

**SEPARATION AND MAINTENANCE ORDERS (AMENDMENT  
No. 2) (JERSEY) LAW 2000**

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**A LAW** to amend further the Separation and Maintenance Orders (Jersey) Law 1953; sanctioned by Order of Her Majesty in Council of the

**11th day of OCTOBER 2000**

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*(Registered on the 20th day of October 2000)*

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**STATES OF JERSEY**

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The 23rd day of May 2000

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**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

**ARTICLE 1**

In the long title of the Separation and Maintenance Orders (Jersey) Law 1953, as amended<sup>1</sup> (hereinafter referred to as “the principal Law”), for the words “the wife and children” there shall be substituted the words “either party to and the children of the marriage”.

**ARTICLE 2**

For Articles 2 and 3 of the principal Law<sup>2</sup> there shall be substituted the following Article -

<sup>1</sup> Tome VIII, page 199.

<sup>2</sup> Tome VIII, pages 200 and 201.

*Separation and Maintenance Orders (Amendment No. 2) (Jersey) Law  
2000*

“ARTICLE 2

POWER OF COURT TO MAKE ORDER ON APPLICATION  
OF EITHER PARTY

(1) A party to a marriage shall be entitled to apply to the court for an order under this Article on the ground that the other party to the marriage -

- (a) has failed to provide reasonable maintenance for the applicant;
- (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the marriage;
- (c) has behaved in such a way that the applicant cannot reasonably be expected to live with him or her; or
- (d) has deserted the applicant.

(2) On an application made under this Article, the court may make an order or orders containing all or any of the following provisions -

- (a) a provision that the applicant be no longer bound to cohabit with the other party to the marriage;
- (b) a provision for the legal custody of any child of the marriage who is under the age of sixteen years;
- (c) a provision that one party to the marriage shall pay to the other party to the marriage personally, or to an officer of the court or third person on behalf of the other party to the marriage, such weekly sum (not exceeding such amount as the States shall by regulations prescribe) for the maintenance of the other party to the marriage and any child of the

*Separation and Maintenance Orders (Amendment No. 2) (Jersey) Law  
2000*

marriage in the other party's legal custody, until the child attains the age of sixteen years, as the court, having regard to the means of both parties to the marriage, considers reasonable;

- (d) where either or both of the parties to the marriage are tenants of the matrimonial home, a provision that either party to the marriage shall vacate the matrimonial home within such period as the court, in all the circumstances, considers reasonable; and
- (e) where the party required to vacate the matrimonial home under sub-paragraph (d) is the sole tenant or the parties to the marriage are joint tenants of the matrimonial home, that, subject to the agreement of the owner of the property, the rights of tenancy possessed by the vacating party to the marriage be transferred to the other party to the marriage.

(3) Where the court makes an order containing the provision described in sub-paragraph (d) of paragraph (2), from the time the order is made, the vacating party to the marriage shall be deemed to have forfeited all his or her rights as a tenant or as a '*locataire réfractaire*' within the meaning of the Loi (1946) concernant l'expulsion des locataires réfractaires."

### ARTICLE 3

Article 4 of the principal Law<sup>3</sup> shall be repealed.

### ARTICLE 4

In Article 5 of the principal Law,<sup>3</sup> the words "or Article 3" shall be deleted.

<sup>3</sup> Tome VIII, page 202.

*Separation and Maintenance Orders (Amendment No. 2) (Jersey) Law  
2000*

ARTICLE 5

In Article 6 of the principal Law<sup>4</sup> -

- (a) the words “or Article 3” shall be deleted;
- (b) for the words “the husband shall pay to the wife personally, or to any officer of the court or third person on her behalf” there shall be substituted the words “one party to the marriage shall pay to the other party to the marriage personally, or to an officer of the court or third person on behalf of the other party to the marriage”; and
- (c) for the words “the wife and any children in her custody” there shall be substituted the words “the other party to the marriage and any children of the marriage in the legal custody of the other party”.

ARTICLE 6

In Article 6A of the principal Law<sup>4</sup> -

- (a) the words “or Article 3” shall be deleted;
- (b) for the words beginning “the wife, may order” and ending “by regulations prescribe)” there shall be substituted the words “one of the parties to the marriage, may order the other party to the marriage to pay to the party having custody of the children personally, or to an officer of the court or third person on behalf of the party to the marriage having custody of the children, such weekly sum”.

<sup>4</sup> Tome VIII, page 203.

*Separation and Maintenance Orders (Amendment No. 2) (Jersey) Law  
2000*

## ARTICLE 7

In Article 7 of the principal Law,<sup>5</sup> the words “, Article 3” shall be deleted.

## ARTICLE 8

In Article 8 of the principal Law<sup>5</sup> -

- (a) in paragraphs (1) and (3), the words “, Article 3” shall be deleted; and
- (b) paragraph (2) shall be deleted.

## ARTICLE 9

In Article 9 of the principal Law,<sup>6</sup> in paragraph (2), for the words “the wife, it appears to the court that a child for whose maintenance provision is made by the order ” there shall be substituted the words “the party to the marriage having legal custody of a child for whose maintenance provision is made by the order, it appears to the court that the child”.

## ARTICLE 10

In Article 12 of the principal Law<sup>7</sup> -

- (a) in paragraph (1) -
  - (i) for the words “whilst the wife with respect to whom the order was made resides with her husband” there shall be substituted the words “whilst the parties to the marriage reside together”, and

<sup>5</sup> Tome VIII, page 204.

<sup>6</sup> Tome VIII, page 205.

<sup>7</sup> Tome VIII, page 207.

*Separation and Maintenance Orders (Amendment No. 2) (Jersey) Law  
2000*

- (ii) for the words “the wife continues to reside with her husband” there shall be substituted the words “the parties to the marriage continue to reside together”;
- (b) in paragraph (2) -
  - (i) for the words “a wife” there shall be substituted the words “a party to a marriage”, and
  - (ii) for the words “her husband after living apart from him” there shall be substituted the words “the other party to the marriage after living apart from that person”.

ARTICLE 11

For Article 13 of the principal Law<sup>8</sup> there shall be substituted the following Article -

“ARTICLE 13

LIABILITY FOR ACTS OF OTHER PARTY TO MARRIAGE

So long as a separation under an order made under this Law subsists, neither party to the marriage shall be liable in respect of any engagement or agreement entered into by the other party to the marriage after the separation begins or for any wrongful act or omission by the other party to the marriage or for any costs which the other party to the marriage may incur as plaintiff or defendant:

Provided that where the court has ordered a party to the marriage to pay any sum for the maintenance of the other party to the marriage or of any children of the marriage, and the firstmentioned party has not duly paid such sum, that party shall be liable for necessaries supplied for the use of the other party to the marriage or of any such children.”.

<sup>8</sup> Tome VIII, page 207.

*Separation and Maintenance Orders (Amendment No. 2) (Jersey) Law  
2000*

ARTICLE 12

This Law may be cited as the Separation and Maintenance Orders (Amendment No. 2) (Jersey) Law 2000.

**G.H.C. COPPOCK**

*Greffier of the States.*