

STATES OF JERSEY



DRAFT SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 19th August 2003
by the Economic Development Committee**

STATES GREFFE



Jersey

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REPORT

The Granville Bay Treaty signed in July 2000 is an agreement between Britain and France to manage the fisheries in the waters between Jersey and the neighbouring coast of France. Its main purpose is both to control fishing effort and to put in place a structure for a continual process of management for all the interested parties. Control of fishing effort is to be done by a system of licences and permits. This legislation brings together the elements of licensing needed by the Treaty. It enables Jersey to control licensed fishing by the French and British vessels in Jersey waters and it also provides for the issuing of licences to Jersey vessels to fish French waters. Administration of the licensing system is also covered.

Manpower and Resource implications

There will be no administrative or surveillance requirements other than those approved by the States of Jersey on 16th July when the Sea Fisheries (Amendment) (Jersey) Law 2002 was adopted. The amount of staff time which was agreed was 0.25 of a man year for administration and a similar amount for surveillance. No amendment is needed to these requirements.

Financial implications

The cost of the implication of one-half of a person of the appropriate grade already approved is £13,391 (current cost).

Explanatory Note

The purpose of these Regulations, made under the Sea Fisheries (Jersey) Law 1994, is to provide when and how licences, permits and other qualifications for sea fishing are required and issued in the Jersey and Bay of Granville areas.

Provision is made in relation to British (including Jersey) boats, and French boats, fishing in Jersey waters and in relation to Jersey boats fishing in certain waters outside Jersey waters. The Sea Fisheries (Jersey) Law 1994 already deals with other boats fishing in Jersey waters.

Exceptions are made for fishing for scientific purposes and for pleasure.

Other provisions deal with the consequences of lodging an appeal, require permits to be carried, make detailed provision for the service of notices and specify maximum penalties for the purposes of certain provisions of the Sea Fisheries (Jersey) Law 1994.

The Regulations replace the Sea Fishing (Licensing of Fishing Boats) (Jersey) Regulations 1996, but also contain new provisions for the implementation of the Bay of Granville agreement entered into by the United Kingdom and France.



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Jersey

DRAFT SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 200

Made

[date to be inserted]

Coming into force

1st January 2004

THE STATES, in pursuance of Articles 7, 11, 12 and 22 of the Sea Fisheries (Jersey) Law 1994,^[1] have made the following Regulations –

PART 1

PRELIMINARY

1 Interpretation

(1) In these Regulations, unless the context otherwise requires –

“access permit” means an access permit granted as referred to in Regulation 2;

“address for service”, in relation to an owner or charterer of a fishing boat, means the address for service for the time being provided by the owner or charterer to the Committee in accordance with Regulation 8;

“the Agreement” means the Agreement concerning Fishing in the Bay of Granville between the United Kingdom and the Republic of France, signed on 4th July 2000;

“the Area” means the waters referred to as such in the Agreement;

“electronic means” includes facsimile transmission and any method of transferring data by computer;

“the exchange of notes” means the exchange of notes that is associated with the Agreement and concerns access to fishing in certain zones in the Bay of Granville area;

“fishing boat licence” means a licence granted as referred to in Regulation 2;

“the Law” means the Sea Fisheries (Jersey) Law 1994,^[2]

“overall length”, in respect of a fishing boat, means the distance in a straight line between the foremost point of the bow and the aftermost point of the stern –

(a) the bow being taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but to exclude bowsprits and safety rails; and

(b) the stern being taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark, but to exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers’ ladders and platforms;

“place of business”, in relation to an owner or charterer of a fishing boat, means any place at which the owner or charterer carries on any business;

“registered office” in relation to an owner or charterer of a fishing boat, being an owner or charterer that is a body corporate, means the registered office of the owner or charterer;

“territorial sea” means the territorial sea of Jersey;

“Zone A”, “Zone B”, “Zone C”, “Zone D”, “Zone E” or “Zone F” means the waters referred to as such in the exchange of notes.

- (2) Notes in the text of these Regulations are for the guidance of readers and do not form part of the Regulations.

PART 2

RESTRICTIONS ON SEA FISHING

2 Fishing in the territorial sea of Jersey: licences, access permits and lists

- (1) In the territorial sea, fishing by a British fishing boat is prohibited unless authorized by a fishing boat licence granted by the Committee.
- (2) In any part of the Area (except Zone C and Zone D), being a part that is within the territorial sea, fishing by a French fishing boat is prohibited unless authorized by an access permit that has been granted by an authority of the French Republic and is in force in respect of the boat and the part.
- (3) In any part of the Area, being a part that is within the territorial sea, fishing by a British fishing boat is prohibited unless authorized by an access permit that has been granted by the Committee and is in force in respect of the boat and the part.
- (4) In Zone A or Zone B, fishing by a French fishing boat is prohibited unless the boat is referred to in the lists in force for that Zone under the exchange of notes and the boat is the subject of an access permit that has been granted by an authority of the French Republic and is in force in respect of the boat.
- (5) In Zone C or Zone D, fishing by a French fishing boat is prohibited unless the boat is referred to in the lists in force for that Zone under the exchange of notes and the fishing is authorized by an access permit that has been granted by an authority of the French Republic and is in force in respect of the boat and the Zone.
- (6) In the part of the territorial sea that is specified in paragraph 9(b) of the exchange of notes (that is, the whelk box), fishing by a French fishing boat is prohibited unless there is an access permit in force in respect of the boat and the boat is fishing only for whelk.

Note. Article 9 of the Sea Fisheries (Jersey) Law 1994 restricts fishing by non-French foreign fishing boats.

- (7) For the avoidance of doubt, it is hereby declared that, for the purposes of this Regulation, if something is not done in accordance with the terms or conditions of a licence or permit it is not authorized by that licence or permit.

3 Fishing by Jersey boats in adjacent waters: licences and access permits

- (1) In any part of the Area, being a part that is within the territorial sea of France, fishing by a Jersey fishing boat is prohibited unless authorized by –
 - (a) a fishing boat licence valid for that part; and
 - (b) an access permit valid for that part and granted by the Committee.
- (2) In Zone E or Zone F, fishing by a Jersey fishing boat is prohibited unless the boat is referred to in the lists in force for that Zone under the exchange of notes and the fishing is authorized by an access permit that has been granted by the Committee and is in force in respect of the boat and the Zone.

- (3) For the avoidance of doubt, it is hereby declared that, for the purposes of this Regulation, if something is not done in accordance with the terms or conditions of a licence or permit it is not authorized by that licence or permit.

4 Requirement to carry access permit

If an access permit is in force in respect of a boat, the permit shall be carried on the boat –

- (a) in the case of a Jersey fishing boat, whenever it is in the Area;
- (b) in the case of a French fishing boat, whenever it is in any part of the territorial sea; or
- (c) in the case of any British (but not Jersey) fishing boat, whenever it is in the territorial sea.

5 Exception

The prohibitions in Regulations 2 and 3 shall not apply in respect of –

- (a) fishing by a boat when the fishing is only for the pleasure of persons conveyed on the boat and the boat is used only for the purpose of conveying persons wishing to fish for pleasure;
- (b) fishing operations that, under the authority of the Committee, are conducted for the purpose of scientific investigations.

PART 3

LICENCES AND PERMITS

6 Classes of licences and permits

- (1) There shall be 2 classes of fishing boat licences, namely –
 - (a) a class A licence, for a fishing boat with an overall length that exceeds 10 metres; and
 - (b) a class B licence, for a fishing boat with an overall length that does not exceed 10 metres.
- (2) There shall be 1 class of access permit.

7 Charges for licences and permits

- (1) The charge payable for the grant of a fishing boat licence shall be such amount as the Committee has prescribed by Order.
- (2) The charge payable for the grant of an access permit shall be such amount as the Committee has prescribed by Order.
- (3) A charge referred to in paragraph (1) or (2) shall be payable–
 - (a) by the person to whom the licence or permit is granted; and
 - (b) on the first grant of the licence or permit to the person in respect of the fishing boat named in the licence or permit.
- (4) If, instead of (or on the expiry of) that licence or permit, any other licence or permit is granted subsequently to the same person in respect of the same fishing boat, no charge shall be payable for the grant of the subsequent licence or permit.
- (5) The Committee may, by Order, prescribe charges for the purposes of paragraph (1) or (2).

8 Address for service on owner or charterer

- (1) An owner or charterer of a fishing boat who applies for a licence or permit shall provide in writing to the Committee, with the application, an address for service in the Island that is not a post office box.
- (2) An owner or charterer may from time to time change the address for service by notice in writing to the Committee.
- (3) A change of address for service shall take effect on notice being given to the Committee in accordance with paragraph (2) or on such later date as may be specified in the notice.

9 Grant of licence or permit

Subject to Regulations 11 and 12, a licence or permit is granted in respect of a fishing boat by delivering it to the owner or charterer of the fishing boat in one of the following ways –

- (a) personally, in which case it shall take effect on receipt;
- (b) by leaving it at the owner's or charterer's address for service, place of business or registered office, or in the hands of any person in any of those places, in which case it shall be treated as having been delivered and shall take effect 24 hours after it is left;
- (c) by transmitting it to the owner or charterer by electronic means at the address for service, place of business or registered office, in which case it shall be treated as having been delivered and shall take effect 24 hours after it is transmitted;
- (d) by sending it to the owner or charterer by post at the address for service, place of business or registered office, in which case it shall be treated as having been delivered and shall take effect –
 - (i) 48 hours after it is sent, if that period does not expire on a Sunday or on a day that is a bank holiday or public holiday in the place to which it is sent; or
 - (ii) if the period does expire on such a day, then at the end of the next day that is not a Sunday or a bank holiday or public holiday in that place.

10 Variation, suspension or revocation

- (1) Subject to Regulations 11 and 12, the variation, suspension or revocation of a licence or permit is effected by giving notice of the variation, suspension or revocation to the owner or charterer of the fishing boat to which the licence or permit relates, in one of the following ways –
 - (a) personally, in which case the variation, suspension or revocation shall take effect 24 hours after receipt of the notice;
 - (b) by leaving it at the owner's or charterer's address for service, place of business or registered office, or in the hands of any person in any of those places, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect 48 hours after the notice is left;
 - (c) by transmitting it to the owner or charterer by electronic means at the address for service, place of business or registered office, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect 48 hours after the notice is transmitted; or
 - (d) by sending it to the owner or charterer by post at the address for service, place of business or registered office, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect –
 - (i) 72 hours after the notice is sent, if that period does not expire on a Sunday or on a day that is a bank holiday or public holiday in the place to which it is sent; or
 - (ii) if the period does expire on such a day, then at the end of the next day that is not a Sunday or a bank holiday or public holiday in that place.

- (2) Subject to Regulations 11 and 12, the variation, suspension or revocation of a licence or permit may alternatively be effected by giving notice of the variation, suspension or revocation to the master of the fishing boat to which it relates, in one of the following ways –
- (a) personally, in which case the variation, suspension or revocation shall take effect on receipt of the notice; or
 - (b) by transmitting it to the master by electronic means while the master is aboard the fishing boat, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect 24 hours after the notice is transmitted.
- (3) Notwithstanding paragraphs (1) and (2), the variation, suspension or revocation of–
- (a) all licences or all permits;
 - (b) all licences, or all permits, authorizing fishing for one or more specified descriptions of sea fish;
 - (c) all licences, or all permits, authorizing fishing in one or more specified areas;
 - (d) all licences, or all permits, authorizing fishing by one or more specified methods; or
 - (e) all licences, or all permits, authorizing fishing by reference to a combination of any 2 or more of the matters referred to in sub-paragraphs (b), (c) and (d),
- may be effected by publishing notice of the variation, suspension or revocation in the Jersey Gazette, in which case it shall be treated as having been given and the variation, suspension or revocation shall take effect 48 hours after the end of the day on which the notice is published.
- (4) A notice so published –
- (a) shall provide that it applies to all licences or permits; or
 - (b) shall specify those licences, or permits, to which it relates by reference to a description of sea fish, area or method or any combination of them,

but need not specify the names or port letters and numbers of the fishing boats, or the names of any owners, charterers or masters of any fishing boats, to which the variation, suspension or revocation relates.

11 Delivery or notification by several modes

Subject to Regulation 12, if a licence or permit, or a notice of the variation, suspension or revocation of a licence or permit, is delivered or given by more than one mode, it shall be treated as having been delivered or given and the licence, permit or variation, suspension or revocation shall take effect at the earliest of the times prescribed by these Regulations in respect of the modes by which the licence, permit or notice is delivered or given.

12 Deferred effect

Where a licence or permit, or a notice of the variation, suspension or revocation of a licence or permit, specifies on its face that the licence or permit, or the variation, suspension or revocation, shall take effect at a time that is later than a time prescribed by these Regulations in respect of any mode by which the licence, permit or notice is delivered or given, the licence, permit or the variation, suspension or revocation shall take effect at the time shown on the face of the licence, permit or notice.

13 Effect of lodging appeal

- (1) If an appeal is lodged under Article 21E of the Law^[3] against the revocation or suspension of a licence or permit after the revocation or suspension has taken effect, the licence or permit comes back into force as from the time when the appeal is lodged.

- (2) If an appeal is lodged under Article 21E of the Law^[4] against the revocation or suspension of a licence or permit before the revocation or suspension has taken effect, the licence or permit continues in force even after the revocation or suspension would, but for this Regulation, have taken effect.
- (3) A licence or permit in force by virtue of this Regulation continues in force by virtue of this Regulation until whichever of the following events occurs first –
 - (a) the relevant appeal is withdrawn by the appellant;
 - (b) the relevant appeal is dismissed by the Court;
 - (c) the Committee acts, in relation to the licence or permit, on any directions of the Court given under Article 21E of the Law,^[5]
 - (d) the licence or permit expires.

PART 4

MISCELLANEOUS

14 Maximum penalties

For the purposes of Article 11(17) of the Law,^[6] the maximum penalty is £20,000 in respect of the first conviction of a person for an offence against that Article or £40,000 in respect of a second or subsequent conviction of a person for an offence against that Article.

15 Repeal and savings

- (1) The Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 1996^[7] are repealed.
- (2) Notwithstanding any other provision of these Regulations, if an application for a licence was made in respect of a fishing boat after the making of the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 1996,^[8] but before the latter Regulations came into force, and the application has not been determined before the date of repeal of those Regulations, the activity in respect of which the licence was sought continues to be authorized in respect of that fishing boat until the application is determined.
- (3) A licence that, but for the repeal of the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 1996,^[9] would have continued in force shall be taken to have been granted under these Regulations and shall remain in force until such day as it would have expired but for that repeal unless it is sooner revoked or suspended.

16 Citation and commencement

These Regulations may be cited as the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2004 and shall come into force on 1st January 2004.

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- [1] *Recueil des Lois, Volume 1994-1995, pages 146, 149, 153 and 161 and Volume 2002, pages 1179, 1185, 1189 and 1207.*
- [2] *Recueil des Lois, Volume 1994-1995, page 137 and Volume 2002, page 1171.*
- [3] *Recueil des Lois, Volume 1994-1995, page 161 and Volume 2002, page 1200.*
- [4] *Recueil des Lois, Volume 1994-1995, page 161 and Volume 2002, page 1200.*
- [5] *Recueil des Lois, Volume 1994-1995, page 161 and Volume 2002, page 1200.*
- [6] *Recueil des Lois, Volume 1994-1995, page 149 and Volume 2002, page 1185.*
- [7] *No. 8999.*
- [8] *No. 8999.*
- [9] *No. 8999.*