

STATES OF JERSEY



DRAFT DEPARTMENTS OF THE JUDICIARY AND THE LEGISLATURE (AMENDMENT No. 4) (JERSEY) LAW 200-

Lodged au Greffe on 20th December 2006
by the Chief Minister

STATES GREFFE



Jersey

**DRAFT DEPARTMENTS OF THE JUDICIARY AND
THE LEGISLATURE (AMENDMENT No. 4)
(JERSEY) LAW 200-**

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chief Minister has made the following statement –

In the view of the Chief Minister the provisions of the Draft Departments of the Judiciary and the Legislature (Amendment No. 4) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator F.H. Walker**

REPORT

The office of the Viscount (*'le Vicomte'*) ranks, in terms of its antiquity, alongside that of the Bailiff. A Viscount used to be appointed over each county (*'comté'*) in Normandy (there was a *Vicomte* of the Cotentin, of the Avranchin, etc). A Charter of 1179 shows a *Vicomte* holding the King's Court in Guernsey¹. However, by the 14th Century, the office had in Jersey lost much of its judicial complexion; the Viscount had instead become the executive officer of the Royal Court, appointed by the Crown primarily to see that orders of the Court were carried out. But he still performed a variety of other functions amongst which was to *'faire la levée et visitation d'un cadavre'* when directed by the Bailiff to do so. What this meant was that, upon the direction of the Bailiff, the Viscount undertook what in England had become known as the coroner's inquest². This draft Law is concerned with who should be able to preside at an inquest.

The present-day powers of the Viscount to hold an inquest are contained in the Inquests and Post-mortem Examinations (Jersey) Law 1995. However, Article 9(5) of the Departments of the Judiciary and the Legislature (Jersey) Law 1965 – which this draft Law would amend – provides that only the Viscount or the Deputy Viscount may conduct an inquest. This means that, when a relief coroner is required, he or she has to be sworn-in as a Viscount Substitute and then technically assume office as an Acting Deputy Viscount for the appointment to fall squarely within the Article. This is a cumbersome process ill-suited to cater for situations such as a disaster involving many fatalities.

The purpose of the draft Law is to provide flexibility by empowering the Viscount to authorize not just the Deputy Viscount, but any other person (whether or not an officer of the Viscount's Department) who is approved by the Bailiff to discharge the Viscount's function of conducting a particular inquest or inquests generally.

There are no financial or manpower implications for the States.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister 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). On 18th December 2006 the Chief Minister made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Chief Minister the provisions of the Draft Departments of the Judiciary and the Legislature (Amendment No. 4) (Jersey) Law 200- are compatible with the Convention Rights.

¹ See *Appendix III from a Biographical Dictionary of Jersey* by G.R. Balleine.

² See *Le Geyt: Constitution, Lois, Usages etc. Tome IV, page 119 (Le Geyt puts the functions of the Viscount in this respect on a par with his functions in connexion with the 'visitation' 'du varech'. The Norman droit de varech relates to rights over things washed ashore from shipwrecks etc. The English term is 'flotsam, jetsam and lagan')*.

Explanatory Note

Article 1 amends the Departments of the Judiciary and the Legislature (Jersey) Law 1965 to require a person appointed under the proposed new Article 9(5A) to take an oath of office.

Article 2 inserts new paragraphs (5A) and (5B) into Article 9 of the Law mentioned above. The paragraph enables the Viscount to authorize the Deputy Viscount, and any other person, whether or not a member of the Viscount's Department, to conduct inquests. Such a person shall be known as a Viscount Substitute.

Article 3 specifies the name by which this Law may be cited and specifies that the Law shall come into force 7 days after it is registered.



Jersey

DRAFT DEPARTMENTS OF THE JUDICIARY AND THE LEGISLATURE (AMENDMENT No. 4) (JERSEY) LAW 200-

A LAW to further amend the Departments of the Judiciary and the Legislature (Jersey) Law 1965.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Article 7 amended

In Article 7 of the Departments of the Judiciary and the Legislature (Jersey) Law 1965¹, in paragraph (1), for the words “and the officers designated under Article 6” there shall be substituted the words “, the officers designated under Article 6 and the persons who are authorized and approved under Article 9(5A)”.

2 Article 9 amended

In Article 9 of the Departments of the Judiciary and the Legislature (Jersey) Law 1965 –

- (a) in paragraph (5), for all the words from and including “Viscount:” to and including the word “inquest.” there shall be substituted the word “Viscount.”; and
- (b) after paragraph (5), there shall be inserted the following paragraphs –
 - “(5A) Notwithstanding anything in any enactment, the Viscount may authorize the Deputy Viscount, and any other person (whether or not the person is an officer of the Viscount’s Department) who is

approved by the Bailiff, to discharge the Viscount's function of conducting a particular inquest or inquests generally.

(5B) A person authorized by the Viscount and approved by the Bailiff under paragraph (5A) shall be known as 'Viscount Substitute'.

3 Citation and commencement

- (1) This Law may be cited as the Departments of the Judiciary and the Legislature (Amendment No. 4) (Jersey) Law 200-.
- (2) This Law shall come into force on the seventh day after it is registered.

¹ *chapter 16.300*