph, sub-paragraph or clause of that number or letter in the Regulation in which the reference occurs.

### **Restriction on underwater fishing**

2.-(1) Except as provided in paragraph (2), it is an offence for any person, while totally or partially submerged and breathing with the aid of breathing apparatus, or wearing a face visor, a mask or goggles, to take any shellfish from the sea.

(2) Paragraph (1) does not apply to -

- (a) any person taking shellfish from the sea in the exercise of any right conferred by any enactment or granted from the Crown;
- (b) any person taking shellfish from the sea under the authority of the Committee, for the purpose of scientific

<sup>3</sup> Recueil des Lois, Volume 1994-1995, page 165.

investigation or for the purpose of transplanting shellfish from one fishing ground to another; or

- (c) any permit holder taking scallops from the sea in accordance with any conditions applicable to the permit.

(3) If a vessel is used in, or in connection with, the commission of an offence under paragraph (1), the master of that vessel shall himself be guilty of an offence.

(4) Any person guilty of an offence under paragraph (1) or paragraph (3) shall be liable to a fine not exceeding level 3 on the standard scale, and the court by which he is convicted may order the forfeiture of any instrument used in committing the offence, of any vessel used in, or in connection with, the commission of the offence, and of any shellfish illegally taken by him or in his possession at the time of the offence.

### **Permits for underwater fishing of scallops**

3.-(1) The Committee may, if it thinks fit, and upon receipt of such particulars and fee as it may require, grant any person a permit authorizing him to take scallops from the sea or from a specified portion of the sea whilst totally or partially submerged and breathing with the aid of breathing apparatus, or wearing a face visor, a mask or goggles.

(2) The Committee may require a different fee in respect of applications for different classes of permit.

(3) A permit may be granted under paragraph (1) subject to such conditions as the Committee thinks fit, including, without prejudice to the generality of the foregoing, conditions as to -

- (a) the duration of the permit;
- (b) the portion of the sea to which the permit relates;
- (c) the periods during which scallops may be taken;
- (d) the quantity of scallops that may be taken within a period;

- (e) the use to which scallops taken may be put; and
- (f) the maintenance of records of the date, place and quantity of scallops taken,

and different conditions may be applied in respect of different permits and different classes of permits.

(4) The Committee may, if it thinks fit, vary from time to time the conditions applicable to a permit or a class of permits, and where the Committee varies any condition applicable to a class of permits, it may notify permit holders of the variation by advertisement in the Official Jersey Gazette.

(5) The Committee may suspend or revoke a permit in any case where any condition applicable to the permit is contravened, or if this appears to the Committee to be necessary or expedient, and where the Committee suspends or revokes a permit other than upon contravention of any condition applicable to the permit it may, if it considers it appropriate, refund the whole or part of any fee paid in respect of the permit.

(6) The Committee shall exercise its powers under this Regulation in the manner which it considers will promote the conservation of the scallop stock.

### **Enforcement**

4.-(1) Any fishery officer may on producing, if required to do so, some duly authenticated document showing his authority -

- (a) require production of a permit by a permit holder;
- (b) require production of any records maintained by a permit holder in accordance with any condition applicable to a permit and take copies of them;

- (c) seize any shellfish which has been taken by any person in contravention of these Regulations, or which he has in his possession at the time of the offence;
- (d) seize any instrument used, or being used, in committing an offence under these Regulations; and
- (e) seize any vessel used, or being used in, or in connection with, the commission of an offence under these Regulations.

(2) Any person who without reasonable excuse (proof whereof shall lie on him) refuses to allow any fishery officer to exercise the powers conferred on him by this Regulation, or resists or obstructs any such officer in the performance of his duty, shall be guilty of an offence and shall, for each such offence, be liable to a fine not exceeding level 3 on the standard scale.<sup>4</sup>

### **Disposal of forfeited shellfish and instruments**

5. Any shellfish, vessel or instruments forfeited under these Regulations may be destroyed or otherwise disposed of as the court may direct, and any proceeds realised by such disposal shall be paid into the Annual Income of the States.

### **Saving**

6. The provisions of these Regulations are in addition to, and not in derogation from, the provisions of any other enactment.

### **Citation and duration**

7.-(1) These Regulations may be cited as the Shellfish (Underwater Fishing) (Jersey) Regulations 1998.

(2) These Regulations shall come into force on the twelfth day of April 1998 and shall remain in force for three years from that date.

<sup>4</sup> Recueil des Lois, Volume 1992-1993, page 437.