

GUERNSEY STATUTORY INSTRUMENT

2020 No. 163

**The European Union (Sea Fisheries, etc.) (Brexit)  
(Bailiwick of Guernsey) Regulations, 2020**

<i>Made</i>	<i>31<sup>st</sup> December, 2020</i>
<i>Coming into operation</i>	<i>See regulation 14</i>
<i>Laid before the States</i>	<i>, 2021</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<sup>a</sup>, and upon receipt of the certificate required under section 5(3) of that Law, hereby makes the following Regulations:-

*Foreign fishing boats, etc.*

**Amendment of the Law.**

1. The Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 ("the Law") is amended as follows.

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<sup>a</sup> Order in Council No. I of 2019.

2. In the title of Part I, immediately after "fishing" insert "by British fishing boats".

3. For Part IA of the Law, substitute the following Part -

"PART IA  
FRENCH FISHING BOATS

**Prohibition of fishing in the authorised zone without an interim authorisation.**

5A. (1) Fishing for any fish within the authorised zone by French fishing boats is prohibited unless authorised by an interim authorisation granted by the Committee and for the time being in force.

(2) For the purposes of this Part -

the "**authorised zone**" means the area of territorial sea lying seaward of 6 nautical miles from the baselines from which the breadth of the territorial sea adjacent to the Bailiwick of Guernsey is measured between the designated line clockwise to a demarcation line drawn north-east from Alderney Lighthouse,

the "**designated line**" means the series of straight lines joining, in the sequence given, Points 1 to 13 indicated in Schedule 3 to the Territorial Sea Act 1987<sup>b</sup>, as extended by the Territorial Sea Act 1987 (Guernsey)

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<sup>b</sup> An Act of the Westminster Parliament (c. 49).

Order 2019<sup>c</sup>, as those points relate to the area of territorial sea lying seaward of six nautical miles, and

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

**Access to and prohibition of fishing in Bailiwick fishery limits outside of the authorised zone.**

5B. (1) Fishing or attempting to fish for any fish in Bailiwick fishery limits outside the authorised zone by French fishing boats is prohibited.

(2) A French fishing boat must not enter Bailiwick fishery limits outside the authorised zone except for a purpose recognised by international law or by any international agreement or arrangement to which the United Kingdom is a party or which otherwise applies in relation to the Bailiwick.

(3) A French fishing boat that enters Bailiwick fishery limits for a purpose mentioned in subsection (2) must return outside Bailiwick fishery limits as soon as the purpose has been fulfilled.

(4) At any time when a French fishing boat is within Bailiwick fishery limits outside the authorised zone, its fishing gear shall be stowed securely and in such a manner that it shall not be capable of being used for fishing.

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<sup>c</sup> United Kingdom Statutory Instrument No. 2019/1108.

(5) This section is in addition, and without prejudice, to any other enactment in relation to the prohibition of fishing by French fishing boats, whether identified by nationality or otherwise, in Bailiwick fishery limits or the territorial seas adjacent to any island of the Bailiwick.

**General provisions as to interim authorisations.**

5C. (1) Where an interim authorisation is granted under this Part, that interim authorisation shall be granted to the owner or charterer in respect of a named French fishing boat.

(2) An interim authorisation may only authorise fishing in the authorised zone, but may also be limited by reference to, in particular -

- (a) the area within the authorised zone in which fishing is authorised,
- (b) the periods, times or particular voyages during which fishing is authorised,
- (c) the descriptions and quantities of fish which may be taken,  
or
- (d) the method of sea fishing.

(3) An interim authorisation may authorise fishing subject to such conditions as may appear to the Committee to be necessary or expedient for the regulation

of sea fishing (including conditions which do not relate directly to fishing), and in particular an interim authorisation may contain conditions -

- (a) as to the landing of fish or parts of fish taken under the authority of the interim authorisation (including specifying the ports at which the catch is to be landed), or
- (b) as to the use to which the fish taken may be put.

(4) The conditions subject to which an interim authorisation may be granted include conditions imposed for the purposes of -

- (a) conserving or enhancing the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas, or
- (b) conserving flora or fauna which are dependent on, or associated with, a marine or coastal environment.

(5) The conditions subject to which an interim authorisation may be granted may differ as between different vessels or between vessels of different descriptions.

(6) An interim authorisation under this section -

- (a) may be varied from time to time,

- (b) may be suspended or revoked if it appears to the Committee -
  - (i) to be necessary or expedient for the regulation of sea fishing, or
  - (ii) to be appropriate in a case where there is an offence under this Law or any other enactment relating to sea fishing, and
- (c) subject to subsection (7), shall only be valid for three months after exit day or until such other date specified in the interim authorisation, whichever is the earlier.

(8) Notwithstanding subsection (6)(c), the Committee may, if it considers it necessary or expedient to do so, renew an interim authorisation for a further period of three months.

(9) Where any fish of any description other than that set out in an interim authorisation has been taken on board a French fishing boat fishing in accordance with this Part, that fish must be returned to the sea forthwith.

(10) If an interim authorisation is varied, revoked or suspended, the Committee may, if it considers it appropriate in all the circumstances of the case, refund the whole or any part of any charge made for the interim authorisation.

(11) An interim authorisation may be issued by -

- (a) providing an individual document to the owner or charterer (if any) of any French fishing boat permitted to fish under this Part, or
- (b) publishing a list on the relevant States of Guernsey website which identifies with sufficient particularity every French fishing boat permitted to fish under this Part,

and shall include any conditions attached to the interim authorisation.

(12) Where -

- (a) the owner or charterer (if any) of a French fishing boat permitted to fish under this Part requests the substitution of a different fishing boat in its place,
- (b) the Committee considers it necessary or expedient to amend an interim authorisation (including by amending any details of, or adding or deleting the details of, a French fishing boat, or amending, adding or deleting a condition),

the Committee may amend the interim authorisation by -

- (i) providing an updated document to the owner or charterer (if any) of that French fishing boat, or

- (ii) republishing that list on the relevant States of Guernsey website,

as the case may be.

(13) For the avoidance of doubt -

- (a) an interim authorisation may be issued for the purposes of subsection (10)(a), and
- (b) information may be required or provided for the purposes of section 5E,

in electronic form.

(14) For the purposes of this Part –

- (a) sections 6 (powers of British sea-fishery officers for enforcement of Law) and 7 (powers of entry, search and seizure), and
- (b) section 11 (false statements),

shall have effect as if the word "interim authorisation" were substituted for "licence".

**Effect of interim authorisations.**

5D. For the avoidance of doubt -

(a) an interim authorisation is a valid fishing authorisation for the purposes of Regulation (EU) 2017/2403<sup>d</sup>,

(b) the issue of an interim authorisation -

(i) does not create any right or expectation of -

(A) a French fishing boat, or

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

to fish in the authorised zone or any other part of Bailiwick fishery limits after the expiry of the interim authorisation,

(ii) does not recognise any right of -

(A) a French fishing boat, or

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

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<sup>d</sup> Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017.

to fish in Bailiwick fishery limits otherwise than by virtue of this Part, and

(c) any fishing by a French fishing boat issued with an interim authorisation, or the master, owner or charterer (if any) of any such boat, during the period of validity of the interim authorisation shall not be taken into account -

(i) 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

(ii) for any other purpose.

**Matter to be taken into account.**

5E. (1) In deciding whether or not to grant an interim authorisation, the Committee shall take into account only whether a French fishing boat has been identified on a list provided by the European Union in accordance with Heading Five: Fisheries of the Trade and Cooperation Agreement.

(2) For the purposes of subsection (1), "**the Trade and Cooperation Agreement**" means the Trade and Cooperation Agreement between the European Union

and the European Atomic Energy Community, of the one part and the United Kingdom of Great Britain and Northern Ireland, of the other part.

**Provision of information.**

5F. The Committee may require the master, owner and charterer (if any) of a French fishing boat named in an interim authorisation 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.

**Regulations as to interim authorisations and charges for interim authorisations.**

5G. Section 5 shall have effect in relation to interim authorisations under this Part as it does in relation to licences under Part I.

**Territorial seas adjacent to Alderney and Sark.**

5H. For the avoidance of doubt, the provisions of section 18 do not prohibit the exercise of any power under this Part in relation to Bailiwick fishery limits which were not the territorial seas adjacent to Alderney and Sark at the commencement of this Law."

4. Immediately following Part IA, insert the following Parts -

"PART IB  
FOREIGN FISHING BOATS

**Prohibition on fishing in Bailiwick fishery limits by foreign fishing boats.**

5I. (1) Fishing or attempting to fish for any fish within Bailiwick fishery limits by foreign fishing boats is prohibited.

(2) A foreign fishing boat must not enter Bailiwick fishery limits except for a purpose recognised by international law or by any international agreement or arrangement to which the United Kingdom is a party or which otherwise applies in relation to the Bailiwick.

(3) A foreign fishing boat that enters Bailiwick fishery limits for a purpose mentioned in subsection (2) must return outside Bailiwick fishery limits as soon as the purpose has been fulfilled.

(4) For the purposes of this section, "**foreign fishing boat**" means a fishing boat other than a British fishing boat or a French fishing boat.

(5) This section is in addition, and without prejudice, to any other enactment in relation to the prohibition of fishing by foreign fishing boats in Bailiwick fishery limits or the territorial sea of any of the islands of the Bailiwick.

## PART IC

### IMPLEMENTATION OF INTERNATIONAL OBLIGATIONS

#### **Power to make regulations.**

5J. (1) The States of Guernsey Policy & Resources Committee, after consultation with the Committee, may by regulations make such provision as it considers necessary or expedient for purposes of the implementation of any international obligation relating to fisheries, fishing, or aquaculture.

(2) Regulations made under subsection (1) may include provision about, but not be limited to -

- (a) the quantity of sea fish that may be caught,
- (b) the amount of time that fishing boats may spend at sea,
- (c) the landing of sea fish,
- (d) bycatch,
- (e) catching, landing or selling sea fish that are below a certain size,
- (f) setting and enforcing targets relating to marine stocks,
- (g) the design of sea fishing equipment,
- (h) the use of sea fishing equipment,
- (i) the retrieval of lost or discarded sea fishing equipment,
- (j) methods of sea fishing,
- (k) the processing of sea fish,
- (l) the use to which a Bailiwick authority or any committee of a Bailiwick authority may put information obtained in the exercise of their functions under any regulations,

- (m) the marketing of fishery products (including labelling),
- (n) keeping, disclosing or publishing accounts, records or other documents or information by persons involved in -
  - (i) commercial fish or aquaculture activities, or
  - (ii) monitoring, or enforcing, compliance with the regulation of commercial fish or aquaculture activities,
- (o) the use in aquaculture, or transport, of aquatic organisms that are members of an alien species or a locally absent species, and
- (p) monitoring, or enforcing, compliance with the regulation of any of the matters mentioned in the preceding paragraphs of this subsection.

(3) Without limiting the power set out in subsection (1), regulations made under that subsection may make different provision in relation to -

- (a) different descriptions of sea fish or other animals,
- (b) different descriptions of fishing boat, or

(c) different areas of the sea.

(4) For the avoidance of doubt, and without prejudice to section 22, regulations made under subsection (1) may apply to all vessels irrespective of the country or territory in which they are registered, or to vessels registered in any particular country or territory, or to vessels of any class or description.

(5) For the avoidance of doubt, the power conferred by subsection (1)

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(a) is in addition to, and without prejudice to, any power to make similar provision in any other enactment,

(b) includes the power to make provision as to the creation and punishment of offences in respect of contraventions of the regulations and as to the creation of new duties, obligation, liabilities and remedies, penalties, sanctions and other consequences, but does not include power -

(i) to provide for offences to be triable only on indictment,

(ii) to authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008, or

(iii) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years, and

(c) includes the power to direct that any provision of this Law or of any other enactment shall have effect with such exceptions, adaptations and modifications as may be specified in the regulations.

(7) Where a licence condition or condition contained in an interim authorisation is in conflict with any provision of a regulation made under subsection (1), the latter shall prevail and the licence condition or condition contained in an interim authorisation is amended accordingly.

**Section 5J: interpretation.**

5K. (1) In this Part -

**"aquaculture"** means the breeding, rearing, growing or cultivation of -

- (a) any fish or other aquatic animal,
- (b) seaweed or any other aquatic plant, or
- (c) any other aquatic organism,

**"aquaculture activities"** means (whether or not carried out in the course of a business or employment) -

- (a) aquaculture,
- (b) harvesting aquaculture organisms,
- (c) operating vessels for harvesting or processing aquaculture organisms,
- (d) storing or transporting aquaculture organisms,
- (e) loading and unloading aquaculture organisms, or
- (f) processing aquaculture organisms,

**"aquaculture organism"** means an aquatic organism resulting from aquaculture,

**"Bailiwick authority"** means the States of Guernsey, the States of Alderney and the Chief Pleas of Sark,

**"bycatch"** means -

- (a) fish that are caught in the course of fishing for fish of a different description, or
- (b) animals other than fish that are caught in the course of fishing,

**"commercial aquaculture activities" means -**

- (a) any aquaculture activity carried out in the course of a business or employment, or
- (b) selling aquaculture organisms (whether wholesale or retail),

**"commercial fish activities" means -**

- (a) any fish activity carried out in the course of a business or employment, or
- (b) selling fish or fish products (whether wholesale or retail),

**"commercial fish or aquaculture activities" means commercial fish activities or commercial aquaculture activities,**

**"fish activities" means (whether or not carried out in the course of a business or employment) -**

- (a) catching fish,
- (b) operating vessels for catching or processing fish,
- (c) transporting fish or fish products,

(d) loading and unloading fish or fish products, or

(e) processing fish,

**"fish and aquaculture activities"** means fish activities and aquaculture activities,

**"fishery products"** means -

(a) fish or other aquatic organisms resulting from fishing or aquaculture, or

(b) products derived from aquatic organisms within paragraph (a),

**"implementation"**, in relation to an international obligation, includes the enforcement or enactment of the international obligation, and the securing of the administration, execution, recognition, exercise or enjoyment of the international obligation, in or under domestic law and cognate expressions shall be construed accordingly,

**"international obligation"** includes -

(a) any obligation that arises or may arise under an international agreement or arrangement -

(i) to which all or any part of the Bailiwick is a party,  
or

(ii) which otherwise extends to or applies in all or any part of the Bailiwick, and

(b) a regional fisheries management obligation,

**"the marine and aquatic environment"** includes -

(a) the natural beauty or amenity of marine or coastal areas, or of inland waters or waterside areas,

(b) features of archaeological or historic interest in those areas, and

(c) flora and fauna which are dependent on, or associated with, a marine or coastal, or aquatic or waterside, environment,

**"marine stocks"** means stocks of available and accessible living marine aquatic species, including anadromous and catadromous species during their marine life,

**"processing"**, in relation to -

(a) fish or any other aquatic organism, includes preserving or preparing the organism, or producing any substance or article from it, by any method for human or animal consumption, and

(b) without prejudice to paragraph (a), shellfish, includes shucking,

**"regional fishing management agreement"** means an international agreement (including an international agreement to which the Bailiwick is not a party) the sole or main purpose of which is the conservation or management of -

(a) straddling stocks,

(b) stocks of highly migratory stocks, or

(c) any other marine stocks,

**"regional fishing management obligation"** means a requirement imposed on, or a recommendation made to, the United Kingdom or the Bailiwick (whether directly or indirectly) -

(i) by, or pursuant to, a regional fisheries management agreement, or

(ii) by a regional fisheries management organisation,

**"regional fisheries management organisation"** means an organisation (including an organisation of which the Bailiwick is not a member) established pursuant to a regional fisheries management agreement, and

**"sea fishing equipment"** means -

- (a) fishing nets or any other equipment used in the course of sea fishing (including, for example, equipment used to navigate, or to deter animals that are not intended to be caught), or
  - (b) equipment used to monitor sea fishing.
- (2) For the purposes of this Part, an aquatic organism is -
- (a) a member of an "**alien species**" if -
    - (i) it is located outside the known natural range, and the area of the natural dispersal potential, of the species or subspecies of which it is a member,
    - (ii) it is a polyploid organism, or
    - (iii) it is a member of a fertile artificially hybridised species or subspecies, and
  - (a) a member of an "**locally absent species**" if -
    - (i) within the known natural range of the species or subspecies of which it is a member, and
    - (ii) in an area in which that species or subspecies is

absent (in a wild state).

PART ID

FISHING OUTSIDE BAILIWICK FISHERY LIMITS BY BAILIWICK FISHING BOATS

**Prohibition on fishing outside Bailiwick fishery limits by Bailiwick fishing boats without a licence.**

5L. (1) Fishing for any fish outside Bailiwick fishery limits by a Bailiwick fishing boat is prohibited unless authorised by the required licence and for the time being in force.

(2) For the purposes of this section -

a "**Bailiwick fishing boat**" means a British fishing boat which is registered in the Bailiwick,

"**relevant licensing authority**" means each authority which has responsibility to issue required licences for the area in which that fishing takes place, and

"**required licence**" means a licence or any other type of authorisation issued by the relevant licensing authority necessary for a Bailiwick fishing boat to fish in the said area for the species and using the methods employed."

4. In section 6(1)(a), delete "British".

5. In section 9 -

- (a) in subsection (1), immediately after "section 1(1)" insert ",  
5A, 5B, 5I or 5L",
- (b) in subsection (2), immediately after "licence condition",  
insert "(whether contained in a licence granted under  
section 1 or a required licence as defined by section 5L) or  
condition of an interim authorisation",
- (c) in subsection (3), immediately after "section 4", insert "or  
section 5F", and
- (d) in subsection (4), immediately after "section 2(7)" insert "or  
section 5C(9)".

6. In section 19 -

- (a) insert in the appropriate place -

""**Bailiwick fishing boat**" has the meaning given in section  
5L(4),"

""**exit day**" has the meaning given in the European  
Communities (Brexit) (Bailiwick of Guernsey) Law, 2018,"

""**foreign fishing boat**" has the meaning given in section 5I(4)", and

"**interim authorisation**" has the meaning given in section 5B,

- (b) for the definition of "French fishing boat", substitute the following definition -

""**French fishing boat**" has the meaning given in section 5A(2)", and

- (c) for the definition of "licence", substitute the following definition -

""**licence**" (other than in relation to section 5L) means a licence granted by the Committee under section 1,".

**Revocation.**

7. The European Union (SMEFF) (Bailiwick of Guernsey) (Brexit) Regulations, 2020 are hereby revoked.

**Definition of "Bailiwick fishery limits".**

8. Unless the contrary intention applies, for the purposes of any provision which applies in the Bailiwick and which relates to sea fisheries -

- (a) which includes a definition of both "**British fishery limits**" and "**Bailiwick fishery limits**" -

- (i) for "**British fishery limits**" wherever it appears, substitute "**Bailiwick fishery limits**",
- (ii) delete the definition of "**British fishery limits**", and
- (iii) for the definition of Bailiwick fishery limits, substitute -

"**Bailiwick fishery limits**" extend to the seaward limits of the territorial sea adjacent to the Bailiwick of Guernsey as extended by the Territorial Sea Act 1987 (Guernsey) Order 2019,"

- (b) which includes a definition of "**British fishery limits**" only -

- (i) for "**British fishery limits**" wherever it appears, substitute "**Bailiwick fishery limits**", and
- (ii) for the definition of "**British fishery limits**", substitute -

"**Bailiwick fishery limits**" extend to the seaward limits of the territorial sea adjacent to the Bailiwick of Guernsey as extended by the Territorial Sea Act 1987 (Guernsey) Order 2019,"

- (c) which includes a definition of "**Bailiwick fishery limits**" only, for that definition substitute -

**""Bailiwick fishery limits" extend to the seaward limits of the territorial sea adjacent to the Bailiwick of Guernsey as extended by the Territorial Sea Act 1987 (Guernsey) Order 2019,"**

- (d) in other case, which includes a reference to "**British fishery limits**", for that reference wherever it appears, substitute "**Bailiwick fishery limits**".

*NEAFC*

9. In the Harbours (Guernsey) Ordinance, 1988<sup>e</sup> -

- (a) immediately after section 6B, insert the following section -

**"Power to prohibit fishing boats entering or leaving harbours etc.**

**6C. (1)** The Harbourmaster may prohibit a fishing boat from entering or leaving a harbour or marina named in this Ordinance.

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<sup>e</sup> Recueil d'Ordonnances Tome XXIV, p. 418; there are amendments which are not relevant to these Regulations.

(2) The master of a fishing boat shall not cause that fishing boat to enter or leave a harbour or marina named in this Ordinance where the Harbourmaster has prohibited it from doing so.

(3) For the purposes of this section, "fishing boat" has the meaning given in the Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012, regardless of its country or territory of registration.

(4) For the avoidance of doubt -

(a) nothing in this section shall prevent the Harbourmaster from permitting a fishing boat to enter a harbour or marina named in this Ordinance if the Harbourmaster considers it necessary or expedient for reasons of safety, and

(b) the power of the Harbourmaster to prohibit under subsection (1) is in addition, and without prejudice, to any other power to regulate the entry and exit of vessels into a harbour or marina named in this Ordinance.", and

- (b) in section 47(3), immediately after "6,", insert "6C(2)".

*Miscellaneous*

**Modification of Law of 1986.**

10. (1) The Police Force (Guernsey) Law, 1986<sup>f</sup> is modified as follows.
- (2) In section 1(1) -
- (a) immediately after "agreement" insert ", whether directly or through any coordinating body,", and
- (b) immediately after "demand on its resources" insert ", whether in the Island of Guernsey or elsewhere in the Bailiwick".
- (3) In section 2(1), substitute the following -
- (a) for "during their period of duty in the Island", the words "during their period of duty in the Bailiwick",
- (b) for "force present in the Island", the words "force present in the Bailiwick", and

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<sup>f</sup> Order in Council No. XII of 1986; as amended by Ordinance No. XXXIII of 2003 and No. IX of 2016.

(c) for "the Courts of Guernsey in respect of their conduct within the Island", the words "the appropriate Court in respect of their conduct within the Bailiwick".

(4) After section 2(1), insert the following subsection -

"(1A) The "**appropriate Court**" in subsection (1) means -

(a) the Court of Alderney, where a member of a force is within the jurisdiction of that Court,

(b) the Court of the Seneschal, where a member of a force is within the jurisdiction of that Court, and

(c) in any other case, the Magistrate's Court or, as the case may require, the Royal Court."

(5) In section 2(2), for "in the Island", substitute the words "in the Bailiwick".

(6) In section 2(3) -

(a) for "in the Island", substitute the words "in the Bailiwick", and

- (b) immediately after "as amended", insert the words ", or to take any oath of office before the Court of the Seneschal pursuant to any of sections 52 to 54 of the Reform (Sark) Law, 2008<sup>g</sup> or any oath or affirmation pursuant to section 47 of the Government of Alderney Law, 2004<sup>h</sup> or any Ordinance thereunder."

**Application of Law of 1986 to the Bailiwick.**

11. The Police Force (Guernsey) Law, 1986 and any regulations under it shall apply to the Bailiwick of Guernsey, including the territorial sea adjacent to it, and any reference to in or within the Bailiwick shall be construed accordingly.

**Limit on modification to and application of Law of 1986 to the Bailiwick.**

12. (1) Subject to subsection (2), sections 10 and 11 shall only have effect until 1<sup>st</sup> April 2021.

(2) The Policy & Resources Committee may, where it considers it necessary or expedient to do so, direct that sections 10 and 11 shall continue to have effect for further successive periods of three months.

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<sup>g</sup> Order in Council No. V of 2008; amended by Nos. VI and XXVII of 2008; No. XIV of 2010; No. XII of 2011; No. XI of 2014; No. IX of 2016; No. II of 2017; Sark Ordinance Nos. II and VI of 2015; No. XI of 2017; No. XIII of 2018.

<sup>h</sup> Order in Council No. III of 2005, Ordres en Conseil Vol. XLV, p. 26; there are amendments not relevant to these Regulations.

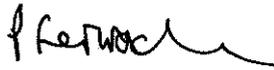
**Extent.**

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

**Citation and commencement.**

14. These Regulations may be cited as the European Union (Sea Fisheries, etc.) (Brexit) (Bailiwick of Guernsey) Regulations, 2020 and shall come into force on exit day.

Dated this 31<sup>st</sup> day of December, 2020



P. T. R. Ferbrache

President of the Policy & Resources Committee

For and on behalf of the Committee

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EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in consequence of the withdrawal of the United Kingdom from the European Union.

On the basis of the access for French fishing boats agreed as part of the Trade and Cooperation Agreement between the United Kingdom and the European Union and the revocation of the relevant UK legislation underpinning their access to Bailiwick waters for the purposes of the London Fisheries Convention, the Sea Fish Licensing (Bailiwick of Guernsey) Law, 2012 ("the 2012 Law") will be amended to allow them to access the

relevant areas of the Bailiwick 6-12nm belt. Whilst the effort evidenced by the track record period agreed is assessed for the purposes of a full licence scheme to be introduced shortly, an interim authorisation regime is required to permit French fishing boats to fish lawfully in the authorised area for authorised species. This regime will permit the imposition of conditions on French fishing boats, the suspension or termination of authorisations and the publication of a general authorisation on a relevant States of Guernsey website. On the basis of the revocation of the relevant UK legislation underpinning access for French fishing boats to Bailiwick waters for the purposes of the London Fisheries Convention, a prohibition on fishing in Bailiwick fishery limits by fishing boats other than British and French fishing boats is also inserted in the 2012 Law.

The Regulations additionally insert a new power into the 2012 Law to allow the Policy & Resources Committee, after consultation with the Committee *for* Economic Development, to make regulations for the purpose of implementing international obligations relating to fisheries, fishing or aquaculture. A non-exhaustive list of matters in relation to which this power may be exercised is set out, which mirrors that set out in section 32 of the UK Fisheries Act 2020.

A definition of "Bailiwick fishery limits" is also provided for enactments which apply in the Bailiwick and relate to sea fisheries.

For the purposes of the extension of the UK's Contracting Party status in the North-East Atlantic Fishing Convention ("NEAFC"), these Regulations also insert a prohibition on Bailiwick fishing boats fishing outside of Bailiwick fishery limits without the required licence or otherwise than in accordance with such a licence. This is to allow effective enforcement of non-compliant fishing by Bailiwick fishing boats in the French EEZ or on the high seas (e.g. the NEAFC Regulatory area). In addition, NEAFC requires Participants to exercise control on port access in order to prevent fishing boats landing their catch etc. in undesignated NEAFC ports. Therefore, a power to prohibit the entry or exit of fishing boats is required for all harbours or marinas where these activities could be carried out.

The Police Force (Guernsey) Law, 1986 permits officers of a UK police force or the States of Jersey Police Force to exercise the powers of a Guernsey police officer in Guernsey in order to meet any special demand on the resources of Guernsey Police. However, as a consequence of the UK's withdrawal from the EU, it is possible that any such officer might be required to exercise those powers in the territorial waters of all 3 islands of the Bailiwick (for example, to deal with public order offences relating to fishing incidents, rather than the fishing incidents themselves). This modification and extension therefore includes the territorial seas, as well as the other islands, and would be effected initially

for a 3 month period. This period could be extended by a direction of the Committee for successive 3 month periods.

These Regulations will come into force on exit day (11pm on 31<sup>st</sup> December 2020).