



Jersey

SHOPS (REGULATION OF OPENING) (JERSEY) REGULATIONS 2011

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*Made**21st July 2011**Coming into force**4th August 2011*

THE STATES, in pursuance of Articles 3, 4 and 10 of the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010¹, have made the following Regulations –

1 Interpretation

In these Regulations, unless the context otherwise requires –

“approved form” means –

- (a) a form approved by the Comité des Connétables under Regulation 5(1) for use in all parishes, where the Comité has approved the form; or
- (b) a form approved by the Connétable of a parish under Regulation 5(2) for use in that parish, where the Connétable has approved the form;

“blanket permit” means a blanket permit to which Regulation 6 refers;

“general permit” means a general permit to which Regulation 6 refers;

“Law”, and “the present Law”, mean the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010²;

“1960 Law” means the Shops (Sunday Trading) (Jersey) Law 1960³;

“permit” means a blanket permit, a general permit or a single permit;

“retail sales area” shall be construed in accordance with Regulation 2;

“single permit” means a single permit to which Regulation 6 refers;

“special occasion” means a day that is designated by the Minister, by an Order made under Regulation 4, as a special occasion;

“supply of goods” means a commercial activity described in Article 1(2)(a) of the Law, but does not mean a commercial activity described in Article 1(2)(c) of the Law;

“weekday” means any day of the week except –

- (a) a Sunday; or
- (b) a day that is Good Friday, Liberation Day, Christmas Day or 26th December.

2 Meaning of “retail sales area”

- (1) In these Regulations, “retail sales area”, when used in respect of a shop that is open on weekdays as well as on a Sunday, Good Friday, Liberation Day or 26th December, means the area that is ordinarily used for commercial activities on weekdays.
- (2) In these Regulations, “retail sales area”, when used in respect of a shop that is not open on any weekday, means the area that may be used for commercial activities under a permit.
- (3) The retail sales area of a shop includes the working space behind any counter, but does not include –
 - (a) any office;
 - (b) any storage area to which the public is not given access; or
 - (c) any staff facility (for example, a staff kitchen or staff washroom) to which the public is not given access.
- (4) The retail sales area of a shop that is in a building shall be determined by measuring the internal floor space.
- (5) Where more than one area of a shop to which paragraph (1) refers is ordinarily used for commercial activities, the aggregate of those areas of the shop is the retail sales area.
- (6) Where more than one area of a shop to which paragraph (2) refers is the area that may be used for commercial activities under the permit, the aggregate of those areas of the shop is the retail sales area.

3 Exemptions

- (1) The shops in Schedule 1 are exempt from Article 2(1) of the Law.
- (2) If a shop in Schedule 1 is one that is open on weekdays, it is a condition of the exemption under this Regulation that the commercial activities that are carried on at the shop on Sundays, Good Friday, Liberation Day and 26th December shall be substantially the same as those carried on at the shop on weekdays.

4 Special occasions

- (1) If the Minister considers –
 - (a) that a particular day is a special occasion that is of economic, social or cultural importance to Jersey; or
 - (b) that a particular day is one on which an event that is of economic, social or cultural importance to Jersey is to be held,

the Minister may by Order designate that day as a special occasion.

- (2) Before making an Order under this Regulation, the Minister shall consult the Comité des Connétables.
- (3) An Order cannot designate Good Friday, Liberation Day, Christmas Day or 26th December as a special occasion.

5 Authorized forms

- (1) The Comité des Connétables may approve forms of applications and permits for the purposes of these Regulations.
- (2) If the Comité des Connétables has not approved a form for use for a purpose of these Regulations, the Connétable of a parish may approve the form for use for that purpose in the parish until the Comité approves a form.
- (3) The Connétable of a parish shall make the approved forms available for use in the parish.

6 Types of permit

- (1) The following permits may be granted in accordance with these Regulations –
 - (a) a general permit;
 - (b) a single permit;
 - (c) a blanket permit.
- (2) A general permit authorizes the opening of a shop on the following days –
 - (a) every Sunday;
 - (b) Good Friday;
 - (c) Liberation Day; and
 - (d) 26th December.
- (3) A general permit shall remain in force until the end of the 31st day of December in the year in which it is granted, unless it ceases to have effect under Regulation 17 or is revoked under Regulation 18.
- (4) A general permit cannot be granted in respect of a shop to which Part 1 of Schedule 2 applies, if its retail sales area exceeds 700 square metres.
- (5) A single permit authorizes the opening of a shop on any date or dates specified in the permit.
- (6) However –
 - (a) a single permit cannot authorize the opening of a shop on Christmas Day or 26th December; and
 - (b) the number of days in any year in respect of which one or more than one single permit may be granted in respect of the shop cannot exceed five.

- (7) A blanket permit authorizes the opening in a parish of every shop of a description specified in the permit, on any special occasion specified in the permit.
- (8) A permit for a shop that is a vehicle authorizes its opening in any parish.

7 Connétable to be authority for grant of permits

- (1) If a shop is not a vehicle, the Connétable of the parish in which the shop is situated shall be the authority for the grant, variation and revocation of any permit for the shop.
- (2) In the case of a general permit or single permit for a shop that is a vehicle, the Connétable of the parish in which at the time of the application for the permit the applicant for or holder of the permit lives or lived shall be the authority for its grant, variation and revocation.
- (3) In the case of a blanket permit for a shop that is a vehicle, the Connétable of the parish in which the holder of the permit lives at the time of the grant of the permit shall be the authority for its grant, variation and revocation.

8 Application for permit

- (1) An application for a general permit or single permit for a shop shall be made by the occupier to the Connétable.
- (2) The application shall be in writing, in the approved form.
- (3) The application shall state –
 - (a) whether the application is for a general permit or single permit;
 - (b) if the application is for a single permit, the date or dates in respect of which the application is made; and
 - (c) in every case, the name of the person who will manage the shop while it is open pursuant to the permit,and shall contain such other information as the approved form specifies.
- (4) The application shall be accompanied by the application fee payable under Regulation 22(1).
- (5) The Connétable need not deal further with the application until the fee is paid.
- (6) If the application is (whether wholly or partly) for a general permit in respect of the supply of goods, the application shall also be accompanied by a plan –
 - (a) prepared, and certified as accurate, by a surveyor; and
 - (b) showing the measurements and size of the part of the retail sales area that will be used for that activity.
- (7) The plan is not required if –
 - (a) a plan that complies with paragraph (6) has already been submitted to and accepted by the Connétable; and

- (b) the occupier certifies that there has been no change in the size of the retail sales area of the shop since that earlier plan was submitted.
- (8) The plan is not required in respect of a shop that is a vehicle.

9 Additional information

- (1) An applicant for the grant of a general permit or single permit shall provide such additional information as a Connétable reasonably requires in order to determine the application.
- (2) For the purpose of determining the application, the Connétable may –
 - (a) inspect the shop to which it relates; or
 - (b) authorize another person in writing to do so on the Connétable's behalf and report to the Connétable on the inspection.
- (3) A person who is authorized under paragraph (2) by the Connétable shall, if asked to do so by the applicant, show the applicant a copy of the authorization before inspecting the shop.
- (4) A Connétable who receives a report under paragraph (2) shall give a copy to the applicant, and inform the applicant that he or she may make written representations on the report to the Connétable.
- (5) In determining the application, the Connétable may take the report into consideration.
- (6) If the Connétable does so, he or she shall also take into consideration the written representations (if any) made by the applicant on the report.

10 Considerations in granting permits

- (1) In determining whether or not to grant a permit, a Connétable shall have regard to the peace and tranquillity of a neighbourhood, and the avoidance of nuisance to residents, on the days and times of opening of a shop under the permit.
- (2) In particular, the Connétable shall have regard to the kind and size of a shop to which the permit will apply, and to any noise, traffic and litter that are likely to result from its opening under the permit.
- (3) Paragraph (2) does not limit paragraph (1).

11 Determination of application

- (1) On determining an application for the grant of a general permit or single permit, a Connétable shall within 21 days notify the applicant in writing of the decision.
- (2) The Connétable shall at the same time notify the applicant of the procedure by which the decision may be reviewed under Regulation 20.

12 Conditions of general permits

- (1) It is a condition of a general permit that if there is any change –
 - (a) in the size of the retail sales area of the shop for which the permit is granted;
 - (b) of manager of the shop; or
 - (c) of the predominant use of the shop,the permit holder shall within 7 days in writing notify the Connétable of the parish in which the shop is situated.
- (2) It is a condition of a general permit that if the permit holder ceases to be the occupier of the shop, he or she shall within 7 days in writing notify the Connétable.
- (3) It is a condition of a general permit that, whenever the shop is open pursuant to the permit, it shall be displayed in or on the shop in a conspicuous place where it can be readily seen by customers.
- (4) It is a condition of a general permit that where the shop is one that is open on weekdays as well as on Sundays, Good Friday, Liberation Day or 26th December, the commercial activities that are carried on at the shop pursuant to the permit shall be substantially the same as those carried on at the shop on weekdays.
- (5) On granting a general permit for a shop, a Connétable may impose such other conditions on the opening of the shop as he or she thinks fit.
- (6) They may include conditions –
 - (a) restricting the hours of opening of the shop;
 - (b) restricting the number and timing of wholesale and retail deliveries to or from the shop; and
 - (c) specifying arrangements that the holder of the permit is to make for parking by customers and staff of the shop.
- (7) Paragraph (6) does not limit paragraph (5).

13 Conditions of single permits

- (1) On granting a single permit for a shop, a Connétable may impose such conditions on the opening of the shop as he or she thinks fit.
- (2) They may include any conditions described in any of paragraphs (1), (2), (3), (4) and (6) of Regulation 12 (other than the condition to which Regulation 12(1)(a) refers).
- (3) Paragraph (2) does not limit paragraph (1).

14 Issue of general permit or single permit

On granting a general permit or single permit, a Connétable shall issue the permit in the approved form to the applicant.

15 Blanket permits

- (1) A Connétable of a parish may, by notice published in the Jersey Gazette, grant a blanket permit in respect of any special occasion for all shops situated in the parish that are of any kinds specified in the notice.
- (2) It is a condition of a blanket permit that where a shop is one that is open on weekdays as well as on a Sunday, the commercial activities that are carried on at the shop pursuant to the permit shall be substantially the same as those carried on at the shop on weekdays.
- (3) In granting a blanket permit, the Connétable may impose such other conditions on the opening of shops as he or she thinks fit.
- (4) They may include any conditions described in any of paragraphs (1), (2), (3), (4) and (6) of Regulation 12 (other than the condition to which Regulation 12(1)(a) refers).
- (5) Paragraph (4) does not limit paragraph (3).

16 Variation of general permit or single permit

- (1) Subject to the other provisions of these Regulations, a Connétable may vary a general permit or single permit, either on the application in writing of the permit holder or on the Connétable's own initiative.
- (2) If the Connétable proposes to refuse to grant a permit holder's application, or proposes to vary a permit on the Connétable's own initiative, the Connétable shall give the holder notice in writing of his or her intention to do so.
- (3) The notice shall –
 - (a) specify the grounds on which the Connétable proposes to refuse to grant the permit holder's application, or proposes to vary the permit on the Connétable's own initiative, as the case may require; and
 - (b) inform the holder that he or she may make written representations to the Connétable, as to the latter's proposal, within 21 days or within such further time as the Connétable allows.
- (4) If the Connétable is required by paragraph (2) to give notice to the permit holder, the Connétable shall in deciding whether or not to proceed –
 - (a) to refuse to grant the holder's application; or
 - (b) to vary the permit on the Connétable's own initiative,take into consideration any written representations so made.
- (5) On deciding whether or not to vary the permit, the Connétable shall within 21 days notify the permit holder in writing of the decision.
- (6) The Connétable shall at the same time notify the permit holder of the procedure by which the decision may be reviewed under Regulation 20.

17 Permits that cease to have effect if holder ceases to occupy shop

A general permit or single permit shall cease to have effect on the permit holder's ceasing to be the occupier of the shop for which it is granted.

18 Revocation of general permit or single permit

- (1) A Connétable may revoke a general permit or single permit in any of the following cases –
 - (a) if, in the case of a general permit, the shop no longer fulfils the requirements for the grant of such a permit;
 - (b) if any condition of the permit has been contravened;
 - (c) if the permit holder has been convicted of any offence under the Law or under these Regulations (whether or not in respect of the shop to which the permit relates);
 - (d) if the Connétable thinks fit to revoke the permit, having regard to any disturbance of the peace or tranquillity of any neighbourhood, or of any nuisance to residents, resulting from the opening of the shop on the days and at the times authorized by the permit.
- (2) If a Connétable proposes to revoke a permit, the Connétable shall give the permit holder notice in writing of his or her intention to do so.
- (3) The notice shall –
 - (a) specify the grounds on which the Connétable proposes to revoke the permit; and
 - (b) inform the permit holder that the holder may make written representations to the Connétable, as to the latter's proposal, within 21 days or within such further time as the Connétable allows.
- (4) The Connétable shall, in deciding whether or not to proceed to revoke the permit, take into consideration any written representations so made.
- (5) The Connétable shall within 21 days notify the permit holder in writing of the decision.
- (6) The notification under paragraph (5) shall inform the permit holder of the procedure by which the decision may be reviewed under Regulation 20.

19 Reasons for decisions

- (1) A Connétable shall state in writing the reasons for a decision by the Connétable under these Regulations –
 - (a) refusing to grant an application in the terms in which it is sought;
 - (b) imposing a condition under Regulation 12(5) or Regulation 13 in granting an application for a permit;
 - (c) varying a general permit or single permit on the Connétable's own initiative; or
 - (d) revoking a general permit or single permit.
- (2) Where the Connétable is required under paragraph (1) to give reasons for a decision, he or she shall provide a copy of the reasons –

- (a) to the applicant, in the case mentioned in either of paragraphs (1)(a) and (b); or
 - (b) to the permit holder, in the case mentioned in either of paragraphs (1)(c) and (d),
- with the notification of the decision.

20 Review by Comité des Connétables

- (1) A person mentioned in Regulation 19(2) who is aggrieved by a decision to which that paragraph refers may give notice in writing to the Connétable by whom the decision is made that he or she wishes to have the decision reviewed by the Comité des Connétables.
- (2) A notice under paragraph (1) shall be given –
 - (a) within 21 days after the Connétable notifies the person of the decision and provides to the person a copy of the reasons; or
 - (b) within such further time as the Connétable allows.
- (3) Subject to paragraph (5), the Connétable shall on receiving a notice under paragraph (1) notify the Chairman of the Comité des Connétables.
- (4) Subject to paragraph (5), the Chairman of the Comité des Connétables shall then convene a panel of 3 Connétables (excluding the Connétable whose decision is the subject of the review) to review the decision.
- (5) Where the Connétable who receives a notice under paragraph (1) is the Chairman of the Comité des Connétables –
 - (a) he or she shall forthwith notify the Vice-Chairman of the Comité des Connétables; and
 - (b) the Vice-Chairman shall instead convene a panel of 3 other Connétables to review the decision.
- (6) The person seeking the review of a decision shall give the panel, and the Connétable whose decision is the subject of the review, a statement in writing of the grounds on which the review is sought.
- (7) The panel shall review the decision, and confirm, reverse or vary the decision.
- (8) On reviewing the decision, the panel shall within 21 days –
 - (a) notify the person in writing of its decision on the review, stating the reasons for the decision; and
 - (b) give a copy of the notification (including the reasons) to the Connétable whose decision has been reviewed.
- (9) The notification under paragraph (8) shall inform the person of Regulation 21 (which relates to appeals to the Royal Court).

21 Appeal to Royal Court

- (1) A person who is aggrieved by a decision by a panel of the Comité des Connétables on a review under Regulation 20 may appeal against the decision to the Royal Court.
- (2) The appeal shall be brought within 28 days after the panel notifies the person in writing of the decision, or within such further time as the Royal Court allows.
- (3) On hearing the appeal, the Royal Court may confirm, reverse or vary the decision, and make such order as to costs as it thinks fit.

22 Fees

- (1) The fee specified in Schedule 3 shall be payable in respect of an application for a general permit or single permit.
- (2) A fee that is payable in respect of an application shall be credited to the revenues of the parish to whose Connétable the application must be made.

23 Production of permit

- (1) The holder of a general permit or single permit shall, when required to do so by or on behalf of –
 - (a) the Connétable by whom it is granted; or
 - (b) (if the shop is a vehicle) any Connétable in whose parish the vehicle is for the time being open under the permit,produce it to that Connétable or to a person who is authorized in writing for the purpose of this Regulation by that Connétable.
- (2) The holder of a permit need not comply with a requirement made under paragraph (1) by a person other than the Connétable if –
 - (a) he or she asks the person making the requirement to show the holder a copy of the authorization; and
 - (b) the other person does not do so.
- (3) The holder of a general permit or single permit shall, within 7 days after the permit ceases to have effect, deliver it to the Connétable by whom it was granted.
- (4) A permit holder who contravenes either of paragraphs (1) and (3) shall be guilty of an offence and liable to a fine of level 2 on the standard scale.

24 Transitional provisions and saving

- (1) Where, immediately before the commencement of the present Law, a transaction is excepted under Article 3 of the 1960 Law from the prohibition of the opening of a shop for the serving of customers on a Sunday, the shop shall in respect of the transactions to which the exception relates be exempt from the prohibition in Article 2(1) of the present Law.

- (2) An exemption under paragraph (1) shall cease to have effect on the expiry of the period of 3 months immediately following the commencement of Article 2(1) of the present Law.
- (3) Where a permit granted under Article 4 of the 1960 Law is in force immediately before the commencement of Article 2(1) of the present Law it shall on the commencement of the present Law remain in force according to its tenor.
- (4) A permit to which paragraph (3) applies shall continue in force (whether or not it has been granted for more than 10 days), as if it were a single permit granted under these Regulations, until it expires according to its tenor or is sooner revoked under a ground specified in any of subparagraphs (b), (c) and (d) of Regulation 18(1).

25 Citation and commencement

- (1) These Regulations may be cited as the Shops (Regulation of Opening) (Jersey) Regulations 2011.
- (2) These Regulations shall come into force on the same day as the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010⁴.

A.H. HARRIS

Deputy Greffier of the States

SCHEDULE 1

(Regulation 3(1))

EXEMPTIONS FROM THE REQUIREMENT FOR A PERMIT

1. A shop that is open during permitted hours pursuant to an on-licence granted under the Licensing (Jersey) Law 1974⁵.
2. A shop that is registered premises within the meaning of the Places of Refreshment (Jersey) Law 1967⁶ (that is to say, it is registered as a place of refreshment under that Law) and is open pursuant to a permit granted under Article 13(4) of that Law.
3. A shop that is registered under Article 74 of the Medicines (Jersey) Law 1995⁷, and is open only for the sale of medicines and other medicinal products and medical and surgical apparatus, appliances, instruments and supplies.
4. A shop that is open for the transaction of a business within the Port of St. Helier or Jersey Airport.
5. A shop that is open for the transaction on the foreshore of any business carried on under a concession granted by the Minister for Economic Development.
6. Premises whose predominant use is as a sports or other recreational facility (for example, a golf course or tennis court).
7. A shop that is a bank and is open pursuant to an Order made under Article 4 of the Public Holidays and Bank Holidays (Jersey) Law 1951⁸.
8. A service for the provision of the public transport of passengers, goods or freight by land, sea or air.
9. A cab service, within the meaning of Article 1(1) of the Motor Traffic (Jersey) Law 1935⁹.
10. A tourist amenity, facility or attraction that does not undertake the supply of goods.

SCHEDULE 2

(Regulation 6(4))

SHOPS WHOSE RETAIL SALES AREAS EXCEED 700 SQUARE METRES

Part 1 – Shops to which this Part applies

A shop whose retail sales area exceeds 700 square metres, if –

- (a) the predominant use of the shop is the supply of goods otherwise than incidentally to the provision of some other service; and
- (b) it is not a shop described in Part 2.

Part 2 – Shops to which Part 1 does not apply

A tourist amenity, facility or attraction in which the part of the retail sales area that is used for the supply of goods does not exceed 700 square metres.

SCHEDULE 3

(Regulation 22(1))

FEEES

For filing an application for a general permit or single permit – £50

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- 1 *L.21/2010*
 - 2 *L.21/2010*
 - 3 *chapter 05.775*
 - 4 *L.21/2010*
 - 5 *chapter 11.450*
 - 6 *chapter 11.600*
 - 7 *chapter 20.625*
 - 8 *chapter 15.560*
 - 9 *chapter 25.200*