

# STATES OF JERSEY



## **DRAFT SEA FISHERIES AND AQUATIC RESOURCES (PORTELET BAY) (JERSEY) REGULATIONS 202- (P.29/2022): COMMENTS**

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**Presented to the States on 20th April 2022  
by the Environment, Housing and Infrastructure Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

### Background

The Draft Sea Fisheries and Aquatic Resources (Portelet Bay) (Jersey) Regulations 202-[\[P.29/2022\]](#) (hereafter referred to as the ‘draft Regulations’) was lodged on 15<sup>th</sup> February 2022. Prior to this, law drafting instructions had been shared with the Environment, Housing and Infrastructure Scrutiny Panel (hereafter ‘the Panel’). The draft Regulations were approved, in principle, during the States debate held on 31<sup>st</sup> March 2022. However, owing to concerns regarding the ability to police the proposed ‘No Take Zone’ (NTZ), as well as how to avoid any child being criminalised for fishing or using a shrimping net; the draft Regulations were referred to Scrutiny under Standing Order 72. A revised date was set for the debate on the draft Regulations to resume at the States sitting the week of the 25<sup>th</sup> of April 2022.

The Panel met with the Minister for the Environment, Assistant Minister for the Environment, Government Officials from Marine Resources and the Legislative Drafter on 1<sup>st</sup> April 2022 to discuss whether these concerns could be addressed by a proposed amendment to the draft Regulations.

### Consultation, policing and enforcement of the law: concerns raised

During the meeting<sup>1</sup> the Chair of the Panel raised concern that there appeared to have been no consultation on the draft Regulations with Ouaisné or St. Brelade’s Bay fishermen. The Assistant Director of Marine Resources confirmed that the Jersey Fishermen’s Association had been consulted, as well as the Jersey Inshore Fishing Association, some of whom were Ouaisné fishermen. It was accepted that gathering opinion from a broader representation of fishermen was desirable, although, often difficult to achieve.

The Panel was advised that the general policing of this type of regulation was something that the Marine Resources Team was familiar with through other pieces of similar legislation; and which was carried out frequently through a mixture of approaches, including intelligence-led policing and ad-hoc patrols. It was emphasised that Portelet Bay was a place that was often passed by the Department’s patrols.

It was also stressed that the concerns raised by the Chair relating to children potentially being criminalised could be applied to many other types of legislation. However, in these circumstances a formal prosecution would not be pursued as the Attorney General’s public interest test existed to determine appropriate grounds on whether to pursue a prosecution, and there was no historical precedent of this happening under similar legislation.

The possibility was explored in the meeting regarding whether a suitable amendment could be proposed to exempt beachgoers. However, the Panel was advised that there was difficulty in doing so as the more prescriptive the law was in defining an offence could, in fact, make it more difficult to police. There would be difficulty in defining ‘beachgoer’, ‘child’ and ‘fishing’ and that the better approach was to draft the law widely and for those enforcing the law to use their discretion based on common sense and utilisation of the public interest test.

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<sup>1</sup> Environment, Housing and Infrastructure Panel meeting minutes – 1<sup>st</sup> April 2022

The Panel was further advised that children under the age of 10 cannot commit an offence and so would not be criminalised. The approach taken to police the draft Regulations would be best achieved through community engagement where Officers on patrol would speak to parents to inform them of the law. It was raised whether guidelines should be prepared to prevent the possibility of overzealous policing. The Minister for the Environment questioned the necessity for this but advised that he would seek advice from his Officers.

It was noted that, depending on the scale of the offence, it would be intended for the offence to be dealt with at a Parish Hall Inquiry but that the law could then escalate it to a Court, where appropriate to do so. Furthermore, there would have to be very clear, demonstrable evidence before the offence could be elevated to Magistrates' Court level. It was further noted that where an offence occurs at sea, the offence is dealt with at St. Helier Parish Hall. Where an offence occurs on land / onshore it would be dealt with at the Parish Hall of the respective Parish where the offence took place.

Considering that Parish Centeniers would have to deal with processing these types of offences, the Panel is of the view that there should have been consultation with the Comité des Chefs de Police and detailed guidelines should be provided for how to deal with such offences that may occur.

**Recommendation one:** The Minister for the Environment should declare during the States' debate whether it is his intention to sign a Ministerial Decision before he leaves office to request Government Officials draft appropriate guidelines to support the application and enforcement of the draft Regulations, if adopted. The purpose and aim of which would be to provide clarity and to aid the pro-active policing and processing of offences.

The Panel queried what department resource existed to police the draft Regulations. The Minister for the Environment advised that he was not aware of the detail regarding funding and resources that would be available to police the law. It was further queried how moorings in the Bay would be financed although the Panel was advised that was unknown at the present time.

**Recommendation two:** The Government of Jersey should ensure that there is consultation with the Comité des Chefs de Police regarding practical considerations for the policing of the draft Regulations, if adopted, and what additional funding and/or resourcing may be required to ensure that the law is appropriately enforced.

### **'No Take Zones' across the UK: growing evidence and support**

The Panel queried with Ministers and Government Officials whether there were NTZs across the UK which also included beaches as popular tourism hotspots, like Portelet Bay. It was explained that generally restrictions around NTZs were tailored to their location and specific environmental features and so it would be expected that each NTZ would be different.

It is the Panel's understanding that there are currently only four NTZs across the UK:

- [Lundy Island in North Devon](#)

- [Flamborough Head in Yorkshire](#)
- [Lamlash Bay - The Scottish Isle of Arran](#)
- [The Medway Estuary](#)

The Panel understands that the NTZs located at Flamborough Head and Lamlash Bay are both located in popular tourist areas, with the latter having established a popular snorkel trail.<sup>2</sup>

Lamlash Bay as a particular case study shows that research carried out by the University of York, and supported by the Blue Marine Foundation, has documented the recovery of marine life, including shellfish species which are of particular importance to the local fishing fleet.

The Blue Marine Foundation's website further notes that:

*this research is demonstrating the power of well-managed marine reserves and their value, both to marine life and fisheries... results are providing strong evidence to the Scottish Government in support of highly or fully protected marine areas, validating BLUE's mission to see similar reserves established around the UK.*<sup>3</sup>

The Panel received a written submission from the Blue Marine Foundation noting that the organisation welcomes the proposal to create a NTZ in Portelet Bay:

*Establishing a NTZ here will allow for the creation of a 'natural laboratory', providing students and researchers a chance to better understand the impacts of climate change on our marine environment and monitor changes for local biodiversity, fisheries and people.*<sup>4</sup>

The Panel also received a submission from a local Marine Biologist advocating his support for the NTZ to be implemented at Portelet Bay and the various advantages that doing so would bring:

*...The marine environment is a public domain, and as the vast majority wish to see some of it protected, I would say that the protection of 0.0001% of that area for the wildlife and habitat is in no way draconian, just a very small step in ensuring an improved environment and protecting the long-term interests of our fishers. It will be a welcome boost to tourism and educational initiatives if correctly managed, it should also improve local food security. NTZ's are a proven tool in improving fishery management, and the initial ones implemented in New Zealand are now being extended to allow fish to access offshore breeding grounds. Evidence shows that current fishing regulations in Jersey are failing to stop the demise of commercial fisheries, with lobster, crab, whelks, bass, and ormers catches falling year on year, for example bass was around 38 tonnes a couple of decades ago, and is now in single figures. Ormers on the market in the 19<sup>th</sup> century would be 15 to 30 tons a tide, the total now is probably no more than a few 100 individuals.*<sup>5</sup>

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<sup>2</sup> [Société Jersiaise – Submission](#)

<sup>3</sup> [Blue Marine Foundation](#)

<sup>4</sup> [Blue Marine Foundation - Submission](#)

<sup>5</sup> [Nicolas Jouault - Submission](#)

During the meeting with Ministers and Government Officials, the Panel was informed that the proposition for a NTZ at Portelet Bay was something that had developed from the community, particularly the Société Jersiaise, and had started in 1970s with the intention for the Bay to be intensely studied for scientific purposes. The Marine Biology section of the Société Jersiaise section consider the potential benefits of a NTZ at Portelet Bay include:

- *development of scientific knowledge to support sustainable behaviours*
- *overspill of recovering marine animal communities into surrounding areas*
- *nurturing the seagrass bed that exists and resultant carbon sequestration*
- *potential opportunities for residents and tourists to benefit from wildlife encounters and a relationship with their environment that encourages nurturing, learning and wellbeing*
- *reputational benefits as Jersey demonstrates commitment to responding to both climate change and biodiversity loss through tangible action.*<sup>6</sup>

It was noted in the Panel's meeting with Ministers and Government Officials that the proposed NTZ had been carefully designed to exclude headlands where anglers would cast rods from. The Marine and Coastal Manager expressed that there was strong public support for a NTZ, particularly young people who wished to see the right things done from an environmental perspective.

### **Signage and the importance of raising public awareness**

The Panel has been informed that signage will be displayed to raise public awareness of the NTZ and that local businesses are in support of this. Further information relating to the planning application and proposed information signage on the [footpath to the café](#) was provided to the Panel, noting that two signs have been approved: one to cover the snorkel trail and NTZ and the other specific to the NTZ. Further information was also provided in relation to the planning application for the [Eastern pathway](#) at Portelet Bay, it being noted that permission has only been granted from the landowners for one sign, which would cover both the snorkel trail and NTZ. The Panel understands that the signage is still in the design stage and is being commissioned by Blue Marine Foundation and the Société Jersiaise.

The Panel stresses that a key aspect of ensuring compliance with the law will be the importance of communication and suitable messaging to raise public awareness, including the use and strategic location of informative and engaging interpretation boards. An example of a well-designed interpretation board for the UK's Flamborough Head NTZ has been included in Appendix 1.

**Recommendation three:** The Government of Jersey should continue to work closely with the Blue Marine Foundation and Société Jersiaise and in seeking local public feedback on the proposed signage during the design phase to ensure that it will attract the attention of and engage with members of the public. Consideration should also be given to making the signage easy to read, colourful and engaging for young children. The desired aim of which would be to raise educational awareness which in turn is likely to lead to a higher level of compliance with the law.

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<sup>6</sup> [Société Jersiaise – Submission](#)

**Recommendation four:** The Government of Jersey should also give further consideration to the provision of multi-lingual signage and interpretation boards, given the nature of the Bay as a tourism hotspot. This should be incorporated as might be appropriate within the current approved plans for signage, or through seeking further planning approval.

## **Conclusion**

The Panel is supportive of the draft Regulations and the intention behind them. However, it highlights that effective policing and enforcement of the Regulations will be key to fulfilling the desired outcome of sustainable fisheries management. Having now explored the possibility of an amendment, the Panel is satisfied that one is not required. However, we strongly advocate that Government Officials and the new Minister for the Environment keep our successor Panel apprised of the effectiveness of enforcement measures and future resourcing allocated to this important work. We further request that the current Minister for the Environment responds in writing to the Panel to outline whether he accepts or rejects the recommendations made within these comments.

Appendix 1 – Example of UK ‘No Take Zone’ public awareness signage

