



Jersey

# **RESTRICTION ON SMOKING (JERSEY) LAW 1973**

## **Official Consolidated Version**

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

20.825

Showing the law from 31 July 2021 to Current



Jersey

## RESTRICTION ON SMOKING (JERSEY) LAW 1973

### Contents

#### Article

A1	Interpretation .....	3
1	Power of States to make Regulations.....	7
1A	Regulations for public eating premises .....	9
1AA	Regulations for workplaces .....	10
1AB	Exemptions in Regulations for workplaces .....	11
1B	Prohibition on sales of tobacco from vending machines .....	12
1C	Regulations to amend Article A1.....	12
1D	Articles 1, 1A, 1AA, 1AB and 1B: supplemental provisions .....	12
1E	Orders in relation to notices.....	13
1F	Authorized officers .....	13
1G	Regulations generally .....	15
2	Offences, defences and penalties .....	16
2A	Service of documents .....	16
2B	General provisions as to offences .....	17
3	Citation .....	17

#### ENDNOTES 18

Table of Legislation History.....	18
Table of Endnote References .....	18



Jersey

## RESTRICTION ON SMOKING (JERSEY) LAW 1973

A **LAW** to enable the States to make Regulations for the purposes of reducing the risks to health due to smoking and tobacco, including the use of tobacco and exposure to smoke from ignited tobacco, the prohibition or restriction of smoking substances other than tobacco, to prohibit or restrict advertising and certain marketing practices relating to tobacco and tobacco products, to provide in the Law for Orders that relate to notices relating to the danger to health of smoking and prohibitions and restrictions, for enforcement of the Regulations and for related matters<sup>1</sup>

Commencement [[see endnotes](#)]

### A1 Interpretation<sup>2</sup>

In this Law, unless the context otherwise requires –

“1948 Law” means the [Tourism \(Jersey\) Law 1948](#);

“1967 Law” means the [Places of Refreshment \(Jersey\) Law 1967](#);

“1974 Law” means the [Licensing \(Jersey\) Law 1974](#);

“1989 Law” means the [Health and Safety at Work \(Jersey\) Law 1989](#);

“2005 Law” means the [States of Jersey Law 2005](#);

“advertisement”, in relation to smoking or tobacco (or a tobacco product) includes every form of recommendation of smoking or tobacco (or a tobacco product) to the public including –

- (a) a statement of the name of a manufacturer or importer of a tobacco (or a tobacco product);
- (b) the name of any brand of tobacco (or a tobacco product);
- (c) a statement of any trade description or designation or the display or other publication or a trademark, emblem, marketing image or logo, by reference to which the tobacco (or tobacco product) is marketed or sold, in circumstances where such statement, display or publication may reasonably be regarded as a recommendation to the public;

- (d) a statement of the properties of the tobacco on a label, container, wrapper, package, circular, pamphlet or brochure issued to the public or given to a purchaser with the public;

“aircraft” means any aeroplane or helicopter that is –

- (a) on the ground in Jersey; or
- (b) flying to or from Jersey in the airspace above Jersey and the territorial sea adjacent to Jersey;

“authorized officer” shall be construed in accordance with Article 1F;

“brandsharing” means the use by a person in the course of that person’s business –

- (a) of any feature in connection with any service or product unrelated to tobacco, such feature being the same as any feature that is connected with tobacco or is so similar as to be likely to be mistaken for that feature; or
- (b) of any feature in connection with tobacco, such feature being the same as any feature that is connected with any service or product unrelated to tobacco or is so similar as to be likely to be mistaken for that feature;

“cigarette” means a tobacco product that can be consumed by means of a combustion process and that is –

- (a) a roll of tobacco (or of tobacco and another substance) that is capable of being smoked as it is; or
- (b) a roll of tobacco (or of tobacco and another substance) that is designed to be, by simple non-industrial handling –
- (i) wrapped in cigarette paper, or
- (ii) inserted into a cigarette-paper tube;

“club” means any premises or place that are, or is, used by, and for the purposes of, a club, society or other body of persons, whether incorporated or unincorporated, and whether that use is for profit or otherwise;

“coupon” means a document or other thing which (whether by itself or not) can be redeemed for a product, service, cash or other benefit;

“dwelling” means any place (whether it is premises or otherwise) in which a person resides that is the private residence of that person and includes, in relation to that place, any –

- (a) garden and yard; and
- (b) garage and outhouse,

but in the case of a dwelling that is located within a workplace (or a part of a workplace), does not include any area, garden, yard, garage or outhouse used in common with the workplace (or part);

“employee” has the meaning assigned to it by the 1989 Law;

“feature” means a name, emblem, logo, trademark, symbol, motto, type-face, colour or pattern of colour, picture, artwork, imagery, appearance or other message, whether alone or in combination;

“licence” has the meaning assigned to it by the 1974 Law and ‘holder of a licence’ shall be construed accordingly;

“licensed premises” has the meaning assigned to it by the 1974 Law;

“Minister” means the Minister for Health and Social Services;

“motor vehicle” means any mechanically propelled vehicle, intended or adapted for use on roads;

“movable structure” includes a structure that is designed or adapted for human occupation and is capable of being moved from one place to another by –

- (a) being towed; or
- (b) being transported on a motor vehicle or trailer,

whether or not it can be detached from the vehicle that has towed or transported it;

“point of sale” means a point within any fixed or movable premises at which a gantry or display unit that is –

- (a) fixed to one place within fixed or movable premises; and
- (b) primarily used for the display of tobacco to customers;

“public” means the public generally or any section of the public, however selected;

“public service vehicle” means a public service vehicle within the meaning of the [Motor Traffic \(Jersey\) Law 1935](#) that is within a class specified in Article 5(1) of that Law;

“public transport” means the classes of public service vehicles as defined in Article 5(1) of the [Motor Traffic \(Jersey\) Law 1935](#);

“self-employed person” has the meaning assigned to it by the 1989 Law;

“ship or vessel” means –

- (a) a Jersey ship within the meaning of Article 2 of the [Shipping \(Jersey\) Law 2002](#) that is –
  - (i) within the territorial sea adjacent to Jersey, or
  - (ii) in a harbour, port or other place in Jersey; or
- (b) any ship, vessel or boat of any description that is used in navigation, to which paragraph (a) does not apply, that is –
  - (i) wholly owned by a person ordinarily resident in Jersey or by a company incorporated in Jersey,
  - (ii) not registered under the law of the United Kingdom, any of the other Channel Islands, the Isle of Man or any other country outside Jersey, and
  - (iii) within the territorial sea adjacent to Jersey or in a harbour, port or other place in Jersey;

“smoking” means –

- (a) being in possession of ignited tobacco;
- (b) being in possession of a pipe or other smoking equipment in which tobacco is ignited; or
- (c) being in possession of a substance (or a mixture of substances) that is not tobacco nor anything that is customarily used as incense and the substance (or mixture) is ignited, or being in possession of a pipe or other smoking

equipment in which a substance (or a mixture of substances) that is not tobacco nor anything that is customarily used as incense is ignited,

and “smoke” shall be construed accordingly;

“sold” includes offered for sale (or offered for sale and sold) whether by retail or otherwise and cognate words shall be construed accordingly;

“sponsorship agreement” is an agreement under which, in the course of a business, a party to it makes a contribution towards something, whether the contribution is in money or takes some other form including the provision of services or of contributions in kind that promotes tobacco in Jersey;

“tobacco” means all or any of the following items derived from the tobacco plant –

- (a) a cigarette;
- (b) leaves and other natural processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco;
- (c) cut tobacco (including hand-rolling tobacco);
- (d) any thing that consists in whole or in part of tobacco, including cut tobacco, hand-rolling tobacco and tobacco leaf or any of them;
- (e) tobacco to which paragraph 6 of Part 2 of Schedule 1 to the [Customs and Excise \(Jersey\) Law 1999](#) applies,

but does not include a product that contains nicotine for use in the treatment of addiction to tobacco or any other medicinal purpose;

“tobacco product” means any of the following –

- (a) any cigarette paper, tube or filter or other thing manufactured for use in smoking;
- (b) any thing on which an emblem, symbol, logo, image or name of tobacco or a manufacturer of tobacco is printed or affixed;
- (c) a coupon used for promotion of tobacco;

“use of tobacco” means sucking, sniffing or chewing tobacco;

“vehicle” includes a motor vehicle that is designed or adapted for human occupation and is capable of being moved from one place to another whether by itself or by –

- (a) being towed; or
- (b) being transported on a motor vehicle or trailer,

whether or not it can be detached from the vehicle that has towed or transported it;

“vending machine” includes a machine –

- (a) that sells or offers cigarettes for sale; and
- (b) in respect of which a purchaser is permitted to supply himself or herself, either on or before payment, with tobacco whether by means of the depositing of money or a token (that is used as a substitute for money) in that machine or otherwise;

“volunteer” includes a person who is not an employee or a self-employed person but who carries out a function or an action on a voluntary basis that would, if that person were an employee or a self-employed person, be an employee’s or a self-

employed person's work, and the function or action is not carried out for gain or reward and "workplace" and any reference to the carrying out by a person of his or her work shall be construed accordingly;

"workplace" includes any –

- (a) premises in which, land on which, or place at which, a person carries out his or her work and is required to be in, on or at for the purpose of carrying out his or her work;
- (b) tent, temporary structure, or movable structure, in which a person carries out his or her work and is required to be in for the purpose of carrying out his or her work;
- (c) ship or vessel on which a person carries out his or her work and is required to be on for the purpose of carrying out his or her work;
- (ca) aircraft in which a person carries out his or her work and is required to be for the purposes of carrying out his or her work;
- (d) vehicle, whether it is a motor vehicle or otherwise, in which a person –
  - (i) carries out his or her work if the vehicle is used solely for that purpose, or
  - (ii) is required to be for the purpose of carrying out his or her work and the vehicle is used solely for that purpose;
- (e) public service vehicle in which a person carries out his or her work and is required to be for the purpose of carrying out his or her work;
- (f) any stairwell, corridor or similar common areas to which a person referred to in paragraphs (a) to (e) has access when that person is at work; and
- (g) any canteen, common room, toilet, changing room or similar facility that is provided for the use of that person while that person is at work,

whether the work referred to in paragraphs (a) to (e) is carried out occasionally or otherwise and whether the public has access to the workplace.

## **1 Power of States to make Regulations**

- (1) The States may, by Regulations, make such provisions as they consider necessary for providing against the risks to health due to smoking and use of tobacco (including exposure to smoke from ignited tobacco or smoke exhaled by a person who is smoking), and, without prejudice to the generality of the foregoing, any such Regulations may –
  - (a) require notices of a kind specified in the Regulations to be printed on, or inserted into, each packet or container of cigarettes and tobacco (including a tobacco product) imported into, or manufactured in, Jersey, warning of the danger to health of smoking and use of tobacco and of the nicotine, tar and sugar content of the cigarettes and tobacco;
  - (b) prohibit or restrict, subject to such conditions as may be specified in the Regulations –
    - (i) smoking and use of tobacco in places of public entertainment, or public transport,

- (ia) smoking tobacco in a motor vehicle in which a person under the age of 18 years is present,
  - (ii) any advertisement designed to promote the habit of smoking or to promote tobacco or a particular brand of tobacco (or a tobacco product), including an advertisement in premises or at a point of sale, the use of a website in relation to an advertisement and the publication, printing, devising and distribution of an advertisement (including distribution by transmission in electronic form),
  - (iii) the sale of cigarettes and tobacco to persons under such minimum age as shall be specified in the Regulations,
  - (iv) the promotion of tobacco or a tobacco product (or both of them) including, without prejudice to the generality of the foregoing, promotion by distribution of tobacco or a tobacco product (or both of them) with or without charge, making available any product, coupon or thing (whether with or without charge, or at a discount) in any circumstances as may be specified in the Regulations, and any agreement relating to the promotion,
  - (v) the promotion of tobacco or a tobacco product (or both of them) by means of brandsharing, and any agreement relating to the promotion,
  - (vi) the promotion of tobacco or a tobacco product (or both of them) by means of sponsorship, and any sponsorship agreement relating to the promotion.<sup>3</sup>
- (2) Without prejudice to the generality of paragraph (1)(b)(ii), the Regulations may provide for –
- (a) the electronic means of transmitting an advertisement where it is transmitted in electronic form;
  - (b) the display of an advertisement for tobacco (or an advertisement specifying the price of tobacco) in a place or on a website where tobacco is offered for sale;
  - (c) the prohibition or restriction of the publication of such an advertisement in a newspaper, periodical, magazine (including a magazine that is made available on an airplane or a vessel) or class of newspaper, periodical or magazine;
  - (d) persons or classes of person participating in the distribution of the advertisement; and
  - (e) an advertisement that is contained in any form of communication whether using printed or written words, designs, still or moving pictures or images or any other devices, and whether the medium of communication is tangible by way of image projection or sound reproduction, computer communication and radio, television or similar broadcast or other medium.<sup>4</sup>
- (3) Without prejudice to the generality of paragraphs (1)(b)(ii) and (1)(b)(iv) to (vi), Regulations made under any of those paragraphs may –
- (a) make different provision in respect of the prohibition or restriction for persons involved in the tobacco trade and specialist tobacconists;
  - (b) make different provision for persons (or classes of persons) to whom contractual relationships that arise out of a promotion to which



paragraph (b)(iv), (b)(v) or (b)(vi) applies, or otherwise have effect, on the date on which the Regulations come into force;

- (c) make different provision for different types and classes of tobacco or tobacco product;
  - (d) require notices or warnings of the danger to health of smoking and use of tobacco, as are specified in the Regulations, to be printed on the packaging or container of the tobacco or inserted into the container of the tobacco or printed on or inserted into any thing connected with the promotion; and
  - (e) provide for a duty on any person concerned with the advertisement or promotion (including any distribution or publication) to which the Regulations have effect, to take all reasonable steps to ensure compliance with the Regulations, including compliance by other persons concerned with the advertisement, promotion, distribution and publication to which the Regulations apply.<sup>5</sup>
- (4) Regulations under this Article may provide for a duty on any of the following –
- (a) an occupier (or a person concerned in the management) of a place of public entertainment in respect of which the Regulations have effect;
  - (ab) a person in a motor vehicle in respect of which the Regulations have effect;
  - (b) the proprietor of public transport in respect of which the Regulations have effect;
  - (c) an occupier of premises in which tobacco is sold in respect of which the Regulations have effect;
  - (d) a person who imports into, or manufactures in, Jersey a packet or container referred to in paragraph (1)(a) and a person who sells tobacco in respect of which the Regulations have effect,

to take all reasonable steps to ensure compliance with the Regulations, including compliance by other persons on or in those premises, the place of public entertainment, the motor vehicle or the public transport, as the case may be, to which the Regulations apply.<sup>6</sup>

- (5) The Minister may prescribe by Order the content and publication requirements for a notice or warning in respect of which provision has been made in Regulations made under paragraph (1)(a) or (3)(d) including the size of such notice and the information, warning, words, images or symbols to be specified on it.<sup>7</sup>

### **1A Regulations for public eating premises<sup>8</sup>**

- (1) The States may make Regulations to prohibit or restrict smoking and the use of tobacco in premises (or a part of premises) –
- (a) in which food is sold, or is supplied otherwise than by sale, to members of the public for consumption on those premises (or that part); and
  - (b) to which members of the public have access (whether on payment of a charge or otherwise) or are invited to for any purpose or by virtue of membership of any club or society,

and without prejudice to the generality of the foregoing, such premises (or part) includes licensed premises but does not include a dwelling.

- (2) The Regulations may make different provision for different parts of premises or classes of premises, including classes of premises selling, or supplying otherwise than for sale, different food or classes of food.
- (3) Without prejudice to the generality of paragraph (1), Regulations made under this Article –
- (a) may make provision in respect of the prohibition or restriction for premises registered under the 1967 Law and a proprietor to whom that Law applies;
  - (b) may make provision for premises registered under the 1948 Law and a proprietor to whom that Law applies;
  - (c) may, where premises referred to in paragraph (1) are licensed premises –
    - (i) make provision for a holder of a licence granted in respect of licensed premises, and
    - (ii) make different provision for licensed premises having regard to the different categories of licence granted under the 1974 Law;
  - (d) may specify a period or periods in which the prohibition or restriction is to apply in those premises (or part of those premises) and make different provision for that period or periods for different premises (or parts of premises) or classes of premises (or parts of premises); and
  - (e) may make provision for a duty on an occupier of premises, a proprietor, holder of a licence and the person having ownership of the business that is carried on in premises to which this Article applies, including a duty on any of them to take all reasonable steps to ensure compliance with the Regulations including compliance by other persons in premises to which the Regulations apply.
- (4) Without prejudice to the generality of paragraph (1), Regulations may make provision for premises (or a part of premises) in which food is –
- (a) sold for consumption in those premises (or that part); or
  - (b) supplied otherwise than by sale for consumption on those premises (or that part),
- and the food is sold or supplied in a different part of those premises to the part in which it is consumed.

### **1AA Regulations for workplaces<sup>9</sup>**

- (1) The States may make Regulations to prohibit or restrict smoking tobacco or a substance (or a mixture of substances) other than tobacco, or the use of tobacco, in a workplace.
- (2) Without prejudice to the generality of paragraph (1), Regulations under this Article may prohibit a person from smoking, or prohibit the use of tobacco, in all or any of the following –
- (a) licensed premises;
  - (b) a club;
  - (c) premises registered under the 1948 Law or the 1967 Law;

- (d) a cinema, theatre, concert hall, place of public entertainment and any other place that is normally used for indoor public entertainment;
  - (e) a hospital or other similar premises providing care for persons who are sick.
- (3) Without prejudice to the generality of paragraph (1), Regulations under this Article may make –
- (a) different provision for a workplace on the basis of whether it is a workplace in, on or at which employees, self-employed persons or volunteers (or all of them) work;
  - (b) different provision for a workplace on the basis of the number of employees, self-employed persons or volunteers (or all of them) that work in, at or on the workplace;
  - (c) different provision for a workplace according to whether or not the public has access to it.
- (4) Without prejudice to the generality of paragraph (1) –
- (a) if the Regulations provide for a prohibition or restriction, Regulations made under this Article may provide for a duty to be placed on any person or persons in respect of the prohibition or restriction concerned; and
  - (b) Regulations made under this Article may include a duty, to which subparagraph (a) refers, to take all reasonable steps to ensure –
    - (i) compliance with the Regulations generally or any specified Regulation, and
    - (ii) compliance with the Regulations by any other person or persons in the workplace to which the Regulations apply.
- (5) Regulations may specify the period of time in respect of which the prohibition or restriction is to apply.

### **1AB Exemptions in Regulations for workplaces<sup>10</sup>**

- (1) Regulations under Article 1AA may provide for exemptions from the application of part or all of the Regulations or from a specified prohibition or restriction imposed by those Regulations.
- (2) Notwithstanding Articles 1AA(1) and (2) and without prejudice to the generality of paragraph (1), the Regulations may exempt from the application of part or all of those Regulations –
  - (a) a dwelling; and
  - (b) any part of a workplace that comprises a dwelling.
- (3) Notwithstanding Articles 1AA(1) and (2) and without prejudice to the generality of paragraph (1), the Regulations may exempt from the application of all or part of those Regulations, different parts of a workplace.
- (4) Without prejudice to the generality of this Article, the Regulations may exempt from the application of part or all of those Regulations a workplace that is not enclosed or any part of a workplace that is not enclosed, and the Regulations may define the meaning of enclosed.

- (5) Without prejudice to the generality of this Article, an exemption under this Article may include an exemption from the application of all or part of the Regulations in respect of the workplace on the basis of all or any of the following –
- (a) whether it is a workplace in, on or at which employees, self-employed persons or volunteers, or all of them, work;
  - (b) the number of employees, self-employed persons or volunteers (or all of them) that work in, on or at the workplace;
  - (c) whether the public has access to the workplace to which the Regulations apply.

### **1B Prohibition on sales of tobacco from vending machines<sup>11</sup>**

The States may by Regulations make provision for the sale of tobacco by means of a vending machine to be prohibited.

### **1C Regulations to amend Article A1<sup>12</sup>**

The States may, by Regulations, amend the definitions in Article A1.

### **1D Articles 1, 1A, 1AA, 1AB and 1B: supplemental provisions<sup>13</sup>**

- (1) Without prejudice to the generality of Articles 1, 1A, 1AA, 1AB and 1B, Regulations made under any of those Articles may provide for any of the following –
- (a) a requirement to display notices in respect of the prohibition or restriction on smoking in premises (or a part of premises), a place of public entertainment, or any public transport, to which the Regulations have effect and, where appropriate, to display notices specifying where or when the prohibition or restriction on smoking does not apply;
  - (aa) a requirement to display notices in respect of –
    - (i) the prohibition or restriction in a workplace to which Regulations made under Article 1AA have effect, and
    - (ii) the exemption (if any) under Article 1AB from the application of all or part of the Regulations,and where appropriate, to display notices specifying where or when the prohibition or restriction applies or the exemption (if any) from the prohibition or restriction; and
  - (b) such incidental, consequential and transitional provisions as the States consider to be necessary or expedient for the Regulations.<sup>14</sup>
- (2) Without prejudice to the generality of paragraph (1)(a), Regulations made under Article 1A may make different provision for notices to be displayed in different classes of premises (or a part of those premises) and, in the case of Regulations made under Articles 1AA and 1AB, the Regulations may make different provision for notices to be displayed in different classes of workplaces.<sup>15</sup>
- (3) Without prejudice to the generality of Articles 1(1)(b)(i), 1A, 1AA and 1AB, Regulations made under –

- (a) Article 1A, 1AA or 1AB may make provision for the liability of any person who contravenes the Regulations to pay for any food or beverages supplied to or ordered by those persons in premises to which the Regulations apply;
- (b) Articles 1(1)(b)(i), 1AA and 1AB may provide for the liability (howsoever arising) of a person who contravenes a provision of the Regulations to pay for any goods or services supplied to or ordered by that person whether or not –
  - (i) the goods had been used or consumed in whole or in part, or
  - (ii) the service had been supplied or provided in whole or in part.<sup>16</sup>

### 1E Orders in relation to notices<sup>17</sup>

- (1) The Minister may prescribe by Order the requirements for a notice in respect of which provision has been made in Regulations under this Law, including the size of, and any symbols to be displayed on, such notice.
- (2) A person who contravenes a provision of an Order made under this Article shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

### 1F Authorized officers<sup>18</sup>

- (1) The Minister may authorize one or more persons to whom paragraph (6) applies to be authorized officers for the purpose of ensuring compliance with Regulations (other than Regulations referred to in paragraph (2)) made under this Law and an Order made under Article 1E.
- (2) A Traffic Officer appointed as such under the [Motor Traffic \(Jersey\) Law 1935](#) shall, by virtue of that appointment, be an authorized officer for the purposes of ensuring compliance with Regulations made under Article 1(1)(b)(i) that relate to public transport and for that purpose may at all reasonable times –
  - (a) enter and inspect any public transport in respect of which the Regulations have effect; and
  - (b) examine any documents relating to the public transport in respect of which the Regulations have effect,and, where the authorized officer reasonably suspects that a provision of the Regulations is being or has been contravened, he or she may require any person on the public transport to state his or her name and address.
- (3) An authorization under paragraph (1) shall be in writing and an authorized officer shall –
  - (a) prior to exercising his or her functions under this Law, state his or her name and produce the authorization (or in the case of an authorized officer referred to in paragraph (2), produce evidence of his or her appointment as a Traffic Officer); and
  - (b) when exercising his or her functions under this Law, cite the power under this Law that he or she proposes to exercise and the provision of this Law in which that power is specified.
- (4) For the purposes of ensuring compliance with –

- (a) Regulations made under Article 1A or 1AA, an authorized officer may at all reasonable times –
  - (i) enter and inspect premises or a part of premises (other than a dwelling), or enter and inspect a workplace in respect of which the Regulations have effect,
  - (ii) take samples of articles or substances found in premises, or a workplace, in respect of which the Regulations have effect, and
  - (iii) where the authorized officer reasonably suspects that a provision of the Regulations is being or has been contravened, require any person on those premises or the workplace to state his or her name and address;
- (b) Regulations made under Article 1B, an authorized officer may at all reasonable times –
  - (i) enter premises (other than a dwelling) in respect of which the Regulations have effect,
  - (ii) make such examination and investigation as may, in the circumstances, be necessary,
  - (iii) take such photographs and make such recordings as the authorized officer considers necessary for the purposes of any examination or investigation,
  - (iv) require the licence holder or occupier of those premises, as the case may be, to produce any documents that are necessary for the purposes of any examination or investigation by the authorized officer,
  - (v) inspect and take copies of, or copies of any entry in, those documents,
  - (vi) where the authorized officer reasonably suspects that a provision of the Regulations is being, or has been contravened, require any person on those premises to state his or her name and address;
- (c) Regulations made under Article 1(1)(b)(i) that relate to a place of public entertainment, an authorized officer may at all reasonable times –
  - (i) enter and inspect any place of public entertainment to which the Regulations have effect,
  - (ii) take samples of any articles or substances in any place of public entertainment in respect of which the Regulations have effect, and
  - (iii) where the authorized officer reasonably suspects that a provision of the Regulations is being or has been contravened, require any person on the place of public entertainment to state his or her name and address;
- (d) Regulations made under Articles 1(1)(b)(ii), (iii), (iv), (v) or (vi) (or any combination of them), an authorized officer may at all reasonable times –
  - (i) enter premises (other than a dwelling) in respect of which the Regulations have effect,
  - (ii) inspect any goods or other things used in the sale, advertising or promotion of tobacco (or a tobacco product), in respect of which the Regulations have effect,

(iii) examine any documents connected with the sale, advertising or promotion of tobacco (or a tobacco product) in respect of which the Regulations have effect, and

(iv) take samples of any articles, goods, or other things used in the sale, advertising or promotion of tobacco (or tobacco product) in respect of which the Regulations have effect,

and where the authorized officer reasonably suspects that a provision of the Regulations is being or has been contravened he or she may –

(A) require the occupier of those premises or connected with the sale of tobacco (or a tobacco product), advertising or promotion, to produce any records that relate to the goods, sale, advertising, promotion, sponsorship or brandsharing, as the case may be, to which the Regulations apply,

(B) inspect and take copies of those records, or of any entry in, those records, and

(C) require any person on those premises to state his or her name and address.<sup>19</sup>

(5) A person –

(a) who gives information to an authorized officer when the officer is exercising his or her functions, being information which that person knows to be false or misleading; or

(b) who obstructs or impedes an authorized officer when the officer is exercising his or her functions,

shall be guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>20</sup>

(6) This paragraph applies to a person who is –

(a) an inspecteur sanitaire within the meaning of the [Loi \(1934\) sur la Santé Publique](#);

(b) an authorized officer within the meaning of the Food and Drugs (Jersey) Law 1966;

(c) an authorized person within the meaning of the [Statutory Nuisances \(Jersey\) Law 1999](#); or

(d) a designated officer within the meaning of the [Piercing and Tattooing \(Jersey\) Law 2002](#).

## 1G Regulations generally<sup>21</sup>

The power to make Regulations under this Law may be exercised –

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and

(b) so as to make, as respects the cases in relation to which it is exercised –

(i) the full provision to which the power extends or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or classes of case, or different

provision as respects the same case or class of case for different purposes of the enactment, and

- (iii) any such provision either unconditionally or subject to any specified condition.

## 2 Offences, defences and penalties<sup>22</sup>

- (1) Regulations under this Law may provide that a person who contravenes a specified provision of the Regulations shall be guilty of an offence and liable to either or both of the following –
  - (a) imprisonment for a length of time specified in the Regulations not exceeding 2 years;
  - (b) a fine (whether specified to be on the standard scale or otherwise).
- (2) Regulations under this Law may provide for a defence in proceedings for an offence under the Regulations either generally or in specified circumstances and for offences by a limited liability partnership, a separate limited partnership and a body corporate.

## 2A Service of documents<sup>23</sup>

- (1) Any notice or other document required under this Law, or under Regulations or an Order made under this Law, to be given to or served on any person may be given or served on the person in question –
  - (a) by delivering it to the person;
  - (b) by leaving it at the proper address of the person; or
  - (c) by sending it by post to the person at that address.
- (2) Any such notice or other document may –
  - (a) be given to or served on a company incorporated in Jersey by being delivered to the company's registered office; or
  - (b) be given to or served on a partnership, company incorporated outside Jersey, or unincorporated association –
    - (i) by being given to or served (in any case) on a person who is a principal person in relation to it, or on its secretary, clerk or other similar officer or any person who purports to act in any such capacity, by whatever name called, or (in the case of a partnership) on the person having the control or management of the partnership business, or
    - (ii) by being delivered to the registered or administrative office of any such person.
- (3) For the purposes of this Article and of Article 7 of the [Interpretation \(Jersey\) Law 1954](#), the proper address of any person to or on whom a document is to be given or served by post shall be the person's last known address, except that –
  - (a) in the case of a company (or person referred to in paragraph (2)(b)(i) in relation to a company incorporated outside Jersey), it shall be the address of the registered or principal office of the company in Jersey; and



- (b) in the case of a partnership (or person referred to in paragraph (2)(b)(i)), it shall be the address of the principal office of the partnership in Jersey.

## **2B General provisions as to offences<sup>24</sup>**

- (1) Where an offence under this Law, or Regulations made under it, is committed by a limited liability partnership or body corporate or 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 director, manager, secretary or other similar officer of the 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 or body corporate to the penalty provided for that offence.
- (2) Where the affairs 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 his or her functions of management as if he or she were a director of the body corporate.

## **3 Citation**

This Law may be cited as the Restriction on Smoking (Jersey) Law 1973.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Restriction on Smoking (Jersey) Law 1973	<a href="#">L.22/1973</a>	23 November 1973
Restriction on Smoking (Amendment) (Jersey) Law 1973	<a href="#">L.1/2006</a>	25 May 2006 ( <a href="#">R&amp;O.39/2006</a> )
Restriction on Smoking (Amendment No. 2) (Jersey) Law 2006	<a href="#">L.24/2006</a>	24 November 2006
Restriction on Smoking (Workplaces) (Jersey) Regulations 2006	<a href="#">R&amp;O.126/2006</a>	4 a.m. on 2nd January 2007
Restriction on Smoking (Amendment No. 3) (Jersey) Law 2013	<a href="#">L.7/2013</a>	30 October 2014 ( <a href="#">R&amp;O.8/2014</a> )
Restriction on Smoking (Advertising, Promotion and Display) (Jersey) Regulations 2013	<a href="#">R&amp;O.61/2013</a>	30 October 2014
Restriction on Smoking (Amendment No. 4) (Jersey) Law 2014	<a href="#">L.35/2014</a>	24 October 2014
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )
Restriction on Smoking (Standardised Packaging and Labelling) (Jersey) Regulations 2021	<a href="#">R&amp;O.85/2021</a>	31 July 2021

### Table of Endnote References

<sup>1</sup> Long title	amended by <a href="#">L.1/2006</a> , <a href="#">L.24/2006</a>
<sup>2</sup> Article A1	inserted by <a href="#">L.1/2006</a> , amended by <a href="#">L.24/2006</a> , <a href="#">R&amp;O.126/2006</a> , <a href="#">R&amp;O.61/2013</a> , <a href="#">L.35/2014</a> , <a href="#">R&amp;O.85/2021</a>
<sup>3</sup> Article 1(1)	amended by <a href="#">L.1/2006</a> , <a href="#">L.7/2013</a> , <a href="#">L.35/2014</a>
<sup>4</sup> Article 1(2)	substituted by <a href="#">L.1/2006</a>
<sup>5</sup> Article 1(3)	inserted by <a href="#">L.1/2006</a>
<sup>6</sup> Article 1(4)	inserted by <a href="#">L.1/2006</a> , amended by <a href="#">L.7/2013</a> , <a href="#">L.35/2014</a>
<sup>7</sup> Article 1(5)	inserted by <a href="#">L.1/2006</a>
<sup>8</sup> Article 1A	inserted by <a href="#">L.1/2006</a>
<sup>9</sup> Article 1AA	inserted by <a href="#">L.24/2006</a>
<sup>10</sup> Article 1AB	inserted by <a href="#">L.24/2006</a>
<sup>11</sup> Article 1B	substituted by <a href="#">L.7/2013</a>
<sup>12</sup> Article 1C	inserted by <a href="#">L.1/2006</a>
<sup>13</sup> Article 1D	inserted by <a href="#">L.1/2006</a> heading amended by <a href="#">L.24/2006</a>
<sup>14</sup> Article 1D(1)	amended by <a href="#">L.24/2006</a>
<sup>15</sup> Article 1D(2)	amended by <a href="#">L.24/2006</a>
<sup>16</sup> Article 1D(3)	amended by <a href="#">L.24/2006</a>
<sup>17</sup> Article 1E	inserted by <a href="#">L.1/2006</a>
<sup>18</sup> Article 1F	inserted by <a href="#">L.1/2006</a>

- 
- <sup>19</sup> *Article 1F(4)*                    *amended by L.24/2006, L.7/2013*
- <sup>20</sup> *Article 1F(5)*                    *amended by L.1/2016*
- <sup>21</sup> *Article 1G*                        *inserted by L.1/2006*
- <sup>22</sup> *Article 2*                         *substituted by L.7/2013*
- <sup>23</sup> *Article 2A*                       *inserted by L.1/2006*
- <sup>24</sup> *Article 2B*                       *inserted by L.24/2006*