



Jersey

CRIME (TRANSNATIONAL ORGANIZED CRIME) (JERSEY) LAW 2008

Official Consolidated Version

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A **LAW** to provide for the implementation in Jersey of the United Nations Convention Against Transnational Organised Crime adopted by the General Assembly of the United Nations on 15 November 2000, the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons and the Protocol thereto Against Smuggling of Migrants; and for related purposes.

Commencement [[see endnotes](#)]

1 Interpretation

In this Law –

“material benefit” includes, but is not limited to including, financial, monetary or equivalent benefits and sexual gratification;

“State” means any country or territory, and includes Jersey.

2 Participating in criminal organization

- (1) A person commits an offence if he or she –
 - (a) participates in a criminal organization, knowing that it is a criminal organization; and
 - (b) knows, or is reckless as to whether, his or her participation contributes, or may contribute, to the occurrence of a serious offence against the law of a State.
- (2) A person who commits an offence against paragraph (1) shall be liable to imprisonment for a term of 5 years and to a fine.
- (3) A person shall only be taken to participate in a criminal organization for the purposes of paragraph (1) if he or she is a member, an associate member, or a prospective member, of the organization.
- (4) For the purposes of this Article, a criminal organization is a group of 3 or more persons who have as their objective, or one of their objectives, obtaining, directly or indirectly, a material benefit from the committal of a serious offence against a law of a State by the organization, or a member, an associate member, or a prospective

member, of the organization, but does not include a group that is randomly formed for the immediate commission of a single offence.

- (5) For the purposes of this Article, a group of 3 or more persons may be a criminal organization whether or not –
- (a) some of them are subordinates or employees of other members of the group or other persons;
 - (b) only some of the people involved in the group at a particular time are involved in the planning, arrangement, or execution, at that time, of any particular action, activity or transaction;
 - (c) its membership changes from time to time;
 - (d) the persons are present in Jersey;
 - (e) a serious offence against a law of a State was committed by the organization or a member, an associate member, or a prospective member, of the organization, and whether a serious offence against a law of a State was, or was intended to be, committed within or outside Jersey by the organization or a member, an associate member, or a prospective member, of the organization;
 - (f) any person received a material benefit from the commission of a serious offence against a law of a State by the organization or a member, an associate member, or a prospective member, of the organization.
- (6) In this Article, participation in a criminal organization includes, but is not limited to including –
- (a) agreeing with another person to participate in an act that contributes, or may contribute, to the occurrence of a serious offence against a law of a State; and
 - (b) organizing, directing, taking part in, or assisting in, the commission of a serious offence against a law of a State by the organization or a member, an associate member, or a prospective member, of the organization.
- (7) In this Article, “serious offence against a law of a State” means –
- (a) an offence against the law of Jersey that is a serious offence within the meaning of Article 3 of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#); or
 - (b) an offence against the law of a State other than Jersey that, if it had been committed in Jersey, would be a serious offence within the meaning of Article 3 of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#).
- (8) In criminal proceedings in relation to the alleged commission of an offence against paragraph (1) by a person who participates in a criminal organization, it is not necessary to prove that –
- (a) a serious offence was committed by the organization or a member, an associate member, or a prospective member, of the organization;
 - (b) a serious offence that was, or that was intended to be, committed by the organization or a member, an associate member, or a prospective member, of the organization, was committed, or intended to be committed, in Jersey;
 - (c) any person received a material benefit from the commission of a serious offence by the organization or a member, an associate member, or a prospective member, of the organization; or

- (d) the person knew the identity of any member of the criminal organization.

3 People smuggling

- (1) A person commits an offence if he or she –
- (a) arranges for an unauthorized migrant to enter a State;
 - (b) does so for the purpose of obtaining, directly or indirectly, a material benefit for himself or herself or any other person; and
 - (c) knows that, or is reckless as to whether, the unauthorized migrant is an unauthorized migrant.
- (2) A person commits an offence if he or she –
- (a) arranges for an unauthorized migrant to be brought to a State;
 - (b) does so for the purpose of obtaining, directly or indirectly, a material benefit for himself or herself or any other person;
 - (c) knows that, or is reckless as to whether, the unauthorized migrant is an unauthorized migrant; and
 - (d) knows that, or is reckless as to whether, the unauthorized migrant intends to try to enter the State.
- (3) A person commits an offence if he or she –
- (a) enables a person who is not a national or a permanent resident of a State to remain in the State by the means described in Article 6 or any other illegal means;
 - (b) does so for the purpose of obtaining, directly or indirectly, a material benefit for himself or herself or any other person; and
 - (c) knows that the person referred to in sub-paragraph (a) is not a national or a permanent resident of the State or is reckless as to the person's status.
- (4) A person who commits an offence against paragraph (1), (2) or (3) shall be liable to imprisonment for a term of 20 years and to a fine.
- (5) An offence against paragraph (1) may be committed even if the unauthorized migrant in relation to whom the alleged offence occurred –
- (a) consented to the arrangement for him or her to enter the State; or
 - (b) did not enter the State in respect of which the arrangement was made.
- (6) An offence against paragraph (2) may be committed even if the unauthorized migrant in relation to whom the alleged offence occurred –
- (a) consented to the arrangement for him or her to be brought to the State; or
 - (b) was not brought to the State in respect of which the arrangement was made.
- (7) In this Article –
- “arrange for an unauthorized migrant to be brought to a State” includes, but is not limited to including the following –
- (a) organizing, or procuring, the bringing of an unauthorized migrant to a State;
 - (b) recruiting a person to be brought, as an unauthorized migrant, to a State;

- (c) carrying an unauthorized migrant to a State;
“arrange for an unauthorized migrant to enter a State” includes, but is not limited to including, the following –
 - (a) organizing or procuring the entry of an unauthorized migrant into a State;
 - (b) recruiting a person to enter, as an unauthorized migrant, into a State;
 - (c) carrying an unauthorized migrant into a State;“unauthorized migrant”, in relation to a State, means a person who –
 - (a) is not a citizen of the State; and
 - (b) does not have possession of all the documents required by or under the law of the State to lawfully enter the State.

4 Trafficking in persons

- (1) A person commits an offence if, for the purposes of the physical exploitation of another person, he or she –
 - (a) recruits or arranges for the other person to enter a State, or travel within a State; or
 - (b) arranges, organizes or procures the reception, concealment or harbouring, in a State of the other person.
- (2) Where the person physically exploited or intended to be physically exploited is aged 18 years or more, a person only commits an offence against paragraph (1) if the recruitment, arrangement, organization or procurement is by means of any of the following –
 - (a) the threat or use of force or other forms of coercion;
 - (b) abduction;
 - (c) fraud or deception;
 - (d) the abuse of power or of a position of vulnerability;
 - (e) the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
- (3) A person who commits an offence against paragraph (1) shall be liable to imprisonment for a term of 20 years and to a fine.
- (4) An offence against paragraph (1) may be committed even if the person physically exploited or intended to be physically exploited –
 - (a) did not in fact enter, or travel within, the State; or
 - (b) was not in fact received, concealed, or harboured, in the State.
- (5) An offence against paragraph (1) may be committed in respect of a person aged 18 years or more even if steps in the process by which the person entered, or was to enter, the State, or travelled, or was to travel, within the State, did not involve means described in paragraph (2).
- (6) In this Article, any reference to the physical exploitation of a person means any of the following –

- (a) the use of the person for sexual purposes;
 - (b) the removal of a body part from the person, unless for the benefit (other than the financial, monetary, or equivalent, benefit) of the person;
 - (c) the use of the person in forced labour or services, slavery or practice similar to slavery, or servitude.
- (7) Paragraph (6)(a) includes, but is not limited to including, any of the following –
- (a) the taking, or transmission, by any means, of an image of the person engaged in real or simulated sexual activities;
 - (b) the taking, or transmission, by any means, of images of the person’s genitalia, anus, or breasts, for the purpose of obtaining, directly or indirectly, a material benefit for the person or any other person;
 - (c) the person’s participation, for the purpose of obtaining, directly or indirectly, a material benefit for the person or any other person, in a performance or display, or other employment, that involves the exposure of the person’s genitalia, anus or breasts.
- (8) Paragraph (6)(a) does not include –
- (a) the taking, in good faith, for purposes primarily other than the exposure of body parts of the person for the sexual gratification of a viewer, of an image of the person as part of an artistic or cultural performance or display;
 - (b) the taking or transmission of an image of the person for the purpose of –
 - (i) depicting, for the instruction or information of health professionals, a medical condition or a surgical or medical technique,
 - (ii) providing medical or health education,
 - (iii) providing information relating to medical or health matters, or
 - (iv) advertising a product, instrument, or service, intended to be used for medical or health purposes.
- (9) The other person in respect of whom an offence against this Article is committed, or is suspected of being committed, shall not be charged as a party to the offence.

5 Aggravating factors in relation to migrant smuggling and trafficking in persons

- (1) In determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against Article 3 or 4, a court shall take into account –
- (a) whether bodily harm or death (whether to or of a person in respect of whom the offence was committed or some other person) occurred during the commission of the offence;
 - (b) whether the life or safety of any person in respect of whom the offence was committed was endangered or likely to be endangered;
 - (c) whether the offence was committed for the benefit of, at the direction of, or in association with, a criminal organization within the meaning of Article 2;
 - (d) whether a person in respect of whom the offence was committed was subject to inhuman or degrading treatment as a result of the commission of the offence; and

- (e) if during the relevant criminal proceedings the person was convicted of the same offence in respect of 2 or more people, the number of people in respect of whom the offence was committed.
- (2) In determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against Article 4, a court shall also take into account –
 - (a) whether a person in respect of whom the offence was committed was also subject to other exploitation (including but not limited to physical exploitation of the other person, within the meaning of that Article) as a result of the commission of the offence;
 - (b) the age of the person in respect of whom the offence was committed and, in particular, whether the person was under the age of 18 years; and
 - (c) whether the person committed the offence, or took actions that were part of the offence, for a material benefit.
 - (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, a person convicted of an offence against Article 3 or 4.

6 Travel documentation offences

- (1) A person commits an offence if he or she forges, or falsifies, a travel document that he or she knows, or has reason to suspect, is intended to be used in the course of, or for purposes related to, the commission of an offence against Article 3 by any person.
- (2) A person commits an offence if, without reasonable excuse –
 - (a) knowing a travel document to be forged, or false, he or she –
 - (i) uses it, deals with it, or acts upon it, as if it were genuine, or
 - (ii) causes another person to use it, deal with it, or act upon it, as if it were genuine,in the course of, or for purposes related to, the commission of an offence against Article 3 by any person;
 - (b) he or she has in his or her possession, or under his or her control, a travel document that he or she knows or has reason to suspect –
 - (i) is a forged or false travel document, and
 - (ii) is intended to be used in the course of, or for purposes related to, the commission of an offence against Article 3 by any person;
 - (c) he or she sells, hires, lends, gives, or otherwise disposes of to another person, a travel document that he or she knows or has reason to suspect –
 - (i) is a forged or false travel document, and
 - (ii) is intended to be used in the course of, or for purposes related to, the commission of an offence against Article 3 by any person; or
 - (d) he or she –
 - (i) makes, uses, has in his or her possession, or disposes of to another person, any paper or other material that he or she knows is specially

provided by the proper authorities of a State for any purpose related to travel documents of the State, and

- (ii) knows or has reason to suspect that the paper or other material is intended to be used in the course of, or for purposes related to, the commission of an offence against Article 3 by any person.
- (3) A person who commits an offence against paragraph (1) or (2) shall be liable to imprisonment for a term of 10 years and to a fine.
- (4) In this Article –
- “document” includes a thing that is, or is intended to be –
- (a) attached to a document; or
 - (b) stamped or otherwise signified on a document;
- “forge” includes the following –
- (a) to make a copy of an existing document or writing with the intention of representing it to be the original document or writing;
 - (b) to alter an existing document or writing with the intention of representing the altered document or writing to be the original document or writing;
 - (c) to make a document or writing that purports to be made or issued by or on behalf of a person who did not make or issue it or authorize its making or issue, or who does not exist, with the intention of representing it was made or issued by or on behalf of that person;
 - (d) to make a document or writing that falsely purports to be made at a particular place or time, or before or witnessed by a particular person, with the intention of representing that such particulars are true;

“travel document” includes an identification document.

7 Obstructing justice

- (1) A person commits an offence if, for the purpose of –
- (a) inducing false testimony;
 - (b) interfering with the giving of testimony; or
 - (c) interfering with the production of evidence,
- in relation to proceedings in respect of an offence against a provision of this Law, he or she –
- (i) uses physical force, or threats, against;
 - (ii) intimidates or attempts to intimidate; or
 - (iii) promises, or offers, a benefit to,
- a witness, a judicial officer, or a police officer, who takes part in or engages in activities in respect of the proceedings.
- (2) A person who commits an offence against paragraph (1) shall be liable to imprisonment for a term of 15 years and to a fine.

- (3) In paragraph (1), a reference to proceedings in respect of an offence against a provision of this Law includes proceedings in respect of an offence, against a provision of another enactment, of –
- (a) attempting to commit an offence against a provision of this Law;
 - (b) aiding, abetting, counselling or procuring the commission of an offence against a provision of this Law; or
 - (c) conspiring or inciting another person to commit an offence against a provision of this Law.

8 Territorial application

- (1) Proceedings for an offence against a provision of this Law (including an offence against any provision referred to in another paragraph of this Article) by a person may be brought although some or all of the acts alleged to constitute the offence occurred outside Jersey, if the person –
- (a) is ordinarily resident in Jersey;
 - (b) has been found in Jersey and has not been extradited; or
 - (c) is a body corporate incorporated under a law of Jersey, a limited liability company registered under the [Limited Liability Companies \(Jersey\) Law 2018](#) or a limited liability partnership registered under the [Limited Liability Partnerships \(Jersey\) Law 2017](#).¹
- (2) Proceedings for an offence against a provision of this Law (including an offence against any provision referred to in another paragraph of this Article) by a person may be brought although some or all of the acts alleged to constitute the offence occurred outside Jersey, if a person in relation to whom the offence is alleged to have been committed –
- (a) is ordinarily resident in Jersey; or
 - (b) has been found in Jersey.
- (3) Proceedings for an offence against Article 2 by a person may be brought although some or all of the acts alleged to constitute the offence occurred outside Jersey, if paragraph (4) applies to the person.
- (4) This paragraph applies to a person if the criminal organization, within the meaning of Article 2, in which the person is alleged to have participated is alleged to have as its objective (or one of its objectives) the obtaining of material benefits by the commission in Jersey of an offence against a law of Jersey that is a serious offence within the meaning of Article 3 of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#).
- (5) Proceedings for an offence against Article 3(1) by a person may be brought although some or all of the acts alleged to constitute the offence occurred outside Jersey, if the act or omission is alleged to relate to arranging for a person to enter Jersey.
- (6) Proceedings for an offence against Article 3(2) by a person may be brought although some or all of the acts alleged to constitute the offence occurred outside Jersey, if the act or omission is alleged to relate to arranging to bring a person to Jersey.
- (7) Proceedings for an offence against Article 4 by a person may be brought although some or all of the acts alleged to constitute the offence occurred outside Jersey, if

the act or omission is alleged to relate to arranging for a person to enter Jersey or to travel in Jersey.

9 General provisions as to offences

- (1) A person who –
 - (a) aids, abets, counsels or procures the commission of an offence under any provision of this Law (a “principal offence”); or
 - (b) conspires, attempts or incites another to commit a principal offence,shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for the principal offence.
- (2) A person alleged to have committed an offence by virtue of paragraph (1) shall be triable in the same manner as a person would be tried for the principal offence.
- (3) Where an offence against any provision of this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (4) Where the affairs of a body corporate are managed by its members, paragraph (3) shall apply in relation to acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.
- (5) Article 8 shall apply to proceedings for an offence that is an offence by virtue of paragraph (1) or (3) as it would apply to proceedings for the principal offence.

10 Consent to prosecution

A prosecution in Jersey for an offence against this Law may only be brought by, or with the consent of, the Attorney General.

11 Citation

This Law may be cited as the Crime (Transnational Organized Crime) (Jersey) Law 2008.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Crime (Transnational Organized Crime) (Jersey) Law 2008	L.29/2008	1 August 2008	P.132/2007
Limited Liability Partnerships (Jersey) Law 2017	L.2/2017	1 August 2018 (R&O.74/2018)	P.95/2016
Limited Liability Companies (Consequential Amendments) (Jersey) Regulations 2022	R&O.38/2022	1 September 2022	P.33/2022

°Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
11	Spent, omitted
12	Spent, omitted
13(1)	11
13(2)	Spent, omitted

Table of Endnote References

¹ Article 8(1) *amended by L.2/2017, R&O.38/2022*