

STATES OF JERSEY

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JERSEY HERITAGE TRUST AND PUBLIC RECORDS (JERSEY) LAW 2002 – TRANSFER OF FUNCTIONS TO THE EDUCATION, SPORT AND CULTURE COMMITTEE

**Lodged au Greffe on 24th June 2003
by the Finance and Economics Committee**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that responsibility for the Jersey Heritage Trust should pass from the Finance and Economics Committee to the Education, Sport and Culture Committee;
- (b) to agree that the Jersey Heritage Trust be permitted to amend clauses 4.2, 5.3.1 and 5.3.3 of its Constitution so that all references to the Finance and Economics Committee be changed to the Education, Sport and Culture Committee;
- (c) to approve the draft Transfer of Functions (Education, Sport and Culture Committee) (Jersey) Act 200- attached at Appendix 2 to enable the functions of the Finance and Economics Committee in respect of the Public Records (Jersey) Law 2002 to be transferred to the Education, Sport and Culture Committee;
- (d) to approve the Public Records Law 2002 (Appointed Day) (Jersey) Act 200- attached at Appendix 3;
- (e) to authorise the entering into of a deed of arrangement with the Jersey Heritage Trust to amend references in the Deed of Cession of the perpetual usufruct of Elizabeth Castle and Mont Orgueil Castle from the Finance and Economics Committee to the Education, Sport and Culture Committee and to authorise the Attorney General and the Greffier of the States to pass the necessary Deed before the Royal Court.

FINANCE AND ECONOMICS COMMITTEE

REPORT

As part of the changes relating to the machinery of government reforms it was agreed that administrative responsibility for the Jersey Heritage Trust ('the Trust') should be transferred from the Finance and Economics Committee to the Education, Sport and Culture Committee. Although an informal arrangement was put in place for the transfer to take place on 1st January 2003 certain actions, agreed following consultation with the Law Officers' Department and the Greffier of the States, are required to enable the formal transfer to be completed.

The States have already agreed that the transfer should take place in the ministerial system and paragraph (a) of this proposition requests the States to formally agree the transfer of responsibility to enable it to take place at this stage in the transitional period.

Paragraph (b) of the proposition refers to the requirement for changes to be made to the Trust's Constitution so that all reference to the Finance and Economics Committee are changed to references to the Education, Sport and Culture Committee. Section 11.1 of the Trust Constitution (copy attached at Appendix 1) specifies that the Trust may alter, amend or vary any of the provisions of the Constitution other than clauses 3, 4 and 5 with the prior consent of the Finance and Economics Committee. Changes to clauses 3, 4 and 5 can only be made with the consent of the States. The Finance and Economics Committee has already agreed to grant consent for the changes and if this proposition is adopted the Trust will be able to make the changes to all relevant parts of its Constitution. It has already indicated its willingness to do this.

Paragraph (c) refers to the Public Records (Jersey) Law 2003. The Trust, through the Jersey Archives Service, has certain responsibilities under this Law and the Finance and Economics Committee also has certain functions under it. This paragraph of the proposition asks the States to approve a Transfer of Functions Act (attached at Appendix 2) which will transfer responsibilities under the Law from the Finance and Economics Committee to the Education, Sport and Culture Committee. Paragraph (d) refers to the Appointed Day Act (attached at Appendix 3) which, if approved, will bring the Public Records (Jersey) Law 2002 into force on 1st August 2003.

Paragraph (e) refers to the perpetual usufruct of Elizabeth and Mont Orgueil Castle, the transfer of which to the Trust was approved by the States on 10th December 1996. There are references in the contract passed before the Court to the Finance and Economics Committee and these need to be changed to references to the Education, Sport and Culture Committee. The necessary deed has been drafted by the Law Officers' Department and it will need to be passed before the Royal Court. This paragraph simply authorizes the Attorney General and the Greffier of the States to pass the necessary Deed. (The full text of the usufruct was included in P.218/1996.)

If the proposition is adopted, authority will have been given for all necessary steps to be taken to finalise the transfer of the Trust to the Education, Sport and Culture Committee.

Financial and manpower implications

There are no additional financial or manpower implications as the budget for the Trust will simply be transferred from the Finance and Economics Committee to the Education, Sport and Culture Committee.

JERSEY HERITAGE TRUST CONSTITUTION

1. Definitions

1.1 In this Constitution –

- 1.1.1 words importing the masculine gender shall include the female and neuter genders;
- 1.1.2 words in the singular shall include words in the plural and words in the plural shall include the singular;
- 1.1.3 the headings and sub-headings to this Constitution are inserted only for reference to the provisions thereof and shall not affect the construction of such provisions;
- 1.1.4 reference to the Finance and Economics Committee shall include such other committee as may succeed it from time to time.

2. Incorporation

2.1 The Jersey Heritage Trust was incorporated by the “Loi accordant un Acte d’Incorporation à l’Association dite ‘The Jersey Heritage Trust’”, which was registered in the Royal Court on 3rd June 1983.

3. Statement of purpose (objects)

3.1 Jersey’s heritage and culture is special. The purpose of the Jersey Heritage Trust is to care for it, promote wide access to it, act as advocates on its behalf, and bring imagination to telling its stories so that we inspire people to create a better Island for everyone.

3.2 In order to accomplish this, the Jersey Heritage Trust shall, in addition to any other method that may seem appropriate to it from time to time –

- 3.2.1 collect, document, and preserve unique collections of artefacts, works of art, archival material, specimens and information relating to the history, culture and environment of the Bailiwick of Jersey. These collections define the Island, hold the evidence for its historical development and act as the community’s memory;
- 3.2.2 make these collections widely accessible and promote learning through museums, galleries, the archives centre, exhibitions and events in a range of venues, publications and the Internet;
- 3.2.3 acquire, maintain, open and develop significant historic sites, museums and galleries, including Mont Orgueil, Elizabeth Castle, Hamptonne, La Hougue Bie, the Jersey Museum, No. 9 Pier Road, the Jersey Archives Centre and the Sir Francis Cook Gallery;
- 3.2.4 provide comprehensive information, education and outreach services to a wide audience;
- 3.2.5 provide outstanding, memorable and inspirational experiences for the visiting public;
- 3.2.6 work with other organisations in and outside the Island, and in particular the Société Jersiaise, to deliver these aims;
- 3.2.7 promote an inclusive sense of belonging and pride in the Island, advance the cause of its heritage and support its cultural identity.

4. Powers of the Jersey Heritage Trust

4.1 The Jersey Heritage Trust has the powers granted to it under its Act of Incorporation, namely (in translation) –

- 4.1.1 the power to have and to use a special seal to certify all acts, contracts, agreements and undertakings;
- 4.1.2 the power to take, acquire, hold and possess all kinds of moveable and immovable property and to receive, hold and possess all kinds of gifts and legacies of moveable and immovable property which may be made to it;
- 4.1.3 the power to appear before all courts and tribunals through its officers or other persons authorised by it;

and by implication all other powers necessary to achieve its purposes.

- 4.2 To enable it to carry out its purposes, the Jersey Heritage Trust may borrow such amounts as it shall consider necessary from time to time, but it shall not secure any such borrowing upon any real property it may own or upon any collections it may own or hold without the prior written consent of the Finance and Economics Committee.

5. Board of trustees

- 5.1 The Jersey Heritage Trust shall consist of and be governed by a board of trustees appointed in the manner set out below.
- 5.2 The powers of the Jersey Heritage Trust shall be exercised by the board of trustees.
- 5.3 The board of trustees shall comprise -
- 5.3.1 a chairman nominated by the Finance and Economics Committee after consultation with the Jersey Heritage Trust and appointed by the States of Jersey. The chairman shall be appointed for a period not exceeding four years, and may be re-appointed by the States of Jersey for one further period of four years, giving a maximum period of eight years in which any one individual appointed under this sub-clause can serve as chairman;
- 5.3.2 the President for the time being of the Société Jersiaise;
- 5.3.3 [a member for the time being of the States of Jersey who is committed to the objectives of the Jersey Heritage Trust as set out in paragraph 3 of the Constitution, and]^[1] a member for the time being of the Finance and Economics Committee nominated in writing by that Committee;
- 5.3.4 a trustee appointed by the Jersey Heritage Trust at its discretion but on the recommendation of the Société Jersiaise. This trustee shall be appointed for a period not exceeding three years and may be re-appointed by the Jersey Heritage Trust for one further period of three years, giving a maximum period of six years in which any one individual appointed under this sub-clause can serve as a trustee;
- 5.3.5 no fewer than three and no more than [seven]^[2] further trustees appointed by the Jersey Heritage Trust for the skills, experience and influence they can bring and the contribution they can make to the Jersey Heritage Trust. These trustees shall be appointed for a period not exceeding three years and may be re-appointed by the Jersey Heritage Trust for one further period of three years giving a maximum period of six years in which any one individual appointed under this sub-clause can serve as a trustee;
- 5.3.6 In exercising its powers of appointment under sub-clause 5.3.5 above, the Jersey Heritage Trust shall use its best endeavours to ensure that the board of trustees shall be a diverse and balanced group of people in terms of gender, age, experience, skills, track record and attitudes, who share a commitment to the Jersey Heritage Trust;
- 5.3.7 nothing shall prevent a trustee appointed under one of the above sub-clauses and whose term has expired for whatever reason from being appointed a trustee under any of the other above sub-clauses, save that –
- 5.3.7.1 a chairman appointed under 5.3.1 above cannot be re-appointed under any of the other above sub-clauses unless a year has expired pursuant to the provisions of sub-clause 5.3.8 below;
- 5.3.7.2 a trustee appointed under sub-clause 5.3.4 above cannot be re-appointed a trustee under sub-clause 5.3.5 above and vice versa unless a year has expired pursuant to the provisions of sub-clause 5.3.8 below;
- 5.3.8 for the purposes of this clause, a person who has not been a trustee of the Jersey Heritage Trust for one year shall be eligible for re-appointment under any of the above provisions as if he had never before been a trustee of the Jersey Heritage Trust.
- 5.4 The minimum number of trustees shall be seven and the maximum number of trustees shall be twelve.
- 5.5 If the number of trustees falls below seven, then it shall be lawful for the remaining trustees to act

as trustees for the purpose of filling up vacancies but not for any other purpose.

- 5.6 The trustees shall appoint a vice-chairman from among their number.
- 5.7 For the duration of his appointment each trustee shall be an officer of the Jersey Heritage Trust and shall have the following duties –
 - 5.7.1 to hold the purposes and values of the Jersey Heritage Trust;
 - 5.7.2 to promote the purposes, objects and interests of the Jersey Heritage Trust;
 - 5.7.3 to act bona fide in the best interests of the Jersey Heritage Trust.
- 5.8 A trustee may at any time resign his trusteeship by giving not less than one month's notice in writing.
- 5.9 The board of trustees may, by majority vote, terminate the appointment of any trustee appointed under sub-clauses 5.3.4 and 5.3.5 for any reason.
- 5.10 The States of Jersey may terminate the appointment of the chairman for any reason.
- 5.11 The board of trustees may, by majority vote, terminate the appointment of any trustee upon the happening of any of the following events, namely that the trustee –
 - 5.1.1 has been absent from three consecutive meetings of the Jersey Heritage Trust without the permission of the Jersey Heritage Trust;
 - 5.1.2 has become bankrupt;
 - 5.1.3 is incapacitated by physical or mental illness.
- 5.12 A trustee shall retire on reaching the age of 75 years.

6. Proceedings of the board of trustees

- 6.1 At a meeting of the board of trustees of Jersey Heritage Trust –
 - 6.1.1 the majority of the trustees shall form a quorum;
 - 6.1.2 the chairman or vice-chairman shall preside;
 - 6.1.3 each trustee shall have one vote on each matter for deliberation; and
 - 6.1.4 in the event of an equality in the votes, the chairman of the meeting shall have a casting vote in addition to his own vote.
- 6.2 A resolution is a valid resolution of the Jersey Heritage Trust even though it was not passed at a meeting of the board of trustees if –
 - 6.2.1 it is signed or assented to by a majority of the trustees; and
 - 6.2.2 proper notice of the proposed resolution was given to all the trustees.
- 6.3 The trustees shall keep proper minutes of their proceedings including minutes of any business transacted in accordance with paragraph 6.2 above.
- 6.4 Any two or more trustees shall have the right to convene meetings of the board of trustees.
- 6.5 Subject to the provisions of this Constitution, the Jersey Heritage Trust may regulate its own proceedings and pursuant thereto may adopt, alter, amend or vary rules for that purpose.

7. Expenses of trustees

- 7.1 The Jersey Heritage Trust shall pay to its trustees all reasonable out-of-pocket or other expenses occasioned in the course of carrying out their duties, but subject thereto no trustee who is not otherwise an employee of the Jersey Heritage Trust or any company owned by it shall be remunerated.

8. Appointment and remuneration of staff

- 8.1 The Jersey Heritage Trust may appoint such officers and agents as it considers necessary for carrying out its purposes.
- 8.2 The Jersey Heritage Trust may –
 - 8.2.1 make appointments on such terms as to remuneration, expenses, pensions and other conditions as it thinks fit; and

8.2.2 may establish and maintain such schemes or make such arrangements as it thinks fit for the payment of pensions and other benefits in respect of its staff.

9. Accounts

9.1 The Jersey Heritage Trust shall keep accounts in such form as shall be acceptable to the Finance and Economics Committee.

10. Accountability to the States of Jersey

10.1 In recognition of the funds voted annually by the States of Jersey to the Jersey Heritage Trust to enable the Trust to carry out its purpose and recognising the agreements between the States of Jersey and the Jersey Heritage Trust in respect of the castles and the collections owned by the States of Jersey, the board of trustees shall present annually to the Finance and Economics Committee a business plan, a report of the activities and achievements during the previous year and the audited accounts for the previous year of the Jersey Heritage Trust.

11. Alteration of Constitution

11.1 The Jersey Heritage Trust may alter, amend or vary any of the provisions of this Constitution other than clauses 3, 4 and 5 hereof with the prior consent of the Finance and Economics Committee.

11.2 The Jersey Heritage Trust may alter, amend or vary any of the provisions of clauses 3, 4 and 5 of this Constitution with the prior consent of the States of Jersey.

Explanatory Note

The object of this Act is to transfer to the Education, Sport and Culture Committee the various functions of the Finance and Economics Committee under the Public Records (Jersey) Law 2002 immediately after that Law enters into force.



Jersey

DRAFT TRANSFER OF FUNCTIONS (EDUCATION, SPORT AND CULTURE COMMITTEE) (JERSEY) ACT 200-

Made

[date to be inserted]

Coming into force

1st August 2003

THE STATES, in pursuance of Article 29 of the States of Jersey Law 1966,^[3] have made the following Act –

1 Transfer of functions

- (1) The functions of the Finance and Economics Committee under the Public Records (Jersey) Law 2002^[4] are hereby transferred to the Education, Sport and Culture Committee.
- (2) A reference in that Law to the Committee, or to the Education Committee, shall be construed as a reference to the Education, Sport and Culture Committee.
- (3) The reference in Article 1(1) of that Law^[5] to the Finance and Economics Committee shall be construed as a reference to the Education, Sport and Culture Committee.

2 Citation and commencement

This Act may be cited as the Transfer of Functions (Education, Sport and Culture Committee) (Jersey) Act 200- and shall come into force on 1st August 2003.

Explanatory Note

The object of this Act is to bring all the provisions of the Public Records (Jersey) Law 2002 into force or 1st August 2003.



Jersey

DRAFT PUBLIC RECORDS (JERSEY) LAW 2002 (APPOINTED DAY) ACT 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 51(2) of the Public Records (Jersey) Law 2002,^[6] have made the following Act –

1 Entry into force

The Public Records (Jersey) Law 2002^[7] shall come into force on 1st August 2003.

2 Citation

This Act may be cited as the Public Records (Jersey) Law 2002 (Appointed Day) Act 200.

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- [1] *Words inserted following adoption of an amendment of Deputy A.S. Crowcroft.*
- [2] *Words inserted following adoption of an amendment of Deputy A.S. Crowcroft.*
- [3] *Recueil des Lois, Volume 1966-1967, page 16 and Volume 1996-1997, page 803.*
- [4] *Recueil des Lois, Volume 2002, page 1221.*
- [5] *Recueil des Lois, Volume 2002, page 1225.*
- [6] *Recueil des Lois, Volume 2002, page 1261.*
- [7] *Recueil des Lois, Volume 2002, page 1221.*