

STATES OF JERSEY

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DRAFT CRIMINAL JUSTICE (COMMUNITY SERVICE ORDERS) (AMENDMENT) (JERSEY) LAW 200

**Lodged au Greffe on 14th August 2007
by the Minister for Home Affairs**

STATES GREFFE



Jersey

DRAFT CRIMINAL JUSTICE (COMMUNITY SERVICE ORDERS) (AMENDMENT) (JERSEY) LAW 200

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Home Affairs has made the following statement –

In the view of the Minister for Home Affairs the provisions of the Draft Criminal Justice (Community Service Orders) (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator W. Kinnard**

REPORT

Community Service Orders can only be imposed as a direct alternative to a sentence of imprisonment or youth detention. During 2006 over 10,000 hours of Community Service were performed by offenders for the benefit of the local community. It is a sanction administered by the Probation Service which clearly has the confidence of the Judiciary. The Courts operate a scale which equates the number of hours of Community Service imposed with months in custody. Currently the Royal Court can impose up to 240 hours of Community Service to be performed within a one-year period as an alternative to a custodial sentence of up to approximately 18 months.

The Royal Court have indicated that have been occasions where they would have been able to avoid the imposition of a longer custodial sentence had it been possible to impose a greater number of Community Service hours. Therefore Article 2 of this Law provides the Royal Court with the power to impose up to 480 hours of Community Service, allowing a period of up to 2 years for completion of Community Service Orders of between 240 and 480 hours. These Orders would be used by the Royal Court as alternatives to custodial sentences of up to 3 years, and provide a meaningful, challenging and useful punishment in appropriate cases.

The Courts always view seriously any re-offending by those persons on Community Service Orders, and may revoke the original Order and substitute the custodial penalty which would otherwise have been imposed. Thus, the principal Law requires that when the Community Service Order has been made by the Royal Court, then any re-offending whilst a person is subject to that Order must be referred back to that Court. However, in practice this has meant that offenders have been remanded up to the Royal Court as the result of minor further offending, either taking up valuable and expensive Royal Court time unnecessarily or the prosecution discontinued as not being in the public interest.

The intention of Article 4 therefore is to provide discretion to the Magistrate and Youth Panel to deal with the fresh offence before them without remanding the offender to the Royal Court for reconsideration of the Community Service Order, though the option do so remains.

Although it is generally not acceptable to make the effects of legislation retrospective, in this case Article 5 of the this Law provides that it should apply to those persons who have committed offences prior to the commencement date. This is because in this case offenders may only gain from the retrospective provision.

Financial/manpower implications

There are no additional resource implications for the Probation and After-Care Service as a result of these amendments. The anticipated small number of additional longer Community Service Orders can be absorbed by the Department.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 7th August 2007 the Minister for Home Affairs made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Home Affairs the provisions of the Draft Criminal Justice (Community Service Orders) (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 1 defines the Criminal Justice (Community Service Orders) (Jersey) Law 2001 as the “principal Law”.

Article 2 amends Article 4 of the principal Law so as to increase the maximum number of hours of work that may be imposed by the Royal Court as a community service order from 240 to 480.

Article 3 amends Article 5 of the principal Law to the effect that, where the Royal Court orders community service in excess of 240 hours, the service must be performed within a period of 24 months. The requirement that community service of 240 hours or less must be performed within 12 months is restated.

Article 4 amends Article 8 of the principal Law, which is concerned with what happens when a person is convicted of an offence whilst already subject to a community service order. In such a case, the community service order is reviewed. The court may revoke or vary it, or substitute a different penalty for the original offence. Currently, if the community service order was imposed by the Royal Court, but it is the Magistrate’s Court or Youth Court that convicts the person of the further offence, the person must be committed to the Royal Court to be dealt with for the community service order. The amendment confers a discretion on the Magistrate’s Court or Youth Court, in such a case, to review the community service order itself.

Article 5 provides for the citation and commencement of the draft Law. It further provides that the amendments made by this draft Law to the principal Law have effect not only in respect of offences committed and community service orders made, after this Law comes into force, but also where an offender is sentenced after this Law commences in respect of an offence committed before this Law commences and where an offender is dealt with after this Law commences in respect of a community service order imposed before this Law commences.



Jersey

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Arrangement

Article

- 1 Interpretation
- 2 Article 4 amended
- 3 Article 5 amended
- 4 Article 8 amended
- 5 Citation, commencement and application



Jersey

DRAFT CRIMINAL JUSTICE (COMMUNITY SERVICE ORDERS) (AMENDMENT) (JERSEY) LAW 200

A LAW to amend further the Criminal Justice (Community Service Orders) (Jersey) Law 2001

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Interpretation

In this Law “principal Law” means the Criminal Justice (Community Service Orders) (Jersey) Law 2001^[1].

2 Article 4 amended

In Article 4(2)(b) of the principal Law, for the amount “240” there shall be substituted the amount “480”.

3 Article 5 amended

For Article 5(2) of the principal Law there shall be substituted the following paragraph–

“(2) Subject to Article 6(1), the work required to be performed under a community service order shall be performed –

- (a) where the number of hours specified in the order is 240 or less, during the period of 12 months beginning with the date of the order;
- (b) where the number of hours specified in the order is more than 240, during the period of 24 months beginning with the date of the order.”.

4 Article 8 amended

In Article 8 of the principal Law –

- (a) in paragraph (1) the words “Subject to paragraph (3);” shall be deleted;
- (b) in paragraph (3) for the word “shall” there shall be substituted the word “may”.

5 Citation, commencement and application

- (1) This Law may be cited as the Criminal Justice (Community Service Orders) (Amendment) (Jersey)

Law 200- and shall come into force 7 days after it is registered.

- (2) Nothing is to be taken to prevent or limit the application of this Law to a person who commits an offence, or is sentenced to a community service order, before this Law comes into force.

