

STATES OF JERSEY



Jersey

DRAFT UNLAWFUL PUBLIC ENTERTAINMENTS (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 9th March 2022
by the Minister for Home Affairs
Earliest date for debate: 25th April 2022**

STATES GREFFE

REPORT

Background

The [Unlawful Public Entertainments \(Jersey\) Regulations 2019](#) (“the 2019 Regulations”) are triennial Regulations which expire on 20th July 2022. These new draft Unlawful Public Entertainments (Jersey) Regulations 202- (“the draft Regulations”) make the same provision as the 2019 Regulations but will run for only two years until July 2024.

The primary purpose of this legislation is to establish a framework by which public events in Jersey can be managed in a safe way with a minimum of disruption to the public. In particular, they provide that it is an offence to hold public entertainments without the permission of the Bailiff, and that the Bailiff may grant such permission subject to any conditions that he thinks fit.

Although the legislation rests on the role of the Bailiff, in practice he is supported by a ‘Public Entertainments Panel’, consisting of operational representatives from –

- States of Jersey Police
- Jersey Fire and Rescue Services
- Ambulance Service
- Environmental Health
- Health and Safety Inspectorate

Context

The original set of triennial Regulations was adopted by the Assembly in 1992, primarily to address illegal raves, and they have been remade everything three years since. In that time, the management structure outlined above has been developed to underpin the use of these interim powers, which have become a core component of the management of public space.

Efforts to devise a permanent replacement for these triennial Regulations appear to have begun in 2000. Since that time, arrangements for the management of public space have been further codified by the [Road Works and Events \(Jersey\) Law 2016](#) (from [P.152/2015](#)), which revised powers for highway authorities, and gave the Minister for Transport and Technical Services (now the Minister for Infrastructure) the duty of regulating some events on beaches.

Further, in 2015 the Assembly adopted the seventh amendment ([P.27/2015 Amd.\(7\)](#)) to the Draft Strategic Plan 2015 – 2018 ([P.27/2015](#)), agreeing to “*Delegate authority to the Parish of St. Helier for the licensing of small-scale events within the parish, including in its public squares and precincts, after appropriate consultation with the relevant authorities and subject to all necessary safeguards, risk assessments being in place*”.

In addition, in June 2015, the Assembly agreed in principle that marriage should be allowed to take place in the open air and in public spaces (see [P.65/2015](#)).

In 2016, the Assembly was advised that work had commenced on scoping an alternative route for the management and approval of entertainments and events in the public domain. The intention was to establish a single, centrally managed register to manage the use of public space.

This was intended to alleviate the potential issues that might arise from the current position, where there are multiple routes to gain temporary rights of usage over public space, with multiple decision-makers who are not bound to communicate with one another.

This work had not been completed by 2019 and the Triennial Regulations were remade in July 2019.

Work continued on a revised system of events management in 2019, led by the (then) Growth Housing and Environment Department, but the staff and resources dedicated to this activity were redirected in early 2020 to the Covid-19 pandemic response, as were relevant staff within Strategic Policy, Performance and Population.

It has therefore not been possible to complete the complex development work to devise an improved system, nor to undertake the considerable public consultation that a satisfactory system will require.

It is therefore with considerable regret that the Minister has decided that the best course of action is to bring new Triennial regulations to the Assembly. However, as a measure of commitment to the development of an improved system, the new Regulations have been made to run for only two years, not three as in previous iterations. This reflects the pressing need to develop improved arrangements and anticipates that Government will allocate resources to progress this activity as a priority in 2022-2024.

As they do not have an overarching Law to review in the usual way, these draft Regulations have been subject to a human rights audit and have been found to have no human rights implications.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from the adoption of these draft Regulations. There may be resource requirements required to develop a revised system, but that requirement exists whether or not these Regulations are approved.

EXPLANATORY NOTE

The Draft Unlawful Public Entertainments (Jersey) Regulations 202-, if passed, will replace the Unlawful Public Entertainments (Jersey) Regulations 2019 on their expiry, and will expire after 2 years. It will remain an offence to hold a public entertainment without the permission of the Bailiff, or to contravene a condition on that permission.

Regulation 1 re-enacts the offence of holding a public entertainment without the permission of the Bailiff (with a penalty of imprisonment for up to 6 months, an unlimited fine, or both).

Regulation 2 re-enacts the offence of contravening a condition subject to which permission is given (with a penalty of imprisonment for up to 6 months, an unlimited fine, or both). A contravention (which includes a failure to comply) may occur due to circumstances that the organiser of the event cannot control. So for the offence to be proved, it must be shown that the organiser or person concerned, in providing the event, did not take all reasonable precautions to avoid the contravention.

Regulation 3 re-enacts the provision on the liability of individuals when the offence is committed by a body corporate, a limited liability partnership or a separate limited partnership.

Regulation 4 re-enacts the statement that the Regulations do not alter any customary law offence.

Regulation 5 names the Regulations and brings them into force on 21st July 2022 (when the current triennial Regulations expire). *Regulation 5* also provides for the Regulations to expire after 2 years rather than the usual 3 years for triennial Regulations.



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Made *[date to be inserted]*

Coming into force *[date to be inserted]*

THE STATES make these Regulations under the [Order in Council dated 14th April 1884](#) –

1 Organising an unlawful public entertainment an offence

- (1) A person who organises or is otherwise concerned in providing an unlawful public entertainment commits an offence and is liable to imprisonment for a term of 6 months and to a fine.
- (2) For the purposes of paragraph (1), a public entertainment is unlawful if it is held without the permission of the Bailiff.
- (3) The Bailiff may grant permission for the provision of a public entertainment subject to such conditions as the Bailiff thinks fit.

2 Contravention of condition of permission an offence

An organiser of, or a person otherwise concerned in providing, a public entertainment commits an offence and is liable for a term of 6 months and to a fine if –

- (a) any condition of the Bailiff's permission for the entertainment is contravened; and
- (b) the organiser of, or person otherwise concerned in providing, the entertainment did not take all reasonable precautions to avoid the contravention.

3 Offences by body corporate, etc.

- (1) In this Regulation –
 - “relevant body” means a limited liability partnership, a separate limited partnership, a limited liability company, an incorporated limited partnership or another body corporate;
 - “relevant offence” means an offence that is committed by a relevant body;
 - “relevant person” means –

- (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
 - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
 - (i) a general partner, or
 - (ii) a limited partner who is participating in the management of the partnership;
 - (c) if the relevant offence is committed by a limited liability company or a body corporate (other than an incorporated limited partnership) –
 - (i) a director, manager, secretary or other similar officer of the body corporate, or
 - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member's functions of management; and
 - (d) a person purporting to act in any capacity described in subparagraphs (a) to (c) in relation to the relevant body that commits the relevant offence.
- (2) If a relevant offence under Regulation 1 or 2 is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the relevant body to the penalty provided for that offence.
 - (3) If a relevant offence under Regulation 2 is proved to be attributable to any neglect on the part of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the relevant body to the penalty provided for the offence.

4 Saving of customary law

Nothing in these Regulations is to be taken as abolishing, modifying or prejudicing any offence against the customary law.

5 Citation, commencement and expiry

- (1) These Regulations may be cited as the Unlawful Public Entertainments (Jersey) Regulations 202-.
- (2) These Regulations come into force on 21st July 2022 and expire at the end of 20th July 2024.