
ALDERNEY STATUTORY INSTRUMENT

No. 3 — 2004

**The Security of Ship and Port Facilities
(Alderney) Order, 2004**

Made	30th June, 2004
Coming into operation	see article 21
Laid before the States.	15th September, 2004

THE GENERAL SERVICES COMMITTEE, in pursuance of the powers conferred upon it by sections 1(2) of the Security of Ship and Port Facilities (Alderney) Ordinance, 2004(a) and all other powers enabling it, hereby orders:—

**PART 1
APPLICATION AND ADAPTATIONS**

Application of Order.

1. (1) This Order applies to -
 - (a) the following types of Guernsey ships and non-Guernsey ships in Alderney's territorial waters when engaged on international voyages, and their Companies
 - (i) passenger ships (including high speed craft which are passenger ships);
 - (ii) cargo ships (including high speed craft which are cargo ships) of 500 gross tonnage and upwards; and
 - (iii) mobile offshore drilling units;
 - (b) those categories of ships involved in domestic shipping or Bailiwick shipping and their Companies as are specified by the Committee in accordance with paragraph (3); and
 - (c) the following port facilities -
 - (i) port facilities serving the ships specified in subparagraph (a);

(ii) port facilities serving the categories of ships referred to in subparagraph (b) as are specified by the Committee in accordance with paragraph (3).

(2) The Committee shall from time to time undertake such security risk assessments of -

- (a) ships involved in domestic shipping;
- (b) ships involved in Bailiwick shipping; and
- (c) the port facilities serving those ships, as it shall consider appropriate.

(3) Following assessment under paragraph (2), the Committee shall, by way of notice published in the Alderney Official Gazette, specify -

- (a) the categories of ships involved in domestic shipping or Bailiwick shipping, their Companies and the port facilities that it has decided the Regulation shall apply to; and
- (b) the extent to which the Regulation shall apply to them.

(4) This Order does not apply to -

- (a) ships of war and troopships and other ships owned or operated by a Member State and used only on government non commercial service;
- (b) cargo ships of less than 500 gross tonnage;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of primitive build;
- (e) pleasure yachts not engaged in trade; and
- (f) fishing vessels.

Adaptations etc. to Regulation.

2. (1) The adaptations, exceptions and modifications to the Regulation set out in the schedule to this Order shall have effect.

(2) Any function, duty or power placed upon or vested in the States by virtue of the implementation of the Regulation under the 1994 Implementation Law, may be carried out, performed and exercised by the Committee.

PART 2 DESIGNATIONS AND APPOINTMENTS

Designations.

3. (1) The Committee is hereby designated -
- (a) the “**focal point for maritime security**”; and
 - (b) the “**competent authority for maritime security**”,
- for the purposes of the Regulation.

Appointment of duly authorised officers.

4. (1) The Harbourmaster and any other person that -
- (a) the Committee; or
 - (b) the Harbourmaster,

may by notice in writing appoint for the purpose, are duly authorised officers under this Order.

(2) The Harbourmaster and any person appointed under paragraph (1), may exercise all or any of the powers of a duly authorised officer under this Order.

(3) For the avoidance of doubt and without limiting the generality of the same, the power of appointment under paragraph (1) includes the power -

- (a) to do all such things as may be reasonably necessary from time to time to ensure the efficacy of an appointment;
- (b) to appoint subject to conditions or limitations; and
- (c) to revoke an appointment.

PART 3 INSPECTIONS

Inspection of ships and port facilities by a duly authorised officer.

5. (1) For the purpose of enabling a duly authorised officer to verify that ships and port facilities are in compliance with the requirements of the Regulation or of ascertaining whether any enforcement notice is being or has been complied with, a duly authorised officer shall have the power, on production (if required) of his credentials, to inspect -

- (a) any Guernsey ship;
- (b) any other ship while in a port facility; and
- (c) any Alderney port facility.

(2) A duly authorised officer inspecting a ship or a port facility shall have power -

- (a) to subject any property found by him on the ship, or any apparatus or equipment installed on the ship which is required by or approved in the relevant ship security plan to such tests;
- (b) to subject any part of the port facility or any property found by him in the port facility, or any apparatus or equipment installed in the port facility which is required by or approved in the relevant port facility security plan to such tests;
- (c) to take such steps -
 - (i) to ascertain what practices or procedures are being followed in relation to security; or
 - (ii) to test the effectiveness of any practice or procedure relating to security, or
- (d) to require the Company, or the Company security officer, or the ship security officer or the master of the ship or the port facility security officer or a person acting on behalf of any of the aforementioned persons to furnish to him such information,

as the duly authorised officer may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to paragraph (4), a duly authorised officer, for the purpose of exercising any power conferred on him by paragraphs (1) or (2) in relation to a ship or in relation to a port facility, may -

- (a) for the purpose of inspecting a ship, go on board and take all such steps as are necessary to ensure that it is not moved; or
- (b) for the purpose of inspecting a port facility, enter any building or works in the port facility or enter upon any land in the port facility.

(4) The powers conferred by paragraph (3) shall not include power for a duly authorised officer to use force for the purpose of going on board any ship, entering any building or works or entering upon any land.

(5) Any person who -

- (a) without reasonable excuse, fails to comply with a requirement imposed on him under paragraph (2)(d); or
- (b) in furnishing any information so required makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

commits an offence.

(6) A person guilty of an offence under paragraph (5) is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the uniform scale, or to both.

PART 4 DETENTION OF SHIPS

Detention notices.

6. (1) Where a duly authorised officer detains a ship pursuant to the control and compliance measures specified in regulation 9 of Chapter XI-2, he shall serve on the master of the ship a notice (in this Part referred to as a detention notice) which states that the duly authorised officer has grounds for believing that -

- (a) the ship is not in compliance with Chapter XI-2;
- (b) the ship is not in compliance with Part A of the ISPS Code; or
- (c) there has been a failure to make available for inspection a valid International Ship Security Certificate or a valid Interim International Ship Security Certificate issued under the provisions of Part A of the ISPS Code.

(2) A detention notice shall specify the steps that the duly authorised officer requires to be taken in respect of the ship in order to secure its release from detention.

(3) A detention notice shall require the master to take steps to ensure that the ship does not proceed to sea while the detention notice is in force.

(4) The master of a ship in respect of which a detention notice is served may object to the notice in writing to the Committee.

(5) On receipt of an objection to the detention notice under paragraph (1) the Committee, or a person appointed by the Committee for the purpose, shall -

(a) consider the objection;

(b) allow the person making the objection and the duly authorised officer who gave the notice, an opportunity to make written or oral representations to the Committee or person appointed by the Committee;

(c) confirm, modify or cancel the notice; and

(d) give notice of its or his decision in writing to the person who made the objection and to the duly authorised officer who served the notice.

(6) The Committee, or any person appointed by the Committee for the purpose, shall include in its or his decision a finding as to whether in relation to any of the matters specified in respect of a ship in a detention notice in pursuance of paragraph (1), there was or was not a valid basis for the detention of the ship.

(7) A detention notice in respect of a ship shall continue in force until -

(a) a duly authorised officer cancels it by notice in writing; or

(b) the Committee (or any person appointed by the Committee for the purpose) cancels it under paragraph (5)(c).

(8) A person commits an offence if without reasonable excuse he fails to comply with a requirement of a detention notice.

(9) A person who is guilty of an offence under paragraph (8) shall be liable -

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both; or

(b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the uniform scale, or to both.

Compensation for invalid detention of a ship.

7. (1) Where having considered an objection in respect of a detention notice relating to a ship under article 6 the Committee finds that there was no valid

basis for the detention, the owner of the ship shall be entitled to receive compensation for such loss or damage suffered by him which is directly attributable to the detention of the ship.

(2) Any compensation granted under this article shall be payable by the Committee from the general revenue account of the States.

(3) A claim for compensation under this article shall be made in writing to the Committee within three months beginning with the date of the Committee's decision under article 6(5)(d).

(4) Any person claiming compensation under this article shall provide all such information and supplementary information in respect of the loss or damage incurred as the Committee may at any time reasonably require and shall verify the same in any such manner, including the production of original documents in his possession or control, as may be reasonably required.

(5) In the absence of agreement, the amount of compensation payable under this article shall be determined by a single arbitrator.

(6) The Arbitration (Alderney) Law, 1983(b) shall apply to an arbitration under this article; and for the purposes of that Law an arbitration agreement shall be deemed to exist between the States and the person claiming compensation.

PART 5 RESTRICTED AREAS

Unauthorised presence in a restricted area of a ship.

8. (1) A person shall not -

- (a) go onto or into any part of a restricted area of a ship, except with the permission of the master or the ship security officer or a person acting on their behalf, and in accordance with any conditions subject to which that permission is for the time being granted; or
- (b) remain in any part of such a restricted area after being requested to leave by the master or the ship security officer or a person acting on their behalf.

(2) Paragraph (1)(a) does not apply unless proved that, at the material time, notices stating that the area concerned was a restricted area were posted so as to be readily seen and read by persons entering the restricted area.

(b) Ordres en Conseil Vol. XXVII, p. 525; Vol. XXIX, p. 178.

(3) A person who contravenes paragraph (1) without lawful authority or reasonable excuse is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

(4) A police officer, or the master or the ship security officer, or a person acting on behalf of the master or the ship security officer, may use such force as is reasonable in the circumstances to remove from a restricted area a person remaining in it in contravention of paragraph (1)(b).

Unauthorised presence in a restricted area of a port facility.

9. (1) A person shall not -

- (a) go onto or into any part of a restricted area of a port facility, except with the permission of the port facility security officer or a person acting on his behalf, and in accordance with any conditions subject to which that permission is for the time being granted; or
- (b) remain in any part of such a restricted area after being requested to leave by the port facility security officer or a person acting on his behalf.

(2) Paragraph (1)(a) does not apply unless proved that, at the material time, notices stating that the area concerned was a restricted area were posted so as to be readily seen and read by persons entering the restricted area.

(3) A person who contravenes paragraph (1) without lawful authority or reasonable excuse is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

(4) A police officer, or the port facility security officer, or a person acting on behalf of the port facility security officer, may use such force as is reasonable in the circumstances to remove from a restricted area a person remaining in it in contravention of paragraph (1)(b).

**PART 6
ENFORCEMENT AND PENALTIES**

Enforcement notices.

10. A duly authorised officer may serve a notice (in this Part referred to as an “enforcement notice”) where it appears to him that any person has failed to comply with -

- (a) the requirements of Chapter XI-2;

- (b) the requirements of Part A of the ISPS Code;
- (c) the requirements of paragraphs 1.12, 6.1, 8.3, 8.5, 8.7, 8.8, 8.9, 8.10, 13.6, 13.7, 18.5 or 18.6 of Part B of the ISPS Code; or
- (d) the requirement to submit specified changes or amendments to a ship security plan or a port facility security plan to the Committee for approval in accordance with article 16.

Contents of enforcement notices.

11. (1) An enforcement notice shall state the matters which appear to the duly authorised officer to constitute a failure to comply with the requirements as specified in article 10.

(2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the requirements set out in the notice.

(3) An enforcement notice shall specify the steps which the duly authorised officer requires to be taken, or the activity or the activities which the duly authorised officer requires to cease in order to achieve compliance with the requirements specified in article 10.

(4) An enforcement notice shall specify the date on which it is to take effect and shall take effect on that date.

(5) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities.

(6) Where different periods apply to different steps or activities, references in this Order to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(7) An enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

Offences relating to enforcement notices.

12. (1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him is guilty of an offence and liable -

- (a) on conviction on indictment to a fine; or

(b) on summary conviction, to a fine not exceeding level 5 on the uniform scale.

(2) Where a person is convicted of an offence under paragraph (1) and if, without reasonable excuse, the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the uniform scale for each day on which the failure continues.

Objections to enforcement notices.

13. (1) A person on whom an enforcement notice is served may serve on the Committee a notice in writing of his objection to the enforcement notice.

(2) The grounds of objection to an enforcement notice are -

- (a) that the steps required by the notice to be taken for the purposes of article 10 have been complied with;
- (b) that the steps required by the notice to be taken do not constitute a failure to comply with the requirements as specified in article 10;
- (c) that any requirement of the notice -
 - (i) is unnecessary for complying with the requirements specified as mentioned in subparagraph (a) and should be dispensed with; or
 - (ii) having regard to the terms of those requirements, is excessively onerous and or inconvenient and should be modified in a manner specified in the notice of objection under paragraph (1).

(3) An objection to an enforcement notice under this article shall be served on the Committee within seven days of the date on which the enforcement notice was served.

(4) A person making an objection to an enforcement notice under this article shall submit to the Committee, either when making the objection or within the seven days referred to in paragraph (3), a statement in writing -

- (a) specifying the grounds on which he is objecting to the enforcement notice; and
- (b) providing such further information as may be appropriate.

(5) Where the person on whom an enforcement notice is served serves a

notice under paragraph (1), the Committee shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Committee for the purpose, and shall then serve on the objector a notice in writing either -

- (a) confirming the enforcement notice as originally served; or
- (b) confirming it subject to one or more modifications specified in the notice; or
- (c) cancelling the enforcement notice.

(6) An enforcement notice to which an objection has been made under paragraph (1) shall not take effect until it has been confirmed, with or without modification, by a notice under paragraph (5).

(7) An enforcement notice served on any person -

- (a) may be revoked by a notice served on him by a duly authorised officer; and
- (b) may be varied by a further enforcement notice.

PART 7 MISCELLANEOUS

Minimum period for retention of records.

14. Records of the activities specified in paragraph 10.1 of Part A of the ISPS Code and which are addressed in the ship security plan shall be kept on board the ship for a period of at least three years from the date of the activity taking place.

Minimum period for retention of a declaration of security.

15. (1) Subject to paragraph (2), ships and port facilities shall retain any completed declaration of security for a period of at least three years after it was last used.

(2) In the case of ships, any completed declaration of security relating to one of its last ten calls at port facilities, shall be retained by the ship for as long as it relates to any of the ship's last such ten calls, even where the period over which those calls extend exceeds the minimum three year period referred to in paragraph (1).

Amendments to Plans.

16. (1) The Committee shall decide and thereafter notify Companies and port facilities in writing, of the changes or amendments to the relevant approved ship security plan or port facility security plan that must first be submitted to the Committee for approval before they are implemented by those ships and port facilities.

(2) Ships, their Companies and port facilities shall not implement any of the changes or amendments referred to in paragraph (1) without first obtaining the approval of the Committee.

Offences concerning bodies corporate.

17. (1) Where an offence under this Order has been committed by a body corporate, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director.

PART 8
INTERPRETATION AND GENERAL

Interpretation.

18. (1) In this Order, unless the context otherwise requires -

“**Bailiwick**” means the Bailiwick of Guernsey;

“**Bailiwick shipping**” means any transport service by ship in sea areas from a port facility of the Bailiwick to the same port facility or another port facility within the Bailiwick;

“**British Islands**” means the United Kingdom and the Channel Islands;

“**cargo ship**” is any ship which is not a passenger ship, as defined in regulation I-2(g) of the SOLAS Convention;

“**Channel Islands**” means the Bailiwick and the Bailiwick of Jersey;

“Chapter XI-2” means Chapter XI-2 of the Annex to the SOLAS Convention;

“Committee” means the General Service Committee of the States;

“Company” means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibility imposed by the International Safety Management Code, as defined in regulation IX-1 of the SOLAS Convention;

“Company security officer” means the person designated by the Company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained, and for liaison with port facility security officers and the ship security officer, as defined in paragraph 2.1.7 of Part A of the ISPS Code;

“declaration of security” means an agreement reached between a ship and either a port facility or another ship with which it interfaces specifying the security measures each will implement, as defined in regulation XI-2/1.15 of the SOLAS Convention;

“designated authority” means the Committee, in accordance with article 3(c);

“domestic shipping” means any transport service by ship in sea areas from a port facility of the British Islands to the same port facility or another port facility within the British Islands, excluding Bailiwick shipping;

“duly authorised officer” means a person appointed under article 4;

“Guernsey ship” means a ship which is registered on any part of the Register of British Ships held in Guernsey or is based in and operated from Guernsey and may be registered under the Boats and Vessels (Registration, Speed Limits and Abatement of Noise), Ordinance 1970(c);

“Harbourmaster” means the States’ Harbourmaster;

“Her Majesty’s Procureur” includes Her Majesty’s Comptroller;

“high speed craft” means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding $3.7 \nabla^{0.1667}$, as defined in regulation X/1.2 of the SOLAS Convention;

(c) Recueil d’Ordonnances Tome XVI, p. 346; Tome XIX, p. 220; Tome XXI, p. 16; Tome XXIV, p. 418; Tome XXVI, p. 308 and Ordinance No. XXXIII of 1996.

“ISPS Code” means the International Code for the Security of Ships and of Port Facilities as adopted by the Conference of Contracting Governments to the SOLAS Convention;

“international shipping” means any maritime transport service by ship from a port facility of the British Islands to a port facility outside the British Islands, or conversely;

“international voyage” has the meaning given by paragraph (2);

“mobile offshore drilling unit” means a mechanically propelled mobile offshore drilling unit, as defined in regulation XI-1/1 of the SOLAS Convention;

“passenger ship” means a ship which carries more than twelve passengers, as defined in regulation I/2(f) of the SOLAS Convention;

“police officer” means a member of the salaried police force of the Island of Guernsey, and member of any police force which may be established by the States and within the limits of his jurisdiction, a special constable appointed under the Special Constabulary (Alderney) Ordinance, 2002(d);

“port facility” means a location determined as such by the designated authority, where the ship/port interface takes place and includes areas such as anchorages, waiting berths and approaches from seaward as appropriate, as defined in regulation XI-2/1.9 of the SOLAS Convention;

“port facility security officer” means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and Company security officers, as defined in paragraph 2.1.8 of Part A of the ISPS Code;

“Regulation” has the meaning given by section 1 of the Security of Ship and Port Facilities (Alderney) Ordinance, 2004;

“restricted area” means an area in a ship or a port facility that is identified as such in a ship security plan or port facility security plan;

“sea areas” means areas established pursuant to Article 4(2) of Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships;

“ship/port interface” means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provision of port services to or from the ship, as defined in regulation XI-2/1.8 of the SOLAS Convention;

“**ship security officer**” means the person on board the ship, accountable to the master, designated by the Company as responsible for the security of the ship, including implementation and maintenance of the ship security plan and for liaison with the Company security officer and port facility security officers, as defined in paragraph 2.1.6 of Part A of the ISPS Code;

“**the SOLAS Convention**” means the International Convention for the Safety of Life at Sea 1974(e) as amended in accordance with its Protocol of 1988(f); and

“**States**” means the States of Alderney.

(2) For the purposes of this Order, an “**international voyage**” means a voyage from a country to which the SOLAS Convention applies to a port outside such country, or conversely, and, for the avoidance of any doubt, the British Islands shall constitute a country for the purposes of the Convention.

(3) Unless the context otherwise requires -

- (a) a reference in this Order to a numbered or lettered Part, article, paragraph, subparagraph or clause is a reference to the Part, article, paragraph, subparagraph or clause of this Order which is so numbered or lettered; and
- (b) a reference in a provision of this Order to a numbered or lettered paragraph, subparagraph or clause is a reference to the paragraph, subparagraph or clause of that provision which is so numbered or lettered.

(4) The provisions of the Interpretation (Guernsey) Law, 1948(g) apply to the interpretation of this Order -

- (a) throughout the Island of Alderney; and
- (b) as they apply to the interpretation of an enactment.

Extent.

19. This order shall have effect in Alderney and its territorial waters.

Citation.

20. This Order may be cited as the Security of Ship and Port Facilities (Alderney) Order, 2004.

-
- (e) Cmnd 7874.
 - (f) Cmnd 4420.
 - (g) Ordres en Conseil Vol. XIII, p. 355.

Commencement.

21. This Order shall come into force -

(a) on 1st July 2004 for international shipping; and

(b) on 1st July 2005 for such categories of domestic shipping or Bailiwick shipping as the Committee shall specify in a notice issued in accordance with article 1(3).

Dated this 30th day of June 2004.

B Pengilley
Chairman, General Services Committee
For and on behalf of the Committee

SCHEDULE

ADAPTATIONS, EXCEPTIONS AND MODIFICATIONS

References to “Member States” and “British Islands”.

1. Unless the context otherwise requires, a reference in the Regulation (in its application as adapted or modified under the 1994 Implementation Law), -
 - (a) to a “**Member State**” includes a reference to the States; and
 - (b) to the “**British Islands**” shall have the meaning given by article 18(1).

Article 5 of the Regulation.

2. Article 5 of the Regulation is modified in its application as follows -

“Article 5

Alternative security agreements or equivalent security arrangements

1. For the purposes of this Regulation, regulation 11 (Alternative security agreements) of the special measures to enhance maritime security of the SOLAS Convention may also apply to scheduled shipping operating on fixed routes and using associated port facilities where those routes are between Alderney and another place in the British Islands or between Alderney and any Member State.
2. To that end, the States may conclude with the governments of the United Kingdom, Jersey, the Isle of Man, Guernsey, Sark or of a Member State, the bilateral or multilateral agreements provided for in the said SOLAS Convention regulation.
3. The periodic review of such agreements provided for in paragraph 4 of regulation 11 of the special measures to enhance maritime security must take place at intervals of no more than 5 years.
4. The States, may adopt, for domestic shipping, Bailiwick shipping and

the port facilities as referred to in articles 3(2) and 3(3) of this Regulation, equivalent security arrangements as provided for in regulation 12 (equivalent security arrangements) of the special measures to enhance maritime security of the SOLAS Convention, provided such security arrangements are at least as effective as those prescribed in Chapter XI-2 of the SOLAS Convention and the relevant mandatory provisions of the ISPS Code.”

Article 7.

3. Article 7(2) of the Regulation is modified in its application as follows -

“2. When a scheduled service is operated between Alderney and another place in the British Islands or between Alderney and a Member State, the States may request of the governments of the United Kingdom, Jersey, the Isle of Man, Guernsey, Sark or the Member State that an exemption be granted to that service in accordance with the conditions laid down in paragraph 1.”

EXPLANATORY NOTE

(This note is not part of this Order)

As far as it is necessary to do so, this Order implements in respect of Alderney, the European Parliament and Council Regulation No. 725/2004 which introduces and implements Community measures aimed at enhancing the security of ships used in international trade and domestic shipping and their associated port facilities in the face of threats of intentional and unlawful acts.

The EC Regulation also provides a basis for the harmonised interpretation and implementation of special measures to enhance maritime security adopted by the Diplomatic Conference of the International Maritime Organisation (“IMO”) on 12 December 2002, which amended the International Convention for Safety of Life at Sea (the “SOLAS Convention”) and established the International Ship and Port Facilities Security Code (“ISPS”). The relevant amendments to the SOLAS Convention are set out in Chapter XI - 2 of the Annex to the SOLAS Convention.

Article 1 of the Order specifies the types of ships and port facilities to which the provisions of the Order will apply.

Article 2 makes adaptations to the EC Regulation as it will have effect in respect of Alderney and provides for the General Services Committee to carry out any function of the States under the legislation.

Article 3 designates the Committee for the purposes of the EC Regulation.

Article 4 deals with the appointment of duly authorised officers for the purposes of exercising certain powers under the Order.

Article 5 provides for the inspection of ships and port facilities by a duly authorised officer for the purpose of establishing that ships and their companies and port facilities are acting in compliance with the requirements of the EC Regulation and thereby, the provisions in Chapter XI - 2 of the SOLAS Convention and Part A and the mandatory provisions of Part B of the ISPS Code.

Article 6 makes provision for the detention of ships pursuant to the control and compliance measures set out in Regulation 9 of Chapter XI - 2 of the SOLAS Convention. It specifies the matters which are to be set out in a detention notice and the effect of such notice. It also specifies the procedure for objecting to a detention notice and creates an offence where a person without reasonable excuse fails to comply with a detention notice.

Article 7 makes provision for compensation to be paid to the owner of the ship in circumstances where there was no valid basis for the detention of the ship and where the owner of the ship suffered loss or damage in consequence of the detention.

Articles 8 and 9 provide that it is an offence subject on summary conviction to a fine of up to level 5 on the uniform scale, for a person without lawful authority to enter a restricted area of a ship or a port facility. Those Articles also provide that the person specified in the Order may use reasonable force to remove an unauthorised person from a restricted area where they remain in such an area in contravention of the Articles.

Articles 10 - 13 make provision for the enforcement of the requirement set out in the EC Regulation and thereby Chapter XI - 2 of the SOLAS Convention, Part A of the mandatory provisions in Part B of the ISPS Code and the requirement to submit specified changes or amendments to a ship's security or port facilities security plan to the Committee for approval. Failure to comply with an enforcement notice is a criminal offence. A person convicted of such an offence may be liable on conviction of indictment to a limited fine or on summary conviction to a fine not exceeding level 5 on the uniform scale.

Article 11 specifies the matters that are to be set out in an enforcement notice and the procedure for objecting to such a notice and Article 13 sets out the procedure for objecting to an enforcement notice.

Article 14 provides records of activities specified in paragraph 10.1 in Part A of the ISPS Code which are addressed in the ship's security plan and are to be kept on the ship for a period of at least 3 years from the date of the activity taking place.

Article 15 provides that ships and port facilities must retain any declaration of security that is completed for a period of at least 3 years. It also provides that where a declaration of security relates to a ship's last ten calls at port facilities, it must be retained by the ship for as long as it relates to one of those last 10 calls, even though the period over which those calls extend exceeds the minimum three year period referred to in the Article.

Article 16 requires that specified changes or amendments to a ship security plan or a port facility security plan must be submitted to and approved by the Committee before they are implemented.

Article 17 makes certain special provision relating to offences committed by bodies corporate.

Articles 18, 19, 20 and 21 deal with interpretation, the extent of the effect of the Order, citation and commencement respectively.

The Schedule sets out certain adaptations, exceptions and modifications to the EC Regulation which are necessary to give proper effect to the Regulation in respect of Alderney.

D.V. JENKINS
Clerk of the States

To be purchased directly from:
The Clerk of the States, or the States Office, Alderney.
PRICE £4.00

Printed by Guernsey Herald Ltd., Victoria Road, Guernsey.