

# STATES OF JERSEY

**r**

## **DRAFT LOI (1939) SUR LES HONORAIRES DES AVOCATS ET DES ÉCRIVAINS (REPEAL) (JERSEY) LAW 200**

---

Lodged au Greffe on 18th September 2007  
by the Chief Minister

---

STATES GREFFE





Jersey

## **DRAFT LOI (1939) SUR LES HONORAIRES DES AVOCATS ET DES ÉCRIVAINS (REPEAL) (JERSEY) LAW 200**

### **European Convention on Human Rights**

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

In the view of the Chief Minister the provisions of the Draft Loi (1939) sur les honoraires des Avocats et des Écrivains (Repeal) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator F.H. Walker**

## REPORT

---

This projet de loi proposes a repeal of the Loi (1939) sur les honoraires des Avocats et des Écrivains.

Article 1 of the 1939 Law empowered the Superior Number of the Royal Court to fix a tariff of fees that advocates and solicitors of the Royal Court were entitled to charge for their professional services.

The primary application of Article 1 was to provide a statutory basis for conveyancing scale fees. With the enactment of the Competition (Jersey) Law 2005, the basis for retaining that scale fell away and, on 23rd March 2006, the tariff of fees that had been fixed by the Royal Court in 1954 was revoked in its entirety by the Full Court. It would probably now be difficult, perhaps impossible, for the Court to fix a binding tariff of fees that did not amount to an anti-competitive measure in breach of the Competition Law.

The draft Law would therefore repeal Article 1 as being redundant.

Article 2 of the Law of 1939 requires all actions for the recovery of fees of advocates and solicitors for their professional services, irrespective of the amount claimed, to be brought in the Royal Court. However, any action for the recovery of fees for professional services rendered in proceedings conducted exclusively before the Magistrate's Court or the Petty Debts Court, irrespective of the amount claimed, is within the jurisdiction of the Petty Debts Court. The result is that, if the fees do not relate to proceedings before the Magistrate's Court or the Petty Debts Court, any action for their recovery must be commenced in the Royal Court – no matter how small the amount claimed.

No purpose is served by requiring actions otherwise within the jurisdiction of the Petty Debts Court to be instituted in the Royal Court. Whether a lawyer sues for fees in the Royal Court or the Petty Debts Court, just as any other claim, should be determined by whether or not the level of the fees falls within the jurisdiction of the Petty Debts Court.

The draft Law would therefore repeal Article 2 altogether.

Article 3 of the Law of 1939 was merely the Article of citation, and that Article would of course also fall away with the repeal of the Law as a whole.

There are no financial or manpower implications for the States arising from the adoption of this Draft Law.

### **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 17th September 2007 the Chief Minister made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Chief Minister the provisions of the Draft Loi (1939) sur les honoraires des Avocats et des Écrivains (Repeal) (Jersey) Law 200- are compatible with the Convention Rights.

## **Explanatory Note**

---

This Law repeals the Loi (1939) sur les honoraires des Avocats et des Écrivains.  
The tariff made under Article 1 of that Law was revoked on 23rd March 2006.





Jersey

## **DRAFT LOI (1939) SUR LES HONORAIRES DES AVOCATS ET DES ÉCRIVAINS (REPEAL) (JERSEY) LAW200-**

A **LAW** to repeal the Loi (1939) sur les honoraires des Avocats et des Écrivains.

---

*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 Repeal**

The Loi (1939) sur les honoraires des Avocats et des Écrivains<sup>[1]</sup> is hereby repealed.

### **2 Citation and commencement**

This Law may be cited as the Loi (1939) sur les honoraires des Avocats et des Écrivains (Repeal) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

