

Assented to in Her Majesty's name and on Her Majesty's behalf this day of, 2013.

Mark Capes
Governor



**ASCENSION
NO. OF 2013**

Enacted.....
Date of Commencement.....
Published in the Gazette.....

AN ORDINANCE

to protect and preserve the marine life and habitat of Ascension.

Enacted by the Governor of Ascension after consultation with the Island Council of Ascension.

Citation

1. This Ordinance may be cited as the Marine Protection Ordinance, 2013.

Interpretation

2. In this ordinance unless the context otherwise requires—
“**fishing limits**” means that part of the Atlantic Ocean extending to 200 nautical miles from the baseline from which the breadth of the territorial waters adjacent to the Island of Ascension is measured;
“**marine product**” means any fish, aquatic animal or vegetable matter living in water including turtles, carcharinidae, cetacea, crustacea, molluscs and spongiae;
“**miles**” means international nautical miles of 1,852metres;
“**prohibited marine product**” means any marine product listed in the Schedule to this Ordinance;
“**taking**” in relation to any particular species of marine product includes capturing, destroying or in any manner killing or removing from the sea that marine product, and grammatical variations shall be construed accordingly.

Protected Marine Product

3. It shall be unlawful for any person to take, sell, purchase or be found in possession of any prohibited marine product except under the authority of a marine research licence granted under section 4.

Marine Research Licence

4. (1) The Administrator may grant any person a marine research licence provided he is satisfied that the purpose of the licence is to advance the conservation of the prohibited marine product.

(2) The form and duration of a marine research licence shall be determined by the Administrator but in any case shall not be more than 12 months in duration and may be general or specific and may be modified or revoked at any time by the Administrator.

(3) Applicants for a marine research licence shall supply to the Administrator information as to the nature of the conservation work, the proposed duration, and the numbers of prohibited marine product they propose to take, and any other information he may request and in such form as he may require.

(4) There shall be payable for and in respect of every marine research licence a fee in such sum as the Administrator may prescribe.

(5) 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 Administrator to be necessary or expedient for the regulation marine conservation.

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

(7) The Administrator may delegate his licensing powers under this section.

(8) Any person whose application for a marine research licence is refused or granted subject to conditions shall have the right to make written representations to the Governor.

(9) The Governor may, after considering any representations made under subsection (8), and acting in his discretion, either confirm or revoke the decision and may give such ancillary directions as he may deem appropriate.

Power to declare prohibited areas and closed seasons

5. (1) The Administrator may, and if so directed by the Governor shall, from time to time by order published in the *Gazette* declare—

(a) any area of the fishing limits to be a prohibited area—

(i) for the taking of any particular species or all species of marine products;

(ii) for the taking of any particular species or all species of marine products by particular means;

(b) any period to be a closed season for any particular species of marine product, either generally or in any particular area or areas of the fishing limits.

(2) A person commits an offence if they—

(a) fail to comply with the requirement of any order made under this section;

(b) purchase or is in possession of any marine product during a period which is a closed season for that species of marine product unless he proves, the onus being on him, that the said marine product was not taken during the closed season or that he did not know and took all reasonable steps to establish that the said marine product was not taken in the closed season.

Evidence

- 6.** Where any prohibited marine product is found upon any vessel or in any vehicle—
- (a) all persons found on board that vessel or in that vehicle shall be deemed to be in possession of that product; and
 - (b) that product shall, unless the contrary is proved, be deemed to have been taken within Ascension fishery limits.

Penalty and power of Magistrates' Court

7. (1) Any person who fails to comply with or contravenes any of the provisions of this Ordinance, or any subsidiary legislation made hereunder, shall be guilty of an offence for which the maximum penalty on summary conviction is a fine of £20, 000 or imprisonment for a term of 12 months, or both.

(2) In respect of offences charged under this Ordinance, or under any subsidiary legislation 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.

Forfeitures

8. Where any person has been convicted of an offence against this Ordinance, or any subsidiary legislation, any marine product or part thereof which has been the subject of such conviction shall be forfeited, and the court may, in addition to any other penalty that may be imposed, order any speargun, pole spear, fishing net, fishing rod, machine, instrument, apparatus, article or material which has been used in the commission of the offence to be forfeited.

Offences by company; etc.

9. Where any offence under this Ordinance or any subsidiary legislation is committed by a company, firm or other association of individuals, whether incorporated or not, every director and officer of the company, every partner and officer of the firm, and every member and every person concerned in the management of the affairs of the association, as the case may be, shall severally be liable to be prosecuted and punished for the offence, unless the act or omission constituting the offence took place without his knowledge, consent or connivance.

Regulations

10. (1) The Governor may make Regulations generally for carrying the provisions of this Ordinance into effect.

(2) Whenever any marine product of Ascension appears to be threatened for whatever reason, the Governor may make Regulations for any such matters or things as may appear advisable for the prevention or mitigation of such threat.

SCHEDULE

(Section 3)

1. Female Spiny Lobster carrying eggs (berried female) of the species:
Panulirus echinatus (known locally on Ascension as Crayfish)

EXPLANATORY NOTE

(This explanatory note does not form part of the Ordinance)

This Ordinance introduces protection for marine wildlife in Ascension waters. It introduces scheduled prohibited marine product which require a licence before they may be taken or otherwise handled lawfully. It also introduces a power for the Administrator to establish closed seasons for particular species, prohibited areas and or prohibited means of taking marine products from the sea.