

# STATES OF JERSEY

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## **DRAFT EMPLOYMENT OF STATES OF JERSEY EMPLOYEES (JERSEY) LAW 200- (P.99/2005): AMENDMENT**

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Lodged au Greffe on 21st June 2005  
by the Harbours and Airport Committee

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STATES GREFFE

DRAFT EMPLOYMENT OF STATES OF JERSEY EMPLOYEES (JERSEY) LAW 200 (P.99/2005):  
AMENDMENT

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PAGE 28, ARTICLE 31 –

*After paragraph (5) in proposed Article 2 add the following paragraphs –*

- “(6) The Airport Director shall, on or as soon as practicable after becoming Airport Director, take oath before the Royal Court to well and faithfully discharge his or her duties as Airport Director.
- (7) A person appointed under paragraph (4) to act as the Airport Director shall, on or as soon as practicable after being so appointed, take oath before the Royal Court to well and faithfully discharge the duties of the Airport Director while acting as the Airport Director.”.

PAGE 30/31, ARTICLE 34 –

*After proposed Article 2A add the following Article –*

**“2B Oaths**

- “(1) The Harbour Master shall, on or as soon as practicable after becoming Harbour Master, take oath before the Royal Court to well and faithfully discharge his or her duties as Harbour Master.
- (2) A person appointed under Article 2A to act as the Harbour Master shall, on or as soon as practicable after being so appointed, take oath before the Royal Court to well and faithfully discharge, while acting as the Harbour Master, his or her duties as the Harbour Master under that Article.”.

HARBOURS AND AIRPORT COMMITTEE

## **REPORT**

### **The current situation**

Under the existing Harbours (Administration) Jersey) Law 1961, Article 2(1), the Harbour Master is “entrusted with the policing ..... of the harbours ..... of the Island”, and is responsible for “the carrying into effect of any legislation ..... relating to shipping and sea navigation.”

Under Article 2(3) the Harbour Master and his deputies are required to take “oath before the Royal Court well and faithfully to discharge the duties of their respective offices.”

Similarly, Articles 2(1) and 2(3) apply to the Airport Director under the Aerodromes (Administration) Law 1952.

### **Background**

The proposed draft Law aims to constitute an Employment Board as the employer of all States employees. In doing so, certain rationalisation of arrangements has occurred. This has meant the inclusion in the draft Law of the removal of the requirement for the Oath of Office to be taken by the Airport Director and the Harbour Master. The reasons given for this were that such an Oath was anachronistic, took up Court time and that its abandonment was in line with the States commitment to reduce ‘red tape’ so as to make things ‘better, simpler and cheaper.’

During consultation in February this year the matter was discussed at officer level. Informal contact with the Judicial Greffe and the Bailiff’s Chambers confirmed that taking of an Oath was not regarded as time-consuming, as it happened rarely and that furthermore it might be a pity to break with tradition unnecessarily.

The Harbour Master sought to retain the Oath and wrote requesting the Policy and Resources department to do so.

With the publication of the Proposition P.99/2005 on 24th May 2005 it was found that the Oath of Office had not been reinstated. Members will see from Articles 31 and 34 of the Draft Employment of States of Jersey Employees (Jersey) Law 200- that no mention of the Oath is made.

### **The legal advice**

The advice from the Law Officers’ Department is that there are arguments for both the retention and for removing the Oath.

On one hand, the removal modernises arrangements and treats all employees alike. On the other hand, retention of the Oath may be seen as an important symbol of the policing function enshrined in law and it is this that distinguishes these officers from other States employees.

### **The position of the Harbours and Airport Committee**

The taking of the Oath is seen as a visible reference point indicating that the Airport Director and the Harbour Master have specific police powers which require them at times to act independently of any political accountability. They and their deputies act as office-holders rather than employees whenever they are required to enforce the law.

The Committee notes the very significant statement in the Report accompanying projet 99, “advice from the Law Officers’ Department has established that police officers should not be treated as “employees” but as office-holders, with freedom to exercise their powers as police constables without political or other interference.” The Committee cannot ignore such advice; at the very least, the retention of the Oath for those with police powers at the airport and the harbours establishes a relationship between the individual and the judiciary which makes his accountability to enforce the law of the Island explicit. The Committee believes that to be right.

In the last few years international security issues have meant that there has been a considerable increase in the time spent on carrying into effect legislation and this role has become quite crucial. Likewise, there has been an

increase in public disturbance and petty crime incidents in the vicinity of St. Helier Harbour. The need for harbour and airport officials to have the clear force of law behind them is now even more important than it was when the original legislation was passed by the States.

### **Conclusion**

Given the above explanation, the Harbours and Airport Committee now seeks an amendment to projet 99/2005. The purpose of the amendment is to re-instate the taking of the oath with the words as currently enacted for these office-holders, their appointed deputies and Assistant Harbour Masters.

There are no financial or human resource implications arising from this amendment.