

# STATES OF JERSEY



Jersey

## **DRAFT SHOPS (REGULATION OF OPENING) (COVID-19 – TEMPORARY AMENDMENT) (JERSEY) REGULATIONS 202-**

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**Lodged au Greffe on 1st April 2020  
by the Minister for Economic Development, Tourism, Sport and Culture**

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**STATES GREFFE**



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## REPORT

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These draft Regulations are intended to give large supermarkets additional scope to trade on Sundays and on other specified days for a period of 6 months. They have been lodged in response to the unprecedented and increasingly challenging social mobility and trading conditions in the wake of the Covid-19 outbreak.

### Proposals

These draft Regulations propose a temporary relaxation of restrictions on the ability of supermarkets and other grocery stores to trade on Sundays or other specified days.

They do so by changing the maximum permitted hours for a restricted hours permit issued to a supermarket. Whereas other large shops will remain constrained by the current 10.00 a.m – 4.00 p.m. limit, these Regulations would allow a Connétable to consider an application for a supermarket to open on Sundays, Good Friday and Liberation Day between 7.00 a.m. and 10.00 p.m. The Connétable would also be able to consider an application by a supermarket to vary an existing restricted hours permit to allow for longer trading on those days.

For the purposes of these amending Regulations, a supermarket is defined as premises used for the retail sale of grocery items which include at least bread, eggs, dairy products, fruit and vegetables, pasta or rice, sugar and other packaged food. The sale of household consumables and various other items will also be permitted, as long as the shop ordinarily sells the foodstuffs listed.

Large supermarkets hold 6th category (off-licence) liquor licences. The opening hours of those supermarkets will remain within the permitted hours for off-licences, as per Article 65 of the Licensing (Jersey) Law 1974.

### Background

The Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010 (“the Shops Law”) regulates, on certain days –

- (a) the sale or hire of goods,
- (b) the provision of services and the provision of goods for use, and
- (c) the making of wholesale deliveries.

The Law defines a shop in deliberately broad terms, so as to capture ‘*any place or vehicle used, whether permanently or temporarily, for any one or more commercial activities*’. It then makes it an offence for shops to open on any Sunday, Good Friday, Christmas Day, 26th December (Boxing Day) or Liberation Day unless they either –

- (a) fall within an exempted category of shop, or
- (b) have permission to open by way of a permit granted by the relevant Connétable.

Classes of shops that are exempt from the requirement for a permit are listed at Schedule 1 of the Shops (Regulation of Opening) (Jersey) Regulations 2011. Supermarkets and grocery stores are not currently included in Schedule 1. As such, those shops require a permit to open on Sundays and the other specified days.

Shops with a retail sales area of 700 square metres or less can apply for a general permit to open on Sundays, Good Friday, Boxing Day and Liberation Day. Since late 2019, larger shops have been able to apply for a restricted hours permit that allows them to open between 10 a.m. and 4 p.m. on Sundays, Good Friday and Liberation Day.

Applications for permits are submitted to the Connétable of the relevant parish for determination. In the event that a Connétable approves the application, he or she may apply conditions to control such matters as opening hours and deliveries.

### **Issue**

The Island's population requires sufficient opportunities to obtain food and other essential household supplies, notwithstanding the unprecedented conditions generated by the Covid-19 pandemic.

Covid-19 has necessarily caused the community to practice social distancing and self-isolation. As at 30th March 2020, it has become necessary to introduce some statutory restrictions on freedom of movement in response to the number of pending Covid-19 test results and the anticipated increase in the rate of confirmed cases. One consequence of this change in behaviour is that consumers have fewer opportunities to shop. Retailers are working hard to meet demand, while applying effective social distancing policies inside and at the entrances and exits of their premises, in accordance with Government guidance. While those policies are likely to prove invaluable in slowing the spread of the virus in the community, they are nevertheless impacting the number of customers that retailers can service in their premises at any one time.

Some retailers are known to be working extremely hard to either establish remote ordering and home delivery services, or to scale-up an existing arm of their business. These changes will nevertheless take time. Neither will those services be viable for everyone. Measures are therefore needed to spread existing consumer demand for food and other household consumables over a greater proportion of each week.

### **Considerations**

During the course of the 2014 debate on a proposed Sunday trading trial, a number of Members of the Assembly expressed concern that changes were being proposed in the absence of a retail worker 'opt-out' provision [similar to that which applies in England and Wales](#) having been added to the Employment (Jersey) Law 2003. Similar concerns were aired in the States Assembly in October 2019, when the most recent amendment to the Shops (Regulation of Opening) (Jersey) Regulations 2011 was debated. The Minister has given further consideration to the issue, and has concluded that the greater concern is the need to provide employment opportunities for workers that require jobs following the impact of the pandemic on hospitality, retail and various other sectors of the economy. He is also mindful that, to date, the 2019 amendment does not appear to have generated significant issues for existing employees in the sector.

Given the above, the Minister has therefore concluded that there is not a case for seeking a concurrent amendment to the Employment Law or to pursue new employment legislation at this time.

Members will note that the draft Regulations will give large supermarkets greater freedom to trade for long hours, not only on Sundays, but on Good Friday and Liberation Day as well. On balance, and given the unprecedented conditions the Island is facing, the Minister considers that this is a proportionate position to take. In the event that it becomes necessary to consider asking the States to extend this provision beyond 30th September (and such action is not currently anticipated), the Minister would ensure that any such measures would not provide for supermarkets to trade on Christmas Day.

Shops may have an alternative option to apply for single permits under the Regulations as they currently stand. Single permits could theoretically be granted by a Connétable to authorise trading on a Sunday for a period in excess of 6 hours. The difficulty for shops that may be inclined to pursue this option is that single permits cannot be granted for more than 5 Sundays per annum.

In bringing these draft Regulations, the Minister is mindful that some supermarkets and other grocery stores with a retail sales area of 700 square metres or less currently trade on a Sunday, but open for shorter periods than that which is being proposed for large supermarkets. The Minister notes that the occupiers of such shops have the option to apply to their Connétable to vary any condition attached to their permit which may restrict their opening hours

### **Other jurisdictions**

In developing these instructions, consideration has been given to equivalent legislation in England and Wales and Guernsey.

The primary legislation governing Sunday trading across England and Wales is understood to be the [Sunday Trading Act 1994](#). Amongst other things, this legislation provides for shops with a floor area larger than 280 square metres to open for 6 hours between the hours of 10 a.m. and 6 p.m. on Sundays other than Christmas Day (where relevant) and Easter Sunday.

There do not appear to have been moves to amend Sunday opening hours for England and Wales. It is nevertheless notable that those jurisdictions have had 24 hour opening of a significant number of stores since the mid-1990s and are believed to have a greater proportion of their working-age population working outside normal daytime hours in comparison with Jersey. In fact, several of the largest retailers have cut their opening hours back to 6 a.m. – 10 p.m. or similar, in order to provide greater shelf replenishment capacity in response to sustained bulk-buying by consumers. England and Wales also have a relatively established internet-based grocery retail offering, though it is understood that some Jersey retailers are now working hard to establish an online storefront.

Guernsey is understood to regulate shop trading via planning law and policy and via the [Sunday Trading \(Guernsey\) Law 1973](#). The States of Guernsey took the decision to repeal their secondary Sunday Trading Ordinance with effect from 11th December 2015. As such, Sunday trading is effectively deregulated in that jurisdiction.

### **Duration**

The proposed exemption provision expires automatically on 30th September 2020. In the event that the Covid-19 threat dissipates before that date, the Minister reserves the right to lodge further draft Regulations to extinguish the exemption at an earlier date.

### **Financial and manpower implications**

This proposition is not expected to give rise to any material financial or other resource implications, save that the parishes may receive a limited number of additional permit applications that need to be processed.



## **EXPLANATORY NOTE**

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These Regulations, if passed, would, until 30th September 2020, authorise the opening of a shop that is a supermarket subject to a restricted-hours permit at any time between 7 a.m. and 10 p.m. on Sundays, Good Friday and Liberation Day by temporarily amending the Shops (Regulation of Opening) (Jersey) Regulations 2011.

A supermarket is premises used for the retail sale of grocery items which include at least bread, eggs, dairy products, fruit and vegetables, pasta or rice, sugar and other packaged food.

Currently, a shop subject to a restricted-hours permit may open at any time between 10 a.m. and 4 p.m. on those days.

These Regulations come into force on the day after they are made.







Jersey

## **DRAFT SHOPS (REGULATION OF OPENING) (COVID-19 – TEMPORARY AMENDMENT) (JERSEY) REGULATIONS 202-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Article 3(2) of the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010<sup>1</sup> –

### **1 Shops (Regulation of Opening) (Jersey) Regulations 2011 amended**

The Shops (Regulation of Opening) (Jersey) Regulations 2011<sup>2</sup> are amended in accordance with these Regulations.

### **2 Regulation 6BA inserted**

After Regulation 6B there is inserted –

#### **“6BA Temporary restricted-hours permit during Covid-19 outbreak**

- (1) This Regulation applies to a shop that is a supermarket, being premises used for the retail sale of grocery items which include at least the following items –
  - (a) bread;
  - (b) eggs;
  - (c) dairy products;
  - (d) fruit and vegetables;
  - (e) pasta or rice;
  - (f) sugar;
  - (g) other packaged food.
- (2) Despite Regulation 6B(1), a restricted-hours permit authorises the opening of a shop to which this Regulation applies at any time between 07:00 and 22:00 hours on the following days –
  - (a) every Sunday;
  - (b) Good Friday;
  - (c) Liberation Day.

- (3) In this Regulation, “retail sale” includes the provision of any service for the purpose of delivering grocery items.
- (4) This Regulation expires on 30th September 2020.”.

### **3 Citation and commencement**

These Regulations may be cited as the Shops (Regulation of Opening) (Covid-19 – Temporary Amendment) (Jersey) Regulations 202- and come into force on the day after they are made.

## ENDNOTES

### Table of Endnote References

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<i>1</i>	<i>chapter 05.775</i>
<i>2</i>	<i>chapter 05.775.50</i>