

# STATES OF JERSEY



## **DRAFT PASSPORTS (FALSE STATEMENTS AND FORGERY) (JERSEY) LAW 201- (P.14/2014): COMMENTS**

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**Presented to the States on 23rd April 2014  
by the Education and Home Affairs Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

States Members will be cognisant of the reasoning behind the Amendment to this legislation brought by the Minister for Home Affairs, given its associated Report. However, the Panel is hopeful that States Members will value brief Comments from the Panel to advise them of the work it has undertaken which gave rise to the Amendment.

The intention of the Panel was to review this legislation to ensure that it was fit for purpose. It wished to ascertain whether the draft legislation met the requirements of the Island by comparing it with the current common law, and by establishing if there were any areas not suitably covered by the draft Law. It furthermore wished to ensure that the draft Law contained recognised checks, balances and safeguards suitable to the needs of the Public, including carers who provided assistance for those unable to complete the required documentation. The Panel also explored whether public consultation had been undertaken, and how awareness of the Public would be raised once the legislation had been adopted.

The Panel had intended to produce a full Scrutiny Report under the S.R. series, but the review evolved in such a manner that, when questions were put to the Minister for Home Affairs at a hearing on 24th March 2014, he agreed to bring an amendment which resolved any concerns the Panel had encountered. As the Panel's terms of reference were fulfilled with no outstanding matters on which to report, it was consequently agreed that a full report would be of little, if any, benefit for States Members. However, it is hoped that Members will be reassured by the outcome of the Panel's work. Indeed, the Panel would like to take this opportunity of thanking the Minister and highlighting this as an example of how Scrutiny can be of benefit prior to debate on legislative matters.

The Panel has established that this draft legislation was intended to fill a narrow gap, which had been identified when there had been a false application for a passport in 1994. The then Attorney General decided not to proceed with a prosecution but suggested that, although not a priority and when the opportunity arose, a Law similar to Guernsey's legislation should be introduced.

Although only a small number of offences are encountered each year, at present, Customs and Immigration officers have themselves no powers to prosecute. Any detected offence would currently be investigated by the States of Jersey Police under wider common law offences such as fraud, when general practice in modern times has been to create specific statutory offences for making such a false passport application. Further cases had prompted the relatively newly appointed Director, Legal and Revenue, Customs and Immigration, to review the situation and bring forward these proposals. The Panel accepts this rationale and that this draft Law will fill the identified gap.

The only other area considered by the Panel was that of public consultation on the draft Law; however, the rationale of the Minister is accepted in that it was taken forward on the basis of filling this gap in the Law to provide for enforcement against those committing fraudulent acts. Consultation may well have not been necessary or valuable in this case.

In terms of public awareness, the Panel was advised that the Public will be made aware of the changes, as the forms will need to be changed to advise that an offence would be committed in certain circumstances. The Panel is supportive of the amended version of this Law.