



St. Helier Yacht Club *Est. 1903*

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30th May 2025

Ref: Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202- Review

Dear Rosalyn,

Thank you for providing the Yacht Club with a copy of this draft review and invitation to participate. Our comments for your consideration are as follows.

Dangerous operation

Since maritime activities are inherently hazardous, there is always some risk of danger. However, a careful and competent person should take reasonable steps to minimise those risks.

The scope of the Regulations is appropriate since in Reg 9(1) -

'a person operates a ship dangerously only if –

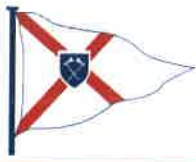
1. the person operates the ship in a way that –
 1. falls far below what would be expected of a competent and careful operator of a ship; and
 2. would be obvious to a competent and careful operator of a ship is dangerous; or
2. the person operates the ship while it is in a state that would be obvious to a competent and careful operator is dangerous.

Together with the clarification of 'competent and careful', this is a relatively high test for dangerous operation, and should not, for example, impact on a less experienced operator who is doing their reasonable best (but not far below what is expected).

My interpretation would be that the offences should not apply just because, for example, a person had not attained a certain level of RYA qualification and had an unexpected accident, but would apply if they were shown to be manifestly incompetent or reckless AND so created an obvious danger.

Careless operation

In Reg 9D, with regard to 'careless operation' and 'without reasonable consideration of others', I believe the expression 'due care and attention' also has a specific meaning by analogy with motoring offences, to mean operating below the minimum standard expected of a careful and competent operator. This also seems an appropriate test.



Operating a ship

I was initially concerned by Reg 2, applying the provisions to a vessel at anchor, or indeed a vessel not under command (NUC), but agree that even in these circumstances an operator should be obliged to take the precautions of a careful and competent person to ensure as far as possible that the operation is not dangerous (for example, displaying the appropriate signals for NUC, or anchored in a place that is safe from other vessel movements).

Under the influence of drink or drugs

Regulation 9E creates an offence only when there is 'careless operation' (as described above) AND unfitness to operate due to drink or drugs.

The first test should therefore be that of 'carelessness'.

It seems to me that there might be no offence if a ship does *not* appear to be operated carelessly or without due consideration, even if a person is under the influence, i.e. they are nevertheless capable of operating the ship above the minimum standard of competence.

For example, some sailors take sea sickness tablets which may cause drowsiness and some degree of impairment, but are still capable of operating their vessel safely.

So it seems there would be no basis for Ports or Police officers to detain a vessel unless it first appeared to be operated dangerously or carelessly - i.e. no random alcohol or drug testing.

This suggests also that there is *not* a zero tolerance policy for alcohol or drugs. Indeed this is supported by setting a prescribed limit for alcohol. The question of unfitness due to drugs is more problematic, since there is no objective standard and could probably only be assessed by a blood specimen etc. and expert opinion.

Breath or blood tests

The provisions for breath or blood tests in Regs 9N, M, O etc only apply where the circumstances in Reg 9E are present, as discussed above (i.e. in the case of careless or inconsiderate operation), or in the event of an accident occurring. These seem appropriate.

Injury or death

The offences relating to causing serious injury or death, by dangerous or careless operation, or under the influence of drink or drugs, where these circumstances are evident, seem entirely appropriate.

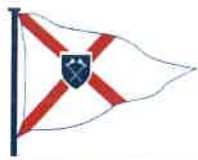
Excessive emissions

Reg 9J seems difficult to apply without some objective measures of what is excessive or unreasonable noise or fumes. There may be existing environmental health standards that are applicable.

I have no comments on the remaining draft Regulations.

Consultation questions - proposed responses by St Helier Yacht Club

Benefits of the draft regulations



The draft Regulations appear to introduce an appropriate level of benefit regarding safety and protection of those using boats and other vessels, without excessive regulatory obligations for sailors and other members of the public.

Environmental protection

These measures are generally welcomed. However, it is not clear how objective standards of excessive noise or fumes emissions would be determined. Is there some provision to prescribe such standards?

Drugs and alcohol

The proposals regarding offences whilst under the influence of drugs or alcohol appear generally appropriate.

In particular, it is understood such offences only arise where both of two conditions occur -

(a) in circumstances when dangerous, careless or inconsiderate operation of a vessel occurs - i.e. manifestly incompetent or reckless operation, or operation below the minimum expected standard of competence - or in the event of an accident occurring, AND

(b) if the level of alcohol is over the prescribed limit or the person is incapable under the influence of a drug.

It is not clear how or at what level incapacity under the influence of a drug would be assessed.

It is, however, agreed that a zero tolerance policy towards alcohol or drugs is not practical or possible to enforce.

We do not support a proposal for enforcement officers to board a vessel to test for alcohol or drugs use in the absence of other reasons, i.e. dangerous, careless or inconsiderate operation, or in the event of an accident.

Seaworthiness

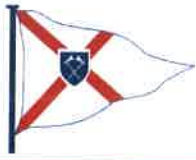
It is considered the existing provisions are satisfactory to require the seaworthiness of vessels. In particular, all vessels are required to have insurance, and insurers do not provide cover unless they are satisfied that the vessel is seaworthy.

Training requirements

Firstly, it should be noted that commercial vessel operators do have mandatory training and qualification requirements.

Whilst many countries have mandatory training requirements for use of leisure boats, this remains the subject of debate for several reasons:

1. Whilst training courses are undoubtedly valuable in many cases, they do not ensure that a boat operator is competent or safe.
2. A person is only likely to benefit from a course if they want to learn - and so voluntarily take part.



3. Land based theory courses are not a substitute for gaining practical experience at sea. That is where real competence is acquired.

4. The regulatory burden of policing the qualifications of boaters is a practical resource issue that existing authorities might be reluctant to take on.

We would therefore highly recommend that all leisure boaters take relevant courses to promote maritime safety and to deal with eventualities that might occur. However, we do not support a proposal to make such courses mandatory."

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Bruce".

Bruce Harrison
Commodore