

TRISTAN DA CUNHA
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ENVIRONMENT AND NATURAL RESOURCES

MARINE PROTECTION (TRISTAN DA CUNHA) ORDINANCE, 2021

Ordinance T1 of 2021
In force 10 August 2021

No Subsidiary legislation

TRISTAN DA CUNHA

MARINE PROTECTION (TRISTAN DA CUNHA) ORDINANCE, 2021

AN ORDINANCE to make provision for the protection of the marine waters of Tristan da Cunha; to declare a Marine Protection Zone and provide for the adoption of a Marine Management Plan; and for connected or incidental purposes.

Short title

1. This Ordinance may be cited as the Marine Protection (Tristan da Cunha) Ordinance, 2021.

Interpretation

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) registered in Tristan da Cunha; or
(b) owned by a person who is ordinarily resident in Tristan da Cunha;
“**Marine Management Plan**” means the Management Plan published under section 4;
“**Marine Protection Zone**” means the area of maritime waters declared as such by section 3;
“**miles**” means international nautical miles of 1,852 metres;
“**mining**” means any activity involving the extraction or exploitation of any non-living naturally occurring resource found on, in, or under the seabed and includes such extraction or exploitation by dredging;
“**mining-related activity**” means any activity that is exploratory or otherwise preparatory in nature to any mining, and any activity that is incidental to or results from any mining;

Marine Protection Zone

3. (1) The area of the maritime waters as described in the Schedule is declared to be a Marine Protection Zone.

(2) The protection and management of the Marine Protection Zone will be achieved by the implementation of a Management Plan devised in relation to that Marine Protection Zone

which must be adopted and published in accordance with section 4.

(3) The Marine Protection Zone, or any part of it, may also be declared as a nature reserve under section 5 of the Conservation of Native Organisms and Natural Habitats (Tristan da Cunha) Ordinance 2006, but in the event of any inconsistency between the provisions of that Ordinance and this Ordinance, this Ordinance takes precedence.

Management Plan

4. (1) The Administrator, in consultation with the Island Council, must adopt a Management Plan for the management of the Marine Protection Zone.

- (2) The Management Plan should —
- (a) identify the area covered by the Marine Protection Zone;
 - (b) describe the status of the environment, natural resources or features as they relate to the Management Plan;
 - (c) specify objectives to be achieved in the Management Plan;
 - (d) specify the operations or schemes which it is proposed to undertake in relation to the Marine Protection Zone;
 - (e) specify the management rules applicable to the Marine Protection Zone;
 - (f) identify requirements for monitoring, reporting, and assessment; and
 - (g) make provision in relation to any other matter necessary for the protection of the environment.

(3) Once adopted, the Administrator must publish the Management Plan in the *Gazette* and on the official website of the Tristan da Cunha Government.

Restrictions on fishing within Marine Protection Zone

5. (1) No fishing is permitted within the Marine Protection Zone, other than fishing for research purposes in accordance with a licence granted under section 5(1)(c) of the Fishery Limits (Tristan da Cunha) Ordinance, 1983, and in so far as it is consistent with the Marine Management Plan.

(2) If a fishing boat is used in contravention of this section, the master, owner and the charterer (if any) each commit an offence.

Maximum penalty:

- (a) In the case of a foreign fishing boat – on summary conviction, a fine of £2,000,000 or on conviction on indictment to a fine of unlimited amount;
- (b) In the case of any other fishing boat – a fine of £250,000.

(3) The court may on convicting the master, owner or any charterer, order the forfeiture of the fishing boat, its gear and stores, and any fish found in the boat or taken or used by a person from the boat.

Restrictions on other activities within Marine Protection Zone

6. (1) Mining and mining-related activities are prohibited within the Marine Protection Zone, except as authorised by the Administrator for scientific or research purposes in such circumstances as the Administrator may prescribe and subject to such conditions as imposed in the authorisation.

(2) If the Administrator is satisfied that—

- (a) it is necessary or likely to become necessary for the prevention of the pollution of, or any other harmful or disturbing effect or influence on, the natural ecology of the Marine Protection Zone; or
- (b) the preservation of any particular form of living organism in any part of the Marine Protection Zone so requires,

the Administrator may by order impose restrictions on any depositing or discharge of any waste or harmful matter in any area which the Administrator considers would have a direct or indirect harmful effect on such natural ecology or living organism.

(3) A person who contravenes this section or any order made thereunder commits an offence.

Maximum penalty: A fine of £250,000, or imprisonment for 12 months, or both..

Enforcement

7. (1) The provisions of this Ordinance are to be enforced by sea fisheries officers referred to in section 6 of the Fishery Limits Ordinance, 1983, and for this purpose a sea fisheries officer may exercise the powers under section 7 of that Ordinance in respect to any vessel or person he or she reasonably suspects may have contravened this Ordinance.

(2) Officers in Her Majesty's Royal Navy may, subject to the direction of the Administrator, exercise the powers of sea fisheries officers for purposes of enforcing this Ordinance.

Amendment of legislation

8. The Fishery Limits (Tristan da Cunha) Ordinance, 1983, is amended as follows:

- (a) in section 2, insert the following definitions before the definition of "fishing boat":
 - “**Administrator in Council**” means the Administrator acting after consultation with the Island Council;
 - “**bottom trawling**” means fishing using a bottom trawl or similar towed nets operating in contact with the bottom of the sea;”;
- (b) in section 2, in the definition of "sea fish" delete the words "shell fish" and substitute "shellfish";
- (c) in section 4(1) delete the words "The Governor" and substitute "Subject to section 5A, the Administrator in Council";
- (d) in section 5(1), delete paragraphs (a) and (b) and substitute:
 - “(a) A Commercial Fishing Licence, either Full or Part Time;
 - (b) A Recreational Fishing Licence;
 - (c) A Research Fishing Licence, by which the primary purpose of the fishing is for a scientific, educational or research purpose; or

- (d) An Exploratory Fishing Licence, by which the primary purpose of the fishing is to determine if commercially viable and environmentally sustainable catch quantities of fish species or stock is present.”;
- (e) in section 5, add the following subsection:
 “(3) The Administrator must not grant a licence for fishing within the Marine Protection Zone declared as such under section 3 of the Marine Protection (Tristan da Cunha) Ordinance, 2021, other than a licence referred to in subsection (1)(c) which the Administrator must be satisfied will be consistent with the Marine Management Plan published under section 4 of that Ordinance.”
- (f) insert the following section after section 5:

“Prohibition on fishing by bottom trawling

5A. (1) Fishing by bottom trawling in any area within the fishery limits is prohibited.

- (2) If a fishing boat is used in contravention of this section—
- (a) the master, owner and the charterer (if any) each commit an offence; and
- (b) the court may, on convicting the master, owner or any charterer, order the forfeiture of the fishing boat, its gear and stores, and any fish found in the boat or taken or used by a person from the boat.

Maximum penalty: In the case of an offence committed using—

- (a) a foreign fishing boat, a fine not exceeding £2,000,000 or on conviction on indictment an unlimited fine;
- (b) a Tristan fishing boat, a fine not exceeding £250,000.”

SCHEDULE

MARINE PROTECTION ZONE

(Section 3(1))

(i) The Marine Protection Zone commences at 50 miles from the baselines from which the breadth of the territorial sea is measured at Tristan Da Cunha, Inaccessible Island and Nightingale Island and 40 miles from such baselines of Gough Island. From such points of commencement, the Marine Protection Zone extends seaward to a distance of 200 miles from those baselines.

(ii) Notwithstanding anything in paragraph (i), the Seamount Fishing Zones shall not form part of the Marine Protection Zone. Those Seamount Fishing Zones are areas shallower than 3000 metres at:

- a) The part of the Yakhont seamount to the east of Longitude 008° 05.000’W
- b) The part of the RSA seamount to the east of Longitude 006° 45.000’W
- c) The part of the Crawford seamount to the west of Longitude 010° 30.000’W, and
- d) The part of the McNish seamount to the south of Latitude 040° 04.000’ S.
