



Jersey

PRISON (AMENDMENT No. 7) (JERSEY) LAW 2016**Arrangement****Article**

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PRISON (AMENDMENT No. 7) (JERSEY) LAW 2016

A LAW to amend further the Prison (Jersey) Law 1957.

Adopted by the States

11th October 2016

Sanctioned by Order of Her Majesty in Council

14th December 2016

Registered by the Royal Court

23rd December 2016

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

1 Interpretation

In this Law, “principal Law” means the Prison (Jersey) Law 1957¹.

2 Article 1 amended

(1) In Article 1 of the principal Law –

(a) in paragraph (1) –

(i) immediately before the definition “attendance centre” there is inserted the following definition –

“ ‘ammunition’ has the meaning given in Article 1(1) of the Firearms (Jersey) Law 2000²;”

(ii) after the definition “attendance centre order” there are inserted the following definitions –

“ ‘authorization’ means written authorization;

‘biometric information’ means data about an individual’s external characteristics, including, in particular, the features of an iris or of any other part of the eye;

‘controlled drug’ has the meaning given in Article 3 of the Misuse of Drugs (Jersey) Law 1978³;

‘cooperation scheme’ means a scheme for ensuring that assistance may be provided between the Minister and an overseas prison authority, to enable the Minister and the overseas prison authority to perform their functions;

‘convey’ includes bring and throw;

‘electronic communication’ has the meaning given in Article 1(1) of the Electronic Communications (Jersey) Law 2000⁴;

‘explosive’ has the meaning given to ‘explosives’ in Article 1(1) of the Explosives (Jersey) Law 1970⁵;

‘fingerprints’ has the meaning given in Article 1(1) of the Police Procedures and Criminal Evidence (Jersey) Law 2003⁶;

‘firearm’ has the meaning given in Article 1(1) of the Firearms (Jersey) Law 2000⁷;”,

(iii) after the definition “Governor” there are inserted the following definitions –

“ ‘Independent Prison Monitoring Board’ means the Independent Prison Monitoring Board established in Regulations made under Article 6;

‘intimate sample’ has the meaning given in Article 1(1) of the Police Procedures and Criminal Evidence (Jersey) Law 2003⁸;

‘intoxicating liquor’ has the meaning given in Article 1(1) of the Licensing (Jersey) Law 1974⁹;

‘medical officer’ means the officer appointed under Article 7(1);”,

(iv) after the definition “Minister” there are inserted the following definitions –

“ ‘offensive weapon’ has the meaning given in Article 1(1) of the Police Procedures and Criminal Evidence (Jersey) Law 2003¹⁰;

‘overseas prison authority’ means an authority (by whatever name it is called) that performs in a place outside Jersey any functions that are equivalent to or of the same kind as those of the Minister under this Law;

‘personal communication device’ means –

- (a) a mobile telephone;
- (b) any other device that is capable of transmitting or receiving an electronic communication;
- (c) a component part of a device described in paragraph (a) or (b); or
- (d) an item designed or adapted for use with a device described in paragraph (a) or (b),

and it is irrelevant whether or not a personal communication device forms part of another device of any kind;

‘photograph’ means a recording on any medium on which an image (including a moving image) is produced or from which such an image may by any means be produced;”,

(v) after the definition “prison officer” there are inserted the following definitions –

“ ‘recording device’ means –

- (a) a camera;
- (b) any other device that is capable of recording a sound, a still image or a moving image (in combination or otherwise);
- (c) a component part of a device described in paragraph (a) or (b); or
- (d) an item designed or adapted for use with a device described in paragraph (a) or (b),

and it is irrelevant whether or not a recording device forms part of another device of any kind;

‘sound-recording’ means a recording of sounds on any medium from which the sounds may by any means be reproduced;”;

- (b) after paragraph (4) there is added the following paragraph –
- “(5) The States may by Regulations amend paragraph (1).”.

3 Article 3A inserted

After Article 3 of the principal Law there is inserted the following Article –

“3A Cooperation schemes with overseas prison authorities

- (1) The Minister may enter into a cooperation scheme with an overseas prison authority.
- (2) A cooperation scheme may include provision –
 - (a) for the overseas prison authority, at the request of the Minister, to place its officers or employees at the Minister’s disposal for the purpose of enabling the Minister to meet any special demand on his or her resources in relation to this Law;
 - (b) for the Minister, at the request of the overseas prison authority, to place prison officers or employees at the overseas prison authority’s disposal for the purpose of enabling that authority to meet any special demand on its resources; and
 - (c) for apportioning between the Minister and the overseas prison authority any expenses incurred in taking measures to secure the operation of the scheme.
- (3) Paragraph (4) applies to a person who is an officer or employee of an overseas prison authority, while serving a period of duty in Jersey under a provision of a cooperation scheme made under paragraph (2)(a).

- (4) The person is to be treated for the purposes of any enactment (including the provisions of this Law other than this Article) as a prison officer or employee under this Law, and accordingly –
 - (a) is subject to the authority and under the control of the Governor; and
 - (b) if an officer of the overseas prison authority, has the duties and powers of a prison officer under this Law.
- (5) In this Article a reference to an officer or employee of an overseas prison authority means a person (by whatever name that person’s post is called) who carries out functions for the overseas prison authority that are equivalent to those of a prison officer or employee, as the case may be, under this Law.”.

4 Article 5 amended

In Article 5(2) of the principal Law, for the words “Board of Visitors” there are substituted the words “Independent Prison Monitoring Board”.

5 Article 6 amended

For Article 6 of the principal Law there is substituted the following Article –

“6 Independent Prison Monitoring Board

- (1) The States shall make Regulations providing for the establishment of an Independent Prison Monitoring Board, which shall consist of such persons appointed at such times, in such manner and for such terms as may be specified in the Regulations.
- (2) Regulations made under paragraph (1) shall specify the functions of the Independent Prison Monitoring Board and include provision for –
 - (a) visits to the prison by members of the Board;
 - (b) inspection of any part of the prison, including any cell, by members of the Board;
 - (c) the reporting to the Minister of any matter which he or she considers it expedient to report.
- (3) All members of the Independent Prison Monitoring Board –
 - (a) shall have free access at all times to all parts of the prison and to all prisoners; and
 - (b) may see such prisoners as they desire, either in their cells or in a room out of sight and hearing of officers.
- (4) Despite the coming into force of Article 5 of the Prison (Amendment No. 7) (Jersey) Law 2016¹¹ –
 - (a) the Prison (Board of Visitors) (Jersey) Regulations 1957¹² (“1957 Regulations”) shall remain in force until they are revoked by Regulations made by the States under paragraph (1); and

- (b) the members of the Board of Visitors may continue to visit at any time the prison or any part thereof, and any prisoner, until the 1957 Regulations are revoked.”.

6 Article 7 amended

For Article 7 of the principal Law there is substituted the following Article –

“7 Medical officer and chaplain

- (1) The Minister shall appoint a medical officer of the prison who shall be a doctor.
- (2) Subject to paragraph (3), the Minister shall appoint a chaplain who is a clergyman of the Church of England.
- (3) The Minister may appoint a chaplain who is a clergyman of a religious denomination other than the Church of England –
 - (a) where the number of prisoners who belong to a religious denomination other than the Church of England is such as in the opinion of the Minister to require the appointment of a chaplain of that denomination; or
 - (b) where, despite advertising for the position of chaplain in such manner as the Minister considers appropriate, the Minister is unable to fill the vacancy with a clergyman of the Church of England.
- (4) The States may by Regulations amend this Article.”.

7 Article 8 amended

In Article 8, after paragraph (3), there shall be inserted the following paragraph –

- “(4) The States may by Regulations amend this Regulation.”.

8 Article 13A amended

Article 13A(4) of the principal Law is deleted.

9 Article 13B amended

Article 13B(4) of the principal Law is deleted.

10 Article 20 repealed

Article 20 of the principal Law is repealed.

11 Article 21 amended

In Article 21 of the principal Law –

- (a) for the words “without force” there are substituted the words “whether with or without the use of force”;
- (b) for the words “to a fine, or to imprisonment for a term not exceeding 2 years, or both” there are substituted the words “to imprisonment for a term of 10 years and to a fine”.

12 Article 22 substituted

For Article 22 of the principal Law there is substituted the following Article –

“Assisting prisoner to escape

Any person who aids any person in escaping or attempting to escape from the prison or other lawful custody or who, with intent to facilitate the escape of any such person, conveys any thing into the prison or places any thing anywhere outside the prison with a view to its coming into the possession of any such person, shall be guilty of any offence and liable imprisonment for a term of 10 years and to a fine.”.

13 Article 23 amended

In Article 23(1) of the principal Law, for the words “to a fine, or to imprisonment for a term not exceeding 2 years, or both” there are substituted the words “to imprisonment for a term of 10 years and to a fine”.

14 Articles 24 and 25 substituted

For Articles 24 and 25 of the principal Law there are substituted the following Articles –

“24 Conveyance of Grade 1 item into or out of prison

- (1) A Grade 1 item is any of the following –
 - (a) a controlled drug;
 - (b) an article made or adapted for use in the ingestion of a controlled drug;
 - (c) an explosive;
 - (d) a firearm or ammunition;
 - (e) any other offensive weapon.
- (2) A person is guilty of an offence if he or she –
 - (a) conveys a Grade 1 item into or out of the prison;
 - (b) causes another person to convey a Grade 1 item into or out of the prison;

(c) leaves a Grade 1 item in any place (whether inside or outside the prison) intending it to come into the possession of a prisoner; or

(d) knowing a person to be a prisoner, gives a Grade 1 item to that person,

except where he or she is authorized to do so under paragraph (3) or (4).

(3) The Governor may authorize –

(a) the medical officer;

(b) a doctor;

(c) a pharmacist;

(d) a police officer; or

(e) a person in the employment of the prison,

to convey a Grade 1 item described in paragraph (1)(a) or (1)(b) into or out of the prison for a purpose (including for the purpose of leaving it in a place in the prison intending it to come into the possession of a prisoner or for the purpose of giving it to a prisoner), subject to any condition that may be specified in the authorization.

(4) The Chief Officer or the Deputy Chief Officer of the States of Jersey Police Force may authorize a person to convey a Grade 1 item described in paragraph (1)(c), (1)(d) or (1)(e) into or out of the prison for a purpose, subject to any condition that may be specified in the authorization.

(5) A person who is authorized under paragraph (3) or (4) to convey a Grade 1 item into or out of the prison shall be guilty of an offence if he or she so conveys it for a purpose other than for the purpose authorized or fails to comply with a condition subject to which the authorization is given.

(6) A person who is guilty of an offence under paragraph (2) or (5) shall be liable to imprisonment for a term of 10 years and to a fine.

(7) The States may by Regulations –

(a) amend the definition “Grade 1 item” in paragraph (1) to include other items;

(b) amend this Article to make provision for authorization to be given by the Governor or the Chief Officer or Deputy Chief Officer of the States of Jersey Police Force to a person or a class of person for a Grade 1 item (other than an item for which authorization is permitted under paragraph (3) or (4)) to be conveyed into or out of the prison for a purpose, and subject to any condition specified in the authorization.

25 Conveyance of Grade 2 item into or out of prison

(1) A Grade 2 item is any of the following –

- (a) intoxicating liquor;
- (b) a personal communication device;
- (c) a recording device.

- (2) A person is guilty of an offence if he or she –
 - (a) conveys a Grade 2 item into or out of the prison;
 - (b) causes another person to convey a Grade 2 item into or out of the prison;
 - (c) leaves a Grade 2 item in any place (whether inside or outside the prison) intending it to come into the possession of a prisoner; or
 - (d) knowing a person to be a prisoner, gives a Grade 2 item to that person,

except where he or she is authorized to do so under paragraph (3).

- (3) The Governor may authorize any person to convey a Grade 2 item into or out of the prison for a purpose (including for the purpose of leaving it in a place in the prison intending it to come into the possession of a prisoner or for the purpose of giving it to a prisoner), subject to any condition that may be specified in the authorization.
- (4) A person who is authorized under paragraph (3) to convey a Grade 2 item into or out of the prison shall be guilty of an offence if he or she so conveys it for a purpose other than for the purpose authorized or fails to comply with a condition subject to which the authorization is given.
- (5) For the purpose of paragraph (2)(a) and (b) a person does not convey an item into or out of the prison if the person conveys it into a part of the prison designated by the Governor for the holding of items while the person is inside the prison, surrenders it to be held there, and removes it from there on leaving the prison.
- (6) In proceedings for an offence under this Article it is a defence for the accused to show that –
 - (a) he or she reasonably believed that he or she had authorization to do the act in respect of which the proceedings are brought; or
 - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.

- (7) A person who is guilty of an offence under paragraph (2) or (4) shall be liable to imprisonment for a term of 2 years and to a fine.
- (8) The States may by Regulations amend the definition “Grade 2 item” in paragraph (1) to include other items, except that no amendment may be made which would result in any Grade 1 item becoming or being treated as a Grade 2 item.

25A Conveyance of Grade 3 item into or out of prison

- (1) A Grade 3 item is any item that is not a Grade 1 item or a Grade 2 item.
- (2) A person is guilty of an offence if he or she –
 - (a) conveys a Grade 3 item into the prison intending it to come into the possession of a prisoner;
 - (b) causes another person to convey a Grade 3 item into the prison intending it to come into the possession of a prisoner;
 - (c) conveys a Grade 3 item out of the prison on behalf of a prisoner;
 - (d) causes another person to convey a Grade 3 item out of the prison on behalf of a prisoner;
 - (e) leaves a Grade 3 item in any place (whether inside or outside the prison) intending it to come into the possession of a prisoner; or
 - (f) knowing a person to be a prisoner gives a Grade 3 item to that person,except where he or she is authorized to do so under paragraph (3).
- (3) The Governor may authorize any person to convey a Grade 3 item into or out of the prison for a purpose (including for the purpose of leaving it in a place in the prison intending it to come into the possession of a prisoner or for the purpose of giving it to a prisoner), subject to any condition that may be specified in the authorization.
- (4) A person who is authorized under paragraph (3) to convey a Grade 3 item into or out of the prison shall be guilty of an offence if he or she so conveys it for a purpose other than for the purpose authorized or fails to comply with a condition subject to which the authorization is given.
- (5) For the purpose of paragraph (2)(a) and (b) a person does not convey an item into or out of the prison if the person conveys it into a part of the prison designated by the Governor for the holding of items while the person is inside the prison, surrenders it to be held there, and removes it from there on leaving the prison.
- (6) In proceedings for an offence under this Article it is a defence for the accused to show that –
 - (a) he or she reasonably believed that he or she had authorization to do the act in respect of which the proceedings are brought; or
 - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (7) A person who is guilty of an offence under paragraph (2) or (4) shall be liable to a fine of level 3 on the standard scale.
- (8) The States may by Regulations amend this Article.

25B Other offences relating to information and recordings

- (1) A person is guilty of an offence if he or she –
 - (a) records an image (whether still or moving) or sound while the person is inside the prison or using a device that is inside the prison;
 - (b) transmits, or causes to be transmitted, any image or any sound from inside the prison by electronic communication for simultaneous reception outside the prison;
 - (c) brings or otherwise conveys a restricted document out of the prison, or causes a restricted document to be brought or conveyed out of the prison; or
 - (d) transmits, or causes to be transmitted, from inside the prison by means of electronic communication –
 - (i) a restricted document, or
 - (ii) any information derived from a restricted document,except where he or she is authorized to do so under paragraph (5).
- (2) In paragraph (1) “restricted document” means the whole or any part of –
 - (a) a photograph taken inside the prison;
 - (b) a sound-recording made inside the prison;
 - (c) a record required by Rules under Article 29 to be prepared and maintained in relation to a prisoner, irrespective of whether that person is still a prisoner at the time of any alleged offence; or
 - (d) a document or other item in which there is recorded, by whatever means, any information falling within paragraph (3).
- (3) Information falls within this paragraph if –
 - (a) it is derived from a record falling within paragraph (2)(c);
 - (b) its disclosure would or might prejudice the interests of an identified or identifiable individual, to whom the information relates and who is or has been –
 - (i) a prisoner or a person working at the prison, or
 - (ii) a member of such a person’s family or household; or
 - (c) it relates to any matter connected with the prison or its operation, and its disclosure would or might prejudice the security or operation of the prison.
- (4) For the purposes of paragraphs (1)(a), (2)(a) and (2)(b), it is immaterial where the recording medium is located.
- (5) The Governor may authorize any person to do an act described in paragraph (1) for a purpose and subject to any condition that may be specified in the authorization or in a Rule made under Article 29.

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- (6) A person who is authorized under paragraph (5) to do an act described in paragraph (1) shall be guilty of an offence if he or she fails to comply with a condition subject to which the authorization is given.
 - (7) In proceedings for an offence under this Article it is a defence for the accused to show that –
 - (a) he or she reasonably believed that he or she had authorization to do the act in respect of which the proceedings are brought; or
 - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
 - (8) A person who is guilty of an offence under paragraph (1) or (6) shall be liable to imprisonment for a term of 2 years and to a fine.”.

15 Article 26 amended

In Article 26 of the principal Law for the words “Articles 20, 21, 22, 23, 24 and 25” there are substituted the words “Articles 21, 22, 23, 24, 25, 25A and 25B”.

16 Article 28 amended

In Article 28 of the principal Law, for the words “Board of Visitors” there are substituted the words “Independent Prison Monitoring Board”.

17 Article 29 amended

In Article 29 of the principal Law –

- (a) in the heading, after the word “Rules” there are inserted the words “and directions”;
- (b) after Article 29(1C) there is inserted the following paragraph –
 - “(1D) Any Rules made under this Article may include a power for the Minister to give a direction to the Governor in pursuance of any such Rule.”;
- (c) paragraph (7) is deleted.

18 Citation and commencement

This Law may be cited as the Prison (Amendment No. 7) (Jersey) Law 2016 and –

- (a) Articles 1, 2, 3, 5 to 15, 17 and 18 come into force 7 days after it is registered; and

- (b) Articles 4 and 16 come into force on the date that Regulations made under Article 6 of the principal Law (as amended by this Law) come into force.

L.-M. HART

Deputy Greffier of the States

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- 1* chapter 23.775
 - 2* chapter 23.200
 - 3* chapter 08.680
 - 4* chapter 04.280
 - 5* chapter 23.125
 - 6* chapter 23.750
 - 7* chapter 23.200
 - 8* chapter 23.750
 - 9* chapter 11.450
 - 10* chapter 23.750
 - 11* L.31/2016
 - 12* chapter 23.775.15