

# STATES OF JERSEY



## **DRAFT SHOPS (SUNDAY TRADING) (TRIAL ARRANGEMENTS) (JERSEY) REGULATIONS 200-**

---

**Lodged au Greffe on 7th June 2005  
by the Legislation Committee**

---

**STATES GREFFE**





Jersey

# **DRAFT SHOPS (SUNDAY TRADING) (TRIAL ARRANGEMENTS) (JERSEY) REGULATIONS 200-**

## **REPORT**

---

### **Background**

With the exception of the brief debate in the States in May 2004, when 'jewellery' was added as an item to the list of goods which might be sold on a Sunday, Good Friday, Liberation Day or Christmas Day, the issue of Sunday trading has not been debated since 1999.

The issue of Sunday trading was debated at length in 1998 (when proposals to liberalise Sunday trading in line with changes made in the United Kingdom were rejected by the States) and again in 1999 when the States approved a proposition of the Connétable of St. Lawrence entitled **Shops: Sunday Trading – P.137/99** and agreed to a new law to replace the Shops (Sunday Trading) (Jersey) Law 1960 (see Appendix 1).

In proposing new legislation in 1999 providing for only limited trading the Comité des Connétables had sought to balance the needs of residents and tourists to be able to purchase essential items against the disruption and inconvenience which might be caused to residents if shops in the area traded; the availability of other smaller shops open on those days; and the likelihood of the tranquillity of Sunday being disrupted by the trading. The law should also be simple to apply and easy to police.

### **Progress with new Law**

The Comité des Connétables has worked with the Legislation Committee to prepare a draft Law in accordance with P.137/99. The Draft Shops (Regulation of Opening and Deliveries) (Jersey) Law 200- is an enabling Law and the detail of the permit scheme, and which shops might be permitted to open, is to be included in subordinate legislation. This draft Law was lodged by the Legislation Committee on 19th April 2005.

The Legislation Committee believes that if the States approves the draft Law, there should then be further consultation on the detailed provisions of the subordinate legislation, so that by the time the new enabling Law receives Privy Council consent, the Regulations are ready to be put to the States.

However, in the course of drafting Sunday trading legislation, and during the debate over the sale of jewellery, it has become apparent that views on Sunday trading may have altered since the time of the decision taken in 1999. It is, for example, no longer certain that the list of goods that may be traded on a Sunday should continue to be limited to, what have been deemed to be, essential items. There are additional concerns over the application of square footage assessments in respect of linked chains of small outlets and, in the extreme case, in principal opposition to the need for Sunday trading regulation. Accordingly, the Legislation Committee believes that the States may wish to exercise its power to suspend regulations in order to allow a period of trial deregulation which might assist, by practical example, in the development of the detailed proposals.

### **Trial deregulation**

Sunday trading is an emotive subject and individuals hold strong views on the matter, perhaps influenced by whether they view the subject from the point of view of retailer, staff, consumer (and this may differ for tourist and local consumers) or a resident in the vicinity of shops and stores.

In preparing draft legislation, over the years, the Comité des Connétables and the Legislation Committee have received a series of commentaries and have, more recently, consulted with the retail sub-committee of the Chamber of Commerce and also informally with the Economic Development Committee. Accrued evidence indicates that local retailers are generally not supportive of total deregulation, but would support partial deregulation enabling trading during the summer months of (July and August) and on Sundays in December prior

to Christmas.

There is provision under the 1960 Law for the States to make Regulations to amend the list of transactions in the First and Second Schedules to the Law and to suspend all or any of the provisions of the Law. This could offer the opportunity for a trial period of total deregulation, in order to better inform any decision as to the type of legislation required in the future. It is on this basis that the Draft Shops (Sunday Trading) (Trial Arrangements) (Jersey) Regulations 200- have been prepared.

The Legislation Committee has considered the timing of a trial deregulation and proposes this should be for a period of 4 months. The trial would commence on 1st August 2005 and would cease on 19th December 2005, allowing pre-Christmas shopping and covering the period of the Fête de Noué, but preventing the opening of shops on Christmas Day.

(Note: pressure from some of the major United Kingdom retailers to permit shops generally to open on Christmas Day resulted in the United Kingdom government passing a Bill, which received Royal Assent on 28th October 2004, making it illegal for shops over 3,000 square feet to trade on Christmas Day.)

Consideration has been given to suspending the whole Law but the Legislation Committee considers it is important that the Connétables maintain control over which shops are permitted to open as, should the opening cause a nuisance, it would be possible for the Connétable to revoke a permit. It should be remembered that many people living near shops appreciate the relative tranquillity afforded by the current law which limits trading on a Sunday and other special days.

Article 4(1) of the 1960 Law gives a Connétable discretion in granting Sunday trading permits. To date the Connétables have exercised that discretion by taking into account the disruption and inconvenience which might be caused to residents in the area, as well as the availability of other smaller shops already open on a Sunday, and have not granted consent for the larger supermarkets to open.

Accordingly the Legislation Committee is recommending a limited approach to a trial deregulation. This would involve merely suspending Second Schedule of the Shops (Sunday Trading) (Jersey) Law 1960 which contains the restricted list of items that may be traded on under a Sunday permit. The effect of this would be to allow any transaction to be conducted under an existing or newly granted Sunday permit.

The Legislation Committee did not feel able to recommend total deregulation, although it could be argued that this would be the purest method for testing the need or otherwise for Sunday Trading legislation.

Apart from the reasons of disruption and nuisance outlined already, total deregulation could result in sales being 'poached' from those retailers choosing not to open. As many of the larger stores are subsidiaries of national companies, it might be company policy to maximise sales opportunities over a full 7-day period. This could leave the smaller retailers and independent local companies, many of which are often family-run, with little choice but to open or to risk loss of trade. Labour resources will be an important factor for retailers and whilst larger stores employ many part-time staff to cover Saturdays and bank holidays, smaller shops are often reliant upon on a small team and are of insufficient size to justify employment of part-time staff.

Some of the issues of the stakeholders involved (retailers, staff, local consumers, tourists and residents) are set out in Appendix 2.

The Legislation Committee hopes that this proposal for a trial deregulation will, at least, give the States the opportunity to debate the issue and, if approved, offer a clear opportunity to monitor the effect of a lighter regulatory regime within the retail sector.

The proposal is anticipated to have some limited financial and manpower implications for the States and the Parishes which are not yet quantified, in terms of the additional cost of street cleaning and litter-bin emptying.

2nd June 2005

## MINUTES OF THE STATES

Tuesday, 9th November 1999

**Shops: Sunday Trading – P.137/99**

THE STATES, adopting a proposition of the Connétable of St. Lawrence agreed, in principle, that the Shops (Sunday Trading) (Jersey) Law 1960, as amended, be repealed and replaced by a new Law containing, inter alia, provisions to the following effect –

- (a) to limit the opening of shops, in accordance with the terms of a trading permit issued by the Connétable of the parish concerned, by –
  - (i) prohibiting the opening of shops with a retail sales area in excess of 2,000 square feet in St. Helier and in excess of 3,000 square feet in other parishes;
  - (ii) permitting the opening of certain types of shop in St. Helier, with a retail sales area of 2,000 square feet or less, where the predominant use falls within certain defined categories or a special purpose, for a specified length of time according to the size of the retail sales area;
  - (iii) permitting the opening of shops with a retail sales area of 3,000 square feet or less in parishes excluding St. Helier, where the predominant use falls within certain defined categories or a special purpose, for a specified length of time;
- (b) to provide that shops will have to satisfy the ‘predominant use’ or the ‘special purposes’ test as defined in the legislation, together with the retail sales area ‘test’, before being granted a permit to trade on Sunday;
- (c) to provide for the charging of permit fees of a variable amount linked to the retail size area of the premises;
- (d) to provide for special conditions to be attached to a permit restricting trade on Good Friday, Easter Sunday, Liberation Day and Christmas Day;
- (e) to exempt certain transactions from the provisions of the Law, namely –
  - (i) intoxicating liquors for consumption on the premises at which they are sold; and
  - (ii) meals or refreshments for consumption at the shop at which they are sold;
- (f) to permit the Connétable, in his absolute discretion, to issue a permit for the sale of such other goods as may be specified in the permit in respect of some particular event;
- (g) to provide penalties for non-compliance with the Law or with any condition attached to a trading permit;

and charged the Legislation Committee to prepare the necessary legislation.

**P.137/99 proposed** the following ‘predominant use’ or ‘special purposes’ test be applied to shops wishing to open in addition to the restriction on overall size –

- (i) sale of foodstuffs and non-alcoholic beverages;
- (ii) sale of intoxicating liquors;
- (iii) sale of newspapers, periodicals and magazines;
- (iv) sale of petroleum spirit, diesel oil, lubrication oil, paraffin and liquefied petroleum gas and solid fuel, supplies and accessories for motor vehicles, pedal cycles, aircraft and boats (including any other description of vessel used in navigation);
- (v) the hire of motor vehicles, pedal cycles, aircraft and boats (including any other description of vessel used in navigation);
- (vi) sale of agricultural or horticultural produce at roadside stalls;
- (vii) sale of medicines and surgical appliances at any premises registered under Article 3 of the

Pharmacy, Poisons and Medicines (Jersey) Law 1952;

- (viii) any business carried on the foreshore under a concession granted by the Tourism Committee;
- (ix) any business within the arrival or departure halls within the Port of St. Helier or St. Peter's Airport;
- (x) shops being a use incidental to the main attraction, such as the zoo and museums, or place of entertainment such as the theatre and cinema;
- (xi) shops being a use incidental to the operation of a recognised sporting facility, and stocking equipment used in connection with the sports played on the site.

## Stakeholder issues

### Retailers

The United Kingdom experience of deregulation shows that Sunday trading is largely rearranging the same level of spending rather than generating additional consumer expenditure. Longer trading hours do increase business overheads and are likely to increase the demand for labour thus impacting on the profitability of the business and ultimately on tax revenues. Deregulation could therefore conflict with the recently approved States Strategic Plan 2005 to 2010 which proposed that *“the working population should not be allowed to grow by more than 1% per annum and workforce changes should be redirected from low wage jobs into other sectors”*.

However, Jersey may benefit from some increased spending from day-trippers and short-stay visitors, e.g. those attending conferences, although such additional trading is likely to be limited to certain times of the year.

Deregulation is also likely to increase the number of deliveries to shops and, in general, it is the noise and disturbance caused by deliveries that forms the basis of many complaints received by Connétables.

### Staff in wholesale/retail trades

There are currently 8,560 persons employed in the wholesale and retail trades [June 2003 Report on the Jersey Labour Market, Statistics Unit, Policy and Resources Department] who may be adversely affected as they may be required to work. This is an increase from 7,295 in 1996 [Census report].

Increasing the number of trading days is likely to increase the demand for labour. No analysis has been undertaken to estimate the likely increased demand for labour as a result of total, or partial, deregulation but any increase will impact on the Strategic Plan decision mentioned above (*“The working population should not be allowed to grow by more than 1% per annum and workforce changes should be redirected from low wage jobs into other sectors.”*)

Whilst one of the main attractions for employees in taking on Sunday work is the existence of premium rates of pay, the experience in the United Kingdom is that this will disappear over time and Sundays and bank/public holidays are considered part of the normal trading week. In the long-term therefore there will be less protection for some members of the population.

### Local consumers

The complexity and ambiguity of the current legislation coupled with a belief that it is the right of consumers to be able to shop whenever they find it convenient seem to be the dominant reasons for deregulation. The Legislation Committee would concur with the views regarding the current legislation being complicated as it focuses on the items which may be sold, rather than on the shops which may open. This was highlighted earlier this year with a series of complaints from customers who found themselves unable to purchase fresh cut flowers from numerous retail outlets owing to the Sunday Trading restrictions applying on Mothering Sunday.

The research commissioned by Euroshop and by the Chief Adviser’s Office in the late 1990s indicated some support for Sunday trading but not necessarily for all shops to be open (Appendix 3).

Most shops open at present for at least 48 hours each week and a number open for considerably longer hours (supermarkets for over 70 hours a week and garages for even longer hours). Many shops open on a weekday evening in the summer season and have late night opening in the weeks leading up to Christmas. Most are now open on bank/public holidays – other than those days covered by the current law. It is therefore difficult to argue that consumers do not have the opportunity to shop during the week. However, for some, shopping is a leisure activity which they wish to enjoy on a Sunday, whilst others pursue different types of leisure activity.

### Tourists

Figures published by the Policy and Resources Department Statistics Unit show that the number of staying visitors in 2002 was 429,700 with a further 194,000 day-trippers. The average length of staying visitor was 5.2 nights. The Island is seeking to promote the shoulder months and develop its short-stay and conference markets and it is argued that such visitors will only be able to shop on a Sunday before returning home.

Comparison is also made with other holiday destinations and the assertion that Sunday trading is generally permitted elsewhere. The position in relation to Sunday trading in 27 European countries as reported by European Retail Space 2004 indicates that only a quarter of the countries listed have total deregulation, with restrictions in other countries varying according to the type of shops.

## Residents

The 1999 proposals recognised that development in Jersey is a composite of retail and residential property and that many people living near shops appreciate the relative tranquillity afforded by the current law which limits trading on a Sunday and other special days. Deregulation would have an impact and may result in potential disruption for those living near shops.

In contrast the United Kingdom has many planned shopping centres, often out-of-town, and free-standing supermarkets which have benefited from Sunday trading. These retail outlets are not in densely populated residential areas.

General trading will increase the traffic as shoppers, and shop workers, require transport. A decision may be required as to whether parking charges should be introduced on a Sunday and bank holidays [parking is currently free of charge in car parks administered by the States of Jersey] and whether parking control staff will be employed or required to work to police car parking. The current Sunday and bank holiday bus services are very limited and are unlikely to provide a realistic option for those having to travel to work or for those wishing to shop. However, although local shopping is primarily a car-borne activity, a significant shift in shopping behaviour could prompt the introduction of more comprehensive public transport services on Sundays.

General trading will also have implications for street cleaning rotas and cost implications, which have not yet been estimated, for the States and Parishes. These costs, depending where they fall, will impact on the taxpayer or ratepayer, but may be covered in part by increased charges for parking in the case of the States. Unless there is a permit scheme permitting shops to open the Parishes will not receive additional revenue to cover costs.

## APPENDIX 3

**Euroshop** commissioned Test Research, part of the MORI group, to carry out an opinion poll of 1,000 local residents to establish attitudes in 1998. The primary question and response was as follows –

At present only small shops are permitted to open on Sunday in Jersey, and they are only allowed to sell a limited range of goods. Do you think the law should be changed to allow other shops to open on Sunday and to sell a wider range of goods?

Yes 63%                                      No 33%                                      Don't know 3%

**The Sunday Trading Survey** conducted by the Chief Adviser's Office in April 1996 (conforming to the codes of practice of the Market Research Society) on behalf of the Jersey Consumer Council. The survey was of 792 persons representative of the total population of Jersey residents and found–

1. Should shops be allowed to open on Sundays?

No 10%                                      Some 50%                                      All 40%

2. Which shops should be open on Sundays? *This question asked of the 50% at question 1 who answered that only some shops should be open.*

Newsagents 92%

Pharmacies 88%

Food shops 73%

Gift shops 53%

Garden centres 49%

DIY shops 32%

Off-licences 24%

Bookshops 17%

Clothes shops 11%

Audio-visual shops 8%

Furniture shops 6%

3. Which of the following would you consider preferable?

(a) All shops being able to open on Sundays throughout the year? 46%

**OR**

(b) All shops being able to open for a maximum of 5 hours on Sundays? 54%

4. Which of the following would you consider preferable?

(a) All shops being able to open on Sundays throughout the year? 73%

**OR**

(b) All shops being able to open on Sundays on a seasonal basis only  
(i.e. between June and September and at Christmas)? 27%

## **Explanatory Note**

---

The effect of these Regulations would be to allow Connétables of parishes to grant permits authorizing shops to open on Sundays, during a trial period beginning on 1st August 2005 and ending on 19th December 2005, for any transactions.





Jersey

# **DRAFT SHOPS (SUNDAY TRADING) (TRIAL ARRANGEMENTS) (JERSEY) REGULATIONS 200-**

*Made*

*[date to be inserted]*

*Coming into force*

*in accordance with Regulation 3*

**THE STATES**, in pursuance of Article 6 of the Shops (Sunday Trading) (Jersey) Law 1960, [\[1\]](#) have made the following Regulations –

---

## **1 Interpretation**

In these Regulations, “Law” means the Shops (Sunday Trading) (Jersey) Law 1960. [\[2\]](#)

## **2 Substitution of Second Schedule during trial period**

- (1) On the commencement of this paragraph, for the list of transactions set out in the Second Schedule to the Law there shall be substituted the list of transactions set out in Schedule 1 to these Regulations.
- (2) On the commencement of this paragraph, for the list of transactions set out in the Second Schedule to the Law there shall be substituted the list of transactions set out in Schedule 2 to these Regulations.

## **3 Citation and commencement**

- (1) These Regulations may be cited as the Shops (Sunday Trading) (Trial Arrangements) (Jersey) Regulations 200-.
- (2) Regulation 2(1) shall come into force on 1st August 2005.
- (3) Regulation 2(2) shall come into force on 19th December 2005.
- (4) Except as provided in paragraphs (2) and (3), these Regulations shall come into force on the seventh day after they are made.

## **SCHEDULE 1**

(Article 2(1))

### **LIST OF TRANSACTIONS SUBSTITUTED FROM 1ST AUGUST 2005**

“All transactions.”

## **SCHEDULE 2**

(Article 2(2))

### **LIST OF TRANSACTIONS SUBSTITUTED FROM 19TH DECEMBER 2005**

“The sale of –

- (a) foodstuffs and non-alcoholic beverages for consumption elsewhere than at the shop at which they are sold;
- (b) Jersey Postage stamps;
- (c) smokers' requisites;
- (d) beachwear and beach goods;
- (e) medicines, sun-lotions, sun-glasses and toilet requisites (including perfumery and cosmetics);
- (f) newspapers, books, periodicals and magazines;
- (g) writing materials (including pens, pencils, paper, envelopes and cards);
- (h) toys;
- (i) petroleum spirit, diesel oil, lubrication oil, paraffin and liquefied petroleum gas;
- (j) supplies and accessories for motor vehicles, pedal cycles, aircraft and boats (including any other description of vessel used in navigation);
- (k) photographic goods, supplies and accessories, (including blank video tapes);
- (l)
  - (i) flowers grown on the holding where they are sold,
  - (ii) young plants and cuttings grown on the holding where they are sold;
- (m) the following items at the premises where they are made –
  - (i) decorative candles and their accessories,
  - (ii) hand-crafted wooden goods,
  - (iii) pottery,
  - (iv) hand-crafted cork and metal tableware,
  - (v) hand-crafted leather goods;
- (n) solid fuel;
- (o) jewellery.”



---

[1] *Recueil des Lois, Tome VIII, page 838.*

[2] *Recueil des Lois, Tome VIII, page 835, Volume 1984-1985, page 199, Volume 2000, page 65, Volume 2001, page 151, Volume 2003, page 125 and Nos. 7288, 7331, 7610, 7611 and 45/2004.*