

**HUMAN RIGHTS LEGISLATION**

---

**Lodged au Greffe on 8th September 1998  
by the Policy and Resources Committee**

---



**STATES OF JERSEY**

**STATES GREFFE**

175

1998

P.189

Price code: A

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion -**

- (a) to approve the enactment of a Law to give effect in Jersey to the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- (b) to charge the Legislation Committee to prepare the draft Law and to agree that the drafting of the Law should have priority over all other matters currently receiving the attention of the Law Draftsman's Office.

**POLICY AND RESOURCES COMMITTEE.**

**NOTE:** The Legislation Committee supports this proposition.

## Report

1. Since the United Kingdom Government decided to enact legislation to incorporate the European Convention for the Protection of Human Rights and Fundamental Freedoms into the United Kingdom law, correspondence has been exchanged between the Home Office and the Insular Authorities on the position of the Island on this matter. In later correspondence, the Insular Authorities have stated that any decision on whether to incorporate the European Convention into Jersey law was a matter of domestic concern which, in accordance with the constitutional relationship between the United Kingdom and the Island, should not be included in United Kingdom legislation without the express consent of the Island.
2. The Insular Authorities have also reminded the United Kingdom Government that some six years ago a proposal that the Island should enact legislation to incorporate the European Convention into domestic legislation was raised with Home Office officials and was discussed informally with the Secretary General of the Commission in Strasbourg. The Attorney General was informed at that time by officials that the Home Office did not favour the Island acting in advance of the United Kingdom. Now that the United Kingdom have decided to incorporate the Convention into domestic legislation, the Insular Authorities have informed the United Kingdom Government of their wish to confirm their previously declared intention to progress the matter of legislation to incorporate the European Convention for the Protection of Human Rights and Fundamental Freedoms into Jersey law, having regard to the particular circumstances of the Island, and that the Insular Authorities confidently expected to have a draft law with the Home Office for pre-audit in the normal way by the end of this year.
3. Human Rights legislation is currently not included in the States legislation programme. In the Resource Plan 1998 it was stated that matters such as Human Rights Legislation, which required an "in principle" decision by the States, had not been included in the legislation programme but that, as and when it was appropriate to do so, the review procedures for dealing with any urgent and unforeseen law drafting request would be invoked to determine the legislation's relative priority.
4. The procedure for dealing with urgent and unforeseen requests for new or amending legislation, agreed in 1997, is that the participating group of politicians that produced the decision workshop model and the recommendations for the 1998-2000 legislation programme (which the States adopted on 1st July 1998) should be requested to assess the relative priority of any such requests accordingly. The Committee has consulted with the politicians who participated in the decision workshop early this year, and obtained their agreement that subject to States approval the Human Rights legislation should be given sufficient priority over the legislation currently in the programme for it to take precedence over any other matter that is currently before the Law Draftsman.
5. In the event, the Law Draftsman has informed the Committee that, having regard to the number of laws in the 1998 programme on which he is still awaiting instructions and the law drafting resources now at his disposal, the drafting of the Human Rights legislation can be achieved with little or any effect on the existing programme.
6. The Law Officers Department is currently engaged in the preparation of drafting instructions for the Law Draftsman, and the States are asked to agree that the drafting of local Human Rights legislation in parallel with the United Kingdom legislation should be given the priority necessary for draft legislation to be ready for submission to the Home Office for pre-audit by the end of this year as promised.
7. A copy of the United Kingdom Human Rights Bill will be distributed to members so that they may obtain a clearer picture of what the equivalent Jersey legislation will cover. Copies of the Bill will also be available for inspection at the States Bookshop. The Committee would also wish to draw attention to the fact that in the United Kingdom there are expected to be significant resource implications arising from the bringing into force of the legislation. Similar pressures are expected to arise in Jersey, particularly in respect of training those who will be involved in the implementation of the legislation and in making decisions to which the new legislation would apply.