

Island of Guernsey

Ordinance of the States **XXVI**

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The Fishing Ordinance, 1988

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The Fishing Ordinance, 1988

THE STATES, on the representation of the States Sea Fisheries Committee, hereby order:—

PART I

General provisions with respect to fishing

Restriction on import etc. of certain fish of less than the specified minimum size.

1. (1) Subject to the provisions of this Ordinance, a person shall not import into, export from, take in, or have in his possession, buy, sell or offer for sale in, this Island any fish of a species specified in the first column of the First Schedule to this Ordinance which is of a size less than that specified in the second column of that Schedule opposite the reference in the first column of that Schedule to that species of fish.

(2) A person who takes any fish of a size less than that specified in the First Schedule to this Ordinance for that species of fish shall not retain the said fish but shall return it to the sea forthwith.

Prohibition on the export of fish without licence.

2. Subject to the provisions of this Ordinance, a person shall not export any fish from this Island otherwise than under and in accordance with a fish export licence granted to such person by the Committee under the provisions of this section.

Prohibition on the export of ormers and sandeels.

3. Notwithstanding the provisions of section 2 of this Ordinance, a person shall not export any ormers or sandeels from this Island.

Close season for ormers, lady crabs and shrimps.

4. (1) Subject to the succeeding provisions of this section, a person shall not take, have in his possession, buy, sell or offer for sale in this Island any

ormers, other than preserved ormers, at any time except on the day of each new moon and of each full moon and on the two days immediately following the day of each new moon and of each full moon during the period commencing on the first day of January in each year and ending on the thirtieth day of April next following, both dates inclusive:

Provided that any person found to be in possession of, or buying, selling or offering for sale, ormers on the first or second day of May or on the third or fourth day next following the day of a new moon or of a full moon during the period specified in this subsection shall be deemed not to have contravened the provisions of this subsection if that person is able to prove that those ormers were not taken after the thirtieth day of April or after the second day next following the day of the new moon or of the full moon as aforesaid, as the case may be.

(2) A person—

(a) shall not take, have in his possession, buy, sell or offer for sale in this Island any crabs commonly known as “lady crabs”, other than preserved “lady crabs”, at any time during the period commencing on the first day of May in each year and ending on the ninth day of October next following, both dates inclusive:

Provided that any person found to be in possession of, or buying, selling or offering for sale, such crabs on the first or second day of May shall be deemed not to have contravened the provisions of this subsection if that person is able to prove that the crabs were not taken after the thirtieth day of April;

(b) shall not, subject to the provisions of the last preceding paragraph, take, otherwise than by the use of pots, any crabs commonly known as "lady crabs", at any time except on the day of each new moon and of each full moon and on the two days immediately following the day of each new moon and of each full moon during the period commencing on the first day of January in each year and ending on the thirtieth day of April next following, both dates inclusive.

(3) A person shall not take, have in his possession, buy, sell or offer for sale in this Island any shrimps, other than preserved shrimps, during the period commencing on the first day of March in each year and ending on the thirtieth day of June next following, both dates inclusive:

Provided that any person found to be in possession of, or buying, selling or offering for sale, shrimps on the first or second day of March shall be deemed not to have contravened the provisions of this subsection if that person is able to prove that the shrimps were not taken after the last day of February.

(4) Notwithstanding anything in this section contained, a person shall not take ormers, crabs commonly known as "lady crabs" or shrimps at any time between the hours of sunset and sunrise.

(5) Where a person is charged with an offence under any of the provisions of this section the onus of proof that the 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.

5. A person shall not set for more than one hour at a time in any of the bays of this Island any trammel net or part of a trammel net unless it has in all its parts meshes of such dimensions that when any mesh is stretched diagonally lengthwise of the net a flat gauge two millimetres thick and seventy-five millimetres in width will pass easily through the mesh whether the net is wet or dry.

Minimum
mesh size of
trammel
nets.

6. (1) Subject to the provisions of the next succeeding subsection, a person shall not carry in any boat within the controlled waters any net or part of a net of a type specified in the first column of the Second Schedule to this Ordinance unless it has in all its parts meshes of such dimensions that when any mesh is stretched diagonally lengthwise of the net a flat gauge two millimetres thick, and of a width specified in the second column of that Schedule opposite the reference in the first column of that Schedule to that type of net, will pass easily through the mesh whether the net is wet or dry.

Minimum
mesh size of
seine and
trawl nets.

(2) In proceedings in respect of a contravention of subsection (1) of this section it shall be a sufficient defence to prove that the net to which the proceedings relate—

- (a) had in no part of its cod-end meshes of such dimensions that when any mesh was stretched diagonally lengthwise of the net a flat gauge two millimetres thick and fifty millimetres in width would pass easily through it whether the net was wet or dry, and that it was being carried solely for the purpose of fishing for herring, mackerel, garfish (longnose), smelt, sand-smelt (roselet), pout, eels, shrimps, prawns, or molluscs, other than squids; or

- (b) was made of polyamide or polyester fibres backed with linen or cotton cloth in the centre and was being carried solely for the purpose of fishing for sandeels.

Attach-
ments to
nets.

7. (1) Subject to the provisions of the next succeeding subsection, a person shall not use any device by means of which the mesh in any part of a seine, trammel or trawl net is obstructed or otherwise diminished in effect.

(2) The provisions of the last preceding subsection shall not be taken to prohibit the attachment to the underside of the cod-end of a net of any canvas, netting or other material for the purpose of preventing or reducing wear and tear.

Restriction
on trawling
for fish.

8. (1) A person shall not use or cause or permit any other person to use a boat having an overall length in excess of eighteen metres within the controlled waters 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 boat carrying a beam trawl having an effective length of beam in excess of eight metres within the controlled waters for the purpose of fishing.

(3) A person shall not use more than one beam trawl from a boat at any one time unless the aggregate effective length of beam of the trawls so used simultaneously does not exceed eight metres within the controlled waters for the purpose of fishing.

(4) A person shall not use or cause or permit any other person to use a boat within any part of the controlled waters lying within any of the areas bounded respectively by the foreshore 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 in the parish of Saint Pierre du Bois to the most western point of Pezeries 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.

Restriction
on use etc.
of trot line
and set net.

9. (1) Subject to the provisions of the next succeeding subsection, a person shall not use, place or set any trot line or any set net within the controlled waters or on the foreshore of this Island during—

- (a) the period commencing on the 1st day of June in each year and ending on the 30th day of September next following, both dates inclusive:

Provided that the provisions of this paragraph shall not apply to any part of the controlled waters where the depth thereof is at any time of the tide greater than five metres below chart datum or lowest Astronomical Tide level;

- (b) the period commencing on the 1st day of October in each year and ending on the 31st day of May in the year next following, both dates inclusive:

Provided that the provisions of this paragraph shall not apply to any part of the controlled waters and foreshore below the line of the half-way mark of the tide and to the placing therein in any manner exposed to the open air during any period not exceeding one hour per tide of any trot line or any set net, as the case may be.

(2) The provisions of this section shall not apply to any part of the controlled waters or to any part of the foreshore of this Island as the Committee may by order specify.

10. A person shall not in this Island use any net for the purpose of taking crawfish.

Use of net to catch crawfish prohibited.

11. A person shall not make use in this Island of dynamite or any other explosive to take or destroy fish or be in possession of dynamite or any other explosive for the purpose of taking or destroying fish.

Use of explosives prohibited.

Diving for
lobster,
crawfish,
crab, scallop
and ormer
prohibited
in certain
areas.

12. (1) A person shall not take by diving—

(a) any crawfish or ormer within the controlled waters;

(b) any scallop within any part of the controlled waters lying within the area bounded by the west, north and east coasts of the Island of Guernsey, an imaginary line drawn at a distance of one quarter of a mile from the foreshore of the Island of Guernsey measured from the low water mark of ordinary spring tides and two imaginary lines drawn from the coast of the Island of Guernsey to the first aforesaid imaginary line respectively, namely—

(i) an imaginary line drawn south-west from the most southerly of the British Broadcasting Corporation's television masts, in the parish of Torteval, from the point where such line meets the west coast of the Island of Guernsey to the point where such line meets the first aforesaid imaginary line drawn at a distance of one quarter of a mile from the foreshore of the Island of Guernsey measured as aforesaid; and

(ii) an imaginary line drawn from the Belvedere Light through the Castle Breakwater Light, in the parish of Saint Peter Port, from the point where such line meets the east coast of the Island of Guernsey to the point where such line meets the first aforesaid imaginary line drawn at a distance of one quarter of a mile from the foreshore of the Island of Guernsey measured as aforesaid;

(c) any lobster or crab within any part of the controlled waters lying within the area bounded by the west, north and east coasts of the Island of Guernsey, the limits of the said controlled waters and two imaginary lines drawn from the coast of the Island of Guernsey to the limits of the controlled waters respectively, namely—

- (i) an imaginary line drawn south-west from the most southerly of the British Broadcasting Corporation's television masts, in the parish of Torteval, from the point where such line meets the west coast of the Island of Guernsey to the point where such line meets the limits of the controlled waters; and
- (ii) an imaginary line drawn from the Belvedere Light through the Castle Breakwater Light, in the parish of Saint Peter Port, from the point where such line meets the east coast of the Island of Guernsey to the point where such line meets the limits of the controlled waters:

Provided that it shall not be an offence for a person to take by diving any lobster, crab or scallop within any part of the controlled waters in which the taking of such lobster, crab or scallop, as the case may be, is prohibited under this subsection if he can prove that he did not take by diving such lobster, crab or scallop otherwise than—

- (i) while using an apparatus known as "a snorkel"; and
- (ii) for consumption by himself or a member of his household.

(2) In proceedings in respect of a contravention of subsection (1) of this section—

- (a) if any lobster, crawfish, crab, scallop or ormer is found in the possession or control of a person using a boat as a base for diving, such lobster, crawfish, crab, scallop or ormer shall be deemed to have been taken by diving and if such boat is within any part of the controlled waters in which the taking by diving of such lobster, crawfish, crab, scallop or ormer, as the case may be, is prohibited under subsection (1) of this section, it shall be deemed that any diver in the water who is using such boat as a base for diving is in the said part of the controlled waters;
- (b) if a person is found taking or having in his possession any lobster, crawfish, crab, scallop or ormer in any part of the controlled waters in which the taking by diving of such lobster, crawfish, crab, scallop or ormer, as the case may be, is prohibited under subsection (1) of this section, the onus of proof that such lobster, crawfish, crab, scallop or ormer was not taken by diving in the said part of the controlled waters shall lie with such person;
- (c) if any lobster, crawfish, crab, scallop or ormer is found in the possession or control of a person using a boat as a base for diving and such boat is within any part of the controlled waters in which the taking by diving of such lobster, crawfish, crab, scallop or ormer, as the case may be, is prohibited under subsection (1) of this sec-

tion, the onus of proof that such boat was not in the said part of the controlled waters shall lie with such person.

13. (1) A person shall not—

- (a) shuck on board any boat any molluscan shellfish taken within the controlled waters: Provided that it shall not be an offence for a person to shuck on board a boat any molluscan shellfish taken within the controlled waters 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.

Restriction on the shucking of shellfish.

(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 within the controlled waters shall lie with such person.

14. A person shall not—

- (a) land in this Island the tail of any lobster or the claw of any lobster, edible crab or spinous spider crab, the tail or the claw of which, as the case may be, is separated from such lobster, edible crab or spinous spider crab;
- (b) sell or offer for sale in this Island the tail of any lobster or the claw of any lobster, edible crab or spinous spider crab, the tail or the claw of which, as the case may be, is separated from such lobster, edible crab or

Restriction on the landing and sale of lobster tails and crab claws.

spinous spider crab unless such tail or such claw, as the case may be, is in the form of a processed product designated and approved in writing by the Committee.

Prohibited
fishing
areas.

15. (1) The Committee may by order—

- (a) designate any area within the controlled waters to be used for experimental purposes in relation to any species of fish and may prohibit the taking within that area of such species of fish as shall be specified in the order; and
- (b) prohibit the taking within the controlled waters of any fish bearing a mark or tag as shall be specified in the order.

Control of
deposit of
certain
molluscan
shellfish.

16. (1) A person shall not deposit within the controlled waters or on the foreshore of this Island any molluscan shellfish taken either—

- (a) from any shellfish bed outside the controlled waters or foreshore; or
- (b) from any shellfish bed in any area within the controlled waters or foreshore as the Committee may by order prescribe where the Committee is satisfied that for the purposes of preventing the spread of disease or pests carried by shellfish it is expedient to make such order;

otherwise than under and in accordance with a permit granted to such person by the Committee under the provisions of this section.

(2) For the purposes of subsection (1) of this section a person shall be taken to deposit shellfish in the controlled waters if he causes the shellfish to enter those waters; and the reference in that sub-

section to depositing shellfish on the foreshore of this Island includes a reference to throwing down, dropping or otherwise discharging the shellfish on that foreshore; and if a person discharges within the controlled waters 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.

17. Where the Committee is satisfied that for the purposes of preventing the spread of disease or pests carried by fish it is expedient so to do, the Committee may by order prohibit, either absolutely or subject to such conditions as may be imposed under and in accordance with a permit granted by the Committee under the provisions of this section, the importation of fish of any species as shall be specified in such order or the eggs of such fish whether they be fresh water or marine fish or whether they be alive or dead, from any country or countries as shall be specified in such order.

Control of importation of fish to prevent spread of disease or pests.

18. Where the Committee is satisfied that for the purposes of compliance with conservation regulations in force within British fishery limits it is expedient so to do, the Committee may by order prohibit the landing in this Island of fish of any species as shall be specified in such order.

Control of landing of fish for reasons of conservation.

19. Subject to the provisions of this Ordinance, a person shall not take by diving any scallop within the controlled waters otherwise than under and in accordance with a fish divers licence granted to such person by the Committee under the provisions of this section:

Prohibition on the taking by diving of scallops without licence.

provided that it shall not be an offence for a person to take by diving any scallop without complying with the provisions of this section if such person can prove that he did not take by diving such scallop—

- (i) during any period in which, or within any part of the controlled waters in which, the taking of scallops is prohibited under any provisions of this Ordinance; and
- (ii) otherwise than—
 - (a) while using an apparatus known as a “snorkel”; and
 - (b) for consumption by himself or a member of his household.

PART II

Provisions with respect to licences and permits

Licences
and permits.

20. (1) Any person desirous of obtaining a licence or permit under any provisions of this Ordinance shall make application in that behalf to the Committee specifying the licence or permit applied for and such application shall be in such form and accompanied by such information as the Committee may, from time to time, require.

(2) The Committee may upon receipt of an application under the provisions of the last preceding subsection—

- (a) grant the licence or permit applied for; or
- (b) refuse to grant such licence or permit; or
- (c) grant such licence or permit subject to such conditions as the Committee may consider it necessary or expedient to impose.

(3) Any person who is the holder of a licence or permit granted under any provisions of this Ordinance shall not exercise that licence or permit otherwise than under and in accordance with such licence or permit.

21. (1) In deciding whether or not, in the exercise of its powers under the provisions of section 20 of this Ordinance, to grant the licence or permit applied for the Committee shall take into account the welfare of the fishing industry in this Island and of the persons engaged in it and in the case of an application for a fish divers licence, the experience and fitness as a diver of the person making the application.

Factors to be taken into account by the Committee.

(2) Nothing in the last preceding subsection contained shall be taken to preclude the Committee in deciding whether or not, in the exercise of its powers under the provisions of the last preceding section, to grant the licence or permit applied for from taking into account such other factors as the Committee may, from time to time, deem necessary or expedient.

22. (1) Subject to the provisions of the next succeeding subsection and unless suspended or forfeited under the provisions of section 30 of this Ordinance a fish divers licence shall be valid until the thirty-first day of March next following the date of such grant and thereafter, upon being renewed in pursuance of the provisions of section 23 of this Ordinance, shall be valid during the period commencing on the first day of April in any year and ending on the thirty-first day of March next following, both dates inclusive.

Period of validity and extent of fish divers licence.

(2) A fish divers licence shall not be deemed to be valid under this Ordinance for the taking by diving of any scallop during any period in which,

or within any part of the controlled waters in which, the taking of escallops is prohibited under any provisions of this Ordinance and any person who is the holder of a fish divers licence shall not take by diving any scallop during any such period, or within any such part of the controlled waters, as is prohibited under any such provisions.

Renewal of
fish divers
licence.

23. (1) A fish divers licence may be renewed in any year by the Committee for the period specified in section 22 of this Ordinance upon an application being made to it in that behalf on or before the thirty-first day of March of that year.

(2) The provisions of this Ordinance with respect to an application for a licence under section 20 of this Ordinance, to the grant or refusal of such licence and to the factors to be taken into account by the Committee under section 21 of this Ordinance shall apply to an application for the renewal of a fish divers licence under the provisions of the last preceding subsection.

Fees for fish
divers
licence.

24. There shall be paid in advance to the Treasurer of the States in respect of the grant or renewal of a fish divers licence the fee set out in relation thereto in the Third Schedule to this Ordinance.

Records and
information
with respect
to fish
divers
licence.

25. (1) Every person who is the holder of a fish divers licence shall keep for such period as shall, from time to time, be determined by the Committee, a record in writing in such form and containing such particulars relating to the exercise by such person of his licence under this Ordinance, as the Committee may, from time to time require, and every such record shall at all times be open to inspection by any person authorised in writing in that behalf by the Committee, on production of his authority if so required.

(2) Any person who is the holder of a fish divers licence shall, if so required by notice in writing by the Committee, furnish to the Committee or to such person as may be specified in such notice, within such time as shall be specified in such notice, a true statement of all or such of the particulars required to be kept under the provisions of the last preceding subsection as regards such date or dates or such period or periods as shall be specified in such notice.

26. Every person to whom a fish export licence has been granted and who intends to export from this Island a consignment of fish shall, before the consignment is loaded on to a ship or an aircraft, furnish to the Chief Revenue Officer a return in writing in such form and containing such information relating to the consignment as the Committee may, from time to time, require.

Returns with respect to fish export licence.

27. Where the Committee refuses to grant a licence or a permit under any of the provisions of this Ordinance to any person or grants such a licence or permit subject to conditions, notice in writing of such refusal or grant setting out the reasons therefor and signed by the President of the Committee shall be served, as soon as may be, on the applicant for the licence or permit.

Notice of refusal to grant a licence or permit and notice of conditions.

28. Any notice which may be served for the purposes of this Ordinance shall be validly served:—

Service of notices.

- (a) on any person, if delivered to him, left, or sent by registered post or recorded delivery service to him, at his usual or last known place of abode;
- (b) on any firm, if delivered to any partner of the firm or left at, or sent by registered

post or recorded delivery service to, the principal or last known principal place of business of the firm;

- (c) on any body corporate, if left at, or sent by registered post or recorded delivery service to, its registered office if situate in this Island, or, if its registered office is not so situate, its principal or last known principal place of business in this Island.

Appeals.

29. (1) Any person aggrieved by any decision of the Committee under any of the provisions of this Ordinance may appeal therefrom to the Royal Court on the grounds that the decision of the Committee was ultra vires or was an unreasonable exercise of its powers.

(2) Any appeal under this section shall be instituted by way of summons which shall set out the material facts upon which the appellant relies and which shall be served upon the President of the Committee to show cause why the decision appealed from should not be set aside or varied.

(3) On any appeal under this section the burden of satisfying the Royal Court that the decision of the Committee which is the subject of the appeal is intra vires or reasonable shall be discharged by the Committee and the Committee shall be entitled to a final right of reply.

(4) The decision of the Royal Court on any appeal under this section shall be final and conclusive.

Power of the Royal Court to order forfeiture etc. of licence or permit.

30. Where a person who is the holder of a licence or permit granted under any provisions of this Ordinance has been convicted of an offence under any of the provisions of this Ordinance the Royal Court may, upon an application in that behalf by Her

Majesty's Procureur made not later than six months from the date of such conviction—

- (a) suspend, vary or order the forfeiture of his licence or permit;
- (b) order that such person shall not be authorised to obtain any licence or permit under this Ordinance for an indefinite period or for such period as the Royal Court may in such order prescribe;

and in such a case Her Majesty's Procureur shall summon the person named in the application to appear before the Royal Court to show cause why his licence or permit should not be suspended, varied or forfeited and to show cause why the Royal Court should not order that he should not be authorised to obtain any licence or permit under this Ordinance.

31. An officer of police or any person authorised in writing in that behalf by the Committee, on production of his authority if so required, may require any person whom he reasonably suspects of preparing to take or having taken any action whatsoever in respect of which a licence or permit is required under any provisions of this Ordinance—

**Require-
ments as to
production
of licences
and permits.**

- (a) to give his name and address; and
- (b) where such person is the holder of licence or permit granted under any provisions of this Ordinance, to produce his licence;

and if he fails so to give such information and, where the provisions of paragraph (b) of this section are applicable, in addition, fails to produce his licence or permit, as the case may be, he shall be guilty of an offence and liable on conviction to the penalties specified in section 34 of this Ordinance:

provided that where the provisions of paragraph (b) of this section are applicable, if such person within seven days after the date on which the production of his licence or permit was so required produces the licence or permit, as the case may be, in person at the Police Station, he shall not be convicted of an offence under this subsection by reason only of failure to produce his licence or permit to the officer of police or to such authorised person, as the case may be.

PART III

General and miscellaneous provisions

Orders.

32. (1) Any power conferred by this Ordinance to make any order shall be construed as including a power exercisable in like manner to vary or repeal the order.

(2) Every order made under any provisions of this Ordinance shall be laid before a meeting of the States 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 done thereunder or to the making by the Committee of any new order.

Powers of officers of police and of authorised persons.

33. (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 or permit 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 net, explosive, diving apparel or 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 or permit 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 or permit granted thereunder;
 - (f) seize any fish, net, explosive, diving apparel or equipment or other apparatus whatsoever 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 or permit 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.

Offences and penalties.

34. If any person—

- (a) does any act in contravention of any of the provisions of this Ordinance or any order made or any direction given or of the conditions of any licence or permit granted thereunder; or
- (b) fails to do any act which he is required to do under the terms of any notice served or of the conditions of any of the provisions of this Ordinance or any order made or any direction given or under any licence or permit granted thereunder; or
- (c) in connection with any application for the grant or renewal of a licence or permit under any of the provisions of this Ordinance, knowingly makes any false statement or recklessly makes any statement which is false in a material particular or produces or furnishes any information which he knows or believes to be false; or
- (d) knowingly fails to produce any licence or permit or keep any record or furnish any information which he is required to produce or keep or furnish under any of the provisions of this Ordinance; or
- (e) wilfully obstructs any officer of police or any person duly authorised by the Committee in the exercise of any of their powers under any of the provisions of this Ordinance;

he shall be guilty of an offence and liable, on conviction, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment and the Court may, in addition, order the seizure, destruction or other disposal of the fish, net, explosive, diving apparel and of any equipment or other apparatus whatsoever to which the conviction relates at the expenses of the convicted person.

35. Where a person has been convicted of an offence under this Ordinance involving the use of a 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.

Offences involving the use of a boat.

36. Where an offence under this Ordinance which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by bodies corporate.

37. (1) In this Ordinance, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

- “beam trawl” means a net which is constructed to take fish whilst being towed along the seabed by a boat, and which has its mouth extended by a beam, bar or other rigid device, and the expression “beam” shall be construed accordingly;
- “boat” means a vessel of whatever size, and in whatever way propelled, which is for the time being used in fishing;
- “the Committee” means the States Sea Fisheries Committee;
- “the controlled waters” means the territorial waters adjacent to the Islands of Guernsey, Herm and Jethou or any part of such waters;
- “the Court” means the Magistrate’s Court constituted under the Magistrate’s Court (Guernsey) Law, 1954(a);
- “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;
- “fish divers licence” means a licence granted by the Committee under section 19 of this Ordinance authorising the holder of such licence to take by diving scallops;

(a) Ordres en Conseil Vol. XVI, p. 103; Vol. XVII, p. 218; Vol. XXVII, p. 170; No. I of 1983; No. IV of 1984.

“fish export licence” means a licence granted by the Committee under section 2 of this Ordinance authorising the holder of such licence to export fish from this Island;

“foreshore” includes the shore and bed of the sea and every channel, creek, bay as far up the same as the tide flows;

“Her Majesty’s Procureur” includes Her Majesty’s Comptroller;

“this Island” means any of the Islands of Guernsey, Herm and Jethou and includes the islets and rocks and the territorial waters adjacent thereto;

“mile” means nautical mile;

“molluscan shellfish” means molluscan shellfish of any species, whether alive or dead, and includes any part of a molluscan shellfish and any, or any part of any, brood, ware, half-ware, spat or spawn of such shellfish and the shell or any part of the shell thereof;

“officer of police” means a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey;

“pot” in relation to the taking of crabs commonly known as “lady crabs” includes any basket, trap, cage or other apparatus (other than a net consisting only of a single ring or hoop to which a mesh of string or twine is attached) which is designed for use, or is capable of being used, for or in connection with the taking of such crabs;

“preserved” means cooked, pickled or deep frozen; but in relation to ormers means ormers which have been cooked or pickled but does not include ormers which have been deep frozen whether or not such ormers have been cooked or pickled before or after having been deep frozen;

“set net” means any net used for catching fish held in place by one or more anchors, pegs or stakes or by any other means whatsoever;

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

“shellfish bed” means any bed or ground in which shellfish are usually found or which is used for the propagation or cultivation of shellfish;

“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;

“submarine breathing apparatus” includes the apparatus commonly known as a “snorkel” and any other diving device whatsoever;

“take by diving” means to gain possession or control of any lobster, crawfish, crab, scallop or ormer by a person while he is totally or partially submerged and breathing with the aid of submarine breathing apparatus or wearing a diving suit, a face visor, a mask or goggles and the expressions “the taking by diving”, “taken by diving”, “diver” and “diving” shall be construed accordingly;

“trot line” means any line used for fishing having one or more hooks attached to it and held in place by one or more anchors, pegs or stakes or by any other means whatsoever;

“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.

(2) Any reference in this Ordinance to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Ordinance.

38. Nothing in this Ordinance contained shall be **Exemptions.** 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 controlled waters 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, purchase or export 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, purchase or export, as the case may be, being in accordance with any directions which may from time to time be given by the Committee.

Savings for orders, and directions.

39. Any order made or direction given under any provisions of the Ordinance of 1969 and in force immediately before the coming into force of this Ordinance shall continue in force as though it were made or given, as the case may be, under the provisions of this Ordinance until repealed or varied by an order or direction made under the provisions of this Ordinance.

Savings for licences.

40. Any licence granted under any provisions of the Ordinance of 1969 and valid immediately before the coming into force of this Ordinance shall be deemed to have effect as though it were a licence or permit, as the case may be, granted under this Ordinance and any conditions attached thereto were conditions attached under the provisions of this Ordinance.

Savings for other enactments.

41. The provisions of this Ordinance shall not in any way affect the operation of any enactment for the time being in force in this Island relating to fishing except in so far as inconsistent with this Ordinance and the provisions of this Ordinance shall be in addition to, and not in derogation of, the provisions of any such other enactment.

42. The Ordinances specified in the Fourth Repeals. Schedule to this Ordinance are hereby repealed.

43. This Ordinance shall have effect in the Islands **Extent.** of Guernsey, Herm and Jethou.

44. This Ordinance may be cited as the Fishing **Citation.** Ordinance, 1988.

FIRST SCHEDULE Section 1

Minimum size of certain fish

Species of fish	Minimum Size
Brill, cod, hake, turbot	Thirty centimetres in length
Dabs	Fifteen centimetres in length
Haddock	Twenty-seven centimetres in length
Lemon soles, megrins or plaice	Twenty-five centimetres in length
Skate (ray)	Thirty centimetres in breadth
Sole	Twenty-four centimetres in length
Witches	Twenty-eight centimetres in length
Whittings	Twenty-five centimetres in length
Crabs, commonly known as "chancres"	Fourteen centimetres along a horizontal plane between perpendiculars at the extremities of a line drawn between the two most distant extremities of the shell
Crabs, commonly known as "lady crabs"	Five centimetres along a horizontal plane between perpendiculars at the extremities of a line drawn between the two most distant extremities of the shell

Species of fish	Minimum Size
Crabs, commonly known as "spider crabs"	A carapace length of twelve centimetres, being the length measured from between the two horns to the rear end of the body shell along the centre line of the body shell
Lobsters	A carapace length of eighty-five millimetres, being the length measured from the rear of either eye socket to the rear end of the body shell along a line parallel to the centre line of the body shell
Crawfish	Twenty-three centimetres from the tip of the beak to the end of the tail
Escallops, other than those commonly known as "Queen Escallops"	Ten centimetres along a horizontal plane between perpendiculars at the extremities of a line drawn between the two most distant extremities of the shell
Ormers	Eight centimetres along a horizontal plane between perpendiculars at the extremities of a line drawn between the two most distant extremities of the shell

SECOND SCHEDULE Section 6

Minimum size of mesh of seine and trawl nets

Net	Appropriate width of gauge
Seine net, or part of any trawl net as is made of single twine and contains no manila or sisal	Seventy millimetres
Such part of any trawl net as is made of double twine and contains no manila or sisal	Seventy-five millimetres
Such part of a trawl net as is made of manila or sisal	Eighty millimetres

THIRD SCHEDULE Section 24

Fees payable in respect of the grant or renewal
of a fish divers licence

Licence for taking by diving of escallops

Grant of licence	...	...	...	...	...	£1
Renewal of licence	...	...	...	...	...	£1

FOURTH SCHEDULE Section 24

Ordinances repealed

- The Fishing Ordinance, 1969(*b*).
 The Fishing (Amendment) Ordinance, 1970(*c*).
 The Fishing (Amendment) Ordinance, 1971(*d*).
 The Fishing (Amendment) (No. 3) Ordinance,
 1972(*e*).
 The Fishing (Amendment) Ordinance, 1974(*f*).
 The Fishing (Amendment) Ordinance, 1976(*g*).
 The Fishing (Amendment) Ordinance, 1977(*h*).
 The Fishing (Escallops) (Licensing of Diver) Ordi-
 nance, 1978(*i*).
 The Fishing (Amendment) Ordinance, 1979(*j*).
 The Fishing (Amendment) Ordinance, 1981(*k*).
 The Fishing (Amendment) Ordinance, 1986(*l*).
 The Fishing (Amendment) (No. 2) Ordinance,
 1986(*m*).
 The Fishing (Amendment) Ordinance, 1987(*n*).
 The Fishing (Amendment) Ordinance, 1988(*o*).

K. H. TOUGH,

Her Majesty's Greffier.

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- (*b*) Recueil d'Ordonnance Tome XVI, p. 188.
 (*c*) Recueil d'Ordonnance Tome XVI, p. 464.
 (*d*) Recueil d'Ordonnance Tome XVII, p. 44.
 (*e*) Recueil d'Ordonnance Tome XVIII, p. 49.
 (*f*) Recueil d'Ordonnance Tome XIX, p. 234.
 (*g*) Recueil d'Ordonnance Tome XX, p. 437.
 (*h*) Recueil d'Ordonnance Tome XXI, p. 100.
 (*i*) Recueil d'Ordonnance Tome XXI, p. 137.
 (*j*) Recueil d'Ordonnance Tome XXI, p. 376.
 (*k*) Recueil d'Ordonnance Tome XXII, p. 130.
 (*l*) No. XII of 1986.
 (*m*) No. XXX of 1986.
 (*n*) No. XV of 1987.
 (*o*) No. III of 1988.