

# Memorandum of Understanding between the Minister for Planning and Environment and the Minister for Economic Development with regard to the Prevention and Control of Pollution of the Island's Territorial Seas and Coastal Waters

## 1. Introduction

The Memorandum of Understanding encompasses pollution of territorial seas and coastal waters from both land-based and sea-based sources.

The Memorandum of Understanding has been drawn up and agreed by the Minister for Planning and Environment and the Minister for Economic Development in order to avoid duplication of effort, to provide an efficient and cost-effective pollution prevention and control scheme, and to clarify their respective roles with regard to marine pollution.

This Memorandum of Understanding may be revoked at any time, by either participant, by giving at least 90 days notice in writing to the other. The notice will set out the reasons for revocation.

Under the Harbours (Administration) (Jersey) Law 1961, the Harbour Master is responsible for the administration of harbours and territorial waters and such other matters as the Minister for Economic Development entrusts to the Harbour Master for the carrying into effect of any legislation that is in force from time to time relating to shipping and sea navigation.

Under the Public Finances (Transitional Provisions – States Trading Operations) (Jersey) Regulations 2005 the Minister for Economic Development is responsible for the administration, management, operation, financing, development and maintenance of the harbours of Jersey and their associated facilities.

The responsibility for maritime legislation and overall compliance rests with the Registrar of Shipping and the Maritime Compliance section of the Economic Development Department.

The Water Pollution (Jersey) Law 2000 is administered by Environmental Protection of the Planning and Environment Department under the delegated authority from the Minister for Planning and Environment. The Law provides for the control and prevention of pollution in Island waters and implements the provisions of the Convention for the Protection of the Marine Environment of the North-East Atlantic (The 'OSPAR' Convention), which was extended to the Island through the United Kingdom's ratification of the Convention.

'**Pollution**' under the Water Pollution (Jersey) Law 2000, includes the introduction of substances or energy into controlled waters that cause or may cause a hazard to human health or water supplies, harm to any living resource or aquatic eco-system, damage to any amenity value or interference with any legitimate use of controlled waters. It also covers the introduction into controlled waters of a substance or energy that contributes to pollution, but which may not be the sole cause.

The Water Pollution (Jersey) Law 2000 introduces the concept of ‘controlled waters’, which includes the territorial seas of the Island (up to the 12-mile limit) and coastal waters, being the waters between the base-line from which the territorial sea is measured, as far as the upper limit of the highest tide. Coastal waters include bays and inlets. The Law also applies to the foreshore (being the inter-tidal area, between the limits of the highest and lowest tides).

The Water Pollution (Jersey) Law 2000 has complimentary, but separate, enforcement powers to some elements of the Shipping (Jersey) Law 2002 and the MARPOL Convention (administered by the Maritime Compliance section within Economic Development) and the Harbour Master.

The Waste Management (Jersey) Law 2005 (also administered by Environmental Protection), regulates the deposit, storage, treatment or disposal of waste on land. It also regulates the movement within the Island of hazardous and healthcare waste and the movement into and out of the Island of certain wastes for disposal or recovery.

The Food and Environmental Protection Act 1985 (Jersey) Order 1987 (FEPA) is administered by Fisheries and Marine Resources.

The primary objectives of this legislation are to protect the marine environment and the living resources which it supports and human health, prevent interference with legitimate use of the sea and minimise nuisance and noise arising from the disposal of waste.

## **2. Pollution from land sources**

### **2.1 Land-based sources**

Pollution of territorial and coastal waters from land-based sources can take many forms including the run-off of faecal organisms and nutrients, as well as effluent discharges.

### **2.2 Effluent discharges**

All polluting discharges to the marine environment require a **Discharge Permit or Certificate** issued under the Water Pollution (Jersey) Law 2000. Environmental Protection will consult with the Harbour Master before Discharge Permits or Certificates are issued for discharges to territorial seas or coastal waters.

### **2.3 Pollution incidents from land-based sources**

All pollution incidents occurring in Jersey’s territorial and coastal waters, originating from land-based sources will be investigated by Environmental Protection.

This will include investigations of pollution of controlled waters within harbours and marinas. Jersey Harbours will render assistance, if necessary, by providing the use of suitable vessels and equipment at a cost to be agreed.

Jersey Harbours will inform Environmental Protection of any pollution incident in territorial and coastal waters of which it becomes aware.

### 3. Pollution from sea-based sources

Pollution from sea-based sources can include oil spills, the discharge of sewage, contaminated ballast water or the disposal of garbage from ships and boats.

Under designated authority from the Minister for Planning and Environment, Environmental Protection and Fisheries Officers have responsibility for the investigation of pollution incidents and the prevention of pollution under the Water Pollution (Jersey) Law 2000 in coastal waters and the territorial sea up to the 12 mile limit.

1. Article 186(1) of the Shipping (Jersey) Law 2002 charges the Minister for Economic Development to *'take or co-ordinate measures to prevent, reduce and minimise the effects of marine pollution'*. Marine pollution specifically refers to that caused by shipping, offshore installations and submarine pipelines. This has been delegated to the Harbour Master.
2. The MARPOL Convention is an international convention for the prevention of pollution from ships. Its stated objective is: *'to preserve the marine environment through the complete elimination of pollution by oil and other harmful substances and the minimisation of accidental discharge of such substances'*.

Where there is an unclear delegation or overlap of responsibility within the legislation and a prosecution might result, both the Minister for Planning and Environment and the Minister for Economic Development, or their designated officers, will ask the Attorney General to advise the most appropriate course of action.

#### 3.1 Pollution incidents from sea-based sources

Reported pollution incidents from sea-based sources of territorial and coastal waters will be investigated by Environmental Protection. This will include investigations of pollution of controlled waters within harbours and marinas.

Any pollution in territorial and coastal waters reported to Jersey Harbours directly or indirectly will be relayed to Environmental Protection (section 2.3).

Jersey Harbours will render assistance, if necessary, by providing the use of suitable vessels and equipment at a cost to be agreed.

#### 3.2 Breaches of the MARPOL Convention

Jersey Harbours will inform Environmental Protection and Maritime Compliance if there is a suspected breach of the MARPOL Convention within Jersey territorial waters, once the Convention is enforced in Jersey.

Maritime Compliance will then liaise with Environmental Protection to agree action to be taken by either or both organisation.

Officers authorised in accordance with the relevant Shipping or Water Pollution legislation may board a ship in a port in Jersey to further investigate alleged or actual pollution.

Notwithstanding this mutual cooperation and where appropriate, Environmental Protection may investigate any relevant pollution event under the Water Pollution (Jersey) Law, 2000.

## **4. Harbour facilities**

### **4.1 Waste management activities within the harbour**

Jersey Harbours require a waste management licence under the Waste Management (Jersey) Law 2005 when storing controlled waste, unless the activity is exempt from the licensing requirement. Controlled wastes are wastes defined within the Law as hazardous, healthcare, municipal and household wastes. There are exemptions for the temporary storage of controlled waste deriving from harbour activities and the normal operations of a ship.

Jersey Harbours shall inform Environmental Protection of all facilities and procedures and changes to facilities and procedures provided for the reception of solid wastes and waste oil (such as oily water and noxious liquids), areas for re-fuelling and waste water disposal within the harbour area. This shall include facilities provided under the MARPOL Convention where appropriate.

Details of the facilities to be provided shall include the location, capacity, security arrangements, pollution prevention infrastructure, details of the management of the facility and the name of the disposal or recycling facilities the wastes are transferred to within Jersey. The facilities and carriage of such wastes transferred should be in compliance with the Waste Management (Jersey) Law 2005.

For the storage of liquid wastes including waste oils, containers must be secure and all reasonable precautions should be taken to ensure they are appropriately banded to contain their contents.

### **4.2 Waste on harbour land awaiting export from Jersey or stored after import to Jersey**

Waste which is stored at harbour facilities / harbour controlled land prior to export from Jersey or imported into Jersey for recovery or disposal may be subject to the notification and consenting requirements under the Waste Management (Jersey) Law 2005. Prior consent for certain waste exports and imports is required from Environmental Protection and from the country of import.

Jersey Harbours shall inform Environmental Protection where they are aware of the storage of wastes at harbour facilities and on land within its administration which is to be exported from Jersey or has been imported to Jersey.

If Jersey Harbours requires a Waste Management Licence or more information relating to the Waste Management (Jersey) Law 2005 they will contact the Head of Waste Regulation, Environment Division.

## **5. Other activities**

### **5.1 Cleaning in harbour and coastal areas**

Jersey Harbours shall notify Environmental Protection of any methods of cleaning activities, including for Health & Safety at Work and for public safety that may impact the marine environment (e.g. algal growth on slipways).

### **5.2 Dredging and depositing of spoil and dumping at sea**

The licensing of such activities undertaken by, or on behalf of, Jersey Harbours may require a Discharge Permit as well as a FEPA licence.

Jersey Harbours shall notify Environmental Protection and Fisheries and Marine Resources of any dredging work of harbours and fairways. Environmental Protection may require that representative samples be taken of the dredged material to IMO (Sampling of Dredged Material) guidelines. Jersey Harbours shall inform Environmental Protection of the quantity and location of the resulting material dumped at sea.

Any pollution of controlled waters arising from any of the above activities may be investigated by Environmental Protection.

### **5.3 Blasting at sea**

The introduction directly or indirectly into controlled waters of energy may be classed as pollution within the Water Pollution (Jersey) Law 2000, and therefore may require a discharge permit. Jersey Harbours shall notify Environmental Protection of any planned blasting work in controlled waters.

### **5.4 Cargo swept off vessels (Flotsam, Jetsam & Lagan)**

The Harbour Master shall, when information is received, notify the Environment Division of any cargo that is swept off vessels or any drums/cargo that are washed onto beaches or shoreline. Any pollution of controlled waters arising from such activities may be investigated by Environmental Protection.

### **5.5 Sinking ships and other objects**

The Harbour Master shall notify Environment Protection of any ships or boats sinking or intentionally sunk or other objects likely to cause pollution to controlled waters, including territorial waters, coastal areas, harbours and marinas. Any pollution of controlled waters arising from such activities may be investigated by Environmental Protection.

**5.6** Notwithstanding the above, the Harbour Master remains responsible for his duties under the Shipping Law both as Harbour Master concerning the safety of ships and life at sea, Salvage and as Receiver of Wreck for the protection of property. As appropriate he will exercise his powers in these areas whilst keeping Environmental Protection fully informed.

## **5.7 Activities requiring a FEPA license**

Jersey Harbours shall meet their responsibilities under the Food and Environmental Protection Act 1985 (Jersey) Order 1987, before undertaking any of the following activities.

- 1) Marine Works (e.g. construction)
- 2) Deposit of Waste Material (e.g. dredge spoil, fish waste)
- 3) Burial at sea.

If Jersey Harbours requires a FEPA licence or more information relating to FEPA they will contact Marine and Coastal Officer, Fisheries and Marine Resources.

## **6. Pollution control**

### **6.1 Pollution control equipment**

Environmental Protection and Jersey Harbours will inform each other at the beginning of each year of the pollution control equipment they have at their disposal and its location. Jersey Harbours will also nominate any vessels that may be available for use by Environmental Protection.

### **6.2 Emergency contacts**

Environmental Protection and Jersey Harbours will inform each other at the beginning of each year of emergency contacts, (including 24 hour contact numbers) for Officers required in the event of a pollution incident in the Island territorial seas or coastal waters.

### **6.3 Use of dispersants at sea**

The use of dispersants at sea should only be used where absolutely necessary and be kept to a minimum. The use of dispersant will be notified to Environmental Protection. Jersey Harbours shall meet their responsibilities under FEPA, IMO and EMSA legislation and guidelines before releasing dispersants into the marine environment.

### **6.4 Oil response plans**

Any Oil Pollution Preparedness, Response and Co-operation Contingency (OPRC) and Oil Spill Response (OSR) Plans developed by Jersey Harbours or Environmental Protection will be made known to each party. Environmental Protection shall be consulted regarding current and future developments of any of these plans.

## **7. Contact details**

Environmental Protection, tel: 709 535 (Mon-Fri 08.30-17.00), (Out of hours - calls will be automatically diverted to the Met Office, who will contact an Environmental Protection Officer).

Jersey Harbours - Coastguard MRCC, Duty Harbour Master, tel: 447 705 (24 hrs)

Registrar of Shipping and Maritime Compliance Officer, tel: 448 138 (office hours)

Head of Waste, Environmental Protection, tel: 441 600 (office hours)

Marine and Coastal Officer, Fisheries and Marine Resources, tel: 441 600 (office hours)

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This Memorandum of Understanding was agreed on the .....day of .....2010.

**Signed in Duplicate on .....2010**

**Senator Freddie Cohen, The Minister for Planning and Environment**

**Senator Alan Maclean, Minister for Economic Development**