

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE MERCHANT SHIPPING (MARPOL CONVENTION) (BAILIWICK OF GUERNSEY)
ORDINANCE, 2026**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Merchant Shipping (MARPOL Convention) (Bailiwick of Guernsey) Ordinance, 2026" and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance brings the MARPOL Convention (which is the main international Convention relating to the prevention of pollution of the marine environment by ships) into effect in the Bailiwick.

Section 1 amends the definition of the MARPOL Convention in the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 to make it "ambulatory" that is, the MARPOL Convention will mean the Convention as amended from time to time. This means the States will have the power by Ordinance to implement in the Bailiwick any part of the MARPOL Convention in its completely up to date form.

Section 2(1) and (2) sets out what ships the MARPOL Convention will and will not apply to. Subsection (4) sets out what parts of the MARPOL Convention will have effect in the Bailiwick – the main effect of it is annexes I and II will apply but we are not at this time taking up the optional annexes III to VI.

Section 3 sets out the obligations on the Environmental Pollution Director with regard to investigation of a breach of the Convention and the transmission of information, and section 4 provides for a power for designated officers to board and search a ship in port to check certificates and record books, and for consequences if these are not compliant.

Sections 5 provides for information to be provided by the States' Trading Supervisory Board ("STSB") when a ship is denied entry to a port in Guernsey, and section 6 sets out what information STSB shall provide to the International Maritime Organisation (IMO). Section 7 sets out the obligations on STSB to investigate where there has been a marine incident involving casualties and a deleterious effect on the marine environment.

Section 8 sets out the requirement for a ship to which the MARPOL Convention applies to comply with the technical requirements in Annex I and II of the Convention, and who commits an offence if they are not complied with.

Section 9 puts a duty on the master of a ship to report any discharge of oil or harmful substances. Sections 10 and 11 relate to enforcement, and section 12 to a right of recovery under the Merchant Shipping Law to apply if ships are unduly detained or delayed.

Section 14 provides that documents which are required by the MARPOL Convention must be in English, and section 15 for offences committed by bodies corporate with the consent or connivance of natural persons.

Section 16 provides for a limited power of STSB to amend the Ordinance by regulations for the purposes set out in that section (to adapt to any modification of the MARPOL Convention or to make more effective provision to implement it in the Bailiwick). Section 17 is the interpretation section.

The Ordinance will come into force on the date appointed for that purpose by an order of STSB.

The Merchant Shipping (MARPOL Convention) (Bailiwick of Guernsey) Ordinance, 2026

THE STATES, in pursuance of their Resolution of the 30th September, 2022^a, and in exercise of the powers conferred upon them by sections 130, 131, 289 and 290 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Merchant Shipping Law.

1. (1) The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 is amended as follows.

(2) For section 130(1)(a), substitute -

"(a) the International Convention for the Prevention of Pollution from Ships, 1973 (including its protocols, annexes and appendices) as amended from time to time in accordance with article 16 of the Convention,".

Application of the MARPOL Convention.

2. (1) Subject to subsection (2) and the provisions of this Ordinance, the MARPOL Convention shall have effect in relation to –

^a Article VI of Billet d'État No. XVII of 2022.

^b Order in Council No. VIII of 2004; this enactment has been amended.

- (a) all Guernsey ships whether in Guernsey waters or elsewhere, and
 - (b) all other ships while they are in Guernsey waters.
- (2) The MARPOL Convention shall not have effect in relation to -
- (a) ships of His Majesty's navy,
 - (b) Government ships,
 - (c) ships of the navy of any country or territory,
 - (d) ships owned or operated by a country or territory other than Guernsey and used only on non-commercial services of that country or territory.

(3) In this Ordinance, "**the MARPOL Convention**" means the International Convention for the Prevention of Pollution from Ships, 1973, as amended from time to time -

- (a) including Protocol I, Annex I, and Annex II, but
- (b) excluding Protocol II and Annexes III to VI.

Information and investigation.

3. (1) When information or evidence as to a breach of the MARPOL Convention or this Ordinance comes to the attention of the Environmental Pollution Director, the Director shall –

- (a) in a case where the breach occurred by or in respect of a Guernsey ship, or in Guernsey waters, investigate the breach, or in any other case

(b) transmit that information to the Administration of the ship and to the State in the waters of which the breach occurred.

(2) The Environmental Pollution Director shall take reasonable steps to inform the Master of the ship that action has been taken under subsection (1).

(3) If the Environmental Pollution Director receives information or evidence from any Administration as to a breach of this Ordinance by or in respect of a Guernsey ship or a ship in Guernsey waters, the Environmental Pollution Director shall investigate the matter, and may request the Administration to furnish further or better evidence of the breach.

(4) If the Environmental Pollution Director believes that sufficient evidence is available to enable proceedings to be brought in respect of a breach referred to in this section, the Environmental Pollution Director shall so inform His Majesty's Procureur.

(5) The Environmental Pollution Director shall inform an Administration that has transmitted information or evidence to the Environmental Pollution Director as referred to in subsection (3), as well as the IMO, of any action taken by the Environmental Pollution Director in relation to the information or evidence.

In port checks on certificates and record books.

4. (1) Subject to subsection (2), the Harbourmaster, a surveyor of ships, or an officer of the Board authorised by the Board to exercise powers under this Ordinance ("a **designated officer**"), may board and search a ship while it is in a port in Guernsey if it is a ship that is required to hold a certificate in accordance with the MARPOL Convention, for the purpose only of verifying that there is on board a valid certificate and record book that relates to the ship.

(2) Where there are reasonable grounds to believe that the condition of the ship or of its equipment does not correspond substantially with the particulars of any certificate or record book found on board, a search under subsection (1) may be extended to gathering evidence, and determining the extent, of that lack of correspondence.

(3) If a ship is boarded and searched under subsection (1) and –

(a) no valid certificate or record book is found on board that relates to the ship, or

(b) subsection (2) applies,

then, subject to subsections (4) and (5), any of the officers mentioned in section 270(1) of the Law may detain the ship, and section 270 shall apply in respect of the ship, and have effect as if the reference to "a competent authority" in section 270(3) were a reference to any of the persons mentioned in section 270(1).

(4) The notice of detention shall specify that the ship may not proceed to sea (other than to the nearest repair yard) until the detaining officer and the Environmental Pollution Director are satisfied that it can do so without presenting an unreasonable threat of harm to the marine environment.

(5) If regulation 11 of Annex I or regulation 16 of Annex II requires steps to be taken to ensure that a ship does not sail, the officer exercising the relevant power under that regulation shall ensure that the ship does not sail until the relevant situation has been brought to order as referred to in that regulation.

(6) In this section, "**record book**" means an oil record book Part I as referred to in regulation 17.4 of Annex I, an oil record book Part II as referred to in regulation 36 of Annex I, or a cargo record book as referred to in regulation 15.4 of Annex I.

State to be informed.

5. (1) If the Board denies a ship, other than a Guernsey ship, entry to the ports of Guernsey, or any other action is taken against such a ship for the reason that the ship does not comply with the MARPOL Convention, the Board shall immediately give notice of the denial or action to a consul or other representative of the Administration of the ship, or if that is not possible, directly to the Administration of the ship.

(2) Before denying entry or taking such action the Board may request the Administration of the ship concerned to enter into consultation with the Board.

(3) If, under Article 5(3) of the MARPOL Convention, a Party to that Convention requests consultation with the Board in relation to a proposal to deny a Guernsey ship entry, or the proposed taking of action against a Guernsey ship, the Board shall take reasonable steps to enter into consultation with the Party.

(4) The Board shall inform the Administration of a ship if it comes to the Board's knowledge that the ship is not carrying a valid certificate in accordance with the MARPOL Convention.

Board to report to IMO.

6. The Board shall forward to the IMO -

- (a) specimens of certificates issued for the purposes of Annexes I and II by the Board,
- (b) a list of reception facilities established in Guernsey for the purposes of Annexes I and II, including their location, capacity and available facilities and other characteristics,

- (c) a copy of those parts of any reports prepared by or for the Board that show the results of the implementation of this Ordinance, and
- (d) an annual report on penalties imposed in Guernsey for breaches of this Ordinance.

Casualties to ships.

7. (1) The Board shall ensure that an investigation of any casualty occurring to any ship is carried out if the casualty has produced a major deleterious effect upon the marine environment and -

- (a) the ship is a Guernsey ship,
- (b) the effect has occurred in Guernsey waters, or
- (c) the effect has occurred outside Guernsey waters in such circumstances as to cause, or to be likely to cause, pollution in Guernsey waters.

(2) The Board shall supply IMO with information concerning the findings of such an investigation, if the Board believes that the information may assist in determining what changes to the MARPOL Convention might be desirable.

Requirement to comply with Annex I and Annex II.

8. (1) A ship to which the MARPOL Convention applies under this Ordinance must comply with the requirements as to the design, survey and certification, construction, operation and equipment of ships set out in Annex I and Annex II.

- (2) If subsection (1) is not complied with -
 - (a) in Guernsey waters in relation to any ship,

- (b) outside Guernsey waters in relation to a ship in such circumstances that the failure to comply has caused, or is likely to cause, pollution in Guernsey waters,
- (c) in relation to a Guernsey ship,

then the persons specified in subsection (3) are guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the uniform scale and on conviction on indictment by imprisonment not exceeding two years and a fine.

(3) The persons referred to in subsection (2) are the master or person in charge of the ship, the owner of the ship, and the charterer (if any) of the ship.

(4) Any advance notification of the transfer of oil cargo between oil tankers at sea as required by regulation 42 of Annex II should be made to the Environmental Pollution Director and to the Harbourmaster.

(5) For the avoidance of doubt, the duties in regulation 38 of Annex I and in regulation 18 of Annex II with regard to the provision of port reception facilities to meet the needs of ships which use them are to be carried out by the Board on behalf of the States of Guernsey.

Duty to report discharge of oil or harmful substance.

9. (1) The master or other person in charge of a ship to which the MARPOL Convention applies under this Ordinance must, if the ship is involved in an incident described in Protocol I, as soon as practicable comply with the obligations under that Protocol, and -

- (a) in the case of an incident in Guernsey waters, the report shall be made to the Environmental Pollution Director, and

(b) in the case of an incident elsewhere, the report shall be made to the State in the waters of which the incident occurred.

(2) In the event of a ship referred to in subsection (1) being abandoned, or the report being incomplete or unobtainable, the owner of the ship and the charterer (if any) of the ship shall assume the obligations placed on the master or other person in charge of the ship by this section.

(3) If a person fails to comply with an obligation under this section, then the person is guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the uniform scale and on conviction on indictment by imprisonment not exceeding two years and a fine.

Prosecutions, etc.

10. (1) Section 139 of the Law shall apply in respect of an offence under section 8 or section 9 in relation to the discharge of oil, or of a harmful substance, from a ship in the same way as it applies in respect of an offence under section 138 of the Law, and as if a reference in section 139 of the Law (as so applied) to oil or a mixture containing oil were a reference to oil or a harmful substance.

(2) Section 151 of the Law shall apply in respect of an offence under this Ordinance in the same way as it applies in respect of an offence under section 138 of the Law.

Detention of ships, and application of fines for a section 8 offence.

11. Sections 152 and 154(2) of the Law shall apply in respect of an offence under section 8 in the same way as they apply in respect of an offence under section 138 of the Law and as if a reference in section 152 of the Law (as so applied) to oil or a mixture containing oil were a reference to oil or a harmful substance.

Right to recover in respect of undue detention or delay to ships.

12. Section 145 of the Law shall apply to any action taken under this Ordinance by the Board, the Harbourmaster, a surveyor or ships or a designated officer which unduly delays or detains a ship in the same way as it applies to actions taken under section 144 of the Law.

Management of oily residues on ships under 400 gross tons.

13. (1) A Guernsey ship of less than 400 gross tonnage shall be equipped in such a way as to be capable of meeting the requirements of regulation 15.6 of Annex I.

(2) A Guernsey ship of less than 400 gross tonnage that discharges oil or oily mixtures as referred to in regulation 15.6 of Annex I does not comply with subsection (1) unless the equipment that it has in operation as so referred to is of a design that has the written approval of the Board.

(3) If subsection (1) is not complied with aboard a Guernsey ship of less than 400 gross tonnage, the following shall each be guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the uniform scale and on conviction on indictment by imprisonment not exceeding two years and a fine -

- (a) the master or person in charge of the ship,
- (b) the owner of the ship, and
- (c) the charterer (if any) of the ship.

Language of documents.

14. The following documents, to the extent that they are required by the MARPOL Convention to be held aboard a Guernsey ship, must be in English -

- (a) an international oil pollution prevention certificate referred to in regulation 9 of Annex I,
- (b) an international pollution prevention certificate for the carriage of noxious substances in bulk, being the certificate referred to in regulation 9.4 of Annex II,
- (c) an oil record book Part II referred to in regulation 36 of Annex I,
- (d) an oil record book Part I referred to in regulation 17.4 of Annex I,
- (e) a procedures and arrangements manual referred to in regulation 14 of Annex II, and
- (f) a cargo record book referred to in regulation 15.4 of Annex I.

Offences by bodies corporate, etc.

15. (1) Where an offence under this Ordinance is committed by a body corporate or by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to or to have been facilitated by any neglect on the part of, a manager, member of any committee of management or other controlling authority, secretary or other similar officer or partner of the body, or any person purporting to act in any such capacity, the person as well as the body is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a manager.

(3) Proceedings for an offence alleged to have been committed under this Ordinance by an unincorporated body shall be brought in the name of that body and not in the name of any of its members; and a fine imposed on the body on its conviction of such an offence shall be paid out of its funds.

Amendment of Ordinance by regulations.

16. The Board may amend this Ordinance by regulations for the purpose of adapting it to any modification of, or making more effective provision for the implementation of, the International Convention for the Prevention of Pollution from Ships, 1973 (including its protocols, annexes and appendices) as amended from time to time in accordance with article 16 of the Convention.

GENERAL PROVISIONS

Interpretation.

17. (1) In this Ordinance, unless the context requires otherwise -

"**Administration**", "**harmful substance**", "**discharge**", "**ship**", and "**incident**" have the same meanings as in Article 2 of the MARPOL Convention,

"**Annex I**", "**Annex II**" and "**Protocol I**" refer to those Annexes and that Protocol of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, and as amended from time to time,

"**the Board**" means the States of Guernsey States' Trading Supervisory Board or, as the case may be, a Committee of the States of Alderney or a Committee of the Chief Pleas of Sark performing similar functions in either of those Islands,

"**designated officer**": see section 4,

"the Environmental Pollution Director" means the Environmental Pollution Director of Environmental Health and Pollution Regulation, appointed under section 4 of the Environmental Pollution (Guernsey) Law, 2004^c,

"IMO" means the International Maritime Organisation, and

"the Law" means the Merchant Shipping (Bailiwick of Guernsey) Law, 2002.

(2) In Annex I, Annex II and Protocol I as they have effect for the purposes of this Ordinance –

- (a) a reference to a Party (or State Party or Government of a Party) shall be taken to be a reference to Guernsey, to the extent that it means the Party (or State Party or Government of a Party) as a party to the MARPOL Convention in relation to Guernsey ships and Guernsey waters,
- (b) a reference to a Party (or State Party or Government of a Party) shall be taken to be a reference to the Board, to the extent that it means the Party (or State Party or Government of a Party) that is charged under the MARPOL Convention with its implementation in relation to Guernsey ships and Guernsey waters,
- (c) a reference to the Administration shall be taken to be a reference to the Board, to the extent that it means the

^c Order in Council No. XIII of 2004; this enactment has been amended.

Administration of a Party (or State Party), being the Administration charged under the MARPOL Convention with its implementation in relation to Guernsey ships and Guernsey waters,

- (d) a reference to a function of the Administration shall be taken to be a reference to a function of the Board, to the extent that it means the Administration referred to in sub-paragraph (c),
- (e) a reference to the Government of each Party (or to Governments of Parties) to the MARPOL Convention, or a reference to the Government, shall to the extent that it is or may be taken to be a reference to the government of Guernsey, be taken to be a reference to the States of Guernsey,
- (f) a reference to the competent authority, or the competent Port State Authority, of the Government of a Party to the MARPOL Convention shall, to the extent that it is or may be taken to be a reference to the competent authority of the States of Guernsey, be taken to be a reference to –
 - (i) the Harbourmaster,
 - (ii) a surveyor of ships, or
 - (iii) a designated officer.
- (g) a reference to a function that is expressed to be that of the Government of each Party to the MARPOL

Convention shall be taken to be a reference to a function of the Board, to the extent that the reference to the Party is a reference to Guernsey, and

- (h) a reference to an officer duly authorised by a Party shall be taken to be a reference to any of the persons mentioned in paragraph (f), to the extent that the reference to the Party is a reference to Guernsey.

Extent.

- 18. This Ordinance shall have effect throughout the Bailiwick of Guernsey.

Citation.

- 19. This Ordinance may be cited as the Merchant Shipping (MARPOL Convention) (Bailiwick of Guernsey) Ordinance, 2026.

Commencement.

- 20. This Ordinance shall come into force on the date appointed for this purpose by an Order of the Board; and different dates may be appointed for different provisions and for different purposes.