



Jersey

## **FIRE PRECAUTIONS (AMENDMENT No. 2) (JERSEY) LAW 2012**

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## **FIRE PRECAUTIONS (AMENDMENT No. 2) (JERSEY) LAW 2012**

**A LAW** to amend the Fire Precautions (Jersey) Law 1977.

*Adopted by the States*

*10th July 2012*

*Sanctioned by Order of Her Majesty in Council*

*17th October 2012*

*Registered by the Royal Court*

*26th October 2012*

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### **1 Interpretation**

In this Law –

“Law” means the Fire Precautions (Jersey) Law 1977<sup>1</sup>.

### **2 Article 1 substituted**

For Article 1 of the Law, there shall be substituted the following Article –

#### **“1 Interpretation**

(1) In this Law, unless the context otherwise requires –

‘building’ includes a temporary or movable building;

‘furniture’ includes furnishings (including wall-coverings and ceiling-coverings of all sorts as well as floor coverings);

‘inspector’ means any officer of the States of Jersey Fire and Rescue Service and any other person authorized in writing by the Minister to be an inspector for the purposes of this Law;

‘Minister’ means the Minister for Home Affairs;

‘premises’ means a building or part of a building;

‘prescribed’ means prescribed by Order made by the Minister;

‘responsible person’ means –

- (a) in relation to a workplace, the employer, if the workplace is to any extent under his or her control;
- (b) in relation to any premises not being a workplace under the control of the employer –
  - (i) the person who has control of the premises (as occupier or otherwise), or
  - (ii) the owner, where no other person has control of the premises (as occupier or otherwise).

- (2) The States may by Regulations amend the definition ‘responsible person’.”.

### 3 Article 2 amended

For Article 2(5) of the Law there shall be substituted the following paragraphs –

- “(5) A fire certificate shall not be required in respect of any premises that are used as a single dwelling by a single household.
- (6) The States may specify in Regulations the circumstances when persons are to be regarded, or not to be regarded, as being members of the same household.”.

### 4 Article 3 amended

In Article 3 of the Law –

- (a) in paragraph (3) for the words “it shall be the duty of the Minister to cause” there shall be substituted the words “the Minister may cause”;
- (b) in paragraph (4) for the words “him or her” in both places where they appear there shall be substituted the words “the applicant”;
- (c) after paragraph (4) there shall be added the following paragraphs –
  - “(5) A fire certificate issued under this Article –
    - (a) comes into force at the time that is specified in the certificate; and
    - (b) unless previously cancelled by the Minister under Article 6(9), continues in force until the last day of the 36th month after it came into force.
  - (6) The States may by Regulations –
    - (a) amend paragraph (3); and
    - (b) amend paragraph (5) so as to substitute a different period during which a fire certificate shall remain in force.”.

**5 Article 4 amended**

In Article 4 of the Law –

(a) for paragraph (2) there shall be substituted the following paragraph –

“(2) A fire certificate issued with respect to any premises may impose such requirements as the Minister considers appropriate in the circumstances –

- (a) for securing that the means of escape in case of fire with which the premises are provided are properly maintained and kept free from obstruction;
- (b) for securing that the means with which the relevant building is provided as mentioned in paragraph (1)(c) to (e) are properly maintained;
- (c) for securing that persons employed to work in the premises receive appropriate instruction or training in what to do in case of fire, and that records are kept of instruction or training given for that purpose;
- (d) for limiting the number of households that may occupy the premises at any one time;
- (e) for limiting the number of persons who may be in the premises at any one time;
- (f) for ensuring that the Minister is notified as soon as reasonably practicable where there is any change of responsible person in respect of the premises;
- (g) in the case of a fire certificate issued for a dwelling, for ensuring that the Minister is informed of any increase in the number of persons or households, above the number authorized under paragraph (d) or (e), as the case may be, living at the dwelling; and
- (h) as to other precautions to be observed in the relevant building in relation to the risk of fire to persons in the premises.”;

(b) in paragraph (6)(a) for the words “his or her” there shall be substituted the words “the person’s”;

(c) for paragraph (8) there shall be substituted the following paragraphs –

“(8) A fire certificate issued with respect to any premises shall be sent to the responsible person.

(9) The responsible person shall ensure that, so long as the fire certificate is in force –

- (a) a copy or copies of the front page of the fire certificate and any plan attached to the fire certificate are kept at all times at the premises, in respect of which the fire certificate has been issued, and displayed in such a position or positions that enable the fire certificate and any plan to be inspected at any time by any of the occupiers of the premises; and

(b) the original fire certificate and any records required to be kept under any conditions contained in the fire certificate are kept safe and available for inspection at any reasonable time by the Minister, an inspector or any occupier of the premises in respect of which the fire certificate has been issued.

(10) The States may by Regulations amend paragraph (2) for the purpose of amending the requirements that may be imposed by the fire certificate.”.

## 6 Article 5 amended

In Article 5 of the Law –

(a) in paragraph (1), for the words “the occupier of” there shall be substituted the words “the responsible person for”;

(b) for paragraph (3) there shall be substituted the following paragraph –

“(3) Subject to Article 7(4) and (5), if, while a fire certificate is in force in respect of any premises, any requirement imposed is contravened by reason of anything done or not done to or in relation to any part of the relevant building every person who under or by virtue of Article 4(5) is responsible for that contravention shall be guilty of an offence:

Provided that a person shall not be convicted of an offence under this paragraph unless it is proved that the person’s responsibility for contraventions of the requirement in question had been made known to that person before the occurrence of the contravention in respect of which that person is charged.”;

(c) for paragraph (5) there shall be substituted the following paragraph –

“(5) A responsible person who fails to comply with the requirements of Article 4(9) shall be guilty of an offence and liable to a fine of level 2 on the standard scale.”.

## 7 Article 6 amended

In Article 6 of the Law –

(a) for paragraphs (2) to (5) there shall be substituted the following paragraphs –

“(2) If, while a fire certificate is in force with respect to any premises –

(a) it is proposed to make a material extension of, or material structural alteration to, the premises;

(b) it is proposed to make a material alteration in the internal arrangement of the premises or in the furniture or equipment with which the premises are provided;

(c) in the case of premises used as a private dwelling by more than one household, it is proposed to increase the number of persons or households occupying the premises; or

- (d) any occupier of the premises proposes to begin to keep explosive or highly flammable materials of any prescribed kind anywhere under, in or on the relevant building in a quantity or aggregate quantity greater than the quantity prescribed for the purposes of this paragraph as the maximum in relation to materials of that kind,

the responsible person shall, before the carrying out of the proposals is begun, give notice of the proposals to the Minister and if the carrying out of the proposals is begun without such notice having been given, the responsible person shall be guilty of an offence.

- (3) If, while a fire certificate is in force with respect to any premises not constituting the whole of the relevant building, the responsible person or any person who as occupier of any other part of that building is under Article 4(5) responsible for contraventions of any requirement imposed by the certificate, proposes to begin to keep explosive or highly flammable materials of any prescribed kind anywhere under, in or on that building in a quantity or aggregate quantity greater than the quantity prescribed for the purposes of this paragraph as the maximum in relation to materials of that kind, that person shall, before the carrying out of the proposals is begun, give notice of the proposals to the Minister and if the carrying out of the proposals is begun without such notice having been given, that person shall be guilty of an offence.
- (4) If the Minister is satisfied that the carrying out of the proposals notified to him or her under paragraph (2) would result in any of the matters mentioned in Article 4(1)(b) to (e) becoming inadequate in relation to any use of the premises covered by the relevant fire certificate, the Minister may, within 2 months from the receipt of that notice, serve a notice on the responsible person –
- (a) informing the responsible person of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to prevent the matters in question from becoming in the Minister's opinion inadequate in relation to that use in the event of the proposals being carried out; and
- (b) giving the responsible person such directions as the Minister considers appropriate for securing, as regards any of the proposals which may be specified in the directions, that that proposal or any stage of it which may be so specified, is not carried out until such of those steps as may be so specified in relation to that proposal or stage have been taken (whether by him or her or otherwise),

and if those steps are duly taken in connection with the carrying out of the proposals, the Minister shall, if necessary, amend the fire certificate or issue a new one.

(5) If the Minister is satisfied (whether as a result of an inspection made under paragraph (1) or otherwise) that, as regards any premises with respect to which a fire certificate is in force, any of the matters mentioned in Article 4(1)(b) to (e), has, in consequence of a change of conditions, become inadequate in relation to any use of the premises covered by the certificate, the Minister may by notice served on the responsible person –

- (a) inform the responsible person of that fact and of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to make the matter in question adequate in the Minister’s opinion in relation to that use; and
- (b) notify the responsible person that if those steps are not taken (whether by the occupier or otherwise) within such period as may be specified in the notice, the fire certificate may be cancelled,

and if those steps are duly taken, the Minister shall, if necessary, amend the fire certificate or issue a new one.”;

(b) for paragraph (7) there shall be substituted the following paragraph –

“(7) A responsible person who contravenes a direction given to that responsible person in pursuance of paragraph (4)(b) shall be guilty of an offence, and the Minister may cancel the fire certificate issued with respect to any premises if the Minister is satisfied that there has been such a contravention as aforesaid by that responsible person whether or not proceedings are brought in respect of the contravention.”; and

(c) after paragraph (10) there shall be inserted the following paragraph –

“(11) The States may by Regulations amend the circumstances in which the responsible person must give notice to the Minister under paragraph (2) or (3).”.

## **8 Article 7 amended**

In Article 7 of the Law –

(a) for paragraph (2) there shall be substituted the following paragraph –

“(2) In this Article, the ‘relevant date’ means –

- (a) in relation to a person aggrieved by any such refusal, direction, cancellation or amendment as is mentioned in paragraph (1), or by any matter mentioned in subparagraph (a) or (f) of that paragraph, the date on which the person was first served by the Minister with notice of the refusal, direction, cancellation, amendment or matter in question;
- (b) in relation to a person aggrieved by the inclusion of anything in, or the omission of anything from, a fire certificate issued



with respect to any premises, the date on which the inclusion or omission was first made known to the person,

and for the purposes of paragraph (1)(b) a person who is served with a fire certificate or a copy of, or of any part of, a fire certificate shall be taken to have had what the certificate or that part of it does and does not contain made known to the person at the time of the service on the person of the certificate or copy.”;

- (b) in paragraph (5) for the words “as the occupier of” there shall be substituted the words “as the responsible person for, or the occupier of”.

## 9 Article 8 amended

In Article 8 of the Law –

- (a) in paragraph (3)(a) after the word “occupiers” there shall be inserted the words “or the responsible person”; and
- (b) for paragraph (6)(b) there shall be substituted the following sub-paragraph –

“(b) if as a result of an inspection made under Article 6(1) it appears to the Minister that any of the matters mentioned in Article 4(1)(b) to (e) is not in conformity with any provision made in the Regulations about that matter, the Minister shall by notice served on the responsible person –

- (i) inform the responsible person of that fact and of the steps which would have to be taken in relation to the relevant building (whether by way of making alterations to any part of the relevant building or otherwise) to bring the matter in question into conformity with that provision, and
- (ii) notify the responsible person that if those steps are not taken (whether by the responsible person or otherwise) within such period as may be specified in the notice, the fire certificate may be cancelled,
- and if those steps are duly taken, the Minister shall, if necessary, amend the fire certificate or issue a new one.”.

## 10 Article 9 amended

For Article 9(2) of the Law there shall be substituted the following paragraph –

“(2) Where the Minister prohibits or restricts the use of premises under this Article, the Minister shall communicate his or her decision by notice to the responsible person and the occupier, if any, and the responsible person or the owner, or a person acting on behalf of the responsible person or owner, may, within 28 days of the date of the notice, appeal to the Inferior Number of the Royal Court on the ground that the decision of the Minister was unreasonable.”.

**11 Article 10 amended**

In Article 10 of the Law –

- (a) in paragraph (1) for the words “an inspector, that is to say, any officer of the States of Jersey Fire and Rescue Service and any other person designated for that purpose by the Minister shall” there shall be substituted the words “an inspector shall.”;
- (b) for paragraph (1)(d) there shall be substituted the following sub-paragraph –
  - “(d) to require any person having responsibilities in relation to any such premises as are referred to in sub-paragraph (a) (whether or not the responsible person, the owner or occupier of the premises or a person employed to work therein) to give that person such facilities and assistance with respect to any matters or things to which the responsibilities of that person extend as are necessary for the purpose of enabling the inspector to exercise any of the powers conferred on him or her by this paragraph.”;
- (c) in paragraph (3)(b) after the words “to identify the” there shall be inserted the words “responsible person or”.

**12 Article 10A inserted**

After Article 10 of the Law there shall be inserted the following Article –

**“10A Service of notices**

- (1) Any notice required by this Law to be given to any person shall be in writing and may be given to or served on the person in question –
  - (a) by delivering it to the person;
  - (b) by leaving it at the person’s proper address;
  - (c) by sending it by post to the person at that address; or
  - (d) by sending it to the person at that address by facsimile, electronic transmission or other similar means that produces a document containing the text of the communication in legible form or is capable of doing so.
- (2) Any such notice may –
  - (a) in the case of a company incorporated in Jersey, be served by being delivered to its registered office;
  - (b) in the case of a partnership, company incorporated outside Jersey or unincorporated association, be given to or served on the secretary or other similar officer of the partnership, company or association or any person who purports to act in any such capacity, by whatever name called, or on the person having the control or management of the business, as the case may be.

- (3) For the purposes of this Article and of Article 7 of the Interpretation (Jersey) Law 1954<sup>2</sup> in its application to this Article, the proper address of any person to or on whom a notice is to be given or served by post shall be the person's last known address or, where a notice is served as described in paragraph (2), the last known address of the registered office (if there is one) or main business address of the company, partnership, or unincorporated association.
- (4) If the person to or on whom any notice is to be given or served has notified the Minister of an address within Jersey, other than the person's proper address within the meaning of paragraph (3), as the one at which the person or someone on the person's behalf will accept documents, that address shall also be treated for the purposes of this Article and Article 7 of the Interpretation (Jersey) Law 1954 as the person's proper address."

### 13 Article 11 amended

In Article 11 of the Law –

- (a) for the words "he or she" wherever they appear there shall be substituted the words "the person";
- (b) in paragraph (1)(a) for the words "his or her" there shall be substituted the words "the person's".

### 14 Article 12 substituted

For Article 12 of the Law there shall be substituted the following Article –

#### "12 Criminal liability of partners, directors and other officers

- (1) Where an offence under this Law committed by a partnership, association or body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a person who is a partner of the partnership, or a director, manager, secretary or other similar officer of the association or body corporate; or
  - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership, association or body corporate to the penalty provided for that offence.
- (2) If the affairs of an association or of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the association or body corporate."

**15 Article 14 amended**

In Article 14 of the Law for the words “he or she” there shall be substituted the words “the person”.

**16 Transitional arrangements**

- (1) This Article applies where a fire certificate (“existing fire certificate”) has been issued under the Law and is in force immediately before the coming into force of Article 3.
- (2) The existing certificate shall remain in force for a period of 3 years beginning with the date of the coming into force of Article 3 or until 3 months after the date of a notice given under paragraph (3) in respect of the premises to which it relates, whichever period ends sooner.
- (3) At any time during the period of 3 years beginning with the date of the coming into force of Article 3, the Minister may give notice to the person the Minister reasonably believes to be the responsible person in respect of any premises that –
  - (a) an application for a new certificate in respect of those premises must be made on or before the date specified in the notice;
  - (b) the existing fire certificate for those premises will expire the day after the date specified in the notice;
  - (c) if an application for a new fire certificate is not received on or before the date specified in the notice as being the date by which an application must be made the premises will be treated as having no fire certificate in respect of it from the day that falls immediately after the date specified in the notice; and
  - (d) the person receiving the notice must inform the Minister within 14 days of the date of the notice if that person is not the responsible person for the premises, and that a failure to do so is a criminal offence.
- (4) The date specified in the notice under paragraph (3) shall be not less than 3 months after the date of the notice.
- (5) If a person who is given a notice under paragraph (3) is not the responsible person for the premises, the person receiving the notice shall inform the Minister of that fact within 14 days of the date of the notice.
- (6) This Article does not affect any power of an inspector or the Minister under the Law, or the duty of the responsible person to notify the Minister of a proposal under Article 6(2) or (3) of the Law.
- (7) Nothing in this Article shall prevent any person making an application for a fire certificate within 3 years of the coming into force of Article 3 in respect of any premises that has an existing fire certificate.
- (8) A person who fails to comply with paragraph (5) shall be guilty of an offence and shall be liable to a fine of level 2 on the standard scale.

**17 Citation and commencement**

This Law may be cited as the Fire Precautions (Amendment No. 2) (Jersey) Law 2012 and shall come into force on such day or days as the States may by Act appoint.

**M.N. DE LA HAYE**

*Greffier of the States*

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- <sup>1</sup> *chapter 23.150*  
<sup>2</sup> *chapter 15.360*