



Jersey

**CRIMINAL JUSTICE (DEFERRED  
PROSECUTION AGREEMENTS) (JERSEY)  
LAW 2023**

**Official Consolidated Version**

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Jersey

## CRIMINAL JUSTICE (DEFERRED PROSECUTION AGREEMENTS) (JERSEY) LAW 2023

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Jersey

## CRIMINAL JUSTICE (DEFERRED PROSECUTION AGREEMENTS) (JERSEY) LAW 2023

A **LAW** to make provision for the disposal of certain criminal offences by way of deferred prosecution agreements.

Commencement [[see endnotes](#)]

### PART 1

#### PRELIMINARY

#### 1 Interpretation

(1) In this Law –

“Court” in relation to a cause or matter means –

- (a) the Bailiff; or
- (b) if the Bailiff directs, the Inferior Number of the Royal Court;

“Criminal Procedure Law” means the [Criminal Procedure \(Jersey\) Law 2018](#);

“DPA” has the meaning given in Article 2(1);

“DPA proceedings” means proceedings for the prosecution of a specified offence and for the approval of, and monitoring of compliance with, a DPA as set out in this Law;

“entity” means –

- (a) a company, as defined in the [Companies \(Jersey\) Law 1991](#);
- (b) a foundation, as defined in the [Foundations \(Jersey\) Law 2009](#);
- (c) an incorporated limited partnership, as defined in the [Incorporated Limited Partnerships \(Jersey\) Law 2011](#);
- (d) a limited liability company, as defined in the [Limited Liability Companies \(Jersey\) Law 2018](#);
- (e) a limited liability partnership, as defined in the [Limited Liability Partnerships \(Jersey\) Law 2017](#);
- (f) a separate limited partnership, as defined in the [Separate Limited Partnerships \(Jersey\) Law 2011](#);
- (g) any other body or person that has legal personality but is not an individual or a corporation sole, whether established in Jersey or elsewhere;

“expiry date”, in relation to a DPA, has the meaning given in Article 3(1)(a);

“independent monitor” has the meaning given in Article 6(5);

“self-report” has the meaning given in Article 4(2);

“specified offence” means an offence specified in Schedule 1, and includes an alleged specified offence.

- (2) In this Law, a “connected person” in relation to an entity means –
- (a) in the case of a company, a director, manager, secretary, or other similar officer of the company;
  - (b) in the case of a foundation, a member of the council, the guardian, a founder, or a person appointed under the regulations of the foundation;
  - (c) in the case of an incorporated limited partnership –
    - (i) a general partner, or
    - (ii) a limited partner who is participating in the management of the partnership;
  - (d) in the case of a limited liability company, a manager of the company;
  - (e) in the case of a limited liability partnership, a partner of the partnership;
  - (f) in the case of a separate limited partnership –
    - (i) a general partner, or
    - (ii) a limited partner who is participating in the management of the partnership;
  - (g) in the case of any other body or person that has legal personality but is not an individual or a corporation sole –
    - (i) a director, manager, secretary, or other similar officer of the entity, or
    - (ii) if the affairs of the entity are managed by its members, a member who is acting in connection with the member’s functions of management;
  - (h) in any case, a person appointed as a reporting officer of the entity within the meaning given by Article 1(1) of the [Money Laundering \(Jersey\) Order 2008](#).
- (3) The States may by Regulations amend Schedule 1.

## 2 Characteristics of a DPA

- (1) A deferred prosecution agreement (a “DPA”) is an agreement between –
- (a) the Attorney General; and
  - (b) an entity against which the Attorney General has initiated DPA proceedings in accordance with Article 6 in relation to a specified offence.
- (2) Under a DPA –
- (a) the entity agrees to comply with the requirements imposed on it by the DPA; and
  - (b) the Attorney General agrees not to seek leave of the Court, under Article 81A(1) of the Criminal Procedure Law, to progress proceedings in relation to the specified offence at any time while the DPA is in force.
- (3) The law of contract does not apply to any question concerning the formation, variation, or termination of a DPA.

### **3 Content of a DPA**

- (1) A DPA must include the following terms –
  - (a) the date on which the DPA ceases to have effect (the “expiry date”) if not terminated by the Court under Article 10(3)(b);
  - (b) a statement of facts relating to the specified offence which may include admissions made by the entity in relation to the specified offence;
  - (c) requirements imposed on the entity;
  - (d) time limits within which the entity must comply with those requirements;
  - (e) a statement setting out the consequences of a failure by the entity to comply with any of its terms;
  - (f) the times or intervals at which the independent monitor is to report under Article 8(1)(b);
  - (g) the remuneration that the parties have agreed that the independent monitor is entitled to receive.
- (2) A DPA must specify the independent monitor in relation to the DPA.
- (3) The requirements that a DPA may impose on the entity include requirements –
  - (a) to pay a financial penalty;
  - (b) to compensate victims of the specified offence;
  - (c) to donate money to a charity or other third party;
  - (d) to disgorge any profits made by the entity from the specified offence;
  - (e) to implement a compliance programme or make changes to an existing compliance programme relating to either or both of the following –
    - (i) the entity’s policies,
    - (ii) the training of the entity’s employees;
  - (f) to pay any reasonable costs of the Attorney General in relation to the DPA proceedings;
  - (g) to pay the remuneration of the independent monitor.
- (4) A DPA may include such other terms as may be agreed between the Attorney General and the entity.

## **PART 2**

### **COURT APPROVAL OF A DPA**

#### **4 Submission of a self-report**

- (1) Where an entity wishes to enter into a DPA in relation to a specified offence it must –
  - (a) submit to the Attorney General evidence which is reasonably capable of demonstrating that the entity has committed that specified offence; and
  - (b) request that the Attorney General determines whether to enter into a DPA with the entity in relation to that specified offence.
- (2) The submission of evidence and a request in accordance with paragraph (1) is referred to in this Law as a “self-report”.

- (3) An entity may not submit more than one self-report in relation to the same specified offence.

## **5 Consideration of a self-report**

- (1) Where an entity submits a self-report, the Attorney General must determine whether the evidence submitted is reasonably capable of demonstrating that the specified offence has been committed by the entity.
- (2) Paragraph (1) does not apply where the Attorney General is satisfied that it is not in the interests of justice to enter into a DPA with the entity in relation to the specified offence.
- (3) An entity that submits a self-report must meet the costs incurred by the Attorney General in carrying out a determination under paragraph (1).
- (4) Paragraph (5) applies where –
  - (a) the Attorney General has determined that the evidence submitted is reasonably capable of demonstrating that the specified offence has been committed by the entity;
  - (b) the entity has met the costs referred to in paragraph (3); and
  - (c) the Attorney General is considering prosecuting the entity in respect of the specified offence.
- (5) Where this paragraph applies, the Attorney General must determine whether it is in the interests of justice to enter into a DPA with the entity in relation to the specified offence.
- (6) A payment in relation to costs made under this Article is not refundable, regardless of the outcome of any negotiations with a view to entering into a DPA, or any DPA proceedings, in relation to the specified offence.

## **6 Initiation of DPA proceedings and first application to the Court**

- (1) This Article applies where –
  - (a) the Attorney General has determined under Article 5(5) that it is in the interests of justice to enter into a DPA with the entity; and
  - (b) the Attorney General and the entity have commenced negotiations with a view to entering into the DPA.
- (2) The Attorney General must initiate DPA proceedings against the entity under Article 14(1A) of the Criminal Procedure Law.
- (3) Where the provision creating the specified offence requires the consent of the Attorney General before criminal proceedings may be initiated, no DPA proceedings may be initiated in relation to that specified offence except by or with the consent of the Attorney General.
- (4) Once DPA proceedings have been initiated, and the Attorney General has given the notice required by Article 14(1A)(b) of the Criminal Procedure Law and lodged and served the indictment as required by Article 43(8) of that Law, the Attorney General must apply to the Court for a declaration that –
  - (a) entering into a DPA with the entity is likely to be in the interests of justice; and
  - (b) the proposed terms of the DPA are fair, reasonable, and proportionate.

- (5) The Attorney General must nominate a person to carry out the functions described in Article 8 in relation to the DPA (an “independent monitor”), and the proposed DPA must include the name of the proposed independent monitor.
- (6) The Court must give reasons for its decision whether or not to make a declaration under paragraph (4).
- (7) The Attorney General may make a further application under paragraph (4) if the Court declined to make a declaration on the previous application.
- (8) A hearing at which an application under paragraph (4) is determined must be held in private, any declaration under paragraph (4) must be made in private, and any reasons under paragraph (6) must be given in private.

## **7 Final hearing, Court approval of the DPA and appointment of the independent monitor**

- (1) This Article applies where –
  - (a) the Court has made a declaration under Article 6(4); and
  - (b) the Attorney General and the entity have agreed the terms of the DPA.
- (2) The Attorney General must apply to the Court –
  - (a) for a declaration that –
    - (i) the DPA is in the interests of justice, and
    - (ii) the terms of the DPA are fair, reasonable, and proportionate; and
  - (b) for the appointment of the independent monitor nominated by the Attorney General.
- (3) If the Court decides to make a declaration under paragraph (2)(a) it must, when making the declaration, make the appointment of the independent monitor under paragraph (2)(b).
- (4) The Court must give reasons for its decision whether or not to make a declaration under paragraph (2)(a).
- (5) An application under paragraph (2) may be determined, and a declaration under paragraph (2)(a) may be made, without a hearing.
- (6) Any hearing at which an application under paragraph (2) is determined may be held in private, but if the Court decides to make a declaration under paragraph (2)(a), it must do so, and must give its reasons, in open court.
- (7) The DPA comes into force when it is approved by the Court making a declaration under paragraph (2)(a).
- (8) On approval of the DPA by the Court, the Attorney General must publish, in such manner as the Attorney General thinks fit –
  - (a) the DPA;
  - (b) the declaration of the Court made under Article 6(4) and the reasons given by the Court under Article 6(6);
  - (c) in a case where the Court initially declined to make a declaration under Article 6(4), the reasons given by the Court under Article 6(6) for that decision; and
  - (d) the declaration of the Court made under paragraph (2)(a) and the reasons given by the Court under paragraph (4).



- (9) Paragraph (8) does not require the Attorney General to publish information if the Attorney General is prevented from doing so by an enactment, or by an order of the Court under Article 13(1).
- (10) An independent monitor appointed under this Article –
- (a) is entitled to receive remuneration as agreed between the parties to the DPA; and
  - (b) unless paragraph (13) applies, ceases to hold office –
    - (i) on the expiry of the DPA (whether that occurs on the expiry date or as provided for in any of paragraphs (5) to (7) of Article 12), or
    - (ii) on the termination of the DPA by the Court under Article 10(3)(b).
- (11) The Attorney General may make an application to the Court if the Attorney General has reasonable grounds –
- (a) to suspect that the independent monitor has failed without reasonable excuse to carry out any of the functions described in Article 8; or
  - (b) to believe that it is necessary in all the circumstances of the case to terminate the appointment of the independent monitor.
- (12) Paragraph (13) applies if, on an application under paragraph (11), the Court is satisfied that –
- (a) the independent monitor has failed without reasonable excuse to carry out any of the functions described in Article 8; or
  - (b) it is necessary in all the circumstances of the case to terminate the appointment of the independent monitor.
- (13) Where this paragraph applies, the Court may make an order –
- (a) terminating the appointment of the independent monitor (“the outgoing independent monitor”) and appointing another independent monitor nominated by the Attorney General (“the incoming independent monitor”);
  - (b) making such other provision as the Court thinks just in all the circumstances of the case including, but not limited to –
    - (i) requiring the outgoing independent monitor to deliver, to the Attorney General or the incoming independent monitor or both of them, information and documents received or obtained in the course of carrying out the functions described in Article 8,
    - (ii) requiring the outgoing independent monitor to disgorge itself of any fees received by virtue of its appointment,
    - (iii) requiring that any such fees are repaid to the entity, or paid into the Criminal Offences Confiscations Fund established by Article 24 of the [Proceeds of Crime \(Jersey\) Law 1999](#).

## PART 3

### MONITORING COMPLIANCE WITH A DPA

#### 8 Functions of the independent monitor

- (1) The independent monitor in relation to a DPA must –

- (a) monitor the entity's compliance with the terms of the DPA;
  - (b) report to the Court and the Attorney General on the entity's compliance with the terms of the DPA; and
  - (c) report to the Attorney General if it appears to the independent monitor that, in the submission of the self-report, in negotiations with a view to entering into the DPA, or at any time while the DPA is in force, the entity or a connected person in relation to the entity has –
    - (i) provided inaccurate, misleading, or incomplete information to the Court, the Attorney General, or the independent monitor,
    - (ii) committed an offence under this Law, or
    - (iii) committed a criminal offence.
- (2) A report referred to in paragraph (1)(b) must be made at such times or at such intervals as are specified in the DPA and must, in particular –
- (a) specify any breach of the terms of the DPA by the entity during the period covered by the report; and
  - (b) notify the Court and the Attorney General if, in the opinion of the independent monitor, the entity is likely to fail to comply with any term of the DPA.
- (3) Where the independent monitor submits a report referred to in paragraph (1)(c), the independent monitor must provide the Attorney General with all evidence in the possession or control of the independent monitor relating to the substance of the report.
- (4) Paragraph (5) applies if, on an application to the Court by the Attorney General, the Court is satisfied that there is reasonable cause to believe that –
- (a) the entity, or a connected person in relation to the entity, has –
    - (i) breached any term of the DPA, or any order made by the Court in relation to the DPA, or
    - (ii) done any act which could be the substance of a report under paragraph (1)(c); and
  - (b) evidence of the breach or act is to be found in any records of, or under the control of, the entity or the connected person (as the case may be).
- (5) Where this paragraph applies, the Court may make an order –
- (a) authorising the independent monitor to inspect the records mentioned in paragraph (4)(b) for the purpose of investigating and obtaining evidence of the breach or act; or
  - (b) requiring a person named in the order to produce and make available those records to the independent monitor at a time and a place specified in the order.
- (6) A hearing at which an application under paragraph (4) is determined must be held in private, any order under paragraph (5) must be made in private.
- (7) Paragraph (8) applies to a person who was the independent monitor in relation to a DPA immediately before the expiry or termination of the DPA (“former independent monitor”).
- (8) Where it appears to the former independent monitor that the entity, or a connected person in relation to the entity, has done any act which could be the substance of a report under paragraph (1)(c), the former independent monitor must report to the Attorney General and the report must comply with the requirements of paragraph (3).

- (9) Except as required under any enactment, the terms of the DPA, or an order of a court, the independent monitor must not disclose any information or documents received or obtained in the course of carrying out the functions described in this Article, other than –
- (a) to the Attorney General;
  - (b) to another person where the disclosure is reasonably necessary to enable the independent monitor to carry out those functions.

## **9 Duties on entities and connected persons**

- (1) An entity that has entered into a DPA must –
- (a) on request, provide the independent monitor with any information or documents that the independent monitor may require in order to carry out the functions described in Article 8;
  - (b) provide any assistance to the independent monitor in the carrying out of those functions as the independent monitor may reasonably request;
  - (c) provide the independent monitor with all other information and documents which may assist the independent monitor in carrying out those functions, and any further assistance that the entity is reasonably able to give.
- (2) An entity commits an offence and is liable to a fine if it –
- (a) fails, without reasonable excuse, to comply with an obligation imposed by paragraph (1); or
  - (b) knowingly or recklessly provides information that is false or misleading in purported compliance with an obligation imposed by paragraph (1).
- (3) If an offence mentioned in paragraph (2) is proved to have been committed with the consent or connivance of a connected person in relation to the entity, the connected person is also guilty of the offence, and liable in the same manner as the entity to a fine.
- (4) A connected person in relation to the entity must –
- (a) on request, provide the independent monitor with any information or documents that the independent monitor may require in order to carry out the functions described in Article 8;
  - (b) provide any assistance to the independent monitor in the carrying out of those functions as the independent monitor may reasonably request, including by attending on the independent monitor at reasonable times and at reasonable notice when requested to do so; and
  - (c) notify the independent monitor in writing of any change, of which they are aware, in the information provided under this Article that may affect –
    - (i) the carrying out of those functions,
    - (ii) the entity's ability to comply with its obligations under the DPA.
- (5) A connected person in relation to an entity commits an offence and is liable to imprisonment for a term not exceeding 12 months and to a fine if the connected person –
- (a) fails, without reasonable excuse, to comply with an obligation imposed by paragraph (4);

- (b) knowingly or recklessly provides information that is false or misleading in purported compliance with an obligation imposed by paragraph (4).
- (6) Paragraph (7) applies where a connected person provides a statement to the independent monitor pursuant to a requirement under paragraph (4).
- (7) Where this paragraph applies, the statement provided may not be used in evidence against the connected person on a prosecution for any offence other than an offence under paragraph (5).

## **10 Breach of a DPA**

- (1) The Attorney General may make an application to the Court if, at any time while a DPA is in force, the Attorney General has reasonable grounds to suspect that the entity has failed to comply with the terms of the DPA.
- (2) On an application under paragraph (1) the Court must decide on the balance of probabilities whether the entity has failed to comply with the terms of the DPA.
- (3) If the Court finds that the entity has failed to comply with the terms of the DPA, it may –
  - (a) invite the Attorney General and the entity to agree proposals to remedy the entity's failure to comply; or
  - (b) terminate the DPA.
- (4) The Court must give reasons for its decisions under paragraphs (2) and (3).
- (5) A hearing at which an application under paragraph (1) is determined must be held in private, any decision under paragraph (2) or (3) must be made in private, and any reasons under paragraph (4) must be given in private.

## **11 Variation of a DPA**

- (1) At any time while a DPA is in force, the Attorney General and the entity may agree to vary its terms if –
  - (a) the Court has invited the parties to vary the DPA under Article 10(3)(a); or
  - (b) variation of the DPA is necessary to avoid a failure by the entity to comply with its terms in circumstances that were not, and could not reasonably have been, foreseen by the Attorney General or the entity at the time that the DPA was agreed.
- (2) When the Attorney General and the entity have agreed to vary the terms of a DPA, the Attorney General must apply to the Court for a declaration that –
  - (a) the variation is in the interests of justice; and
  - (b) the terms of the DPA as varied are fair, reasonable, and proportionate.
- (3) A variation of a DPA takes effect when it is approved by the Court making a declaration under paragraph (2).
- (4) The Court must give reasons for its decision whether or not to make a declaration under paragraph (2).
- (5) A hearing at which an application under paragraph (2) is determined must be held in private, any decision under paragraph (2) must be made in private, and any reasons under paragraph (4) must be given in private.

## **12 Discontinuance of DPA proceedings on expiry of a DPA**

- (1) If a DPA remains in force until its expiry date then, after the expiry of the DPA, the Attorney General must discontinue the proceedings in relation to the offence by giving notice to the Court under Article 81A(2) of the Criminal Procedure Law.
- (2) Where DPA proceedings are discontinued, fresh criminal proceedings may not be instituted against the entity in relation to the offence specified in the indictment unless paragraph (3) applies.
- (3) This paragraph applies where, after the DPA has expired, the Attorney General finds that during the course of the negotiations for the DPA the entity –
  - (a) provided inaccurate, misleading, or incomplete information to the Attorney General; and
  - (b) knew or ought to have known that the information was inaccurate, misleading, or incomplete.
- (4) A DPA is not to be treated as expiring on its expiry date for the purposes of paragraphs (1) and (3) and Article 7(10)(b) in the circumstances described in paragraph (5), (6) or (7).
- (5) Where, on the expiry date specified in the DPA, an application made under Article 10(1) has not yet been decided by the Court –
  - (a) if the Court decides that the entity has not failed to comply with the terms of the DPA, or that the entity has failed to comply but does not take action under Article 10(3), the DPA is treated as expiring when the application is decided;
  - (b) if the Court terminates the DPA under Article 10(3)(b), the DPA is treated as not having remained in force until its expiry date;
  - (c) if the Court invites the parties under Article 10(3)(a) to agree proposals to remedy the entity's failure to comply, the DPA is treated as expiring when the parties have reached an agreement and the entity has complied with it.
- (6) Where, on the expiry date specified in the DPA, the Court has invited the parties under Article 10(3)(a) to agree proposals to remedy the entity's failure to comply but the parties have not yet reached an agreement, the DPA is treated as expiring when the parties have reached an agreement and the entity has complied with it.
- (7) Where, on the expiry date specified in the DPA, the parties have agreed proposals to remedy the entity's failure to comply following an invitation of the Court under Article 10(3)(a) but the entity has not yet complied with the agreement, the DPA is treated as expiring when the entity complies with the agreement.

## **13 Publication of information by the Attorney General**

- (1) The Court may order that the publication of information by the Attorney General under Article 7(8) be postponed, for such period as the Court considers necessary or indefinitely, if it appears to the Court that postponement is necessary –
  - (a) for avoiding a substantial risk of prejudice to the administration of justice in any legal proceedings; or
  - (b) for some other substantial reason.
- (2) The Court may order, on the application of the Attorney General or the entity, or of its own motion, that any of the following be published by the Attorney General, if it appears to the Court that publication is in the public interest –
  - (a) in relation to an application under Article 10(1) –

- (i) a decision of the Court under Article 10(2) or (3) and any reasons for that decision given under Article 10(4),
    - (ii) where the DPA is terminated by the Court under Article 10(3)(b), that fact;
  - (b) where the Attorney General believes that the entity failed to comply with the terms of the DPA but decided not to make an application under Article 10(1), details relating to that decision including the Attorney General's reasons –
    - (i) for believing that the entity has failed to comply with the DPA, and
    - (ii) for deciding not to make the application;
  - (c) in relation to an application under Article 11 –
    - (i) a decision of the Court under Article 11(2) and any reasons for that decision given under Article 11(4),
    - (ii) where the Court approved the variation of the DPA, the DPA as varied;
  - (d) where DPA proceedings are discontinued under Article 12(1) –
    - (i) that fact, and
    - (ii) details of the entity's compliance with the DPA.
- (3) A hearing at which an application under paragraph (2) is determined must be held in private, and any decision under paragraph (2) must be made in private.

## PART 4

### MISCELLANEOUS PROVISIONS

#### 14 Attorney General's Guidance

- (1) The Attorney General must issue guidance (the "Attorney General's Guidance") in relation to the application of this Law which may, in particular, include guidance on –
  - (a) the process of submitting a self-report;
  - (b) the principles to be applied in determining, for the purposes of Article 5, whether evidence submitted is reasonably capable of demonstrating that a specified offence has been committed;
  - (c) the principles to be applied in determining the amount of costs to be met by an entity under Article 5(3);
  - (d) the principles to be applied in determining, for the purposes of Article 5(2) and (5), whether it is in the interests of justice to enter into a DPA with an entity;
  - (e) the process of negotiating and agreeing a DPA;
  - (f) the content of a DPA including the requirements that a DPA may impose on an entity, and the amount of any financial penalty or costs which may be imposed;
  - (g) the use by the Attorney General of information obtained in the course of negotiations for a DPA;
  - (h) the appointment and role of the independent monitor, and the persons who are eligible to be nominated as an independent monitor;

- (i) the circumstances in which it may be reasonably necessary for the independent monitor to disclose information or documents as described in Article 8(9)(b);
  - (j) the steps that may be taken by the Attorney General in relation to a suspected breach of a DPA;
  - (k) the termination of a DPA under Article 10(3)(b) and steps that may be taken by the Attorney General following termination; and
  - (l) the variation of a DPA under Article 11.
- (2) The Attorney General may at any time vary, or withdraw and replace, the Attorney General's Guidance.
  - (3) The Attorney General must publish the Attorney General's Guidance, and any variation or replacement, in such manner as the Attorney General thinks fit.

## 15 Use of material in criminal proceedings

- (1) Paragraph (2) applies where a DPA has been approved by the Court under Article 7(2)(a).
- (2) Where this paragraph applies, in any criminal proceedings brought against the entity for the specified offence, any statement of facts contained in the DPA is to be treated as an admission by the entity under Part 2 (formal admissions) of the [Criminal Justice \(Evidence and Procedure\) \(Jersey\) Law 1998](#).
- (3) Paragraph (4) applies where the Attorney General and the entity have entered into negotiations for a DPA but the DPA has not been approved by the Court under Article 7(2)(a).
- (4) Where this paragraph applies, material described in paragraph (5) may only be used in evidence against the entity –
  - (a) on a prosecution for an offence consisting of the provision of inaccurate, misleading, or incomplete information; or
  - (b) on a prosecution for some other offence where –
    - (i) in giving evidence the entity makes a statement inconsistent with the material, and
    - (ii) evidence relating to the material is adduced, or a question relating to it is asked, by or on behalf of the entity in the proceedings arising out of the prosecution.
- (5) The material mentioned in paragraph (4) is –
  - (a) material that shows that the entity entered into negotiations for a DPA, including in particular –
    - (i) any draft of the DPA,
    - (ii) any draft of any statement of facts intended to be contained in the DPA,
    - (iii) any statement indicating that the entity entered into those negotiations;
  - (b) material that was created solely for the purpose of preparing the self-report, the DPA, or any statement of facts.
- (6) Except as provided for in paragraphs (1) to (5), where proceedings in relation to a specified offence are progressed under Article 81A(1) of the Criminal Procedure Law, any enactment or principle of customary law relating to criminal procedure and evidence applies to those proceedings as it would apply if the suspension under Article 14(1B) of the Criminal Procedure Law had not occurred.

## **16 Money paid in relation to a DPA**

Where an entity is required to pay a financial penalty under this Law, any payment made by, or on behalf of, the entity must be paid into the Criminal Offences Confiscations Fund established by Article 24 of the [Proceeds of Crime \(Jersey\) Law 1999](#), in accordance with any term specified in the DPA or an order of the Court.

## **17 Limitation of liability of Attorney General**

- (1) Paragraph (2) applies to –
  - (a) the Attorney General; and
  - (b) any person who is acting as an officer, employee or agent of the Attorney General.
- (2) A person to whom this paragraph applies is not liable in damages or for consequential loss for any act done in the discharge, or purported discharge, of the functions of the Attorney General under this Law.
- (3) Paragraph (2) does not apply so as to prevent an award of damages made in respect of an act –
  - (a) if it is shown that the act was done in bad faith; or
  - (b) on the ground that the act was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).
- (4) The Attorney General is not liable in costs for any DPA proceedings under Parts 2 and 3 of this Law, except where it is shown that the DPA proceedings were commenced, or (having been lawfully commenced) were continued, in bad faith.

## **18 Consequential amendments**

- (1) Schedule 2 contains consequential amendments.
- (2) The States may by Regulations make such amendments to any enactment as appear to the States to be necessary or expedient –
  - (a) for the general purposes, or any particular purpose, of this Law; or
  - (b) in consequence of any provision made by or under this Law.

## **19 Transitional provisions**

- (1) Conduct constituting a specified offence that occurred before the relevant date may be taken into account for the purposes of this Law.
- (2) In paragraph (1) “the relevant date” means –
  - (a) in the case of a specified offence that is specified in Schedule 1 on the day this Law comes into force, that day; and
  - (b) in the case of a specified offence that is subsequently added to Schedule 1, the day on which the Regulations or other enactment adding that specified offence come into force.
- (3) Where conduct that occurred before this Law comes into force –
  - (a) constituted an offence under an enactment or under the customary law of Jersey at the time of that conduct (an “old offence”); and



- (b) would constitute a specified offence if it occurred on or after the day this Law comes into force,  
this Law applies as if the specified offence included the old offence.

## **20 Citation and commencement**

This Law may be cited as the Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023 and comes into force 7 days after it is registered.

## SCHEDULE 1

(Article 1(1))

### SPECIFIED OFFENCES

1. The customary law offences of –
  - (a) embezzlement;
  - (b) false accounting;
  - (c) forgery;
  - (d) fraud;
  - (e) fraudulent conversion;
  - (f) larceny.
2. An offence under Article 2 (fraudulent inducement to invest money) of the [Investors \(Prevention of Fraud\) \(Jersey\) Law 1967](#).
3. An offence under any of the following provisions of the [Companies \(Jersey\) Law 1991](#) –
  - (a) Article 33 (criminal liability in relation to prospectuses);
  - (b) Article 61A (solvency statement);
  - (c) Article 127G (offences relating to merger);
  - (d) Article 127W (statements of solvency in respect of continuance);
  - (e) Article 127Y (offences relating to continuance).
4. An offence under any of the following provisions of the [Financial Services \(Jersey\) Law 1998](#) –
  - (a) Article 7 (prohibition of carrying on unauthorised financial service business);
  - (b) Article 39G (insider dealing);
  - (c) Article 39L (market manipulation and misleading information).
5. An offence under Article 23(1) (penalty for intermeddling) of the [Probate \(Jersey\) Law 1998](#).
6. An offence under any of the following provisions of the [Proceeds of Crime \(Jersey\) Law 1999](#) –
  - (a) Article 30 (offences of dealing with criminal property);
  - (b) Article 31 (concealment etc. of criminal property);
  - (c) Article 35A (failure to prevent money laundering);
  - (d) Article 37(4) (procedures to prevent and detect money laundering).
7. An offence under either of the following provisions of the [Corruption \(Jersey\) Law 2006](#) –
  - (a) Article 5 (corruption concerning public body);
  - (b) Article 6 (corrupt transactions with agents).
8. An offence of aiding, abetting, counselling, procuring, conspiring, attempting, or inciting, whether under customary law, Article 1 of the [Criminal Offences \(Jersey\) Law 2009](#), or any other statutory provision, in relation to the commission of an offence mentioned in any of paragraphs 1 to 7.



## **SCHEDULE 2<sup>1</sup>**

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023	<a href="#">L.2/2023</a>	3 March 2023	<a href="#">P.103/2022</a>

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

### Table of Endnote References

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<sup>1</sup> *Schedule 2*                      *spent, omitted*