

# **STATES OF JERSEY**

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## **DRAFT CORRUPTION (JERSEY) LAW 200**

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**Lodged au Greffe on 20th September 2005  
by the Home Affairs Committee**

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**STATES GREFFE**





Jersey

## **DRAFT CORRUPTION (JERSEY) LAW 200**

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

The President of the Home Affairs Committee has made the following statement –

In the view of the Home Affairs Committee the provisions of the Draft Corruption (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator W. Kinnard**

# REPORT

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A decision was taken, some time ago, that the Island ought to have up to date anti-bribery and corruption legislation which would bring the Island's law in these areas up to the same standard as other jurisdictions and enable the Island to participate in recent international Conventions designed to combat the ever-growing problem of corruption in the private and public sectors of many countries.

## 1. Background

Jersey has, up to now, been without general anti-corruption legislation. There are a number of specific anti-bribery offences in various Laws (such as the States of Jersey Law 1966 and the Companies (Jersey) Law 1991) and there is a customary law offence of bribery, just about the only recorded incidence of which, since the Second World War, is Attorney General -v- Langtry, in October 1945. Mrs. Langtry was convicted and fined £25 for offering a bribe, in the form of a £5 note, to the Chief Aliens officer in return for a permit to travel to England. (The Chief Aliens Officer, incidentally, declined both to accept the bribe and to issue the permit, and instead, reported Mrs. Langtry to the police.)

The paucity of decided cases is at least one of the reasons why the exact scope of the customary law offence is uncertain. It is, for instance, unclear whether it would apply in cases where the corruption was by persons in private business, a persistent and growing problem in many places outside the Island, and it is also doubtful whether the offence would cover bribes offered by persons in Jersey to officials or agents elsewhere, and vice versa.

Growing recognition, on the international stage, of the threat to good governance, standards in public life and a properly regulated private business sector, posed by bribery and corruption has prompted moves by various international bodies to begin to try to raise standards generally, a process in which one of the first steps is to ensure that countries have in place adequate legislative provisions to deal with such offences.

The growing globalised nature of the problem has prompted the UN, OECD, IMF, World Bank, European Union, Council of Europe and International Chamber of Commerce to mount initiatives to improve standards of governance and combat corruption. Many jurisdictions, including the U.K., Eire and other EU Member States have revised, or are in the process of revising, their anti-corruption legislation in order to be able to satisfy international conventions and demonstrate commitment to take a firm stand against corruption in all areas.

This is particularly so in view of the need to take effective action against corruption in international organisations and of overseas governments and companies.

It is very important that the Island should not be seen as a weak link in this international effort and, to that end, the Policy and Resources Committee decided, in 1999, to request the Legislation Committee to promote new legislative measures which will enable the Island to play a full part in international efforts to combat the problem and at the same time, modernise and expand the scope of the domestic protections against it. *Towards the end of 2004, the Home Affairs Committee, at the request of the Legislation Committee took over responsibility for the promotion of the draft Law.*

## 2. Council of Europe and OECD Conventions

Of the international measures that were referred to above, 2 are of particular interest for the Island. These are the Council of Europe Convention on Corruption 1999 and the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions 1997. In addition, 2 European Union instruments have been enacted to cover bribery of EU officials, but these do not apply directly to the Island.

The Policy and Resources Committee and Legislation Committee have already considered and decided, in principle, that the Island Authorities should request the extension of the U.K. ratification of both the Council of Europe and OECD Conventions.

This Report briefly describes what each of the Conventions provides for, and goes on to describe, in outline, the scheme of the Draft Corruption (Jersey) Law 200-, which, once enacted, will enable the Island Authorities to request the U.K. Government to extend its ratification of the Conventions to include Jersey.

### *Council of Europe Criminal Law Convention on Corruption, 1999*

This was signed by the U.K. Government in January 1999, and ratification of it by the United Kingdom was made

possible by various changes to U.K. Law on bribery, enacted in the Anti-Terrorism, Crime and Security Act, 2001.

The Convention provides for criminalisation of –

- (a) the “active bribery” (the giving of money or benefits) of domestic public officials;
- (b) “passive” bribery (the acceptance of money or benefits) of domestic public officials;
- (c) bribery of members of domestic public assemblies;
- (d) bribery of foreign public officials;
- (e) bribery of members of foreign public assemblies
- (f) “active” bribery in the private sector;
- (g) “passive” bribery in the private sector;
- (h) bribery of officials of international organisations;
- (i) bribery of members of international parliamentary assemblies;
- (j) bribery of judges and officials of international courts;
- (k) “trading in influence” (where a person claims to be able to influence a decision to be taken by a public official, if he is given some form of reward for using his influence).

States Parties to the Convention are required to legislate to combat the laundering of the proceeds of corruption offences and for public authorities to be able to disclose to law enforcement agencies any suspicion of corruption.

The Convention also requires States Parties to have, or to introduce legislation which gives domestic courts jurisdiction over offences committed wholly or partly within their territory. Proper arrangements for extradition are required and States Parties must exchange information spontaneously which they may receive about corruption offences which may be of interest to another jurisdiction.

### ***OECD Conventions on Combating Bribery of Foreign Public Officials in International Business Transactions 1997***

The U.K. ratified this Convention in 1998. It requires States Parties to criminalise direct or indirect intentional offering, promising or giving of any undue pecuniary or other advantage to a “foreign public official” to secure either the undertaking of an official act or refraining from taking such an act in order to obtain or retain business, or gain other improper advantage in the conduct of international business. Extra-territorial jurisdiction over such offences must also be established.

“Foreign public official” means anyone holding office in a legislature or administration or as a political officer, or performing public functions and includes officials or agents of public international organisations.

The offences created must be capable of triggering extradition, mutual assistance, proceeds of crime and anti-money laundering measures.

### **3. The Draft Corruption (Jersey) Law 200-**

The draft Law aims to introduce comprehensive measures to combat bribery and corruption domestically and internationally. It adopts a “start from scratch” approach. It will abolish the customary law offence of bribery and Article 50 of the States of Jersey Law 1966 and Articles 44 and 45 of the States of Jersey Law 2005 will be repealed, as they would be duplicated by the provisions of the new Law.

Article 5 of the draft Law would make it an offence for any person corruptly to solicit, receive or agree to receive or give or promise to any other person, any advantage (as defined in Article 1) as an inducement to or reward for any member, officer or employee of a public body (as defined in Article 3) in respect of any matter in which the public body is concerned<sup>[1]</sup>. It would make no difference whether the official’s appointment is actually invalid.

The penalty for the offence which, as with all offences under the draft Law can only be prosecuted with the consent of the Attorney General, will be 10 years’ imprisonment and/or a fine. The offence and, indeed, all the offences to be created by the draft Law, will be extraditable and subject to existing legislation on proceeds of crime and international co-operation.

Article 6 will create what are probably novel criminal offences for Jersey of corruption by agents in relation to

their principal's business. The agents may be agents of public or private persons or bodies.

As with Article 5, the offence will require the receipt, or offer of an "advantage" as defined in Article 1, which goes much wider than money or other financial benefit.

The definition of who is an agent for the purposes of the Law is contained in Article 2. It is drawn widely enough to cover, *inter alia*, States Members. Note also that it will cover members of foreign governments and parliaments and various other specified international bodies. But the list is not exhaustive. Bodies not specifically mentioned may well be covered and, in any event, there would be power for the States to alter the definition in Article 2(2). In the context of the private sector, however, the term agent will only apply to employees and agents in the strict sense (*i.e.* those who act on behalf of others). (See above, under Article 5, as to the meaning of "corruptly" for the purposes of this Article.)

Article 6(2) would make it an offence for an agent to use any document which is materially false and intended to mislead to deceive his principal. And it would be an offence for a person to give an agent such a document knowingly (*e.g.* where the agent asks the supplier of goods to provide an invoice in respect of the goods which is inflated above the true price so that the principal will be misled into paying more than the goods actually cost enabling the agent and the supplier to defraud the principal.)

Offences under this Article would carry the same maximum penalty as for Article 5 offences (10 years and/or fine).

Note that Article 6(4) would make it immaterial that the principal's affairs do not have a connection to the Island or the agent's functions have no connection with the Island. The effect of the provision would be to ensure that bribery of agents *etc.*, of foreign public officials and agents of foreign principals is made a criminal offence in the Island.

Article 7 would make it an offence for a public official, as defined in Article 4, to do or not to do something in relation to his post, with a view to gaining an advantage for himself or another.

This is equivalent to the U.K. common law offence of misfeasance in, or abuse of, office. It would cover situations such as where a public officer uses his power to grant or withhold a licence or permission, in order improperly to benefit himself or someone else. This sort of activity would not be covered by Article 5 or 6 because there is, in such cases, often no element of bribery. The person may act on their own, for their own personal benefit, whether in a financial form or otherwise and without the involvement of anyone else. This Article is based on section 8 of the Prevention of Corruption (Amendment) Act 2001 (Eire). The penalty is, once again, a maximum of ten years imprisonment and/or a fine.

Article 8. This would extend the jurisdiction for offences under Articles 5, 6(1), and 7 so that they may be tried in the Island, even where most of the acts constituting the alleged offence took place outside the Island.

Further, doing anything overseas which would, if done in the Island constitute an offence under those Articles, will be an offence if done by a U.K. national (see Article 1(3)) resident in the Island, an Island company or limited liability partnership, and proceedings for it can be taken in the Island.

The remaining Articles of the draft Law will make provision for offences by corporate bodies, aiders, and abettors, amendments of the Police Procedures and Criminal Evidence (Jersey) Law 2002 to add offences under the draft Law to the list of serious offences for the purposes of search warrant issuing powers and amending Article 8 of the States of Jersey Laws 1966 and 2005 respectively so as to add convictions for the offences under the draft Law to those for which a person is disqualified for election as a Senator or Deputy.

The Legislation Committee carried out a consultation process on the draft Law among those who may have an interest. This included H.E. the Lieutenant Governor, the Bailiff, the Policy and Resources Committee, the Privileges and Procedures Committee, the States of Jersey Police, the Comité des Connétables, the Human Resources Committee, and the Law Society. The draft Law has been submitted demi-officially to the Lord Chancellor's Department for confirmation that the draft Law would enable the extension to the Island of the United Kingdom's ratification of the 2 international Conventions. *Some of the suggestions and comments made by those consulted have been adopted in the draft Law.*

***The Home Affairs Committee, when considering the draft Law, was of the view that its effectiveness would probably be enhanced if there were legislative protection for "whistle blowers" who report corruption in an organisation in which they are employed. The Committee felt that the absence of such legislation was not a sufficient reason to prevent or delay bringing forward the draft Law but that it was a matter that should be investigated further. Although there is no such protection at present, for the public sector, the States Human***

*Resources Department has put in place a policy on “reporting serious concerns”. This is designed to encourage public sector employees to report matters, including bribery or corruption, that they encounter, and to reassure them that no reprisals will be allowed, and no disciplinary action will be taken, against them for making such reports, in good faith (full details of the policy can be found on the States Human Resources Intranet site). The Committee felt that the United Kingdom legislation on this - the Public Interest Disclosure Act 1998 – would be a good precedent on which to base equivalent legislation for Jersey. However, since the application of such legislation would, essentially, be for protection for whistle blowers in the employment field, it concluded that the Employment and Social Security Committee is the appropriate Committee to consider whether such legislation should be adopted. Accordingly, the President of Home Affairs has written to that Committee inviting it to consider taking this forward.*

#### **4. The United Nations Convention on Corruption**

Finally, it is necessary to make mention of another important international agreement on the combating of corruption; this is the United Nations Convention Against Corruption, which was adopted by the UN General Assembly towards the end of 2003. The draft Law will not implement this Convention, though the U.K. Government has decided that it should ratify it and the Island Authorities will no doubt decide, in due course that it should be implemented here as well. Amendments of the draft Law may be necessary, in due course to achieve this.

Part of the UN Convention is concerned with measures to prevent corruption in public bodies and the private sector. States Parties are enjoined to establish and promote effective measures to prevent corruption.

States Parties are required to create criminal offences covering a wide range of corrupt activities (if not already criminalised). States are also requested to consider criminalising so-called trading in influence and embezzlement of public funds. Other measure in support of the criminalisation of corruption are measures to promote cooperation between law enforcement agencies and relevant private entities and establishment of good practices and standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct and good commercial practices among businesses and in the contractual relations with the State.

The Convention includes measures for international cooperation in the fight against corruption including prevention, investigation and prosecution of offenders. States Parties are required to render specific forms of mutual legal assistance in obtaining evidence and extradition and to support procedures for tracing, freezing and confiscation of proceeds of corruption.

#### **5. Resource implications – human rights**

*While it is virtually impossible to predict this with accuracy, it is not anticipated that there will be substantial financial or manpower implications for the States arising from the adoption of this Law.*

#### **6. European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee 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). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 8th September 2005 the Home Affairs Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Home Affairs Committee the provisions of the Draft Corruption (Jersey) Law 200- are compatible with the Convention Rights.

## Explanatory Note

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*Article 1* contains interpretive material.

*Article 2* gives an extended meaning to the word “agent”. The expression covers both the private sector and the public sector. It includes any employee or person employed on behalf of a person. It also includes public officials and members of legislatures and the judiciary of other jurisdictions. Power is given to the States to amend the definition by Regulations. The definition is relevant to the offence in Article 6.

*Article 3* defines “public body” to mean specified bodies in Jersey and include their equivalents in other jurisdictions. Power is given to the States to amend the definition by Regulations. The definition is relevant to the definition “public official”, in that a member, officer or employee of a public body is a public official, and to the offence in Article 5.

*Article 4* defines “public official”. Power is given to the States to amend the definition by Regulations. The definition is relevant to the definition “agent”, as any public official is also an agent for the purposes of the Law, and to the offence in Article 7.

*Article 5* is concerned with inducements or rewards for a member, officer or employee of a public body to do or not do anything in any matter or transaction which concerns the public body. Paragraph (1) makes it an offence for any person to solicit or receive the inducement or reward corruptly, or to give or promise the inducement or reward corruptly to another person. The person soliciting or receiving the inducement or reward need not necessarily be the member, officer or employee of the public body. The person giving or offering the inducement or reward need not necessarily be the person who will benefit from the member, officer or employee’s act or omission. The penalty for the offence is imprisonment for 10 years and/or an unlimited fine.

*Article 6* is concerned with the actions of agents, both in the public and private sector. It makes it an offence for an agent to accept or obtain corruptly any inducement or reward for doing or not doing anything or showing or not showing any favour or disfavour to a person in relation to the business or affairs of the agent’s principal. It is not necessary that the agent benefits personally from the inducement or reward. It also makes it an offence for a person to give or offer the inducement or reward corruptly to the agent. The penalty for the offence is 10 years’ imprisonment and/or an unlimited fine.

*Article 7* makes it an offence for any public official to do or not do anything in relation to his or her position in order to obtain an advantage corruptly. It is not necessary that the official benefits personally from the advantage. The offence differs from that in Article 5 in that the act is not done in response to an inducement from another person or in the expectation of such an inducement. The public official simply uses his or her position to gain a personal advantage or an advantage for someone else. The penalty for the offence is 10 years’ imprisonment and/or an unlimited fine.

*Article 8* confers extended jurisdiction in respect of any offence under the Law. Firstly, the offence may be prosecuted in Jersey even though some of the acts constituting the offence are committed outside Jersey. Secondly, an offence may be prosecuted in Jersey if a national of the United Kingdom resident in Jersey, a company established in Jersey or a Jersey limited liability partnership does an act outside Jersey which, if done here, would constitute the offence.

*Article 9* abolishes the customary law offence of bribery.

*Article 10* makes the standard provision for the prosecution of an officer or member of a company or limited liability partnership.

*Article 11* makes the standard provision creating an offence of aiding, abetting, counselling or procuring an offence under this draft Law.

*Article 12* has the effect that a prosecution under this draft Law may only be commenced by the Attorney General or with the Attorney General’s consent.

*Article 13* would amend this Law consequentially upon the move from the committee system of government to a ministerial system.

*Article 14* amends the Police Procedures and Criminal Evidence (Jersey) Law 2003 so as to make any offence under this draft Law a serious offence for the purposes of the 2003 Law. The effect is to enable the police to apply



for a search warrant under the 2003 Law where the offence is suspected.

*Article 15* amends the States of Jersey Law 1966 so that a conviction under this draft Law is a ground for disqualification for election as a Senator or Deputy.

*Article 16* amends the States of Jersey Law 2005. Firstly, it provides that a conviction under this draft Law is a ground for disqualification for election as a Senator or Deputy. Secondly, it repeals Articles 44 and 45. Article 44 is the offence, by a member of the States, of accepting a bribe. Article 45 is the offence of offering a bribe to a States member or officer of the States. In each case the penalty for the offence is an unlimited fine and up to 5 years' imprisonment. These Articles are repealed as they are replaced by offences created by this Law, all of which carry a higher penalty of an unlimited fine and up to 10 years' imprisonment.

*Article 17* is the citation and commencement provision.





Jersey

## DRAFT CORRUPTION (JERSEY) LAW 200

### Arrangement

#### Article

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<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Meaning of “agent”</u>
<u>3</u>	<u>Meaning of “public body”</u>
<u>4</u>	<u>Meaning of “public official”</u>
<u>5</u>	<u>Corruption concerning public body</u>
<u>6</u>	<u>Corrupt transactions with agents</u>
<u>7</u>	<u>Corruption by public official</u>
<u>8</u>	<u>Extended jurisdiction for offences</u>
<u>9</u>	<u>Customary law offence of bribery abolished</u>
<u>10</u>	<u>Offences by bodies corporate, etc.</u>
<u>11</u>	<u>Aiders and abettors</u>
<u>12</u>	<u>Restriction on prosecution</u>
<u>13</u>	<u>Amendments consequential on the move to ministerial government</u>
<u>14</u>	<u>Amendment of Police Procedures and Criminal Evidence (Jersey) Law 2003</u>
<u>15</u>	<u>Amendment of States of Jersey Law 1966</u>
<u>16</u>	<u>Amendment of States of Jersey Law 2005</u>
<u>17</u>	<u>Citation and commencement</u>





Jersey

## DRAFT CORRUPTION (JERSEY) LAW 200

**A LAW** to create new offences of corruption, to abolish the customary law offence of bribery and for connected purposes, enabling the extension to Jersey of the ratification, acceptance or approval of the Criminal Law Convention on Corruption of the Council of Europe done at Strasbourg on 27 January 1999 and the Convention on Combating Bribery of Foreign Public Officials in International Transactions of the Organisation for Economic Co-operation and Development adopted by the Negotiating Conference on 21 November 1997

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*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 –

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### 1 Interpretation

(1) In this Law, unless the context otherwise requires –

“advantage” means –

- (a) any gift;
- (b) any office, employment or contract;
- (c) any dignity;
- (d) any deferral, payment, release or discharge of any loan, obligation or other liability, whether in whole or in part;
- (e) the exercise, or forbearance from the exercise, of any right, power or duty;
- (f) any other service or favour, including –
  - (i) any aid, vote, consent, or influence, or pretended aid, vote, consent or influence,
  - (ii) any protection from any penalty or disability, whether incurred or apprehended,
  - (iii) any protection from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (g) any offer, undertaking or promise, whether conditional or unconditional, or the holding out of any other expectation of, any advantage described in sub-paragraphs (a) to (f);

“agent” has the meaning given in Article 2;

“gift” means any gift, loan, fee or reward consisting of money or any valuable security or of any other property or interest in property of any description;

“Jersey company” means a body incorporated under the laws of Jersey;

“limited liability partnership” has the same meaning as in the Limited Liability Partnerships (Jersey)

Law 1997,<sup>[1]</sup>

“principal” includes an employer and a person on whose behalf another person is employed;

“public body” has the meaning given in Article 3;

“public office” means any office or employment of a person as a member, officer or servant of a public body;

“public official” has the meaning given in Article 4.

- (2) For the purposes of this Law a national of the United Kingdom is an individual who is—
- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas Citizen;
  - (b) a person who under the British Nationality Act 1981 of the United Kingdom Parliament is a British subject; or
  - (c) a British protected person within the meaning of that Act.

## **2 Meaning of “agent”**

- (1) In this Law, unless the context otherwise requires, “agent” includes –
- (a) a person employed by or on behalf of another person;
  - (b) a public official;
  - (c) an auditor;
  - (d) a juror;
  - (e) a person of any of the following descriptions –
    - (i) a member of the government of any other country or territory,
    - (ii) a member of a parliament, whether regional or national, of any other country or territory,
    - (iii) a member of the European Parliament,
    - (iv) a member of the Court of Auditors of the European Communities,
    - (v) a member of the Commission of the European Communities,
    - (vi) a public prosecutor in any other country or territory,
    - (vii) a judge of a court or tribunal in any other country or territory,
    - (viii) a judge of a court or tribunal established under an international agreement,
    - (ix) a member of, or any other person employed by or acting for or on behalf of, any body established under an international agreement,
    - (x) a person employed by or acting for or on behalf of the public administration of any other country or territory.
- (2) The States may by Regulations amend the definition “agent” in paragraph (1).

## **3 Meaning of “public body”**

- (1) In this Law, “public body” means –
- (a) the States of Jersey;
  - (b) any Committee of the States;
  - (c) any board, commission, committee or other body, whether paid or unpaid, appointed by the States or by a Committee of the States;
  - (d) any board, commission, committee or other body, whether paid or unpaid –

- (i) having power to act under and for the purposes of any enactment relating to the raising of a rate in or the administration of a parish, or
- (ii) administering or supervising the provision of welfare or any other service in a parish, and any other body whose membership consists of officers of a parish or persons elected by a parish assembly;
- (e) the Jersey Financial Services Commission established under the Financial Services Commission (Jersey) Law 1998<sup>[2]</sup>
- (f) the Jersey Competition Regulatory Authority established under the Competition Regulatory Authority (Jersey) Law 2001<sup>[3]</sup>

and includes any such body which exists in a country or territory outside Jersey and is equivalent to any body described above.

- (2) The States may by Regulations amend the definition “public body” in paragraph (1).

#### **4 Meaning of “public official”**

- (1) In this Law, unless the context otherwise requires, “public official” means –
  - (a) a member of a public body;
  - (b) an officer or employee of a public body;
  - (c) the Bailiff, Deputy Bailiff and any Lieutenant Bailiff;
  - (d) a judge of the Royal Court;
  - (e) a judge of the Court of Appeal;
  - (f) the Magistrate;
  - (g) a jurat;
  - (h) a member of the Youth Court panel;
  - (i) the Attorney General and Solicitor General;
  - (j) a Crown Advocate;
  - (k) the Greffier of the States, the Deputy Greffier of the States and any Acting Greffier of the States;
  - (l) the Judicial Greffier, the Deputy Judicial Greffier and any Greffier Substitute;
  - (m) the Viscount, the Deputy Viscount and any Viscount Substitute;
  - (n) the Master of the Royal Court;
  - (o) the Receiver General;
  - (p) an employee of the Crown;
  - (q) a member of the Honorary Police or an officer of the States of Jersey Police Force.
- (2) The States may by Regulations amend the definition “public official” in paragraph (1).

#### **5 Corruption concerning public body**

- (1) It shall be an offence for a person, whether alone or in conjunction with another person, corruptly to –
  - (a) solicit or receive or agree to receive, whether for his or her own benefit or for the benefit of any other person; or
  - (b) give, promise or offer to any person, whether for the benefit of that person or any other person, any advantage as an inducement to or reward for, or otherwise on account of, any member, officer or employee of a public body doing, or not doing, anything in respect of any matter or transaction

whatsoever, whether actual or proposed, in which that public body is concerned.

- (2) A person shall not be exempt from punishment for an offence under this Article by reason of the invalidity of the appointment or election of a person to public office.
- (3) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 10 years and to a fine.

## **6 Corrupt transactions with agents**

- (1) It shall be an offence –
  - (a) for an agent corruptly to accept or obtain, or agree to accept or attempt to obtain, from any person, whether for his or her own benefit or for the benefit of any other person; or
  - (b) for any person corruptly to give or agree to give or offer to an agent, whether for the benefit of the agent or for the benefit of any other person,  
  
any advantage as an inducement to or reward for doing, or not doing, or for having done or not done, any act in relation to the affairs or business of the agent's principal or for showing, or not showing, favour or disfavour to any person in relation to the affairs or business of the agent's principal.
- (2) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 10 years and to a fine.
- (3) For the purposes of this Article, it is immaterial if –
  - (a) the principal's affairs or business have no connection with Jersey and are conducted in a country or territory outside Jersey; or
  - (b) the agent's functions have no connection with Jersey and are carried out in a country or territory outside Jersey.

## **7 Corruption by public official**

- (1) It shall be an offence for a public official to do or not do any act in relation to the official's position, office or employment, for the purpose of corruptly obtaining any advantage, whether for his or her own benefit or for the benefit of any other person.
- (2) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 10 years and to a fine.

## **8 Extended jurisdiction for offences**

- (1) A person may be tried in Jersey for an offence under this Law if any of the acts alleged to constitute the offence was committed in Jersey, notwithstanding that other acts constituting the offence were committed outside Jersey.
- (2) Where –
  - (a) a national of the United Kingdom resident in Jersey, a Jersey company or a limited liability partnership does anything in a country or territory outside Jersey; and
  - (b) the act would, if done in Jersey, constitute an offence under this Law,the act shall constitute the offence under this Law and proceedings for it may be taken in Jersey.

## **9 Customary law offence of bribery abolished**

- (1) The customary law offence of bribery is abolished.
- (2) Paragraph (1) shall not affect any investigation or criminal proceedings in respect of an act committed before paragraph (1) comes into force, and any such investigation or criminal proceedings



may be instituted, continued or enforced as if paragraph (1) had not come into force.

## **10 Offences by bodies corporate, etc.**

- (1) Where an offence under this Law committed by a body corporate or by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of –
  - (a) a person who is a director, manager, secretary or other similar officer of the body corporate, or a partner of the partnership; or
  - (b) a person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the body corporate or the partnership to the penalty provided for the offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

## **11 Aiders and abettors**

A person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

## **12 Restriction on prosecution**

A prosecution for an offence under this Law shall not be instituted except by or with the consent of the Attorney General.

## **13 Amendments consequential on the move to ministerial government**

In Article 3(1) for sub-paragraphs (b) and (c) there shall be substituted the following sub-paragraphs –

- “(b) the Chief Minister and any other Minister or Assistant Minister;
- (ba) any committee or panel established by standing orders of the States of Jersey;
- (bb) the States Employment Board established by the Employment of States of Jersey Employees (Jersey) Law 200-;<sup>[4]</sup>
- (c) any board, commission, committee or other body, whether paid or unpaid, appointed by the States or by any committee or panel established by standing orders of the States of Jersey;”.

## **14 Amendment of Police Procedures and Criminal Evidence (Jersey) Law 2008**

Schedule 1 to the Police Procedures and Criminal Evidence (Jersey) Law 2003<sup>[5]</sup> shall be amended by adding, at the end of Part 2, the item –

“12. Any offence under the Corruption (Jersey) Law 200.”.

## **15 Amendment of States of Jersey Law 1966**

In the States of Jersey Law 1966<sup>[6]</sup> –

- (a) for Article 8(1)(j) there shall be substituted the following sub-paragraph –

“(j) the person has been convicted of an offence under the Corruption (Jersey) Law 200 by virtue of that person being, within the meaning of that Law, a public official or a member, officer or employee of a public body;”.

- (b) Article 49(c) shall be deleted;
- (c) Article 50 shall be repealed.

## **16 Amendment of States of Jersey Law 2005**

In the States of Jersey Law 2005<sup>[7]</sup> –

- (a) for Article 8(1)(g) there shall be substituted the following sub-paragraph –

“(g) has been convicted of an offence under the Corruption (Jersey) Law 200 by virtue of that person being, within the meaning of that Law, a public official or a member, officer or employee of a public body;”;

- (b) Articles 44 and 45 shall be repealed.

## **17 Citation and commencement**

This Law may be cited as the Corruption (Jersey) Law 200 and shall come into force on such day or days as the States by Act appoint.

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[1] *The word “corruptly” has been held to mean in the U.K. “purposefully doing an act which the law forbids as tending to corrupt” (R -v- Wellburn (1979) Cr. App R254).*

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[1] *Chapter 13.475.*

[2] *Chapter 13.250.*

[3] *Chapter 05.075.*

[4] *This Law is currently awaiting Privy Council sanction.*

[5] *Chapter 23.750.*

[6] *Chapter 16.800.*

[7] *L.8/2005.*