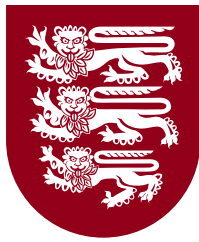


# STATES OF JERSEY



Jersey

## DRAFT JERSEY GAS COMPANY AMENDMENT LAW 202-

---

Lodged au Greffe on 11th March 2025  
by the Minister for Justice and Home Affairs  
Earliest date for debate: 22nd April 2025

---

STATES GREFFE



Jersey

## **DRAFT JERSEY GAS COMPANY AMENDMENT LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Justice and Home Affairs has made the following statement –

In the view of the Minister for Justice and Home Affairs, the provisions of the Draft Jersey Gas Company Amendment Law 202- are compatible with the Convention Rights.

Signed: **Deputy M.R. Le Hegarat of St. Helier North**  
*Minister for Justice and Home Affairs*

Dated: 6th March 2025

## REPORT

---

### Introduction

As a result of events involving gas over the past 2 years, including Haut du Mont, Mont Pinel and the gas outage, the Emergencies Council has had a particular focus on public safety and the security and continued supply of gas in Jersey.

Specifically, the Emergencies Council has noted the need for a timely flow of relevant information from the Jersey Gas Company Limited (the “Gas Company”) and for robust powers to require the Gas Company to provide information.

The Draft Jersey Gas Company Amendment Law 202- (the “Draft Amendment Law”) would amend the [Jersey Gas Company \(Jersey\) Law 1989](#) (the “Gas Law”).

The purpose of the Draft Amendment Law is to provide the Minister for Justice and Home Affairs (the “JHA Minister”) with necessary and appropriate powers to be able to gather information from the Gas Company in a timely and proactive way.

The information gathered is intended to support the JHA Minister and other’s functions in respect of public safety and the security and continued supply of gas in Jersey, for example, the JHA Minister’s functions as the competent authority pursuant to the [Emergency Powers and Planning \(Jersey\) Law 1990](#) (the “Emergency Powers Law”).

In summary, the Draft Amendment Law will, if approved by the States Assembly:

- Place an obligation on the Gas Company to notify the JHA Minister of certain reportable events or circumstances and provide any relevant information.
- Place an obligation on the Gas Company to disclose certain information to the JHA Minister when requested.
- Set out which information is excluded, who the information can be provided to and what the information may be used for.
- Establish a power to enter premises and require information.
- Establish certain offences and a defence where those obligations are contravened.
- Establish a Regulation-making power to amend the Gas Law and any other enactment in certain circumstances.

### Background

The Gas Law sets out the constitution, organisation, powers and duties of the Gas Company. However, the Gas Law does not currently place obligations on the Gas Company to provide information to Ministers and others, either routinely or on request, to enable Ministers and others to carry out their functions relating to public safety and the security and continued supply of gas in Jersey.

Obligations on gas suppliers relating to the provision of information are established in other jurisdictions as part of licencing regimes and through licencing conditions.

Jersey does not have a licencing regime or licencing conditions applicable to the Gas Company over and above the very basic requirements of the Gas Law and does not place obligations relating to the provision of information on the Gas Company commensurate with comparative jurisdictions.

### **Ministerial Responsibility**

Although there are a number of Ministers who have functions relating to public safety and the security and continued supply of gas in Jersey<sup>1</sup>, the powers in the Draft Amendment Law are to be exercised by the JHA Minister.

It is considered that the JHA Minister is the most appropriate Minister for this purpose due to their function as:

- The “competent authority” pursuant to the Emergency Powers Law; and
- The Minister responsible for the Department for Justice and Home Affairs, which includes, for example, Emergency Planning Officer and the States of Jersey Fire and Rescue Service.

### **“Information”**

The Draft Amendment Law sets out a comprehensive definition of “information” mirroring similar definitions used elsewhere.

The Draft Amendment Law also sets out the circumstances in which the information must be provided to another person if so directed by the JHA Minister, for example, given the importance of providing information to the right people at the right time in an emergency.

### **Obligation to notify the JHA Minister**

The Draft Amendment Law will place an obligation on the Gas Company to notify the JHA Minister (or another person if so directed by the JHA Minister) as soon as a reportable event or circumstance occurs or as soon as the Gas Company has reasonable cause to believe that a reportable event or circumstance will occur (whether or not it actually occurs). This includes providing information that the Company has that is relevant to the reportable event or circumstance.

This is so that the Gas Company must proactively provide information to the JHA Minister so that the JHA Minister and others are able to respond quickly in relation to, or in anticipation of, the event or circumstance.

The reportable events or circumstances are:

- Those that threaten, or potentially threaten, public safety or harm to people or property in Jersey;
- Those that threaten or potentially threaten the supply of gas in Jersey;
- Those that have a material adverse effect on the ability of the Gas Company to carry out its functions under an enactment, including a material adverse change in its financial position;
- A change of control of the Gas Company, whether direct or indirect. “Control,” in relation to the Gas Company means having the power to exercise decisive influence over its activities.

### **Obligation to disclose information to the JHA Minister**

The Draft Amendment Law will place an obligation on the Gas Company to provide the JHA Minister (or another person if so directed by the JHA Minister) with the information requested at the time and in the form requested.

---

<sup>1</sup> For example, the Minister for Infrastructure (pursuant to the Gas Law), the Minister for the Environment (in respect of energy policy), the Minister for Social Security (in respect of Health and Safety Inspectorate)

This is so that the JHA Minister can proactively obtain information from the Gas Company in order that the JHA Minister and others are able to carry out their functions.

This provision would, for example, enable the JHA Minister to undertake benchmarking to ensure that the Gas Company's safety measures and service standards are in line with industry best practices.

This power is, however, subject to certain limits – the information must be requested by notice in writing and relate to public safety in connection with the supply of gas in Jersey and/or the security and continued supply of gas in Jersey, including how this may be affected by the financial position of the Gas Company.

In addition, the Minister must believe that: the information is necessary or expedient in the public interest; the Gas Company is in breach of the obligation to notify the JHA Minister or there is a material risk that it will breach that obligation; the Gas Company has breached another statutory duty or there is a material risk that it will do so; or, the information is necessary for undertaking benchmarking to ensure that the Gas Company's safety measures and service standards are in line with industry best practices.

“Benchmarking” includes comparison with international best practices and data from countries and jurisdictions that the JHA Minister considers relevant to Jersey.

### **Excluded information, permitted recipients and permitted uses**

The Draft Amendment Law will set limits on which information must be provided, who may receive the information provided, and how the information provided may be used.

These provisions strike a balance between the need to protect information provided by the Gas Company with the need for it to be disclosed to those who require it in order to be able to carry out their functions under the Gas Law or any other enactment.

*Excluded Information* – The Draft Amendment Law provides that the Gas Company is not required to disclose any information that is subject to legal privilege or is otherwise privileged from disclosure in civil proceedings; or the Gas Company could not be compelled to give in evidence in civil proceedings.

*Permitted Recipients* – The Draft Amendment Law limits the persons to whom the information provided may be disclosed.

It will provide that unless the Gas Company consents, information provided may be disclosed only to the following permitted recipients (the permitted recipients):

- another Minister;
- an administration of the States<sup>2</sup>;
- the Emergencies Council;
- an inspector pursuant to the [Health and Safety at Work \(Jersey\) Law 1989](#); or
- a professional adviser of the JHA Minister or another permitted recipient who is under a duty of confidentiality.

*Permitted Uses* – the Draft Amendment Law also limits the uses to which the information provided may be put.

<sup>2</sup> Within the meaning of Article 1 of the [Freedom of Information \(Jersey\) Law 2011](#):

“administration of the States” means –

- (a) a department established on behalf of the States; and
- (b) a body, office or unit of administration, established on behalf of the States (including under an enactment);”

A permitted recipient must not use the information provided without the consent of the Gas Company except: in accordance with, and in support of the discharge of the JHA Minister's or a permitted recipient's functions under this Part of the Gas Law or under any other enactment; in connection with provision of advice by a professional adviser of the JHA Minister or another permitted recipient; or for another specified purpose which are:

- assessing health and safety risks associated with the supply of gas;
- assessing risks to the security and continued provision of the supply of gas;
- emergency and contingency planning associated with health and safety relating to the supply of gas;
- emergency and contingency planning associated with the security and continued provision of the supply of gas;
- planning, organising and implementing measures designed to –
  - maintain or make the best use of supplies of gas available for distribution;
  - conserve and make the best use of supplies of fuel or other material available for the manufacture of gas;
  - preserve public safety; or
  - suspend or modify a restriction or obligation imposed on the Gas Company by or under an enactment or by a contractual obligation;
- monitoring the financial viability and solvency of the Gas Company; or
- undertaking benchmarking to ensure that the Gas Company's safety measures and service standards are in line with industry best practices.

### **Power to enter premises and require information**

The Draft Amendment Law will also provide certain powers to the JHA Minister to support the exercise of the JHA Minister's functions under this Part of the Gas Law.

Those powers are that the JHA Minister, or a person duly authorised by the JHA Minister, may: at a reasonable time enter premises, other than a premises used wholly or mainly as a private dwelling, to examine and take away documents or other material; and require a person to answer questions and provide information.

A person so authorised by the JHA Minister may investigate and report any findings relevant to the JHA Minister's functions under this Part of the Gas Law to the JHA Minister.

### **Offences**

The Draft Amendment Law will also establish that a person commits an offence who:

- contravenes the obligation to notify the JHA Minister and the obligation to disclose information to the JHA Minister. A person convicted of this offence would be liable to imprisonment for a term of 5 years and a fine. It is a defence for the defendant to prove that they took all reasonable precautions and exercised all due diligence to avoid committing the offence;
- knowingly or recklessly provides the JHA Minister (or another person entitled to information) with information that is false or misleading in a material particular. A person convicted of this offence would be liable to imprisonment for a term of 7 years and a fine; or
- with intent to avoid compliance with the obligation to notify the JHA Minister or the obligation to disclose information to the JHA Minister, or to avoid the detection of an

offence under this Part, removes out of the jurisdiction, destroys, conceals or fraudulently alters any information, or causes or permits the removal, destruction, concealment or fraudulent alteration of that information. A person convicted of this offence would be liable to imprisonment for a term of 7 years and a fine;

- obstructs a person exercising the power to enter premises and require information. A person convicted of this offence would be liable to imprisonment for a term of 7 years and a fine.

It should be noted that Article 90(2) of the Gas Law already provides that where an offence is committed by the Gas Company, and it is proved that the offence occurred with the consent of or connivance of, or was attributable to any neglect on the part of, a director or officer of the Gas Company, or any person who was purporting to act in such a capacity, the director, officer or person, as well as the Gas Company, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

### **Regulation-making power**

The Draft Amendment Law also provides that the States Assembly may by Regulations make amendments to the Gas Law and any other enactment if the amendments relate to the safety, security and provision of the supply of gas or the constitution, organisation, powers and duties of the Company.

This is so that the States Assembly has the power by Regulations to act quickly to make necessary amendments to legislation in relation to the safety, security and provision of the supply of gas, and the constitution, organisation, powers and duties of the Gas Company.

### **Financial and staffing implications**

There are no immediate financial or staffing implications for the introduction and operation of the amendments to the Law, as any request made of the Gas Company once it is in force will be dealt with by staff already supporting the JHA Minister (and other Ministers) in the oversight of this work.

There is a potential future impact should the information shared by the Gas Company need to be shared (as provided for in the amendments to the Law) with professional advisers, who would be engaged on behalf of the JHA Minister at appropriate cost. This will be addressed as needed at the time by the relevant Department.

### **Children's Rights Impact Assessment**

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

### **Human Rights**

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

**APPENDIX TO REPORT****Human Rights Notes on the Draft Jersey Gas Company Amendment Law 202-**

These notes have been prepared in respect of the Draft Jersey Gas Company Amendment Law 202- (the “draft Law”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law, in the form reviewed by them, is compatible with the European Convention on Human Rights (“ECHR”).

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

The draft Law, if passed, would amend the Jersey Gas Company (Jersey) Law 1989 (the “1989 Law”) to provide for robust information-gathering powers. The draft Law would impose a positive obligation on the Company with respect to the provision of information if specified events or circumstances occur, and the provision of information in response to a request from the Minister. The draft Law would also create a Regulation-making power to enable further amendments to be made to the 1989 Law and to any other enactment if it relates to the safety of gas and the constitution, organisation, powers and duties of the Company, without the need for primary legislation.

The draft Law potentially engages 2 Articles of the ECHR: Article 6, right to a fair trial; and Article 8, the right to private and family life. To a lesser extent it may also be considered to engage Article 5 ECHR. It is important to note that, wherever human rights are engaged, any measure introduced must be proportionate, and in that regard, the aim of the legislation will be considered. The primary aim of the provisions introduced by the draft Law is to ensure public safety, prevent harm to people and property in Jersey and to ensure continuity of the supply of gas.

**Article 6 – right to a fair trial**

The criminal offences in Article 3 of the draft Law, which will be introduced as Article 89H of the 1989 Law, potentially engage the criminal limb of Article 6 of the ECHR; the first two paragraphs of which provide:

1. *In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*
2. *Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.*

Article 6(2) ECHR is relevant to Article 89H(1) i.e. contravention of the requirements in Article 89B or 89C to notify the Minister of specified events; or to disclose information to the Minister. Article 6(2) is relevant here because Article 89H(2) introduces a defence for persons charged with these offences to prove that they took all reasonable precautions and exercised all



due diligence to avoid committing the offence. Article 6(2) ECHR is potentially engaged by this defence as it is based around a reverse burden of proof i.e. it is for the person charged to show that they took reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Article 6(2) ECHR does not prohibit statutory provisions which transfer the burden of proof to the accused to establish the defence, provided the overall burden of establishing guilt remains with the prosecution. In addition, any rule shifting the burden of proof must be confined within “reasonable limits which take into account the importance of what is at stake and maintain the rights of the defence”. A question which is typically asked in determining this issue is whether the burden imposed on the accused relates to something which is likely to be within his knowledge or to which he has ready access. In the case of the defence in Article 89H(2) all information relevant to the defence would be known to the person charged and not to the prosecutor (i.e. whether that person had taken reasonable precautions and exercised all due diligence). Balanced against the need to prevent harm to people and property in Jersey and ensure public safety there is no incompatibility with Article 6 ECHR arising from Article 89H of the draft Law.

#### Article 8 – right to private and family life

Article 8 of the Convention provides that:

1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

Article 89G gives the Minister or persons duly authorised by the Minister powers, in exercise of the Minister’s functions under Part 14A of the 1989 Law, to enter premises and examine or take away documents, and to require a person to answer questions and provide information. These provisions may be considered to interfere with the rights that an individual has under Article 8(1) ECHR to respect for his or her private and family life.

The Article 8(1) ECHR right to ‘private life’ has been recognized as extending to the activities of a professional or business nature, and the exercise of information-gathering powers, including rights to enter premises, against private businesses or undertakings may engage the right to private and home life of those entities, depending on the circumstances. The exercise of the power in Article 89G(1)(a) for the Minister or persons duly authorised by the Minister to enter premises and inspect documents may engage Article 8. Given that the power is limited to premises other than premises used wholly or mainly as a private dwelling, and the Company is established by the 1989 Law and is engaged in the provision of a public service, it is unlikely that the provision of information or right to enter premises to inspect documents would be considered an interference with the private business of an individual. However the requirement to answer questions and provide information may include the provision of information about a person or correspondence and may be considered to infringe Article 8.

In the context of the power to require a person to answer questions and provide information in Article 89G(1)(b), the Article 8(1) ECHR right to private life protects personal data, such as names and addresses. The right to home life, also protected under Article 8(1) ECHR, covers a right to respect for correspondence and the confidentiality of private communications. The right to respect for correspondence covers the private, family and professional sphere. The question of companies’ correspondence is closely linked to that of searches of their premises. Therefore, the

power to require the provision of information, which might take the form of correspondence or include personal data, from private persons or other entities could be considered to infringe Article 8 ECHR.

Any interference with the Article 8(1) ECHR right must be justified under Article 8(2) of the ECHR, meaning it must be: (a) in accordance with the law; (b) in pursuit of one of the legitimate aims set out in Article 8(2); and (c) necessary in a democratic society. ‘Necessity’ requires the identification of a pressing social need and the existence of “relevant and sufficient” reasons to justify the interference at issue. A measure will only be proportionate to the legitimate aim if supported by sufficiently persuasive reasons.

The nature of the interference constituted by the powers in Article 89G, would be deemed to be ‘in accordance with the law’ because those obligations and powers are contained in provisions which will have a basis in domestic law and which can be viewed as sufficiently precise and accessible. The exercise of the powers in Article 89G must be in accordance with the JHA Minister’s functions under Part 14A. Those functions include the purposes for the use of information set out in Article 89F which relate to events connected to public safety, security of the gas supply, and emergency planning; as well as enabling the Minister to ascertain whether the Company is in breach of any of its obligations or duties. This would be categorised within the ‘public safety’ qualification in Article 8(2) ECHR.

‘Necessary in a democratic society’ requires there to be a pressing social need for the interference in question and that the interference is proportionate to the legitimate aim pursued. In the present case, it is fair to conclude that the powers in Article 89G are ‘necessary’ to prevent potential harm that might be caused to the public in connection with the supply of gas in Jersey, including potential threat to life, as well as ensuring the security and continued supply of gas, as this may be the only means by which the Minister may become aware of these events or information before the event occurs. Measures aimed at ensuring public safety in relation to the gas supply and continuity of the gas supply would be considered a ‘pressing social need’ and, balanced against those legitimate aims, any potential interference with Article 8 ECHR would be proportionate.

An important aspect in determining what is ‘necessary in a democratic society’ is the identification of procedural safeguards which mitigate the exercise of powers interfering with the Article 8(1) right. Safeguards ensure that a state remains within its margin of appreciation in fixing the applicable regulatory framework. The European Court of Human Rights has enunciated a list of safeguards which provide adequate protection against abuse of the Article 8 right, one of which is the requirement for the law to contain explicit and detailed provisions about how the powers interfering with Article 8 ECHR should be exercised.

In the draft Law, Article 89G specifies that the exercise of these powers must be related to the exercise of the JHA Minister’s functions under Part 14A. As mentioned in paragraph 14 above, the Minister’s functions under Part 14A relate to the supply of gas, emergency planning and public safety. Article 89G(1) limits who can exercise those powers to the Minister, or a person duly authorised by the Minister, and Article 89G(1)(a) specifically limits the exercise of the power to enter premises to reasonable hours and premises other than those used as a private dwelling. These safeguards operate to prevent excessive operation of these powers and linking the powers to the Minister’s functions Part 14A (i.e. public safety and the supply of gas) serves to temper any frivolous or unnecessary exercise of those powers. Article 89E also places restrictions on who information can be shared with and Article 89F specifies the permitted uses for such information, both of which place additional safeguards on the use of information obtained using the Article 89G powers.

Overall, it is considered that the provisions in the draft Law are compatible with Article 8 ECHR.

Article 5 – right to liberty and security

Article 5(1)(a) ECHR provides:

1. ... *No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...*
  - (a) *the lawful detention of a person after conviction by a competent court;*

Article 89H(1) provides for a penalty of 5 years' imprisonment and an unlimited fine in respect of an offence under that paragraph and Article 89H(4) provides for a penalty of 7 years' imprisonment and an unlimited fine in respect of an offence under paragraph 89H(3). The provision for a custodial sentence could be seen to engage Article 5 ECHR. However, given that this is prescribed by law and would only be imposed after a conviction by a competent Court, the penalties provided for in Article 89H would be an authorised deprivation of liberty under Article 5(1)(a) ECHR and therefore do not raise any issues of compatibility.

## EXPLANATORY NOTE

---

This Law, if passed, will insert a new Part into the [Jersey Gas Company \(Jersey\) Law 1989](#) (“the 1989 Law”) to require the Jersey Gas Company Limited (the “Company”) to provide information.

*Article 1* provides that it is the 1989 Law that is being amended.

*Article 2* inserts a new definition excluding the definition “Minister” (meaning the Minister for Infrastructure) from the new Part.

*Article 3* inserts new Part 14A, containing Articles 89A to 89H, into the 1989 Law. The provisions are:

- Article 89A, which contains 3 definitions specific to the Part, namely: a definition of “benchmarking”, “information” and “JHA Minister” meaning the Minister for Justice and Home Affairs.
- Article 89B, which creates an obligation for the Company to notify the JHA Minister (or another person if so directed by the Minister) as soon as a “reportable event or circumstance” occurs or when the Company has reasonable cause to believe it will occur. The notification must include all relevant information. The Article lists what are reportable events or circumstances, which relate to public safety, gas supply, the ability of the Company to carry out its functions and a change in the control of the Company.
- Article 89C, which creates an obligation for the Company to provide information to the Minister (or to another person if so directed by the JHA Minister) when directed by notice in writing if the information relates to public safety in connection with the supply of gas or the security and continued supply of gas. The Minister may make the direction only if the Minister believes that the information is necessary or expedient in the public interest, if the Company has breached, or there is a material risk that it will breach, its obligation to notify the Minister under Article 89B, if it has breached, or there is a material risk that it will breach, another statutory duty, or to benchmark the Company’s safety measures and service standards in line with industry best practices.
- Article 89D, which states that the Company need not provide the information if it is subject to legal privilege or the Company could not be compelled to give it in evidence in civil proceedings.
- Article 89E, which states that unless the Company consents, the information provided under this Part must not be disclosed except to the Minister, an administration of the States, the Emergencies Council, a health and safety inspector or a professional adviser who is under a duty to maintain confidentiality.
- Article 89F, which states that the persons listed in Article 89E must not use the information without the consent of the Company except for use in accordance with, and in support of, the discharge of the Minister’s or another person’s statutory responsibilities, in connection with the provision of advice by a professional adviser or for a purpose specified in the Article.
- Article 89G, which, in exercising the JHA Minister’s functions, provides for the Minister (or a person authorised by the Minister) to enter premises to examine and take away documents or material or to require a person to answer questions and provide information. A person authorised by the Minister may also investigate and report relevant findings to the Minister.
- Article 89H, which makes it an offence to contravene Articles 89B or 89C. There is a defence of exercising due diligence to avoid committing an offence under Articles 89B or 89C. There are also offences of providing false information or destroying or concealing

information and obstructing a person exercising functions under Article 89G. The penalty for an offence contravening Articles 89B or 89C is imprisonment for up to 5 years and/or a fine. The other offences carry a penalty of up to 7 years' imprisonment and/or a fine.

*Article 4* inserts a provision enabling the States by Regulations to amend the 1989 Law or any other enactment relating to the safety, security and provision of the supply of gas or the constitution, organisation, powers and duties of the Company.

*Article 5* provides for how the draft Law is to be cited and for it to come into force 7 days after it is registered in the Royal Court.



Jersey

## **DRAFT JERSEY GAS COMPANY AMENDMENT LAW 202-**

### **Contents**

---

#### **Article**

1	Jersey Gas Company (Jersey) Law 1989 amended .....	15
2	Article 1 (interpretation) amended .....	15
3	Part 14A (power to require company to provide information) inserted.....	15
4	Article 97A (power to amend enactments by Regulations) inserted .....	19
5	Citation and commencement .....	19



Jersey

## DRAFT JERSEY GAS COMPANY AMENDMENT LAW 202-

A LAW to amend the [Jersey Gas Company \(Jersey\) Law 1989](#).

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

**1 [Jersey Gas Company \(Jersey\) Law 1989](#) amended**

This Law amends the [Jersey Gas Company \(Jersey\) Law 1989](#).

**2 Article 1 (interpretation) amended**

In Article 1, for the definition “Minister” there is substituted –

“Minister” (except in Part 14A) means the Minister for Infrastructure;

**3 Part 14A (power to require company to provide information) inserted**

After Article 89 there is inserted –

### PART 14A

#### POWER TO REQUIRE COMPANY TO PROVIDE INFORMATION

**89A Interpretation**

In this Part –

“benchmarking” includes comparison with international best practices, benchmarks and data from countries and jurisdictions that the JHA Minister considers relevant to Jersey;

“information” means information in any form or of any description, including documents, accounts, estimates, returns, records, reports and data;

“JHA Minister” means the Minister for Justice and Home Affairs.

### **89B Obligation to notify JHA Minister**

- (1) The Company must notify the JHA Minister, or another person if so directed by that Minister, as soon as a reportable event or circumstance occurs or as soon as the Company has reasonable cause to believe that the event or circumstance will occur (whether or not it actually occurs).
- (2) The notification must include all information that the Company has that is relevant to the reportable event or circumstance.
- (3) The following are reportable events or circumstances –
  - (a) an event or circumstance that threatens, or potentially threatens, public safety or harm to people or property in Jersey;
  - (b) an event or circumstance that threatens or potentially threatens the supply of gas in Jersey;
  - (c) an event or circumstance that has a material adverse effect on the ability of the Company to carry out its functions under an enactment, including a material adverse change in its financial position;
  - (d) a change of control of the Company, whether direct or indirect.
- (4) In this Article, “control,” in relation to the Company, means having the power to exercise decisive influence over its activities.
- (5) In determining if that influence exists, all the circumstances are to be taken into account and not just the legal effect of any instrument, deed, transfer, assignment or other act.

### **89C Obligation to disclose information to JHA Minister**

- (1) The Company must provide the JHA Minister, or another person if so directed by that Minister, with the information requested at the time and in the form requested –
  - (a) if that Minister directs by notice in writing;
  - (b) if the information relates to one or both matters set out in paragraph (2); and
  - (c) if the Minister believes that one or more of the statements set out in paragraph (3) are true.
- (2) The matters are –
  - (a) public safety in connection with the supply of gas in Jersey; and
  - (b) the security and continued supply of gas in Jersey, including how this may be affected by the financial position of the Company.
- (3) The statements are –
  - (a) that the information is necessary or expedient in the public interest;
  - (b) the Company is in breach of Article 89B (obligation to notify JHA Minister) or there is a material risk that it will breach that Article;



- (c) the Company has breached another statutory duty or there is a material risk that it will do so; and
- (d) the information is necessary for undertaking benchmarking to ensure that the Company's safety measures and service standards are in line with industry best practices.

#### **89D Excluded information**

Nothing in this Part requires the Company to provide any information if –

- (a) it is subject to legal privilege or is otherwise privileged from disclosure in civil proceedings; or
- (b) the Company could not be compelled to give it in evidence in civil proceedings.

#### **89E Permitted recipients**

A person to whom information is provided under this Part must not disclose it without the consent of the Company except to –

- (a) another Minister;
- (b) an administration of the States (within the meaning of Article 1 of the [Freedom of Information \(Jersey\) Law 2011](#));
- (c) the Emergencies Council constituted by Article 1 of the [Emergency Powers and Planning \(Jersey\) Law 1990](#);
- (d) an inspector within the meaning of Article 12 of the [Health and Safety at Work \(Jersey\) Law 1989](#); or
- (e) a professional adviser of –
  - (i) the JHA Minister; or
  - (ii) a person listed in this Article who is under a duty of confidentiality.

#### **89F Permitted uses**

(1) A person listed in Article 89E must not use information provided under this Part without the consent of the Company except –

- (a) in accordance with, and in support of, the discharge of the JHA Minister's or that person's functions under this Part or under any other enactment;
- (b) in connection with the provision of advice by a person mentioned in Article 89E(e); or
- (c) for a purpose mentioned in paragraph (2).

(2) The purposes are –

- (a) assessing health and safety risks associated with the supply of gas;
- (b) assessing risks to the security and continued provision of the supply of gas;
- (c) emergency and contingency planning associated with health and safety relating to the supply of gas;

- (d) emergency and contingency planning associated with the security and continued provision of the supply of gas;
- (e) planning, organising and implementing measures designed to –
  - (i) maintain or make the best use of supplies of gas available for distribution;
  - (ii) conserve and make the best use of supplies of fuel or other material available for the manufacture of gas;
  - (iii) preserve public safety; or
  - (iv) suspend or modify a restriction or obligation imposed on the Company by or under an enactment or by a contractual obligation;
- (f) monitoring the financial viability and solvency of the Company; or
- (g) undertaking benchmarking to ensure that the Company's safety measures and service standards are in line with industry best practices.

### **89G Power to enter premises and require information**

- (1) In exercising the JHA Minister's functions under this Part, the Minister, or a person duly authorised by the Minister may –
  - (a) at a reasonable time enter premises, other than premises used wholly or mainly as a private dwelling, to examine and take away documents or other material; and
  - (b) require a person to answer questions and provide information.
- (2) A person authorised by the Minister under this Article may investigate and report any findings relevant to the Minister's functions under this Part to the Minister.

### **89H Offences under this Part**

- (1) A person who contravenes Article 89B or 89C commits an offence and is liable to imprisonment for a term of 5 years and to a fine.
- (2) In proceedings for an offence under paragraph (1) it is a defence for the defendant to prove that they took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (3) A person commits an offence if the person –
  - (a) knowingly or recklessly provides the JHA Minister or another person entitled to information under this Part with information that is false or misleading in a material particular;
  - (b) with intent to avoid compliance with Article 89B or 89C, or to avoid the detection of an offence under this Part, removes out of the jurisdiction, destroys, conceals or fraudulently alters any information, or causes or permits the removal, destruction, concealment or fraudulent alteration of that information; or
  - (c) obstructs a person exercising functions under Article 89G.
- (4) A person guilty of an offence under paragraph (3) is liable to imprisonment for a term of 7 years and to a fine.

**4 Article 97A (power to amend enactments by Regulations) inserted**

After Article 97 there is inserted –

**97A Power to amend enactments by Regulations**

The States may by Regulations make amendments to this Law and any other enactment if the amendments relate to the safety, security and provision of the supply of gas or the constitution, organisation, powers and duties of the Company.

**5 Citation and commencement**

This Law may be cited as the Jersey Gas Company Amendment Law 202- and comes into force 7 days after it is registered.