

**DRAFT HOMICIDE (AMENDMENT) (JERSEY) LAW 200-**

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**Lodged au Greffe on 1st August 2000  
by the Legislation Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

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## Report

Until 1996, there was an irrebuttable presumption of law in England (known there as the “year and a day rule”) that if a person injured another person who subsequently died, but death did not follow within a year and a day, the first person could not be found guilty of murder, manslaughter or infanticide, or of any other statutory form of homicide, by reason of causing that injury. The rule extended to offences relating to suicide, such as counselling or assisting another person to take his life. It had its origins in the Statute of Gloucester of 1278, and was probably developed to deal with difficult questions of proof of the cause of a person’s death.

With advances in medical science, particularly in the latter half of the twentieth century, it is now possible to establish a more accurate link between injury and death. Perhaps more significantly, it is today possible for victims to be kept alive for long periods of time by artificial means.

The English rule was therefore abolished by the Law Reform (Year and a Day Rule) Act 1996 of the United Kingdom.

The Act also provided that proceedings for such offences could not be commenced without the consent of the Attorney General if -

- (a) the allegedly fatal injury was sustained more than three years before the date of death, or
- (b) the accused had already been convicted of some other offence in circumstances allegedly connected with the death.

In Jersey law, there is no statutory provision to the same effect as the English “year and a day rule”, and no case is known in which a Jersey court has yet considered whether an equivalent rule is part of the customary law of the Island. However, the same considerations that have led to its abolition in England apply equally in the Island, and the purpose of this draft Law is to declare positively that there shall be no Jersey rule to that effect.

## **Explanatory Note**

*Article 1* of this draft amending Law inserts three new Articles into the Homicide (Jersey) Law 1986, to the following effect:

- (a) New *Article 4A* declares that there shall be no presumption in Jersey law that, because of any passage of time between an act or omission and the date of a person's death, that act or omission did not cause that death.
- (b) New *Article 4B* follows the restrictions in the Law Reform (Year and a Day Rule) Act 1996 (United Kingdom) relating to prosecutions for injuries sustained more than three years before death, or where the accused person has already been convicted of some other offence in circumstances allegedly connected with a death.
- (c) However, new *Article 4C* (which is a saving clause) provides that in a case in which an act or omission allegedly causing a death occurs before the Law comes into force, Article 4A will not preclude a Jersey court from holding that the presumption to which that Article refers did exist in customary law and applying it to that case.

*Article 2* of the amending Law describes how it may be cited and provides for it to come into force on the day after it is registered in the Royal Court.

**HOMICIDE (AMENDMENT) (JERSEY) LAW 200-**

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**A LAW** to amend the Homicide (Jersey) Law 1986, sanctioned by Order of Her Majesty in Council of the

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*(Registered on the      day of      200-)*

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**STATES OF JERSEY**

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The      day of      200-

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

ARTICLE 1

After Article 4 of the Homicide (Jersey) Law 1986<sup>[1]</sup> there shall be inserted the following Articles -

“ARTICLE 4A.

**Time of death.**

For the purposes of any offence involving death or suicide, there shall be no presumption of law that, by reason of the elapsing of any particular period of time between an act or omission and the date of the death, that act or omission is conclusively proved not to have caused the death.

ARTICLE 4B.

**Restrictions on prosecution for a fatal offence.**

- (1) No prosecution to which this Article applies shall be instituted without the consent of the Attorney General.
- (2) This Article applies to a prosecution against a person for a fatal offence, if -
  - (a) the injury alleged to have caused the death was sustained more than three years before the death occurred; or
  - (b) the person has previously been convicted of an offence in circumstances alleged to be connected with the death.
- (3) In this Article, ‘fatal offence’ means -
  - (a) murder, manslaughter, infanticide or any other offence of which one of the elements is causing a person’s death; or
  - (b) the offence of aiding, abetting, counselling or procuring a person’s suicide.

ARTICLE 4C.

**Saving.**

Article 4A of this Law does not affect the application of any customary rule of law in a case where the act or omission (or the last of the acts or omissions) which is alleged to have caused the death occurred before the

commencement of that Article.”.

## ARTICLE 2

This Law may be cited as the Homicide (Amendment) (Jersey) Law 200- and shall come into force on the day following its registration.

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<sup>[1]</sup> Volume 1986-1987, page 19.