

STATES OF JERSEY



DEREGULATION BILL: APPLICATION OF CERTAIN PROVISIONS TO JERSEY

Lodged au Greffe on 9th March 2015
by the Chief Minister

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to signify, pursuant to Article 31(1)(a) of the States of Jersey Law 2005, whether they agree that clauses 102 and 109(1) of, and Schedule 21 to, the Deregulation Bill of the United Kingdom Parliament, to the extent they would repeal the Sea Fisheries Act 1868, the Fisheries Act 1891 and the British Fishing Boats Act 1983, should, if enacted, be registered by the Royal Court.

CHIEF MINISTER

REPORT

Application to Jersey of certain provisions of the Deregulation Bill of the United Kingdom Parliament

Summary

The proposition asks the States to agree to the application to Jersey of a provision of the Deregulation Bill of the United Kingdom Parliament, which would repeal to the extent that they are currently applicable in Jersey, certain Acts of the United Kingdom Parliament which are considered to be of no practical use.

Background

The Deregulation Bill (of the United Kingdom) will provide for the removal or reduction of burdens on businesses, civil society, individuals, public sector bodies and the taxpayer. These include measures relating to general and specific areas of business, companies and insolvency, the use of land, housing, transport, communications, the environment, education and training, entertainment, public authorities and the administration of justice. The Bill also provides for a duty on those exercising specified regulatory functions to have regard to the desirability of promoting economic growth. In addition the Bill will repeal legislation that is no longer of any practical use.

Application of the Bill in respect of Jersey

Clause 102 of the Bill will make provision for legislation which is no longer of practical use to cease to apply. This legislation is specified in Schedule 21 to the Bill, as set out in the Appendix to this Report.

The United Kingdom Department for Environment, Food and Rural Affairs has asked whether or not the Government of Jersey would be content for three UK Acts, to the extent that they may apply in Jersey, might be repealed. The Acts in question are –

- The Sea Fisheries Act 1868 – which may have some residual application to Jersey but has not been used for decades and, if those provisions were needed, Jersey could enact domestic legislation;
- The Fisheries Act 1891 – which does not appear to have any ongoing relevance to Jersey; and
- The British Fishing Boats Act 1983 – which contains a permissive extent provision which has never been invoked.

Clause 109(1) of the Bill would provide that a repeal, revocation or other amendment or modification made by the (eventual) Act is to have the same extent as the provision repealed, revoked or otherwise amended or modified. It is by virtue of this provision that the eventual Act would purport to apply directly to Jersey, and hence the requirement for the Act to be registered by the Royal Court if it is to take effect in that way.

The Government of Jersey has indicated it has no objection to the repeal of these UK Acts by means of the Deregulation Bill.

Article 31 of the States of Jersey Law 2005

Article 31 of the States of Jersey Law 2005 provides that –

“31 Duty to refer certain matters to the States

- (1) Where it is proposed –
 - (a) that any provision of a draft Act of the Parliament of the United Kingdom should apply directly to Jersey; or
 - (b) that an Order in Council should be made extending to Jersey –
 - (i) any provision of an Act of the Parliament of the United Kingdom, or
 - (ii) any Measure, pursuant to the Channel Islands (Church Legislation) Measures 1931 and 1957,

the Chief Minister shall lodge the proposal in order that the States may signify their views on it.

- (2) Where, upon transmission of an Act of the Parliament of the United Kingdom containing a provision described in paragraph (1)(a) or of an Order in Council described in paragraph (1)(b) to the Royal Court for registration, it appears to the Royal Court that the States have not signified their agreement to the substance of the provision or Order in Council –
 - (a) the Royal Court shall refer the provision or Order in Council to the Chief Minister; and
 - (b) the Chief Minister shall, in accordance with paragraph (1), refer it to the States.”.

Accordingly, the Chief Minister has lodged this proposition to ask the States to indicate whether or not they agree that clauses 102 and 109(1) of, and Schedule 21 to, the Deregulation Bill, when it comes into force, should be registered by the Royal Court so as to apply to Jersey.

Financial and manpower implications

The proposed legislation has no manpower or resource implications.

Extracts from the draft Deregulation Bill

102 Legislation no longer of practical use

Schedule 21 makes provision for legislation which is no longer of practical use to cease to apply.

109 Extent

- (1) Except as provided by subsections (2) and (3), a repeal, revocation or other amendment or modification made by this Act has the same extent as the provision repealed, revoked or otherwise amended or modified.

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SCHEDULE 21

LEGISLATION NO LONGER OF PRACTICAL USE

PART 6

ANIMALS AND FOOD

Sea Fisheries Act 1868 and other fisheries legislation

31 The following Acts are repealed –

- (a) the Sea Fisheries Act 1868, including so far as it extends outside the United Kingdom by virtue of section 70 of that Act;
- (b) the Fisheries Act 1891;
- (c) the British Fishing Boats Act 1983, including so far as it extends outside the United Kingdom by virtue of an Order in Council under section 10 of that Act.