

DRAFT SUBORDINATE LEGISLATION (AMENDMENT No. 2) (JERSEY) LAW 200-

**Lodged au Greffe on 14th November 2000
by the Legislation Committee**



STATES OF JERSEY

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Report

The principal purpose of this draft Law is to remove an anomaly in the powers of the States to annul subordinate legislation.

If a Law states that the Subordinate Legislation (Jersey) Law 1960 ('the 1960 Law') applies to subordinate legislation made under it, the effect is that the subordinate legislation must be laid before the States and the States has power to resolve to annul it, at any time after it is laid. All Laws passed since 1960 which include a power to make subordinate legislation have applied the 1960 Law.

However, most Laws enacted before the 1960 Law have not been amended so as to apply that Law. Instead, they contain express provision requiring subordinate legislation made under them to be laid before the States and empowering the States to resolve to annul it - but only if the resolution for annulment is passed within 21 days after the subordinate legislation is made.

Consequently, most subordinate legislation made under Laws enacted before 1960 may only be annulled within 21 days after it is laid before the States, whilst subordinate legislation made under Laws enacted from 1960 onwards may be annulled at any time after it is laid before the States.

There is an explanation for this discrepancy. When the 1960 Law was enacted, it also provided that a resolution for annulment must be passed within 21 days of subordinate legislation being laid before the States. Accordingly, there was, at that time, no need to consequentially amend earlier Laws so as to apply the 1960 Law, since the earlier Laws had the same effect as the 1960 Law. The discrepancy arose in 1976, when the 1960 Law was amended with the effect that subordinate legislation to which it applied could be annulled at any time after it had been laid, but the earlier Laws were not similarly changed at the same time.

The Committee has concluded that it cannot have been the intention, when the 1960 Law was amended in 1976, that different powers of annulment should apply to different subordinate legislation and commends that the anomaly should be removed.

Explanatory Note

This draft Law further amends the Subordinate Legislation (Jersey) Law 1960 (“the principal Law”).

The amendments of other Laws made by paragraph 1 of the Schedule added to the principal Law have the effect that subordinate legislation made under those Laws henceforward may be annulled by resolution of the States at any time after it is laid before the States. Currently, such legislation may be annulled only within the period of 21 days after it is laid.

The opportunity is taken to amend the Motor Traffic (Jersey) Law 1935 and the Civil Service (Administration) (Jersey) Law 1948 so that all Orders made under those Laws must be laid and may be annulled by the States at any time after they are laid. These amendments appear in paragraph 2 of the Schedule added to the principal Law.

SUBORDINATE LEGISLATION (AMENDMENT No. 2) (JERSEY) LAW 200-

A LAW to amend further the Subordinate Legislation (Jersey) Law 1960; 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 the Subordinate Legislation (Jersey) Law 1960, as amended^[1] -

(a) after Article 1 there shall be inserted the following Article -

“ARTICLE 1A

(1) The amendments of enactments specified in the Schedule to this Law shall have effect.

(2) In the Schedule to this Law, a reference to an enactment is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied under another enactment.”;

(b) there shall be added the Schedule set out in the Schedule to this Law.

ARTICLE 2

This Law may be cited as the Subordinate Legislation (Amendment No. 2) (Jersey) Law 200.

SCHEDULE

(Article 1(b))

“*SCHEDULE*

(Article 1A(1))

Amendments of enactments

1.-(1) In Article 23A(1) of the Loi (1934) sur la santé publique,^[2] for the words “dans le courant des vingt-et-un jours” there shall be substituted the words “en tout temps”.

(2) In -

- (a) Article 1(6)(d) of the Import and Export (Control) (Jersey) Law 1946;^[3]
- (b) Article 24(2)(d) of the Parish Rate (Administration) (Jersey) Law 1946;^[4]
- (c) Article 2(3) of the Motor Vehicle Races (Jersey) Law 1946;^[5]
- (d) Article 4(4)(d) of the Animals (Anaesthetics) (Jersey) Law 1947;^[6]
- (e) Article 3(1)(d) of the Borrowing (Control) (Jersey) Law 1947;^[7]
- (f) Article 32(2)(d) of the Tourism (Jersey) Law 1948;^[8]
- (g) Article 22(1)(d) of the Fertilisers and Feeding Stuffs (Jersey) Law 1950;^[9]
- (h) Article 2(3)(d) of the Public Health (Vessels and Aircraft) (Jersey) Law 1950;^[10]
- (j) Article 2(2)(d) of the Artificial Insemination of Domestic Animals (Jersey) Law 1952;^[11]
- (k) Article 26(1)(d) of the Pharmacy, Poisons and Medicines (Jersey) Law 1952;^[12]
- (l) Article 19(1)(d) of the Agricultural Marketing (Jersey) Law 1953;^[13]
- (m) Article 14(2)(d) of the Non-Contributory Pensions (Jersey) Law 1954;^[14]
- (n) Article 41(2)(d) of the National Service (Jersey) Law 1954;^[15]
- (o) Article 19(1) of the Merchandise Marks (Jersey) Law 1958;^[16] and
- (p) Article 2(2) of the Destructive Insects and Pests (Jersey) Law 1960,^[17]

for the words “within the period of twenty-one days beginning with the day on which any such order is laid before them” there shall be substituted the words “at any time thereafter”.

(3) In Article 11(3) of the Royal Court (Jersey) Law 1948^[18] and Article 22(2) of the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949,^[19] for the words “within the period of twenty-one days beginning with the day on which any such rules are laid before them” there shall be substituted the words “at any time thereafter”.

(4) In Article 2(4) of the Public Health (Control of Building) (Jersey) Law 1956,^[20] for the words “within the

period of twenty-one days beginning with the day on which any such bye-laws are laid before them” there shall be substituted the words “at any time thereafter”.

2.-(1) In the Motor Traffic (Jersey) Law 1935 -

(a) Article 12(2)^[21] shall be repealed; and

(b) after Article 53^[22] there shall be inserted the following Article -

“ARTICLE 53A

The Subordinate Legislation (Jersey) Law 1960, as amended, shall apply to orders made under this Law.”.

(2) In the Civil Service Administration (Jersey) Law 1948, as amended,^[23] after Article 3 there shall be inserted the following Article -

“ARTICLE 3A

The Subordinate Legislation (Jersey) Law, as amended, shall apply to orders made under this Law.”.

[1] Tome VIII, page 849.

[2] Tome VII, page 121.

[3] Tome VII, page 339.

[4] Tome VII, page 362.

[5] Tome VII, page 375.

[6] Tome VII, page 381.

[7] Tome VII, page 389.

[8] Tome VII, page 475.

[9] Tome VII, page 615.

[10] Tome VII, page 644.

[11] Tome VIII, page 40.

[12] Tome VIII, page 138.

[13] Tome VIII, page 300.

[14] Tome VIII, page 357.

[15] Tome VIII, page 426.

[16] Tome VIII, page 770.

[17] Tome VIII, page 889.

[18] Tome VII, page 511.

[19] Tome VII, page 557.

[20] Tome VIII, page 510.

[21] Tome VII, page 164.

[22] Tome VII, page 178.

[23] Tome VII, page 499.