

**DRAFT EDUCATION (JERSEY) LAW 199 (P.30/99):
AMENDMENTS**

**Lodged au Greffe on 13th April 1999
by Deputy I.S. Nicholls of Grouville**



STATES OF JERSEY

STATES GREFFE

Report

The amendments that I am proposing apply chiefly to Article 13 of the Law and the provision of education other than in providing schools. Throughout the Education Committee's report accompanying the draft Law, the emphasis is on the importance of the partnership between the Education Authority and parents, yet the content of Article 13 in particular is such that parental choice is almost entirely removed. Article 13 ensures that the Education Committee is the dominant partner and will impose partnership onto parents. It seems to me that in a democracy the power balance ought to be the other way round.

The duty of a government via their Education Authority is to make provision for the education of its citizens - not to make the choices for them.

The duty of parents is to ensure that their children receive a full-time education and in a free society parents must be allowed choice in the matter of that education. Article 13 disallows that freedom, instead legislating for an enforced partnership where the Education Committee decides on all matters regarding children's education. The parents have rights only to ask permission to make a different choice or to express a preference for a particular school within the state system. At the same time the Law limits the available alternatives by insisting that any non-state provided school must follow the Education Committee's chosen curriculum, and such schools must be approved by the Committee. From a partnership point of view it seems that the Education Committee is the one with all the choice/decision-making.

The United Kingdom (with whom our education system is intimately linked) passed its latest Education Act only in 1996. It seems to me that the spirit of the United Kingdom Education laws have always been and continue to be expressed in terms of the government legislating to give parents a guaranteed provision for our children, i.e. so that the vast majority who choose to avail themselves of the state-provided education can legally demand certain standards which are laid down in law.

Whilst that law, as this proposed one, must also safeguard every child's rights to full-time education, it does not seek to limit parental choice by imposing its chosen curriculum on every child or school.

The present Jersey Law (1912) is in the same spirit as the United Kingdom Laws, respecting as it does the integrity of the family and parental rights to make what they regard as the most suitable choice for their particular child and at the same time providing the necessary safety net.

I question whether we need a law which decides in detail how every child should be educated. In this regard the proposed law runs contrary to current trends which are against state prescription, and toward returning responsibility to individuals and families in society. Indeed, if the Law is passed unamended, there would be very few countries in the world to exceed us in the proposed level of restriction of educational choice by the State. The right to freedom of choice is enshrined in the United Nations Universal Declaration of Human Rights, Article 26(3) regarding parental rights in the choice of education, and the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 2 of Protocol No. 1. The latter affirms that in matters of education -

“... the state shall respect the right of parents to ensure that such education and teaching is in conformity with their own religious and philosophical convictions.”

Some parents withdraw their children from the educational system as an emergency measure when the child is clearly failing, very unhappy, being severely bullied or has become school-phobic. There is evidence that a period of time away from the school environment can be essential for children who have suffered such problems. The requirement to obtain the Committee's approval in advance would be likely to cause unnecessary delay and suffering in these instances.

The Committee is, of course, composed of politicians who may not be fully aware of educational methods other than those commonly employed in the Island schools.

As such, it is reasonable to allow for the possibility of parents wishing to provide further evidence to justify the suitability of the education offered to their particular child.

A further unfortunate consequence of the Law being passed as proposed by the Education Committee is that the only parents with a curricular choice will be those with sufficient wealth to send their children away from the Island where they can find schools that do not conform to a state-imposed curriculum - for example, Montessori and Steiner Schools.

Where necessary, I have also replaced the word “instruction” with the word “education” throughout the Law. “Instruction” implies a one-way communication - a one-dimensional, didactic style of teaching which has limited application in contemporary society.

Educational research has established that there are many different forms of intelligence and many different styles of learning, and the use of a term such as instruction in the Law may quickly prove to be a limitation on the progress of excellence in our education system.

“Education” implies a process of learning which dovetails the diverse forms of educational discipline. Education is a term more reflective of the variety of educational methods employed in the present-day teaching of our children.

Successful education requires the inclusion of a wide variety of learning styles and the flexible use of a curriculum. It is about producing flexible, adaptable and confident young people with ‘how to learn’ rather than ‘how to be taught’ mentalities. However, instruction is one of a variety of educational methods, and so there are some instances where the word remains in my amendment where it does not appear to detract from the meaning of the Law.

Explanatory Note

The objects of these amendments are -

- (a) to ensure that the approval of the Education Committee is not the only method of demonstrating that the arrangements made for the education outside the school system of a child of compulsory school age satisfy the fundamental requirement that the education to be received by the child is appropriate to his age, ability and aptitude (and to any special educational needs that he may have): Articles 12(1) and 13(1), (2) and (5);
- (b) to make it clear that when the Committee gives conditional approval to the arrangements made for the education of a child, the approval has no force while the conditions are not being met: Article 13(6);
- (c) to indicate that the Jersey Curriculum applies only to education in provided schools (Article 16(1)(a)), although the Committee -
 - (i) will still be required to make copies of the Jersey Curriculum available in all schools where children of compulsory school age are educated and to parents of children of compulsory school age: Article 16(5); and
 - (ii) will, before registering a non-provided school, have to be satisfied that the education to be received by any pupil of the school is appropriate to his age, ability and aptitude (and to any special educational needs that he may have, if any of these are to be met at the school): Article 40(3)(c); and
- (d) to replace the term “instruction” with the wider term “education” in a number of cases where the former occurs in the draft Law: Articles 13, 26, 39 and 40.

AMENDMENTS OF DRAFT EDUCATION (JERSEY) LAW 199
(P.30 of 1999)

PAGE 39, ARTICLE 12 -

In paragraph (1) for the words “or otherwise, in accordance with Article 13.” substitute the words “or by other arrangements.”.

PAGES 39 AND 40, ARTICLE 13 -

(a) for paragraphs (1) and (2) substitute:

“(1) The approval by the Committee of arrangements made for the education of a child of compulsory school age is conclusive evidence that the arrangements are for full-time education appropriate to the child’s age, ability and aptitude and any special educational needs he may have.

(2) The Committee shall approve arrangements made for the education of a child of compulsory school age if the Committee is satisfied that the arrangements are for full-time education appropriate to the child’s age, ability and aptitude and any special educational needs he may have.”;

(b) after paragraph (4) insert -

“(5) The fact that no approval is in force under this Article in respect of arrangements made for the education of a child is not conclusive evidence that the arrangements are for education that is not full-time or that is not appropriate to the child’s age, ability and aptitude and any special educational needs he may have.

(6) If the approval of the Committee under this Article is given subject to any conditions, the approval is of no force in respect of any period when any of those conditions is not satisfied.

(7) In this Article “arrangements” means arrangements as referred to in paragraph (1) of Article 12.”.

PAGES 41 AND 42, ARTICLE 16 -

- (a) *in sub-paragraph (a) of paragraph (1) after the words “of compulsory school age” insert “in provided schools”;*
- (b) *in paragraph (5) for the words “in schools” substitute the words “in schools (whether provided or non-provided)”.*

PAGE 47, ARTICLE 26 -

In paragraph (1) for the words “open for instruction.” substitute the words “open for the education of children of that age.”.

PAGE 55, ARTICLE 39 -

In paragraph (1) for the words “opens for instruction” insert the words “opens for the education of children or other persons”.

PAGE 56, ARTICLE 40 -

In paragraph (3), for sub-paragraph (c) substitute -

- “(c) the education provided at the school will be provided efficiently and will be appropriate to the age, aptitude and ability of the pupils of the school, having regard to their ages and genders, and to any special educational needs they may have (to the extent that the latter are to be met at the school);”.

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