
STATUTORY INSTRUMENTS

1989 No. 2411

SEA FISHERIES

The Sea Fish (Conservation) (Channel Islands) (Amendment) Order 1989

Made - - - - 19th December 1989

Coming into force - - 1st February 1990

At the Court at Buckingham Palace, the 19th day of December 1989

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 24(2) and (3) of the Sea Fish (Conservation) Act 1967(1), including that section as extended by section 46(7) of the Fisheries Act 1981(2), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Sea Fish (Conservation) (Channel Islands) (Amendment) Order 1989 and shall come into force on 1st February 1990.

2. The Sea Fish (Conservation) (Channel Islands) Order 1981(3) shall, to the extent that it relates to the Bailiwick of Guernsey, be amended in accordance with the provisions of the Schedule to this Order.

22nd September 1990

G I de Deney
Clerk of the Privy Council

(1) 1967 c. 84
(2) 1981 c. 29
(3) S.I.1981/737

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SCHEDULE

Article 2

AMENDMENTS TO THE SEA FISH (CONSERVATION) (CHANNEL ISLANDS) ORDER 1981

1. In article 3 —

- (a) in paragraph (a), for “(as amended by section 16 of the Sea Fisheries Act 1968⁽⁴⁾ and section 9 of and Schedule 2 to the Fishery Limits Act 1976⁽⁵⁾)” there shall be substituted “(as substituted by section 19(1) of the Fisheries Act 1981 and amended by Schedule 6 to the Merchant Shipping Act 1988⁽⁶⁾)”;
- (b) in paragraph (c), after “Fishery Limits Act 1976” there shall be inserted “and amended by section 20 of the Fisheries Act 1981”;
- (c) after paragraph (c) there shall be inserted the following paragraph:

“(ca) section 4A (as inserted by section 21(1) of the Fisheries Act 1981);”;
- (d) in paragraph (d), for “(as amended by section 9 of and Schedule 2 to the Fishery Limits Act 1976)” there shall be substituted “(as amended by section 22 of the Fisheries Act 1981)”;
- (e) in paragraph (e)(i), after “section 9” there shall be inserted “(as amended by sections 19, 21 and 46 of the Fisheries Act 1981)”;
- (f) in paragraph (e)(ii), for “(as amended by sections 5 and 9 of and Schedules 1 and 2 to the Fishery Limits Act 1976)” there shall be substituted “(as amended by section 24 of the Fisheries Act 1981)”;
- (g) in paragraph (e)(iii), after “section 14” there shall be inserted “(as substituted by section 29 of the Fisheries Act 1981)”, and
- (h) in paragraph (e)(iv), after “Fishery Limits Act 1976” there shall be inserted “and section 25 of the Fisheries Act 1981”.

2. In article 4, in the definition of “British-owned”, after “Merchant Shipping Act 1894⁽⁷⁾” there shall be inserted “as it has effect in Guernsey”.

3. For Part I of the Schedule there shall be substituted the following Part:

“PART I

GUERNSEY

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

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

3. In section 1 —

- (a) subsections (1), (2), (5) and (7) shall be omitted;
- (b) for subsection (3) there shall be substituted the following subsection:

(4) 1968 c. 77
(5) 1976 c. 86
(6) 1988 c. 12
(7) 1894 c. 60

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“(3) Sea fish of any description which are of less than the minimum size prescribed in relation to sea fish of that description by an order of the Ministers under this subsection as it applies in Great Britain whether made before or after the coming into force of the Sea Fish (Conservation) (Channel Islands) (Amendment) Order 1989 shall not be carried, whether within or outside British fishery limits, on a British fishing boat registered in Guernsey nor, in the case of a British fishing boat not so registered, in British fishery limits adjacent to Guernsey; and where such an order prohibits the carrying by any foreign fishing boat of sea fish of any description prescribed by the order which are of less than the minimum size so prescribed in relation to sea fish of that description, such sea fish shall not be carried by such a fishing boat within British fishery limits adjacent to Guernsey.”;

- (c) in subsection (4), the words from “and an order” to the end shall be omitted;
- (d) in subsection (6), for “An order under this section may” and “the Order” there shall be substituted respectively “The Ministers may by order” and “such prohibition”, and (e) for subsection (9) there shall be substituted the following subsections:

“(9) In this section “British fishing boat” means a fishing boat which is registered in the United Kingdom or in the Isle of Man or in any of the Channel Islands, exempted from registration by regulations under section 373 of the Merchant Shipping Act 1894 or owned wholly by a person who is (within the meaning of that Act) a person qualified to own a British ship; and “foreign fishing boat” means any fishing boat other than a British fishing boat.

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

4. In section 3—

- (a) in subsection (1)—
 - (i) after “securing that” there shall be inserted “(except in territorial waters adjacent to Guernsey)”, and
 - (ii) for “the United Kingdom” there shall be substituted “Guernsey”;
- (b) for subsection (2) there shall be substituted the following subsection —

“(2) An order under this section may be made so as to extend to nets or other fishing gear carried within British fishery limits adjacent to Guernsey by fishing boats registered outside Guernsey or not registered in any country.”; and
- (c) for subsection (7) there shall be substituted the following subsections:

“(7) In this section “Act” includes any enactment in force in Guernsey or any part thereof.

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

5. In section 4 —

- (a) for subsection (1) there shall be substituted the following subsection:

“(1) The Ministers may by order provide —

 - (a) that in any specified area within British fishery limits adjacent to Guernsey fishing by fishing boats (whether British or foreign) is prohibited unless authorised by a licence granted by the States of

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Guernsey Sea Fisheries Committee (hereafter in this Act called “the Committee”) and for the time being in force;

(b) that in any area specified in the order (being outside the waters referred to in paragraph (a) above) fishing by British fishing boats registered in Guernsey is prohibited unless so authorised.”;

(b) for subsection (4) there shall be substituted the following subsections:

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

(4A) Every order made by the Committee under subsection (4) above shall be laid before a meeting of the States of Guernsey as soon as may be after the making thereof and if, at that meeting or at the next subsequent meeting, the States resolve that the order be annulled the order shall cease to have effect but without prejudice to anything previously done thereunder or to the making by the Committee of a new order.

(4B) Any power conferred by subsection (4) above shall be construed as including a power exercisable in the like manner to vary or revoke the order.”;

(c) in subsection (6), for “Minister granting the licence” there shall be substituted “Committee”;

(d) in subsection (7), for “Minister granting a licence under this section” there shall be substituted “Committee”;

(e) for subsection (8) there shall be substituted the following subsection:

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

(f) in subsection (9), for “Minister who granted the licence” there shall be substituted “Committee”;

(g) in subsection (10), for “Minister who granted it” there shall be substituted “Committee”;

(h) subsection (11) shall be omitted;

(i) in subsection (12), after “United Kingdom” there shall be inserted “Guernsey or Jersey”, and (j) after subsection (12) there shall be inserted the following subsections:

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

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

6. In section 4A—

(a) in subsection (1)—

(i) after “fishery limits” there shall be inserted “adjacent to Guernsey”, and

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- (ii) for “one of the Ministers” there shall be substituted “the Committee and for the time being in force”;
 - (b) for subsection (4) there shall be substituted the following subsections:
 - “(4) The Committee may by order prescribe charges for the granting of a licence by the Committee under this section and may prescribe different charges in relation to different classes of licence, but such charges shall not exceed such maximum charges as may from time to time be specified in an order made under this section as it has effect in the United Kingdom.
 - (4A) Every order made by the Committee under subsection (4) above shall be laid before a meeting of the States of Guernsey as soon as may be after the making thereof and if, at that meeting or at the next subsequent meeting, the States resolve that the order be annulled the order shall cease to have effect but without prejudice to anything previously done thereunder or to the making by the Committee of a new order.
 - (4B) Any power conferred by subsection (4) above shall be construed as including a power exercisable in the like manner to vary or revoke the order.”;
 - (c) in subsection (6), for “Minister granting the licence” there shall be substituted “Committee”;
 - (d) in subsection (7) for “Minister granting a licence under this section” there shall be substituted “Committee” and for “him” and “he” there shall be substituted “it”;
 - (e) for subsection (9) there shall be substituted the following subsection:
 - “(9) The licensing power conferred on the Committee by this section may be exercised in consultation with the Ministers so as to limit the number of vessels, or of any description of vessel (including vessels or any description of vessel registered in a specified country) engaged in receiving fish to such an extent as appears to the Ministers and the Committee to be necessary or expedient for the regulation of trans-shipment.”;
 - (f) in subsection (10)(b) and (11), for “Minister who granted it” there shall be substituted “Committee”, and (g) for subsection (12) there shall be substituted the following subsections:
 - “(12) “Sea fish” in this section means fish, whether fresh or cured, of any kind found in the sea, including shellfish, and any parts of such fish.
 - (13) Any order of the Ministers made under this section shall not have effect until registered in the Royal Court of Guernsey.”.
7. In section 5—
- (a) in subsection (8)—
 - (i) after “fishery limits” there shall be inserted “adjacent to Guernsey”, and (ii) for “the United Kingdom” there shall be substituted “Guernsey”, and
 - (b) after subsection (8) there shall be inserted the following subsections:
 - “(9) In this section “sea fish” means fish, whether fresh or cured, of any kind found in the sea, including shell fish, and any parts of such fish.
 - (10) Any order made under this section shall not have effect until registered in the Royal Court of Guernsey.”.
8. In section 9—
- (a) subsection (1) shall be omitted;

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- (b) in subsections (2), (3) and (4), for “one of the Ministers” there shall be substituted “the Committee”;
 - (c) in subsection (5), “6 and 8” and “or landing” shall be omitted;
 - (d) in subsection (6), “(1),” shall be omitted, and
 - (e) in subsection (7) there shall be added at the end
“and “enactment” includes any enactment in force in Guernsey or any part thereof”.
- 9.** In section 11, any reference to any provision of section 2, 6 or 7 shall be omitted.
- 10.** In section 14—
- (a) for “6, 7, 15 or 16” there shall be substituted “or 15”, and (b) for “the United Kingdom” there shall be substituted “Guernsey”.
- 11.** In section 15—
- (a) subsection (2)(d) shall be omitted, and (b) in subsection (3)—
 - (i) for “the United Kingdom” in both places there shall be substituted “Guernsey”;
 - (ii) after “British fishery limits” there shall be inserted “(including territorial waters)”, and iii) for “1 to 7” there shall be substituted “1, 3, 4, 4A or 5”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Sea Fish (Conservation) (Channel Islands) Order 1981, to the extent that it relates to the Bailiwick of Guernsey, so as to extend there the amendments made to the Sea Fish (Conservation) Act 1967 by the Fisheries Act 1981 and to make other minor amendments to that Order.