

STATES OF JERSEY ORDER PAPER

Tuesday 17th January 2006
at 10.15 a.m.

A. COMMUNICATIONS BY THE PRESIDING OFFICER

B. TABLING OF SUBORDINATE ENACTMENTS

(Explanatory note attached)

Child Abduction and Custody Rules 2005. R&O 188/2005.
The Superior Number of the Royal Court.

Child Custody (Jurisdiction) Rules 2005. R&O 189/2005.
The Superior Number of the Royal Court.

Bankruptcy (Désastre) (Amendment No. 5) (Jersey) Rules 2005. R&O 190/2005.
The Superior Number of the Royal Court.

Royal Court (Amendment) Rules 2005. R&O 191/2005.
The Superior Number of the Royal Court.

Children (Amendment) Rules 2005. R&O 192/2005.
The Superior Number of the Royal Court.

C. DOCUMENTS PRESENTED OR LAID

Jersey Advisory and Conciliation Service: appointment of Board members. R.C.88/2005.
Presented: 15th December 2005.
Minister for Social Security.

Land Transactions under Standing Order 168(3) – R.1/2006.
(a) Oakfield Industries warehouse, Highlands College, St. Saviour: lease to Jersey Employment Trust;
(b) 5, Le Clos Emma, Belle Vue, St. Brelade: sale to Mr. R. Rive (strip of land).
Presented: 11th January 2006.
Minister for Treasury and Resources.

Composting facilities (P.258/2005): comments. P.258/2005. Com.
Presented: 19th December 2005.
Comité des Connétables.

Censuses and the development of official statistics for Jersey (P.275/2005): comments. P.275/2005. Com.
Presented: 11th January 2006.
Minister for Treasury and Resources.

Employment legislation: petition (P.214/2005) – comments. P.214/2005. Com.
Presented: 11th January 2006.
Minister for Social Security.

Draft Employment Relations (Amendment) (Jersey) Law 200- P.271/2005. Com.
(P.271/2005): comments.
Presented: 13th January 2006.
Minister for Social Security.

D. NOTIFICATION OF LODGED PROPOSITIONS

Planning Applications Panel: membership. P.281/2005.
Lodged: 28th December 2005.
Minister for Planning and Environment.

Draft Employment (Minimum Wage) (Amendment) (Jersey) P.282/2005.
Regulations 200-
Lodged: 29th December 2005.
Minister for Social Security.

Draft Public Elections (Jersey) Law 2002 (Appointed Day) (No. 2) P.1/2006
Act 200-
Lodged: 13th January 2006.
Privileges and Procedures Committee.

Draft Public Elections (Amendment) (Jersey) Regulations 200-. P.2/2006.
Lodged: 13th January 2006.
Privileges and Procedures Committee.

Draft Companies (Amendment No. 8) (Jersey) Law 2005 (Appointed P.3/2006.
Day) Act 200-
Lodged: 13th January 2006.
Minister for Economic Development.

E. WITHDRAWAL OF LODGED PROPOSITIONS

In accordance with Standing Order 34(1), the proposers of the following propositions lodged “au Greffe” have informed the Greffier of the States that they are to be withdrawn –

Draft Harbour Charges (Jersey) Law 200-. P.153/2005.
Lodged: 19th July 2005.
Minister for Economic Development, (formerly the Harbours and Airport Committee).

Development of Fostering and Adoption Services in Jersey. P.219/2005.
Lodged: 5th October 2005.
Deputy P.V.F. Le Claire of St. Helier, (formerly in the name of Senator P.V.F. Le Claire).

Draft Electronic Communications (Amendment) (Jersey) Law 200-. P.253/2005.
Lodged: 25th October 2005.
Minister for Economic Development, (formerly the Economic Development Committee).

Television licences for the over-75s funded from stamp duty on share transfer properties. P.274/2005.
Lodged: 29th November 2005.
Deputy of St. Martin.

F. APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

G. MATTERS OF PRIVILEGE

H. PETITIONS

I. QUESTIONS

(a) – Written Questions
(attached)

The Minister for Transport and Technical Services will table an answer to a question asked by Senator B.E. Shenton regarding the school bus contract and recovery of costs relating to shift allowance.

The Minister for Health and Social Services will table an answer to a question asked by Deputy R.G. Le Hérisse of St. Saviour regarding the suspension of staff.

The Minister for Social Security will table an answer to a question asked by Deputy G.P. Southern of St. Helier regarding matters relating to P.282/2005 – draft Employment (Minimum Wage) (Amendment) (Jersey) Regulations 200-.

The Minister for Treasury and Resources will table an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the new IT IS scheme.

The Chief Minister will table an answer to a question asked by Deputy G.P. Southern of St. Helier regarding R.C. 18/2005 - States Employees Engaging in Political Activities.

The Minister for Planning and Environment will table an answer to a question asked by Deputy G.C.L. Baudains of St. Clement regarding the property known as 'Lezardrieux', St. Clement.

The Chairman of the Comité des Connétables will table answers to questions asked by Deputy G.C.L. Baudains of St. Clement regarding the 'commercial rate' and the position of the Parishes under the Low Income Support Scheme.

The Minister for Treasury and Resources will table an answer to a question asked by Deputy G.C.L. Baudains of St. Clement regarding the shareholding of Jersey Telecom.

The Minister for Transport and Technical Services will table an answer to a question asked by Deputy G.C.L. Baudains of St. Clement regarding the possible introduction of car park barriers in place of scratch cards.

The Minister for Economic Development will table an answer to a question asked by Deputy G.C.L. Baudains of St. Clement regarding his strategies for rejuvenating the agricultural and tourism industries.

(b) – Oral Questions

Deputy G.P. Southern of St. Helier will ask the following question of the Chief Minister –

“What progress has been made in connection with the establishment of a Population Office as outlined in P.25/2005 - Migration: monitoring and regulation, and in the light of this, when will a proposition be lodged for consideration by the States to provide for employers to control their workforce under the proposed system of entitled, licensed and registered-only categories?”

Senator L. Norman will ask the following question of the Minister for Economic Development –

“What action, if any, is the Minister proposing to take to ensure that the agreement made between the States of Jersey and States of Guernsey on 26th August, 2004, to give equitable access to Channel Island waters for local fishermen, is implemented without further delay?”

The Deputy of St. Martin will ask the following question of the Chairman of the Comité des Connétables –

“Would the Chairman advise whether Criminal Record Office checks are being carried out in respect of candidates for all posts including Connétable, Procureurs du Bien Public and other honorary police positions and, if not, explain the reasons why and what steps, if any, will be taken by the Comité to review current procedures?”

Deputy R.G. Le Hérisier of St. Saviour will ask the following question of the Minister for Economic Development –

“Would the Minister confirm whether the move to postal corporatisation is proceeding to schedule and on what date the planned incorporation will take place?”

Deputy G.P. Southern of St. Helier will ask the following question of the Minister for Economic Development –

“What progress has been made in securing ferry services on the southern route for the coming tourist season and what consideration, if any, has been given to reviewing the “open seas” policy followed by the former Economic Development Committee, as recommended in the OXERA report dated July 2004 regarding the viability of ferry services?”

Senator L. Norman will ask the following question of the Minister for Education, Sport and Culture –

“Would the Minister confirm that there are no circumstances whereby persons with a record for sex offences or violence may be employed in the Education Service?”

Deputy R.G. Le Hérisssier of St. Saviour will ask the following question of the Minister for Health and Social Services –

“Would the Minister confirm whether staff in the Health Service enjoy full protection in terms of “whistle blowing?”

The Deputy of St. Martin will ask the following question of the Chief Minister –

“On 8th February 2000, the States approved P.197/99 - draft Human Rights (Jersey) Law 200-. To date, the Law has not been brought into force. Would the Chief Minister explain the reasons for the continuing delay and whether this is having any negative implications for the Island, and give some indication as to when the Law will come into effect?”

The Connétable of St. Helier will ask the following question of the Minister for Home Affairs –

“Would the Minister inform members how the levels of anti-social, disorderly and violent behaviour recorded in recent months, particularly in St Helier over the Christmas and New Year period, compare to previous years and what additional steps, if any, is the Minister taking to review standards of community safety in the Island.”

Deputy S. Pitman of St. Helier will ask the following question of the Minister for Education, Sport and Leisure –

“Would the Minister inform members whether there are any plans to fund or develop a floating youth cafe facility permanently moored at the Waterfront and, if so, what consideration, if any, has been given to health and safety issues?”

Deputy G.C.L. Baudains of St. Clement will ask the following question of the Minister for Planning and Environment –

“Would the Minister explain whether any difficulties arise from pre-application advice given to developers in support of a particular scheme when, at a later stage, the scheme is opposed by the Minister and, if so, what plans does he have, if any, to address this issue?”

**(c) – Questions to Ministers without notice -
(rota attached)**

1st question period – Minister for Economic Development.

2nd question period – Chief Minister.

J. PERSONAL STATEMENTS

K. STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

L. PUBLIC BUSINESS

Field 571, La Rue du Puits Mahaut, Grouville: petition.

Lodged : 12th July 2005.

Deputy of Grouville.

P.147/2005

Field 571, La Rue du Puits Mahaut, Grouville: petition (P.147/2005) – comments. Presented : 19th July 2005. <i>Minister for Planning and Environment, (formerly the Environment and Public Services Committee.)</i>	P.147/2005. Com.
Draft Sexual Offences (Jersey) Law 200-. Lodged: 13th September 2005. <i>Minister for Home Affairs, (formerly the Home Affairs Committee).</i>	P.196/2005.
Draft Emergency Powers and Planning (Amendment No. 2) (Jersey) Law 200-. Lodged: 6th October 2005. <i>Deputy P.V.F. Le Claire of St. Helier, (formerly in the name of Senator P.V.F. Le Claire).</i>	P.220/2005.
Draft Law Revision (Amendment) (Jersey) Law 200-. Lodged: 25th October 2005. <i>Minister for Treasury and Resources, (formerly the Finance and Economics Committee).</i>	P.254/2005.
Draft Police Force (Amendment No. 9) (Jersey) Law 2003 (Appointed Day) Act 200-. Lodged: 15th November 2005. <i>Minister for Home Affairs, (formerly the Home Affairs Committee).</i>	P.268/2005.
Censuses and the development of official statistics for Jersey. Lodged: 29th November 2005. <i>Chief Minister, (formerly the Policy and Resources Committee).</i>	P.275/2005.
Censuses and the development of official statistics for Jersey (P.275/2005): comments. Presented: 11th January 2006. <i>Minister for Treasury and Resources.</i>	P.275/2005. Com.
In accordance with Standing Order 32, the Minister for Treasury and Resources has given notice that he will propose that the following matter be included under public business at the present meeting –	
Draft Finance (Jersey) Law 200-. Lodged as amended in Second Reading: 1st December 2005. <i>Minister for Treasury and Resources (formerly the Finance and Economics Committee).</i>	P.279/2005.
In accordance with Standing Order 32, the Minister for Planning and Environment has given notice that he will propose that the following matter be included under public business at the present meeting –	
Planning Applications Panel: membership. Lodged: 28th December 2005. <i>Minister for Planning and Environment.</i>	P.281/2005.

M. ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

31st January 2006

Speeding fines: allocation of funds to Parishes. P.156/2005.
Lodged: 20th July 2005.
Deputy of St. Martin.

Speeding fines: allocation of funds to Parishes (P.156/2005) – P.156/2005.
comments. Com.
Presented: 27th September 2005.
Minister for Treasury and Resource, (formerly the Finance and Economics Committee).

Speeding fines: allocation of funds to Parishes (P.156/2005) – P.156/2005.
comments. Com.(2)
Presented: 27th September 2005.
Minister for Home Affairs, (formerly the Home Affairs Committee).

Speeding fines: allocation of funds to Parishes (P.156/2005) – P.156/2005.
comments – addendum. Com.(2) Add.
Presented: 18th October 2005.
Minister for Home Affairs, (formerly the Home Affairs Committee).

Draft Telecommunications (Amendment) (Jersey) Law 200-. P.257/2005.
Lodged: 1st November 2005.
Minister for Economic Development, (formerly the Economic Development Committee).

Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 P.267/2005.
(Appointed Day) (No. 3) Act 200.
Lodged: 15th November 2005.
Minister for Home Affairs, (formerly the Home Affairs Committee).

Draft Dogs (Amendment No. 3) (Jersey) Law 200. P.280/2005
Lodged: 12th December 2005.
Comité des Connétables.

Draft Companies (Amendment No. 8) (Jersey) Law 2005 (Appointed P.3/2006.
Day) Act 200-.
Lodged: 13th January 2006.
Minister for Economic Development.

14th February 2006

Draft Administrative Decisions (Review) (Amendment No. 2) (Jersey) P.195/2005.
Law 200 -.
Lodged: 13th September 2005.
Privileges and Procedures Committee.

Private hospital development: Scrutiny Review. P.221/2005.
Lodged: 6th October 2005.
Deputy P.V.F. Le Claire of St. Helier, (formerly in the name of Senator P.V.F. Le Claire), and referred to the Council of Ministers, and the Ministers for Economic Development and Health and Social Services,

(formerly the Policy and Resources, the Economic Development and the Health and Social Services Committees).

Draft Employment (Minimum Wage) (Amendment) (Jersey) Regulations 200-. P.282/2005.
Lodged: 29th December 2005.
Minister for Social Security.

28th February 2006

Draft Criminal Justice (Miscellaneous Provisions) (No. 2) (Jersey) Law 200 . P.197/2005.
Lodged: 13th September 2005.
Minister for Home Affairs, (formerly the Home Affairs Committee).

Cigarette lighter refill canisters: sale to minors. P.218/2005.
Lodged: 5th October 2005.
Deputy G.P. Southern of St. Helier.

Draft Public Elections (Jersey) Law 2002 (Appointed Day) (No. 2) Act 200-. P.1/2006
Lodged: 13th January 2006.
Privileges and Procedures Committee.

Draft Public Elections (Amendment) (Jersey) Regulations 200-. P.2/2006.
Lodged: 13th January 2006.
Privileges and Procedures Committee.

14th March 2006

Strategic Travel and Transport Plan. P.174/2005.
Lodged: 30th August 2005.
Minister for Transport and Technical Services, (formerly the Environment and Public Services Committee).

Strategic Travel and Transport Plan (P.174/2005): comments. P.174/2005.
Presented: 27th September 2005. Com.
Minister for Treasury and Resources, (formerly the Finance and Economics Committee).

Strategic Travel and Transport Plan (P.174/2005): amendment. P.174/2005.
Lodged: 13th September 2005. Amd.
Deputy R.G. Le Hérissier of St. Saviour.

Strategic Travel and Transport Plan (P.174/2005): amendment (P.174/2005 Amd.) – comments. P.174/2005.
Presented: 27th September 2005. Amd.Com.
Minister for Transport and Technical Services, (formerly the Environment and Public Services Committee).

Employment legislation: petition. P.214/2005.
Lodged: 4th October 2005.
Deputy G.P. Southern of St. Helier, and referred to the Minister for Social Security, (formerly the Employment and Social Security Committee).

Employment legislation: petition (P.214/2005) – comments. P.214/2005.

Presented: 11th January 2006.
Minister for Social Security.

Com.

Composting facilities. Lodged: 1st November 2005. <i>Deputy P.V.F. Le Claire of St. Helier, (formerly in the name of Senator P.V.F. Le Claire), and referred to the Ministers for Health and Social Services, Planning and Environment, and Transport and Technical Services, and the Comité des Connétables, (formerly the Health and Social Services and the Environment and Public Services Committees, and the Connétable of St. Martin, Chairman of the Comité des Connétables).</i>	P.258/2005.
Composting facilities (P.258/2005): comments. Presented: 19th December 2005. <i>Comité des Connétables.</i>	P.258/2005. Com.
Draft Taxation (United States of America) (Jersey) Regulations 200-. Lodged: 8th November 2005. <i>Chief Minister, (formerly the Policy and Resources Committee).</i>	P.264/2005.
Draft Employment (Amendment No. 2) (Jersey) Law 200-. Lodged: 15th November 2005. <i>Deputy G.P. Southern of St. Helier.</i>	P.270/2005.
<u>28th March 2006</u>	
Housing Trading Organisation: establishment. Lodged: 27th September 2005. <i>Minister for Housing, (formerly the Housing Committee).</i>	P.211/2005
Draft Employment Relations (Amendment) (Jersey) Law 200-. Lodged: 15th November 2005. <i>Deputy G.P. Southern of St. Helier.</i>	P.271/2005.
Draft Employment Relations (Amendment) (Jersey) Law 200- (P.271/2005): comments. Presented: 13th January 2006. <i>Minister for Social Security.</i>	P.271/2005. Com.
<u>11th April 2006</u>	
Draft Water Resources (Jersey) Law 200-. Lodged: 27th September 2005. <i>Minister for Planning and Environment, (formerly the Environment and Public Services Committee).</i>	P.206/2005.
Draft Water Resources (Jersey) Law 200- (P.206/2005): comments. Presented: 1st November 2005. <i>Minister for Economic Development, (formerly the Economic Development Committee).</i>	P.206/2005. Com.
Draft Water Resources (Jersey) Law 200- (P.206/2005): amendment. Lodged: 25th October 2005. <i>Deputy R.C. Duhamel of St. Saviour.</i>	P.206/2005. Amd.

Draft Water Resources (Jersey) Law 200- (P.206/2005): amendments (P.206/2005 Amd.)– comments. P.206/2005.
Presented: 22nd November 2005. Amd.Com.
Minister for Planning and Environment, (formerly the Environment and Public Services Committee).

Draft Water Resources (Jersey) Law 200- (P.206/2005): second amendments. P.206/2005.
Lodged: 1st November 2005. Amd.(2)
Deputy P.N. Troy of St. Brelade, and referred to the Minister for Planning and Environment, (formerly the Environment and Public Services Committee).

Draft Water Resources (Jersey) Law 200- (P.206/2005): second amendments (P.206/2005 Amd.(2))– comments. P.206/2005.
Presented: 29th November 2005. Amd.(2) Com.
Minister for Planning and Environment, (formerly the Environment and Public Services Committee).

25th April 2006

Criminal Justice Policy. P.201/2005.
Lodged: 20th September 2005.
Minister for Home Affairs, (formerly the Home Affairs Committee).

Criminal Justice Policy (P.201/2005): comments. P.201/2005.
Presented: 25th October 2005. Com.
Minister for Treasury and Resources, (formerly the Finance and Economics Committee).

16th May 2006

Milk Subsidy for Delivery to Special Classes. P.145/2005.
Lodged: 5th July 2005.
Deputy G.P. Southern of St. Helier, and referred to the Ministers for Economic Development and Social Security, (formerly the Economic Development and the Employment and Social Security Committees).

23rd May 2006

6th June 2006

Senators and Deputies: terms of office. P.227/2004.
Lodged: 14th December 2004.
Deputy A. Breckon.
(debate commenced and States adopted move to next item of public business on 1st Feb 2005)

Senators and Deputies: terms of office (P.227/2004) – comments. P.227/2004.
Presented: 18th January 2005. Com.
Presented by the Minister for Treasury and Resources, (formerly the Finance and Economics Committee).

20th June 2006

4th July 2006

18th July 2006

M.N. DE LA HAYE
Greffier of the States

12th January 2006

Notes –

Members are reminded that the Service of Dedication in the Parish Church of St. Helier will take place at 9.30 a.m. prior to the States' meeting at 10.15 a.m.

In accordance with a decision of the States on 25th October 2005, this meeting will continue, if necessary, on Wednesday 18th and Thursday 19th January 2006.

Explanatory Note regarding subordinate legislation tabled at this meeting.

(See Item B)

R&O 188/2005

The Child Abduction and Custody (Jersey) Law 2005 (“the Law”) enables –

- (i) the Convention on the Civil Aspects of International Child Abduction signed at The Hague on 25th October 1980; and
- (ii) the Council of Europe Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children opened for signature at the 12th Conference of the European Ministers of Justice on 20th May 1980,

to be extended to Jersey.

The Hague Convention (the relevant provisions of which are set out in Schedule 1 to the Law) works on the principle of returning children aged under 16 years who are wrongfully removed or retained away from their country of habitual residence. In order to be considered wrongful, a removal or retention must be in breach of rights of custody which are actually being exercised by a person, an institution or any other body under the law of the state in which the child was habitually resident immediately before the removal or retention.

Under the Hague Convention courts are required to order the return of a child wrongfully removed or retained away from their country of habitual residence, there are however a number of grounds on which a return order can be refused. These grounds include: the court being satisfied that to return the child would expose the child to a grave risk of physical or psychological harm, or otherwise place the child in an intolerable situation; the child objects to being returned and is mature enough to have his or her views taken into account. The court may also refuse to return a child if the applicant was not actually exercising rights of custody at the time of removal or consented to or subsequently acquiesced in the removal or retention.

The European Convention (the relevant provisions of which are set out in Schedule 2 to the Law) is used less often in abduction cases because the Convention only operates where an order already exists. The Convention has more frequent application to the enforcement of access orders.

Orders made in European Convention countries are recognized, but must be registered before being enforced. Enforcement may not necessarily follow immediately after registration. There are a number of grounds on which enforcement can be opposed. These are set out in articles 9 and 10 of the European Convention.

Both Conventions require Contracting States to establish central authorities to undertake the administrative arrangements necessary to secure their objects. The central authorities act as channels for applications under the Conventions and are required to assist applicants with the practical problems of tracing the child and securing its return. The Law provides for the functions in Jersey of the central authority to be discharged by the Attorney General.

The attached Rules deal with matters of procedure and are similar to Part VI of the Family Proceedings Rules 1991 [SI 1991/1247] of England and Wales.

Rule 1 contains definitions. It is unnecessary for the Rules to repeat the definitions in the Law as they apply automatically to the Rules. Thus, for example, the definitions in the Law of “Hague Convention” and “European Convention” are not repeated in the Rules.

Rule 2(1) requires every application, whether under the Hague Convention or the European Convention, to be made by representation.

Rule 2(2) requires an application in custody proceedings for a declaration under Article 24(2) of the Law to be made by summons in those proceedings. “Custody proceedings” are defined in Article 1 of the Law as “*any proceedings in which a custody order may be made, varied or revoked*”. Article 24(2) of the Law, which relates to the European Convention, provides that –

“Where in any custody proceedings a Jersey court makes a decision relating to a child who has been removed from Jersey, the court may also, on an application made by any person for the purposes of Article 12 of the Convention, declare the removal to have been unlawful if satisfied that –

- (a) *the applicant has an interest in the matter; and*

- (b) *the child has been taken from or sent or kept out of Jersey without the consent of the person (or, if more than one, all the persons) having the right to determine the child's place of residence under the law of Jersey.*"

Rule 3 makes requirements about the contents of a representation under which an application is made. It also provides for the representation to be accompanied by documents in respect of which each of the Conventions makes certain requirements.

Rule 4 provides for the representation to be served personally on certain persons (although service may be dispensed with - see *Rule 8*).

Rule 5 provides for the return date in respect of the representation to be not more than 21 days from date on which the Court orders service. A representation by which an application is made under either of the Conventions may not be placed on the pending list.

Rule 6 enables a representation to be accompanied by affidavit evidence in support of the application.

Any person on whom the representation has been served may within 7 days lodge affidavit evidence with the Court. A copy of any such affidavit must be served on the representor at the same time.

Within 7 days after that, the representor may lodge and serve a statement in reply.

Rule 7 enables applications under the Law to be dealt with by the Bailiff in chambers (and references in the Rules to "the Court" are to be construed accordingly).

Rule 8 empowers the Court or the Greffier to dispense with service of a representation or any summons in proceedings under the Law.

Rule 9 limits to 21 days at a time the period during which proceedings on an application under either Convention may be adjourned.

Rule 10 makes provision about staying proceedings to avoid duplication of proceedings between the Jersey court and other courts in England and Wales, Scotland or Northern Ireland. This ought not to be confused with the provisions of the Child Custody (Jurisdiction) (Jersey) Law 2005. The quite separate Rules of Court under that Law deal with procedure in inter-jurisdictional matters between Jersey and the United Kingdom where there is not otherwise an international dimension. The Child Abduction and Custody (Jersey) Law 2005, and these draft Rules, on the other hand, deal with inter-jurisdictional matters in custody disputes beyond the limits of the British Islands. *Rule 10* is designed to avoid, in respect of disputes in which there is that international dimension, duplication of proceedings in the courts of Jersey and of the United Kingdom.

Rule 11, following on from *Rule 10*, empowers the Court to transfer proceedings to an appropriate court in the United Kingdom so that the proceedings (under either Convention) can be taken forward in that court. There are also reciprocal provisions under which proceedings in such a court may be transferred to the Royal Court. In that respect, *Rule 11(4)* makes provision for the Greffier to notify the parties of the transfer to Jersey of the proceedings and for the proceedings to continue in Jersey as though they had been begun here.

Rule 12 enables applications for interim directions under Articles 7 and 20 of the Law to be made *ex-parte*.

Article 7 relates to the Hague Convention and empowers the Court at any time before an application is determined, to give such interim directions as it thinks fit for the purpose of securing the welfare of the child concerned or of preventing changes in the circumstances relevant to the determination of the application.

Article 20 relates to the European Convention and empowers the Court, where an application has been made for the registration or enforcement of a decision relating to custody, to give such interim directions as it thinks fit for the purpose of securing the welfare of the child concerned or of preventing changes in the circumstances relevant to the determination of any subsequent application for the enforcement of the decision.

Rule 13 relates to the right to obtain sealed copies of orders made by the Court.

Rule 14 relates to the European Convention and the subsequent variation or revocation by an overseas authority of a decision that has been registered in Jersey. The Greffier is required to notify certain parties of the cancellation or variation of any such decision.

It is also possible for a person appearing to the Court to have an interest in the matter to apply by summons for the registration of a decision cancelling or varying such a registration.

Rule 15 empowers the Court, at any stage in proceedings under the European Convention, to order the disclosure of certain information about the child who is the subject of the proceedings.

Rule 16 is the usual citation provision and provides for the Rules to come into force on the same day as the Law, namely, 1st January 2006.

The Rules were made by the Superior Number of the Royal Court on 19th December 2005.

R&O 189/2005

These Rules are to be made under the Child Custody (Jurisdiction) (Jersey) Law 2005 (“the Law”), the main purpose of which is to make Jersey’s legislation dovetail with the statutory framework of the United Kingdom under which orders with regard to the custody of children are able to be recognized and enforced reciprocally throughout the different jurisdictions of that country.

The Law is based on Part I of the Family Law Act 1986 which laid down the jurisdictional bases for the granting of custody orders in England and Wales, Scotland and Northern Ireland and established a procedure for the recognition and enforcement of custody orders throughout the United Kingdom.

The key to recognition and enforcement lies in registration.

The Law provides for the recognition and registration in Jersey of United Kingdom custody orders known as “Part I orders”, i.e. orders to which Part I of the Family Law Act 1986 applies. The Royal Court is empowered to secure the enforcement of such an order, once it has been registered, as though it were an order made in Jersey.

The Law also enables applications to be made to the Royal Court for ‘a Jersey order’ – meaning, in most cases, an order made by the Court under Article 10 of the Children (Jersey) Law 2002 - to be forwarded to a part of the United Kingdom for registration and enforcement in that part.

In relation to enforcement of custody orders, the Law widens the enforcement powers of the Royal Court.

Article 25 of the Law empowers the Royal Court to make provision by Rules of Court for anything that may be prescribed under the Law or that appears to be necessary or expedient to give effect to the Law.

The attached draft Child Custody (Jurisdiction) Rules 200- would be made pursuant to that power.

Rule 1 defines, amongst other expressions, “appropriate court” and “appropriate officer” in relation to each part of the United Kingdom.

Rule 2 sets out the procedure and the duties of the Greffier upon an application to the Court under Article 16 of the Law for the registration in the United Kingdom of a Jersey order.

Rule 3 sets out the procedure to be followed by the Greffier upon receipt from the United Kingdom of a certified copy of a Part I order for registration in Jersey.

Rule 4 sets out the procedure to be followed by the Greffier when a Jersey order which has been registered in the United Kingdom is subsequently revoked or varied by the Royal Court.

Rule 5 sets out the procedure to be followed by the Greffier when an order made in the United Kingdom and registered in Jersey is subsequently revoked, recalled or varied. It also provides for applications to cancel the registration of certain orders which have ceased to have effect to be made by summons.

Rule 6 provides for applications for interim directions under Article 13(2) of the Law to be made by summons. Article 13(2) empowers the Royal Court, where an application has been made for the enforcement of a Part I order, to give interim directions for the purpose of securing the welfare of the child concerned or of preventing changes in the circumstances relevant to the determination of the application.

Rule 7 provides for applications for staying or dismissing enforcement proceedings in relation to a Part I order to be made by summons and for the convening of certain persons as parties to the application.

Rule 8 requires parties to proceedings under the Law in respect of any child to file an affidavit giving particulars of any other proceedings (whether in Jersey or elsewhere) relating to the child.

Rule 9 provides for certain rights of inspection of the register of custody orders in the Judicial Greffe.

Rule 10 relates to orders under Articles 17 and 18 of the Law:

Article 17 provides that –

“Where in proceedings for or relating to a Jersey order¹ in respect of a child, there is not available to the Court adequate information as to where the child is, the Court may order any person who it has reason to believe may have relevant information to disclose it to the Court”.

Article 18 provides that –

“Where –

- (a) *a person is required by a Jersey order, or an order for the enforcement of a Part I order, to give up a child to another person; and*
- (b) *the Court is satisfied that the child has not been given up in accordance with the order, the Court may make an order authorising the Viscount or a police officer to take charge of the child and deliver the child to that other person”.*

The authority conferred by an order under Article 18 includes authority –

¹ This means, generally, an order made by the Royal Court under Article 10 of the Children (Jersey) Law

- (a) to enter and search any premises where the person acting in pursuance of the order has reason to believe the child may be found; and
- (b) for the use of such force as may be necessary to give effect to the purpose of the order.

Rule 10 provides that an application under Article 17 or Article 18 of the Law may be made *ex parte* to the Bailiff and must, if made under Article 18, be supported by an affidavit.

Rule 11 is the usual citation provision and would provide for the Rules to come into force on the same day as the Law, namely, 1st January 2006.

The Rules were made by the Superior Number of the Royal Court on 19th December 2005.

R&O 190/2005

The purpose of these Rules is to amend the maximum figure for an employee by way of priority claim for wages in a désastre from £2,000 to £2,500.

The Rules were made by the Superior Number of the Royal Court on 19th December 2005 and come into force on 26th December 2005.

R&O 191/2005

These Rules amend Rule 17/3 of the Royal Court Rules, which lists the non-contentious business which may be transacted before the Judicial Greffier.

The amendment includes the grant of an application for the registration of a notice served under the Electricity (Jersey) Law 1937 as one of the items of non-contentious business that may be transacted before the Greffier.

The amendment also deletes sub-paragraph (*l*) of Rule 17/3, which refers, erroneously, to the grant of an application for an order under Article 5(2) of the Drug Trafficking Offences (Jersey) Law 1988. That provision has, in fact, been superseded rendering sub-paragraph (*l*) otiose.

The Rules were made by the Superior Number of the Royal Court on 19th December 2005 and come into force on 26th December 2005.

R&O 192/2005

In these Rules Form C5 is the supplement for an application for an emergency protection order. At the moment it includes wording for “AUTHORIZED PERSON APPLICANTS” that replicates wording in the corresponding English form reflecting section 44(1)(c) of the Children Act 1989. As section 44(1)(c) has no counterpart in Article 37 of the Children (Jersey) Law 2002, that wording in the existing Form C5 is surplusage.

The Rules replace Form C5 with a new Form C5 from which that wording is omitted.

The Rules were made by the Superior Number of the Royal Court on 19th December 2005 and come into force on 26th December 2005.

WRITTEN QUESTIONS

(See Item I(a))

The Minister for Transport and Technical Services will table an answer to the following question asked by Senator B.E. Shenton –

“Would the Minister inform members –

- (a) whether the current school bus contract has expired and, if so, whether the new contract will be put out to tender and what the expected timetable is? and,
- (b) whether any actions have been taken to recover the £186,802 paid to Connex in respect of shift allowance, (as outlined in Recommendation 6 of R.C. 64/2005 of the former Environment and Public Services Committee – Response to the Committee of Inquiry into the tender process and award of the bus contract), and, if not, advise whether this money will be claimed and when, the reason for the delay, and whether interest will also be claimed?”

The Minister for Health and Social Services will table an answer to the following question asked by Deputy R.G. Le Hérissier of St. Saviour –

“Would the Minister inform members –

- (a) of the number of staff who have been suspended in each of the last three years (2002 to 2005) as a result of disciplinary infractions, if any, and in each case, identify the nature of the alleged infraction, the period of suspension and the means of disposal of the case?
- (b) whether the Director of Nursing receive any payments upon resigning and, if so, what were they?
- (c) whether the Director of Nursing was appointed as Deputy Chief Executive approximately two weeks before departure from office and, if so, the reasons why?”

The Minister for Social Security will table an answer to the following question asked by Deputy G.P. Southern of St. Helier –

“Would the Minister inform members –

- (a) of the names of the 23 respondents to the minimum wage questionnaire conducted by the Employment Forum referred to on page 5 of P.282/2005 – draft Employment (Minimum Wage) (Amendment) (Jersey) Regulations 200-?
- (b) of the two other ‘*issues of importance*’ relating to the training rate and therapeutic work referred to on page 6 of P.282/2005? and,
- (c) of the ‘*issues arising within certain organisations*’ over the Codes of Practice on the training rate and therapeutic work referred to on page 7 of P.282/2005?”

The Minister for Treasury and Resources will table an answer to the following question asked by Deputy G.P. Southern of St. Helier –

“Will the Minister inform members what justification lies behind the decision to maintain the system of payment of income tax in arrears under the new ITIS scheme, and in particular explain –

- (a) what consideration, if any, has been given to alternatives to the '*special transitional arrangements applying to years 6 and 7*', as outlined in answer to a question on 29th November 2005, as former President of the Finance and Economics Committee, wherein the taxpayer has a reduced tax bill to bring them into line with others paying tax on the previous year's income, and if not, why not?
- (b) what, if anything, has prevented the adoption of a system, whereby all new entrants to Jersey income tax continue to pay tax on current income?
- (c) what '*complexity and significant administrative costs*' are involved in a transfer to PAYE, as outlined in answer to a question on 29th November 2005, as former President of the Finance and Economics Committee?
- (d) what difference, if any, in tax returns is produced in the long-term (over 50+ years) between a 'tax break' in years 6/7 for all new entrants to ITIS, as proposed, or a gradual phasing out of all those paying tax on past income? and,
- (e) whether any legal advice has been received on this subject?"

The Chief Minister will table an answer to the following question asked by Deputy G.P. Southern of St. Helier –

"In relation to R.C. 18/2005 of the former Policy and Resources Committee - States Employees Engaging in Political Activities: draft proposals, presented to the States on 22nd March 2005, would the Chief Minister, inform members –

- (a) whether he will, as the former Policy and Resources Committee had stated, bring forward a report to the States for further consideration on the issue of States' employees engaging in political activities and, if so, when?
- (b) whether the response following consultation to the proposals contained in R.C.18/2005 has been broadly positive and supportive?
- (c) whether a legal opinion has been received on whether the limitation under Article 17 of the Civil Service Administration (General) (Jersey) Rules 1949 '*No officer shall take a public part in any political manner*' is a disproportionate limitation of the right to freedom of expression contained in Article 10.1 of the Convention on Human Rights and, if so what this states; if not, why has no legal opinion been sought?
- (d) whether consideration is being given to suspending Article 17 and similar Regulations applying to other public sector workers as outlined in Schedule 1 of R.C.18/2005, pending States consideration of a new set of rules that are compliant with Human Rights legislation?"

The Minister for Planning and Environment will table an answer to the following question asked by Deputy G.C.L. Baudains of St. Clement –

With regard to the property 'Lerzardrieux', Rue de la Houquette, St. Clement, and questions asked of the former President of the Environment and Public Services Committee on 29th November 2005, would the Minister inform members –

- (a) whether any further actions have been taken to assess the new building's visual impact particularly from the north, south, east and west elevations and, furthermore, to determine whether it obscures the Mont Ube lighthouse from the south?
- (b) whether any further actions, such as on site measurements, have been taken to confirm the height of the new building and, if so, how far this exceeds the height of the original building; if not, would the

Minister confirm that this will be undertaken and reported to the States and that steps will be taken to reduce any dimension not consistent with the submitted plans? and,

- (c) whether the former Environment and Public Services Committee considered the visual impact of the new building and, if so, why it permitted the building to be of increased height?

The Chairman of the Comité des Connétables will table the answers to the following questions asked by Deputy G.C.L. Baudains of St. Clement –

- “1. Would the Chairman inform members whether all details of the ‘commercial rate’ have now been finalised and what is the anticipated starting date for the new rate; if there is further work outstanding, what does this include?
- 2. With regard to Welfare benefit being subsumed into the Low Income Support Scheme, would the Chairman advise whether any mechanism exists to ensure that the Parishes are protected against the need to subsidise any other aspects of the Support Scheme?”

The Minister for Treasury and Resources will table an answer to the following question asked by Deputy G.C.L. Baudains of St. Clement –

Given that Jersey Telecom is wholly owned by the States, would the Minister advise whether the value of that shareholding or its return has been adversely affected by recent competition and, if so, is the Minister considering disposing of the asset before it reduces further?”

The Minister for Transport and Technical Services will table an answer to the following question asked by Deputy G.C.L. Baudains of St. Clement –

“With regard to the recent announcement by the Minister that he proposes to replace car-park scratch cards with barriers, would he advise –

- (a) whether such a decision has since been made formally and, if so, when?
- (b) whether any motorists have been consulted about the change and, if so, how many and when?
- (c) what criteria, if any, has been used to assess the superiority of barriers against scratch cards?
- (d) whether any assessment has been carried out in relation to the potential for queues at the exits and, if so, what does this conclude? and,
- (e) whether any assessment has been carried out to determine the security of money held in pay machines and any additional time taken by motorists in using a pay machine before exiting a car park similar to those installed at Jersey Airport?”

The Minister for Economic Development will table an answer to the following question asked by Deputy G.C.L. Baudains of St. Clement –

Would the Minister inform members of his strategies for rejuvenating the agriculture and tourism industries, together with timescales and costings?”

**ORAL QUESTIONS WITHOUT NOTICE
ROTA**

(See Item I(c))

First 15 minute period

Education Sport and Culture

Transport and Technical Services

Housing

Social Security

Home Affairs

Economic Development

Education Sport and Culture

Transport and Technical Services

Housing

Social Security

Home Affairs

Second 15 minute period

Health and Social Services

Chief Minister

Planning and Environment

Chief Minister

Treasury and Resources

Chief Minister

Health and Social Services

Chief Minister

Planning and Environment

Chief Minister

Treasury and Resources