

DRAFT STATES OF JERSEY (AMENDMENT No. 7) LAW 199

**Lodged au Greffe on 24th August 1999
by the Legislation Committee**



STATES OF JERSEY

STATES GREFFE

Report

In September 1993 the States adopted a proposition of Senator J.S. Rothwell (P.132/93) which -

“requested the Legislation Committee to prepare an amendment to the States of Jersey Law 1966 to enable formal inquiries to be conducted by one or more persons, appointed by the States, but not necessarily members of the States, with all the powers and protections provided by Articles 41 to 46 and 49 of the Law.”.

This proposition arose following advice to the then Bailiff from the then Solicitor General that the States could not appoint persons who are not States members on to a Committee of Inquiry.

The Legislation Committee, in pursuance of the States decision, took advice from the Attorney General and subsequently from leading London Counsel on how best to achieve the objectives set by the States.

The Committee decided that it would proceed on the basis of the advice it had received and in particular that -

- (a) it should be possible for a Committee of Inquiry to be made up of persons who are members of the States and persons who are not, or wholly of persons in either category;
- (b) the power to appoint a Committee of Inquiry should, as now, be exercised by the States;
- (c) the present grounds for appointing a Committee of Inquiry (i.e. to investigate “any definite matter of public importance”) (Article 30 of the 1966 Law) should remain;
- (d) new-style Committees of Inquiry should have, as they do presently, power to compel attendance of witnesses, and production of documents, etc.;
- (e) in future, Committees of Inquiry should generally sit in public though with a power to sit in private where the public interest so requires;

- (f) a Committee of Inquiry should have the right to be assisted by a lawyer or other suitable person and that interested parties should, with the Committee's consent, be allowed legal representation;
- (g) all members of a Committee of Inquiry should be given immunity from civil or criminal proceedings in respect of the inquiry and all of them should take an oath on appointment.

The accompanying draft Law makes provision for all the above matters. The scheme of the draft Law is that all provisions dealing with Committees of Inquiry will be placed in a new and separate Part IIIA of the 1966 Law.

It should be noted that it is proposed that a Committee of Inquiry may consist of between one and five members (Article 36B).

The provisions of the proposed Article 36I, as to the procedure of Committees of Inquiry, the ability to appoint a secretary to assist a Committee and the power to hold proceedings in private should also be noted. Attention is also drawn to the proposed Article 36K which would enable a member of a Committee of Inquiry (whether or not a States member) to be remunerated if the States so decided.

Further detailed explanation of the provisions of the draft Law is to be found in the accompanying Explanatory Note.

The draft Law could lead to the incurring of additional expenses by the States where a member of a Committee of Inquiry is remunerated and by the cost of provision of legal or secretarial assistance to such a Committee. These costs will, of course, be occasional rather than recurring. There should be no other financial implications from the enactment of the draft Law.

Explanatory Note

The purpose of this amending Law is to broaden the provisions in the States of Jersey Law 1966 (“the principal Law”) relating to a Committee of Inquiry to permit the appointment of persons who are not members of the States to serve on such a Committee.

The power to appoint a Committee of Inquiry and the circumstances when it shall be appointed remain the same. However Article 30 of the principal Law is repealed (*Article 2*) and re-enacted in an expanded form as ARTICLE 36B to permit between one and five persons, who may or may not be members of the States, to be appointed. All persons appointed to a Committee of Inquiry will be required to take an oath, the form of which will be in a standing order, before the Bailiff.

The provisions relating to a Committee of Inquiry have been placed in a new Part IIIA of the principal Law (*Article 3*) ARTICLES 36C to 36H substantially reproduce Articles 41-46 of the principal Law and those latter Articles are repealed (*Article 4*). However ARTICLE 36H expands the privilege of a witness called by the Committee of Inquiry to include any answer given or oral or written statement made in the course of the proceedings of the Committee.

ARTICLE 36I permits the Committee of Inquiry to regulate its own procedure and describes when the proceedings shall be in public and in private. Provision for a secretary to the Committee is also made.

ARTICLE 36J provides for the appointment of a person, who may be an advocate or solicitor, to assist the Committee of Inquiry and also provides for representation by the Attorney General or a person on his behalf in appropriate cases. The Committee, if it considers it desirable, may grant leave for legal representation to any other person appearing before it.

ARTICLE 36K provides that the expenses incurred by a Committee of Inquiry shall be paid out of the general revenue of the States. Under this Article the Finance and Economics Committee may also direct that a member of the Committee may receive remuneration.

ARTICLE 36L provides for immunity from legal proceedings for members of the Committee of Inquiry.

Article 5 amends Article 47 of the principal Law to provide that evidence of States or Committee business may be given to a Committee of Inquiry without the consent of the States or the Committee being required.

Article 7 amends Article 49 of the principal Law to extend actions which, when done in relation to the States or a Committee, are criminal offences, to a Committee of Inquiry and its members.

Article 8 amends Article 50 of the principal Law to extend the offence of acceptance of a bribe by a States member to a member of a Committee of Inquiry.

Opportunity is also taken to relate the penalties for offences under Articles 8 (*Article 1*), 48 (*Article 6*), 49 (*Article 7*) of the principal Law to the standard scale of fines as set out in the Criminal Justice (Standard Scales of Fines) Law 1993. The levels set out in that Law are -

Level 1	£50
Level 2	£500
Level 3	£2000
Level 4	£5000

Article 8 increases the penalty for the acceptance of a bribe to an unlimited fine or imprisonment for five years or both.

Article 9 adds a fine to the penalty of imprisonment in Article 52 of the principal Law.

Article 10 amends the definition of “Committee of Inquiry” in Article 58 of the principal Law to conform with the new provisions and also to emphasise that a Committee of Inquiry will no longer be a Committee of the States. A definition of “document” is inserted.

Article 11 is the citation, commencement and transitional provision in that the new Law will not apply to a Committee of Inquiry already in place on the appointed day.

STATES OF JERSEY (AMENDMENT No. 7) LAW 199

A LAW to amend further the States of Jersey Law 1966 with regard to Committees of Inquiry; sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

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

ARTICLE 1

In paragraph (2) of Article 8 of the States of Jersey Law 1966,¹ as amended² (hereinafter referred to as “the principal Law”) for the words “two hundred pounds” there shall be substituted the words “level 4 on the standard scale”.

ARTICLE 2

Article 30 of the principal Law³ is repealed.

ARTICLE 3

After Article 36A of the principal Law⁴ there shall be inserted the following Part -

¹ Volume 1966-1967, page 5.

² Volume 1975-1978, page 71.

³ Volume 1966-1967, page 16.

⁴ Volume 1966-1967, page 18, Volume 1996-1997, pages 11 and 803, and R & O 9176.

“PART IIIA.

COMMITTEES OF INQUIRY.

ARTICLE 36B.

COMMITTEE OF INQUIRY.

(1) Where the States are of opinion that inquiry should be made into any definite matter of public importance, they may appoint a Committee of Inquiry to inquire into that matter in accordance with this Part and Articles 52 and 53 of this Law shall have effect in relation to that Committee.

(2) A Committee of Inquiry shall consist of not more than five persons, who may or may not be members of the States, and the States may direct which of those persons, if more than one, shall be the President, who shall preside in the absence of the President and the number of persons who shall form a quorum thereof but where a Committee of Inquiry consists of only one person that person shall be the President and the quorum.

(3) A person appointed to a Committee of Inquiry shall take an oath before the Bailiff in the form contained in a standing order.

ARTICLE 36C.

POWER OF COMMITTEE OF INQUIRY TO ORDER ATTENDANCE OF WITNESSES.

A Committee of Inquiry may, subject to the provisions of Article 36H of this Law, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

ARTICLE 36D.

ATTENDANCE TO BE NOTIFIED BY SUMMONS.

(1) Any order to attend to give evidence or to produce documents before a Committee of Inquiry shall be notified to the person required to attend or to produce the documents by a summons under the hand of the Greffier of the States issued by the direction of the President of the Committee.

(2) In every summons under paragraph (1) of this Article there shall be stated the time and place at which the person summoned is required to attend and the particular documents which he is required to produce; and the summons shall be served by the Viscount on the person mentioned therein either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode.

ARTICLE 36E.

POWER TO ISSUE WARRANT TO COMPEL ATTENDANCE.

(1) If a person to whom a summons under Article 36D of this Law is directed does not attend before a Committee of Inquiry at the time and place mentioned therein, the President of the Committee shall report the fact to the Bailiff who may, on being satisfied that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, issue a warrant to apprehend him and bring him before the Committee at a time and place to be stated in the warrant.

(2) A warrant issued under this Article shall be executed by the Viscount.

ARTICLE 36F.

WITNESSES MAY BE EXAMINED ON OATH.

A Committee of Inquiry may require that any facts, matters and things relating to the subject of inquiry before it be verified or otherwise ascertained by the oral examination of witnesses,

and may cause any such witnesses to be examined on oath, which the President of the Committee is hereby authorized to administer.

ARTICLE 36G.

OBJECTION TO ANSWER QUESTION OR TO PRODUCE PAPERS.

Subject to the provisions of Article 36F of this Law, where any person ordered to attend to give evidence or to produce any paper, book, record or document before a Committee of Inquiry refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the President of the Committee may report such refusal to the Bailiff with the reasons therefor, and the Bailiff shall thereupon either excuse the answering of such question or the production of such paper, book, record or document, or order the answering or production thereof.

ARTICLE 36H.

PRIVILEGES OF WITNESSES.

(1) Every person summoned to attend to give evidence or to produce any paper, book, record or document before a Committee of Inquiry shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before a court of law.

(2) Except with the consent of the Lieutenant-Governor, no person summoned as aforesaid shall give evidence, or produce any paper, book, record or document relating to any naval, military or air force matter.

(3) An answer by a person to a question put to him, or an oral or written statement made by him, in the course of a Committee of Inquiry shall not, except in the case of a prosecution for perjury or an offence against Part IV of this Law,

be admissible in evidence against him in any civil or criminal proceedings.

ARTICLE 36I.

CONDUCT OF PROCEEDINGS.

(1) A Committee of Inquiry may regulate its own procedure for the conduct and management of the proceedings including, but not limited to, venue and adjournments.

(2) Proceedings before a Committee of Inquiry shall be held in public unless the Committee, in the interests of justice or the public interest, decides that all or any part of the proceedings shall be in private.

(3) Where proceedings are held in private only persons who, in the opinion of the Committee of Inquiry, are necessary to the conduct of those proceedings may remain.

(4) Where proceedings are held in public the Committee of Inquiry may exclude any person or class of persons from those proceedings if it is satisfied that it is desirable to do so for the preservation of order, for the proper conduct of the proceedings or for the protection of the person, property or reputation of any witness in or any person referred to in the proceedings.

(5) The Greffier of the States may appoint a secretary to the Committee of Inquiry to perform such duties connected with the inquiry as the President of the Committee may direct.

ARTICLE 36J.

LEGAL REPRESENTATION.

(1) The Greffier of the States may appoint a person, who may be an advocate or solicitor, to assist the Committee of Inquiry.

(2) The Attorney General or any person on his behalf may at any time appear before the Committee of Inquiry on any matter which, to the Attorney General, appears to be relevant to the inquiry.

(3) The Committee of Inquiry may, if it considers it desirable, give leave to any person appearing before it to be represented by an advocate or solicitor.

ARTICLE 36K.

EXPENSES.

The Finance and Economics Committee may direct to what extent a person appointed to a Committee of Inquiry may be remunerated and those expenses together with any others which the Finance and Economics Committee may direct may be incurred by a Committee of Inquiry shall be paid out of the general revenue of the States.

ARTICLE 36L.

IMMUNITY FROM LEGAL PROCEEDINGS.

No civil or criminal proceedings may be instituted against any member of a Committee of Inquiry for any act done or words spoken before or written in a report to or by a Committee of Inquiry by that person.”.

ARTICLE 4

Articles 41, 42, 43, 44, 45 and 46 of the principal Law⁵ are repealed.

ARTICLE 5

In paragraph (1) of Article 47 of the principal Law,⁶ after the word “elsewhere” there shall be inserted the words “, except before a Committee of Inquiry,”.

⁵ Volume 1966-1967, pages 20 and 21.

⁶ Volume 1966-1967, page 22.

ARTICLE 6

In Article 48 of the principal Law,⁷ for the words “twenty-five pounds” there shall be substituted the words “level 2 on the standard scale”.

ARTICLE 7

In Article 49 of the principal Law⁷ -

- (a) in sub-paragraph (c) -
 - (i) after the word “States” in the first line there shall be inserted the words “or a Committee of Inquiry”;
 - (ii) for the words “or any Committee” there shall be substituted the words “, a Committee or a Committee of Inquiry”;
- (b) in sub-paragraph (d) -
 - (i) after the word “States” in the second line there shall be inserted the words “or any member of a Committee of Inquiry not being a member of the States”;
 - (ii) for the words “or any Committee” there shall be substituted the words “, any Committee or any Committee of Inquiry”;
- (c) in sub-paragraph (f) for the words “or any Committee” and “or such Committee” there shall in each case be substituted the words “, any Committee or any Committee of Inquiry”;
- (d) in sub-paragraph (g) for the words “or a Committee” and “or such Committee” there shall in each case be substituted the words “, a Committee or a Committee of Inquiry”;

⁷ Volume 1966-1967, page 23.

- (e) in sub-paragraph (h) for the words “or a Committee” there shall be substituted the words “a Committee or a Committee of Inquiry”;
- (f) in the concluding words, for the words “two hundred pounds” there shall be substituted the words “level 4 on the standard scale”.

ARTICLE 8

In Article 50 of the principal Law⁸ -

- (a) after the word “States” there shall be inserted the words “or any member of a Committee of Inquiry not being a member of the States”;
- (b) for the words “a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding two years” there shall be substituted the words “a fine or to imprisonment for a term not exceeding five years”.

ARTICLE 9

In Article 52 of the principal Law,⁹ for the words “imprisonment for a term not exceeding three years” there shall be substituted the words “a fine or imprisonment for a term not exceeding three years, or to both such fine and such imprisonment”.

ARTICLE 10

In Article 58 of the principal Law¹⁰ -

- (a) in the definition of “Committee of Inquiry”, for the words “30 and designated as a Committee of Inquiry under that Article” there shall be substituted the words “36B, which committee shall not be a committee of the States”; and

⁸ Volume 1966-1967, page 24.

⁹ Volume 1966-1967, page 25.

¹⁰ Volume 1966-1967, page 27.

- (b) after the definition of “Committee of Inquiry” there shall be inserted the following definition -

“ ‘document’ includes accounts, deeds, writings and information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its provision or production include references to providing or producing a copy of the information in legible form;”.

ARTICLE 11

This Law may be cited as the States of Jersey (Amendment No. 7) Law 199 and shall come into force on such day as the States may by Act appoint, and shall not affect any Committee of Inquiry appointed before that date.