

# STATES OF JERSEY



## DRAFT HONORARY POLICE (REPEALS) (JERSEY) LAW 200-

---

Lodged au Greffe on 13th July 2009  
by the Comité des Connétables

---

STATES GREFFE





Jersey

## **DRAFT HONORARY POLICE (REPEALS) (JERSEY) LAW 200-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chairman of the Comité des Connétables has made the following statement –

In the view of the Chairman of the Comité des Connétables the provisions of the Draft Honorary Police (Repeals) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Connétable K.P. Vibert of St. Ouen**

## REPORT

---

As the draftsman's explanatory note states, this draft Law is intended to repeal the Honorary Police (Parochial Domicile) (Jersey) Law 1999 ("the 1999 Law") together with Article 5 of the *Loi (1804) au sujet des assemblées paroissiales*.

This *projet de loi* needs to be read in conjunction with P.115/2009 which contains the the draft amendments to the Honorary Police (Jersey) Regulations 2005 ("the 2005 Regulations") that have been lodged au Greffe. The provisions therein contained would replace, in modified form, the provisions made by the 1999 Law.

This is being done because there appears to be a flaw in the 1999 Law the background to which is as follows:

1. At customary law, no member of the Honorary Police could just decide to 'resign' from office: he or she could only be discharged (*déchargé*) from office by the Royal Court. So it was that, down the years, there were repeated incidences of Honorary Officers who had ceased to reside in the Parish in which they were elected being permitted (or sometimes not permitted) by the Court to resign when they had quit the Parish.
2. The customary law position was modified by Regulation 5 of the 2005 Regulations. It enabled a member of the Honorary Police to resign office of his or her own volition, but "... *only if* –
  - (a) *the member has notified the Connétable ... and the Attorney General of the reasons for wishing to do so; and*
  - (b) *those reasons are accepted by the Attorney General.*"
3. But, of course, this does not impose any requirement as such about which Parish a member of the Honorary Police can live in if he or she is to remain a member. In that respect, Article A1 of the 1999 Law lays down the basic requirement that –

*"A person shall only be qualified for election as a member of the Honorary Police of a Parish if he or she resides in the Parish."* [emphasis supplied]

This is consistent with the position at customary law.
4. Article 1 of the 1999 Law, however, goes on to provide that a member who ceases to be resident in the Parish shall not be disqualified from continuing to hold office for the remainder of his or her term so long as the Attorney General –
  - has been notified by the Connétable that the member will no longer be resident in the Parish; and
  - has consented to that member continuing to hold office for the remainder of the member's term.
5. There have been unfortunate failures, on occasions, to notify the Attorney General under Article 1 until after the member concerned has moved Parish. This has meant on those occasions that the conditions referred to in Article 1 of the 1999 Law have not been fulfilled. In such circumstances the only conclusion

to be drawn was that the member concerned was therefore disqualified from continuing to hold office for the remainder of his or her term.

6. This result cuts across the fundamental principle that a member of the Honorary Police cannot just quit office of his or her own volition. Effectively, the 1999 Law enables a member of the Honorary Police to do just that – by moving Parish. This was not the intention behind the 1999 Law when it was enacted.
7. In seeking to remedy this, it was noted that the power of the States to make Regulations under Article 4 of the Police Force (Jersey) Law 1974 was wide enough to make provision as to requirements regarding parochial domicile, and that in fact it is not necessary to enact primary legislation for this purpose. This has therefore opened the way for the necessary remedial provision to be made by way of an amendment of the 2005 Regulations in P.115/2009.
8. The main effect of the amending Regulations would be that a member of the Honorary Police who, during his or her term of office, ceased to be resident in the Parish in which he or she held office would continue to hold office –
  - (a) until permitted to resign from office pursuant to Regulation 5 of the 2005 Regulations; or
  - (b) until discharged from office by the Royal Court.
9. For a full account of the provisions contained in the amending Regulations, please refer to the Report and Explanatory Note in P.115/2009.
10. As mentioned above, this *projet de loi* would also repeal Article 5 of the *Loi (1804) au sujet des assemblées paroissiales*. That Article provides that Constables' Officers who have attained the age of 65 years, or who have become incapable, through infirmity, of completing their term of office, may obtain their discharge before having served their full term of office. This provision has been superseded by provisions contained in the Honorary Police (Jersey) Regulations 1977 and, today, in the 2005 Regulations.

### **Financial and manpower statement**

There are no financial or manpower implications.

### **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 11th July 2009 the Chairman of the Comité des Connétables made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Chairman of the Comité des Connétables the provisions of the Draft Honorary Police (Repeals) (Jersey) Law 200- are compatible with the Convention Rights.

## **Explanatory Note**

---

This Law repeals the Honorary Police (Parochial Domicile) (Jersey) Law 1999 and Article 5 of the Loi (1804) au sujet des assemblées paroissiales. The provisions repealed are replaced by the Honorary Police (Jersey) Regulations 2005, as amended, in which all of the rules for qualification for office as a member of the Honorary Police are being consolidated.



Jersey

## **DRAFT HONORARY POLICE (REPEALS) (JERSEY) LAW 200-**

**A LAW** to repeal the Honorary Police (Parochial Domicile) (Jersey) Law 1999 and Article 5 of the Loi (1804) au sujet des assemblées paroissiales.

*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 Enactments repealed**

The following enactments are repealed –

- (a) the Honorary Police (Parochial Domicile) (Jersey) Law 1999<sup>1</sup>;
- (b) the Honorary Police (Parochial Domicile) (Amendment) (Jersey) Law 2004<sup>2</sup>; and
- (c) Article 5 of the Loi (1804) au sujet des assemblées paroissiales<sup>3</sup>.

### **2 Citation and commencement**

This Law may be cited as the Honorary Police (Repeals) (Jersey) Law 200- and shall come into force 7 days after it is registered.

- 
- <sup>1</sup> *chapter 23.225*  
<sup>2</sup> *L.18/2004*  
<sup>3</sup> *chapter 16.100*