

STATES OF JERSEY

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DRAFT POLICE FORCE (AMENDMENT No. 10) (JERSEY) LAW 200 (P.150/2003): AMENDMENT

**Lodged au Greffe on 9th December 2003
by the Deputy of St. Martin**

STATES GREFFE

DRAFT POLICE FORCE (AMENDMENT No. 10) (JERSEY) LAW 200 (P.150/2003): AMENDMENT

PAGE 7, ARTICLE 1 –

In Article 1, in the substituted Form 1, for the words “you will carry out your duties as a member of the States of Jersey Police Force” substitute the words “you will exercise the office of a Member of the States of Jersey Police Force, that you will faithfully serve Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, and that you will carry out your duties”, and for the words “law of the Island” substitute the words “laws and usages of this Island”

DEPUTY OF ST. MARTIN

REPORT

I was shocked to read that the Home Affairs Committee was recommending that reference to Her Majesty would be deleted from the proposed new Police Oath of Office. I very much regret that Home Affairs decided not to include the present Oath of Office in its Report. Given the significance of the proposed change, one would have thought it was of paramount importance to show what the proposed new oath was intended to replace.

I was also surprised that the Report contained so little by way of explanation as to why an amended oath was necessary. Given that we shall be celebrating 800 years of the origins of the unique constitutional position of Jersey and our “peculiar” relationship with the Crown, Home Affairs’ decision to delete any reference to the Crown could not be more untimely or insensitive.

The present Oath of Office is as follows

“You swear and promise before God that well and faithfully you will exercise the office of a member of the States of Jersey Police Force; that you will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, according to law; and that you will uphold and maintain the laws and usages of this Island.”

The proposed new Oath is as follows

“You swear and promise before God that well and faithfully you will carry out your duties as a member of the States of Jersey Police Force with courage, fairness and integrity, protecting human rights and according equal respect to all people. You will, to the best of your ability, uphold the law of the Island, cause the peace to be kept, prevent offences against people and property and seek to bring offenders to justice according to the Law.”

Home Affairs’ reason for changing the oath is because it believes that it will resolve the Nationality issue and remove any ambiguity. It claims that the new oath will be a modern one emphasizing the role of the service in upholding the Island’s laws and protecting human rights. It also claims that there are no financial implications.

I fully concur that the new oath should be modern and make reference to protecting human rights. I am however confused as to whether the States of Jersey is intended to be a Force or a Service? Perhaps it is time that the word “Force” was amended to “Service” which would be in line with many other Constabularies who have already amended their title on the grounds that modern policing is about delivering a service. For simplicity I am not proposing this but perhaps it is a matter, which may be addressed by Home Affairs in the future.

Nationality Issue

It is my understanding that until recently there had been no ambiguity and since it was first drafted some hundreds of Officers have taken the oath in the Royal Court. The Police Force (Jersey) Law 1974 makes no reference to the need for a Police Officer to be a British National. Presumably it was perceived that a foreign national would not want to join the Force or if one did, he/she would become a British Subject. However it should be noted that the present Notes of Guidance for applicants to the States Police, which can be found on the Force’s website, clearly states that one has to possess British Nationality. The Application Form requires an applicant to show his/her Nationality. Again presumably the applicant having read the Notes of Guidance would have been aware that as he/she was not a British National it was pointless to apply. I find it inconceivable that any applicant would have gone through the recruitment process without it coming to notice that he/she could not take the Oath of Office because of not being a British National.

Unfortunately the Report accompanying the Proposition does not state what the ambiguity is. Given the Report only covers 15 lines it is not surprising.

Reference to Her Majesty

Unfortunately Home Affairs has also not explained why reference to the Queen should be omitted. If States Police Officers are British Nationals, administering the present oath should not pose any difficulties for the Royal Court. However if The States of Jersey Police wishes to recruit persons who are not British nationals then clearly there could be a problem. Jersey is becoming increasingly multi cultural and a modern oath should reflect this. To this end, whilst it might be appropriate to remove the requirement for an oath of allegiance, there is no need to remove all reference to The Queen.

The issue of a modern oath was a live one about 3 years ago in the U.K. The Home Office proposed that the oath of allegiance to the Queen should be dropped. This move was strongly resisted by the Police Federation, which was of the belief that police officers have a unique relationship with the Crown, which should not be undermined.

The Advisory Board for England and Wales is a statutory body that advises the Home Secretary on general matters affecting the police service in England and Wales. This body proposed the that the wording of the attestation be changed to reflect the passing of the Human Rights Act and to make it clear that police officers had a duty to protect all residents and not just Her Majesty’s subjects. The Advisory Board did not propose removing all reference to the Queen from the attestation.

Some officials at the Home Office then proposed that the attestation in England and Wales should be brought into line with the attestation in Scotland, where there is no reference to the Queen at all. The Police Federation in particular objected strongly to this proposal. The Home Secretary accepted their objections and revised wording was put forward, removing the words “Our Sovereign Lady” but retaining the reference to “The Queen.”

The Queen’s private secretary was consulted on the new proposed wording, even though there was no statutory requirement for such consultation, Her Majesty was happy with it.

The former oath was as follows

“I.....
of.....

do solemnly declare and affirm that I will well and truly serve our Sovereign Lady the Queen in the office of Constable, without favour or affection, malice or ill will and that I will to the best of my powers cause the peace to be kept and preserved and prevent all offences against the persons and properties of Her Majesty’s subjects and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all duties thereof faithfully according to law.”

The Present oath is as follows

“I.....
of.....

do solemnly and sincerely declare and affirm that I will well and truly serve the Queen in the Office of Constable, with fairness, integrity, diligence and impartiality, upholding the fundamental human rights and according equal respect to all people and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people property; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to the Law.”

To be eligible for appointment in England and Wales one must be a British Citizen or a member of other specified states. Commonwealth citizens and foreign nationals are also eligible but only if they are resident in the U.K. free from restrictions. Similar criteria should also apply to the States of Jersey Police.

In Jersey in addition to many locally born officers there are a number of officers who were born outside the Island. Some have served in Her Majesty's Armed Forces and some have served in other Police Forces. I believe that all our officers are proud to be associated with the Crown and to remove their right to express that support in their oath of attestation would be most unfair.

Financial Costs

Whilst Home Affairs claims that there are no financial implications for the States arising from the adoption of the draft law, I believe there will be costs.

If police officers no longer serve the Queen and by inference keep "The Queen's Peace" I believe that the crown, which appears on their uniform buttons, headgear, vehicles, documentation etc., should be replaced. As such there will be financial implications.

However I do not think it should be necessary to take such drastic action. The principle of the U.K. oath which, makes reference to serving the Queen and with which Her Majesty is happy, can be adopted in Jersey. I therefore propose that the new modern oath should be as follows:

"You swear and promise before God that well and faithfully you will exercise the office of a Member of the States of Jersey Police Force, that you will faithfully serve Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, and that you will carry out your duties with courage, fairness and integrity, protecting human rights and according equal respect to all people. You will, to the best of your ability, uphold the laws and usages of this Island, cause the peace to be kept, prevent offences against people and property and seek to bring offenders to justice according to Law".

There will be no financial or manpower implications and I believe the new oath will be compatible with Human Rights obligations.