

STATES OF JERSEY



DRAFT SEA FISHERIES (UNDERWATER FISHING) (JERSEY) REGULATIONS 200

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

STATES GREFFE



Jersey

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REPORT

The Underwater Fishing Regulations have been, up until now, done as Triennial Regulations. The Sea Fisheries (Amendment) (Jersey) Law 2002 has created the vires for Underwater Regulations to be done under them, therefore, the object of this proposition is to approve the Regulations which are no longer Triennial. The fees for diving licences may now be set by Order and the procedural benefits of the Law will apply to the Regulations.

Manpower and Resource implications

As the effect of the Regulations and their administration is the same as the Triennial Regulations which they replace, there are no additional manpower or resource implications for the States arising from the adoption of these draft Regulations.

Financial implications

There are no financial implications for the States arising from the adoption of these draft Regulations.

Explanatory Note

The purpose of these Regulations is to restrict underwater fishing for shellfish (other than crabs) to cases covered by a permit and cases of scientific research.

The Regulations replace the Shellfish (Underwater Fishing) (Jersey) Regulations 2001 (made under the power to make “triennial Regulations” contained in the Order in Council of 14 April 1884) as power to make the Regulations has now been inserted in the Sea Fisheries (Jersey) Law 1994. In addition, because a number of the provisions of the 2001 Regulations have been superseded by provisions inserted in the 1994 Law itself there is no longer any need to include those provisions in Regulations. Permits granted under the 2001 Regulations are to be treated as if granted under the new Regulations.



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Jersey

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Made

[date to be inserted]

Coming into force

1st January 2004

THE STATES, in pursuance of Articles 2 and 22 of the Sea Fisheries (Jersey) Law 1994,^[1] have made the following Regulations –

1 Interpretation

In these Regulations –

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

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

“shellfish” does not include crabs.

2 Restriction on underwater fishing

- (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 under the authority of the Committee, for the purpose of scientific investigation or for the purpose of transplanting shellfish from one fishing ground to another; or
 - (b) any permit holder taking scallops from the sea in accordance with any conditions applicable to the permit.

3 Permits for underwater fishing of scallops

- (1) The Committee may, if it thinks fit, and upon receipt of such particulars as it may require and such fee as it has, by Order, prescribe, grant any person a permit authorizing him to take scallops from the sea or from a specified portion of the sea while 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, by Order, prescribe fees for the purposes of this Regulation, and different fees may be prescribed in respect of applications for permits relating to different classes of activity and according to such other factors as the Committee thinks fit.
- (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 part 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 Repeal and saving

- (1) The Shellfish (Underwater Fishing) (Jersey) Regulations 2001^[2] are repealed.
- (2) A permit that, but for the repeal of those Regulations, 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.

5 Citation and commencement

- (1) These Regulations may be cited as the Sea Fisheries (Underwater Fishing) (Jersey) Regulations 200.
- (2) These Regulations shall come into force on 1st January 2004.

[1] *Recueil des Lois, Volume 1994-1995, pages 141 and 161 and Volume 2002, pages 1172 and 1207.*

[2] *No. 28/2001.*