

STATES OF JERSEY

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DRAFT LAW REVISION (JERSEY) LAW 200

Lodged au Greffe on 10th June 2003
by the Finance and Economics Committee

STATES GREFFE



Jersey

DRAFT LAW REVISION (JERSEY) LAW 200

European Convention on Human Rights

The President of the Finance and Economics Committee has made the following statement -

In the view of the Finance and Economics Committee the provisions of the Draft Law Revision (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

REPORT

This draft Law represents a second step towards making the written law of Jersey more accessible for the public.

The first step has been the creation, under the aegis of the Jersey Legal Information Board, of a database, in electronic form, of the written laws of Jersey, from 1771 onwards. The database, in itself, is a valuable asset. Not only is it a permanent archive of the written law as enacted, its maintenance in electronic form provides swift access to the law and facilitates better research of the law through the use of search functions. However it has a greater purpose, in that it is also an essential tool for the preparation of a law revision, which is the subject of this draft Law.

Why a law revision is needed

Many of the written laws of Jersey have been in force for decades and have been amended many times. They may use outmoded terminology and refer to appointments and things which have fallen into disuse or have been replaced. A reader must look at all the amendments to a law in order to understand its effect. It can be difficult and time-consuming to establish the effect of a law that has been amended many times, as any member who has attempted it will know.

The Greffier of the States publishes unofficial reprints which are consolidations of some laws, such as the Income Tax (Jersey) Law 1961 and the Road Traffic (Jersey) Law 1956. A handful of other laws have also been published in consolidated form on an *ad hoc* basis, when time allows, such as the Housing (Jersey) Law 1949, the Regulation of Undertakings and Development (Jersey) Law 1978 and the Financial Services (Jersey) Law 1998. (A consolidation is a version of a law incorporating all the amendments made to it.) However, the vast majority of the written laws of Jersey remain unconsolidated. Further, an unofficial reprint cannot be relied upon in court: in the event of a dispute as to its wording, the original, unconsolidated text of a law must be referred to.

What the Law does

The draft Law Revision (Jersey) Law 200- would provide the necessary tools to overhaul and bring up to date the written laws of Jersey. The powers conferred by it would produce a result superior to, and different from, an unofficial consolidation in two senses. Firstly, the result would be a revision, not a consolidation. Secondly, the revision would be the authorized edition of the law.

How revision differs from consolidation

A consolidation of a law merely reproduces the text as amended. If there is a typographical or grammatical error, it cannot be corrected. If the title of an official post referred to in the law has been changed since the law was enacted, that reference cannot be altered to show the current title. A law that has had new Articles added to it cannot be renumbered. All of these improvements of presentation and style can be made as part of a law revision. Paragraph 2 of Schedule 2 of the draft Law contains a comprehensive list of the changes that can be made.

However, the draft Law does not confer any power to make a change that would alter the effect of a law, on the basis that changes of substantive effect are matters to be decided by the States. This restriction is found in Article 5(2) of the draft Law.

An authorized edition, not an unofficial reprint

As mentioned, an unofficial reprint is not the guaranteed, definitive version of the law. It is helpful, but its wording may not be relied upon. This draft Law provides for a revision of the laws to be signed off as the authorized edition. The authorized edition becomes the written law of Jersey in place of the laws revised in it. The authorized edition may be relied on in court and for all other purposes.

How an authorized edition would be produced under the Law

Article 2 of the draft Law establishes a Law Revision Board and gives it the duty to produce a first revised edition. The Board will consist of 2 members of the States appointed by the States and, *ex officio*, the Attorney General, the Greffier of the States and the Law Draftsman. They may appoint a sixth member, referred to as the Law Revision Manager. In practice, it is the Manager who would undertake the day to day work of preparing a revision, overseen by the Board as a whole.

The draft Law sets the parameters for the contents of a revised edition and for the powers of revision already

described above. Although the starting point is that all laws passed or made in Jersey must be included, there are some laws that are inappropriate for inclusion. For example, a road racing Order or the Battle of Flowers Order, both of which are of transient effect, or an Act of incorporation of a charity, or a Law transferring bank interests, both of which may be regarded as private legislation, rather than of general, public application. Laws omitted from a revision are completely unaffected by it and will continue to be published, and remain in force as enacted until repealed, in the usual way.

The written law is constantly being added to. Therefore, a revised edition shows the law in force at a given date, referred to in the law as the "revision date". The Board brings a revised edition into force by signing it off. Because of the work involved in preparing a revised edition, the date it is brought into force will be later than the revision date. Of course, laws will continue to be enacted and brought into force after the revision date for the complete revised edition. These subsequent laws can be added to the revised version of the law through the use of updates. An update will be a partial revision of a topic or Law as it is in force at a later revision date.

The Board may produce a revised edition in a wide variety of formats, but the revision date for the edition must always be clearly shown. So an edition in electronic form must show the revision date onscreen and on a printout and an edition in paper format must show the revision date on each page. Members who use textbooks published in the format of loose-leaf binders will be familiar with this arrangement.

The Greffier of the States already has a statutory duty to publish all laws passed or made in Jersey and the draft Law extends this duty to the revised edition. The Greffier of the States must also provide the Board with the information necessary to prepare and maintain a revision by keeping and making available a database of laws passed or made in Jersey. Such a database is already maintained.

Financial and manpower implications

A specialist law revisioner, who will report to the Board, has been engaged to prepare the first revised edition. The revision is scheduled to take two and a half years to complete, concluding in 2004. The cost of the contract is £238,000 for the first year, £238,000 for the second year and £119,000 for the remaining six months. In addition, it is estimated that a further £30,000 will be required over the contract period for external costs. The total sum required has already been allocated for the project from within the Finance and Economics Committee's current budget.

There are no implications for the 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 4th June 2003 the Finance and Economics Committee made the following statement before Second Reading of this *projet* in the States Assembly –

In the view of the Finance and Economics Committee the provisions of the Draft Law Revision (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Preliminary

Article 1 is the interpretation provision.

Article 2 establishes a Law Revision Board (“the Board”) and imposes on it a duty to prepare and bring into force a complete revised edition of the laws of Jersey. The Board consists of 2 members of the States, appointed by the States, the Attorney General, the Greffier of the States and the Law Draftsman. They may appoint a Law Revision Manager as a sixth Board member, to assist in the discharge of the Board’s duty.

Preparation of revised edition

Article 3 specifies the written laws of Jersey that must be included in a revised edition of the laws of Jersey (a “revised edition”).

Article 4 gives effect to *Schedule 1*, which specifies laws to be omitted from a revised edition.

Article 5 gives effect to *Schedule 2* and confers on the Board the revision powers described in that Schedule, when preparing a revised edition. However, the Board cannot use its revision powers to make any substantive change to the law of Jersey.

Article 6 specifies the various formats in which a revised edition may be produced.

Bringing revised edition into force

Article 7 describes how a revised edition, in a specified format, may be brought into force by the Board as the authoritative version of the law of Jersey (an “authoritative revised edition”) in force at a specified date (the “revision date”).

Article 8 requires the Board to distribute copies of an authoritative revised edition to certain persons. In addition, the Greffier of the States, who already has the duty of publishing enactments, is required to sell or otherwise make available the authoritative revised edition. He may also sell or otherwise make available copies of an authoritative revised edition in a format other than the format in which that edition was brought into force.

Article 9 describes the status and effect of an authoritative revised edition. From the date when it is brought into force, an authoritative revised edition is the sole, authentic version of the written laws of Jersey in force at the revision date. Enactments which are omitted from the revision exercise continue in force unaffected by it.

Maintenance of revised edition

Article 10 describes how an authoritative revised edition may be updated, according to the format in which it is brought into force.

Article 11 empowers the Board to correct minor errors and omissions in a revised edition and requires the Board to give notice in the Jersey Gazette of any corrections.

Miscellaneous and closing

Article 12 requires the Greffier of the States, in the future, to keep a copy of every enactment either in electronic form, or on a databank and to make the copies available to the Board.

Article 13 makes it an offence for a person to alter a revised edition with intent to deceive. The penalties which may be imposed for the offence are 14 years’ imprisonment and an unlimited fine.

Article 14 is the citation and commencement provision.

Schedule 1 lists enactments to be omitted from a revised edition.

Schedule 2 describes the revision powers conferred on the Board.



Jersey

DRAFT LAW REVISION (JERSEY) LAW 200

Arrangement

Article

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SCHEDULE 1

OMITTED LAWS

SCHEDULE 2

POWERS OF REVISION



Jersey

DRAFT LAW REVISION (JERSEY) LAW 200

A LAW to establish a Law Revision Board and to provide for the preparation, bringing into force and maintenance of a complete revised edition of the laws of Jersey and for connected purposes.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

Preliminary

1 Interpretation

In this Law –

“Board” means the Law Revision Board established under Article 2;

“Community instrument” has the same meaning as in the European Communities (Jersey) Law 1973;

[1]

“current law drafting practice” means the law drafting practice for the time being in use in the office of the Law Draftsman and includes such practice in relation to the layout and appearance of text;

“effective date”, in relation to a revised edition, means the date that the edition is brought into force under Article 7;

“laws passed or made in Jersey” means –

- (a) all Laws passed by the States; and
- (b) all regulations, orders, rules, bye-laws, schemes or other instruments passed or made in Jersey under the authority of any Order in Council or under a Law passed by the States;

“page”, in relation to a revised edition in the format of a CD-ROM or other means of electronic storage or a databank accessible by remote computer, includes any separate item of text;

“revised edition” means a complete revised edition of the laws of Jersey or an update of such an edition;

“revision date”, in relation to a revised edition, is the date up until which that edition is current.

2 Establishment and functions of Law Revision Board

- (1) There shall be a Law Revision Board which shall consist of –

- (a) 2 members of the States, appointed by the States;
 - (b) the Attorney General;
 - (c) the Greffier of the States;
 - (d) the Law Draftsman; and
 - (e) the Law Revision Manager appointed under paragraph (2), if any.
- (2) The persons mentioned in paragraph (1)(a) to (d) may appoint a Law Revision Manager to assist in the discharge of the Board's functions under this Law.
 - (3) The Board, in accordance with this Law, shall prepare and bring into force a complete revised edition and may maintain the edition by preparing and bringing into force updates.
 - (4) The Board, in the discharge of its duties and exercise of its powers under this Law, shall act unanimously.

Preparation of revised edition

3 Contents of revised edition

- (1) A complete revised edition shall contain –
 - (a) all laws passed or made in Jersey that are in force on the revision date and that are not omitted under Article 4 or 5;
 - (b) such laws of the Parliament of the United Kingdom and Orders in Council which apply to Jersey and which the Board considers it desirable to include;
 - (c) such treaties, conventions and Community instruments relevant to Jersey which the Board considers it desirable to include;
 - (d) an index of its contents; and
 - (e) such introductory and explanatory material and such tables as the Board considers it desirable to include.
- (2) Where a revised edition contains an Order in Council extending or applying an Act of the Parliament of the United Kingdom to Jersey or contains a law passed or made in Jersey applying a treaty, convention or Community instrument to Jersey whether, in either case, with or without modifications, the Act, treaty, convention or Community instrument may be reproduced in the revised edition with any such modifications, which shall be clearly indicated by the use of brackets and notes or similar means.

4 Laws to be omitted from revised edition

- (1) The Board shall omit from a revised edition the laws specified in Schedule 1.
- (2) A revised edition shall indicate any law omitted pursuant to this Article.

5 Revision powers of Board

- (1) Subject to paragraphs (2) and (3), in the preparation of a revised edition, the Board shall have the powers of revision described in Schedule 2.
- (2) Nothing may be done under this Article that would alter the effect of any law.
- (3) Any revision shall be consistent with current law drafting practice.
- (4) The States may by Regulations amend Schedule 2.

6 Format and marking of revised edition

- (1) A revised edition may be contained in such of the following formats as the Board thinks fit –
 - (a) bound books;
 - (b) a collection of booklets;
 - (c) loose-leaf books;
 - (d) CD-ROM or other means of electronic storage;
 - (e) a databank accessible by remote computer.
- (2) The revision date of a revised edition shall be –
 - (a) marked upon every page of a revised edition in printed format; and
 - (b) displayed upon every page of a revised edition in any other format, in such manner that it is also marked upon a printed copy of that page.
- (3) Different revision dates may be marked or displayed upon different pages of a revised edition.

Bringing revised edition into force

7 Bringing revised edition into force

- (1) The Board may bring a revised edition into force by –
 - (a) signing 4 copies of a revised edition prepared in accordance with this Law, in one or more of the formats mentioned in Article 6(1), as the authoritative version of the law on the revision date; and
 - (b) publishing a notice in the Jersey Gazette –
 - (i) bringing that edition, in that format or those formats, into force on a date specified in the notice, and
 - (ii) where the format is a databank accessible by remote computer, specifying the manner in which it may be accessed.
- (2) Where a revised edition is brought into force in the format of a CD-ROM or other means of electronic storage or a databank accessible by remote computer, the Board may, as an alternative to signing the copies electronically, sign a printout from it of the revised edition.

8 Publication and distribution of revised edition

- (1) When a revised edition is brought into force under Article 7, the Board shall deliver one copy each, in each format in which the edition is brought into force, to –
 - (a) the Lieutenant Governor;
 - (b) the Bailiff;
 - (c) the Greffier of the States; and
 - (d) the Judicial Greffier.
- (2) The Greffier of the States shall –
 - (a) offer for sale copies of a revised edition brought into force in the format of booklets, bound books, loose-leaf books, pages or CD-ROM or other means of electronic storage; and
 - (b) make a revised edition brought into force in the format of a databank accessible to remote computers upon such terms as the Greffier may determine.
- (3) The Greffier of the States may offer for sale or make accessible to remote computers, on such terms

as the Greffier may determine, copies of a revised edition in a format other than the format in which it is brought into force.

- (4) Without prejudice to paragraphs (2) and (3), the Greffier of the States may enter into any agreement for the sale of copies of a revised edition by any publisher or bookseller and for the inclusion of a revised edition in a databank or publication, whether in Jersey or elsewhere, as may appear to be expedient.

9 Status and effect of revised edition

- (1) From the effective date, a revised edition prepared in accordance with this Law, in a format in which it is brought into force under Article 7, shall be deemed to be, in all courts of justice and for all purposes whatsoever, the sole authentic edition of the laws of Jersey, in respect of the law contained in it and in force on the revision date.
- (2) Paragraph (1) shall not affect the operation of any law which comes into force after the revision date and which repeals, alters or amends any law included in the revised edition.
- (3) A reference in any law to another law amended or otherwise affected by the operation of this Law shall be construed, where necessary and practicable, as a reference to the revised version of the other law contained in the revised edition.
- (4) A reference in any document to a law amended or otherwise affected by the operation of this Law shall be construed, unless the contrary intention appears, as a reference to the revised version of the other law contained in the revised edition.
- (5) The inclusion of any principal legislation or subordinate legislation in a revised edition shall not alter or in any other way affect the operation of the Human Rights (Jersey) Law 2000^[2] in relation to that legislation.
- (6) In paragraph (5), “principal legislation” and “subordinate legislation” have the same meaning as in the Human Rights (Jersey) Law 2000.^[3]
- (7) The omission, by virtue of Article 4 or paragraph 1 of Schedule 2, of a law from a revised edition brought into force under Article 7 shall not affect the operation of that law, which shall remain in force until it has been repealed or has expired, become spent or had effect, as the case may be, and may be proved by the production of any copy of it by which it could have been proved before the revised edition is brought into force.
- (8) Paragraph (1) shall not apply to a copy of a revised edition brought into force under Article 7 where the copy is in a format other than a format in which the edition was brought into force.

Maintenance of revised edition

10 Updating of revised edition

- (1) A revised edition brought into force under Article 7 may be updated as provided in this Article so as to add or incorporate any law or the effect of any law referred to in Article 3(1) which comes into force after the revision date.
- (2) A revised edition in the form of a bound booklet, bound book, CD-ROM or other means of electronic storage, may be updated by its entire replacement.
- (3) A revised edition in loose-leaf format may be updated by the replacement of pages or the insertion or deletion of pages.
- (4) A revised edition in the form of a databank that is accessible by remote computer may be updated by the amendment of part or the whole of that databank and the consequent replacement of the current version of the databank.

- (5) A replacement, insertion, deletion or amendment pursuant to this Article shall have no effect unless it is brought into force under Article 7.
- (6) A replacement, insertion, deletion or amendment pursuant to this Article which is brought into force under Article 7 shall have the status and effect described in Article 9.

11 Correction of minor errors and omissions

- (1) If any clerical or printing error in or omission from a revised edition brought into force under Article 7 is found, the Board –
 - (a) may correct the same in such manner as may be consistent with the powers of revision conferred on it by Article 5; and
 - (b) shall give notice in the Jersey Gazette of any corrections so made.
- (2) No error in or omission from a revised edition brought into force under Article 7 shall affect the validity or lawfulness of any act or omission by any person which would otherwise have been valid or lawful.

Miscellaneous and closing

12 Keeping of laws passed or made in Jersey

The Greffier of the States shall –

- (a) keep a copy of every enactment required to be printed under Article 3 of the Official Publications (Jersey) Law 1960^[4] after this Law comes into force –
 - (i) on CD-ROM or in any other form of electronic storage, or
 - (ii) on a databank; and
- (b) make every such copy available to the Board by, according to the format of the copy, providing a copy of it on CD-ROM or in any other form of electronic storage or making the databank on which it is kept accessible to the Board.

13 Offence

- (1) A person who knowingly makes any alteration to a revised edition, with the intent to deceive any person as to the true text of the law, shall be guilty of an offence and liable to imprisonment for a term of 14 years and a fine.
- (2) Paragraph (1) applies whether the alteration is made in Jersey or elsewhere.

14 Citation and commencement

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

SCHEDULE 1

(Article 4)

OMITTED LAWS

The following laws shall be omitted from a revised edition –

- (a) private Laws;
- (b) Laws conferring pensions or gratuities on individual persons;
- (c) Laws of a temporary nature or under revision;
- (d) Laws the carrying into effect of whose provisions is doubtful;
- (e) Laws according acts of incorporation or converting trusts to public trusts;
- (f) subordinate legislation made under a Law omitted under paragraph (a) to (e);
- (g) subordinate legislation of temporary effect or which does not appear to the Board to be of sufficient importance to be included;
- (h) Schemes or Representations ratified by the Crown on the recommendation of the Church Commissioners for England or, formerly, the Ecclesiastical Commissioners for England;
- (i) enactments omitted from an earlier republication of a volume of the Recueil des Lois de Jersey or of the Regulations and Orders of Jersey.

SCHEDULE 2

(Article 5(1))

POWERS OF REVISION

1. In the preparation of a revised edition, the Board shall have power to omit –
 - (a) any law passed or made in Jersey or any part of such a law which has been expressly and specifically repealed or which has expired or has become spent or has had its effect;
 - (b) any repealing provision contained in a law passed or made in Jersey and also any table or list of repealed laws;
 - (c) the preamble to any law passed or made in Jersey where such omissions can, in the opinion of the Board, conveniently be made;
 - (d) any law passed or made in Jersey or any provision of a such a law bringing a law or provision of a law into operation where, in the opinion of the Board, such omission can conveniently be made;
 - (e) any amending law passed or made in Jersey or any provision of such a law, where the amendments effected by it have been embodied by the Board in the law to which they relate;
 - (f) any words of enactment.
2. In the preparation of a revised edition, the Board shall have power, in respect of any law referred to in Article 3(1), to –
 - (a) arrange the laws in such order or manner and in such groups as the Board may determine;
 - (b) add a short title to a law which does not have one, alter the long or short title of any law or alter the title of any law;
 - (c) consolidate or split laws or move a provision from one law to another such law in which the provision more properly belongs;
 - (d) rearrange the provisions of any law or any list in a provision of a law;
 - (e) add a table of contents or destinations to a law;
 - (f) add a heading to a provision of a law that does not have one and alter any heading to a provision or part of a law;
 - (g) omit any map, picture, drawing, diagram or other object;
 - (h) change any reference to a person, office, body, place or thing to reflect a change of name, transfer of function or provision for construction of the reference;
 - (i) make such adaptations and amendments as may appear necessary or proper as a consequence of constitutional or other changes in Jersey or any other place or territory or in or to any body or organization outside Jersey;
 - (j) change any words to make them gender neutral;
 - (k) change any reference to an office established by law to make it gender neutral;
 - (l) correct any typographical error or other error of spelling, punctuation, grammar or layout;
 - (m) change spelling, punctuation and layout;
 - (n) change expressions of date, money, number, time and units of measurement;
 - (o) change conjunctives and disjunctives at the end of a provision of a law;
 - (p) omit any obsolete or redundant words;
 - (q) alter any words to secure uniformity of expression in a law;
 - (r) shorten or simplify any phrase or sentence;
 - (s) add numbering where there is none and change numbering to correct an error or reflect any other change made under this Article;

- (t) substitute for a reference to a law or provision of a law which has been re-enacted or replaced, whether with or without modifications, a reference to the law or provision re-enacting or replacing it;
- (u) change a cross reference to a law or provision of a law to correct an error or reflect any other change made under this Article,

and to do all other things which appear to the Board to be necessary to render the revised edition consistent with current law drafting practice and to perfect the revised edition.

[1] *Volume 1973-1974, page 97.*

[2] *Volume 2000, page 659, and Volume 2002, pages 705 and 706.*

[3] *Volume 2000, pages 662 and 663.*

[4] *Tome VIII, page 884, and Volume 2003, page 186.*