

STATES OF JERSEY



Jersey

DRAFT SEA FISHERIES (TCA – LICENSING OF FISHING BOATS) (AMENDMENT OF LAW AND REGULATIONS) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 19th April 2021
by the Minister for the Environment
Earliest date for debate: 8th June 2021**

STATES GREFFE

REPORT

Background

The States of Jersey considered the UK-EU Trade and Cooperation Agreement – Inclusion of the Bailiwick of Jersey ([P.170/2020](#)) on the 27 December 2020. The proposition was adopted by the Assembly.

The terms of the UK-EU Trade and Cooperation Agreement (TCA) make significant changes to the access regime to Jersey Waters for fishing opportunities. In order to fulfil these obligations, amendments are required to the [Sea Fisheries \(Jersey\) Law 1994](#) and [Sea Fisheries \(Licensing of Fishing Boats\) \(Jersey\) Regulations 2003](#).

These amendments reflect the new requirements under the TCA and reflect the fact that the Agreement between the Government of the United Kingdom and Northern Ireland and the Government of the French Republic concerning Fishing in the Bay of Granville (GBA) has been superseded by the TCA.

Details

Jersey has a comprehensive and well-established system for the monitoring and enforcement of fishing activity in Jersey Territorial Waters under the legal framework of the 1994 Law and other subordinate regulations. This includes the licensing of fishing boats which focused on establishing the vires for the implementation of the GBA.

In order to comply with obligations under the TCA, it is necessary to amend both the Sea Fisheries (Jersey) Law 1994 and the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003 to implement that Agreement.

The Regulations, which are made under the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#), deal with amendments to the Sea Fisheries (Jersey) Law 1994 in Part 1 and the amendments to the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003 in Part 2.

Financial and manpower implications

These obligations, together with the ongoing requirements of the TCA, require resourcing. A business case has been submitted.

EXPLANATORY NOTE

These Regulations, if passed, would amend the Sea Fisheries (Jersey) Law 1994 and the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003 to make the changes necessary to implement the Trade and Cooperation Agreement (“the TCA”) between the United Kingdom and the European Union as it applies to Jersey.

Part 1 amends the Sea Fisheries (Jersey) Law 1994 (“the Law”). *Regulation 1* introduces the amendments.

Regulation 2 amends Article 1 of the Law to insert definitions of “qualifying vessel”, which is defined by reference to the relevant Articles of the TCA, and the “TCA”.

Regulation 3 amends Article 7 which provides a power to the Minister for the Environment (“the Minister”) to restrict sea fishing. The amendments add a reference to the TCA and provide that a licence may only be granted if a vessel is a qualifying vessel or a vessel that replaces a qualifying vessel (“a substitute vessel”). Such a vessel must not exceed any of certain specified characteristics. The States may by Regulations amend the characteristics referred to and the way they are measured or determined.

Regulation 4 amends Article 9, which makes provision to restrict fishing by foreign boats, to correct an error in the text.

Regulation 5 amends Article 10 to change a reference to “extended territorial sea” which is no longer relevant to a reference to the territorial sea.

Regulation 6 amends Article 12 which provides powers in relation to the grant of permits and licences. The amendments make it clear that when the Minister makes provision by Order about the principles on which the time a vessel spends at sea is arrived at, the Minister may include that it is by reference to methods specified in the TCA. The amendments also clarify that the Minister may require information to be provided in such manner as the Minister may require.

The amendments also make it clear that a Minister may only issue a licence to a fishing boat that is not registered in Jersey if the boat is a qualifying vessel and has a national licence.

There are also amendments to allow for a licence to specify the type and quantity of gear that may be used and to allow the Minister to retain and make public a record of all licence granted and the details of any conditions.

Regulation 7 amends Article 18 to amend the penalty for the offence of obstructing a fishery officer. A person who commits an offence under Article 18 is now liable to a term of imprisonment for 2 years or to an unlimited fine, or both.

Regulation 8 inserts a new Article 20A which makes further provisions where a fine has been imposed. These allow the Viscount to inform the Minister of unpaid fines and the Minister to suspend a licence until the fine is paid.

Regulation 9 amends Article 23 to amend the penalty for the offence of making a false statement. A person who commits an offence under Article 23 is now liable to a term of imprisonment for 2 years or to an unlimited fine, or both.

Regulation 10 amends Article 26, which deals with Regulations about licenses and permits, to clarify that the Minister can require an address, including an email address, is provided for the service of documents and notices.

Regulation 11 adds to the list of matters which can be prescribed by Order or Regulations to add the form a licence or permit takes and that fishing boats have on board and make use of prescribed equipment capable of relaying location.

Part 2 amends the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003 (“the Licensing Regulations”) to make provision for the arrangements under the TCA that replace those in the Granville Bay Agreement.

Regulation 12 introduces the amendments.

Regulation 13 amends Regulation 1 of the Licensing Regulations. The amendment removes definitions that are no longer needed, in particular the definition of “access permit”, and adds definitions of “EU fishing boat”, “former Agreement” and “whelk box”.

Regulation 14 amends Regulation 2 of the Licensing Regulations. The amendments result in all fishing boats needing a licence to fish in the territorial waters and make provision for fishing with beam trawls only where authorised by a fishing permit. A fishing boat licence may only be issued to a boat registered in the European Union if that boat is a qualifying vessel and has a valid national licence or authorisation.

Regulation 15 amends Regulation 3 of the Licensing Regulations to make provision for the Minister to licence Jersey fishing boats to fish outside the territorial waters of Jersey and Guernsey and the EEZ of the United Kingdom (as defined in the TCA). A licence may only be given in respect of a boat which is a qualifying vessel (as defined in the Law) and only to the extent the vessel fished outside the territorial waters between 1st February 2017 and 31st January 2020. There are also amendments to remove references to “access permits”.

Regulation 16 amends Regulation 3A of the Licensing Regulations to remove a reference to a fishing permit granted by the French Republic.

Regulation 17 substitutes a new Regulation 4 for Regulations 4 and 4A of the Licensing Regulations. This provision requires any fishing boat to carry its licence and, where relevant, its national permit.

Regulation 18 amends Regulation 6 of the Licensing Regulations to remove references to access permits.

Regulation 19 amends Regulation 7 of the Licensing Regulations, which makes provision for fees. The amendments remove references to access permits and allow the Minister to prescribe periodical payments of fees for licences and permits.

Regulation 20 amends Regulation 8 of the Licensing Regulations to specify the information relating to address and email address that must be provided to the Minister. Failure to notify the Minister within the period ending 7 days after the date the address changes or ceases to be used, the owner or charterer commits an offence and is liable to fine of level 3 on the standard scale (£10,000).

Regulation 21 amends Regulation 9 of the Licensing Regulations to allow for a licence or permit to be delivered by email. It also removes references to access permits.

Regulation 22 amends Regulation 9A of the Licensing Regulations to remove references to the Area (i.e. specified in the Granville Bay Agreement) and to reflect changes to the numbering of Regulation 2.

Regulation 23 amends Regulation 10 of the Licensing Regulations to remove references to access permits and to make provision for when a notice served by email takes effect.

Regulation 24 amends Regulation 11 of the Licensing Regulations and *Regulation 25* amends Regulation 12 to remove references to access permits.

Regulation 26 amends Regulation 12A of the Licensing Regulations to allow a fishing boat licence issued on or after 1st May 2021 to be issued or renewed for a period of up to 3 years and to provide that a fishing boat licence issued in respect of a foreign fishing

boat does not have effect during any period when the national licence for the boat has been terminated, revoked or suspended.

Regulation 27 amends Regulation 13 of the Licensing Regulations to remove references to access permits.

Regulation 28 deletes Regulation 14 which is no longer required.

Part 3 and *Regulation 29* contain the commencement and citation provisions. They provide the title of the Regulations and provide that they come into force 7 days after they are made.



Jersey

DRAFT SEA FISHERIES (TCA – LICENSING OF FISHING BOATS) (AMENDMENT OF LAW AND REGULATIONS) (JERSEY) REGULATIONS 202-

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Jersey

DRAFT SEA FISHERIES (TCA – LICENSING OF FISHING BOATS) (AMENDMENT OF LAW AND REGULATIONS) (JERSEY) REGULATIONS 202-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES make these Regulations under Articles 2, 7, 12, 13 and 29 of the Sea Fisheries (Jersey) Law 1994¹ and Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014² –

PART 1

AMENDMENT OF SEA FISHERIES (JERSEY) LAW 1994

1 Amendment of Sea Fisheries (Jersey) Law 1994

This Part amends the Sea Fisheries (Jersey) Law 1994³.

2 Article 1 (interpretation) amended

In Article 1 –

- (a) after the definition “police officer” there is inserted –
“ “qualifying vessel” is construed in accordance with Article FISH.10 of the TCA and includes a vessel that is a substitute vessel under Article 7(2)(j) of this Law;”;
- (b) after the definition “shellfish” there is inserted –
“ “TCA” means the trade and cooperation agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in Brussels and London on 30th December 2020;”.

3 Article 7 (power to restrict sea fishing) amended

In Article 7 –

- (a) in paragraph (1) after “giving effect to” there is inserted “the TCA or”;

- (b) in paragraph (2) after sub-paragraph (i) there is inserted –
- “(j) provide that a person or authority who may grant a licence under this Law or the Regulations must do so only if –
 - (i) the vessel is a qualifying vessel as construed in accordance with Article FISH.10 of the TCA, or
 - (ii) a vessel that replaces a qualifying vessel (“a substitute vessel”) or replaces another substitute vessel and which uses the same method and gear as the vessel it replaces and does not exceed any of following characteristics of the vessel it replaces, as measured in accordance with Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining the characteristics for fishing vessels (OJ L 169, 30.6.2017, p.1) –
 - (A) engine power,
 - (B) length overall,
 - (C) breadth,
 - (D) gross tonnage.”;
- (c) after paragraph (2) there is inserted –
- “(2A) The States may by Regulations amend the characteristics referred to in paragraph (2)(j)(ii) and the method by which they are measured or determined.”.

4 Article 9 (restriction on fishing by foreign fishing boats) amended

In Article 9(3) after “shall each” there is inserted “commit an offence and”.

5 Article 10 (European Union provisions) amended

In Article 10(1)(a) for “extended territorial sea” there is substituted “territorial sea”.

6 Article 12 (licences and permits) amended

In Article 12 –

- (a) in paragraph (1) – and (b) for “in any specified area of the territorial sea” there is substituted “in the territorial sea or any specified area of the territorial sea”;
 - (i) in sub-paragraph (a) for “in any specified area of the territorial sea” there is substituted “in the territorial sea or any specified area of the territorial sea”,
 - (ii) in sub-paragraph (b) for “in any specified area outside the territorial sea” there is substituted “outside the territorial sea or any specified area outside the territorial sea”,
- (b) in paragraph (2) for “in the specified area” there is substituted “or in a specified area”;
- (c) in paragraph (6) after sub-paragraph (d) there is inserted –

- “(e) using a specified description or quantity of gear, or both.”;
- (d) in paragraph (10) after “of paragraph (7)(c)” there is inserted “, including by reference to any method specified in the TCA”;
- (e) in paragraph (11) after “in such form” there is inserted “and in such manner”;
- (f) after paragraph (12) there is inserted –
 - “(12A) The Minister may issue a licence only in respect of a fishing boat that is not a Jersey fishing boat if it is –
 - (a) a qualifying vessel; and
 - (b) has a national licence and any other authorisations required by regional, national or international law.
 - (12B) If the Minister considers it appropriate, the Minister may make public a record of all licences and replacement licences issued to all fishing boats and the details of the conditions of each licence.”.

7 Article 18 (obstruction of officers) amended

In Article 18 for “shall be liable to a maximum fine of £50,000 in respect of the first conviction of the person for an offence against this Article or £100,000 in respect of a second or subsequent conviction of the person for an offence against this Article” there is substituted “is liable to imprisonment for a term of 2 years and to a fine”.

8 Article 20A (further provisions relating to fines) inserted

After Article 20 (recovery of fines) there is inserted –

“20A Further provisions relating to fines

Where a fine is imposed on the master, owner or charterer or a member of the crew of a fishing boat –

- (a) the Viscount may inform the Minister of the person on whom the fine was imposed and the amount of any fine that has not been paid or levied; and
- (b) the Minister may suspend the operation of a licence until the fine is paid or the amount of the fine is levied, whichever occurs first, and where a licence has been suspended the Minister may not issue another licence in substitution of the suspended licence.”.

9 Article 23 (false statements) amended

In Article 23(2) for “12 months and to a fine of level 3 on the standard scale” there is substituted “2 years and to a fine”.

10 Article 26 (Regulations about licences and permits) amended

In Article 26 after sub-paragraph (d) there is inserted –

“(da) the address (including an email address) for service of documents and notices;”.

11 Article 29 (Regulations and Orders) amended

In Article 29(3) after sub-paragraph (c) there is inserted –

- “(ca) prescribe the form of a licence or permit;
- (cb) require that fishing boats have on board and make use of prescribed equipment capable of relaying the boat’s location or position in real time to a prescribed monitoring facility;”.

PART 2

AMENDMENT OF THE SEA FISHERIES (LICENSING OF FISHING BOATS) (JERSEY) REGULATIONS 2003

12 Amendment of the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003

This Part amends the Sea Fisheries (Licensing of Fishing Boats) (Jersey) Regulations 2003⁴.

13 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) the definitions “access permit” and “Agreement” are deleted;
- (b) in the definition “Area” for “Agreement” there is substituted “former Agreement”;
- (c) after the definition “electronic means” there is inserted –
 - ““EU fishing boat” means a fishing boat that is registered in a member State of the European Union;”;
- (d) in the definition “exchange of notes” for “Agreement” there is substituted “former Agreement”;
- (e) in the definitions “fishing boat licence” and “fishing permit” for “granted as referred to in Regulation 2” there is substituted “issued by the Minister under these Regulations”;
- (f) after the definition “fishing permit” there is inserted –
 - ““former Agreement” means the agreement, concerning fishing in the Bay of Granville, together with the associated exchanges of notes, made between the Government of the United Kingdom and Northern Ireland and the French Republic signed on 4 July 2000, which came into force on 1 January 2004 and which was terminated on 31 January 2021 by Article FISH.19.2 of the TCA;”;
- (g) after the definition “territorial sea” there is inserted –

““whelk box” means the geographical are described in paragraph 9 of the exchange of notes, also known as and referred to as Zone D1;”.

14 Regulation 2 (fishing in the territorial sea of Jersey: licences, permits and lists) substituted

For Regulation 2 there is substituted –

“2 Fishing in the territorial sea: licences and permits

- (1) Fishing in the territorial sea by any fishing boat is prohibited unless authorised by a fishing boat licence issued by the Minister.
- (2) Fishing with beam trawls in the territorial sea by any fishing boat is prohibited unless authorised by a fishing permit that has been issued by the Minister.
- (3) A fishing boat licence may be issued to an EU fishing boat only if that boat –
 - (a) is a qualifying vessel; and
 - (b) has a valid national licence or any authorisation required by regional, national or international law.
- (4) For the purposes of this Regulation, no action is authorised by a fishing boat licence or a fishing permit unless it is done in accordance with the conditions of that fishing boat licence or fishing permit.”.

15 Regulation 3 (fishing by Jersey boats in adjacent waters: licences and permits) substituted

For Regulation 3 there is substituted –

“3 Fishing by Jersey boats outside the territorial sea: licences and permits

- (1) Unless authorised by a fishing boat licence issued by the Minister, fishing by a Jersey fishing boat is prohibited outside –
 - (a) the territorial sea;
 - (b) the territorial sea of Guernsey; and
 - (c) the EEZ of the United Kingdom, as defined in Article FISH.3 of the TCA.
- (2) A fishing boat licence authorising fishing in the territorial waters of member State of the European Union may –
 - (a) only be issued in respect of a boat which is a qualifying vessel; and
 - (b) only authorise fishing in those waters to the extent demonstrated by the vessel’s fishing activity under Article FISH.10 of the TCA.

- (3) For the purposes of this Regulation, no action is authorised by a fishing boat licence or a fishing permit unless it is done in accordance with the conditions of that fishing boat licence or fishing permit.”.

16 Regulation 3A (fishing in the Frouquier Aubert protected area) amended

In Regulation 3A –

- (a) sub-paragraph (2)(d) is deleted;
- (b) for paragraph (3) there is substituted –

“(3) For the purposes of this Regulation, no action is authorised by a fishing permit unless it is done in accordance with the conditions of that fishing permit.”.

17 Regulations 4 (requirement to carry access permit) and 4A (requirement to carry fishing permit) substituted

For Regulations 4 and 4A there is substituted –

“4 Requirement to carry fishing boat licence or fishing permit

- (1) A fishing boat fishing in the territorial sea must carry –
 - (a) the fishing boat licence issued in respect of it; and
 - (b) in the case of an EU fishing boat, its national licence and any authorisations required by regional, national or international law.
- (2) A Jersey fishing boat fishing outside the territorial sea must carry the fishing boat licence issued in respect of it.”.

18 Regulation 6 (classes of licenses and permits) amended

In Regulation 6(1) “, access permit” is deleted in both place it occurs.

19 Regulation 7 (fees for license and permits) amended

In Regulation 7 –

- (a) in paragraph (1)(b) for “an access permit or fishing permit (or of both permits)” there is substituted “a fishing permit”;
- (b) in paragraph (2) after “to which paragraph (1) refers” there is inserted “and the period of the duration of a fishing boat licence or fishing permit for which the fee is payable”;
- (c) in paragraphs (3) and (4) “, access permit” is deleted.

20 Regulation 8 (address for service on owner or charterer) amended

In Regulation 8 –

- (a) for paragraphs (1) and (1A) there is substituted –
 - “(1) An owner or a charterer of a fishing boat who applies to the Minister for a fishing boat licence must, subject to paragraph (1B), provide the Minister with –
 - (a) if the fishing boat is a Jersey fishing boat, an address for service in Jersey;
 - (b) if the fishing boat is not a Jersey fishing boat, an address for service in Jersey or in the country or place where that fishing boat is registered; and
 - (c) a valid email address.”;
 - (b) in paragraph (1B) –
 - (i) for “paragraph (1) or (1A)” there is substituted “paragraph (1)”,
 - (ii) in sub-paragraph (b) “or, as the case may be, (1A)” is deleted;
 - (c) after paragraph (3) there is inserted –
- “(4) Where the address (including an email address) provided under paragraph (1) changes or ceases to be used and the owner or charterer does not notify the Minister within the period ending 7 days after the date the address changes or ceases to be used, the owner or charterer commits an offence and is liable to fine of level 3 on the standard scale.”.

21 Regulation 9 (grant of licence or permit) amended

In Regulation 9 –

- (a) for “licence, an access permit” there is substituted “fishing boat licence”,
- (b) in sub-paragraph (c) after “or registered office,” there inserted “or to the email address provided under Regulation 8(1),”.

22 Regulation 9A (limit on grant of fishing permit) amended

In Regulation 9A –

- (a) in sub-paragraph (a) for “Regulations 2(6A)” there is substituted “Regulations 2(2)”;
- (b) in sub-paragraph (b) –
 - (i) for “in the Area” there is substituted “in the territorial sea”,
 - (ii) for “Regulations 2(6A)” there is substituted “Regulations 2(2)”.

23 Regulation 10 (variation, suspension or revocation) amended

In Regulation 10 –

- (a) in paragraph (1) –
 - (i) for “licence, an access permit” there is substituted “fishing boat licence”,

- (ii) for “licence, access permit” there is substituted “fishing boat licence”,
- (iii) in sub-paragraph (c) after “or registered office,” there inserted “or to the email address provided under Regulation 8(1),”;
- (b) in paragraph (2) for “licence, an access permit” there is substituted “fishing boat licence”;
- (c) in paragraph (6)(b), clauses (i) and (iii) are deleted.

24 Regulation 11 (delivery or notification by several modes) amended

In Regulation 11 –

- (a) in sub-paragraphs (a) and (b) “, an access permit” is deleted;
- (b) “, access permit” is deleted in both places.

25 Regulation 12 (deferred effect) amended

In Regulation 12 –

- (a) in sub-paragraphs (a) and (b) “, an access permit” is deleted;
- (b) “, access permit” is deleted in each place.

26 Regulation 12A (period for which licence in force) amended

In Regulation 12A after paragraph (5) there is inserted –

- “(6) A fishing boat licence issued on or after 1st May 2021 may be issued or renewed for a period of up to 3 years.
- (7) A fishing boat licence issued in respect of a foreign fishing boat ceases to have effect during any period when the national licence in respect of that boat has been terminated, revoked or suspended.”.

27 Regulation 13 (effect of lodging appeal) amended

In Regulation 13 –

- (a) in paragraphs (1), (2) and (3) “, an access permit” is deleted;
- (b) in paragraphs (1), (2) and (3)(c) and (d) “, access permit” is deleted.

28 Regulation 14 (maximum penalties) deleted

Regulation 14 is deleted.

PART 3

CITATION AND COMMENCEMENT

29 Citation and commencement

These Regulations may be cited as the Sea Fisheries (TCA – Licensing of Fishing Boats) (Amendment of Law and Regulations) (Jersey) Regulations 202- and come into force 7 days after they are made.

ENDNOTES

Table of Endnote References

1	<i>chapter 14.825</i>
2	<i>chapter 17.245</i>
3	<i>chapter 14.825</i>
4	<i>chapter 14.825.56</i>