

# STATES OF JERSEY



Jersey

## **DRAFT SHIPPING (REGISTRATION) (JERSEY) AMENDMENT REGULATIONS 202-**

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**Lodged au Greffe on 22nd July 2024  
by the Minister for Sustainable Economic Development  
Earliest date for debate: 10th September 2024**

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**STATES GREFFE**

## Report

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These draft amendments, if adopted, will strengthen obligations of Representative Persons of the owners of ships registered on the Jersey Ships' Registry, held within [Shipping \(Registration\) \(Jersey\) Regulations 2004](#).

### Background

Jersey has an obligation under UNCLOS (United Nations Convention on the Law of the Sea) as a Flag State that there be a genuine link between the Flag State and any ships registered by that Flag.

There are various ways that different jurisdictions that are party to UNCLOS have addressed the need for such a link, and Jersey (in keeping with what the United Kingdom and the other British Islands have done) chose to allow legal and natural persons resident or constituted outside of Jersey to be eligible to own a Jersey ship provided that they were resident in certain approved countries or territories.

The 2004 Regulations require the appointment of a Representative Person in cases where the owner of a registered ship does not live or have a place of business in Jersey.

In the context of greater focus being placed internationally upon the ownership of assets such as ships by individuals who may be subject to international sanctions, in 2022 the States Assembly amended the 2004 Regulations to ensure that the Registrar of Jersey Ships be empowered to terminate the registrations of a ship. These amendments also allowed the Registrar to act in connection with the registration of a ship that is necessary for the purposes of giving effect to a provision made under the [Sanctions and Asset-Freezing \(Jersey\) Law 2019](#).

### The Draft Regulations

The increased focus on coordinated international sanctions in the past few years has shone a light on the need for Jersey to adopt a more robust Representative Persons policy, as in its current form it could prevent the Government from tracing the ownership of suspect vessels.

This need for an enhanced policy has been highlighted by cases involving Jersey-registered vessels whilst in foreign waters. In some cases, the Registry has found it difficult to contact the Representative Persons and seek the detailed information necessary.

To ensure Jersey's ship registry remains resilient and reputable within both the Red Ensign Group and globally, amendments to the Shipping (Registration) (Jersey) Regulations 2004 have been drafted which strengthen the obligations of Representative Persons.

These draft Regulations address the need to ensure better regulation of Representative Persons and to allow for termination of a ship's registration if there is non-compliance with the obligations placed upon a Representative Person or upon an owner of a ship in respect of the appointment of a Representative Person.

In particular, the object of these amendments is to:

- Ensure that Representative Persons may not resign their position without giving sufficient notice to the Registrar;
- Ensure that Representative Persons remain in office until the expiry of a notice of resignation or the appointment of a successor Representative Person taking effect; and
- Ensure that Representative Person will hold and be required to produce to the Registrar (within 7 days of a request to do so) information of the kind required to be

held by financial services providers under Article 2 of the [Financial Services \(Disclosure and Provision of Information\) \(Jersey\) Law 2020](#) identifying the owner of a ship, and where a corporate structure is involved in this, the ultimate beneficial ownership of that ship.

### **Development and Consultation**

The amendments sought have been the subject of discussion and development within a working group involving participants from the Territorial Sea Co-ordination and Advisory Group including Ports of Jersey.

These draft amendments were the subject of a public consultation for 4 weeks from 18 April – 16 May 2024. The consultation received four responses. One piece of consultation feedback, from an organisation within the Representative Person market, expressed a concern that a Representative Person could be convicted of an offence unfairly. To address this feedback, an amendment has been made to the draft amendments, which provides a “without reasonable excuse” defence for the Representative Person in relation to the new offences.

### **Financial and staffing implications**

There are no financial or staffing implications for the States of Jersey arising from the adoption of the draft Regulations.

### **Children’s Rights Impact Assessment**

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

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## EXPLANATORY NOTE

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These Regulations, if made, would amend the Shipping (Registration) (Jersey) Regulations 2004 (the “Shipping Regulations”) to make further provision about representative persons.

Regulation 4 of the Shipping Regulations provides that, in certain circumstances, a ship (other than a fishing vessel) may not be registered in the register of Jersey ships unless a representative person has been appointed in respect of the ship. The circumstances are: (a) a majority interest in the ship is owned by a body corporate that does not have a place of business in Jersey, (b) a majority interest in the ship is owned by an individual who is not resident in Jersey and does not have a place of business in Jersey, and (c) the ship is a bareboat charter ship and the charterer is not resident in Jersey and does not have a place of business in Jersey.

*Regulation 3* amends Regulation 6 of the Shipping Regulations, which makes provision about representative persons.

The amendments made by Regulation 3(a) require a person who intends to resign as a representative person to give the Registrar of Shipping (the “Registrar”) 30 days’ notice of the resignation. A person who has given notice remains as the representative person until the expiry of that notice, or until the Registrar is notified that a new representative person has been appointed, whichever occurs first.

The amendments made by Regulation 3(c) require representative persons to hold information about the owner of the ship or of shares in the ship, and to provide that information to the Registrar on request. If an owner is an entity, that information must include information about the ultimate beneficial owner of the entity.

The amendments made by Regulation 3(d) make it an offence carrying a fine of level 3 on the standard scale for a representative person to fail, without reasonable excuse, to comply with the new requirements to give notice or to provide information to the Registrar, or to knowingly or recklessly provide information to the Registrar that is false or misleading in a material particular.

The amendment made by Regulation 3(b) amends the notification requirement in Regulation 6(6) of the Shipping Regulations so that owners must use the form approved by the Registrar.

*Regulation 4* amends Regulation 23 of the Shipping Regulations, which sets out circumstances in which the Registrar may cancel a ship’s registration. The amendment provides that the Registrar may cancel a ship’s registration if a representative person appointed in respect of the ship fails, on request, to provide information to the Registrar about the owner of the ship or of shares in the ship, or if the representative person provides information that is false or misleading in a material particular, or that is reasonably considered by the Registrar to be insufficient.

*Regulation 5* inserts a new Part 5A (liability for offences) into the Shipping Regulations. New Regulation 32B provides that, if a separate limited partnership, a limited liability partnership or a body corporate commits an offence under the Shipping Regulations with the consent or connivance of a partner, director, manager, secretary or other similar officer, then that person is also guilty of the offence. *Regulation 2* makes a minor consequential amendment to the definition “body corporate” in Regulation 1 of the Shipping Regulations, so that “body corporate” has its usual meaning in Regulation 32B.

*Regulation 6* gives the name of these Regulations. It provides for the amendments made by Regulation 3(a), (c) and (d) and Regulation 4 to come into force 6 months after these Regulations are made, and for the remainder of these Regulations to come into force 7 days after they are made.



Jersey

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Jersey

## DRAFT SHIPPING (REGISTRATION) (JERSEY) AMENDMENT REGULATIONS 202-

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Article 13 of the [Shipping \(Jersey\) Law 2002](#) –

### **1** [Shipping \(Registration\) \(Jersey\) Regulations 2004](#) amended

These Regulations amend the [Shipping \(Registration\) \(Jersey\) Regulations 2004](#).

### **2** **Regulation 1 (interpretation) amended**

In Regulation 1 in the definition “body corporate”, after “ “body corporate” ” there is inserted “, except in Regulation 32B.”.

### **3** **Regulation 6 (appointment of representative persons) amended**

In Regulation 6 –

(a) after paragraph (5) there is inserted –

“(5A) A person who intends to resign as the representative person in respect of a ship must give the Registrar no less than 30 days’ notice of the proposed resignation.

(5B) A person who gives notice under paragraph (5A) ceases to be the representative person in respect of the ship on the earlier of –

(a) the expiry of the notice; and

(b) the date on which the owner of the ship notifies the Registrar under paragraph (6) that another representative person has been appointed.”;

(b) for paragraph (6) there is substituted –

“(6) The owner of a registered ship in respect of which a representative person has been appointed must notify the Registrar of any change in the representative person or the address of the representative person –

(a) within 7 days of the change; and

(b) on a form approved by the Registrar.”;

(c) after paragraph (10) there is inserted –

- “(10A) A representative person appointed in respect of a ship must –
- (a) hold information that identifies the owner of the ship or of any share in the ship and is evidence of their ownership of the ship or of their share in the ship; and
  - (b) produce that information to the Registrar within 7 days of a request by the Registrar for that information.
- (10B) If the owner of a ship or of a share in a ship is an entity –
- (a) if that entity is wholly owned by another entity or an organisation (the “parent entity or organisation”) and the parent entity or organisation is listed on a regulated market, the information mentioned in paragraph (10A) includes information in relation to the parent entity or organisation referred to in clauses (i) to (vii) of Article 8(a) of the [Financial Services \(Disclosure and Provision of Information\) \(Jersey\) Order 2020](#) (the “Disclosure Order”); or
  - (b) if sub-paragraph (a) does not apply, the information mentioned in paragraph (10A) includes beneficial owner information in relation to any beneficial owner of that entity.
- (10C) For the purposes of paragraph (10B) –
- (a) “beneficial owner”, in respect of an entity, has the meaning given in Article 2 of the [Financial Services \(Disclosure and Provision of Information\) \(Jersey\) Law 2020](#) (the “Disclosure Law”);
  - (b) “beneficial owner information” means information with respect to the beneficial owner of the entity prescribed in Article 2 of the Disclosure Order;
  - (c) “entity” has the meaning given in Article 1 of the Disclosure Law;
  - (d) “organisation” has the meaning given in Article 1 of the Disclosure Order;
  - (e) “regulated market” has the meaning given in Article 1 of the Disclosure Law.”;
- (d) after paragraph (11) there is inserted –
- “(12) A representative person is guilty of an offence and liable to a fine of level 3 on the standard scale if they –
- (a) fail, without reasonable excuse, to comply with paragraph (5A);
  - (b) fail, without reasonable excuse, to comply with paragraph (10A)(b); or
  - (c) knowingly or recklessly provide information that is false or misleading in a material particular in response to a request under paragraph (10A)(b).”.

#### 4 Regulation 23 (removal from the register) amended

In Regulation 23(1) –

- (a) in sub-paragraph (i) for “false or incorrect” there is substituted “false or misleading in a material particular”;
- (b) after sub-paragraph (i) there is inserted –
  - “(ia) a representative person appointed in respect of the ship has failed to comply with Regulation 6(10A)(b), or has provided information that is

false or misleading in a material particular, or that is reasonably considered by the Registrar to be insufficient;”.

## 5 Part 5A (liability for offences) inserted

After Regulation 32A (transitional provision - Shipping Registration (Amendment) (Jersey) Regulations 2011) there is inserted –

### “PART 5A

#### LIABILITY FOR OFFENCES

#### **32B Offences by separate limited partnerships, limited liability partnerships and bodies corporate**

- (1) This Regulation applies if an offence under these Regulations committed by a separate limited partnership, a limited liability partnership or a 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 a director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any capacity described in sub-paragraph (a).
- (2) The person –
  - (a) is also guilty of the offence; and
  - (b) is liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) If the affairs of a body corporate are managed by its members, this Regulation applies 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.”.

## 6 Citation and commencement

- (1) These Regulations may be cited as the Shipping (Registration) (Jersey) Amendment Regulations 202-.
- (2) Regulation 3(a), (c) and (d) and Regulation 4 come into force 6 months after these Regulations are made.
- (3) The remainder of these Regulations come into force 7 days after they are made.