

# Sunday trading in Jersey

## Guidance notes for applicants for Sunday trading permits

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The notes should be read alongside the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010 and the Shops (Regulation of Opening) (Jersey) Regulations 2011 (see [www.jerseylaw.je](http://www.jerseylaw.je))

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## **1. Which Law regulates Sunday trading by shops?**

The rules governing trading by shops on Sundays are set by –  
the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010 and  
the Shops (Regulation of Opening) (Jersey) Regulations 2011.

## **2. Does the same Law control shops on days other than Sundays?**

The above legislation also controls trading by shops on the following specified days –

Good Friday,  
Liberation Day,  
Christmas Day  
26<sup>th</sup> December ('Boxing Day').

For the avoidance of doubt, Easter Sunday is not a specified day for the purposes of the legislation. It is therefore treated as an ordinary Sunday.

General references to 'Sunday trading' or 'Sunday opening' in this Guidance should be taken to mean trading on Sundays and the four specified days.

## **3. What is the primary purpose of the legislation?**

The legislation prohibits shops from opening on Sundays and the other specified days unless one of the following two conditions are satisfied –

- a) that the shop falls within one of the categories of shop listed at Schedule 1 of the [2011 Regulations](#) and is therefore exempt from the requirement for a permit, or
- b) that the occupier of a shop has obtained a permit from the Connétable of the relevant parish.

It also provides scope to regulate deliveries to shops.

## **4. Which types of shop are covered by the legislation?**

The Law includes a broad definition of 'shop' –

*“shop” means any place or vehicle used, whether permanently or temporarily, for any one or more commercial activities.’<sup>1</sup>*

It includes: high street stores; supermarkets; newsagents; florists; off-licensed premises; hairdressers and beauty salons; car boot sales, petrol stations and a number of other businesses.

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<sup>1</sup> Article 1(1) Shops (Regulation of Opening and Deliveries) (Jersey) Law 201-

## **5. Which shops are exempt?**

Categories of shop that are deemed exempt are found at Schedule 1 to the [2011 Regulations](#). They include premises that have been awarded an on-licence to sell alcohol (e.g. pubs and restaurants) and cafes and coffee shops. Beach concessions, sports facilities, cab services and some other commercial activities are also exempt.

Exempt premises may open on Sundays or the other specified days, provided that they are not prevented from so doing by other laws.

## **6. My shop doesn't fit within any of the exemptions. Do I need a permit to open on Sundays?**

Shops that do not fall within the scope of an exemption may only open on Sundays in accordance with a permit.

The 2011 Regulations establish a permit scheme to allow Sunday trading with the consent of the relevant Connétable. These Regulations have been amended with effect from October 2019.

The type of permit for which a shop can apply is determined by two factors in particular –

- (a) The size of its retail sales area, and
- (b) whether the primary activity of the shop is the provision of goods or the provision of one or more services.

The type of goods sold by a shop is not generally a relevant consideration, although the 2011 Regulations do contain a specific provision concerning the sale of fuel for motor vehicles (see below).

## **7. My business is selling goods or services on a Sunday as part of an organised fête or event. Do I need a permit?**

The fête or event organiser is responsible for applying for a permit. You should check that the organiser has secured a permit from the Connétable of the parish in which the fête or event is taking place.

## **8. I intend to set up a stall at a car boot sale on a Sunday. Do I need a permit?**

The car boot sale organiser is responsible for applying for a permit. You should be able to check that the organiser has obtained a permit because they will normally be required to display their permit in a prominent place at the sale site.

## **9. What does 'retail sales area' mean and why is it important?<sup>2</sup>**

The retail sales area of a shop is the floorspace used for the 'commercial activity' of retail. This comprises the area that is dedicated to the sale or hire of goods, or the display of

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<sup>2</sup> 2011 Regulations, Regulation 2

goods for sale<sup>3</sup>. It includes the working space behind any counter. Areas that are generally excluded include offices, storage areas (to which the public is not given access) and staff facilities such as staff kitchens or staff washrooms (to which the public is not given access).

For the purposes of the legislation, a business that dispatches or delivers goods treats the floorspace used for that purpose as 'retail sales area'.<sup>4</sup>

If a shop has more than one area from which it sells goods, the retail sales area is measured by adding all of these together. There is, however, a specific provision for shops over 700 square metres where a portion of that area is set aside for the sale of fuel to power a road vehicle (see pages 4-5 – Restricted Hours Permit).

The legislation does not permit a business to reduce its trading area to 700 square metres or less on Sundays or specified days in order to acquire a general permit. The size of the retail sales area that is used on weekdays is the defining factor.

For the purposes of this Guidance, the following definitions are applied –

**Large shop** = a shop with a retail sales area in excess of 700 square metres

**Small shop** = a shop with a retail sales area of not more than 700 square metres.

NOTE - the strict legal definition of retail sales area is important. Applicants are strongly recommended to familiarise themselves with Regulation 2 of the [Shops \(Regulation of Opening\) \(Jersey\) Regulations 2011](#).

## **10. How many type of permit types are there?**

There are three types of permit.

### General permit

Occupiers of small shops are eligible to apply for a General Permit.

This permit may authorise the opening of a shop on –

Sundays,  
Good Friday,  
Liberation Day,  
26th December (Boxing Day),

- or any combination of those days.

A General Permit cannot authorise opening on Christmas Day.

Tourist amenities, facilities or attractions of any size may apply for this permit if the part of their retail sales area devoted to the supply of goods is less than 700 square metres.

Any other shop that is primarily focused on service provision and in which the supply of goods is incidental to the provision of that service may also apply for a general permit.

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<sup>3</sup> 2010 Law, Article 1, Section 2 (a) (i)

<sup>4</sup> 2010 Law, Article 1, Section 2 (a) (ii)

A Connétable can attach conditions to a General Permit to control opening hours, deliveries and certain other relevant matters.

A General Permit will be valid for up to one year. It will expire on 31st December of the year for which it is granted.

#### Restricted Hours Permit

Occupiers of large shops are eligible to apply for a Restricted Hours Permit.

The Restricted Hours Permit may authorise the opening of a shop between 10.00 am and 4.00 pm on –

Sundays,  
Good Friday,  
Liberation Day,

- or any combination of those days.

A Restricted Hours Permit cannot authorise opening on either Christmas Day or Boxing Day.

A Restricted Hours Permit will be valid for up to one year. It will expire on 31st December of the year for which it is granted.

Provision is made for large shops that include a station or garage facility selling fuel or other source of power for motor vehicles (e.g. electricity sold via charging points). When applying for a Restricted Hours Permit, the occupier of such a shop may apply for permission to open the road fuel station for longer than the 10.00 am to 4.00 pm period that applies to the primary commercial activity or activities across the remainder of the shop. This provision only applies in cases where the retail sales area devoted to the road fuel station does not exceed 700 square metres.

In the above circumstances, a Restricted Hours Permit may allow –

- a) the full site to open between 10.00 am and 4.00 pm, and
- b) the retail sales area devoted to road fuel sales to remain open for additional hours outside the 10.00 am to 4.00 pm period.

A Connétable may still restrict the opening hours of the road fuel station at a large shop having considered the scope for impact on the peace and tranquillity of the neighbourhood and the scope for nuisance to be caused to neighbouring residents. In such circumstances, the permitted hours that apply specifically to the road fuel station will be recorded on the permit.

#### Single permit

This permit may be granted to any shop. Organisers of one-off or occasional events that will the selling of goods and / or services on a Sunday may wish to apply for a single permit.

A single permit can authorise the opening of a shop on –

A specified Sunday,  
Good Friday, or  
Liberation Day.

Single Permits cannot allow a shop to open on Christmas Day or 26<sup>th</sup> December.

The occupier of a shop may apply for more than one single permit in a year. They may submit one or more applications at different times of the year. Alternatively, they may also submit a single application citing up to 5 dates on which they wish to be granted permission to open via a single permit.

An individual shop may not open for more than 5 days in any one year under one or more single permits.

#### **11. Have the arrangements for pre-Christmas Sunday shopping changed?**

Up until 2019, the Minister for Economic Development, Tourism, Sport and Culture had the power, after consultation with the Comité des Connétables, to declare any Sunday to be a special occasion.<sup>5</sup> This power was used to permit trading by almost all shops on a series of Sundays during the Fete dé Noué period.

The Blanket Permit is being discontinued with effect from 31<sup>st</sup> December 2019. The final Blanket Permits for 2019 have already been issued and will enable trading from Sunday 24<sup>th</sup> November through to Sunday 29<sup>th</sup> December 2019.

From January 2020, all shops may open on Sundays throughout the year (including through the Fête dé Noué period) in accordance with the terms of either a General Permit or a Restricted Hours Permit.

#### **12. Can a shop open without a permit if it allows customers to ‘look but not buy?’**

Not unless it falls within one of the exempt categories of shop. The legislation regulates the opening of premises to the public and the exposure or display of goods for sale or hire. It does not matter whether a shop claims to be allowing browsing only or that no sales are completed on the day.

#### **13. How are the rules different for shops that sell goods versus those that provide services?**

Businesses whose principal activity is the provision of one or more services (e.g. a hairdresser, cinema or a theatre) are treated differently from those which primarily or exclusively sell goods.

The former may apply for a general permit to open on every Sunday and specified days regardless of their size.

Shops that sell goods, (i.e. supermarkets, hardware stores etc) are treated differently if they have a retail sales area in excess of 700 square metres (large shops). Whereas occupiers of small shops can apply for a general permit with potentially broad opening hours, occupiers of large shops that sell goods will need to apply for a Restricted Hours Permit that may authorise trading for up to 6 hours between 10.00 am and 4.00 pm. Alternatively, the occupier of any shop may apply for one or more Single Permits, which could authorise trading on only up to 5 Sundays or certain specified days per year and which might opening for periods longer than 6 hours.

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<sup>5</sup> 2011 Regulations, Regulation 4

#### **14. Why are the rules different for large shops?**

The legislation applies tighter controls on large shops on the basis that they have an inherently greater risk of generating disruption in their neighbourhood if they trade on Sunday or specified days. It also applies a level playing field for shops across the Parishes.

#### **15. Do I need to prove the size of my retail sales area?<sup>6</sup>**

The legislation creates a degree of commercial benefit for small shops, which have greater freedom to open and may open for longer periods on Sundays and other specified days. For that reason, an occupier of a shop that sells goods to the public will therefore be required to declare the retail sales area of the shop when making an application for a general permit.

In previous years, the eligibility of a small shop for a general permit was established by means of a mandatory plan, prepared and certified as accurate by a surveyor, showing the measurements and size of space that will be used as retail sales area.

While this is no longer a legal requirement, Connétables retain the right to demand a surveyor's plan and may be expected to do so in certain cases, including where –

- the application is for a new permit and the shop is not, in the opinion of the Connétable, obviously well below the 700 square metre limitation, or
- the application is to renew an existing permit and the shop premises have been modified to increase the retail sales area during the previous year.

Occupiers of shops will not normally need to provide a surveyor's plan if -

- the shop provides only services and not goods to the public
- the shop has a retail sales area in excess of 700 square metres and does not include a road fuel station
- the occupier has previously applied for and obtained a general permit and has not since altered the size or layout of its retail sales area
- the shop is a vehicle.

#### **16. How does the application process work?**

Shops must apply for a permit to the Connétable of the Parish in which they are situated, using the approved form for the General Permit, Single Permit or Restricted Hours Permit.

A Connétable will consider the series of factors listed at Regulation 10 of the Shops (Regulation of Opening) (Jersey) Regulations 2010 before deciding whether or not to grant a permit. What this means is that 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 that the occupier has applied for permission to open

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<sup>6</sup> 2011 Regulations, Regulation 8 (6)



- in particular, 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.

On the basis that large shops tend to have greater scope to affect the relative peace and tranquillity of their neighbourhood (e.g. by generating noise traffic and litter), an applicant for a Restricted Hours Permit will be expected to include as part of their application an operating statement describing the specific action or actions they will take to reduce the risk of negative impact.

Examples of actions that might be taken could include the use of staff to assist with traffic / parking on site during busy periods, scheduling deliveries to take place at particular times of the day or engaging staff to conduct litter checks outside premises.

When determining an application, a Connétable may inspect a shop, or appoint someone to do so. An appointed inspector will report to the Connétable in writing and provide the applicant with a copy of the report. The Connétable will inform the applicant that they may make written representations in respect of this report. The Connétable will then consider both the inspector's report and any written submission when determining the application.

Having determined the application, the Connétable will respond to the applicant in writing to inform them of the decision and supply the relevant permit or, if the application has been refused, to notify the applicant of the appeal procedure.

If a Sunday trading permit is issued, it must be displayed by the permit holder in a conspicuous place when it is required for the shop to open (on Sundays and special days).

An appeal mechanism exists for applicants whose permit application has been refused.

## **17. What conditions might be applied to my permit?**

Connétables have broad powers to apply conditions on permits to ensure that shops trading on Sunday and specified days do not adversely affect the public's enjoyment of those days.

Conditions can include (but are not limited to) restricting opening hours, restricting the number and timing of deliveries, and specifying arrangements for parking and traffic management.

These conditions will vary on a permit-by-permit basis, as different shops in different locations will have a varying impact of peace and tranquillity, etc.

These conditions may be appealed against by dissatisfied applicants (see pages 10-11 - Can I appeal the decision of the Connétable?).

## **18. What are my responsibilities as a permit holder?**

The permit holder, for the purposes of the legislation, is the business to which it is granted. If you are the manager of the business or branch of the business that holds the permit, your employer may expect you to fulfil the responsibilities of the permit holder. You may wish to clarify this with your employer.

General permits contain automatic conditions that require permit holders to notify the Connétable if certain aspects of a business are changed<sup>7</sup>. Permit holders must notify the Connétable within 7 days if -

- There is any change in the size of the retail sales area of the shop for which the permit is granted.
- If the manager of the shop changes.
- There is any change of the predominant use of the shop.
- If the permit holder ceases to occupy a shop.

Similar automatic conditions will be applied to Restricted Hours Permits.

Permits must be displayed in a conspicuous place, easily visible to customers, when the shop is trading on a Sunday or special day.<sup>8</sup>

If a permit holder changes premises and leaves a shop, any Sunday trading permits (single or general) that are in force in respect of that shop cease to have effect.<sup>9</sup>

A Sunday trading permit holder must provide the permit on demand to the Connétable or to a person appointed by the Connétable (this demand can be made on any day, not just Sunday). The permit holder has the right to demand to see authorisation in this case.

## **19. Can a Connétable revoke a permit?<sup>10</sup>**

A Sunday trading permit does not grant a permanent right to trade. A Connétable can revoke a permit if they have cause to do so.

The specific conditions which allow a Connétable to revoke a previously issued permit are-

- If one or more conditions of the permit have been contravened.
- If the opening of the shop is damaging the peace or tranquillity of the neighbourhood or causing nuisance to residents.
- In the case of a general permit only, if the shop no longer fulfils the requirements for the grant of a general permit (i.e. if the size or type of business has changed).
- If the permit holder has been convicted of any offence under the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010.

The legislation allows a Connétable to revoke a permit even if the holder has been convicted of an offence that does not involve the particular permit. For instance, if a company occupied two shops in different parishes and was convicted of an offence under the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010 carried out in one

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<sup>7</sup> 2011 Regulations, Regulations 12 (1) to (3)

<sup>8</sup> 2011 Regulations, Regulation 12 (4)

<sup>9</sup> 2011 Regulations, Regulation 17

<sup>10</sup> 2011 Regulations, Regulation 18

parish, the Connétables of both parishes would have grounds to revoke the respective licences.

If a Connétable proposes to revoke a permit, the Connétable will give the permit holder notice in writing of his or her intention to do so. The written notice will specify the reasons for doing so and inform the permit holder that they may respond with a written representation within 21 days.

The Connétable will consider the permit holder's representation when it arrives or, if no representation has been received, after 21 days have passed. A Connétable can allow a permit holder additional time to respond if they see fit.

The Connétable will then determine the application and write to the permit holder with a final decision. If the permit is to be revoked or amended, the Connétable will inform the permit holder of their right of appeal to the Comité. The Connétable will follow this process even if the revocation of a permit is as a result of the holder having committed an offence under the Shops (Regulation of Opening and Deliveries) (Jersey) Law 2010.

A Connétable does not have to follow this process if they choose to refuse a new application for a permit, including an application for a business that has previously held a permit (for instance when a new permit is required at the beginning of a year).

A permit holder may appeal to the Comité des Connétables against the decision of a Connétable to revoke a permit.

## **20. Can a Connétable vary a permit?<sup>11</sup>**

A Connétable has the power to modify (vary) Sunday trading permits previously issued to shops. The Connétables have wider powers to do this than to revoke permits and can do so on any reasonable grounds. For example, a Connétable could add a condition in June to a permit issued in January requiring that a business must implement a traffic management system when it is trading on Sunday to ensure that traffic congestion is minimised.

Permit holders may also write to the Connétable to request that an existing permit be varied.

If a Connétable wishes to vary a permit or intends to refuse to change a permit as the holder has requested, then the Connétable will write to the permit holder to give notice of the intention to do so. The Connétable will specify the reasons for doing so and will inform the permit holder that they may respond with a written representation within 21 days.

The Connétable will consider the permit holder's representation when it arrives, or if 21 days have passed with no representation being provided, the Connétable will make a decision. The Connétable will then write to the permit holder and confirm the decision and inform the holder of their right of appeal to the Comité des Connétables.

A permit holder has the right to appeal if they are dissatisfied with the Connétable's decision to either vary or refuse to vary a permit.

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<sup>11</sup> 2011 Regulations, Regulation 16

## **21. Can I appeal the decision of the Connétable?**

The legislation makes provision for two levels of appeals against decisions made in relation to Sunday trading, firstly to the Comité des Connétables to review a decision of a Connétable<sup>12</sup>, and then to the Royal Court against the decision of the Comité des Connétables<sup>13</sup>.

The legislation gives three grounds for appeal-<sup>14</sup>

- An applicant may appeal on the grounds that a Connétable has refused to grant an application for a new permit or refused to vary the conditions of an existing permit.
- An applicant may appeal on the grounds that a Connétable has approved a permit subject to conditions that the applicant wishes to change.
- A permit holder may appeal on the grounds that the Connétable has revoked or changed their existing permit.

If the applicant or holder wishes to challenge the decision of the Connétable, they may within 21 days (or longer if the Connétable allows) either -

- Request details of the Connétable's reasons for making such a decision, and then within a further 21 days (or longer if the Connétable allows) contact the Connétable to request appeal to the Comité des Connétables, or
- Contact the Connétable to request appeal to the Comité des Connétables.

On receiving notice that an applicant or permit holder wishes to appeal to the Comité, the Connétable will contact the Chairman of the Comité des Connétables, who will convene a Panel of three Connétables (not including the Connétable whose decision is to be reviewed) to consider the appeal on behalf of the Comité.

If the appeal concerns a decision of the Chairman, the Vice-Chairman will form a Panel instead.

The applicant or holder should provide the panel with details in writing of the grounds on which they want to appeal. A copy should be sent to the Connétable whose decision is being appealed.

The panel will then meet as soon as possible to consider the written submission and decide the appeal. The panel has powers to confirm, reverse or vary the decision of the Connétable.

Once a decision is made, the panel will write to the applicant, detailing its decision and reasons, with reference to the submission of the applicant and any information received from the Connétable whose decision was being reviewed. This correspondence will be copied to the Connétable who made the initial decision.

The response from the Panel will also inform the appellant of their rights to continue the process to the Royal Court.

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<sup>12</sup> 2011 Regulations, Regulation 20

<sup>13</sup> 2011 Regulations, Regulation 21

<sup>14</sup> 2011 Regulations, Regulations 19 (1) and 20 (1)

NOTE - applicants or permit holders wishing to appeal against the decision of a Connétable or the Comité des Connétables should read the relevant section of the Shops (Regulation of Opening) (Jersey) Regulations 2011 carefully to ensure that they understand their rights.