

STATES OF JERSEY

JERSEY LAW COMMISSION: REPORT FOR 2007

**Presented to the States
by the Chief Minister**

STATES GREFFE

REPORT

The Jersey Law Commission

The Jersey Law Commission was set up by a Proposition laid before the States of Jersey and approved by the States Assembly on 30 July 1996.

The Commissioners are: Mr David Lyons, Chairman, English Solicitor
 Advocate Alan Binnington
 Mr Clive Chaplin, Solicitor
 Advocate Kerry Lawrence
 Advocate John Kelleher
 Mr Peter Hargreaves, Chartered Accountant

The Secretary is: Ms Elaine McGoogan

The address of the Jersey Law Commission is Whiteley Chambers, Don Street, St Helier, Jersey, JE4 9WG

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The Jersey Law Commission Eleventh Annual Report 2007

To the Chief Minister of the States of Jersey

I have the honour to present to you, on behalf of the Jersey Law Commission, pursuant to the Proposition to establish the Commission approved by the States on 30 July 1996, our Eleventh Annual Report covering the activities of the Commission in the calendar year 2007.

Signed

David Lyons, Chairman

PART I – The Eleventh Year

Ten meetings were held during the year and work was completed on our review of the Law of Charities and the Law on Security Over Immoveable Property. At the end of the year, reports on these two major topics were drafted and are now ready for printing. We look forward to discussing these Reports further with the Legislation Advisory Panel.

We also commenced and completed a Consultation Paper and Report on Trusts of Jersey Immoveable Property and, again, we look forward to discussing this matter with the Panel after publication of our Report.

Work is continuing on three other major topics which we were unable to complete during the year although the Consultation Paper on the Jersey Law of Partnership is now ready for printing. We are anticipating issuing a Consultation Paper on Prescription and Limitation in the next month and Advocates Binnington and Kelleher are hopeful that they will be able to complete a further report on the Law of Contract to illustrate how the Commission's proposals contained in its report dated February 2004 can be implemented.

In addition to these major topics, the Commission is also looking at (a) amendments to or abolition of the Limited Partnerships Law and (b) the Bankruptcy (Désastre) (Jersey) Law 1990 where we await further comments from the Panel.

PART II – Topic Reports and other issues considered by the Commission

Since its inception in 1996 the Commission has considered and/or issued reports on the following:

- The Rights of Beneficiaries to Information Regarding a Trust
- The Best Evidence Rule
- The Jersey Law of Real Property
- *Dobson v Public Services Committee of the States of Jersey*
- Jersey Rules of L^égitime
- The Law on Tutelles

- The Law of Contract
- The Jersey Law of Partnership
- The Law of Charities
- The Law on Security over Immoveable Property
- Prescription and Limitation
- Trusts of Jersey Immovable Property
- Executors and Immoveable Property

PART III – The Cost of the Commission

- (i) The Commission’s resources are made available by the States of Jersey through the office of the Chief Minister, based on budgets submitted by the Commission.
- (ii) The Commission spent a total of £5,843 in 2007 from a budget of £34,000.

PART IV – Budget

- (i) Budget for 2008

The Commission’s budget for 2008 has been set at £34,744.

PART V – Commissioners

There were no new Commissioners appointed in 2007.

PART VI - General

The Commission looks forward to continue working with the Chief Minister through the Legislation Advisory Panel.

Signed

David Lyons, Chairman

Clive Chaplin

Alan Binnington

Kerry Lawrence

Peter Hargreaves

John Kelleher

The rôle of the Commission

The Commission is a body established by the States of Jersey. Although the Commission works in close consultation with the Legislation Committee, which also organised its funding and acts as its channel of communication with the States, it is an independent body which reports will be made available, unaltered, to the public.

The rôle of the Commission is defined in its terms of reference, which are set out as follows in the proposition establishing it:

It shall be the duty of the Commission to identify aspects of Jersey law which it considers should be examined with a view to their development and reform, including in particular the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law, and to those ends:

- (a) to receive and consider any proposals for the reform of the law which may be made or referred to them;*
- (b) to prepare and submit to the Legislation Committee from time to time programmes for the examination of different branches of the law with a view to reform; and*
- (c) to undertake, pursuant to any such recommendations approved by the Legislation Committee, the examination of particular branches of the law, such consultation thereon as the Commission shall think fit, and the formulation by means of draft bills or otherwise of proposals for such reform.*

APPENDIX B

Upon accepting a topic for review the Commission appoints one of its members to act as the Topic Commissioner to conduct and co-ordinate all of the Commission's work on that topic. On his recommendation the Commission seeks to appoint a Jersey lawyer currently practising in that field as Topic Practitioner to assist him generally and to ensure that the Commission's work remains relevant to the issues actually arising in day-to-day practice. The Topic Commissioner is not paid by the Commission and in practice the Topic Practitioner has not asked for payment, although payment has been made in some cases where necessary. Any necessary legal research will usually be carried out by others: either by professional researchers under contract or by experts willing to give their time as a public service.

The procedure for the review of each topic will commonly fall into the following steps:

- 1 finding out whether there is a problem, and if there is, defining exactly what it is;
- 2 researching and summarising the existing law relevant to the topic;
- 3 suggesting how the relevant law might be changed to solve the problem;
- 4 preparing and publishing a consultative document based on items 1, 2 and 3;
- 5 receiving and discussing representations made in response to the consultative document;
- 6 preparing and publishing a final report culminating in either a detailed brief for the Law Draftsman or in a draft law prepared in consultation with the Law Draftsman.