

# **STATES OF JERSEY**

## **JERSEY LAW COMMISSION: ANNUAL REPORT FOR 2013**

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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 Clive Chaplin, Solicitor (Chairman)  
Mr David Lyons, English Solicitor  
Advocate Alan Binnington  
Mr Malcolm Le Boutillier, Solicitor  
Mr Peter Hargreaves, Chartered Accountant  
Professor Andrew Le Sueur

The Secretary is: Ms Ali Wade

The address of the Jersey Law Commission is Ogier House, The Esplanade, St Helier, Jersey, JE4 9WG

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Foreword by the Chairman

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## **The Jersey Law Commission Seventeenth Annual Report 2013**

*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 Seventeenth Annual Report covering the activities of the Commission in the calendar year 2013. The Commission was delighted to welcome Professor Andrew Le Sueur as a Commissioner in 2013.

 Signed  
**Clive Chaplin, Chairman**

### **PART I – The Seventeenth Year**

Having expressed an interest in pursuing a review of Divorce Law in Jersey, the Commission began work on a Topic Report, which was completed to draft stage by the end of the year. Advocate Barbara Corbett agreed to be appointed “Topic Practitioner”.

Work continued on the consideration of Prescription and Limitation, Domestic Property Contracts, and the Grounds of Criminal Appeal. In addition, work commenced on the research of the law concerning the Island’s Honorary Police. The Commission removed the topic of Imprisonment for Debt from its agenda on the basis that it was under consideration by government.

The Commission also reviewed the Chief Minister’s Charities Law and Charities Regulation consultation document and made submissions on the subject.

The Chief Minister’s Department expressed its intention to set a working group on the Jersey Law of Contract. In view of the funding challenges faced by the Commission in pursuing this topic, it was agreed that the working group would be better placed to take the matter forward.

### **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
- Voisinage
- Bankruptcy (Désastre) (Jersey) Law 1990 "Social Désastre"

### **PART III – The Cost of the Commission**

The Commission's resources are made available by the States of Jersey through the office of the Chief Minister. No fixed budget is available from or agreed with the States of Jersey, but expenses likely to be incurred, including the fees of Topic Practitioners, are agreed in advance with the Chief Minister's office.

The principle expenditure during the year related to the fees of Advocate Barbara Corbett for preparing the draft consultation paper on proposals for the reform of Jersey's Divorce Law.

### **PART IV – Commissioners**

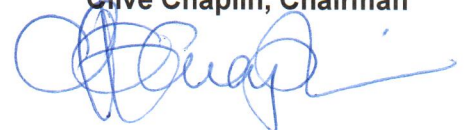
Professor Andrew Le Sueur was appointed as a Commissioner in 2013.

### **PART V - General**

The Commission continues its work with the Chief Minister through the Legislation Advisory Panel.

**Signed for on behalf of the Commission**

**Clive Chaplin, Chairman**



17 November 2015

## 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 Advisory Panel, which also organised its funding and acts as its channel of communication with the States, it is an independent body whose 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 Advisory Panel 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 Advisory Panel, 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 or her recommendation the Commission seeks to appoint a Jersey lawyer currently practising in that field as Topic Practitioner to assist him or her 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 unless also acting as Topic Practitioner. The Commission typically pre-agree a fee with the Topic Practitioner who then recovers that fee direct from the States of Jersey. 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, where appropriate, in either a detailed brief for the Law Draftsman or in a draft law prepared in consultation with the Law Draftsman.