

STATES OF JERSEY



DRAFT LICENSING (No. 17) (JERSEY) REGULATIONS 201- (P.28/2011): COMMENTS

**Presented to the States on 5th April 2011
by the Minister for Home Affairs**

STATES GREFFE

COMMENTS

The Royal Wedding service is due to take place commencing at 11.00 a.m. on Friday 29th April 2011.

I am opposed in principle to extensions of the existing licensing hours for First Category premises (Taverner's Licence). The section of the Licensing (Jersey) Law 1974 which relates to a Taverner's Licence is attached hereto at Appendix 1. The existing Law allows drinking-up time until 11.20 p.m. and for patrons to remain on the premises until 11.30 p.m. Those people who wish thereafter to continue on licensed premises are very well catered for by nightclubs which hold Seventh Category licences (Entertainment Licences) who can remain open to 2.00 a.m., with drinking-up time to 2.20 a.m. and patrons having to leave the premises at 2.30 a.m.

The Island currently has significant issues in St. Helier on Friday and Saturday nights in relation to public drunkenness which is linked with the St. Helier nightlife. This leads both to the committing of criminal offences, including serious assaults, and to the Accident and Emergency Department at the General Hospital having to deal with a very significant increase in patient numbers.

The States Assembly should be taking these issues very seriously. Furthermore, a complete review of the Licensing Law is underway and the results of the consultation phase are eagerly awaited from the Minister for Economic Development. This Proposition represents a further liberalising of the Licensing Law and will set a bad precedent for the future consideration of such matters.

The Proposition suggests that the nights of the 29th – 30th April 2011 and 30th April – 1st May should be treated for the purpose of Taverner's Licences in the same way as New Year's Eve, which is currently the only night upon which the permitted hours for such premises are extended to 1.00 a.m.

Whilst I fully agree that people should be able to celebrate the Royal Wedding appropriately, I am against extending licensing hours on both the Friday and Saturday nights on the pretext of celebrating a Royal Wedding which will have taken place many hours before on the Friday. In my view, the additional bank holiday on Friday 29th April provides sufficient freedom for the community to enjoy this national celebration. Those who might take advantage of the extension in licensing hours on the 2 nights are unlikely to have the Royal Wedding in mind. Moreover, if the States wishes to promote a policy of wanting to control drunkenness, noise and the existing binge-drinking sub-culture, it needs to be consistent by not granting extensions under such circumstances. The Royal Wedding is a day-time event and the linkages between this event and longer pub opening hours on the following 2 evenings are extremely tenuous.

A further consideration is that the proposed Regulations are unfair to nightclubs, in that the difference between clubs and pubs on those 2 nights would be significantly eroded by allowing pubs to extend their hours. There is a delicate financial balance in place between pubs and nightclubs which this Amendment ignores. Nightclubs have had to spend money on improved sound-proofing in order to gain their licences. Extending pub hours would mean noise levels from public houses, many of which have entrances and public bars which open directly on to the street, continuing into the early hours.

In the past, nightclubs were not entirely dependant for their income on the sale of alcoholic drinks, but would sell entry tickets. However, the routine granting to other premises of extensions to permitted hours beyond 11.00 p.m. has made the sale of entry tickets almost impossible, which is not a desirable situation. The outcome of the current review should seek to remove the dependency of pubs and nightclubs upon the sale of alcoholic drinks. The amendment is, therefore, going in the wrong direction.

Furthermore, the existence of the Bank Holidays on 29th April and 2nd May 2011 means that there will be a 4 day holiday over that weekend. That 4 day holiday comes only the next weekend after the 4 day Easter weekend. The combination of the two 4 day weekends will have an impact on police resourcing.

Taking all the above factors into account, whilst it is good that the public will have a longer weekend in which to celebrate the Royal Wedding, I believe that it is both unnecessary and undesirable for there to be extended licensing hours to mark the occasion.

Furthermore, even if the Proposition is rejected, it will still be possible for individual first category licensees to apply to the Bailiff for a special permit in order to cover a particular special event under Article 89(1) of the Licensing Law.

In relation to the proposed amendment to Residential Licences to allow members of the public into hotels or guest-houses after 11.00 p.m. on each of the 2 nights, I am puzzled as to why this amendment is being proposed. I attach the section of the Licensing Law which relates to Residential Licences at Appendix 2.

The purpose of a Residential Licence is for people who are staying at a hotel or guest-house and their bona fide guests to be served alcoholic drinks up to 1.00 a.m. However, because of the difficulties in enforcing this, there is, in Article 36(1), a prohibition on a member of the public (who is not a person staying there, or a bona fide guest of a person staying there) from entering the premises after 11.00 p.m.

Even if the Licensing Law were amended as proposed in order to allow such members of the public to enter the premises after 11.00 p.m., they could still not be served with alcoholic drinks.

I am, therefore, really struggling to understand the intended purpose of this part of the Regulations.

Statement under Standing Order 37A [Presentation of comment relating to a proposition]

In accordance with Standing Order 37A, this comment was received by the States Greffe before noon on Friday 1st April but, owing to an administrative error, was not processed.

LICENSING (JERSEY) LAW 1974

PART 4

THE TAVERNER'S LICENCE

21 Application of this Part of this Law

This Part of this Law applies only to licences of the first category and to premises in respect of which a licence of the first category is held.

22 Scope of licence

Subject to the provisions of this Law a licence shall authorize the sale by retail of intoxicating liquor –

- (a) for consumption on the licensed premises, to –
 - (i) persons residing on the premises, at any time,
 - (ii) any other persons, during the permitted hours; and
- (b) in closed vessels for consumption off the licensed premises, to any persons –
 - (i) on weekdays between 9 am and 9 pm, and
 - (ii) on Sundays between 11 am and 9 pm.

23 Inspection of premises

- (1) Where application is made for the grant of a licence, the Connétable of the parish concerned shall request the Chief Fire Officer, the Chief Public Health Inspector and any other competent person of the Connétable's choice to inspect the premises to which the application relates and to furnish the Connétable with a report in writing on the state and condition of the premises, particular mention being made of sanitary conveniences and precautions against fire and for the safety of persons in the case of fire, in sufficient time for the report to be submitted to the Parish Assembly at which the application will be considered.
- (2) The report on the inspection shall also state whether, in the view of the competent person making the report, any rooms or area on the premises which are used or to be used for the purposes of entertainment are sufficiently insulated to ensure that the level of noise arising from the entertainment is not or will not be detrimental to the comfort of persons residing on the premises or in the vicinity thereof.
- (3) The expenses reasonably incurred by the Connétable under this Article shall be reimbursed to the Connétable by the applicant.

24 Restriction on grant of licence

A licence shall not be granted in respect of any registered premises which do not provide a sitting-room of adequate size, other than a bar-lounge, for the exclusive use of persons accommodated for reward on the premises.

25 Restriction on consumption of intoxicating liquor on licensed premises

- (1) No person shall consume any intoxicating liquor on any licensed premises outside the hours during which such liquor may under the provisions of this Law be sold to the person on those premises:

Provided that nothing in this paragraph shall prohibit the consumption of intoxicating liquor –

- (a) during the first 20 minutes after –

(i) 11 pm on weekdays, Sunday, Good Friday and Christmas Day, or

(ii) 1 am on New Year's Day;

- (b) between 6 am and 1 am the following day, by bona fide guests of persons accommodated for reward on the premises nor the consumption at any time by bona fide guests of the holder of the licence in that part of the licensed premises set aside exclusively for the ordinary residential use of the holder of the licence and the licence holder's family.

- (2) If any person acts in contravention of the provisions of this Article, the person and the holder of the licence shall each be guilty of an offence:

Provided that it shall be a good defence to any proceedings against the holder of a licence in respect of an offence against this Article to prove that the holder of the licence took all reasonable precautions to prevent the commission of the offence.

26 Closure of licensed premises

Licensed premises may remain open for a further period of 10 minutes after the period of 20 minutes referred to in sub-paragraph (a) of the proviso to Article 25(1) for the purpose of allowing members of the public to leave the premises.

27 Posting of licences and other particulars

The holder of a licence shall –

- (a) cause to be painted or fixed, and keep painted or fixed, in some conspicuous place and so as to be easily legible, on or immediately over and on the outer side of the main entrance of the licensed premises, the licence holder's name in full and the category and description of the licence;
- (b) keep displayed, in some conspicuous place in the interior of the licensed premises near to the main entrance thereof, a copy of the Act of the Licensing Assembly whereby the licence was granted;

- (c) keep displayed, at the exterior and close to each entrance of the licensed premises normally used by the public, and in each room or other place in the premises in which intoxicating liquor is ordinarily served, in a conspicuous position where it may be seen and easily read by customers, a notice specifying the charges made for the various descriptions of liquor sold according to the measures by which they are sold and keep every such list displayed at the exterior of the premises illuminated where necessary for it to be easily readable by customers;
- (d) keep displayed at the exterior and in close proximity to each entrance to the licensed premises normally used by the public, and in each room or other place in which meals or refreshments are normally served, in a conspicuous position where it may be seen and easily read by customers, a notice specifying the charges made for meals and refreshments, other than intoxicating liquor, served on the premises and keep every such notice displayed at the exterior of the premises illuminated where necessary for it to be easily readable by customers;
- (e) ensure that a charge in excess of the appropriate charge specified in any such notice or list as is required by sub-paragraph (c) or (d) is neither demanded nor received,

and, if the licence holder fails to do so, the licence holder shall, in respect of each offence, be liable to a fine not exceeding £500 and to a further fine not exceeding £50 for each day during which the offence continues.

28 Permitted hours

The permitted hours are –

Weekdays	Sunday, Good Friday and Christmas Day
9 am to 11 pm	11 am to 11 pm

extended on New Year's Eve to 1 am on New Year's Day.

29 Entry of persons on premises

- (1) No member of the public shall be permitted to –
 - (a) enter the licensed premises before 6 am or after 11 pm on any day;
 - (b) be on the licensed premises after 11.30 pm on any day:
 Provided that –
 - (i) any member of the public may enter the licensed premises between 11 pm on New Year's Eve and 1 am on New Year's Day, and may remain there until 1.30 am on New Year's Day,
 - (ii) a bona fide guest of a person accommodated for reward on the licensed premises, who enters after 6 am on any day, may remain there until 1 am on the following day.

- (2) Notwithstanding the provisions of paragraph (1), bona fide guests of the holder of a licence may at any time enter and remain on that part of the licensed premises set aside exclusively for the ordinary residential use of the holder of the licence and the licence holder's family.

LICENSING (JERSEY) LAW 1974

PART 5

THE RESIDENTIAL LICENCE

30 Application of this Part of this Law

This Part of this Law applies only to licences of the second category and to premises in respect of which a licence of the second category is held.

31 Scope of licence

Subject to the provisions of this Law a licence shall authorize the sale by retail of intoxicating liquor, for consumption on the licensed premises, to persons residing on the premises, at any time.

32 Restriction on grant of licence

- (1) A licence shall not be granted either in respect of any premises which are not registered premises, or premises in respect of which a licence of the first category is held.
- (2) A licence shall not be granted in respect of any premises which do not provide a sitting-room of adequate size, other than a bar-lounge, for the exclusive use of persons accommodated for reward on the premises.

33 Seasonal licences

- (1) Where a licence of the second category (and no licence of any other category) is granted in respect of any premises, the licence may, either at the request of the applicant or otherwise, be granted subject to the condition that the business carried on on the premises shall be suspended during the Winter Season, and in such case –
 - (a) the provisions of Articles 15 and 19 shall not apply in relation to the premises or the holder of the licence during the Winter Season; and
 - (b) nothing in Article 36 shall prohibit any guest of the holder of the licence from entering or remaining on the premises at any time during the Winter Season.
- (2) Where a licence is granted subject to the condition referred to in paragraph (1), the licence fee shall be reduced by one-third, and, where a licence fee of the full amount has been paid, the excess shall be refunded to the applicant.

34 Restriction on consumption of intoxicating liquor on licensed premises

(1) No person shall consume any intoxicating liquor on licensed premises other than bona fide guests of a person accommodated for reward on the premises and then only between the hours of 6 am and 1 am the following day, or bona fide guests of the holder of the licence in that part of the licensed premises set aside exclusively for the ordinary residential use of the holder of the licence and the licence holder's family.

(2) If any person acts in contravention of the provisions of this Article, the person and the holder of the licence shall each be guilty of an offence:

Provided that it shall be a good defence to any proceedings against the holder of a licence in respect of an offence against this Article to prove that he or she took all reasonable precautions to prevent the commission of the offence.

35 Posting of licences and other particulars

The holder of a licence shall –

(a) cause to be painted or fixed, and keep painted or fixed, in some conspicuous place and so as to be easily legible, on or immediately over and on the outer side of the main entrance of the licensed premises, the licence holder's name in full and the category and description of the licence;

(b) keep displayed, in some conspicuous place in the interior of the licensed premises near to the main entrance thereof, a copy of the Act of the Licensing Assembly whereby the licence was granted;

(c) keep displayed in each room or other place in the licensed premises in which intoxicating liquor is ordinarily served, in a conspicuous position where it may be seen and easily read by customers, a notice specifying the charges made for the various descriptions of liquor sold according to the measures by which they are sold;

(d) keep displayed in each room or other place in the licensed premises in which meals or refreshments are normally served, in a conspicuous position where it may be seen and easily read by customers, a notice specifying the charges made for meals and refreshments, other than intoxicating liquor, served on the premises;

(e) ensure that a charge in excess of the appropriate charge specified in any such notice as is required by sub-paragraph (c) or (d) is neither demanded nor received,

and, if the licence holder fails to do so, he or she shall, in respect of each offence, be liable to a fine not exceeding £500 and to a further fine not exceeding £50 for each day during which the offence continues.

36 Entry of persons on premises

- (1) No member of the public shall be permitted to enter or be on the licensed premises before 6 am or after 11 pm:

Provided that a bona fide guest of a person accommodated for reward on the licensed premises may enter at any time after 6 am and remain there until 1 am the following day.

- (2) Notwithstanding the provisions of paragraph (1), bona fide guests of the holder of a licence may at any time enter and remain on that part of the licensed premises set aside exclusively for the ordinary residential use of the holder of the licence and the licence holder's family.