



Jersey

# **CRIME (DISORDERLY CONDUCT AND HARASSMENT) (JERSEY) LAW 2008**

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## CRIME (DISORDERLY CONDUCT AND HARASSMENT) (JERSEY) LAW 2008

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## CRIME (DISORDERLY CONDUCT AND HARASSMENT) (JERSEY) LAW 2008

A LAW to create an offence of threatening, abusive, or disorderly conduct and an offence of harassment, to enable restraining orders to be imposed in respect of persons convicted of harassment, and for related purposes.

Commencement [[see endnotes](#)]

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### 1 Interpretation

In this Law, unless the contrary intention appears –

“dwelling” means any structure or part of a structure occupied as part of a person’s home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and for this purpose “structure” includes a tent, caravan, vehicle, vessel or other temporary or movable structure;

“intoxication” means any intoxication, whether caused by drink, drugs or other means, or by a combination of means;

“motor vehicle” means a motor vehicle within the meaning of the [Motor Vehicle Registration \(Jersey\) Law 1993](#).

### 2 Threatening, abusive or disorderly conduct

(1) A person commits an offence if he or she –

- (a) uses words that are threatening or abusive;
- (b) behaves in a threatening or abusive way; or
- (c) engages in disorderly behaviour,

within the hearing or sight of another person likely to be caused alarm or distress by the words or behaviour.

(2) An offence under paragraph (1) may be committed in a public or a private place (including a dwelling), except that no offence is committed if the

words, or behaviour, are used by a person inside a dwelling and the other person is also inside that dwelling.

- (3) A person commits an offence under paragraph (1) only if –
  - (a) in a case referred to in paragraph (1)(a) or (b), he or she intends his or her words, or behaviour, to be threatening or abusive, or is aware that the words, or the behaviour, may be threatening or abusive; or
  - (b) in a case referred to in paragraph (1)(c), he or she intends his or her behaviour to be, or is aware that it may be, disorderly.
- (4) For the purposes of this Article a person whose awareness is impaired by intoxication shall be taken to be aware of that of which he or she would be aware if not intoxicated, unless he or she shows either that his or her intoxication was not self-induced or that it was caused solely by the taking or administration of a substance in the course of medical treatment.
- (5) It is a defence for the accused to prove that –
  - (a) he or she had no reason to believe that there was any person within hearing or sight who was likely to be caused alarm or distress;
  - (b) he or she was inside a dwelling and had no reason to believe that the words or behaviour used would be heard or seen by a person outside that dwelling; or
  - (c) his or her conduct was reasonable.
- (6) A person who commits an offence under paragraph (1) shall be liable to imprisonment for a term of 3 months and a fine of level 3 on the standard scale.

### **3 Harassment**

- (1) A person commits an offence if he or she pursues a course of conduct –
  - (a) that amounts to harassment of another person; and
  - (b) that he or she knows, or ought to know, amounts to harassment of another person.
- (2) For the purposes of this Article, a person ought to know that his or her course of conduct amounts to harassment of another person if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other person.
- (3) A person who commits an offence under paragraph (1) shall be liable to imprisonment for a term of 2 years and to a fine.<sup>1</sup>
- (4) In this Article, to harass a person includes to alarm the person or to cause the person distress.
- (5) In this Article and Article 4, a course of conduct –
  - (a) includes speech;
  - (b) includes conduct of a kind that occurs on one occasion and conduct of a different kind that occurs on another occasion; and

- (c) does not include conduct that occurs on only one occasion.

#### **4 Defence to charge of harassment**

It is a defence for a person who is accused of an offence under Article 3(1) in relation to a course of conduct pursued by the person if the person proves that –

- (a) the course of conduct was pursued for the purpose of preventing or detecting an offence;
- (b) the course of conduct was pursued under an enactment or customary law or so as to comply with a condition or requirement imposed by a person under an enactment or customary law; or
- (c) in the particular circumstances the pursuit of the course of conduct was reasonable.

#### **5 Restraining orders<sup>2</sup>**

- (1) If a court convicts a person of an offence, a person presenting or prosecuting the case against the convicted person may apply to the court to make a restraining order against the convicted person.<sup>3</sup>
- (2) A court to which an application is made under paragraph (1) may, in addition to any other order or penalty that the court may make or impose, make a restraining order against the person to whom the application relates if the court is satisfied on the balance of probabilities that it is appropriate to do so for the purpose of protecting the victim of the offence, or any other person named in the order, from conduct by the person against whom the order is made, which would, if carried out –
  - (a) amount to harassment of the victim or other person named in the order; or
  - (b) be likely to cause the victim or such other person to be in fear of violence against them.<sup>4</sup>
- (3) A restraining order shall prohibit the person against whom it is made from engaging in conduct of the kind specified in the order.
- (4) A restraining order made against a person may prohibit the driving of a motor vehicle by the person or the driving of a motor vehicle by the person other than in circumstances specified in the order, if a motor vehicle was used by the person in committing an offence under Article 3(1).
- (5) A restraining order shall specify the period for which it is to remain in force (which period may be specified to be of an indeterminate period).

#### **6 Breach of order**

- (1) A person against whom an order is made under Article 5 who breaches the order commits an offence.
- (2) A person who commits an offence under paragraph (1) shall be liable to imprisonment for a term of 2 years and to a fine.<sup>5</sup>

**7 Amendment or revocation of restraining order**

- (1) An order under Article 5 may be amended or revoked by the court which made the order, on the application of –
  - (a) the Attorney General; or
  - (b) the person against whom the order was made.<sup>6</sup>
- (2) The court to which an application is made under paragraph (1) may amend or revoke the order if (and to the extent that) the court is satisfied that it is appropriate to do so.<sup>7</sup>

**8 Parties to offences**

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

**9 Citation**

This Law may be cited as the Crime (Disorderly Conduct and Harassment) (Jersey) Law 2008.



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Crime (Disorderly Conduct and Harassment) (Jersey) Law 2008	<a href="#">L.41/2008</a>	21 November 2008
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )
Telecommunications (Amendment No. 3) and Crime (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.24/2016</a>	28 October 2016

### Table of Endnote References

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<sup>1</sup> Article 3(3)	<i>substituted by L.24/2016</i>
<sup>2</sup> Article 5	<i>heading amended by L.24/2016</i>
<sup>3</sup> Article 5(1)	<i>amended by L.24/2016</i>
<sup>4</sup> Article 5(2)	<i>amended by L.24/2016</i>
<sup>5</sup> Article 6(2)	<i>substituted by L.24/2016</i>
<sup>6</sup> Article 7(1)	<i>substituted by L.24/2016</i>
<sup>7</sup> Article 7(2)	<i>substituted by L.24/2016</i>