

STATES OF JERSEY



Jersey

DRAFT LEGISLATION (JERSEY) LAW 202-

**Lodged au Greffe on 26th March 2021
by the Privileges and Procedures Committee
Earliest date for debate: 11th May 2021**

STATES GREFFE



Jersey

DRAFT LEGISLATION (JERSEY) LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Vice-Chair of the Privileges and Procedures Committee has made the following statement –

In the view of the Vice-Chair of the Privileges and Procedures Committee, the provisions of the Draft Legislation (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Senator T.A. Vallois**

Vice-Chair, Privileges and Procedures Committee

Dated: 26th March 2021

REPORT

1. Introduction

The primary purpose of the draft Legislation (Jersey) Law 202- is to enable Jersey's legislation website to match leading jurisdictions by displaying all our legislation as it is currently in force in a form that enables its citation in court as the official version.

The draft Law also contains a number of provisions about legislation that are currently contained in various separate pieces of legislation that are better brought together in one place for convenience, along with new provisions about the functions of the Legislative Drafting Office.

2. Background

Currently, official legislation is made available through the production of the revised edition of Jersey legislation, and regular updates to it, under the [Law Revision \(Jersey\) Law 2003](#) (the "Law Revision Law"). When the revised edition was brought in it was a huge leap forward for Jersey since before that time there was no database of legislation. Though some legislation was published electronically, none of it was updated, so amendments had to be read alongside the legislation being amended. Since most legislation is now accessed on line, the www.jerseylaw.je website, hosted by the Jersey Legal Information Board (JLIB), displays the law updated by the revised edition to 1st January, the last update running from 1st January 2019. This annual update was published only in April or May of the year in question. As a result, the revised edition was never strictly an authentic version of Jersey legislation because it was already several months out of date by the time it was published. Practitioners were therefore still required to make their own consolidations incorporating changes since the date of the last revised edition, which were necessarily unofficial, so that it was never possible to access or download any legislation from the website and be sure it represented current law.

In 2016 JLIB agreed to promote a move away from this practice to a system of keeping the statute book continuously up to date. Initially, unofficial consolidations of legislation were produced and published on the website on an ad hoc basis, but in 2018 it was agreed with JLIB that the Legislative Drafting Office would enable the entire website to display current law in an easily accessible form by producing consolidations whenever the law changed. New legislation would still be required to make these consolidations "official", so they could be relied on in court. However, to ensure that this legislation would clearly meet the needs of users, steps were taken initially to produce a consolidated version of the statute book on an unofficial basis. This version has been available on the [jerseylaw](#) website since May 2019 and is now the 'landing page' when anyone clicks on the legislation section of the site. It means that the new regime has been able to be tested and monitored to ensure it is working properly before it becomes official. It is now nearly 2 years since the consolidated or "current law" collection has been available and there is every suggestion that it has worked well. The new system was in place nearly a year before the pandemic struck, but then there was made an ever-changing collection of Orders setting out the various legal restrictions on civil liberties, relaxations to them and further Orders reimposing restrictions as the threat from Covid-19 ebbed and flowed. The Legislative Drafting Office has prepared around 120 separate pieces of Covid-related legislation, most of which are amending Orders. By consolidating all these amendments into the statute book on the day they took effect, the Legislative Drafting Office was confident that

the website represented the current law that applied in Jersey that day. Without the current law collection and relying on a once-a-year update, Jersey people would have found it very difficult to know the exact state of the law. The Legislation Law will further underpin the new current law collection by making it the official version of Jersey legislation.

The draft Legislation Law brings together a range of provisions in Laws that deal with legislation. It contains new provisions about the Legislative Drafting Office and imposes a number of requirements about the drafting and publishing of legislation which are considered desirable in the interests of transparency and the maintenance of high standards in the production of legislation. The opportunity is taken to make minor amendments to other legislation to assist with the aims of the new Law.

3. The draft Law

The draft Law is organised into 5 Parts and 3 Schedules, with the new provisions about consolidation of legislation in Part 3. Part 1 consists of the interpretation provisions, defining the terms used in the draft Law. Part 2 of the draft Law contains provisions chiefly about the making, amending and repealing of legislation. Most of the proposed Part 2 provisions are currently scattered over several statutes and are now brought together into one place in the draft Law.

As well as the provisions about consolidation of legislation mentioned above, Part 3 also re-enacts certain provisions of the Law Revision Law that will continue to be valuable in the future. The powers of the Law Revision Board are reproduced in Schedule 1.

Part 4 of the draft Law makes reference to the Legislative Drafting Office and sets out the functions of the Principal Legislative Drafter who heads that Office. The Legislative Drafting Office is the new name that has been adopted informally in place of the Law Draftsman's Office and the Principal Legislative Drafter is the change of title of the Law Draftsman. The new titles reflect the policy of gender neutrality.

Part 5 concerns consequential amendments and repeals, as do Schedules 2 and 3.

The draft Law is now considered in more detail.

Part 2: provisions regarding the making, amending and repealing of legislation

This Part brings together provisions relocated from other Laws, in particular the [Interpretation \(Jersey\) Law 1954](#).

Draft Article 2 sets out how Jersey legislation is made and when it is treated as having been made.

Draft Article 3 would bring together provisions about the commencement of Jersey legislation. It would make the default position (except in the case of legislation that commences other legislation or unless provided to the contrary) that Jersey legislation commences on the day after it is made. This prevents legislation coming into force at the beginning of the day, before it is made, to prevent the risk of legislation applying retrospectively, and also to give time to publish it before it is made. It is an important principle that people can know what the law is before being bound by it.

Draft Article 4 would re-enact the provision enabling certain powers to be exercised before legislation commences.

Draft Article 5 would re-enact the provision preserving certain situations where legislation is repealed or expires.

Draft Article 6 would re-enact the provision enabling references to repealed legislation to be construed as referring to their replacements.

Draft Article 7 is a clarifying provision removing the possibility of any rule of construction ousting any rule that an amendment of secondary legislation by primary legislation restricts any future amendment of those provisions by secondary legislation.

Draft Article 8 would re-enact the provision enabling Regulations to amend a Law that had been lodged but not made where another Law makes provisions that are inconsistent with it.

Draft Article 9 would re-enact an existing provision about powers to make subordinate legislation with an additional provision enabling a repeal to be brought into force only to the extent of repealing some of the provisions of the legislation. It also enables in certain circumstances for a power to make subordinate legislation to be read as authorising the making of provision incidental to, supplemental to, or consequential upon that power and treats a statement that legislation is made under a power conferred by legislation as meaning it is treated as having been made under all available powers.

Draft Article 10 is a new provision that would enable Regulations to amend a Law to give power to subordinate legislation to incorporate by reference a document of a technical nature accessible to the public either as it exists at a particular time or as amended from time to time. This provision is designed to enable the incorporation of technical guidance documents or industry standards, usually from the UK but possibly from further afield, where Jersey would always want to follow them rather than develop its own. Power is given to enable the incorporation of these documents as amended from time to time. The types of documents might be British safety standards, technical guidance on health and safety matters, construction and use of vehicles, shipping matters, standard guidance on use of pesticides, etc. At present, unless the primary legislation gives a power, such incorporation could be considered sub-delegation and even if there was power to keep in step, the references would have to be updated every time the guidance changed. This provision may therefore save time and money as well as ensuring Jersey is in line with British or international standards as appropriate.

Draft Article 11 would incorporate an existing provision, contained in the [Subordinate Legislation \(Jersey\) Law 1960](#), which requires secondary legislation not made by the States to be laid before the States and enables the States to resolve that it be annulled. Judging by other jurisdictions it is unusual for this power to be totally open-ended, so we are suggesting in this slightly amended version of the provision that consideration be given to limiting the window to annul the legislation to the next 3 sittings after it is laid. In the case of Jersey subordinate legislation that has already been made the reference to 3 sittings is to be construed as 3 sittings after the provision commences, so as not to prevent annulments of pre-existing subordinate legislation. To have a provision enabling legislation to be annulled after it has been on the statute book any number of years contrasts with, for example, the Westminster provision whereby Parliament has only 40 sitting days to annul statutory instruments laid before it (the negative resolution procedure). Of course, if a Member is unhappy with the provisions in an Order at a later date a proposition could still be brought inviting the relevant Minister to repeal or amend it.

Part 3: new provisions regarding publication, consolidation and revision of legislation

Apart from provisions that have been moved from the Law Revision Law, the provisions in Part 3 of the draft Law are all new.

Draft Article 12 would explain what is meant by “as-enacted legislation” and “consolidated legislation”. A consolidated version of legislation is one in which all current provisions of, or amendments to it, are incorporated within the text.

Draft Article 13 would create an obligation on the Principal Legislative Drafter to produce consolidated versions of any Jersey legislation (other than legislation that only amends other legislation) when it is commenced, amended or revised.

Draft Article 14 would set out the editorial changes that can be made by the Principal Legislative Drafter in preparing consolidated legislation. The changes are the removal of commencement information, the removal of provisions that amend other enactments and the correction of obvious typographical, grammatical, spelling and punctuation errors along with those relating to numbering, cross-referencing, alphabetical ordering and arising out of amendments made by other legislation to the legislation being consolidated. There is also power to adjust the punctuation and the use of “and” or “or” purely when an entry is added to a list and to make formatting and presentational changes. This Article represents the view of the Legislative Drafting Office as to what alterations in consolidated legislation can be made editorially. There is a balance to be struck in enabling minor corrections to be made administratively and the need for proper checks and balances when it comes to altering the text of legislation outside of the normal legislative process. The intention is to act with caution. It is fundamental that none of these changes may change the legal effect of legislation, as enshrined in draft Article 14(2). The changes that can be made under Article 14 are therefore confined to correcting errors and editing the punctuation and the position of the “and” or “or” when a new provision is added to a list of provisions. The insertion of amendments required by the duty to prepare consolidations under Article 13 are of course permitted and there is included a specific power, derived from an existing one in the Law Revision Law, to remove spent information as to commencement of the legislation and also provisions that amend other enactments, as these provisions will have had their effect and become spent.

Draft Article 15 would continue the Law Revision Board that was established under the Law Revision Law. It would also provide for the business of the Board to be transacted electronically. In addition, it would provide for the Principal Legislative Drafter to prepare a draft of legislation that is to be revised using the powers set out in Schedule 1. These powers are reproduced from the Law Revision Law. The Board may certify the draft as revised legislation only if it is satisfied that the changes are within the powers set out in Article 14 or Schedule 1. The changes made by a revision have effect as if made by amendment; this is to prevent people looking behind the text of the revision and a similar power currently exists. The Minutes or other record of the transactions of the business of the Law Revision Board must be laid before the States within 2 months of the business being transacted. Under the draft Law the Law Revision Board continues in its current form except for the removal of the power to appoint a law revision manager. The Legislative Drafting Office now has a Legislation Editor to whom a number of functions of the Principal Legislative Drafter relating to the preparation of legislation and management of the legislation database will be delegated, and preparation and management of law revisions is part of that role. It should be noted that the suggested new powers under the draft Law are intended work differently from the way those currently in the Law Revision Law have been used. The existing powers allow for production of a complete revised edition as well as updates to it. The new powers, because of the new consolidation powers allowing for continuous updating, are more likely to be used on an ad hoc basis to revise individual pieces of legislation, though it could be used for a wholesale revision if desired. Though the bulk of the changes made to date by the Law Revision Board could be

effected using the powers available for preparing consolidations, there will continue to be occasions in which the wider suite of powers currently available could be useful. In particular, they will save the need to make amendments to legislation in respect of provisions that need revising short of actually changing the law, such as where institutions have a change of name.

Draft Article 16 requires the Principal Legislative Drafter to publish all as-enacted legislation as soon as practicable after it is made and all consolidated legislation prepared after 1st January 2019 (the date when Jersey legislation was last revised) as soon as practicable after it is consolidated. We think this requirement removes the need for a separate notice in the online Jersey Gazette. The jerseylaw website is an obvious place to look for legislation changes and the changes are made very quickly, with an option for people to subscribe to email updates.

Draft Article 17 would make all as-enacted legislation an official version of the legislation and any consolidated legislation an official version if it contains a statement that it is an official version of the legislation issued under the authority of the draft Law. An official version also has to be either an electronic version of legislation displayed on a website under the authority of the Principal Legislative Drafter (or an unaltered printed or downloaded version of it) or a printed version issued by or on behalf of the Principal Legislative Drafter. An official version is taken to set out the legislation in its current form unless, in the case of consolidated legislation, the contrary is shown. Official versions are admissible in evidence in any proceedings and courts must take judicial notice of them as accurately representing the Law. The purpose of draft Article 17 is to make all legislation passed in its original form, along with all consolidated versions at the date to which the legislation is consolidated, automatically official. They can then be cited in court as representing the legislation as it was on the day it was passed, or the consolidated date, as the case may be.

Draft Article 18 would introduce a power to make what are to be known as Statute Law Revision Regulations as an alternative to law revision legislation. This would enable the States to pass Regulations containing a series of corrective measures using the law revision powers. The Bailiff, as Presiding Officer of the States Assembly, may disallow any amendments to the proposition for the Regulations that would result in any wider changes to the law. The Regulations would enable corrections to be made to legislation without the need to undergo the full legislative process, including needing Royal Assent. Other jurisdictions commonly use Statute Law Revision Bills to make corrections and other technical changes to legislation and this is the inspiration for the new Regulation-making power.

Part 4: provisions relating to the Legislative Drafting Office

Draft Article 19 would continue the Law Draftsman's Office as the Legislative Drafting Office with the Principal Legislative Drafter (renamed from the Law Draftsman) as the senior officer and with the Office having the objective of producing high-quality legislation that can be easily understood and is readily accessible to all persons. Under this Article the Principal Legislative Drafter is responsible to the Greffier of the States for carrying out his or her functions but not in relation to matters relating to current drafting practice. For a person to be appointed as a Legislative Drafter he or she must have completed the academic stages necessary to become a barrister or solicitor in England and Wales or the examinations and assessments that the Principal Legislative Drafter considers are the equivalent requirements in a Commonwealth country or the Republic of Ireland. It is further provided that all staff of the Legislative Drafting Office other than consultants are States' employees but are not officers of the States Greffe under the [States of Jersey Law 2005](#). The provision

clarifies the relationship between the Legislative Drafting Office and the States Greffe, provides for Legislative Drafters to be lawyers and for all Office staff to continue to be States' employees. The enshrining of current arrangement in legislation is not intended to remove flexibility; the provisions are capable of being amended by Regulations.

Draft Article 20 would set out the functions of the Principal Legislative Drafter. These are –

- (a) to be responsible for the drafting of all Jersey legislation to be presented to the States and any amendments to it;
- (b) to be responsible for the drafting of all other Jersey subordinate legislation;
- (c) to prepare consolidated legislation as required by Articles 13 and 14;
- (d) to prepare legislation for certification as revised legislation in accordance with Article 15;
- (e) to arrange for the publication of legislation as required by Article 16;
- (f) to publish current drafting practice;
- (g) to advise the Greffier of the States on the drafting of standing orders;
- (h) to take any steps that the Principal Legislative Drafter considers appropriate to promote access to Jersey legislation, including ensuring that it is clearly and logically organised, easy to understand, certain in its effect and as far as practicable conforms with current drafting practice; and
- (i) to perform any other functions relating to or ancillary to the preparation of legislation that the Principal Legislative Drafter considers appropriate or as directed by the Greffier of the States.

We think it helpful to set out the functions of the Legislative Drafting Office that devolve to the Principal Legislative Drafter as head of the office. In addition to the functions already covered under Part 3 of the draft Law, there is a duty to promote access to Jersey legislation. This creates a continuing duty that is intended to lead to further refinements not covered by this Law, such as access to legislation on given dates in the past, which would be a useful tool to aid the practitioner and other users of legislation. The duty in relation to standing orders, it is suggested, should be to advise on their drafting rather than to draft them. Standing orders are the internal rules of the States Assembly and should therefore be wholly under the auspices of the Assembly. The Greffier and his senior staff are experts in the operation of the standing orders. The Legislative Drafting Office will continue to make itself available to assist the Greffe by advising on the drafting and stepping in to draft if this proves necessary.

Draft Article 21 would enable the Principal Legislative Drafter to delegate his or her functions and requires that an appropriate delegation is in place at all times. We think this provision would be useful. At the moment, if the Principal Legislative Drafter is away there has been no-one else able to discharge his or her functions in respect of the revised edition. There is a deputy head of the office, now entitled the Senior Legislative Drafter, to whom the functions could be delegated under this Article in the event of the absence of the Principal Legislative Drafter in future, and specific functions can be delegated as necessary, such as much of the work in relation to producing consolidated legislation and publishing to the website, which naturally devolves onto the Legislation Editor.

Draft Article 22 provides that confidential communications (including drafts of legislation) between a person providing instructions and a drafter are subject to legal professional privilege. This affords the same protection from disclosure as applies in

respect of legal advice. It applies to States Members using the services of the Legislative Drafting Office in the same way as officials.

Draft Article 23 would enable Part 4 to be amended by Regulations. As mentioned above, we consider this provision necessary to allow for future changes in the structure, reporting lines and functions of the Legislative Drafting Office.

Part 5: closing provisions

Draft Article 24 and Schedule 2 would cover amendments to legislation, including updating a provision concerned with copyright of Jersey legislation, the deletion of provisions that have been moved into the new draft Law or are no longer considered to be needed (including the requirement to publish in the Jersey Gazette) and to reflect the change of title of “Law Draftsman” to “Principal Legislative Drafter”. There are also the following minor amendments included for consultees’ consideration:

[Interpretation \(Jersey\) Law 1954](#)

The suggested new provision (inserted Article 11A) is taken from recent Scottish and New Zealand legislation. It would include, where there is a power of appointment, power to determine the terms of appointment, to remove or suspend a person from office, to reappoint or reinstate a person to the office and to appoint a person where the office is vacant or the person holding it is absent, has been suspended or removed from the office or has become incapacitated. We think this change could provide useful powers when appointments are made. It will save specific provision always being written into each separate piece of legislation.

[States of Jersey Law 2005](#)

Various amendments to Article 29A of the States of Jersey Law are proposed to improve the system when Ministers are retitled and functions are transferred. Article 29A(3) is replaced to make it clear that the Chief minister must present a written report 14 days before making an Order covering these matters. Paragraphs (4) to (9) are supplementary provisions that are written in every Order when functions are transferred. They will apply automatically in the future unless other provision is made (paragraph (10)). Paragraphs (11) to (13) gives a time-limited power to the Chief Minister to consolidate existing transfer of functions Regulations and Orders to tidy up the statute book and assist with the production of consolidated provision reflecting current Ministers’ titles.

Finally, there are minor amendments that remove enactments from the provisions concerning liability in respect of the publication of documents under the authority of the States.

Draft Article 24 and Schedule 3 provide for the repeal of legislation replaced by the draft Law, namely the [Subordinate Legislation \(Jersey\) Law 1960](#), the [Legislation \(Amending Powers\) \(Jersey\) Law 1999](#) and the [Law Revision \(Jersey\) Law 2003](#) as well as some Laws, mostly French Laws, that are no longer being used nor have any practical effect in Jersey today. There are also a series of consequential amendments to other legislation that makes reference to the repealed provisions.

4. Consultation

The draft Law went out to consultation on 21st August 2020, with the consultation closing on 2nd October. No formal responses were received during this period. However, the Privileges and Procedures Committee wish to thank both the Bailiff and the Jersey Legal Information Board for supporting this Law and the assistance of the Attorney General and his legal team in making suggestions during the drafting process.

5. 250th anniversary of the 1771 Code

The Privileges and Procedures Committee are delighted to be bringing forward this particular Law to coincide with the 250th anniversary of the coming into force of the [1771 Code](#), an important piece of legislation that first consolidated Jersey legislation. We will be celebrating later in 2021 a date that marks the anniversary of the Corn Riots in 1769 that led to the passing of the Code, but we are pleased to join with the Legislative Drafting Office in marking the actual 250th anniversary of the Code on 28th March 2021.

6. Financial and manpower implications

There are no financial or manpower implications from the passing of this draft Law.

7. Human Rights

No human rights notes are included in this proposition as the Law Officers have confirmed that the draft Legislation (Jersey) Law 202- raises no issues of compliance with the European Convention on Human Rights.

EXPLANATORY NOTE

The Draft Legislation (Jersey) Law 202- if passed will bring together and supplement provisions covering:

- (1) the making, commencement and repeal of legislation;
- (2) its consolidation, revision and publication; and
- (3) the Legislative Drafting Office and functions of the Principal Legislative Drafter.

Part 1 and *Article 1* define the terms used in the Law.

Part 2 is about making, amending and repealing Jersey legislation.

Article 2 describes how Jersey legislation is made.

Article 3 sets out the rules governing commencement of Jersey legislation, the default provision now being that in the case of commencement legislation or Acts giving immediate effect to taxation drafts, it comes into force when made and in other cases it comes into force on the day after it is made, and at the beginning of that day. There is express power for Regulations to commence by Order and whether any legislation is to be commenced by Act of the States or by Order, for different days, times or events to be specified to commence different provisions.

Article 4 is a provision (previously in the Interpretation (Jersey) Law 1954 (“the Interpretation Law”) to enable statutory powers to be exercised before they come into force, but after the legislation is made, to do certain things for the purposes of the legislation.

Article 5 contains provisions from the Interpretation Law about the effect of legislation being repealed or having expired, to preserve things done under the legislation while it was still in force.

Article 6, also previously in the Interpretation Law, enables references to repealed legislation to be read as referring to the legislation as re-enacted.

Article 7 provides that amendments to Jersey subordinate legislation (as defined by *Article 1*) by a Law do not limit any further amendment or repeal of that subordinate legislation.

Article 8 re-enacts the provisions of the Legislation (Amending Power) (Jersey) Law 1999, enabling Regulations to make amendments to a Law that are incidental, supplemental or consequential upon another Law where the period between lodging and making of the 2 Laws overlap.

Article 9 reproduces with amendments Article 11(3) and (4) of the Interpretation Law dealing with powers to make Jersey subordinate legislation. The powers now also enable a provision repealing any legislation to be brought into force only to the extent of repealing some of its provisions. Powers are also included to enable incidental, supplemental and consequential amendments to be included as part of the power to make subordinate legislation, and where the legislation is made under any power, it is treated as being made under all the given powers.

Article 10 gives power for Regulations to amend any Law to provide that the power to make subordinate legislation under the Law includes power to incorporate a technical document by reference, including to refer to that document as amended from time to time.

Article 11 reproduces the power currently in the Subordinate Legislation (Jersey) Law 1960 for the States to annul Jersey subordinate legislation not made by the States but now with the limitation that it is annulled no later than 3 sittings after the date on which it is laid.

Part 3 is about the consolidation, revision and publication of legislation.

Article 12 introduces the various categories of legislation covered by this Part. They are as-enacted legislation, meaning the original text, including that text as it is first published, and consolidated legislation, meaning legislation that includes the legislation as modified to show it as it was in force on the date to which it is stated to be consolidated. Consolidated legislation also includes revised legislation (see *Article 15*).

Article 13 imposes a duty on the Principal Legislative Drafter to prepare consolidated legislation as soon as practicable after it is commenced, amended or revised and for it to contain a statement that it is consolidated legislation compiled under this Law.

Article 14 sets out the editorial changes that the Principal Legislative Drafter may make to and in preparing consolidated legislation and enables him or her to correct errors in as-enacted or revised legislation that occurred after it is made or revised.

Article 15 continues the Law Revision Board established under the Law Revision (Jersey) Law 2003 and provides for the Board to certify a draft revision of legislation prepared by the Principal Legislative Drafter using the powers set out in *Schedule 1*, which have been taken from that Law. Law changes made by a revision have effect as if they were made by amendment.

Article 16 sets out the requirement imposed on the Principal Legislative Drafter to publish both as-enacted and consolidated legislation.

Article 17 provides for official versions of legislation. As-enacted legislation is official and consolidated legislation is official if it contains a statement to that effect and is published under the authority of the Principal Legislative Drafter in either electronic or print form. Official as-enacted legislation is taken to set out correctly the text of the legislation. Consolidated legislation (other than revised legislation) unless the contrary is shown, is taken to set out correctly, as at the date on which it is stated to be consolidated, the legislation as enacted and including any current amendments to it, or revisions of it.

Article 18 provides for the States to make statute law revision Regulations to clarify any ambiguity or to reconcile inconsistencies between the provisions of any Jersey legislation or between its provisions and provisions of any other Jersey legislation. Regulations may also make amendments using the editorial powers in *Article 14* or the law revision powers in *Schedule 1* and if within the scope of these powers the Regulations may make any provision that could be made by a Law. No amendment may be lodged to amend a proposition containing the Regulations if the Bailiff considers that it would take the Regulations beyond the scope of these powers.

Part 4 contains provisions relating to the Legislative Drafting Office.

Article 19 renames the Law Draftsman's Office as the Legislative Drafting Office and sets out its primary objective, namely, to produce high-quality legislation that can be easily understood and is readily accessible to all persons. The Principal Legislative Drafter is the senior officer and is responsible to the Greffier of the States for carrying out his or her functions but is not so responsible for any matters relating to current drafting practice. Legislative drafters (other than consultants) are States employees. Nobody may be appointed as a legislative drafter unless they have passed the examinations and assessments included in a course for call to the Bar or admission as

a solicitor in England and Wales necessary as part of the requirements for admittance to the Jersey Bar, or examinations and assessments that the Principal Legislative Drafter considers are equivalent in any Commonwealth country or the Republic of Ireland.

Article 20 states the functions of the Principal Legislative Drafter, namely to be responsible for the drafting of all Jersey legislation, the functions in respect of preparing consolidated legislation and drafts of revised legislation and to arrange for legislation to be published as outlined above, to publish current drafting practice, to advise the Greffier of the States on the drafting of Standing Orders and to provide access to legislation.

Article 21 provides for the Principal Legislative Drafter to delegate his or her functions and to ensure there is somebody delegated to act in cases of absence, incapacity or vacancy in that office.

Article 22 provides that confidential communications between a provider of drafting instructions and a legislative drafter are subject to legal professional privilege.

Article 23 enables *Part 4* to be amended by Regulations to make different provision in respect of the Principal Legislative Drafter or the Legislative Drafting Office.

Part 5 contains various closing provisions, namely the introduction of *Schedule 2* which contains various consequential and miscellaneous amendments (*Article 24*), the introduction of *Schedule 3*, which repeals various obsolete Laws (*Article 25*) and a provision as to citation of the Law and its commencement on a day to be specified by the States by Act (*Article 26*).

The amendments in *Schedule 2* include inserting a provision into the Interpretation Law to provide additional powers when appointing a person to an office (*paragraph 6*) and various amendments to Article 29A of the States of Jersey Law 2005 (*paragraph 7*). These include a replacement of paragraph (3) to require the Chief Minister to present a report to the States describing the provisions to be made by an Order renaming a Minister or transferring a Minister's functions 14 days before the Order is made. New paragraphs (4) to (9) are standard provisions to operate in the case of a transfer of functions (which will then not need repeating in each Order when functions are transferred). Paragraphs (11) to (13) enable for a limited time only Orders to be made consolidating the provisions of previous Regulations and Orders renaming Ministers and transferring functions to enable of the clearing up of the statute book to assist with the presentation of the consolidated collection.



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DRAFT LEGISLATION (JERSEY) LAW 202-

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DRAFT LEGISLATION (JERSEY) LAW 202-

A LAW to consolidate and supplement provisions about the making, commencement and repeal of legislation; to provide for the consolidation, revision and publication of legislation; to make provision about the Legislative Drafting Office; to amend and repeal certain other legislation; and for connected purposes.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

PART 1

OPENING PROVISIONS

1 Interpretation

In this Law, unless the context indicates otherwise –

“as-enacted legislation” has the meaning given in Article 12(2);

“consolidated legislation” has the meaning given in Article 12(3) and (4);

“current drafting practice” means the legislative drafting practice for the time being adopted by the Legislative Drafting Office;

“Jersey legislation” means any Law or Jersey subordinate legislation;

“Jersey subordinate legislation” means any Regulations, Order or other instrument having legislative effect in Jersey that is made in Jersey under –

- (a) any Jersey legislation; or
- (b) any UK extended legislation or Order in Council registered in the Royal Court;

“Law” means Jersey legislation adopted by the States that does not rely on any other legislation to empower its making;

“legislation” means Jersey legislation and UK extended legislation;

“Legislative Drafter” means any person employed (including under a contract for services) to draft legislation for the Legislative Drafting Office, and includes the Principal Legislative Drafter and any trainee Legislative Drafter;

“Legislative Drafting Office” means the Office referred to in Article 19(1);

“made”, in relation to Jersey legislation, is construed in accordance with Article 2;

“official version” is construed in accordance with Article 17;

“Principal Legislative Drafter” means the senior officer of the Legislative Drafting Office, as referred to in Article 19(3);

“publish”, in relation to legislation, means to make available, on an on-going basis, on a website that provides access to the legislation free of charge;

“repeal” includes delete, rescind and revoke;

“revised”, in relation to Jersey legislation, means any legislation certified as such in accordance with Article 15(8);

“standing orders” means the Standing Orders of the States of Jersey¹, including any amendments to them;

“triennial Regulations” means Regulations made under either or both of the Orders in Council dated 28th March 1771² and 14th April 1884³;

“UK Act” means any Act of the Parliament of the United Kingdom (irrespective of whether it applies to the whole of the United Kingdom);

“UK extended legislation” means any provision of a UK Act, or subordinate legislation made under a UK Act, that has been registered in the Royal Court.

PART 2

MAKING, AMENDING AND REPEALING JERSEY LEGISLATION

2 Making of Jersey Legislation

- (1) A Law is made –
 - (a) by being adopted by the States Assembly;
 - (b) by being sanctioned by order of Her Majesty in Council; and
 - (c) by being registered in the Royal Court.
- (2) A taxation draft declared by Act of the States to have effect under Article 12(1) of the Public Finances (Jersey) Law 2019⁴ is to be treated as having been made as a Law even though it has not yet completed the steps referred to in paragraph (1)(b) and (c).
- (3) Jersey subordinate legislation is made –

- (a) in the case of Regulations (including Triennial Regulations) or an Act that is Jersey legislation, by the proposition containing the Regulations or Act being adopted by the States Assembly; or
 - (b) in the case of any other Jersey subordinate legislation, by being signed by –
 - (i) the person responsible for making it, or
 - (ii) if made by a body, a person acting in accordance with any procedural requirements of the body.
- (4) Subject to paragraph (2), Jersey legislation has been made once it has been registered, adopted or signed as the case may be.
- (5) The States may by Regulations amend paragraph (3)(b) to make different provision about the procedural requirements for making Jersey subordinate legislation, including making consequential amendments to the States of Jersey Law 2005⁵ or any other Jersey legislation.

3 Commencement of Jersey legislation

- (1) If Jersey legislation is silent as to the commencement of any of its provisions that provision comes into force –
- (a) in the case of legislation having effect only to commence other legislation or consisting of an Act of the States referred to in Article 2(2), when it is made; and
 - (b) in the case of any other legislation, on the day after it is made.
- (2) If any Jersey legislation is expressed to come into force on a particular day, it is treated as coming into force at the beginning of that day, unless provision is made to the contrary.
- (3) Unless provision is made to the contrary, Regulations may provide that they commence by an Order of a Minister.
- (4) If a Law, Regulations made under a Law or any provision of a Law or Regulations may be commenced by an Act of the States or an Order of a Minister on a day specified in the Act or Order, the power may be exercised to specify different days, times or events for different provisions of the Law or Regulations to commence.
- (5) If any Jersey legislation amends any other legislation or provision that has not come into force –
- (a) the amendment of the uncommenced legislation does not commence that legislation or provision; and
 - (b) the amendment made by the amending legislation commences when the provision amended commences unless provision is made otherwise.
- (6) Nothing in this Article affects the commencement of any Jersey legislation that had commenced before the commencement of this Part.

4 Exercise of statutory powers before commencement of Jersey legislation

- (1) This Article applies to any Jersey legislation that confers power to –

- (a) make any Jersey subordinate legislation;
 - (b) establish an entity;
 - (c) make an appointment;
 - (d) give a notice or document;
 - (e) prescribe a form; or
 - (f) do any other thing for the purposes of the legislation.
- (2) The power in question may, unless provision is made to the contrary, be exercised at any time after the making of the legislation, whether or not the legislation is in force.
 - (3) However, no Jersey subordinate legislation made under this power may be brought into force before the provision conferring the power comes into force.

5 Effect of repeal and expiry

- (1) This Article applies where any Jersey legislation repeals any other Jersey legislation or a provision of that legislation.
- (2) Unless provision is made to the contrary, the repeal does not affect any of the following –
 - (a) the validity, invalidity, effect or consequences of anything done or suffered under the repealed legislation (including any saving, transitional or validating provision);
 - (b) any existing right, interest, title, immunity, privilege, obligation or liability acquired, accrued or incurred under that legislation;
 - (c) any amendment of legislation made by the repealed legislation;
 - (d) the previous operation of the repealed legislation or anything done or permitted under that legislation;
 - (e) any investigation, legal proceeding or remedy that relates to anything set out in sub-paragraph (b);
 - (f) any penalty, forfeiture or punishment incurred in respect of any offence committed before the repeal of the legislation or breach of it that occurred before its repeal.
- (3) Any investigation, legal proceeding or remedy mentioned in paragraph (2) that relates to an existing right may be instituted, continued or enforced, and any penalty, forfeiture or punishment mentioned in that paragraph may be imposed, as if the legislation had not been repealed.
- (4) Unless provision is made to the contrary the repeal of any legislation does not revive –
 - (a) any legislation repealed;
 - (b) any rule of law that has been abolished; or
 - (c) any other thing not in force or existing at the time at which the repeal takes effect.
- (5) In this Article a reference to legislation being repealed includes a reference to its having expired or otherwise ceasing to have effect.

6 Effect of repeal and re-enactment of Jersey legislation

If any Jersey legislation (whenever made) repeals any Jersey legislation and re-enacts any of its provisions, with or without modification, references in any other Jersey legislation to the provisions so repealed, unless provision is made to the contrary, are construed as references to the provisions so re-enacted.

7 Amendment of Jersey subordinate legislation by a Law, etc

- (1) An amendment of Jersey subordinate legislation by a Law does not of itself limit any further amendment or repeal of that subordinate legislation by other subordinate legislation.
- (2) In the case of Jersey subordinate legislation not made by the States, the reference in paragraph (1) to a Law includes Regulations.

8 Power to amend Law consequential on another Law lodged but not made before its registration

- (1) The States may by Regulations make amendments to any Law incidental to, supplemental to, or consequential upon, the making of another Law if the relevant periods of those 2 Laws overlap to any extent.
- (2) In this Article –
“lodged” means lodged in accordance with standing orders;
“relevant period” means the period beginning on the day a Law was lodged and ending on the day it was made.

9 Powers to make Jersey subordinate legislation

- (1) Where any Jersey legislation (whenever made) confers a power to make Jersey subordinate legislation, unless provision is made to the contrary, the power may be exercised from time to time and includes a power to repeal, amend or replace the legislation made that is exercisable in the same way and subject to the same conditions.
- (2) Where any Jersey legislation made after 28th March 2003 confers a power to make Jersey subordinate legislation, the power may, unless provision is made to the contrary, be exercised –
 - (a) to apply generally to all cases or be limited in its application to, or make different provision for different cases or classes of case; or
 - (b) to apply generally or be limited in its application by reference to stated conditions, exceptions or factors.
- (3) The power in paragraph (2) includes the power to make provision about any one or more cases and for the purposes of that paragraph a “class” includes a single case.
- (4) The power in paragraph (2) enables a provision that repeals any legislation to be brought into force only to the extent of repealing some of its provisions.
- (5) Unless provision is made to the contrary, a power to make Jersey subordinate legislation also authorises the making of provision incidental to, supplemental to, or consequential upon that legislation.

- (6) However, the power in paragraph (5) is limited –
 - (a) in the case of Regulations, to amending any legislation other than the Human Rights (Jersey) Law 2000⁶ or the legislation giving the power to make the Regulations; and
 - (b) in the case of any legislation not made by the States, to amending any other legislation not made by the States.
- (7) Where Jersey subordinate legislation is stated to be made under any power conferred by any legislation (including this Law) it is treated as being made in exercise of all the powers under which it may be made.

10 Power to incorporate technical documents by reference

- (1) The States may by Regulations amend any Law to provide that the power to make subordinate legislation under that Law includes the power to incorporate by reference any technical document (other than legislation from any jurisdiction) that is accessible to the public without charge as it is in force –
 - (a) at a particular time; or
 - (b) from time to time.
- (2) In paragraph (1) “technical document” means a document that is concerned with the practices, procedures, processes or requirements for use of a technical product and which is aimed at a person with particular knowledge or experience in that technical field.

11 States power to annul Jersey subordinate legislation not made by the States

- (1) Subordinate legislation to which this Article applies must be laid before the States as soon as practicable after it is made and if the States no later than 3 sittings after the date on which it is laid, resolve that it be annulled, it ceases to have effect.
- (2) However –
 - (a) paragraph (1) may be displaced by any contrary provision in the Law empowering the subordinate legislation; and
 - (b) the annulment does not affect anything done under the subordinate legislation before it is annulled or limit the power of the body empowered to make the legislation to make further legislation.
- (3) This Article applies to any Jersey subordinate legislation that is not made by the States other than legislation providing purely for the commencement of any legislation.
- (4) In the case of Jersey subordinate legislation that was made before the commencement of this Part, the reference in paragraph (1) to 3 sittings after it is made is construed as meaning 3 sittings after the commencement of this Part.
- (5) The States may by Regulations amend this Article.

PART 3

CONSOLIDATION, REVISION AND PUBLICATION OF LEGISLATION

12 Types of legislation under this Part

- (1) This Part applies in respect of –
 - (a) as-enacted legislation; and
 - (b) consolidated legislation.
- (2) As-enacted legislation is legislation containing the text of the legislation as originally made and includes that legislation in the form it appears when prepared for publication under this Part.
- (3) Consolidated legislation is legislation that includes within it any other modifications necessary to show the legislation as it was in force on the date to which it is stated to be consolidated.
- (4) Revised legislation is also consolidated legislation.

13 Consolidated legislation

- (1) When any Jersey legislation (other than legislation having the effect only to amend or commence other legislation or consisting of an Act of the States referred to in Article 2(2)) is commenced, amended or revised after the commencement of this Part, the Principal Legislative Drafter must, as soon as practicable, prepare a consolidated version of the legislation.
- (2) Consolidated legislation must include a statement that it is consolidated legislation compiled under the authority of this Law.

14 Editorial changes

- (1) The Principal Legislative Drafter may make the following changes to consolidated legislation (whether when preparing it or later) –
 - (a) the removal of a provision relating to its commencement;
 - (b) the removal of a provision that amends or repeals other legislation (or any provision of that other legislation);
 - (c) the removal of any other provision that the Principal Legislative Drafter considers to be spent or for any other reason to be no longer operative;
 - (d) the correction of –
 - (i) typographical and clerical errors,
 - (ii) errors in grammar, spelling and punctuation,
 - (iii) errors in numbering, cross-referencing, and alphabetical ordering,
 - (iv) errors in, or arising out of, an amendment by other legislation to the legislation being consolidated, and
 - (v) any other errors of a similar nature;

- (e) changes in punctuation and the relocation of conjunctives or disjunctives to enable the addition or removal of any provision that is or was part of a list of provisions.
- (2) However, none of these changes have effect to the extent of changing the meaning of any provision.
- (3) The Principal Legislative Drafter may make formatting and presentational changes to the legislation so that consolidated legislation is consistent with current drafting practice.
- (4) Nothing in this Article limits the authority to make changes in preparing consolidated legislation in reliance on the application of any other legislation.
- (5) Changes authorised by this Article that are made to consolidated legislation, other than formatting and presentational changes or minor editorial changes, must be set out in an endnote or other suitable place.
- (6) The Principal Legislative Drafter may correct any errors in a published version of as-enacted legislation that occurred after it is made or in revised legislation that occurred after its revision.

15 Changes that may be made by the Law Revision Board in revising Jersey legislation

- (1) The Law Revision Board established under the Law Revision (Jersey) Law 2003² is continued.
- (2) The Board consists of –
 - (a) 2 members of the States, appointed by the States;
 - (b) the Attorney General;
 - (c) the Greffier of the States; and
 - (d) the Principal Legislative Drafter.
- (3) The Law Revision Board –
 - (a) may regulate its own procedure; and
 - (b) may transact its business electronically.
- (4) The Principal Legislative Drafter may prepare in draft a revision of any Jersey legislation in accordance with any of the powers set out in Schedule 1.
- (5) The powers in Article 14 may also be used for the preparation of the revision.
- (6) The Principal Legislative Drafter must submit the draft revision to the other members of the Law Revision Board accompanied by a statement setting out the changes made (other than editorial changes) and the power relied on as authority for the change.
- (7) The Law Revision Board may certify the draft revision as revised legislation only if it is satisfied that the changes made are within the powers set out in Article 14 or Schedule 1.
- (8) The changes made to legislation by a revision have effect as if they were effected by an amendment made by other legislation.

- (9) The Minutes or other record of the transactions of the business of the Law Revision Board must be laid before the States within 2 months of the business being transacted.
- (10) The States may by Regulations amend Schedule 1.

16 Publication of legislation

- (1) The Principal Legislative Drafter must ensure that the following are published –
 - (a) all as-enacted legislation made after the commencement of this Part;
 - (b) all consolidated legislation prepared after 1st January 2019.
- (2) As-enacted legislation must be published as soon as practicable after it is made and consolidated legislation must be published as soon as practicable after it is consolidated or the amendments resulting from other legislation are incorporated within it, whichever is the later.

17 Official versions of legislation

- (1) All as-enacted legislation is an official version of the legislation.
- (2) Any consolidated legislation that is Jersey legislation is an official version if it contains a statement that it is an official version of the legislation issued under the authority of this Law and –
 - (a) it is an electronic version of the legislation displayed on a website under the authority of the Principal Legislative Drafter (or a printed or downloaded version of that legislation without any alteration to its text or format); or
 - (b) it is a printed version of the legislation issued by or on behalf of the Principal Legislative Drafter.
- (3) An official version of as-enacted legislation is taken to set out correctly the text of the legislation.
- (4) Subject to Article 15(9) (changes made by revision have effect as if effected by amendment), an official version of consolidated legislation, unless the contrary is shown, is taken to set out correctly, as at the date on which it is stated to be consolidated, the legislation as enacted and including any current amendments to it, or revisions of it.
- (5) An official version of legislation is admissible in evidence in any proceedings and a court or person acting judicially must take judicial notice of any official version of legislation.
- (6) The States may, by Regulations, amend paragraph (2) to vary the requirements for legislation to be an official version.

18 Statute Law Revision Regulations

- (1) The States may by Regulations amend any Jersey legislation using the powers set out in paragraph (2), Article 14 or Schedule 1.
- (2) The power is to make such amendments as are necessary or desirable to –

- (a) clarify any ambiguity in the legislation; or
 - (b) reconcile inconsistencies between different provisions of the legislation or between any of its provisions and provisions of any other Jersey legislation.
- (3) Where a proposition is lodged in respect of Regulations to be made under this Article no amendment may be lodged that, in the opinion of the Bailiff, would alter the effect of any legislation unless it is within the scope of paragraphs (1) or (2).
- (4) Subject to this Article, the Regulations may make any provision that could be made by a Law.

PART 4

LEGISLATIVE DRAFTING OFFICE

19 Legislative Drafting Office

- (1) The office previously known as the Law Draftsman's Office is renamed the Legislative Drafting Office.
- (2) The primary objective of the Legislative Drafting Office is to produce high-quality legislation that can be easily understood and is readily accessible to all persons.
- (3) The senior officer of the Legislative Drafting Office is the Principal Legislative Drafter.
- (4) The Principal Legislative Drafter is responsible to the Greffier of the States for carrying out the functions set out in Article 20 on behalf of the Legislative Drafting Office.
- (5) However, the Principal Legislative Drafter is not responsible to the Greffier of the States for any matter relating to current drafting practice.
- (6) A person must not be appointed or employed as a Legislative Drafter without having passed the examinations and assessment specified for the purposes of Articles 3(2)(a)(i) and 3(3)(b)(i) of the Advocates and Solicitors (Jersey) Law 1997⁸ (requirements for admission to the Bar) or the examinations and assessments that the Principal Legislative Drafter considers are the equivalent requirements in a Commonwealth country or the Republic of Ireland.
- (7) For clarity, the staff of the Legislative Drafting Office are not officers of the States Greffe appointed under Article 41(6) of the States of Jersey Law 2005⁹.

20 Functions of Principal Legislative Drafter

The functions of the Principal Legislative Drafter are –

- (a) to be responsible for the drafting of all Jersey legislation to be presented to the States and any amendments to it;
- (b) to be responsible for the drafting of all other Jersey subordinate legislation;

- (c) to prepare consolidated legislation in accordance with Articles 13 and 14;
- (d) to prepare legislation for certification as revised legislation in accordance with Article 15;
- (e) to arrange for the publication of legislation as required by Article 16;
- (f) to publish current drafting practice;
- (g) to advise the Greffier of the States on the drafting of standing orders;
- (h) to take any steps that the Principal Legislative Drafter considers appropriate to promote access to Jersey legislation, including ensuring that it is clearly and logically organised, easy to understand, certain in its effect and as far as practicable conforms with current drafting practice; and
- (i) to perform any other functions relating or ancillary to the preparation of legislation that the Principal Legislative Drafter considers appropriate or as directed by the Greffier of the States.

21 Delegation of functions

The Principal Legislative Drafter –

- (a) may from time to time, either generally or particularly, delegate to any Legislative Drafter, or any States employee (within the meaning of Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005¹⁰) working in the Legislative Drafting Office, any of the Principal Legislative Drafter's functions; and
- (b) must ensure that an appropriate delegation is at all times in place under this Article to enable a person to act in place of the Principal Legislative Drafter during any absence or incapacity or during any vacancy in the office of Principal Legislative Drafter.

22 Privilege

- (1) Confidential communications between a provider of instructions to the Legislative Drafting Office and a Legislative Drafter are subject to legal professional privilege.
- (2) In this Article –
 - “confidential communications” includes –
 - (a) instructions to draft legislation received by the Legislative Drafting Office and communications between any client of the Legislative Drafting Office and any Legislative Drafter that relate to the subject matter of the instructions;
 - (b) unpublished drafts of legislation prepared by or on behalf of the Legislative Drafting Office;
 - “provider of instructions” includes a Member of the States and any officer working in –

- (a) a department established by the States; or
- (b) a body, office or unit of administration, established on behalf of the States (including under any legislation).

23 Amendment of this Part by Regulations

The States may by Regulations amend this Part to make different provision in respect of the Principal Legislative Drafter or the Legislative Drafting Office and any amendments consequential on those provisions.

PART 5

CLOSING PROVISIONS

24 Consequential and miscellaneous amendments

Schedule 2 contains consequential and miscellaneous amendments to Jersey legislation.

25 Repeals

Schedule 3 contains a list of legislation repealed and amendments consequential on those repeals.

26 Citation and commencement

This Law may be cited as the Legislation (Jersey) Law 202- and comes into force on a day to be specified by the States by Act.

SCHEDULE 1

(Article 15)

POWERS TO REVISE JERSEY LEGISLATION

In preparing a revision under Article 15 the Law Revision Board has the power –

- (a) to amend the citation provision, long title, short title, words of enactment or preamble of any legislation;
- (b) to consolidate or split any legislation or relocate a provision into different legislation where the provision more properly belongs;
- (c) to rearrange the provisions of any legislation or any list in a provision of any legislation;
- (d) to add a table of contents or destinations to any legislation;
- (e) to add a heading to a provision of any legislation that does not have one and alter any heading to a provision or part of any legislation;
- (f) to omit any map, picture, drawing, diagram or other object;
- (g) to change any reference to a person, office, body, place or thing to reflect a change of name, transfer of function or provision for construction of the reference;
- (h) to make any adaptations and amendments that may appear necessary or proper as a consequence of constitutional or other changes in Jersey or any other place or territory or in or to any body or organisation outside Jersey;
- (i) to change any words to make them gender neutral;
- (j) to change expressions of date, money, number, time and units of measurement;
- (k) to delete any obsolete or redundant words or provisions;
- (l) to alter any words to secure uniformity of expression in any legislation;
- (m) to shorten any phrase or sentence;
- (n) to change the wording for the better application of plain language principles;
- (o) to add numbering to or renumber any provision;
- (p) to substitute for a reference to any legislation or provision of any legislation that has been re-enacted or replaced, whether with or without modifications, a reference to the legislation or provision re-enacting or replacing it; and
- (q) to do all other things that appear to the Board to be necessary to render revised legislation consistent with current drafting practice.

SCHEDULE 2

(Article 24)

PART 1 – CONSEQUENTIAL AMENDMENTS

1 Intellectual Property (Unregistered Rights) (Jersey) Law 2011

For Article 186 of the Intellectual Property (Unregistered Rights) (Jersey) Law 2011¹¹ there is substituted –

“186 Copyright in Jersey legislation

- (1) The States Assembly is entitled to copyright in any Jersey legislation.
- (2) Copyright under this Article subsists for the period of 50 years from the date –
 - (a) in the case of as-enacted legislation, on which it was made; and
 - (b) in the case of consolidated legislation, on which it was last consolidated.
- (3) No other copyright, or right in the nature of copyright, subsists in any Jersey legislation.
- (4) This Article does not derogate from the duty to publish legislation under Article 16 of the Legislation (Jersey) Law 202-¹².
- (5) Except as provided in paragraphs (1) to (4), this Part applies in relation to copyright under this Article as it applies to States Assembly copyright and, accordingly, references in this Part (except Article 182) to States Assembly copyright include copyright under this Article.
- (6) Words and phrases that are defined in the Legislation (Jersey) Law 202- have the same respective meanings in this Article as they do in that Law.”.

2 Interpretation (Jersey) Law 1954

- (1) This paragraph amends the Interpretation (Jersey) Law 1954¹³.
- (2) The following provisions are deleted –
 - (a) Article 1(2), (5) and (6) (definitions with regard to enactments);
 - (b) Article 6 (effect of repeal);
 - (c) Article 11(3) and (4) (construction of provisions as to exercise of powers and duties);
 - (d) Article 16 (exercise of statutory powers before commencement of enactment);
 - (e) Article 17 (effect of repeal and re-enactment, and expiry).

- (3) In Article 9(3) (construction of references to enactments), after “as amended” there is inserted “, revised or otherwise consolidated (within the meaning of the Legislation (Jersey) Law 202-¹⁴)”.

3 Official Publications (Jersey) Law 1960

- (1) Article 3 of the Official Publications (Jersey) Law 1960¹⁵ (provisions regarding publicity to be given to enactments) is deleted.
- (2) The following provisions are deleted as a consequence of paragraph (1) –
- (a) Adoption (Jersey) Law 1961¹⁶, Article 18(4);
 - (b) Advocates and Solicitors (Jersey) Law 1997¹⁷, Article 11(2);
 - (c) Export Control (Jersey) Law 2009¹⁸, Article 7(13);
 - (d) Law Reform (Disclosure and Conduct before Action) (Jersey) Law 1999¹⁹, Article 5(2);
 - (e) Probate (Jersey) Law 1998²⁰, Article 32(3).
- (3) For Article 408(3) of the Intellectual Property (Unregistered Rights) (Jersey) Law 2011²¹ (Regulations: application, transitional provisions and savings) there is substituted –
- “(3) If Regulations made under paragraph (2) come into force before they have been published, as required by Article 16 of the Legislation (Jersey) Law 202-²², the Regulations do not –
- (a) affect, in a manner prejudicial to any person (other than the States) the rights of that person existing before they are published; or
 - (b) impose liabilities on any person (other than the States) in respect of anything done or omitted to be done before they are published.”.

(4) For Article 94(5) of the Security Interests (Jersey) Law 2012²³ (savings, and transitional and consequential provisions) there is substituted –

“(5) To the extent to which Regulations under this Article come into force before they have been published, as required by Article 16 of the Legislation (Jersey) Law 202-²⁴, the Regulations do not –

 - (a) affect, in a manner prejudicial to any person (other than the States or an administration of the States), the rights of that person existing before they are published; or
 - (b) impose liabilities on any person (other than the States or an administration of the States) in respect of anything done or omitted to be done before they are published.”.

4 Jersey Legal Information Board (Incorporation) Law 2004

In the Jersey Legal Information Board (Incorporation) Law 2004²⁵, in the preamble and in Article 3(1) (membership) for “Law Draftsman” there is substituted “Principal Legislative Drafter”.

5 Amendments consequential on Article 11 (States power to annul Jersey subordinate legislation)

The following provisions are deleted –

- (a) Article 23A of the Loi (1934) sur la Santé Publique²⁶;
- (b) Article 4 of the Control of Borrowing (Jersey) Law 1947²⁷ (provisions as to Orders);
- (c) Article 32(2) and (3) of the Tourism (Jersey) Law 1948²⁸ (Orders);
- (d) Article 13(3) of the Royal Court (Jersey) Law 1948²⁹ (Rules of Court);
- (e) Article 2(3) and (4) of the Public Health (Vessels and Aircraft) (Jersey) Law 1950³⁰ (power of Ministers to make Orders);
- (f) Article 15 of the Poisons (Jersey) Law 1952³¹ (provisions as to Orders);
- (g) Article 19 of the Agricultural Marketing (Jersey) Law 1953³² (provisions relating to Orders);
- (h) Article 19(1) of the Merchandise Marks (Jersey) Law 1958³³ (provisions as to Orders and directions).

PART 2 – MISCELLANEOUS AMENDMENTS

6 Interpretation (Jersey) Law 1954

In the Interpretation (Jersey) Law 1954³⁴, after Article 11 there is inserted –

“11A Power to appoint to an office includes related powers

- (1) If an enactment confers power to appoint a person to an office, unless the contrary is expressed the power includes power –
 - (a) to determine the terms and conditions of appointment;
 - (b) to remove or suspend a person from the office;
 - (c) to reappoint or reinstate a person to the office; and
 - (d) in the circumstances set out in paragraph (2), to appoint a person to the office in place of the last holder of the office.
- (2) The circumstances for the purposes of paragraph (1)(d) are where –
 - (a) the office is vacant;
 - (b) the person holding the office has been removed or suspended from office;
 - (c) the person holding the office is absent temporarily or permanently; or
 - (d) the person holding the office is incapacitated temporarily or permanently in a way that affects the person’s performance.”.

7 States of Jersey Law 2005

- (1) This paragraph amends the States of Jersey Law 2005³⁵.
- (2) In Article 29A (powers relating to changes to Ministerial offices) –
 - (a) in paragraph (1)(c) “responsibilities and” is deleted;
 - (b) for paragraph (3) there is substituted –

“(3) An Order under paragraph (1) may not be made unless –

 - (a) the Chief Minister has presented to the States a report describing the provision to be made by the Order; and
 - (b) the period of 14 days, beginning with the day on which that report is presented, has expired.”;
 - (c) after paragraph (3) there is inserted –
- (4) All rights enjoyed and liabilities incurred by the transferring Minister in connection with the functions transferred by an Order under paragraph (1) are transferred to the receiving Minister and become the rights and liabilities of that Minister.
- (5) A provision of a contract or other instrument that specifies that a right or liability of the transferring Minister is incapable of transfer is, to the extent that it applies to a right or liability transferred by paragraph (4), of no effect.
- (6) The operation of paragraph (4) is not regarded –
 - (a) as a breach of contract or confidence or otherwise as a civil wrong;
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or
 - (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.
- (7) The transfer effected by or under this Article does not prejudice the operation of any appointment, approval, authorisation, consent, delegation, determination, direction, instruction, requirement or other thing that is, before the Order comes into force, made, given or done by the transferring Minister in relation to the functions, rights and liabilities so transferred, but such matter, if then in force, continues in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the receiving Minister.
- (8) Anything commenced before the commencement of the Order by or under the authority of the transferring Minister may, so far as it relates to any of the functions, rights and liabilities transferred by or under this Article, be carried on and completed by or under the authority of the receiving Minister.
- (9) Where, on commencement of the Order, any legal proceeding is pending to which the transferring Minister is a party and the proceeding has reference to any of the functions, rights and

- liabilities transferred by or under this Article, the receiving Minister is substituted in the proceeding for the transferring Minister and the proceeding does not abate by reason of the substitution.
- (10) Paragraphs (4) to (9) are subject to any contrary provision being made in any Order made under paragraph (1).
- (11) The Chief Minister may by Order amend a provision to which this paragraph applies to do any of the following –
- (a) consolidate that provision with other such provisions into one or more Orders;
 - (b) record the names by which Ministers are currently described, including making any other amendment to facilitate that record;
 - (c) apply paragraphs (4) to (9) in relation to a transfer of functions previously effected by the provision if satisfied that the provision included equivalent provision as in those paragraphs;
 - (d) remove a redundant or spent provision and make any provision that could be made under Article 14 of the Legislation (Jersey) Law 202-³⁶.
- (12) Paragraph (11) applies to –
- (a) an Order under paragraph (1) made before the commencement of the Legislation (Jersey) Law 202-³⁷;
 - (b) Regulations made under an equivalent power formerly conferred by this Law; and
 - (c) a provision of such an Order or Regulations.
- (13) Paragraphs (11) and (12) and this paragraph expire one year after they come into force.
- (14) In this Article –
- “receiving Minister” means the Minister to whom functions are transferred by an Order made under paragraph (1);
 - “transferring Minister” means the Minister from whom functions are transferred by an Order made under paragraph (1).”.
- (3) In Articles 37(1)(a) (offence of printing false documents) and 38(1) (protection of persons responsible for States and other publications) “enactment or other” is deleted.
- (4) In Article 38(3) “enactment or” is deleted.

SCHEDULE 3

(Article 25)

LAWS REPEALED AND AMENDMENTS CONSEQUENTIAL ON THOSE REPEALS

1 Laws repealed

The following Laws are repealed –

- (a) Loi (1797) sur la taxation des rentes³⁸;
- (b) Loi (1848) touchant la taxation de rentes³⁹;
- (c) Loi (1878) sur les séparations de biens⁴⁰;
- (d) Loi (1928) sur la Voirie (Emprunts paroissiaux)⁴¹;
- (e) Subordinate Legislation (Jersey) Law 1960⁴²;
- (f) Legislation (Amending Power) (Jersey) Law 1999⁴³;
- (g) Law Revision (Jersey) Law 2003⁴⁴.

2 Consequential amendments

- (1) As a consequence of the repeal of the Loi (1878) sur les séparations de biens⁴⁵ Articles 2 and 3 of the Loi (1925) étendant les droits de la femme mariée⁴⁶ are deleted.
- (2) As a consequence of the repeal of the Loi (1928) sur la Voirie (Emprunts paroissiaux)⁴⁷ Article 7(2) of the Roads Administration (Jersey) Law 1960⁴⁸ is deleted.
- (3) As a consequence of the repeal of the Subordinate Legislation (Jersey) Law 1960⁴⁹ the following provisions are deleted –
Adoption (Jersey) Law 1961⁵⁰, Article 42(3);
Animals (Trapping) (Jersey) Law 1961⁵¹, Article 6;
Building Loans (Jersey) Law 1950⁵², Article 4(3);
Capacity and Self-Determination (Jersey) Law 2016⁵³, Article 70(3);
Children (Jersey) Law 2002⁵⁴, Article 81(2);
Companies (Jersey) Law 1991⁵⁵, Article 219(2);
Competition Regulatory Authority (Jersey) Law 2001⁵⁶, Article 20(3);
Conservation of Wildlife (Jersey) Law 2000⁵⁷, Article 24;
Court of Appeal (Jersey) Law 1961⁵⁸, Article 47;
Cremation (Jersey) Law 1953⁵⁹, Article 4(2);
Criminal Procedure (Jersey) Law 2018⁶⁰, Article 111(9)(c);
Customs and Excise (Jersey) Law 1999⁶¹, Article 73(3);
Dangerous Wild Animals (Jersey) Law 1999⁶², Article 21(3);
Day Care of Children (Jersey) Law 2002⁶³, Article 6(2);
Decimal Currency (Jersey) Law 1971⁶⁴, Article 8(6);
Education (Jersey) Law 1999⁶⁵, Article 68(3);

Electronic Communications (Jersey) Law 2000⁶⁶, Article 23(5);
Emergency Powers and Planning (Jersey) Law 1990⁶⁷, Article 12(8);
Employment Agencies (Registration) (Jersey) Law 1969⁶⁸, Article 12(2);
Employment (Jersey) Law 2003⁶⁹, Article 104(8);
Explosives (Jersey) Law 1970⁷⁰, Article 16(2);
Financial Services Commission (Jersey) Law 1998⁷¹, Article 22(3);
Fire Precautions (Jersey) Law 1977⁷², Article 15(2);
Firearms (Jersey) Law 2000⁷³, Article 57(5);
Food Safety (Jersey) Law 1966⁷⁴, Article 58(2);
Gambling (Channel Islands Lottery) (Jersey) Regulations 1975⁷⁵,
Regulation 14(2);
Health and Safety at Work (Jersey) Law 1989⁷⁶, in Article 9(2)(g)(i) the
words “(subject to the Subordinate Legislation (Jersey) Law 1960⁷⁷)”;
Health Care (Registration) (Jersey) Law 1995⁷⁸, Article 17(4);
Health Insurance (Jersey) Law 1967⁷⁹, Article 36(4);
Hong Kong Economic and Trade Office (Privileges and Immunities)
(Jersey) Law 1998⁸⁰, paragraph 7(4) of the Schedule;
Human Rights (Jersey) Law 2000⁸¹, Article 17(5);
Income Tax (Jersey) Law 1961⁸², Article 144(2);
Jersey Advisory and Conciliation (Jersey) Law 2003⁸³, Article 12(3);
Licensing (Jersey) Law 1974⁸⁴, Article 94(2);
Limited Partnerships (Jersey) Law 1994⁸⁵, Article 38(5);
Lodging Houses (Registration) (Jersey) Law 1962⁸⁶, Article 19(4);
Medicines (Jersey) Law 1995⁸⁷, Article 110(5);
Mental Health (Jersey) Law 2016⁸⁸, Article 95(4);
Misuse of Drugs (Jersey) Law 1978⁸⁹, Article 27(3);
Motor Traffic (Jersey) Law 1935⁹⁰, Article 46(5);
Motor Traffic (Third-Party Insurance) (Jersey) Law 1948⁹¹, Article 17(2);
Motor Vehicle Registration (Jersey) Law 1993⁹², Article 16(3);
Motor Vehicles (International Circulation) (Jersey) Regulations 1958⁹³,
Regulation 6;
Nursing Homes (Jersey) Law 1994⁹⁴, Article 15(5);
Opticians (Registration) (Jersey) Law 1962⁹⁵, Article 19;
Pesticides (Jersey) Law 1991⁹⁶, Article 17(3);
Piercing and Tattooing (Jersey) Law 2002⁹⁷, Article 12(4);
Places of Refreshment (Jersey) Law 1967⁹⁸, Article 14(2);
Planning and Building (Jersey) Law 2002⁹⁹, Article 124(2);
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Police (Complaints and Discipline) (Jersey) Law 1999¹⁰¹, Article 15(4);
Police Procedures and Criminal Evidence (Jersey) Law 2003¹⁰²,
Article 113(3);

Prison (Jersey) Law 1957¹⁰³, Article 29(6);
Proceeds of Crime (Jersey) Law 1999¹⁰⁴, Article 43(2);
Protection of Agricultural Land (Jersey) Law 1964¹⁰⁵, Article 4(2);
Protection of Employment Opportunities (Jersey) Law 1988¹⁰⁶,
Article 11(2);
Public Holidays and Bank Holidays (Jersey) Law 1951¹⁰⁷, Article 4(3);
Public Records (Jersey) Law 2002¹⁰⁸, Article 49(4);
Radio Equipment (Jersey) Law 1997¹⁰⁹, Article 2(8);
Registration of Business Names (Jersey) Law 1956¹¹⁰, Article 19(4);
Reservoirs (Jersey) Law 1996¹¹¹, Article 29(3);
Road Traffic (Jersey) Law 1956¹¹², Article 84(2);
Royal Court (Jersey) Law 1948¹¹³, Article 10(10);
Safeguarding of Workers (Chains, Ropes and Lifting Gear) (Jersey)
Regulations 1980¹¹⁴, Regulation 20(2);
Safeguarding of Workers (Cranes and Lifting Appliances) (Jersey)
Regulations 1978¹¹⁵, Regulation 29(2);
Safeguarding of Workers (Highly Flammable Liquids) (Jersey)
Regulations 1979¹¹⁶, Regulation 21(2);
Sea Fisheries (Jersey) Law 1994¹¹⁷, Article 29(5);
Shipping (Jersey) Law 2002¹¹⁸, Article 196(3);
Slaughter of Animals (Jersey) Law 1962¹¹⁹, Article 9(2);
Social Security (Jersey) Law 1974¹²⁰, Article 51(3);
Statutory Nuisances (Jersey) Law 1999¹²¹, Article 15(2);
Telecommunications (Jersey) Law 2002¹²², Article 65(5);
Termination of Pregnancy (Jersey) Law 1997¹²³, Article 10(4);
Terrorism (Jersey) Law 2002¹²⁴, Article 65(3);
Trade Marks (Jersey) Law 2000¹²⁵, Article 32(4);
Waste Management (Jersey) Law 2005¹²⁶, Article 108(3);
Water (Jersey) Law 1972¹²⁷, Articles 41(1) and 42(2);
Water Pollution (Jersey) Law 2000¹²⁸, Article 52(4).

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