

**DRAFT SEA FISHERIES (ESTABLISHMENT AND
REGULATION OF FISHERIES) (JERSEY) REGULATIONS 199**

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



STATES OF JERSEY

STATES GREFFE

175

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Explanatory Note

These Regulations re-enact and amend the Sea Fisheries (Establishment and Regulation of Fisheries) (Jersey) Regulations 1986. The effect of re-enacting the Regulations, with the concurrence of the Secretary of State, is to extend the application of the provisions to the territorial sea as extended by Order in Council on 31st March 1997. The amendments allow for the possibility that a sea fishery may take the form of a floating cage or similar structure moored to the sea bed, as opposed to a structure affixed to or standing on the sea bed.

Sea Fisheries (Jersey) Law 1994

SEA FISHERIES (ESTABLISHMENT AND REGULATION OF
FISHERIES) (JERSEY) REGULATIONS 199

(Promulgated on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, in pursuance of Articles 2 and 8 of the Sea Fisheries (Jersey) Law 1994,¹ having consulted with the Secretary of State and obtained his concurrence, have made the following Regulations -

Interpretation

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

“the Law” means the Sea Fisheries (Jersey) Law 1994;²

“licence” means a licence issued under paragraph (1) of Regulation 3;

“licensee” means the holder of a licence issued under paragraph (1) of Regulation 3;

“sea fish” means fish of any description found in the sea, and also means shell fish of any description.

¹ Recueil des Lois, Volume 1994-1995, pages 141 and 147.

² Recueil des Lois, Volume 1994-1995, page 139.

(2) A reference in these Regulations to a numbered Regulation or Schedule without further identification is a reference to the like numbered Regulation or Schedule to these Regulations.

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

Application

2. These Regulations apply to the Island and the territorial sea of the Island.

Power to issue licences for fisheries

3.-(1) The Committee may, on an application made to it in accordance with paragraph (2), and subject to such terms and conditions as it sees fit, issue a licence to establish or maintain a fishery for sea fish of any one or more of the descriptions set out in the licence, on any portion of the shore and bed of the sea, above or below, or partly above and partly below, low water mark (which shore and bed are in these Regulations referred to as “the seashore”) or in any portion of the sea.

(2) An application for a licence shall be made in the form set out in the First Schedule, and the provisions of the Second Schedule shall have effect in relation to the issue of such a licence.

(3) A licence shall confer on such persons as may be specified in the licence a right of fishery with respect to the area of the fishery to which the licence relates for such period as shall be specified in the licence, but shall not confer such right for a longer period at one time than nine years.

Effect of grant of right of fishery

4. The holder of a licence shall, subject to any terms and conditions, restrictions and exceptions contained in the licence, have within the limits of the fishery the exclusive right of depositing, propagating, dredging, fishing for and taking sea fish of any description

to which the licence applies, and in the exercise of that right may within those limits -

- (a) make and maintain beds for such fish;
- (b) maintain any cage, pontoon or structure which is anchored or moored in the sea for the purpose of propagating such fish;
- (c) at any season collect such fish and remove them from place to place and deposit them as and where the licensee thinks fit;
- (d) do all other things which the licensee thinks proper for obtaining, storing and disposing of the produce of his fishery.

Revocation of licence issued

5.-(1) If the Committee is not satisfied that a licensee is properly cultivating the ground for sea fish of any description to which his licence applies within the limits of the area to which his licence applies or observing any terms or conditions, restrictions or exceptions contained in the licence, it may, subject to Regulation 6, revoke the licence and thereupon, subject to Regulation 6, the right of fishery shall be absolutely determined as respects that area and these Regulations shall cease to operate in relation to that area.

(2) For the purpose of paragraph (1), the Committee may from time to time, with respect to any such fishery, make such inquiries and examination by an inspector or otherwise, and require from the licensee such information as the Committee thinks necessary or proper, and the licensee shall afford all facilities for such inquiries and examination and give such information accordingly.

(3) For the purpose of carrying out any inquiry or examination with respect to a fishery in pursuance of paragraph (2), any inspector or other person appointed by the Committee under that paragraph may take evidence, and by notice require the attendance of any person and examine him and any person who attends before him.

(4) For the purpose of carrying out any such inquiry or examination, a person authorised in that behalf by the Committee shall, subject to paragraph (5), have the right, at any reasonable time, to enter any land within the limits of the fishery, and to obtain and take away samples (which shall be marked, labelled or otherwise made capable of identification) of any sea fish found within those limits; and, notwithstanding anything contained in these Regulations, when the purpose for which any such sample was taken has been satisfied the person by whom the sample was taken may dispose of it as he may determine.

(5) A right of entry under paragraph (4) shall not be exercisable in respect of any land unless not less than twenty-four hours' notice of the intended entry has been given to the occupier of the land, and also to the licensee if he is not the occupier of the land; and the person exercising the right shall, if so requested, produce written evidence of his authority before entering.

(6) Any duty imposed on any person by paragraph (2) to afford facilities for any inquiry or examination in respect of a fishery shall include a duty to afford facilities for the exercise of any right exercisable in respect of the fishery in accordance with paragraphs (4) and (5).

(7) No person shall obstruct an inspector or other person in the exercise of any power or right conferred by this Regulation, or refuse or without reasonable excuse fail to provide any information reasonably required by an inspector or other person in the exercise of any such power or right.

Notice of revocation and appeal

6.-(1) The Committee shall not revoke a licence under Regulation 5 unless it has given to the licensee not less than fourteen days notice in writing of the intention so to do and a statement in writing of the reasons for so doing.

(2) A licensee aggrieved by the decision of the Committee to revoke a licence may appeal to the Royal Court within fourteen days of the date of the notification of the Committee in the matter.

(3) If there is an appeal against revocation of a licence the revocation shall not take effect either until the appeal is abandoned or determined or until the expiration of a period of six months, whichever event occurs first.

Protection of fisheries

7.-(1) All sea fish of a description to which a licence applies in or on a bed for such fish or in a cage or structure which is anchored or moored in the sea for the purpose of propagating such fish and within the area of the fishery to which the licence relates shall be the absolute property of the licensee and in all courts and for all purposes shall be deemed to be in the actual possession of the licensee.

(2) All such fish removed by any person from a bed or cage or structure for such fish within the area of the fishery to which the licence relates shall, unless sold or otherwise disposed of by or under the authority of the licensee, be the absolute property of the licensee, and in all courts and for all purposes the absolute right to the possession thereof shall be deemed to be in the licensee.

(3) No person, other than the licensee or an agent or employee of his shall, within the limits of the area of the fishery to which the licence relates, knowingly do any of the following things, namely -

- (a) use any implement of fishing except -
 - (i) a line and hook; or
 - (ii) a net adapted solely for catching floating fish and so used as not to disturb or injure in any manner fish of the description in question or any bed or cage or structure therefor or the fishery therefor;
- (b) dredge for any ballast or other substance except under a lawful authority for improving the navigation;
- (c) deposit any ballast, rubbish or other substance;

- (d) place any implement, apparatus or thing prejudicial or likely to be prejudicial to any such sea fish, bed, cage or structure or fishery except for a lawful purpose of navigation or anchorage; or
- (e) disturb or injure in any manner, except for a lawful purpose of navigation or anchorage, any such sea fish, bed, cage or structure or fishery.

Submission of annual report and accounts

8. A licensee shall present to the Committee an annual report on and annual audited accounts of the fishery to which his licence relates no later than the twenty-first day of March in each year.

Prohibition against assignment

9. A licence granted under Regulation 3 shall not be assigned.

Service of certain documents

10. Service of any summons or other document in any proceedings under paragraph (3) of Regulation 7 or sub-paragraph (4) of paragraph 4 of the Second Schedule may be effected by leaving the document for the person to be served on board any fishing boat to which he belongs with the person being or appearing to be in charge of the boat.

Saving

11. Nothing in this Law shall affect any rights with respect to the seashore to which any person may be entitled by virtue of any Charter, Letters Patent or by way of acquisition from time immemorial.

Repeals

12. The Sea Fisheries (Establishment and Regulation of Fisheries) (Jersey) Regulations 1986 are repealed.³

³ No. 7512.

Citation and commencement

13. These Regulations may be cited as the Sea Fisheries (Establishment and Regulation of Fisheries) (Jersey) Regulations 199 and shall come into force on the seventh day following promulgation.

FIRST SCHEDULE

(Regulation 3(2))

Application for a Licence

To the Agriculture and Fisheries Committee.

1. Application is hereby made by

.....
(Name of person(s) or corporate body in block letters)

of
(Address in block letters)

under Regulation 3(1) of the Sea Fisheries (Establishment and Regulation of Fisheries) (Jersey) Regulations 199 for a licence granting to the applicant a fishery situate at

.....

2. *The ground to which this application relates is known as

..... is owned by
..... and has an area of
..... hectares, and its boundaries are as follows -

.....
.....

OR

*The portion of the sea to which this application relates is the portion bounded by an imaginary straight line drawn from the first of the co-ordinates given below to the second co-ordinate, then to the third co-ordinate and so on -

(1).....(2).....

(3).....(4).....

.....
and has a surface area ofhectares.

*Complete as appropriate

(Express co-ordinates by latitude and longitude to the nearest one hundredth of a degree)

3. If the Committee grants the licence it is intended -

- * (i) to stock
- * (ii) to cleanse
- * (iii) to restock
- * (iv) to cultivate
- * (v) to erect the following structures

.....
 *Delete as appropriate.

It is proposed to employ the following labour force
 and adopt the following methods

4. There is enclosed herewith -

- * (a) In the case of a company registered under the Loi (1861) sur les Sociétés à Responsabilité Limitée, a copy of the Memorandum and Articles of Association and any registered special resolution of the Company relating to its objects.
- * (b) In the case of a corporate body incorporated in any other manner, a copy of every instrument of incorporation relating to the corporate body.
- * (c) An ordnance map, chart or other suitable map of the locality upon which is defined accurately the position, area, and boundaries of the ground or portion of the sea to which the application relates. The area of the proposed fishery is coloured pink, edged red and adjoining portions of the sea are coloured blue.

*Delete as appropriate.

6. It is desired to bring the following additional facts to the Committee's attention.

7. It is understood that the Committee may require such further information as it deems relevant to this application.

Date

Signature

(The application may be signed on behalf of a corporate body by one of its officers.)

*SECOND SCHEDULE***(Regulation 3(2))****Provisions with respect to granting licences under Regulation 3**

1. Where an application for a licence under Regulation 3 is made to the Committee it may either refuse the application or prepare a draft licence and serve a copy of it on the applicant.

2. Where a draft licence is prepared and a copy thereof served on the applicant under paragraph 1 the applicant shall cause printed copies of the draft licence to be published and circulated in the Jersey Gazette, and shall give notice of the application, in such manner as the Committee directs or approves, to the owners or reputed owners, lessees or reputed lessees, and occupiers, if any, of the portion of the seashore to which the proposed licence relates and of the lands adjoining thereto.

3. During the period of one month after the first publication of the draft licence under paragraph 2 the Committee shall receive any objections or representations made to it in writing respecting the proposed licence.

4.-(1) The provisions of this paragraph shall have effect where any objection with respect to the proposed licence which the Committee considers to be neither frivolous nor irrelevant has been duly made to it under paragraph 3 and has not been withdrawn.

(2) The Committee shall as soon as conveniently may be after the expiration of the period of one month referred to in paragraph 3 appoint some fit person to act as inspector respecting the proposed licence.

(3) The inspector shall proceed to make an inquiry concerning the subject matter of the proposed licence, and for that purpose may take and receive any evidence and information offered, and hear and inquire into any objections or representations made respecting the proposed licence.

(4) The inspector may for the purpose of the said inquiry take evidence, and by summons under his hand require the attendance of any person, and examine him and any person who attends before him on oath or otherwise, as he thinks expedient, and may administer on oath or take any affidavit or declaration for the purpose of the inquiry.

(5) No person so summoned shall, after tender to him of his reasonable expenses, refuse or neglect to obey the summons, and no person shall refuse or neglect to answer any question which the inspector is authorised to ask.

(6) Not less than fourteen days' notice shall be published in such manner as the Committee may direct of the sitting of the inquiry.

(7) The inspector shall make a report in writing to the Committee, setting forth the result of the inquiry, and stating whether in his opinion the proposed licence should be granted, with or without alteration, specifying any alteration he recommends and his reasons therefor, and stating the objections and representations, if any, made on the inquiry and his opinion thereon.

(8) Without prejudice to sub-paragraph (3), the Committee may, in the case of any proposed licence, cause any such inquiry as it thinks fit to be held with respect thereto.

(9) As soon as conveniently may be after the expiration of the period referred to in paragraph 3 or after the receipt by the Committee of any report of the inspector under sub-paragraph (7), it shall, after considering the objections or representations, if any, that have been made with respect to the proposed licence and any such report, either refuse the application or grant a licence in such form and containing such provision as it thinks fit.

(10) Where the Committee grants a licence under Regulation 3, the applicant for the licence shall cause notice of the granting of the licence to be published in the Jersey Gazette and shall give notice of the granting of the licence, in such manner as the Committee directs or approves, to the owners or reputed owners, lessees or reputed lessees, and occupiers, if any, of the portion of the sea shore to which the licence relates and of the lands adjoining thereto.

(11) All expenses incurred by the Committee in relation to any application for a licence under Regulation 3 or to any licence made in consequence thereof shall be defrayed by the applicant; and the Committee shall, if it thinks fit, on or at any time after the making of the application, require the applicant to pay to it such sum as it thinks requisite for or on account of those expenses, or to give security to its satisfaction for the payment of those expenses on demand.