

STATES OF JERSEY



JERSEY RED ENSIGN: OPTIONAL USE FOR SHIPS REGISTERED IN JERSEY

Lodged au Greffe on 11th May 2010
by the Minister for Economic Development

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to note the approval of Her Majesty The Queen to display the Arms of Jersey (the Royal Arms of the House of Plantagenet) on the Red Ensign for use on ships registered in Jersey, being a Flag Gules with the great Union in the canton and defaced by an Escutcheon also Gules thereon three Lions passant guardant Or (being the Royal Arms as used and borne by the Island of Jersey) ensigned by an ancient Crown (as attributed unto Her Majesty's Royal predecessors being of the House of Plantagenet) of Gold (as shown for illustrative purposes in the Appendix) and to authorise, under Article 4(1)(b)(ii), of the Shipping (Jersey) Law 2002 the use of the Red Ensign displaying the said Arms of Jersey on ships registered in Jersey.

MINISTER FOR ECONOMIC DEVELOPMENT

REPORT

Background

Ships registered in Jersey are British ships. As such there is an automatic entitlement to fly the Red Ensign and this is recognised in both UK and Jersey legislation.

That right to fly the Red Ensign also applies under UK law to ships registered in other Crown Dependencies and the Overseas Territories. However, as part of establishing a separate international identity, most of these jurisdictions have also authorised the flying of an ensign that has a recognisable crest or badge associated with that jurisdiction's history and character. These are known as defaced or special ensigns.

Jersey has over 2,000 pleasure craft on its Shipping Register. Many are based away from the Island. They can be found throughout the world and include 28 which are over 24 metres in length¹. It also has a fleet (currently numbering 63) of small commercial ships such as workboats and charter yachts.

The Department was approached some while ago by those who would like to fly a specifically Jersey ensign; and research carried out by Fisher Associates in 2007–8 on the possible expansion of the Shipping Register included an assessment of whether this would be valued. A Ministerial Decision was then taken in 2008 to prepare the legal and constitutional ground. These matters are now settled and it is believed to be a good time to give the Jersey fleet the option of a clearer sense of identity with the Island.

Considerations

The immediate advantage of flying a Red Ensign, plain or defaced, is that the ship is internationally recognised as British. Associated with that is a sense of security and a recognition that the flag is a flag of quality. Legislative, inspection and compliance standards particularly regarding safety, protection against pollution, employment and security are known to be high.

A plain red ensign with no special design added does nothing to help a small jurisdiction's expression of identity as separate from the UK. On the other hand, a special ensign promotes greater international awareness for the jurisdiction and indirectly is likely to be good for business.

Where a ship registry develops a reputation for particular expertise, safety standards or efficiency, then a special ensign provides a way of attracting more ship-owners to that registry. Yacht-owners are frequently people who also seek a reputable jurisdiction for fund and asset management. In Jersey's case, the Island's excellent reputation for such matters provides an obvious link between the two.

Furthermore, it has been pointed out that at present Jersey yacht-owners can fly a distinguishing ensign only if they are members of a Yacht Club which has its own, such as is available with the Royal Channel Islands Yacht Club and the St. Helier Yacht Club. Even then, and rather confusingly, the yacht itself could be registered elsewhere than Jersey. This proposal would grant a privilege to all registered Jersey vessels without distinction.

¹ Vessels under this length are officially deemed 'small ships'.

The Fisher Associates research referred to above concluded that merchant ship-owners might prefer the undefaced ensign, whilst yacht-owners would indeed like to fly a special Jersey one. It should be emphasized that what is being proposed is an option and not compulsory. Thus, anyone wishing to continue to fly the plain (undefaced) Red Ensign, will continue to be able to do so.

Legal position

The Law Officers have provided useful and extremely thorough advice. The matter has also been discussed and clarified with the Bailiff, the Garter King of Arms at the College of Arms, the United Kingdom's Ministry of Justice and the Red Ensign Group.

In passing the Shipping (Jersey) Law 2002, States Members approved the provisions contained in Article 4(1) to be able to specify a defaced or modified red ensign as an alternative to the undefaced flag. This can be done by Order in Council or simply on the authority of the States alone.

The latter is the most straightforward and is what is now proposed. However, prior to this and because of the particular recommended design in which the Plantagenet Crown is used, it was first necessary to ask Her Majesty for approval.

The Proposition

The rather long paragraph is actually in 2 parts –

- (1) The first part provides the description of the specific details of the Arms of Jersey as approved by Her Majesty.
- (2) The second part, commencing, “and to authorise” ensures the actual decision to modify the ensign is then taken by States members.

Restriction on the use of a defaced ensign

Many vessels currently fly a defaced ensign under a permit issued by particular yacht clubs authorised by a warrant to do so.

These ensigns carry significant status. So, it is important to be able to identify the owner and his or her authority to fly those colours to avoid misuse. As a result, it is normal for the warrant relating to them to impose some minimum restrictions. In the case of the yacht clubs, this includes, *inter alia*, that the ship must be formally registered as a British ship and to be either at least 7 metres long or to be measured as over 2 tons gross. There is also a requirement that the vessel is used only as a private pleasure craft and that the owner is a British Citizen.

The restrictions concerning the nationality of the owner and the nature of the use of the vessel are not applicable for commercial vessel-owners and clearly the link with a yacht club is inappropriate for a specifically Jersey flag. To impose such restrictions would defeat the purposes of adopting a defaced ensign for Jersey ships and would exclude all company-owned or commercial vessels. Likewise, it is felt that in this case the size restriction is unnecessary as it would preclude a number of local owners.

Therefore, the least restrictive requirement is that of registration under the Shipping Law whether in accordance with the Regulations for local Small Ships (known as SSR) or full registration.

It is expected that this basic requirement alone will be sufficient in identifying ownership and allowing the Registrar to follow up any reported incident of wrongful use of the ensign. Under the Shipping (Jersey) Law 2002, provisions are already in place for fining an owner or Master for 'carrying improper colours' and confiscation of the flag is also authorised.

Choice of design and consultation

Much like the status of a national flag, the crest chosen to deface an ensign must carry with it a sense of real history, credibility and permanence. Such a crest cannot be seen as a logo or transient symbol if it is to be worthwhile, respected and last perhaps for centuries.

The use of the Jersey flag itself on Jersey vessels would not be possible, as under both UK and Jersey law the flag has to be a red ensign (defaced or otherwise).

Concerning the Arms of Jersey, these received Royal approval in 1981, when they were established for use on the Jersey Flag. Additionally, as Members will readily appreciate, the 3 leopards and the Plantagenet Crown have actually been associated with the Island for much longer.

As a result of publicity in 2008 and an article being put up on the Registry website in early March 2010, various comments have been received. Some opinions were offered as to detail, for example, whether a white disc should be placed behind the Arms or whether the Arms of Jersey should include the Plantagenet Crown or not. However, the responses have all been complimentary regarding the proposal in principle.

Given the above, it is believed that the use of the Arms of Jersey as already authorised for the Jersey Flag represent the best option. The Arms provide a direct link with the British Crown and Jersey's historic allegiance dating from the time of King John. The design (virtually as shown in the Jersey Evening Post in May 2008) has been prepared by the College of Arms and accords with acknowledged heraldic standards.

Financial and manpower implications

There are no new resource or manpower implications for the States arising from this Proposition.

Those owners of unregistered vessels who live locally may of course continue to fly the plain undefaced Red Ensign at no extra cost. If they wish to fly the new flag, they may register their vessels on the Small Ships Register for £50. This registration lasts for 5 years and is already a basic minimum requirement for vessels visiting foreign ports. Alternatively, all owners (whether locally resident or not) can apply to put their vessels on the full register, which currently costs £302 and lasts for 10 years. This provides proof of ownership and allows a mortgage to be taken out on the vessel. Associated with this is a tonnage measurement which is carried out as a once-only procedure by a private business and might cost in the region of £150.

Owners of Jersey ships which are already registered will only have the additional cost of purchasing a new ensign, though this of course remains a matter of choice. Depending on the size of the ensign, typically this might range from about £45 for a one-yard printed ensign to £100 for a 2-yard sewn one.

Proposed Jersey Red Ensign

