

DRAFT PETTY DEBTS COURT (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 200-

**Lodged au Greffe on 11th April 2000
by the Legislation Committee**



STATES OF JERSEY

STATES GREFFE

180

2000

P.48

Price code: B

REPORT

The purpose of this draft Law is to implement the remaining recommendations in the Second Interim Report of the Jersey Judicial and Legal Services Review Committee under the Chairmanship of Sir Godfray Le Quesne which relate to the jurisdiction of the Petty Debts Court and the desirability of extending that jurisdiction in order partly to alleviate some of the burdens on the Royal Court. The reforms which this draft Law would implement fall broadly under the following headings -

- (i) to increase the jurisdiction of the Petty Debts Court and to include unliquidated claims within that jurisdiction;
- (ii) to confer jurisdiction on the Petty Debts Court to cancel a lease for breach of contract;
- (iii) to confer jurisdiction to transfer actions from the Royal Court to the Petty Debts Courts and vice versa; and
- (iv) to provide for a wider right of appeal from the Petty Debts Court to the Royal Court.

Increase in overall jurisdiction

The Second Interim Report contained the following passages relating to the overall jurisdiction of the Petty Debts Court -

“8.5 It has been suggested to us by several witnesses, including representatives of the Law Society of Jersey, that the limits of the Court’s jurisdiction in respect of debts and liquidated claims (including special damages) should be increased to £5,000. Such an increase would alleviate some of the burdens on the Royal Court and would enable, for example, most of the claims of the Treasurer of the States for taxes or other sums due to be dealt with by the Petty Debts Court. We agree with that suggestion and we recommend that the limit of the jurisdiction of the Petty Debts Court should be increased to the sum of £5,000.

8.6 We see no reason in principle why the jurisdiction of the Petty Debts Court should be confined to claims in debt or for liquidated damages. We recommend that the Court should also have jurisdiction to award unliquidated damages where the damages claimed do not exceed the sum of £5,000. Such an extension of the Court’s jurisdiction should remove a number of small claims for unliquidated damages from the Royal Court.”

The Legislation Committee has given consideration to these recommendations and believes that they ought to be implemented. However the figure of £5,000 was fixed upon almost ten years ago and it is agreed that the figure should now properly be £10,000. The draft Law would thus make provision to increase the overall jurisdiction of the Petty Debts Court to £10,000 (with a power to increase this sum by regulations). That jurisdiction would apply to unliquidated, as well as liquidated, claims.

Jurisdiction to cancel leases

The States have already enacted the Royal Court (Possession Orders) (Jersey) Law 1998 which implemented Recommendation 9.16 of the Le Quesne Committee Report that the Royal Court should have power to make an order for possession, immediate or delayed, when it decides to cancel a lease, using the same criteria as applied in the Petty Debts Court.

Whilst this implemented one of the main recommendations of the Report, it did not address a deficiency in the jurisdiction of the Petty Debts Court itself, namely, a lack of jurisdiction actually to cancel a lease for breach of contract. Under the existing law, the jurisdiction of the Petty Debts Court is confined to ordering the eviction of a *locataire réfractaire*, that is to say, a tenant who remains in occupation after the lease has expired. In order to complete the jurisdiction of both Royal Court and Petty Debts Court in relation to cancellation of leases and the granting of possession orders, it is necessary to empower the Petty Debts Court to pronounce the cancellation (*résolution*) of a lease where there has been a breach of contract, but only in respect of leases where the rent payable in respect of the immovable assessed annually does not exceed a certain amount.

The draft Law would provide that the Petty Debts Court have jurisdiction to pronounce the cancellation (*résolution*) of a contract of lease of an immovable (other than a *contrat passé devant justice*) if the rent payable in respect of the immovable assessed annually did not exceed at the time of the institution of the proceedings £15,000 or such other sum as the States might by regulations specify. The Court would be empowered to award any amount in respect of arrears of rent in cases in which it exercised this jurisdiction.

The relevant passage from the Le Quesne Committee Report read as follows -

“8.13 We do not think that the Royal Court, having made an order for the cancellation of a lease, should be obliged to refer to the Petty Debts Court the question of the delay which should be granted to the tenant on the grounds of hardship before he is required to vacate the property. Conversely, we do not think that jurisdiction to cancel a contract lease should rest with the Royal Court alone. In paragraph 6.44 above we recommend that the Royal Court should be given power to make an order for possession, immediate or delayed, when it decided to cancel a lease, using the same criteria as at present apply in the Petty Debts Court. We also recommend that the Petty Debts Court should be given power to cancel any lease under which a rack rent not exceeding £5,000 a year is payable at the date of commencement of the proceedings for cancellation. This, we think, would be consistent with the other increases in the Court’s jurisdiction.”

It will be noted that the draft Law has increased the figure in the Le Quesne Report of £5,000 to a figure of £15,000. The Committee believes that, given the current value of leases in the Island, and the time that has elapsed since the publication of the Second Interim Report, the figure of £15,000 in respect of this particular jurisdiction is now more appropriate.

Transfer of actions between Royal Court/Petty Debts Court

Paragraph 8.11 of the Second Interim Report stated that -

“8.11 If the jurisdiction of the Petty Debts Court is to be increased and extended in the way that we recommend we recommend that the Petty Debts Court should be given power to remit to the Royal Court any case before it which it considers ought to be tried by the Royal Court because of its complexity or importance or for some other reason. We also recommend that the Royal Court should be given power to remit to the Petty Debts Court any case brought before it which could have been brought directly in the Petty Debts Court.”

Again the draft Law would implement this recommendation by enabling proceedings in either Court to be transferred to the other Court on the grounds and in the manner provided for by *Article 2*.

Appeal to the Royal Court

At present the right of appeal to the Royal Court from a judgment of the Petty Debts Court is governed by the *Loi (1902) sur la Cour pour le recouvrement de menues dettes (appels)*. That Law restricts the right of appeal to appeals on points of law and then only with the leave of the Judge (although if leave is refused the intending appellant may apply to the Royal Court for leave to appeal). The Le Quesne Committee recommended that there should be a right of appeal (with leave of the Petty Debts Court or of the Royal Court) from the Petty Debts Court to the Royal Court on points of fact as well as on points of law, but that there should be no further appeal beyond the Royal Court.

Article 3 of the draft Law would make provision for such a right of appeal (with the leave of the Petty Debts Court or of the Bailiff) and for the eventual determination by the Royal Court to be final and conclusive and (without prejudice to any right of appeal conferred by any other enactment or rule of law) not to be subject to appeal to any other Court.

Conclusion

The recommendations of the Second Interim Report of the Le Quesne Committee which this Law would implement have been the subject of widespread consultation with persons closely involved in the administration of civil justice within the Island. The Committee believes that such reforms will assist in the more efficient administration of civil justice and, in particular, it is hoped that the greater use of the Petty Debts Court in civil proceedings will help to reduce the costs associated with civil litigation.

Explanatory Note

This draft Law -

- (a) increases the jurisdiction of the Petty Debts Court to £10,000 (with a power to increase this sum by Regulations) in respect of both liquidated and unliquidated claims (*Article 1(1) and (4)*);
- (b) gives that Court jurisdiction to pronounce the cancellation of a contract of lease of an immovable for a term not exceeding nine years and with an annual rent not exceeding £15,000 (with a power to increase this sum by Regulations) and unlimited jurisdiction in respect of arrears of rent relating to such leases (*Article 1(2)-(4)*);
- (c) gives the Petty Debts Court the same powers to grant relief within its jurisdiction as the Royal Court (*Article 1(5)*);
- (d) provides for the transfer of actions between the Petty Debts Court and the Royal Court (*Article 2*); and
- (e) makes new provision for appeals from the Petty Debts Court to the Royal Court (*Article 3*).

PETTY DEBTS COURT (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 200-

A LAW to augment the jurisdiction of the Petty Debts Court, to provide for certain rights of appeal therefrom and for the transfer of actions between that Court and the Royal Court and for connected purposes; sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

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

ARTICLE 1

Jurisdiction of the Petty Debts Court

(1) Subject to paragraphs (2) and (3) of this Article, the Petty Debts Court shall have jurisdiction in all civil causes and matters where the claim (whether liquidated or unliquidated), net of any interest claimed in respect thereof, does not exceed £10,000.

(2) The Petty Debts Court shall have jurisdiction in respect of any proceedings which may be brought in the Royal Court to pronounce the cancellation (“*résolution*”) of a contract (other than a *contrat passé devant Justice*) of lease (“*location*”) of an immovable or any interest in an immovable if the rent payable in respect of the immovable assessed annually at the time of the institution of the proceedings does not exceed £15,000.

(3) When exercising its jurisdiction pursuant to paragraph (2) of this Article the Petty Debts Court shall have unlimited jurisdiction in respect of any claim for arrears of rent.

(4) The States may by Regulations -

(a) amend the monetary amounts referred to in paragraph (1) or (2) of this Article; and

(b) amend the monetary amounts referred to in Articles 1 and 5 of the *Loi (1867) sur la Cour pour le recouvrement de menues dettes*, as amended, ^[1] so as to reflect any amendment to the monetary amount referred to in paragraph (1) of this Article.

(5) When exercising its jurisdiction in relation to any proceedings, the Petty Debts Court shall have the same powers to grant relief as the Royal Court would have had if those proceedings had been brought in the Royal Court.

(6) Nothing in this Article shall derogate from any powers conferred on the Petty Debts Court by or under any other enactment.

ARTICLE 2

Transfer of actions

(1) At any stage in any proceedings commenced in the Petty Debts Court, the Court may, either of its own motion or on the application of any party to the proceedings, order the transfer of the whole or any part of the proceedings to the Royal Court on such terms as to costs or otherwise as it thinks proper, if it considers that -

- (a) an important or complex question of law or a complex question of fact is likely to arise;
- (b) the claim exceeds, or the damages claimed are likely to exceed, the jurisdiction of the Court; or
- (c) it is otherwise in the public interest to do so.

(2) At any stage in any proceedings commenced in the Royal Court, the Court may, either of its own motion or on the application of any party to the proceedings, order the transfer of the whole or any part of the proceedings to the Petty Debts Court on such terms as to costs or otherwise as it thinks proper, if it considers that the action is or is likely to be within the jurisdiction of the Petty Debts Court.

ARTICLE 3

Appeal to the Royal Court

(1) If any party to any proceedings in the Petty Debts Court is dissatisfied with the decision of the Judge, he may, with the leave of the Petty Debts Court or the Bailiff, appeal to the Royal Court in such manner and subject to such conditions as may be prescribed by Rules of Court.

(2) On hearing an appeal, the Royal Court may draw any inference of fact and may -

- (a) order a new hearing in the Petty Debts Court on such terms as it thinks just;
- (b) order any judgment to be entered for any party; or
- (c) make a final or other order on such terms as it thinks proper to ensure the determination on the merits of the real question in controversy between the parties.

(3) The determination of an appeal by the Royal Court shall be final and conclusive, and shall not be subject to appeal to any other Court.

(4) This Article is without prejudice to any right of appeal conferred by any other enactment or rule or law.

ARTICLE 4

Consequential amendments and repeals

(1) In Articles 1 and 5 of the *Loi (1867) sur la Cour pour le recouvrement de menues dettes*, as amended,^[2] for the words “deux mille cinq cents” there shall be substituted the words “cinq mille”.

(2) In Article 2(1)(c) of the Law Reform (Miscellaneous Provisions) (Jersey) Law 1967,^[3] the words “(other than sub-paragraph (b) of paragraph (1) thereof)” shall be deleted.

(3) The following provisions are repealed -

- (a) Articles 1 and 3 of the *Loi (1891) sur la Cour pour le recouvrement de menues dettes*, as amended;^[4]
- (b) the *Loi (1902) sur la Cour pour le recouvrement de menues dettes (Appels)*, as amended;^[5]
- (c) Article 7 of the Civil Proceedings (Jersey) Law 1956;^[6] and
- (d) Article 1 of the *Loi (1984) sur la Cour pour le recouvrement de menues dettes*.^[7]

ARTICLE 5

Citation, commencement and application

(1) This Law may be cited as the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 200- and shall come

into force on such day as the States may by Act appoint.

(2) Subject to paragraph (3) of this Article, nothing in this Law shall apply to any proceedings instituted prior to the commencement of this Law.

(3) Where all the parties to any proceedings agree, Article 2 of this Law shall apply to those proceedings notwithstanding they were instituted prior to the commencement of this Law.

[1] Tomes I-III, pages 318 and 319, Volume 1984-1985, page 5 and Volume 1992-1993, page 242.

[2] Tomes I-III, pages 318 and 319, Volume 1984-1985, page 5 and Volume 1992-1993, page 242.

[3] Volume 1966-1967, page 428.

[4] Tomes IV-VI, page 103 and Volume 1992-1993, page 242.

[5] Tomes IV-VI, page 209 and R & O 5013.

[6] Tome VIII, page 655.

[7] Volume 1984-1985, page 5.