



GUERNSEY STATUTORY INSTRUMENT

2020 No. 10

**The European Union (SMEFF) (Bailiwick of Guernsey) (Brexit)
Regulations, 2020**

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| <i>Made</i> | <i>30th January, 2020</i> |
| <i>Coming into operation</i> | <i>31st January, 2020</i> |
| <i>Laid before the States</i> | <i>, 2020</i> |

THE POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on it by sections 5(1) and 11 of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018^a, and upon receipt of the certificate required under section 5(3) of that Law, hereby makes the following Regulations:-

Amendment of the Law.

1. The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 ("**the Law**") is amended as follows.
2. Immediately after Part I of the Law, insert the following Part -

^a Order in Council No. I of 2019.

^b Order in Council No. X of 2012; as amended by Ordinance No. IX of 2016 and No. II of 2017.

"PART IA

SMEFF DOCUMENT AND FRENCH FISHING BOATS

Issue of SMEFF documents to French fishing boats.

5A. (1) For the purpose of providing a valid fishing authorisation as required by Regulation (EU) 2017/2403^c only, the Committee may issue a document for that purpose (a "SMEFF document") to any French fishing boat on application by the master, owner or charterer (if any) of that boat.

(2) An application to the Committee must be made in accordance with any procedure approved for that purpose by resolution of the Committee ("**the approved procedure**").

(3) The approved procedure may include the requirement for the application to be accompanied by a fee not exceeding £100.

(4) For the avoidance of doubt, the issue of a SMEFF document under this section does not -

(a) permit a French fishing boat to fish for any sea fish, or in any area within Bailiwick fishery limits, which is not authorised by virtue of the Fishing Boats (France) Designation Order 1965,

(b) create any additional right or expectation of -

^c Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017.

(i) a French fishing boat, or

(ii) the master, owner or charterer (if any) of any such boat,

to fish in Bailiwick fishery limits during the Transition Period or at any time thereafter, or

(c) recognise any right of -

(i) a French fishing boat, or

(ii) the master, owner or charterer (if any) of any such boat,

to fish in Bailiwick fishery limits otherwise than by virtue of the Fishing Boats (France) Designation Order 1965.

(5) For the avoidance of doubt, any fishing by a French fishing boat issued with a SMEFF document, or the master, owner or charterer (if any) of any such boat, during the Transition Period shall not be taken into account -

(a) for the purpose of establishing a track record of fishing in Bailiwick fishing limits, whether under or for the purposes of any enactment relating to sea fish licensing, any rule or principle of domestic or international law, or any other agreement or instrument, or

(b) for any other purpose.

(6) In deciding whether or not to grant a SMEFF document, the Committee shall take into account only whether the French fishing boat in respect of which the application

is made may fish in Bailiwick fishery limits by virtue of the Fishing Boats (France) Designation Order 1965.

- (7) For the avoidance of doubt -
 - (a) an application may be sent,
 - (b) a SMEFF document may be issued, and
 - (c) information may be required or provided for the purposes of section 5C,

in electronic form.

General provisions as to SMEFF documents.

- 5B.** (1) A SMEFF document shall be issued -
 - (a) in the form approved by resolution of the Committee, and
 - (b) in relation to an individual French fishing boat, setting out its name and registration details.
- (2) A SMEFF document may be amended by the Committee at the request of the master, owner or charterer (if any) of a French fishing boat in order to substitute the name and other details (including registration details) of that boat which has been issued with a SMEFF document.
- (3) A SMEFF document may be revoked or suspended at any time and without notice by the Committee if it appears to the Committee that -

- (a) the French fishing boat is no longer authorised to fish in Bailiwick fishery limits, whether by virtue of the Fishing Boats (France) Designation Order 1965, any rule or principle of domestic or international law, or any other enactment or agreement, or
- (b) the French fishing boat had been issued with a fishing authorisation by the French Republic for the purposes of Regulation (EU) 2017/2403, but that authorisation is no longer valid.

(4) A SMEFF document shall only be valid for such period as the Committee may direct and, in any event, until the expiry of the Transition Period.

(5) Section 17 (right of appeal) has effect in relation to this Part as if the word "SMEFF document" were substituted for "licence" (wherever it appears).

Provision of information.

5C. (1) The Committee may require the master, owner or charterer (if any) of a French fishing boat -

- (a) who has applied for a SMEFF document, or
- (b) whose boat has been issued a SMEFF document,

to provide the Committee with such information, in such form and manner, and within such time or at such times and intervals, as it may direct.

(2) Section 11 (false statements) has effect in relation to this Part, and in particular sections 5A and this section, as if the word "SMEFF document" were substituted for "licence".

Territorial seas adjacent to Alderney and Sark.

5D. For the avoidance of doubt, the provisions of section 18 do not prohibit the exercise of the power to issue a SMEFF document in relation to Bailiwick fishery limits which were not part of the territorial seas adjacent to Alderney and Sark at the commencement of this Law."

3. In section 19, immediately after the definition of -

(a) **""fishing boat""**, insert -

""French fishing boat" means a boat which is registered in accordance with the relevant legislation of the French Republic relating to the registration of fishing boats," and

(b) **""territorial seas adjacent to Alderney and Sark""**, insert -

""Transition Period" has the meaning given in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018,".

Extent.

4. These Regulations have effect throughout the Bailiwick of Guernsey and the territorial waters adjacent thereto.

Citation and commencement.

5. These Regulations may be cited as the European Union (SMEFF) (Bailiwick of Guernsey) (Brexit) Regulations, 2020 and shall come into force at 11pm on the 31st day of January 2020.

Dated this 30th day of January, 2020



J. P. LE TOCQ

Member of the Policy & Resources Committee

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations permit the issue of documents by the Committee for Economic Development ("the Committee") to French fishing boats for the purposes of Regulation (EU) 2017/2403 ("the SMEFF Regulation"). Under the SMEFF Regulation, a flag Member State must provide a fishing authorisation to a Union fishing boat in order for it to fish in third country waters. As part of the procedure for authorisation by the flag Member State, the operator must provide a fishing authorisation from that third country. The EU Commission must finally review the issue of the fishing authorisation by the flag Member State.

These Regulations insert a new Part IA into the Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 to provide a power to the Committee to issue a document for the purposes of the SMEFF Regulation (a "SMEFF document"), where the master, owner and charterer (if any) of a French fishing boat applies for that document. The Committee may approve the procedure for applications, including the payment of a fee, by resolution. A SMEFF document is only valid for the period of the Transition Period, as defined by the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

For the avoidance of doubt, these Regulations state that the issue of a SMEFF document does not provide a French fishing boat with a right to fish for sea fish or in an area of the Bailiwick fishery limits which is not permitted by the Fishing Boat (France) (Designation) Order 1965. In addition, the issue of a SMEFF document does not create or recognise any right to fish for the French fishing boat, or the master, owner and charterer (if any) of any such boat, in Bailiwick fishery limits. Furthermore, any fishing carried out by the French fishing boat, or the master, owner and charterer (if any) of any such boat, will not be taken into account for the purpose of establishing a track record under any enactment relating to sea fish licensing.

These Regulations come into force at 11pm on 31st January, 2020.