

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 22nd SEPTEMBER 2020**

Question

Will H.M. Attorney General set out for States Members the legal relationship between the States Assembly and the Courts in Jersey, explaining, in particular, what powers, if any, the Courts have to limit the decision-making and powers of the States Assembly?

Answer

The Assembly, as the legislature of the Island, can create, amend or repeal any Law. The courts cannot overrule legislation passed by the Assembly but can, pursuant to Article 5 of the Human Rights (Jersey) Law 2000, declare a provision in legislation to be incompatible with the European Convention on Human Rights. The role of the Courts is to administer the law and decide (for example in cases of doubt or ambiguity) the meaning of legislation in accordance with established principles of statutory constitution.

The Assembly has the right to decide its own internal procedures without interference from any outside authority, including the courts. The existence of this privilege was confirmed by the Royal Court in the case of *Syvret v. Bailhache & Hamon* (1998 JLR 128).

A decision of the States Assembly as a legislature is not susceptible to an action for judicial review in the Courts in the same way as, for example, a decision of a Minister or public decision making body can be quashed or remitted back to the decision maker. An exception is where the States is acting in an administrative capacity under the Compulsory Purchase of Land (Procedure) (Jersey) Law. A decision of the States acting in an administrative capacity to acquire land by compulsory purchase can be the subject of an application for judicial review.