

# **STATES OF JERSEY**

## **JERSEY LAW COMMISSION: REPORT FOR 2008**

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

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**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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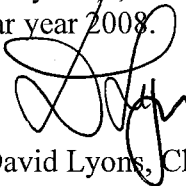
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## **The Jersey Law Commission Twelfth Annual Report 2008**

*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 Twelfth Annual Report covering the activities of the Commission in the calendar year 2008.

 Signed  
David Lyons, Chairman

### **PART I – The Twelfth Year**

Eight meetings were held during the year. The Consultation Paper on the Law of Charities was published and we received numerous comments and suggestions. Having determined to publish a second Consultation Paper to deal with the responses, we were overtaken by events. Our suggestions on *cy-près* were incorporated in amendments to The Trusts (Jersey) Law 1982 Section 21 of the Trusts (Amendment No. 4) (Jersey) Law 2006 (Revised Section 47A) and other proposals were not taken up in the Non Profit Organizations (Jersey) Law 2008. In view of this and the passage of time we published a further Report on the Law of Charities in 2009.

We discussed our important Report on Security Over Immovable Property with the Attorney General (representing the Legislation Advisory Panel) and are assured that legislation will be introduced to implement our proposals in 2009 or 2010.

We also completed a Consultation Paper on the Law of Partnership and we look forward to discussing this matter with the Panel after publication of our Report.

The Commission has terminated its work relating to the Limited Partnerships Law as this matter has been taken up by the Chief Minister's Department but we have written to the office concerned without comments. Work is continuing on our review of "Social Désastre" and the Bankruptcy (Désastre) (Jersey) Law 1990 and we have, at the request of the Chief Minister, issued a Consultation Paper on "Corroboration of Evidence in Criminal Trials". The Commission would welcome suggestions for its future work.

### **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 *Légitime*

- 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
- Corroboration in Criminal Trials

**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 £6,930.91 in 2008 from a budget of £34,744.

**PART IV – Budget**

- (i) Budget for 2009

The Commission's budget for 2009 has been set at £29,144.


**PART V – Commissioners**


There were no new Commissioners appointed in 2008.


**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

## APPENDIX A

### **The role 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 role 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.