



Jersey

**SEXUAL OFFENCES (JERSEY) LAW  
2007**

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Jersey

## SEXUAL OFFENCES (JERSEY) LAW 2007

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Jersey

## SEXUAL OFFENCES (JERSEY) LAW 2007

A **LAW** to make certain sexual acts offences, to amend the law relating to certain sexual acts and for connected purposes

Commencement [[see endnotes](#)]

### 1 Interpretation

- (1) In this Law –
  - “1999 Law” means the Education (Jersey) Law 1999<sup>1</sup>;
  - “2002 Law” means the Children (Jersey) Law 2002<sup>2</sup>;
  - “image” means a moving or still image and includes an image produced by any means and, where the context permits, a three-dimensional image;
  - “Minister” means the Minister for Home Affairs.
- (2) In this Law references to an image of a person include references to an image of an imaginary person.
- (3) For the purposes of this Law, touching includes touching –
  - (a) with any part of the body;
  - (b) with anything else;
  - (c) through anything.
- (4) For the purposes of this Law, touching or any other activity is sexual if a reasonable person would consider that –
  - (a) whatever its circumstances or any person’s purpose in relation to it, it is because of its nature sexual; or
  - (b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual.

**2 Meeting a child following sexual grooming etc.**

- (1) A person aged 18 or over (A) commits an offence if –
  - (a) having met or communicated with another person (B) on at least 2 earlier occasions, A –
    - (i) intentionally meets B, or
    - (ii) travels with the intention of meeting B in any part of the world;
  - (b) at the time, A intends to do anything to or in respect of B, during or after the meeting and in any part of the world, which if done will involve the commission by A of a relevant offence;
  - (c) B is under 16; and
  - (d) A does not reasonably believe that B is 16 or over.
- (2) In paragraph (1), the reference to A having met or communicated with B is a reference to A having met B in any part of the world or having communicated with B by any means from, to or in any part of the world.
- (3) The Schedule shall have effect to specify what is a relevant offence for the purposes of paragraph (1)(b).
- (4) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 10 years and to a fine.

**3 Abuse of position of trust: sexual activity with a child**

- (1) A person aged 18 or over (A) commits an offence if –
  - (a) A intentionally touches another person (B);
  - (b) the touching is sexual;
  - (c) A is in a position of trust in relation to B;
  - (d) where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he or she is in a position of trust in relation to B; and
  - (e) either –
    - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
    - (ii) B is under 15.
- (2) This paragraph applies where A –
  - (a) is in a position of trust in relation to B by virtue of circumstances within Article 7(2), (3), (4) or (5), and
  - (b) is not in such a position of trust by virtue of other circumstances.
- (3) Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether the defendant reasonably believed it.
- (4) Where in proceedings for an offence under this Article –

- (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within Article 7(2), (3), (4) or (5), and
- (b) it is not proved that the defendant was in such a position of trust by virtue of other circumstances,

it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he or she was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether the defendant knew or could reasonably have been expected to know of those circumstances.

- (5) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 5 years and to a fine.

#### **4 Abuse of position of trust: causing or inciting a child to engage in sexual activity**

- (1) A person aged 18 or over (A) commits an offence if –
  - (a) A intentionally causes or incites another person (B) to engage in an activity;
  - (b) the activity is sexual;
  - (c) A is in a position of trust in relation to B;
  - (d) where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which A is in a position of trust in relation to B; and
  - (e) either –
    - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
    - (ii) B is under 15.
- (2) This paragraph applies where A –
  - (a) is in a position of trust in relation to B by virtue of circumstances within Article 7(2), (3), (4) or (5); and
  - (b) is not in such a position of trust by virtue of other circumstances.
- (3) Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether the defendant reasonably believed it.
- (4) Where in proceedings for an offence under this Article –
  - (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within Article 7(2), (3), (4) or (5), and
  - (b) it is not proved that the defendant was in such a position of trust by virtue of other circumstances,

it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he or she was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether the defendant knew or could reasonably have been expected to know of those circumstances.

- (5) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 5 years and to a fine.

## **5 Abuse of position of trust: sexual activity in the presence of a child**

- (1) A person aged 18 or over (A) commits an offence if –
- (a) A intentionally engages in an activity;
  - (b) the activity is sexual;
  - (c) for the purpose of obtaining sexual gratification, A engages in it –
    - (i) when another person (B) is present or is in a place from which A can be observed, and
    - (ii) knowing or believing that B is aware, or intending that B should be aware, that A is engaging in it;
  - (d) A is in a position of trust in relation to B;
  - (e) where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which A is in a position of trust in relation to B; and
  - (f) either –
    - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
    - (ii) B is under 15.
- (2) This paragraph applies where A –
- (a) is in a position of trust in relation to B by virtue of circumstances within Article 7(2), (3), (4) or (5); and
  - (b) is not in such a position of trust by virtue of other circumstances.
- (3) Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether the defendant reasonably believed it.
- (4) Where in proceedings for an offence under this Article –
- (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within Article 7(2), (3), (4) or (5); and
  - (b) it is not proved that the defendant was in such a position of trust by virtue of other circumstances,

it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he or she was in such a position of trust unless sufficient evidence is adduced to raise an



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issue as to whether the defendant knew or could reasonably have been expected to know of those circumstances.

- (5) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 5 years and to a fine.

## **6 Abuse of position of trust: causing a child to watch a sexual act**

- (1) A person aged 18 or over (A) commits an offence if –
- (a) for the purpose of obtaining sexual gratification, A intentionally causes another person (B) to watch a third person engaging in an activity, or to look at an image of any person engaging in an activity;
  - (b) the activity is sexual;
  - (c) A is in a position of trust in relation to B;
  - (d) where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which A is in a position of trust in relation to B; and
  - (e) either –
    - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
    - (ii) B is under 15.
- (2) This paragraph applies where A –
- (a) is in a position of trust in relation to B by virtue of circumstances within Article 7(2), (3), (4) or (5); and
  - (b) is not in such a position of trust by virtue of other circumstances.
- (3) Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether the person reasonably believed it.
- (4) Where in proceedings for an offence under this Article –
- (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within Article 7(2), (3), (4) or (5); and
  - (b) it is not proved that the defendant was in such a position of trust by virtue of other circumstances,

it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he or she was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether the defendant knew or could reasonably have been expected to know of those circumstances.

- (5) A person guilty of an offence under this Article shall be liable to imprisonment for a term of 5 years and to a fine.

**7 Positions of trust**

- (1) For the purposes of Articles 3 to 6, a person (A) is in a position of trust in relation to another person (B) if –
  - (a) any of the following paragraphs applies; or
  - (b) any condition specified in an Order made by the Minister is met.
- (2) This paragraph applies if A looks after persons under 18 who are detained in an institution by virtue of a court order or under an enactment, and B is so detained in that institution.
- (3) This paragraph applies if A looks after persons under 18 who are resident in –
  - (a) a home or other place in which accommodation and maintenance are provided by the Minister for Health and Social Services under Article 20(1) of the 2002 Law; or
  - (b) a voluntary home, within the meaning of the 2002 Law,and B is resident, and is so provided with accommodation and maintenance, or accommodated, in that place.
- (4) This paragraph applies if A looks after persons under 18 who are accommodated and cared for in one of the following institutions –
  - (a) a hospital within the meaning of the 2002 Law; or
  - (b) a home to which the Nursing and Residential Homes (Jersey) Law 1994<sup>3</sup> applies;and B is accommodated and cared for in that institution.
- (5) This paragraph applies if A looks after persons under 18 –
  - (a) who are receiving education at a school, within the meaning of the 1999 Law and B is receiving, and A is not receiving, education at that school; or
  - (b) who are cared for at registered day care premises, within the meaning of the Day Care of Children (Jersey) Law 2002<sup>4</sup>, and B is cared for at those premises.
- (6) This paragraph applies if A is appointed as –
  - (a) the guardian of B, under Article 7 of the 2002 Law; or
  - (b) B's *tuteur*;
- (7) This paragraph applies if A is engaged in the provision of services provided by the Minister for Education to enable or assist participation by persons under the age of 16 in education or training and, in that capacity, looks after B on an individual basis.<sup>5</sup>
- (8) This paragraph applies if A regularly has unsupervised contact with B (whether face to face or by any other means) –
  - (a) in the exercise of functions of the Minister for Health and Social Services under Article 17 or 18 of the 2002 Law;
  - (b) in the exercise of functions for the provision of publicly provided accommodation for the purposes of Article 36 of the Police Procedures and Criminal Evidence (Jersey) Law 2003<sup>6</sup>.

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- (9) This paragraph applies if A, who is to report to the court under Article 9 of the 2002 Law on matters relating to the welfare of B, regularly has unsupervised contact with B (whether face to face or by any other means).
- (10) This paragraph applies if A is an officer in an administration of the States for which the Minister for Health and Social Services is assigned responsibility, the Minister delegates to A the Minister's functions under Article 21 of the 2002 Law and A, in the discharge of those functions, advises and assists B and looks after B on an individual basis.
- (11) This paragraph applies if A is an officer in an administration of the States for which the Minister for Health and Social Services is assigned responsibility to whom the Minister delegates the discharge of the functions imposed on the Minister in relation to B by an order made under Article 12 of the Adoption (Jersey) Law 1961<sup>7</sup>.
- (12) This paragraph applies if –
- (a) B is subject to a care order or supervision order, within the meaning of the 2002 Law, or an education supervision order within the meaning of the 1999 Law; and
  - (b) in the exercise of functions conferred by virtue of the order on an authorized person or the authority designated by the order, A looks after or supervises B on an individual basis.
- (13) This paragraph applies if A –
- (a) is a person appointed for B under Article 75(1)(b) or (2)(b) of the 2002 Law;
  - (b) is appointed to be the guardian ad litem of B under Article 18(6) of the Adoption (Jersey) Law 1961; or
  - (c) is appointed to be the guardian ad litem of B under rule 51 of the Matrimonial Causes Rules 2005<sup>8</sup>,
- and, in that capacity, regularly has unsupervised contact with B (whether face to face or by any other means).
- (14) This paragraph applies if –
- (a) B is subject to requirements imposed by or under an enactment on his or her release from detention for a criminal offence, or is subject to requirements imposed by a court order made in criminal proceedings; and
  - (b) A looks after B on an individual basis in pursuance of the requirements.

## **8 Positions of trust: interpretation of Article 7**

- (1) The following provisions apply for the purposes of Article 7.
- (2) Subject to paragraph (3), a person looks after persons under 18 if he or she is regularly involved in caring for, training, supervising or being in sole charge of such persons.
- (3) A person (A) looks after another person (B) on an individual basis if –

- (a) A is regularly involved in caring for, training or supervising B; and
  - (b) in the course of A's involvement, A regularly has unsupervised contact with B (whether face to face or by any other means).
- (4) A person receives education at a school, within the meaning of the 1999 Law, if –
- (a) the person is registered or otherwise enrolled as a pupil or student at the school, or
  - (b) the person receives education at the school under arrangements with another school at which he or she is so registered or otherwise enrolled.

**9 Articles 3 to 6: marriage exception**

- (1) Conduct by a person (A) which would otherwise be an offence under any of Articles 3 to 6 against another person (B) is not an offence under that Article if at the time –
- (a) B is 16 or over; and
  - (b) A and B are lawfully married.
- (2) In proceedings for such an offence it is for the defendant to prove that A and B were lawfully married at the time.

**10 Articles 3 to 6: sexual relationships which pre-date position of trust**

- (1) Conduct by a person (A) which would otherwise be an offence under any of Articles 3 to 6 against another person (B) is not an offence under that Article if, immediately before the position of trust arose, a sexual relationship existed between A and B.
- (2) Paragraph (1) does not apply if at that time sexual intercourse between A and B would have been unlawful.
- (3) In proceedings for an offence under any of Articles 3 to 6 it is for the defendant to prove that such a relationship existed at that time.

**11 Articles 3 to 6: aiders, abettors, etc.**

A person who aids, abets, counsels or procures the commission of an offence under any of Articles 3 to 6 shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

**12 Amendment of law relating to *sodomie***

- (1) Notwithstanding any rule of customary law or any other enactment, a person shall not be guilty of the *crime of sodomie* if –
- (a) the act is committed in private; and
  - (b) each of the parties to the act consents and is 16 or over.

- (2) Notwithstanding any rule of customary law or any other enactment, a person under 16 shall not be guilty of the *crime* of *sodomie* if the other party to the act is 16 or over.
- (3) An act of *sodomie* shall not be treated as taking place in private if it takes place in a lavatory to which the public have, or are permitted to have, access, whether on payment or otherwise.
- (4) In any proceedings for the *crime* of *sodomie*, it shall be for the prosecution to prove that the act of *sodomie* took place otherwise than in private or that one of the parties is under 16.
- (5) A person requiring special care cannot give any consent which, by virtue of paragraph (1), would prevent an act of *sodomie* from being a *crime*.
- (6) Notwithstanding paragraph (5), a person shall not be convicted, on account of the incapacity of a person requiring special care to consent, of a *crime* of *sodomie* if the first-mentioned person proves that he or she did not know, and had no reason to suspect, that the other person was a person requiring special care.
- (7) In this Article, “person requiring special care” has the same meaning as in the Mental Health (Jersey) Law 1969<sup>9</sup>.

### **13 Citation**

This Law may be cited as the Sexual Offences (Jersey) Law 2007.

**SCHEDULE**

(Article 2(3))

**RELEVANT OFFENCES**

1. Any offence under this Law.
2. Rape.
3. Incest.
4. Sodomy.
5. Bestiality.
6. Indecent assault.
7. Gross indecency.
8. Indecent exposure.
9. Any offence under the Loi (1895) modifiant le droit criminel<sup>10</sup>, other than an offence under Article 7.
10. Any offence under Article 38 of the Mental Health (Jersey) Law 1969<sup>11</sup>.
11. The offence in Article 2 of the Protection of Children (Jersey) Law 1994<sup>12</sup>.
12. The offence created under Article 61 of the Customs and Excise (Jersey) Law 1999<sup>13</sup> or the offence created under Article 3 of the Import and Export (Control) (Jersey) Law 1946<sup>14</sup> in so far as the offence relates to goods prohibited to be imported under paragraph 2 of the Import and Export (Control) (Jersey) Order 1992<sup>15</sup> that are indecent photographs of persons who are or appear to be aged under 16 years.
13. Any offence of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, any of the foregoing offences.
14. Anything done outside Jersey which, if done in Jersey, would be one of the foregoing offences.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Sexual Offences (Jersey) Law 2007	L.2/2007	12 January 2007
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	R&O.158/2015	1 January 2016

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
13	Spent, omitted
14	13

**Table of Endnote References**


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<sup>1</sup>	<i>chapter 10.800</i>
<sup>2</sup>	<i>chapter 12.200</i>
<sup>3</sup>	<i>chapter 20.725</i>
<sup>4</sup>	<i>chapter 10.700</i>
<sup>5</sup> Article 7(7)	<i>amended by R&amp;O.158/2015</i>
<sup>6</sup>	<i>chapter 23.750</i>
<sup>7</sup>	<i>chapter 12.050</i>
<sup>8</sup>	<i>chapter 12.650.50</i>
<sup>9</sup>	<i>chapter 20.650</i>
<sup>10</sup>	<i>chapter 08.540</i>
<sup>11</sup>	<i>chapter 20.650</i>
<sup>12</sup>	<i>chapter 08.790</i>
<sup>13</sup>	<i>chapter 24.660</i>
<sup>14</sup>	<i>chapter 05.350</i>
<sup>15</sup>	<i>chapter 05.350.50</i>