

STATES OF JERSEY



**DRAFT MARRIAGE AND CIVIL STATUS
(AMENDMENT No. 4) (JERSEY)
LAW 201- (P.91/2017):
SECOND AMENDMENT
(P.91/2017 Amd.(2)) –
THIRD AMENDMENT**

**Lodged au Greffe on 30th January 2018
by the Chief Minister**

STATES GREFFE

DRAFT MARRIAGE AND CIVIL STATUS (AMENDMENT No. 4) (JERSEY)
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PAGE 6, AMENDMENT 5 –

- (1) In paragraph (a), in the substituted paragraph (6)(b) for the words “a place” substitute the words “an extraordinary place”.
- (2) In paragraph (b), for the word “paragraph” before the em dash substitute the word “paragraphs”, and –
 - (a) in the substituted paragraph (13) –
 - (i) after the word “may,” insert the words “subject to paragraph (13A) and”,
 - (ii) in sub-paragraph (b) for the words “a place” substitute the words “an extraordinary place”, and
 - (iii) after the substituted paragraph (13) insert the following paragraph –

“(13A) The Minister may not certify a location as an extraordinary place of public religious worship unless –

 - (a) the owner or trustee of the location has given written consent to such certification; and
 - (b) the Minister, having consulted the principal occupiers or users of the location, considers it reasonable to do so.”;
- (3) After paragraph (b) insert the following paragraphs –
 - “(c) in paragraph (14) for the words “place of public religious worship” substitute the words “usual place of public religious worship or extraordinary place of public religious worship”;
 - (d) for paragraph (15)(a) substitute the following sub-paragraph –

“(a) shall be deemed to have been certified under paragraph (13)(a) as a place of usual public religious worship of the religious organization in favour of whom it was registered.”;

CHIEF MINISTER

REPORT

Article 23(6) of the proposed amended Marriage and Civil Status (Jersey) Law 2001 (the “[2001 Law](#)”), as set out in [P.91/2017](#), provides that approval cannot be given for the solemnization of same sex marriages at a location that is a usual place of religious worship according to the rites of the Church of England.

This provision was made to deal with the common law right of a parishioner to get married in their parish church (i.e. under Article 23(6) a same-sex couple will not have the right to get married in their parish church as that church cannot be approved for same-sex marriage).

This provision is in line with UK legislation and is a feature of the quadruple lock arrangement. This provision is distinct from all other provisions in the amended 2001 Law in that it is an absolute prohibition same-sex marriage, whereas all other provisions allow for same-sex marriage with the appropriate consents.

In their second amendment ([P.91/2017 Amd.\(2\)](#)), the Corporate Services Scrutiny Panel propose that this absolute ban is extended to any place of public religious worship certified by the Minister. It is understood that Panel propose this provision in order to deal with extraordinary places of religious worship, for example, chapels in private ownership which are rarely or occasionally used for public worship.

The Panel’s amendment is, however, very broad, with concerns that it could potentially allow for any places that are occasional used as places of public religious worship, to be prohibited as places that can be used for same-sex marriage, for example Bonne Nuit Bay or People’s Park.

Under the Panel’s amendment the Minister would not be required to certify places such as Bonne Nuit Bay – because in certifying any location the Minister would have to have regard to all the circumstances – but the Minister could potentially do so, thus making it a very broad provision.

It is therefore proposed that Panel’s amendments to Article 23 are further amended, to allow that the Minister –

- may only certify extraordinary places of public religious worship, as opposed to any place of public religious worship; and
- may only do so with the consent of the owner or trustee and having consulted the principal occupiers or users of the location.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these amendments.