

**INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS: FIFTH PERIODIC REPORT OF THE STATES OF JERSEY**

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**Presented to the States on 7th December 1999  
by the Policy and Resources Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

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## **NOTE**

The initial report for the States of Jersey on the International Covenant on Civil and Political Rights was submitted in 1978. Periodic reports have since been submitted in 1984, 1989 and 1995. Earlier this year the States received, through the official channel, a request to submit the Fifth Report for the States of Jersey. The Policy and Resources Committee has approved the report, and has caused it to be transmitted to the Secretary of State. The United Kingdom has now presented its report to the United Nations and the text of the Island's report is attached.

## **INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS FIFTH PERIODIC REPORT OF THE STATES OF JERSEY**

This is the fifth report submitted by the States of Jersey under Article 40, paragraph 1 of the Covenant. Since the fourth report, the measures listed below have been taken which are relevant to the provisions of the Covenant.

### **Article 2**

On 17th November 1995 the Administrative Decisions (Review) (Amendment) (Jersey) Law 1995 was enacted. It amended the Administrative Decisions (Review) (Jersey) Law 1982 to enable Review Boards to be composed of persons who are not States Members. The Law of 1982 provides a system of administrative appeals for those who wish to seek redress of complaints against decisions of Committees, Departments and officials of the States of Jersey.

The drafting of legislation which will render racial discrimination unlawful is under active consideration. A brief for the Law Draftsman is being prepared.

The States have resolved in principle to incorporate into domestic Jersey law the terms of the European Convention on Human Rights. Draft legislation in this respect (which is similar to the relevant United Kingdom provisions) is being advanced in consultation with the Home Office.

### **Article 3**

As noted in the fourth periodic report, the States of Jersey have endorsed the principle that all forms of discrimination on grounds of sex, whether against women or men, should be removed. The Employment and Social Security Committee is engaged in a widespread consultation exercise with a view to considering -

- (a) whether legislation should be introduced covering sex discrimination in employment matters;
- (b) whether legislation should be introduced covering disability discrimination in employment matters;
- (c) whether legislation should be introduced covering age discrimination in employment matters;
- (d) whether other forms of discrimination should be covered, for example, on grounds of religion.

These matters are therefore under active consideration at the present time.

### **Article 4**

On 31st May 1996 the Prevention of Terrorism (Jersey) Law 1996 was enacted to proscribe organisations concerned in terrorism, to give power to exclude certain persons from the Island in order to prevent acts of terrorism, to make provisions for offences of providing financial assistance for terrorism, for investigations of terrorist activities and for connected and ancillary purposes. The Law of 1996 is based upon similar United Kingdom legislation.

### **Article 6**

By virtue of the extension to the Island of the relevant provisions of the Crime and Disorder Act 1998 and the Human Rights Act, 1998, all remaining vestiges of the death penalty (for treason, piracy and military offences) are abolished.

### **Article 9**

Drafting of local legislation to clarify powers of arrest and detention on lines similar to the Police and Criminal Evidence Act 1984 of the United Kingdom is well-advanced.

### **Article 11**

The Insular Authorities have given careful consideration to the need for the retention of the Reservation to Article 11. Since the Fourth Report was prepared, the Courts of Jersey have developed the Law so as to make it clear that imprisonment should not be ordered for debt where the debtor is making appropriate efforts to pay in good faith or is unable to pay at all and is in good faith. This is generally consistent with the requirements of Article 11.

Those who live in and use Jersey are well versed in the use of trusts, companies, etc., to hold their assets. It can often be the case that a debtor, although living to a high standard of living, has very few, if any, assets in his own name. The assets are all held by companies which may in turn be owned by discretionary trusts. He is able therefore to say that he does not own or have legal control of any of these assets. These are therefore assets which cannot be taken by the Viscount (the Court Enforcement Officer) in order to enforce a judgment against the debtor, because they do not belong to the debtor.

In such circumstances, the risk of imprisonment is often the only means for the creditor to secure payment against somebody determined to avoid paying a debt. The Insular Authorities remain of the view that it would be most unfortunate if such persons were able to escape liability for debts incurred. It leads to resentment and to lack of respect for the law and the legal system if apparently wealthy individuals are able to avoid their liabilities. It is accepted that this is a small minority of cases, but the view has so far been taken that it would be highly undesirable if the Court did not have sufficient power to ensure payment by such persons.

The Island has not been able to obtain definitive legal advice to the effect that the use of imprisonment for debt in such circumstances would not amount to a breach of Article 11 and accordingly the Island wishes to retain the present Reservation.

#### **Article 16**

The States have adopted the Age of Majority (Jersey) Law 1999 which awaits Royal Sanction. The purpose of the Law is to reduce the age of majority from 20 to 18 years. It follows that persons of 18 and 19 years will have the right to full recognition as a person before the law, which they do not have at the present time.

#### **Article 18**

On 21st November 1997 the *Loi (1902) au sujet des ordres religieux étrangers* was repealed. The *Loi* of 1902 purported to impose certain restrictions on the right of foreign persons belonging to religious orders to establish themselves in the Island. The *Loi* was repealed as being defunct for all practical purposes.

The States are shortly to debate the draft Education (Jersey) Law 1999 which would make specific provision that a pupil of compulsory school age in a provided school receive religious education and attend an act of worship on at least one school day in each week during the school term, the act of worship being broadly Christian in nature, but not distinctive of any particular religious denomination. Provision would be made to safeguard the right of a parent to withdraw a pupil from religious education and acts of worship. Provision would also be made requiring the Education Committee in certain circumstances to provide premises for denominational religious instruction.

#### **Article 20**

As noted under Article 2 above, the drafting of legislation to render racial discrimination unlawful is under active consideration. In the meantime the Insular Authorities remain committed to the principles of the Convention on the Elimination of Racial Discrimination and continue to take whatever action is deemed necessary to ensure that those principles are observed.

#### **Article 23.2**

One of the effects of the Age of Majority (Jersey) Law 1999 [referred to under Article 16 above] when enacted will be to free persons of 18 or 19 years of age from the requirement to obtain parental consent for marriage.

#### **Article 23.4**

The Legislation Committee is considering draft amendments to the Separation and Maintenance Orders (Jersey) Law 1953 which would place the rights and remedies of male and female spouses under that Law on an equal footing. This Law is not much used because applications are generally made to the Royal Court under the Matrimonial Causes (Jersey) Law, 1949 (as amended), where the powers are much wider. The 1953 Law makes provision only for maintenance payments by a husband to a wife, and not vice versa. It also confines the grounds upon which a husband can apply for a separation order more closely than for a wife.

#### **Article 24**

The Legislation Committee will shortly lodge the draft Affiliation (Prescription) (Jersey) Law 1999 which, in respect of illegitimate children, is intended to remove the existing prescription period of a year and a day within which the mother is

required at customary law to institute proceedings for maintenance in respect of the child. This reform is intended to secure equality of treatment in this respect as between legitimate and illegitimate children. It is also intended to bring forward legislation which will put the father of an illegitimate child on an equal footing with the mother so far as custody, care and control and access are concerned.

#### **Article 25**

In relation to franchise generally, the Legislation Committee on 14th February 1997 appointed a Franchise Working Party to consider whether any changes should be made to the Franchise (Jersey) Law 1968 and the *Loi (1897) sur les élections publiques*, or to the practice and procedure of public elections with a view to encouraging the maximum participation of the electorate in such elections and to make recommendations to the Legislation Committee. The Report of the Working Party was presented to the States on 6th October 1998. The reforms in relation to -

- (a) franchise and residence qualifications;
- (b) provisions as to disqualification;
- (c) electoral return forms;
- (d) the compilation and content of the electoral register;
- (e) public elections procedure; and
- (f) postal voting,

have been approved in principle and referred to the Law Draftsman for preparation of the necessary legislation.

**Article 26**

The matters noted under Articles 2 and 20 above apply in relation Article 26.

**Article 27**

As noted in relation to Article 18 above, the *Loi (1902) au sujet des ordres religieux étrangers* has been repealed.