

STATES OF JERSEY

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DRAFT ELECTRICITY LINK WITH FRANCE (PROTECTION OF SUBMARINE CABLE) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 25th September 2007
by the Minister for Economic Development**

STATES GREFFE



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REPORT

Background

These Regulations are required to give a degree of legal protection to the undersea cables that now supply almost all of Jersey's electricity. They prohibit fishing or anchoring in the vicinity of the cables. As part of the enforcement and advisory regime, the exclusion area remains marked clearly on all relevant charts.

The Regulations are triennial and therefore, if they are to be maintained, require being put before the States every 3 years. The existing Regulations expire on 13th December 2007.

Research and the possibility of permanent legislation

Prior to the coming into force of the existing Regulations, discussions took place with legal advisers and with personnel in the Channel Island Energy Group. Permanent legislation, involving an amendment to the Shipping (Jersey) Law 2002, could be brought in to replace the triennial process.

As now, such legislation would only be able to regulate shipping within territorial limits. However, partial protection is considered better than none. The view remains that the Island is now so very clearly dependent on the link with France that a higher level of protection than mere advisory notes is necessary.

With that in mind, bids for law drafting time to introduce permanent legislation were made in 2005 and again at the beginning of this year. However, because of the current pressure on law drafting time it was not possible to proceed down this route. It remains the intention to bid again in 2008 so that this process does not have to be repeated indefinitely.

Consultation with fishermen: Undersea cable links to Guernsey

The issue of extension of the protection to cover the Jersey-to-Guernsey link has been previously raised with the fishing community and the States Sea Fisheries Adviser. Discussion revealed strong opposition because of the effect prohibition could have on current fishing practices in the vicinity of the link.

Unfortunately, it is precisely the prevalence of fishing in the area of the Guernsey-Jersey link that makes cable damage and an increased safety risk a real possibility. This remains a concern of the Channel Island Energy Group and will continue to be monitored closely.

For the time being at least, the Island's strategic needs are met by protection of the French link alone.

Enforcement and policing

The policing policy has been to react to any infringement that may occur. Enforcement would be pursued through the courts if persuasive action and due warning were ineffective. To date there have been no prosecutions and the Regulations appear to have been effective as a deterrent.

Financial and manpower implications

The Regulations continue an established regime and no new resources are required.

Explanatory Note

These Regulations re-enact prohibitions on activities in parts of the territorial sea adjacent to Jersey, the purpose of which is to protect the electricity cable linking Jersey with France.

Regulation 1 contains definitions.

Regulation 2 prohibits dropping an anchor, dredging or trawling within a 2,000 metre corridor of the territorial sea adjacent to Jersey, along the centre of which the submarine electricity cable lies. Non-compliance is an offence.

Regulation 3 specifies that, in the event of non-compliance involving fishing using a fishing boat, both the master and the owner of the fishing boat are guilty of an offence. If the offence is committed by the master, and the owner is also charged, it is a defence for the owner to prove that he or she exercised due diligence to avoid the commission of the offence. If the offence involves fishing using a chartered fishing boat, this Regulation has effect as if references to the owner were references to the charterer.

Regulation 4 sets the penalty for the offence as 3 months' imprisonment and/or an unlimited fine.

Regulation 5 provides for the citation of the Regulations and for them to come into force on 14th December 2007, being upon the expiry of the Electricity Link with France (Protection of Submarine Cables) (Jersey) Regulations 2004. The Regulations shall remain in force for 3 years.



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Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of the Order in Council of the 14th April 1884^[1], have made the following Regulations –

1 Interpretation

In these Regulations –

“fishing boat” means any vessel of whatever size, and in whatever way propelled, being used, or intended for use, for or in connection with fishing for fish or shellfish;

“master”, in relation to a fishing boat, means the person who is, for the time being, in command or charge of that fishing boat.

2 Prohibited activities in certain parts of territorial sea

(1) For the purposes of protecting the submarine electricity cable linking Jersey with France, a person shall not –

- (a) drop anchor;
- (b) dredge; or
- (c) trawl,

in those parts of the territorial sea adjacent to Jersey that lie within 1,000 metres on each side of a line joining the following positions (where that line consists of a sequence of lines, each of which is the shortest possible line between adjacent positions) –

Position	Grid Co-ordinates		Geographical Co-ordinates	
	UTM Zone 30		WGS 1984	
	Easting	Northing	Latitude	Longitude
1	571252.2	5451531.6	49°12.746’N	2° 1.300’W
2	571502.2	5451270.5	49°12.603’N	2° 1.097’W
3	572000.9	5451013.7	49°12.461’N	2° 0.689’W
4	572449.4	5450931.4	49°12.413’N	2° 0.321’W
5	578466.9	5452374.4	49°13.148’N	1°55.348’W
6	583885.6	5454275.8	49°14.131’N	1°50.860’W
7	589962.6	5457002.2	49°15.550’N	1°45.816’W
8	592381.5	5459166.7	49°16.696’N	1°43.792’W
9	593078.9	5459354.4	49°16.791’N	1°43.214’W

10	593355.5	5459495.0	49°16.865'N	1°42.984'W
11	593555.1	5459543.8	49°16.889'N	1°42.818'W
12	593813.4	5459555.6	49°16.893'N	1°42.605'W
13	594265.0	5459675.2	49°16.953'N	1°42.231'W
14	594400.9	5459748.8	49°16.992'N	1°42.118'W
15	594720.4	5459910.8	49°17.076'N	1°41.852'W
16	595108.2	5460047.5	49°17.146'N	1°41.530'W
17	595138.2	5460087.8	49°17.168'N	1°41.505'W
18	594922.9	5460497.7	49°17.391'N	1°41.677'W
19	594898.6	5460541.9	49°17.415'N	1°41.696'W
20	594889.7	5460644.7	49°17.471'N	1°41.702'W
21	594803.1	5460879.4	49°17.598'N	1°41.770'W

- (2) Without prejudice to Regulation 3, any person contravening this Regulation shall be guilty of an offence.

3 Liability of master and owner of fishing boat

- (1) If a fishing boat is used for fishing in a manner that contravenes Regulation 2, the master and the owner of that fishing boat shall each be guilty of an offence.
- (2) Where proceedings are taken against the owner of a fishing boat in respect of an offence committed by the master, it shall be a good defence for the owner to prove that he or she exercised all due diligence to prevent the commission of that offence.
- (3) Paragraphs (1) and (2) shall, in relation to a fishing boat that at the material time is under charter have effect as if any reference in those paragraphs to the owner of the fishing boat were a reference to the charterer.

4 Penalties for offence

Any person guilty of an offence under these Regulations shall be liable to imprisonment for a term of 3 months and a fine.

5 Citation, commencement and duration

- (1) These Regulations may be cited as the Electricity Link with France (Protection of Submarine Cable) (Jersey) Regulations 2007.
- (2) These Regulations shall come into force on 14th December 2007 and shall remain in force for 3 years from that date.

