

STATES OF JERSEY



DRAFT UNLAWFUL PUBLIC ENTERTAINMENTS (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 1st June 2007
by the Minister for Home Affairs**

STATES GREFFE



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REPORT

These triennial Regulations were originally introduced in the 1990s in order to bolster the Bailiff's control of public entertainment which is a customary power derived from a late 18th Century Act of the States. These Regulations replace the current Unlawful Public Entertainments (Jersey) Regulations 2004, which are due to expire on 20th July 2007.

The new Regulations differ in two respects:

Regulation 2 – which creates a new offence of contravening, or failing to comply with, a condition subject to which a permit is granted.

Regulation 6 – which adds the standard provision as to the liability of an individual where an offence under the regulations is committed by a body corporate or limited liability partnership.

No definition of a 'public entertainment' has been included because of: (a) difficulties in drawing precise boundaries in determining a strictly legal interpretation; and (b) the effective administration of the existing Regulations since their first introduction in 1992.

In practice, a person intending to stage an event generally finds it difficult to do so without publicising that event. If permission has not been sought, he/she is likely to be challenged by either the Parish or the Bailiff's Chambers. If that person then proceeds without permission, it would be difficult in those circumstances for it to be claimed that he/she was unaware of the requirement to obtain permission. From a practical point of view, therefore, it is unnecessary to become involved in what would be a cumbersome task in trying to develop precise definitions to cover every possible type of event.

It should be noted that it is an offence at customary law to organise public entertainment without the permission of the Bailiff.

All major public entertainment events are routinely passed before a committee of interested parties (the Public Entertainment Panel), chaired by the Bailiff's Chief Officer and comprising representatives of States of Jersey Police, Ambulance Service, Fire and Rescue Service, Health Protection and Health and Safety. Event plans and full Risk Assessments are submitted in advance, and the Panel provides support, advice and offers recommendations regarding the safe and appropriate operation of the event, before a permit may be issued.

Attention is drawn to the fact that it would become an offence to fail to take reasonable steps to ensure that conditions upon which permission had been granted were adhered to. This reflects the increasing complexity of the licensing process, and the fact that many events can take place as long as audience numbers are fixed, or noise levels adhered to, or any number of other conditions met. This is implicit in the current process but the change makes clear an obligation which will have been agreed in advance, following consultation with the Panel which advises the Bailiff.

The draft Regulations have been sent for consultation to the Bailiff, whose comments have been included within the report. Feedback has also been received from Economic Development and Education, Sport and Culture, who have expressed no concerns regarding the proposed amendments to the Regulations, but have made recommendations regarding procedural improvements.

There are no financial implications arising from these draft Regulations.

Explanatory Note

These Regulations would replace the Unlawful Public Entertainments (Jersey) Regulations 2004 upon their expiry.

Regulation 1 re-enacts the offence of holding a public entertainment without the permission of the Bailiff.

Regulation 2 is a new offence of contravening a condition subject to which permission is given. By virtue of the Interpretation (Jersey) Law 1954, “contravene” includes a failure to comply. The offence takes account of the possibility that a contravention may occur due to circumstances that the organizer of the event cannot control. Accordingly, for the offence to be proved, it must be shown that the organizer or person concerned in providing the event did not take all reasonable precautions to avoid the contravention.

Regulation 3 re-enacts the power of a court to forfeit property used in connection with the commission of an offence or shown to be the proceeds of the offence. The power is extended to the new offence in Regulation 2.

Regulation 4 re-enacts the power for the police to seize any property that may be liable to forfeiture. It also re-enacts the offence of obstructing a police officer in the exercise of the power of seizure.

Regulation 5 re-enacts the provision making a person who aids, abets, counsels or procures the commission of an offence under the Regulations liable to conviction for that offence.

Regulation 6 is an addition to the Regulations, being the standard provision as to the liability of individuals where the offence is committed by a body corporate or limited liability partnership.

Regulation 7 re-enacts the statement that the Regulations do not alter any customary law offence.

Regulation 8 provides for the citation, commencement and duration of the Regulations.



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Arrangement

Regulation

- 1 Organizing an unlawful public entertainment an offence
- 2 Contravention of condition of permission an offence
- 3 Forfeiture on conviction
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- 5 Aiders and abettors, etc.
- 6 Offences by body corporate, etc.
- 7 Saving of customary law
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Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of the Order in Council dated 28th March 1771^[1], have made the following Regulations –

1 Organizing an unlawful public entertainment an offence

- (1) A person who organizes or is otherwise concerned in providing an unlawful public entertainment shall be guilty of an offence and 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 organizer of, or a person otherwise concerned in providing, a public entertainment shall be guilty of an offence and liable to imprisonment 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 organizer of, or person otherwise concerned in providing, the entertainment did not take all reasonable precautions to avoid the contravention.

3 Forfeiture on conviction

- (1) Subject to paragraph (2), the court by or before which a person is convicted of an offence against Regulation 1 or 2 may, in addition to any other penalty which it imposes, order the forfeiture of anything which is shown to the satisfaction of the court –
 - (a) to have been used in the course of committing the offence or in connection with its commission; or
 - (b) to be the proceeds of that offence or to have been obtained by that person as a result of the commission of the offence.
- (2) A court shall not order property to be forfeited under this Regulation where a person claiming to be the owner of, or otherwise interested in, it applies to be heard by the court, unless an opportunity has been given to that person to show cause why the order should not be made.
- (3) Property which is ordered to be forfeited under this Regulation may be dealt with or disposed of in such manner as the court may order, and any proceeds realized by such disposal shall be paid to the

Treasurer of the States to be credited to the consolidated fund.

4 Police powers of seizure

- (1) If a police officer reasonably believes that an offence against Regulation 1 or 2 has been committed that officer may seize and detain anything which appears to the officer would, upon a conviction for the offence, be liable to forfeiture under Regulation 3.
- (2) Nothing in this Regulation shall prejudice any power to seize or detain anything which is exercisable apart from this Regulation.
- (3) A person who intentionally obstructs or resists a police officer in the exercise of that officer's powers under this Regulation shall be guilty of an offence and liable to a fine of level 2 on the standard scale.

5 Aiders and abettors, etc.

A person who aids, abets, counsels, or procures the commission of an offence under these Regulations shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

6 Offences by body corporate, etc.

- (1) Where an offence committed by a limited liability partnership or body corporate under these Regulations is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for the offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

7 Saving of customary law

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

8 Citation, commencement and duration

- (1) These Regulations may be cited as the Unlawful Public Entertainments (Jersey) Regulations 200-.
- (2) These Regulations shall come into force on 21st July 2007 and shall remain in force for 3 years from that date.

