

DRAFT FISHING VESSELS (SAFETY TRAINING) (JERSEY) REGULATIONS 200-

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by the Harbours and Airport Committee**



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REPORT

Background

In 1989 the United Kingdom Maritime and Coastguard Agency introduced a regulation that required all fishermen employed on registered fishing vessels to undertake three basic safety training courses, namely -

1. Basic Sea Survival
2. Basic First Aid
3. Basic Fire Fighting and Fire Prevention

These three courses were introduced after lengthy consultation with the fishing industry which is required under United Kingdom legislation. All European countries have a similar regulation requiring the training of fishermen in safety matters.

Subsequent to the fatal accident off the Scilly Isles in 1999 when the Jersey registered vessel Rachel Harvey sunk with the loss of one life, an investigation was conducted by the Marine Accident Investigation Branch (MAIB) who in their report recommended that Jersey introduce a requirement for fishermen to be trained in safety matters.

This recommendation by the MAIB has pre-empted a planned introduction of a Committee Order, to be made under Article 89 of the proposed Draft Shipping (Jersey) Law 200-, for safety training of fishermen.

The Regulations

The Jersey Regulations differs from the United Kingdom ones only in that the length of time allowed to attain the required training is based on the size of the vessel concerned rather than the age of the fisherman. The reason for this is to ensure that the larger commercial fishing vessels, longer than 12 metres in length (15 of which are registered in Jersey), who mainly operate out of the United Kingdom have their crew trained almost immediately. These vessels, due to their area of operation, employ mainly United Kingdom based crews who have access to United Kingdom based courses.

Fishing vessels between ten metres and 12 metres in length (12 registered in Jersey) who mainly operate out of Jersey on a full-time commercial basis, will be required to have their crew attend training courses within one year.

Fishing vessels between eight metres and ten metres in length (28 registered in Jersey) who are made up of mostly full-time, but also some part-time, commercial fishermen operating out of Jersey, will be required to have their crew attend training courses within two years.

Fishing vessels less than eight metres in length (182 registered in Jersey) will need to have crew training complete within three years. These vessels normally do not operate far from land and are usually only at sea during the day.

Fishing vessels under six metres in length (127 registered in Jersey) are manned mainly by part-time fishermen who fish as a self-financing hobby. Very few of them make enough money out of fishing to pay for the insurance and fuel for their vessels. They only need to have their vessels registered as fishing vessels so that, if they catch more than they can consume themselves, they can sell the fish to offset the expenses of running their vessels. However, amongst this last group there are a few full-time commercial fishermen.

Training

As these Regulations are Triennial Regulations, it will be necessary to have all fishermen trained before the end of the three-year life of the Regulations. After this time, the Draft Shipping (Jersey) Law 200- should be used to adopt a similar but permanent regime.

Jersey does not have a centre for the training fishermen in these safety matters and the Seafish training organisation, which provides this training in the United Kingdom, is prepared to come to the Island when required to provide the necessary training. Consultation with the Training and Employment Partnership has shown that they will be prepared to act as a go-between for the local fishing industry and the training provider for the organisation of these courses in the short term.

The requirement for fishermen to attend safety courses will need to be funded by the industry, as it is in the United Kingdom. However, the full cost of the courses in Jersey will be greater than the United Kingdom and the fishing industry may look towards the Agriculture and Fisheries department to assist in the funding of these courses. Support has been made available before, in the form of a restricted loans scheme in 1988, when new standards for vessel safety were required. However, the Study of the Agriculture and Fisheries Industry in Jersey (published February 2001) stated in Annex 2d page 21 that

“fishermen do not expect direct financial support, and are ill-disposed to such schemes. Subsidies, they argue, encourage marginal fishermen to enter the fishery and help to retain uncompetitive units.” The cost per individual who has undergone none of the training is expected to be of the order of £200 for a three-day course covering all three subjects.

The value of the industry as a whole (excluding fish farming) was reported as being £7.03 million in 2000. If all fisherman working on Jersey boats were to require the full training over the next three years this would cost less than half of one per cent of this value per annum.

Exemptions

Fishing, like most industries in Jersey, has difficulty in finding and employing qualified personnel. Whilst compiling these Regulations, a way was sought to exempt smaller vessels so that untrained crew could be employed for a short time until the next round of courses were held in the Island and still ensure that any new crew were not put at risk. The Committee will be able to make exemptions under Regulation 4 to allow this to happen. *Jersey Harbours* staff will keep a check on new entrants and ensure that they are properly briefed in safety matters prior to being employed and that they do indeed attend the next set of courses.

Again, under Regulation 4, it will be possible to make other exemptions. For example, an exemption could be offered to the Coxswain of the St. Helier Lifeboat who also owns a registered fishing vessel. His training would be in excess of the requirements of this Regulation, but his certification would have been issued by a different organisation. Exemptions can be granted to fishermen who have attended different professional courses to the same or superior standards as that required by the Seafish training organisation.

Consultation

The local fishing industry has been consulted both at meetings held with the Sea Fisheries and Marine Resources Advisory Panel and at a meeting held with the Inshore Fishermen’s Association. Along with this consultation was an invitation for written comments and views on the proposed new Regulations. Whilst only one written comment has been received it is fair to say it probably reflects the mood of the smaller fishing vessel owners. The point is made that if necessary, rather than carry out the training, the owner may simply cease to be registered as a commercial fishing vessel. Given that trying to legislate for those who fish as a hobby would be seen as draconian there is little the Committee can or would wish to do to address this.

By and large professional commercial fishermen acknowledge the need to protect crews by providing at least a minimum basic safety training regime.

Policing

The policing of these Regulations will be undertaken on a spot check basis by *Jersey Harbours* in the Island, whilst the Committee’s appointed surveyor of fishing vessels who is based in the United Kingdom, will carry out spot checks on the larger vessels operating out of the United Kingdom. The Regulations place responsibility on the owner/skipper of the fishing vessel concerned to ensure that all crew are correctly trained prior to them being employed. Additionally, a system of Port State Inspection exists, managed by the Maritime and Coastguard Agency, which can report the matter to *Jersey Harbours* for the appropriate action to be taken.

Although it hoped and indeed expected that common-sense and professionalism will prevail, there is effective deterrence for those who breach the Regulations: fines are possible of up to £500 for individual crew members who go to sea unqualified and up to £5,000 for skippers and owners who allow this to happen.

Statement on financial and human resource implications

Whilst there will be additional work to implement and monitor the effectiveness of the Regulations, it is believed that this can be achieved using the currently employed staff at *Jersey Harbours*. The expenses associated with the required training are to be met by the industry. Adequate safety training is a matter for the industry, not the government. If the Agriculture and Fisheries Committee are asked to help initially this will be a matter for that Committee to resolve within its own budget. Hence, there is no reason to suppose there will be a need to call on additional States funds for the carrying out of anything under the Regulations.

It is the view of the Harbours and Airport Committee that there are no significant financial implications and no manpower implications for the States if this Law is adopted.

Conclusions

Considerable planning and consultation has gone into bringing these Regulations to the States. Sea fishing is one of a handful of extremely hazardous industries. It is the responsibility of the Committee to maintain the appropriate safety at sea legislation. Whilst no amount of legislation can ever prevent accidents, these basic training requirements will mean that the crews are better able to deal with emergency situations. Lives can be saved and the Committee strongly recommends the adoption of these Regulations.

Explanatory Note

These draft triennial Regulations impose new requirements for the training of persons employed on fishing vessels in matters of safety.

Regulation 1 is the interpretation provision.

Regulation 2 is the requirement for a person employed on a fishing vessel to undergo an approved training course in basic survival at sea, fire-fighting and prevention, and basic first aid. There is an exemption for certificated deck officers and certificated engineer officers, whose training would have included such matters. The requirement is phased in over 3 years, in order to provide sufficient opportunity for persons to attend training courses. Persons employed on larger fishing vessels must undergo training more quickly than persons employed on smaller vessels.

Regulation 3 makes it an offence for a person to go to sea on a fishing vessel in contravention of *Regulation 2* for which the penalty is a fine up to level 2 on the standard scale or, if the person is the skipper or owner of a vessel, level 4 on the standard scale. The skipper and owner of the vessel are also guilty of an offence if a person goes to sea in contravention of *Regulation 2* for which the penalty is a fine up to level 4 on the standard scale.

Regulation 4 empowers the Harbours and Airports Committee to grant exemptions from the requirement in *Regulation 2*, on such terms as it may specify.

Regulation 5 is the citation and commencement provision.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, the standard scale of fines is -

level 1	£50
level 2	£500
level 3	£2000
level 4	£5000.

FISHING VESSELS (SAFETY TRAINING) (JERSEY) REGULATIONS 200-

(Promulgated on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

THE STATES, by virtue and in exercise of the powers conferred on them by the Order in Council of the twenty-eighth day of March 1771,^[1] have made the following Regulations -

Interpretation

1.-(1) In these Regulations, except where the context otherwise requires

“approved instructor” means an instructor approved by the Secretary of State for the purpose of the Fishing Vessels (Safety Training) Regulations 1989 of the United Kingdom;

“approved training course” means, in relation to any subject specified in Regulation 2(1), a course under the control of an approved instructor, covering the syllabus specified in Merchant Shipping Notice M1367 for that subject;

“certificated deck officer” and “certificated engineer officer” mean officers who hold certificates of competency issued pursuant to the Fishing Vessels (Certification of Deck Officers and Engineer Officers) Regulations 1984 of the United Kingdom;

“contravention” includes failure or refusal to comply;

“fishing vessel” means a boat registered or required to be registered pursuant to the Merchant Shipping (Fishing Boats Registry) Order 1981;^[2]

“Merchant Shipping Notice” means a notice described as such issued by the Secretary of State or his agent;

“promulgation date” means the date these Regulations are promulgated;

“Sea Fish Industry Authority” means the authority constituted under section 1 of the Fisheries Act 1981 of the United Kingdom;

“Secretary of State” means One of Her Majesty’s Principal Secretaries of State.

(2) For the purposes of these Regulations, the length of a fishing vessel shall be its register length shown in the certificate of registry issued in respect of it under the Merchant Shipping (Fishing Boats Registry) Order 1981.²

(3) A reference in these Regulations to a Regulation by number only and without further identification is a reference to the Regulation of that number in these Regulations.

(4) A reference in a Regulation to a paragraph, sub-paragraph or clause by number or letter only and without further identification is a reference to the paragraph, sub-paragraph or clause of that number or letter in the Regulation.

(5) Unless the context otherwise requires, a reference in these Regulations to an enactment is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied under another enactment, including another provision of these Regulations.

(6) Unless the context otherwise requires, a reference in these Regulations to Regulations of the United Kingdom or to a Merchant Shipping Notice is a reference to those Regulations or that Notice as amended from time to time or to such Regulations or Notice, as the case may be, as replace the firstmentioned Regulations or Notice.

Requirement for safety training

2.-(1) No person, other than a certificated deck officer or a certificated engineer officer or a person exempted under Regulation 4 shall be employed or engaged on a fishing vessel after the relevant date specified in paragraph (2) in relation to vessels of that description, unless he is the holder of a certificate or certificates issued by the Sea Fish Industry Authority certifying that he has undergone an approved training course in each of the following subjects -

- (a) basic survival at sea,
- (b) basic fire-fighting and prevention, and
- (c) basic first aid.

(2) The dates by which the requirement for training described in paragraph (1) takes effect in relation to different descriptions of fishing vessels are specified in the following table -

<i>Description of fishing vessel</i>	<i>Date requirement for training takes effect</i>
(a) fishing vessels 12 metres or more long	upon the expiry of 3 months following the promulgation date
(b) fishing vessels 10 metres or more but less than 12 metres long	upon the expiry of one year following the promulgation date
(c) fishing vessels 8 metres or more but less than 10 metres long	upon the expiry of 2 years following the promulgation date
(d) fishing vessels less than 8 metres long	upon the expiry of 3 years following the promulgation date.

Offences

3. If a person goes to sea on a fishing vessel in contravention of Regulation 2 -

- (a) that person shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale^[3] or, if he is the skipper or an owner of the vessel, level 4 on the standard scale;³ and
- (b) the skipper and each owner of the vessel (except in respect of a contravention of Regulation 2 by himself) shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.³

Exemptions

4. The Harbours and Airports Committee may grant a person or any class of persons, on such terms, if any, as it may specify, an exemption, for a specified period, from the requirement in Regulation 2 and may alter or cancel any such exemption.

Citation and commencement

5. These Regulations may be cited as the Fishing Vessels (Safety Training) (Jersey) Regulations 200- and shall come into force upon the expiry of 3 months following the promulgation date.

^[1] Recueil des Lois, Tomes I-III, page 1.

^[2] Nos. 6967, 7744 and 7759.

^[3] Recueil des Lois, Volume 1992-1993, page 437.