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Deputy Helen Miles  
Chair - Corporate Services Scrutiny Panel

**BY EMAIL**

30<sup>th</sup> September 2024

Dear Chair,

**DRAFT ROYAL COURT AND STAMP DUTIES AND FEES (JERSEY) AMENDMENT LAW 202-**

I am writing to bring to your attention the above draft Law which I have agreed to sponsor on behalf of the Judicial Greffier. The Greffier requested help from Government officers to draft this Law some months ago and it was only recently that I agreed that the Treasury would lead. It will not therefore have been flagged to you in our earlier correspondence about Treasury plans, for which I apologise.

The principal purpose of the draft Law is to abolish Jurat Stamps (issued under the 1936 Loi sur honoraires des Jurés-Justiciers) as part of the Judicial Greffe's transformation work. I have attached the draft Written Report that accompanies the draft Law which explains all about this. The abolition of Jurat Stamps will see a more modern approach to funding the work of the Jurats, also described in the Report. Benefits will arise in Islanders' customer experience when visiting CLS to pay fees or paying online.

The Judicial Greffe is taking the opportunity to make other changes, which are specified in the Report, and which are supported by the wider judiciary (limited consultation has involved the Bailiff and the Master of the Royal Court). I will be sharing the draft legislation with the Jersey Law Society today. The other changes include introducing a new rate Q for judicial fees in very high value cases. We are also asking the Assembly to agree to deny refunds of court fees in certain types of cases (and in most circumstances) where the matter settles before a full hearing (but where most of the costs represented by the fees will have already been incurred).

We are also taking the opportunity to uprate most court fees by inflation since they were last uprated several years ago.

Officers and/or I would be very happy to brief you in further detail if that would be helpful.

I am copying this letter to the Judicial Greffier.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Elaine Millar".

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## Written Report: DRAFT ROYAL COURT AND STAMP DUTIES AND FEES (JERSEY) AMENDMENT LAW 202-

### Summary

1. The draft Amendment Law seeks to achieve the following objectives:
  - Abolishing Jurat Stamps (the last remaining physical stamps) by repealing the [Loi \(1938\) sur les honoraires des Jurés-Justiciers](#) (the 1938 Law) from a future appointed day. The Minister for Treasury and Resources (the Minister) expects to stop the sale of stamps as soon as the Law, if supported by the Assembly, receives Royal Assent and is registered by the Royal Court.
  - Creating an obligation on the Bailiff and Treasury to fund the annual honoraria for Jurats from public expenditure (once the income stream from Jurat Stamps is abolished). It is proposed in the first instance that a sum of £65,000 is allocated from which to provide honoraria for all serving jurats.
  - Uprating in line with inflation the Judicial fees; fees in matrimonial proceedings; and probate fees contained in the three schedules of the [Stamp Duties and Fees \(Jersey\) Law 1998](#) (the 1998 Law).
  - Modernising the definition of “stamp” in the 1998 Law to reflect the abolition of physical (pre-paid) stamps. In future, Government receipts for payments will be acceptable evidence of payment of fees.
  - Creating a new obligation on the Bailiff and the Minister to review the duties/ fees in the 1998 Law annually, having consulted the “Designated Officers” (the Bailiff, Judicial Greffier and Viscount). (This excludes the stamp duties which are de facto taxes – i.e. the duty on mortgages and freehold land transactions. No changes are made in respect of these matters.)
  - The Minister will have the power to amend court fees by Order (excepting those which are de facto taxes which continue to be subject to the procedures to create the annual (Budget) Finance Law.
  - Creating of a new rate Q (£5,000) in Schedule 1 of the 1998 Law for proceedings involving costs exceeding £10 million.
  - Specifying that judicial fees in Schedule 1 of the 1998 Law are to be made routinely non-refundable recognising that the majority of costs to the judicial system are incurred despite late settlements removing the need for a hearing. The Designated Officer (the Judicial Greffier in most cases and the Bailiff and Viscount) will have discretion to refund in appropriate circumstances.

### Abolition of Jurat Stamps

2. Jurat Stamps have existed since 1938 and are the last physical stamps in existence which are affixed to certain legal documents. Stamps are available in three denominations: £5; £4; and £1. In 2023 the total revenue from sales was in the region of £27,500.
3. Historically, stamps were provided to evidence the payment of a fee or duty and had to be physically applied to the different categories of chargeable documents. Under

the 1938 Law the proceeds from sales of stamps have been ring-fenced for paying the honoraria of Jurats.

4. With the repeal of the 1938 Law, any remaining monies in the ring-fenced fund will be transferred to the Bailiff for the purpose of paying Jurats expenses and honoraria. In future, the Jurats remuneration will be handled through the normal annual budgeting process.

### **Future mechanism to fund Jurats' Honoraria**

5. In future, Jurats' honoraria and expenses will be funded from public expenditure in the normal way as part of the annual Budget (Government Plan) process. At the outset, the Minister for Treasury and resources has agreed that the sum available to pay honoraria and expenses should be £65,000. The draft Law gives the Bailiff discretion in the allocation of these funds and allows the Bailiff and the Minister to uprate the sum in future years with regard to RPI.

### **Uprating of Judicial/Court Fees**

6. The Judicial fees in Schedule 1 of the 1998 Law have not been uprated since 2022. This Amendment Law proposes to uprate them by 16% (slightly less than RPI over the period) to restore their 2022 value.
7. Excluded from this uprating of Schedule 1 are item 1 (relating to mortgage contracts) and item 13 (mainly relating to freehold property transactions) which are taxes and are dealt with in the annual Budget process.
8. The fees set out in Schedules 2 (matrimonial) and Schedule 3 (probate) have not been uprated since 2018 and the Amendment Law proposes to uprate them by 34% (slightly less than RPI over the period) to restore their 2018 value.
9. It is not proposed to uprate the fees further to take account of the loss of income from Jurat Stamps.

### **The definition of "Stamp"**

10. With the abolition of Jurat Stamps all of the stamp duties and fees covered by the 1998 law will simply be receipted in one way or another by the Judicial Greffier; the Customer & Local Services Department; or by the Treasurer of the States through the Government's online systems. The new definition of "Stamp" reflects this.

### **Annual review**

11. Court fees are somewhat out-of-step with other Government fees and charges which are normally reviewed annually. The Amendment Law puts an obligation on the Minister to keep fees under review with the assistance of the Designated Officers – principally the Judicial Greffier but also the Bailiff and the Viscount. It should be noted for the avoidance of doubt that the two items in Schedule 1 which are deemed to be taxes (relating to mortgage contracts and house sales etc) are already reviewed

regularly as part of the Budget process which leads to the lodging of the annual Finance (Budget) Law.

### **Power to amend Court Fees by Order**

12. The Minister will have the power to amend court fees by Order (excepting those which are de facto taxes which continue to be subject to the procedures to create the annual (Budget) Finance Law.

### **The new “Q” Rate**

13. The new rate of £5,000 on proceedings involving claims which exceed £10 million reflects the additional costs involved in these higher-value and complex matters.

### **Making specified fees non-refundable**

14. At present, all true court fees (as opposed to the stamp duty on contracts – items 1 and 13 in Schedule 1) are refundable in the event that a matter settles and the need for a hearing falls away.
15. The purpose of court fees is to cover the costs of the administrative time involved in processing a case; setting a case down for a hearing; and also to cover the cost of the hearing itself (including judicial and other staff time which is pre-booked). The administrative time involved varies across the courts, but might involve work such as sending a summons out for a litigant (Petty Debts Court); tabling a case (Royal Court); mediating a dispute (Petty Debts court). If a case is settled before it is heard, then the reality is that a great deal of administrative work would have been carried out in any event. The proposed fees, even uplifted as proposed, would be unlikely to be more than the notional cost of administrative work which would have been done by then.
16. A change of emphasis is therefore sought to ensure that the general position is that court fees are non-refundable unless the applicant makes an application within 12 months and unless it is considered to be just to do so, in the special circumstances of the case. It is envisaged that cases where a refund is granted would be relatively rare. However, it is considered that it is important to preserve a discretion in this regard so that individuals who are financially disadvantaged are not put off from having access to justice.
17. A specified list of items in Schedule 1 are accordingly proposed to become non-refundable. It is proposed that the Designated Officer (Judicial Greffier or in some cases the Bailiff or Viscount) should have discretion to permit a refund where the circumstances suggest it would be just to do so, on application from the fee-payer.

### **Review of the Stamp Duties and Fees (Jersey) Law 1998**

18. The Minister has commissioned a “re-write” of the Stamp Duties and Fees (Jersey) Law 1998 to simplify it. The intention is to create a much shorter law solely focused on the taxation of contracts (essentially mortgages and freehold property sales) and then to simplify the arrangements for the review and scheduling of court fees.

### **Financial and staffing implications**

19. The abolition of Jurat Stamps will remove costs from the judicial system. Physical stamps have a monetary value and their production; secure storage; and sale involves costs which will fall away. Equally, removing the need to maintain a special ring-fenced fund from which honoraria have been paid will reduce costs.
20. Funding of Jurats' honoraria will in future not be dependent upon the sale of stamps and can be more intelligently and effectively managed as part of the annual Budget process.
21. There are no staffing implications.

### **Children's Rights Impact Assessment**

22. A Children's Rights Impact Assessment has been completed and is available on the States Assembly website