

STATES OF JERSEY

r

DRAFT RESTRICTION ON SMOKING (PUBLIC TRANSPORT) (AMENDMENT) (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 28th February 2006
by the Minister for Health and Social Services**

STATES GREFFE



Jersey

DRAFT RESTRICTION ON SMOKING (PUBLIC TRANSPORT) (AMENDMENT) (JERSEY) REGULATIONS 200-

REPORT

These Regulations form part of a set of 3 Regulations which will set the legal context for implementing phase one of “A Tobacco Strategy for Jersey”. The Tobacco strategy was agreed by the States in November 2003. The law drafting approach has been to extend the existing Restriction on Smoking (Jersey) Law 1973, to accommodate the changes required by “A Tobacco Strategy for Jersey”. Furthermore, in drafting the legislation, the practicalities regarding its enforcement have been incorporated into the provisions.

These Regulations amend the Restriction on Smoking (Public Transport) (Jersey) Regulations 1982 (which prohibit smoking in public transport) to insert a new offence and increased penalty provision. The current penalty for an offence under the Regulations is a fine not exceeding £50 and, if there is a second conviction, a fine not exceeding £200. The revised penalty is a fine at level 3 on the standard scale (level 3 is £2,000).

The purpose of these Regulations is to prevent passive smoking on buses and other forms of public transport by making it less likely that people will smoke on public transport. This will protect the health of drivers, children and other travellers. It is also popular with the public in general ban smoking in public places.

Financial and manpower statement

There are no financial or manpower implications for the States arising from these draft Regulations.

Explanatory Note

These Regulations amend the Restriction on Smoking (Public Transport) (Jersey) Regulations 1982 (which prohibit smoking in public transport) to insert a new offence and penalty provision. This amendment is required because of changes made to the Restriction on Smoking (Jersey) Law 1973 by the Restriction on Smoking (Amendment) (Jersey) Law 2006. Previously the Law provided for offences against the Regulations and the penalties but now the offences and the penalties are set out in the Regulations. The current penalty for an offence under the Regulations is a fine not exceeding £50 and, if there is a second conviction, a fine not exceeding £200.

Regulation 1 inserts an offence and penalty provision for contravening Regulation 1 of the 1982 Regulations (which makes it an offence to smoke in public transport). The new penalty for contravening those Regulations is a fine at level 3 on the standard scale.

Regulation 2 provides for the title of these Regulations and that they will come into force on the same day as the Restriction on Smoking (Amendment) (Jersey) Law 2006 comes into force.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1994, level 1 is £50, level 2 is £500, level 3 is £2,000 and level 4 is £5,000.

Article 13 of the Interpretation (Jersey) Law 1954 has the effect that –

- (a) where the penalty for an offence is expressed as a specified term of imprisonment or specified fine, a penalty not exceeding the specified term or amount may be imposed for the offence;
- (b) where no amount or level on the standard scale is specified for a fine, the fine is to be construed as a fine of an unlimited amount;
- (c) where the penalty for an offence is expressed as a term of imprisonment and a fine, either or both of the term of imprisonment and the fine may be imposed for the offence.



Jersey

DRAFT RESTRICTION ON SMOKING (PUBLIC TRANSPORT) (AMENDMENT) (JERSEY) REGULATIONS 200-

Made

[date to be inserted]

Coming into force

in accordance with Regulation 2

THE STATES, in pursuance of Articles 1 and 2 of the Restriction on Smoking (Jersey) Law 1973,^[1] have made the following Regulations –

1 New Regulation inserted

After Regulation 1 of the Restriction on Smoking (Public Transport) (Jersey) Regulations 1982^[2] there shall be inserted the following Regulation –

“1A Offence and penalty

A person who contravenes Regulation 1 shall be guilty of an offence and liable to a fine of level 3 on the standard scale.”.

2 Citation and commencement

These Regulations may be cited as the Restriction on Smoking (Public Transport) (Amendment) (Jersey) Regulations 200- and shall come into force on the same day as Article 6 of the Restriction on Smoking (Amendment) (Jersey) Law 2006 comes into force.

[1]

chapter 20.825

[2]

chapter 20.825.30