

STATES OF JERSEY



DRAFT EXPLOSIVES (JERSEY) LAW 201- (P.96/2014): AMENDMENT

**Lodged au Greffe on 17th June 2014
by the Education and Home Affairs Scrutiny Panel**

STATES GREFFE

PAGE 35, ARTICLE 24 –

- (a) for the heading to Article 24 substitute the heading “Grant of magazine licence”;
- (b) at the beginning of Article 24 insert the paragraph number “(1)”;
- (c) after paragraph (1) add the following paragraph –
 - “(2) The Minister shall, before deciding whether to grant an application for a magazine licence, consult the Connétable of the parish in which the magazine is or would be located.”;
- (d) after paragraph (2) add the following paragraph –
 - “(3) The Minister, when granting an application for a magazine licence, shall send a copy of the licence to the Connétable of the parish in which the magazine is or would be located.”.

EDUCATION AND HOME AFFAIRS SCRUTINY PANEL

REPORT

The Education and Home Affairs Scrutiny Panel has undertaken a review of the draft Explosives Law during the latter part of the extensive drafting process undertaken by the Minister for Home Affairs.

The Terms of Reference for the review were to ensure that –

1. *Points of principle and detail within the Draft Explosives (Jersey) Law 201- meet the requirements of the Island by –*
 - (i) *comparing the draft legislation with the current legislation;*
 - (ii) *establishing if there are any areas that are not suitably covered by the draft Law;*
 - (iii) *ensuring that the draft Law contains recognised checks, balances and safeguards;*
 - (iv) *ensuring that engagement in public consultation has taken place, with consideration being given to integrate results into the draft Law.*
2. *Clear and authoritative explanations of the purpose and meaning of the draft Law provisions are placed on the public record. This will be achieved by balanced, informed, evidence-based challenge to any policy underpinning the draft legislation with specific scrutiny of the text itself.*
3. *The Panel will present its findings to the States of Jersey.*

A detailed Scrutiny process examined each Article in turn, with Connétables, stakeholders and the Minister for Home Affairs. The Panel received evidence showing that the Explosives (Jersey) Law 1970 is in need of updating to bring it in line with current best practice in the provision of public safety.

During a public hearing with the Minister for Home Affairs, there was a frank and open exchange of information, during which the Minister recognised various points raised and evidenced by the Panel and agreed to make changes. The Panel will not go through those changes in this report, many of which are recognised within the Minister's report and are reflected in the draft legislation placed before the States. The Panel again thanks the Minister for his open and helpful approach.

It was apparent that the main concern of the Comité des Connétables lay in knowing where explosives were stored within their Parishes. This was considered a reasonable concern by the Panel and indeed, during the public hearing on 24th March 2014, the Minister for Home Affairs concurred with that concept and agreed to amend his draft of the time.

The Minister's report attached to the proposition states –

“Licence for the Storage of Explosives (Article 23)

17. *The Minister has agreed with the Comité des Connétables to add the Connétable of the relevant Parish to the distribution list for copies of storage and use licences that are issued under the Explosives Law. This will be included in the Codes of Practice issued under Article 73. Explosives licences for storage and use are issued on an annual basis and expire on 31st December of the year in which they are issued. It should be borne in mind that in the case of the quarries, their magazines are normally almost empty on a daily basis. The quarries do not hold their maximum capacity other than on a day when they intend to blast, and they bring the product in early the same morning from magazines at Crabbé. The explosives magazines are routinely inspected and licensed by the Explosives Licensing Officer.”*

It is the view of the Panel that Connétables MUST be aware of the location of magazines within their Parish. Whilst it is useful that the Codes of Practice would contain a requirement for the Connétables to be notified, the Panel, after consultation with the Comité des Connétables, maintains that the requirement is of such importance that it should be included in the Law.

In addition, there is evidence received by the Panel that the Connétables would like to be included in the consultation process when licences for new magazines are applied for. It is recognised that this is an infrequent event, and the Connétables are not looking for a power to veto any such licence. However, it is considered reasonable that the Connétable of the Parish concerned should have a considered view in the deliberation of such licence applications by the Minister.

In order to do this, the Panel suggests that Article 24 be amended to provide the necessary changes.

The review has examined all aspects of the draft Law and, other than in the above respect, the Panel is satisfied that the proposed legislation covers all aspects contained within the Explosives (Jersey) Law 1970 and provides the framework for improved standards in all aspects of the use of explosives in the Island.

It is recognised that much of the Law provides a framework for Regulations to be hung upon. That is where the detailed considerations will be examined. For example, specific details relating to fireworks, which is an emotive subject in some parochial areas, depends on the Regulations for control. The Panel recommends that the drafting of the Regulations receives a separate piece of scrutiny work at the appropriate time.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from this amendment.