

# STATES OF JERSEY



## DRAFT SEX OFFENDERS (JERSEY) LAW 200-

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Lodged au Greffe on 19th August 2009  
by the Minister for Home Affairs

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STATES GREFFE





Jersey

## **DRAFT SEX OFFENDERS (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 Home Affairs has made the following statement –

In the view of the Minister for Home Affairs the provisions of the Draft Sex Offenders (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator B.I. Le Marquand**

# REPORT

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## Introduction

The aim of the Law is to reduce the risk of sexual offences being committed by managing the risk posed to the public, or individual members of the public, by sex offenders and those who may be sexual predators on children.

It has long been recognised by those who work with sex offenders that their offences are rarely isolated lapses in judgment which will not be repeated. Where a person is convicted of a sexual offence the sentence can be severe, but almost all offenders are released at some point, with little or no supervision after release. Even after serving a custodial sentence, the sex offender may still pose a risk of harm to the public or to particular members of the public.<sup>1</sup>

The nature of sexual offences is such that harm is frequently caused to the victim which is profound and long-lasting; such offences cause not only physical injury, but also psychological damage which can affect not only the victim but their families and the wider society. It is therefore incumbent on government not only to prosecute such crime, but to take particular measures to prevent sexual offences being committed, for the benefit of the victim and society as a whole.

One of the key factors in ensuring the protection of the public from the risk posed by sex offenders is for the public authorities, primarily the Police, to know that an offender resides in the Island and to know, at the very least, the person's name and address so that they can monitor activities where necessary.

## Key Provisions

### *Notification requirements (Articles 3–9)*

In reality, sex offenders become subject to notification requirements in the U.K., sometimes known colloquially as a 'sex offenders' register'. Jersey has adopted the same approach in the Law.

Notification requirements will work as follows in Jersey under the Law – a convicted sex offender has to notify the Police of his name and address (including a change of address). The Law also empowers the Minister to make an Order to require those offenders to tell the authorities of their travel plans.

Knowing the whereabouts of such a person and observing his activities may in some cases be sufficient deterrent to an offender. However, in other cases, it will have a limited effect in preventing crime unless restrictions can be placed on certain aspects of the offender's behaviour which put him at greatest risk of re-offending. Therefore, certain Court Orders may be sought.

### *Court Orders (Articles 10–12)*

Police powers have traditionally been largely reactive to offences which have already been committed. However, Police tactics have, in recent years, begun to be more proactive in targeting criminals and attempting to prevent the harm caused by serious

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<sup>1</sup> See, for example, *Sex Offenders in the Community: Managing and Reducing the Risks*.  
Amanda Matravets: Willan 2003. ISBN 1-84392-120-0.

crime such as drug importation. In the field of sexual offences, crime prevention is particularly pertinent. There is a recognised need to manage the behaviour of sex offenders in the community in ways which would reduce their chances of, and opportunities to, re-offend.

Existing powers available to the Police are inadequate as preventative tools. One of the few powers available is to arrest a person for conduct likely to cause a breach of the peace. This is not an appropriate power to use in most circumstances relating to sexual offences, many of which take place in private and may not involve the use or threat of actual violence.

The behaviour of a predatory paedophile may indicate that he is at increased risk of committing a serious sexual offence, but not a breach of the peace and, therefore, the Police are powerless to prevent a serious crime being committed.

The Law provides that a court can make orders (Restraining Orders under Article 10) to prevent a convicted sex offender acting in a way which presents a threat of serious sexual harm to the public, or to a particular person or persons, if it is satisfied that an order is necessary to protect the public or that person or those persons. Note in particular that such an order may prohibit a person from engaging in work or other activities relating to children. Breach of a Restraining Order is a criminal offence, punishable with imprisonment and/or a fine. Similar Orders are available in the U.K. under the Sexual Offences Act 2003 and are known as 'Sexual Offences Prevention Orders'.

Furthermore, many sexual offences against children never, for a variety of reasons, result in a criminal conviction. Children are targeted by sexual predators simply because they cannot make decisions for themselves; they are incapable of forming consent; they do not always communicate well; or understand what has happened to them; and therefore will either fail to report the offence or, if they do, will not be capable of being good witnesses. Added to this are the criminal rules of evidence and procedure, such as the corroboration rule for the evidence of children and in relation to sexual offences. In common with other jurisdictions, the conviction rate in relation to complaints of sexual offences against children in Jersey is very low.

There are also instances where the sexual behaviour towards the victim might not amount to a crime under Jersey law, but be either a precursor to a crime or cause harm to the child in itself. If a person performs a sexual act in front of a child or shows him/her pornography, for example,<sup>2</sup> that might indicate that the person is at high risk of committing a sexual offence. Unless the case was suitable for an Emergency Protection Order under the Children (Jersey) Law 2002 (which would usually lead to care proceedings) or an injunction is appropriate, there is little that can be done to prevent harm being inflicted, or an offence committed.

The Law provides for Child Protection Orders (Article 11) which are civil orders to be obtained from the Royal Court by the Attorney General.<sup>3</sup> Such an Order may be made where the Court is satisfied that a person has, for example, had sex in front of a child, or shown him/her pornography and it is necessary to make the Order to protect the child.

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<sup>2</sup> *Other than where a person is in a position of trust under Sexual Offences (Jersey) Law 2007, where such acts would be criminal offences.*

<sup>3</sup> *A Child Protection Order may be obtained against someone who has committed no criminal offence. N.B. notification requirements only apply to those convicted of a criminal offence.*

The Order will prevent the person subject to the Order from engaging in certain behaviour specified in the Order. The Order may only make restrictions that are necessary to protect children from the defendant. Breach of a Child Protection Order is a criminal offence, punishable with imprisonment and/or a fine. Similar Orders are available in the U.K. under the Sexual Offences Act 2003 and known as Risk of Sexual Harm Orders.

The Law also makes provision for Travel Orders (Article 12). These are orders for which the Attorney General may apply to the Royal Court. The Court may make an order preventing a sex offender from travelling outside Jersey generally, or make a more limited order prohibiting him from travelling to a particular place. The Court may only make the order if it is satisfied that the offender's acts/behaviour make such an order necessary to protect children or a particular child, outside of Jersey, from serious sexual harm from the offender. Breach of such an order is a criminal offence punishable with imprisonment and/or a fine. Similar Orders are available in the U.K. under the Sexual Offences Act 2003 and known as Foreign Travel Orders.

### ***Other Provisions***

There have been instances where Jersey residents have committed acts abroad which would be offences in the foreign country as well as sexual offences in Jersey (Article 17). At present such people may return to Jersey, not having been prosecuted in the foreign country, and cannot be prosecuted in Jersey as Jersey Courts do not have jurisdiction to try an offence committed outside the Island. This will change under the Law.

There have also been cases of families who have spent some time in Jersey and some time in the U.K. or elsewhere. Allegations of sexual offences have been made in respect of members of such families, some of which are alleged to have taken place in Jersey and others outside the Island. It is in the interests of justice that a court in Jersey should have power to try all matters together if it considered it appropriate to do so. At present, this is not possible. Under the Law it will be.

Turning to other aspects of the Law, it is important to note that it is primarily concerned with prevention of crime. The Police will obtain personal information about an offender as a result of the notification requirements (Article 27). If the information is to be put to proper use, the Police will sometimes need to share the information with other agencies or individuals who need to know that information in order to take action to prevent crime. This may be an agency such as the Children's Service, or another Police Force, but it may also be a private individual. The provisions of the Data Protection (Jersey) Law 2005 contain an exemption which allows the disclosure of personal information for the purposes of prevention, detection, investigation or prosecution of crime under certain circumstances. In creating a statutory framework for the collection of such personal data, which will inevitably lead to the disclosure of some of that information to those who need it for the specified purposes, it is preferred practice that the Police operate under a positive power to disclose, rather than rely on an exemption.

The Police need to ensure that having disclosed the information, it will not be misused. The Law does not create a source of information available to the public at large. If the Police disclose information to another body or individual they will disclose for a particular purpose. That purpose must come within the above restriction. The recipient can only use that information for that purpose. Failure to adhere to this is a criminal offence under the Data Protection (Jersey) Law 2005. That wider use must still be within the statutory restriction. Police use of personal information remains

subject to the Data Protection (Jersey) Law 2005 and to the Human Rights (Jersey) Law 2000.

There are important provisions for the ongoing management and assessment of persons who pose a risk of sexual harm in Article 28 of the Law. The Chief Officer of the States of Jersey Police Force and relevant Ministers must, soon after the Law takes effect, enter into a general agreement to set out arrangements to assess and manage persons who pose a risk of sexual harm. The relevant Ministers are those for Home Affairs, Housing, Health and Social Services, Education, Sport and Culture and Economic Development. The general agreement must be laid before the States.

In implementing the agreement, co-operation must be sought with office-holders, i.e. heads of Probation, Customs and the Prison and advice may be sought from various interested parties, e.g. Comité des Chefs de Police and organisations that provide accommodation for the homeless.

In addition, the Chief Police Officer must make an annual report to the Minister for Home Affairs, who must lay the report before the States, showing action taken to implement the general agreement. Article 28 should help the Police monitor effectively sex offenders or those who show a proclivity to sexual offending towards children. This inclusive approach (of the Police working with other agencies) should lower the risk of offending.

Provisions akin to the above exist in the U.K. under sections 325–327 of the Criminal Justice Act 2003, entitled *Assessing etc. risks posed by sexual or violent offenders*.

It is also worth stressing that the Law has retrospective effect, e.g. it may, on application by the Attorney General to the Royal Court under Article 13(2), apply to those who committed offences before the Law comes into force.

Finally, safeguards are offered by appeal provisions against the time an offender is subject to notification requirements and the orders (in Articles 10–12), etc.

### **The U.K. Scheme and the background to the Law**

In response to the increasing awareness of the harm caused by sexual offences to both children and adults, and the need to take action to prevent offences where possible, the Sex Offenders Act 1997 was brought into force in the U.K. on 1st September 1997. This required convicted sex offenders to notify their names and addresses to the Police. This was the first time offenders had been required to notify the Police of their details and was, therefore, an improvement on earlier lists of known offenders kept, for example, on the Police National Computer, which contained an historic list of known offenders but no information of their current whereabouts.

The Act also allowed for the prosecution in the U.K. of U.K. nationals who had committed sexual offences abroad which were offences both in that country and in the U.K.

The 1997 Act was recognised to have significant defects, such as allowing 14 days to notify the Police of an address, which enabled itinerant offenders not to notify at all. It also had no provision relating to foreign travel; it did not apply to those whose offences were not sexual offences *per se* but were clearly sexually motivated and showed the offender posed a serious risk of causing sexual harm. The kidnap and murder of a young child, for example, would almost certainly be sexually motivated but would result in convictions for kidnap and murder, not for any of the specific

sexual offences to which the Act applied. Thus a person convicted of such offences, despite posing a significant risk to the public, would not be subject to the notification requirements of the Act.

Furthermore, the Act did not contain provision for the curtailment of certain behaviour that would protect the public from harm. Further legislation was necessary. The Crime and Disorder Act 1998 introduced Sex Offender Orders, which were civil orders available on application to a Magistrate's Court by the Chief Officer of Police for the area in which an offender resided. The Order would prevent the subject of the application from doing anything mentioned in the Order if the Court was satisfied that the Order was necessary to prevent serious sexual harm to the public and that the person was a sex offender. The breach of such an Order would be a criminal offence and be punishable with imprisonment. These Orders are similar to Restraining Orders provided for in the Law, known as 'Sexual Offences Prevention Orders' in the Sexual Offences Act 2003.

Further amendments to the 1997 Act were introduced by the Criminal Justice and Courts Services Act 2000, the Police Reform Act 2002 and the Sexual Offences Amendment Act 2000. Eventually, all provisions relating to the notification requirements on sex offenders and the Orders necessary to restrict their behaviour (including the Risk of Sexual Harm Orders) were brought together under the provisions of Part 2 of the Sexual Offences Act 2003 (sections 80–136) which became law on 1st May 2004.

The 2003 Act contains provisions similar to those in the draft Law relating to notification requirements, notification for travel outside Jersey, Restraining Orders, Child Protection Orders, Travel Orders and jurisdiction to try offences committed abroad. The development of the draft Law has been given careful consideration due to –

- the recognition of the earlier failings of the U.K. legislation and a desire to rectify those shortcomings; and
- the development of U.K. legislation, and a wish to ensure that provisions in Jersey are at least as rigorous as those in the current U.K. scheme, to avoid Jersey being seen by those subject to restrictions elsewhere as a jurisdiction in which offences might more easily be committed.

At the same time it is necessary to ensure that measures taken to prevent the commission of sexual offences are necessary and proportionate and are compatible with the Human Rights (Jersey) Law 2000. It is always a difficult balance to strike between government's responsibility to build a safe society, protecting especially the weak and vulnerable, whilst at the same time safeguarding an individual's rights to determine their own behaviour in a free society. Safeguards are included in the Law which aim to achieve this balance. As well as compatibility with the 'European Convention on Human Rights', there is judicial oversight of all applications for Court Orders and provisions for the assessment and management of sex offenders under Article 28 of the Law.

### **Consultation**

A working party comprising representatives of the Law Officers' Department, Police, Probation and Children's Service met at an early stage in the development of the Law to produce a framework for the desired provisions. Many shortcomings in the U.K.



scheme were identified, and proposals for the draft Law which would avoid those failings, and perhaps improve upon the U.K. scheme, were agreed.

Subsequent revisions of the draft have taken place to keep pace with the statutory regime in U.K. and a final draft was consulted upon widely. At all stages the Police, who are most closely affected by the proposals, have been consulted. Professional opinion has also been sought from the Health and Social Services Department and the Probation and After-Care Service. The Jersey Child Protection Committee and the Jersey Domestic Violence Forum also support the proposals. The Bailiff and the Data Protection Commissioner have also been asked for their comments.

## **Financial and manpower implications**

### *Overview*

The States allocated the sum of £177,000 to fund the implementation of the Draft Sex Offenders (Jersey) Law 200- in the 2009 Annual Business Plan. This cost estimate was produced following the preparation of a detailed assessment of the implementation costs during the early stages of the draft Law's preparation. The sum voted covers only the annual costs anticipated by the States of Jersey Police. Other services, notably the Probation and After-Care Service and Social Services, were unable to provide cost estimates in time for the 2009 process as those elements of the law which most affect them were still evolving at that time.

Given that the Law is not being debated by the States until late in 2009, and will need to pass through the usual approval process before registration, there will need to be agreement between agencies as to how to make the best use of the available resource in 2010. Clearly, appropriate staff will need to be recruited in advance and there will be other preparatory work that can take place prior to full implementation.

The following background information will enable States members to understand how the relevant costs arise.

### *States of Jersey Police*

#### *Background*

In response to the concerns raised concerning public protection work, the Association of Chief Police Officers (ACPO) began work on a Manual of Guidance for Protecting the Public in 2006 (published in 2007). The States are asked to note key extracts from the paper concerning resourcing issues, which are reproduced below.

*“Forces have varying levels of resources and requirements and there are competing priorities. Public protection work is generally extremely demanding and stressful. In order to fulfil responsibilities to the public and also to ensure, as a threshold standard, the welfare, health and safety of individual staff members, officers should not be required to manage more than **fifty Registered Sex Offenders in the community** at any one time. This suggested workload assumes that Public Protection Unit officers have the necessary administrative and intelligence-led support. This number should not contain more than twenty per cent very high or high-risk offenders... Any deviation from this standard should be justified and documented according to the principles of defensible decision-making.*”

*There are currently no multi-agency minimum standards set in relation to the regularity of visits. However this guidance suggests that forces should achieve the following minimum frequency per risk category:*

- *Very high*      *monthly*
- *High*            *three monthly*
- *Medium*        *six monthly*
- *Low*             *twelve monthly*

*It should be recognised that such frequencies for visits represent a minimum standard and that risk assessment may require more frequent visit. Best practice also suggests that such visits be completed by designated and trained public protection officers as opposed to local beat officers, and they are conducted by officers in pairs as opposed to alone. Both of these factors introduce issues to consider in determining police resources for public protection.”*

#### *The current position in Jersey*

In 2004, in anticipation of new legislation to manage sex offenders, the Force was granted an additional police post in the 2005 Fundamental Spending Review. Subsequently, a report by Her Majesty’s Inspectorates of Probation and Constabulary entitled ‘Managing Sex Offenders in the Community’ has revealed that the resource implications of managing sex offenders are more significant than could have been predicted in 2004.

ACPO guidelines (2007) state that manageable workloads are essential for the safety and welfare of officers, resilience during periods of sickness, leave and other absences and for ensuring effective and proactive management of offenders. Workloads should take into account factors such as the size of the geographical area, the number of approved premises in the area and the number and type of offenders and potentially dangerous persons requiring management. Furthermore, protecting the public is a potentially high risk area of business for the Police Service and it is therefore vital that there are high standards of professional practice and intrusive supervision.

These expectations can be translated into resource implications by taking the example of Dumfries and Galloway, which is the smallest police force in England, Scotland and Wales. It serves a population of about 130,000 people. Dumfries and Galloway have a dedicated Sex Offender Management Team within their Public Protection Unit. The Sex Offender Team is managed by a detective inspector. It has one detective sergeant and 2 detective constables plus administrative support. This Unit currently manages 120 registered sex offenders.

By comparison, the Police National Computer identifies the names of over 250 convicted sex offenders with a Jersey address. The current Detective Constable in post is in the process of reviewing these records and it is estimated that between 100 and 130 of these people should be registered retrospectively once the Law is in place. New convictions will then add to this number.

#### *Resources approved in the 2009 Annual Business Plan*

In order to fulfil responsibilities to the public and ensure the welfare, health and safety of staff, the States approved £177,000 in the 2009 Annual Business Plan to fund the following additional posts –

1 x Detective Sergeant

1 x Detective Constable (additional to post approved through the 2005 FSR process)

1 x Public Protection Unit Administrator.

The Detective Sergeant will monitor and evaluate policies and procedures relating to notification requirements for sexual offenders and other issues relating to their management, ensure information and intelligence is appropriately evaluated and actioned, supervise the process of risk assessment and management of sexual offenders, attend Multi-Agency Public Protection Arrangements (MAPPA) meetings, quality assure Violent and Sex Offender Register (ViSOR) records and prepare briefing papers for senior management.

The additional post will mean that there will be 2 Detective Constables managing sex offenders. They will manage those individuals who are subject to notification requirements, including home visits and liaison with other forces, carrying out and reviewing risk assessments and risk management plans, ensuring that ViSOR is updated with appropriate information, attending and providing input to MAPPA meetings and making applications for civil orders under the law.

The Administrator will maintain administrative systems in support of the unit, develop and maintain databases, prepare and produce statistical information and ensure correspondence received is actioned and replies prepared.

The annual cost of these additional posts is approximately £160,000. These costs could be reduced by not opting to register sex offenders in Jersey retrospectively. Clearly, there is a risk of re-offending that is inherent to such a strategy, but it would obviate the need to create a new Detective Constable post at this stage. Only newly convicted offenders would be registered, and the workload would only grow as new prosecutions worked their way through the system. Irrespective of this decision, the creation of a new supervisory post is deemed essential. The administrative post will improve efficiency by allowing police officers to focus on police work and not tying them up in administration.

Non-staff costs of £17,000 will provide essential access to the ViSOR. This system provides the Police, Probation and Prison Services with a confidential, shared national database to assist those services to identify, risk assess and manage sexual offenders. It would be inconceivable for the States of Jersey Police not to have access to and use ViSOR in the management of sex offenders. It will also ensure that other forces/authorities in the U.K. are aware of our registered sex offenders should they come to light in the U.K.

### ***Probation and After-Care Service***

The Courts will expect assessment and enforcement procedures to be undertaken efficiently and legally. Similarly, the introduction of the Law will create additional work that the Probation Service must ensure is compatible with best practice. The Service regularly inspects its work and any criticism of inadequate work could seriously undermine the confidence of courts and the public alike, emphasizing the importance of adequate staff resourcing and training.

The Probation Service currently deals with sex offenders who are currently subject to Probation Orders, in prison or on young offender licences. Voluntary after-care is also offered to all prisoners who are released from prison.

The Sex Offenders Law will create additional work in a number of areas –

- Updated risk assessments for offenders applying to the Court for an order revoking the notification requirement.
- The preparation of risk assessments, and possibly providing supervision, for those liable for Restraining Orders.
- Possible supervision orders for 35 offenders who have been assessed as high or very high risk. These Restraining Orders, with a supervisory condition, could continue for at least 5 years.
- On the advice of a forensic psychologist who trains Probation, Police and Social Services in Jersey and the Isle of Man in the effective assessment and management of sexual offenders, up to 12/14 high or very high risk sex offenders would need to be managed by the additional appointment of **a full time Probation Officer**.
- The introduction of Child Protection Orders would involve an assessment on the risk of harm posed to children by the defendant (see Social Services section). This type of statutory work for a Civil Court would be a new and, as yet, unresourced, area for the Probation Service.
- The need for assessments of risk of sexual harm for offenders who become subject to notification where they have committed sexually aggravated offences before the commencement of the Law.

An additional post of **MAPPA co-ordinator** is needed in order to ensure that individuals are properly assessed and managed through these inter-agency processes. The skill set required for this post would suit that of an experienced Probation Officer. The post would be based at Police HQ, and there would have to be accountability to the Chief Officer of Police, in addition to professional supervision from the Probation Service. This post could be provided on secondment from the Probation Service on a rotational basis at the level of Senior Practitioner or Team Leader Grade 11/12.

#### Resources required

The Probation and After-Care Service is unable to absorb the potential cost of implementing the new legislation. The following consequential costs take account of resource observations from an expert in the field –

- (a) The appointment of 2 experienced Probation Officers at a cost of £129,000 (including on-costs).
- (b) Provision of training and consultancy at £1,000 per day. This would total £6,000 per annum and it would be advisable for this consultancy level to be retained for no less than 5 years.
- (c) Provision of joint assessment training with the States of Jersey Police at a provisional sum of £3,000 for one year only.

Given the other commitments of the Service, there would be a serious risk of incomplete and potentially flawed work being undertaken if the appropriate resources were not found to work with sex offenders. This could compromise public safety and would give the Probation Board and senior managers cause for considerable concern.

### ***Health and Social Services***

There will be an impact upon different areas of Health and Social Services in terms of new tasks and additional service pressures. For example, as mentioned in the probation section, in the case of applications for Child Protection Orders, it is highly likely that the Court will not be prepared to grant an application without a background report and risk assessment on the child or children concerned, being prepared by a children's specialist from the Children's Service. It is also likely that there will be an expectation of Children's Service, Special Needs Service or Mental Health Services contributing to risk assessments regarding the threat posed by a registered person within a household where children, or a learning disabled or mentally ill adult resides.

It is likely that some assessments, requiring preparation by a specialist (psychiatrist or other mental health professional) may cost up to £4,000 each and there would need to be additional provision within 'Court and Case' costs to cover this given the likely increase in volume of these reports. It is estimated that a maximum of 20 such reports could be ordered in years 1 and 2, and 5 per year thereafter. In terms of the additional resources likely to be required by the Children's Service, it is felt that 2 Social Worker posts will be required, one at Main Grade CS10 (£55,000 p.a.) and one at Senior Practitioner level Grade CS11 (£61,000 p.a.).

The senior post would receive, co-ordinate and allocate all new referrals (estimated by the States of Jersey Police to be in the region of 20+ each year), identifying the level of risk and complexity and undertaking assessments on any referrals relevant to children's cases not already allocated within the Children's Service. This post would also support any main grade worker undertaking an assessment on an individual within (or seeking to join) the family home of children they are already working with. This could be on the current caseload of any one of our 20+ social workers, across all areas of children's social work.

The Senior will assist and support the preparation of any report, sign off the report as appropriate for submission to MAPPAs and/or the Courts, and support the main grade worker in any multi-agency meetings. They will be expected to develop knowledge and skills in this area so they can act as a 'service lead' and can be called on to give advice at any relevant planning meetings (held within CS or with partner agencies) where the potential risk of an offender is being discussed and a decision is required on whether this service should make a referral and/or recommendation to the MAPPAs Co-ordinator.

The main grade post would increase overall manpower resources so that individual 'case officers' working on cases already allocated to them can undertake appropriate assessments of any risks 'to the child (or children)' occasioned by potentially placing any offender into a family home. This will be particularly relevant in the consideration of any applications for Child Protection Orders.

#### **Resources required**

Health and Social Services is unable to absorb the potential cost of implementing the new legislation. The following consequential costs take account of the views of senior service managers –

- (a) Additional amounts within 'Court and Case costs' to cover specialist psychiatric/psychological reports ordered by the court in considering any applications.

- (b) The appointment of a Senior Practitioner Social Worker to the Children's Service at a cost of £61,000 (including on-costs).
- (c) The appointment of a main-grade Social Worker to the Children's Service at a cost of £55,000 (including on-costs).

Given pressures that already exist elsewhere within these critical services, it would be impossible for them to take up the volume and complexity of the tasks required by this new legislation without the appropriate resources being put into place as outlined.

***Law Officers' Department***

Applications by the Attorney General to impose notification requirements and to obtain Restraining Orders and Child Protection Orders will peak during the first 2 years after commencement of the Law and are then expected to level off. The numbers involved are not expected to be too onerous for the Law Officers' Department to absorb in its general caseload, as many of the applications for notification requirements and Restraining Orders will become part of the normal sentencing process.

***Court and Case costs***

It is anticipated that additional work can be absorbed within the current staffing levels of the Magistrate's Court and the Royal Court. There will, however, be additional Courts and Case costs arising from defence lawyers' costs, risk assessment reports and additional court costs. The estimate of costs is summarised in the table below.

***Summary Table of possible financial implications – Judicial Proceedings***

<b>Heading</b>	<b>Year 1 (2011)</b>	<b>Year 2 (2012)</b>	<b>Year 3 (2013)</b>
Defence Lawyers' costs	£435,000	£435,000	£89,000
Cost of Risk Assessments	£75,000	£75,000	£15,000
Court Commissioners' Costs	£25,000	£25,000	£3,000
Court of Appeal Costs	£24,000	£24,000	£4,800
<b>Totals</b>	<b>£559,000</b>	<b>£559,000</b>	<b>£111,800</b>

The impact will depend on the actual numbers and types of cases that come before the courts, but this is difficult to predict precisely. Whilst people are more aware of their rights and ready to challenge decisions, it is likely that the number of appeals will be diminished by the certainty of media reporting. The estimate assumes that there will be 50 retrospective cases during the first 2 years of the operation of the Law, whilst year 3 shows the estimated costs of ongoing cases based on 5 per annum. It further assumes that the Police will require 30 Restraining Orders for retrospectively registered sex offenders. A number of more detailed assumptions have been made in arriving at the figures shown in the table.

### *Summary of implementation costs*

The following table summarises, by department, the implementation costs outlined in the preceding paragraphs. As explained below, costs will be incurred in 2010, but the quantum will depend upon when the Law is approved and brought into force.

<b>Service</b>	<b>Description</b>	<b>Revenue Costs</b>
States of Jersey Police:	1 x Detective Sergeant 1 x Detective Constable 1 x PPU Administrator ViSOR costs	160,000 17,000
Probation & After-Care Services:	1 x Probation Officer 1 x Probation Officer (MAPPA Co-ordinator) Training & Consultancy	64,500 64,500 9,000
Health & Social Services:	1 x Senior Practitioner Social Worker 1 x Social Worker Specialist psychiatric reports (Court & Case costs)	61,000 55,000
	<b>Total Annual Revenue costs:</b>	<b>431,000</b>

	<b>Court and Case costs (2011/2012):</b>	
	Judicial Proceedings	559,000
	Specialists' Assessment Reports	80,000
	<b>Total:</b>	<b>639,000</b>

	<b>Court and Case Costs (2013 onwards):</b>	
	Judicial Proceedings	111,800
	Specialists' Assessment Reports	20,000
	<b>Total:</b>	<b>131,800</b>

As mentioned in the Overview, the States has already approved the sum of £177,000 towards the implementation of this Law; however, this sum only covers the annual costs anticipated by the States of Jersey Police. Other services were unable to submit cost estimates in time for the 2009, and commencement of the 2010, business planning processes. In view of this, the Council of Ministers agreed earlier in the year to inscribe an additional sum of £70,000 in the 2010 Draft Business Plan so that some provision was made for any additional cost. As can be seen from the above table, the actual anticipated annual revenue costs total £431,000, creating a shortfall of £184,000 once the full effect of the Law is felt. Due to slippage in the implementation of the Law, the full cost is unlikely to be felt until 2011 so there is unlikely to be an immediate requirement for additional funding in 2010 provided the Home Affairs Department is able to carry forward any under-spend from 2009. To enable recruitment of these posts to take place next year however, agreement in principle will

be needed to provide full funding, i.e. the additional £184,000 in advance of the 2011 business planning process.

Separate provision will also need to be made for the impact on Court and Case costs. The Department is aware, however, that Court and Case costs does not have sufficient monies, and additional funding will be required to support the first 2 years at the full amount, and then beyond.

### **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 17th August 2009, the Minister for Home Affairs made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Home Affairs the provisions of the Draft Sex Offenders (Jersey) Law 200- are compatible with the Convention Rights.



## Explanatory Note

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The main purpose of this Law is to require people who have been convicted of certain sexual offences, both before and after the commencement of the Law and both in Jersey and elsewhere, to keep the police informed of their whereabouts while they are in Jersey.

It also allows the courts to make orders restricting the activities of people who may be sexual predators or who may sexually exploit children and vulnerable persons.

It also requires the Chief Police Officer and certain Ministers to enter into an agreement setting out general arrangements that need to be put into effect to assess and manage persons who pose a risk of sexual harm.

*Article 1* contains interpretive provisions.

*Article 2* sets out the sexual offences to which the Law applies.

*Article 3* makes most people convicted of a sexual offence to which the Law applies subject to the notification requirements of the Law.

*Article 4* allows the courts to grant certain minor exemptions from the notification requirements of the Law where it is likely that the offender would not be a danger to others.

*Article 5* requires the court to set a period during which a notification requirement of the Law will apply to a person - the period will not normally be less than 5 years.

*Article 6* sets out the notification requirements of the Law.

*Article 7* requires people subject to the notification requirements of the Law to give certain samples, etc. of themselves so that they may be identified, traced and tracked.

*Article 8* requires people subject to the notification requirements of the Law to give prescribed details of their intended overseas movements before leaving Jersey and, on their return, details of their movements while overseas.

*Article 9* provides for the police to be able to search premises to ascertain the whereabouts of people subject to the notification requirements of the Law or to ascertain if other persons are in danger from such people. It also allows police to be able to search premises to ascertain the risk certain offenders and others pose or continue to pose to any person or section of the public.

*Article 10* allows a court to make orders restricting the activities of people who pose a risk of serious sexual harm.

*Article 11* allows the Royal Court to make orders restricting the activities of people who may be child abusers.

*Article 12* allows the Royal Court to make orders restricting people who are subject to the notification requirements of the Law when they wish to travel outside Jersey if the Court is satisfied that it is necessary to do so to protect children outside Jersey.

*Article 13* allows a Royal Court to order that the notification requirements of the Law be applied to a person who has been convicted of a sexual offence before the commencement of the Law.

*Article 14* allows a Royal Court to certify that an offence committed by a person before the commencement of the Law was sexually aggravated and that the notification requirements of the Law be applied to the person.

*Article 15* allows the Royal Court to order that the notification requirements of the Law be applied to a person who has been convicted of a sexual offence outside Jersey.

*Article 16* allows the Royal Court to certify that an offence committed by a person outside Jersey was sexually aggravated and that the notification requirements of the Law be applied to the person.

*Article 17* provides that if a resident of Jersey does an act outside Jersey, which, if done in Jersey, would be a sexual offence to which the Law applies, the person is to be taken as having committed the offence in Jersey.

*Article 18* provides that an appeal shall be by way of a review and gives a court a general power to make orders in respect of an appeal.

*Article 19* provides for appeals where a court has certified or has refused to certify an offence under the Law.

*Article 20* provides for appeals where a court has set a notification period under the Law.

*Article 21* provides for appeals where a court has made or refused to make various orders under the Law.

*Article 22* provides for appeals where a court has made or refused to make a restraining order under the Law.

*Article 23* provides for appeals where the Royal Court has made or refused to make a child protection order under the Law.

*Article 24* provides for appeals where the Royal Court has made or refused to make a travel order under the Law.

*Article 25* provides for appeals where the Royal Court has made or refused to make an order in respect of a conviction for a sexual offence before the commencement of the Article.

*Article 26* provides for appeals where the Royal Court has made or refused to make an order in respect of a conviction for a sexual offence outside Jersey.

*Article 27* allows the Chief Police Officer to provide certain people with information notified to the police or gained by the police under the Law.

The people are people the Chief Police Officer considers need the information to prevent, detect, investigate or prosecute an offence.

*Article 28* requires the Chief Police Officer and relevant Ministers to enter into an agreement setting out general arrangements that need to be put into effect to assess and manage persons who pose a risk of sexual harm.

The Article then provides for representatives of the Chief Police Officer and of Chief Officers to implement the general agreement by establishing individual arrangements

to assess and manage each person who poses a risk of sexual harm. This will be done in co-operation with relevant office holders and organizations.

The Chief Police Officer is required to provide an annual report on the establishment and implementation of the management arrangements, which the Minister will lodge with the States for approval.

*Article 29* allows Rules of Court to be made to give effect to the Law.

*Article 30* sets out some evidential assumptions in respect of convictions and offences outside Jersey.

*Article 31* amends Schedule 1 to the Police Procedures and Criminal Evidence (Jersey) Law 2003, which makes offences under this Law serious offences for the purposes of Article 3 of that Law.

*Article 32* provides for the citation and commencement of the Law.





Jersey

## DRAFT SEX OFFENDERS (JERSEY) LAW 200-

### Arrangement

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Jersey

## DRAFT SEX OFFENDERS (JERSEY) LAW 200-

**A LAW** to require the notification of information to the police by persons who have committed certain sexual offences or sexually aggravated offences, to provide for the imposition of restraining orders on sexual offenders, to provide for the imposition of orders on certain people to protect children, to provide for the imposition of travel orders on certain people to protect children outside Jersey, to provide for the establishment of arrangements to deal with sexual offenders, and for incidental and connected purposes.

*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 –

### PART 1

#### INTERPRETATION

##### 1 Interpretation

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

“authorized officer” means –

- (a) a police officer; or
- (b) a States’ employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>1</sup>,

authorized for the purposes of this Law by the Chief Police Officer;

“Chief Police Officer” means the Chief Officer of the States of Jersey Police Force;

“child” means a person who has not attained the age of 18 years;

“home address”, in relation to a person who is subject to the notification requirements of this Law, means –

- (a) the address of the person’s sole or main residence in Jersey; or
- (b) where the person has no such residence, the address or location of a place in Jersey where the person can be found and, if there is more than one such place, such one of those places as the person may select,

and may, in either case, be a vehicle or vessel;

“Magistrate’s Court” includes the Youth Court;

“Minister” means the Minister for Home Affairs;

“relevant offence” means –

- (a) a sexual offence to which this Law applies; or
- (b) an act by a person ordinarily resident in Jersey done outside Jersey that is an offence in Jersey by virtue of Article 17;

“sexual activity” means an activity that a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider to be sexual;

“sexual harm” means physical harm, psychological harm or both caused by sexual activity;

“sexual offence to which this Law applies” means an offence to which this Law applies by virtue of Article 2;

“youth detention” means a sentence of detention in a young offender institution imposed by virtue of Article 4(1) of the Criminal Justice (Young Offenders) (Jersey) Law 1994<sup>2</sup>.

- (2) For the purposes of this Law a person is to be taken to have been convicted of an offence if the person –
  - (a) was found guilty of committing the offence;
  - (b) was found not guilty of committing the offence solely by reason of the person’s insanity or infirmity of mind; or
  - (c) was found to be unfit to be tried for the offence but a court has determined that the person did the act alleged,and “conviction” and “convicted” are to be construed accordingly.
- (3) A reference in this Law to an offence includes a reference –
  - (a) to an attempt, conspiracy or incitement to commit the offence; and
  - (b) to aiding and abetting, counselling or procuring the commission of the offence.
- (4) An act punishable under the law in force in a jurisdiction outside Jersey constitutes an offence under that law for the purposes of this Law however it is described by the law of the jurisdiction.
- (5) The States may amend this Article by Regulations.



## 2 Sexual offences to which this Law applies

- (1) This Law applies to –
  - (a) the customary law offences of rape, incest, indecent assault, and indecent exposure;
  - (b) except as provided by paragraph (2), the customary law offences of gross indecency;
  - (c) except as provided by the Sexual Offences (Jersey) Law 2007<sup>3</sup> and paragraph (3), the customary law offences of the *crime of sodomie*;
  - (d) an offence under Article 1.1 (procuring a woman by threats), 1.2 (procuring a woman by false pretences), 1.3 (administering drugs for the purposes of unlawful sexual intercourse); Article 2 (sexual intercourse with a girl aged under 13 years), Article 4.1 (sexual intercourse with a girl aged over 13 years but under 16 years), 4.2 (sexual intercourse with a mentally deranged or retarded person) or Article 5 (permitting girls aged under 16 years to frequent premises for unlawful sexual intercourse) of the Loi (1895) modifiant le droit criminel<sup>4</sup>;
  - (e) an offence under Articles 2 (meeting a child following sexual grooming, etc.), 3 (abuse of position of trust: sexual activity with a child), 4 (abuse of position of trust: causing or inciting a child to engage in sexual activity), 5 (abuse of position of trust: sexual activity in the presence of a child) or 6 (abuse of position of trust: causing a child to watch a sexual act) of the Sexual Offences (Jersey) Law 2007;
  - (f) an offence under Article 38(2)(a) or (b) (having or procuring unlawful sexual intercourse with a mental patient) of the Mental Health (Jersey) Law 1969<sup>5</sup>;
  - (g) an offence under Article 2 (taking, possessing or distributing indecent photographs, etc. of children) of the Protection of Children (Jersey) Law 1994<sup>6</sup>;
  - (h) an offence under Article 61 of the Customs and Excise (Jersey) Law 1999<sup>7</sup> in so far as the offence relates to goods prohibited to be imported under paragraph 2 of the Customs and Excise (Import and Export Control) (Jersey) Order 2006<sup>8</sup> that are indecent photographs of persons who are or appear to be aged under 16 years; and
  - (i) an offence under Article 11(14) (breach of child protection order, interim child protection order or prescribed order) of this Law.
- (2) The customary law offences of gross indecency is not an offence to which this Law applies if –
  - (a) it is committed between consenting persons who have attained the age of 16 years; and
  - (b) it is committed in the presence of no other persons or in the presence of persons all of whom have attained the age of 16 years.
- (3) Where an act of *sodomie* constitutes the *crime of sodomie* and –
  - (a) the act is committed between consenting persons who have attained the age of 16 years; and

- (b) the act takes place in public or in a lavatory to which the public have, or are permitted to have, access, whether on payment or otherwise,

the offence is not an offence to which this Law applies if the act of *sodomie* takes place in the presence of no other persons or in the presence of persons all of whom have attained the age of 16 years.

- (4) The States may amend this Article by Regulations.

## PART 2

### NOTIFICATION

#### 3 Persons who are subject to notification requirements of this Law

- (1) A person who, in Jersey, is convicted of a relevant offence becomes subject to the notification requirements of this Law upon conviction.
- (2) A person who, in a prescribed jurisdiction, is subject to prescribed notification requirements and who enters Jersey –
- (a) becomes subject to the notification requirements of this Law upon entering Jersey; and
- (b) remains subject to those requirements during the continuance of the prescribed notification requirements.

- (3) In paragraph (2) –

“prescribed notification requirements” means notification requirements imposed under the law of a prescribed jurisdiction, being notification requirements of a type prescribed by the Minister by Order that are substantially the same as the notification requirements under this Law;

“prescribed jurisdiction” means a jurisdiction in the British Islands, other than Jersey, prescribed by the Minister by Order.

- (4) If, when sentencing or otherwise dealing with a person in respect of an offence, a court certifies that the offence was sexually aggravated, the offender thereupon becomes subject to the notification requirements of this Law.
- (5) A court must not certify that an offence was sexually aggravated unless it is satisfied, on the information available to it –
- (a) that the offence was sexually motivated; or
- (b) that at, before or after the time of committing the offence the offender’s actions included a sexual element directly connected with the commission of the offence,

and the court is also satisfied that the offender poses a risk of sexual harm to the public or any particular person or persons.

- (6) A person in respect of whom a court makes an order under Article 10 (a restraining order) who was not a person subject to the notification requirements of this Law immediately before the making of the order

becomes subject to the notification requirements of this Law upon the order being made.

- (7) A person in respect of whom a court makes an order under Article 13(2) (in respect of a sexual offence committed before the commencement of the Article) or 15(2) (in respect of an offence committed outside Jersey) becomes subject to the notification requirements of this Law upon the order being made.
- (8) A person in respect of whom the Royal Court certifies an offence under Article 14(1) or 16(1) becomes subject to the notification requirements of this Law upon the certification.
- (9) A person ceases to be (or as the case may be, does not become) subject to the notification requirements of this Law –
  - (a) if the conviction or, as the case may be, the relevant order or action of the court is quashed or reversed on appeal;
  - (b) in accordance with an order made under Article 4 or 5; or
  - (c) where the person is a person to whom paragraph (6) applies, when the order made under Article 10 (as renewed from time to time) ceases to have effect.

#### **4 Court may exempt person from notification requirements**

- (1) This Article applies –
  - (a) where a person has been convicted of an offence under Article 4.1 of the Loi (1895) modifiant le droit criminel (sexual intercourse with a girl aged over 13 years but under 16 years); and at the time of the offence the convicted person had not attained the age of 20 years; or
  - (b) where a person has been convicted of the customary law offence of indecent exposure, gross indecency or the *crime* of *sodomie*.
- (2) A court may, when sentencing or otherwise dealing with the person, order that the person shall not become subject to the notification requirements of this Law.

#### **5 Application period**

- (1) Except as provided by paragraph (2), a court that convicts a person of a relevant offence must, unless it intends to make an order under Article 4 (certain exceptions), before sentencing the person specify a period that must expire before an application under paragraph (5) may be made.
- (2) Where the Magistrate's Court convicts a person of a relevant offence and remands the person to the Royal Court for sentence, the Royal Court must, unless it intends to make an order under Article 4, before sentencing the person specify a period that must expire before an application under paragraph (5) may be made.
- (3) Where a court –

- (a) certifies under Article 3(4), 14(1) or 16(1) that an offence was sexually aggravated;
- (b) makes an order under Article 13(2) (in respect of an offence committed before the commencement of the Article); or
- (c) makes an order under Article 15(2) or 15(3) (in respect of an offence committed outside Jersey),

the court must, at that time, specify a period that must expire before an application under paragraph (5) may be made.

- (4) Unless the court is satisfied that there is an exceptional reason why a shorter period would be appropriate, the period specified under paragraph (1), (2) or (3) must be a period of at least 5 years, being a period that the court is satisfied takes into account –
  - (a) the likelihood of the person re-offending; and
  - (b) the seriousness of the offence committed by the person.
- (5) A person (not being a person to whom Article 3(2) applies) who is subject to the notification requirements of this Law may, at any time after the expiration of the period specified in respect of the person under paragraph (1), (2), (3) or (7), apply to the court for an order that he or she should no longer be subject to those requirements.
- (6) The court must not make the order applied for under paragraph (5) unless it is satisfied that the applicant no longer poses a risk of sexual harm to the public or any particular person or persons.
- (7) If the court refuses to make the order applied for under paragraph (5) it must make an order specifying a further period before another application may be applied for under that paragraph.

## **6 The notification requirements**

- (1) This Article applies to a person who becomes subject to the notification requirements of this Law.
- (2) The person must notify an authorized officer of –
  - (a) each name the person uses; and
  - (b) the person's home address.
- (3) The notification must be given –
  - (a) in the case of a person to whom Article 3(1) applies, on the day of the conviction;
  - (b) in the case of a person to whom Article 3(2) applies, before the end of the day following the day the person enters Jersey;
  - (c) in the case of a person to whom Article 3(4) applies, on the day on which the court certifies that the offence was a sexually aggravated offence;
  - (d) in the case of a person to whom Article 3(6) applies, on the day on which the court makes the order under Article 10;
  - (e) in the case of a person to whom Article 3(7) applies, on the day on which the court makes the order under Article 13(2) or 15(2);

- (f) in the case of a person to whom Article 3(8) applies, on the day on which the court certifies an offence under Article 14(1) or 16(1) to have been sexually aggravated;
- (g) in the case of a person to whom paragraph (10) applies –
  - (i) if an authorized officer attends, to receive the notification, the place where the person is detained or is in hospital, at the time the authorized officer so attends, or
  - (ii) if an authorized officer does not so attend, on the day the person ceases to be detained or leaves hospital,and on each anniversary of that day.
- (4) The person must also notify an authorized officer if the person uses a name that has not been notified to an authorized officer under this Article.
- (5) The notification must be given within 24 hours of the person's first use of the name.
- (6) The person must also notify an authorized officer of any change in the person's home address.
- (7) The notification must be given –
  - (a) if the person has prior knowledge of the change, at least 24 hours before the change, if this is possible; or
  - (b) in any other case, as soon as reasonably practicable but, in any event, within the 24 hours after the change.
- (8) There is to be disregarded when determining the period mentioned in paragraph (5) or (7) any time during which the person –
  - (a) is in custody on remand;
  - (b) is serving a sentence of imprisonment or youth detention;
  - (c) is in hospital; or
  - (d) is outside Jersey.
- (9) The court before which a person has been convicted of a relevant offence may order that the person be detained following the conviction until notification under paragraph (2) has been given to an authorized officer.
- (10) Despite sub-paragraphs (a) to (f) of paragraph (3), if a person to whom this Article applies is, on a day notification is required to be given under any of those sub-paragraphs –
  - (a) in custody on remand;
  - (b) serving a sentence of imprisonment or youth detention; or
  - (c) in a hospital,the person must instead give notification under paragraph (3)(g).
- (11) If a person, required to give notification on an anniversary mentioned in paragraph (3), is on that day –
  - (a) in custody on remand;
  - (b) serving a sentence of imprisonment or youth detention;
  - (c) in hospital; or

- (d) outside Jersey,  
the person must instead give notification on the day the person ceases to be detained, leaves hospital or returns to Jersey, as the case may be.
- (12) Except as provided by paragraph (3)(g)(i), a person must give notification under this Article to an authorized officer by attendance at the place designated by the Chief Police Officer.
- (13) An authorized officer must give a written acknowledgement of notification given under this Article.
- (14) A person who –
- (a) fails, without reasonable excuse, to comply with paragraph (3), (4), (6) or (11); or
  - (b) in purported compliance with any of those paragraphs, provides information that the person knows to be false or misleading,
- is guilty of an offence and liable to imprisonment for a term of 5 years and to a fine.

## **7 Additional requirements**

- (1) A person giving notification under Article 6 must, if requested to do so by an authorized officer, allow the officer to take the fingerprints and a photograph of the person and a non-intimate sample.
- (2) A fingerprint taken under paragraph (1) may be used –
- (a) to verify the identity of the person giving the notification; and
  - (b) to check the fingerprint against any other fingerprint to which the police have access to investigate crime.
- (3) A non-intimate sample taken under paragraph (1) may be used –
- (a) to verify the identity of the person giving the notification; and
  - (b) to check the DNA profile of the sample against any other DNA profile to which the police have access to investigate crime.
- (4) A person giving notification under Article 6 must also, if requested to do so by an authorized officer, provide documentary evidence of the person's identity.
- (5) An authorized officer may submit documentary evidence supplied under paragraph (4) to a States' employee for verification by the records of the administration of the States in which the States' employee is working.
- (6) The States' employee may supply an authorized officer with the verification requested.
- (7) Except as provided by paragraph (8), the supply of information under this Article is not to be taken to breach any restriction on the disclosure of information (however arising or imposed).
- (8) This Article does not authorize the doing of anything that contravenes the Data Protection (Jersey) Law 2005<sup>9</sup>.
- (9) This Article does not affect a power to supply information that exists apart from this Article.

- (10) A person who –
- (a) fails, without reasonable excuse, to comply with paragraph (1) or (4);
  - (b) in purported compliance with paragraph (4), supplies documentary evidence the person knows to be false or misleading; or
  - (c) hinders or obstructs an authorized officer acting under paragraph (1) or (4),
- is guilty of an offence and is liable to imprisonment for a term of 5 years and to a fine.
- (11) Words and expressions used in this Article and defined in –
- (a) the Police Procedures and Criminal Evidence (Jersey) Law 2003<sup>10</sup>; or
  - (b) the Employment of States of Jersey Employees (Jersey) Law 2005<sup>11</sup>,
- have the same meanings in this Article as they have in those Laws.

## **8 Notification requirements: travel outside Jersey**

- (1) The Minister may, by Order, make provision requiring persons who are subject to the notification requirements of this Law and who leave Jersey –
- (a) to give in accordance with the Order, before they leave, a notification under paragraph (2);
  - (b) if they subsequently return to Jersey, to give in accordance with the Order a notification under paragraph (3).
- (2) A notification under this paragraph must disclose –
- (a) the date on which the person will leave Jersey;
  - (b) the place (or, if there is more than one, the first place) to which the person will travel and the person's point of arrival (determined in accordance with the Order) in the country where the place is situated;
  - (c) any other information prescribed by the Order that the person holds about the person's departure from Jersey or the person's movements while outside Jersey.
- (3) A notification under this paragraph must disclose any information prescribed by the Order about the person's return to Jersey.
- (4) An Order under paragraph (1) may make different provision for different categories of persons.
- (5) A person who –
- (a) fails, without reasonable excuse, to comply with paragraph (2) or (3); or
  - (b) in purported compliance with paragraph (1)(a) or (b), provides information that the person knows to be false or misleading,

is guilty of an offence and is liable to imprisonment for a term of 5 years and to a fine.

## **9 Powers to search**

- (1) Paragraph (2) applies if it appears to the Bailiff or a Jurat on information on oath that there is reasonable cause to believe that –
  - (a) the home address of a person who is subject to the notification requirements of this Law is not the home address last notified by the person under Article 6; and
  - (b) apart from searching premises, there are no other practical means of establishing the person's home address.
- (2) The Bailiff or Jurat may issue a warrant authorizing a police officer –
  - (a) to enter the premises specified in the warrant; and
  - (b) to search the premises to ascertain the home address of the person who is subject to the notification requirements of this Law.
- (3) Paragraph (4) applies if it appears to the Bailiff or a Jurat on information on oath that there is reasonable cause to suspect that there is at the home address of a person who is subject to the notification requirements of this Law a person who is at risk of harm from that person.
- (4) The Bailiff or Jurat may issue a warrant authorizing a police officer –
  - (a) to enter the premises specified in the warrant, being the home address of the person who is subject to the notification requirements of this Law; and
  - (b) to search those premises to ascertain if there is on the premises a person who is at risk of harm from the person who is subject to the notification requirements of this Law.
- (5) Paragraph (6) applies if it appears to the Bailiff or a Jurat on information on oath that there is reasonable cause to believe that –
  - (a) the appointed officer (as defined by Article 28(1)), on behalf of the Chief Police Officer, is required to carry out a function under Article 28(5)(a) in respect of a person to whom that paragraph applies; and
  - (b) apart from searching premises the person occupies or frequents, there are no other practical means of carrying out the function.
- (6) The Bailiff or Jurat may issue a warrant authorizing a police officer –
  - (a) to enter the premises specified in the warrant; and
  - (b) to search the premises to ascertain the extent to which the person poses or continues to pose a risk of sexual harm to the public or any particular person or persons.
- (7) A person who intentionally obstructs or hinders a police officer in the exercise of the officer's powers or duty is guilty of an offence and is liable to imprisonment for a term of one year and to a fine of level 4 on the standard scale.



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## PART 3

### COURT ORDERS

#### 10 Restraining orders

- (1) This Article applies in respect of a person (the “offender”) who –
  - (a) has been convicted, before or after the commencement of this Article, of a relevant offence;
  - (b) outside Jersey, has been convicted, before or after the commencement of this Article, of an offence that would, if the offence had been committed in Jersey, have constituted a sexual offence to which this Law applies;
  - (c) has been convicted of an offence that a court has certified, under Article 3(4), was sexually aggravated;
  - (d) has been convicted of an offence that a court has certified, under Article 14(1) or 16(1) was sexually aggravated;
  - (e) outside Jersey, has been convicted of an offence, before or after the commencement of this Article, that a court has certified under paragraph (2) was sexually aggravated; or
  - (f) in Jersey or elsewhere, has been convicted of an offence, before or after the commencement of this Article, that a court has certified under paragraph (3).
- (2) A court may for the purpose of paragraph (1)(e), on the application of the Attorney General, certify that the offence was sexually aggravated if the court is satisfied –
  - (a) that the offence was sexually motivated; or
  - (b) that at, before or after the time of committing the offence the offender’s actions included a sexual element directly connected with the commission of the offence.
- (3) A court may for the purpose of paragraph (1)(f), on the application of the Attorney General, certify that the offence involved the use or the threat of the use of violence against a person or property.
- (4) Where –
  - (a) this Article applies to a person; and
  - (b) a court is satisfied on the balance of probabilities, on the application of the Attorney General, that the person poses a threat of serious sexual harm to the public or any particular person or persons,

the court may make such an order in respect of the offender as it is satisfied is necessary to protect the public or any particular person or persons from serious sexual harm from the offender.
- (5) Pending the court deciding on whether or not to make an order under paragraph (4), it may make an interim order, not inconsistent with this Article.
- (6) An application under this Article may be made –

- 
- (a) in the case of an application under paragraph (4), to the Magistrate's Court upon conviction or sentencing by that court in respect of the offence mentioned in paragraph (1)(a) or (c); or
  - (b) in any other case, to the Royal Court.
- (7) An order under paragraph (4) or an interim order under paragraph (5) may provide for either or both of the following –
- (a) it may prohibit the offender from doing anything described in the order;
  - (b) it may require the offender to do anything described in the order.
- (8) An Order under paragraph (4) or an interim order under paragraph (5) may, in particular, prohibit the offender from undertaking any work or other activity that may require or be likely to allow the offender to come into contact or be associated with –
- (a) a specific child or children in general; or
  - (b) a specific person who may be vulnerable to sexual exploitation or any description of persons the court considers may be vulnerable to sexual exploitation by the offender.
- (9) An order under paragraph (4) or an interim order under paragraph (5) shall have effect during the period specified in it or, if that period is subsequently amended, during the amended period.
- (10) Unless the court is satisfied that there is a particular reason why a shorter period would be appropriate, the first period mentioned in paragraph (9) in respect of an order made under paragraph (4) must be a period of at least 5 years.
- (11) A court may amend an order under paragraph (4) or an interim order under paragraph (5) on the application of the Attorney General or the offender.
- (12) An amendment of an order may, in particular, extend or shorten the period specified in the order.
- (13) If the offender, without reasonable excuse –
- (a) does anything that the offender is prohibited from doing by an order under this Article; or
  - (b) fails to do anything that the offender is required to do by an order under this Article,
- the offender is guilty of an offence and is liable to imprisonment for a term of 5 years and to a fine.
- (14) If, in Jersey, a person, without reasonable excuse –
- (a) does anything that the person is prohibited from doing in a prescribed jurisdiction by a prescribed order made by a court in that jurisdiction; or
  - (b) fails to do anything the offender is required to do in a prescribed jurisdiction by a prescribed order made by a court in that jurisdiction,
- the person is guilty of an offence and is liable to imprisonment for a term of 5 years and to a fine.

- (15) In paragraph (14) –
- “prescribed order” means an order of a type prescribed by the Minister by Order –
- (a) that can be made by a court in a prescribed jurisdiction in the same or substantially the same circumstances; and
  - (b) that has the same or substantially the same effect,
- as an order made by a court under this Article;
- “prescribed jurisdiction” means a jurisdiction in the British Islands, other than Jersey prescribed by the Minister by Order.
- (16) In paragraph (4) “protect the public or any particular person or persons from serious sexual harm from the offender” means to protect the public in Jersey or the particular person or persons from serious physical or psychological harm caused by the offender committing one or more relevant offences.

## 11 Child protection orders

- (1) The Attorney General may apply to the Royal Court for an order (a “child protection order”) in respect of a person aged 15 or over (“the defendant”) –
  - (a) who resides in Jersey; or
  - (b) who the Attorney General believes is in, or is intending to come to Jersey.
- (2) The application may be made if it appears to the Attorney General that –
  - (a) the defendant has, whether before or after the commencement of this Article, done an act mentioned in paragraph (3); and
  - (b) as a result of the act, there is reasonable cause to believe that it is necessary for a child protection order to be made.
- (3) The acts referred to in paragraph (2) are –
  - (a) engaging in sexual activity involving a child or in the presence of a child;
  - (b) causing or inciting a child to watch a person engaging in sexual activity or to look at a moving or still image that is sexual;
  - (c) giving a child anything that relates to sexual activity or contains a reference to such activity;
  - (d) communicating with a child, where any part of the communication is sexual.
- (4) On the application, the Court may make the order if it is satisfied on the balance of probabilities that –
  - (a) the defendant has, whether before or after the commencement of this Article, done an act mentioned in paragraph (3); and
  - (b) it is necessary to make the order, to protect children generally or any child from harm from the defendant.
- (5) A child protection order –

- 
- (a) prohibits the defendant from doing anything described in the order;
    - (b) has effect for a fixed period (not less than 2 years) specified in the order or until further order.
  - (6) The only prohibitions that may be imposed are those necessary to protect children generally or any child from harm from the defendant.
  - (7) The Attorney General or the defendant may apply to the Royal Court for an order varying, renewing or discharging a child protection order.
  - (8) On the application the Court may make any order, varying, renewing or discharging the child protection order, that the Court considers appropriate.
  - (9) A child protection order may be renewed, or varied so as to impose additional prohibitions on the defendant, only if it is necessary to do so to protect children generally or any child from harm from the defendant (and any renewed or varied order may contain only such prohibitions as are necessary for this purpose).
  - (10) If an application for a child protection order has not been determined the Attorney General may apply to the Royal Court for an interim child protection order.
  - (11) The Court may, if it considers it just to do so, make an interim child protection order, prohibiting the defendant from doing anything described in the order.
  - (12) Such an order –
    - (a) has effect only for a fixed period, specified in the order;
    - (b) ceases to have effect, if it has not already done so, on the determination of the main application.
  - (13) The Attorney General or the defendant may apply to the Court for the interim order to be varied, renewed or discharged.
  - (14) A person commits an offence if, without reasonable excuse, the person does anything which he or she is prohibited from doing by –
    - (a) a child protection order;
    - (b) an interim child protection order; or
    - (c) a prescribed order made by a court in a prescribed jurisdiction, and is liable to imprisonment for a term of 5 years and a fine.
  - (15) In paragraph (14) –

“prescribed order” means an order of a type prescribed by the Minister by Order –

    - (a) that can be made by a court in a prescribed jurisdiction in the same or substantially the same circumstances as a child protection order; and
    - (b) that has the same or substantially the same effect as a child protection order;

“prescribed jurisdiction” means a jurisdiction in the British Islands, other than Jersey, prescribed by the Minister by Order.

- (16) In this Article –
- “to protect children generally or any child from harm from the defendant” means to protect children generally or any child from physical or psychological harm, caused by the defendant doing an act mentioned in paragraph (3);
- “child” means a person who has not attained the age of 16 years;
- “image” means an image produced by any means, whether of a real or imaginary subject.
- (17) For the purposes of this Article, a communication is sexual if –
- (a) any part of it relates to sexual activity; or
  - (b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider that any part of the communication is sexual.
- (18) For the purposes of this Article, an image is sexual if –
- (a) any part of it relates to sexual activity; or
  - (b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider that any part of the image is sexual.

## 12 Travel orders

- (1) The Attorney General may apply to the Royal Court for an order (a “travel order”) in respect of a person who is subject to the notification requirements of this Law (“the notifier”).
- (2) On the application, the Court may make a travel order if it is satisfied on the balance of probabilities that the notifier’s acts and behaviour makes it necessary to make such an order for the purpose of protecting children generally or any child from serious sexual harm from the notifier outside Jersey.
- (3) A travel order has effect for a fixed period of not more than 6 months, specified in the order.
- (4) The order prohibits the notifier from doing whichever of the following is specified in the order –
  - (a) travelling to any place outside Jersey named or described in the order;
  - (b) travelling to any place outside Jersey other than a place named or described in the order; or
  - (c) travelling to any place outside Jersey.
- (5) The only prohibitions that may be included in the order are those necessary for the purpose of protecting children generally or any child from serious sexual harm from the notifier outside Jersey.
- (6) The Attorney General or the notifier may apply to the Royal Court for an order varying, renewing or discharging a travel order.

- (7) Subject to paragraph (8), on the application, the Court may make any order varying, renewing or discharging the travel order, that it considers appropriate.
- (8) A travel order may be renewed or varied so as to impose additional prohibitions on the notifier, only if it is necessary to do so for the purpose of protecting children generally or any child from serious sexual harm from the notifier outside Jersey (and any renewed or varied order may impose only such prohibitions as are necessary for this purpose).
- (9) A person commits an offence if, without reasonable excuse, the person does anything which he or she is prohibited from doing by a travel order and is liable to imprisonment for a term of 5 years and to a fine.
- (10) A person is not in breach of a travel order if, while the person is on a vessel or aircraft, the journey of the vessel or aircraft takes it outside Jersey so long as the vessel or aircraft does not, in the course of the journey, land at any place outside Jersey.
- (11) In this Article –
  - “children” means persons who have not attained the age of 16 years;
  - “protecting children generally or any child from serious sexual harm from the notifier outside Jersey” means protecting children generally or any particular child from serious physical or psychological harm caused by the notifier doing, outside Jersey, anything that would constitute a sexual offence to which this Law applies if done in Jersey;
  - “acts and behaviour” include acts and behaviour occurring before the commencement of this Article.

## **PART 4**

### **OTHER CONVICTIONS**

#### **13 Convictions for sexual offences before the commencement of this Article**

- (1) This Article applies to a person who, before the commencement of this Article, had been convicted –
  - (a) in Jersey of a sexual offence to which this Law applies; or
  - (b) outside Jersey, of an offence which, if committed in Jersey, would have been such an offence.
- (2) The Royal Court may, on the application of the Attorney General, order that the person shall become subject to the notification requirements of this Law.

#### **14 Convictions for sexually aggravated offences before the commencement of this Article**

- (1) If, on an application by the Attorney General, the Royal Court certifies that an offence, whether committed in Jersey or outside Jersey, before the commencement of this Article was sexually aggravated, the offender becomes subject to the notification requirements of this Law.

- (2) The Royal Court must not certify that the offence was sexually aggravated unless it is satisfied, on the information available to it –
  - (a) that the offence was sexually motivated; or
  - (b) that at, before or after the time of committing the offence the offender's actions included a sexual element directly connected with the commission of the offence,and the Court is also satisfied that the offender poses a risk of sexual harm to the public or any particular person or persons.

### **15 Convictions for sexual offences outside Jersey**

- (1) This Article applies to a person who, outside Jersey, has been convicted of an offence which, if committed in Jersey, would have constituted a sexual offence to which this Law applies.
- (2) Where the person is not a person to whom Article 3(2) applies (a person subject to prescribed notification requirements), the Royal Court may, on the application of the Attorney General, order that the person shall become subject to the notification requirements of this Law.
- (3) Where the person is a person to whom Article 3(2) applies, the Royal Court may, on the application of the Attorney General, order that the person shall continue to be subject to the notification requirements of this Law despite the expiration of the prescribed notification requirements mentioned in that Article.

### **16 Convictions for sexually aggravated offences outside Jersey**

- (1) If, on an application by the Attorney General, the Royal Court certifies that an offence committed outside Jersey was sexually aggravated, the offender becomes subject to the notification requirements of this Law.
- (2) The Royal Court must not certify that the offence was sexually aggravated unless it is satisfied, on the information available to it –
  - (a) that the offence was sexually motivated; or
  - (b) that at, before or after the time of committing the offence the offender's actions included a sexual element directly connected with the commission of the offence,and the Court is also satisfied that the offender poses a risk of sexual harm to the public or any particular person or persons.

### **17 Acts done by residents of Jersey outside Jersey**

- (1) If –
  - (a) after the commencement of this Article, a person ordinarily resident in Jersey does an act in a jurisdiction outside Jersey;
  - (b) the act constitutes an offence under the law in force in that jurisdiction; and

- (c) the act, if done in Jersey, would constitute a sexual offence to which this Law applies,  
the person is guilty in Jersey of that sexual offence.
- (2) Accordingly, the person may be proceeded against in Jersey in respect of the sexual offence.

## **PART 5**

### **APPEALS**

#### **18 Appeals – general provisions**

- (1) An appeal under this Part shall be by way of a review.
- (2) On an appeal under this Part, the Royal Court or the Court of Appeal, as the case may be –
  - (a) may make any order it considers necessary to give effect to its determination of the appeal; and
  - (b) may also make any incidental or consequential order as appears to it to be just.
- (3) An appeal under Article 19, 20, 21, 22, 24, 25 or 26 shall be taken to be an appeal in criminal proceedings while an appeal under Article 23 shall be taken to be an appeal in civil proceedings.

#### **19 Appeals – certifications by court**

- (1) This Article applies where a court has certified or has refused to certify –
  - (a) under Article 3(4), 10(2), 14(1) or 16(1), that an offence was sexually aggravated; or
  - (b) under Article 10(3), that an offence involved the use or the threat of the use of violence against a person or property.
- (2) Where a court has certified the offence, the offender may appeal against the certification –
  - (a) if the certification was by the Magistrate’s Court, to the Royal Court; or
  - (b) if the certification was by the Royal Court, to the Court of Appeal.
- (3) Where a court has refused to certify the offence, the Attorney General may appeal against the refusal –
  - (a) if the refusal was by the Magistrate’s Court, to the Royal Court; or
  - (b) if the refusal was by the Royal Court, to the Court of Appeal.
- (4) The Attorney General or the offender may appeal to the Court of Appeal against a decision of the Royal Court made on an appeal to it under paragraph (2)(a) or (3)(a).



**20 Appeals – length of notification period**

- (1) This Article applies where a court specifies, under Article 5(1), (2), (3) or (7), a period that must expire before a person (“the notifier”) may make an application under Article 5(5).
- (2) The Attorney General or the notifier may appeal against the length of that period –
  - (a) if the period was specified by the Magistrate’s Court, to the Royal Court; or
  - (b) if the period was specified by the Royal Court, to the Court of Appeal.
- (3) The Attorney General or the notifier may appeal to the Court of Appeal against a decision of the Royal Court made on an appeal to it under paragraph (2)(a).

**21 Appeals – orders**

- (1) This Article applies where a court decides to make or not to make an order –
  - (a) under Article 5(5) (that a person should no longer be subject to the notification requirements of this Law); or
  - (b) under Article 13(2) (that a person be made subject to the notification requirements of this Law in respect of an offence committed before the commencement of the Article).
- (2) The Attorney General or the person may appeal against the decision –
  - (a) if the decision was made by the Magistrate’s Court, to the Royal Court; or
  - (b) if the decision was made by the Royal Court, to the Court of Appeal.
- (3) The Attorney General or the person may appeal to the Court of Appeal against a decision of the Royal Court made on an appeal to it under paragraph (2)(a).

**22 Appeals – restraining orders**

- (1) This Article applies where a court –
  - (a) has made an order in respect of a person under Article 10(4), 10(5) or 10(11); or
  - (b) has refused to make such an order.
- (2) Where such an order has been made in respect of a person, the person may appeal, if the order was made by the Magistrate’s Court, to the Royal Court or, if it was made by the Royal Court, to the Court of Appeal against –
  - (a) the making of the order;
  - (b) the terms of the order; or

- (c) in respect of an order under Article 10(11), a refusal to make the order.
- (3) The Attorney General may appeal to the Royal Court against –
  - (a) a decision of the Magistrate’s Court to refuse to make the order; or
  - (b) where an order has been made by the Magistrate’s Court, the terms of the order.
- (4) The Attorney General may appeal to the Court of Appeal against –
  - (a) a decision of the Royal Court to refuse to make the order; or
  - (b) where an order has been made by the Royal Court, the terms of the order.
- (5) The Attorney General or the person may appeal to the Court of Appeal against a decision of the Royal Court given on an appeal to it made under paragraph (2) or (3).

### **23 Appeals – child protection orders**

- (1) This Article applies where the Royal Court –
  - (a) has made an order in respect of a person under Article 11(4), 11(8), 11(10) or 11(13); or
  - (b) has refused to make such an order.
- (2) Where such an order has been made in respect of a person, the person may appeal to the Court of Appeal against –
  - (a) the making of the order; or
  - (b) the terms of the order including the period specified in the order.
- (3) The Attorney General may appeal to the Court of Appeal against –
  - (a) a decision of the Royal Court to refuse to make the order; or
  - (b) where an order has been made, the terms of the order including the period specified in the order.

### **24 Appeals – travel orders**

- (1) This Article applies where the Royal Court –
  - (a) has made an order in respect of a person under Article 12(2) or 12(7); or
  - (b) has refused to make such an order.
- (2) Where such an order has been made in respect of a person, the person may appeal to the Court of Appeal against –
  - (a) the making of the order; or
  - (b) the terms of the order including the period specified in the order.
- (3) The Attorney General may appeal to the Court of Appeal against –
  - (a) a decision of the Royal Court to refuse to make the order; or
  - (b) where an order has been made, the terms of the order including the period specified in the order.

**25 Appeals – convictions before commencement of Article 13**

- (1) This Article applies where the Royal Court –
  - (a) has made an order in respect of a person under Article 13(2); or
  - (b) has refused to make such an order.
- (2) Where such an order has been made in respect of a person, the person may appeal to the Court of Appeal against the making of the order.
- (3) The Attorney General may appeal to the Court of Appeal against a decision of the Royal Court to refuse to make the order.

**26 Appeals – convictions outside Jersey**

- (1) This Article applies where the Royal Court –
  - (a) has made an order in respect of a person under Article 15(2) or 15(3); or
  - (b) has refused to make such an order.
- (2) Where such an order has been made against a person, the person may appeal to the Court of Appeal against the making of the order.
- (3) The Attorney General may appeal to the Court of Appeal against a decision of the Royal Court to refuse to make the order.

**PART 6****ROLE OF CHIEF POLICE OFFICER****27 Supply of information by Chief Police Officer**

- (1) This Article applies to information –
  - (a) notified to the police under Articles 6 and 8; or
  - (b) gained in respect of a person by virtue of Article 7.
- (2) The Chief Police Officer may supply information to which this Article applies to a person in Jersey or elsewhere who in the opinion of the Chief Officer needs the information to prevent, detect, investigate or prosecute an offence.
- (3) Except as provided by paragraph (4), the supply of information under this Article is to be taken not to breach any restriction on the disclosure of information (however arising or imposed).
- (4) This Article does not authorize the doing of anything that contravenes the Data Protection (Jersey) Law 2005.
- (5) This Article does not affect a power to supply information that exists apart from this Article.

## 28 Management arrangements to be established in respect of persons who pose a risk of sexual harm

(1) In this Article –

“appointed officer” means a police officer appointed by the Chief Police Officer for the purposes of this Article;

“Chief Officers” means the Chief Officers of the administrations of the States for which the Ministers have responsibility and includes officers appointed by the Chief Officers to act on their behalf under this Article;

“general agreement” means the general agreement entered into under paragraph (2), as for the time being in force;

“interested parties” means relevant parties both within and outwith the States, including, in particular –

- (a) the Connétables;
- (b) the Comité des Chefs de Police;
- (c) organizations that provide rented housing accommodation;
- (d) organizations that provide accommodation for the homeless;
- (e) organizations that provide support for children in need or at risk;
- (f) organizations that provide support for victims of sexual violence;
- (g) organizations that provide support for victims of domestic violence;

“Ministers” means –

- (a) the Minister for Home Affairs;
- (b) the Minister for Housing;
- (c) the Minister for Health and Social Services;
- (d) the Minister for Education, Sport and Culture; and
- (e) the Minister for Economic Development;

“office holders” means –

- (a) the most senior délégué appointed under the Loi (1937) sur l’atténuation des peines et sur la mise en liberté surveillée<sup>12</sup>;
- (b) the Governor of the prison for the purposes of the Prison (Jersey) Law 1957<sup>13</sup>;
- (c) the Agent of the Impôts appointed under the Customs and Excise (Jersey) Law 1999;

“person who poses a risk of sexual harm” means –

- (a) a person who, before or after the commencement of this Article, has been convicted of a relevant offence;
- (b) a person who, before or after the commencement of this Article has been convicted, outside Jersey, of an offence that would, if the offence had been committed in Jersey, have constituted a sexual offence to which this Law applies;
- (c) a person who, before or after the commencement of this Article, has been convicted of an offence that the court has certified, under Article 3(4), 14(1) or 16(1) was sexually aggravated;

- 
- (d) a person in respect of whom a restraining order under Article 10 is or has been in force;
  - (e) a person in respect of whom a child protection order under Article 11 is or has been in force.
- (2) The Ministers and the Chief Police Officer must liaise and, within 6 months of the commencement of this Article, enter into an agreement that sets out the general arrangements that they have agreed they must put into effect to provide for the assessment and management of persons who pose a risk of sexual harm.
  - (3) Thereafter, the Ministers and the Chief Police Officer must keep under review the implementation and application of the arrangements set out in the general agreement and amend that agreement as necessary or expedient.
  - (4) The Minister for Home Affairs must lay before the States, as soon as practicable after they are made, the general agreement and any agreement amending that agreement.
  - (5) The appointed officer, on behalf of the Chief Police Officer, and the Chief Officers must implement the general agreement –
    - (a) by establishing reasonable arrangements to assess and manage each person who poses a risk of sexual harm;
    - (b) by ensuring the fullest possible implementation and application of each such arrangements; and
    - (c) by keeping each such arrangement under review and updated as necessary or expedient.
  - (6) In doing so, the appointed officer and the Chief Officers –
    - (a) must act in co-operation with the office holders; and
    - (b) may seek the help and advice of interested parties.
  - (7) It is the duty of office holders to co-operate in the establishment and implementation of the arrangements established under paragraph (5)(a) to the extent that such co-operation and implementation is compatible with the exercise by the office holders of their functions under other enactments.
  - (8) Co-operation under paragraph (6)(a) may include the exchange of information.
  - (9) Nothing in paragraph (6) is to be taken as prohibiting the appointed officer and the Chief Officers from seeking the view of the public or any particular person or persons.
  - (10) It is the duty of the appointed officer to monitor the implementation of the arrangements established under paragraph (5)(a) and to report his or her findings to the Chief Police Officer.
  - (11) The Chief Police Officer must, before the end of March in each year, present to the Minister a report setting out, in general, non-specific terms, the actions that have been taken in carrying out the functions mentioned in paragraph (5).
  - (12) The Minister must, as soon as practical, lay the report before the States.

- (13) The report must contain, in particular –
  - (a) details of the extent to which each of the Ministers has implemented or provided for the implementation of the general agreement;
  - (b) a summary of the arrangements that the appointed officer and the Chief Officers have established under paragraph (5);
  - (c) details of the extent to which those arrangements have been implemented.
- (14) The report must also contain such other information as the Minister may specify.

## **PART 7**

### **MISCELLANEOUS PROVISIONS**

#### **29 Rules of Court**

- (1) The Superior Number of the Royal Court, with the advice and assistance of the Rules Committee, may make Rules of Court necessary or convenient to give effect to this Law.
- (2) The power to make Rules of Court under –
  - (a) Article 29 of the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949<sup>14</sup>;
  - (b) Article 13 of the Royal Court (Jersey) Law 1948<sup>15</sup>;
  - (c) Article 67 of the Children (Jersey) Law 2002<sup>16</sup>; and
  - (d) Articles 19 and 40 of the Court of Appeal (Jersey) Law 1961<sup>17</sup>,shall, in each case, be taken to include the power to make Rules of Court necessary or convenient to give effect to this Law.
- (3) Rules of Court, whether made under paragraph (1) or by virtue of paragraph (2) may, in particular, make provision –
  - (a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);
  - (b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;
  - (c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;
  - (d) with respect to preliminary hearings;
  - (e) for the service outside Jersey in such circumstances and in such manner as may be prescribed, of any notice of proceedings in the court;
  - (f) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings; and

- (g) authorizing the Judicial Greffier to discharge the functions of the court with respect to such relevant proceedings as may be prescribed.
- (4) Rules of Court, whether made under paragraph (1) or by virtue of paragraph (2), may provide that –
- (a) a person making an application to a court or an appeal under this Law must serve prescribed documents on the Attorney General;
- (b) a court may sit in private in proceedings in which any powers under this Law may be exercised by the court with respect to any child.
- (5) A person who publishes material that is intended, or likely, to identify –
- (a) a child as being concerned in proceedings before a court either as being a child against or in respect of whom the proceedings are taken or as being a witness in those proceedings; or
- (b) an address or school as being that of a child involved in any such proceedings,

except in so far (if at all) as the court hearing those proceedings, having regard to the interest of justice and the welfare of the child concerned, directs, is guilty of an offence and is liable to a fine of level 3 on the standard scale.

- (6) In proceedings for an offence under paragraph (5), it is a defence for the accused to prove that he or she did not know, and had no reason to suspect, that the published material was likely to identify the child.
- (7) In this Article –

“given” in relation to a summons, means “served”;

“notice of proceedings” means a summons or such other notice of proceedings as is required;

“relevant proceedings” means an application made, or proceedings brought, under a provision mentioned in paragraph (3) and a part of such proceedings;

“programme service” has the same meaning as in section 201 of the Broadcasting Act 1990 (as extended to Jersey by the Broadcasting Act 1990 (Jersey) (No. 2) Order 1991<sup>18</sup>);

“prescribed”, in respect of any Rules of Court, means prescribed by those Rules of Court;

“publish” includes –

- (a) include within a programme service; or
- (b) cause to be published;

“material” includes any picture or representation.

### **30 Convictions outside Jersey**

- (1) Except as provided by paragraph (2), a requirement or condition of this Law –

- (a) that a person has been convicted of an offence outside Jersey; or
- (b) that a person has been convicted outside Jersey of an offence which, if committed in Jersey, would have been a sexual offence to which this Law applies,

is to be taken to be met unless, not later than Rules of Court may provide, the defendant serves on the Attorney General a notice –

- (c) stating that, on the facts as alleged with respect to the act in question, the requirement or condition is not in the person's opinion met;
  - (d) showing the person's grounds for that opinion; and
  - (e) requiring the Attorney General to prove that it is met.
- (2) A court, if it thinks fit, may permit the person to require the Attorney General to prove that the requirement is met without service of a notice under paragraph (1).

### **31 Amendment of Police Procedures and Criminal Evidence (Jersey) Law 2003**

Schedule 1 to the Police Procedures and Criminal Evidence (Jersey) Law 2003<sup>19</sup> is amended by adding, at the end of Part 2, the item –

- “16. Articles 7(10), 8(5), 9(7), 10(14), 11(14) and 12(9) of the Sex Offenders (Jersey) Law 200-.”.

## **PART 8**

### **CITATION AND COMMENCEMENT**

#### **32 Citation and commencement**

- (1) This Law may be cited as the Sex Offenders (Jersey) Law 200-.
- (2) It shall come into force on such day or days as the States may by Act appoint and different days may be appointed for different purposes and different provisions.



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- 1 *chapter 16.325*
  - 2 *chapter 08.380*
  - 3 *chapter 08.860*
  - 4 *chapter 08.540*
  - 5 *chapter 20.650*
  - 6 *chapter 08.790*
  - 7 *chapter 24.660*
  - 8 *chapter 24.660.35*
  - 9 *chapter 15.240*
  - 10 *chapter 23.750*
  - 11 *chapter 16.325*
  - 12 *chapter 08.020*
  - 13 *chapter 23.775*
  - 14 *chapter 07.595*
  - 15 *chapter 07.770*
  - 16 *chapter 12.200*
  - 17 *chapter 07.245*
  - 18 *chapter 06.036*
  - 19 *chapter 23.750*