

# **STATES OF JERSEY**

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## **DRAFT CRIMINAL OFFENCES (JERSEY) LAW 200**

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**Lodged au Greffe on 16th January 2007  
by the Chief Minister**

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**STATES GREFFE**





Jersey

## **DRAFT CRIMINAL OFFENCES (JERSEY) LAW 200**

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

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

In the view of the Chief Minister the provisions of the Draft Criminal Offences (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator F.H. Walker**

## REPORT

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This *projet de loi* is of a rather technical nature. It is primarily concerned with what are known as accomplice and inchoate offences. The accomplice offences are aiding and abetting, and counselling and procuring, the commission of a criminal offence. The inchoate offences are conspiracy, attempt and incitement to commit a criminal offence.

It has been standard law drafting practice for some years, in any enactment that creates criminal offences, to provide that a person who aids, abets, counsels or procures the commission of an offence under the enactment shall be guilty of an offence and liable in the same manner as the principal offender to the penalty provided for that offence. This provision is repeated every time an enactment is passed that creates new criminal offences.

Article 1(1)(a) of the draft Law would provide that a person who aids, abets, counsels or procures the commission of *any* statutory offence is guilty of an offence and liable to the same penalty as a person would be for that statutory offence. This would avoid for the future having to spell out in every new Law or Regulations that a person who aids, abets, counsels or procures the commission of an offence under the relevant Law or Regulations is guilty of an offence.

Article 1(1)(b) of the draft Law would provide that a person who conspires, attempts or incites another to commit a statutory offence is guilty of an offence and liable to the same penalty as a person would be for the statutory offence. This again would make it clear that any conspiracy, attempt or incitement to commit a statutory offence was itself triable as a statutory offence, and so obviate the need to repeat the provision in every new enactment that created a criminal offence.

Article 1(2) of the draft Law would make it clear that the mode of trial in respect of any such accomplice or inchoate offence was the same as for the statutory offence to which it related.

At the moment, inchoate and accomplice offences may be charged as offences at customary law even though the principal offences to which they relate may be statutory offences. Article 1(3) of the draft Law would therefore provide that nothing in Article 1 would affect proceedings for such an alleged offence at customary law arising out of an act done by a person before the commencement of the Law. However, Article 1(4) would require such an accomplice or inchoate offence to be tried in the same way as the statutory offence to which it related would be tried.

The remaining provisions of the *projet de loi* are concerned with offences that are committed by bodies corporate and limited liability partnerships.

Again, for some years, it has been standard law drafting practice in each enactment that creates criminal offences to provide that, if an offence committed by a body corporate or by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of –

- (a) a person who is a director, manager, secretary or other similar officer of the body corporate or a partner of the partnership; or
- (b) a person purporting to act in any such capacity,

that person shall also be guilty of the offence and liable in the same manner as the body corporate or the partnership to the penalty provided for the offence.

In order to avoid this standard provision having to be repeated in every new Law or set of Regulations that contains penal provisions, Article 2 of the draft Law would turn that provision into one of general application to any statutory offence committed by a body corporate or by a limited liability partnership.

The draft Law has no financial or manpower implications.

### **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 12th January 2007 the Chief Minister made the following statement before Second Reading of this *Projet* in the States Assembly –

In the view of the Chief Minister the provisions of the Draft Criminal Offences (Jersey) Law 200- are compatible

with the Convention Rights.

## Explanatory Note

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This Law will codify and reform the law on the liability and method of trial of –

- (a) persons who aid, abet, counsel or procure the commission of statutory offences or who conspire, attempt or incite the commission of statutory offences; and
- (b) persons who are responsible for the commission of statutory offences by bodies corporate and limited liability partnerships.

*Article 1* makes a person who aids, abets, counsels, or procures the commission of a statutory offence or who conspires, attempts or incites another to commit a statutory offence guilty of an offence. The Article then provides that the offence shall be triable and punishable in the same way as the statutory offence.

At the moment the customary law on aiding and abetting, etc. possibly only applies to customary law offences so a special provision to cover the point is normally put into each Law that creates an offence (i.e. a statutory offence).

*Article 2* makes a person who is responsible for the commission of a statutory offence by a body corporate or a limited liability partnership a party to that offence.

At the moment this provision is normally put into each Law that creates an offence that is capable of being committed by a body corporate or a limited liability partnership.

*Article 3* provides the citation of the Law and also provides that it will come into force 7 days after its registration in the Royal Court.





Jersey

## **DRAFT CRIMINAL OFFENCES (JERSEY) LAW 200**

**A LAW** to codify and reform the law relating to statutory offences.

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*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

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

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### **1 Offence to aid, abet, conspire, counsel, procure, conspire, attempt or incite the commission of a statutory offence**

- (1) A person who –
  - (a) aids, abets, counsels or procures the commission of a statutory offence; or
  - (b) conspires, attempts or incites another to commit a statutory offence,is guilty of an offence and is liable to the same penalty as a person would be for the statutory offence.
- (2) A person alleged to have committed a statutory offence by virtue of paragraph (1) shall be triable in the same manner as a person would be tried for the statutory offence.
- (3) This Article does not affect proceedings for an alleged offence at customary law –
  - (a) of aiding, abetting, counselling or procuring the commission of a statutory offence; or
  - (b) of conspiring, attempting or inciting another to commit a statutory offence,arising out of an act done by a person before the commencement of this Law.
- (4) However, the person is triable in the same manner as a person would be tried for the statutory offence.

### **2 Statutory offences by bodies corporate and limited liability partnerships**

- (1) This Article applies if a statutory offence committed by a body corporate or by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of –
  - (a) a person who is a director, manager, secretary or other similar officer of the body corporate, or a partner of the partnership; or
  - (b) a person purporting to act in any such capacity.
- (2) The person –
  - (a) is also be guilty of the offence; and



- (b) is liable in the same manner as the body corporate or the partnership to the penalty provided for the offence.
- (3) If the affairs of a body corporate are managed by its members, this Article applies in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

### **3 Citation and commencement**

- (1) This Law may be cited as the Criminal Offences (Jersey) Law 200.
- (2) It shall come into force on the seventh day following its registration.

