



Deputy Kirsten Morel
Minister for Sustainable Economic Development

BY EMAIL

20th February 2025

Dear Minister,

Shipping (Jersey) Law 2002 and Harbours (Inshore Safety) Regulations

The Panel has noted the lodging of the Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202-. [[P.3/2024](#)] and Draft Shipping (Jersey) Amendment Law 202- [[P.4/2024](#)] earlier this year, and understands these are due to be debated at the States Assembly meeting of 18th March 2025.

The Panel is grateful to you and officers for the information and background provided to date on this proposed legislation. There are a number of further questions that the Panel holds, and accordingly we would be grateful if you could answer the following queries:

1. The Panel understands that the first priority was to broaden the definition of a 'vessel' and 'ship' to include smaller watercraft used merely for having fun on as distinct from the navigation of the water. Can you confirm if the amending legislation updates any requirements as to registration of a ship, including smaller craft such as jet skis or surf boards used for recreation?
2. Will the new legislation capture all forms of transportation on, in or under water, for example would this include a floatation device/arm bands and body boards etc.?
3. Please can you outline the need for a person with experience in the relevant activity in or on a ship and how this will be practically implemented, for example what level of experience of water skiing would be required?
4. To confirm would the requirement for experience impact single user ships or vessels such as jet skis or surf boards or are they only related to towing a person?
5. Is there any relevant oversight of the hire of ships or vessels such as jet skis, included in the amending or existing laws, requiring relevant experience in their use?
6. What existing or new provision is in place to require sufficient experience or seamanship when operating a ship, including pleasure craft such as speed boats?
7. There are a number of updates to the amount that liability for carriers can be set, with the proposed increases in the amounts established in Article 8 ranging from 170% to 1064%, how have these been calculated?

8. The amending law will maintain that “*The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.*” What impact will this have on any investigation?
9. The amending legislation will insert an Article 4bis regarding compulsory insurance, can you please outline the purpose of this article?
10. Another article, 17bis, will also be inserted regarding recognition and enforcement of judgements, can you please outline the purpose of this article?
11. Studying the legislation it appears that Article 5 of the Draft Shipping (Jersey) Amendment Law 202- will remove the Assembly’s ability to repeal by regulations, can you confirm why this is the case? *Law would be “amend or modify” rather than “repeal or modify”*
12. Under the current Law the Minister is required to publish an inquiry report, unless there are ongoing criminal proceedings. However, the amending law establishes the Minister **may** do so, unless again there are ongoing criminal proceedings, and only requires publication of any sections that require immediate action. Can you please outline the reasons for the removal of the requirement to publish any report of an inquiry?
13. Contravention of the law shall be punishable with imprisonment of 2 years and a fine, or 5 years and a fine if an offence leads to a person’s death or serious injury, with these times doubled if the offender is impaired by drink or drugs. Can you please outline how these punishments have been set?
14. Please can you outline the relevance and implications of the Athens Convention relating to the [Carriage of Passengers and their Luggage by Sea](#)?
15. Article 129 (Salvage Convention 1989 to have force of law) will be updated by the amending law to allow the Assembly to amend or modify the Salvage Convention, why is there a need to update this article?
16. Please can you outline the practical implementation of proposed testing 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? For example, who would undertake the testing and in what circumstances would this take place?
17. The Panel understands from our previous questioning that there are other areas that may provide further protection for those using our inshore waters, for example requirement for greater training, issuing of licences or proactive testing upon suspicion of operating watercraft whilst under influence of drugs or alcohol. Can you please outline if these, or any other protections, will be progressed in the future and why they have not been included at this stage?
 - a. Please can you outline what provision exists within current legislation to stop recreational or commercial ship masters from being intoxicated when operating vessels?
 - b. Can you confirm that being intoxicated whilst operating a ship will not itself constitute an offence under the proposed draft regulations, and if so what is the rationale behind this?
 - c. Can you confirm if careless operation would also allow for testing or only upon serious injury or death?
18. The new legislation will establish that a person who is required to provide a specimen for alcohol testing will have to do so within 18 hours, can you please explain the rationale for this timing?

- a. Does this risk alcohol leaving the body prior to a specimen being collected?
19. It is understood that alcohol testing will only be undertaken once the Harbour Master or police officer has reasonable cause to suspect that a person has committed an offence. What would the impact be should they be given the power to require a specimen of breath if they had reason to believe an operator of a ship has alcohol in their body and why has this ability not been included?
20. How has the prescribed limits been set and how do they compare to other jurisdictions?
- a. How does the prescribed limit relate to road users?
21. The amending legislation will introduce a new article regarding Operating a ship with excessive emissions, establishing that: A person who operates a ship in territorial waters that is emitting excessive or unreasonable noise or fumes, whether from its engine or otherwise, commits an offence and is liable to a fine of level 2 on the standard scale. Can you please outline the reason that this has been included?
- a. What will be the measure of excessive or unreasonable noise or fumes?
 - b. Have any points on this been raised during consultation with stakeholders?
22. The amending Law will come into effect within 7 days if it is adopted by the Assembly, does this allow enough time for the changes to be effectively communicated?

We would be grateful if you could respond no later than Thursday 27th February 2025 in line with the 5 working days approved for responses between Scrutiny Panels and Ministers.

If you have any questions regarding this or our work in general, please do not hesitate to contact me. Please note that unless otherwise stated, all letters will be uploaded to the Scrutiny website as a matter of course.

Yours sincerely,



Deputy Montfort Tadier
Chair
Economic and International Affairs Scrutiny Panel