

STATES OF JERSEY



DRAFT SEA FISHERIES (INSHORE TRAWLING, NETTING AND DREDGING) (AMENDMENT) (JERSEY) REGULATIONS 200- (P.36/2008): COMMENTS

**Presented to the States on 1st July 2008
by the Environment Scrutiny Panel**

STATES GREFFE

COMMENTS

Background

The Environment Scrutiny Panel raised concerns with the following section of P.36/2008, Draft Sea Fisheries (Inshore Trawling, Netting and Dredging) (Amendment) (Jersey) Regulations 200-.

Regulation 3 amends the principal Regulations by inserting Regulation 6A. Regulation 6A prohibits a beach se net used for fishing from being left in the same position for more than 96 hours.

The Panels' initial concerns were as follows –

- Is the 96 hours proposed an inappropriate time to leave nets set?
- The definition of the distance the net has to be moved.
- How the policing of the new Regulation would be carried out.

The matter was referred to the Environment Scrutiny Panel for a review to be conducted, with the response presented to the States on 1st July 2008.

The Panel has reviewed the proposed legislation and held hearings with relevant parties who were available to attend during the short timeframe for the review. Based on the evidence obtained, the Panel has made numerous observations.

1. Financial or manpower implications

The Fisheries Department have insufficient resources to offer an effective enforcement role with legislation as it stands today. The Planning and Environment's Senior Fisheries Inspector explained –

"We do occasional, and it is very occasional, beach patrols in a Land Rover because we know the spots where people tend to set nets. Or we will watch from the shore what sort of activity people are doing and then go down. But most of the information comes from members of the public who are dog walkers, anglers, people who are concerned."

The Panel noted confirmation of this in a submission by a member of the public who stated –

"I have made three separate complaints regarding nets set in the Grouville Bay and Seymour Tower area..... No action was taken."

In order to establish the effectiveness of the proposed amendment, there are manpower, and therefore financial, implications in administration and policing.

Panel Observation 1:

Legislation must be supported with the necessary finance and manpower to enforce it.

2. The Environment

Regulation 6 of the Sea Fisheries (Inshore Trawling, Netting and Dredging) (Jersey) Regulations 2001 requires nets to be placed between rocks not more than 120 metres apart. Therefore most of the beach se netting activity takes place on the south-east corner of the Island which is a Ramsar site and purported to be a Bass nursery area. There is an opportunity to deal with the introduction of a closed season from perhaps 1st January to 31st March to allow Bass to spawn; minimum sizes could be increased and maximum sizes could be introduced to strengthen breeding stock. There was a call from witnesses such as the Chairman of the Marine Biology section of the Société Jersiaise for a "No Take Zone" –

“The Société would like to see some sort of marine reserve set up where no-take zones are, which would be of benefit to everybody and would sustain the long-term future of the fishermen.”

This was supported by submissions received.

Panel Observation 2:

Insufficient consideration is being given to the environmental effects of the use of nets in a Ramsar area and the amendment fails to take an opportunity to further protect the environment.

Panel Observation 3:

The amendment to the Regulation is a minor change which is considered by witnesses as a small step in the right direction towards sustainable fisheries management.

3. The objective

The problem faced by the Fisheries officers was that a trend had started toward the misuse of nets in small numbers. This had brought to light a loophole in the law making it difficult for the Department’s officers to action illegal nets. As explained by the Planning and Environment Department’s Senior Fisheries Inspector –

“...one of the problems is that a net that is quite legally set but might be abandoned, we cannot really do anything about it.”

The Panel notes that this amendment is not designed to influence the ‘properly worked’ nets and that professional fishermen and conscientious leisure anglers would be little affected by its introduction. As in most walks of life, best practice does not need controlling by regulation and legislation is usually only required to control inappropriate practices. The intention of the amendment is to prevent nets becoming “Neaped” and then “ghost fish”. (This allows fish caught to die and rot in the net, as the neap tide does not recede far enough for working of the net. Eventually the net fills with seaweed and breaks free to become a hazard to boats or washes up on the beach.)

Having accepted that, the Panel notes that there are many problems with many types of fishing faced by the Department and the environment. It was interested to learn that work is currently being undertaken on legislation relating to the fuller picture which deals with “Bag limits”. This would be expected to deal with all manner of fishing equipment, catches, and environmental issues having regard for the commercial and leisure fishermen. The Panel recognises that this amendment is a stop gap to cover a minor problem until the full work is completed.

Panel Observation 4:

This legislation is designed to change the behaviour of an extremely small percentage of the fishing fraternity and is a ‘stop gap’ until the urgently needed fuller piece of work, which includes the effects on the environment, has been undertaken.

4. Other considerations

The concerns of the Panel that 96 hours is not an appropriate time and that the definition of the movement of the net is insufficient have not been completely dismissed. Whilst accepting that a well worked net would be attended every 12 hours or so and is unlikely to have a soak time of as long as 96 hours, the concern remains focussed on the inappropriately set nets that the amendment is intended to deal with.

The small available manpower of the Department means that a net will have been abandoned prior to its becoming noticed and complained of by a member of the public. It is only at that point that the 96 hour clock could start ticking as there is no evidence of how long the net was set prior to that discovery. The now illegal net would need to remain in situ, and would continue ghost fishing for a further 4 days whilst the officers obtained the evidence of the 96 hours. By this time, the net could have come adrift and caused problems as related to above in addition to the capture and death of unclaimed fish. The legislation would not have prevented the offence.

This led the Panel to consider methods of addressing that problem.

- (a) Licensing of nets or of the fishermen was discussed with each of the witnesses and every witness concurred that there is a place for the correct licensing system. The Head of Fisheries and Marine Resources stated –

“I think if you looked at the overall picture of shore fishing, it may be that you would want to develop some possible licensing system. But, as I say, we mentioned the Integrated Coastal Zone Management Plan and it would probably be better to look at the overall picture as opposed to the specific beach netting that is allowed in certain places.”

Support for this view was voiced by representatives of –

- The Fisheries and Marine Resources Panel,
 - The Jersey Fisherman’s Association,
 - The Société Jersiaise,
 - Inshore Fisherman’s Association,
 - Private submission.
- (b) The Panel considered the notification of the Department of the time and location of the setting of nets, possibly electronically. It was agreed that this would allow the date of the setting of the net to be established and the clock start time would be fixed prior to the commission of any offence. This would make enforcement very much easier. This however was felt to be over-bureaucratic by some witnesses.
- (c) P.36/2008 partially addresses a minor problem, ignoring some major issues for the sake of expediency.

Panel Observation 5:

This legislation does not adequately address the problems faced by the department and may not be fit for purpose. There is a clear requirement for a significantly larger piece of work to be done. Whilst attempting to be a step towards best practice, the enforcement of the amendment would not be possible until well after the offence has been committed.

Panel Observation 6:

Licensing of the setting of beach set nets would be acceptable by most sections of the fishing fraternity.

Panel Observation 7:

P.36/2008 is a small step towards sustainable fisheries management, which may be worth taking nevertheless.

Panel Observation 8:

The Panel noted that no comment had been made by the Minister for Planning and Environment in

relation to the environmental aspects of this piece of legislation and recommended that in future all fisheries legislation should be accompanied by a comment from that Minister or his department.