



Jersey

# **SHIPPING (SURVEY AND CERTIFICATION) (JERSEY) ORDER 2013**

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# SHIPPING (SURVEY AND CERTIFICATION) (JERSEY) ORDER 2013

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Jersey

## SHIPPING (SURVEY AND CERTIFICATION) (JERSEY) ORDER 2013

**THE MINISTER FOR ECONOMIC DEVELOPMENT**, in pursuance of Articles 29, 49 and 196 of the [Shipping \(Jersey\) Law 2002](#) and Regulation 1 of the [Shipping \(SOLAS\) \(Jersey\) Regulations 2004](#), orders as follows –

Commencement [[see endnotes](#)]

### 1 UK Survey and Certification Regulations to apply in Jersey

- (1) Subject to paragraph (2), the Merchant Shipping (Survey and Certification) Regulations 1995 of the United Kingdom (as amended by further statutory instruments of the United Kingdom up to and including the Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2012) (the “UK 1995 Regulations”) shall apply to Jersey as part of the law of Jersey.
- (2) The UK 1995 Regulations shall apply –
  - (a) as if (except where otherwise indicated by this Order) references in those Regulations –
    - (i) to the United Kingdom, were references to Jersey,
    - (ii) to a United Kingdom ship, a United Kingdom passenger ship or a United Kingdom cargo ship, were references to a Jersey ship of the same kind,
    - (iii) to the Secretary of State, were references to the Minister, and
    - (iv) to the Maritime and Coastguard Agency, were references to the Minister;
  - and
  - (b) as described and with the further modifications set out in Article 2.

### 2 Modification etc. of UK Survey and Certification Regulations

- (1) In Regulation 1(2) of the UK 1995 Regulations –
  - (a) in the definition “appropriate certifying authority” for the words “Secretary of State” in each place in which they occur there shall be substituted the words “Minister or the Secretary of State”;
  - (b) after the definition “EEA State” there shall be inserted the following definition –

“ ‘high speed passenger craft’ means a passenger craft capable of a maximum speed in metres per second equal to or exceeding  $3.7\sqrt{0.1667V}$  where  $V$  = the volume of displacement corresponding to the design waterline ( $m^3$ ), excluding craft the hull of which is supported clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect;”;

- (c) in the definition “Merchant Shipping Notice” –
- (i) for the words “Marine Safety Agency” there shall be substituted the words “Maritime and Coastguard Agency of the United Kingdom Department for Transport”, and
- (ii) the reference to “the Secretary of State” shall remain unaffected by Article 1(2)(a)(iii) of this Order;
- (d) after the definition “mile” there shall be inserted the following definition –
- “ ‘Minister’ means the Minister for Sustainable Economic Development;”;
- (e) for the definition “Passenger Certificate” there shall be substituted the following definition –
- “ ‘Passenger Certificate’ means a certificate of that name issued pursuant to Regulation 11;”;
- (f) in the definition “proper officer”, references to the United Kingdom shall remain unaffected by Article 1(2)(a)(i) of this Order;
- (g) the definitions “British Telecom”, “initial survey”, “Maritime and Coastguard Agency” and “relevant regulations” shall be omitted.<sup>1</sup>
- (2) Paragraphs (4) to (10) of Regulation 1 of the UK 1995 Regulations shall be omitted.
- (3) In Regulation 2(1A) of the UK 1995 Regulations, for sub-paragraphs (b) to (e) there shall be substituted the following sub-paragraph –
- “ (b) pleasure vessels and ships in commercial use to which the [Shipping \(Safety Code – Yachts and Small Ships\) \(Jersey\) Regulations 2013](#) apply.”.
- (4) Regulation 2A of the UK 1995 Regulations shall be omitted.
- (5) In Regulation 3 of the UK 1995 Regulations, in sub-paragraph (2)(b)(ii), for the words “surveyor of the Maritime and Coastguard Agency” there shall be substituted the words “surveyor appointed by the Minister”.
- (6) For Regulation 4A of the UK 1995 Regulations there shall be substituted the following –

#### **“4A Surveys of Jersey passenger ships to which the Directive applies**

- (1) A Jersey passenger ship to which the Directive applies shall, before it is put into service, be subject to a passenger ship initial survey as set out in the Directive.
- (2) A Jersey passenger ship to which the Directive applies shall also be subject to –
- (a) a periodical survey; and
- (b) additional surveys,
- as set out in the Directive.

- (3) In this Regulation, ‘a Jersey passenger ship to which the Directive applies’ means –
  - (a) a Jersey ship that is a new passenger ship;
  - (b) an existing Jersey passenger ship of 24 metres or more in length; and
  - (c) a high speed passenger craft used only in Jersey waters.”.
- (7) Regulation 5 of the UK 1995 Regulations shall be omitted.
- (8) In Regulation 8(1) of the UK 1995 Regulations, in sub-paragraph (a) for the words “regulations 4 to 7” there shall be substituted the words “Regulations 4, 4A, 6 and 7”.
- (9) In Regulation 9(2) of the UK 1995 Regulations, for the words “surveyor of the Maritime and Coastguard Agency” there shall be substituted the words “surveyor appointed by the Minister”.
- (10) In Regulation 10 of the UK 1995 Regulations, in sub-paragraph (b)(iv) for the words “regulation 5 to 7” there shall be substituted the words “Regulations 6 and 7”.
- (11) In Regulation 11 of the UK 1995 Regulations, paragraph (b) shall be omitted.
- (12) In Regulation 12 of the UK 1995 Regulations –
  - (a) in paragraph (1), for the words “the Merchant Shipping Acts” there shall be substituted the words “all relevant maritime legislation in force at the time in Jersey”;
  - (b) paragraph (2) shall be omitted.
- (13) In Regulation 13 of the UK 1995 Regulations, in paragraphs (4) and (6)(b), for the words “regulations 4 to 7” in each place in which they occur there shall be substituted the words “Regulations 4, 4A, 6 and 7”.
- (14) In Regulation 15 of the UK 1995 Regulations, in paragraphs (1), (2) and (3) for the words “regulations 5 to 7” in each place in which they occur there shall be substituted the words “Regulations 6 and 7”.
- (15) In Regulation 19(3) of the UK 1995 Regulations, sub-paragraph (f) shall be omitted.
- (16) For Regulation 21 of the UK Regulations there shall be substituted the following –

#### **“21 Prohibition on proceeding to sea without the appropriate documentation**

- (1) A ship registered in a country to which the 1974 SOLAS Convention applies shall not proceed to sea from a port in Jersey unless there are in force such Convention certificates as would be required if the ship were a Jersey ship. The extension provisions in Regulation 15 shall apply to such certificates as if the ship were a Jersey ship and the Government of the country in which the ship is registered is substituted for the Minister.
- (2) A ship registered in a country to which the 1974 SOLAS Convention does not apply shall not proceed to sea from a port in Jersey unless the ship is in the possession of documentation which shows that the ship has been surveyed for compliance with the appropriate Jersey Regulations.
- (3) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with or, as the case may be, that the ship operates only in the specified sea areas.

- (4) The master of every ship shall produce to a customs officer from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this Regulation.
  - (5) Whenever reasonably requested to do so, the master of every ship shall produce the certificates or documentation referred to in this Regulation to a person appointed for that purpose by the Minister under Article 156(1)(d) of the [Shipping \(Jersey\) Law 2002](#).
  - (6) In this Regulation, reference to a Convention certificate in respect of a high speed passenger craft includes reference to the requirement laid down in Regulation 3 of Chapter X of the 1974 SOLAS Convention.”
- (17) For Regulation 24 of the UK 1995 Regulations there shall be substituted the following –

#### **“24 Penalties**

- (1) If a ship to which these Regulations applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with a requirement of Regulations 4, 4A, 6 and 7, the owner and master of the ship shall each be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
  - (2) Any contravention of Regulations 8(1), 21(1) to (4) or 22 shall be an offence by both the owner and master each of whom shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
  - (3) Any contravention of Regulation 19(3) shall be an offence punishable on conviction by imprisonment for a term not exceeding 6 months or a fine, or both.
  - (4) If a ship proceeds to sea without complying with the requirement in Regulation 20, the owner and master of the ship shall each be guilty of an offence and liable on conviction to a fine not exceeding level 3 on the standard scale.
  - (5) Any contravention of Regulation 21(5) shall be an offence by the master of the ship who shall be liable on conviction to a fine not exceeding level 3 on the standard scale.
  - (6) Any contravention of Regulation 23, being an offence corresponding to the offence under section 283 of the Merchant Shipping Act 1894 of the United Kingdom, shall be an offence by both the owner and master of the ship each of whom shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
  - (7) It shall be a defence for a person charged with an offence under these Regulations to show that the person took all reasonable steps to ensure compliance with the relevant requirement of these Regulations.”
- (18) For Regulation 25 of the UK 1995 Regulations, there shall be substituted the following –

#### **“25 Powers to detain**

In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the [Shipping \(Jersey\) Law 2002](#) (which relate to the detention of a ship) shall have

effect in relation to the ship, subject to the modification that as though for the words ‘this Law’, wherever they appear in those provisions, there were substituted the words ‘the Shipping (Survey and Certification) (Jersey) Order 2013’.

- (19) In Regulation 26(3)(b) of the UK 1995 Regulations, for the words “in Scotland” there shall be substituted the words “in Jersey, Guernsey or Scotland”.
- (20) Regulation 27 of the UK 1995 Regulations shall be omitted.

### **3 UK Domestic Voyages Regulations to apply in Jersey**

- (1) Subject to paragraph (2), the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 of the United Kingdom (as amended by further statutory instruments of the United Kingdom up to and including the Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2012) (the “UK 2000 Regulations”) shall apply to Jersey as part of the law of Jersey.
- (2) The UK 2000 Regulations shall apply –
  - (a) as if (except where otherwise indicated by this Order) references in those Regulations –
    - (i) to the United Kingdom, were references to Jersey,
    - (ii) to a United Kingdom ship or a United Kingdom passenger ship, were to a Jersey ship of the same kind, and
    - (iii) to the Secretary of State, were references to the Minister;and
  - (b) as described and with the further modifications set out in Article 4.

### **4 Modification etc. of UK Domestic Voyages Regulations**

- (1) In Regulation 2(1) of the UK 2000 Regulations –
  - (a) for the definition “domestic voyage” there shall be substituted the following definition –

“ ‘domestic voyage’ means a voyage in sea areas from a port in Jersey to the same or another port in Jersey;”;
  - (b) after the definition “EEA State” there shall be inserted the following definition –

“ ‘high speed passenger craft’ means a passenger craft capable of a maximum speed in metres per second equal to or exceeding  $3.7\sqrt{0.1667V}$  where  $V$  = the volume of displacement corresponding to the design waterline ( $m^3$ ), excluding craft the hull of which is supported clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect;”;
  - (c) the definition “Maritime and Coastguard Agency” shall be omitted;
  - (d) in the definition “Merchant Shipping Notice” –
    - (i) after the words “Maritime and Coastguard Agency” there shall be inserted the words “of the United Kingdom Department for Transport”, and

- (ii) the reference to “the Secretary of State” shall remain unaffected by Article 3(2)(a)(iii) of this Order;
- (e) after the definition “Merchant Shipping Notice” there shall be inserted the following definition –
- “ ‘Minister’ means the Minister for Sustainable Economic Development;”.<sup>2</sup>
- (2) For Regulation 2(2) of the UK 2000 Regulations there shall be substituted the following paragraph –
- “(2) With the exception of the expression ‘domestic voyage’ (which is defined in paragraph (1)), words and expressions used in these Regulations which also occur in the Directive shall have the same meaning in these Regulations as they are given by article 2 of the Directive.”.
- (3) For Regulation 2(2A) of the UK 2000 Regulations there shall be substituted the following paragraph –
- “(2A) References in the Directive to Conventions or Codes in their up to date versions shall have effect so far as they are –
- (a) considered by the Minister to be relevant from time to time; and
- (b) specified in a Merchant Shipping Notice.”.
- (4) In Regulation 3 of the UK 2000 Regulations, paragraph (2) shall be omitted.
- (5) In Regulation 4 of the UK 2000 Regulations –
- (a) in paragraph (1), in sub-paragraphs (b) and (d), the words “within the United Kingdom” shall be omitted from each place in which they occur;
- (b) in paragraph (2) –
- (i) in sub-paragraph (g), the words “to which the Merchant Shipping (High Speed Craft) Regulations 2004 apply”, and
- (ii) sub-paragraphs (h) to (j),
- shall be omitted.
- (6) Regulation 5 of the UK 2000 Regulations shall be omitted.
- (7) In Regulation 6 of the UK 2000 Regulations –
- (a) in paragraph (3), for the word “he” in both places in which it occurs there shall be substituted the words “the Minister”;
- (b) paragraph (5) shall be omitted.
- (8) For Regulation 7(1) of the UK 2000 Regulations there shall be substituted the following paragraph –
- “(1) Where these Regulations require that the hull or machinery of a ship shall be constructed in a particular manner, or that particular equipment shall be provided or particular provision made, the Minister may approve the construction of the hull or machinery in any other manner, or the provision of other equipment or the making of other provision, if the Minister is satisfied by trial or otherwise that such other construction or provision is at least as effective as is required by these Regulations.”.
- (9) Regulations 7A, 7B and 7C of the UK 2000 Regulations shall be omitted.
- (10) In Regulation 8 of the UK 2000 Regulations for the words “as he may specify” there shall be substituted the words “as may be specified”.
- (11) For Regulations 9 and 10 of the UK 2000 Regulations there shall be substituted the following –



**“9 Penalties**

- (1) A contravention of these Regulations in respect of a ship shall be an offence by both the owner and the master of the ship for which each shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
- (2) It shall be a defence for a person charged with an offence under these Regulations to show that the person took all reasonable steps to avoid committing the offence.

**10 Powers to detain**

In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the [Shipping \(Jersey\) Law 2002](#) (which relate to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as though for the words ‘this Law’, wherever they appear in those provisions, there were substituted the words ‘the Shipping (Survey and Certification) (Jersey) Order 2013’.

- (12) Regulation 11 of, and the Schedule to, the UK 2000 Regulations shall be omitted.

**5 Citation**

This Order may be cited as the Shipping (Survey and Certification) (Jersey) Order 2013.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Shipping (Survey and Certification) (Jersey) Order 2013	<a href="#">R&amp;O.146/2013</a>	19 November 2013
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	<a href="#">R&amp;O.158/2015</a>	1 January 2016
States of Jersey (Ministerial Offices – Minister for Sustainable Economic Development) Order 2023	<a href="#">R&amp;O.102/2023</a>	24 November 2023

### Table of Renumbered Provisions

Original	Current
5	Spent, omitted
6	5

### Table of Endnote References

<sup>1</sup> Article 2(1) *amended by R&O.158/2015, R&O.102/2023*

<sup>2</sup> Article 4(1) *amended by R&O.158/2015, R&O.102/2023*