

STATES OF JERSEY



DRAFT AIR TRANSPORT PERMITS (REPEAL) (JERSEY) LAW 200-

**Lodged au Greffe on 2nd August 2007
by the Minister for Economic Development**

STATES GREFFE



Jersey

DRAFT AIR TRANSPORT PERMITS (REPEAL) (JERSEY) LAW 200-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Economic Development has made the following statement –

In the view of the Minister for Economic Development the provisions of the Draft Air Transport Permits (Repeal) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator P.F.C. Ozouf**

REPORT

Background

The Air Transport Permits (Jersey) Law 1998 was introduced to manage the applications for airlines to fly between Jersey and the United Kingdom and other British Islands. This management of services was purely an economic and social protective measure with matters of safety covered by the requirements of the United Kingdom's Civil Aviation Authority.

The process operated effectively and efficiently for some four years. Each transport provider applied to the department for a permit for new cargo or passenger services. Applications had their merits and disadvantages weighed and duly considered before a decision was made in accordance with the policy of the day¹.

In November 2003 the Economic Development Committee produced a revised policy (*ibid*). This came about as a result of a changing external environment with considerable de-regulation in the United Kingdom as well as the States own policy towards encouraging competition.

Thus the Committee of the day stated: "that the interests of Island businesses, residents and visitors alike are to be best served by further encouraging competition, and avoiding the imposition of unnecessary administrative costs either on the airlines or on the authorities. This is in line with the States economic policy generally. It will also bring the Island into line with the 'open skies' policy of the European Union." (*op cit* at paragraph 6).

Since that time, the legislation has been kept in place and processes duly followed but the old requirement for an airline to enter into a service level agreement was dropped. Additionally, the presumption has been that all permit applications would be granted.

Present and future performance of air services under the 'open skies' policy

It was believed that this 'open skies' policy would benefit Islanders, the business community and tourism. Since the policy came in, the effect has been positive with a climate of route expansion and no evidence of a loss of year-round scheduled services. High-frequency inter-Island flights have not suffered either.

It is a source of pride that Jersey now has a route network which covers more than 70 airports across the United Kingdom, Ireland, mainland Europe, the Mediterranean and Madeira, operated by scheduled and charter airlines, of which 14 operate year-round and an additional 17 operate during the summer season.

There has been a commensurate increase in passenger demand, with projected full-year growth 2006–2007 expected to be close to 10%, to a total of 1.65 million passengers for 2007, up from 1.49 million in 2006. The historic annual growth in recent years has been approximately one per cent.

This has been made possible by the attraction of additional services from existing airlines and the introduction of new airlines, such as BMI on the London Heathrow

¹ *Old policy stated in paragraph 5 of Air Transport Permits: Revised Policy Statement R.C.47/2003.*

route. Furthermore, the future also looks very promising with negotiations underway (at the time of this report) with a number of high profile airlines that, if successful, could deliver up to 2 million passengers per annum within 3 years.

These new services will add to the range of airlines and destinations available to Island residents and visitors alike and in themselves provide welcome competition.

The ability to operate in a free market is key to attracting new airline business to Jersey. Jersey cannot afford to create or maintain any impediment to airlines in what is an extraordinarily competitive industry and within which airports and destinations are vying aggressively for airline business.

The case for repeal

The above improved performance has been achieved precisely because the States have taken a lead in encouraging business and adopted a ‘hands-off’ policy towards regulation.

To justify continued regulation and government intervention in markets, the Economic Growth Plan seeks evidence of a clear need which is in the Island’s interest. Firstly, there should be a market failure and secondly evidence that intervention will actually bring net benefits to the Island.² Quite clearly, neither of these is the case.

The 2004–5 Red Tape Reform initiative was intended to reduce unnecessary bureaucracy. Likewise, the States Strategic Plan³, makes the commitment to “aim to reduce the levels of ‘red tape’ and regulatory legislation in 2006” (Commitment 1.7.4) and that regulatory services should be “appropriate and are impartially and efficiently delivered” (Commitment 2.4). The Economic Development Department are specifically charged with securing air links that are “both cost-effective and beneficial to the Island” (Commitment 6.5.2).

A revised Air and Sea Transport Policy was presented to the States on 28th March 2006, as part of the response to a Proposition from Deputy Fox concerning Sea Transport.⁴ This policy states, “the continuation of the present ‘open skies’ policy for air transport services will be in the best interests of the Island and of the users of these services” and that “the Air Transport Permits (Jersey) Law 1998, as amended, should be repealed.”

We need to send out a clear signal that the Island is open for business. This means developing and maintaining a large route network in conjunction with dynamic positive-thinking airlines who actively attract new customers.

All this adds up to one thing: The continued application of a Law that adds to bureaucracy and no longer serves a purpose cannot be justified. It is time to repeal it.

Financial and manpower implications

There are no additional financial or manpower implications. The loss of the requirement to administer the Law will mean departmental officers will be able to focus more on achieving the economic growth plan and less on regulatory functions.

² *Growing Jersey’s Economy – An Economic Growth Plan, p.58, published 1st March 2005.*

³ *States of Jersey Strategic Plan 2006 – 2011, approved by the States 27th June 2006.*

⁴ *Sea Transport: Revised Policy (P.24/2006) – Comments.*

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 20th July 2007 the Minister for Economic Development made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Economic Development the provisions of the Draft Air Transport Permits (Repeal) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This draft Law would repeal the Air Transport Permits (Jersey) Law 1998. The repeal would have effect 7 days after this Law is registered in the Royal Court.



Jersey

DRAFT AIR TRANSPORT PERMITS (REPEAL) (JERSEY) LAW 200-

Arrangement

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Jersey

DRAFT AIR TRANSPORT PERMITS (REPEAL) (JERSEY) LAW 200-

A LAW to repeal the Air Transport Permits (Jersey) Law 1998

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 Air Transport Permits (Jersey) Law 1998 repealed

The Air Transport Permits (Jersey) Law 1998¹ shall be repealed.

2 Citation and commencement

This Law may be cited as the Air Transport Permits (Repeal) (Jersey) Law 200- and shall come into force 7 days after it is registered.

¹

chapter 03.280