

# STATES OF JERSEY

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## **DRAFT LOI (200-) (AMENDEMENT No. 11) RÉGLANT LA PROCÉDURE CRIMINELLE**

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**Lodged au Greffe on 19th March 2009  
by the Minister for Home Affairs**

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**STATES GREFFE**





Jersey

## **DRAFT LOI (200-) (AMENDEMENT No. 11) RÉGLANT LA PROCÉDURE CRIMINELLE**

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

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

In the view of the Minister for Home Affairs the provisions of the Draft Loi (200-) (Amendement No. 11) réglant la procédure criminelle are compatible with the Convention Rights.

(Signed) **Senator B.I. Le Marquand**

## REPORT

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If a person has a criminal record, he or she may not in certain circumstances be eligible to serve on a jury. The rules in this regard are set out in Article 10 of the *Loi (1864) réglant la procédure criminelle*.

A person may not serve on a jury if he or she –

- at any time in the past has been sentenced for any offence (in Jersey or elsewhere) to imprisonment for one month or more; or
- in the preceding 10 years has been convicted of any offence and been–
  - (a) sentenced to imprisonment (including youth detention);
  - (b) fined more than level 2 on the standard scale (£500);
  - (c) placed on probation,

or has received an equivalent penalty outside Jersey.

A person is also disqualified if he or she is still subject to a binding over order; or if (in Jersey or elsewhere) the person has been charged with an offence or is in contempt of court or is the subject of an arrest warrant.

The above, however, leaves out of account a person upon whom a community service order has been imposed pursuant to the Criminal Justice (Community Service Orders) (Jersey) Law 2001. It would clearly be anomalous if the Law were to be construed so as to disqualify a person who had been placed on probation in the preceding 10 years, but not a person who had been ordered in the preceding 10 years to perform community service. When the 2001 Law was enacted, no consequential amendment of Article 10 of the *Loi* of 1864 was made to clarify the position as far as the eligibility of a person on a community service order to serve on a jury was concerned.

The purpose of this *projet de loi* is to rectify the position by amending Article 10 of the *Loi* of 1864 so as to make it clear that a person who, in the preceding 10 years, has been the subject of a community service order (whether under the 2001 Law or the equivalent outside Jersey) is disqualified for jury service in the same way that a person previously placed on probation is disqualified so to serve.

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 March 2009 the Minister for Home Affairs made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Minister for Home Affairs the provisions of the Draft *Loi* (200-) (Amendment No. 11) *réglant la procédure criminelle* are compatible with the Convention Rights.

## **Explanatory Note**

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The object of this Law is to amend Article 10 of the Criminal Procedure Law of 1864 to ensure that a person who within the previous 10 years, has been both convicted and, as a result, been the subject of a community service order, cannot serve on a jury in a criminal trial. The order could be one under the Criminal Justice (Community Service Orders) (Jersey) Law 2001 or a foreign equivalent.

The amendment would mean that, under Article 10, disqualification from jury service would apply during the 10 years following any conviction that results in a community service order, imprisonment, a fine over£500, or probation.

(It is worth noting that, under Article 10, there is no time limit on disqualification from jury service where imprisonment is for a month or more.)

The inserted sub-paragraph (d) would translate as –

- “(d) subject to an order imposed by virtue of Article 2 of the Law called the Criminal Justice (Community Service Orders) (Jersey) Law 2001,”.





Jersey

## DRAFT LOI (200-) (AMENDEMENT No. 11) RÉGLANT LA PROCÉDURE CRIMINELLE

A LAW to amend further the Loi (1864) réglant la procédure criminelle

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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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### 1 Article 10 amended

In Article 10.5 of the Loi (1864) réglant la procédure criminelle<sup>[1]</sup> –

- (a) in sub-paragraph (b) the word “ou” shall be deleted;
- (b) in sub-paragraph (c) for the word “surveillée,” there shall be substituted the words “surveillée, ou”;
- (c) after sub-paragraph (c) there shall be inserted the following subparagraph –
  - “(d) assujettie à un ordre imposé en vertu de l’Article 2 de la Loi dite Criminal Justice (Community Service Orders) (Jersey) Law 2001,”.

### 2 Citation and commencement

This Law may be cited as the Loi (200-) (Amendement No. 11) réglant la procédure criminelle and shall come into force 7 days after it is made.

