

ETATS DE JERSEY

r

PROJET DE LOI (200-) (AMENDEMENT No. 10) RÉGLANT LA PROCÉDURE CRIMINELLE

Logé au Greffe le 3 février 2004
par le Comité de Législation

GREFFE DES ETATS



Jersey

PROJET DE LOI (200-) (AMENDEMENT No. 10) RÉGLANT LA PROCÉDURE CRIMINELLE

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 Projet de Loi (Amendement No. 10) réglant la procédure criminelle are compatible with the Convention Rights.

(Signed) **Deputy R.G. Le Hérissier of St. Saviour**

REPORT

This is essentially a technical amendment to the Loi (1864) réglant la procédure criminelle ('the Criminal Procedure Law').

The Criminal Procedure Law amongst other things regulates the detailed procedure in relation to jury trials – or Assizes as they are commonly known. An Assize may be convened not merely to try an indictment against one person, but to try several cases unconnected with one another.

In the run-up to an Assize, a panel of potential jurors has to be summoned by the Viscount. Forty such persons constitute a primary list of the names of persons able to be summoned for jury service. Account has to be taken of the fact that some, or maybe many, of the persons summoned will for one reason or another not actually be able to serve on the eventual jury: such persons may be ineligible for various reasons. Over and above this there is a right to challenge a person selected for jury service. Therefore the 'pool' of potential jurors may be depleted. That is why so many people have to be summonsed in the first place. In other words, allowance must be made for those in the pool of potential jurors that may be ineligible or may be challenged.

The difficulty that has been highlighted by the Viscount recently is that the Criminal Procedure Law can be construed in such a way that this cumbersome (but necessary) process might have to be repeated irrespective of the number of different trials which take place before one Assize. What one may term the 'surplus' potential jurors who for one reason or another cannot serve on one trial, may indeed be quite eligible to serve on another trial during the same Assize. Again it must be understood that an Assize is not to be confused with an individual trial during the course of an Assize.

The purpose of this Projet de Loi is to make it clear that the pool of jurors is available for second or subsequent trials within one Assize. In other words, if there are two or more trials in the course of one Assize, the pool of potential jurors will continue to be available for service on the second or subsequent trial (assuming that they in turn are not ineligible and will not be opposed on the grounds of bias or any other ground upon which a challenge could be made to their serving on the relevant jury).

In the absence of this amendment, it appears to be necessary to form a pool of potential juries not just in respect of one Assize, but in respect of each and every separate trial that may take place in the course of an Assize. This would cause a substantial burden not just upon civil service resources, but upon the additional ranks of the public who found themselves having to attend the Royal Court. Thus, in terms of manpower resources, this amendment would represent a considerable saving. In terms of convenience to the public, it can only be to their convenience. In terms of the administration of justice, it can only represent a more efficient means of discharging that function.

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 23rd January 2004 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 Projet de Loi (200-) (Amendement No. 10) réglant la procédure criminelle are compatible with the Convention Rights.

Explanatory Note

This Law amends the Loi (1864) réglant la procédure criminelle (the principal Law).

Article 1 defines the principal Law.

Article 2 amends Article 3 of the principal Law so as to provide that an Assize shall last as long as is necessary to complete the trials commenced in the first week.

Article 3 amends Article 29 of the principal Law so as to make it clear that a sufficient number of jurors must be selected to serve on the juries for all trials taking place during the Assize and that a person who has served on one or more trials during an Assize is released from service during any other Assize during the year.

Article 4 amends Article 33 of the principal Law to reflect the fact that more than one jury may need to be selected during an Assize.

Article 5 amends Article 37 of the principal Law, again, to reflect the fact that more than one jury may need to be selected during an Assize.

Article 6 is the citation and commencement provision.

The translated text of the Articles of the draft Law is as follows –

“1 Interpretation

In this Law “the principal Law” means the Loi (1864) réglant la procédure criminelle.

2 Article 3 amended

In Article 3 of the principal Law for the words “the trial” there shall be substituted the words “each trial that commences in the opening week of the said Assize”.

3 Article 29 amended

In Article 29 of the principal Law –

- (a) in paragraph (1)(b), for the words “the jury” there shall be substituted the words “each jury for a trial during the Assize”;
- (b) in paragraph (2), for the words “an Assize” there shall be substituted the words “one or more trials during the Assize”.

4 Article 33 amended

In Article 33 of the principal Law, for the words “The jury” there shall be substituted the words “Each jury”.

5 Article 37 amended

In Article 37 of the principal Law, for the words “the jury” there shall be substituted the words “a jury”.

6 Citation and commencement

This Law may be cited as the Loi (200-) (Amendement No. 10) réglant la procédure criminelle and shall come into force on the seventh day following its registration.”



Jersey

PROJET DE LOI (200-) (AMENDEMENT No. 10) RÉGLANT LA PROCÉDURE CRIMINELLE

Arrangement

Article

- | | |
|----------|--------------------------------------|
| <u>1</u> | <u>Interprétation</u> |
| <u>2</u> | <u>Modification de l'Article 3</u> |
| <u>3</u> | <u>Modification de l'Article 29</u> |
| <u>4</u> | <u>Modification de l'Article 33</u> |
| <u>5</u> | <u>Modification de l'Article 37</u> |
| <u>6</u> | <u>Intitulé et entrée en vigueur</u> |



Jersey

PROJET DE LOI (200-) (AMENDEMENT No. 10) RÉGLANT LA PROCÉDURE CRIMINELLE

LOI pour modifier en plus la Loi (1864) réglant la procédure criminelle.^[1]

Adopté par Les Etats

[date à insérer]

Sanctionné par Sa Majesté en Conseil

[date à insérer]

Enregistré par la Cour Royale

[date à insérer]

LES ETATS, moyennant la sanction de Sa Très Excellente Majesté en Conseil, ont adopté la Loi suivante –

1 Interprétation

Dans cette Loi les mots “la Loi principale” signifient la Loi (1864) réglant la procédure criminelle.^[2]

2 Modification de l'Article 3

Dans l'Article 3 de la Loi principale,^[3] aux mots “le procès” seront substitués les mots “chaque procès qui commencera dans la semaine de l'ouverture de ladite Assise”.

3 Modification de l'Article 29

Dans l'Article 29 de la Loi principale^[4] –

- (a) à l'alinéa (1)(b), aux mots “l'enquête” seront substitués les mots “chaque enquête au cours des procès pendant ladite Assise”;
- (a) à l'alinéa (2), aux mots “une Assise” seront substitués les mots “un ou plusieurs procès pendant l'Assise”.

4 Modification de l'Article 33

Dans l'Article 33 de la Loi principale,^[5] aux mots “L'enquête” seront substitués les mots “Chaque enquête”.

5 Modification de l'Article 37

Dans l'Article 37 de la Loi principale,^[6] aux mots “l'enquête” seront substitués les mots “une enquête”.

6 Intitulé et entrée en vigueur

La présente Loi pourra être citée sous le titre de Loi (200-) (Amendement No. 10) réglant la procédure criminelle et entrera en vigueur le 7eme jour après son enregistrement.

[1] *Tomes I-III, page 282, Volume 1973-1974, page 195, Volume 1982-1983, pages 3 and 27, Volume 1986-1987, page 20, Volume 1988-1989, page 231, Volume 1996-1997, page 677, Volume 1998, page 713, Volume 2001, page 27 and Volume 2002, page 1163.*

[2] *Tomes I-III, page 282, Volume 1973-1974, page 195, Volume 1982-1983, pages 3 and 27, Volume 1986-1987, page 20, Volume 1988-1989, page 231, Volume 1996-1997, page 677, Volume 1998, page 713, Volume 2001, page 27 and Volume 2002, page 1163.*

[3] *Tomes I-III, page 283 and Volume 2001, page 27.*

[4] *Tomes I-III, page 291 and Volume 2001, page 31.*

[5] *Tomes I-III, page 292, Volume 1988-1989, page 232 and Volume 2001, page 32.*

[6] *Tomes I-III, page 293.*