



ST. HELENA

CHAPTER 88

FISHERY LIMITS ORDINANCE and Subsidiary Legislation

Non-authoritative Consolidated Text

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Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legalandlands.gov.sh]¹

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

CHAPTER 88

FISHERY LIMITS ORDINANCE

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CHAPTER 88

FISHERY LIMITS ORDINANCE

(Ordinances 5 of 1977, 20 of 1985, 2 of 1989, 9 of 1998, 1 of 2002 and 1 of 2008)

AN ORDINANCE TO DEFINE THE FISHERY LIMITS OF ST. HELENA AND TO MAKE PROVISION FOR THE REGULATION OF FISHING WITHIN THOSE LIMITS AND FOR OTHER MATTERS CONNECTED THEREWITH.

Commencement

[29 July 1977]

Short title

1. This Ordinance may be cited as the Fishery Limits Ordinance.

Definitions

2. In this Ordinance—

“fishing boat” means any vessel of whatever size, and in whatever way propelled, which is for the time being employed in fishing operations or any operations ancillary thereto;

“foreign fishing boat”² means a fishing boat which is not a St. Helenian fishing boat;

“master” means, in relation to a fishing boat, the person for the time being in command or in charge of that fishing boat or in charge of the fishing operations on board that fishing boat;

“miles” means international nautical miles of 1,852 metres;

“sea fish” includes shellfish, salmon and migratory trout, and **“sea fishing”** has a corresponding meaning;

² Definition of “foreign fishing boat” substituted by Ord. 1 of 2008

“shellfish,” includes crustaceans and molluscs of any kind and includes any part of a shellfish and any (or any part of any) brood, half-ware or spat of shellfish and any spawn of shellfish, and the shell, or any part of the shell of a shellfish;

“St. Helenian fishing boat”³ means a fishing boat which is—

- (a) registered as a British ship in the port of Jamestown; or
- (b) licensed under Regulation 10 of the Harbours Regulations, Cap 47, and owned by a person who is (or jointly by persons all of whom are) either—
 - (i) of St. Helenian status under the provisions of the Immigration Control Ordinance, Cap 40⁴; or
 - (ii) ordinarily resident in St. Helena.

Fishery limits

3. Notwithstanding any reference to fishery limits or cognate expressions in any other Ordinance, the St. Helena fishery limits extend to 200 miles from the baseline from which the breadth of the territorial waters adjacent to the Island of St. Helena is measured.

Access to St. Helena fisheries

4. (1) The Governor in Council may by order designate any country and, in relation to it, areas within St. Helena fishery limits in which, and descriptions of sea fish for which, fishing boats registered in that country may fish.

(2) A foreign fishing boat not registered in a country for the time being designated under subsection (1) shall not enter St. Helena fishery limits except for a purpose recognised by international law or by any convention concerning St. Helena and the government of the country to which the boat belongs, and any such boat which enters those limits for such a purpose—

- (a) shall return outside the limits as soon as the purpose has been fulfilled; and
- (b) shall not fish or attempt to fish while within the limits.

(3) A foreign fishing boat registered in a country designated under subsection (1) shall not fish or attempt to fish within St. Helena fishery limits except in an area and for descriptions of fish for the time being designated under this section in relation to that country.

(4) At any time when a foreign fishing boat is in an area within St. Helena fishery limits and either—

- (a) it is prohibited by this section from fishing in that area at all; or
- (b) it is permitted under this section to fish only for certain descriptions of fish,

then its fishing gear, or so much of the gear as is not required for permitted fishing, shall be stowed in accordance with practice, or, where specified, in accordance with an order made by the Governor in Council.

(5)⁵ If this section is contravened in the case of any fishing boat—

- (a) the master of the boat is liable on summary conviction to a fine not exceeding £1,000,000 or on conviction on indictment to a fine of unlimited amount;
- (b) the court may on convicting him of an offence under this section order the forfeiture of any fish or fishing gear found in the boat or taken or used by any person from the boat.

(6) The foregoing provisions of this section do not prohibit or restrict fishing by fishing boats registered in a foreign country in any area with respect to which special provision

³ Definition of “St. Helenian fishing boat” substituted by Ord. 1 of 2008

⁴ Cap 40 repealed and replaced by Ord. 9 of 2008

⁵ Section 4(5) amended by Ord. 2 of 1989 and Ord. 1 of 2002

is made by any arrangement between the Government of St. Helena and the government of that foreign country for fishing by such boats for the purpose of scientific research or fishery surveys.

Licensing of fishing boats

5. (1) The Governor in Council may by order provide—

- (a) that in any specified area within St. Helena fishery limits, fishing by fishing boats (whether St. Helenian or foreign) is prohibited unless authorised by a licence granted by the Governor;
 - (b) that in any specified area outside those limits fishing by St. Helenian fishing boats is prohibited unless so authorised.
- (2)** Such an order may apply to fishing generally in the specified area or to fishing—
- (a) for a specified description of sea fish;
 - (b) by a specified method;
 - (c) during a specified season of the year or other period; or
 - (d) in the case of an order under subsection (1)(a), by fishing boats registered in a specified country,

and whether the order is general or limited in scope it may provide for exceptions from the prohibition contained in it.

(3) Where any fishing boat is used in contravention of any prohibition imposed by an order under this section, the master, the owner and the charterer (if any) are each guilty of an offence under this subsection.

(4) An order under this section may authorise the making of a charge for a licence.

(5)⁶ A licence under this section shall be granted to the master, owner or charterer and may authorise fishing generally or may confer limited authority by reference to, in particular—

- (a) the area within which fishing is authorised;
- (b) the periods, times or particular voyages during which fishing is authorised;
- (c) the sizes, descriptions and quantities of sea fish and shell fish which may be taken;
- (d) the method of sea fishing;
- (e) the specific vessel or vessels, or number of vessels to be used;
- (f) the number, type and size of fishing gear and equipment.

(6) A licence under this section may authorise fishing either unconditionally or subject to such conditions as appear to the Governor to be necessary or expedient for the regulation of sea fishing, and in particular a licence may contain conditions—

- (a) as to the landing of fish or parts of fish taken under the authority of the licence; or
- (b) as to the use to which the fish taken may be put,

and if a licence condition is broken the master, the owner and the charterer (if any) of the vessel concerned in such breach are each guilty of an offence under this subsection.

(7) The Governor, in granting a licence under this section, may require the master, the owner and the charterer (if any) of the vessel or vessels provided for in the licence to provide him with such statistical information as he may direct, and a person who fails to comply with such a requirement is guilty of an offence under this subsection.

(8) A licence under this section—

- (a) may be varied from time to time; and
- (b) may be revoked or suspended, if this appears to the Governor to be necessary or expedient for the regulation of sea fishing.

⁶ Section 5(5) amended by Ord. 20 of 1985

(9) If a licence is varied, revoked or suspended the Governor may, if he considers it appropriate in all the circumstances of the case, refund the whole or part of any charge made for the licence.

(10) The Governor may delegate his licensing powers under this section.

Sea Fishery Officers

6. (1) The provisions of this Ordinance shall be enforced by sea fishery officers, and for that purpose sea fishery officers shall have the powers set out in section 7 of this Ordinance.

(2) The following persons shall be sea fishery Officers, that is to say, every officer appointed in that behalf by the Governor, and every member of the St. Helena Police Force.

General powers of sea fishery officers

7. A sea fishery officer or any person authorised by him, may exercise the following powers with respect to any fishing boat fishing or which he reasonably suspects may have fished within the fishery limits of St. Helena as defined by this Ordinance—

- (a) he may go aboard the fishing boat;
- (b) he may require the master, the crew or any of them to produce any certificate of registry, licence, official logbook, official paper, article of agreement, and any other document relating to the fishing boat or to the crew or any member thereof, or to any person on board the fishing boat which is in their respective possession or control on board the fishing boat;
- (c) he may muster the crew of the fishing boat;
- (d) he may require the master to appear and to give any explanation concerning the fishing boat and any crew, any other person on board the fishing boat, and any document mentioned in paragraph (b);
- (e) he may make any examination or enquiry which he deems necessary to ascertain whether any provisions of the Fish and Fish Products Ordinance⁷ or this Ordinance have been contravened;
- (f) in the case of any person who appears to him to have committed any such contravention, he may, without summons, warrant or other process, take the offender and the fishing boat in respect of which it appears to him there has been a contravention together with the crew thereof to St. Helena, and bring him or them before a competent court and detain him and them and the fishing boat at St. Helena until the alleged contravention has been adjudicated upon.

Miscellaneous provisions

8. (1) No civil or criminal action shall lie against a sea fishery officer in respect of any act done or omitted to be done by him in the exercise of his powers under this Ordinance if there shall have been reasonable cause for such act or omission.

(2)⁸ If any person obstructs a sea fishery officer when acting in the exercise of his powers under this Ordinance, or refuses or neglects to comply with any requisition or direction lawfully made or given by, or to answer any question lawfully asked by, a sea fishery officer in pursuance of this Ordinance, such person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

⁷ Cap. 89

⁸ Section 8(2) amended by Ord. 9 of 1998

(3) In this section, references to a sea fishery officer shall be deemed to include references to any person authorised by him for the purposes of section 7 of this Ordinance.

General penalty and power of Magistrates' Court

9. (1) Every person who commits an offence against this Ordinance or any order made hereunder, for which no other penalty is specifically provided shall be liable to a fine not exceeding £1,000.

(2)⁹ ...

Detention of fishing boat on failure to pay or secure fine

10. If any fine or amount of costs is adjudged to be due by the master, owner or charterer of any fishing boat in respect of any contravention of the provisions of this Ordinance, the court may order that in default of payment forthwith, the defendant shall give security for payment of the amount due, and if such security to the satisfaction of the court is not given, the court may order the detention of the fishing boat concerned with the contravention, and such fishing boat may accordingly be detained in St. Helena until the amount due is paid or until sufficient security shall be given to the satisfaction of the court.

⁹ Section 9(2) repealed by Ord. 1 of 2008

FISHERY LIMITS (LICENSING OF FISHING) ORDER – SECTION 5

(Legal Notice 20 of 1978)

Commencement

[1 January 1979]

Short title

1. This order may be cited as the Fishery Limits (Licensing of Fishing) Order.

Licensing of fishing

2. Fishing by fishing boats as defined by section 2 of the Ordinance within the St. Helena fishery limits as set out in section 3 of the Ordinance is prohibited unless authorised by a licence (hereinafter called “a fishing licence”) granted by the Governor.

Form of licence

3. The form and duration of a fishing licence shall be determined by the Governor in each case and such licence may authorise fishing either unconditionally or subject to such conditions as appear to the Governor to be necessary or expedient for the regulation of sea fishing as defined by section 2 of the Ordinance.

Charge for licence

4. A charge may be made for each fishing licence of such sum as may be determined by the Governor.
