

STATES OF JERSEY



DRAFT UNLAWFUL PUBLIC ENTERTAINMENTS (JERSEY) REGULATIONS 201-

Lodged au Greffe on 27th May 2016
by the Minister for Home Affairs

STATES GREFFE



Jersey

DRAFT UNLAWFUL PUBLIC ENTERTAINMENTS (JERSEY) REGULATIONS 201-

REPORT

The Unlawful Public Entertainments (Jersey) Regulations 2013 (the “2013 Regulations”) (Revised Edition [chapter 11.700](#)) are triennial Regulations which are due to expire on 20th July 2016. These draft Regulations make substantially the same provision as the 2013 Regulations. In particular, these draft Regulations provide that it is an offence to hold a public entertainment without the permission of the Bailiff, and the Bailiff may grant permission for the provision of public entertainment subject to any conditions that he thinks fit.

The only significant difference between these draft Regulations and the 2013 Regulations is that the content of Regulation 3 has been updated. The updated Regulation 3 uses the current standard form of words used in other enactments to identify the persons who could personally commit an offence under these draft Regulations if an offence is committed by a corporate entity with which they are involved. This includes, for example, a partner in a limited liability partnership or a director in a body corporate, etc.

Equivalent provision to that found in these draft Regulations was initially introduced in July 1992 in order to reflect the Bailiff’s control of public entertainment, which is a customary power under the [Code of 1771](#). Equivalent provision was then subsequently enacted in 2001, 2004, 2007, 2010, and in 2013.

In December 2010, Lord Carswell’s *Review of the Roles of the Crown Officers* ([R.143/2010](#)), recommended that “the Bailiff should cease to be responsible for giving permission for public entertainments” (Recommendation 6).

In April 2015, the States adopted the 7th amendment ([P.27/2015 Amd.\(7\)](#)) to the Draft Strategic Plan 2015 – 2018 ([P.27/2015](#)), agreeing to –

“Delegate authority to the Parish of St. Helier for the licensing of small-scale events within the parish, including in its public squares and precincts, after appropriate consultation with the relevant authorities and subject to all necessary safeguards, risk assessments being in place”.

In June 2015, the States also agreed in principle that marriage should be allowed to take place in the open air and in public spaces (*see* [P.65/2015](#)).

In light of these decisions, work has now commenced on scoping an alternative route for the management and approval of entertainments and events in the public domain.

This is, however, a very significant piece of work, which interfaces with a number of other pieces of legislation; for example, the Road Works and Events (Jersey) Law

2016 ([L.11/2016](#)). Hence, it is appropriate that these draft Regulations are enacted and brought into force to maintain the current position whilst this work is undertaken.

These draft Regulations have been subject to a human rights audit, and have been found to contain no human rights implications.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from the adoption of these draft Regulations.

Explanatory Note

These triennial Regulations replace the Unlawful Public Entertainments (Jersey) Regulations 2013 on their expiry.

Regulation 1 re-enacts the offence of holding a public entertainment without the permission of the Bailiff (with a penalty of imprisonment for up to 6 months, an unlimited fine, or both).

Regulation 2 re-enacts the offence of contravening a condition subject to which permission is given (with a penalty of imprisonment for up to 6 months, an unlimited fine, or both). A contravention (which includes a failure to comply) may occur due to circumstances that the organizer of the event cannot control. So 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 provision on the liability of individuals when the offence is committed by a body corporate, a limited liability partnership or a separate limited partnership. The provision is expanded to distinguish more clearly between consent (or connivance) and neglect, and to identify more precisely which types of partner are liable.

Regulation 4 re-enacts the statement that the Regulations do not alter any customary law offence.

Regulation 5 names the Regulations, brings them into force on 21st July 2016 (when the current triennials expire), and provides for them to expire after 3 years (as triennials).



Jersey

DRAFT UNLAWFUL PUBLIC ENTERTAINMENTS (JERSEY) REGULATIONS 201-

Arrangement

Regulation

1	Organizing an unlawful public entertainment an offence	9
2	Contravention of condition of permission an offence	9
3	Offences by body corporate, etc.....	9
4	Saving of customary law	10
5	Citation, commencement and duration.....	10



Jersey

DRAFT UNLAWFUL PUBLIC ENTERTAINMENTS (JERSEY) REGULATIONS 201-

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

THE STATES, in pursuance of the Order in Council dated 14th April 1884¹, 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 commits an offence and is 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 commits an offence and is 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 Offences by body corporate, etc.

- (1) In this Regulation –
“relevant offence” means an offence that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;
“relevant person” means –

- (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
 - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
 - (i) a general partner, or
 - (ii) a limited partner who is participating in the management of the partnership;
 - (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
 - (i) a director, manager, secretary or other similar officer of the body corporate, and
 - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member's functions of management; and
 - (d) a person purporting to act in any capacity described in subparagraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence under Regulation 1 or 2 is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) If a relevant offence under Regulation 2 is proved to be attributable to any neglect on the part of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

4 Saving of customary law

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

5 Citation, commencement and duration

- (1) These Regulations may be cited as the Unlawful Public Entertainments (Jersey) Regulations 201-.
- (2) These Regulations come into force on 21st July 2016 and remain in force for 3 years from that date.

¹ *chapter 16.700*