

# STATES OF JERSEY



## **DRAFT LOI (201-) (AMENDEMENT No. 2) SUR L'ATTÉNUATION DES PEINES ET SUR LA MISE EN LIBERTÉ SURVEILLÉE**

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Lodged au Greffe on 6th March 2012  
by the Chief Minister

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**STATES GREFFE**





Jersey

## **DRAFT LOI (201-) (AMENDEMENT No. 2) SUR L'ATTÉNUATION DES PEINES ET SUR LA MISE EN LIBERTÉ SURVEILLÉE**

### **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 (201-) (Amendement No. 2) sur l'atténuation des peines et sur la mise en liberté surveillée are compatible with the Convention Rights.

(Signed) **Senator I.J. Gorst**

## REPORT

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1. This draft Law amends the *Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée* (“the Probation Law”), Article 7(2) of which, translated, provides that:

“(2) *The Superior Number of the Royal Court (the Magistrate and the Attorney General having been invited to attend) shall appoint one or more persons to act as Probation Officers (“Délégués”) for the purposes of this Law.”*

2. It was true in 1937 that probation officers were appointed for the purposes only of the Probation Law. Today, however, they exercise a variety of statutory functions above and beyond those laid down in the Probation Law. The following Laws have also gone on to confer certain powers and duties on probation officers *viz* –

- ◆ the Criminal Justice (Young Offenders) (Jersey) Law 1994,
- ◆ the Children (Jersey) Law 2002,
- ◆ the Child Abduction and Custody (Jersey) Law 2005,
- ◆ the Sex Offenders (Jersey) Law 2010.

3. Reference is made to probation officers also in the Transfer of Prisoners (Restricted Transfers) (Channel Islands and Isle of Man) Order 1998.

4. Hence the reference in Article 7(2) to Probation Officers being appointed “*for the purposes of this Law*” is not strictly correct and is in need of revision. The purpose of this draft Law, therefore, is simply to effect that revision by replacing Article 7(2) with the following provision (again in translation):

“(2) *The Superior Number of the Royal Court (the Magistrate and the Attorney General having been invited to attend) shall appoint one or more persons to act as Probation Officers (“Délégués”) for the purposes –*

*(a) of this Law;*

*(b) of any other Law or Regulations or other legislative provision conferring powers on a probation officer appointed under this Article.”*

### **Financial and manpower implications**

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 5th March 2012 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 (201-) (Amendement No. 2) sur l'atténuation des peines et sur la mise en liberté surveillée are compatible with the Convention Rights.

## **Explanatory Note**

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This draft Law amends the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée to make it clear that the purposes for which appointment by the Royal Court of délégués (that is, probation officers) under Article 7 of that Law may be made include the purposes of that Law and the purposes of any other enactment conferring functions on a person appointed under that Article.



Jersey

## **DRAFT LOI (201-) (AMENDEMENT No. 2) SUR L'ATTÉNUATION DES PEINES ET SUR LA MISE EN LIBERTÉ SURVEILLÉE**

**A LAW** to amend further the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée.

*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 Article 7 amended**

For Article 7(2) of the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée<sup>1</sup> there shall be substituted the following paragraph –

“(2) La Cour Royale assemblée en Corps (le Juge de la Cour pour la Répression des Moindres Délits et le Procureur Général étant priés d’y assister) nommera une ou plusieurs personnes pour agir comme ‘Délégués’ aux fins –

- (a) de la présente Loi;
- (b) de tout autre Loi ou Règlement ou disposition législative conférant des devoirs et des fonctions à un délégué nommé en vertu du présent Article.”.

### **2 Citation and commencement**

This Law may be cited as the Loi (201-) (Amendement No. 2) sur l'atténuation des peines et sur la mise en liberté surveillée and shall come into force 7 days after it is registered.

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<sup>1</sup> *chapter 08.020*