



Education and Home Affairs Panel Draft Explosives (Jersey) Law

MONDAY, 24th MARCH 2014

Panel:

Connétable S.W. Pallett of St. Brelade (Chairman)

Connétable M.P.S. Le Troquer of St. Martin

Connétable S.A. Rennard of St. Saviour

Witnesses:

Senator B.I. Le Marquand (The Minister for Home Affairs)

[9:35]

Connétable S.W. Pallett of St. Brelade (Chairman):

Just for the tape, just to say who is here: I am Constable Steve Pallett, Chairman of the Education and Home Affairs Scrutiny Panel.

Connétable M.P.S. Le Troquer of St. Martin:

Michel Le Troquer, Constable of St. Martin.

Connétable S.A. Rennard of St. Saviour:

Sadie Rennard, Constable of St. Saviour.

The Minister for Home Affairs:

Ian Le Marquand, the Minister for Home Affairs.

Scrutiny Officer:

Mick Robbins, Scrutiny Officer.

The Connétable of St. Brelade:

The first thing I want to do is thank you for coming this morning. We have got 2 items to deal with this morning. Obviously one is the Explosives Law and the other one is the Passports Law, but we will deal with the Explosives Law first. The idea is to do the Explosives Law. We will have a short break in between so we can all get tea and coffee.

The Minister for Home Affairs:

That is fine. I have got Steve Austin-Vautier coming down for the second one, but I just cannot remember when he is coming down.

The Connétable of St. Brelade:

I think it is about 10.30 a.m. or 10.45 a.m., something like that. We will do the Explosives Law first. We have got some general questions which Michel is going to start off with and then we have got some issues and some questions regarding the Articles. If we can we will just go through an Article at a time. I think that is probably going to be easier. I am going to start with Michel. You have got some general questions first.

The Connétable of St. Martin:

Very general and I will go through them very quickly, but I am not sure if you will be so quick. Why is there a need for a replacement law, Minister?

The Minister for Home Affairs:

The old law is very much out of date and we are trying to bring the law up to date generally. Mr. Austin-Vautier has been working with this subject the whole of the last 5 years. Because I have only worked on the current law, I cannot give you a straightforward answer as to what were the essential things that were missing.

The Connétable of St. Martin:

Maybe export. There was nothing for export, was there, of explosives?

The Minister for Home Affairs:

If one looks at the existing law it is very short and I think the view was there was a general need to bring it up to date. We are looking at a 1970 law and there is a whole variety of different things which have changed since then, but I am a bit weak on detail, I am afraid. I know what is in here.

The Connétable of St. Martin:

I have certainly 3 things there you covered: the 5 years research, probably plus, and Steve Austin-Vautier. Do you know what public consultation there has been?

The Minister for Home Affairs:

Considerable. There have been 2 different stages of this. The first stage we ran into some quite serious problems because we did not make it clear that the intention was to exempt various different things, particularly things like bullets and airbags and things like that, and we got a very strong reaction from the clubs and so on. As a result of that, it delayed us some time because we spent a lot of time trying to work out which way round the law should be: whether in fact we should have a law that included all explosives in and which then had exemptions to take out the sort of ones you would not want to be controlling, like airbags, party poppers and things like that. Party poppers may count as domestic fireworks. I am not sure if they do. Sorry, I am now losing the thread of what I was saying. If you just try me again with the question I will pick it up again.

The Connétable of St. Martin:

It was just what consultation.

The Minister for Home Affairs:

Then we eventually realised we had to have everything in. The alternative would have been to only have certain named explosives in. The trouble is that the world of explosives is changing all the time and so we would constantly have to amend it. So we went back to the first stage and then basically went back again through a round of consultation. There have been 2 rounds of consultation. Every time we look at it we come up with improvements.

The Connétable of St. Martin:

When we get to the States, it is a piece of legislation to do with explosives. It is not a terrorism piece of legislation, really.

The Minister for Home Affairs:

No.

The Connétable of St. Martin:

It is the import, export, manufacture and foreign products.

The Minister for Home Affairs:

It is meant to do with commercial explosives. Now, it obviously has spin-offs in terms of fireworks but the actual work in relation to the fireworks is left over to be dealt with by regulation. So that is perhaps a more difficult area.

The Connétable of St. Martin:

We will come to that probably in a year.

The Minister for Home Affairs:

But it is really designed to deal with what we call commercial type explosives.

The Connétable of St. Martin:

Quarries?

The Minister for Home Affairs:

Quarries, yes.

The Connétable of St. Martin:

Are they the main, do you think, for explosives?

The Minister for Home Affairs:

Yes, they are in Jersey. I cannot think who else. It is a fairly limited number of people are bringing stuff in regularly, for legitimate purposes.

The Connétable of St. Brelade:

In terms of that consultation, did you speak to quarries, fireworks importers and people like that to ...

The Minister for Home Affairs:

Yes. I am afraid I just do not have the details on quarries, but I assume we are. I am afraid I just do not have the detail on that.

The Connétable of St. Brelade:

Could you let us have any idea of ...

The Minister for Home Affairs:

Yes. It is not part of my brief. Unfortunately not having Mr. Austin-Vautier is a problem because he has been managing this.

The Connétable of St. Brelade:

It is just one of the questions we had about who the consultation ...

The Connétable of St. Saviour:

Do you want a piece of paper?

The Minister for Home Affairs:

Yes, thank you.

The Connétable of St. Brelade:

Could we pass that on to the Minister?

Scrutiny Officer:

Yes. I will send an email to your department with anything that we have arranged to obtain off you.

The Connétable of St. Brelade:

Great, thanks.

The Connétable of St. Martin:

We are going to discuss, I am sure, as we go through, as well, the fireworks regulation and the regulations that will accompany the new law, how long after will that follow? It is probably quite urgent, is it not, to go with the new proposed law?

The Minister for Home Affairs:

It is being left over. Of course, the world is changing. You used to have the situation where you had 6 to 9 months, maybe even longer, between when the States passed it and when the royal assent was gained. That has come down now, quite rapidly. In reality it is a piece of work for the next for the next Minister, if I may put it that way. Within any ministry you have to prioritise the things you are going to try to achieve within that States and we have always been clear that achieving the law was within the States but achieving regulations would be for the next Minister.

The Connétable of St. Brelade:

So the intention is for the old law to carry on in existence until the regulations are put into place with the new law?

The Minister for Home Affairs:

I have not given thought to which parts of the new law could come in first, but I suspect, in relation to fireworks, that is probably so. You always get this question once the thing is registered: "Which parts can you bring in straight away and which parts do you need to take a bit of time over?" I do not think we have thought our way through that.

The Connétable of St. Brelade:

Presumably, some of the parts in regards to transfer, importation, export and that type of thing could come in straight away.

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

But the fireworks, which I suppose you could say the Constables currently administer, presumably the regulations would cover that because there is nothing in the new law that specifies that, is there?

The Minister for Home Affairs:

I think, effectively, it is the regulations that would have to change the process. So, in terms of fireworks, I do not think it is going to have very much effect until such time as the regulations are in. In relation to other matters and I say this slightly cautiously, just in case there is something there that ... well, I will give you an example. Clearly we have got to have in place the lists of exempted items. That has got to be dealt with. That has got to be in place because otherwise we will be put in a situation where every person who has got an airbag in their car will be committing an offence.

The Connétable of St. Brelade:

I think we are going to come on to exemptions as we go through because we have got some issues around the phase: "no person." So I think that will come on to exemptions when we talk about ...

The Minister for Home Affairs:

Yes, but that is an area where clearly the exemption has to be sorted. I cannot remember off the top of my head whether that is by regulation or by order. I think it is by order, which means it can happen faster, but we will get to that.

The Connétable of St. Brelade:

Okay.

The Connétable of St. Martin:

You have explosives, the 1970 law. What about general provisions; do they go out as well? What could happen at that point?

The Minister for Home Affairs:

General provisions is 1972.

The Connétable of St. Martin:

Yes. I am not sure how it all works once the new law is approved. At the moment we have got an existing 1970 law and we have 1972 provisions.

The Minister for Home Affairs:

Yes.

The Connétable of St. Martin:

Do they all get repealed?

The Minister for Home Affairs:

Once the 1970 law falls obviously anything under it will fall, but that is another issue. There may be an area there in which certain parts cannot be brought in without additional stuff.

[9:45]

The Connétable of St. Martin:

Sorry, I think I interrupted you. When the 1970 law falls the provisions would fall with it?

The Minister for Home Affairs:

Yes.

The Connétable of St. Martin:

Okay.

The Minister for Home Affairs:

That is why I am saying there may be some additional orders that need to be made or would be better to be made before the relevant parts of the new law could come and take out the old law.

The Connétable of St. Martin:

It must happen all the time. It is just if somebody asks during the debate or something in the States.

The Minister for Home Affairs:

Yes. Quite frankly, on some of these things ... in fact it was very difficult in relation to the Principles Law, for instance, where I wanted to bring the whole thing in, in one go, but we discovered that there were certain problems that would then arise; although we could have tried to counter those by some interim measures to safeguard existing things. It is quite a complex consideration as to which parts you bring in, in what order and so on.

The Connétable of St. Martin:

Just on general matters then, Mr. Steve Austin-Vautier carried out the research.

The Minister for Home Affairs:

Yes.

The Connétable of St. Martin:

He put everything together with the Law Draftsmen, I take it.

The Minister for Home Affairs:

Also we also have advisers. I think you have seen the explosives officer and the other gentleman whose title I cannot remember. Obviously they advise us. We also get a certain amount of advice obviously from clubs and so on. One of the most difficult areas here was what I call black powder, gunpowder and those sorts of things because there was a clear difference of view between the clubs and the users, on the one hand, and the explosives officer and so on, on the other hand and I have basically take a view in relation to that. If the clubs are there and the advisers are there then I am pretty close to the clubs. I thought the advisers were being unnecessarily cautious about black powder because it is not really an explosive risk if it is stored properly. It is a fire safety risk.

The Connétable of St. Martin:

We will come to that, I am sure, in a moment. Administering the new legislation will just be 2 people basically. The States police would not administer it, would they, as such?

The Minister for Home Affairs:

Are licences not going to be continued to be issued by the Minister?

The Connétable of St. Martin:

The Minister, but with the advice of Mr. Elliott or Mr. Le Vacont at the moment.

The Minister for Home Affairs:

You are going to the nuts and bolts here of things like who advises Mr. Austin-Vautier in relation to inspections and so forth. My understanding is that he would need several officers to do the inspections, but I do not think anything is going to change under that. I do not think it is proposed to change the process in terms of inspections and suitability of sites and so on.

The Connétable of St. Martin:

I do not suppose you will do, but do you know how many prosecutions there have been under the 1970 law? It is a law that just controls importation and explosives rather than a ... it self-polices it.

The Minister for Home Affairs:

I do not recall any. I can recall prosecutions under the curiously-named Loi (1884) sur les Matières Explosives but that was where people had manufactured, if you like, petrol bombs and things like that. I cannot recall any.

The Connétable of St. Brelade:

Do you know how many importers that we current have got? Is it on one hand, for example?

The Minister for Home Affairs:

Sorry?

The Connétable of St. Brelade:

It terms of importers, how many we currently have on the Island.

The Minister for Home Affairs:

I do not, I am afraid. I do not. Again, that is information Mr. Austin-Vautier will have. If you could ask me the question then I will get him to reply to you.

The Connétable of St. Brelade:

We will do that.

The Connétable of St. Martin:

Steve, do you want to go on to yours, because I think it is probably ...

The Minister for Home Affairs:

It is not going to change by virtue of this law. That is why I have not been briefed on that sort of area, because it is not going to change the process.

The Connétable of St. Martin:

I think the ones I have taken out there are going to be the ones that we are going to put ...

The Connétable of St. Brelade:

Okay, if we start going through the Articles because I think there are a lot of questions where the Articles ...

The Minister for Home Affairs:

Can I just explain to your officer that I have now got a fresh draft, which is dated 20th March, which arrived in response to our previous request for amendments? Literally, I was only informed about that on Friday. I have got the draft you have got, which I think is 31st July 2013, but I have not got ... in some cases some of the points that have been raised have already been picked up in the new draft.

The Connétable of St. Brelade:

You can maybe highlight that as we go through. Some things will not have changed, but maybe some have.

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

Obviously we have not seen the new draft.

The Minister for Home Affairs:

Well, I only saw it this morning.

The Connétable of St. Brelade:

You will have all the answers to the questions then.

The Minister for Home Affairs:

What I do have, though, is also some notes of instructions for the production of that draft and a response from the Law Draftsman. I do not know if those would be of assistance to you. I expect they would be.

The Connétable of St. Brelade:

They would. Can we have copies of them?

The Minister for Home Affairs:

Yes. I think that is the best thing. If we have got a photocopy machine nearby we could copy out the latest draft as well. I did not know until this morning you had not been provided with that.

The Connétable of St. Brelade:

No. It is worth suspending the hearing just for 10 minutes to get copies of this done?

Scrutiny Officer:

Yes, you can do that.

The Connétable of St. Brelade:

All right. What we will do is ...

The Minister for Home Affairs:

You will get the benefit of some of my comments on the guidance.

The Connétable of St. Brelade:

Probably to save time later on, it would be best if we had them.

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

What we will do is suspend the hearing until 10.00 a.m. Then we can get copies done and we can refer to them as we go through.

The Minister for Home Affairs:

Do you want the latest draft?

The Connétable of St. Saviour:

Yes.

The Connétable of St. Brelade:

If we could, yes.

[09:51]

[10:02]

The Connétable of St. Brelade:

We are going want to go back into the hearing after being given a fresh draft of the law and some notes. Are they notes from ...

The Minister for Home Affairs:

The first set of notes is produced by Karen Slack and sent to the Law Draftsman and then we got an email from Jane Reid, the Law Draftsman, back to Karen Slack. Karen Slack has wonderful title of Executive Officer at Home Affairs. She is Steven's number 2 in the Home Affairs Department.

The Connétable of St. Brelade:

I am going to go on the original set of documents I have. Some will probably be picked up by the comments you have made. At the moment I have got so much paper on the desk I am trying to refer to about half a dozen different things here.

The Connétable of St. Brelade:

If we go through the original stuff and then I will try and pick up stuff which has changed.

The Connétable of St. Brelade:

All right. We will go through the notes at the end if there is anything we have missed, but if we start with Article 2. We had a question in regard to what is exactly meant by: "in accordance with the United Nations as falling within Class 1". What was meant by Class 1?

The Minister for Home Affairs:

It is every type of explosive, absolutely every type of explosive.

The Connétable of St. Brelade:

Okay. In terms of Article 4 ...

The Minister for Home Affairs:

That is why having exemptions is vital.

The Connétable of St. Brelade:

Because everything in at the start?

The Minister for Home Affairs:

Absolutely everything is in: party poppers and beer, airbags, tensioners, everything.

The Connétable of St. Brelade:

Exemptions are through, you think, by order rather than by regulation?

The Minister for Home Affairs:

Article 2.

The Connétable of St. Brelade:

Article 4 does not state by regulation or by order: "A Minister's power to grant licences ..."

The Minister for Home Affairs:

It is 2, I think: "The Minister may make an order ..." Okay. That enables me to add things in, in fact. Where is the exception paragraph?

The Connétable of St. Brelade:

It is 9.

The Minister for Home Affairs:

It is 9, I think.

The Connétable of St. Brelade:

It is by order, is it not?

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

"The Minister may, by order, exempt explosives as a special kind of requirement ..."

The Minister for Home Affairs:

That is under 9, yes.

The Connétable of St. Brelade:

Okay, so that is that point. In Article 4 what consultation is to take place between the Minister and the Constable of the parish concerned, i.e. will there be any notification to the Constable in regard to any of the issuing of these licences?

The Minister for Home Affairs:

I think the answer is under the existing regime there is not any consultation.

The Connétable of St. Brelade:

There is not?

The Minister for Home Affairs:

There is not. I think what we said, in response to your questions in relation to conveyance licences, there potentially could be if Connétables wanted that to be.

The Connétable of St. Brelade:

I know it is going to come under the Articles as we go down through them, but in terms of something like manufacture and storage of explosives at the moment there is no requirement to notify the Constable. Is that something that could be included within the law? I know when I spoke to the Constables earlier here today, the Constable of St. Saviour and the Constable of St. Martin - not just from my own point of view but from the point of view of the honorary policy, for example - if they were aware, for example, of where explosives were stored within the parish, or fireworks for that matter, and it would just be a case of notifying the Constable of the whereabouts of where the magazines are held, for example. I will give you an example.

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

I did not know, for example, that there was a store of fireworks at Corbiere, in a bunker there. It would have been appropriate, from the point of view if there was an incident there, that the Honorary Police were aware of it.

The Minister for Home Affairs:

I think I agree with you. I am surprised that has not happened.

The Connétable of St. Martin:

I have got Port of Gorey and Port of St. Catherine?

The Minister for Home Affairs:

Sorry?

The Connétable of St. Martin:

I have got St. Catherine and Gorey at which explosives could be imported, because it says "by sea" later on.

The Minister for Home Affairs:

That is pretty unlikely.

The Connétable of St. Brelade:

I think it runs through the whole ...

The Minister for Home Affairs:

It could be possibly, but I think it is very unlikely.

The Connétable of St. Brelade:

I think we had some consultation with the Constables. It is not something that was picked up at the time but I think the 3 of us having a good look at the law now we have seen it to be something that might be prudent to have in terms of notifying any particular parish of the whereabouts.

The Minister for Home Affairs:

I think that would be good practice for the Honorary Police and presumably the States of Jersey Police to know where stuff is. I would have thought it is good practice.

The Connétable of St. Brelade:

For conveyancing, for movement of them, I think the States of Jersey Police are involved with it. They would be informed of it, but the Honorary Police might not be so.

The Connétable of St. Martin:

Article 4 is what you do. I think there would have to be consultation with the Constable because the Minister is going to ...

The Minister for Home Affairs:

Article 4.

The Connétable of St. Martin:

Article 4 is what we are talking about. Whatever happens, whether you tell the Constable or not, you are still going to grant it. So it would be consultation or it comes in each part separately ...

The Connétable of St. Brelade:

Yes. That is within the application.

The Connétable of St. Martin:

Yes.

The Connétable of St. Brelade:

For example, if there was an application for a magazine licence, would the Constable be part of that consultation? The same would apply, for example, for a manufacturing licence. If one was to be granted in St. Brelade, for example, at the moment there is nothing in the law that states the Constable would have any part in that consultation process. You may feel it is not suitable, but if it is not then we just have to have some understanding of why. I am not a big fan of red tape myself, but I am just thinking of ...

The Minister for Home Affairs:

I think what I feel is that, because these things are repetitive, I did not want to have a situation where it was necessary to consult with the Constable of the parish in which there was already a well-established magazine every time somebody wanted to bring in some extra explosives. It seems to me that would be completely unnecessary.

The Connétable of St. Brelade:

I do not think we are talking many importers and I do not think we would be talking of hundreds of importations every year. Presumably it is going to be dozens rather than hundreds.

The Minister for Home Affairs:

I get reported the number of importations at the monthly meeting and I have to say, on average, it is 3 or 4 a month being reported, so probably 40 or 50. I think that there are some circumstances where the Constable and Deputy should be consulted and I think the Constable and the Honorary Police of the parish should know ...

The Connétable of St. Brelade:

But not necessarily at the application stage.

The Minister for Home Affairs:

That is my point, yes. I think it would just be a bureaucratic process. What is the Constable going to say if somebody wants to bring in another box of gelignite or whatever it is and they routinely bring in 3 or 4 lots a year?

The Connétable of St. Brelade:

Maybe as we go through the Articles we can pick out the things where notification to the Constables might be a suitable way to deal with things.

The Minister for Home Affairs:

Yes. I am just wondering if we can pick out an order-making power or something along the way which this could be dealt with on.

The Connétable of St. Brelade:

We will follow down as we go on. If we move to Article 5, this really revolves around the reloading powder. I think we have already talked about that there has been some consultation. In terms of the actual amounts itself, 4 kilograms, how is that arrived at? Is it a balancing act or is it something that the clubs have pushed for or safety officers have pushed for?

The Minister for Home Affairs:

It is a fudge in the sense that I had to take a view as to the kind of level. They have a variety of different levels in the U.K. (United Kingdom) and I think the levels in the U.K. have been pushing up generally. The restructure is quite complicated because (1) a Minister may authorise the use by any person", but once they reduce the age to 17 incidentally from 18 ... that is to bring it into line with the Firearms Law. So the current draft has changed from 18 to 17.

The Connétable of St. Brelade:

So this is 4 kilograms for any person, any individual?

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

Presumably, if there were potentially 2 or 3 holders at one premises, it does allow them to store a lot?

The Minister for Home Affairs:

Quite a lot, yes.

The Connétable of St. Brelade:

Is there any thought or provision being given to that in terms of a safety aspect?

The Minister for Home Affairs:

This is the difficulty. I think the existing regulation deals with a total amount in one place. I may be wrong on that detail (I am sorry, I may be wrong on that detail), but we actually thought it more logical to move towards an amount per person. Otherwise, who is responsible for what if you have a number of adults in the same premises? This is an order-making power to authorise by order, so if no order is made people will not be authorised. So this is another thing which would have to be in place before the law came into place. Basically, it would enable people to store up to 4 kilograms. Now, it is my intention that the order would create conditions. See 5, a certificate under the order: “The Minister may specify, in addition to substantive conditions ... other conditions but the authorisation shall be subject ...”

[10:15]

Now, clearly what I had in mind was that there be a standard condition but that it must be stored in the standard way, which in 0.5 kilogram bags in a ... normally they are stored in a wooden box with the slots the things go down into. You have potential for 4 adults in a place together to have 16 kilograms.

The Connétable of St. Brelade:

In regards to 6.3, it says: “If the Minister refuses to grant an application for a licence certificate or grants it ...” In terms of your reasons, would one reason for refusing a licence be that too much powder is being stored on one premises?

The Minister for Home Affairs:

Yes, but it would come into operation if there was an exemption by order. Now, the point you are making is a good point: what about if you had a whole lot of people, but I think you could deal with that under the order-making power because I think, under the order-making power, you can say that this exemption of up to 4 kilograms would only apply provided there was not more than a total of so much.

The Connétable of St. Martin:

How does it then work if a canon user can have 10 kilograms? The danger is there whether he is a canon user or just a ...

The Minister for Home Affairs:

Well, you would have to make an exception because they do use large quantities.

The Connétable of St. Martin:

Anybody could then purchase a canon. The firearm users are quite forceful and they have strong views. I am just thinking we could all have a small canon and then we could have 10 kilograms.

The Minister for Home Affairs:

I have to say that I found this is incredibly difficult. We had advice basically we could have shut it down and retained it at 2 kilograms. I thought that was quite unnecessary. My personal view is that, provided it is properly stored, the real issue to do with fire risk. Having said that, if you have got a propane container and a fire takes place in your property that is potentially a far more dangerous risk than 20 kilograms of this stuff.

The Connétable of St. Brelade:

If we were to provide again, in a list of questions, how you as Minister would be dealing with bulk ... not bulk, but if there were 2 or 3 or 4 members of one family on one premises, how that would be dealt with within an order. I think if we could have an answer to that question, maybe.

The Minister for Home Affairs:

Yes. I think that is a very good question. It is not one I think that have so far we considered. I think it would have to be considered as part of the order. Essentially, probably I would want to have a maximum of 10 on any one set of premises for normal use.

The Connétable of St. Brelade:

That seems wise in terms of the amount. Okay, moving on to Article 6 in terms of assessing in anybody's fitness. I am probably going to harp on about the Constables too much this morning, but as we are part of the assessment process with firearms, for example, do you see any context where the Constable would take part in the process of assuring somebody is assessed in terms of fitness for any of these applications for licences or, again, do you think that is too much red tape for us?

The Minister for Home Affairs:

Fitness and competence; there are 2 aspects, are there not? There is: does the person know how to handle explosives? I do not think that is an area where Connétables have expertise to advise us. It is an area where obviously we would look to our own MP corps. Fitness: I assume that things like local checks are done in relation to this. I would certainly expect that. I do not know what the process is at the moment.

The Connétable of St. Martin:

I was going to say: how would you assess somebody then?

The Minister for Home Affairs:

But I do not deal with that.

The Connétable of St. Martin:

Who would do it?

The Minister for Home Affairs:

I delegate it. Mr. Austin-Vautier deals with them. I did actually sign something the other day because he was not here to sign it, but ...

The Connétable of St. Martin:

But there would be things like firearms clubs. Again, you would not be assessing a firearms club. You would be delegating that to the officer?

The Minister for Home Affairs:

Yes, generally speaking, although there are some matters I do deal with myself in relation to that. Never a club, though. That would be officers. Again, we do not see there being a change of process, whatever the process may be. The law does not change the process, whatever it might be.

The Connétable of St. Brelade:

So that assessment process currently exists?

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

Again, could you give us some background as to what that ...

The Minister for Home Affairs:

If you could email me on that, yes. As I say, Mr. Austin-Vautier deals with the things in practice. I suspect there is not a system for references and so on in the same way, but I suspect this is because we are dealing, generally speaking, with a small group of professional regular users.

The Connétable of St. Brelade:

From a Constable's point of view, would it be cross-checked with the Firearms Laws, for example, where a Constable has got some knowledge in terms of any person's individual fitness to hold explosives?

The Minister for Home Affairs:

I do not know what the process is, so ...

The Connétable of St. Brelade:

Okay.

The Connétable of St. Brelade:

We will get the answer as to what the process and then we can maybe come back to you on that. All right, if we go to Article 7 in terms of fees. Have you got any idea at the moment - I know it is probably going to come under regulations - what those levels those fees will be and what your criteria for setting those fees will be?

The Minister for Home Affairs:

No, I do not. I have not given any consideration to this.

The Connétable of St. Brelade:

But that will all come under regulation when it is finally decided or will it be under order?

The Minister for Home Affairs:

If there is a prescribed fee ... this is just saying when it is payable and so on.

The Connétable of St. Brelade:

Yes.

The Minister for Home Affairs:

The fee-setting power must be later on.

The Connétable of St. Brelade:

It is. It is further on in the legislation.

The Minister for Home Affairs:

This is just saying they have got to pay in advance.

The Connétable of St. Martin:

There is a fee thing in the existing legislation. Article 10 covers fee in the existing legislation: "Fees as the Minister shall prescribe.

The Connétable of St. Brelade:

Do you want to deal with that now?

The Minister for Home Affairs:

Sorry, which Article is that?

The Connétable of St. Martin:

In the existing legislation.

The Minister for Home Affairs:

Yes.

The Connétable of St. Martin:

Article 10 I think I said. Article 10: "Fees. There shall be payable on the grant or renewal of a licence such fees as the Minister shall prescribe."

The Minister for Home Affairs:

Right, but what does this law say? I think it must be way, way, way back.

The Connétable of St. Martin:

General provisions is Article 3.

The Minister for Home Affairs:

Yes, there we are. If you look at Article 74(1)(b).

The Connétable of St. Brelade:

Yes, prescribing fees that shall be payable on an application.

The Minister for Home Affairs:

Prescribing fees which are payable on applications. So this gives more control in the sense that if a Member of the States does not like it they can seek to challenge the order, whereas if it is just something set by the Minister there is no ...

The Connétable of St. Brelade:

But they will be based on current charges?

The Minister for Home Affairs:

I assume so, yes. Again, I have not looked at that. I am not aware of any intension to massively increase.

The Connétable of St. Brelade:

Moving on to Article 9 in terms of exemptions.

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

Who will be advised or consulted in regard to exemptions?

The Minister for Home Affairs:

I think we are already in a fairly advanced state as to the ones we basically know about and there are not that many. I have mentioned some of them already.

The Connétable of St. Brelade:

That includes somebody like Stuart Elliott, for example, who is the bomb disposal officer.

The Minister for Home Affairs:

Yes, but I think we are pretty well clear as to what they are and, in fact, my own view is I will probably need to go to the States armed with a list of what we are proposing so that Members are satisfied that we are not going to create a ridiculous situation.

The Connétable of St. Brelade:

So you will provide us with a prescribed list of ...

The Minister for Home Affairs:

Of the main points, yes. I cannot guarantee it will be everything. This will be of the ones clearly we know we have got to deal with, but it is possible that in a future time some new form of explosive will come into existence or some new usage which will require an additional exemption. I cannot imagine what. Voison's used to have a system ... was it Voison's? One of the shops used to have a system where you put money into a ...

The Connétable of St. Saviour:

It was then Hamon's.

The Minister for Home Affairs:

... a container and it would shoot along. Now, presumably it was powered by air but if you had such a system powered by small explosives ...

The Connétable of St. Martin:

Romeril's did.

The Minister for Home Affairs:

Okay, that is a good point: preparation for States ...

The Connétable of St. Brelade:

We are going to come back because there are a couple of issues we have got around the exemptions in terms of some of the other Articles, but I think we are okay there for a minute. In terms of Article 10(5) in regards to the holder of a magazine licence keeping a separate register, who will have the powers of inspection for that register?

The Minister for Home Affairs:

The answer has got to be in the section relating to powers of inspection, wherever that has got to. Basically, the structure is we have a whole series of types of licence and then you get to fireworks. Then you get to powers of entry and inspection, 64. Inspectors, sorry; part 12 which starts with Article 61: "The Minister may in writing appoint persons as inspectors for the purposes of this law under fireworks regulations." So this is simply a power and also: "The Minister may in writing designate an inspector for the purposes of Articles 67, 68 and 69." So there seems to be an inspector role and also an additional power: "Every officer of A.C.P.O. (Association of Chief Police Officers) is a harbour or airport inspector for the purposes of the law and the fireworks regulations." So you have either got Customs or Immigration officers within the harbour or the airport or you have got named individuals who will be named. Again, our intention would be to name ... I cannot remember which is which. One is a bomb disposal officer. I cannot remember what the title of the other gentleman is, but they are the obvious people for us to nominate.

The Connétable of St. Brelade:

It would follow similar lines as you are currently following at the current time.

The Minister for Home Affairs:

Yes. That is the answer. The Minister would obviously have to be satisfied these are appropriate people to give these powers to.

The Connétable of St. Brelade:

Okay. If we move to Article 11 and this is an issue that runs through part 2, part 3, part 4, part 5 and part 6, each subparagraphs of each of those parts. The question I have got is: will there be a link back to Article 9, which comes back to exemptions. For example, Article 11 under part 2: "Importers of explosives. No person shall import an explosive into Jersey except in accordance with an import licence granted to the person by the Minister." Our thoughts were: should that not be: "No person other than those exempt in Article 9," because at the moment it has got "no person".

The Minister for Home Affairs:

No, I do not think that is right because I think the effect of Article 9 is that this particular item is not an explosive for the purposes of the law. That is certainly the intention. Let us see: "If the Minister is satisfied, having regard to the nature ... the Minister may, by order, exempt explosives of a specific kind from any requirement of this law." So that is how we have done it. It is exempted from any requirement of this law, so that would include Article 11.

[10:30]

The Connétable of St. Brelade:

All the way through?

The Minister for Home Affairs:

All the way through, yes.

The Connétable of St. Brelade:

Okay. Well, that takes out a lot of questions.

The Minister for Home Affairs:

It is a catch-all.

The Connétable of St. Brelade:

Yes.

The Minister for Home Affairs:

Notwithstanding it falls within the definition of explosive, it will not be treated as within that definition for the purposes of the law.

The Connétable of St. Brelade:

Okay. Well, that clears up a lot of the questions as we run down through.

The Minister for Home Affairs:

If we got that bit wrong we would be ...

The Connétable of St. Brelade:

It is just something we wanted to have on record that understanding of.

The Minister for Home Affairs:

You are quite right to ask it but that is it.

The Connétable of St. Brelade:

If we move on to Article 13, I think this is really around the potential changing of roles for the Minister for Economic Development under incorporation of ports.

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

In your notes I think I saw that mentioned by Karen Slack where it will be a possible consequential amendment.

The Minister for Home Affairs:

I think the position must be that we ...

The Connétable of St. Brelade:

Stay with the existing for now.

The Minister for Home Affairs:

... stay with the existing arrangements for that and that, once the incorporation takes place ... because there is going to have to be an Incorporation Law, you see, and that Incorporation Law, it seems to me, will then need to make consequential amendments. I think that is the only way you

could do it. We then have to ensure that the different parts come into place in the right order. I think that is what is envisaged.

The Connétable of St. Brelade:

If and when the Incorporation Law is passed, in terms of that consultation with an important licence and obviously Article 39 as well, do you see that the Minister would still be the person consulted?

The Minister for Home Affairs:

No. I think this is essentially practical, is it not?

The Connétable of St. Brelade:

It is. It is: "adequate arrangements have been made in respect of unloading and landing of an explosive."

The Minister for Home Affairs:

Yes. Essentially it is going to be the port authority.

The Connétable of St. Brelade:

So you think it would be the Chief Executive Officer of the Ports rather than ...

The Minister for Home Affairs:

Whatever the appropriate title is. I mean that is one of the difficulties: we do not know what the structure is going to be at the moment, but I think it is equivalent to the Harbour Master, essentially.

The Connétable of St. Brelade:

So it could come down to the Harbour Master, essentially?

The Minister for Home Affairs:

I would have thought so, yes, if it is a practical thing. At the airport it would have to be the Airport Commandant or whatever we have now. This is one of the problems. Ministerial Government takes everything up to the level of Minister. You cannot believe the amount of things I do.

The Connétable of St. Brelade:

You have got to pull it back down again.

The Minister for Home Affairs:

Once you have gone into an incorporation you have then got to decide: is it the corporate body that is going to be the entity or are you going to go for a specific named officer. That is a matter to be decided, I think.

The Connétable of St. Brelade:

In terms of Article 13, another question we had is, in terms of that consultation to ensure adequate arrangements have been made for unloading and landing, do you see a role either through yourself as the Minister for Home Affairs through to the police and fire service? We are just thinking of it from a safety aspect, whether the police and maybe even the fire service should be involved in that consultation.

The Minister for Home Affairs:

I do not think we would get the fire service because this is explosives, so they do not really have expertise in relation to explosives. Again, I would have thought it would be explosive experts, essentially.

The Connétable of St. Brelade:

At the moment it has only got yourself and the Minister for Economic Development.

The Minister for Home Affairs:

Yes. I do not see the fire services having a role here.

The Connétable of St. Brelade:

But what about some other external advice?

The Minister for Home Affairs:

Again, it is up to the Minister to determine who acts on his part.

The Connétable of St. Brelade:

So this is an overarching requirement?

The Minister for Home Affairs:

Yes, that is right. I will not be down there overseeing ...

The Connétable of St. Brelade:

Absolutely not. I would not expect ...

The Minister for Home Affairs:

It is the Minister in the wider sense, you see.

The Connétable of St. Martin:

We are only talking of the importer at that time because when we get to part 7 that is the movement of explosives where we notify the police and the fire service.

The Minister for Home Affairs:

Yes.

The Connétable of St. Martin:

This is just imports.

The Minister for Home Affairs:

This is literally ...

The Connétable of St. Martin:

Your officer would guide the Ports of Jersey or the Minister for Economic Development at that point, about the importation; no more than the boat arriving at the harbour.

The Minister for Home Affairs:

Yes, although this is about unloading and landing.

The Connétable of St. Saviour:

Yes. This is why I feel the fire service should know.

The Minister for Home Affairs:

I think I would put it this way. You are not going to want to grant an importation licence unless you are satisfied there is in place appropriate arrangements, which is why I very much doubt that St. Catherine's is going to come into play here.

The Connétable of St. Brelade:

The minutiae of that type of that arrangement, the law is not the place for that?

The Minister for Home Affairs:

No, exactly. This is just high level stuff.

The Connétable of St. Brelade:

Okay, moving on to Article 17 and, again, this is another rule that relates back to the Constables where you may nor may not think it is appropriate. In terms of granting an import licence, one of the questions we had was, in terms of the relevant powers: is there a role there the parish to be consulted?

The Minister for Home Affairs:

I would have thought so.

The Connétable of St. Brelade:

Well, not consulted but informed of it.

The Minister for Home Affairs:

But what is the Constable going to do about it?

The Connétable of St. Brelade:

Nothing, but it would be just nice to know if I am getting 100 kilos of ...

The Minister for Home Affairs:

If explosives are coming into St. Helier or St. Peter ...

The Connétable of St. Brelade:

Wherever it is being imported to. I know it is being imported into the Island, but in terms of what the final destination is.

The Minister for Home Affairs:

That is the issue. I do not think the issue is an issue as to exactly what is held in a particular magazine. I think the issue from a practical point of view would be to know the magazine exists and it is actively in use, not to know there are 3 or 6 boxes or whatever. Do you see my point?

The Connétable of St. Brelade:

I do because we are going to move on to ...

The Minister for Home Affairs:

If I was a Connétable I would want to know from the point of view of public safety and issues like that: if a fire starts in the area is there a danger of an explosion. That sort of information I would want to know.

The Connétable of St. Brelade:

Funnily enough, that moves us on to Article 23, which is coming up, which relates to the magazine.

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

Maybe if we move on to 23, which revolves around storage, that is probably of more concern to the Constables. In terms of notifying the Constable that there is a magazine in the parish, another question we have is: who inspects the magazines to ensure that they are safe?

The Minister for Home Affairs:

Again, it is the same officer. I will check that but there is no one else to do it, effectively.

The Connétable of St. Brelade:

Do you know how often these are checked in terms of each magazine and in terms of ensuring that that magazine has been stored safely?

The Minister for Home Affairs:

I do not know the answer to that. If you could ask the question ...

The Connétable of St. Brelade:

Okay.

Scrutiny Officer:

I can help there a little, Chairman. We learned on Friday that Ben Le Marquand is responsible for checks: what is in them and also the keeping of the registers, the whole 9 yards. He is responsible for the maintenance of the law by the people that own the explosives.

The Minister for Home Affairs:

That is what I would expect but, again, I have not inquired of it because the new law is not essentially going to change the arrangements, whatever they are.

The Connétable of St. Brelade:

Well, it is good for us to know because I was not aware of that. Unfortunately I was not at the meeting on Friday. So, from my point of view, it is good to know that it is the same people doing those checks and that nothing will change, presumably.

The Minister for Home Affairs:

Well, the actual person may change.

The Connétable of St. Brelade:

But how it is done, the process.

The Minister for Home Affairs:

People do tend to retire eventually. I think your questions are well asked: (1) as to whether there should be consultation before a licence is granted for a magazine, and (2) whether there should be notification.

The Connétable of St. Brelade:

I think when we had a discussion between the three Constables that are here we were quite keen to know where the magazines are in the parish.

The Connétable of St. Martin:

Yes. I think we go back one, Steve, to the manufacture as well, which is Article 21: the places which are licensed.

The Connétable of St. Saviour:

We need to know.

The Minister for Home Affairs:

But is this a matter of a requirement in law or is it a matter of just good practice in relation to that? I am slightly surprised if Connétables have not been notified. Maybe they are when the licence is granted but historical knowledge does not pass down.

The Connétable of St. Brelade:

I am not aware that that has happened. I think there are issues that are going to come out today's hearing that we were going to back to the Constables with to ask them whether they were aware or whether they had any thoughts on some of these notification issues. I know it has been discussed very briefly, but I do not think we went into the context of the law to the extent I think we have done over the last couple of weeks. I just wanted to make sure the Constables were conscious of ...

The Minister for Home Affairs:

Again, what you are suggesting is a change. My own personal view is that we should just establish good practice. I do not think you need to put a requirement in the law of notification if

that is accepted to be good practice. I would expect the police in an area - and the Honorary Police are police - to have this sort of information.

The Connétable of St. Brelade:

They do not, that is the problem.

The Minister for Home Affairs:

Yes, but I do not know why.

The Connétable of St. Saviour:

They are relying on good practice.

The Minister for Home Affairs:

I will ask the question just in case the practice is to notify when the licence is granted.

The Connétable of St. Brelade:

It may be that the process has broken down over a period of time.

The Minister for Home Affairs:

It could be. Interestingly enough, of course, a condition could be put on the licence. It would be better if there was notification, but I think it is not what is in there at the moment. It is the fact it is in active use. That I think you should know.

The Connétable of St. Brelade:

There is a question I had about the transfer of explosives as well or movement of explosives: whether that, again, is something that could be notified. I think the transfer is carried out with ... the States police are involved within that process but, again, whether it would be prudent to notify the parish of any transfer of explosives through it. Again, it could just be purely a notification process for the Honorary Police, for example.

The Minister for Home Affairs:

I am trying to remember what I said on this.

The Connétable of St. Saviour:

You are on page 5 in the new transfer of explosives.

The Minister for Home Affairs:

Sorry?

The Connétable of St. Saviour:

Sorry, you have got the new order we have just had photocopied?

The Minister for Home Affairs:

Yes.

The Connétable of St. Saviour:

Yes, page 5 on draft 3.

The Minister for Home Affairs:

Page 5?

The Connétable of St. Saviour:

The transfer of ... yes.

The Connétable of St. Brelade:

That is in the law it is page 29.

The Minister for Home Affairs:

It is page 29 of the law.

The Connétable of St. Saviour:

Yes.

The Connétable of St. Brelade:

Again, it is just seeing whether there is an opportunity to ensure that notification process is ...

The Minister for Home Affairs:

I am not sure it is a transfer licence. I think a transfer licence ...

The Connétable of St. Brelade:

Oh, it transfers purely from one person to another.

The Minister for Home Affairs:

Yes. I think it is movement. I think it is movable.

The Connétable of St. Saviour:

Movement is part 7, yes.

The Minister for Home Affairs:

I think it is Article 33.

The Connétable of St. Brelade:

Yes, it is. You are right, part 7.

The Minister for Home Affairs:

It says: "Where the Minister grants a conveyance licence to an applicant he shall send a copy of the licence to the following persons: the Harbour Master, the Chief Fire Officer for the Fire and Rescue Service and the Chief Officer for the States of Jersey Police."

The Connétable of St. Brelade:

Would it be easier to ...

The Minister for Home Affairs:

We could add in there, if you so wished, if the Connétables so wished: "The Connétables of all parishes through which the explosive will pass."

The Connétable of St. Brelade:

Again, that passes down to the Honorary Police themselves through the Constable to the Chef de Police, so I think that would be something they would find useful.

The Minister for Home Affairs:

Yes. Probably that should be there, in reality, but then obviously we would have to define which are the relevant parishes.

The Connétable of St. Martin:

There is a specific route, Minister, anyway. Mick will confirm, I think. It may have changed, but there was certain routes that had to be taken.

Scrutiny Officer:

The licences lay out ...

The Minister for Home Affairs:

Yes, the route is specified because ... I know this, because the one I signed the other day was in fact a transportation, it was a movement licence, and Steven not being there, I signed it, and it specified which route would be taken.

[10:45]

Now, obviously if the Honoraries have a particular interest in it, they would need to ensure that they are liaised, but I think in principle it would be right to add in the ... who do we add in now?

The Connétable of St. Martin:

The Constable is going to tell the Duty Centenier, but I think we are likely to get calls at parish halls from a member, a parishioner, saying they have seen a fire engine, a police escort and 2 vehicles travelling through the parish and: "What was it? They passed my front door" whereas we would just be able to say it was the normal transfer, we were informed and there was a licence for it to ...

The Connétable of St. Brelade:

I think it is really a courtesy notification, so that from the point of view of the Island Chef de Police and the Constable being able to put people's minds at ease, for example, or purely that ...

The Minister for Home Affairs:

I think I agree with you. I have got written down the Connétable of each parish in which the ...

The Connétable of St. Brelade:

Convoy.

The Connétable of St. Saviour:

... firearms are transported.

The Connétable of St. Brelade:

Explosives.

The Minister for Home Affairs:

Explosives.

The Connétable of St. Saviour:

Yes, explosives.

The Minister for Home Affairs:

Shall be ... whatever, with its transport. I think I agree with you on that. That previous comment, I think it was suggested and I was quite open to that. You have pinned me down on that one and I think I agree with you.

The Connétable of St. Martin:

Personally I think there should be something that we be advised under part 3 and under part 4 too, under the manufacturer ... if someone is manufacturing in the parish and if somebody is storing in the parish, at least just a notification that it is being stored in the parish, because at the moment we will not know.

The Connétable of St. Brelade:

I think if somebody is ... there must already be a list, which I am ...

The Connétable of St. Martin:

I do not know.

The Connétable of St. Brelade:

... certainly at the moment not aware of. If it is, it would be good if we were made aware of it, but I think for any new premise, the Constable should be notified of that.

The Minister for Home Affairs:

Is that sufficient, from your point of view? Obviously there is 2 different levels. Certainly the minimum is that under parts 3 and 4 there should be notification. Would you want to have consultation on that? At what point ...

The Connétable of St. Martin:

I do not think we are concerned, other than ...

The Minister for Home Affairs:

... and I am essentially saying bearing in mind the risk assessments and so on are being ...

The Connétable of St. Brelade:

I do not think we have got the knowledge.

The Connétable of St. Saviour:

I think we just need to be in the loop.

The Connétable of St. Martin:

I think you are right. You have got the people that the Home Affairs are employing to do exactly that.

The Minister for Home Affairs:

That is my point, yes.

The Connétable of St. Martin:

So we do not need to.

The Connétable of St. Saviour:

We just need to be kept in the loop.

The Connétable of St. Brelade:

I think notification of it is important.

The Connétable of St. Martin:

Because if the Honorary Police are called to a fire ...

The Minister for Home Affairs:

It is necessary to put that in the law or is it just ...

The Connétable of St. Brelade:

Again, if it is in the process and it is just purely not being followed, then no, but as long as there is a notification process.

The Minister for Home Affairs:

There should be.

The Connétable of St. Brelade:

There is not.

The Minister for Home Affairs:

The trouble is that, with the passage of time, things which used to happen routinely are evolving in terms of the parish and so on have died away and ...

The Connétable of St. Saviour:

Yes, the Constables are getting left out.

The Minister for Home Affairs:

... and I think it is quite important to maintain the principle. Okay, so you have asked the question on that piece ...

The Connétable of St. Brelade:

Yes, of whether it is included, should be included in the law.

The Minister for Home Affairs:

... and I think in practice, there probably are not an awful lot of applications ...

The Connétable of St. Brelade:

No.

The Minister for Home Affairs:

... for new ones and therefore it does not come up very often. It maybe assumes that therefore the knowledge exists, but I think what you should be doing is notifying every parish of the existing ones as well, because I think even if there was notification in the past, that corporate knowledge obviously has not passed down.

The Connétable of St. Brelade:

I think it may have lapsed over a period of time.

The Minister for Home Affairs:

Yes. That is what happens, does it not?

The Connétable of St. Brelade:

If we move on to Article 38: "Explosives to be returned to the place of origin," mention is made of special circumstances in part 2.

The Minister for Home Affairs:

Article 38?

The Connétable of St. Brelade:

Article 38, part 2: "If the Minister considers there are special circumstances, he obviously may grant an export licence." Can you give us an idea of what those special circumstances might be?

The Minister for Home Affairs:

It is most likely fireworks, because we have a situation with the main fireworks importer, I think also who has a business in Guernsey. I am not 100 per cent sure of that, but I think he has and therefore might sometimes, rather than importing specific things separately ... because I do not think that ... well, I might be talking nonsense, but the question is as to whether fireworks have been exempted in some way from part 8. I do not see they have. I think it is fireworks mainly, and I suppose if you had a company operating in both Islands and for some reason they needed urgently to transfer some stuff across, I suppose that would be the sort of situation.

The Connétable of St. Martin:

This is new, is it not? This is new, because at the moment, there is nothing for export of explosives.

The Minister for Home Affairs:

There is not, no.

The Connétable of St. Martin:

I can imagine if you have got a large operation, maybe something at La Collette you are doing and you do not use all the explosives, then you cannot get rid of them. You have either got to sell them to another quarryman on the Island ...

The Minister for Home Affairs:

Yes, I think what we want to do is establish a principle that we do not want Jersey to be used as a wholesale warehouse for explosives. That is an exceptional situation in which them having been imported, in which they would be exported elsewhere than where they came from. I think what we have set out to achieve, but aligned to the fact there might be a genuine occasion in which ... I suppose you could have a situation which somebody who had been using explosives shut down and had a stock of them and no one else in Jersey was willing to take them or take them at a realistic price and somebody in Guernsey was. Then I think it would not be unreasonable in those circumstances to grant an export licence.

Scrutiny Officer:

Excuse me, Chairman, I just thought to assist you, yesterday we were advised on this point that the conditions of export of explosives from the U.K. ensured that Jersey was the end user and did not export them on elsewhere.

The Connétable of St. Saviour:

No, we do not.

Scrutiny Officer:

So that requires them to go back to the point of origin if they are not used.

The Minister for Home Affairs:

Anyway, I did not know that.

Scrutiny Officer:

That is what I was led to believe on Friday.

The Minister for Home Affairs:

In which case, if that is ... because that could change, it can change, but if that is maintained in the U.K., then obviously that is going to be so. I suppose we could have explosives from France which did not create that condition, which is why we need to have something.

The Connétable of St. Brelade:

I know it is something we spoke about before: how would that cover - and apparently it is not done here at the present time - the export of any manufactured goods that were made here? Apparently there is not any made here at the current time.

The Minister for Home Affairs:

Because Article 38(1) only applies to imported explosives. Interestingly enough, if you look at the notes, the conversation taking place in relation to the redrafting, there is issues about that. Quite interestingly, I have just spotted 38(1). We have just asked for this not to apply to fireworks. It will be interesting to see if that is in place.

The Connétable of St. Brelade:

It does also say in these notes that it assumes that there are no explosive manufacturers based here, which I think you can confirm.

The Minister for Home Affairs:

Yes, but the point I am making, Chairman, is 38(1) starts at the words: "If an explosive has been imported into Jersey." Therefore it would not apply to one that was manufactured.

The Connétable of St. Brelade:

But if an explosive is imported into Jersey and is used to manufacture another type of device, for example, and it had to be exported out of the Island, that would be manufacture. How would it be covered under this law?

The Minister for Home Affairs:

It would still be the same explosive, would it not? Are you talking about some form of chemical process which would change the nature?

The Connétable of St. Brelade:

No, I am just really trying to get in my mind what would happen. If, for example, we decided we were going to start making landmines and we were exploding, how would that allow us to ... the fact is it is the explosive that is covered, not the use that it is being put to, i.e. use in a landmine, use in a grenade, use of that type of ...

The Minister for Home Affairs:

It would be the explosive.

The Connétable of St. Brelade:

It would be purely the nature of the explosive within that device itself?

The Minister for Home Affairs:

Yes. In fact, this would give control over that, over the exportation. I would not be very happy and my successors would not want to see us as a world centre for that.

The Connétable of St. Brelade:

We do need a more diverse economy, but not in that regard. Okay.

The Minister for Home Affairs:

I just want to pick up this 38(1) point. Okay, in the latest draft, 38(3) has taken fireworks out from this so that fireworks are not subject to this, the effect of that meaning that they can be exported.

The Connétable of St. Brelade:

Under this ...

The Minister for Home Affairs:

Again, the purpose for that ...

The Connétable of St. Saviour:

From the Channel Islands?

The Minister for Home Affairs:

Anywhere, but they still ...

The Connétable of St. Brelade:

So that would allow, for example, a local pyrotechnic to take his fireworks from here, for example, to St. Malo if he wanted to do a ...

The Minister for Home Affairs:

Yes, but he would still need a licence.

The Connétable of St. Brelade:

To export?

The Minister for Home Affairs:

Yes, because 36: "No person shall export an explosive from Jersey except in accordance with an export licence." He would still need an export licence, it is just he would not be subject to this presumption in 38(1) that it has got to go back.

The Connétable of St. Brelade:

That it has got to go back to its point of origin.

The Minister for Home Affairs:

Yes, that is what we did. We do not want to have it in relation to fireworks.

The Connétable of St. Brelade:

All right, I think that is fairly clear. Okay.

The Minister for Home Affairs:

But that has been given effect, as I say, in the latest draft.

The Connétable of St. Brelade:

Article 39 again is about the incorporation of ports, the question of that, and we have covered that. Article 42...

The Minister for Home Affairs:

It is a safe point, yes.

The Connétable of St. Brelade:

Again in: "Persons to be notified in grant of an export licence" it is an issue I think that has come up before: is the Constable of the parish concerned not on the list? I think your opinion was that that is not necessary.

The Minister for Home Affairs:

Why do you want him to be on the list? Surely is the movement that is the issue.

The Connétable of St. Brelade:

That is a point that we have covered and it is one of a raft of questions we had I think that you have already covered and I think we are fairly happy.

The Minister for Home Affairs:

Yes, because I think movement would include back to the port.

The Connétable of St. Brelade:

Yes.

The Minister for Home Affairs:

So again, if you have got ...

The Connétable of St. Brelade:

But the export is not an issue for the Constable.

The Minister for Home Affairs:

The principle of notification, which I accepted.

The Connétable of St. Martin:

You would know anyway because of the other part for the transport.

The Connétable of St. Brelade:

Yes. Are you happy with that?

The Connétable of St. Martin:

Yes.

The Connétable of St. Brelade:

Okay. Right, if we move on to Article 44, so now we are going into fireworks, Article 44.

The Minister for Home Affairs:

Yes. Some of the drafting gets really quite difficult to understand here.

The Connétable of St. Brelade:

I am going to bring up one point to start with, because I am a little bit confused. 44(2)(a) and (b), and (a)...

The Minister for Home Affairs:

Can I just say that that has been redrafted?

The Connétable of St. Brelade:

It has?

The Minister for Home Affairs:

Yes, yes, because my note says: "Redraft" and ...

The Connétable of St. Brelade:

Maybe if we have a look in your new law.

The Minister for Home Affairs:

... the note to the draftsman says: "We would like to effectively remove 44(2)(a) as we do not think it is possible for make provision for securing that there is no risk that the use of fireworks will have the consequences set out in paragraph ..."

The Connétable of St. Brelade:

I think you have answered my question.

The Minister for Home Affairs:

Okay. I got there first, because this is in my own handwriting. Can I just see what has happened in this? It seems to have been taken out. It now reads: "The States may, by regulations, make provision for securing the risk that the use of fireworks will have and any of the consequences specified in paragraph 3 is the minimum risk compatible with their being used."

The Connétable of St. Brelade:

Okay. That takes out our query ...

The Minister for Home Affairs:

That is taken out, yes.

The Connétable of St. Brelade:

... regarding that.

The Minister for Home Affairs:

You got to the same point as I got to.

The Connétable of St. Brelade:

Absolutely, and I think this is the right way to go. In terms of I suppose distress and anxiety to persons, but I think what a lot of people would be concerned about is distress to animals. Again, it is probably not a point for the actual law itself, but I think it is an important point, is how you see that being policed, because it is a subjective view, in many regards?

[11:00]

The Minister for Home Affairs:

This is going to be a matter for regulations, first of all, so the States will have to make a separate decision on that.

The Connétable of St. Brelade:

Because there is no current regard in the old law in terms of dealing with issues like this, and I think the worry from ... and I think it is more likely the Honorary Police would be dealing with this. It is how they deal with it.

The Minister for Home Affairs:

I suppose that I would expect the regulations to create some sort of test to be applied. It may be a fuzzy test, but it seems to me that the Connétable, who I think would still have the power, would they, and the responsibility for this area?

The Connétable of St. Brelade:

Again, that is a question that we are going to ask a bit later on, is presumably we are still going to be regulating these fireworks, because there is no specific ... in the old law under Article 8(1), it specifically said that we were ... and I will just get the exact wording for it.

The Minister for Home Affairs:

But somebody had asked a question in relation to this and the answer was yes, because it was already in the law, so the excellent compiling of the questions or the excellent compilation of questions had just slightly slipped there. Is it not covered by 49, licensing of suppliers?

The Connétable of St. Brelade:

It is, but that is the only ...

The Minister for Home Affairs:

Oh, I misunderstood then. All right, that is interesting.

The Connétable of St. Brelade:

It is. That is the only context the Constables are put in within this law. There is a specific Article and I am just trying to find it here. It is Article ... I just want to make sure that it is covered in the same way. Article 8(1) in the old law does say: "No person shall sell fireworks by retail except in accordance with the licence granted to the person by the Connétable of the parish in which the place from which the fireworks are sold is situated."

The Minister for Home Affairs:

I think that is 49(1)(a), is it not: "Fireworks regulations may include a provision prohibiting persons from any designations specified from supplying explosives or possessing for supply any fireworks of any description so specified unless they are licensed by the relevant Connétable in accordance with regulations and the fireworks ..."

The Connétable of St. Brelade:

So that would come under Article 49.

The Minister for Home Affairs:

Yes, the regulations.

The Connétable of St. Brelade:

So the power for the Constable to issue that licence, that will come under the regulations themselves?

The Minister for Home Affairs:

From exemptions, yes. What this is doing is creating the power to make the regulations. That is the framework.

The Connétable of St. Brelade:

If we can go back to Article 44, I am trying to find the exceptions, who makes the exceptions. There is comment about exceptions. Is it 44?

The Minister for Home Affairs:

We made some changes to some of the Articles like 46, because we wanted to reverse it. At the moment: "Fireworks regulations may include a provision prohibiting persons from supplying and acquiring, possessing and the use of fireworks of any description specified during hours and days so specified." We thought it would be better if it said: "Except during hours and days so specified." I just want to check that the new draft has done that, because that is the way it operates. In other words, as drafted, you would have to have a law that basically said: "The whole of January, the whole of February, the whole of March, the whole of April, the whole of May, the whole of June."

The Connétable of St. Brelade:

Yes, rather than the bits you can do.

The Minister for Home Affairs:

That you cannot do.

The Connétable of St. Brelade:

That you cannot do, yes.

The Minister for Home Affairs:

Whereas we wanted to ... by saying "except."

The Connétable of St. Brelade:

Yes.

The Minister for Home Affairs:

Can I just check we have given effect to that? Oh. No, we have not. What has happened here?

The Connétable of St. Brelade:

It is the same. I do not know if there is anything in the notes from the ...

The Minister for Home Affairs:

Oh, let me just look at the law draftsman's note, because that is what we asked the law draftsman to do. The law draftsman has not said anything. How weird.

The Connétable of St. Brelade:

Under the: "Require further amendments" it did say under your notes that: "Please add 'except' after the second use of regulations in 46(1)."

The Minister for Home Affairs:

That is right, but that has not happened and there is no note saying why it has not happened, but I think the law draftsman has simply missed that.

The Connétable of St. Brelade:

Okay, so that is something we will have to pick up and ...

The Minister for Home Affairs:

Yes, yes. Just write it down here, Article 46: "Except" because it is ...

The Connétable of St. Brelade:

Minister, could I just ask you in regards of ... I think we have got time and I just want to make sure that you have got time in terms ... because I think we are running over time here quite a bit.

The Minister for Home Affairs:

Yes. Theoretically I am meant to be meeting with the Chief Minister and others at 12.00 p.m. It is not essential for me to be there.

The Connétable of St. Brelade:

If you are happy with that, I am happy to continue. We will see how we go. So that is something that needs to be included within the ...

The Minister for Home Affairs:

Hang on, I think what has happened is they have put "except" in the wrong place.

The Connétable of St. Brelade:

In the new draft you have given us, there is no "except" in it. Well, no, there is in (2).

The Minister for Home Affairs:

There is at 36(2).

The Connétable of St. Brelade:

But it does not relate to hours and days. I think in (1) it should have said: "Specified in the regulations except during hours and days so specified."

The Minister for Home Affairs:

Yes, I think they put "except" in the wrong sub-paragraph. I think they stuck it in 46(2)...

The Connétable of St. Brelade:

Right. I will let you go away and slap their ...

The Minister for Home Affairs:

... and we asked for it in 46(1).

The Connétable of St. Brelade:

I will let you slap their wrist on that and put them right. At least that is clear.

The Minister for Home Affairs:

Yes. It is going to be much easier for people to understand that that way round.

The Connétable of St. Brelade:

I also note in your note it said: "Please remove the words 'or places' from Article 46(2)(a)" and they have done that.

The Minister for Home Affairs:

Sorry, what was that?

The Connétable of St. Brelade:

In your notes it has got under Article 46, the top of the second page: "Please remove the words 'or places' from Article 46(2)(a)."

The Minister for Home Affairs:

Oh, yes. They seem to have redrafted that.

The Connétable of St. Brelade:

Yes, that has now got "in places" rather than "in places and all places." Okay.

The Minister for Home Affairs:

I need to look at that redrafting again. As I said, this is the first I have seen this this morning.

The Connétable of St. Brelade:

Article 47 we have: “How will the control of indoor fireworks be undertaken?” Where do you see that? How will the control of indoor fireworks be undertaken or will there be none?

The Minister for Home Affairs:

I think the intention is there be none.

The Connétable of St. Brelade:

It is under Article 47(3) that: “Paragraphs (1) and (2) do not apply to class 1 indoor fireworks and class 2...” It really is just a case of will there be any control of that at all?

The Minister for Home Affairs:

Hang on, this is quite confusing, because there are 2 things here in parallel. There is Article 47, prohibition of supply and possession of certain fireworks, and at the moment indoor fireworks, there has been no intention to control supply or possession, but under 46, there is a prohibition ...

The Connétable of St. Brelade:

To prohibit supply and acquiring, possessing and using.

The Minister for Home Affairs:

Prohibit persons from supplying and acquiring other than during certain times.

The Connétable of St. Brelade:

Will that pick up ...

The Minister for Home Affairs:

Hang on, which we had asked for 47(3) to be taken out. So effectively, 47(3) should have been taken out. The point here is that this is a regulation-making power and therefore the regulations do not have to control it if we do not want them to. But ... no, hang on, the law draftsman has not taken it out.

The Connétable of St. Brelade:

They have not taken it out.

The Minister for Home Affairs:

So why has the law draftsman not taken it out? I am not sure this instruction is correct in terms of the policy intention. Paragraph (3) is an exclusion.

The Connétable of St. Brelade:

Again, on the comments you have got here: "Please remove Article 47(3)."

The Minister for Home Affairs:

Yes. I think the law draftsman has just not understood us there, because the purpose, the point is this: this would mean that there could be a control of them. If you take out paragraph (3), then they can be controlled, but that is not going to say that necessarily we are going to want to.

The Connétable of St. Brelade:

It is going to want to be, but at least it gives you the opportunity to, if necessary.

The Minister for Home Affairs:

The opportunity, so I do not know why ...

The Connétable of St. Brelade:

Okay, so that is really just to check with the law draftsman just ...

The Minister for Home Affairs:

I do not understand why the law draftsman has not understood what we are trying to achieve, which is that ...

The Connétable of St. Brelade:

It is clear. It says: "The retail sale of indoor and garden fireworks is currently controlled by the Constables" and you want that to remain in place. I think that is about as clear as it could be.

The Minister for Home Affairs:

Yes, so that is why we want 47 coming out.

The Connétable of St. Brelade:

All right. We are going to move on to 48, public firework displays. I have had issues, I am sure Michel has had issues and I think all the Constables have had issues about public firework displays one time or another. What provision is there in the draft law for the involvement of Constables in regulating public displays?

The Minister for Home Affairs:

Again, let me just pick this up. I think the practical problem here is in determining what is a public fireworks display? Now, if I give you an example in the grey area, if a person is getting married

and as part of their wedding celebrations they want to let off billions of fireworks, is that a public fireworks display? That is the problem that I had to face. Now, if you look at the recent instruction to the law draftsman, it said: "Please add the words 'types specified' in the regulations. The rationale is that while a public fireworks display is defined in 48(8), we intend the regulations to obtain further information about the type of public fireworks display which will require notice to be given and a fee paid and have conditions attached. But the rationale, if you look at 48(4): "In this Article, 'public fireworks display' means a fireworks display in which the public or a section of the public are present, whether or not they have paid to be present." If I and my grandchildren are getting together at Guy Fawkes Day with the parents and the Le Marquand family, are we not a section of the public, in which case, we really do not want to be controlling the activities of the Le Marquand family around that Guy Fawkes Day, do we, or ...

The Connétable of St. Brelade:

A wedding reception at Gorey Castle who want a firework display at midnight, how do you control that? I have no control at the moment, have I?

The Minister for Home Affairs:

It is controllable. At the moment what I am saying is that the definition of public fireworks display is probably too wide. You would not want to control all within this definition, because this definition is very wide, so what one is seeking to do, if you look at the drafting on 48, we have added some words in, hopefully: "Fireworks regulations may include a provision prohibiting persons from creating a fireworks display of a description specified in the regulations." That will then limit it to a lesser definition than the wide definition contained in the regulations.

[11:15]

That is a Le Marquand fudge, if I may put it that way, because it just puts off the evil day of how we are going to define which are going to require a licence and which are not. I suppose it is not such a bad fudge because there might a distinction between things happening in a person's own garden or whatever and things happening elsewhere. That is a problem for the next Minister. Steve, you may have missed part of that.

The Connétable of St. Brelade:

Yes.

The Minister for Home Affairs:

The problem is that the definition of public fireworks display is very, very wide. Did you pick up what I talked about the Le Marquand family?

The Connétable of St. Brelade:

Yes.

The Minister for Home Affairs:

Right, so what we have done now, if you look at the latest draft, Article 48, it says: “Fireworks regulation may include a prohibition for persons to operate a public fireworks display of a description specified in the regulations.” So the intention is in the regulations to specify the type of public fireworks display which we really want to control.

The Connétable of St. Brelade:

What is the right way to put it? What role will the Constable play within that decision-making process, because at the moment we have none, but all we are is informed by courtesy by whoever is in charge of that display that they are having a display. It is not a case of: “Can we have it?” or any control over it. It is a case of we are informed. What I would like to have is some mechanism to allow the Constable to be involved in the consultation as to whether that public display from a policing point of view, for example, is acceptable.

The Minister for Home Affairs:

Okay. We have to look at the terms of 48(1). I have read the first part, unless ... this prevents people from doing it unless certain things happens: “Unless (a) notice of the display has been given in accordance with the regulations or any authority to which the regulation requires it to be given.” That would include, I think, the Connétable, but that is notice ...

The Connétable of St. Brelade:

But that would merely be providing information. It would not be providing us with an opportunity to give any comment as to whether it could go ahead or not.

The Minister for Home Affairs:

That is correct.

The Connétable of St. Brelade:

I would like to see more control for the Constables to say whether something is suitable.

The Minister for Home Affairs:

Can we just trot through the rest just to see if there is anything more there? “Information notice disclosed required by the regulations to be given from the authority has been so given.” So that is information. That would be information prior to the display.

The Connétable of St. Brelade:

To be fair to most of them, they do give us information, but that is purely a courtesy.

The Minister for Home Affairs:

“A fee imposed by an authority in terms of the regulations has been paid.” What does this mean?

The Connétable of St. Brelade:

It is a bit of catch-all in (d).

The Minister for Home Affairs:

Yes, I think it possible here: (d): “Or such application related to the holding of public fireworks as specified and the regulations being complied with.” Right, let us look on: “The fireworks regulations may include a provision prohibiting persons from operating a public fireworks display unless such persons satisfy the conditions as specified in the regulations and later a satisfactory completion of a course of training related to fireworks for means of approving the satisfactory completion of such courses.”

The Connétable of St. Brelade:

That relates to courses and training, and again, we have got some questions regarding that.

The Minister for Home Affairs:

That should have ... it too should also be cross-refer to the category.

The Connétable of St. Brelade:

I think 48(1) is the one that is going to relate to the actual allowing the event to go ahead.

The Minister for Home Affairs:

I think the real issue is this, is it not: are we going to have a system which allows events to go ahead provided they meet certain conditions, without the need to make an application, which is what this is, or are we going to have a system which requires an application to be made to some body, which inevitably would be the Connétable ...

The Connétable of St. Brelade:

I like that idea.

The Minister for Home Affairs:

... as to whether it goes ahead or not? Now, this is the former. This is not requiring the making of an application. This is saying that: "If you are going to do this, you must comply with the following conditions."

The Connétable of St. Brelade:

I do not think that is strong enough.

The Minister for Home Affairs:

No, that is the issue.

The Connétable of St. Brelade:

I think it does need to have a ... I think the discussions that we have had, we would like to see some application process. It does not have to be too heavy-handed, but it does need to have some application process that allows you to take full account of situations within the parish, of which we are sort of in a better position to be ...

The Minister for Home Affairs:

I suspect as part of the consultation process long ago, we had very strong consultations from fireworks event organisers basically to say: "Look, you should not unreasonably control us." It is a political decision, at the end of the day.

The Connétable of St. Brelade:

Absolutely, but it is one I think I would like to have a little bit further consultation with the Constables over, just to be 100 per cent sure they are happy with the law as you are attempting to draft it. From a personal view, I am not. I would like to see ...

The Minister for Home Affairs:

You would want to have an application.

The Connétable of St. Brelade:

Again, it should not be too heavy-handed and it should not be too full of red tape, but I think there does need to be some reasonable criteria put on when and what time and various other conditions for a public display.

The Connétable of St. Martin:

I just look at it that fireworks are going to cause the same inconvenience to everybody, wherever they are, whatever parish. You could look at the various public conditions that the Constables

impose and have a standard set of conditions that shows the public you do not stand outside in the drinking area and you have got to drink from glasses and not bottles and things like that. You could have a standard set of conditions for your firework displays, because a firework going off at Gorey Castle is going to be no different to a firework going off at Grainville School or at St. Brelade parish hall. It is going to disturb the same amount of people.

The Connétable of St. Brelade:

Will this relate back to Article 44 then in terms of minimum risk in terms of stress and ...

The Minister for Home Affairs:

I was just starting to go exactly through that thought process.

The Connétable of St. Martin:

Whether there is some way that ...

The Minister for Home Affairs:

Just before Michel was speaking, I was starting to wonder whether this provides an additional safeguard or not. Let us have a look at it.

The Connétable of St. Martin:

We would ask the public to comply with the attached conditions that we send out. It would be the same for the fireworks. It will not be after 10.00 p.m. or whatever. I think midnight is too late, personally, for firework displays for weddings.

The Connétable of St. Saviour:

I do too.

The Minister for Home Affairs:

“The States may, by regulations, make provision for securing the risk that the use of fireworks will have and any of the consequences specified in paragraph 3 is the minimum risk compatible with their being used.”

The Connétable of St. Brelade:

It does get pulled into 44.

The Minister for Home Affairs:

I suppose that it could, but it would not be very good practice, I think, to have a situation in which you sought to utilise a 44(2) power to create a licensing system, which is not envisaged by ...

The Connétable of St. Brelade:

48.

The Minister for Home Affairs:

... by 48.

The Connétable of St. Brelade:

But then surely if 48 is merely ... a reasonable application process just allows the Constable to enforce some minimum criteria on a public display. I do not think that would be too overbearing on an event organiser, but it would put us in the loop.

The Minister for Home Affairs:

I suppose what 48 tries to do, it creates standard conditions on organisers. Those standard conditions could include issues like the display must stop at a certain time or whatever, but I think the weakness ... I mean, the strength of it is it creates standard conditions and it does not require Connétables to make tough decisions in every case. The weakness of it inevitably is going to be that it is less flexible.

The Connétable of St. Brelade:

Ian, we have to make difficult decisions every day. This is not a difficult decision to make. This is one I think that we are perfectly capable ...

The Minister for Home Affairs:

One of the difficulties with standard conditions is that you are going to have to make provisions for things like New Year's Eve, and so you are going to have to make a provision for a fireworks display which starts at midnight and carries on. I suspect it is not impossible to have a standard condition, however, which says: "Apart from on New Year's Eve" or apart from nominated particular dates that fireworks displays will stop by 11.00 p.m., 11.30 p.m. or whatever is the appropriate time; it will not have a decibel level or whatever at a range of whatever, although nobody ever enforces those things ...

The Connétable of St. Brelade:

But I am just thinking of it more from a localised point of view is that I think the Constable is in a good position to know where an event is being carried out in his parish, he will have an idea of the issues relating to that particular area, which putting it into standard conditions will not be picked up, and it is having that ability for the Constable to be aware of those issues. For example, if it was a wedding display next to a residential home, you would not want to be doing that.

The Minister for Home Affairs:

No, I completely understand what you are saying. There are advantages to having a licensing system in terms of flexibility. There is no doubt about it, it will be more flexible.

The Connétable of St. Brelade:

Can I put in a question to you and see whether there is some ...

The Minister for Home Affairs:

Yes, I assume this has come out of a consultation process a long time ago, but I do not remember this ever being highlighted as being an issue for me to determine.

The Connétable of St. Brelade:

I think it has become a little bit more contentious over the last 18 months where there have been issues brought up at Constables' meetings regarding general fireworks issues, and I think these have come out from that that maybe need to be explored a little bit further before a final decision is made on the final draft of where you are going to go in terms of what the States are going to be looking at.

The Minister for Home Affairs:

The alternative way of dealing with this, frankly, would be to rework this whole Article so that it was possible to have regulations creating a licensing system. That would be the way to fudge it. That would not make a final decision, but it could enable that to happen.

The Connétable of St. Brelade:

It would ...

The Connétable of St. Brelade:

I think it did get to a position we would be more comfortable with from a Constables' authorisation point of view, but again I would not want to see anything that the fireworks fraternity thought was going to be too overbearing, but at least allowed us to have that localised consultation.

The Minister for Home Affairs:

Okay. The final decision will rest with the States, of course, but I think in principle we need to change 58 and widen it to allow for a licensing system.

The Connétable of St. Brelade:

I agree, a simple licensing system.

The Minister for Home Affairs:

That does not mean that is what would happen but effectively what we would need to do would be to say that they would make plans that allow either to go down the licensing system route or to go down the alternative. Then that decision can be made later. Okay?

The Connétable of St. Brelade:

Good. Okay. The Article 49 issue we have dealt with, and that was just where is the power for the constable to issue the licence. It was in Article 8(1), and it is going to be under regulation, so we are happy with that. In Article 50 the question we had was on (a) and (b). It was just a brief explanation because it has got (a) as appropriate information and (b) is inappropriate information.

The Minister for Home Affairs:

We have taken out (b).

The Connétable of St. Brelade:

So one is gone? Good, okay, that has answered that one.

The Minister for Home Affairs:

Yes, we have taken out (b). Appropriate is given. It actually did not make a lot of sense.

[11:30]

The Connétable of St. Brelade:

It did not. Okay, moving on to 51, training courses. It has got the phrase: "... recognised by the Minister." Are there set standards what these type of training courses will be and will that bar be set by regulation in terms of what those training courses will provide? I presume they are going to relate to not just those that sell fireworks but those that carry out firework displays?

The Minister for Home Affairs:

At the moment this is just an enabling power.

The Connétable of St. Brelade:

So again that will come by regulation in terms of what that would involve?

The Minister for Home Affairs:

Yes, this is just an enabling power: "Courses to be provided either by the Minister or bodies established or recognised or persons holding qualifications." It is certainly an enabling power. It is not saying what is actually going to happen.

The Connétable of St. Brelade:

Is there currently anything in place as regards to the training?

The Minister for Home Affairs:

I honestly do not know.

The Connétable of St. Brelade:

If that is another question we could put to you in writing?

The Minister for Home Affairs:

It is a question to ask us, yes.

The Connétable of St. Brelade:

Okay.

The Minister for Home Affairs:

The fact that you have got a power to do something by regulation does not mean necessarily you do it.

The Connétable of St. Brelade:

You do not have to do it, but I think it would be interesting for the Panel to know and for the States to know what sort of training somebody that is carrying out public fireworks displays, for example, has.

The Minister for Home Affairs:

I agree. There is no statutory requirement at the moment, so this presumably is a new power.

The Connétable of St. Brelade:

Okay. Moving on to Article 57, this regards appeals. The first question we had was in terms of rights of appeal. Is the Royal Court the right place for an appeal? We are just thinking because of the expense of it is there another option?

The Minister for Home Affairs:

The difficulty is that you cannot set up special bodies for everything. I accept what you are saying and in things like planning matters we are moving towards a completely different system, but you cannot literally set up a separate tribunal for everything. The numbers of appeals are probably going to be pretty low and therefore the Royal Court is the default position, because the alternative is you have got to set up some other body.

The Connétable of St. Brelade:

I think for the explosives part of the law I do not disagree with you. I do not think any of us would disagree, but in terms of the firework regulations is there an opportunity there if under some of the licensing systems for example, for selling fireworks, and if we go down that route for public displays that that could not be dealt with by a panel of Constables, for example, rather than having to go all the way to a Royal Court scenario? Where I have made this decision in St. Brelade saying somebody cannot have a public display, if they were going to challenge that.

Connétable M.P.S. Le Troquer of St. Martin:

You have got the same for Sunday trading, have you not? You can appeal to the Constables. They do a review by the Connétables.

The Connétable of St. Brelade:

But I think purely just for fireworks legislation, not for ...

The Minister for Home Affairs:

You would have to have the final appeal to the Royal Court, I think, because otherwise you would have one anyway under judicial review. We just have to give some thought to it, I have to say. It is interesting if you have got that under the ...

The Connétable of St. Brelade:

It is rates as well, is it not?

The Minister for Home Affairs:

Rates there is a special board set up.

The Connétable of St. Brelade:

You have got appeals to Constables under Sunday trading laws. I just think with something like fireworks it is probably the subject that is going to necessitate the most appeals, and they could be quite minor in relation to the whole of this law and it just might be an option that would save an

individual the cost of a lawyer having to represent him in the Royal Court where he could just appeal to a panel of 3 Constables.

The Minister for Home Affairs:

I think it is a good point. We will have a look at that and see what can be done there. It does not have to be an Article for appeal but on points of law and so on, but I think if there is a possibility of an internal review system like that it is a good idea.

The Connétable of St. Brelade:

Article 58, we just had a question over the timing in terms of where it states: "May be brought." Rather than the case being brought, this may be a standard wording, but could it not just be purely 21 days to notify for an appeal, rather than bringing a matter to court? I know part 2 does extend the period, but it just seems to be ...

The Minister for Home Affairs:

The answer is no, because there are formal procedures under the Royal Court appeals rules for service of notice in order to do that, and so ...

The Connétable of St. Brelade:

This is standard procedure?

The Minister for Home Affairs:

It is a standard procedure, yes. You have to serve a formal notice of appeal on the opposing person within that time period and that then initiates the appellant process. It is not just a question of writing to them, but it is also notifying the court and so it goes into the court systems.

The Connétable of St. Brelade:

You are happy that the Royal Court should be the final authority in terms of dealing with these issues?

The Minister for Home Affairs:

You are always going to have points of law and interpretation and things like that. You either have an appeals process there or you leave it to judicial review. Either way it is going to come back to the Royal Court. The only thing is we can oust the power of judicial review. You can by statute say that there shall not be a judicial review, but because there might be matters of interpretation of law and so on it is the place to do that.

The Connétable of St. Brelade:

Article 61, this relates to inspectors. I am not sure what that meant, that question. We have got: "Will there be a link back to Article 9?" which is the exemptions.

The Minister for Home Affairs:

Yes, because it is exempted from the whole of the provisions of the law.

The Connétable of St. Brelade:

Moving on to Article 61, is there any interpretation of who is an adequate person to be an inspector?

The Minister for Home Affairs:

It is a matter for the Minister.

The Connétable of St. Brelade:

That is a simple answer. Again it will follow current procedures, presumably?

The Minister for Home Affairs:

Yes, yes. I think this gives just the Minister the power to appoint a person who he believes has got the appropriate expertise etc. There must be parallel situations in laws like the Housing Law and so on, where there are --

The Connétable of St. Brelade:

The Minister makes the choice about who is suitable.

The Minister for Home Affairs:

The Minister effectively appoints somebody and if you think about enforcement officers in relation to statutory matters like housing or planning or whatever, I think the one difference here is that of course we do not have employees as such. The people involved are self-employed contractors so they are not members of staff. They would contract, but I think it has got to be left with the Ministry, has it not? The Minister will act on advice hopefully.

The Connétable of St. Brelade:

It was just a question we had, but moving on to ...

The Minister for Home Affairs:

If you have not got a suitable person in Jersey, if you ran out of local expertise, this would enable appointing somebody from outside the Island with the expertise to come in and operate the contract, so it is quite wide.

The Connétable of St. Brelade:

Article 62 regards assistance, and obviously Article 62(1) in the exercise of his or her powers under the law: "An inspector may take with him or her such persons as assistants" and this I think is where the question is, who vets those assistants and what controls and balances are there within the control of those assistants?

The Connétable of St. Martin:

It would not be the Minister, would it?

The Connétable of St. Brelade:

Presumably that would come down to the inspector. That decision is made if he takes an assistant along with him?

The Minister for Home Affairs:

I think that is right, yes.

The Connétable of St. Brelade:

It also moves into Article 62(2) where if an inspector takes another person with him or her, under paragraph 1: "... that other person may exercise any such power himself or herself as the inspector's assistant and under the inspector's supervision." What level of powers would they be? Presumably they would not be the power of the inspector but just powers that the assistant the inspector felt was ...

The Minister for Home Affairs:

I think you are going into a situation to gather evidence in relation to a particular matter, potentially a matter relating to an offence or whatever. If you had a huge amount of paperwork to look through to check that the company had applied for a licence for everything they had and so on, you might well want to take somebody else with you.

The Connétable of St. Brelade:

I think the question is not about who he takes with him, it is what controls, checks and balances there are in terms of that individual that he does not let the assistant loose without having some

control over what they are doing. We are just interested. Presumably that assistant would be under the control and responsibility of the inspector?

The Minister for Home Affairs:

Yes.

The Connétable of St. Brelade:

So if they do something illegal it would fall on the head of the inspector themselves, if they illegally enter the property?

The Minister for Home Affairs:

Yes, that must be right. It may well fall back on the Ministry of course as well. If someone is acting unlawfully beyond their powers or whatever, it seems to me that that would apply also to an assistant.

The Connétable of St. Martin:

It gives a person a lot of authority, somebody that has had little checks. I know you have got the contractor, the company you are using, but he or she can have anyone working for them, and they would have wide-ranging powers.

The Minister for Home Affairs:

Yes, I agree with that, but in practice the difficulty is you could theoretically get a situation where you had an illegal store of explosives. Now in such a situation the assistant might well be a police officer.

The Connétable of St. Martin:

I was going to say police, yes. Ask the police.

The Minister for Home Affairs:

It might well be police officers who would be going in, because the police may or may not have all the powers that are needed in order to enforce a law. If there is an offence being committed the police will have powers of their own as well.

The Connétable of St. Martin:

I think the important point is the vetting of control falls back on ultimately the responsibility of the Minister but is the responsibility of that inspector that is allowing it. The same must apply presumably in the States police as well.

The Minister for Home Affairs:

Well, we have got a funny situation in the States police where we have got fill-in officers doing all sorts of things. In fact one of the reasons why we need regulations is to regularise that. The law enables that, but in fact we need to put in place regulations that specify which roles fill-in officers can exercise the powers of police officers. This is more loose. It is reliant upon the integrity of the inspector to ensure that he chooses only appropriate people. I accept that of course the Ministry can hold him to account for that.

The Connétable of St. Martin:

The same Article 63(3): “The inspector need not comply with the requirement to disclose the purpose if he or she reasonably believes that to do so would defeat the purpose.” It is almost self-explanatory, but could you give us the reasoning behind non-disclosure?

[11:45]

The Minister for Home Affairs:

I cannot think of a practical case, but I mean if you have got a situation in which an inspector needs to inspect but there is a good reason why he does not want to tell the person whose premises he is inspecting why he is inspecting, this enables him to do that. It is unusual in terms of general powers, but if one transferred that to a police officer exercising a warrant, a police officer exercising a warrant would not have to say why he is exercising the warrant. He would just have to say: “I have a warrant to search these premises for the following purposes.” So that is right, is it not? I am looking at a former police officer.

The Connétable of St. Brelade:

I think you are all right with that.

The Minister for Home Affairs:

This is requiring you in the normal course of events to say why you are inspecting.

The Connétable of St. Martin:

You have to give that information to the Bailiff or the Jurat beforehand, yes, but not necessarily to the person, but the warrant would not say the reason. It would just say there is authority to do so.

The Minister for Home Affairs:

You might not want to tell the person that you suspect them of a specific crime when you go in to have a look at what is happening. The difficulty is that you have got 2 potential types of reasons

why an inspector might go in, I suppose. You have got the situation that he is just going in to check that a proper record has been kept, and so on.

The Connétable of St. Brelade:

He does not want to disclose the reason why he is doing that.

The Minister for Home Affairs:

Yes, but he might just be doing that. On the other hand he might be utilising the fact that he has got that power to check out his suspicions that there has been a breach, and he does not necessarily want to tell the person that he has got reason to suspect he has got more stuff than he should have. That is what it is about. But if you get into saying you have to tell a person why ...

The Connétable of St. Brelade:

Yes, it has got to be within the law itself.

The Minister for Home Affairs:

Then you have got to put in a standard safeguard, if there is good reason.

The Connétable of St. Brelade:

Article 65 is about warrants to inspect premises. We have got 2 questions on this. One really is where has the basis for this Article come from? Is this a sort of standard ... we sort of compared it with we are going to be looking at draft passports soon in terms of entry to premises. Is this sort of a standard terminology in terms of search warrants to enter premises? The other question, which is a simple question while you are looking at it, is that in terms of the length of the warrant and expiry it is one month after on the day it was issued. Is that a standard length of time for a warrant to be issued for?

The Minister for Home Affairs:

I think we had some exchange on this, did we not, which explained why it was longer, or maybe I am thinking of something else. It is a fairly standard condition. I cannot tell you whether this is a standard condition because there are not that many laws where there are powers to obtain warrants. Did we not answer a question on this? Did you ask a specific?

The Connétable of St. Brelade:

Yes, we did. I am just looking at the comments that you have got in here regarding Article 65. Under your comments to the Law Officers you have got: "We would like 61 to apply to any inspector, not just officers of the impôts", so I presume that has been done.

The Minister for Home Affairs:

You have asked a question, question 32 why one month, because under Article 65(5): “If the warrant relates to residential premises notice of at least 24 hours has to be given to the occupier, therefore it is not possible to identify exactly when the inspection will take place when applying for the warrant. The one month period gives one periodicity.” I cannot pronounce it. Periodicity. What on earth does that mean? It means it is valid at the right time, presumably. Someone has made up a word there, I reckon. You might not be able to find the occupier to give them notice, I think that is the point. What if he has gone on holiday for a fortnight? I think that is the point.

The Connétable of St. Brelade:

It is just the issue around having an open warrant for that length of time, and whether that is a suitable length of time. Presumably if you want a warrant it is because you have got something that you have a particular reason to go and do. Say for example it was only a warrant for 2 weeks, 14 days, you could reapply for that warrant. We had concerns about the open nature of a warrant for that length of time.

The Connétable of St. Martin:

I looked up a few of the warrants. I think mental health is ... you will probably want to use the warrant immediately on the mental health law. I think drugs it was one month, and then there was another one, firearms, I do not think it was restricted at all, so they all vary, I think.

The Minister for Home Affairs:

Yes. I am trying to find where the power requirement is mentioned, okay: “Notices to residential premises are not less than 24 hours’ notice to the occupier.” I think that is the point, it was a delay in being able to give notice to the occupier; that is the only point. It is interesting because firearms ones are indefinite. I do not think a month is unreasonable. The point from the Bailiff’s point of view is has there been any material change in circumstances in the intervening period that would change my decision, and I do not think it is likely that in a month there is going to be a material change of circumstances.

The Connétable of St. Brelade:

Would that fall on the officer or the inspector? If the situation had changed it falls on him to go back to the Bailiff to change the terms of that warrant, presumably?

The Minister for Home Affairs:

Having created an example, I am now trying to work out what would be a relevant and material change of circumstances. If there was a change of circumstances so that you no longer wanted to go in, you just would not execute it.

The Connétable of St. Brelade:

What are the rules on that if you have gained a warrant?

The Minister for Home Affairs:

You have got to execute as soon as possible.

The Connétable of St. Brelade:

If you do not intend using it, would it just run out or do you have to inform the Bailiff that you have no intention of carrying out that warrant?

The Minister for Home Affairs:

If you obtain a warrant and then suddenly realise that it was the wrong person or that the wrong basis ...

The Connétable of St. Brelade:

Or wrong premise or whatever.

The Minister for Home Affairs:

Or whatever, you can notify the Bailiff that you have not executed it. You just would not execute it. It is a permission to do something. I have never issued a warrant, interestingly enough, but if I was I would be giving a permission to do something within a time period.

The Connétable of St. Brelade:

I think we have only got 2 or 3 questions left. We have done with this. Article 68.

The Minister for Home Affairs:

Yes, that refers to an inspector.

The Connétable of St. Brelade:

Article 68, on Karen's notes you have got, "I do not need to do anything here as a result of the introduction of the new definition of 'defective.'"

The Minister for Home Affairs:

I think what they have done in Article 1 is they have changed the definition of a defective explosive. I am just trying to find that. Okay: "Defective in relation to explosives includes explosives which are defective by virtue of being time expired whether or not the explosives in question display any physical defect or signs of deterioration." So by changing that definition it

changes it wherever there is a reference to defective in the context of explosives. Does that cover the point?

Scrutiny Officer:

Yes: "time expired" is in the new one.

The Connétable of St. Brelade:

In the new one, yes. Again I do not think it is something that is going to be in the law, but in terms of what the inspector did with those seized explosives, presumably that would come under regulation, what process that would be in dealing with those seized explosives?

The Minister for Home Affairs:

Just going back to your Article 68 point, if there is going to be a seizure it is not sufficient it is defective. It has also got to be that by reason of its defectiveness it may constitute a danger to any person or property, if my understanding of the chemistry of fireworks is correct, the fact they are past their best by date, if there is such a thing. So the point in Article 69: "Disposal of defective explosives in urgent cases. The designated inspector may in a safe manner destroy or otherwise dispose of the explosives." That is in urgent cases. Otherwise there is a power to apply to the Royal Court for an order to be forfeited, so that is Article 70, and then you will see it is: "... destroyed or disposed of in such a manner as the magistrate may think fit." So you have got an urgent cases provision where you just go ahead and do it, and you have got a less urgent cases with the power to apply to the Royal Court. I think in practice if an inspector became aware that there were some explosives that were beyond their date it would be quicker to say: "You have got to use these rapidly or you have got to destroy them yourselves" and it would only be if it was an urgent case that he would seize them, or if the person was refusing to do that that he would go to court.

The Connétable of St. Brelade:

In terms of how he deals with them and the process of how he deals with them, would that come under regulation?

The Minister for Home Affairs:

No, that is specified in the law. The law says ...

The Connétable of St. Brelade:

I mean purely in the practical terms.

The Minister for Home Affairs:

They have got: "A designated inspector may in a safe manner destroy or otherwise dispose of."

The Connétable of St. Brelade:

So it is under the "safe manner"?

The Minister for Home Affairs:

Well, this is where the other officer comes into play. They could blow it up in the appropriate place, frankly.

The Connétable of St. Brelade:

I think what I am trying to get at is he would remove them in an unsafe way or ... what is going to stop him putting them in the back of his car and driving off with them? It is covered under "safe manner" I presume.

The Minister for Home Affairs:

I would have thought his own natural fear of being blown up. We are dealing here with people who do dispose of ... well, recently they had a pile of mines discovered up at Gorey and so we are dealing here with the people who do dispose of dangerous and unstable things. They are the best that we have got.

The Connétable of St. Brelade:

No, I would not question the competence of these people in any way, shape or form. It is just the process.

The Minister for Home Affairs:

I am not sure what the law would say. It is up to them to dispose of them in a safe manner.

The Connétable of St. Brelade:

If he stuck 9 mines that have been in the sea for 40 years in the back of his car and drove off with them, it is probably not the wisest thing to do.

The Minister for Home Affairs:

No, probably not. I do not think that is what he did do, is it?

[12:00]

The Minister for Home Affairs:

No, he did what he should do.

Connétable S.A. Rennard of St. Saviour:

No, he destroyed them on the beach.

The Minister for Home Affairs:

That is what members of the public do.

The Connétable of St. Brelade:

I know. I spoke to him. I have had conversations with Stuart Elliott 12:00:09 and people walk up to him with them in their hands, yes. Okay. Article 74, I think we touched on this a little bit before around fees and I think the fees are going to be based on current fees?

The Minister for Home Affairs:

Well, when you give the power to a Minister you take a risk.

The Connétable of St. Brelade:

He might go user pays?

The Minister for Home Affairs:

I cannot bind my successor but I am not aware at this stage of any plans to change the fee structure, other than that which arises from the Connétables having licensing powers.

The Connétable of St. Brelade:

Yes, because we might want to charge.

The Minister for Home Affairs:

Well, I think that is why there is a provision to allow you to.

The Connétable of St. Brelade:

Okay, under 74, orders (h) we have got: "Regulating the unloading and landing of explosives or the loading and movement of such explosives by land, sea or air." It has got by air, yet under Article 37, and I am just going to look back to it, it says it cannot be done by air. Is there some particular reason that it has included by air in that? Under Export of Explosives: "Explosives can be exported by sea. No person shall export an explosive from Jersey except by sea." Sorry, Article 12.

The Minister for Home Affairs:

What does it say about importation?

The Connétable of St. Brelade:

Let me just find Article 12. Yes, also under import and export of explosives: "No person shall import" and like I said the other Article, or export any explosives into Jersey except by sea.

The Minister for Home Affairs:

Well, if my name was Hercule Poirot I would deduce from this that the consequential amendments to take out the words: "by air" had not taken place.

Scrutiny Officer:

Perhaps I could assist here, Chairman. We asked this question on Friday when we spoke to the Bomb Disposal Officer and his answer was there are occasions when the Army are called in to assist with specialised bomb disposal work, and they sometimes bring exempted explosives in by air, and it covers that emergency provision.

The Minister for Home Affairs:

Okay, well, Hercule Poirot is wrong, in this case.

The Connétable of St. Martin:

We have had it answered?

The Connétable of St. Brelade:

Yes.

The Minister for Home Affairs:

So we still have the power to make an order, okay.

The Connétable of St. Brelade:

Just on again 74(4): "Powers of a superior member of the Royal Court to make rules under the Royal Court (Jersey) Law 1948 shall include power to make rules for the purposes of this law and of firework regulations." Can you explain what that means?

The Minister for Home Affairs:

Yes, it is just giving the Royal Court the express power to make rules. If they are dealing with the courts, then they want to make rules in relation to those specific appeals. It is just an enabling power, to give them that power.

The Connétable of St. Brelade:

Those rules would do what?

The Minister for Home Affairs:

Whatever they want them to do. A separate procedure. Can I say that I frequently protest to the Law Officers and other people about the putting in of powers like this, on the basis that the Royal Court has inherent power to control its own procedure, but I am constantly gunned down by this. There is apparently now an argument that says, "Oh, yes it is better like this" to specifically give the Royal Court a rule of court making power.

The Connétable of St. Brelade:

Does this happen very often?

The Minister for Home Affairs:

It happens very often that a rule-making power is put into place, yes.

The Connétable of St. Martin:

Does the Royal Court make a rule often?

The Minister for Home Affairs:

Yes, the Royal Court will make rules.

The Connétable of St. Martin:

Bypassing the States?

The Minister for Home Affairs:

If they wanted to have a special procedure, like a short-track procedure for dealing with the appeal, this would give them the power to do it.

The Connétable of St. Brelade:

So it is more within the court procedure process than anything to do with any changes to the law, as such? It is purely a procedural change?

The Minister for Home Affairs:

It is giving the court the power to create a special procedure by rules if they want to do so, otherwise it would fall within the general court rules for dealing with such matters.

The Connétable of St. Brelade:

Just 2 more, Article 78.

The Minister for Home Affairs:

We want to take this out.

The Connétable of St. Brelade:

We are going to take this out, or you are going to take this out?

The Minister for Home Affairs:

I do not know.

The Connétable of St. Brelade:

It seems to be confusing.

The Minister for Home Affairs:

The instructions were to remove, but then the Law Draftsman does not have to take it out so it again raises the somewhat vexed issue of the interface between this draft and the draft of the Courts Incorporation. Okay, we need to keep it in and then it would be dealt with under the Courts Incorporation law.

The Connétable of St. Brelade:

Is that what the Law Officer has said?

The Minister for Home Affairs:

That is what the Law Draftsman is advising, yes.

The Connétable of St. Brelade:

Okay. It does not really answer the point, does it?

The Connétable of St. Martin:

No.

The Connétable of St. Brelade:

The point we have got is that any vessel ...

The Minister for Home Affairs:

It is right.

The Connétable of St. Brelade:

Your notes to the Law Officers ...

The Minister for Home Affairs:

It is right. It is an Article. This is creating an offence. I am not sure the Law Draftsman has understood this correctly.

The Connétable of St. Brelade:

Well, your note to the Law Officer was: "Please remove this Article. After a meeting between the Courts of Jersey and the Home Affairs it was agreed that the management of the explosives vessel in the harbour when loading and unloading should be covered by harbour regulations and removed from the draft law."

The Minister for Home Affairs:

Yes, this has got nothing to do with the incorporation.

The Connétable of St. Brelade:

No, it is nothing to do with incorporation, it is purely a practical thing. It has got: "Any vessel." At the moment it has got: "Anybody unloading explosives from a vessel in a harbour while any vessel is embarking, carrying or disembarking passengers is in the harbour." Well, that could be any vessel. Any vessel could mean anything.

The Minister for Home Affairs:

Is that necessary? It looks to me as if the whole of the harbour is going to be grinding to a halt because a vessel has arrived that contains a consignment of explosives. That cannot be right.

The Connétable of St. Brelade:

No. That is our point, is that: "Any vessel" will include a private yacht, for example.

The Minister for Home Affairs:

"Any vessel embarking, carrying or disembarking passengers." Yes, that is nonsense, is it not?

The Connétable of St. Brelade:

Well, it does seem that way.

The Minister for Home Affairs:

That is why we wanted it out. It is going to have to go.

The Connétable of St. Brelade:

Well, if we have that as a note to be again reviewed.

The Minister for Home Affairs:

Well, no. We have made the decision, it is just that the Law Draftsman is unwilling to take it out without an instruction to do something else and we are saying: "No, take it out." It makes no sense.

The Connétable of St. Brelade:

Well, if somebody was unloading 500 kg of fireworks or any explosives in the harbour nothing can move.

The Minister for Home Affairs:

The whole harbour is going to completely grind to a halt while it is being unloaded. It is not reasonable. You might as well say all the traffic is going to have to be stopped in the parish. It is completely over the top.

The Connétable of St. Brelade:

Yes. I would rephrase that. All the traffic should be stopped in St. Brelade while the Constable goes to work.

The Minister for Home Affairs:

Perfectly reasonable. How are you going to report it and remain in office after election year?

The Connétable of St. Brelade:

Yes, I think that might be an issue. The last point is Article 79.

The Minister for Home Affairs:

Sorry, that should have come out.

The Connétable of St. Brelade:

Okay, good. Article 79, the last point, it is just regarding Article 79(1)(a) and (4) in terms of leaving address and proper notification. Is it adequate as the law states a month to be able to do what it says there and it be termed proper notification in terms of Article (1)(a)?

The Minister for Home Affairs:

“... delivered to him or her personally or by leaving it at his or her proper address or by sending it by recorded delivery.” What is the proper address? Is that defined? It is, “... defined in Article 7 of the Interpretation of Jersey Law passage 54 this application is to the address of any person whose documents are served is the person’s last known address except that in the case of ...”

The Connétable of St. Brelade:

I think (1)(a) I have got less issue about but certainly (4) is that: “Where a person who is served under the Fireworks Regulations with any document has specified an address in Jersey other than the person’s proper address as determining in accordance with paragraph 2 as the one at which the person or someone on his or her behalf will accept the documents that address may be treated as the proper address.” That is the issue about proper notification, whether that can be considered proper notification to an individual.

The Minister for Home Affairs:

Is that not where a person has given a different address?

The Connétable of St. Brelade:

I think it is.

The Minister for Home Affairs:

So if the other person says the police are getting notices ...

The Connétable of St. Brelade:

It is specifying an address, yes. I just wanted to make sure that the law does everything that it can to ensure that the individual is notified of any procedure or any court procedure or any action that is going to be taken against them.

The Minister for Home Affairs:

It is no different from the procedure for serving a summons in the Magistrates’ Court. That can now be by notice to the last known address.

The Connétable of St. Brelade:

Is that similar to that procedure?

The Minister for Home Affairs:

Yes, I think it is. I am pretty sure that is right, because this is one of the practical issues you get in the Magistrates’ Court, the same thing, parking matters, where people have moved address and the law requires them to notify change of address on their logbook, and they do not. So if you

cannot serve a summons on them on the address according to the logbook you cannot ever initiate proceedings against them.

The Connétable of St. Brelade:

There has to be a process. We are not saying there does not have to be.

The Minister for Home Affairs:

Yes. I suppose the issue is what is the effect of a notice being served on them and them not complying to that notice? I am not sure. Is there a provision in here for some draconian penalty for not complying with a notice? If so I am not seeing it.

The Connétable of St. Brelade:

Would that come under regulation what that might be in what further action could be taken or what penalty there would be in regards to it?

The Minister for Home Affairs:

It talks about applications, if you are going to make an application for something that is it. It would be enforcement notices, would it not?

The Connétable of St. Brelade:

Well, it will be, even under (4): "Where a person who is to be served under this fireworks store with any document." You are right, it is probably more likely to be an enforcement notice in regards to one of the licences or something that they have done under the fireworks regulations.

[12:15]

The Minister for Home Affairs:

Sorry, I am just trying to find the inspection: "Powers to enter inspection. Wants to enter, prior to inspection inspect documents for information. An inspector may require a licensee or holder ... to produce to the inspector for the latter's inspection." That is not quite the same thing, is it?

The Connétable of St. Brelade:

No.

The Minister for Home Affairs:

I think this has just been put in to create a methodology by which you would give notice to somebody, if you were going to give notice, but I am not sure as to when it would operate under this law.

The Connétable of St. Brelade:

The offences of obstruction and the offence to fail to provide information has got specifically ...

The Minister for Home Affairs:

Yes, but I am not sure what documents you can serve. This is saying how you serve documents.

The Connétable of St. Brelade:

Maybe we should ask that question.

The Minister for Home Affairs:

The difficulty is the alternative is a requirement for personal service of documents. Now personal service means you have to find the person and if a person wants to hide that can become quite difficult. So you have a pragmatic choice to make as to whether or not you are going to allow service by notice delivered to the last known address. In general terms I think that is fine, provided that there is not some draconian penalty which is going to hit somebody who has moved address.

The Connétable of St. Brelade:

Article 79(6) presumably, I mean you as a former magistrate would know what this would mean: "This Article does not apply to any document for which provision for service is made by rules of court" so ...

The Minister for Home Affairs:

Yes because if the rules of court require personal service then that would be personal service.

The Connétable of St. Brelade:

So this is more likely to cover enforcement notices than any ...

The Minister for Home Affairs:

It is meant to be something like that, but I have not found as we are going through where the enforcement notices are. I mean I may have missed something.

The Connétable of St. Brelade:

I think you are right. We have read this a few times but I cannot see anything in here that mentions notices of that nature.

The Minister for Home Affairs:

No, because it gives powers of entry and inspection and if necessary seizure instead. So I am not quite sure, and I suppose there is a requirement for 24 hours' notice to be discovered before entering a private home. I would assume that we would want to give that personally.

The Connétable of St. Brelade:

What would happen in the case of somebody that was using a magazine for example, that it was found to be unsatisfactory? What type of enforcement notice would be given for that? You can withdraw the licence, but how would that be notified?

The Minister for Home Affairs:

If you were given a licence to a magazine and subsequently it was discovered that the ...

The Connétable of St. Brelade:

They were breaching any terms of that licence.

The Minister for Home Affairs:

Well, you would want to revoke it, would you not? Where is the power to do that?

The Connétable of St. Brelade:

It would come under any of the parts 2(6) through to 2(7).

The Minister for Home Affairs:

Yes, here we are, revocation, it is under part 10 which starts with I think Article 54: "Variation of licence, certificate or exemption." That is where the Minister might give notice of the variation.

The Connétable of St. Brelade:

Sorry, which Article?

The Minister for Home Affairs:

Article 54. Article 54 is variation of licence, 55 is revocation of licence. Here we are: "Where the Minister proposes on his own behalf to revoke the licence the Minister shall serve a notice in writing on the holder" so there we are, that is an example.

The Connétable of St. Brelade:

So that is the notice and it will be served under the procedure shown in 79?

The Minister for Home Affairs:

Yes, which would be served effectively by leaving a document or by posting it: "The notice shall inform the holder of the proposal ... to determine whether or not to proceed, the Minister shall consider representations that are made." Actually the Minister can dispense with this if he considers it in the interest of public safety, and in an emergency can revoke immediately. In practice if a person has not received a notice they can go back to the Minister and say, "Look, Minister I did not receive a notice, can I now make representations to you?" and I think the Minister would then be empowered to say, "Okay, I will now reconsider the matter." There does not seem to be anything too enormously draconian that happens. Potentially he could have his licence revoked, but then he could ask for the Minister to review it.

The Connétable of St. Brelade:

So he has got some recourse in that regard?

The Minister for Home Affairs:

He would have some recourse, and it is not too draconian. The alternative is you get to the position of a person avoiding personal service, hiding away, so you cannot do anything.

The Connétable of St. Brelade:

Okay. I am just looking at the time. We were desperately hoping passports were not going to take too long and now I have got my fingers crossed that they are not going to take too long.

The Connétable of St. Martin:

We are finished on that, are we not, unless anyone has got anything else? I am finished.

The Connétable of St. Brelade:

Sadie, are you happy?

The Connétable of St. Saviour:

Yes.

Scrutiny Officer:

We are done on that one. I have just got to reset the equipment.

The Connétable of St. Brelade:

Okay. We will go straight into passports and I am hoping it is going to be a relatively simple set of questions.

The Minister for Home Affairs:

Okay. Thank you for your interests and your questions.

The Connétable of St. Brelade:

Okay, well thank you for attending this hearing. We will have a break just to reset the tape.

[12:22]