

# STATES OF JERSEY



Jersey

## **DRAFT SEA FISHERIES (TCA – LICENSING OF FISHING BOATS) (AMENDMENT OF LAW AND REGULATIONS – No. 2) (JERSEY) REGULATIONS 202-**

---

**Lodged au Greffe on 15th December 2022  
by the Minister for the Environment  
Earliest date for debate: 7th February 2023**

---

**STATES GREFFE**



---

## REPORT

---

### Background

Following the decision of the Assembly to adopt [P.170/2020](#) in relation to the UK-EU Trade and Co-operation Agreement (TCA), amendments were required to accommodate new obligations in respect of access to Jersey Waters for fishing opportunities. The amendments to the [Sea Fisheries \(Jersey\) Law 1994](#) (the 1994 Law) and [Sea Fisheries \(Licensing of Fishing Boats\) \(Jersey\) Regulations 2003](#) (the 2003 Regulations) were set out in R&O.54/2021 and passed by the Assembly on the 23rd April 2021. Discussions have been ongoing to relation to the implementation of the TCA and further amendments to the 1994 Law and subordinate legislation are required.

### Details

The TCA states that each party shall grant vessels of the other party access to fish in its waters reflecting the actual extent and nature of fishing activity that it can be demonstrated was carried out during the period beginning on 1st February 2017 and ending on 31st January 2020 by qualifying vessels of the other party in the waters and under any treaty arrangements that existed on 31st January 2020.

The first phase of the process was to establish the qualifying vessels. This was done through analysis of extensive and disparate data sets. To date 138 (136 permanent and 2 temporary) French vessels have been issued licences.

Discussions related to Extent and Nature (E&N), the second phase, are ongoing with the EU and it has become apparent that there is good reason for some flexibility to be considered as part of any Replacement Vessels (RVs) scheme, similar to that already agreed by the UK. The current process, as set out in the 1994 Law, allows the Minister to license a replacement vessel (known as substitute vessel in the 1994 Law) only where certain conditions are met relating to fishing type and characteristics of the vessel. The vessel must employ the same fishing method (known as the “metier”) and be no greater in length, breadth, tonnage and power than the vessel it is replacing.

The amendments which would be made by the draft Regulations set out in this projet would give the Minister a degree of discretion in determining the issue of a licence to a replacement vessel. This discretion would be based on a policy to be determined by the Minister from time to time which would be published, to give clarity to industry and administrations. The Regulations allow the Minister to make an in-principle decision prior to the full application, thus allowing industry with the earliest opportunity of whether a replacement vessel would receive a license should a full application be made.

The draft Regulations which would be made under the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) and the Articles of 1994 Law, deal with amendments to the 1994 Law in Part 1 and amendments to the 2003 Regulations in Part 2.

### Financial and manpower implications

There are no additional financial or manpower implication arising from the Regulations.



---

## EXPLANATORY NOTE

---

If passed these Regulations would amend the Sea Fisheries (Jersey) Law 1994 (“the Law”) and the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003 (“the Regulations”) to give the Minister wider discretion to issue a sea fishing licence to a substitute vessel and to provide for the grant of an agreement in principle to grant a fishing boat licence to a substitute vessel.

*Regulation 2* replaces the definition of qualifying vessel in the Law to clarify that it includes substitute vessels.

*Regulation 3* substitutes a new Article 7(2)(j) in the Law to give the Minister a power to make Regulations to additionally permit the grant of a fishing boat licence to a vessel that does not have the same characteristics as the original vessel but which the Minister decides to accept as a substitute.

*Regulation 4* grants a right of appeal against a refusal to grant an agreement in principle to grant a fishing boat licence in relation to a substitute vessel.

*Regulations 6 and 7* update references to the Trade and Cooperation Agreement in the Regulations.

*Regulation 8* inserts the power to grant an agreement in principle to grant a fishing boat licence in relation to a substitute vessel into the Regulations.

*Regulation 9* provides that the Regulations come into force 7 days after they are made.





Jersey

# **DRAFT SEA FISHERIES (TCA – LICENSING OF FISHING BOATS) (AMENDMENT OF LAW AND REGULATIONS – No. 2) (JERSEY) REGULATIONS 202-**

## **Contents**

### **Regulation**

<b>PART 1</b>	<b>9</b>
SEA FISHERIES (JERSEY) LAW 1994 AMENDED	9
1 Interpretation of Part 1 .....	9
2 Article 1 (interpretation) amended .....	9
3 Article 7 (power to restrict sea fishing) amended.....	9
4 Article 28 (appeals) amended .....	10
<b>PART 2</b>	<b>10</b>
SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 2003 AMENDED	10
5 Interpretation of Part 2 .....	10
6 Regulation 1 (interpretation) amended .....	10
7 Regulation 3 (fishing by Jersey boats outside the territorial sea: licences and permits) amended.....	10
8 Regulation 7A (agreement in principle for substitute vessel) inserted .....	11
<b>PART 3</b>	<b>11</b>
MISCELLANEOUS	11
9 Citation and commencement.....	11







Jersey

# DRAFT SEA FISHERIES (TCA – LICENSING OF FISHING BOATS) (AMENDMENT OF LAW AND REGULATIONS – No. 2) (JERSEY) REGULATIONS 202-

Made [date to be inserted]  
Coming into force [date to be inserted]

THE STATES make these Regulations under Article 2 and 5A of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) and under Article 25 and 26 of the [Sea Fisheries \(Jersey\) Law 1994](#) –

## PART 1

### [SEA FISHERIES \(JERSEY\) LAW 1994](#) AMENDED

#### 1 Interpretation of Part 1

This Part amends the [Sea Fisheries \(Jersey\) Law 1994](#).

#### 2 Article 1 (interpretation) amended

In Article 1(1) for the definition “qualifying vessel” there is substituted –

“ “qualifying vessel” means –

- (a) a qualifying vessel within the meaning of Article 502.2(a) of the TCA (“a TCA vessel”); or
- (b) a vessel that is a substitute vessel under Article 7(2)(j) of this Law;”.

#### 3 Article 7 (power to restrict sea fishing) amended

(1) For Article 7(2)(j) there is substituted –

- “(j) provide that a person or authority who may grant a licence under this Law or the Regulations must do so only if –
  - (i) the vessel is a TCA vessel, or

- (ii) the vessel is a vessel that replaces a TCA vessel (“a substitute vessel”) or replaces another substitute vessel, and
  - (A) which uses the same method and gear as the vessel it replaces and does not exceed any of the following characteristics of the vessel it replaces, as measured in accordance with Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining the characteristics for fishing vessels (OJ L 169, 30.6.2017, p.1) –
    - (I) engine power,
    - (II) length overall,
    - (III) breadth,
    - (IV) gross tonnage, or
  - (B) which the Minister decides to accept as a substitute vessel, having regard to the policy published by the Minister from time to time.”.

#### 4 Article 28 (appeals) amended

After Article 28(1)(a) there is inserted –

- “(aa) a refusal to grant an agreement in principle to grant a fishing boat licence for a substitute vessel under the Regulations;”.

## PART 2

### SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 2003 AMENDED

#### 5 Interpretation of Part 2

This Part amends the [Sea Fisheries \(Licensing of Fishing Boats\) \(Jersey\) Regulations 2003](#).

#### 6 Regulation 1 (interpretation) amended

In Regulation 1 in the definition “former agreement” for “FISH.19.2” there is substituted “511.2”.

#### 7 Regulation 3 (fishing by Jersey boats outside the territorial sea: licences and permits) amended

- (1) In Regulation 3(1)(c) for “FISH.3” there is substituted “495”.
- (2) In Regulation 3(2)(b) for “FISH.10” there is substituted “502”.

## **8 Regulation 7A (agreement in principle for substitute vessel) inserted**

After Regulation 7 there is inserted –

### **“7A Agreement in principle for substitute vessel**

- (1) Where an owner of a qualifying vessel with a fishing boat licence proposes to replace that qualifying vessel with a substitute vessel, the owner, or a person on behalf of the owner, may apply to the Minister for the grant of an agreement in principle to grant a fishing boat licence in relation to the substitute vessel.
- (2) Where the Minister grants an agreement in principle to grant a fishing boat licence in relation to a substitute vessel, and subsequently receives an application for a fishing boat licence in respect of that substitute vessel, the Minister must grant a fishing boat licence in respect of that substitute vessel provided the Minister is satisfied that nothing has changed in relation to that vessel since the agreement in principle was granted.”.

## **PART 3**

### **MISCELLANEOUS**

## **9 Citation and commencement**

These Regulations may be cited as the Sea Fisheries (TCA – Licensing of Fishing Boats) (Amendment of Law and Regulations – No. 2) (Jersey) Regulations 202- and come into force 7 days after they are made.