

STATES OF JERSEY



DRAFT STATES OF JERSEY POLICE FORCE LAW 201- (P.182/2011): AMENDMENT

**Lodged au Greffe on 20th April 2012
by the Minister for Home Affairs**

STATES GREFFE

DRAFT STATES OF JERSEY POLICE FORCE LAW 201- (P.182/2011):
AMENDMENT

1 PAGE 28, ARTICLE 3 –

- (a) in paragraph (3), after the words “Police Authority” insert the words “and the Chief Officer”;
- (b) after paragraph (4) insert the following paragraph –
 - “(5) Articles 18(6), 19(3), 20(3) and 26(5) set out the other duties of the Minister in this Law.”.

2 PAGE 29, ARTICLE 4 –

After paragraph (2) insert the following paragraph –

- “(3) Articles 18(6), 19(1) and 20(1) set out the other duties of the Jersey Police Authority in this Law.”.

3 PAGE 31, ARTICLE 8 –

After paragraph (3) insert the following paragraph –

- “(4) References in this Law to the ‘Chief Officer’ or to the ‘Deputy Chief Officer’ shall be to the person who is, for the time being, carrying out the functions of Chief Officer or the Deputy Chief Officer, as the case may be, under this Article.”.

4 PAGE 38, ARTICLE 25 –

- (a) in paragraph (1) for the word “torts” substitute the words “civil wrongs”;
- (b) after paragraph (2) add the following paragraphs –
 - “(3) There shall be paid out of funds provided by the Minister –
 - (a) any damages or costs awarded against the Chief Officer in any proceedings brought against the Chief Officer by virtue of this Article;
 - (b) any costs incurred and not recovered by the Chief Officer in any such proceedings; and
 - (c) any sum required in connection with the settlement of any claim made against the Chief Officer by virtue of this Article, if the settlement is approved by the Minister.
 - (4) Out of funds provided by the Minister, the Minister may, in such cases and to such extent as he or she thinks fit –
 - (a) pay any damages or costs awarded against a member of the Force in proceedings for a civil wrong committed by the member of the Force;

- (b) pay any costs incurred and not recovered by the member of the Force in any such proceedings; and
- (c) pay any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings.”.

MINISTER FOR HOME AFFAIRS

REPORT

Since lodging the Draft States of Jersey Police Force Law 201- ('the draft Law') on 16th November 2011, some issues have arisen that require minor amendment to the draft Law. Furthermore, the Minister has acceded to some helpful amendments recommended by the Education and Home Affairs Scrutiny Panel ('the Scrutiny Panel').

Article 3(3) of the draft Law provides that the Minister must set policies in relation to the key aims and objectives of the States Police Force and may set management policies relating to the States Police Force in certain areas. Before setting these policies, there is a requirement for the Minister to consult with the Police Authority. The Scrutiny Panel, with whom the Minister discussed the draft Law in January 2012, felt that there should be a requirement for the Minister to also consult with the Chief Officer, States of Jersey Police. This proposed amendment is accepted by the Minister.

The Scrutiny Panel also felt that there should be cross-reference between Article 3(3)(b) of the draft Law and Article 19(2) to reflect the Article 19 functions of the Minister; and a cross reference in Article 4 to Article 19(1) to reflect the Article 19 responsibilities of the Police Authority. This is because they felt that it would be helpful to cross-refer to the principal duties of the Minister and Authority which are separated in the draft Law by quite a number of Articles. Rather than cross-refer to only certain functions, it has been decided to set out in a new paragraph, 3(5), the Articles of the Law which set out the other duties of the Minister; and in a new paragraph 4(3) the Articles of the Law which set out the other duties of the Jersey Police Authority.

Article 8 of the draft Law relates to the Chief Officer and the Deputy Chief Officer of the States Police Force and covers situations where the posts of Chief Officer or Deputy Chief Officer are vacant; or the holder of the office is unable to perform the functions; and who should carry out those functions in such situations. An additional paragraph is to be added to this Article to clarify that, wherever reference is made to the Chief Officer or Deputy Chief Officer, it covers any person who is carrying out those functions.

Article 25 of the Draft Law relates to the Chief Officer being liable for the wrongful acts of police officers, and reads –

- “(1) The Chief Officer is liable in respect of torts committed by police officers in the performance, or purported performance, of their functions as police officers.*
- (2) For the purpose of paragraph (1) the Chief Officer shall be taken to be the employer of police officers.”*

The Police Force (Jersey) Law 1974 contained a similar provision at Article 21 –

The Chief Officer shall be liable in respect of torts committed by members of the Force and Port Control Officers in the performance or purported performance of their functions in the same manner as a master is liable in respect of torts committed by the master's servants in the course of their employment, and shall in respect of any such tort be treated for all purposes as a joint tortfeasor.

Article 21 went on to expand upon the way in which any damages or costs awarded as a result of a claim may be paid. These wider provisions are not currently included within the draft Law and are not covered in other legislation (for example, the Public Finances Law), and our advice is that it is appropriate to include them. The opportunity has also been taken to substitute the words 'civil wrongs' for 'torts', as the latter may be too restrictive a term in Jersey law and in any event may not capture certain actions for breach of a statutory duty or of a prohibition giving rise to civil liability.

Financial and manpower implications

There are no additional financial or manpower implications associated with this amendment.