



Jersey

# **DOMESTIC ABUSE (JERSEY) LAW 2022**

## **Official Consolidated Version**

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Showing the law from 21 September 2023 to Current



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## DOMESTIC ABUSE (JERSEY) LAW 2022

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Jersey

## DOMESTIC ABUSE (JERSEY) LAW 2022

A **LAW** to create an offence of domestic abuse, to provide for domestic abuse protection orders and to require people who commit domestic abuse offences to provide personal information to the police.

Commencement [[see endnotes](#)]

### PART 1

#### INTERPRETATION

#### 1 Interpretation

(1) In this Law –

“abusive”, in relation to behaviour, means behaviour that is –

- (a) an offence under Jersey law, whether statutory or customary, that involves –
  - (i) physical or sexual abuse,
  - (ii) violence or threats,
  - (iii) harassment, or
  - (iv) neglect; or
- (b) coercive or controlling;

“authorised officer” means the Chief Officer or another police officer authorised by the Chief Officer for that purpose;

“behaviour” includes –

- (a) doing something or saying or otherwise communicating something; and
- (b) intentionally failing to do something or to say or otherwise communicate something;

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

“coercive or controlling”, in relation to behaviour by a person (“A”) towards another person (“B”), means behaviour that is reasonably likely to –

- (a) make B dependent on, or subordinate to, A;
- (b) isolate B from friends, family members or other sources of social interaction or support;
- (c) control, regulate or monitor B’s day-to-day activities; or

- (d) restrict B’s freedom of action;
- “domestic abuse” means behaviour that constitutes an offence under Article 3;
- “domestic abuse protection order” means an order issued by a court under Article 5;
- “harm” means –
- (a) physical harm; or
- (b) psychological harm, including fear, alarm, distress, humiliation or degradation;
- “notification requirements” means the requirements to notify an authorised officer of information under Article 12;
- “personally connected” is defined in Article 2;
- “police” means the States of Jersey Police Force;
- “relevant offence” means –
- (a) an offence under Article 3; or
- (b) any other offence or combination of offences under Jersey law, whether statutory or customary, that –
- (i) involves the offender behaving abusively towards a person aged 16 or over to whom the offender is personally connected, and
- (ii) consists of more than one act or failure to act.
- (2) Behaviour of a person may be behaviour towards another person despite the fact that it consists of conduct that makes use of another person or is directed at an animal or property.

## 2 Meaning of “personally connected”

- (1) Two people are personally connected if –
- (a) they are, or have been, married, in a civil partnership or in an intimate personal relationship;
- (b) they have agreed to marry or enter into a civil partnership (even if the agreement has been terminated);
- (c) they are, or have been, parents of the same child, or share, or have shared, parental responsibility for a child;
- (d) they are relatives; or
- (e) one provides to the other a service described in Schedule 1 to the [Regulation of Care \(Jersey\) Law 2014](#) (which defines regulated activities for the purposes of that Law).
- (2) A person (“A”) is a relative of another person (“B”) if A, whether by blood, adoption, marriage or civil partnership, is –
- (a) the parent, child, stepparent, stepchild, grandparent or grandchild of B or B’s partner;
- (b) the sibling, aunt, uncle, niece, nephew or first cousin of B or B’s partner; or
- (c) the partner of a person to whom sub-paragraph (a) or (b) applies.
- (3) For the purposes of paragraph (2) –

- (a) “parent” includes an appointed foster parent (as defined in Article 1(1) of the [Children \(Jersey\) Law 2002](#)) or a person who has been awarded parental responsibility by a court order; and
- (b) two people are partners if they –
  - (i) are married or in a civil partnership, or
  - (ii) are living together as spouses.

## PART 2

### DOMESTIC ABUSE OFFENCE

#### 3 Domestic abuse – offence

- (1) A person who intentionally or recklessly engages in behaviour that is domestic abuse commits an offence and is liable to imprisonment for a term of 5 years and to a fine.
- (2) Behaviour of a person (“A”) towards another person (“B”) is domestic abuse if –
  - (a) A and B are both aged 16 or over and are personally connected to each other;
  - (b) the behaviour is abusive;
  - (c) the behaviour consists of more than one act (or failure to act); and
  - (d) the behaviour causes, or is reasonably likely to cause, harm to B.
- (3) In determining whether behaviour causes, or is reasonably likely to cause, harm to B, a person must look at the cumulative effect (or reasonably likely cumulative effect) of all of the acts and failures to act (rather than the effect of each act or failure to act in isolation).
- (4) If a person who is habitually resident in Jersey engages in behaviour that is domestic abuse while in a jurisdiction outside of Jersey –
  - (a) the person commits an offence under paragraph (1); and
  - (b) the person may be proceeded against in Jersey in respect of the offence.
- (5) A has a defence to an offence under this Article if –
  - (a) in engaging in the behaviour, A held a reasonable belief that A was acting in B’s best interests; and
  - (b) the behaviour was reasonable in the circumstances.

#### 4 Aggravating factors

- (1) In determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence under Article 3, a court must treat the presence of any of the following as aggravating factors –
  - (a) in committing the offence, the person directed abuse at a child or pregnant person;
  - (b) in committing the offence, the person made use of a child in directing abuse at another person;
  - (c) a child saw or heard the behaviour constituting the offence or was present when the offence was committed;

- (d) the offence took place in circumstances where it was reasonably likely to directly affect a child.
- (2) If an aggravating factor is present, the court must state in open court that the offence was aggravated.
- (3) This Article does not limit the matters to which a court may have regard when determining the sentence to be imposed on, or other way of dealing with, the person.

### **PART 3**

#### **DOMESTIC ABUSE PROTECTION ORDERS**

##### **5 Issuing domestic abuse protection order**

- (1) This Article applies to a person (“A”) aged 18 or over who has been convicted of a relevant offence against another person (“B”), regardless of whether the offence or conviction occurred before or after the commencement of this Law.
- (2) A court may, on the application of the Attorney General, issue a domestic abuse protection order against A if the court is satisfied that –
  - (a) on the balance of probabilities, there is a risk of further domestic abuse by A towards B; and
  - (b) it is necessary to issue the order to protect B.
- (3) Before issuing a domestic abuse protection order, the court must –
  - (a) consider any statements made by A or B on the matter;
  - (b) consider the welfare of any person under the age of 18 whose interests the court considers relevant to the giving of the order (whether or not that person and A are personally connected); and
  - (c) if the order will limit or prevent A from entering the premises where B lives, take reasonable steps to discover and consider the opinion of any other person who lives at the premises and is personally connected to A or B.

##### **6 Content and duration of domestic abuse protection order**

- (1) A domestic abuse protection order may –
  - (a) prohibit the person the order is issued against (“A”) from contacting the person for whose protection it is made (“B”);
  - (b) prohibit A from coming within a specified distance of B;
  - (c) prohibit A from coming within a specified distance of specified premises;
  - (d) if A and B live together at the same premises –
    - (i) require A to leave the premises,
    - (ii) prohibit A from entering the premises, and
    - (iii) prohibit A from evicting or excluding B from the premises;
  - (e) require A to attend specified counselling or education; and
  - (f) impose any other requirement on A that the court considers necessary to protect B from the risk of further domestic abuse carried out by A.

- (2) In imposing prohibitions or requirements on A in a domestic abuse protection order, the court must, so far as practicable, avoid –
  - (a) conflict with A’s religious beliefs;
  - (b) interference with A’s work or with A’s attendance at an educational establishment; and
  - (c) conflict with the requirements of any other court order or injunction to which A is subject.
- (3) A court that issues a domestic abuse protection order must specify the period for which the order is in force, which may be –
  - (a) until a specified date;
  - (b) until the occurrence of a specified event; or
  - (c) until a further order is made by the court.

## **7 Person issued domestic abuse protection order must give name and address**

- (1) If a court issues a domestic abuse protection order against a person, the person must –
  - (a) as soon as practicable after the order is issued, notify an authorised officer of the address at which the person is residing; and
  - (b) while the order is in force, notify an authorised officer if the address at which the person is residing changes –
    - (i) if the person has prior knowledge of the change, at least 24 hours before the change, if this is possible, or
    - (ii) in any other case, as soon as reasonably practicable but, in any event, within 24 hours after the change.
- (2) A person who is required to provide information under this Article commits an offence and is liable to imprisonment for a term of 12 months and to a fine if the person –
  - (a) fails, without reasonable excuse, to provide the information within the required timeframe; or
  - (b) knowingly provides false information.

## **8 Appeal against domestic abuse protection order**

- (1) This Article applies in respect of a decision of a court to –
  - (a) issue a domestic abuse protection order against a person;
  - (b) refuse an application to issue a domestic abuse protection order against a person; or
  - (c) impose certain prohibitions or requirements in a domestic abuse protection order.
- (2) The following people may appeal against the decision on the grounds that the decision is based on an error of law or fact –
  - (a) the person against whom the order is (or would be) issued;
  - (b) the person for whose protection the order is (or would be) issued;
  - (c) the Attorney General.
- (3) An appeal must be made within 14 days after the decision is made –



- (a) if the decision is made by the Magistrate's Court, to the Royal Court; or
- (b) if the decision is made by the Royal Court, to the Court of Appeal.
- (4) The following people have the right to be heard on an appeal –
  - (a) the person against whom the order is (or would be) issued;
  - (b) the person for whose protection the order is (or would be) issued;
  - (c) the Chief Officer;
  - (d) the Attorney General.
- (5) A court that hears an appeal under this Article may uphold, overturn or vary the decision as the court thinks appropriate.
- (6) A domestic abuse protection order that is the subject of an appeal –
  - (a) may be stayed (in part or in full) by the court to which the appeal is made until the appeal is determined; but
  - (b) otherwise continues to have effect until the appeal is determined.

## **9 Application to vary or revoke domestic abuse protection order due to change in circumstances**

- (1) This Article applies if –
  - (a) a court issues a domestic abuse protection order against a person; and
  - (b) the person's circumstances have changed in the time since the order was issued to such an extent that the terms of the order are no longer necessary or proportionate.
- (2) The following people may apply to the court that issued the order for the order to be varied or revoked –
  - (a) the person against whom the order is issued;
  - (b) the person for whose protection the order is issued;
  - (c) the Attorney General.
- (3) The following people have the right to be heard on an application –
  - (a) the person against whom the order is issued;
  - (b) the person for whose protection the order is issued;
  - (c) the Chief Officer;
  - (d) the Attorney General.
- (4) The court may vary or revoke the order if the court is satisfied that it is appropriate to do so.
- (5) A domestic abuse protection order that is the subject of an application –
  - (a) may be stayed (in part or in full) by the court to which the application is made until the application is heard; but
  - (b) otherwise continues to have effect until the application is heard.

**10 Failure to comply with domestic abuse protection order**

- (1) A person who, without reasonable excuse, fails to comply with a domestic abuse protection order commits an offence and is liable to imprisonment for a term of 5 years and to a fine.
- (2) If a person who is habitually resident in Jersey fails, without reasonable excuse, to comply with a domestic abuse protection order while in a jurisdiction outside of Jersey –
  - (a) the person commits an offence under paragraph (1); and
  - (b) the person may be proceeded against in Jersey in respect of the offence.

**PART 4****NOTIFICATION REQUIREMENTS AND DISCLOSURE OF INFORMATION****11 Court may impose notification requirements**

- (1) This Article applies to a person (“A”) aged 16 or over who has been convicted of a relevant offence, regardless of whether the offence or conviction occurred before or after the commencement of this Law.
- (2) A court may, on the application of the Attorney General, order that the offender be subject to the notification requirements if the court is satisfied that the order is necessary and proportionate to reduce the risk of further abusive behaviour by the offender.
- (3) If the court orders that an offender be subject to the notification requirements, the court must specify the period for which the order is in force, which may be –
  - (a) until a specified date;
  - (b) until the occurrence of a specified event; or
  - (c) until a further order is made by the court.
- (4) An order ceases to have effect (and the offender stops being subject to the notification requirements) –
  - (a) after the date or event specified in the order, if one is specified;
  - (b) if the offender’s conviction for the relevant offence is quashed or reversed on appeal; or
  - (c) if a court overturns the order under Article 13 or revokes the order under Article 14.

**12 Requirement to notify police of details**

- (1) A person who is subject to notification requirements must notify an authorised officer of each name the person uses and the person’s place of residence.
- (2) The person must make the notification –
  - (a) on the day the court orders that the person be subject to the notification requirements;
  - (b) every year on the anniversary of that day; and

- (c) whenever the information required to be notified changes, in accordance with paragraphs (3) and (4).
- (3) If the person uses a name that has not been notified, the person must notify an authorised officer of the name within 24 hours after the person's first use of the name.
- (4) If the person's place of residence changes, the person must notify an authorised officer of the new address –
  - (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 24 hours after the change.
- (5) A person who, without reasonable excuse, fails to comply with this Article commits an offence and is liable to imprisonment for a term of 12 months and to a fine.

### **13 Appeal against imposition of notification requirements**

- (1) This Article applies in respect of a decision of a court to –
  - (a) order that a person be subject to the notification requirements; or
  - (b) refuse an application for an order that a person be subject to the notification requirements.
- (2) The person or the Attorney General may appeal the decision on the grounds that it is based on an error in law or fact.
- (3) An appeal must be made within 14 days after the decision is made –
  - (a) if the decision is made by the Magistrate's Court, to the Royal Court;
  - (b) if the decision is made by the Royal Court, to the Court of Appeal; or
  - (c) if the decision is made by the Youth Court, to the Youth Appeal Court.
- (4) A court that hears an appeal under this Article may uphold the order, overturn the order or vary the order as the court thinks appropriate.
- (5) An order that is the subject of an appeal continues to have effect while the appeal is determined.

### **14 Application to vary or revoke notification requirements order**

- (1) This Article applies if –
  - (a) a court orders that a person be subject to the notification requirements; and
  - (b) the person's circumstances have changed in the time since the order was issued to such an extent that the terms of the order are no longer necessary or proportionate.
- (2) The person or the Attorney General may apply to the court that issued the order for the order to be varied or revoked.
- (3) The court may vary or revoke the order if the court is satisfied that it is appropriate to do so.
- (4) An order that is the subject of an application continues to have effect while the application is determined.

## 15 Police may disclose information

- (1) This Article applies to the following information –
  - (a) details of a person’s conviction for a relevant offence;
  - (b) details of any domestic abuse protection orders that have been issued against the person (even if an order is no longer in force);
  - (c) information provided by a person to comply with the notification requirements.
- (2) A police officer may disclose information –
  - (a) to a person who applies for the information to be disclosed; or
  - (b) to a person who the police officer considers is at a credible risk of harm from the person to whom the information relates, if the disclosure is proportionate and reasonable in the circumstances.
- (3) A police officer must comply with any relevant guidance issued by the Chief Officer when disclosing, or deciding whether to disclose, information under this Article.
- (4) The Minister for Justice and Home Affairs may disclose information to a law enforcement authority in another jurisdiction, either proactively or on request.<sup>1</sup>
- (5) Nothing in this Article prevents a person from disclosing information that the person is otherwise by law permitted or authorised to disclose.

## PART 5

### OTHER MATTERS

## 16 Regulations

The States may by Regulations amend this Law to –

- (a) amend the definition of “relevant offence”;
- (b) amend the matters required to be notified under the notification requirements;
- (c) amend the time by which a person must comply with the notification requirements; and
- (d) allow the court to impose different notification requirements on different offenders or classes of offenders.

## 17 Rules of Court

- (1) The Criminal Procedure Rules Committee may make any Rules of Court necessary or convenient to give effect to this Law.
- (2) The powers under Article 112 of the [Criminal Procedure \(Jersey\) Law 2018](#) and Articles 19 and 40 of the [Court of Appeal \(Jersey\) Law 1961](#) include the power to make any Rules of Court necessary or convenient to give effect to this Law.
- (3) Rules of Court made under this Article may provide for the court to sit in private in proceedings in which the court is exercising, or considering exercising, a power under this Law.

- (4) Paragraph (3) does not limit paragraph (1) or (2), any other rule-making power or any other power of the court to sit in private.

**18** <sup>2</sup>

**19 Citation and commencement**

This Law may be cited as the Domestic Abuse (Jersey) Law 2022 and comes into force on a day to be specified by the States by Act.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Domestic Abuse (Jersey) Law 2022	<a href="#">L.27/2022</a>	21 June 2023 ( <a href="#">R&amp;O.43/2023</a> )	<a href="#">P.69/2022</a>
States of Jersey (Transfer of Justice Functions – Chief Minister to Justice and Home Affairs) Order 2023	<a href="#">R&amp;O.76/2023</a>	21 September 2023	

°Projets available at [statesassembly.gov.je](https://statesassembly.gov.je)

### Table of Endnote References

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- <sup>1</sup> Article 15(4)                      *amended by R&O.76/2023*  
<sup>2</sup> Article 18                              *spent, omitted*