

# Island of Guernsey

## Ordinance of the States **XII**

**1974**

Made ... .. 29th May, 1974.  
Came into Operation ... .. 29th May, 1974.

### **The Fishing (Amendment) Ordinance, 1974**

THE STATES, in pursuance of their Resolutions of the twenty-sixth day of January, nineteen hundred and seventy-two and the twenty-eighth day of November, nineteen hundred and seventy-three, hereby order:—

1. The Fishing Ordinance, 1969, as amended<sup>(a)</sup>, is hereby further amended as follows:—

Amend-  
ments to  
Ordinance  
of 1969.

(a) in section four thereof the word “shellfish” is repealed and the word “fish” is substituted therefor;

(b) immediately after subsection (5) of section five thereof there is inserted the following additional subsection numbered “(6)”—

“(6) Where any person is charged with an offence under any of the provisions of this section the onus of proof that the

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(a) Recueil d'Ordonnances Tome XVI, pp. 188 and 464; Tome XVII, p. 44 and No. XXII of 1972.

ormer, crab commonly known as "lady crab" or shrimp was not taken, possessed, bought, sold or offered for sale, as the case may be, in contravention of any such provisions shall lie with such person.";

- (c) in subsection (2) of section seven thereof—
- (i) paragraph (a) is repealed;
  - (ii) paragraphs (b) and (c) are re-lettered as paragraphs "(a)" and "(b)" respectively;
- (d) immediately after section eight thereof there is inserted the following additional section numbered "8A"—

"Restriction  
on trawling  
for fish.

8A. (1) A person shall not use or cause or permit any other person to use a fishing boat having an overall length in excess of eighteen metres in any part of the territorial waters adjacent to this Island for the purpose of fishing by any method of trawling or dredging whatsoever.

(2) A person shall not use or cause or permit any other person to use a fishing boat carrying a beam trawl having an effective length of beam in excess of eight metres in any part of the territorial waters adjacent to this Island for the purpose of fishing.

(3) A person shall not use more than one beam trawl from a fishing boat at any one time unless the aggregate effective length of beam of the trawls so

used simultaneously does not exceed eight metres in any part of the territorial waters adjacent to this Island for the purpose of fishing.

(4) A person shall not use or cause or permit any other person to use a fishing boat in any part of the territorial waters adjacent to this Island lying within any of the areas bounded respectively by the shore of the Island of Guernsey and—

- (a) an imaginary line drawn from the most northern point of Fort le Plomb in the parish of the Vale to the most northern point of Fort Pembroke in the parish of the Vale;
- (b) an imaginary line drawn from No. 10 Martello Tower at Chouet in the parish of the Vale to No. 11 Martello Tower at Rouse in the parish of the Vale;
- (c) an imaginary line drawn from the most western point of the Fort at Grande Rocque in the parish of the Castel to the most western point of Fort Hommet in the parish of the Castel;
- (d) an imaginary line drawn from the most western

- point of Fort Hommet in the parish of the Castel to the most western point of Fort Le Crocq in the parish of Saint Saviour;
- (e) an imaginary line drawn from the most western point of Fort Sausmarez to the most western point of Pezerie Point in the parish of Torteval;
- (f) an imaginary line drawn from the most southern point of Pointe de la Moye in the parish of the Forest to the most southern point of Icart Point in the parish of Saint Martin;
- (g) an imaginary line drawn from the most southern point of Icart Point in the parish of Saint Martin to the most southern point of Jerbourg Point in the parish of Saint Martin;
- (h) an imaginary line drawn from the most eastern point of Bec du Nez in the parish of Saint Martin to the most eastern point of Fermain Point in the parish of Saint Peter Port;
- (i) an imaginary line drawn from the most eastern point of Fermain Point in the parish of Saint Peter Port to the most eastern

point of Les Terres Point in the parish of Saint Peter Port;

- (j) an imaginary line drawn from the most eastern point of Les Terres Point in the parish of Saint Peter Port to the most eastern point of Castle Cornet in the parish of Saint Peter Port;
  - (k) an imaginary line drawn from the most eastern point of Salerie Battery in the parish of Saint Peter Port to the most eastern point of Spur Point in the parish of Saint Sampson;
  - (i) during the period commencing on the first day of April in each year and ending on the thirtieth day of September next following, both dates inclusive, for the purpose of fishing by any method of trawling whatsoever, or
  - (ii) at any time for the purpose of fishing by any method of dredging whatsoever.
- (5) A person shall not land, sell or offer for sale in this Island any fish taken in contravention of any of the provisions of this section.”;

- (e) immediately after section eleven thereof there are inserted the following additional sections numbered "11A" and "11B"—

"Restriction on the shucking of shellfish. 11A. (1) A person shall not—

- (a) shuck on board any fishing boat any molluscan shellfish taken in any part of the territorial waters adjacent to this Island:

Provided that it shall not be an offence for a person to shuck on board a fishing boat any molluscan shellfish taken in any part of the territorial waters adjacent to this Island if he can prove that he did not shuck such shellfish otherwise than for immediate consumption on board such boat by himself or any other person;

- (b) land in this Island any molluscan shellfish shucked in contravention of the provisions of the last preceding paragraph.

(2) Where any person is charged with an offence under any of the provisions of this section the onus of proof that the molluscan shellfish was not taken in any part of the territorial

waters adjacent to this Island shall lie with such person.

Restriction  
on the  
sale of  
crab claws.

11B. A person shall not sell or offer for sale in this Island the claw of any crab which is separated from such crab.”;

- (f) subsection (1) of section twelve thereof is repealed and the following subsection is substituted therefor—

“(1) The Committee may, from time to time, by order—

(a) designate any area within the territorial waters adjacent to this Island to be used for experimental purposes in relation to any kind of fish and may prohibit the taking within that area of such kind of fish as shall be specified in the order; and

(b) prohibit the taking within the territorial waters adjacent to this Island of any fish bearing a mark or tag as shall be specified in the order.”;

- (g) in section thirteen thereof—

- (i) subsection (1) is repealed and the following subsection is substituted therefor—

“(1) A person shall not deposit in any part of the territorial waters adjacent to this Island or on the foreshore of this Island any molluscan shellfish otherwise than under and in accordance with a licence granted to such person by the Committee under the provisions of this section.”;

- (ii) at the end of subsection (2) the full stop is deleted and a semi-colon is substituted therefor and immediately thereafter the words "and if a person discharges in any part of the territorial waters adjacent to this Island or on the foreshore of this Island any effluent water in which molluscan shellfish have been placed or kept such person shall, for the purposes of the said subsection (1), be taken to have deposited shellfish. ". are inserted;
- (iii) immediately after subsection (2) there is inserted the following additional subsection numbered "(3)"—
- “(3) The provisions of subsections (2), (3) and (4) of section three of this Ordinance with respect to a fish export licence shall apply to an application for, grant or refusal of and revocation or variation of a licence granted under this section.”;
- (h) in section fourteen thereof—
- (i) subsection (1) is repealed and the following subsections numbered "(1)" and "(2)" are substituted therefor—
- “(1) An officer of police may—
- (a) detain any person who has committed, or whom he has reasonable cause to suspect of having committed, an offence under any of the provisions of this Ordinance or any order made or any direction given or any licence granted thereunder;

- (b) stop, board and enter and search any boat or vehicle used in taking or conveying fish;
- (c) enter and search any premises used by way of trade for carrying on any business in connection with the treatment, storage or sale of fish;
- (d) search for and examine any fish, any equipment or other apparatus whatsoever used in taking or conveying fish, or any matter the deposit of which is prohibited or regulated under any of the provisions of this Ordinance or any order made or any direction given or any licence granted thereunder, in any place, whether on board a boat, in a vehicle or elsewhere, and whether in a receptacle or not;
- (e) seize any fish which he has reasonable cause to suspect is to be exported from this Island or has been landed, taken, bought, sold, offered for sale or is possessed in contravention of any of the provisions of this Ordinance or any order made or any direction given or any licence granted thereunder;
- (f) seize any equipment or other apparatus whatsoever or any explosive which he has reasonable cause to suspect has been used or carried or is being used or carried in contravention of any of the provisions of this Ordinance or any order made or any direction given

or any licence granted thereunder.”;

(2) The powers conferred in paragraphs (b), (c), (d), (e) and (f) of the last preceding subsection may be exercised by any person authorised in that behalf by the Committee, on production of his authority, if so required.”;

(ii) subsection (2) is renumbered as subsection “(3)” and in that subsection the words “subsection (1)” are repealed and the words “subsections (1) or (2)” are substituted therefor. ”.

(2) in section fifteen thereof—

(i) in subsection (1) the words “or any order made thereunder” are repealed and the words “or any order made or any direction given or any of the conditions of any licence granted thereunder” are substituted therefor;

(ii) immediately after subsection (1) there is inserted the following additional subsection numbered “(2)”—

“(2) Where a person has been convicted of an offence under this Ordinance involving the use of a fishing boat, every person who, at the time of the commission of the offence, was on board such boat or was the master, the owner or the charterer (if any) of such boat, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.”;

(iii) subsection (2) is renumbered as subsection “(3)”;

(j) immediately after section fifteen thereof there is inserted the following additional section numbered “15A”—

“Offences  
by bodies  
corporate.

15A. Where a person convicted of an offence under this Ordinance is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.”;

(k) in subsection (1) of section sixteen thereof—

(i) immediately before the definition of the expression “the Committee” there is inserted the following additional definition—

“ “beam trawl” means a net which is constructed to take fish whilst being towed along the sea-bed by a fishing boat, and which has its mouth extended by a beam, bar or other rigid device, and the expression “beam” shall be construed accordingly;”;

(ii) immediately after the definition of the expression “the Committee” there are inserted the following additional definitions—

“ “effective length of beam” in relation to a beam trawl means the distance between the inner edge of the shoe or skid attached to one end of the beam and the corresponding part of the shoe or skid attached to the other end thereof, the measurements being taken at the most forward part of each shoe or skid which comes into contact with the seabed when the trawl is towed;

“fish” means fish of any kind found in the sea, whether alive or dead, including shellfish, and any part of any such fish;

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

(iii) immediately after the definition of the expression “preserved” there is inserted the following additional definition—

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

(iv) immediately after the definition of the expression “shellfish bed” there is inserted the following additional definition—

“ “shuck” in relation to molluscan shellfish means to remove the flesh or any part thereof from the shell of any such shellfish by any means whatsoever, and the expression “shucked” shall be construed accordingly;”;

(v) at the end of the subsection the full stop is deleted and a semi-colon is substituted therefor and immediately thereafter there are inserted the following additional definitions—

“ “vehicle” means a mechanically propelled vehicle intended or adapted for use on a public highway and includes a trailer drawn thereby, an animal drawn vehicle, a hand drawn vehicle, a bicycle and a tricycle;

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

(l) section seventeen thereof is repealed and the following section is substituted therefor—

“Exemptions.

17. Nothing in this Ordinance contained shall be taken to apply—

(a) to a servant or agent of the Committee when acting for or on behalf of the Committee;

(b) to any act done for the purpose of scientific investigation or of re-stocking the territorial waters adjacent to this Island with any fish by a person approved by the Committee;

(c) to the taking and possession of any fish intended for use for propagation or cultivation under artificial

conditions by a person approved by the Committee subject to such taking, possession, propagation or cultivation, as the case may be, being in accordance with any directions which may from time to time be given by the Committee;

- (d) to the possession, sale, offer for sale or purchase by any person of any fish propagated or cultivated under artificial conditions in accordance with the provisions of the last preceding paragraph subject to such possession, sale, offer for sale or purchase, as the case may be, being in accordance with any directions which may from time to time be given by the Committee.”.

- Citation. 2. This Ordinance may be cited as the Fishing (Amendment) Ordinance, 1974.
- Collective title. 3. This Ordinance and the Fishing Ordinances, 1969 to 1972, may be cited together as the Fishing Ordinances, 1969 to 1974.

R. H. VIDELO,  
Her Majesty's Greffier.