

STATES OF JERSEY



Jersey

DRAFT COVID-19 (AMENDMENTS – EXTENSION, SUSPENSION AND REPEAL) (JERSEY) REGULATIONS 202- (P.103/2020) AMENDMENT

**Lodged au Greffe on 24th August 2020
by the Children, Education and Home Affairs Scrutiny Panel**

STATES GREFFE

DRAFT COVID-19 (AMENDMENTS – EXTENSION, SUSPENSION AND
REPEAL) (JERSEY) REGULATIONS 202- (P.103/2020) AMENDMENT

1 PAGE 36, REGULATION 25 –

Before Regulation 25 (to be renumbered as Regulation 26) insert –

**“25 Unlawful Public Entertainments (Jersey) Regulations 2019
amended**

At the end of Regulation 1 of the Unlawful Public Entertainments (Jersey)
Regulations 2019 there is inserted –

“(5) Paragraph (4) and this paragraph expire at the end of 30th
April 2021.””.

CHILDREN, EDUCATION AND HOME AFFAIRS SCRUTINY PANEL

REPORT

Background

1. On 24th March 2020, the States Assembly voted to adopt P.22/2020 Draft Unlawful Public Entertainments (Amendment) (Jersey) Regulations 202- (hereafter ‘P.22/2020’). P.22/2020 was brought forward at the onset of the Covid-19 pandemic in order to bestow additional powers to the Bailiff under the Unlawful Public Entertainments (Jersey) Regulations 2019 (hereafter, ‘the triennial Regulations’). The additional powers included the ability to remove consent for large-scale events to take place and also to place conditions on the operation of any large-scale events in light of the evolving situation around Covid-19.
2. The Children, Education and Home Affairs Panel (hereafter ‘the Panel’) presented comments in relation to P.22/2020 on Monday 23rd March, the day before the debate took place. It should be noted that the proposition itself was only lodged on the 20th March and therefore the Panel had very limited time to examine it in any detail. Given the pressing need for the changes contained within P.22/2020 in light of the emerging situation, the Panel agreed that they should be approved. However, the Panel did raise the following points during its comments:
 - The triennial Regulations were recently adopted in 2019, meaning that they are in place until 2022 when they will require renewal. Unlike other legislation brought forward to tackle the Covid-19 pandemic which has been time limited until 30th September 2020, the changes in P.22/2020, having now been adopted, will also be in place until 2022. The Panel is concerned, therefore, that the changes could be in place for a period of time after the Covid-19 situation has sufficiently relaxed. As this change was brought forward specifically to tackle Covid-19, the Panel questioned why it was not time limited as with other proposals. The Panel was told that as the triennial Regulations were time limited in any event, the absence of a specific time limit for the changes did not seem injurious to civil liberties.
 - One of the reasons given for the changes in P.22/2020 was that the current powers were anodyne and other situations (e.g. fire or flood) outside of Covid-19 could also benefit from the proposed changes. Were P.22/2020 to be brought forward during normal times there would usually be a six-week lodging period applied and consultation (whether by the Government or Panel) would usually be undertaken with key stakeholders in order to gather views and any concerns in relation to what was being proposed. Whilst the need for the changes is understood in the current context of Covid-19, the Panel is concerned that as the changes are to be in place until 2022, sufficient scrutiny and consultation has not been able to take place to look at the wider implications of their adoption.

The Amendment

3. The Panel recommended in its comments to P.22/2020 that the Minister for Home Affairs bring forward an amendment to the Triennial Regulations in order to time limit the changes until 30th September 2020. This was in line with the concerns raised above and also in order to align the legislation with other pieces being brought forward to tackle Covid-19. This was agreed and

accepted by the Minister during the debate on 24th March. However, the Minister has subsequently reviewed this and has decided that the changes should remain in place. The Minister did agree that he would bring forward the amendment as requested, however, it was his intention to speak against it during the debate. The Panel has discussed this matter further and agreed that, in light of the Minister's position, it would seek to time limit the proposals in line with its original view.

4. P.103/2020 Draft Covid-19 (Amendments - Extension, Suspension and Repeal) (Jersey) Regulations 202- (hereafter the 'draft Regulations') proposes to extend, suspend or repeal a number of pieces of legislation which have been brought forward to tackle to Covid-19 outbreak. Noting that a number of pieces of legislation are due to be extended until 30th April 2020, and after consultation with the Legislative Drafters, the Panel agreed that this seemed an appropriate time limit to place on the amended triennial Regulations. As P.22/2020 was brought forward in light of the Covid-19 situation, it is therefore appropriate that this should also be considered as part of P.103/2020.
5. The Panel's has considered one particular matter that could arise in relation to removal of consent, or conditions, of events that straddle the 30th April cut off. Whilst the Bailiff could remove consent for an event to take place on 5th May prior to the cut off, they would not be able to do so on 1st May. Similarly, this would also apply to any conditions placed on events and consideration would need to be made about when the revocation was made and when it was intended to come into effect. The Panel would suggest that a practical and proactive approach is taken by the Bailiff's Entertainments Panel when considering applications for large scale events around this time period. Conversely, given the current advice in relation to large scale gatherings, it is assumed that the Bailiff's Entertainment Panel would be cautious about granting consent for events in any case. Whilst there is some uncertainty as to how long the powers to tackle Covid-19 will be required, this particular matter could be reviewed and extended if required. The Panel would suggest that placing a time limit on the powers creates further transparency as to their intended use at this time.
6. The Panel would make one final point, that the triennial Regulations will require a full review before they are next brought back to the States Assembly in 2022 including consultation on the changes adopted by P.22/2020 outside of the context of Covid-19.

Financial and Manpower Implications

There are no financial or manpower implications arising from the adoption of this amendment.