

STATES OF JERSEY



DRAFT ROYAL COURT (AMENDMENT No. 13) (JERSEY) LAW 201-

**Lodged au Greffe on 3rd October 2012
by the Chief Minister**

STATES GREFFE



Jersey

DRAFT ROYAL COURT (AMENDMENT No. 13) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Deputy Chief Minister (in the absence of the Chief Minister) has made the following statement –

In the view of the Deputy Chief Minister (in the absence of the Chief Minister) the provisions of the Draft Royal Court (Amendment No. 13) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Senator B.I. Le Marquand**

REPORT

1. This *Projet de Loi* contains a short amendment of the Royal Court (Jersey) Law 1948 (“the 1948 Law”). The purpose of the amendment is to enable the Bailiff (of Jersey) to appoint one or more Jurats of the Royal Court of Guernsey to sit as Jurat(s) of the Royal Court of Jersey. In general terms, under Article 15(2) of the 1948 Law, in all causes and matters, civil, criminal¹ and mixed, the Jurats are the sole judges of fact and assess the amount of any damages to be awarded.
2. As the draftsman’s explanatory note states, an appointment of a Guernsey Jurat by the Bailiff in Jersey would be limited to enabling that Jurat to sit in a given case before the Jersey Royal Court. It would not enable him or her to act in any wider judicial capacity in Jersey. Such an appointment would be effective only after consultation with the Bailiff of Guernsey. The Jurat appointed would be required to take an oath of office to the same effect as a Jersey Jurat (although this would not be necessary on a second or subsequent appointment). The Guernsey Jurat would, for the purposes only of the particular case concerned – whether a civil or a criminal case – have all the functions and powers of a Jersey Jurat.
3. This is a simple but an important amendment. There may be cases in which, for whatever reason it may be, in relation to a cause or matter before the Royal Court, it would be inappropriate for a serving Jurat in the Island to sit. Examples of this might be argued to be where a present Jersey Jurat wanted to bring a claim in damages following a road traffic accident, or was involved in a building dispute or was a material witness as to fact in other proceedings. At present there is no statutory mechanism for the appointment of a person of equivalent office from outside the Island to sit instead. The existence of such a mechanism would be beneficial in helping to ensure, in those cases in which it might be or arguably appear to be in doubt, that justice was being seen to be administered fairly and independently.
4. Jersey is of course fortunate to have so close at hand a kindred jurisdiction with a Royal Court of similar good calibre to its own. The principles of this Draft Law have been the subject of consultation over the last 12 months with the Guernsey Royal Court, and the Draft Law has been recommended to the Chief Minister by the Legislation Advisory Panel for lodging.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this Draft Law, other than the payment, on the rare occasions when this will arise, of travel and hotel costs of Guernsey Jurats who assist in the manner contemplated by these amendments. It is expected these will be met from the standing Court and Case Costs budget of the Judicial Greffe.

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 2nd

¹ other than criminal causes tried before the Criminal Assizes, where there is a jury

October 2012 the Deputy Chief Minister (in the absence of the Chief Minister) made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Deputy Chief Minister (in the absence of the Chief Minister) the provisions of the Draft Royal Court (Amendment No. 13) (Jersey) Law 201- are compatible with the Convention Rights.

Explanatory Note

Article 1 amends the Royal Court (Jersey) Law 1948 to allow the Bailiff to appoint a Jurat of the Guernsey Royal Court to act as a Jurat for the purpose of any particular cause or matter. Such an appointment may only be made after consulting the Bailiff of Guernsey. The first time a Jurat is appointed under this power the Jurat must, before discharging his or her duties, take an oath of office. Such oath must be in substantially the same form as the oath taken by Jurats under Article 7 of the Law and specified by Rules of Court under Article 13.

Article 2 sets out the title of the amending Law and provides for it to come into force on the day after the day it is registered.



Jersey

DRAFT ROYAL COURT (AMENDMENT No. 13) (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 Article 9A of the Royal Court (Jersey) Law 1948 inserted

After Article 9 of the Royal Court (Jersey) Law 1948¹ there shall be inserted the following Article –

“9A Appointment of one or more Jurats by the Bailiff

- (1) Notwithstanding Articles 1 and 2(1), the Bailiff may appoint one or more Jurats of the Guernsey Royal Court to act as a Jurat for the purpose of such particular cause or matter as the Bailiff may determine.
- (2) The Bailiff may make an appointment under paragraph (1) only after consulting the Bailiff of Guernsey.
- (3) A person appointed under paragraph (1) shall –
 - (a) subject to paragraph (4), before discharging his or her duties in relation to the cause or matter in respect of which he or she was appointed, take, on the motion of the Attorney General, oath of office before the Superior Number of the Royal Court, such oath being –
 - (i) substantially in the same form as that taken by a Jurat under Article 7, and

- (ii) specified in Rules of Court under Article 13; and
 - (b) upon discharging such duties, cease to hold office forthwith.
- (4) A person appointed under paragraph (1) shall not be required to take such oath if he or she has been previously appointed under that paragraph.
- (5) A person appointed under paragraph (1) shall have all the powers of a Jurat for the purpose of discharging the duties in relation to the cause or matter in respect of which he or she was appointed.”.

2 Citation and commencement

This Law may be cited as the Royal Court (Amendment No. 13) (Jersey) Law 201- and shall come into force on the day after the day it is registered.

¹ *chapter 07.770*