

**DRAFT INTERPRETATION (AMENDMENT) (JERSEY) LAW 200**

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**Lodged au Greffe on 29th October 2002  
by the Legislation Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

150

2002

P.194

Price code: C

## **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 Interpretation (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator W. Kinnard**

## **REPORT**

This draft Law would amend the Interpretation (Jersey) Law 1954 (“the 1954 Law”).

The 1954 Law is an essential tool for both draftsmen and readers of legislation. As a general principle, the rules and definitions contained in it apply to all legislation.

This amending Law has 2 key purposes -

- (a) to clarify the time when certain legislation comes into force (*Article 2*) and
- (b) to apply certain new rules for construction and definitions to all legislation (*all remaining provisions*).

The detailed effects of the amendments made by this draft Law are explained in full in the Explanatory Note.

This draft Law has no implications for the financial or manpower resources of the States.

### **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 9th October 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 Interpretation (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

## Explanatory Note

This draft Law amends the Interpretation (Jersey) Law 1954 ('the principal Law').

*Article 1* defines the principal Law.

*Article 2* amends Article 1 of the principal Law. It clarifies the day of commencement of an enactment expressed to come into force forthwith or which is silent as to its commencement. In either case, a Law is taken to come into force on the day of its registration in the Royal Court and any other enactment is taken to come into force on the day it is passed or made. *Article 2* also provides for a rare case where the date of promulgation of an enactment is unknown and the commencement of the enactment depends on that date. In that case, the promulgation date is deemed to be, for a Law, the day of registration and, for any other enactment, the day it is passed or made.

*Article 3* substitutes Article 4 and adds Article 4A to the principal Law. Currently, various Articles of the principal Law define frequently used expressions, with the effect that it is not necessary to further define those expressions when they are used in other enactments. The substituted Article 4 gives effect to a new Schedule in which those definitions are marshalled, in alphabetical order, for easier reference. Other frequently used definitions are added to the list, such as "doctor", "dentist" and "police officer". The new Article 4A provides for a commonly used name or abbreviation of a name to be construed as having its common meaning. An example of a case in which this would be helpful is a reference to a post or office which is well established but which was not created by a Law.

*Article 4* amends Article 5 of the principal Law, which is concerned with the repeal of legislation. Currently, when an amended enactment is repealed, it is considered necessary to specifically repeal all of the relevant amending enactments. The effect of this amendment will be that the repeal of an amended enactment will automatically include the repeal of the amending enactments, without the need to refer to them expressly.

*Article 5* makes repeals which are consequential on the enactment of the Schedule.

*Article 6* adds a new Article 13A to the principal Law. Currently, every enactment has to include in its interpretation provision paragraphs for the construction of internal cross references in the enactment and to the effect that a reference to an enactment is a reference to that enactment as amended from time to time, without which a reference would be to an enactment in its unamended form. Article 13A is a construction provision of general application, with the effect that, in the future, it will not be necessary to include such provision in every enactment.

*Article 7* amends Article 15 of the principal Law which relates to the construction of provisions relating to the exercise of powers and duties. Currently, when a power to make subordinate legislation is included in a Law, it is necessary to state each time that the power may be exercised so as to make different provision for different cases. The amendment has the effect that, in the future, it will not be necessary to include such a statement.

*Article 8* adds Articles 16A and 16B to the principal Law. Generally, the penalty for an offence is expressed by reference to the maximum penalty that the court may impose and, where both imprisonment and a fine may be imposed, the penalty is expressed so that the court may impose either or both of those penalties. Accordingly, a penalty would currently be expressed as follows -

"... shall be liable to a term of imprisonment not exceeding 6 months or to a fine not exceeding level 2 on the standard scale, or both ...".

Article 16A provides that the same effect will be achieved by expressing the penalty as follows -

"... shall be liable to a term of 6 months' imprisonment and a fine of level 2 on the standard scale ...".

Article 16A also makes it clear that a reference to a fine without more means a fine of an unlimited amount.

Article 16B has the effect that a non-substantive deviation from a form prescribed in legislation will not invalidate the form.

*Article 9* gives effect to the Schedule, described above, and *Article 10* is the citation and commencement provision.

**INTERPRETATION (AMENDMENT) (JERSEY) LAW 200-**

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**A LAW** to amend further the Interpretation (Jersey) Law 1954; sanctioned by Order of Her Majesty in Council of the

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

**STATES OF JERSEY**

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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, “the principal Law” means the Interpretation (Jersey) Law 1954, as amended.<sup>[1]</sup>

ARTICLE 2

In Article 1 of the principal Law<sup>[2]</sup> -

- (a) in paragraph (5), after the word “expressed” there shall be inserted the words “or construed as being expressed”;
- (b) after paragraph (5), there shall be added the following paragraphs -

“(6) Where an enactment, whenever passed or made, is expressed to come into operation forthwith or is silent as to the time at which it is to come into operation, the enactment shall be construed as being expressed to come into operation on the day on which it was passed or made.

(7) Where the time at which an enactment, whenever passed or made, is to come into operation is expressed or calculated by reference to its promulgation, and the date of promulgation is unknown, that date shall be deemed to be the day the enactment was passed or made.”.

ARTICLE 3

For Article 4 of the principal Law<sup>[3]</sup> there shall be substituted the following Articles -

“ARTICLE 4

**Definitions**

(1) The definitions in Part 1 of the Schedule shall, unless the contrary intention appears, apply to every enactment, whenever passed or made.

(2) Part 2 of the Schedule shall have effect only as an index of definitions in other enactments which are of extended application.

ARTICLE 4A

**Commonly used names**

In an enactment, unless the context otherwise requires, the name commonly applied to a country, place, body, administration, corporation, society, officer, functionary, person, party or thing shall mean the country, place, body, administration, corporation, society, officer, functionary, person, party or thing to which the name is commonly applied, whether or not the name is the formal or unabbreviated designation thereof.”.

#### ARTICLE 4

In Article 5 of the principal Law,<sup>[4]</sup> after paragraph (2) there shall be added the following paragraph -

“(3) Where an enactment which has been amended by any other enactment is repealed, such repeal shall, unless the contrary intention appears, include the repeal of all those provisions of other enactments by which the first-mentioned enactment was amended.”.

#### ARTICLE 5

Articles 6, 7, 8, 9, 10 and 11 of the principal Law<sup>[5]</sup> shall be repealed.

#### ARTICLE 6

After Article 13 of principal Law<sup>[6]</sup> there shall be inserted the following Article -

#### “ARTICLE 13A

##### **Construction of references to enactments**

(1) A reference in a Law to a Part, Article or Schedule by number only and without further identification is a reference to the Part, Article or Schedule of that number in that Law.

(2) A reference in an Article or other division of a Law to a paragraph, sub-paragraph, clause or sub-clause by number or letter only and without further identification is a reference to the paragraph, sub-paragraph, clause or sub-clause of that number or letter in the Article or other division of that Law.

(3) Unless the context otherwise requires, a reference in a Law 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, including another provision of that Law.

(4) This Article shall apply, with the necessary changes, to a subordinate enactment as it applies to a Law.

(5) This Article shall apply to all enactments, including this Law, whenever passed or made.

(6) In this Article, “subordinate enactment” means an enactment passed or made under a Law or under the authority of an Order in Council.”.

#### ARTICLE 7

At the end of Article 15 of the principal Law<sup>[7]</sup> there shall be added the following paragraph -

“(4) Where an enactment passed after the Interpretation (Amendment) (Jersey) Law 200- comes into force confers a power to make any other enactment, the power may, unless the contrary intention appears, be exercised -

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and

(b) so as to make, as respects the cases in relation to which it is exercised -

(i) the full provision to which the power extends or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases in relation to which the power is exercised, or different provision

for different cases or classes of case, or different provision as respects the same case or class of case for different purposes of the enactment,

(iii) any such provision either unconditionally or subject to any specified condition.”.

#### ARTICLE 8

After Article 16 of the principal Law<sup>[8]</sup> there shall be inserted the following Articles -

#### “ARTICLE 16A

##### **Construction of penalties for offences**

“(1) Where, in an enactment, a penalty is specified in respect of an offence, unless the contrary intention appears, the offence shall be punishable by a penalty not exceeding the penalty specified.

(2) Where a penalty for an offence is a fine and the amount of the fine or a level on the standard scale is not specified, the fine shall be construed as a fine of an unlimited amount.

(3) Where, in an enactment, more than one penalty is specified for an offence, the use of the word “and” shall, unless the contrary intention appears, mean that the penalties may be imposed alternatively or cumulatively.

(4) This Article shall apply to all enactments, whenever passed or made.

#### ARTICLE 16B

##### **Deviation in forms**

Where a form is prescribed or specified by an enactment, deviations from that form not materially affecting the substance nor likely to mislead shall not invalidate the form used.”.

#### ARTICLE 9

At the end of the principal Law<sup>[9]</sup> there shall be added the Schedule set out in the Schedule to this Law.

#### ARTICLE 10

This Law may be cited as the Interpretation (Amendment) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

*SCHEDULE*

(Article 8)

*“SCHEDULE*

(Article 4)

PART 1

(Article 4(1))

**Defined expressions**

The definitions referred to in Article 4(1) are -

“act” includes omission;

“affidavit” shall, in the case of a person for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration;

“amend” shall include ‘add to’, ‘substitute’, ‘vary’, ‘repeal’ and ‘revoke’;

“advocate” shall mean a person admitted to the Bar as an advocate of the Royal Court;

“Bailiwick” shall mean the Island of Jersey and its dependencies;

“British Islands” shall mean the United Kingdom, the Channel Islands and the Isle of Man;

“consular officer” shall include consul-general, consul, vice-consul, consular agent, and any person for the time being authorized to discharge the duties of consul-general, consul or vice-consul;

“contravene”, in relation to any requirement or condition prescribed in an enactment or in a grant, permit, lease, licence or other authority under an enactment, includes a failure to comply with that requirement or condition;

“dentist” shall mean a person registered as a dentist under the Dentists (Registration) (Jersey) Law 1961;<sup>[10]</sup>

“doctor” shall mean a person registered as a medical practitioner under the Medical Practitioners (Registration) (Jersey) Law 1960;<sup>[11]</sup>

“Island” shall mean the Island of Jersey and its dependencies;

“Jersey” shall mean the Island of Jersey and its dependencies;

“land” shall include houses and other buildings;

“Magistrate” shall mean the *Juge d’Instruction* appointed in pursuance of the ‘Lois (1864 à 2000) concernant la charge de Juge d’Instruction’,<sup>[12]</sup> and includes any person exercising the functions of the *Juge d’Instruction*;

“midnight”, in relation to a day, shall mean the last moment of that day;

“misdemeanour” shall mean a *délit*;

“month” shall mean a calendar month;

“oath” shall, in the case of a person for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration;

“person” shall include any body of persons corporate or unincorporated;



“Petty Debts Court” shall mean the Court known as the *Cour pour le Recouvrement de Menues Dettes* constituted in pursuance of the Loi sur la Cour pour le Recouvrement de Menues Dettes,<sup>[13]</sup> confirmed by Order of Her Majesty in Council of the ninth day of May 1891;

“pharmacist” shall mean a person registered as a pharmacist under the Pharmacy, Poisons and Medicines (Jersey) Law 1952;<sup>[14]</sup>

“police officer” shall mean a member of the Honorary Police or a member of the States of Jersey Police Force;

“pound”, in relation to money, shall mean pound sterling;

“registered contract” shall mean a contract registered in the Public Registry of Contracts;

“solicitor” shall mean an *écrivain* of the Royal Court;

“swear” shall, in the case of a person for the time being allowed by law to affirm or declare instead of swearing, include affirm and declare;

“under”, in relation to an enactment, shall include ‘by’, ‘in accordance with’, ‘pursuant to’ and ‘by virtue of’;

“veterinary surgeon” means a person whose name is for the time being entered, in accordance with Article 6 of the Veterinary Surgeons (Jersey) Law 1999,<sup>[15]</sup> on the list of recognized veterinary surgeons maintained under that Article;

“will” shall include codicil;

“word” shall include a letter, numeral or other symbol;

“writing” and expressions referring to writing shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form;

“Youth Court” shall mean the court established by Article 11 of the Criminal Justice (Young Offenders) (Jersey) Law 1994.<sup>[16]</sup>

## PART 2

### (Article 4(2))

#### Index of definitions in other enactments

<i>expression defined</i>	<i>enactment</i>
A reference, however worded, to the territorial sea adjacent to the Island.	Article 2 of the Territorial Sea (Consequential Provisions) (Jersey) Law 1994. <sup>[17]</sup>
“Full age”, “the age of majority”, “the age of legal capacity”, “infant”, “minor” and similar expressions (including such expressions rendered in the French language).	Article 3 of the Age of Majority (Jersey) Law 1999. <sup>[18]</sup>
“Magistrate’s Court” and “Police Court”.	Article 3 of the Police Court (Change of Name) (Jersey) Law 1996. <sup>[19]</sup>
A reference to a level on the standard scale or to a <i>niveau du</i>	Article 2 of the Criminal Justice (Standard Scale of Fines) (Jersey)

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- [\[1\]](#) Tome VIII, page 377, Volume 1990-1991, pages 90 and 1088 and Volume 1996-1997, page 489.
- [\[2\]](#) Tome VIII, page 378.
- [\[3\]](#) Tome VIII, page 379.
- [\[4\]](#) Tome VIII, page 379.
- [\[5\]](#) Tome VIII, pages 380 and 381 and Volume 1996-1997, page 489.
- [\[6\]](#) Tome VIII, page 382 and Volume 1990-1991, pages 90 and 1088.
- [\[7\]](#) Tome VIII, page 383.
- [\[8\]](#) Tome VIII, page 383.
- [\[9\]](#) Tome VIII, page 385.
- [\[10\]](#) Volume 1961-1962, page 135, Volume 1982-1983, page 143 and Volume 1992-1993, page 243.
- [\[11\]](#) Tome VIII, page 829 and Volume 1992-1993, page 267.
- [\[12\]](#) Tomes I-III, page 303, Volume 1968-1969, page 343, Volume 1992-1993, page 443 and Volume 2000, page 751.
- [\[13\]](#) Tomes IV-VI, page 102, Volume 1966-1967, page 430, Volume 1984-1985, page 5, Volume 1992-1993, page 242, Volume 2000, page 760 and R&Os 5014 and 6435.
- [\[14\]](#) Tome VIII, page 111, Volume 1994-1995, page 579, Volume 1999, page 418 and Volume 2001, page 6.
- [\[15\]](#) Volume 1999, page 98.
- [\[16\]](#) Volume 1994-1995, page 35, Volume 1999, pages 429, 435 and 516, Volume 2001, page 48 and R&O 8859.
- [\[17\]](#) Volume 1994-1995, page 166.
- [\[18\]](#) Volume 1999, page 430.
- [\[19\]](#) Volume 1996-1997, page 487.
- [\[20\]](#) Volume 1992-1993, page 435 and Volume 1998, page 715.