

HARBOURS (INSHORE SAFETY) (JERSEY) REGULATIONS 2012

Official Consolidated Version

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HARBOURS (INSHORE SAFETY) (JERSEY) REGULATIONS 2012

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Jersey

HARBOURS (INSHORE SAFETY) (JERSEY) REGULATIONS 2012

THE STATES, in pursuance of Articles 4 and 4A of the Harbours (Administration) (Jersey) Law 1961, and Articles 49, 127 and 196 of the Shipping (Jersey) Law 2002, have made the following Regulations –

Commencement [see endnotes]

1 Interpretation[1]

In these Regulations –

"operating a ship" includes –

(a) sailing a ship;

(b) using a ship to ride the surf;

(c) using a ship under any form of propulsion; and

(d) allowing a ship to be at anchor without the ship being alongside or moored into a pier;

"operator" means a person operating a ship, and includes a person who has charge of the conduct of the ship;

"permit" means permit granted under Regulation 6;

"serious injury" has the meaning given in Article 165(3) of the Shipping (Jersey) Law 2002;

"ship" includes every description of water craft that is used, or is capable of being used, as a means of transportation on, in or under water and includes –

(a) a non-displacement craft;

(b) a WIG craft; and

(c) a seaplane;

"small surf rider" means a craft that –

(a) is used, or is capable of being used, to ride the surf;

(b) is not more than 1.54 metres in length and 0.6 metres in width; and

(c) does not have a fin for steering purposes;

"WIG craft" means a wing-in-ground craft, being a multimodal craft that, in its main operational mode, flies in close proximity to the surface by utilising surface-effect action.

2 Delegation

Nothing in these Regulations prevents the Minister from entrusting any function of the Minister under these Regulations to the harbour authority or another person.[2]

3 Control of activities in territorial waters

(1) Where an area of territorial waters is used for sporting or recreational purposes, the Minister may by direction designate, for safety or security reasons, the whole or any part of that area where a person –

(a) may or may not undertake a specified activity;

(b) may or may not undertake a specified activity at a specified time;

(c) may or may not undertake a specified activity in specified circumstances; or

(d) may not undertake an activity except in a specified manner or in accordance with specified conditions.

(2) Nothing in paragraph (1) limits the operation of Article 11(3) and (4) of the Interpretation (Jersey) Law 1954 in relation to the power under paragraph (1).

(3) The Minister must publish any direction made under this Regulation.

(4) A direction under this Regulation takes effect 7 days after the direction is published or on the day on which the direction is expressed to take effect, whichever is the later day.

(5) A person who undertakes an activity in contravention of a direction under this Regulation is guilty of an offence and liable to a fine of level 2 on the standard scale.

4 Control of ships plying for hire

(1) This Regulation applies to a ship designed to carry 12 or fewer passengers.

(2) A person must not let out for use in territorial waters a ship to which this Regulation applies unless the person is the holder of a permit that authorizes the person so to let out the ship.

(3) A person must not in territorial waters carry passengers for reward in a ship to which this Regulation applies unless the person is the holder of a permit that authorizes the person so to carry passengers in the ship.

(4) A person who contravenes paragraph (2) or (3) is guilty of an offence and liable to a fine of level 2 on the standard scale.

5 Control of passenger ships plying for hire between places in Jersey

(1) This Regulation applies to a ship designed to carry more than 12 passengers.

(2) A person must not carry passengers for reward between places in Jersey in a ship to which this Regulation applies unless the person is the holder of a permit that authorizes the person so to carry passengers in the ship.

(3) For the purpose of paragraph (2), a ship that carries passengers and returns to its place of departure in Jersey without putting in at any other place during its voyage is to be taken to be carrying passengers between places in Jersey.

(4) A person who contravenes paragraph (2) is guilty of an offence and liable to a fine of level 2 on the standard scale.

6 Permits

(1) An application for a permit for the purposes of Regulation 4 or 5 is to be made to the harbour authority on a form approved by the harbour authority.[3]

(2) The application must be accompanied by the following –

(a) if, under Regulation 8, insurance is required in respect of the ship for which the permit is sought, evidence that insurance in accordance with that Regulation is in force;

(b) in the case where the permit is for the purpose of Regulation 4, evidence that –

(i) if Regulation 3 of the Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013 applies to that ship, the ship complies with paragraph (1) of that Regulation (to the extent that the ship is not exempt under paragraph (3));

(ii) if Regulation 5 of the Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013 applies to that ship, the ship complies with paragraph (3) of that Regulation;

(c) in the case where the permit is for the purpose of Regulation 5, evidence that the ship is the subject of a current survey, and certification, in accordance with the Merchant Shipping (Survey and Certification) Regulations 1995 of the United Kingdom (as those Regulations apply to Jersey under the Shipping (Survey and Certification) (No. 2) (Jersey) Order 2005), to the extent that the ship is not exempt under regulation 2 of those Regulations as they so apply to Jersey.[4]

(3) The harbour authority may grant a permit for the purpose for which it is sought if the harbour authority is satisfied that –

(a) the person in respect of whom the permit is sought is a fit and proper person to hold the permit;

(b) the ship in respect of which the permit is sought may be safely used for the purpose; and

(c) that ship will be manned by persons with sufficient local knowledge to make them competent to act for the purpose.[5]

(4) The harbour authority shall serve on a person in respect of whom a permit is sought notice of refusal of the permit if the harbour authority is not satisfied that the conditions specified in paragraph (3)(a) to (c) are fulfilled in respect of the application for the permit.[6]

(5) A permit –

(a) must be in writing served on its holder;

(b) may be granted subject to conditions with which the holder of the permit is required to comply; and

(c) is valid for such period (not exceeding 5 years) as the harbour authority may determine.[7]

(6) A permit must specify –

(a) the name and address of the holder of the permit;

(b) the name of the ship in respect of which the permit is granted;

(c) the number of people that the ship may, under the permit, carry;

(d) details of the activity that the permit authorizes;

(e) details of the period during which the permit is valid; and

(f) details of any conditions with which the holder of the permit is required to comply.

(7) The harbour authority may, by notice served on the holder of the permit, at any time cancel or suspend a permit granted in respect of a ship if the harbour authority is satisfied that –

(a) the ship is not fit for the purpose for which the permit was granted;

(b) the ship has been involved in an incident that may make the ship unfit for the purpose for which the permit was granted;

(c) the ship is not a ship that, as the case requires –

(i) complies as referred to in paragraph (2)(b)(i), to the extent required under that clause,

(ii) complies as referred to in paragraph (2)(b)(ii), or

(iii) is the subject of a current survey and certification as referred to in paragraph (2)(c); or

(d) the holder of the permit has failed to comply with a condition specified in the permit.[8]

(8) The holder of a permit in respect of a ship must ensure that a copy of the permit is prominently displayed –

(a) in a conspicuous place on the ship; or

(b) where, because of the size of the ship, it is not practical to comply with sub-paragraph (a), in a conspicuous place near to where the ship is normally berthed or normally puts to sea.

(9) A holder of a permit granted for the purpose of Regulation 4 is guilty of an offence and liable to a fine of level 2 on the standard scale if the ship in respect of which the permit is granted is (as the case requires) let out for use in territorial waters or, in territorial waters, carries passengers for reward –

(a) when paragraph (8) is not complied with in respect of the ship; or

(b) when the ship is not manned by persons with sufficient local knowledge to make them competent to act for the purpose.

(10) A holder of a permit granted for the purpose of Regulation 5 is guilty of an offence and liable to a fine of level 2 on the standard scale if the ship in respect of which the permit is granted carries passengers for reward between places in Jersey (within the meaning of Regulation 5(2)) –

(a) when paragraph (8) is not complied with in respect of the ship; or

(b) when the ship is not manned by persons with sufficient local knowledge to make them competent to act for the purpose.

(11) Notice under paragraph (4) or (7) must be in writing and must set out the authority's reasons for deciding to refuse to grant a permit, deciding to cancel a permit or deciding to suspend a permit (as the case requires).[9]

(12) A person aggrieved by a decision of the harbour authority –

(a) to refuse to grant a permit;

(b) as to the conditions to be complied with by the holder of the permit; or

(c) to cancel or suspend a permit,

may within 28 days of being notified of the decision appeal to the Royal Court against the decision on the grounds that the decision was unreasonable in all the circumstances of the case.[10]

7 Local registration

(1) This Regulation applies to –

(a) a ship designed for or capable of a speed in excess of 12 knots; or

(b) a ship with a length of 3 metres or more,

that operates in or from territorial waters, other than such a ship that –

(i) is owned by a department of the Government of the United Kingdom;

(ii) is visiting Jersey for a total of less than 3 months in any unbroken period of 12 months; or

(iii) satisfies all of the following conditions –

(A) the ship is manually propelled,

(B) the ship has no mechanical or wind-assisted propulsion fitted to it,

(C) the ship has its owner's telephone number, or its owner's name and address, clearly displayed on it.[11]

(2) A person, being the owner, charterer, operator, or master, of a ship to which this Regulation applies who –

(a) uses or retains the ship in territorial waters; or

(b) causes or permits another person (being the owner, charterer, operator, or master, of the ship) to use the ship in territorial waters,

is guilty of an offence and is liable to a fine of level 2 on the standard scale if the ship is not registered under this Regulation.

(3) An application for registration of a ship under this Regulation is to be made by the owner of the ship to the harbour authority on a form approved by the harbour authority.[12]

(4) The application must be accompanied by –

(a) a fee of £20; and

(b) if, under Regulation 8, insurance is required in respect of the ship for which registration is sought, evidence that insurance in accordance with that Regulation is in force.

(5) The harbour authority, after receiving an application in accordance with this Regulation –

(a) must record, in a register kept by the harbour authority for the purpose, details of the ship and its owner sufficient to identify them; and

(b) may assign a registration number (which may be or include one or more letters) to the ship.[13]

(6) The harbour authority must make the register available for public inspection at reasonable times.[14]

(7) The registration of a ship ceases to have effect if –

(a) the ship ceases to be a ship to which this Regulation applies; or

(b) there is a transfer of ownership of the ship.

(8) If –

(a) a change occurs as a result of which any of the details recorded in the register in accordance with paragraph (5) is no longer up to date; or

(b) the registration of a ship ceases to have effect by virtue of paragraph (7),

the person who is or was the owner of the ship at the time of the change or immediately before its registration ceased to have effect (as the case may be) must, within 28 days after the change or cessation, give the harbour authority written notice.[15]

(9) That notice must state, as the case requires –

(a) the nature of the change; or

(b) why the registration has ceased to have effect and, if that cessation occurred because the ownership of the ship was transferred to a person living in Jersey, the name and address of the new owner.

(10) A person who fails to give the harbour authority notice when required to do so under paragraph (8) is guilty of an offence and is liable to a fine of level 2 on the standard scale.[16]

(11) The owner of a ship to which this Regulation applies must ensure that –

(a) if the ship has a name, the name is painted on or affixed to a conspicuous part of the exterior of the ship;

(b) if the harbour authority has assigned a registration number to the ship, the number is painted on or affixed to a conspicuous part of the exterior of the ship in accordance with any marking requirements published by the harbour authority for the purposes of this Regulation; and

(c) any name, and any registration number, so painted on or affixed to the ship are distinctly visible and legible when the ship is in territorial waters.[17]

(12) A person, being the owner, charterer, operator, or master, of a ship to which this Regulation applies who –

(a) uses or retains the ship in territorial waters; or

(b) causes or permits another person (being the owner, charterer, operator, or master, of the ship) to use the ship in territorial waters,

is guilty of an offence and is liable to a fine of level 2 on the standard scale if paragraph (11) is not complied with in respect of the ship.

8 Insurance requirements

(1) A person, being the owner, charterer, operator, or master, of any ship to which this paragraph applies who –

(a) uses or retains the ship in territorial waters; or

(b) causes or permits another person (being the owner, charterer, operator, or master, of the ship) to use the ship in territorial waters,

is guilty of an offence and is liable to a fine of level 3 on the standard scale if insurance in accordance with this Regulation is not in force in respect of the ship.

(2) Paragraph (1) applies to any of the following ships –

(a) a ship that is designed for or capable of a speed in excess of 12 knots and operates in or from territorial waters;

(b) a ship that has a length of 3 metres or more and operates in or from territorial waters;

(c) a ship to which Regulation 4 or 5 applies.

(3) Paragraph (1) does not apply to –

(a) a ship referred to in sub-paragraph (a), (b) or (c) of Article 127(2) of the Shipping (Jersey) Law 2002;

(b) a ship if an obligation to maintain insurance or security in respect of the ship is imposed, as referred to in Article 127(3) of that Law, against a reasonable measure of liability, being the measure, and the liability, referred to in paragraph (6) of this Regulation;

(c) a ship that is owned by a department of the Government of the United Kingdom; or

(d) a ship that satisfies all of the following conditions –

(i) the ship is manually propelled,

(ii) the ship has no mechanical or wind-assisted propulsion fitted to it,

(iii) the ship has its owner's telephone number, or its owner's name and address, clearly displayed on it.[18]

(4) A person, being the owner, charterer, operator, or master, of a ship, other than a small surf rider, who –

(a) uses the ship in territorial waters to ride the surf; or

(b) causes or permits another person to use the ship in territorial waters to ride the surf,

is guilty of an offence and is liable to a fine of level 3 on the standard scale if insurance in accordance with this Regulation is not in force in respect of the ship.

(5) A person, being the owner, charterer, operator, or master, of a ship, is guilty of an offence and is liable to a fine of level 2 on the standard scale if –

(a) under paragraph (1) or (4), insurance in accordance with this Regulation is required to be in force in respect of the ship; and

(b) the person, when requested by an authorized person to produce evidence of compliance with that paragraph, fails to do so within a reasonable time.

(6) Insurance is in accordance with this Regulation in respect of a ship if it is insurance by an approved insurer that insures the owner of the ship, and every person (other than a passenger in the ship who has no control of it) using the ship, against a reasonable measure of liability that may be incurred by the owner or person in respect of –

(a) the death of another person;

(b) bodily injury to another person; and

(c) damage to the property of another person,

caused by, or arising out of, the use of the ship, including use under tuition or for towing a person or another ship, or a person and another ship.

(7) In this Regulation –

"approved insurer" means an insurance company authorized to carry on insurance business –

(a) by virtue of a permit under the Insurance Business (Jersey) Law 1996; or

(b) by a body performing, in the British Islands (other than Jersey), or in a member state of the European Union, functions analogous to those performed by the Jersey Financial Services Commission under the Insurance Business (Jersey) Law 1996;

"authorized person" means a police officer, the Harbour Master or a person authorized by the Harbour Master.

9 Interpretation of Regulations 9A to 9U[19]

(1) For the purposes of Regulations 9A to 9C, a person operates a ship dangerously only if –

(a) the person operates the ship in a way that –

(i) falls far below what would be expected of a competent and careful operator of a ship; and

(ii) would be obvious to a competent and careful operator of a ship is dangerous; or

(b) the person operates the ship while it is in a state that would be obvious to a competent and careful operator is dangerous.

(2) For the purposes of paragraph (1) –

(a) "dangerous" refers to danger of injury to a person or of serious damage to property;

(b) in determining what would be expected of, or obvious to, a competent and careful operator of a ship in a particular case, regard must be had to –

(i) any circumstance shown to have been within the knowledge of the operator of the ship; and

(ii) the circumstances of which the operator of the ship could be expected to be aware; and

(c) in determining the state of a ship, regard may be had to anything attached to it or carried on or in it and to the manner in which anything is attached or carried.

(3) In Regulations 9E, 9G, 9I and 9T, "prescribed limit" means, as the case may require –

(a) 35 microgrammes of alcohol in 100 millilitres of breath;

(b) 80 milligrammes of alcohol in 100 millilitres of blood; or

(c) 107 milligrammes of alcohol in 100 millilitres of urine.

9A Dangerous operation of a ship[20]

A person who operates a ship dangerously in territorial waters commits an offence and is liable to imprisonment for a term of 2 years and to a fine.

9B Causing serious injury by dangerous operation of a ship[21]

A person who causes serious injury to another person by operating a ship dangerously in territorial waters commits an offence and is liable to imprisonment for a term of 5 years and to a fine.

9C Causing death by dangerous operation of a ship[22]

A person who causes the death of another person by operating a ship dangerously in territorial waters commits an offence and is liable to imprisonment for a term of 10 years and to a fine.

9D Careless operation of a ship[23]

A person who operates a ship in territorial waters without due care and attention, or without reasonable consideration for other people, commits an offence and is liable to a fine of level 3 on the standard scale.

9E Careless operation of a ship when under influence of drink or drugs[24]

A person commits an offence and is liable to imprisonment for a term of 2 years and to a fine if the person operates a ship in territorial waters without due care and attention, or without reasonable consideration for other people, and –

(a) the person is, at the time when operating the ship, unfit to properly operate it because they are impaired by drink or drugs;

(b) the person has consumed so much alcohol that the proportion of it in their breath, blood or urine at that time exceeds the prescribed limit;

(c) the person is, within 18 hours after that time, required to provide a specimen under Regulation 9N but, without reasonable excuse, does not provide it; or

(d) the person is required by a police officer to give permission for a laboratory test of a specimen of blood taken from the person under Regulation 9O but, without reasonable excuse, fails to do so.

9F Causing serious injury by careless operation of a ship[25]

A person who causes serious injury to another person by operating a ship in territorial waters without due care and attention, or without reasonable consideration for other people, commits an offence and is liable to imprisonment for a term of 2 years and to a fine.

9G Causing serious injury by careless operation of a ship when under influence of drink or drugs[26]

A person commits an offence and is liable to imprisonment for a term of 4 years and to a fine if the person causes serious injury to another person by operating a ship in territorial waters without due care and attention, or without reasonable consideration for other people, and –

(a) the person is, at the time when operating the ship, unfit to properly operate it because they are impaired by drink or drugs;

(b) the person has consumed so much alcohol that the proportion of it in their breath, blood or urine at that time exceeds the prescribed limit;

(c) the person is, within 18 hours after that time, required to provide a specimen under Regulation 9N but, without reasonable excuse, does not provide it; or

(d) the person is required by a police officer to give permission for a laboratory test of a specimen of blood taken from the person under Regulation 9O but, without reasonable excuse, fails to do so.

9H Causing death by careless operation of a ship[27]

A person who causes the death of another person by operating a ship in territorial waters without due care and attention, or without reasonable consideration for other people, commits an offence and is liable to imprisonment for a term of 5 years and to a fine.

9I Causing death by careless operation of a ship when under influence of drink or drugs[28]

A person commits an offence and is liable to imprisonment for a term of 10 years and to a fine if the person causes the death of another person by operating a ship in territorial waters without due care and attention, or without reasonable consideration for other people, and –

(a) the person is, at the time when operating the ship, unfit to properly operate it because they are impaired by drink or drugs;

(b) the person has consumed so much alcohol that the proportion of it in their breath, blood or urine at that time exceeds the prescribed limit;

(c) the person is, within 18 hours after that time, required to provide a specimen under Regulation 9N but, without reasonable excuse, does not provide it; or

(d) the person is required by a police officer to give permission for a laboratory test of a specimen of blood taken from the person under Regulation 9O but, without reasonable excuse, fails to do so.

9J Operating a ship with excessive emissions[29]

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.

9K Failure to have a person with experience in relevant activity in or on a ship[30]

(1) The master in command of a ship commits an offence and is liable to a fine of level 2 on the standard scale if –

(a) the ship is in territorial waters, towing a person who is water-skiing, aquaplaning, parascending or undertaking a similar activity (the "relevant activity");

(b) the master is not accompanied in or on the ship by a person with experience in the relevant activity who is watching over the well-being of the person being towed.

(2) In this Regulation, "master" has the same meaning as in the Shipping (Jersey) Law 2002.

9L Providing false or misleading information or evidence[31]

A person who, in an application or notice to the Minister or the Harbour Master under these Regulations, knowingly or recklessly provides information or evidence that is false or misleading in a material particular is guilty of an offence and is liable to a fine of level 3 on the standard scale.

9M Breath tests[32]

(1) A Harbour Master or police officer may require a person to provide a specimen of breath for a breath test if the Harbour Master or police officer has reasonable cause to suspect that the person –

(a) is operating or attempting to operate a ship or is in charge of a ship in territorial waters;

(b) has alcohol in their body; and

(c) has committed an offence under Regulation 9E, 9G or 9I.

(2) A Harbour Master or police officer may require a person to provide a specimen of breath for a breath test if –

(a) an accident occurs involving a ship in territorial waters; and

(b) the Harbour Master or police officer has reasonable cause to believe that, at the time of the accident, the person was operating or attempting to operate the ship or was in charge of the ship.

(3) A person may be required under paragraph (1) or (2) to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under paragraph (2) and the police officer making the requirement thinks fit, at a police station specified by the police officer.

(4) A person commits an offence and is liable to a fine of level 2 on the standard scale if the person is required to provide a specimen of breath and, without reasonable excuse, the person –

(a) does not provide a specimen that is sufficient to enable the test or analysis to be carried out; or

(b) does not provide a specimen in a way that enables the objective of the test or analysis to be satisfactorily achieved.

9N Provision of specimens for analysis[33]

(1) In the course of an investigation into whether a person has committed an offence under Regulation 9E, 9G or 9I, a police officer may require the person –

(a) to provide, at a police station, 2 specimens of breath for analysis by means of a device of a type approved by the Minister for Justice and Home Affairs (a "suitable device"); or

(b) to provide, at a police station or hospital, a specimen of blood or urine for a laboratory test.

(2) A police officer must not require a person to provide a specimen of breath if more than 18 hours have passed after the person allegedly committed the offence.

(3) A police officer must not require a person to provide a specimen of blood or urine at a police station unless –

(a) the police officer has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required;

(b) at the time the requirement is made, it is not practicable to require the person to provide a specimen of breath at the police station (for example, because a suitable device is not available at the police station);

(c) the person has provided a specimen of breath by means of a suitable device at the police station and the police officer has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the person's breath; or

(d) a registered medical practitioner advises the police officer that the condition of the person required to provide the specimen might be due to a drug other than alcohol.

(4) A police officer must not require a person to provide a specimen of blood if a registered medical practitioner advises the police officer that, for medical reasons, a specimen of blood cannot or should not be taken.

(5) A person commits an offence and is liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale if –

(a) the person is required to provide a specimen of breath and, without reasonable excuse, the person –

(i) does not provide a specimen that is sufficient to enable the required test or analysis to be carried out; or

(ii) does not provide a specimen in a way that enables the objective of the required test or analysis to be satisfactorily achieved; or

(b) the person is required to provide a specimen of urine and, without reasonable excuse, the person does not provide the specimen within 1 hour of the requirement being imposed; or

(c) the person is required to provide a specimen of blood and, without reasonable excuse, the person does not –

(i) consent to a registered medical practitioner taking the specimen; or

(ii) take all reasonable steps to allow a registered medical practitioner to take the specimen.

(6) A police officer who requires a person to provide a specimen must, when imposing the requirement, warn the person that failing to provide the specimen may make the person liable to prosecution under this Regulation, or Regulation 9E, 9G or 9I.

9O Specimens of blood from persons who cannot consent[34]

(1) A police officer may ask a police medical practitioner to take a specimen of blood from a person if –

(a) the police officer is entitled to require the person to provide a specimen of blood under Regulation 9N;

(b) it appears to that police officer that, due to medical reasons, the person is or may be incapable of consenting to the taking of the specimen; and

(c) the medical practitioner does not, at the time they are asked, have any responsibility for the clinical care of the person.

(2) A police officer may ask a registered medical practitioner who is not a police medical practitioner to take a specimen of blood from a person if –

(a) the requirements in paragraph (1)(a) to (c) are satisfied with respect to the person and the medical practitioner; and

(b) either –

(i) it is not reasonably practicable for the police officer to ask a police medical practitioner; or

(ii) it is not reasonably practicable for a police medical practitioner who is willing to do so to take the specimen of blood.

(3) It is lawful for a registered medical practitioner to whom a request is made under paragraph (1) or (2), if they think fit –

(a) to take a specimen of blood from the person, whether or not the person consents; and

(b) to provide the specimen to a police officer.

(4) In this Regulation, "police medical practitioner" means a registered medical practitioner who is engaged under an agreement to provide medical services for purposes connected with the activities of the Honorary Police or the States of Jersey Police Force.

9P Testing of blood taken under Regulation 9O[35]

(1) A laboratory test must not be performed on a specimen of blood taken from a person under Regulation 9O unless –

(a) the person has been informed that the specimen was taken; and

(b) the person has given permission for the test to be performed.

(2) A police officer may require a person to give permission for a laboratory test to be performed on a specimen of blood taken from the person under Regulation 9O.

(3) A person commits an offence and is liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale if –

(a) a police officer requires the person to give permission under paragraph (2); and

(b) the person, without reasonable excuse, does not give permission.

(4) A police officer who requires a person to give permission must, when imposing the requirement, warn the person that failing to give permission may make the person liable to prosecution under this Regulation, or Regulation 9E, 9G or 9I.

9Q Use of specimens of breath in proceedings[36]

(1) A specimen of breath provided by a person under Regulation 9N must not be used for the purposes of proceedings for an offence under these Regulations if the person was required to provide another specimen of breath and that specimen, on analysis, contains a lower proportion of alcohol.

(2) A specimen of breath provided by a person under Regulation 9N must not be used for the purposes of proceedings for an offence under these Regulations if –

(a) the specimen of breath, on analysis, contains 50 microgrammes of alcohol or less in 100 millilitres of breath;

(b) the person also provided a specimen of blood or urine; and

(c) the person elects for the specimen of blood or urine to be used instead of the specimen of breath.

9R Protection for hospital patients[37]

(1) A police officer must not require a patient at a hospital to provide a specimen under Regulation 9N at a location other than the hospital.

(2) A police officer must not require a patient at a hospital to provide a specimen under Regulation 9N unless –

(a) the registered medical practitioner in immediate charge of the patient's care has been notified of the proposal to make the requirement; and

(b) the medical practitioner does not object to the proposal on the ground that making the requirement, or giving the warning required under Regulation 9N(6), would be prejudicial to the proper care and treatment of the patient.

(3) A police officer must not, under Regulation 9O, ask a medical practitioner to take a specimen of blood from a patient at a hospital unless –

(a) the registered medical practitioner in immediate charge of the patient's care has been notified of the proposal to make the request; and

(b) the medical practitioner does not object to the proposal on the ground that taking the specimen would be prejudicial to the proper care and treatment of the patient.

(4) A police officer must not, under Regulation 9P, require a patient at a hospital to give permission for a blood specimen to be tested unless –

(a) the registered medical practitioner in immediate charge of the patient's care has been notified of the proposal to make the requirement; and

(b) the medical practitioner does not object to the proposal on the ground that making the requirement, or giving the warning required under Regulation 9P(4), would be prejudicial to the proper care and treatment of the patient.

9S Evidence in proceedings: admissibility[38]

(1) This Regulation applies to proceedings against a person for an offence under Regulation 9E, 9G or 9I.

(2) A specimen of the person's blood is not admissible on behalf of the prosecution unless –

(a) it was taken by a registered medical practitioner with the person's consent; or

(b) it was taken in compliance with Regulation 9O and the person has given permission for a laboratory test of the specimen.

(3) If, when a person provided a specimen of blood or urine, the person asked to be supplied with a specimen, evidence of the proportion of alcohol or any other drug found in the specimen is not admissible on behalf of the prosecution unless –

(a) the specimen in which the alcohol or drug was found is 1 of 2 parts into which the specimen provided by the accused was divided at the time it was provided; and

(b) the other part was supplied to the accused.

(4) If a specimen of blood was taken from the person under Regulation 9O, evidence of the proportion of alcohol or any other drug found in the specimen is not admissible on behalf of the prosecution unless –

(a) the specimen in which the alcohol or drug was found is 1 of 2 parts into which the specimen taken from the accused was divided at the time it was taken; and

(b) any request to be supplied with the other part that was made by the person at the time when they gave permission for a laboratory test of the specimen was complied with.

9T Evidence in proceedings: evidentiary value[39]

(1) This Regulation applies to proceedings against a person for an offence under Regulation 9E, 9G or 9I.

(2) Evidence of the proportion of alcohol or any drug in an admissible specimen of the person's breath, blood or urine must be taken into account, even if the specimen was not provided or taken in connection with the alleged offence.

(3) It must be assumed that the proportion of alcohol or any other drug in the person's breath, blood or urine at the time of the alleged offence was not less than in an admissible specimen unless the person proves –

(a) that the person consumed alcohol or the drug after the time of the alleged offence but before providing the specimen or having it taken; and

(b) that had the person not consumed alcohol or the drug in the intervening period the proportion of alcohol in the person's breath, blood or urine –

(i) would not have exceeded the prescribed limit; and

(ii) if it is alleged that the person was unfit to operate the ship, would not have been sufficient to impair their ability to operate a ship properly.

9U Documentary evidence as to specimens in proceedings[40]

(1) This Regulation applies to proceedings against a person for an offence under Regulation 9E, 9G or 9I.

(2) Evidence of the proportion of alcohol in a specimen of a person's breath may be given by producing –

(a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured; and

(b) a certificate signed by a police officer that the statement relates to a specimen provided by the person at the date and time shown in the statement.

(3) Evidence of the proportion of alcohol or any other drug in a specimen of a person's blood or urine may be given by producing a certificate signed by the Official Analyst that states the proportion of alcohol or any drug found in the specimen.

(4) Evidence that a specimen of a person's blood was taken with the person's consent by a registered medical practitioner may be given by the production of a document signed by the registered medical practitioner.

(5) A document referred to in this Regulation –

(a) is admissible in evidence on behalf of the prosecution only if –

(i) in the case of a document referred to in paragraph (2), a copy of it is handed to the accused at the time it is produced or is served on the accused at least 7 days before the hearing; and

(ii) in the case of any other document, a copy of it is served on the accused at least 7 days before the hearing; and

(b) is not admissible if the accused, at least 3 days before the hearing (or at a later date, if the court allows due to special circumstances), serves notice on the prosecutor requiring the person who signed the document to attend the hearing.

(6) A copy of a notice required to be served on the prosecutor may be served personally or sent by registered post.

(7) In this Regulation "Official Analyst" means the Official Analyst appointed under the Official Analyst (Jersey) Law 2022.

10 Certain incidents to be reported to the Harbour Master

(1) This Regulation applies where a ship is involved in a serious incident but does not apply if the incident is required to be reported under the Shipping (Jersey) Law 2002 or under Regulations made under that Law other than these Regulations.[41]

(2) Where this Regulation applies, the owner of the ship involved must –

(a) report the incident to the Harbour Master as soon as possible; and

(b) if subsequently requested to do so by the Harbour Master, give the Harbour Master such details of the incident as the Harbour Master may reasonably require.

(3) A person who fails to comply with paragraph (2), or who in purported compliance with paragraph (2) provides information or evidence that is false or misleading in a material particular, is guilty of an offence and liable to a fine of level 3 on the standard scale.[42]

(4) In this Regulation, a reference to a serious incident is a reference to an incident in which –

(a) a ship is lost or presumed to be lost;

(b) a ship is abandoned;

(c) a ship is disabled, stranded, in collision or seriously damaged;

(d) there is loss of life;

(e) there is serious injury to a person on board;

(f) a person is lost from a ship or a ship's boat; or

(g) there occurs any other hazardous incident.

(5) [43]

11 Responsibility of directors

(1) Where an offence under these Regulations committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

(a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or

(b) any person purporting to act in any such capacity,

the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

12 Transitional provisions

(1) In this Regulation –

"commencement date" means the 23rd May 2012;

"repealed Regulations" means the Boats and Surf-Riding (Control) (Jersey) Regulations 1969.

(2) A ship that is the subject of registration in force under Regulation 8 or Regulation 33 of the repealed Regulations immediately before the commencement date is to be taken at that date to be the subject of registration under Regulation 7 of these Regulations.

(3) A licence in force under Regulation 14 of the repealed Regulations immediately before the commencement date has effect at that date as a permit under Regulation 6 of these Regulations in respect of a ship to which Regulation 4 of these Regulations applies.

(4) A licence in force under Part 5 of the repealed Regulations immediately before the commencement date has effect at that date as a permit under Regulation 6 of these Regulations in respect of a ship to which Regulation 5 of these Regulations applies.

13 Citation

These Regulations may be cited as the Harbours (Inshore Safety) (Jersey) Regulations 2012.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Harbours (Inshore Safety) (Jersey) Regulations 2012	R&O.64/2012	23 May 2012
Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013	R&O.143/2013	19 November 2013
Air and Sea Ports (Incorporation) (Jersey) Law 2015	L.9/2015	1 October 2015 (R&O.105/2015)
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)
Harbours (Inshore Safety) (Jersey) Amendment Regulations 2025	R&O.66/2025	18 November 2025

Table of Renumbered Provisions

Original	Current
12	Spent, omitted
13	12
14	13
15	Spent, omitted

Table of Endnote References

[1] *Regulation 1* — *amended by L.9/2015, R&O.66/2025*
[2] *Regulation 2* — *amended by L.9/2015*
[3] *Regulation 6(1)* — *amended by L.9/2015*
[4] *Regulation 6(2)* — *amended by R&O.143/2013*
[5] *Regulation 6(3)* — *amended by L.9/2015*
[6] *Regulation 6(4)* — *amended by L.9/2015*
[7] *Regulation 6(5)* — *amended by L.9/2015*
[8] *Regulation 6(7)* — *amended by L.9/2015*
[9] *Regulation 6(11)* — *amended by L.9/2015*
[10] *Regulation 6(12)* — *amended by L.9/2015*
[11] *Regulation 7(1)* — *revised on 11 January 2024 by Law Revision Board item 2023/1*
[12] *Regulation 7(3)* — *amended by L.9/2015*
[13] *Regulation 7(5)* — *amended by L.9/2015*
[14] *Regulation 7(6)* — *amended by L.9/2015*
[15] *Regulation 7(8)* — *amended by L.9/2015*
[16] *Regulation 7(10)* — *amended by L.9/2015*
[17] *Regulation 7(11)* — *amended by L.9/2015*
[18] *Regulation 8(3)* — *revised on 11 January 2024 by Law Revision Board item 2023/1*
[19] *Regulation 9* — *substituted by R&O.66/2025*
[20] *Regulation 9A* — *inserted by R&O.66/2025*
[21] *Regulation 9B* — *inserted by R&O.66/2025*

[22] *Regulation 9C* *inserted by R&O.66/2025*
[23] *Regulation 9D* *inserted by R&O.66/2025*
[24] *Regulation 9E* *inserted by R&O.66/2025*
[25] *Regulation 9F* *inserted by R&O.66/2025*
[26] *Regulation 9G* *inserted by R&O.66/2025*
[27] *Regulation 9H* *inserted by R&O.66/2025*
[28] *Regulation 9I* *inserted by R&O.66/2025*
[29] *Regulation 9J* *inserted by R&O.66/2025*
[30] *Regulation 9K* *inserted by R&O.66/2025*
[31] *Regulation 9L* *inserted by R&O.66/2025*
[32] *Regulation 9M* *inserted by R&O.66/2025*
[33] *Regulation 9N* *inserted by R&O.66/2025*
[34] *Regulation 9O* *inserted by R&O.66/2025*
[35] *Regulation 9P* *inserted by R&O.66/2025*
[36] *Regulation 9Q* *inserted by R&O.66/2025*
[37] *Regulation 9R* *inserted by R&O.66/2025*
[38] *Regulation 9S* *inserted by R&O.66/2025*
[39] *Regulation 9T* *inserted by R&O.66/2025*
[40] *Regulation 9U* *inserted by R&O.66/2025*
[41] *Regulation 10(1)* *amended by R&O.66/2025*
[42] *Regulation 10(3)* *amended by L.1/2016*
[43] *Regulation 10(5)* *deleted by R&O.66/2025*