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Jersey | St Helier | JE2 3DN

By email

28th July 2025

Dear Chair,

Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202-

Thank you for your letter of 21st July, in which you ask a number of follow-up questions regarding the Draft Harbours (Inshore Safety) (Jersey) Amendment Regulations 202-. I have set out answers to each of your questions below in turn:

1. *Could information be provided on the below examples to understand the responsibilities in a practical scenario of enforcing the draft Regulations if adopted.*

Could the Panel be provided with a breakdown of how these examples will be policed including which authority will attend the scene, would the individual be breathalysed and, if so, would this be on land or at sea by the States of Jersey Police or by the Harbourmaster?

In relation to whether a person is breathalysed is down to the discretion of the Acting Harbour Master or a Police Officer. Ports of Jersey are currently considering the flowchart (Annex A) to aid the Acting Harbour Master in their decision-making process.

- a) *An individual is operating a jetski carelessly and comes onto land parking the jetski. A member of the public has called the coastguard alerting the coastguard of the erratic behaviour on the water of the jetski operator.*

An Acting Harbour Master would be tasked by the Maritime Operations Centre to attend the scene and would make enquiries to gather as much information as possible. When at the scene, the Acting Harbour Master will make an investigative assessment and if they suspect the person has committed the offence and is intoxicated then they will request a sample of breath at the land parking.

- b) *A sailing boat has been noticed acting erratically, coming close to impacting other vessels. It is now moored in a local bay for the evening.*

An Acting Harbour Master can be tasked by the Maritime Operations Centre to attend the vessel using a Ports of Jersey vessel. They would make an investigative assessment and, if they suspect the person has committed the offence and is intoxicated, will request a sample of breath on the water.

- c) A heavily intoxicated individual has left a local restaurant and returned to their vessel, management of the restaurant have reported this to the States of Jersey Police.*

It is not an offence to be intoxicated and enter your vessel.

The requirement for a sample of breath must be based on the suspicion that a person is operating or is attempting to operate a ship or in charge of a ship in territorial waters and has committed an offence under these regulations whilst having alcohol in their body.

If the criteria are met, the Acting Harbour Master or a Police Officer may require the person to provide a specimen of breath.

It is difficult to determine the exact actions of the Acting Harbour Master or a member of SoJP in this scenario as circumstantial information regarding the situation is unknown (such as the status of the vessel).

- d) A kayaker has impacted a surfer who wants to report the incident when returning home.*

An Acting Harbour Master can be tasked to assess the situation, and if they suspect the person has committed the offence and is intoxicated then a sample of breath will be requested.

- e) A paddle boarder who has been drinking with friends on the beach narrowly misses other water users repeatedly, this is witnessed by on duty lifeguards – a second day passes and the same occurs however this time a swimmer is injured.*

RNLI duty lifeguards are not members of Ports of Jersey and therefore adhere to RNLI Lifeguard policies and procedures. They are not an asset Ports of Jersey would use for enforcement purposes but the RNLI Lifeguards can report relevant incidents to the Coastguard as they occur.

In this scenario, an Acting Harbour Master would be tasked by the Maritime Operations Centre to attend the scene and would make enquiries to gather as much information as possible. When at the scene, the Acting Harbour Master will make an investigative assessment and if they suspect the person has committed the offence and is intoxicated then a breath sample will be requested.

- 2. It has recently been reported by local media that roadside drug testing will be coming to the island, how will this impact the enforcement of the draft Regulations?*

Any changes to roadside drug testing would fall under the remit of Justice & Home Affairs and therefore does not affect the contents or enforcement of P.3.

- 3. The Panel would also value clarify regarding legislation, penalties and enforcement that impact commercial vessels versus recreational ships that currently exist regarding careless or dangerous operation, or causing serious injury or death and how being under the influence of drugs or alcohol is included in this legislation. The Panel would further value if you can outline how the draft Regulations will impact, and be impacted by, these existing laws, enforcement and penalties.*

Other legislation that includes comparable offences for commercial operators include:

- Article 37 of the Shipping (Jersey) Law 2002 "Conduct endangering ships, structures or individuals."

- This article applies to the master of, or a seaman employed in, a Jersey ship; and to the master of, or a seaman employed in, a ship that is registered to a country outside Jersey, and is in a port in Jersey, or within Jersey waters. Conduct endangering ships (either their own or others), structures or individuals through an act or omission, and is either deliberate or a breach/neglect of duty or under the influence of drink or a drug or both at the same time of the act or omission, commits an offence. The maximum penalty for this offence is imprisonment for 2 years and a fine.
 - Article 49 (5)b of the Shipping (Jersey) Law 2002 “Safety and health on ships”
 - This article makes it an offence for a master of, or a seaman employed or engaged in, a ship, while on board the ship, to be under the influence of drink or a drug or both to such an extent that his or her capacity to fulfil his or her responsibility for the ship, or to carry out the duties of his or her employment or engagement, is impaired. The maximum penalty is imprisonment for 2 years and a fine.
 - Article 79 of the Shipping (Jersey) Law 2002 “Drunkenness etc. on duty”
 - This article sets out that the skipper of, or a seaman employed or engaged in, a Jersey fishing vessel who, while on board the vessel, is under the influence of drink or a drug or both to the extent that his or her capacity to fulfil his or her responsibility for the vessel, or to carry out the duties of his or her employment or engagement, is impaired, commits an offence. The maximum penalty is imprisonment for 2 years and a fine.
 - Article 14 of the Pilotage (Jersey) Law 2009 “Misconduct by pilot endangering ship or persons on board ship”
 - This article includes similar provisions to Article 37 of the Shipping (Jersey) Law 2002, except applies to Pilots only. This article includes reference to being under the influence of drink or drug. The maximum penalty is imprisonment for 2 years and a fine.
4. *Should an offence be introduced banning the operation, e.g. movement, of a motorised or sailing ship when under the influence of drugs or a prescribed limit of alcohol, what resource implications will there be?*

Over the past 5 years, only 3% of maritime incidents involved alcohol, suggesting the proposed offence may not be proportionate to the actual risk.

Ports of Jersey balances its role between ensuring maritime safety and enforcing existing regulations. Introducing this new offence would push Ports of Jersey further into an enforcement-focused role, potentially altering public perception. Such a perception could raise concerns among the public and the boating community.

Ports of Jersey receive no funding from the Government of Jersey, so enforcing this significant expansion of its role would require additional resources which may not be available within the organisation.

To cover additional enforcement costs, the financial burden would likely fall on local boat owners. This could not only discourage local boaters but also reduce tourism, affecting Jersey’s long-term economy. Visiting boats may be deterred by stricter regulations, especially if they fear unintentionally violating the law.

Additionally, the Panel has requested the following documents which I have included alongside this letter:

i. The Memorandum of Understanding

The draft PoJ/SoJP MoU is currently under development and so has been shared as a confidential annex. The broad principles of the draft MoU have been agreed between the two parties, but finer detail is still being finalised and is subject to change.

ii. The new enforcement policy statement

The Enforcement Policy was published online in November 2024 and can be found here: [20241104-Harbour-Auth-Public-Enforcement-Policy-Final.pdf](#)

iii. Public Service Obligations of the Ports of Jersey concerning the draft Regulations

As set out within the Enforcement Policy, Ports of Jersey serves as the statutory Harbour Authority for all harbours in Jersey. Statutory responsibilities include the following:

- Policing, safety and security matters within Jersey's harbours, as set out in the *Harbours (Administration) (Jersey) Law 1961*
- Enforcement of shipping legislation in territorial waters, as set out in Article 6(1)(d) of the *Air and Sea Ports (Incorporation) (Jersey) Law 2015*

The amendments are being proposed as subordinate legislation under Article 4 of the *Harbours (Administration) (Jersey) Law 1961* and Article 49 of the *Shipping (Jersey) Law 2002*. These are laws which Ports of Jersey is required to enforce.

I hope the above information provides clarity to the areas you have raised.

Yours sincerely,



Deputy Kirsten Morel
Minister for Sustainable Economic Development

Annex A

