

FISHERY LIMITS ORDINANCE, CAP A15

[Amended by Ord A2/2005] & [5/2007](#)

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

Commencement

[1 May 1978]

Citation

1. This Ordinance may be cited as the Fishery Limits Ordinance, Cap A15.

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) registered in Ascension or St. Helena; or

(b) owned by a person who is ordinarily resident in Ascension or St. Helena;

“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;

“Ascension fishing boat” means any fishing boat which is not within the definition of a foreign fishing boat given above, and includes a St. Helenian fishing boat.

Fishery limits

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

Access to Ascension fisheries

4. (1) The Governor may by order designate any country and, in relation to it, areas within Ascension 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 Ascension fishery limits except for a purpose recognised by international law or by any convention concerning Ascension 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 Ascension 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 Ascension 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.

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

- (a) the master, the owner and the charterer (if any) are each guilty of an offence and liable on summary conviction to a fine not exceeding £1,000,000 or on conviction on indictment to a fine;
- (b) the court may, on convicting the master, the owner or the charterer of the boat of an offence under this subsection, order

the forfeiture of—

- (i) the boat; and
- (ii) any fish or fishing gear found in or on the boat; and
- (iii) any fish or fishing gear 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 is made by any arrangement between the Governor 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 may by order provide—

- (a) that in any specified area within Ascension fishery limits, fishing by fishing boats (whether Ascension or foreign) is prohibited unless authorised by a licence granted by the Governor;
- (b) that in any specified area outside those limits fishing by Ascension 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 and liable, on summary conviction to a fine not exceeding £1,000,000.

(3A) Section 4(5)(b) applies to a conviction for an offence under subsection (3) as it applies on a conviction under section 4(5).

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

(5) 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 descriptions and quantities of fish which may be taken;
- (d) the method of sea fishing; or
- (e) the specific vessel or vessels, or number of vessels to be used.

(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.

(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 Ascension 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) of this section;
- (e) he may make any examination or enquiry which he deems necessary to ascertain whether any provisions of this Ordinance or any other law relating to the export of Fish and Fish Products 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 Ascension, and bring him or them before a competent court and detain him and them and the fishing boat at Ascension 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) 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 £10,000* or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.
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(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 £10,000.

(2) In respect of offences charged under this Ordinance or under any order made hereunder, and notwithstanding the provisions of section 17 of the Magistrates' Court Ordinance Cap A19, the Magistrates' Court is hereby given extended jurisdiction to impose any fines up to those specified as maxima by this Ordinance.

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 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 Ascension until the amount due is paid or until sufficient security shall be given to the satisfaction of the court.