
STATES OF JERSEY



JERSEY LAW COMMISSION: REPORT FOR 2009

Presented to the States on 22nd June 2010
by the Chief Minister

STATES GREFFE

REPORT

The Jersey Law Commission

The Jersey Law Commission was set up by a Proposition laid before the States of Jersey and approved by the States Assembly on 30 July 1996.

The Commissioners are:

Mr David Lyons, Chairman, English Solicitor (chairman until 23 February 2010)
Advocate Alan Binnington
Mr Clive Chaplin, Solicitor (Chairman since 23 February 2010)
Advocate Kerry Lawrence
Advocate John Kelleher
Mr Peter Hargreaves, Chartered Accountant

The Secretary is: Ms Elaine McGoogan

The address of the Jersey Law Commission is Whiteley Chambers, Don Street, St Helier, Jersey, JE4 9WG

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The Jersey Law Commission Twelfth Annual Report 2009

To the Chief Minister of the States of Jersey

I have the honour to present to you, on behalf of the Jersey Law Commission, pursuant to the Proposition to establish the Commission approved by the States on 30 July 1996, our Thirteenth Annual Report covering the activities of the Commission in the calendar year 2009. During the year David Lyons decided to retire as Chairman. On behalf of my fellow Commissioners and myself, I take this opportunity of thanking David Lyons for his leadership and guidance over the past six years. My appointments as Chairman was approved by the States of Jersey on February 23 2010.

 Signed
Clive Chaplin, Chairman

PART I – The Thirteenth Year

No new consultation papers were published during the year. However following on from the Consultation Paper published in 2008, the Report on “Corroboration of Evidence in Criminal Trials” primarily focussing on the issue of corroboration in rape trials was published during the year.

As indicated in last year’s annual report, Reports were also published on the Law of Charities and on the Law of Partnership.

We continue to review the Law of Contract, Prescription and Limitation, Bankruptcy Law in the area of “Social Désastre” and have added the topics of Imprisonment for Debt and Voisinage.

We have received requests to review other aspects of Jersey law, but before adopting new topics we plan to advertise publicly for suggested topics. The Commission will then produce a three year plan, prioritising topics over that period as it considers appropriate.

The Commission is well aware that a number of laws of relevance to Jersey’s Finance Industry are the subject of review and consultation by the bodies such as the Jersey Law Society, Jersey Finance and the Jersey Financial Services Commission. The Law Commissioners are anxious to avoid duplication of effort and are therefore unlikely to adopt as topics areas of law that are under review elsewhere.

PART II – Topic Reports and other issues considered by the Commission

Since its inception in 1996 the Commission has considered and/or issued reports on the following:

- The Rights of Beneficiaries to Information Regarding a Trust
- The Best Evidence Rule
- The Jersey Law of Real Property
- Dobson v Public Services Committee of the States of Jersey

- Jersey Rules of Légitime
- The Law on Tutelles
- The Law of Contract
- The Jersey Law of Partnership
- The Law of Charities
- The Law on Security over Immoveable Property
- Prescription and Limitation
- Trusts of Jersey Immoveable Property
- Executors and Immoveable Property
- Corroboration in Criminal Trials

PART III – The Cost of the Commission

- (i) The Commission’s resources are made available by the States of Jersey through the office of the Chief Minister, based on budgets submitted by the Commission.
- (ii) The Commission spent a total of £3,928.56 in 2009 from a budget of £29,144.

PART IV – Budget

- (i) Budget for 2010

The Commission’s budget for 2010 has been set at £24,000.


PART V – Commissioners

There were no new Commissioners appointed in 2009.


PART VI - General

The Commission looks forward to continue working with the Chief Minister through the Legislation Advisory Panel.


Signed



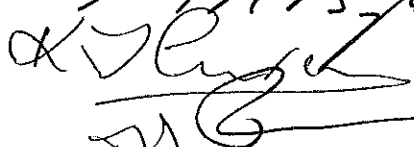
Clive Chaplin, Chairman



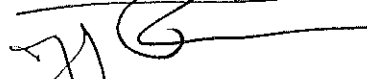
David Lyons




Alan Binnington



Kerry Lawrence



Peter Hargreaves



John Kelleher

APPENDIX A

The role of the Commission

The Commission is a body established by the States of Jersey. Although the Commission works in close consultation with the Legislation Advisory Panel, which also organised its funding and acts as its channel of communication with the States, it is an independent body which reports will be made available, unaltered, to the public.

The role of the Commission is defined in its terms of reference, which are set out as follows in the proposition establishing it:

It shall be the duty of the Commission to identify aspects of Jersey law which it considers should be examined with a view to their development and reform, including in particular the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law, and to those ends:

- (a) to receive and consider any proposals for the reform of the law which may be made or referred to them;*
- (b) to prepare and submit to the Legislation Advisory Panel from time to time programmes for the examination of different branches of the law with a view to reform; and*
- (c) to undertake, pursuant to any such recommendations approved by the Legislation Advisory Panel, the examination of particular branches of the law, such consultation thereon as the Commission shall think fit, and the formulation by means of draft bills or otherwise of proposals for such reform.*

APPENDIX B

Upon accepting a topic for review the Commission appoints one of its members to act as the Topic Commissioner to conduct and co-ordinate all of the Commission's work on that topic. On his recommendation the Commission seeks to appoint a Jersey lawyer currently practising in that field as Topic Practitioner to assist him generally and to ensure that the Commission's work remains relevant to the issues actually arising in day-to-day practice. The Topic Commissioner is not paid by the Commission and in practice the Topic Practitioner has not asked for payment, although payment has been made in some cases where necessary. Any necessary legal research will usually be carried out by others: either by professional researchers under contract or by experts willing to give their time as a public service.

The procedure for the review of each topic will commonly fall into the following steps:

- 1 finding out whether there is a problem, and if there is, defining exactly what it is;
- 2 researching and summarising the existing law relevant to the topic;
- 3 suggesting how the relevant law might be changed to solve the problem;
- 4 preparing and publishing a consultative document based on items 1, 2 and 3;
- 5 receiving and discussing representations made in response to the consultative document;
- 6 preparing and publishing a final report culminating in either a detailed brief for the Law Draftsman or in a draft law prepared in consultation with the Law Draftsman.