

**DRAFT LEGISLATION (AMENDING POWERS) (JERSEY)
LAW 199**

**Lodged au Greffe on 20th July 1999
by the Legislation Committee**



STATES OF JERSEY

STATES GREFFE

Report

This draft Law is intended to provide a solution to a problem which has been identified concerning the presentation and passing of amendments to one Law which are consequential upon another Law.

The problem arises as an indirect consequence of the process whereby a draft Law progresses to become an enactment. A draft Law must be lodged au Greffe for at least two weeks before it is debated by the States. Once it has been debated, and adopted in third reading by the States, it must then be forwarded to the Home Office to receive the sanction of Her Majesty in Council. Once sanctioned, the Law is returned to the Island for registration by the Royal Court. It is only at the point of registration that a Law becomes an enactment. Even in a case where a draft Law is debated two weeks after it is lodged, the time lapse between lodging and registration by the Royal Court will be approximately six months.

During that six month period, another draft Law may be lodged which it is known will necessitate consequential amendments to the first Law. The problem is that the second draft Law cannot include the necessary consequential amendments to the first Law because, at the time the second draft Law is lodged, the first Law will not have been registered, and so is not an enactment and cannot be considered to be settled law. If the first Law is registered before the second Law is debated and adopted, amendments to the second Law which themselves make the necessary consequential amendments to the first Law could be lodged, although this may result in a delay in debating the second Law, However, if the first Law is registered after the second Law has been debated and adopted, the only remedy is to bring forward a further Law, once both the first and second Laws are registered, which makes the necessary consequential amendments to the first Law. So a further six months or more will elapse before the inconsistencies in the first Law are corrected, being the period of time before the further amending Law itself is registered by the Royal Court.

This draft Law will enable the States to make consequential amendments to the first Law by way of Regulations, thereby substantially reducing the period of time before any inconsistencies are corrected, as Regulations may come into force as soon as they are made by the States.

The draft Law also caters for a situation where two draft Laws are lodged at the same time, or where one draft Law, although lodged before another draft Law, is registered by the Royal Court after that other Law.

The power to amend Laws by Regulations should be used sparingly. For that reason, the power conferred by this draft Law is limited in two senses.

Firstly, it is confined to making amendments to a Law which are incidental or supplemental to or consequential upon another Law.

Secondly, it is confined to cases where the necessary amendments to the first Law cannot be incorporated in the second draft Law before it is lodged au Greffe, and cannot be incorporated in the draft of the first Law itself. The first limb of the rule is catered for in paragraph (a) of Article 2 of the draft Law, and prevents the use of the enabling power where the first Law has already been registered before the second draft Law is lodged au Greffe, in which case the amendments could have been incorporated in the second draft Law. The second limb of the rule is catered for in paragraph (b) of Article 2 of the draft Law, and prevents the use of the enabling power where the second Law has already been registered before the first draft Law is lodged au Greffe, in which case the amendments could have been incorporated in the first draft Law itself. The enabling power cannot, then, be used where the amendments to one draft Law could be included in another draft Law, but have simply been overlooked.

Explanatory Note

The purpose of this draft Law is to enable the States to make amendments by Regulations to a Law (“the first Law”) which are incidental or supplemental to, or consequential upon, another Law (“the second Law”).

The power may only be used where the draft of the second Law is lodged au Greffe before the first Law is registered in the Royal Court and the second Law is registered on or after the day that the draft of the first Law is lodged au Greffe.

If adopted, the Law will come into force on registration.

LEGISLATION (AMENDING POWER) (JERSEY) LAW 199

A LAW to enable the States to make Regulations amending a Law for restricted purposes and in restricted circumstances; 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

Interpretation

In this Law -

“lodged” means lodged au Greffe pursuant to Article 24 of the States of Jersey Law 1966;¹ and

“registered” means registered by the Royal Court.

¹ Volume 1966-1967, page 13.

ARTICLE 2

Power to make Regulations

The States may by Regulations make amendments to any Law (“the first Law”) which are incidental or supplemental to or consequential upon another Law (“the second Law”) where -

- (a) the proposition for the passing of the second Law is lodged before the day on which the first Law is registered; and
- (b) the second Law is registered on or after the day on which the proposition for the passing of the first Law is lodged.

ARTICLE 3

Short title

This Law may be cited as the Legislation (Amending Power) (Jersey) Law 199 .