

STATES OF JERSEY



REQUEST FOR AMENDMENTS TO U.K. IMMIGRATION AND ASYLUM ACTS IN RELATION TO THE CIVIL PARTNERSHIP (JERSEY) LAW 201-

Lodged au Greffe on 1st June 2011
by the Chief Minister

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to signify, pursuant to Article 31(1)(b)(i) of the States of Jersey Law 2005, that they agree that a request be made to Her Majesty in Council for the making of an Order in Council pursuant to section 36 of the Immigration Act 1971, section 13(5) of the Asylum and Immigration Act 1996 and section 170(7) of the Immigration and Asylum Act 1999, varying as necessary the provisions of each of those Acts as presently extended consequentially upon the provisions of the Civil Partnership (Jersey) Law 201- and as summarised in the attached report of the Chief Minister.

CHIEF MINISTER

REPORT

The Immigration Act 1971, the Asylum and Immigration Act 1996 and the Immigration and Asylum Act 1999 have effect in Jersey by virtue (respectively) of the following Orders in Council –

- the [Immigration \(Jersey\) Order 1993](#),
- the [Asylum and Immigration Act 1996 \(Jersey\) Order 1998](#), and
- the [Immigration and Asylum Act 1999 \(Jersey\) Order 2003](#).

The power to extend the provisions of each of these Acts includes a power to extend such provisions subject to such modifications as may appear to be appropriate to Her Majesty.

The Civil Partnership Act 2004 of the United Kingdom made several amendments to the Immigration Acts that were consequential upon the institution of civil partnership in that country. Now that it is sought to enact a Civil Partnership (Jersey) Law, a similar need arises for consequential amendments to be made to the Immigration and Asylum Acts as they extend to Jersey under the Orders in Council referred to above. But it is not possible, of course, for legislation enacted by the States to effect consequential amendments to United Kingdom legislation extended by Order in Council. This can only be done by a further Order in Council.

The provisions of the Immigration Acts concerned appear to be as follows:

1. *Section 5 of the Immigration Act 1971*

Section 5 was extended to Jersey by the Immigration (Jersey) Order 1993 and amended in its application to Jersey by the Asylum and Immigration Act 1996 (Jersey) Order 1998. It is concerned with procedures on deportation. Section 5(4) as presently extended provides that, for purposes of deportation the following are regarded as belonging to another person's family –

- (a) where the other person is a man, his wife and his or her children under 18; and
- (b) where that other person is a woman, her husband and her or his children under 18.

In the context of civil partnership, it becomes necessary to make reference in section 5(4) to a civil partner as well as to a wife or husband.

2. *Section 141 of the Immigration and Asylum Act 1999*

Section 141 was extended to Jersey by the Immigration (Jersey) Order 1993. It is concerned with fingerprinting. Section 141(14) defines a 'dependant' for certain purposes as a person's spouse. It becomes necessary to make reference also to a person's civil partner.

It is thought that these are the only provisions for the time being that require modification consequentially upon the institution in Jersey of a régime of civil partnership, but it is possible that the Law Officers' Department in consultation with

legal advisers in the United Kingdom, may identify further such provisions. To the extent that they do, this proposition seeks to enable not only the provisions described above to be extended, but such other provisions as are advised by the Jersey Law Officers to be necessarily incidental to the provisions contained in the Civil Partnership (Jersey) Law 201-.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this proposition.