

Consultation paper on amendments to Shipping (Registration) (Jersey) Regulations 2004

Department	Department for the Economy
Start date	Monday 15 April 2024
End date	Monday 13 May 2024
Type of consultation	White paper
Deadline for comments	Monday 13 May 2024

About the consultation

The Department for the Economy is proposing amendments to the [Shipping \(Registration\) \(Jersey\) Regulations 2004](#) which are intended to tighten controls on Representative Persons for Jersey-registered ships.

These amendments will strengthen Jersey's Representative Persons policy, by addressing existing deficiencies and allowing the Government to enhance the link between Jersey-registered ships and Jersey as the Flag State.

This consultation seeks feedback on the proposals, as set out in Annex A.

Background

Ship registration is the mechanism by which a ship is documented and given the nationality of the country. International law requires every ship to be registered in a country, called its 'Flag State', and a ship is subject to the laws and regulations of its Flag State.

Jersey's Ships' Registry operates in accordance with statutory and international obligations, Government policy, and the expectations of both the UK Maritime and Coastguard Agency and the broader Red Ensign Group of British Registries.

The United Nations Convention on the Law of the Sea (UNCLOS) requires the existence of a 'genuine link' between the Flag State and any ships that the Flag State registers. 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 people to be eligible to own a Jersey ship provided that they were resident/constituted in certain countries or territories that are approved by being listed in Jersey's legislation, the *Shipping (Registration) (Jersey) Regulations 2004*.

The increased focus on coordinated international sanctions in the past few years has shone a light on the need for Jersey to adopt a robust Representative Persons policy, as in its current form it could prevent the Government from tracing owners of suspect vessels. Furthermore, Government and Ports authority Officers have identified evidence to support enhancing vessel ownership accountability within Jersey and reduce regulatory and reputational risks to our island.

What amendments are being proposed?

These draft Regulations address the need to ensure better regulation of Representative Persons. These amendments include:

- Ensuring Representative Persons cannot resign from their position without giving sufficient notice to the Registrar.

- Ensuring Representative Persons remain in office until the expiry of a notice of resignation or the appointment of a successor Representative Person taking effect.
- Ensuring Representative Persons hold information which identifies a ship's owner, and provide said information to the Registrar within 7 days of a request to do so.

The amendments allow for offences and the termination of a ship's registration if there is non-compliance with the new obligations placed upon a Representative Person or upon an owner of a ship in respect of the appointment of a Representative Person.

Purpose of the consultation

The purpose of this consultation is to help Government gather the views of its stakeholders in the maritime industry and in the wider community on the proposed amendments to the *Shipping (Registration) (Jersey) Regulations 2004*. It asks respondents to give their views on each of the proposed changes to law.

How to submit comments to the consultation

The questions in the consultation paper, and online refer to specific sections of the draft Shipping Law:

1. Representative Persons resignation period
2. Representative Persons obligation to hold and provide information which identifies the ship owner they are acting on behalf of
3. Consequences of non-compliance (offences)
4. Consequences of non-compliance (deregistration)

You are also able to submit any other comments you have on the law.

You can also submit your response:

- by email to Economy@gov.je with the subject heading Shipping Law Consultation
- by post to: FAO Lydia Irving, Department for the Economy, 19-21 Broad Street, St Helier, JE2 3RR

Data Protection

The information you provide will be processed in compliance with the Data Protection (Jersey) Law 2018.

Any data will be retained within the Department for the Economy as per the Government's retention schedule. No data will be shared outside the Department.

Find more information in the [Department for the Economy Privacy Notice](#).

The Government of Jersey may quote or publish responses to this consultation but will not publish the name and addresses of individuals without consent.

Types of publishing may include:

- sending to other interested parties on request
- sending to the Scrutiny Office
- quoting in a published report

Commented [AH1]: @Lydia Irving Who will have access to the data collected? Where how will it be stored, how long for?

- reporting in the media
- publishing on the Government website
- listing on a consultation summary

Confidential responses will still be included in any summary of statistical information received and views expressed.

Under the Freedom of Information (Jersey) Law 2011, information submitted to this consultation may be released if a Freedom of Information request requires it, but no personal data may be released.

Consultation questions

1. In one sentence, how would you summarise your current opinion about the proposals to amend the Shipping (Registration) (Jersey) Regulations 2004? (20-word limit)
2. Currently, the Regulations stipulate a 7-day period for the owner to notify the Ships' Registrar of any change to the Representative Person and/or their address. These amendments introduce a requirement that a person who intends to resign as a Representative Person to give the Registrar 30 days-notice of the resignation. Furthermore, a person who has given notice must now remain as Representative Person until expiry of notice or until the Registrar is notified that a new Representative Person has been appointed, whichever comes first.
 - a. Do you agree with the inclusion of this amendment?
 - b. Please provide any further comments.
3. There is currently no legislative requirement for any Representative Person to hold information, from the point assuming the position, which confirms the identity of the owner of a vessel they represent, nor the legal requirement to make the identifying information held on the owner available to the Ships' Registrar on request. These amendments introduce a requirement that a Representative Person must hold information about the owner of the ship, or of an individual with shares in the ship, and to provide that information to the Registrar upon request. If the owner is an entity, that information must include information about the Ultimate Beneficial Owner of an entity.
 - a. Do you agree with the inclusion of this amendment?
 - b. Please provide any further comments.
4. Currently, Regulations state that only the owner of a registered ship shall be guilty of an offence if they fail to notify the Registrar of any change in the Representative Person or the address of such a person. These amendments introduce an offence carrying a fine of Level 3 on the standard scale for a Representative Person in the event they fail to comply with the new requirements, fail to give notice of resignation or to provide request identifying information to the Registrar, or to knowingly or recklessly provide information to the Registrar that is false or misleading.

- a. Do you agree with the inclusion of this offence?
 - b. Please provide any further comments.

- 5. There is currently no provision in the Regulations which permit the removal of a vessel from the Registry if information which identifies the ship's owner is not provided upon request. These amendments introduce a provision that the Registrar may now cancel a ship's registration if a Representative Person appointed in respect of a ship fails on request to provide information to the Registrar about the owner of the ship or of shares in the ship, or if Representative Person provides false or misleading information, or information that is reasonably considered insufficient by the Registrar.
 - a. Do you agree with the inclusion of this amendment?
 - b. Please provide any further comments.

- 6. These amendments introduce a provision that if a Separate Limited Partnership, a Limited Liability Partnership or a Body Corporate commits an offence under the *Shipping Regulations* with the consent of a partner, director, manager, secretary or other similar officer, then that person is now also guilty of an offence.
 - a. Do you agree with the inclusion of this offence?
 - b. Please provide any further comments.

- 7. Request for further comments.

Annex A

DRAFT SHIPPING (REGISTRATION) (JERSEY)

AMENDMENT REGULATIONS 202-

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 to comply with paragraph (5A);

(b) fail 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