

# **STATES OF JERSEY**

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## **DRAFT FINANCE (JERSEY) LAW 200-**

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**Lodged au Greffe on 23rd November 2004  
by the Finance and Economics Committee**

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**STATES GREFFE**





Jersey

## **DRAFT FINANCE (JERSEY) LAW 200-**

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

The President of the Finance and Economics Committee has made the following statement –

In the view of the Finance and Economics Committee the provisions of the Draft Finance (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

## **REPORT**

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The financial implications of this draft Law are self-explanatory and set out in the Budget Book. There are not expected to be any manpower implications.

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

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee 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). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 11th November 2004 the Finance and Economics Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Finance and Economics Committee the provisions of the Draft Finance (Jersey) Law 200- are compatible with the Convention Rights.

## Explanatory Note

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*Article 1* prescribes the standard rate of income tax for 2005 at 20 pence in the pound.

*Article 2* increases the excise duty on tobacco. The effect of the increase is 5.5% on the rate of excise duty on tobacco. It will result in a 14 pence increase in the price of a packet of 20 cigarettes.

*Article 3* provides for the commencement dates for the increased rates on tobacco.

*Part 3* of this draft Law amends the First Schedule to the Stamp Duties and Fees (Jersey) Law 1998 (*Articles 5 to 7* amend Part 1 of that Schedule and *Article 8* amends Part 3 of that Schedule).

*Article 4* is an interpretation provision for *Part 3*.

*Article 5* clarifies the entitlement to the first time buyer's stamp duty rate so that it will only apply to the borrowing that is registered with the contract of purchase (*paragraphs (a) and (b)*).

It further provides new rates of stamp duty to be applied in circumstances where borrowing on a dwelling is registered and is to be replaced by new borrowing for that dwelling. The calculation of stamp duty in these circumstances is based on whether the amount of new borrowing is (a) less than or equal to the old registered borrowing or (b) greater than it.

If the new borrowing is less than or equal to the old registered borrowing, the stamp duty is £50.

If the new borrowing is greater than the old registered borrowing, then the stamp duty is calculated by reference to (1) the amount of the new borrowing that is equal to the old registered amount (for which the stamp duty will be £50) and (2) the amount that exceeds the original amount (for which stamp duty at the rates specified is payable) (*paragraph (c)*).

*Article 6* clarifies the entitlement to first time buyer's stamp duty rate (for contracts of sale of land and contracts of lease or transfer of lease) so as to exclude anyone who has previously had a right to occupy dwelling accommodation on account of having owned it, the concept of ownership being defined so as to include a range of situations beyond simple legal ownership (*paragraphs (a) and (f)*).

It also provides for stamp duty to be calculated on the gross (instead of net) value of immovable property that is a gift (*paragraph (b)*) and increases stamp duty for contracts of *partage* by applying the same stamp duty rates that are payable on a sale of immovable property (*paragraph (c)*). Stamp duty for lease transactions is also increased, by charging an increased amount based on the annual rental plus an additional amount for any premium based on the amount that would be charged on a sale of immovable property (*paragraph (d)*). Where the contract of lease or transfer of lease falls within certain financial limits the duty payable is separately specified instead of being a percentage of the amount charged in the more general category of lease contract cases (*paragraph (e)*).

*Article 7* increases the stamp duty payable on the net value of immovable property devised under a will to match that payable on a sale of immovable property (*paragraph (a)*) and includes a new exception for a will that devises immovable property to a charity so that the only fee payable will be the flat rate fee for each document registered (*paragraph (c)*). It also removes the fee per page chargeable instead of the fee on application where the will devises immovable property in accordance with the rules that would have applied on intestacy, so that the only fee payable in these circumstances is the flat rate fee for each document registered (*paragraph (d)*).

*Article 8* removes the flat rate of £100,000 for a personal estate that exceeds a net value of £13,360,000 so that the duty payable relates to the value of the estate (*paragraphs (a) and (b)*) and reduces the additional fee payable to a flat rate regardless of the number of documents registered (*paragraph (c)*).

*Article 9* provides for the commencement of these changes.

*Article 10* provides for the name of this draft Law.





Jersey

## DRAFT FINANCE (JERSEY) LAW 200-

### Arrangement

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#### Article

#### PART 1

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##### INCOME TAX

1        Standard rate of income tax for 2005

#### PART 2

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##### EXCISE DUTY

2        Part II of First Schedule amended

3        Commencement of Part 2

#### PART 3

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##### STAMP DUTY

4        Interpretation

5        Item 1 of Part 1 amended

6        Item 13 of Part 1 amended

7        Item 46 of Part 1 amended

8        Item 9 of Part 3 amended

9        Commencement of Part 3

#### PART 4

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##### CLOSING PROVISION

10       Citation







Jersey

## DRAFT FINANCE (JERSEY) LAW 200-

**A LAW** to prescribe the standard rate of income tax for the year 2005; to amend further the Customs and Excise (Jersey) Law 1999 so as to increase excise duty on tobacco and to amend further the Stamp Duties and Fees (Jersey) Law 1998 so as to revise some of the provisions in respect of judicial and probate fees; and for connected purposes.

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*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 –

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### PART 1

#### INCOME TAX

#### 1 Standard rate of income tax for 2005

There shall be levied and charged in Jersey for the year 2005, in accordance with the Income Tax (Jersey) Law 1961, <sup>[1]</sup> income tax at the standard rate of 20 pence in the pound.

### PART 2

#### EXCISE DUTY

#### 2 Part II of First Schedule amended

For paragraph 5 of Part II of the First Schedule to the Customs and Excise (Jersey) Law 1999 <sup>[2]</sup> there shall be substituted the following paragraph –

##### “5 Tobacco

There shall be charged on all tobacco imported into or grown, produced or manufactured in Jersey excise duty at the following rates –

- |     |                        |                        |
|-----|------------------------|------------------------|
| (a) | on unprocessed tobacco | £130.66 per kilogramme |
| (b) | on cigars              | £141.37 per kilogramme |

- (c) on cigarettes £176.80 per kilogramme
- (d) on hand-rolling tobacco £150.26 per kilogramme
- (e) on other types of processed tobacco not included in paragraphs (b) to (d) £136.82 per kilogramme.”.

**3 Commencement of Part 2**

This Part shall be deemed to have come into force on 1st January 2005.

**PART 3**  
**STAMP DUTY**

**4 Interpretation**

In Articles 5 to 8 a reference to a Part is a reference to a Part of the First Schedule to the Stamp Duties and Fees (Jersey) Law 1998.<sup>[3]</sup>

**5 Item 1 of Part 1 amended**

In item 1 of Part 1 –

- (a) in paragraph (a) after the words “of this Part” there shall be inserted the words “and that borrowing and that contract of purchase relate to the same property and were both registered in the Public Registry and passed before the Royal Court on the same date and”;
- (b) in paragraph (a) for the words “the property”, in both places where those words occur, there shall be substituted the words “that property”;
- (c) after paragraph (b) there shall be inserted the following paragraph–

Item	Stamp Duty	Chargeable Document	Designated Officer
“(ba) Where an acknowledgement of debt document specifies a new amount of borrowing (the ‘new borrowing document’) for a dwelling in respect of which another acknowledgement of debt document specifying an amount of borrowing is registered in the Public Registry and for which stamp duty has been paid (the ‘registered borrowing document’), and some or all of the amount specified in the registered borrowing document remains unpaid (the ‘unpaid amount’) – (i) where the amount of borrowing specified in the new borrowing	£50	<i>Billet</i>	Greffier

<p>document is less than or equal to the unpaid amount</p> <p>(ii) where the amount of borrowing specified in the new borrowing document is greater than the unpaid amount,</p> <p>(I) for the portion of the amount that is equal to the unpaid amount, and</p> <p>(II) for the portion of the amount that is greater than the unpaid amount</p> <p>and if the new borrowing document is for land on which a dwelling is to be constructed and in respect of which there is a registered borrowing document for the same land and dwelling and there is an unpaid amount, then sub-paragraphs (i) and (ii) shall apply to the registration of that new borrowing document for that land and that dwelling in the same way as they apply to a registration of a new borrowing document for a dwelling</p>	<p>£50</p> <p>50p for each £100 or part of £100 of the amount to be acknowledged subject to a minimum of £5</p>	<p><i>Billet</i></p> <p><i>Billet</i></p>	<p>Greffier</p> <p>Greffier</p>
<p>The stamp duty specified in paragraph (ba) for registration of a new borrowing document shall not be substituted for the stamp duty specified in paragraph (c) unless the Greffier is satisfied that –</p> <p>(A) stamp duty has been paid in respect of the registered borrowing document (whether under item 1(a) or (c));</p> <p>(B) the registered borrowing document will be cancelled in the Public Registry (<i>rayé</i>) and replaced by the new borrowing document;</p> <p>(C) the person who has acknowledged indebtedness in both the new borrowing document and the registered borrowing document is the same person;</p> <p>(D) the borrowing applies to a dwelling that is –</p> <p>(a) owned and occupied by the person who has acknowledged indebtedness (the ‘borrower’) as his or her sole place of residence in Jersey and the owner and occupier of the dwelling on the date of registration of the registered borrowing document are the same owner</p>			

and occupier of the dwelling on the date on which the new borrowing document is to be registered, or

- (b) owned by a company and occupied by a person (the ‘occupier’) as his or her sole place of residence in Jersey who is entitled to occupy that dwelling by virtue of owning shares in that company and the borrowing is undertaken by or on behalf of the occupier and the occupier of the dwelling on the date of registration of the registered borrowing document is the same occupier of the dwelling on the date on which the new borrowing document is to be registered, (or if the dwelling is not yet constructed, it will comply with either sub-clause (a) or (b) when constructed);
- (E) the borrower to whom clause (D)(a) applies or the occupier to whom clause D(b) applies is a person to whom Regulation 1(1)(a) to (j) and (n)(ii) and (iii) of the Housing (General Provisions) (Jersey) Regulations 1970<sup>[4]</sup> applies; and
- (F) the new borrowing document and the registered borrowing document relate to the same dwelling (or where the dwelling is not yet constructed, the new borrowing document and the registered borrowing document relate to the same land and the construction of that dwelling on it).”.

**6 Item 13 of Part 1 amended**

In item 13 of Part 1 –

- (a) for clause (C) of the proviso to paragraph (b) there shall be substituted the following clause–

“(C) the purchaser satisfies the designated officer that the purchaser has never previously been entitled to occupy dwelling accommodation wherever situated (or would have been so entitled if clause (B) applied) by virtue of having owned the accommodation, and for the purposes of this clause ‘owned’ includes –

- (a) having held such accommodation on contract lease;
- (b) having owned such accommodation together with any other person;
- (c) having owned shares that confer entitlement to occupy such accommodation; and
- (d) any arrangement whereby such accommodation was held in the name of a nominee or trustee, or of a company owned by such nominee or trustee, for the benefit of the purchaser; and”;

- (b) in paragraph (c) for the word “net” there shall be substituted the word “gross”;

- (c) in paragraph (h) for sub-paragraph (ii) there shall be substituted the following sub-paragraphs –

“(ii) exceeds £50,000 but does not exceed £300,000	£250 in respect of the first £50,000, plus £1.50 for each £100 or part of £100 in excess thereof	Contract	Greffier
(iii) exceeds £300,000 but does not exceed £500,000	£4,000 in respect of the first £300,000, plus £2 for each £100 or	Contract	Greffier

	part of £100 in excess thereof		
(iv) exceeds £500,000 but does not exceed £700,000	£8,000 in respect of the first £500,000, plus £2.50 for each £100 or part of £100 in excess thereof	Contract	Greffier
(v) exceeds £700,000	£13,000 in respect of the first £700,000, plus £3 for each £100 or part of £100 in excess thereof	Contract	Greffier”;

(d) for paragraph (l) there shall be substituted the following paragraph –

<b>Item</b>	<b>Stamp Duty</b>	<b>Chargeable Document</b>	<b>Designated Officer</b>
“(l) Of lease, sub-lease or transfer or extension of lease or sub-lease, (subject as is hereinafter provided, and except as provided by paragraphs (m) or (t) of this item) where –			
(1) the annual rental stipulated in the contract multiplied by the number of years for which the contract provides that the lessee, sub-lessee or transferee shall have possession of the demised premises (excluding any period in excess of 21 years) –			
(i) does not exceed £100,000	50p for each £100 or part of £100 subject to a minimum of £10	Contract	Greffier
(ii) exceeds £100,000	£500 in respect of the first £100,000, plus 75p for	Contract	Greffier

	each £100 or part of £100 in excess thereof		
<p>In calculating the fee payable under this sub-paragraph –</p> <p>(A) in determining the number of years to be taken into account, any fraction of a year shall be reckoned as a full year and any optional extension of the term of the lease or sub-lease shall be included;</p> <p>(B) in the case of a transfer or extension of a lease or sub-lease, (except as hereinafter provided) the rental to be taken as a basis for calculating the fee shall be the rental currently payable for the demised premises at the date of the contract;</p> <p>(C) where a lease or sub-lease is granted, transferred or extended for less than the prevailing market rental of the demised premises, a fee calculated on such rental shall be agreed with the Greffier;</p> <p>(D) any contract increasing the rental payable in respect of an existing lease or sub-lease shall be deemed to be a contract of lease for the purpose of this Law, and shall be subject to the fee specified in this sub-paragraph in respect of the increased rental or any part thereof on which stamp duty has not previously been paid under sub-clause (C); and</p> <p>(E) in the case of an extension of a lease or sub-lease, the term of years on which stamp duty has previously been paid by the lessee or sub-lessee may, at the discretion of the Greffier, be taken into account in determining the fee to be paid under this sub-paragraph in respect of the extension.</p>			
(2)	any additional consideration (other than agent's commission and legal fees) to whomsoever paid or payable in respect of the transaction by the lessee, sub-lessee or transferee, whether stipulated in the contract or not –		Contract Greffier
(i)	does not exceed £50,000	50p each £100 or part of £100 subject to a minimum of £10	Contract Greffier
(ii)	exceeds £50,000 but does not exceed £300,000	£250 in respect of the first £50,000, plus £1.50 for each £100 or part of £100 in excess thereof	Contract Greffier
(iii)	exceeds £300,000 but does not exceed £500,000	£4,000 in respect of the first £300,000, plus £2 for each £100 or part £100 in excess thereof	Contract Greffier

(iv) exceeds £500,000 but does not exceed £700,000	£8,000 in respect of the first £500,000, plus £2.50 for each £100 or part of £100 in excess thereof	Contract	Greffier
(v) exceeds £700,000	£13,000 in respect of the first £700,000, plus £3 for each £100 or part of £100 in excess thereof	Contract	Greffier”;

(e) for paragraph (m) (ii) to (iv) there shall be substituted the following sub-paragraphs –

“(ii) exceeds £150,000 but does not exceed £175,000	£62.50 in respect of the first £100,000 plus 12.5p for each £100 or part of £100 in excess thereof, subject to a minimum of £150	Contract	Greffier
(iii) exceeds £175,000 but does not exceed £200,000	£125 in respect of the first £100,000 plus 25p for each £100 or part of £100 in excess thereof, subject to a minimum of £150	Contract	Greffier
(iv) exceeds £200,000 but does not exceed £250,000	£187.50 in respect of the first £100,000 plus 37.5p for each £100 or part of £100 in excess thereof, subject to a minimum of £150	Contract	Greffier”;

(f) for clause (C) of the proviso to paragraph (m) there shall be substituted the following clause–

- “(C) the lessee or transferee satisfies the designated officer that the lessee or transferee has never previously been entitled to occupy dwelling accommodation wherever situated (or would have been so entitled if clause (B) applied) by virtue of having owned the accommodation, and for the purposes of this clause ‘owned’ includes –
- (a) having held such accommodation on contract lease;

- (b) having owned such accommodation together with any other person;
- (c) having owned shares that confer entitlement to occupy such accommodation; and
- (d) any arrangement whereby such accommodation was held in the name of a nominee or trustee, or of a company owned by such nominee or trustee, for the benefit of the lessee or transferee; and”.

**7 Item 46 of Part 1 amended**

In item 46 of Part 1 –

- (a) in paragraph (1) for subparagraph (a) and (b) there shall be substituted the following subparagraphs –

“(a) does not exceed £50,000	50p each £100 or part of £100, with a minimum fee of £10.00	Application	Greffier
(b) exceeds £50,000 but does not exceed £300,000	£250 in respect of the first £50,000, plus £1.50 for each £100 or part of £100 in excess thereof	Application	Greffier
(c) exceeds £300,000 but does not exceed £500,000	£4,000 in respect of the first £300,000 plus £2 for each £100 or part of £100 in excess thereof	Application	Greffier
(d) exceeds £500,000 but does not exceed £700,000	£8,000 in respect of the first £500,000, plus £2.50 for each £100 or part of £100 in excess thereof	Application	Greffier
(e) exceeds £700,000	£13,000 in respect of the first £700,000 plus £3.00 for each £100 or part of £100 in excess thereof	Application	Greffier”;

- (b) in the proviso for the words “Provided that” there shall be substituted the words “Notwithstanding paragraphs (1) and (2)”;
- (c) after clause (A) of the proviso there shall be inserted the following clause–

“(AA) where the applicant produces to the Greffier a letter from the Comptroller of Income Tax confirming that it qualifies for exemption from income tax



pursuant to Article 115(a), (aa) or (ab) of the Income Tax (Jersey) Law 1961,<sup>[5]</sup> the only fee shall be the fee payable under paragraph (2)(a) or, as the case may be, (b);

- (d) in clause (B) for the words “the fee shall be £5 per page subject to a minimum of £10;” there shall be substituted the words “the only fee payable shall be that specified in paragraph (2)(a) or, as the case may be, (2)(b);”.

**8 Item 9 of Part 3 amended**

In item 9 of Part 3 –

- (a) in paragraph (1)(c), first column, the words “but not to exceed £13,360,000” shall be deleted;
- (b) paragraph (1)(d) shall be deleted;
- (c) in paragraphs 9(2)(a) and (b) the words “, for each document registered under this item” shall be deleted.

**9 Commencement of Part 3**

This Part shall be deemed to have come into force on 1st January 2005.

**PART 4**

**CLOSING PROVISION**

**10 Citation**

This Law may be cited as the Finance (Jersey) Law 200-.

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[1] *Volume 1961-1962, pages 197 and 443, Volume 1963-1965, pages 97, 143, 178, 189, 423 and 454, Volume 1966-1967, page 523, Volume 1968-1969, pages 38 and 219, Volume 1970-1972, pages 209, 305 and 382, Volume 1973-1974, page 275, Volume 1975-1978, pages 47, 148 and 257, Volume 1979-1981, pages 16, 157, 297 and 383, Volume 1982-1983, page 46, Volume 1984-1985, page 76, Volume 1986-1987, pages 192 and 208, Volume 1988-1989, pages 222 and 380, Volume 1990-1991, pages 96, 432 and 1088, Volume 1992-1993, pages 36 and 121, Volume 1994-1995, pages 220 and 366, Volume 1996-1997, pages 264, 643 and 652, Volume 1998, pages 3 and 259, Volume 1999, pages 209, 390, 403 and 418, Volume 2000, page 290, Volume 2001, pages 123 and 145, Volume 2003, page 239 and Volume 2004, page 795.*

[2] *Volume 1999, page 610 and Volume 2004, page 752.*

[3] *Volume 1998, page 113 and R&O 75/2004.*

[4] *R&Os 5444, 5981, 6651, 6903, 8866, 9446, 16/2001, 14/2002, 135/2002, 52/2003 and 148/2003.*

[5] *Volume 1961-1962, page 272, Volume 1963-1965, page 144 and Volume 1975-1978, page 47.*