
STATUTORY INSTRUMENTS

1981 No. 737

SEA FISHERIES

BOATS AND METHODS OF FISHING

The Sea Fish (Conservation) (Channel Islands) Order 1981

Made - - - - 13th May 1981
Coming into Operation 1st June 1981

At the Court at Buckingham Palace, the 13th day of May 1981

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 24(2) of the Sea Fish (Conservation) Act 1967, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Sea Fish (Conservation) (Channel Islands) Order 1981 and shall come into operation on 1st June 1981.

2. In this Order the expression “the Channel Islands” means “Jersey” and “Guernsey” and the words “Jersey” and “Guernsey” mean the Bailiwick of Jersey and Guernsey respectively.

3. The following provisions of the Sea Fish (Conservation) Act 1967 shall extend to the Channel Islands subject to the exceptions, adaptations and modifications specified in the Schedule to this Order:—

- (a) section 1 (as amended by section 16 of the Sea Fisheries Act 1968 and section 9 of and Schedule 2 to the Fishery Limits Act 1976) (size limits etc. for fish);
- (b) section 3 (as amended by section 9 of and Schedule 2 to the Fishery Limits Act 1976) (regulation of nets and other fishing gear);
- (c) section 4 (as substituted by section 3 of the Fishery Limits Act 1976) (licensing of fishing boats);
- (d) section 5 (as amended by section 9 of and Schedule 2 to the Fishery Limits Act 1976) (power to restrict fishing for sea fish);
- (e) certain ancillary provisions, namely:—
 - (i) section 9 (exemptions for operations for scientific and other purposes);
 - (ii) section 11 (as amended by sections 5 and 9 of and Schedules 1 and 2 to the Fishery Limits Act 1976) (penalties for offences);

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- (iii) section 14 (jurisdiction of court to try offences);
- (iv) section 15 (as amended by section 22 of and Schedule 1 to the Sea Fisheries Act 1968 and section 9 of and Schedule 2 to the Fishery Limits Act 1976) (powers of British sea-fishery officers for enforcement of Act).

4.—(1) In the aforesaid Act as extended to the Channel Islands, the following expressions have the meanings hereafter assigned to them except as specifically provided or where the context otherwise requires:—

“British fishing boat” and “foreign fishing boat” have the meanings assigned respectively to them by section 19 of the Sea Fisheries Act 1968;

“British-owned”, in relation to a fishing boat means owned by a person who is (within the meaning of the Merchant Shipping Act 1894) a person qualified to own a British ship or owned by two or more persons any one of whom is (within the meaning of that Act) a person so qualified;

“British sea-fishery officer” means any person who by virtue of section 7 of the Sea Fisheries Act 1968 is a British sea-fishery officer;

“fishing boat” means a vessel of whatever size, and in whatever way propelled which is for the time being employed in sea fishing;

“master” includes, in relation to any vessel, the person for the time being in command or charge of the vessel;

“migratory trout” means trout which migrate to or from the sea;

“the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland, Wales and Northern Ireland;

“salmon” includes any fish of the salmon species;

“sea fish” means fish, whether fresh or cured, of any kind found in the sea, including shellfish, and any parts of any such fish but does not include salmon or migratory trout;

“shellfish” includes crustaceans and molluscs of any kind and any spat or spawn of shellfish;

“vessel” includes any ship or boat or any other description of vessel used in navigation.

(2) References to the Sea Fisheries Act 1968 are to that Act as extended to Guernsey or Jersey, as the case may be.

N. E. Leigh
Clerk of the Privy Council

SCHEDULE

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE EXTENSION OF SECTIONS 1, 3, 4 AND 5 AND ANCILLARY PROVISIONS TO THE CHANNEL ISLANDS AND TO WATERS ADJACENT THERETO

PART I

GUERNSEY

1. Unless the context otherwise requires any reference to the Sea Fish (Conservation) Act 1967 or to any other enactment shall be construed as a reference to that Act or that enactment, as the case may be, as it has effect in Guernsey.

2. Unless the context otherwise requires, any reference in the Sea Fish (Conservation) Act 1967 to British fishery limits adjacent to Guernsey shall be construed as a reference to that part of those limits not exceeding 12 international nautical miles of 1,852 metres from the baselines from which the breadth of the territorial sea adjacent to Guernsey is measured, but excluding territorial waters.

3. Section 1(1) and (2) shall be omitted.

4. Section 1(3) shall extend as modified below:—

“(3) Sea fish of any description which are of less than the minimum size prescribed in relation to sea fish of that description by an order under section 1(1) of the Sea Fish (Conservation) Act 1967 as it applies in Great British whether made before or after the coming into operation of the Sea Fish (Conservation) (Channel Islands) Order 1981, shall not be carried whether within or outside British fishery limits on a British fishing boat registered in Guernsey nor, in the case of a British fishing boat not so registered, in British fishery limits adjacent to Guernsey.”

5. Section 1(4) shall extend as modified below:—

“(4) Where an order referred to in subsection (3) above prohibits the carrying by any foreign fishing boat of sea fish of any description prescribed by the order which are of less than the minimum size so prescribed in relation to sea fish of that description, such sea fish shall not be carried by such a fishing boat within British fishery limits adjacent to Guernsey.”

6. Section 1(5) shall extend as modified below:—

“(5) The Ministers may by order confer exemptions from any prohibition imposed by this section; and any such exemption may be general or subject to conditions and may relate to all fish to which such prohibition applies or to fish of any specified description.”

7. For section 1(6), there shall be substituted the following subsections:—

“(6) If subsection (3) or subsection (4) above is contravened, the master, the owner and the charterer (if any) of the British fishing boat or the foreign fishing boat, as the case may be, shall each be guilty of an offence.

(7) The prohibitions contained in subsections (3) and (4) above shall not have effect until the order referred to in subsection (3) has been registered in the Royal Court of Guernsey.”

8. In section 3(1)—

(a) after the words “securing that” there shall be inserted the words “(except in territorial waters adjacent to Guernsey)”;

(b) for the words “the United Kingdom” there shall be substituted the word “Guernsey”.

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9. Section 3(2) shall extend as modified below:—
- “(2) An order under this section may be made so as to extend to nets or other fishing gear carried within British fishery limits adjacent to Guernsey by fishing boats registered outside Guernsey or not registered in any country.”.
10. For section 3(7) there shall be substituted the following subsections:—
- “(7) In this section “Act” includes any enactment in force in Guernsey or any part thereof.
- (8) Any order made under this section shall not have effect until registered in the Royal Court of Guernsey.”.
11. Section 4(1) shall extend as modified below:—
- “(1) The Ministers may by order provide—
- (a) that in any specified area within British fishery limits adjacent to Guernsey fishing by fishing boats (whether British or foreign) is prohibited unless authorised by a licence granted by the States of Guernsey Sea Fisheries Committee (hereinafter called “the Committee”) and for the time being in force;
- (b) that in any area specified in the order (being outside the waters referred to in paragraph (a) above) fishing by British fishing boats registered in Guernsey is prohibited unless so authorised.”.
12. For section 4(4) there shall be substituted the following provisions:—
- “(4) The Committee may by order prescribe charges for the granting of a licence by the Committee under this section and may prescribe different charges in relation to different classes of licence, but such charges shall not exceed such maximum charges as may from time to time be specified in an order made under this section as it has effect in the United Kingdom.
- (4A) Every order made by the Committee under subsection (4) above shall be laid before a meeting of the States of Guernsey as soon as may be after the making thereof and if, at that meeting or at the next subsequent meeting, the States resolve that the order be annulled the order shall cease to have effect but without prejudice to anything previously done thereunder or to the making by the Committee of a new order.
- (4B) Any power conferred by subsection (4) above shall be construed as including a power exercisable in the like manner to vary or revoke the order.”.
13. In section 4(6) for the words “Minister granting the licence” there shall be substituted the word “Committee”.
14. In section 4(7) for the words “Minister granting a licence under this section” there shall be substituted the word “Committee”.
15. For section 4(8) there shall be substituted the following subsection:—
- “(8) The licensing powers conferred on the Committee under this section may be exercised, in consultation with the Ministers, so as to limit the number of fishing boats, or of any class of fishing boats, engaged in fishing in any area, or in fishing in any area for any description of fish, to such extent as appears to the Ministers and the Committee to be necessary or expedient for the regulation of sea fishing.”.
16. In section 4(9) for the words “Minister who granted the licence” there shall be substituted the word “Committee”.
17. In section 4(10) for the words “Minister who granted it” there shall be substituted the word “Committee”.
18. Section 4(11) shall be omitted.

19. In section 4(12) after the words “United Kingdom” there shall be inserted the words “Guernsey or Jersey”.
20. After section 4(12) there shall be inserted the following subsections:—
- “(13) “Sea fish” in this section means fish, whether fresh or cured, of any kind found in the sea, including shellfish, and any parts of such fish.
- (14) Any order of the Ministers made under this section shall not have effect until registered in the Royal Court of Guernsey.”.
21. For section 5(2)(b) there shall be substituted the following provision:—
- “(b) on fishing for any other sea fish in British fishery limits adjacent to Guernsey”.
22. In section 5(8)—
- (i) for the words “the United Kingdom” in the first place where they occur there shall be substituted the word “Guernsey”; and
- (ii) for the words “in any waters adjacent to the United Kingdom which are within British fishery limits” there shall be substituted the words “in British fishery limits adjacent to Guernsey”.
23. After section 5(8) there shall be inserted the following subsections:—
- “(9) In this section “sea fish” means fish, whether fresh or cured, of any kind found in the sea, including shell fish, and any parts of such fish.
- (10) Any order made under this section shall not have effect until registered in the Royal Court of Guernsey.”.
24. Section 9(1) shall be omitted.
25. In section 9(2), (3) and (4), (exemption for operations for scientific or other purposes), for the words “one of the Ministers” there shall be substituted the words “the States of Guernsey Sea Fisheries Committee”.
26. In section 9(5) for the words “sections, 4, 5, 6 and 8” there shall be substituted the words “sections 4 and 5” and the words “or landing” shall be omitted.
27. In section 9(6) the reference to subsection (1) shall be omitted.
28. After section 9(7) there shall be inserted the following provision:—
- “(8) In this section “enactment” includes any enactment in force in Guernsey or any part thereof.”.
29. In section 11 the references to sections 1(1), 2, 6 and 7(3) shall be omitted.
30. In section 15(2) paragraph (d) shall be omitted.
31. In section 15(3)—
- (a) for the words “the United Kingdom” in both places where they occur there shall be substituted the word “Guernsey”;
- (b) after the words “British fishery limits” there shall be inserted the words “(including territorial waters)”;
- (c) for the words “sections 1 to 7” there shall be substituted the words “sections 1, 3, 4 or 5”.

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PART II

JERSEY

1. Unless the context otherwise requires, any reference to the Sea Fish (Conservation) Act 1967 or to any other enactment shall be construed as a reference to that Act or that enactment, as the case may be, as it has effect in Jersey.

2. Unless the context otherwise requires any reference in the Sea Fish (Conservation) Act 1967 to British fishery limits adjacent to Jersey shall be construed as a reference to that part of those limits not exceeding 12 international nautical miles of 1,852 metres from the baselines from which the breadth of the territorial sea adjacent to Jersey is measured, but excluding territorial waters.

3. Section 1(1) and (2) shall be omitted.

4. Section 1(3) shall extend as modified below:—

“(3) Sea fish of any description which are of less than the minimum size prescribed in relation to sea fish of that description by an order under section 1(1) of the Sea Fish (Conservation) Act 1967 as it applies in Great British, whether made before or after the coming into operation of the Sea Fish (Conservation) (Channel Islands) Order 1981, shall not be carried whether within or outside British fishery limits on a British fishing boat registered in Jersey nor, in the case of a British fishing boat not so registered, in British fishery limits adjacent to Jersey.”.

5. Section 1(4) shall extend as modified below:—

“(4) Where an order referred to in subsection (3) above, prohibits the carrying by any foreign fishing boat of sea fish of a description prescribed by the order which are of less than the minimum size so prescribed in relation to sea fish of that description, such sea fish shall not be carried by such a foreign fishing boat within British fishery limits adjacent to Jersey.”.

6. Section 1(5) shall extend as modified below:—

“(5) The Ministers may by order confer exemptions from any prohibition imposed by this section and any such prohibition may be general or subject to conditions and may relate to all fish to which such prohibition applies or to fish of any specified description.”.

7. For section 1(6) there shall be substituted the following subsections:—

“(6) If subsection (3) or subsection (4) above is contravened, the master, the owner and the charterer (if any) of the British fishing boat or the foreign fishing boat, as the case may be, shall each be guilty of an offence.

(7) The prohibitions contained in subsections (3) and (4) above shall not have effect until the order referred to in subsection (3) has been registered in the Royal Court of Jersey.”.

8. In section 3(1)—

(a) after the words “securing that” there shall be inserted the words “(except in territorial waters adjacent to Jersey)”;

(b) for the words “the United Kingdom” there shall be substituted the word “Jersey”.

9. Section 3(2) shall extend as modified below:—

“(2) An order under this section may be made so as to extend to nets or other fishing gear carried within British fishery limits adjacent to Jersey by fishing boats registered outside Jersey or not registered in any country.”.

10. In section 3(6) the reference to any Act shall include reference to any Law of the States of Jersey.

11. For section 3(7) there shall be substituted the following subsection:—

“(7) Any order made under this section shall not have effect until registered in the Royal Court of Jersey.”.

12. Section 4(1) shall extend as modified below:—

“(1) The Ministers may by order provide—

- (a) that in any specified area within British fishery limits adjacent to Jersey fishing by fishing boats (whether British or foreign) is prohibited unless authorised by a licence granted by the Agriculture and Fisheries Committee (hereinafter called “the Committee”) and for the time being in force;
- (b) that in any area specified in the order (being outside the waters referred to in paragraph (a) above) fishing by British fishing boats registered in Jersey is prohibited unless so authorised.”.

13. For section 4(4) there shall be substituted the following subsections:—

“(4) The Committee may by order prescribe charges for the granting of a licence by the Committee under this section and may prescribe different charges in relation to different classes of licence, but such charges shall not exceed such maximum charges as may from time to time be specified in an order made under this section as it has effect in the United Kingdom.

(4A) The Subordinate Legislation (Jersey) Law, 1960, as amended, shall apply to orders made by the Committee under subsection (4) above.”

14. In section 4(6) for the words “Minister granting the licence” there shall be substituted the word “Committee”.

15. In section 4(7) for the words “Minister granting a licence under this section” there shall be substituted the word “Committee”.

16. Section 4(8) shall extend as modified below:—

“(8) The licensing powers conferred on the Committee under this section may be exercised, in consultation with the Ministers, so as to limit the number of fishing boats, or of any class of fishing boats, engaged in fishing in any area, or in fishing in any area for any description of fish, to such extent as appears to the Minister and the Committee to be necessary or expedient for the regulation of sea fishing.”.

17. In section 4(9) for the words “Minister who granted the licence” there shall be substituted the word “Committee”.

18. In section 4(10) for the words “Minister who granted it” there shall be substituted the word “Committee”.

19. Section 4(11) shall be omitted.

20. In section 4(12) after the words “United Kingdom” there shall be inserted the words “Jersey or Guernsey”.

21. After section 4(12) there shall be inserted the following subsections:—

“(13) “sea fish” in this section means fish, whether fresh or cured, of any kind found in the sea, including shellfish, and any parts of such fish.

(14) Any order of the Ministers made under this section shall not have effect until registered in the Royal Court of Jersey.”.

22. For section 5(2)(b) there shall be substituted the following provision:—

“(b) on fishing for any other sea fish in British fishery limits adjacent to Jersey,”.

23. In section 5(8)—

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- (i) for the words “the United Kingdom” in the first place where they occur there shall be substituted the word “Jersey”; and
 - (ii) for the words “in any waters adjacent to the United Kingdom which are within British fishery limits” there shall be substituted the words “in British fishery limits adjacent to Jersey”.
- 24.** After section 5(8) there shall be inserted the following subsections:—
- “(9) In this section “sea fish” means fish, whether fresh or cured, of any kind found in the sea, including shellfish or any parts of such fish.
 - (10) Any order made under this section shall not have effect until registered in the Royal Court of Jersey.”.
- 25.** Section 9(1) shall be omitted.
- 26.** In section 9(2), (3) and (4) (exemption for operations for scientific or other purpose) for the words “one of the Ministers” there shall be substituted the words “the Agriculture and Fisheries Committee”.
- 27.** In section 9(5) for the words “sections 4, 5, 6 and 8” there shall be substituted the words “sections 4 and 5” and the words “or landing” shall be omitted.
- 28.** In section 9(6) the reference to subsection (1) shall be omitted.
- 29.** Section 11 (penalties for offences) shall extend as modified below:—
- “**11.**—(1) Any person guilty of an offence under section 1, 3, 4 or 5 of this Act shall be liable to a fine.
 - (2) A court by which a person is convicted of an offence under section 1(3), 4 or 5(1) or (6) may order the forfeiture of any fish in respect of which the offence was committed.
 - (3) The court by which a person is convicted of an offence under section 3, 4 or 5 of this Act may order the forfeiture of the net or other fishing gear in respect of which the contravention constituting the offence occurred.
 - (4) In the case of an offence under section 4(3) or (6) the court may order that the owner or the charterer (if any) of the fishing boat used to commit the offence or, as the case may be, of the boat named in the licence of which the condition is broken, be disqualified for a specified period from holding a licence under that section in respect of that boat.”.
- 30.** In section 15(2) paragraph (d) shall be omitted.
- 31.** In section 15(3)—
- (a) for the words “the United Kingdom” in both places where they occur there shall be substituted the word “Jersey”;
 - (b) after the words “British fishery limits” there shall be inserted the words “(including territorial waters)”;
 - (c) for the words “sections 1 to 7” there shall be substituted the words “sections 1, 3, 4 or 5”.

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EXPLANATORY NOTE

This Order extends sections 1, 3, 4 and 5 of the Sea Fish (Conservation) Act 1967 and certain ancillary provisions to the Channel Islands with exceptions, adaptations and modifications.