

2024.04.30

3.11 Deputy S.M. Ahier of St. Helier North of the Minister for Sustainable Economic Development regarding the Licensing (Jersey) Law 1974 (OQ.86/2024)

Will the Minister advise what changes, if any, he intends to make to the Licensing (Jersey) Law 1974, to simplify and improve the law?

Deputy K.F. Morel (The Minister for Sustainable Economic Development):

Work is underway to bring forward a series of amendments to the existing Licensing Law rather than replacing the existing law with a new law, as was attempted in 2017 but ultimately failed. Many of these changes will be focused on the constituted policy commitment to reduce red tape and lower the barriers to business. Amendments are likely to include changes to the licence categories, the Licensing Assembly in the way that that operates, and also the regulation of drinks promotions, among others. Amendments will be shaped through engagement with the industry and other sectors of government.

3.11.1 Deputy S.M. Ahier:

In his Ministerial statement, part 3, he said that he intends to review the Tourism (Jersey) Law 1948, the Licensing (Jersey) Law 1974 to ensure they are fit for purpose and enable businesses to operate efficiently within the sector. When does he intend to have such a review and, if he does intend to have such a review, how long does he believe it will take?

Deputy K.F. Morel:

I am seeking to fast forward that. I do not want to go down the road of just a review that takes a year and then pushes things back further. I think it was mentioned recently in the media that a great deal of work has been done, and that is quite correct, on the Licensing Law, including the failed 2017 attempt to bring in a new law. We will use the work that has already been done, we will use a lot of knowledge that we already have, such as: are the licence categories fit for purpose? Almost certainly not. They were created in 1974 and things have changed since then. I think the approach that I am asking my officers to undertake is one which is more directly focused on changes to the law rather than reviewing, but we will be doing that in conjunction with the hospitality sector because they obviously need to feed into that and also areas such as the police who have to police these things as well.

3.11.2 Deputy M. Tadier:

Will the Minister state whether he thinks under the law things like minimum unit pricing of alcohol, opening hours and drinks promotions, who should be the people that make decisions on those kind of questions and what does the current law allow for?

Deputy K.F. Morel:

As I understand it, the current law allows for the Licensing Assembly to address such questions, and the Attorney General, I believe, with drinks promotions, that is what has happened in the past. I see future amendments to the Licensing Law taking that away from the Licensing Assembly and vesting it here, as we passed a proposition in the last Assembly which asked for political control of such things as drinks promotions, and so on, so that is what I intend to try to bring forward.

3.11.3 Deputy M. Tadier:

We see that Government and even law drafting can act very quickly in certain areas such as cybersecurity, digital fintech, financial services laws that need to be drafted in relatively short order and which are well resourced to be able to do that. When it comes to things like unlawful entertainments and licensing laws, often these things go back 20, 25 years when the first recommendations were made and we are still being told by this Minister that it is going to take maybe 3 years in the next Government

before any changes are happening in this area. Can the Minister explain perhaps why there seems to be a difference in approach to getting laws passed, on the one hand very quickly, and on the other very slowly?

Deputy K.F. Morel:

I believe the answer there is well above my pay grade because I do not have a view of the Law Officers' Department, the Law Drafting Office, the Government and the judiciary to understand why some things are prioritised. I am not the Chief Minister, I cannot prioritise legislation particularly myself, so I do not have that view and do not understand that. What I will say is that I have not said it will take 3 years to bring forward all of the changes, I would like to see these changes brought in before the end of this term. With regard to the triennial regulations, the reason they are being asked for 3 years is just to make sure we have the comfort because things such as Law Drafting Officers' time are not under my control. I cannot know whether we will be able to control that or not, so that is purely for comfort. It is my intention to get this delivered in this Assembly because I do not want these changes which have been talked about ... as I mentioned earlier, in 2017 there was an attempt to change the Licensing Law. It failed, it went nowhere, maybe it has gone back 25 years, these discussions, I do not know, but I would like to see us make significant changes in this term.

Deputy M. Tadier:

Can I just clarify something I said? I was not suggesting the problem was at the law drafting stage, I think it is before things get to the law ... it is just to clarify ...

The Bailiff:

Well, I am sorry, Deputy, there is no opportunity for a point of clarification during question time, I am afraid. It is a question and answer and that is all it can be, Deputy.

3.11.4 Deputy A. Curtis:

Following Deputy Tadier's second question there: could the Minister identify why he believes it would take so long to bring changes, even to be lodged by 2026, given the abundant evidence and knowledge base within the community about what needs to be done?

Deputy K.F. Morel:

I am pleased the Deputy believes that there is abundant evidence in the community and agreement, I suggest, he is implying. I am not so sure that there is such clear agreement. I think it does depend on where you turn and who is asked. I think it is really important. I have not at any point suggested that this will take longer than this term of office. That is not something I have suggested, that seems to have come from somewhere else.

3.11.5 Deputy A. Curtis:

Assuming that there is not such widespread agreement, does the Minister not agree that some very simple elements of the Licensing Law, if the law is to be amended rather than replaced, could be presented by the end of this year?

Deputy K.F. Morel:

I will not make a commitment to the end of this year but I will make a commitment to as soon as possible.

3.11.6 Deputy J. Renouf:

Will the Minister state whether he is of the opinion that the licensing decisions currently taken centrally by law officers and so on could be delegated to Parishes and, if so, would he put that in his list of things to be actioned before the end of this term?

[11:00]

Deputy K.F. Morel:

I am not convinced that delegating further to Parishes would make life easier for any businesses. The delegation to Parishes creates 12 different Licensing Assemblies. I believe the system at the moment where Parishes have their own Licensing Assembly and provide their recommendation according to what they see as the impact on their local area is appropriate, and I think that should be maintained. I do not see delegation going any further because that, I believe, will fragment things further than they are currently are.

3.11.7 Deputy J. Renouf:

Maybe there is a trade-off here; the Minister has spoken about his desire to reduce red tape. Having one Parish Licensing Assembly recommending to another Licensing Assembly seems to me to be an example of red tape. Could he not at least trial perhaps with St. Helier the idea of a Licensing Assembly at a Parish level?

Deputy K.F. Morel:

I have to go back to the idea that 12 different Licensing Assemblies as the ultimate authorities will only create confusion for the business community. We are being told constantly that it is so difficult to know where the people are meant to turn when they are applying for things such as licences, so I do not agree with that. When the Deputy suggests that there is red tape in the Parish Licensing Assembly providing a recommendation to another Licensing Assembly, I understand what he is saying, but I believe that what the Parish does is give the very local view as to the impact of that licence on the Parish and the neighbourhood. I think that is really important and I think that is important to be maintained. The Licensing Assembly, in whichever form that takes, having the knowledge that the local area is for or against a particular licence, I think is really valuable knowledge.

3.11.8 Deputy H. Miles of St. Brelade:

We have heard a lot about the economy strategy and tourism, can the Minister give us some reassurance that the public health aspects of the Licensing Law will be appropriately considered?

Deputy K.F. Morel:

I believe there may be some role for Public Health in this but I believe that the Licensing Law is to be primarily focused on the licensing of premises and the sale of alcohol. I believe that Public Health's role is in the education of the Island around alcohol and its impacts rather than having a direct role, particularly in licensing.

3.11.9 Connétable D. Johnson of St. Mary:

As regards the failure of the previous draft law in 2017 to which the Minister refers, does he accept that such failure arose from the actual withdrawal of the proposition by the Minister of the day in the face of constructive comments from the Scrutiny Panel of the day? Looking forward, will he confirm, if he is able to do so, that any future Licensing Assembly will not be made up of States Members as was envisaged by such draft law?

Deputy K.F. Morel:

It strikes fear in my heart that States Members would sit on a licensing panel. I do not think that is a particularly good way to ... I do not think politicians should be tasked with awarding licences or not. There are so many dangers around that, that I would not take that sort of suggestion forward.

The Connétable of St. Mary:

I am grateful for the Minister's reassurance. Thank you.

3.11.10 Deputy S.M. Ahier:

When the Minister considers amendments, will he be considering the "no dancing on Good Friday" and other anomalies in the Licensing Law?

Deputy K.F. Morel:

Is that because the Deputy wishes us to maintain the “no dancing on Good Friday” or otherwise?
[Laughter] I do believe some things which - I use this word in its loosest sense and not demeaning in any way at all - but some things which some people would view as anachronistic, this is an opportunity to look at those sorts of situations and, yes, I do believe that does need to be looked at. If people have objections obviously to dancing on Good Friday, then they should make us aware of that, but my stance would be that dancing can take place on any day. Every day is a good day to celebrate with dance.