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by the Legislation Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

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## **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 Draft Official Publications (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator W. Kinnard**

## Report

The principal purpose of this *projet de loi* is to enable, where appropriate, statutory notices of certain matters to be given other than through the medium of the Jersey Gazette. The existing requirement for the publication of notices is contained in the Official Publications (Jersey) Law 1960 [“the Law of 1960”]. There is a broad distinction between notice being given of -

- A. The making of enactments.
- B. Matters such as -
  - (i) the holding of an event or a meeting (for example, events governed by the Entertainments on Public Roads Law such as the Gorey Fête or meetings pursuant to legislation on agricultural marketing);
  - (ii) civil proceedings and certain administrative or quasi-administrative matters (for example, bankruptcy/*dégrèvement* proceedings or notice of dissolution of limited liability companies);
  - (iii) the issue of an executive direction or warning (a prominent example being that pursuant to powers under Civil Emergency legislation).

Prior to the Law of 1960, there was a requirement in various Jersey statutes for publication in four newspapers on a Saturday, two in French and two in English, of legal or formal announcements envisaged by the legislation in question. By the late 1950s, there was not this number of newspapers in circulation and the Law of 1960 was enacted to ensure that, in all legislation where some publication was required, publication in the Jersey Gazette would suffice. Article 1(1) of the Law of 1960 therefore duly created “the Jersey Gazette” -

“... *for the publication of official notices and other matters requiring to be brought to the attention of the public*” .

The Appendix to this Report contains examples of enactments that contain a requirement to publish notices in the Jersey Gazette.

The Gazette must be published in an English language newspaper circulating in the Island designated for the purpose by Act of the States (Article 1(2)). Under Article 1(3), only one newspaper can be designated at any one time. Under Article 1(4) where, for any reason, it is not possible for the Jersey Gazette to be published in a newspaper designated by Act of the States, the Bailiff “*shall make such arrangements as he thinks fit for its publication*”.

Article 2 of the Law of 1960 effectively amended all other enactments providing for the publication of any notice or other matter in a newspaper or newspapers to have effect as if they provided for the publication of the notice or other matter in the Jersey Gazette. Article 2 applied to all enactments passed before the Law of 1960 and to all enactments passed with one year of that Law (*i.e.* all enactments up to 1st October 1961).

By Act of the States dated 11th October 1960 (see R & O 4173) the Jersey Evening Post was designated as the newspaper in which the Jersey Gazette was to be published. The effect of the Act of 1960 was that wherever there was a requirement to publish a notice or matter in a newspaper or wherever there was a requirement specifically to publish in the Jersey Gazette, it had to be published in the Jersey Evening Post and through no other medium.

That position remains unchanged to this day.

The Legislation Committee considered this matter for some time and, in doing so, took into account the concerns expressed from many quarters at the mounting cost of having to use the Jersey Gazette when, in all probability, the matter in hand could be brought to the attention of the public (or those specifically affected by it) more directly and cheaply by other means.

The Committee has had regard to legislation in other jurisdictions where a more flexible approach is taken. In certain circumstances in the United Kingdom, for example, it suffices to show that reasonable steps have been taken for the purpose of bringing the purport of a notice or other matter to the notice of the public or of persons likely to be affected by it. Such an approach offers the option of giving public notice, where appropriate, by publication on a website or through television or radio or by the medium of a magazine or circular destined specifically for those members of the public affected by the matter in hand.

The Committee believes that, whilst the rigid requirement for publication in the Jersey Gazette was appropriate to the conditions which prevailed in the late 1950s, methods of communication in the 21st Century offer opportunities for publication of notices in a variety of ways often likely to be more effective than being bound in law to publish every statutory

notice at length in the Jersey Gazette section of the Jersey Evening Post. The overriding consideration is that those affected by any notice or matter are the people to whom the notice should be directed. In many cases, the Jersey Gazette will doubtless continue to be the preferred medium through which public notices can be given; but where an alternative method provides ample notice to those persons concerned by the matter in hand, that alternative method would be able to be used.

Article 2 of the Law of 1960 would therefore be substituted so that notices and other matters currently required to be published in the Jersey Gazette would be able either to be published as at present or to be brought to the attention of the public or persons affected by them by other means. In the words of the amendment, reasonable steps would have to be taken to bring the purport of the notice or other matter to the attention of the public or of persons likely to be affected by it.

The Law of 1960 would remain unchanged, however, insofar as the requirement would continue that notice of the making of an enactment (a Law, Regulations or a Committee Order) be published in the Jersey Gazette.

The secondary purpose of the *projet de loi* is to amend Article 3 of the Law 1960 in the manner described in the draftsman's explanatory note. As that note recites, the amendment would merely reflect existing practice relating to the registration of Laws and the giving of notice of the passing of enactments. The Law of 1960 was couched in terms that reflected the earlier practice and functions of the Viscount in relation to promulgation.

It should be added that nothing in the *projet de loi* affects the traditional methods by which notice convening a meeting of a Parish Assembly, whether civil or ecclesiastical, is given.

This draft Law has no implications for the financial or manpower resources of the States and may, in fact, lead to financial savings.

### **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 October 2002 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 Draft Official Publications (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

*Certain enactments containing 'Gazette' requirements*

[THIS LIST DOES NOT PURPORT TO BE EXHAUSTIVE]

**1.** *The Laws governing Parish Assemblies*

Official notice of a Parish Assembly must be placed in the Parish Box (*boîte grillée*) in the Parish cemetery [*Loi (1905) au sujet des assemblées paroissiales*]. Notice must also be given in the Jersey Gazette at least two days before the holding of the Assembly [Official Publications (Jersey) Law 1960: *Article 2(1)*].

**2.** *Loi (1914) sur la voirie*

Provisions relating to the appointment of the Roads Committee and convening thereof by the Connétable 'lock in' to the notice provisions regarding the convening of Parish Assemblies.

However there are specific Gazette requirements in relation to the *branchage*. *Article 41* provides that in the last week of June and in the last week of August each year the Connétables must publish notice in the Jersey Gazette of the pending *branchage* and the days fixed for the *visite* (which must be in the first fortnight of July and the first fortnight of September).

**3.** *Loi (1862) sur les teneures en fidéicommiss et l'incorporation d'associations*

This Law enables the incorporation of charitable and other bodies by the Royal Court and is also the vehicle by which Trusts (*fidéicommiss*) may acquire and transact in land.

There is no requirement relating to the Jersey Gazette prior to the incorporation of a body (or the authorisation of a transaction by a *fidéicommiss*). However, under *Article 8*, there is a requirement, in the case of insolvency, to publish notice on two consecutive Saturdays in the Jersey Gazette.

*Article 10* provides that, if the objects of the incorporated body or the *fidéicommiss* can no longer be fulfilled or if circumstances require a modification of the constitution of the body, the Royal Court has power to authorise the application of assets to another object. *Article 10* goes on to provide that, in order to ensure that an application for such change of objects is made public, there must be published in the Jersey Gazette on at least six occasions a notice of the application (the Law does not provide that this should be six *successive* occasions but, no doubt, when this arises, there will be publications in the Gazette over a continuous period of six days).

**4.** *Laws relating to dégrèvement*

Whilst there currently is a proposal to abolish *dégrèvement*, the necessary legislation may not be in place for some time yet. In the meantime, there are peculiar requirements, the most notable being *Article 92* of the *Loi (1880) sur la propriété foncière* for the *Attourné* to publish notice of a pending *dégrèvement* on two consecutive Saturdays.

There are similar requirements upon the *Attourné* in *Articles 8 and 10* of the *Loi (1904) (Amendement No. 2) sur la propriété foncière* to make publications on two consecutive Saturdays in relation to sale of assets and notifying creditors.

A further requirement appears in *Article 5* of the *Loi (1915) sur la propriété foncière (Garanties)* relating to 'affranchissement and réalisation' that notice of sale of assets be given in the Jersey Gazette during three weeks (*pendant trois semaines*).

**5.** *Laws relating to the property of married women*

*Article 4* of the *Loi (1878) sur les séparations de biens* requires that notice of an application for a wife's property to be deemed separate from that of her husband be published in the Jersey Gazette on two consecutive Saturdays. However, the 1878 Law is presumably spent in view of the *Loi (1925) étendant les droits de la femme mariée* which provides that the property of a woman married after 25th April 1925 is deemed separate from that of her husband.

**6.** *Laws relating to target practice (tir à la cible)*

The *Loi* of 1903 regulating target practice is presumably redundant. Nonetheless, it is still on the statute book and might conceivably apply to the present day "militia".

*Article 3* requires notice of target practice to be published in the Jersey Gazette by the ‘Autorités Militaires’.

*Article 6* requires that the relevant Connétables be notified in order that they (the Connétables) can place a notice in the *boîte paroissiale*.

7. *Loi (1900) touchant l’aliénation des communes de fief*

*Article 1* provides that no part of a *Commune* (roughly translated as ‘common land’) may be sold or disposed of without the prior permission of the Royal Court. When an application is made to the Royal Court, a Jurat is nominated to examine the property and report to the Royal Court. The Jurat is bound, under *Article 3*, to convene interested parties by publishing in the Jersey Gazette on two consecutive Saturdays a notice of the application and he must also ensure that on two consecutive Sundays notice is posted in the *boîte paroissiale*.

8. *Loi (1938) sur la Société de Bienfaisance pour la Marine Marchande de Jersey*

This, again, may be a redundant statute. It relates to the Merchant Marine Welfare Society (broadly translated from the French). *Article 1* requires notice of any meeting of members to be published in the Jersey Gazette on at least three occasions.

9. *Loi (1884) sur le prêt sur gages (pawnbrokers)*

This Law imposes many requirements on pawnbrokers including, in *Article 8*, a requirement, when something pawned is not reclaimed and is going to be sold, to publish notice of the intended sale in the Jersey Gazette six days at least before the day fixed for the sale. The publication must be made on a Saturday specifying amongst other things the place in which the items for sale will be open to public inspection.

10. *Public Elections (Jersey) Law 2002*

There are specific requirements, for example in *Article 8*, for the Judicial Greffier to advertise the duty to be registered as an elector and, more particularly, under *Article 22* for the Connétable in every public election -

- (a) to cause a notice to be published in the Jersey Gazette on at least four days (not counting any Sunday) before the day when the poll is held; and
- (b) to cause a notice to be posted in the *boîte grillée*, during the four days (not counting any Sunday) before the day when the poll is held.

11. *Diseases of Animals (Jersey) Law 1956*

An example of the various Orders made under this Law is the Diseases of Animals (Foot and Mouth - Restrictions No. 10, (Jersey) Order 2001 [62/2001] which provided whilst it was in effect that, if required to do so by the Veterinary Officer, certain persons should provide him with such information in respect of an animal as might reasonably be necessary in anticipation of a possible outbreak of foot and mouth disease and to prohibit or regulate the movement of the animal so as to prevent the spread of the disease. The requirement was made by notice published in the Jersey Gazette prescribing the information to be given and the date by which it was to be given.

This is but one example of the various Orders that can be made under the 1956 Law, but is clearly an important case in which notice must be given clearly and unambiguously to the general population.

12. *Entertainments on Public Roads (Jersey) Law 1985*

The Orders made by the Public Services Committee in pursuance of this Law invariably contain a specific requirement for publication in the Jersey Gazette.

A recent example at random is the Battle of Flowers (Jersey) Order 2001 [104/2001], *Article 5* of which required publication in the Jersey Gazette on two occasions during the seven days immediately preceding the event of notice of the relevant dates and arrangements, *etc.*, regarding closure of roads to traffic.

Whilst such Orders make this requirement, it is not one that the Committee is bound to make under the 1985 Law. The only requirement in the Law is that an Order shall contain “...all such provisions as the Committee considers necessary, including provisions for the temporary prohibition, restriction, or regulation of traffic, for the safety of the public and for all purposes

incidental to the proper conduct of the entertainment”.

Thus, technically, it is open to the Public Services Committee when making an Order under the 1985 Law to decide on some requirement other than the Jersey Gazette to publicise the holding of the event and the arrangements in connection with it.

### **13.      *Licensing (Jersey) Law 1974***

*Article 5* requires that applications be considered by the Parish Assembly at a meeting held not later than the first day of the month in which the applications will be heard by the Licensing Assembly and the convening notice must contain particulars of the applicant, the address of the premises, and the category of the licence sought. This brings into play the usual notice requirements in respect of Parish Assemblies described above (including publication in the Jersey Gazette).

Occasionally, there have been other requirements, an example being the extension of permitted hours for the Millennium [see R & O 9418] under which the Judicial Greffier was required to publish in the Jersey Gazette, or two days in December 1999 not less than seven days apart, a list of the holders of licences who had notified him that they wanted to extend their hours. This particular provision obviously is now spent, but a similar situation might arise in the future in which public notice is to be given of extension of permitted hours under the Licensing Law.

### **14.      *Destructive Insects and Pests (Jersey) Law 1960***

*Article 2* empowers the Agriculture and Fisheries Committee to make Orders for preventing the introduction or spreading of destructive insects and pests.

One such Order is the Blight Disease (Jersey) Order 1982 [R & O 7038] which provides that the occupier of any land shall, if so required by a general notice or by a notice serviced on him by an inspector, carry out on the land whatever measures are required for combating blight. The expression ‘general notice’ is defined in the Order as a notice published in the Jersey Gazette. If the occupier fails to carry out any measures specified in the notice, the Committee may undertake those measures itself and recover its expenses from the occupier.

### **15.      *Agricultural Marketing***

The Agricultural Marketing (Jersey) Law 1953, as amended, provides for the control of the marketing of agricultural produce by control of production and by other means.

*Article 2* provides that a scheme for regulating the marketing or the marketing and production of any agricultural produce may be submitted to the Committee by promoters who satisfy the Committee that they are substantially representative of the producers of that produce. The Committee, before taking into consideration any scheme so submitted, must publish a notice in the Jersey Gazette of the submission of the scheme, of the place and the price at which copies thereof may be purchased (amongst other details).

The Committee is empowered to make modifications to a scheme so submitted but, if it does, it must give notice thereof in the Jersey Gazette and, unless within a minimum of two weeks thereafter, the promoters signify their assent to the modifications, the Committee shall take no further action. The scheme is eventually submitted to the States and, if approved, is implemented by Act of the States.

After the approval of a scheme, the Committee must, by Order, make provision for the registration of the producers. The Committee must publish a form of application for registration as a producer under the scheme and must publish a notice in the Jersey Gazette stating the nature of the regulated produce, the classes or descriptions of producers exempted that a poll of registered producers is to be taken and certain further details regarding voting in the poll. There are similar provisions in respect of amendment and substitution of schemes and revocation of schemes.

There is a provision in paragraph 45(2) of the Milk Marketing Scheme [see R & Os 3497 and 6368] for the names and addresses of candidates nominated for membership of the Milk Marketing Board to be published in the Jersey Gazette before the meeting of registered producers takes place (and a list must also be posted inside the office of the Board for the whole of the three days preceding the meeting).

There is also provision in the Main Crop Potato Marketing (Polls) (Jersey) Order 1968 [see R & O 5157] requiring the Committee, as soon as may be after the votes given on a poll have been counted, to declare to the Board administering the scheme the result of the poll and to cause a notice of the result of the poll to be published in the Jersey Gazette.

There is also provision in the Potatoes (Precautions against Blight) (Jersey) Order 1961 under which every grower shall, if so

required by a general notice, effectively spray potatoes grown by him against blight. A general notice means a notice published by the Committee in the Jersey Gazette [see R & O 4226].

Under the Export of Agricultural Produce (Jersey) Order 1972 (as amended in 1984), certain prohibitions or exemptions on general prohibitions may be imposed or granted, but no prohibition imposed or exemption granted shall take effect before it is announced on BBC Radio Jersey or Channel Television, or published in the Jersey Gazette, whichever shall first occur. There is also a requirement for any such prohibition or exemption to be announced automatically by a recording played to persons dialling such telephone number as shall be made available for this purpose by the Committee, and notice of any such prohibition or exemption which is first announced on BBC Radio Jersey or Channel Television shall also be published in the Jersey Gazette (thus, there is still a requirement for publication in the Jersey Gazette at all events) [see R & O 7254].

**16. *Standing Orders of the States of Jersey***

Standing Order 6A [inserted by R & O 8630] relates to presentation of matters for information. A Member of the States may make a personal explanation and a Committee may present a report or statement to the States either at a meeting of the States or on a Tuesday when the States are not meeting, by delivering a copy thereof to the Greffier at any time during normal working hours up to 11 o'clock in the morning of the previous Friday in any week in which case the explanation, report, or statement shall be deemed to be presented to the States on that Tuesday. Not later than the Tuesday on which the report or statement is deemed to be presented to the States (if it is not meeting) the Greffier must cause the report or statement to be circulated to every member of the States and cause to be published in the Jersey Gazette a notice giving details thereof.

Standing Order 17A [inserted by R & O 5531] makes provision regarding the manner in which propositions and amendment may be lodged *au Greffe*. Not later than the Tuesday on which a proposition or amendment is deemed to be lodged, the Greffier is required under Standing Order 17A(2) to cause such proposition or amendment to be circulated to every Member of the States and also to cause to be published in the Jersey Gazette a notice giving details thereof.

The actual making of Standing Orders does not require to be published in the Jersey Gazette [States of Jersey Law 1966: *Article 27(2)*]

**17. *Health Insurance (Jersey) Law 1967***

*Article 24* relates to pharmaceutical benefit. After consulting with the Pharmaceutical Benefit Advisory Committee, the Committee must approve medicines, drugs, appliances and materials as items of pharmaceutical benefit for the purposes of the Law and may, at any time, alter, vary or revoke any such approval. As soon as reasonably practical after exercising this power, the Committee must cause a notice to be published in the Jersey Gazette (this is the provision relating to what medicines, drugs, etc, are to be available only on prescription) [see L.15/94].

**18. *Gambling (Channel Islands Lottery) (Jersey) Regulations 1975***

Amongst the requirements in connection with public lotteries, is for the Gambling Control Committee (jointly with the Guernsey Committee) to determine the number of tickets to be issued and specify by notice published in the Jersey Gazette the price at which each ticket is to be issued, the prizes to be awarded, etc [see R & O 114/201 in relation to 'instant' lotteries].

**19. *Public Library (Jersey) Rules 1980***

*Rule 1* provides that all sections of the Public Library will normally be open during the hours set out on the appropriate notice boards.

Notices of closures for holidays and special occasions are to be posted within the library and published in the Jersey Gazette.

**20. *Motor Traffic (Road Service Licences) (Jersey) Order 1965***

This Order requires every application for the grant, revocation, etc, of a road service licence to be made to the Home Affairs Committee.

The Committee is required to publish in the Jersey Gazette on three occasions during the seven days next following the receipt of an application a notice containing particulars of the application and stating that any person who objects to the application has a set period within which to state in writing the grounds of his objection and of his intention to be heard at the meeting of the Committee at which the application is to be considered.



If the Committee decides to revoke, suspend, etc, a road service licence (otherwise than in pursuance of an application made to it to do so) it must, not later than three weeks before the date on which the revocation, suspension, etc, is to come into force, publish in the Jersey Gazette on at least three occasions a notice of its decision stating the date on which the revocation, etc, is to come into force and that if any person objects to the decision of the Committee, the objection should be delivered not later than seven days from the date of the notice.

## **21.**      *Sea Fisheries (Jersey) Law 1994*

Various Regulations have been made by the States in pursuance of this Law.

The Sea Fisheries (Establishment and Regulation of Fisheries) (Jersey) Regulations 1998 deal with the power of the Agriculture and Fisheries Committee to issue licences for fisheries. There is a procedure whereby a draft licence is prepared and a copy served on the applicant who must then cause printed copies of the draft licence to be published and circulated in the Jersey Gazette (amongst other requirements). There is then a period of one month from the first publication of the draft licence for the Committee to receive any objections or representations in respect of the proposed licence. Where the Committee grants a licence the applicant must cause notice of the granting of the licence to be published in the Jersey Gazette (amongst other requirements).

Under the Sea Fisheries (Miscellaneous Provisions) (Jersey) Regulations 1998, the Committee may prohibit fishing for or taking any protected spider crab or storing any live protected spider crab for such a period not exceeding ninety days in calendar year as the Committee may by Act determine. It must, not later than fourteen days before the commencement of a period of prohibition, cause a notice to be published in the Jersey Gazette specifying the dates between which the prohibition is effective, the effect of the prohibition, and various other particulars.

Under the Sea Fisheries (In-shore Trawling, Netting, and Dredging) (Jersey) Regulations 1999, the Committee may, by Act published in the Jersey Gazette, permit the use of a beach set net used for fishing for sea fish in such places around the coast for such periods as the Committee may determine (notwithstanding the general restriction the use of a beach set net).

## **22.**      *Shellfish (Underwater Fishing) (Jersey) Regulations 2001*

The Agriculture and Fisheries Committee is empowered to grant permits for underwater fishing of scallops. The Committee may, if it thinks fit, vary from time to time the conditions applicable to a permit or a class of permits, and where it varies, any conditions applicable to a class of permits, it may notify permit holders of the variation by advertisement in the Jersey Gazette [*Regulation 3(4)*].

## **23.**      *Public Utilities and Road Works (Jersey) Law 1963*

This Law imposes certain restrictions on the exercise of powers of statutory undertakers to break up or open a road. In certain circumstances, under *Article 2(1)(i)* the highway authority (i.e. the Public Services Committee or the Parish) are to publish on two occasions in the Jersey Gazette a notice signifying that the works relevant for the purposes of *Article 2* are in prospect (and certain other matters).

The effect of the two notices is to bring into play the restriction which *Article 2* imposes.

## **24.**      *Health and Safety at Work (Jersey) Law 1989*

*Article 10* empowers the Committee to approve codes of practice under the Law. Where such a code is approved, the Committee must publish in the Jersey Gazette a notice identifying the code and stating the date on which approval of it by the Committee is to take effect and specifying certain other details including where the code may be inspected.

The Committee is equally required to publish a notice in the Jersey Gazette should it at any time withdraw its approval of any code of practice.

The Health and Safety at Work (Enquiries Procedure) (Jersey) Regulations 1990 [R & O 8034] make certain requirements about notification of enquiries held under the 1989 Law. The Committee (amongst other requirements) must either publish notice of the enquiry in the Jersey Gazette or give such other notice of the enquiry as appears to the Committee to be appropriate.

## **25.**      *Use of vehicles by disabled persons*

*Article 32C* of the Road Traffic (Jersey) Law 1956 [see R & O 7004] empowers the Committee to issue disabled badges for

drivers.

The Committee is empowered to appoint another authority if it thinks fit to issue badges on its behalf. Should it do so, it is required under *Article 32C(4)(a)* to publish in the Jersey Gazette a notice of the appointment.

**26. Road Traffic Orders - temporary modification**

*Article 34* of the Road Traffic (Jersey) Law 1956 [see R & O 9294] empowers a highway authority to issue a notice which has effect as if the provisions of any Order relating to road traffic (yellow lines, one way systems, etc.) were modified to the extent specified in the notice for any period, not exceeding twelve months.

No such notice can have effect unless it has been published in the Jersey Gazette on two occasions during the seven days immediately preceding the date on which it is to have effect.

**27. Road Traffic (Removal of Vehicles) (Jersey) Order 1963**

Part II of this Order relates to disposal of vehicles abandoned on roads.

Where such a vehicle does not carry a registration mark, the public or parochial authority concerned must insert a notice in the Jersey Gazette seeking information as to the name and address of the person who it is considered may be the owner of the vehicle.

**28. Motor Vehicle Races (Jersey) Law 1946**

This Law empowers the Home Affairs Committee to make Orders for events such as those held by the Jersey Motor Cycle and Light Car Club, the Bouley Bay Hill Climb, etc.

The Orders themselves do not contain a Gazette requirement, but the Greffier must give notice of the making of every such Order giving such particulars as the Committee may think necessary for giving notice to the public of the provisions of the Order.

**29. Air Transport Permits (Jersey) Law 1998**

*Article 3* governs applications for the grant or variation of a permit. The Jersey Transport Authority is required, within fourteen days of receipt of an application, to publish a notice containing the name of the applicant and a summary of the terms on which the applicant proposes that a permit is granted; a statement as to the right of any person to make representations; and the address of the authority to which representations are to be sent.

There is power in *Article 5* for the Authority to vary the time limits involved or, where it agrees to consider an application made less than ten working days before the date on which the permit is proposed to take effect, to vary or dispense with the Gazette requirement.

Under *Article 10* the Authority must, within fourteen days of deciding to grant an application, advertise a notice of its decision in the Jersey Gazette.

**30. Gambling (Licensing Provisions) (Jersey) Regulations 1965 [R & O 4641]**

Under *Regulation 4(6)* a person applying for an amusement premises licence, a betting office licence (other than a credit betting office licence) or a track licence must publish in the Jersey Gazette, on not less than three occasions during the seven days next following the latest day for the delivery of applications, a notice of the application specifying various particulars and stating the persons who object should deliver a statement of their objection to the Judicial Greffier.

Before the applicant publishes this notice, the Judicial Greffier will already have been required by *Regulation 6(2)* to publish in the Jersey Gazette a notice of the day appointed for a sitting of the Gambling Licensing Authority. He must do this not less than thirty days before the day appointed for the sitting.

Under *Regulation 7* the Treasurer of the States must remind holders of licences of the procedure for renewal of licences by publishing a notice in three consecutive issues of the Jersey Gazette during the month of August in each year.

**31. Dentists (Registration) (Jersey) Law 1961**

*Article 10* empowers the States by Regulations to establish classes of ancillary dental workers to undertake dental work of kinds prescribed by the Regulations, being dental work amounting to the practice of dentistry.

Where such Regulations have been made establishing a class of ancillary dental workers, further Regulations varying provisions relating to that class or abolishing that class must secure that a person belonging to that class is still permitted to do dental work unless, at least one month before the day on which the Regulations are made, notice of the proposal to make the further Regulations, and particulars thereof, have been published in the Jersey Gazette and no person belonging to the class in question has made any objection to the proposal.

**32.**      *Companies (Jersey) Law 1991*

Amongst the several notice requirements is that in *Article 158* for a company, within fourteen days of a winding up resolution, to give notice by advertisement in the Jersey Gazette.

*Article 205A* empowers the Registrar in certain circumstances to strike off a company from the Register. The Registrar may publish in the Jersey Gazette and send to the company by post a notice that at the end of three months from the date of the notice, the name of the company will, unless reason is shown to the contrary, be struck off the register and the company dissolved.

At the end of the period mentioned in the notice the Registrar may, unless reason to the contrary is shown, strike the name of the company off the Register and he must publish notice of this in the Jersey Gazette [see L.30/97].

**33.**      *Collective Investment Funds (Recognised Funds) (Compensation for Investors) (Jersey) Regulations 1988*

*Article 4* requires that, where a functionary of a recognised fund is in default, the Viscount shall, as soon as is reasonably practicable, cause to be published in the Jersey Gazette, the London Gazette, and in a national daily newspaper circulating in the United Kingdom a notice requiring every investor who has a claim against the functionary arising out of its business as a functionary of a recognised fund, to submit a statement of the claim in such form and within such period (not being less than three months after the date of publication of the notice) as may be specified in the notice.

**34.**      *Insurance Business (Jersey) Law 1996*

*Article 26* and the *Second Schedule* make provision regarding the transfer of long term business from a permit holder to an insurance company or another permit holder.

An application cannot be determined by the Royal Court unless a notice has been published in the Jersey Gazette stating that the application has been made and giving the address of the offices at which, and the period for which, copies for which certain documents will be available.

**35.**      *Extinguishment of Roads (Jersey) Law 1972*

This Law enables applications to be made to the Royal Court for the extinguishment of roads.

Before the application is made, notices must be published in order that anybody objecting is able to be heard by the Court. The applicant authority (amongst other requirements) must give notice of its intention to apply for an order by publishing in the Jersey Gazette on at least three occasions in the fourteen days preceding the day on which the application is to be made, a notice containing information relating to the intended extinguishment of the road.

**36.**      *Sharing of Church Buildings (Jersey) Law 1973*

Any Church for the time being represented on the General Council of the British Council of Churches or on the governing body of the Evangelical Alliance or the British Evangelical Council, may give notice in writing to the General Secretary of the British Council of Churches or of the governing body concerned (as well as to the Secretary of the Jersey Council of Churches) that it desires that the Law should apply to that Church.

The General Secretary concerned must publish in the Jersey Gazette a notice signed by him stating that the Church concerned is represented on the General Council or governing body and has expressed its desire that the Law should apply to that Church; stating that the Law will apply to that Church as from the date of publication of the notice; and specifying the appropriate authority or authorities of that Church for the purposes of the Law. Thereupon, the Law applies to that Church as from that date.

**37.      *Radio Equipment (Jersey) Law 1997***

*Article 2* imposes restrictions on dealings in and custody of certain radio equipment. The Telecommunications Board is, however, empowered to give authority to any person to take action that would otherwise be restricted in relation to certain equipment.

The authority of the Board may be given, and any terms or conditions may be attached to it, either generally by means of a notice in the Jersey Gazette or by an instrument in writing to each person who is duly authorised.

**38.      *Water (Jersey) Law 1972***

*Article 16* empowers the Waterworks Company to prohibit or restrict temporarily use of water for non-essential purposes.

Before any prohibition or restriction comes into force, the company must inform the Committee and cause to be published in the Jersey Gazette a notice of the prohibition or restriction and the date it will come into force. The notice must be certified by the Greffier of the States as being a notice published in pursuance of this requirement.

The Public Services Committee is empowered under *Article 16A* (in consultation with the Waterworks Company) to make Orders restricting water supply. An example of such an Order is the Water (Temporary Restrictions) (Jersey) Order 1990 [R & O 8072]. The company was required under the Order to publish in the Jersey Gazette on at least one occasion prior to the coming into force of the Order a notice setting out the general effect of the Order and as soon as reasonably practicable to notify each consumer of his water allocation.

*Article 30* requires the Company, before executing repairs or other work which will cause any material interference with the supply of water (except in case of emergency) to give to all consumers likely to be affected such notice as is reasonably practicable, whether by notice in the Jersey Gazette or otherwise.

Under *Article 31*, immediately after any bye-laws made by the Company have been approved by the Committee, the secretary of the Company must cause the bye-laws to be printed and cause to be published in the Jersey Gazette a notice stating that the bye-laws have been made, the date on which the bye-laws come into force, and the place at which printed copies may be purchased.

**39.      *Water Pollution (Jersey) Law 2000***

*Article 10* requires the Public Services Committee to publish a notice in the Jersey Gazette before proceeding on a proposal to make a Water Quality Order; an application for the grant or variation of a discharge permit; a proposal by the Committee of its own motion to vary a permit; or a proposal by the Committee or the issue or variation of a discharge certificate.

The notice must state that a copy of the proposal will be available for inspection free of charge at a place specified in the notice. It must also specify amongst other things the period for which the proposal will be available for inspection (being not less than 21 days after the notice is published).

**40.      *Hawkers and Non-Resident Traders (Jersey) Law 1965***

The Finance and Economics Committee may grant licences under this Law but, under *Article 2(6)* the Committee may appoint such other authority as it thinks fit to grant licences on its behalf. If the Committee does appoint another authority, the Committee must publish in the Jersey Gazette a notice of the appointment of such other authority.

**41.      *Misuse of Drugs (Jersey) Law 1978***

Under *Article 14*, where a practitioner or pharmacist has been convicted of a drugs offence, the Committee may give a direction imposing certain prohibitions upon him.

The direction takes effect when it is served on the person to whom it applies and the Committee must cause notice of any direction given by it to be published in the Jersey Gazette (unless an appeal against the direction has been lodged - *Article 16*).

There are similar provisions in *Article 15* for the Committee to give directions prohibiting the prescribing, supply, etc, of controlled drugs by practitioners in other circumstances and, again, notice of any direction under *Article 15* must be published in the Jersey Gazette.

**42.** *Customs and Excise (Jersey) Law 1999*

*Article 30* confers powers on the Agent of *Impôts* to sell uncleared goods. If he does not know the identity of the importer or proprietor of the goods and his whereabouts cannot be found, the Agent must insert a notice in the Jersey Gazette giving details of the nature and quantity of the goods and stating his intention to sell the goods.

There is a similar requirement under *Article 55* and the *Third Schedule* regarding forfeiture under which notice of seizure must be published in the Jersey Gazette.

**43.** *Post Office (Jersey) Law 1969*

*Article 17* empowers the Committee by notice published in the Jersey Gazette to direct that any postage stamps in use in the Bailiwick at the time of such notice shall no longer be valid for the pre-payment of postage and, from and after any day to be stated in the notice, any postal packet stamped with postage stamps so invalidated shall be deemed to be not duly stamped for the purposes of the Law.

**44.** *Income Tax (Jersey) Law 1961*

*Article 3* defines “general notice” as a notice published in the Jersey Gazette.

There are then several Articles under which things are to be done following a general notice, for example, *Article 16* provides that every person chargeable under the Law when required to do so by any general notice or by a notice served on him by the Comptroller, shall, within the time limited by the notice, deliver his income tax return.

Under *Article 41* the Comptroller is required to cause to be published a general notice to the effect that income tax for the year specified in the notice is due and payable and the persons who fail to pay the income tax due before a certain date will be liable to legal proceedings (although publication of such a notice is not necessary before instituting legal proceedings for the recovery of tax).

**45.** *Wireless Telegraphy Act 1949*

Under *section 4(4)* the Secretary of State in cases of national emergency can revoke certain wireless telegraphy licences by publishing a notice in the Jersey Gazette.

**46.** *Wireless Telegraphy Act 1988 [L.20/98]*

The Secretary of State has various powers under this Act to make regulations relating to bidding for wireless telegraphy licences.

Before making any such regulations, the Secretary of State must publish in the Jersey Gazette a notice stating that he proposes to make regulations, setting out the general effect of the proposed regulations and, amongst other things, specifying a time within which representations may be made to him. However, the Secretary of State can dispense with the requirement to publish a notice in the Jersey Gazette if it appears to him that by reason of the urgency of the matter it is inexpedient to publish a notice.

**47.** *Patents (Jersey) Law 1957*

*Article 4(4)* requires an applicant for the registration of a patent, within eight days of making the application, to advertise in such manner as may be prescribed by Rules of Court the fact that the application has been made and that the documents submitted in support of the application will be open to public inspection at the Judicial Greffier.

*Rule 8* of the Patents (Jersey) Rules 1982 duly provides that the relevant advertisement shall be in a specified form (set out in the Rules) and shall be published twice “in a Jersey newspaper printed in the English language and circulating in the Island”. (Given that the 1982 Rules were made long after the Official Publications Law 1960, it seems odd that the requirement was not simply to publish twice in the Jersey Gazette. As the wording stands, it is not caught by *Article 2* of the Official Publications Law with the result that the advertisement can theoretically be published in *any* English language newspaper circulating in the Island).

## **Explanatory Note**

This draft Law amends the Official Publications (Jersey) Law 1960 (the “principal Law”).

*Article 1* defines the principal Law.

*Article 2* substitutes Article 2 of the principal Law. The substitution has the effect that notices and other matters currently required to be published in the Jersey Gazette may in future either be so published or brought to the attention of the public or persons affected by them by other means. This change does not apply to notices that an enactment has been passed or made, which continue to be published in the Jersey Gazette.

*Article 3* amends Article 3 of the principal Law. Article 3 imposes a duty on the Greffier of the States to print, and publish notice of, a Law or other enactment passed by the States after that enactment has been promulgated. Current practice is that an enactment is brought to the attention of the public by the very act of its being printed and notified by the Greffier. The Greffier takes steps to print and give notice of a Law immediately after it is registered in the Royal Court and to print and give notice of any other enactment immediately after it is passed. The amendment has the effect that the duty imposed on the Greffier reflects what is already done in practice.

If adopted, the Law would come into force 7 days after it is registered.

**OFFICIAL PUBLICATIONS (AMENDMENT) (JERSEY) LAW 200-**

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**A LAW** to amend the Official Publications (Jersey) Law 1960; sanctioned by Order of Her Majesty in Council of the

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*(Registered on the          day of          200-)*

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**STATES OF JERSEY**

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The          day of          200-

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

ARTICLE 1

In this Law “principal Law” means the Official Publications (Jersey) Law 1960.<sup>[1]</sup>

ARTICLE 2

For Article 2 of the principal Law<sup>[2]</sup> there shall be substituted the following Article -

“ARTICLE 2

CONSTRUCTION OF ENACTMENTS PROVIDING FOR PUBLICATION OF NOTICES ETC.

“(1) An enactment passed before the amendment date which provides for the publication of any notice or other matter in the Jersey Gazette or in a newspaper or newspapers circulating in the Island shall have effect as if it provided instead either -

(a) for reasonable steps to be taken to bring the purport of the notice or other matter to the attention of the public or of persons likely to be affected by it; or

(b) for the publication of the notice or other matter in the Jersey Gazette.

(2) This Article does not apply to Article 3 of this Law.

(3) In this Article, “amendment date” means the date the Official Publications (Amendment) (Jersey) Law 200- comes into force.”.

ARTICLE 3

Article 3 of the principal Law shall be amended by substituting for sub-paragraphs (a) and (b) of paragraph (1) the following sub-paragraphs -

“(a) the registration by the Royal Court of any Law passed by the States and sanctioned by Her Majesty in Council;

(b) the passing by the States of any enactment that does not require for its validity the sanction of Her Majesty in Council;”.

ARTICLE 4

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

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<sup>[1]</sup> Tome VIII, page 883.

<sup>[2]</sup> Tome VIII, page 884.