

**DRAFT LICENSED PREMISES (EXCLUSION OF CERTAIN
PERSONS) (JERSEY) LAW 199**

**Lodged au Greffe on 17th February 1998
by the Defence Committee**



STATES OF JERSEY

STATES GREFFE

Report

For a number of years, the States of Jersey Police and representatives of the licensed trade in Jersey have considered that the courts of the Island should be given power to order persons who have been convicted of offences involving violence on licensed premises to be banned from entering those or other licensed premises: (note that references in this report to “licensed premises” are references to on licensed premises only). Such measures would, it was felt, afford some protection to licensees and patrons of licensed premises from violence and disorder.

In January 1995 the Defence Committee considered, and decided to adopt, a proposal that a new Law based on the Licensed Premises (Exclusion of Certain Persons) Act 1980 (UK) should be introduced as soon as possible.

The 1980 Act empowers a court in England, Wales or Scotland which convicts a person of an offence of violence committed on licensed premises, to make an order prohibiting the person from entering those premises or any other specified premises for a period of between three months and two years, in addition to imposing any other punishment on him. A person who breaches an exclusion order by entering licensed premises from which he is excluded, commits an offence and is liable to a fine of up to £1,000 and/or three months’ imprisonment.

The Defence Committee, having studied the 1980 Act, decided that, while it would form a useful basis for the proposed Jersey legislation, it ought to be strengthened and widened in a number of ways in order to make it more effective and more appropriate to Jersey.

Therefore, the following points, where the draft Law differs from the United Kingdom Act, deserve particular mention -

- (a) the draft Law enables an exclusion order to be made not only where a person has been convicted of an offence committed on licensed premises involving the use or the threat of violence (whether to persons or property) but also where a person is convicted of an offence of possessing or supplying (or offering to do so) a controlled drug

committed on licensed premises (see Article 2(1)(a) and (b));

- (b) an exclusion order, which may last from three months up to two years, can be made to commence after the person has served a sentence of imprisonment for the offence for which the order was imposed (Article 3);
- (c) the penalty for breach of an exclusion order is a fine of up to £2,000 and/or six months' imprisonment;
- (d) an exclusion order can be made to apply to any specified licensed premises, any class of licensed premises, and ultimately, to all licensed premises. (Article 2(1) and the definition of specified premises in Article 1(1));
- (e) a provision in the 1980 Act enabling the licensee of premises from which a person is excluded to give specific permission to the person to enter those premises is omitted;
- (f) the Law would make it an offence for a licensee to permit (or his staff knowingly to permit) a person subject to an exclusion order to enter or remain on premises from which he is excluded (Article 3(4) - (6)).

It may be noted that the Law does not mention that photographs of persons subject to exclusion orders are to be sent to licensees, but the Chief Officer of the States of Jersey Police is responsible for circulating copies of all exclusion orders to licensees of premises to which the orders relate and copies of all orders will in fact be accompanied by photographs of the offenders.

In some respects the Law has had a trial run during the operation by the licensed trade of the voluntary "club watch" scheme, under which the night clubs operate a list of persons regarded as potential trouble makers who are refused entry to any club participating in the scheme. The scheme has proved successful and easy to operate.

The draft Law has been approved by the Royal Court, the Comité des Connétables, the Jersey Brewers and Licensed Retailers Association and the States of Jersey Police Force.

When consulted about the draft Law the Tourism Committee, while supporting the principle of the Law, thought its scope should be widened so that an exclusion order could be made after a person had been convicted of any offence of violence in a public place where the violence was found to be due to excessive intake of alcohol.

The Defence Committee considers that widening the scope of the Law in this way would have two major drawbacks. First, it could lead to the making of a large number of exclusion orders which would make it difficult to enforce the orders effectively. Second, several problems could arise if the court had to decide whether the violence was due to excessive drinking, and what, indeed, might constitute excessive drinking. Such a test would be difficult, if not impossible, to apply and would complicate the otherwise straightforward application of the Law.

A fuller description of the provisions of the draft Law is contained in the Explanatory Note which accompanies the draft Law.

The States of Jersey Police Force is confident that the extra work resulting from the notification of exclusion orders to licensees and enforcement can be met from existing manpower resources.

A small amount of extra work will be required from the Judicial Greffier and Magistrate's Court Greffe in notification of exclusion orders to the States Police.

The Defence Committee is convinced that the draft Law will make a significant contribution not only to protection of licensees and their staff and members of the public from violence and disorder on licensed premises but also to efforts to control illicit drug taking and trafficking on licensed premises, and commends the draft Law to the States.

Explanatory Note

The purpose of this draft law is to enable a court, in certain circumstances, to make an exclusion order, being an order excluding a convicted person from premises with an “on licence”.

Article 1 is the interpretation clause.

Article 2 describes when an exclusion order can be made, and the terms of an exclusion order. An exclusion order may be made when a person is convicted of an offence committed on licensed premises if, when committing the offence, he used or threatened violence, or when a person is convicted of the offence of producing, supplying, offering to supply or possessing a controlled drug, and the offence was committed on licensed premises (*paragraph (1)*). An exclusion order prevents the person entering the licensed premises on which the offence was committed and any other licensed premises the court specifies. The court can specify premises by name, or according to the category of licence held by them. The court must specify the period for which the order is to have effect, being not less than three months or more than two years (*paragraph (3)*). Ordinarily, the order has effect from the day it is made, but if the person is imprisoned for the offence which gave rise to the order being made, the court may specify that the order has effect from his release from prison.

Article 3 states the consequences of breaching an exclusion order. It is made an offence to enter licensed premises in breach of an order, for which the penalty is a fine not exceeding level 3 on the standard scale (£2,000) or imprisonment for up to six months, or both. The convicting court may vary the exclusion order as to the premises it applies to or as to its duration. In addition, the licensee will commit an offence if he or his servant permits an excluded person to enter or remain on the premises, unless the licensee can establish that he took reasonable precautions to prevent the offence being committed. The servant of the licensee will commit an offence if he knowingly permits the person to enter or remain on the premises. In either case, the penalty is a fine not exceeding level 3 on the standard scale or imprisonment for up to six months, or both.

Article 4 is a procedural requirement for persons to be notified when an exclusion order is made. The court must send a copy of the order to the Chief Officer of Police who in turn must notify every licensee of premises affected by the order that it has been made.

Article 5 confers power on a licensee and his servant to expel from his licensed premises any person he knows or suspects has entered them in breach of an exclusion order (*paragraph (1)*). A duty is imposed on a police officer to assist a licensee or his servant in expelling a person suspected by the police officer of having entered licensed premises in breach of an exclusion order (*paragraph (2)*). The police officer may use reasonable force to expel the person.

Article 6 is the citation provision. If adopted, the Law will come into force upon its registration in the Royal Court.

**LICENSED PREMISES (EXCLUSION OF CERTAIN PERSONS)
(JERSEY) LAW 199**

A LAW to empower the courts to make orders excluding certain categories of convicted persons from licensed premises; sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

Interpretation

(1) In this Law, unless the context requires otherwise -

“the Chief Officer” means the Chief Officer of the States of Jersey Police Force;

“the court” means the Royal Court or the Magistrate’s Court;

“licensed premises” means any licensed premises within the meaning of the Licensing (Jersey) Law 1974,¹ in respect of which an on-licence issued under that Law is in force;

¹ Volume 1973-1974, page 277, and R & O 8358 and 8560.

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“licensee”, in relation to any licensed premises, means the holder of the licence granted in respect of those premises;

“police officer” means a member of the Honorary Police or a member of the States of Jersey Police Force;

“specified premises”, in relation to an exclusion order, means -

- (a) any licensed premises which the court may specify by name and address in the order; and
- (b) all licensed premises in respect of which there is a licence of any category which the court may specify in the order.

(2) A reference in an Article of this Law to a paragraph or sub-paragraph by number or letter only, and without further identification, is a reference to the paragraph or sub-paragraph of that number or letter contained in the Article of this Law in which that reference occurs.

(3) A reference in this Law to an Article by number only, and without further identification, is a reference to the Article of that number in this Law.

(4) Unless the context otherwise requires, where this Law refers to an enactment, the reference is to that enactment as amended from time to time, and includes a reference to that enactment as extended or applied by or under another enactment, including any other provision of that enactment.

ARTICLE 2

Exclusion orders

- (1) Where -

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- (a) the court by or before which a person is convicted of an offence committed on licensed premises is satisfied that, in committing the offence, he resorted to violence or offered or threatened to resort to violence; or
- (b) a person is convicted of an offence against Article 5 or 6 of the Misuse of Drugs (Jersey) Law 1978² committed on licensed premises,

the court by or before which the person is convicted may, subject to paragraph (2), make an exclusion order prohibiting him from entering those premises and any other specified premises.

- (2) An exclusion order may be made either -
 - (a) in addition to any sentence which is imposed in respect of the offence of which the person is found guilty; or
 - (b) in addition to a probation order, an order that the person be bound over or an order discharging him absolutely or conditionally,

but not otherwise.

(3) An exclusion order shall have effect for such period, being not less than three months or more than two years, as is specified in the order, unless it is terminated or varied under paragraph (2) of Article 3.

(4) Where the person convicted of an offence referred to in paragraph (1) is sentenced to a term of imprisonment for that offence, the court may specify that the exclusion order shall take effect from the day on which he is released from prison.

² Volume 1975-1978, page 453, and Volume 1996-1997, page 424.

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ARTICLE 3

Breach of exclusion order

(1) A person who enters any licensed premises in breach of an exclusion order shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months, or to both.

(2) The court by which a person is convicted of an offence under paragraph (1) may terminate the exclusion order or vary the exclusion order by adding to or deleting any of the specified premises or, subject to paragraph (3), reducing or extending the period for which the order has effect.

(3) The period for which the order has effect may not be reduced so as to be less than three months or extended so as to be more than two years.

(4) A licensee who, either by himself or by any servant, permits a person to enter or remain on licensed premises in breach of an exclusion order shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months or to both.

(5) It shall be a good defence to any proceedings in respect of an offence against paragraph (4) for the licensee to prove that he took all reasonable precautions to prevent the commission of the offence by himself or by any servant of his.

(6) A licensee's servant who knowingly permits a person to enter or remain on licensed premises in breach of an exclusion order shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months or to both.

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ARTICLE 4

Notice of exclusion order

(1) Upon an exclusion order or an order varying or terminating an exclusion order being made, a copy of the order shall be sent to the Chief Officer by -

- (a) where the order is made by the Royal Court, the Judicial Greffier; and
- (b) where the order is made by the Magistrate's Court, the Magistrate's Court Greffier.

(2) Upon receiving a copy of an order pursuant to paragraph (1), the Chief Officer shall notify every licensee of specified premises that the order has been made.

ARTICLE 5

Power to refuse admittance to or expel person from licensed premises

(1) Without prejudice to any other right to refuse to admit to, and expel a person from licensed premises, the licensee or his servant may refuse to admit to or expel from those premises any person who has entered or whom he reasonably suspects of having entered the premises in breach of an exclusion order.

(2) Any police officer shall, at the request of the licensee or his servant, help to expel from licensed premises any person whom the officer reasonably suspects of having entered in breach of an exclusion order, and may use such force as may be required for the purpose.

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ARTICLE 6

Short title

This Law may be cited as the Licensed Premises (Exclusion of Certain Persons) (Jersey) Law 199 .