

STATES OF JERSEY



DRAFT ROYAL COURT (AMENDMENT No. 15) (JERSEY) LAW 201-

Lodged au Greffe on 23rd October 2017
by Deputy M. Tadier of St. Brelade

STATES GREFFE



Jersey

DRAFT ROYAL COURT (AMENDMENT No. 15) (JERSEY) LAW 201-

REPORT

This is hopefully a simple proposal, which should be seen as a bit of housekeeping.

It seeks to remove a reference in the Royal Court (Jersey) Law 1948 which is outdated and, hopefully, no longer relevant. I say *hopefully* because although ‘poor relief’ no longer exists, there does exist a modern system of *Income Support*, and it is important to remove any suggestion from the Law that someone who is in receipt of *Income Support* would be excluded from standing for the office.

Article 3(j) states: [a person shall be disqualified for being appointed Jurat if –] *the person has, within the 12 months immediately preceding the day of his or her appointment, received poor relief.*

Article 3(m)(iii) states: *a person shall not be deemed to have received poor relief within the meaning of sub-paragraph (j) by reason only that the person, or a member of the person’s family, has, at the cost of any public or parochial authority, received medical or surgical treatment, or been an inmate of an institution for the purpose of receiving such treatment.*

This matter was raised in 2012 in an oral question by former Deputy T.M. Pitman of St. Helier (see **Appendix** to this Report). The Chief Minister at the time, Senator I.J. Gorst, stated –

‘I can inform the Deputy that Article 3 of the Royal Court (Jersey) Law 1948 has already been identified for review by the Legislation Advisory Panel and is due to be considered at a forthcoming meeting.’

It is not clear whether any consideration did take place at that meeting and what the result of that was, but this Article remains in place, even though it is no longer relevant. It seems clear that this reference is otiose and should be removed.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this draft Law.

APPENDIX TO REPORT

EXTRACT FROM HANSARD OF 17TH JULY 2012: ORAL QUESTIONS

2.10 Deputy T.M. Pitman of the Chief Minister regarding the adequacy of the provisions of Article 3 of the Royal Court (Jersey) Law 1948 regarding the suitability of candidates for election as a Jurat:

Does the Chief Minister consider that the provisions of Article 3 of the Royal Court (Jersey) Law 1948, regarding the suitability of candidates for election as a Jurat are adequate and, if not, would he consider, after consultation with the Legislation Advisory Panel, bringing an amendment to the Law?

Senator I.J. Gorst (The Chief Minister):

I can inform the Deputy that Article 3 of the Royal Court (Jersey) Law 1948 has already been identified for review by the Legislation Advisory Panel and is due to be considered at a forthcoming meeting.

2.10.1 Deputy T.M. Pitman:

Thank you. That is reassuring news. Could I ask the Chief Minister then, given that I am sure he would agree that all those who find themselves in court, for whatever reason, should be able to rest assured that those judging them will have sound judgment and a commitment to law, order and justice, if that is so, does the Minister not think that it is more important to legislate to prevent individuals who perhaps have failed to report child abuse and have even asked that a paedophile colleague be allowed to continue working at a school, work out their notice and leave with dignity? It is much more important to prevent that sort of person, than under the current law, 1948? One great example is that it prevents people who, in the last 12 months, have had to receive poor relief, which I suppose today would be income support. Does the Minister agree, in essence, that paedophile apologists should not be okay but poor people should be okay?

Senator I.J. Gorst:

I do not think it is right for me to go into any particular detail. The current incumbents of those posts obviously have been duly, appropriately elected under the law and comply with the judicial codes. If the Deputy has any particular concerns he could either address them to you, in your judicial role, or perhaps he might like to appear before the Legislation Advisory Panel to discuss it with them, but we must be very careful not to go into particular personal individuals or cases.

2.10.2 Deputy J.M. Maçon of St. Saviour:

The Minister commented that the panel will be considering this matter in due course. Is the Minister able to give an indication of when that will be: next quarter, next 6 months, last session of their term?

Senator I.J. Gorst:

The initial brief that I had from my department was at its next meeting. I do not know when its next meeting is, but I think it is better to say that they will be considering at a forthcoming meeting. It might be that the Deputy wishes to appear before the panel and, therefore, that timescale has to change.

2.10.3 Deputy M. Tadier:

My question very much follows on from that. First of all, what is the nature of the reconsideration or the amendments that the Chief Minister or the panel are likely to be considering? Would there be opportunity for States Members or other interested parties to come along and give recommendations as to what amendments may be worth considering?

Senator I.J. Gorst:

As far as I am aware there are a number of amendments that are being considered and that is why I invite the Deputy, if he has other amendments that he thinks would be appropriate to be considered by the panel, to appear before the panel. Of course, it is this Assembly that will decide any ultimate amendments to that law.

2.10.4 Deputy M. Tadier:

Just in case I am not in office by the time the meeting takes place, perhaps I can ask on record? Would the Chief Minister give special consideration to the way in which Jurats are elected – that is to say, by only being elected by the Electoral College consisting of States Members and Advocates – and give thought to whether it is appropriate that States Members, in particular, are appointing members of the Royal Court and whether Advocates should be appointing members of the Royal Court as well, in line with the theory of separation of powers which we know about?

Senator I.J. Gorst:

I have no reason to consider why that might need to be considered. Obviously it is a privilege that is afforded to Members of this Assembly. I am not sure it is one that many Members take up and get actively involved in. Perhaps, if some Members do have concerns, that might be the best approach for them to take.

2.10.5 Deputy M.R. Higgins:

Am I right in saying that Jurats are the lay members of the court and determine fact and, because of this fact, does the Chief Minister believe that they are representative of our community by gender, race, education and income, as lay magistrates are in the United Kingdom?

Senator I.J. Gorst:

I have no reason to doubt that they are not broadly representative of our community but, as I said, it is not right for me or for Members to go into particular individuals.

2.10.6 Deputy M.R. Higgins:

It was a generalisation. I was asking in general does he believe that they are representative of the mix of Islanders, as opposed to specific individuals. I am not talking about specific individuals.

Senator I.J. Gorst:

As I said, I have got no reason to doubt it is anything other than that but, as I tried to indicate to Members, Members are members of the Electoral College. That does give them a right to nominate any individual and, of course, any individual that meets the criteria of the law can be nominated.

2.10.7 Deputy T.M. Pitman:

I would just say the Chief Minister does not need to be nervous. I am going to save most of my comments for outside the States and for a proposition. Given that we have great concern from many in the public – the care leavers and victims of abuse generally – about the forthcoming inquiry into historic abuse, does the Minister not

agree that fact – and it is a fact – that for the past 12 years we have had a Jurat who was happy to ignore child abuse? Does that send out a message of reassurance to the people of Jersey? Is it acceptable and should it really be for a Deputy to have to act on that when nobody has done anything for 12 years?

Senator I.J. Gorst:

It is not appropriate for me to talk about individual Jurats and I am not even sure that it is appropriate for the Member to make that ... I am not sure if it is allegation or accusation, Sir, but I leave that to you.

Explanatory Note

This Law deletes the provision in the Royal Court (Jersey) Law 1948 which disqualifies a person from being appointed to the office of Jurat if that person has received “poor relief” in the preceding 12 months and makes a consequential amendment.



Jersey

DRAFT ROYAL COURT (AMENDMENT No. 15) (JERSEY) LAW 201-

A LAW to amend further the Royal Court (Jersey) Law 1948.

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 Royal Court (Jersey) Law 1948 amended

In Article 3 of the Royal Court (Jersey) Law 1948¹ there shall be deleted –

- (a) paragraph (j); and
- (b) paragraph (iii) after the words “Provided that –”.

2 Citation and commencement

This Law may be cited as the Royal Court (Amendment No. 15) (Jersey) Law 201- and shall come into force on the day after it is registered.

¹

chapter 07.770