

STATES OF JERSEY



DRAFT UNLAWFUL PUBLIC ENTERTAINMENTS (AMENDMENT) (JERSEY) REGULATIONS 202- (P.22/2020): COMMENTS

**Presented to the States on 23rd March 2020
by the Education and Home Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

1. [P.22/2020](#) – Draft Unlawful Entertainments (Amendment) (Jersey) Regulations 202- (hereafter “P.22/2020”) has been lodged by the Minister for Home Affairs in light of the ongoing Covid-19 pandemic. The changes, if adopted would amend the [Unlawful Entertainments \(Jersey\) Regulations 2019](#) (hereafter “the triennial Regulations”) to allow the Bailiff to withdraw or add conditions to events which have already been granted consent. At present, under the triennial Regulations, once an event has been granted permission, it cannot be removed.
2. The Education and Home Affairs Scrutiny Panel (hereafter “the Panel”) notes that the rationale for this change is in order to allow for large-scale events to be cancelled if deemed to be a danger to public health during the current pandemic. Whilst on the face of it the changes seem reasonable, upon further examination the Panel has uncovered concerns about the proposed change.
3. It is noted that were these changes to be made outside of an emergency situation (such as the Covid-19 pandemic), it is likely that consultation would be undertaken with key stakeholders in the event management field to ascertain their views. For obvious reasons, this has not happened at this stage. Furthermore, the Panel believes that any changes granting powers over the potential cancellation of events should be reviewed in order to provide certainty that they comply with the strictest rules of governance and transparency. Whilst it is understood that these are exceptional times, it is important that full regard is given to important, proportionate due process.
4. Secondly, the Panel is concerned at the length of time that these new powers would be implemented for. Noting that the triennial Regulations are renewed every 3 years, the next possible time to renew them would be in 2022. This would mean that the powers to remove consent or place conditions would be in place for a significant period after they were initially required. Noting that several other temporary emergency powers are being brought forward with a cut-off date of 30th September 2020, the Panel is concerned that this could give rise to questions in the Assembly, and in turn create a situation where these powers were not adopted. This could create more uncertainty in the current situation.
5. The Panel questioned the rationale for not including a time-limit within P.22/2020. In response it was told that there was a general consensus that the powers within the triennial Regulations were anodyne, and situations other than Covid-19 (e.g. flood, storms, etc.) could arise and require conditions or removal of permission for an event in the interest of public safety. It was explained that as the triennial Regulations were time-limited in any case, this did not seem injurious to civil liberties. Furthermore, it was explained that the changes could be advantageous to event organisers in that they would (but not certainly) be more likely to receive a pay-out from an insurer in the event that the Government cancelled an event, as opposed to cancelling it themselves because no-one was able to attend.

6. Whilst the Panel understands the rationale behind the changes, it does not feel that their extension until 2022 is proportionate in light of the current situation. There is, however, an acknowledgment that there is a degree of urgency to implement these powers in order to deal with events which may occur over the course of the pandemic and its impact on the Island. The Panel has therefore found itself in somewhat of a quandary regarding P.22/2020.
7. The Panel considered an amendment to the proposed changes in order to implement a 30th September 2020 cut-off for the application of the powers. However, given the speed at which the majority of this legislation has been required to be progressed, and noting the competing priorities of those drafting changes to the legislation, the Panel consulted with the Minister for Home Affairs on the best way forward.
8. The Panel is pleased to say that the Minister has agreed in writing that, should the changes be adopted by the States Assembly, he will bring forward an amendment to the triennial Regulations to remove the additional powers. This has been agreed to take place within 6 months on the Panel's recommendation. This will remove the initial burden that would have been placed on Officers dealing with changes to the legislation (noting that an amendment would have had to have been brought forward the day prior to the debate) and allow the powers to be in place when necessary. It will also mean that the concerns surrounding the amount of time they would be in place for are addressed.
9. It is important to state that the triennial Regulations will need to be reviewed fully when due for renewal, either by this Panel or its successor Panel, and full consideration and consultation should be given to these additional powers at that stage.

Re-issue Note

This publication is re-issued to include an extra sentence in paragraph 8 which was inadvertently omitted from the originally published version.