

# STATES OF JERSEY



## **DRAFT SEA FISHERIES (VESSEL MONITORING SYSTEMS) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 20th May 2014  
by the Minister for Economic Development**

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**STATES GREFFE**





Jersey

## **DRAFT SEA FISHERIES (VESSEL MONITORING SYSTEMS) (JERSEY) REGULATIONS 201-**

### **REPORT**

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Under the terms of the Jersey/UK Fisheries Management Agreement (FMA) signed in 1996, the Island agreed to implement fisheries regulations consistent with those of the European Union (EU) in respect of managing fishing activity in the territorial sea.

In 2009, the EU revised its fisheries regulations known as the “control” regulations; and these draft Regulations, along with the Draft Sea Fisheries (Log Books, Transhipment and Landing Declarations) (Jersey) Regulations 201- (*see* P.84/2014) replace existing local legislation to reflect the most recent EU measures. These new control measures already apply throughout European waters and in waters around Guernsey, and any of our vessels fishing in such waters already need to be compliant.

In addition to the benefit of the Island adhering to the FMA, the new requirements allow Fishery Officers to enforce the requirement that all vessels operating in the territorial sea are fitted with monitoring equipment. Exemptions have been made for vessels between 12 and 15 metres in length that only fish in the territorial sea, to minimise the impact on any purely local vessels.

#### **Financial and manpower implications**

There will be no financial or manpower resource implications arising from the adoption of these draft Regulations, as enforcement will be conducted within existing enforcement patrols.

## Explanatory Note

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These Regulations repeal and replace the Sea Fisheries (Satellite Monitoring) (Jersey) Regulations 2009 to give effect to provisions in –

- (a) Council Regulation (EC) No. 1224/2009 of 20th November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ L 343, 22.12.2009, p.1) (“Control Regulation”); and
- (b) Commission Implementing Regulation (EU) No. 404/2011 of 8th April 2011 laying down detailed rules for the implementation of the Control Regulation. Council Regulation (EC) No. 1224/2009 (OJ L 112, 30.04.2011, p1).

*Regulation 1* defines terms used in these Regulations.

*Regulation 2* provides that these Regulations apply to any fishing boat that is within Jersey’s territorial waters and is 12 metres or more in overall length.

*Regulation 3* sets out various exceptions in respect of fishing boats to which these Regulations do not apply.

### **Part 2 – British and Community fishing boats**

*Regulation 4* provides that Part 2 of these Regulations applies to British fishing boats and Community fishing boats. A British fishing boat is defined in the Sea Fisheries (Jersey) Law 1994 to mean a fishing boat that is registered in the British Islands, that is, anywhere in the United Kingdom, Channel Islands or the Isle of Man. A Community fishing boat is defined in Regulation 1 of these Regulations to mean a fishing boat registered in a member State of the European Community other than the United Kingdom.

*Regulation 5* requires all fishing boats to which Part 2 applies to be equipped with a satellite-tracking device.

*Regulation 6* requires that a satellite-tracking device automatically transmits to the fisheries monitoring centre of the boat’s flag state data that identifies the boat, its position and the date and time of that position (defined in Regulation 1 as “the required information”). A “fisheries monitoring centre” is defined in Regulation 1 of these Regulations to have the same meaning as in Article 4(15) of the Control Regulation, that is, an operational centre established by a flag Member State and equipped with computer hardware and software enabling automatic data reception, processing and electronic data transmission. It also includes any equivalent of such a centre acting in or for the Isle of Man or the Channel Islands and any equivalent centre acting in a country or territory in which a third country fishing boat is registered.

*Regulation 7* sets out the how frequently the required information must be transmitted to the fisheries monitoring centre, depending on the centre’s requirements, this will generally be at least every 1 or 2 hours.

*Regulation 8* provides that when a fishing boat is in port the satellite-tracking device must not be switched off before the fisheries monitoring centre has been notified that the device is being switched off and, if different, the fisheries monitoring centre of the

United Kingdom must also be notified. After switching off the device, the fishing boat must not change its position before it makes its next report. Instead of prior notification that the device is to be switched off, the competent authorities may allow an automatic message or alarm generated by a satellite-tracking system.

*Regulation 9* requires a master of a fishing boat to ensure that a satellite-tracking device is kept in good order and that data is transmitted in accordance with the Regulations.

*Regulation 10* makes provision for what happens when there is a technical failure or non-functioning of a satellite-tracking device. The Regulation requires communication of the fishing boat's position to be made every 4 hours by e-mail, fax, telephone or radio to the fisheries monitoring centre of the boat's flag state. In such circumstances, a fishing boat must not leave port unless authorized to do so by a competent authority of the boat's flag state. This Regulation also allows a competent authority of the boat's flag state to authorize the removal or the taking of other action in relation to a satellite-tracking device for the purpose of its repair or replacement or to investigate any technical failure or non-functioning.

*Regulation 11* requires any fishing boat that is more than 15 metres long to be fitted with an automatic identification system which meets performance standards by the International Maritime Organisation. Such a system relies on radio frequencies to transmit data rather than on satellite communication.

### **Part 3 – third country fishing boats**

*Regulation 12* provides that Part 3 applies to third country fishing boats. A “third country fishing boat” is defined in Regulation 1 to mean (a) a fishing vessel registered in any country or territory other than a Community fishing boat or a British fishing boat and (b) an auxiliary fishing vessel within the meaning of Article 9(6) of the Control Regulation. Article 9(6) of that Regulation refers to auxiliary fishing vessels engaged in activities ancillary to fishing activities.

*Regulations 13 to 17* set out provisions relating to the requirement that a third country fishing boat must be equipped with a satellite-tracking device, such provisions being equivalent to those that apply to Community and British fishing boats.

### **Part 4 – other provisions**

*Regulation 18* allows data collected from a satellite-tracking device or an automatic identification system to be disclosed to any competent authority for the purposes of maritime safety and security, border control, protection of the marine environment and general law enforcement.

*Regulation 19* makes provision for documents that are required to be kept under the Control Regulation or equivalent Jersey legislation to be admissible as evidence.

*Regulation 20* sets out the title of these Regulations and provides that they will come into force 7 days after being made.





Jersey

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### Arrangement

#### Regulation

1	Interpretation .....	9
2	Fishing boats to which these Regulations apply .....	10
3	Exceptions .....	11

#### **PART 2** **11**

##### BRITISH AND COMMUNITY FISHING BOATS 11

4	Fishing boats to which Part 2 applies .....	11
5	Satellite-tracking devices to be installed .....	11
6	Information to be transmitted .....	12
7	Frequency of transmissions .....	12
8	Requirements when switching off in port .....	12
9	Devices to be kept in good order .....	13
10	Technical failure or non-functioning of satellite tracking device .....	13
11	Automatic identification system to be installed .....	14

#### **PART 3** **14**

##### FISHING BOATS OF THIRD COUNTRIES 14

12	Fishing boats to which Part 3 applies .....	14
13	Satellite-tracking devices on third country fishing boats .....	14
14	Information to be transmitted by third country fishing boats .....	15
15	Frequency of transmissions by third country fishing boats .....	15
16	Devices on third country boats to be kept in good order .....	15
17	Technical failure or non-functioning of satellite-tracking device .....	15

#### **PART 4** **16**

##### OTHER PROVISIONS 16

18	Disclosure of information .....	16
19	Evidence .....	17
20	Sea Fisheries (Satellite Monitoring) (Jersey) Regulations 2009 repealed .....	17

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21 Citation..... 17



Jersey

## **DRAFT SEA FISHERIES (VESSEL MONITORING SYSTEMS) (JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 2, 8 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 –

### **1 Interpretation**

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

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

“competent authority” includes, without prejudice to the generality of that term in Regulation 18 –

(a) an authority responsible for issuing fishing licences and fishing authorizations –

(i) in a member State of the European Community, the name and address of such authority being published on a website in accordance with Article 115(a) of the Control Regulation, or

(ii) in the Channel Islands or the Isle of Man;

(b) a fisheries monitoring centre;

(c) a fishery officer;

“Control Regulation” means Council Regulation (EC) No. 1224/2009 of 20th November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ No. L 343 22.12.2009, p.1) as amended and in force on the date that these Regulations are made;

“fisheries monitoring centre” has the same meaning as in Article 4(15) of the Control Regulation and includes any equivalent centre acting in or for the Isle of Man or any part of the Channel Islands and, where relevant,

any equivalent centre acting in a country or territory in which a third country fishing boat is registered;

“required information” means the data that must be transmitted in accordance with Regulation 6 or 14, as the case may be;

“satellite-tracking device” means a device that sends the required information by way of satellite and land earth station to a fisheries monitoring centre;

“SOLAS Convention” means the International Convention for the Safety of Life at Sea, 1974, as amended in accordance with –

- (a) its Protocol of 1988; and
- (b) all other amendments adopted by the Maritime Safety Committee of the IMO that are in force before the date that these Regulations are made;

“third country fishing boat” means –

- (a) a fishing vessel other than a Community fishing boat or a British fishing boat registered in any country or territory; or
- (b) an auxiliary fishing vessel within the meaning of Article 9(6) of the Control Regulation.

(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 or declaration in electronic format or a document or required information in a form or format described in paragraph (3).

(3) Paragraph (2)(b) 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.

## **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 12 metres or more 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 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.
- (3) These Regulations do not apply to a fishing boat that is less than 15 metres in overall length and –
- (a) is a Jersey fishing boat that operates exclusively in the territorial sea of Jersey;
  - (b) is a British fishing boat that is exempt by its flag state from a requirement to be fitted with a vessel monitoring system on the ground that it operates exclusively within the territorial seas of its flag state; or
  - (c) is a British or Community boat that is exempt from its flag state from the requirement to be fitted with a vessel monitoring system on the ground that it never spends more than 24 hours at sea from the time of its departure to its return to port.

## **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) Except as otherwise provided in Regulation 10(5), 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.

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**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 8(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 acting in accordance with Regulation 10.

**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 of the boat's flag state –

- (a) if the fisheries monitoring 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 fisheries monitoring centre cannot poll the boat's actual position, at least once every hour; or
- (c) if paragraph (a) does not apply and the fisheries monitoring centre can poll the boat's actual position, at least once every 2 hours.

**8 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 that the device is to be switched off; and
  - (b) if the United Kingdom is not the boat's 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 –
  - (a) shall not change its position before the boat makes its next report; and
  - (b) must demonstrate by that next report that the boat is in the same position as when it made its last report.

- (3) Paragraph (1) does not apply if a competent authority of the boat's flag state allows instead an automatic message transmitted by a satellite-tracking device, or an alarm generated by such a device, to indicate that the fishing boat is within such area of port as has previously been notified by the competent authority.

## **9 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 required information 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 8.
- (4) Except in accordance with an authorization under Regulation 10(6), no person shall destroy, damage, render inoperative or otherwise interfere with a satellite-tracking device on a fishing boat.

## **10 Technical failure or non-functioning of satellite tracking device**

- (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 the fisheries monitoring centre of the boat's flag state.
- (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 fisheries monitoring centre has not received data transmissions in accordance with Regulation 7 or this Regulation for 12 hours,whichever occurs sooner.

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- (4) The communication shall be by email, facsimile, telephone message or radio.
  - (5) A fishing boat shall not leave port, following a technical failure or non-functioning of the satellite-tracking device on the boat, unless a competent authority of the boat's flag state –
    - (a) is satisfied that the satellite-tracking device is functioning; or
    - (b) authorizes the boat to leave port for the repair or replacement of the satellite-tracking device.
  - (6) Nothing in this Part prevents the removal of a satellite-tracking device or the taking of any other action in relation to a satellite tracking device if so authorized by a competent authority of the boat's flag state for the purpose of its repair or replacement in the event of technical failure or non-functioning or for the purpose of investigating any technical failure or non functioning or whether the device has been tampered with.

#### **11 Automatic identification system to be installed**

- (1) A fishing boat that is more than 15 metres in overall length shall be fitted with, and maintain in operation at all times, an automatic identification system which meets the performance standards of the International Maritime Organisation under chapter V, Regulation 19, section 2.4.5 of the SOLAS Convention.
- (2) In exceptional circumstances the automatic identification system may be switched off if the master of the fishing boat considers it necessary to do so in the interest of the safety or security of the fishing boat.

### **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 installed on board an operational satellite-tracking device.
- (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.

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

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.

**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.

**16 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 required information 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.

**17 Technical failure or non-functioning of satellite-tracking device**

- (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 the fisheries monitoring centre of the boat's flag state.

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- (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 fishing 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 fisheries monitoring centre has not received data transmissions in accordance with Regulation 15 or this Regulation for 12 hours,
- whichever occurs sooner.
- (4) The communication shall be by email, facsimile, telephone message or radio.
- (5) A fishing boat shall not leave port, following a technical failure or non-functioning of the satellite-tracking device on the boat, unless a competent authority of the fishing boat's flag state –
- (a) is satisfied that the satellite-tracking device is functioning; or
  - (b) authorizes the fishing boat to leave port for the repair or replacement of the satellite-tracking device.
- (6) Nothing in this Part prevents the removal of a satellite-tracking device or the taking of any other action in relation to a satellite tracking device if so authorized by a competent authority of the flag state for the purpose of its repair or replacement in the event of technical failure or non-functioning or for the purpose of investigating any technical failure or non-functioning or whether the device has been tampered with.

## PART 4

### OTHER PROVISIONS

#### 18 Disclosure of information

Data collected under these Regulations from a satellite-tracking device or an automatic identification system may be disclosed to any competent authority in a member State or in the British Islands engaged in surveillance operations, for any of the following purposes –

- (a) maritime safety and security;
- (b) border control;
- (c) protection of the marine environment; and
- (d) general law enforcement.

**19 Evidence**

- (1) 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 without being produced or sworn to by any witness and shall be sufficient evidence of the matters stated in them or appearing from them –
  - (a) a logbook kept under the Log Books Regulations or under Article 14 of the Control Regulation;
  - (b) a declaration or notification required under the Log Books Declarations or under Article 17, 21 or 23 of the Control Declaration;
  - (c) a fishing effort report communicated under Article 28 of the Control Regulation; and
  - (d) any required information received by a fisheries monitoring centre.
- (2) In this Regulation, “Log Books Regulations” means the Sea Fisheries (Log Books, Transhipment and Landing Declarations) (Jersey) Regulations 201-<sup>2</sup>.

**20 Sea Fisheries (Satellite Monitoring) (Jersey) Regulations 2009 repealed**

The Sea Fisheries (Satellite Monitoring) (Jersey) Regulations 2009<sup>3</sup> shall be repealed.

**21 Citation**

These Regulations may be cited as the Sea Fisheries (Vessel Monitoring Systems) (Jersey) Regulations 201- and come into force 7 days after they are made.

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- <sup>1</sup> *chapter 14.825*  
<sup>2</sup> *P.84/2014*  
<sup>3</sup> *R&O.64/2009 (chapter 14.825.86)*