



Jersey

**HARBOURS (INSHORE SAFETY)  
(JERSEY) REGULATIONS 2012**

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## HARBOURS (INSHORE SAFETY) (JERSEY) REGULATIONS 2012

### Arrangement

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Jersey

## HARBOURS (INSHORE SAFETY) (JERSEY) REGULATIONS 2012

**THE STATES**, in pursuance of Articles 4 and 4A of the Harbours (Administration) (Jersey) Law 1961<sup>1</sup>, and Articles 49, 127 and 196 of the Shipping (Jersey) Law 2002<sup>2</sup>, have made the following Regulations –

Commencement [[see endnotes](#)]

### 1 Interpretation

In these Regulations –

“permit” means permit granted under Regulation 6;

“ship” includes every description of water craft that is used, or is capable of being used, as a means of transportation on, in or under water and includes –

- (a) a non-displacement craft;
- (b) a WIG craft; and
- (c) a seaplane;

“small surf rider” means a craft that –

- (a) is used, or is capable of being used, to ride the surf;
- (b) is not more than 1.54 metres in length and 0.6 metres in width; and
- (c) does not have a fin for steering purposes;

“WIG craft” means a wing-in-ground craft, being a multimodal craft that, in its main operational mode, flies in close proximity to the surface by utilising surface-effect action.<sup>3</sup>

### 2 Delegation

Nothing in these Regulations prevents the Minister from entrusting any function of the Minister under these Regulations to the harbour authority or another person.<sup>4</sup>

**3 Control of activities in territorial waters**

- (1) Where an area of territorial waters is used for sporting or recreational purposes, the Minister may by direction designate, for safety or security reasons, the whole or any part of that area where a person –
  - (a) may or may not undertake a specified activity;
  - (b) may or may not undertake a specified activity at a specified time;
  - (c) may or may not undertake a specified activity in specified circumstances; or
  - (d) may not undertake an activity except in a specified manner or in accordance with specified conditions.
- (2) Nothing in paragraph (1) limits the operation of Article 11(3) and (4) of the Interpretation (Jersey) Law 1954<sup>5</sup> in relation to the power under paragraph (1).
- (3) The Minister must publish any direction made under this Regulation.
- (4) A direction under this Regulation takes effect 7 days after the direction is published or on the day on which the direction is expressed to take effect, whichever is the later day.
- (5) A person who undertakes an activity in contravention of a direction under this Regulation is guilty of an offence and liable to a fine of level 2 on the standard scale.

**4 Control of ships plying for hire**

- (1) This Regulation applies to a ship designed to carry 12 or fewer passengers.
- (2) A person must not let out for use in territorial waters a ship to which this Regulation applies unless the person is the holder of a permit that authorizes the person so to let out the ship.
- (3) A person must not in territorial waters carry passengers for reward in a ship to which this Regulation applies unless the person is the holder of a permit that authorizes the person so to carry passengers in the ship.
- (4) A person who contravenes paragraph (2) or (3) is guilty of an offence and liable to a fine of level 2 on the standard scale.

**5 Control of passenger ships plying for hire between places in Jersey**

- (1) This Regulation applies to a ship designed to carry more than 12 passengers.
- (2) A person must not carry passengers for reward between places in Jersey in a ship to which this Regulation applies unless the person is the holder of a permit that authorizes the person so to carry passengers in the ship.
- (3) For the purpose of paragraph (2), a ship that carries passengers and returns to its place of departure in Jersey without putting in at any other place during its voyage is to be taken to be carrying passengers between places in Jersey.

- (4) A person who contravenes paragraph (2) is guilty of an offence and liable to a fine of level 2 on the standard scale.

## 6 Permits

- (1) An application for a permit for the purposes of Regulation 4 or 5 is to be made to the harbour authority on a form approved by the harbour authority.<sup>6</sup>
- (2) The application must be accompanied by the following –
- (a) if, under Regulation 8, insurance is required in respect of the ship for which the permit is sought, evidence that insurance in accordance with that Regulation is in force;
- (b) in the case where the permit is for the purpose of Regulation 4, evidence that –
- (i) if Regulation 3 of the Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013<sup>7</sup> applies to that ship, the ship complies with paragraph (1) of that Regulation (to the extent that the ship is not exempt under paragraph (3));
- (ii) if Regulation 5 of the Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013 applies to that ship, the ship complies with paragraph (3) of that Regulation;
- (c) in the case where the permit is for the purpose of Regulation 5, evidence that the ship is the subject of a current survey, and certification, in accordance with the Merchant Shipping (Survey and Certification) Regulations 1995 of the United Kingdom (as those Regulations apply to Jersey under the Shipping (Survey and Certification) (No. 2) (Jersey) Order 2005<sup>8</sup>), to the extent that the ship is not exempt under regulation 2 of those Regulations as they so apply to Jersey.<sup>9</sup>
- (3) The harbour authority may grant a permit for the purpose for which it is sought if the harbour authority is satisfied that –
- (a) the person in respect of whom the permit is sought is a fit and proper person to hold the permit;
- (b) the ship in respect of which the permit is sought may be safely used for the purpose; and
- (c) that ship will be manned by persons with sufficient local knowledge to make them competent to act for the purpose.<sup>10</sup>
- (4) The harbour authority shall serve on a person in respect of whom a permit is sought notice of refusal of the permit if the harbour authority is not satisfied that the conditions specified in paragraph (3)(a) to (c) are fulfilled in respect of the application for the permit.<sup>11</sup>
- (5) A permit –
- (a) must be in writing served on its holder;
- (b) may be granted subject to conditions with which the holder of the permit is required to comply; and

- (c) is valid for such period (not exceeding 5 years) as the harbour authority may determine.<sup>12</sup>
- (6) A permit must specify –
  - (a) the name and address of the holder of the permit;
  - (b) the name of the ship in respect of which the permit is granted;
  - (c) the number of people that the ship may, under the permit, carry;
  - (d) details of the activity that the permit authorizes;
  - (e) details of the period during which the permit is valid; and
  - (f) details of any conditions with which the holder of the permit is required to comply.
- (7) The harbour authority may, by notice served on the holder of the permit, at any time cancel or suspend a permit granted in respect of a ship if the harbour authority is satisfied that –
  - (a) the ship is not fit for the purpose for which the permit was granted;
  - (b) the ship has been involved in an incident that may make the ship unfit for the purpose for which the permit was granted;
  - (c) the ship is not a ship that, as the case requires –
    - (i) complies as referred to in paragraph (2)(b)(i), to the extent required under that clause,
    - (ii) complies as referred to in paragraph (2)(b)(ii), or
    - (iii) is the subject of a current survey and certification as referred to in paragraph (2)(c); or
  - (d) the holder of the permit has failed to comply with a condition specified in the permit.<sup>13</sup>
- (8) The holder of a permit in respect of a ship must ensure that a copy of the permit is prominently displayed –
  - (a) in a conspicuous place on the ship; or
  - (b) where, because of the size of the ship, it is not practical to comply with sub-paragraph (a), in a conspicuous place near to where the ship is normally berthed or normally puts to sea.
- (9) A holder of a permit granted for the purpose of Regulation 4 is guilty of an offence and liable to a fine of level 2 on the standard scale if the ship in respect of which the permit is granted is (as the case requires) let out for use in territorial waters or, in territorial waters, carries passengers for reward –
  - (a) when paragraph (8) is not complied with in respect of the ship; or
  - (b) when the ship is not manned by persons with sufficient local knowledge to make them competent to act for the purpose.
- (10) A holder of a permit granted for the purpose of Regulation 5 is guilty of an offence and liable to a fine of level 2 on the standard scale if the ship in respect of which the permit is granted carries passengers for reward between places in Jersey (within the meaning of Regulation 5(2)) –
  - (a) when paragraph (8) is not complied with in respect of the ship; or

- (b) when the ship is not manned by persons with sufficient local knowledge to make them competent to act for the purpose.
- (11) Notice under paragraph (4) or (7) must be in writing and must set out the authority's reasons for deciding to refuse to grant a permit, deciding to cancel a permit or deciding to suspend a permit (as the case requires).<sup>14</sup>
- (12) A person aggrieved by a decision of the harbour authority –
  - (a) to refuse to grant a permit;
  - (b) as to the conditions to be complied with by the holder of the permit; or
  - (c) to cancel or suspend a permit,may within 28 days of being notified of the decision appeal to the Royal Court against the decision on the grounds that the decision was unreasonable in all the circumstances of the case.<sup>15</sup>

## **7 Local registration**

- (1) This Regulation applies to –
  - (a) a ship designed for or capable of a speed in excess of 12 knots; or
  - (b) a ship with a length of 3 metres or more,that operates in or from territorial waters, other than such a ship that –
  - (i) is owned by a department of Her Majesty's Government;
  - (ii) is visiting Jersey for a total of less than 3 months in any unbroken period of 12 months; or
  - (iii) satisfies all of the following conditions –
    - (A) the ship is manually propelled,
    - (B) the ship has no mechanical or wind-assisted propulsion fitted to it,
    - (C) the ship has its owner's telephone number, or its owner's name and address, clearly displayed on it.
- (2) A person, being the owner, charterer, operator, or master, of a ship to which this Regulation applies who –
  - (a) uses or retains the ship in territorial waters; or
  - (b) causes or permits another person (being the owner, charterer, operator, or master, of the ship) to use the ship in territorial waters,is guilty of an offence and is liable to a fine of level 2 on the standard scale if the ship is not registered under this Regulation.
- (3) An application for registration of a ship under this Regulation is to be made by the owner of the ship to the harbour authority on a form approved by the harbour authority.<sup>16</sup>
- (4) The application must be accompanied by –
  - (a) a fee of £20; and

- (b) if, under Regulation 8, insurance is required in respect of the ship for which registration is sought, evidence that insurance in accordance with that Regulation is in force.
- (5) The harbour authority, after receiving an application in accordance with this Regulation –
  - (a) must record, in a register kept by the harbour authority for the purpose, details of the ship and its owner sufficient to identify them; and
  - (b) may assign a registration number (which may be or include one or more letters) to the ship.<sup>17</sup>
- (6) The harbour authority must make the register available for public inspection at reasonable times.<sup>18</sup>
- (7) The registration of a ship ceases to have effect if –
  - (a) the ship ceases to be a ship to which this Regulation applies; or
  - (b) there is a transfer of ownership of the ship.
- (8) If –
  - (a) a change occurs as a result of which any of the details recorded in the register in accordance with paragraph (5) is no longer up to date; or
  - (b) the registration of a ship ceases to have effect by virtue of paragraph (7),

the person who is or was the owner of the ship at the time of the change or immediately before its registration ceased to have effect (as the case may be) must, within 28 days after the change or cessation, give the harbour authority written notice.<sup>19</sup>
- (9) That notice must state, as the case requires –
  - (a) the nature of the change; or
  - (b) why the registration has ceased to have effect and, if that cessation occurred because the ownership of the ship was transferred to a person living in Jersey, the name and address of the new owner.
- (10) A person who fails to give the harbour authority notice when required to do so under paragraph (8) is guilty of an offence and is liable to a fine of level 2 on the standard scale.<sup>20</sup>
- (11) The owner of a ship to which this Regulation applies must ensure that –
  - (a) if the ship has a name, the name is painted on or affixed to a conspicuous part of the exterior of the ship;
  - (b) if the harbour authority has assigned a registration number to the ship, the number is painted on or affixed to a conspicuous part of the exterior of the ship in accordance with any marking requirements published by the harbour authority for the purposes of this Regulation; and
  - (c) any name, and any registration number, so painted on or affixed to the ship are distinctly visible and legible when the ship is in territorial waters.<sup>21</sup>

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- (12) A person, being the owner, charterer, operator, or master, of a ship to which this Regulation applies who –
- (a) uses or retains the ship in territorial waters; or
  - (b) causes or permits another person (being the owner, charterer, operator, or master, of the ship) to use the ship in territorial waters,
- is guilty of an offence and is liable to a fine of level 2 on the standard scale if paragraph (11) is not complied with in respect of the ship.

## **8 Insurance requirements**

- (1) A person, being the owner, charterer, operator, or master, of any ship to which this paragraph applies who –
- (a) uses or retains the ship in territorial waters; or
  - (b) causes or permits another person (being the owner, charterer, operator, or master, of the ship) to use the ship in territorial waters,
- is guilty of an offence and is liable to a fine of level 3 on the standard scale if insurance in accordance with this Regulation is not in force in respect of the ship.
- (2) Paragraph (1) applies to any of the following ships –
- (a) a ship that is designed for or capable of a speed in excess of 12 knots and operates in or from territorial waters;
  - (b) a ship that has a length of 3 metres or more and operates in or from territorial waters;
  - (c) a ship to which Regulation 4 or 5 applies.
- (3) Paragraph (1) does not apply to –
- (a) a ship referred to in sub-paragraph (a), (b) or (c) of Article 127(2) of the Shipping (Jersey) Law 2002;
  - (b) a ship if an obligation to maintain insurance or security in respect of the ship is imposed, as referred to in Article 127(3) of that Law, against a reasonable measure of liability, being the measure, and the liability, referred to in paragraph (6) of this Regulation;
  - (c) a ship that is owned by a department of Her Majesty's Government; or
  - (d) a ship that satisfies all of the following conditions –
    - (i) the ship is manually propelled,
    - (ii) the ship has no mechanical or wind-assisted propulsion fitted to it,
    - (iii) the ship has its owner's telephone number, or its owner's name and address, clearly displayed on it.
- (4) A person, being the owner, charterer, operator, or master, of a ship, other than a small surf rider, who –
- (a) uses the ship in territorial waters to ride the surf; or

- (b) causes or permits another person to use the ship in territorial waters to ride the surf,
- is guilty of an offence and is liable to a fine of level 3 on the standard scale if insurance in accordance with this Regulation is not in force in respect of the ship.
- (5) A person, being the owner, charterer, operator, or master, of a ship, is guilty of an offence and is liable to a fine of level 2 on the standard scale if –
- (a) under paragraph (1) or (4), insurance in accordance with this Regulation is required to be in force in respect of the ship; and
- (b) the person, when requested by an authorized person to produce evidence of compliance with that paragraph, fails to do so within a reasonable time.
- (6) Insurance is in accordance with this Regulation in respect of a ship if it is insurance by an approved insurer that insures the owner of the ship, and every person (other than a passenger in the ship who has no control of it) using the ship, against a reasonable measure of liability that may be incurred by the owner or person in respect of –
- (a) the death of another person;
- (b) bodily injury to another person; and
- (c) damage to the property of another person,
- caused by, or arising out of, the use of the ship, including use under tuition or for towing a person or another ship, or a person and another ship.
- (7) In this Regulation –
- “approved insurer” means an insurance company authorized to carry on insurance business –
- (a) by virtue of a permit under the Insurance Business (Jersey) Law 1996<sup>22</sup>; or
- (b) by a body performing, in the British Islands (other than Jersey), or in a member state of the European Union, functions analogous to those performed by the Jersey Financial Services Commission under the Insurance Business (Jersey) Law 1996;
- “authorized person” means a police officer, the Harbour Master or a person authorized by the Harbour Master.

## **9 Various offences**

- (1) A person is guilty of an offence and liable to imprisonment for 2 years and to a fine if the person in territorial waters uses a ship to ride the surf or otherwise sails or operates a ship –
- (a) recklessly; or
- (b) in a manner that is dangerous to other people.

- (2) A person is guilty of an offence and liable to a fine of level 3 on the standard scale if the person in territorial waters uses a ship to ride the surf or otherwise sails or operates a ship –
  - (a) without due care and attention; or
  - (b) without reasonable consideration for other people.
- (3) A person is guilty of an offence and liable to a fine of level 2 on the standard scale if the person operates in territorial waters a ship that is emitting, whether from its engine or otherwise, excessive or unreasonable noise or fumes.
- (4) The master in command of a ship while it is, in territorial waters, towing a person who is water-skiing, aquaplaning, parasailing or undertaking a similar activity is guilty of an offence and liable to a fine of level 2 on the standard scale if the master is not accompanied in or on the ship by a person with experience in the relevant activity who is watching over the well-being of the person being towed.
- (5) A person who, in an application, or notice, to the Minister under these Regulations, provides information or evidence that is false or misleading in a material particular is guilty of an offence and is liable to a fine of level 3 on the standard scale.
- (6) In this Regulation a reference to a person who operates a ship includes any other person who has charge of the conduct of the ship.

#### **10 Certain incidents to be reported to the Harbour Master**

- (1) This Regulation applies where a ship is involved in a serious incident but does not apply if the incident is required to be reported under the Shipping (Jersey) Law 2002 or under Regulations made under that Law.
- (2) Where this Regulation applies, the owner of the ship involved must –
  - (a) report the incident to the Harbour Master as soon as possible; and
  - (b) if subsequently requested to do so by the Harbour Master, give the Harbour Master such details of the incident as the Harbour Master may reasonably require.
- (3) A person who fails to comply with paragraph (2), or who in purported compliance with paragraph (2) provides information or evidence that is false or misleading in a material particular, is guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>23</sup>
- (4) In this Regulation, a reference to a serious incident is a reference to an incident in which –
  - (a) a ship is lost or presumed to be lost;
  - (b) a ship is abandoned;
  - (c) a ship is disabled, stranded, in collision or seriously damaged;
  - (d) there is loss of life;
  - (e) there is serious injury to a person on board;
  - (f) a person is lost from a ship or a ship's boat; or

- (g) there occurs any other hazardous incident.
- (5) In paragraph (4) “serious injury” means –
- (a) a fracture of the skull, spine or pelvis;
  - (b) a fracture of a bone in the arm other than in the wrist or hand;
  - (c) a fracture of a bone in the leg other than in the ankle or foot;
  - (d) an amputation of a hand or foot; or
  - (e) any other physical injury that results in the injured person being admitted to hospital as an in-patient for more than 24 hours or, if the ship is at sea, that would have so resulted had it been in port at the time of the incident.

## **11 Responsibility of directors**

- (1) Where an offence under these Regulations committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,
- the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member’s functions of management as if the member were a director of the body corporate.

## **12 Transitional provisions**

- (1) In this Regulation –
- “commencement date” means the 23rd May 2012;
- “repealed Regulations” means the Boats and Surf-Riding (Control) (Jersey) Regulations 1969.
- (2) A ship that is the subject of registration in force under Regulation 8 or Regulation 33 of the repealed Regulations immediately before the commencement date is to be taken at that date to be the subject of registration under Regulation 7 of these Regulations.
- (3) A licence in force under Regulation 14 of the repealed Regulations immediately before the commencement date has effect at that date as a permit under Regulation 6 of these Regulations in respect of a ship to which Regulation 4 of these Regulations applies.
- (4) A licence in force under Part 5 of the repealed Regulations immediately before the commencement date has effect at that date as a permit under

Regulation 6 of these Regulations in respect of a ship to which Regulation 5 of these Regulations applies.

**13 Citation**

These Regulations may be cited as the Harbours (Inshore Safety) (Jersey) Regulations 2012.

**ENDNOTES****Table of Legislation History**

| <b>Legislation</b>  | <b>Year and No</b> | <b>Commencement</b>                |
|---|--------------------|------------------------------------|
| Harbours (Inshore Safety) (Jersey) Regulations 2012                       | R&O.64/2012        | 23 May 2012                        |
| Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013 | R&O.143/2013       | 19 November 2013                   |
| Air and Sea Ports (Incorporation) (Jersey) Law 2015                       | L.9/2015           | 1 October 2015<br>(R&O.105/2015)   |
| Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016             | L.1/2016           | 20 September 2016<br>(R&O.98/2016) |

**Table of Renumbered Provisions**

| <b>Original</b> | <b>Current</b> |
|-----------------|----------------|
| 12              | Spent, omitted |
| 13              | 12             |
| 14              | 13             |
| 15              | Spent, omitted |

**Table of Endnote References**

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- <sup>1</sup> *chapter 19.060*
- <sup>2</sup> *chapter 19.885*
- <sup>3</sup> *Regulation 1 amended by L.9/2015*
- <sup>4</sup> *Regulation 2 amended by L.9/2015*
- <sup>5</sup> *chapter 15.360*
- <sup>6</sup> *Regulation 6(1) amended by L.9/2015*
- <sup>7</sup> *chapter 19.885.72*
- <sup>8</sup> *chapter 19.885.77*
- <sup>9</sup> *Regulation 6(2) amended by R&O.143/2013*
- <sup>10</sup> *Regulation 6(3) amended by L.9/2015*
- <sup>11</sup> *Regulation 6(4) amended by L.9/2015*
- <sup>12</sup> *Regulation 6(5) amended by L.9/2015*
- <sup>13</sup> *Regulation 6(7) amended by L.9/2015*
- <sup>14</sup> *Regulation 6(11) amended by L.9/2015*
- <sup>15</sup> *Regulation 6(12) amended by L.9/2015*
- <sup>16</sup> *Regulation 7(3) amended by L.9/2015*
- <sup>17</sup> *Regulation 7(5) amended by L.9/2015*
- <sup>18</sup> *Regulation 7(6) amended by L.9/2015*
- <sup>19</sup> *Regulation 7(8) amended by L.9/2015*
- <sup>20</sup> *Regulation 7(10) amended by L.9/2015*
- <sup>21</sup> *Regulation 7(11) amended by L.9/2015*
- <sup>22</sup> *chapter 13.425*
- <sup>23</sup> *Regulation 10(3) amended by L.1/2016*