

**DRAFT MAGISTRATE'S COURT (MISCELLANEOUS PROVISIONS) (AMENDMENT No. 9) (JERSEY) LAW  
200-**

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**Lodged au Greffe on 2nd July 2002  
by the Legislation Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

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## **European Convention on Human Rights**

The President of the Legislation Committee has made the following statement -

In the view of the Legislation Committee the provisions of the Draft Magistrate's Court (Miscellaneous Provisions) (Amendment No. 9) (Jersey) Law 200 are compatible with the Convention Rights.

(Signed) **Senator W. Kinnard**

## **REPORT**

This draft Law has 2 purposes.

Firstly, it amends the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949 (the "principal Law") so as to enable the use of live television links in any criminal proceedings in the Magistrate's Court, if the defendant has consented. A detailed explanation of the background to this proposed amendment appears in the Report accompanying the Projet de Loi (200-) (Amendment No. 9) réglant la procédure criminelle (P.113/2002) which makes comparable amendments in respect of criminal proceedings before the Royal Court.

Secondly, it amends the principal Law so as to enable the Magistrate to remand a case to the Royal Court where the Magistrate considers that a confiscation order is likely to be made under the Drug Trafficking Offences (Jersey) Law 1988 or the Proceeds of Crime (Jersey) Law 1999. It will be recalled that the Magistrate is now empowered to pass a sentence of imprisonment of up to 12 months. The consequence of that is that more serious drug trafficking offences and offences under the Proceeds of Crime (Jersey) Law 1999 which, hitherto, would have been remitted to the Royal Court may now be heard and sentenced by the Magistrate, if the sentence does not exceed 12 months' imprisonment. However, the Magistrate does not have power to make confiscation orders, which may be made by the Royal Court upon a conviction for such offences. It is felt appropriate that the power to make confiscation orders should remain with the Royal Court and, accordingly this draft Law enables the Magistrate to remit to the Royal Court a case where a confiscation order is likely to be made.

The draft Law has no manpower or resource implications except insofar as it would enable the court to order (with the consent of the accused) that he or she be seen and heard before the court and see and hear the court's deliberations via a televised or other electronic link. This facility would not be deployed until the financial implications of doing so had been assessed. The draft Law would simply be the enabling provision in this respect.

### **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 27th June 2002 the Legislation Committee made the following statement before Second Reading of this projet in the States Assembly -

In the view of the Legislation Committee the provisions of the Draft Magistrate's Court (Miscellaneous Provisions) (Amendment No. 9) (Jersey) Law 200 are compatible with the Convention Rights.

## **Explanatory Note**

*Article 1* defines the 1949 Law as the principal Law.

*Articles 2 and 3* amend the principal Law with the effect that, if it appears likely to the Magistrate that a confiscation order under the Drug Trafficking Offences (Jersey) Law 1988 or the Proceeds of Crime (Jersey) Law 1999 would be made by the Royal Court in a person's case, the Magistrate must commit that person for trial or sentence by the Royal Court, so that such an order may be made. The opportunity is also taken to correct the numbering of Article 4A of the principal Law.

*Article 5* of the draft Law inserts a new *Article 6* in the principal Law to enable the use, if an accused person consents, of live television links or other devices by which the accused is able to see and hear the Court, and to be seen and heard by it, during proceedings for an offence.

*Article 6* is the citation and commencement provision.

**MAGISTRATE’S COURT (MISCELLANEOUS PROVISIONS) (AMENDMENT No. 9) (JERSEY) LAW 200-**

**A LAW** to amend further the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949; sanctioned by Order of Her Majesty in Council of the

(Registered on the \_\_\_\_\_ day of \_\_\_\_\_ 200-)

**STATES OF JERSEY**

The \_\_\_\_\_ day of \_\_\_\_\_ 200-

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

**ARTICLE 1**

In this Law, “principal Law” means the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949, as amended.<sup>[1]</sup>

**ARTICLE 2**

In Article 1(1) of the principal Law,<sup>[2]</sup> before the definition “the Constable” there shall be inserted the following definition -

“ ‘confiscation order’ means -

- (a) a confiscation order within the meaning of the Drug Trafficking Offences (Jersey) Law 1988,<sup>[3]</sup> as amended;<sup>[4]</sup> and
- (b) a confiscation order within the meaning of the Proceeds of Crime (Jersey) Law 1999;<sup>[5]</sup>”.

**ARTICLE 3**

In Article 4(2) of the principal Law,<sup>[6]</sup> after the words “to impose,” there shall be inserted the words “or that a confiscation order is likely to be made,”.

**ARTICLE 4**

In Article 4A of the principal Law<sup>6</sup> -

- (a) the paragraph numbering “(1)” shall be deleted; and
- (b) after the words “to impose,” there shall be inserted the words “or that a confiscation order is likely to be made,”.

**ARTICLE 5**

After Article 5 of the principal Law<sup>[7]</sup> there shall be inserted the following Article -

“ARTICLE 6.

## POWER TO HEAR ACCUSED THROUGH TELEVISION LINKS.

In any proceedings for an offence, the Court may, with the consent of the accused, direct that the accused shall be treated as being present at the proceedings if, during the proceedings, he is in prison or otherwise in detention and, either by way of a live television link or by another means, he is able to see and hear the Court and he is able also to be seen and heard by the Court.”.

### ARTICLE 6

This Law may be cited as the Magistrate’s Court (Miscellaneous Provisions) (Amendment No. 9) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

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[1] Tome VII, page 545, Volume 1984-1985, page 9, Volume 1994-1995, pages 24 and 53, Volume 1996-1997, pages 171, 489, and 959, Volume 1999, page 217, Volume 2000, page 845 and Volume 2001, page 48.

[2] Tome VII, page 545, Volume 1994-1995, page 54 and Volume 1996-1997, page 489.

[3] Volume 1988-1989, page 259.

[4] Volume 1994-1995, page 55 and Volume 1999, page 627.

[5] Volume 1999, page 111.

[6] Tome VII, page 547 and Volume 1996-1997, page 171.

[7] Tome VIII, page 547.