

STATES OF JERSEY

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DRAFT LIQUOR (RESTRICTIONS ON CONSUMPTION) (JERSEY) LAW 200- (P.9/2005): AMENDMENTS

**Lodged au Greffe on 1st March 2005
by the Deputy of St. Martin**

STATES GREFFE

PAGE 12, ARTICLE 2 –

For paragraph (2) of Article 2 there shall be substituted the following paragraphs-

- “(2) The Home Affairs Committee may by Order designate any public place for the purposes of this Law, in connection with any public event to be held wholly or partly in that place, if the Committee is satisfied that –
- (a) any nuisance or annoyance to the public or a section of the public; or
 - (b) any disorder,
- is likely to be associated with the consumption of liquor in that place during that event.
- (3) An Order under paragraph (2) shall specify –
- (a) a date on which the Order will come into force, being a date not earlier than the day on which the event begins; and
 - (b) a date on which the Order will cease to have effect, being a date not later than the day on which the event ends.
- (4) Before making an Order under this Article, the Home Affairs Committee shall consult the Connétable of the parish in which the public event is to take place.”.

DEPUTY OF ST. MARTIN

REPORT

On 21st May 2002, the States approved in principle my proposition (P.46/2002), to introduce legislation “to permit police officers to confiscate alcohol in the possession of any person in a public place who is causing a nuisance or whose possession of alcohol might, in the opinion of the officers, lead to further misbehaviour”. The Home Affairs Committee was tasked with bringing forward for approval the necessary legislation to give effect to the proposal.

My proposition made it clear. I was asking for legislation to be prepared that would enable police officers to confiscate alcohol in the possession of **any person in a public place**. This principle was supported in my report and when I proposed my proposition on 21st May 2002.

Since 2002 the Home Affairs Committee has produced a number of drafts before eventually lodging its Draft Liquor (Restrictions on Consumption) (Jersey) Law 200- (P.9/2005). It should be noted that the proposed legislation will enable police officers to confiscate alcohol from any person under 18 years in a public place, but the power to confiscate from persons over 18 years is confined to “designated public places”.

It is apparent that the Home Affairs Committee had been minded to present legislation, which would have enabled police officers to confiscate alcohol from persons over 18 years in a public place. However legal advice, received in January 2005, confirmed that although the draft Law itself would be compatible with the European Convention on Human Rights, care would need to be exercised by officers when considering whether a person is misbehaving and warned that human rights challenges could arise from time to time.

Following that advice, the Home Affairs Committee took the decision that the preferable way forward was to designate areas in which alcohol cannot legally, be consumed. These places would be known as “designated public places”.

A “designated public place” is defined in Article 1. It is a public place designated for the purposes of this Law by an Order made under Article 2. Article 2 defines how the Order it will operate. In order for a “designated public place” to be so designated is dependent on the Home Affairs Committee being satisfied that –

- (a) any nuisance or annoyance to the public or a section of the public; or
- (b) any disorder,

has been associated with the consumption of liquor in that place.

Before making an Order under this Article the Home Affairs Committee shall consult the Connétable of the parish in which the public place is situated.

One can envisage there will be certain public places where the Home Affairs Committee will have no difficulty in making Orders. However there will be occasions where events will be held in public places, either on an ad hoc basis or annually. For example a particular organisation may wish to organise a public event in a public place to celebrate or commemorate some activity or festivity. There are also annual events such as the Gorey Fête, the Battle of Flowers and Muratti football matches for example, which attract large crowds. The majority of those attending have acted in an orderly fashion, unfortunately not all have done so and regrettably it is likely that a number of persons will do so in the future.

I believe it would be unnecessary and unreasonable to designate areas, which for most parts of the year are orderly. However I believe it would be most advantageous if a temporary Order could be given to cover a specific event or function. There are precedents such as the issue of Occasional Licences where upon application Licensees are able to sell or supply alcohol off their licensed premises at a designated location and for a specific time. Orders are also issued to close roads or restrict traffic to permit sporting or carnival activities.

The primary object of the police is the prevention of crime. The adage of prevention is better than cure also springs to mind. Therefore I believe that it would be extremely helpful and in the interests of good order, for the

police to be given the opportunity to apply to the Home Affairs Committee for a temporary Order which would cover a specified area and time.

The draft Law is already anticipatory. It gives police officers administrative powers to tell people not to drink in designated areas and to remove liquor from them in those places, even though they are not committing criminal offences. It does so in anticipation of a risk of trouble, based on the past misbehaviour of people drinking in such places.

What I seek is to widen Article 2 to enable designation and the consequential extending of police powers; to any public place in which bad behaviour that is associated with the consumption of liquor *is likely to occur*. This I believe would be in keeping with the principle of the draft Law. However rather than make that area a permanent designated public area, provision could be made for an Order to be granted to cover the period of time when an event or function is taking place.

The necessary signage could be put up before and removed after the event. Therefore there would be minimal financial and manpower implications. However there could be considerable financial and manpower savings if the proposed legislation prevents acts of misbehaviour or any other anti-social behaviour occurring whilst the event is being held.

Re-issue Note

These amendments are re-issued due to a typographical error in the title of the projet on the front cover and on page 2.