



Jersey

DRAFT SHIPPING (AMENDMENT No. 5) (JERSEY) LAW 202-

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DRAFT SHIPPING (AMENDMENT No. 5) (JERSEY) LAW 202-

A **LAW** to amend further the Shipping (Jersey) Law 2002

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

PART 1

SHIPPING (JERSEY) LAW 2002 AMENDED

1 Interpretation

Reference in this Part of this Law to an Article by its number is to the Article of the same number in the Shipping (Jersey) Law 2002.

2 Article 1 (general interpretation provisions) amended

In Article 1(1) –

- (a) after the definition of “seaman” there is inserted –
 - “ “serious injury” means –
 - (a) fracture of the skull, spine or pelvis;
 - (b) fracture of a bone in the arm other than in the wrist or hand;
 - (c) fracture of a bone in the leg other than in the ankle or foot;
 - (d) amputation of a hand or foot;
 - (e) other physical injury that results in the person being admitted to hospital as an in-patient for more than 24 hours or, if the ship is at sea, that would have so resulted had it been in port; or
 - (f) any injury sustained by a person which results in incapacitation –

- (i) whereby the person is unable to function normally for 72 hours or more, and
 - (ii) which commenced within 7 days from the date when the injury was sustained;”;
- (b) for the definition of “ship” there is substituted –
““ship” includes every description of water craft, including a non-displacement craft, a WIG craft and a seaplane, that is used or is capable of being used as a means of transportation on, in or under water;”;
- (c) after the definition of “Tonnage Regulations” there is inserted –
““very serious marine casualty” means an accident involving –
 - (a) the total loss of a ship;
 - (b) death; or
 - (c) severe damage to the environment;“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.”.

3 Article 49 (safety and health on ships) amended

- (1) Article 49(3A) is deleted.
- (2) For Article 49(8)(b) there is substituted –
 - (b) that a contravention of the Regulations is an offence punishable –
 - (i) with imprisonment for 10 years, or such lesser penalty as is prescribed by the Regulations where the commission of the offence leads to death or serious injury, and
 - (ii) with imprisonment for 2 years and a fine, or such lesser penalty as is prescribed by the Regulations in all other cases;”.

4 Article 50 (provisions supplementary to Article 49: general) amended

- (1) In Article 50(2)(a) for the word “repeal” there is substituted the word “amend”.
- (2) In Article 50(2)(b) –
 - (a) for the word “repeal” in the first place there is substituted the word “amend”; and
 - (b) for the word “repeal” in the second place there is substituted the word “amendment”.
- (3) In Article 50(2)(c) for the word “repealed” there is substituted the word “amended”.

5 Article 117 (power to give effect to Convention) amended

In Article 117(3)(c) for the word “amend” there is substituted the words “amend or modify”.

6 Article 118 (Scheduled Convention to have force of law) substituted

- (1) For the text of Article 118 there is substituted the following paragraphs –

- (1) For the purposes of this Article and Schedule 5 –
- “Convention” means the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (as constituted under Article 15 paragraph 3 of the Protocol);
- “Protocol” means the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974.
- (2) The provisions of the Convention as set out in Part 1 of Schedule 5 have the force of law in Jersey, subject to Part 2 of that Schedule (which has effect for the purpose of implementation of the Convention in Jersey), and to paragraph (3).
- (3) Those provisions have effect in relation to all Jersey ships performing, in Jersey waters, the whole or part of a carriage, to which the Convention (without modification) applies, except where such a ship is exempted by the Minister from the application of the Convention.
- (4) An exemption by the Minister under paragraph (3) must be made in writing and may be made –
- (a) in relation to a specific voyage or class of voyage; and
 - (b) subject to such conditions as the Minister may think fit.
- (5) The States may by Regulations amend this Article, and amend or modify the Convention as set out in Part 1 of Schedule 5, for the purpose of resolving any inconsistency between the provisions of this Article or the Convention and any provisions relating to the carriage of passengers or luggage for reward by land, sea or air, in –
- (a) a convention signed or ratified on behalf of Jersey by or on behalf of the government of the United Kingdom before 4 April 1979; or
 - (b) any enactment of the United Kingdom Parliament applying in Jersey so as to give effect to such a convention.
- (6) The States may by Regulations amend this Article and amend Schedule 5, for either or both of the following purposes, namely –
- (a) in consequence of a revision of the Convention; and
 - (b) to extend the application of the Convention to domestic voyages, in circumstances specified in the Regulations.
- (7) The States may make Regulations for the purpose of giving further and full effect in Jersey to the Convention, and Regulations under this paragraph may in particular –
- (a) amend Schedule 5;
 - (b) make provision applying, with or without modification, any provision of this Law in relation to the application of the Convention;
 - (c) make further provision as to the enforcement of the Convention, including (but without limitation) provision as to appeals against such enforcement, and creating offences and providing for penalties for those offences.
- (8) Nothing in paragraph (2) or (3) or in the Convention as applied by or as amended or modified under this Article affects any rights or liabilities arising out of an occurrence which took place before the coming into force of this Article.

- (9) This Article binds the Crown, and any Regulations made under this Article may provide that the Regulations bind the Crown, in whole or to a specified extent.”.

7 Article 119 (limitation of liability for maritime claims) amended

- (1) In Article 119(4) for the words “modify Parts 1 and 2 of Schedule 6” there is substituted the words “amend or modify the Convention as applied by Schedule 6”.
- (2) In Article 119(5) for the words “A modification” there is substituted the words “An amendment or modification”.

8 Article 129 (Salvage Convention 1989 to have force of law) amended

- (1) In Article 129(3) for the words “modify Parts 1 and 2 of Schedule 7” there is substituted the words “amend or modify the Salvage Convention as applied by Schedule 7”.
- (2) In Article 129(4)(b) for the word “modification” in each place there is substituted the words “amendment or modification”.

9 Part 11 of the Shipping (Jersey) Law 2002 substituted in part

In Chapter 1 of Part 11 (Accident Investigations and Inquiries) of the Shipping (Jersey) Law 2002 there is substituted the provisions set out in Schedule 1 to this Law (which has effect for this purpose).

10 Schedule 5 to the Shipping (Jersey) Law 2002 amended

In Schedule 5 to the Shipping (Jersey) Law 2002, the provisions of the Convention set out in that Schedule are amended in accordance with Schedule 2 to this Law (which has effect for this purpose).

PART 2

OTHER LAWS AMENDED

11 Harbours (Administration) (Jersey) Law 1961 amended

In Article 1 (interpretation) of the Harbours (Administration) (Jersey) Law 1961 –

- (a) for the definition of “vessel” there is substituted –
- ““vessel” includes every description of water craft, including a non-displacement craft, a WIG craft and a seaplane, that is used or is capable of being used as a means of transportation on, in or under water;”;
- (b) after the definition of “vessel” there is inserted –
- ““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.”.

12 [Placeholder for consequential amendment to unrelated Law]**13 [Placeholder for consequential amendment to unrelated Law]****DRAFTING NOTE**

[X]

Articles 12 and 13 will make consequential amendments to other Laws that rely on the removed definition of “pleasure vessel”.

PART 3**REGULATIONS AND ORDERS AMENDED****14 Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013 amended**

In Regulation 1(1) (interpretation) of the Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013 –

- (a) before the definition of “large pleasure vessel” there is inserted –
 - “ “immediate family” in the definition of “pleasure vessel” means, in relation to an individual, the husband or wife or civil partner of the individual and a brother, sister, ancestor or lineal descendant of the individual or the individual’s husband or wife or civil partner;”;
 - (b) for the definition of “pleasure vessel” there is substituted –
 - “ “pleasure vessel” in the definition of “ship” means –
 - (a) a vessel that, at the time it is being used, is –
 - (i) in the case of a vessel wholly owned by an individual or individuals, used only for sport or pleasure of the owner or the immediate family or friends of the owner or, in the case of a vessel owned by a body corporate, the persons on the vessel are employees or officers of the body corporate, or their immediate family or friends, and
 - (ii) on a voyage or excursion that is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
 - (b) a vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure that, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate families, and for the use of which any charges are paid into club funds and applied for the general use of the club,
- where in either case no payment except for those mentioned in subparagraphs (a) and (b) is made by or on behalf of the users of the vessel, other than by the owner;”.

15 Shipping (Standards of Training, Certification and Watchkeeping) (Jersey) Order 2021 amended

In Article 1(1) (interpretation) of the Shipping (Standards of Training, Certification and Watchkeeping) (Jersey) Order 2021 –

- (a) after the definition of “High Speed Craft Code” there is inserted –
““immediate family” in the definition of “pleasure vessel” means, in relation to an individual, the husband or wife or civil partner of the individual and a brother, sister, ancestor or lineal descendant of the individual or the individual’s husband or wife or civil partner;”;
- (b) for the definition of “pleasure vessel” there is substituted –
““pleasure vessel” in the definition of “ship” means –
 - (a) a vessel that, at the time it is being used, is –
 - (i) in the case of a vessel wholly owned by an individual or individuals, used only for sport or pleasure of the owner or the immediate family or friends of the owner or, in the case of a vessel owned by a body corporate, the persons on the vessel are employees or officers of the body corporate, or their immediate family or friends, and
 - (ii) on a voyage or excursion that is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
 - (b) a vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure that, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate families, and for the use of which any charges are paid into club funds and applied for the general use of the club,
where in either case no payment except for those mentioned in subparagraphs (a) and (b) is made by or on behalf of the users of the vessel, other than by the owner;”.

PART 4

MISCELLANEOUS

16 Citation and commencement

This Law may be cited as the Shipping (Amendment No. 5) (Jersey) Law 202– and comes into force upon registration.

SCHEDULE 1

(Article 9)

PROVISIONS TO BE SUBSTITUTED IN PART 11 OF THE SHIPPING (JERSEY) LAW 2002

1 Article 165 (application and interpretation of Chapter) substituted

For the text of Article 165 there is substituted –

“(1) For the purposes of this Chapter, “accident” means an accident, as further defined in paragraph (2), that involves a ship or ship’s boat, if, at the time of the accident –

- (a) the ship is a Jersey ship; or
- (b) the ship or, in the case of an accident that involves a ship’s boat, that boat, is in Jersey waters.

(2) In this Chapter, unless the context otherwise requires, a reference to an accident is a reference to –

- (a) an incident that involves, or occurs on board, a Jersey ship or other ship in Jersey or Jersey waters whereby –
 - (i) a ship is lost or presumed to be lost,
 - (ii) a ship is abandoned,
 - (iii) a ship is disabled, stranded, in collision or has otherwise caused or suffered material damage,
 - (iv) there is loss of life or serious injury to a person on board, or a person is lost from, a ship or ship’s boat; or
- (b) any other hazardous incident.

(3) In this Article –

“disabled” means not under command for a period of more than 12 hours, or for a lesser period if, as a result, the ship needs assistance to reach port;

“hazardous incident” means an incident, other than one under paragraph (2)(a) –

- (a) by which the safety of a ship or a person on board is imperilled; or
- (b) as a result of which serious damage to another ship, a structure or the environment might be caused;

“material damage” means –

- (a) damage that –
 - (i) significantly affects the structural integrity, performance or operational characteristics of marine infrastructure or a ship, and
 - (ii) requires major repair, or replacement of, a major component; or
- (b) destruction of marine infrastructure or of a ship;

“ship’s boat” includes a life-raft and a painting punt;

“stranded” means having made involuntary contact with the ground in circumstances whereby a ship cannot immediately refloat;

- (4) In this Chapter, ‘IMO’ means the International Maritime Organization of the United Nations.”.

2 Article 166 (investigation of marine accidents) amended

In Article 166 –

- (a) for paragraphs (1) and (2) there is substituted –
- “(1) The Minister –
- (a) must, if there has been a very serious marine casualty or an accident; and
- (b) may, in the case of any other incident, appoint a person to hold an inquiry to determine the circumstances of the incident and its cause, and in this Article “accident” has the same meaning as in Article 165.
- (2) A person appointed under paragraph (1) –
- (a) has, for the purposes of the inquiry, the powers conferred on an inspector by Article 157; and
- (b) must ensure that the inquiry is conducted in accordance with international standards, but subject to this requirement may conduct the inquiry at such time and place, and in such manner, as he or she thinks fit.”;
- (b) after paragraph (3) there is inserted –
- “(3A) In addition to the circumstances of the accident itself, the inquiry may cover –
- (a) events and circumstances preceding the accident which, in the opinion of the person holding the inquiry, may have been relevant to its cause or outcome;
- (b) the consequences of the accident.”;
- (c) in paragraph (5) after “paragraph (4)” there is inserted –
- “, and the Minister must publish without delay any part of the report which consists of or includes urgent findings or recommendations in relation to –
- (a) safety and preservation of life at sea; and
- (b) prevention of serious pollution of the marine environment.”;
- (d) after paragraph (8) there is inserted –
- “(9) In paragraph (2)(b), reference to international standards is to the provisions of Part II of the Casualty Investigation Code published as IMO Resolution MSC.255(84), or such equivalent provisions as the IMO may agree from time to time and as are applicable in Jersey at the date when the inquiry is held.”.

3 Article 169 (duties of owners, masters etc. in relation to accidents) substituted

For Article 169 there is substituted –

“169 Duties of owners, masters etc. in relation to accidents

- (1) In the case of an accident (other than a hazardous incident) that involves a Jersey ship –

- (a) if the accident occurs within the limits of a harbour for which the harbour authority is responsible or within Jersey waters, and the Harbour Master has received a report of it in accordance with Regulations made under Article 49 the harbour authority must send a report of the accident to the Minister as soon as practicable and by the quickest means available;
 - (b) if the accident occurs elsewhere than as described in paragraph (a) and involves a very serious marine casualty, the owner, master or senior surviving officer must send a report of the accident to the Minister as soon as practicable and by the quickest means available, and in any event no later than 24 hours after the accident occurred; and
 - (c) if the accident occurs elsewhere than as described in paragraph (a) and does not involve a very serious marine casualty, the master must send a report of the accident to the Minister as soon as reasonably practicable and in any event no later than 24 hours after the ship next arrives in port.
- (2) Following receipt of a report under paragraph (1), the Minister may require the harbour authority or (as the case may be) the owner or master to provide such further information as the Minister may consider necessary to determine whether or not an inquiry should be held under Article 166.
- (3) A person required to provide any further information under paragraph (2) must do so to the best of that person's knowledge and ability.
- (4) The owner or master, and (where relevant) the harbour authority, must so far as possible ensure that –
 - (a) a chart, log-book or other document, including an electronic document or link to such a document, which might reasonably be considered relevant to an inquiry into or investigation of an accident of which a report is made under paragraph (1) is safely kept and not altered; and
 - (b) any equipment which might reasonably be considered so relevant is left undisturbed,until either notification is received from the Minister that no inquiry or investigation is to take place, or the person or tribunal conducting an inquiry or investigation indicates that material mentioned in sub-paragraph (a) or (b) is no longer required, whichever occurs earliest.
- (5) A person required –
 - (a) to send a report under paragraph (1);
 - (b) to provide information under paragraph (2); or
 - (c) to comply with paragraph (4),who fails to do so within the timescale required, and in the case of a person required to provide information, who fails to do so in accordance with paragraph (3), commits an offence and is liable to a fine of level 3 on the standard scale.

169A Regulations and Orders under this Part

- (1) The States may by Regulations make all such further provision as may be necessary to give full effect –

- (a) to this Part, including (but not limited to) any of the following, namely provisions –
 - (i) imposing requirements on any person to report marine accidents,
 - (ii) as to the appointment, duties, and powers, of any person carrying out inquiries or investigations into such accidents,
 - (iii) as to the duties of any person to provide information relating to such accidents,
 - (iv) as to the powers of persons appointed to investigate such accidents or to carry out inquiries into them, and
 - (v) further authorizing the Minister to appoint such persons as mentioned in sub-paragraph (iv); and
 - (b) to international standards applying in Jersey in relation to accident reporting and investigation procedures, including provision amending or modifying this Part.
- (2) The Minister may by Order make further provision as to procedures for investigating accidents and as to the application of any IMO Code, including (but not limited to) provision –
- (a) as to joint investigations and co-operation with maritime authorities of States or territories other than Jersey; and
 - (b) enabling fees to be charged in respect of investigations.
- (3) Regulations under this Article may create offences, and impose penalties, not exceeding a fine, for such offences, in relation to breach of any requirement of the Regulations or of an Order made under this Article.”.

SCHEDULE 2

(Article 10)

SCHEDULE 5 TO THE SHIPPING (JERSEY) LAW 2002 AMENDED

1 Interpretation

In this Schedule, a reference to an Article by number and without more is to the Article of the same number in the Convention relating to the Carriage of Passengers and their Luggage by Sea, as set out in Part 1 of Schedule 5 to the Shipping (Jersey) Law 2002.

2 Sub-heading to Schedule 5 amended

For the sub-heading to Schedule 5 to the Shipping (Jersey) Law 2002 there is substituted the following sub-heading –

“ATHENS CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND THEIR LUGGAGE BY SEA, 2002”

3 Article 1 amended

In Article 1 –

- (a) in sub-paragraph 1.(a) for the words “is actual performed by him or by a performing carrier” there is substituted the words “is actually performed by that person or by a performing carrier”;
- (b) after sub-paragraph 1.(b) there is added the following sub-paragraph –
 - “(c) “carrier who actually performs the whole or a part of the carriage” means the performing carrier, or, in so far as the carrier actually performs the carriage, the carrier;”;
- (c) for the full stop at the end of paragraph 9. there is substituted a semi-colon, and after that paragraph there is added the following paragraphs –
 - “10. “Organization” means the International Maritime Organization;
 - 11. “Secretary-General” means the Secretary General of the Organization.”.

4 Article 2 amended

In paragraph 2. of Article 2, for the words “shall apply” there is substituted the words “shall not apply”.

5 Article 3 substituted

For Article 3 there is substituted the following Article –

"ARTICLE 3

Liability of the carrier

1. For the loss suffered as a result of the death of or personal injury to a passenger caused by a shipping incident, the carrier shall be liable to the extent that such loss in respect of that passenger on each distinct occasion does not exceed 250,000 units of account, unless the carrier proves that the incident:
 - (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exception, inevitable and irresistible character; or
 - (b) was wholly caused by an act or omission done with the intent to cause the incident by a third party,and if and to the extent that the loss exceeds the above limit, the carrier shall be further liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.
2. For the loss suffered as a result of the death of or personal injury to a passenger not caused by a shipping incident, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier, and the burden of proving fault or neglect shall lie with the claimant.
3. For the loss suffered as a result of the loss of or damage to cabin luggage, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier, and the fault or neglect of the carrier shall be presumed for loss caused by a shipping incident.
4. For the loss suffered as a result of the loss of or damage to luggage other than cabin luggage, the carrier shall be liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.
5. For the purposes of this Article:
 - (a) "shipping incident" means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship;
 - (b) "fault or neglect of the carrier" includes the fault or neglect of the servants of the carrier, acting within the scope of their employment;
 - (c) "defect in the ship" means any malfunction, failure or non-compliance with applicable safety regulations in respect of any part of the ship or its equipment when used for –
 - (i) the escape, evacuation, embarkation or disembarkation of passengers,
 - (ii) the propulsion, steering, safe navigation, mooring, anchoring, arriving at or leaving berth or anchorage, or damage control after flooding, or
 - (iii) the launching of life saving appliances; and
 - (d) "loss" shall not include punitive or exemplary damages.
6. The liability of the carrier under this Article only relates to loss arising from incidents that occurred in the course of the carriage, and the burden of proving that the incident which caused the loss occurred in the course of the carriage, and the extent of the loss, shall lie with the claimant.

7. Nothing in this Convention shall prejudice any right of recourse of the carrier against any third party, or the defence of contributory negligence under Article 6 of this, and nothing in this Article shall prejudice any right of limitation under Articles 7 or 8 of this convention.
8. Presumptions of fault or neglect of a party or the allocation of the burden of proof to a party shall not prevent evidence in favour of that party from being considered.”.

6 Article 4A inserted

After Article 4 there is inserted the following Article –

“ARTICLE 4bis

Compulsory insurance

1. When passengers are carried on board a ship registered in a State Party that is licensed to carry more than twelve passengers, and this Convention applies, any carrier who actually performs the whole or a part of the carriage shall maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover liability under this Convention in respect of the death of and personal injury to passengers. The limit of the insurance or other financial security shall be not less than 250,000 units of account per passenger on each distinct occasion.
2. A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1. have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship’s registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This certificate shall be in the form of the model set out in the annex to this Convention and shall contain the following particulars:
 - (a) name of ship, distinctive number or letters and port of registry;
 - (b) name and principal place of business of the carrier who actually performs the whole or a part of the carriage;
 - (c) IMO ship identification number;
 - (d) type and duration of security;
 - (e) name and principal place of business of insurer or other persons providing financial security and, where appropriate, place of business where the insurance or other financial security is established; and
 - (f) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other financial security.
3.
 - (a) A State Party may authorize an institution or an Organization recognised by it to issue the certificate. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the

- State Party shall fully guarantee the completeness and accuracy of the certificate so issued, and shall undertake to ensure the necessary arrangements to satisfy this obligation;
- (b) A State Party shall notify the Secretary-General of:
 - (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognised by it,
 - (ii) the withdrawal of such authority, and
 - (iii) the date from which such authority or withdrawal of such authority takes effect. An authority delegated shall not take effect prior to 3 months from the date from which notification to that effect was given to the Secretary-General;
 - (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not complied with. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.
4. The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages, and, where the State so decides, the official language of the State may be omitted.
 5. The certificate shall be carried on board the ship, and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.
 6. An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate, before 3 months have elapsed from the date on which notification is given to the authorities referred to in paragraph 5, unless the certificate has been surrendered to these new authorities or a new certificate has been issued within the said period.
 7. The State of the ship's registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the certificate.
 8. Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization of other international organizations relating to the financial standing of providers of insurance or other financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate.
 9. Certificates issued or certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

10. Any claim for compensation covered by insurance or other financial security pursuant to this Article may be brought directly against the insurer or other person providing financial security. In such case, the amount set out in paragraph 1 applies as the limit of liability of the insurer or other person providing financial security, even if the carrier or the performing carrier is not entitled to limitation of liability. The defendant may further invoke the defences (other than the bankruptcy or winding up) which the carrier referred to in paragraph 1 would have been entitled to invoke in accordance with this Convention. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the assured, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the assured against the defendant. The defendant shall in any event have the right to require the carrier and the performing carrier to be joined in the proceedings.
11. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention, and any payments made of such sums shall discharge any liability arising under this Convention to the extent of the amounts paid.
12. A State Party shall not permit a ship under its flag to which this Article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 15.
13. Subject to the provisions of this Article, each State Party shall ensure, under its national law, that insurance or other financial security, to the extent specified in paragraph 1, is in force in respect of any ship that is licensed to carry more than twelve passengers, wherever registered, entering or leaving a port in its territory in so far as this Convention applies.
14. Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 13, ships are not required to carry on board or to produce the certificate required by paragraph 2 when entering or leaving ports in its territory, provided that the State Party which issues the certificate has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 13.
15. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authorities of the State of the ship's registry, stating that the ship is owned by that State and that the liability is covered within the amount prescribed in accordance with paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2. and set out in the annex to this Convention.
16. The annex to this Convention shall constitute an integral part of the Convention.”.

7 Article 7 substituted

For Article 7 there is substituted the following Article –

“ARTICLE 7*Limit of liability for death or personal injury*

- “1. The liability of the carrier for the death of or personal injury to a passenger under Article 3 shall in no case exceed 400,000 units of account per passenger on each distinct occasion. Where, in accordance with the law of the court seized of the case, damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.
2. A State Party may regulate by specific provisions of national law the limit of liability prescribed in paragraph 1, provided that the national limit of liability, if any, is not lower than that prescribed in paragraph 1. A State Party, which makes use of the option provided for in this paragraph, shall inform the Secretary-General of the limit of liability adopted or the fact that there is none.”.

8 Article 8 amended

In Article 8 –

- (a) in paragraph 1. for the amount “833” there is substituted the amount “2,250”;
- (b) in paragraph 2. for the amount “3,333” there is substituted the amount “12,700”;
- (c) in paragraph 3. for the amount “1,200” there is substituted the amount “3,375”;
- (d) in paragraph 4. –
 - (i) for the word “deduction” there is substituted the word “deductible”,
 - (ii) for the amount “117” there is substituted the amount “330”, and
 - (iii) for the amount “13” there is substituted the amount “149”.

9 Article 9 substituted

For the text of Article 9 there is substituted the following paragraphs –

- “1. The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Article 3, paragraph 1., Article 4bis, paragraph 1., Article 7, paragraph 1. and Article 8 shall be converted into the national currency of the State of the court seized of the case on the basis of the value of that currency by reference to the Special Drawing Right on the date of the judgment or the date agreed upon by the parties. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State Party.

2. Nevertheless, a State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1. may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the Unit of Account referred to in paragraph 1. shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.
3. The calculation mentioned in the last sentence of paragraph 1., and the conversion mentioned in paragraph 2. shall be made in such a manner as to express in the national currency of the States Parties, as far as possible the same real value for the amounts in Article 3, paragraph 1., Article 4bis, paragraph 1., Article 7, paragraph 1. and Article 8 as would result from the application of the first three sentences of paragraph 1. States shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 1., or the result of the conversion in paragraph 2., as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.”.

10 Article 16 amended

For paragraph 3. of Article 16 there is substituted the following paragraph –

- “3. The law of the court seized of the case shall govern the grounds for suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of any one of the following periods of time:
 - (a) a period of 5 years beginning with the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later; or, if earlier;
 - (b) a period of 3 years beginning with the date when the claimant knew or ought reasonably to have known of the injury, loss or damage caused by the incident.”.

11 Article 17 amended

In Article 17 –

- (a) in paragraph 1. –
 - (i) for the words “under this Convention” there is substituted the words “under Articles 3 and 4 of this Convention”,
 - (ii) for the words “provided that the court located in a State Party to this Convention:” there is substituted the words “provided that the court is located in a State Party to this convention, and subject to the domestic law governing proper venue within those States with multiple possible forums:”,
 - (iii) in sub-paragraphs (a) and (b) for the words “the place” in each place there is substituted the words “the State”,
 - (iv) in sub-paragraphs (c) and (d) for the words “a court” in each place there is substituted the words “the court”, and

- (v) in sub-paragraph (d) for the words “the State.” there is substituted the words “that State.”;
- (b) after paragraph 1. there is inserted the following as paragraph 2., and the existing paragraph 2. is renumbered as paragraph 3. –
 - “2. Actions under Article 4bis of this Convention shall, at the option of the claimant, be brought before one of the courts where action could be brought against the carrier or performing carrier according to paragraph 1.”.

12 Article 17bis inserted

After Article 17 there is inserted the following Article –

“ARTICLE 17bis

Recognition and enforcement of judgments

1. Any judgment given by a court with jurisdiction in accordance with Article 17 which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any State Party, except:
 - (a) where the judgment was obtained by fraud; or
 - (b) where the defendant was not given reasonable notice and a fair opportunity to present the case.
2. A judgment recognized under paragraph 1. shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
3. A State Party to this Protocol may apply other rules for the recognition and enforcement of judgments, provided that their effect is to ensure that judgments are recognized and enforced at least to the same extent as under paragraphs 1. and 2.”.

13 Article 18 amended

In Article 18 –

- (a) for the words “his luggage” there is substituted the words “the passenger’s luggage”;
- (b) for the words “the carrier of his liability” there is substituted the words “any person liable under this Convention of liability”;
- (c) for the words “which rests on the carrier” there is substituted the words “which rests on the carrier or performing carrier”; and
- (d) for the words “the option specified in paragraph 1 of Article 17” there is substituted the words “the options specified in paragraph 1 or 2 of Article 17”.

14 Article 20 amended

In Article 20 –

- (a) at the end of paragraph (a) after the words “Nuclear Damage”; and
- (b) at the end of paragraph (b) after the words “the Vienna Conventions”

in each place there is inserted the words “or any amendment or Protocol thereto which is in force”.

15 Annex inserted

After Article 21 there is inserted the following –

“ANNEX

‘CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF LIABILITY FOR THE DEATH OF AND PERSONAL INJURY TO PASSENGERS

Issued in accordance with the provisions of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002

[Name of ship]

[Distinctive number or letters]

IMO Ship

[Identification number]

[Port of Registry]

[Name and full address of the principal place of business of the carrier who actually performs the carriage]

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002

[Type of security].....

[Duration of security]

[Name of insurer(s) and/or guarantor(s)].....

[Address of insurer(s) and/or guarantor(s)].....

.....

This certificate is valid until [date].....

Issued or certified by the Government of

[full designation of the State]

OR

[The following text should be used when a State Party avails itself of Article 4bis, paragraph 3.]

The present certificate is issued under the authority of the Government of[full designation of the State] by

.....[name of institution or organization]

At.....[place] on.....[date]

.....[Signature and title of issuing or certifying official]

Explanatory Notes:

- 1 If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
- 2 If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
- 3 The entry “Duration of security” must stipulate the date on which such security takes effect.
- 4 The entry “Address” of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.”.

16 Part 2 amended

In Part 2 of Schedule 5 –

- (a) after paragraph 2. there is inserted the following paragraph –

“2A.-(1) For the purposes of Article 4bis paragraph 3.(a), the Minister is authorized to issue certificates in respect of Jersey ships, and (subject to the third sentence of that paragraph) the Minister may in writing authorize another person or body to issue certificates on his or her behalf.
- (2) The Minister may by Order specify (subject to Article 4bis paragraph 7) conditions for the issue of certificates and concerning their validity.
- (3) In sub-paragraph (1), the power to issue certificates shall include power to refuse to issue a certificate, or (as the case may be) to cancel or withdraw a certificate, where –
 - (a) the relevant contract of carriage appears invalid;
 - (b) the insurance is inadequate or there is doubt as to the ability of the insurer or guarantor to meet his or her liability;
 - (c) the conditions under which the certificate was issued are not complied with;
 - (d) the carrier or performing carrier ceases to be the person by whom the contract of carriage in question is to be performed; or
 - (e) any other matter which appears to the Minister to be relevant is not complied with.
- (4) Where a certificate is cancelled or withdrawn under sub-paragraph (3) –
 - (a) the Minister or other person or body issuing the certificate may require the return of the certificate; and
 - (b) if, in such a case, the ship concerned is not in Jersey, the certificate may be delivered up to any person listed in Article 177(1) of this Law, and such a person may for the purpose lawfully board the ship and remove the certificate.”;
- (b) in paragraph 4. for the amount “46,666” there is substituted the amount “400,000”.