



ST HELENA

REVISED EDITION OF THE LAWS, 2017

ENVIRONMENT AND NATURAL RESOURCES

FISHERY LIMITS ORDINANCE, 1977¹

*Ordinance 5 of 1977
In force 29 July 1977*

Amended by Ordinance 20 of 1985, 2 of 1989, 9 of 1998, 1 of 2002, 1 of 2008

Subsidiary legislation:

FISHERY LIMITS (LICENSING OF FISHING) ORDER, 1978

Legal Notice 20 of 1978 (in force 1 January 1979)

FISHERY LIMITS ORDINANCE, 1977

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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 connected matters.

Short title

1. This Ordinance may be cited as the Fishery Limits Ordinance, 1977.

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

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**” 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;
- “**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 Helena fishery limits**” means the fishery limits as described in section 3;
- “**St Helenian fishing boat**” 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, 1998, made under the Harbours Ordinance, 1997, and owned by a person who is (or jointly by persons all of whom are) either—
 - (i) of St Helenian status under the Immigration Ordinance, 2011; or
 - (ii) ordinarily resident in St Helena.

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.²

Access to St Helena fisheries

4. (1) The Governor in Council may by order designate any country and, in relation to it, areas within the 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) must not enter the 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 must—

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

(3) A foreign fishing boat registered in a country designated under subsection (1) must not fish or attempt to fish within the 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.

² See the St Helena and Dependencies (Territorial Sea) Order, 1989 (SI. 1994 of 1989)

(4) At any time when a foreign fishing boat is in an area within the 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, its fishing gear, or so much of the gear as is not required for permitted fishing, must be stowed in accordance with practice, or, where specified, in accordance with an order made by the Governor in Council.

(5) The master of a fishing boat which contravenes this section commits an offence.

- Penalty: (a) on summary conviction - a fine of £1,000,000;
 (b) on conviction on indictment – an unlimited fine.

(5A) The court may on convicting the master of a fishing boat 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) This section does not prohibit or restrict fishing by fishing boats registered in a foreign country in any area with respect to which special provision 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 that—

- (a) in any specified area within the 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) in any specified area outside those limits fishing by St Helenian fishing boats is prohibited unless so authorised.

(2) An order under subsection (1) 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.

(2A) An order under subsection (1), whether general or limited in scope, may provide for exceptions from the prohibition contained in it.

(3) If 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) each commits an offence.

Penalty: As provided in section 9(1).

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

(5) A licence under this section is 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 any conditions that appear to the Governor to be necessary or expedient for the regulation of sea fishing. 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 each commits an offence.

Penalty: As provided in section 9(1).

(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 the Governor with any statistical information the Governor directs.

(7A) A person who fails to comply with a requirement under subsection (7) commits an offence.

Penalty: As provided in section 9(1).

(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.

(9) If a licence is varied, revoked or suspended the Governor may, if he or she 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 the Governor's licensing powers under this section.

Sea fishery officers

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

(2) Every officer appointed for the purpose by the Governor, and every member of the St Helena Police Service is a sea fishery officer.

General powers of sea fishery officers

7. (1) A sea fishery officer, or any person authorised by such an officer, may exercise the following powers with respect to any fishing boat fishing or which the officer or person reasonably suspects may have fished within the St Helena fishery limits—

- (a) go aboard the fishing boat;
- (b) 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 of it, or to any person on board the fishing boat, which is in their respective possession or control on board the fishing boat;
- (c) muster the crew of the fishing boat;
- (d) 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) make any examination or enquiry which the officer or person considers necessary to ascertain whether any provisions of the Fish and Fish Products Ordinance, 2010 or this Ordinance have been contravened.

(2) If there is on board a fishing boat any person who appears to the officer or authorised person exercising powers under subsection (1) to have contravened any provision of the Fish and Fish Products Ordinance, 2010 or this Ordinance the officer or authorised person may, without summons, warrant or other process, take the offender and the fishing boat in respect of which it appear there has been a contravention together with its crew to St Helena, and bring the person or crew before a competent court and detain the person and crew and the fishing boat at St Helena until the alleged contravention has been adjudicated upon.

Miscellaneous provisions

8. (1) No civil or criminal action may be brought against a sea fishery officer in respect of any act done or omitted to be done by the officer or person in the exercise of powers under this Ordinance if there was reasonable cause for such act or omission.

- (2)** It is an offence for a person to-
- (a) obstruct a sea fishery officer when acting in the exercise of his powers under this Ordinance; or
 - (b) refuse or neglect to comply with any requisition or direction lawfully made or given by, or to answer any question lawfully asked by, a sea fishery officer pursuant to this Ordinance.

Penalty: A fine of £500.

(3) In this section, references to a sea fishery officer include references to any person authorised by such an officer for the purposes of section 7.

General penalty and power of Magistrates' Court

9. (1) A person who commits an offence against this Ordinance or any order made under it, for which no other penalty is specifically provided, is liable to a fine of £1,000.

(2) *Repealed*

Detention of fishing boat on failure to pay or secure fine

10. (1) 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 this Ordinance or any order made under it, the court may order that in default of payment forthwith, the defendant must give security for payment of the amount due.

(2) 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 the fishing boat may accordingly be detained in St Helena until the amount due is paid or until sufficient security is given to the satisfaction of the court.

FISHERY LIMITS ORDINANCE, 1977

FISHERY LIMITS (LICENSING OF FISHING) ORDER, 1978

(Section 5)

Citation

1. This Order may be cited as the Fishery Limits (Licensing of Fishing) Order, 1978.

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 must be determined by the Governor in each case and such licence may authorise fishing either unconditionally or subject to conditions that 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 a sum determined by the Governor.
