

STATES OF JERSEY



DRAFT SHIPPING (JERSEY) AMENDMENT LAW 202- (P.4/2025): COMMENTS

**Presented to the States on 14th March 2025
by the Economic and International Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

Background

The Draft Shipping (Jersey) Amendment Law 202- [\[P.4/2025\]](#) (hereafter referred to as the “draft Law”) was lodged *au Greffe* on 28th January 2025 and is scheduled for debate at the States’ sitting commencing on 18th March 2025. It is presented in conjunction with the Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202- (P.3/2025).

The Economic and International Affairs Scrutiny Panel (hereafter referred to as “the Panel”) has conducted concurrent Scrutiny of the draft Law and the associated Regulations. This has included, from a very early stage, receiving briefings from Officers and questioning the Minister for Sustainable Economic Development (hereafter referred to as “the Minister”) during public hearings and via written correspondence. Subsequently, the Panel has formed these comments to aid in the Assembly’s consideration of the draft Law and plans to present similar information outlining its work on P.3/2025.

Background and purpose

The draft Law aims, in conjunction with the Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202- [\[P.3/2025\]](#), 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 Law following instances of serious injury or careless operation occurring in Jersey’s inshore waters involving speed boats, jet skis and paddleboards.¹ If adopted, the draft Law will make a number of amendments to the following Laws, Regulations and Orders:

- [Shipping \(Jersey\) Law 2002](#)
- [Harbours \(Administration\) \(Jersey\) Law 1961](#)
- [Taxation \(Companies – Economic Substance\) \(Jersey\) Law 2019](#)
- [Taxation \(Partnerships – Economic Substance\) \(Jersey\) Law 2021](#)
- [Shipping \(Tonnage\) \(Jersey\) Regulations 2004](#)
- [Shipping \(Safety Code – Yachts and Small Ships\) \(Jersey\) Regulations 2013](#)
- [Maritime Security \(Jersey\) Order 2014](#)
- [Shipping \(Standards of Training, Certification and Watchkeeping\) \(Jersey\) Order 2021](#)

The draft Law will expand the definition of “ship” and “vessel” to include smaller watercraft designed for having fun on the water such as non-displacement vessels, jet skis, and smaller speedboats. Other amendments are also proposed through the draft Law to amend legislation to meet international standards regarding insurance and liability, as well as amending the procedures and rules governing inquiries of maritime accidents and reporting obligations of ship masters.

Introduction of penalties for individuals found guilty of causing harm to other people, including aggravated offences when there is death or serious injury where the skipper is under the influence of drugs or alcohol, are proposed through P.3/2025 and are due for

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

debate at the States meeting of 8th July 2025 (the Panel will report accordingly in due course).

Previous iterations of the Panel received early versions of the draft Law in March and October 2023, with a Ministerial Decision to lodge the draft Law signed 14th January 2025.² The Panel questioned the reason for the delay in bringing forward the debate in its Public Hearing with the Minister of 20th February 2025, being informed by the Sector Head of Aviation and Maritime:³

“The scope of work to amend both the Shipping Law 2002 and the Inshore Harbour Safety Regs has been ongoing for some time, previous to the current Government. When we had the completed propositions on which we consulted in summer 2022 and approached lodging, it was felt on the advice by the Law Drafting Office that the propositions could be optimised just in terms of the way that language was expressed and so on. So the scope of work that has gone on has been to reshape and optimise the propositions, get them into the best shape possible before bringing them before the Assembly.”

It was confirmed by the Sector Head of Aviation and Maritime that changes to the drafts did not have any legal effect, as identified in the accompanying report to the draft Law.

Consultation

The Panel understands that a formal public consultation was undertaken in June and July 2023,⁴ 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 full anonymised responses to the consultation, and it can be confirmed that those taking part were generally supportive of the draft Law, with 12 of the 14 (86%) of those answering agreeing with their principles.⁵ 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 legislation.

Ships and Vessels

The draft Law will update the definition of ship within the [Shipping \(Jersey\) Law 2002](#) (the 2002 Law) to include a vessel or watercraft that:

- (a) is of any type, including a non-displacement craft, seaplane or wing-inground craft (meaning a craft that operates using different modes and that flies close to the surface, using surface-effect action, in its main mode); and
- (b) is used, or is capable of being used, as a means of transportation on, in or under water;

The Panel questioned the extent that the draft Law would capture smaller recreational craft such as jet skis and surf boards and was it has been confirmed that the policy objective of the draft Law is to “tighten up” the definition of a vessel and add clarity for

² [MD-SED-2024-886, Shipping \(Jersey\) Law 2002: Amendments, 14 January 2025](#)

³ [Transcript - Quarterly Public Hearing with the Minister for Sustainable Economic Development - 20 February 2025](#)

⁴ [Shipping Law and inshore harbours regulations consultation](#)

⁵ [Shipping law consultation summary](#)

water users. Noting the terminology proposed would include a vessel or watercraft of any types that is capable of being used as a means of transportation on, in or under water, the Panel questioned if floatation device/arm bands and body boards etc. would be captured within the draft Law and it has been confirmed by the Minister that the proposed definition of a “Ship” would not capture such items.⁶

Insurance and liability

The draft Law will also make a number of changes to existing legislation in areas for requirement of insurance, and maximum liabilities that carriers will face.

Although existing requirement for insurance exists within the 2002 Law, the draft Law seeks to clarify the requirement, for example compulsory insurance will be specified as a requirement when passengers are carried on board a ship registered that is licensed to carry more than twelve passengers. Maximum liability of carriers proposed to increase in the following ways per carriage or passenger:

| Event | Existing (units of account)⁷ | Proposed (units of account) | Increase |
|---|--|------------------------------------|-----------------|
| Death or personal injury | 46,666 | 400,000 | 757% |
| the loss of or damage of cabin luggage | 833 | 2,250 | 170% |
| the loss of or damage of vehicles | 3,333 | 12,700 | 281% |
| the loss of or damage of other luggage | 1,200 | 3,375 | 181% |
| Deduction agreement - damage to vehicle | 117 | 330 | 182% |
| Deduction agreement – loss or damage to other luggage | 13 | 149 | 1046% |

The Minister has indicated that Jersey’s obligations in this area are set by the International Maritime Organisation and that the draft Law brings Jersey in-line with the [Athens Convention](#).⁸ The Panel has confirmed the Athens Convention establishes a regime of liability for damage suffered by passengers carried on a seagoing vessel and sets the maximum level of liability as proposed in the draft Law.⁹ The draft Law will establish a carrier liable for damage or loss suffered by a passenger if the incident

⁶ [Letter – Minister for Sustainable Economic Development to the Economic and International Affairs Scrutiny Panel re Shipping and Harbours inshore safety - 05 March 2025](#)

⁷ The 1976 Protocol made the unit of account the Special Drawing Right (SDR), replacing the "Poincaré franc", based on the "official" value of gold, as the applicable unit of account. [Athens Convention relating to the Carriage of Passengers and their Luggage by Sea \(PAL\) – International Maritime Organization](#)

⁸ [Letter – Minister for Sustainable Economic Development to the Economic and International Affairs Scrutiny Panel re Shipping and Harbours inshore safety - 05 March 2025](#)

⁹ [Athens Convention relating to the Carriage of Passengers and their Luggage by Sea \(PAL\) – International Maritime Organization](#)

causing the damage occurred in the course of the carriage and was due to the fault or neglect of the carrier, with the burden of proving the loss laying with the claimant.

Inquiries

The draft Law will make a number of changes relating to the process of undertaking an inquiry in the event of a very serious marine casualty or other accident.

Under the 2002 Law the Minister may, if there has been an accident, appoint a person to hold an inquiry to determine the circumstances of the accident and its cause. Amendments in the draft Law will require the Minister to appoint a person to hold an inquiry into a very serious marine casualty or other accident, with the Minister having the option to do so in the case of other marine incidents.

The draft Law will establish the framework for the appointed person to conduct the inquiry, for example carrying investigation out within the provisions of an international standard that are agreed by the International Maritime Organization.

The Panel was informed that currently the Minister will issue a Ministerial Decision to instruct that a marine accident or marine safety investigation should take place and that the draft Law seeks to ease this process to allow harbour authorities to begin the process more efficiently. The Minister highlighted:¹⁰

“It also helps us clarify responsibilities with regard to police and harbour authorities. I think it is really important and certain incidents in the past have helped us understand that there was a lack of clarity in those areas and so this will help us create that clarity so we know when the police are involved, when the harbour authorities are able to satisfy themselves with regard to an investigation done by themselves.”

It has been confirmed that it is customary for reports following inquiries made under the 2002 Law to be published at the conclusion of investigations and any prosecution is run in parallel with those investigations, either by the Minister in the case of Jersey registered vessels, or by the jurisdiction in which the vessel was registered.

The draft Law will establish a requirement for the Minister to immediately publish, subject to any criminal proceedings, any part of the report that includes an urgent finding or recommendation regarding safety, preservation of life or preventing serious pollution. The Minister has confirmed that he believes there are no changes in the application of inquiry costs.¹¹

Enforcement and transition

The Minister has outlined that that recognition and enforcement of judgements, introduced through Article 12 of the draft Law will bring Jersey in line with international conventions (namely the Athens Convention). The Panel has been made aware that the Ports of Jersey published a [Harbour Authority Enforcement Policy](#) in November 2024, which sets out their approach to both the policing of potential incidents and potential offences.

¹⁰ [Transcript - Quarterly Public Hearing with the Minister for Sustainable Economic Development - 20 February 2025](#)

¹¹ [Transcript - Quarterly Public Hearing with the Minister for Sustainable Economic Development - 20 February 2025](#)

If adopted, the draft Law will come into force 7 days after they are made. The Panel questioned if this would allow enough time for communication of the new requirements and offenses, with the Minister outlining:¹²

“This is a standard period of time for legislation of this type. The propositions have been consulted on publicly, and Government has worked with Ports of Jersey Ltd, through the Territorial Seas Coordination Advisory Group (TSCAG), in the developing the propositions. Authorities are already prepared to reflect the changes in their practices.”

The Panel commends the readiness of authorities to reflect the changes in their practices and would recommend that the Minister, notwithstanding previous communication, undertake to further announce the enforcement of the draft Law to ship users and the wider public.

Ability to Repeal or Amend

The Panel questioned whether Article 5 of the draft Law will remove the Assembly’s ability to repeal by regulations in certain cases, given the change of wording to “amend or modify” rather than “repeal or modify”. The Panel was informed that the change of wording does not affect the Assembly’s Regulation making power, as the ability to amend includes, but is not limited to, the ability to repeal.¹³

Article 129 (Salvage Convention 1989 to have force of law) will be updated by the draft Law to allow the Assembly to amend or modify the Salvage Convention, when questioned on the purpose of inclusion of this in the draft Law the Minister outlined:

“There is a need for an update because the current convention is out of date. It will give Jersey the ability to meet international standards”

Additional Points

The draft Law will also provide further clarification of the duties of owners, masters and others in relation to accidents, for example reporting requirements in the case of an incident and record holding. Further amendments are also included in modernisation of areas of expression and language, as well as correction of errors, within legislation.

Conclusion

The Panel has provided these comments to aid in the Assembly’s understanding and debate of the draft Law. The Panel is in general agreement that the legislation proposed will broaden definition of “ship” and “vessel” as required, whilst updating areas of existing legislation to meet relevant modern international maritime standards. The Panel agrees that this will go some way in making Jersey’s territorial waters safer for everyone and to hold everyone who uses Jersey’s waters to the same level of responsibility. The

¹² [Letter – Minister for Sustainable Economic Development to the Economic and International Affairs Scrutiny Panel re Shipping and Harbours inshore safety - 05 March 2025](#)

¹³ [Letter – Minister for Sustainable Economic Development to the Economic and International Affairs Scrutiny Panel re Shipping and Harbours inshore safety - 05 March 2025](#)

Panel has highlighted that further communication of the draft Law's impact to ship users and the wider public may be beneficial.

The Panel will undertake further consideration as to how far the associated proposition, Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202- [\[P.3/2025\]](#) matches the need to make Jersey's territorial waters safer for everyone, including swimmers, in due course.