

STATES OF JERSEY

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DRAFT ANIMAL WELFARE (AMENDMENT) (JERSEY) LAW 200-

**Lodged au Greffe on 21st June 2005
by the Economic Development Committee**

STATES GREFFE



Jersey

DRAFT ANIMAL WELFARE (AMENDMENT) (JERSEY) LAW 200-

European Convention on Human Rights

The President of the Economic Development Committee has made the following statement –

In the view of the Economic Development Committee the provisions of the Draft Animal Welfare (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Deputy F.G. Voisin of St. Lawrence**

REPORT

Background

The Animal Welfare (Jersey) Law 2004 was adopted by the States on 20th April 2004 and was subsequently sanctioned by Her Majesty in Council on 13th October 2004. It was registered in the Royal Court on 29th October 2004. The Law is not yet in force.

At the time of the States debate, Deputy F.J. Hill lodged several amendments to the draft Law, two of which were adopted. The first amendment had been accepted by the Economic Development Committee and was of a relatively minor nature. The effect of the second amendment was to restrict the powers of the Committee to appoint inspectors, including officers and employees of the Jersey Society for the Prevention of Cruelty to Animals. (JSPCA) The JSPCA had previously played a major role in the administration of the Protection of Animals (Jersey) Law 1980, as amended, and the Protection of Birds (Jersey) Law 1963, as amended. These two Laws are to be repealed by the new Animal Welfare Law.

The Animal Welfare (Jersey) Law 2004 falls into 5 parts with 2 Schedules –

Part 1 Preliminary

Part 2 Offences against Animals

Part 3 Licensing (of certain businesses involved in the keeping of animals for reward)

Part 4 Enforcement and further offences

Part 5 Miscellaneous and Supplemental

Schedule 1 Operations which may be performed without anaesthetic

Schedule 2 Repeals

The Economic Development Committee did not support the second amendment that had been adopted following the proposal by Deputy F.J. Hill, as it had the effect of imposing a financial and manpower implication, in the absence of being able to utilise the services of the JSPCA. The Committee was also mindful of the vast amount of support that the JSPCA had provided for many years in matters of animal welfare.

Deputy Hill has been concerned that as the Animals Shelter also runs Boarding Kennels, which would need to be licensed under the Law, that this should disqualify any officers or employees of the JSPCA from acting as inspectors under the new Law.

Insofar as Article 22(1) of the Law referred to the appointment of inspectors, it had always been the intention that the inspection procedures required for licensing would be carried out by the States Veterinary Officer, supported by an administrative assistant, as JSPCA employees could not be involved in licensing procedures due to a potential conflict of interest. However, in respect of the investigatory and enforcement powers granted to inspectors under Articles 26 and 27 of Part 4 of the Law, it had been envisaged that the Committee would be able to appoint officers and employees of the JSPCA as inspectors in order that they could assist the States Veterinary Officer in carrying out inspections of premises where it was suspected that offences were being committed. In doing so, it had been recognised that the majority of animal cruelty cases were reported to the JSPCA in the first instance.

The current situation

The functions of the States Veterinary Officer have now transferred to the Public Services Department and the Animal Welfare Law is in the process of being transferred from the Economic Development Committee to the Environment and Public Services Committee. With the exception of the States Veterinary Officer, there are no suitably qualified or experienced staff within the Public Services Department to carry out general investigations, and it is impossible for the States Veterinary Officer to carry out this task without support.

As the Law currently stands, it is not possible for the Public Services Department to administer the Law without additional financial and manpower resources.

The proposed amendment will allow for officers and employees of the JSPCA, with suitable experience in the field of animal welfare, to be authorised by the Committee for the purpose of carrying out actual or suspected offences of cruelty or neglect, whilst not involving them in the inspection process for the licensing of

establishments under Part 3 of the Law. This will be carried out by the States Veterinary Officer

Powers of inspectors

Under the current Protection of Animals (Jersey) Law 1980, the JSPCA have no legal authority to enter any premises and carry out any inspection. The only recognition of their role is that the Honorary Vet of the JSPCA may apply for a warrant if an offence of cruelty is suspected. The right to apply for a warrant does not extend to a mere employee.

There is no power under the new law for an inspector to enter and carry out inspections of premises which do not have or require a licence, unless he or she does so pursuant to a warrant. An inspector may apply for a warrant where any offence under the Law is suspected. An inspector can also seize an animal found in a public place or on premises entered pursuant to a warrant, and remove it to a safe place of custody pending resolution of any proceedings. It goes without saying that an inspector cannot enter premises merely to assess whether those premises should be granted a licence under the Law.

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 21st June 2005 the Economic Development Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Economic Development Committee the provisions of the Draft Animal Welfare (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This Law would revoke paragraph (2) of Article 22 of the Animal Welfare (Jersey) Law 2004. That paragraph prevents the Economic Development Committee appointing as an inspector any person who holds, or is an officer or employee of a person who holds, a licence under Part 3 of the 2004 Law. Inspectors appointed under the Law may enter and inspect premises to which a licence relates. They may also apply for a warrant of entry under the Law, if an offence involving an animal is suspected, or accompany a police officer executing such a warrant.



Jersey

DRAFT ANIMAL WELFARE (AMENDMENT) (JERSEY) LAW 200-

A LAW to amend the Animal Welfare (Jersey) Law 2004.

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 –

1 Article 22 amended

Paragraph (2) of Article 22 of the Animal Welfare (Jersey) Law 2004^[1] shall be revoked.

2 Citation and commencement

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

[\[1\]](#) *Volume 2004, page 1029.*