

# **STATES OF JERSEY**



## **DRAFT HARBOURS (INSHORE SAFETY) (JERSEY) AMENDMENT REGULATIONS 202- (P.3/2025): COMMENTS**

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**Presented to the States on 4th July 2025  
by the Economic and International Affairs Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

### Introduction

The Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202- [\[P.3/2025\]](#) (hereafter referred to as the “draft Regulations”) were lodged *au Greffe* on 28th January 2025 and are scheduled for debate at the States’ sitting commencing on 8th July 2025.

The Economic and International Affairs Scrutiny Panel (hereafter referred to as “the Panel”) has monitored the draft Regulations during their inception and drafting, including receiving briefings from Officers and questioning the Minister for Sustainable Economic Development (hereafter referred to as “the Minister”) during public hearings. Subsequently, the Panel identified this topic for more substantive work, and formally launched its [review](#) on 12th May 2025. The Panel has written to the Minister for Sustainable Economic Development as well as relevant stakeholders inviting views on the draft Regulations. The Panel has formed these comments to aid the Assembly’s consideration of the draft Regulations.

### Background and purpose

The draft Regulations will, if adopted make amendments to the [Harbours \(Inshore Safety\) \(Jersey\) Regulations 2012](#) [the 2012 Regulations] and aim, in correlation with the Draft Shipping (Jersey) Amendment Law 202- [\[P.4/2025\]](#), to make Jersey’s territorial waters safer for everyone and to hold everyone who uses Jersey’s waters to the same level of responsibility.

The Panel understands that the need for the draft Regulations was raised following instances of serious injury or careless and/or dangerous operation occurring in Jersey’s inshore waters involving speed boats, jet skis and paddleboards.<sup>1</sup> If adopted, the draft Regulations will introduce new offences for circumstances where a seafarer has caused harm to another person in Jersey’s territorial waters. Examples include careless operation of a ship, causing death or serious injury by dangerous operation of a ship and when under the influence of drink or drugs.

The Panel understands that a formal public consultation was undertaken in June and July 2023,<sup>2</sup> with stakeholders, such as Jersey’s Yachts Clubs and Boat Owners’ Associations, receiving written correspondence from the Government of Jersey prior to this.

Previous iterations of the Panel were furnished with the full anonymised responses to the consultation and the Panel can confirm that those taking part were generally supportive of the draft Regulations with 9 of the 12 (75%) respondents agreeing with the principles.<sup>3</sup> Comments garnered by the consultation, outside of those expressing support for the legislation, called for further requirement of experience when operating boats, greater protection for swimmers or more explanation of the requirement for and implications of the draft Regulations. In a submission received from the States of Jersey Police, the Panel notes that although impacted by the draft Regulations if adopted, the

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<sup>1</sup> [£5,000 fine for Jersey speedboat owner who caused serious injuries in jet ski collision, itv news, 15 February 2019](#)

<sup>2</sup> [Shipping Law and inshore harbours regulations consultation](#)

<sup>3</sup> [Shipping law consultation summary](#)

States of Jersey Police were not consulted during the formation of the proposed draft Regulations:

*“States of Jersey Police have not been consulted (until now) during the formation of the proposed regulations. As such, no views or operational/organisational considerations from SoJP have been reflected in the current draft. States of Jersey Police have since been made aware of the Harbour Authority Public Enforcement Policy which it is seeking to contribute towards.*

*States of Jersey Police welcomes the opportunity to collaborate in any future consultation processes to ensure that all perspectives and operational requirements are appropriately considered to prevent any confusion as to primacy, responsibility and accountability with a view to keeping islanders and those visiting the island safe.”<sup>4</sup>*

The Panel held a [public hearing](#) on 5th June 2025 with the Minister for Sustainable Economic Development, Minister for Justice and Home Affairs, Harbour Master and Chief Inspector from States of Jersey Police. At the public hearing the Panel queried the rationale behind the updating of the Regulations and the Minister for Sustainable Economic Development stated that instances of accidents at sea had highlighted deficiencies in current law that needed to be addressed.

Furthermore, it was explained that the terminology around dangerous operation of a ship would strengthen the case for prosecution in situations where offences were committed as previous prosecutions had highlighted that certain terminology was difficult to prove. The Harbourmaster highlighted that: *“Recklessly was very tricky to prove or very hard to get what is termed reckless. By replacing without due care and attention and recklessly with careless and dangerous, I think definitions are much tighter.”<sup>5</sup>*

The Panel was informed that it was felt that the previous language was too vague and that the proposed replacements will enhance and strengthen the legal framework.

#### **The Minister for Sustainable Economic Development:**

*Yes. A number of incidents over the past few years have highlighted a few areas of the current law which we would see as deficient. One of them is a range of new offences for the dangerous and careless operation of a vessel, including where someone is seriously injured or killed and that includes aggravated offences when drink or drugs are used. Another one is to include powers for the police and the Harbour Master to breathalyse people who they have reasonable cause to suspect may be under the influence of alcohol during the course of an investigation into that careless operation of a vessel. Those are the main deficiencies. I do not know if ...*

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<sup>4</sup> [Submission - Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202- Review- States of Jersey Police](#)

<sup>5</sup> [Public Review Hearing - Pg 3](#)

### Harbour Master:

*I think that is right. I think the current regulations have 2 primary offences in terms of operating a vessel without due care and attention and recklessly. We have had a number of prosecutions under due care and attention, one under recklessly. Recklessly was very tricky to prove or very hard to get what is termed reckless. By replacing without due care and attention and recklessly with careless and dangerous, I think definitions are much tighter. I think when you read the definitions they read well. If you are a novice boater, or even experienced boater, I think you can read these and be clear what careless and dangerous means, so it would replace those 2 regulations. As the Minister identified, it allows us to be able to proportionately breathalyse but it does not give us the right to start going around and randomly breathalysing people. On the grounds we believe someone has operated a boat carelessly, that does allow us the grounds, if we suspect alcohol is involved, to be able to breathalyse someone and, again, it allows us to formally be able to breathalyse someone. At the moment we had to rely on people volunteering to, which quite often people do, but it does give us the powers to be able to do that.<sup>6</sup>*

The draft Regulations feature enhancements of the 2012 Regulations also in terms of the scope of the definition of ‘operating a ship’ or being an ‘operator’ to now include:

- (a) sailing a ship;*
  - (b) using a ship to ride the surf;*
  - (c) using a ship under any form of propulsion; and*
  - (d) allowing a ship to be at anchor without the ship being alongside or moored into a pier;*
- “operator” means a person operating a ship, and includes a person who has charge of the conduct of the ship;<sup>7</sup>*

The draft Regulations will introduce specific offences for causing serious injury or death if operating a ship in territorial waters dangerously, without due care and attention, or without reasonable consideration for other people. A person found guilty of committing these offences will be liable to:

| Offence   | Penalty  |
|---|--|
| Dangerous operation of a ship   | Imprisonment for a term of 2 years and a fine  |
| Causing a serious injury by dangerous operation of a ship                                     | Imprisonment for a term of 5 years and a fine  |
| Causing death by dangerous operation of a ship  | Imprisonment for a term of 10 years and a fine |
| Careless operation of a ship  | Fine of level 3 on the standard scale          |
| Careless operation of a ship when under influence of drink or drugs                           | Imprisonment for a term of 2 years and a fine  |
| Causing serious injury by careless operation of a ship  | Imprisonment for a term of 2 years and a fine  |
| Causing serious injury by careless operation of a ship when under influence of drink or drugs | Imprisonment for a term of 4 years and a fine  |
| Causing death by careless operation of a ship   | Imprisonment for a term of 5 years and a fine  |

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<sup>6</sup> [Public Review Hearing - Pg 3](#)

<sup>7</sup> [Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202-](#)

|   |  |
|---|--|
| Causing death by careless operation of a ship when under influence of drink and drugs | Imprisonment for a term of 10 years and a fine |
|---|--|

## Panel's Observations

### *Alcohol testing*

The draft Regulations will introduce aggravated offences when there is death or serious injury and careless operation when the skipper is under the influence of either drugs or alcohol. The draft Regulations will give authority to require a test of breath, blood or urine of a suspect during the course of an investigation into a serious injury, death, or careless operation of a ship.

The prescribed limit will be set as is prescribed in the limits for vehicles within the [Road Traffic \(Jersey\) Law 1956](#):

- a) 35 microgrammes of alcohol in 100 millilitres of breath;
- b) 80 milligrams of alcohol in 100 millilitres of blood; or
- c) 107 milligrams of alcohol in 100 millilitres of urine

The Panel notes that within the draft Regulations, there is no definition as to the prescribed limits set with regards to drug consumption, which mirrors the fact that no limits are detailed within the Road Traffic (Jersey) Law 1956. Within the submission received from the Comité des Connétables, the Panel notes that the Comité highlights concern around the use of medicinal cannabis and ship operation:

*The proposed Regulations specify a prescribed limit on the use of alcohol but do not state a prescribed limit in relation to the usage of drugs. The Panel may be aware of the increased use of medicinal cannabis in Jersey and the proposed changes may therefore benefit from capturing a prescribed limit on the use recreational drugs by a person whilst operating a ship and by a 'person with experience in the relevant activity' (draft Article 9K), as their abilities may be impaired.*

*The Road Traffic (Jersey) Law 1956 prescribes a limit for the concentration of alcohol in the breath, blood or urine of a driver, there are no such limits in relation to drugs. An increasing number of persons are now taking prescribed medicinal cannabis and the effects could still be present in a person the following day thus affecting their fitness to drive. During 2023, there were 42 arrests but only 4 convictions for driving whilst under the influence of drugs, the other cases being lost. The Comité understands that proposals are now being considered.<sup>8</sup>*

A submission received from the St Helier Yacht Club highlighted uncertainty around what would constitute drug consumption, stating that some "sailors take sea sickness tablets which may cause drowsiness and some degree of impairment but are still capable of operating their vessel safely".<sup>9</sup> The submission highlights that although

<sup>8</sup> [Submission - Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202- Review- Comité des Connétables](#)

<sup>9</sup> [Submission - Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202- Review – St Helier Yacht Club](#)

technically sea sickness tables can cause drowsiness it does not impact the ships operators capabilities to operate their vessel safely.

The Panel is concerned that there is a lack of clarity within the draft Regulations as to what constitutes a drug and what the prescribed limits are in relation to drugs.

**RECOMMENDATION 1: The Minister for Sustainable Economic Development should provide further details around the drugs testing and enforcement of drugs testing before draft Regulations are adopted.**

The Panel also raised concern with regards to the absence of the provision of penalties that would be imposed if an individual was found to have consumed alcohol or drugs whilst in charge of a ship, and in respect of there being no provision for measures allowing the boarding of a vessel to breathalyse individuals if there is suspicion of alcohol or drug consumption. The draft Regulations allow officers to breathalyse individuals but only if they are suspected to have committed offences of careless operation of a ship, or causing serious injury or death through careless operation of a ship.

The Minister for Sustainable Economic Development informed the Panel that it was felt that the proposed draft Regulations were proportionate to the Island's current situation in terms of the number of offences being committed in Jersey's territorial waters. The Panel questioned current process with regards to breathalysing operators of ships and the Panel was informed that these draft Regulations will provide the States of Jersey Police and Harbour Master with the ability to conduct breath tests where previously the breath tests have had to be provided on a voluntary basis. The Harbour Master clarified that two recent occasions where individuals refused to be breathalysed reinforced the idea that regulations needed to be updated to be stricter and provide officers with the authority to breathalyse.<sup>10</sup>

The Panel raised concern around the proportionality referenced by the Minister for Sustainable Economic Development and the Harbour Master, as the Panel felt that the regulations were "*reactive not proactive*"<sup>11</sup>. The Minister for Sustainable Economic Development detailed that currently there isn't a need for stricter measures than those proposed in the draft Regulations as data indicates there have been "*215 total incidents over the last 5 years*"<sup>12</sup> with the Harbour Master confirming no mention of drugs amongst these but "*14 incidents where alcohol was mentioned within the incident report*"<sup>13</sup>.

The Panel has questioned the approach of basing the draft Regulation on previous incidents rather than introducing stricter measures to deter operating vessels whilst intoxicated and has highlighted the case for the draft Regulations to be in line with the Road Traffic (Jersey) Law 1956 in all elements given that prescribed alcohol and drug limits are taken from the Road Law. However, differences between road vehicles and water operations were referenced.

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<sup>10</sup> [Public Review Hearing - Pg 36](#)

<sup>11</sup> [Public Review Hearing - Pg 17](#)

<sup>12</sup> [Public Review Hearing - Pg 31](#)

<sup>13</sup> [Public Review Hearing - Pg 12](#)

**The Minister for Sustainable Economic Development:**

*That is what I am trying to say. This is all about the leisure industry, effectively, and I think to treat the sea where we have 200 incidents over 5 years, most of which are crossing a traffic light, in the same way as treating the roads is to ignore the clear differences between the 2 in terms of other 46 people's safety and your impact on other people. I think to take that approach ignores the fact that the sea is inherently international; you can arrive in Jersey, having started in France under a different set of laws. When you try to make out that they are the same I think what you are doing effectively is you are in danger of removing a great deal of freedom from people and for the sake of saying you want to treat the seas the same as the roads. The seas are not the same as the roads. The sea is much less densely populated, and so I think your approach would be seen by many as being disproportionate to the actual evidence of what is going on out there, and we do not have lawless seas where lots of people are drunkenly bashing into each other<sup>14</sup>.*

It is the Panel's understanding that the draft Regulations seek to maintain a balance between leisure and Islanders' enjoyment of the sea and seeking more enhanced regulations than are currently featured in the 2012 Regulations. A submission received by the Panel highlighted that a risk of introducing stricter measures is "over regulation".<sup>15</sup>

When the Panel questioned the Minister for Justice and Home Affairs during the public hearing about alcohol and drugs testing, the Minister clarified that her stance would be for the draft Regulations to feature a clearer no alcohol reference.

**Deputy M.B. Andrews:**

*Okay. Can I just ask, Minister, how satisfied are you with P.3? Can you also confirm whether you do have concerns and what are those concerns?*

**The Minister for Justice and Home Affairs:**

*I would prefer to have something that says no alcohol because I just think that it is quite clear. I think the Minister sitting next to me is probably of the same view. It is not about preventing somebody having a glass of wine on a boat, it is about saying that you should not be intoxicated while sailing a boat.<sup>16</sup>*

Within the States of Jersey Police submission, it was highlighted that the Police would be in favour of measures allowing the boarding of ships and testing of individuals "where there is reasonable suspicion of alcohol or drug consumption. Such powers would be essential for effective enforcement."<sup>17</sup>

When questioned on why the draft Regulations do not introduce a specific offence of operating a ship when under influence of drink or drugs, the Minister for Sustainable Economic Development highlighted that the extension of the definition 'ship' means

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<sup>14</sup> [Public Review Hearing - Pg 45](#)

<sup>15</sup> [Submission - Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202- Review - Anonymous 3](#)

<sup>16</sup> [Public Review Hearing - Pg 31](#)

<sup>17</sup> [Submission - Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202- Review- States of Jersey Police](#)



that the provision for not drinking or consuming drugs would extend to paddleboarders, kayakers etc.

**The Minister for Sustainable Economic Development:**

*I think it is also really important, and sometimes it is easy to forget, we have widened the definition of “ship” in the previous legislation that went through in P.4, and so now we are also talking about people on paddleboards, in kayaks, and so what you are also suggesting is that you should have a prescribed limit for people getting in a kayak. I am not convinced that is an appropriate way forward in terms of saying you should not be in control of a kayak after having drunk. I think you are going to the limit of literally taking away people’s freedom in those situations for no good reason, and that is not an area I want to go into<sup>18</sup>.*

The Panel is concerned that that in the proposed draft regulations, being under the influence of alcohol whilst operating a ship is not taken seriously enough. Whilst being over the limit can constitute an aggravated offence, being drunk whilst operating a ship is not considered a problem in itself. The Panel believes that this is at odds with what is expected from road users under the [Road Traffic \(Jersey\) Law 1956](#). Ironically, the prescribed limits for the aggravated maritime offences are taken from the Road Traffic (Jersey) Law and set at the same limits as for ‘drink driving’.

The Panel is also concerned that by not taking the opportunity to take a tougher stance on alcohol consumption whilst operating a potentially dangerous, motorised vessel, transmits a very mixed message from government about the acceptability of operating a ship whilst drunk (or under the influence of drugs).

During the public hearing on 5th June 2025, the Panel asked the Minister for Justice and Home Affairs for her opinion on drinking and operating a ship:

**Deputy M. Tadier:** *I will put it to the Minister for Justice and Home Affairs first but do you think it is morally okay for somebody to drink, say, 3 pints of lager or a bottle of wine and then to get behind a motor boat and take it out?*

**The Minister for Justice and Home Affairs:** *Morally, my own view would be, no, it is not...but from my perspective if you are in charge of something, whether that is a bike, a horse, a car, a boat, a jet ski, anything that you are in charge of that can cause an injury to somebody else, my moral stance would be you should not be drinking alcohol...<sup>19</sup>*

The same question was then asked of the Minister for Sustainable Economic Development, who stated:

**The Minister for Sustainable Economic Development:**

*I think, as Deputy Le Hegarat has said, that anyone who is operating machinery of some sort, and by that I mean a paddleboard to a bicycle to a tractor to a car to a boat, you are best not doing that while drunk; it is just that simple.<sup>20</sup>*

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<sup>18</sup> [Public Review Hearing - Pg 43](#)

<sup>19</sup> [Public Review Hearing - Pg 22](#)

<sup>20</sup> [Public Review Hearing - Pg 22](#)



However, the proposed draft regulations take what could be considered as a neutral position on drunken operation of a ship, so long as other offences are avoided. This is not the case for road users who commit an offence automatically when they attempt to drive over the limit regardless of if they are able to do so without driving ‘carelessly or dangerously’.

One of the reasons given by the Minister for Sustainable Economic Development for not making being drunk and operating a ship a maritime offence in itself, seems to be that it would have to apply equally to non-motorised and motorised vessels (all of which are designated as ‘ships’ within the draft regulations):

***The Minister for Sustainable Economic Development:***

*That does also point to the fact that the suggestions that you are making about having an offence that is just not being in charge of a ship having imbibed any alcohol would mean that somebody who is having a beer and then wants to jump on their surfboard would be breaking the law. What we are saying is you can have a beer, you can jump on your surfboard, but if you then cause harm you can be prosecuted, but until you have caused that harm ... and that is what I mean about the freedom element and the proportionality of this.<sup>21</sup>*

The Panel does not accept this as a compelling reason not to legislate for being drunk whilst operating a ship. The Panel asserts that were there the political will to legislate in this way, differentiation could be made between vessels in terms of risk or indeed in terms of the way this offence would be policed in line with public interest.

**RECOMMENDATION 2: The Minister for Sustainable Economic Development should analyse data on maritime accidents and call outs of the coastguard on a quarterly basis. If there is an increase in accidents where alcohol or drugs have been consumed, the Minister should consider updating the draft Regulations to include the provision for breathalysing when there is a suspicion of alcohol or drug consumption.**

***Relevant Experience***

Draft Regulation 9K will introduce the requirement for an individual in command of a ship to be accompanied by someone, with experience in the relevant activity, who is watching over the well-being of the person being towed when a person is water-skiing, aquaplaning, parascending or undertaking a similar activity.

The Panel was concerned that the draft Regulations do not stipulate what level of experience is needed. The definition of experience as set out within draft regulation 9K might be considered subjective and allow for wide interpretation. The Panel was informed that this element, as well as others, falls under an educational aspect whereby individuals partaking in this type of water leisure activities need to be trained. It was explained that currently there is educational work being undertaken by the Coastguard in particular attending yacht clubs and boating associations and schools to educate on safe use of Jersey’s coastline.

Submissions from Islanders highlight the complexity and challenging nature of the potential imposition of further training and qualifications on boat owners. A [submission](#)

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<sup>21</sup> [Public Review Hearing - Pg 44](#)

[received from St Helier Yacht Club](#) highlights that whilst they would recommend leisure ship operators to take relevant courses they wouldn't support a proposal making courses mandatory. The Harbour Master outlined an unintended negative consequence should the draft Regulations feature an obligation around further training or qualifications:

**Deputy M.B. Andrews:**

*How onerous would it become, say, for instance, if it was part of Jersey's legislation that if you purchased a boat you have to partake in a course, for instance, before you could then pilot the boat?*

**Harbour Master:**

*I think it is different. You have got to imagine people do not currently have one, so is this something you are going to bring in going forward? The blue economy is really important to Jersey in terms of our marinas, our marine traders. It is something we should be really proud of because it is all domestically driven. I think it might put some people off buying a boat. How would it work? With U.K. sailors coming down to the Channel Islands is very much seen as a badge of honour if you are a sailor from the U.K. because of the tides and the rings. We would have to say to U.K. sailors: "You can no longer come." I think it is complicated. I think if we are having lots of issues with incompetency and, as a Harbour Master, I was worried about particularly safety but also our supply chain being interrupted through that, I think it would be a valid conversation. I am not sure that is where we are.<sup>22</sup>*

The Panel notes that it may be unreasonable to expect users of watercraft such as stand-up paddle boards to be required to have training, as well as the imposition upon marine visitors.

**Emissions**

Draft Regulation 9J outlines the offence for operating a ship in Jersey waters that is emitting excessive or unreasonable noise or fumes. The Panel understands that this draft regulation is the exact same as Regulation 9(3) of the current [Harbours \(Inshore Safety\) \(Jersey\) Regulations 2012](#). The Panel questioned the inclusion of the offense around excessive or unreasonable noise and was informed that in reality this will be a difficult regulation to enforce but it is intended to provide a basis for action if required for repeated noise nuisance. The Panel was told:

**The Minister for Sustainable Economic Development:**

*I think in this case - and it would be better to refer to a lawyer - it will be similar to the situation on land, which is about where it is seen as a nuisance, where it is causing a nuisance. I think it would be difficult to prosecute individual short moments of it, so if I am sitting in a bay and a very loud vessel goes past me I may complain to the Harbour Master about that but I do not think the Harbour Master would be able to do much about it. The vessel has passed on, they have left the waters, whatever may happen. As is the case, I understand, with the existing nuisance laws, it is likely where that it is on a repetitive basis. So it could be someone who is mooring up outside your house, if you happen to live by the seaside, on a regular basis and is blasting out music or leaving their engines running on a regular basis I think, but please do ask the Law Officers. I think it is more likely to be about nuisance.*

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<sup>22</sup> [Public Review Hearing - Pg 14](#)

**Harbour Master:** *It helps practically as well. We have, relatively speaking ... we can come back to this idea of policing by consent, we have a compliant boat owning community. It is very good to be able to point out to somebody ... you are on a 2 stroke jet ski and you cause a lot of irritation in St. Brelade's Bay, and if the duty officer was just to walk down there and say: "Look, it is 6.00 a.m. in the morning and I appreciate you are practising your sports stuff but this is noisy, you do know it is a regulation to be operating this vessel noisily? Perhaps you might want to consider about doing this at a more sociable time." Most people then take those words of advice, and having a regulation which sits behind that is an important part of enforcement*<sup>23</sup>.

It remains unclear to the Panel as to what will constitute excessive or unreasonable fumes with regards to emissions, but such an offence could make a person liable to a fine of level 2 on the standard scale currently £1,000.<sup>24</sup>

**RECOMMENDATION 3: The Minister for Sustainable Economic Development should clarify what constitutes excessive or unreasonable fumes with regards to emissions during the debate and this should be further communicated through guidelines published by the enforcement body. This should be completed within 3 months of the draft regulations coming into effect.**

#### ***Enforcement and resource implications***

The Panel notes that there are additional resource implications resulting from the draft Regulations for Ports of Jersey. If adopted, the draft Regulations will come into force 7 days after they are made. The Panel questioned if Ports of Jersey felt it would have sufficient staffing resource in place to ensure the Regulations could be enforced. It was explained that in anticipation of these draft Regulations, Ports of Jersey had restructured its team and hired an experienced individual who previously worked at the States of Jersey Police who has a background in the maritime context who would work on process and procedure specifically on these Regulations if adopted:

**Harbour Master:** *We have had a slight restructuring of the team. We do lots of different things in Ports of Jersey from running harbours to Coastguard. We have recruited somebody who has come from States of Jersey Police within our maritime standards team, so it is the maritime standards team which do this. They have been brought on board to just help us mostly around process and procedure. We already have an existing duty officer roster, so we have duty officers on call 24 hours a day, 365 days a year, but to make sure ... because there is a change here in terms of there is going to be a requirement for the duty officer to possibly breathalyse people, so we are going to need a breathalyser. Underneath that we need process and procedure. We have recruited someone with experience as a police officer in States of Jersey Police, and in a maritime context with the Ministry of Defence Police in the UK, to support the team with putting that process and procedure in place. It would be good to get the M.O.U. in place. I think we are very close with that in terms of the final bits. Yes, I think we are in a position where we are ready for this.*<sup>25</sup>

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<sup>23</sup> [Public Review Hearing - Pg 48](#)

<sup>24</sup> [Criminal Justice \(Standard Scale of Fines\) \(Jersey\) Law 1993](#)

<sup>25</sup> [Public Review Hearing - Pg 57](#)

Concern over a lack of clarity around the division of responsibility and tasks between the Harbour Master and States of Jersey Police has been raised. This was highlighted in a submission received from the States of Jersey Police where the Chief Officer referred to there being “*ambiguity regarding which agency will be responsible for enforcement, particularly in relation to powers such as boarding vessels and conducting tests*”<sup>26</sup>.

The Panel notes that a Memorandum of Understanding is being established between the States of Jersey Police and Ports of Jersey with a view to agreeing and clarifying roles, responsibilities and operational boundaries in relation to maritime safety and enforcement. The Panel notes that this is an ongoing collaborative piece of work that will perhaps not be in place prior to these draft Regulations coming into effect should they be adopted. Consideration should be given to the fact that if adopted the Regulations will come into effect within 7 days, however the Memorandum of Understanding timeline for finalisation is unknown and therefore division of responsibility will need to be established in short order.

Furthermore, the States of Jersey Police indicated that it has anticipated an increase in demand on its services and there has been an uplift in financial and human resource to meet this potential increased demand:

*“It is anticipated that the implementation of the proposed regulations will lead to an increase in demand on SoJP. At present, the organisation does not have the staffing or financial resources to absorb this additional responsibility without impacting on other areas of policing”.*<sup>27</sup>

In a submission received from the Comité des Connétables, the Panel notes the view that there is potential that these draft Regulations could put public authorities under additional resource pressure. The submission also highlights the lack of clarity around how the draft Regulations will be policed and enforced:

*Clarification is required on how the proposed amendments will be policed and the responsibilities envisaged enforced, as there is a risk of overstressing resources and capacity of public authorities, particularly for instance that of the Honorary Police and there is no mention of this in the financial and staffing implications. The envisaged ‘new enforcement policy statement’ from the Ports of Jersey Limited has not yet been provided either.*

*The Panel will be aware as per Article 3 of the 1961 Law that the Harbour Master has policing powers. However, Article 3(2) provides that the prosecution of any person arrested by the Harbour Master shall be undertaken by a Centenier having jurisdiction in the matter or, if the arrest is within the territorial waters of Jersey, by a Centenier of St Helier.*<sup>28</sup>

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<sup>26</sup> [Submission - Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202- Review- States of Jersey Police](#)

<sup>27</sup> [Submission - Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202- Review- States of Jersey Police](#)

<sup>28</sup> [Submission - Draft Harbours \(Inshore Safety\) \(Jersey\) Amendment Regulations 202- Review- Comité des Connétables](#)

When further questioned on the practical workload of enforcing the draft regulations if they are adopted, the Harbourmaster explained that within the Public Service Obligations responsibilities are delegated by the Minister:

***Harbour Master:** Ultimately the Minister is the Shipping Minister, and for our P.S.O.s (public service obligations) a lot of those responsibilities are delegated practically through administration through the harbour authority. So we work really well with our colleagues in economy, so again we provide the subject matter expertise, and again with the Law Officers, yes, so a collaborative approach. We are trying to provide what we think will work practically from a keeping people safe point of view, while also not all being experts on necessarily writing laws and regulations.<sup>29</sup>*

The Panel acknowledges the additional member of staff joining the Harbourmaster's team and that a new enforcement policy statement will be formed as outlined in the report accompanying the draft Regulations. The Panel believes publication of the enforcement policy statement may be useful in outlining the clarity of implementation. The Panel is concerned that the Public Service Obligations agreements between the Ports of Jersey are not publicly available and will need updating to match the requirements of the draft Regulations regarding enforcement and deconfliction of responsibilities. The Panel notes that the Policy Framework for the Ports Sector identifies that the Government of Jersey "will monitor and review the Public Service Obligations of Ports of Jersey to ensure they continue to be discharged in accordance with best practice", however no time frame for this review is identified.<sup>30</sup>

**RECOMMENDATION 4: The Minister for Sustainable Economic Development should provide an indication during the debate of the draft Regulations as to what will be contained within the enforcement policy statement.**

**RECOMMENDATION 5: The Minister for Sustainable Economic Development should review, update and publish the Public Service Obligations upon approval of the draft Regulations before the end of 2025.**

## **Conclusion**

The Panel is grateful for the time provided by Ministers and Officers to brief the Panel and answer questions in relation to the proposals, which have assisted the Panel in informing its Comments. The Panel would also like to thank those who made a submission to its Review.

The Panel understands that the draft Regulations are a necessary step in enhancing safety in Jersey's territorial waters and will provide the police and Harbour Master and States of Jersey Police with powers that did not previously feature in the Harbours (Inshore Safety) (Jersey) Regulations 2012.

The Panel acknowledges this proposition represents an attempt by the Minister for Sustainable Economic development to improve the safety of marine leisure activities for Islanders, and agrees that in some regards this will be achieved. However, the Panel

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<sup>29</sup> [Public Review Hearing - Pg 64](#)

<sup>30</sup> [R.4/2024](#)

remains concerned that a specific offence has not been introduced for operation of a vessel when intoxicated.

The Panel has made the following 5 recommendations:

**RECOMMENDATION 1: The Minister for Sustainable Economic Development should provide further details around the drugs testing and enforcement of drugs testing before draft Regulations are adopted.**

**RECOMMENDATION 2: The Minister for Sustainable Economic Development should analyse data on maritime accidents and call outs of the coastguard on a quarterly basis. If there is an increase in accidents where alcohol or drugs have been consumed, the Minister should consider updating the draft Regulations to include the provision for breathalysing when there is a suspicion of alcohol or drug consumption.**

**RECOMMENDATION 3: The Minister for Sustainable Economic Development should clarify what constitutes excessive or unreasonable fumes with regards to emissions during the debate and this should be further communicated through guidelines published by the enforcement body. This should be completed within 3 months of the draft regulations coming into effect.**

**RECOMMENDATION 4: The Minister for Sustainable Economic Development should provide an indication during the debate of the draft Regulations as to what will be contained within the enforcement policy statement.**

**RECOMMENDATION 5: The Minister for Sustainable Economic Development should review, update and publish the Public Service Obligations upon approval of the draft Regulations before the end of 2025.**

The Panel is content to support the principles of this legislation which has the underlying purpose of making Jersey's territorial waters safer. However, in view of these recommendations the Panel cannot fully conclude that the draft Regulations will meet their intended purpose.

The Panel has considered the merits of developing amendments to address at least some of matters highlighted above, but a final decision will be informed by the Assembly's debate on the principles of the draft Regulations.

The Panel will follow up on the recommendations it has made within these comments in quarterly hearings with the Minister for Sustainable Economic Development and further scrutiny actions when required to ensure the recommendations have been actioned.