

# STATES OF JERSEY



## DRAFT SEA FISHERIES (SATELLITE MONITORING) (JERSEY) REGULATIONS 200-

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Lodged au Greffe on 14th April 2009  
by the Minister for Economic Development

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STATES GREFFE





Jersey

## **DRAFT SEA FISHERIES (SATELLITE MONITORING) (JERSEY) REGULATIONS 200-**

### **REPORT**

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#### **Background**

The European Union (EU) introduced regulations relating to the requirement for certain fishing vessels to be equipped with satellite monitoring equipment in 1997. Under the terms of the Jersey/United Kingdom Fisheries Management Agreement (FMA) Jersey is obliged to introduce fisheries legislation for the Island's territorial sea that mirrors that of the EU. Jersey did not immediately introduce satellite monitoring regulations as the Island did not at that time have a clearly defined territorial sea, and the requirements did not relate to vessels of a size normally encountered in the local area.

In 2003 work commenced on drafting appropriate legislation, but during this process the original EU legislation was reviewed and drafting ceased locally until early 2004 when the UK were able to provide a final draft of the revised EU legislation. Drafting then recommenced and the Draft Sea Fisheries (Satellite Monitoring) (Jersey) Regulations 200- were initially sent to the Department for Constitutional Affairs (DCA) for the Secretary of State's approval in June 2004. (Under the terms of the FMA and in compliance with the Sea Fisheries (Jersey) Law 1994 it is necessary for the Island to obtain such approval before introducing most fisheries Regulations.)

The DCA recommended a number of amendments to the Draft Regulations and, following further discussion, a revised draft was submitted for approval in March 2008. The Secretary of State's approval of the revised draft has now been obtained.

#### **Impact on Jersey fisheries**

Fisheries management, at both local and international level, depends on controlling the access of large fishing vessels to specific areas. Satellite monitoring facilitates the monitoring of such vessels to ensure that they comply with those controls.

The only fishing vessels required to fit the equipment are those exceeding 15 metres in length, and all such vessels likely to operate in the Jersey territorial sea already operate in other EU zones where the equipment has been required for a number of years. Such Jersey-registered vessels were able to apply for a subsidy from the Island in order to fit the equipment when it became necessary, and so this legislation will have no financial impact on the Jersey registered fishing fleet.

The draft legislation will allow the Island to play an important part in the management of fish stocks at an international level and will ensure that the Island fulfils its obligations under the FMA.

The Fisheries and Marine resources Panel, whose membership includes leaders from commercial fishing, leisure fishing and angling, have agreed with this proposal.

**Financial/manpower implications**

There are no additional financial or manpower implications for the States arising from the adoption of these Draft Regulations.

## Explanatory Note

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These Regulations would require a fishing boat to use satellite monitoring equipment, in accordance with European Union requirements, while the boat is in Jersey waters.

The requirement will apply only to fishing boats that are more than 15 metres in overall length.

However, the following fishing boats are exempt from the requirement –

- (a) boats exploiting aquaculture inside the baselines of the territorial sea;
- (b) pleasure boats; and
- (c) boats used only for scientific investigation, under the authority of the Minister for Planning and Environment.

The Regulations are set out in the following way –

### *Part 1 – Introductory Provisions*

*Regulation 1* defines expressions used in the Regulations.

*Regulation 2* specifies the fishing boats to which they apply.

*Regulation 3* specifies the boats that are exempt.

### *Part 2 – British and Community Fishing Boats*

*Regulation 4* provides that Part 2 applies only to British and Community vessels.

*Regulation 5* prohibits such a fishing boat from leaving port without an operational satellite-tracking device. This must not be capable of being manually overridden, and it must not permit the input or output of false positions.

*Regulation 6* specifies the information that must be transmitted by the satellite-tracking device. The transmission must disclose the fishing boat's identity, position, speed and course.

*Regulation 7* requires a fishing boat, while at sea, to transmit the required information periodically to a Fisheries Monitoring Centre.

If a period of less than one hour is set by the flag State, the information must be transmitted once in the shorter period. If the flag State does not set a shorter period, the boat must do so every hour, unless the Centre can poll the vessel's position. In the latter case, the vessel must transmit the information every 2 hours.

*Regulation 8* provides that if a fishing boat's satellite-tracking device malfunctions, it must transmit its current position every 4 hours, by email, telex, facsimile, telephone or radio, to Fisheries Monitoring Centres in its flag State and in the United Kingdom.

*Regulation 9* specifies the requirements with which a fishing boat must comply when switching off its satellite-tracking device in port. Before doing so, it must notify Fisheries Monitoring Centres in the flag State and the United Kingdom. While the device is switched off, the boat must not change its position, and the next report made after the device is turned on again must indicate that the vessel is in the same position.

*Regulation 10* requires the master of a fishing boat to ensure that the satellite-tracking device is fully operational at all times, except when it is switched off in port in accordance with the Regulations.

*Regulation 11* provides that if a fishing boat is in port following the malfunctioning of its satellite-tracking device, the vessel must not put to sea again unless a fisheries officer is satisfied that the device is working or authorizes it to go to sea.

#### *Part 3 – Fishing Boats of Third Countries*

*Regulation 12* provides that Part 3 applies only to “third country” fishing boats, i.e. those that are not from the British Islands or the European Community.

*Regulation 13* requires such vessels to have satellite-tracking devices.

*Regulation 14* requires third country fishing boats to transmit their data to the Fisheries Monitoring Centres of their flag States.

*Regulation 15* requires a boat to do so hourly if the Centre cannot poll its position, or every 2 hours if the Centre can do so.

*Regulation 16* stipulates the alternative requirement for transmission where a satellite-tracking device malfunctions.

*Regulation 17* requires the master of a third country fishing boat to maintain its satellite-tracking device in fully operational order at all times.

*Regulation 18* provides that a third country fishing boat must not put to sea, following the malfunctioning of its satellite-tracking device, unless a fisheries officer is satisfied that the device is in working order or authorizes the boat to leave port.

#### *Part 4 – Other Provisions*

*Regulation 19* provides for the admission in evidence of logbooks, and declarations, effort reports and other documents under Council Regulation 2847/93 (EEC), and information transmitted to a Fisheries Monitoring Centre, in proceedings for a contravention of the present Regulations.

*Regulation 20* provides for the citation of the Regulations, and that they will come into force 7 days after they are made.



Jersey

## **DRAFT SEA FISHERIES (SATELLITE MONITORING) (JERSEY) REGULATIONS 200-**

### **Arrangement**

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Jersey

## **DRAFT SEA FISHERIES (SATELLITE MONITORING) (JERSEY) REGULATIONS 200-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 2 and 29 of the Sea Fisheries (Jersey) Law 1994<sup>1</sup>, and having consulted with and obtained the concurrence of the Secretary of State, have made the following Regulations –

### **PART I**

#### **INTRODUCTORY PROVISIONS**

##### **1 Interpretation**

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

“Commission Regulation 2244/2003” means Commission Regulation (EC) No. 2244/2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems;

“Community fishing boat” means a fishing boat flying the flag of and registered in a member State of the European Community other than the United Kingdom;

“Council Regulation 2847/93” means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy as amended by Council Regulation (EC) No. 2870/95, Council Decision (EC) 95/528, Council Regulation (EC) 2489/96, Council Regulation (EC) 686/97, Council Regulation (EC) 2205/97, Council Regulation (EC) 2635/97, Council Regulation (EC) 2846/98 and Council Regulation (EC) 806/2003;

“Fisheries Monitoring Centre” means a fisheries monitoring centre that is established under Article 3.7 of Council Regulation 2847/93;

“required information” means the data that must be transmitted in accordance with Regulation 6;

“satellite-tracking device” means a device that sends the required information by way of satellite and land earth station to a Fisheries Monitoring Centre;

“third country fishing boat” means –

- (a) a fishing vessel flying the flag of and registered in a State other than a member State of the European Community; or
  - (b) a receiving vessel within the meaning of Council Regulation 2847/93.
- (2) In these Regulations, a reference to a logbook, declaration, document or required information includes a reference to –
- (a) a logbook, declaration, document or required information in writing; and
  - (b) a logbook, declaration, document or required information in a form or format described in paragraph (3).
- (3) Paragraph (2) refers to –
- (a) a map, plan, graph or drawing;
  - (b) a photograph;
  - (c) any data, however reproduced, that is received by a Fisheries Monitoring Centre from a satellite-tracking device;
  - (d) a disc, tape, sound track or other device in which sounds or other data (not being visual aids) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced from the device; and
  - (e) a film (including microfilm), negative, tape, disc or other device in which one or more visual images are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced from the device.
- (4) A reference in this Order to a Community instrument is a reference to that instrument and any amendment of the instrument that is in force on the date on which this Order is made.

## **2 Fishing boats to which these Regulations apply**

- (1) These Regulations apply to a fishing boat that –
  - (a) is in any waters that are inside the seaward limits of the territorial sea of Jersey; and
  - (b) measures more than 15 metres in overall length.
- (2) This Regulation is subject to Regulation 3.

## **3 Exceptions**

- (1) These Regulations do not apply to a fishing boat that –
  - (a) is used exclusively for the exploitation of aquaculture; and
  - (b) is operating exclusively inside the baselines from which the breadth of the territorial sea of Jersey is measured.

- (2) These Regulations do not apply to a fishing boat unless it is equipped for commercial exploitation of available and accessible living marine aquatic species.
- (3) These Regulations do not apply to a fishing boat that is used only for operations that are conducted, under the authority of the Minister for Planning and Environment, for the purpose of scientific investigations.
- (4) In paragraph (2), “living marine aquatic species” includes any anadromous or catadromous species during its marine life.

## **PART 2**

### **BRITISH AND COMMUNITY FISHING BOATS**

#### **4 Fishing boats to which Part 2 applies**

This Part applies to –

- (a) a British fishing boat; and
- (b) a Community fishing boat.

#### **5 Satellite-tracking devices to be installed**

- (1) A fishing boat shall not leave port without an operational satellite-tracking device installed on board.
- (2) A satellite-tracking device on a fishing boat shall not be capable of being manually overridden.
- (3) A satellite-tracking device on a fishing boat shall not permit the input or output of false positions.

#### **6 Information to be transmitted**

- (1) The satellite-tracking device on a fishing boat shall ensure the automatic transmission to the Fisheries Monitoring Centre of the boat’s flag State, of data that –
  - (a) identifies the boat;
  - (b) specifies the most recent geographical position of the boat, with a position error that is less than 500 metres and with a confidence interval of 99%;
  - (c) specifies the date and time (expressed as Universal Time Coordinated) of the fixing of that position; and
  - (d) specifies the speed and the course of the boat at that time.
- (2) Paragraph (1) does not apply –
  - (a) where the fishing boat is in port, and the satellite-tracking device is switched off otherwise than in contravention of Regulation 9(1); or

- (b) where there is a technical failure or non-functioning of the satellite-tracking device and the master or owner of the boat or their representative is complying with Regulation 8.

## **7 Frequency of transmissions**

When a fishing boat is at sea, the satellite-tracking device on the boat shall transmit the required information to the Fisheries Monitoring Centre in the boat's flag State –

- (a) if the Centre requires the boat to do so at intervals of shorter than one hour, at those shorter intervals;
- (b) if paragraph (a) does not apply and the Centre cannot poll the boat's actual position, at least once every hour; or
- (c) if paragraph (a) does not apply and the Centre can poll the boat's actual position, at least once every 2 hours.

## **8 Alternative if device fails**

- (1) This Regulation applies to a fishing boat in the event of a technical failure or non-functioning of the satellite-tracking device on the boat.
- (2) The master or owner of the fishing boat, or their representative, shall communicate the current geographical position of the boat to –
  - (a) the Fisheries Monitoring Centre of the boat's flag State; and
  - (b) if the United Kingdom is not the flag State, to the Fisheries Monitoring Centre of the United Kingdom.
- (3) Communication under paragraph (2) shall be made every 4 hours, starting from –
  - (a) the time when the technical failure or non-functioning is detected on the fishing boat;
  - (b) the time when the master or owner of the boat, or their representative, is informed by the boat's flag State that the satellite-tracking device appears to be defective or not to be functioning; or
  - (c) the time when the Fisheries Monitoring Centre of the boat's flag State notifies the master or owner of the boat, or their representative, that the Centre has not received data transmissions in accordance with Regulation 7 or this Regulation for 12 hours, whichever occurs sooner.
- (4) The communication shall be by email, telex, facsimile, telephone message or radio.

## **9 Requirements when switching off in port**

- (1) When a fishing boat is in port, the satellite-tracking device on the boat shall not be switched off before –

- 
- (a) the Fisheries Monitoring Centre of the boat's flag State is notified; and
    - (b) if the United Kingdom is not the flag State, the Fisheries Monitoring Centre of the United Kingdom is also notified.
  - (2) When a fishing boat in port has switched off its satellite-tracking device, the boat shall not change its position before the boat –
    - (a) makes its next report; and
    - (b) demonstrates by that next report that the boat is in the same position as it was when it made its last report.

#### **10 Devices to be kept in good order**

- (1) The master of a fishing boat shall ensure that the satellite-tracking device on the boat is fully operational at all times, and that the data described in Regulation 6(1) is transmitted in accordance with these Regulations.
- (2) The master of a fishing boat shall ensure in particular that –
  - (a) the data are not altered in any way;
  - (b) antennae that are connected to the satellite-tracking device are not obstructed in any way;
  - (c) the power supply of the satellite-tracking device is not interrupted; and
  - (d) the satellite-tracking device is not removed from the boat.
- (3) The requirement in paragraph (1) does not apply where the fishing boat is in port, and the satellite-tracking device is switched off otherwise than in contravention of Regulation 9(1).
- (4) The requirement in paragraph (2) that the master of a fishing boat shall ensure that the satellite-tracking device is not removed from the boat does not apply where, in the event of a technical failure or non-functioning of the device –
  - (a) a fisheries officer, in the case of a British fishing boat; or
  - (b) the flag State, in the case of a Community fishing boat,authorizes its replacement by a satellite-tracking device that is functioning.
- (5) The requirement in paragraph (2) that the master of a fishing boat shall ensure that the satellite-tracking device is not removed from the boat does not apply where the derogation in Article 12.1 of Commission Regulation 2244/2003 applies.
- (6) No person shall destroy, damage, render inoperative or otherwise interfere with a satellite-tracking device on a fishing boat.

#### **11 Restriction on putting to sea with defective device**

A fishing boat shall not leave port, following a technical failure or non-functioning of the satellite-tracking device on the boat, unless a fishery officer –

- (a) is satisfied that the satellite-tracking device is functioning; or
- (b) authorizes the boat to leave port.

### **PART 3**

#### **FISHING BOATS OF THIRD COUNTRIES**

##### **12 Fishing boats to which Part 3 applies**

This Part applies to third country fishing boats.

##### **13 Satellite-tracking devices on third country fishing boats**

- (1) A fishing boat shall have an operational satellite-tracking device installed on board.
- (2) A satellite-tracking device on a fishing boat shall not be capable of being manually overridden.
- (3) A satellite-tracking device on a fishing boat shall not permit the input or output of false positions.

##### **14 Information to be transmitted by third country fishing boats**

The satellite-tracking device on a fishing boat shall ensure the automatic transmission in the format defined in Annex 1 of Commission Regulation 2244/2003, to the Fisheries Monitoring Centre of the boat's flag State, of data that –

- (a) identifies the boat;
- (b) specifies the most recent geographical position of the boat, with a position error that is less than 500 metres and with a confidence interval of 99%;
- (c) specifies the date and time (expressed as Universal Time Coordinated) of the fixing of that position; and
- (d) specifies the speed and the course of the boat at that time.

##### **15 Frequency of transmissions by third country fishing boats**

When a fishing boat is at sea, the satellite-tracking device on the boat shall transmit the required information to the Fisheries Monitoring Centre of the boat's flag State –

- (a) at least once every hour if the Centre cannot poll the boat's actual position; or
- (b) at least once every 2 hours if the Centre can poll the boat's actual position.

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**16 Alternative for third country fishing boat if device fails**

- (1) This Regulation applies to a fishing boat in the event of a technical failure or non-functioning of the satellite-tracking device on the boat.
- (2) The master or owner of the fishing boat, or their representative, shall communicate the current geographical position of the boat, every 2 hours, to the Fisheries Monitoring Centre in the United Kingdom.
- (3) The communication shall be by email, telex, facsimile, telephone message or radio.

**17 Devices on third country boats to be kept in good order**

- (1) The master of a fishing boat shall ensure that the satellite-tracking device on the boat is fully operational at all times, and that the data described in Regulation 14 is transmitted in accordance with these Regulations.
- (2) The master of a fishing boat shall ensure in particular that –
  - (a) the data are not altered in any way;
  - (b) antennae that are connected to the satellite-tracking device are not obstructed in any way;
  - (c) the power supply of the satellite-tracking device is not interrupted; and
  - (d) the satellite-tracking device is not removed from the boat.
- (3) No person shall destroy, damage, render inoperative or otherwise interfere with a satellite-tracking device on a fishing boat.

**18 Restriction on third country boats with defective device**

A fishing boat shall not leave port, following a technical failure or non-functioning of the satellite-tracking device on the boat, unless a fishery officer –

- (a) is satisfied that the satellite-tracking device is functioning; or
- (b) authorizes the boat to leave port.

## **PART 4**

### **OTHER PROVISIONS**

**19 Evidence**

In any proceedings in Jersey for a contravention of a provision of these Regulations, the following shall be admissible as evidence of the matters stated in them –

- (a) a logbook kept under any of Articles 6, 17.2 and 28c of Council Regulation 2847/93;
- (b) a declaration submitted under any of Articles 8.1, 11, 12, 17.2 and 28f of that Regulation;

- (c) an effort report completed under Articles 19b and 19c of that Regulation;
- (d) a document drawn up under Article 9 or 13 of that Regulation; and
- (e) any required information received by a Fisheries Monitoring Centre.

**20 Citation and commencement**

These Regulations may be cited as the Sea Fisheries (Satellite Monitoring) (Jersey) Regulations 200- and shall come into force 7 days after they are made.



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<sup>1</sup> *chapter 14.825*