

STATES OF JERSEY



DRAFT STATISTICS AND CENSUS (JERSEY) LAW 201-

Lodged au Greffe on 27th October 2017
by the Chief Minister

STATES GREFFE



Jersey

DRAFT STATISTICS AND CENSUS (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Chief Minister has made the following statement –

In the view of the Chief Minister, the provisions of the Draft Statistics and Census (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator I.J. Gorst**

Chief Minister

Dated: 18th October 2017

REPORT

Background

In November 2013, the Chief Minister signed a Ministerial Decision (MD-2013-0129) instructing the Law Draftsman to amend the Census (Jersey) Law 1951. The Census (Jersey) Law 1951 was designed solely for a traditional approach to censuses – specifically a mass exercise whereby all households completed paper-based forms. An alternative approach to census-taking is to make use of government administrative data, to supplement, where appropriate, traditional methods. It is important to have a Census Law that is sufficiently flexible for the 21st Century, so that different methods can be used to complement each other to achieve more efficient and frequent measurement of Jersey’s population size, characteristics and migration dynamics.

Given the age of the Census (Jersey) Law 1951, and the paucity of other legislation relating to the structure and function of the Statistics Unit, amending the Census Law provided a pertinent opportunity for enhancement from the broader perspective of establishing a statutory basis for the governance, independence and function of Official Statistics in Jersey. Currently the ‘Code of Practice for Official Statistics in Jersey’, presented to the States Assembly by the Council of Ministers on 21st May 2015, outlines how official statistics work in our Island, and states the absolute importance and inviolability of impartiality and quality when it comes to official statistics.

On 15th April 2016, the Chief Minister signed MD-C-2016-0046, which approved the drafting of legislation to replace the current Census (Jersey) Law 1951 with a Census and Statistics Law.

This second Ministerial Decision extended the work to create an updated statutory framework for the census to also enshrine the principles in the Code of Practice for Official Statistics in Jersey, and to include provisions around: (i) the collection of data from external sources (enabling, *in extremis*, penalties to be applied for not providing data); and (ii) confidentiality and disclosure.

Accordingly, the Chief Statistician, with support from the Statistics User Group, has worked with the Law Draftsman to develop a new Statistics and Census Law, which is presented here for the scrutiny and consideration of the States Assembly.

This single piece of legislation covers the census, as well as the broader range of official statistics, and how the statistics are collected, collated and published. It also includes the role, responsibilities and functions of the Statistics Unit, and of the Statistics User Group, which is currently a non-statutory body responsible for overseeing the function.

In 2002 the Jersey Statistics User Group (“SUG”), under the chairmanship of Professor Tim Holt (first Director of the UK Office for National Statistics) recommended “that the States invite the Statistics Users Group to frame legislation”, based on the assessment that “unlike almost all countries there is no legal framework to ensure that the professional independence of Official Statistics ... is embedded in law.” Therefore, the development of a legal framework for official statistics in Jersey is strongly supported by the Statistics Users Group.

Principle 7 of the United Nations Fundamental Principles of Official Statistics states the requirement of transparency around how statistical systems operate in a jurisdiction. The primary indicator used by Eurostat for recognising independence of a jurisdiction’s National Statistical Institute from political and other external

interference is that such independence is ‘specified in law’. A UN global review in 2012 found that almost 95% of countries responding had a general statistical law providing the authority and rules under which the national statistical office operated. Of the 7 countries that did not have a general statistical law, the majority of the statistical systems involved were regulated by government decrees, orders and regulations. In fact, two of them indicated that a general statistical law was being drafted.

The proposed legislation for Jersey will bring Jersey into line with other international jurisdictions, enhancing the reputation of our statistics and our Island’s governance, and providing high levels of assurance to Islanders, international agencies and investors.

Collective responsibility under Standing Order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Ministers to the Chief Minister, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this draft Law.

Human Rights

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers’ Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT

Human Rights Notes on the Draft Statistics and Census (Jersey) Law 201-

These Notes have been prepared in respect of the Draft Statistics and Census (Jersey) Law 201- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law will provide a statutory basis for the provision of official statistics and re-enacts, with amendments, existing legislation on the taking of a population census. Its provisions cover, among other things, the powers and duties of institutions involved in dealing with statistics in Jersey, the setting of statistical standards, and the collection of data and various enforcement provisions.

Article 8 ECHR is relevant to provisions around the collection of data for a census (Article 8), the power to require information from specified undertakings (Article 14), exemptions from the restriction on disclosure of information obtained under the draft Law (Article 16), and the right of access onto land and premises (Article 21).

The collection of data for census (Article 8)

Article 8(3) of the draft Law provides that, where administrative data is insufficient for the purposes of providing information about the resident population as required by the Schedule, data may be collected by means of a sample survey or a traditional census on a single appointed day or on different appointed days (i.e. a rolling census). The information required under the Schedule is, in general terms, the address of the resident, information as to the household (such as property type and numbers of bedrooms), and information about residents (such as name, sex, date of birth, marital status). Article 8(7) of the draft Law then provides that a person requested to give any information for the purposes of a census must comply with that request; in other words, it is a mandatory obligation. Article 18 of the draft Law provides, among other things, that a person who wilfully refuses or without lawful excuse neglects to furnish the particulars or information as required under the draft Law is guilty of an offence.

Article 8 of the draft Law directly engages the Article 8 ECHR (right to private life) right of those from whom information is requested for sample survey or census purposes, as the information that may be compulsorily required through the exercise of this power sits squarely within the sphere of ‘personal data’ for Article 8 ECHR purposes. It is accepted under Article 8(1) ECHR that personal data, such as names and addresses, is protected as part of the subject’s private life, and specifically, an obligation to give data under a compulsory public census amounts to an interference with the Article 8(1) ECHR right.

An interference with the Article 8(1) ECHR right must be justified under Article 8(2) ECHR, meaning it must be: (a) in accordance with the law; (b) in pursuit of one of the legitimate aims set out in Article 8(2) ECHR; and (c) necessary in a democratic society. ‘Necessity’ requires the identification of a pressing social need, and the

existence of “relevant and sufficient” reasons to justify the interference at issue. A measure will only be proportionate to the legitimate aim if supported by sufficiently persuasive reasons.

The nature of the interference constituted by the obligation to comply with a request for information would be deemed to be ‘in accordance with the law’; the powers proposed in Article 8 of the draft Law will, when the draft Law comes into force, have a basis in domestic law and can be viewed as sufficiently precise and accessible, therefore being foreseeable. The rationale for the power to request information, and the mandatory nature of compliance with such a request, is to enable the taking of a census and secure the return of the required information. These powers and obligations are essential to the conduct of an efficient census or survey; in other words, it is necessary for individuals to be compelled to participate in order to acquire accurate results. A census itself is necessary for many social and economic policy reasons, none the least it provides data which enables government planning and allocation of resources, for example. Those outcomes can be classed as falling within the ‘economic well-being’ or ‘protection of health’ objectives within Article 8(2) ECHR. As such, these outcomes are social needs and the power to compel the participation of individuals is central to providing the data necessary to facilitate those outcomes.

An important aspect in determining what is ‘necessary in a democratic society’ is the identification of procedural safeguards which mitigate the exercise of powers interfering with the right to private life. Safeguards ensure that a state remains within its margin of appreciation in fixing the applicable regulatory framework. The European Court of Human Rights has enunciated a list of safeguards which provide adequate protection against abuse of the Article 8 ECHR right, one of which is the requirement for the Law to contain explicit and detailed provisions about how the powers interfering with Article 8 ECHR could be exercised.

The draft Law contains a number of relevant safeguards. The scope of the information that may be requested for census and survey purposes is clearly set out in the Schedule to the draft Law, so information requests are contained within identifiable boundaries which would limit excessive or open-ended requests for information. Moreover, the draft Law seeks to control the use of information obtained pursuant to a request. Article 16(1) provides that information furnished under the draft Law may be used only for statistical purposes or for analysis and must not otherwise be published or communicated. Confidentiality and non-disclosure safeguards are also built into the draft Law. Article 8(6) provides that data from a census may only be disseminated in a form that does not enable the identification of any person, and Article 13(2) provides that a summary or a publication of statistics under the Law must not, without consent, enable the identification of any particular person or body. Part 5 of the draft Law contains extensive enforcement powers; in particular, offences linked to the improper disclosure of information obtained under the draft Law (Article 16(2)) and ensuring that publications do not identify any person or body (Article 16(3)(a)). Cumulatively these provisions should operate in practice to temper any excessive, and therefore, disproportionate interference with the Article 8 ECHR right of those from whom information is requested.

The collection of data from specified undertakings (Article 14)

Article 8(1) ECHR is engaged by the power of the Chief Statistician to direct a ‘specified undertaking’ (i.e. any undertaking by way of trade or business, whether or not carried out for profit, and any public authority (Article 14(6)) to furnish or supply

to him or her particulars or information in the possession of that undertaking (Article 14(1)).

In human rights terms, in addition to protecting the Article 8 ECHR rights of individuals, in certain circumstances a corporate entity may also rely on the protection of that Article; for example, regarding a right to respect for the privacy of correspondence. The Article 14(1) power is exercisable for the purpose “only of obtaining data for statistical purposes” and, in all likelihood, the information that will be furnished in response will be of a purely business or industry nature. Imposing the mandatory obligation on undertakings arising from Article 14(1) will not engage the Article 8 ECHR right to privacy of a natural person in sole control or ownership of a specified undertaking, because Article 8 ECHR applies to a certain spectrum of personal data and requesting ‘business’ information should not, in principle, engage the privacy rights of the natural person. In any event, if there were to be an interference with the Article 8 ECHR rights of the natural person, that interference would be justified for the reasons mentioned further above (interference proportionate to legitimate aim of legislation and existence of safeguards).

Right of entry to land or premises (Article 21)

Article 8 ECHR is also engaged through the exercise of the Article 21(3) power for a person employed or engaged under Article 2 to enter any land or premises for the purposes of making enquiries, delivering notices or collecting forms, etc. Article 8 ECHR protects the right to home life, and that includes both private dwellings and, in certain circumstances, corporate premises. The right of entry in Article 21(3) is more administrative than enforcement in nature (i.e. it cannot be exercised with force and is linked, for example, to the delivery of notices and making enquiries), and simply provides a statutory footing on which to enter onto private land or premises, rather than carry out searches of premises. As such, that provision doesn’t cause any significant ECHR issues and, in any event, the Article 8 ECHR justification for entering onto private land or premises is clear when done in pursuit of the legitimate aims of the draft Law.

Article 16(3)(c)

Article 16(3)(c) of the draft Law provides a power for the Chief Statistician to authorize the publication or communication or disclosure of particulars of information obtained under the draft Law for the purposes of any proceedings for an offence under the draft Law or any report of those proceedings.

The Article 8 ECHR compatibility of a provision equivalent to Article 16(3)(c) in the UK’s Statistics and Registration Act 2007 was considered in the case of *In R (on the application of Ali) v Minister for the Cabinet Office*¹. That case held that a disclosure power drafted in terms similar to that in Article 16(3)(c) would be deemed sufficiently clear and predictable when considered alongside applicable data protection principles that must be applied in any decision to process personal data (under the Data Protection Act 1998 in the UK and, by equivalence, the Data Protection (Jersey) Law 2005), and the relevant policy around disclosures operated by the regulating authority in practice. Those considerations require a balancing exercise between rights of the data subject and, in this particular case, the prevention of crime. These considerations are akin to those necessary under Article 8 ECHR which means, in principle, that the application of the Article 16(3)(c) disclosure power by the Chief Statistician, who must also comply with applicable data protection principles and, presumably, his own operational policy, should be achievable in a manner which is compatible with the ECHR.

¹ [2012] EWHC 1943 (Admin).

Explanatory Note

This draft Law provides a statutory basis for the provision of official statistics and re-enacts with amendments existing legislation on the taking of a population census.

Part 1 and *Article 1* contain the definitions of terms used in the Law.

Part 2 is concerned with the persons and institutions that have functions in relation to statistics. *Article 2* renames the States of Jersey Statistics Unit as “Statistics Jersey” and gives it the responsibility for collecting and processing data for statistical purposes for the aims there specified. A number of functions are set out. All functions are to be exercised independently. There is provision for the Chief Statistician and officers of Statistics Jersey to be States employees and for temporary staff or consultants to be engaged for the proper performance of Statistics Jersey’s functions. All persons employed or engaged by Statistics Jersey have to sign a declaration that they will carry out their duties as required and not disclose anything that becomes known in the course of their work without due authority.

Article 3 sets out the responsibilities of the Chief Statistician and gives power for any of his or her functions to be delegated to any officer of Statistics Jersey.

Article 4 provides for the constitution of the Statistics Users Group (the “Group”). It is to consist of a Chairman and 6-10 individuals appointed by the Chief Minister for 3-year renewable terms, the appointments being notified to the States in advance. The appointments are, so far as is reasonably practicable, to reflect a variety of organisations interested in statistics and the diversity in the general public. The Chief Minister has the power to fill casual vacancies. The Group may determine its own procedure, including when and how frequently it meets. The Chief Statistician is the secretary to the Group and attends the meetings in an advisory capacity.

Article 5 sets out the functions of the Group, the main function being to oversee the quality, relevance and integrity of statistics compiled by or on behalf of a public authority. The terms of reference of the Group are to review and comment upon statistics compiled by or on behalf of public authorities, to promote the standards for official statistics set out in Article 11 and to make recommendations to the Chief Minister. The Group has to publish a Code of Practice, a publication schedule (being all the publications produced by Statistics Jersey and published by the Group in any year as being compliant with the Code), a 5-yearly programme of statistics and the minutes of its meetings.

Article 6 requires the Code of Practice to establish principles and practices underlying the production, management and dissemination of official statistics (meaning the statistics listed in the publications schedule) and processes governing their release.

Article 7 requires the Chief Minister to ensure that Statistics Jersey is resourced and has the ability to carry out its duties free from political influence. He or she must not influence the Chief Statistician in the exercise of his or her responsibilities under Article 3 but may request the Chief Statistician to undertake any new statistical report.

Part 3 is about the census. *Article 8* places the responsibility on Statistics Jersey for the taking of a census and the *Schedule* sets out the information which a census may require to be provided, these being matters currently set out in Regulations. This information may be amended by Regulations. For the purposes of a census, Statistics Jersey has to analyse and link existing data collected for administrative purposes that is already in its possession or readily obtainable by it. But if this data is inadequate it may collect further from a selected group, known as a sample survey, or from a

traditional census, which may cover all the population on a single day or on different days, the latter being a rolling census. A traditional census may be held only on a day or days appointed by Act of the States. A person requested to give information for the purposes of a census must do so to the best of his or her ability.

Article 9 provides for the Chief Minister to make Orders prescribing amongst other things the procedure for the taking of a census and specifying who is to provide the required information. These matters are currently to be specified in Regulations.

Part 4 is concerned with statistical standards and the collection of data. *Article 11* sets out certain standards that apply to official statistics.

Article 12 sets out the data that Statistics Jersey may collect and states that it should seek to avoid collecting data where data collected for administrative purposes is readily accessible, of suitable quality and sufficiently up to date to enable it to carry out its functions under this Law. It may prepare forms, questionnaires and other records for collecting information and the Chief Statistician may authorize the use of sampling methods for data collection. Under *Article 13* Statistics Jersey must cause the data collected under the Law to be compiled and analysed and may publish the resulting statistical report with or without observations. Except as allowed by the Law no publication may be published or disseminated in a manner likely to enable the identification of any particular individual, household or body without the necessary consent.

Article 14 enables the Chief Statistician to require an “undertaking” to supply particulars and information irrespective of other obligations or restrictions (subject to exemptions under Regulations). An undertaking is a trade, business or activity, whether or not carried on for profit, and includes any public authority but the definition may be amended by Regulations. *Article 15* enables the Chief Statistician to invite provision of information on a voluntary basis and this may be done despite any restriction in any other enactment.

Part 5 covers enforcement. *Article 16* restricts the use of information disclosed under the Law for statistical purposes or analysis and otherwise prohibits publication or communication. The disclosing of any particulars or information in a form that may identify any individual, household or body is prohibited. However, the Chief Statistician may authorize the publication or communication or disclosure of particulars and information in anonymized form, for the purposes of proceedings for an offence under the Law or a report of those proceedings or if they are already in the public domain. He or she may also impose conditions as to the use of the particulars or information authorized to be disclosed. There is an exception from the requirement of disclosure on grounds of privilege and where disclosure is in accordance with any enactment, in pursuance of a court order or with the consent of the person or body. The offences of disclosure or failing to comply with imposed conditions attract a penalty of up to 2 years’ imprisonment and/or a fine.

Article 17 makes it an offence wilfully to destroy, damage or falsify any document or record containing particulars or information collected under the Law or Regulations made under it unless (except in the case of falsification) it is authorized by the Chief Statistician. There are also a number of offences that apply to persons employed or engaged by Statistics Jersey to do with use of information, failure to keep it secure, failure to return it, compiling false information or obtaining information that the person is not entitled to obtain. Offences under this Article attract a penalty of up to 2 years’ imprisonment and/or a fine of up to £10,000 except for those relating to record-keeping where the penalty is up to 3 months’ imprisonment and/or a fine of up to £10,000.

Article 18 creates offences of wilfully refusing to furnish particulars or information, wilfully furnishing false particulars or information, refusing to answer or giving a false answer to questions or making a false declaration in an affidavit for which the penalty is a fine of up to £1,000.

Article 19 creates offences of obstructing a person in the exercise of his or her functions under the Law or Regulations, or impersonating such a person, punishable by up to 6 months' imprisonment and/or a fine of up to £10,000.

Article 20 is a standard provision about liability for offences in the case of partners or company officers. *Article 21* is about evidence of delivery of documents and gives a right of access to premises for the purposes of delivery.

Part 6 contains the closing provisions. *Article 22* contains various transitional provisions for existing employees and workers for the Statistics Unit and the Group and to treat the existing Code of Practice as published under the Law.

Article 23 repeals the Census (Jersey) Law 1951 and *Article 24* makes various consequential amendments to existing legislation that referred to the Statistics Unit.

Article 25 names the Law and provides for it to come into force 7 days after its registration.



Jersey

DRAFT STATISTICS AND CENSUS (JERSEY) LAW 201-

Arrangement

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Jersey

DRAFT STATISTICS AND CENSUS (JERSEY) LAW 201-

A **LAW** relating to the provision of official statistics, including the taking of censuses of the population and for connected purposes

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

PART 1

INTRODUCTORY

1 Interpretation

In this Law –

“anonymised microdata” means particulars or information relating to an individual, household or body, in a form that conceals or protects the identity of the individual, household or body, whether by presenting those particulars or information in statistical form or otherwise, so that the identity cannot be readily discovered or ascertained from the particulars or information;

“census” means the process of collecting, compiling, evaluating, analysing and publishing or otherwise disseminating demographic, economic and social data pertaining, at a specific time, to all persons, and their living quarters in a country or well delimited part of a country and in this Law a reference to a census without qualification includes both a sample survey and a traditional census;

“body” means an undertaking other than a public authority;

“Chief Statistician” means the person appointed as such under Article 2(7);

“Code” means the Code of Practice published under Article 5(4)(a);

“Group” means the Statistics Users Group established under Article 4(1);

“household” means –

- (a) one person living alone; or
- (b) 2 or more persons living at the same address, who share living accommodation and cooking facilities;

“Minister” means the Chief Minister;

“official statistics” means those statistics listed in the publication schedule;

“prescribed” means prescribed by Order of the Minister;

“public authority” has the same meaning as in Article 1 of the Freedom of Information (Jersey) Law 2011¹;

“publication schedule” means all the publications produced by Statistics Jersey and published by the Group in any year as meeting the standards set out in Article 11 and being compliant with the Code;

“Regulations” means Regulations made by the States under this Law;

“rolling census” has the meaning assigned by Article 8(3)(b);

“sample survey” has the meaning assigned by Article 8(3)(a);

“States Employment Board” has the meaning assigned by Article 4 of the Employment of States of Jersey Employees (Jersey) Law 2005²;

“statistical purposes” means the compilation of statistics or the preparation of anonymised microdata relating to the information to which this Law applies;

“statistical report” means any statistical output, including any associated commentary and metadata;

“statistical standards” means the standards for official statistics set out in Article 11;

“Statistics Jersey” has the meaning assigned by Article 2;

“traditional census” has the meaning assigned by Article 8(3)(b);

“undertaking” has the meaning assigned by Article 14(6).

PART 2

POWERS AND DUTIES

2 Statistics Jersey

- (1) The States of Jersey Statistics Unit in the Chief Minister’s Department is renamed “Statistics Jersey”.
- (2) Statistics Jersey is responsible for the collection and processing of data for statistical purposes in accordance with this Law with the aim of –

-
- (a) providing statistical reports of interest to, and which assist with decision-making by, public authorities, other undertakings and individuals (including the general public);
 - (b) contributing to public policy development and the delivery of public services; and
 - (c) co-ordinating as effectively as possible and rendering useful the information produced from the data and avoiding unnecessary duplication of requests for information.
 - (3) Without limiting paragraph (2), Statistics Jersey has the following functions –
 - (a) to collect, compile, analyse, extract and disseminate data for statistical purposes in accordance with this Law;
 - (b) to develop statistical methodology for Jersey and standardise definitions, classifications, terms, procedures and concepts for use in statistical activities;
 - (c) to advise public authorities on the gathering, compiling, analysis and utilisation of statistics, the production of statistical reports and whether or not they comply with the Code and with statistical standards;
 - (d) to consider the statistical potential of the records maintained by public authorities and, in conjunction with them, to facilitate the realising of this potential in so far as resources permit;
 - (e) to conduct and report on censuses of the population of Jersey in accordance with this Law.
 - (4) In exercising any of its functions, Statistics Jersey has the right to act independently.
 - (5) Statistics Jersey may make arrangements with any individual or undertaking for the collection, compilation, extraction or dissemination of information for statistical purposes.
 - (6) Statistics Jersey must maintain close and regular contact with the principal users and suppliers of statistics.
 - (7) There is appointed a Chief Statistician and such other officers as may be necessary for the carrying out of the functions of Statistics Jersey under this Law, all such officers being States employees within the meaning of Article 2 of the Employment of States of Jersey Employees (Jersey) Law 2005.
 - (8) The Minister may engage such temporary staff or consultants as the Chief Statistician considers are necessary for the proper performance of the function of Statistics Jersey under this Law.
 - (9) Every person employed or engaged under this Article must, before assuming his or her duties, sign a declaration that he or she will faithfully and honestly fulfil his or her duties for Statistics Jersey as required under this Law and that he or she will not, without due authority, disclose or make known any matter or thing that comes to his or her knowledge by reason of such employment or work for Statistics Jersey.

3 Chief Statistician

- (1) The Chief Statistician is responsible for –
 - (a) the management of Statistics Jersey, all aspects of statistics produced by Statistics Jersey and the administration of this Law;
 - (b) on the advice of the Group, setting the policies and priorities of Statistics Jersey;
 - (c) advising the Group on the quality, relevance and integrity of official statistics;
 - (d) the statistical methodology and statistical standards used by Statistics Jersey and ensuring that the requirements of Article 11 and the Code are met;
 - (e) the manner in which data are collected, processed, documented and stored;
 - (f) the content of statistical releases and publications issued by Statistics Jersey;
 - (g) the form, timing and methods of dissemination of statistics compiled by Statistics Jersey;
 - (h) commenting on the quality and interpretation of any statistics produced by public authorities, other undertakings and individuals;
 - (i) on the advice of the Group, the discontinuance of any statistical report or the starting of a new one; and
 - (j) ensuring that a census of the population is taken as required by a decision of the States.
- (2) The Chief Statistician may delegate any of his or her functions under this Law to any officer of Statistics Jersey and any function so delegated is treated as having been exercised by the Chief Statistician.
- (3) A delegation under paragraph (2) –
 - (a) may be made subject to such terms and conditions as the Chief Statistician may determine;
 - (b) while in force does not prevent the Chief Statistician from discharging any functions so delegated; and
 - (c) may at any time be revoked by the Chief Statistician.

4 Constitution of Statistics Users Group

- (1) There is to be a Statistics Users Group consisting of a Chairman and no fewer than 6 and no more than 10 individuals appointed by the Minister.
- (2) At least 2 weeks before making an appointment or re-appointment under this Article, the Minister must present to the States a notice of intention to make the appointment or re-appointment.
- (3) The persons appointed under this Article –
 - (a) hold office for a term of 3 years, and on expiry of any such term be eligible for re-appointment subject to serving a maximum of 3 terms;

- (b) hold and vacate office in accordance with the terms and conditions of their appointment.
- (4) The appointments made under this Article must, so far as is reasonably practicable, reflect –
 - (a) a variety of organisations interested in statistics; and
 - (b) the diversity of the general public.
- (5) If a person appointed under this Article leaves office before the expiry of his or her term of appointment the Minister may appoint a person to complete the remainder of that term.
- (6) Subject to this Article the Group may determine its own procedure, including when and how frequently it meets.
- (7) The Chairman presides over all meetings of the Group but in his or her absence another member may preside.
- (8) The Chief Statistician is the secretary to the Group and must attend each meeting of the Group but in an advisory capacity only.

5 Functions of Statistics Users Group

- (1) The Group is independent of government and has the primary function of overseeing the quality, relevance and integrity of statistics compiled by or on behalf of a public authority.
- (2) The terms of reference of the Group are –
 - (a) having taken such expert advice as the Group considers appropriate and having regard to the resources available to the Group, to review and comment upon any statistics compiled by or on behalf of a public authority, with respect to the matters set out in paragraph (3);
 - (b) to promote the standards for official statistics set out in Article 11; and
 - (c) to make such recommendations to the Minister as the Group considers appropriate.
- (3) The matters are –
 - (a) the range of statistics provided;
 - (b) the relevance and appropriateness of the statistics to the purposes for which they are used;
 - (c) the demands placed upon providers of information, whether it be provided on a voluntary or compulsory basis;
 - (d) the confidentiality of information concerning individuals and businesses;
 - (e) the methodology by which those statistics are compiled and their resultant accuracy and reliability;
 - (f) the independence of the compilation and dissemination process from political or other inappropriate influence; and

- (g) the form and procedures through which statistical information is disseminated.
- (4) The Group must publish –
 - (a) a Code of Practice for official statistics in Jersey including any revisions of the code;
 - (b) a publication schedule each year;
 - (c) a 5-yearly programme of statistics; and
 - (d) the minutes of its meetings.
- (5) The Chief Statistician must provide the Group with such secretarial and clerical assistance as is necessary for the effective performance of its functions.

6 Code of Practice

- (1) The Code must establish –
 - (a) principles and practices underlying the production, management and dissemination of official statistics; and
 - (b) processes governing the release of official statistics and rules relating to the granting of access to those statistics prior to their general release.
- (2) The Group must monitor compliance with the Code and where, following notification from any public authority, other undertaking or individual of its own volition, it considers that any official statistics contravene the Code, the Group must direct that they be removed from the next publication schedule.

7 Functions of Minister

- (1) The Minister must ensure that Statistics Jersey is resourced and has the ability to carry out its functions under this Law free from political influence.
- (2) The Minister must not influence any decision of the Chief Statistician in the exercise of his or her responsibilities under Article 3(1).
- (3) However, the Minister may request the Chief Statistician to undertake any new statistical report.

PART 3

CENSUS

8 Collection of data for census

- (1) Statistics Jersey are responsible for the taking of a census to gather such data relating to the population of Jersey as required by the Schedule.
- (2) For the purposes of a census, Statistics Jersey must, at such intervals as the Chief Statistician directs, analyse and link data collected for

administrative purposes already in the possession of Statistics Jersey or readily obtainable by it.

- (3) However, where such data is insufficient for the purposes of paragraph (1), further data may be collected by means of –
 - (a) a sample survey, being a collection of data, on a day specified by the Chief Statistician, from a section or sample of the population selected according to statistical principles;
 - (b) a traditional census, being a collection of data from the whole population conducted either on a single appointed day or on different appointed days for people in different geographical areas (a “rolling census”).
- (4) For the purposes of paragraph (3)(b) an appointed day is a day appointed by an Act of the States.
- (5) Parts 4 and 5 apply to the collection of data for the purposes of a census as they apply to the collection of data for any other statistical purpose.
- (6) The data from the census may be disseminated only in a form that does not enable the identification of any individual, household or body.
- (7) A person requested to give any particulars or information for the purposes of a census must comply with that request to the best of the person’s ability.
- (8) Regulations may amend the Schedule so as to vary the particulars or information required for the purposes of a census.

9 Orders with respect to census

The Minister may by Order –

- (a) provide for the division of Jersey into districts for the purposes of a traditional census, including a rolling census, and the appointment of persons to act in those districts;
- (b) prescribe the procedure for taking the census;
- (c) require persons employed or engaged under Article 2 to perform such duties in connection with the taking of a census as may be prescribed;
- (d) require such persons to make an affidavit with respect to the performance of their duties;
- (e) specify who is required to provide particulars or information required for the purposes of a census in prescribed circumstances;
- (f) require particulars or information to be given to the persons liable to make returns for the purposes of a census by the persons with respect to whom the returns are to be made; and
- (g) make provision with respect to any other matter for the purpose of carrying the Order into effect.

10 Duties of Chief Statistician in connection with census

- (1) The Chief Statistician must make such arrangements and do all such things as are necessary for the taking of a census.
- (2) As soon as practicable after the taking of a census, the Chief Statistician must –
 - (a) prepare a report on the census and present it to the States; and
 - (b) cause a copy of the report to be transmitted to the Department of the Government of the United Kingdom responsible for the United Kingdom's constitutional relationship with Jersey.

PART 4**STATISTICAL STANDARDS AND COLLECTION OF DATA****11 Statistical standards for official statistics**

Official statistics must be –

- (a) relevant, accurate, and reliable;
- (b) objective and comprehensive;
- (c) compiled, reported and documented in a scientific and transparent manner;
- (d) disseminated impartially and in a timely manner;
- (e) readily accessible to all who wish to access them;
- (f) in accordance with appropriate national and international standards and classifications; and
- (g) clearly and objectively displayed (whether by means of text, graphics or other method).

12 Type of data and methods of collection

- (1) Statistics Jersey may collect, whether in conjunction with any census or not, data relating to economic, social, demographic and general activities and conditions in Jersey.
- (2) Statistics Jersey must seek to avoid collecting data where data collected for administrative purposes is readily accessible, of suitable quality and sufficiently up to date to enable it to carry out its functions under this Law.
- (3) Statistics Jersey may prepare forms, questionnaires and other records for the collection of data relevant to the discharge of its functions under this Law, the instructions necessary for their proper completion, and specify the date or period within which they must be returned to Statistics Jersey.
- (4) The Chief Statistician may authorize the use of sampling methods for the collection of data.

13 Compilation, analysis and publication of statistics

- (1) Statistics Jersey must cause the data collected under this Law to be compiled and analysed and may publish the resulting statistical report, or abstracts of or extracts from it, with or without observations.
- (2) Except as provided by this Law a report, summary of statistics or other publication under this Law must not, without the necessary consent having been obtained, be published or disseminated in a manner that is likely to enable the identification of any particular individual, household or body.

14 Power to require particulars and information from undertakings

- (1) For the purposes only of obtaining data for statistical purposes the Chief Statistician may by written notice served on any person carrying on an undertaking, direct the undertaking to furnish or supply to him or her with any particulars or information in the possession of the undertaking, whether or not the undertaking –
 - (a) obtained the particulars or information from elsewhere; or
 - (b) is under an obligation not to disclose the particulars or information, whether or not under any enactment.
- (2) Despite this Law or any other enactment the undertaking must furnish or supply particulars or information as directed under paragraph (1).
- (3) Any particulars and information required to be furnished under paragraph (1) must be furnished within such time as may be required by the Chief Statistician after consultation with the undertaking.
- (4) Despite this Law or any other enactment, the disclosure of any particulars or information to which paragraph (1) applies –
 - (a) to the Chief Statistician under this Article; or
 - (b) by an officer of Statistics Jersey to another such officer in the performance of his or her functions,does not give rise to an offence.
- (5) It is sufficient for the purposes of paragraph (1) if the notice is addressed to the undertaking and delivered to any premises from which it operates or to any individual involved in its management at his or her place of business or residence.
- (6) In this Article –

“officer” includes a person engaged under Article 2(8);

“undertaking” means any undertaking by way of trade, business or other activity, whether or not for profit, and includes any public authority.
- (7) Regulations may –
 - (a) exempt the furnishing of particulars or information under paragraph (2);
 - (b) amend the definition of undertaking in paragraph (6).

15 Invitation to provide information etc. on a voluntary basis

- (1) The Chief Statistician may invite any individual or body on a voluntary basis to –
 - (a) complete a form, questionnaire or other record;
 - (b) answer any questions; or
 - (c) provide any information or records.
- (2) Information and records, including copies of them, may be provided under this Article despite any restriction in any other enactment.

PART 5**ENFORCEMENT****16 Restriction on disclosure of particulars or information**

- (1) Particulars or information furnished by an individual or undertaking under this Law may be used only for statistical purposes or for analysis and must not otherwise be published or communicated.
- (2) A person must not disclose any particulars or information obtained under this Law in a form that may identify any individual, household or body.
- (3) Despite this Article, the Chief Statistician may authorize the publication or communication or disclosure of particulars or information obtained under this Law –
 - (a) as statistics that do not identify any individual, household or body;
 - (b) as anonymised microdata;
 - (c) for the purposes of any proceedings for an offence under this Law or any report of those proceedings; or
 - (d) that are already available in the public domain.
- (4) The Chief Statistician may, in respect of any particulars or information disclosed under paragraph (3), impose conditions as to the use of the particulars or information by notice in writing to the individual or undertaking to whom it is disclosed.
- (5) Nothing in this Law requires an individual or undertaking to provide particulars or information in circumstances that would entitle the individual or undertaking to decline to give the information on grounds of privilege.
- (6) A person who contravenes paragraph (1) or paragraph (2) or fails to comply with any conditions imposed on the person under paragraph (4) is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (7) This Article does not apply to any disclosure of particulars or information that is made –
 - (a) in accordance with any enactment;
 - (b) in pursuance of an order of a court; or

- (c) with the consent of the individual or body to whom it relates.

17 Protection of documents and information

- (1) A person who wilfully destroys, damages or falsifies any document or record containing particulars or information collected under this Law, unless (except in the case of a falsification) it is authorized by the Chief Statistician, is guilty of an offence.
- (2) A person employed or engaged under Article 2 commits an offence if the person –
- (a) having acquired information that might affect the market value of any product or article directly or indirectly uses the information before it becomes public;
 - (b) fails to keep custody of, in such a manner as to ensure that unauthorized persons will not have access to it, any document or record containing particulars or information collected under this Law;
 - (c) wilfully fails to return to Statistics Jersey a document or record collected under this Law;
 - (d) knowingly creates or compiles for issue any false statistics or information;
 - (e) in the pretended performance of his or her functions under this Law obtains or attempts to obtain by any means on any occasion any document, record, particulars or information that he or she is not so entitled to obtain.
- (3) A person who commits an offence under this Article is liable –
- (a) in the case of an offence under paragraph (1) or under paragraph (2)(a), (d) or (e), to imprisonment for a term of 2 years and a fine;
 - (b) in the case of an offence under paragraph (2)(b) or (c), to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale.

18 Refusal to give information or giving false information

A person who –

- (a) wilfully refuses or without lawful excuse fails to furnish the particulars or information as required under this Law;
- (b) wilfully furnishes or causes to be furnished any false particulars or information in respect of any matter in respect of which particulars or information is required to be furnished under this Law;
- (c) refuses to answer or wilfully gives a false answer to, any question necessary for obtaining any particulars or information required to be furnished under this Law; or

- (d) being a person required by or an Order under this Law to make an affidavit with respect to the performance or his or her duties, makes a false declaration,

is guilty of an offence and liable to a fine of level 2 on the standard scale.

19 Obstruction and impersonation

- (1) A person who wilfully obstructs any person employed or engaged under Article 2 in the exercise of his or her functions under this Law is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 3 on the standard scale.
- (2) A person who impersonates any person employed or engaged under Article 2 is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 3 on the standard scale.

20 Liability for offences

- (1) Where an offence under 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 is also guilty of the offence and liable to the penalty provided for that offence.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (3) A person who aids, abets, counsels or procures the commission of an offence under this Law is also guilty of the offence and liable to the penalty provided for that offence.

21 Delivery of documents and right of access

- (1) A notice or record delivered by a person employed or engaged under Article 2 in the absence of evidence to the contrary is sufficient evidence that it has been duly issued and delivered by or on behalf of the Chief Statistician.
- (2) The delivery of any notice or record may be effected by being delivered in person by a person employed or engaged under Article 2 or by post or by other means of communication and if delivered by post is taken to have been received when it would, in the ordinary course of post, be delivered.

- (3) A person employed or engaged under Article 2 may, other than by force and at all reasonable times, on production of his or her authority if demanded, enter any land or premises, for the purposes of –
 - (a) delivering a notice under Article 14;
 - (b) delivering or collecting forms, questionnaires, records or information; or
 - (c) making such enquiries as he or she is authorized to make under this Law.

PART 6

CLOSING

22 Transitional provisions and savings

- (1) Any person employed by, or engaged to work for, the Statistics Unit in whatever capacity before the commencement of this Law is, on its commencement, treated as employed or engaged to work for Statistics Jersey under Article 2 in that same capacity.
- (2) A person mentioned in paragraph (1) must sign the declaration set out in Article 2(9) as soon as practicable after the commencement of this Law.
- (3) Any person appointed to an organization carrying on the functions of the Group before the commencement of this Law is, on its commencement, treated as appointed to the Group under Article 4 but from the date on which the person was appointed to that organization.
- (4) Any Code of Practice for official statistics in Jersey in use at the time of the commencement of this Law is treated as published under Article 5(4)(a).

23 Repeal

The Census (Jersey) Law 1951³ is repealed.

24 Consequential amendments

- (1) In Article 15(7) of the Financial Services Commission (Jersey) Law 1998⁴ for the words “the Statistics Unit in the Chief Minister’s Department” there shall be substituted the words “Statistics Jersey (within the meaning assigned by Article 2 of the Statistics and Census (Jersey) Law 201-⁵)”.
- (2) In the following provisions for the words “the States of Jersey Statistics Unit” there shall be substituted the words “Statistics Jersey (within the meaning assigned by Article 2 of the Statistics and Census (Jersey) Law 201-⁶)” –
 - (a) the definition of “Jersey Retail Prices Index” in Article 1(1) of the Rates (Jersey) Law 2005⁷;

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- (b) Article 47(5) of the Gambling (Jersey) Law 2012⁸;
 - (c) The definition of “Jersey index of earnings” in Article 1(1) of the Social Security (Jersey) Law 1974⁹;
 - (d) Paragraph 4(2)(a) and (b) of the Schedule to the Social Security (Bonus) (Jersey) Law 2014¹⁰;
 - (e) Regulation 2(4)(b) of the Income Support (Special Payments) (Jersey) Regulations 2007¹¹;
 - (f) Regulation 2(4)(b) of the Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations 2008¹²;
 - (g) Regulations 2(1)(b) and 3(1)(b) of the Long-Term Care (States Contribution) (Jersey) Regulations 2013¹³.
- (3) In Article 60C of the Employment (Jersey) Law 2003¹⁴ for the words “the Statistics Unit of the States of Jersey” there shall be substituted the words “Statistics Jersey (within the meaning assigned by Article 2 of the Statistics and Census (Jersey) Law 201-¹⁵)”.
 - (4) In Article 21(9) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008¹⁶ for the words “the Statistics Unit of the Chief Minister’s Department of the States” there shall be substituted the words “Statistics Jersey (within the meaning assigned by Article 2 of the Statistics and Census (Jersey) Law 201-¹⁷)”.

25 Citation and commencement

This Law may be cited as the Statistics and Census (Jersey) Law 201- and comes into force 7 days following its registration.

SCHEDULE

(Article 8(1))

INFORMATION REQUIRED BY CENSUS**1 Interpretation**

(1) In this Schedule –

“accommodation” includes accommodation comprised in –

- (a) a boat, mobile home or other structure that is not fixed in position;
or
- (b) any temporary structure, including a tent;

“census day” means a day appointed under Article 8(4);

“communal establishment” means –

- (a) any hospital;
- (b) any home or other institution providing care and accommodation for children;
- (c) any nursing, care or residential home;
- (d) any hotel or campsite; or
- (e) any prison or other place of detention,

or any like institution or establishment providing accommodation;

“local visitor” means a resident who, at midnight, is present in a household or communal establishment that is not his or her usual address;

“midnight” means midnight at the end of the census day;

“resident” means a person who is not a visitor to Jersey and who is either in Jersey at midnight or absent;

“visitor to Jersey” means a person who is in Jersey at midnight and –

- (a) has been in Jersey for a continuous period of less than one month;
and
- (b) does not intend to be in Jersey for a continuous period of more than one month.

(2) For the purposes of sub-paragraph (1), a person is a resident who is absent if the person’s usual address is in Jersey but, at midnight, the person is away from Jersey by reason of –

- (a) absence on business;
- (b) absence on military service;
- (c) absence for medical treatment;
- (d) absence, for no longer than one year, on vacation that the person does not expect to exceed one year;
- (e) being a pupil at a boarding-school outside Jersey; or
- (f) attendance at university or other tertiary education outside Jersey,

or any like reason.

2 Usual address of resident

- (1) Subject to the following provisions of this paragraph, the usual address of a resident is, for the purposes of the taking of the census, the household or communal establishment in Jersey at which the person usually resides.
- (2) The usual address of a resident who, at midnight –
 - (a) is residing in a communal establishment;
 - (b) has resided there for less than 6 months;
 - (c) expects to reside there for less than 6 months; and
 - (d) previously resided in a household or another communal establishment in Jersey,is, for the purposes of the taking of the census, the household or communal establishment that was his or her usual address in Jersey before he or she entered the first-mentioned communal establishment.
- (3) The usual address of a resident who is a minor and who, by reason of arrangements for his or her shared custody, resides in more than one household in Jersey is, for the purposes of the taking of the census, the household in which he or she spends the majority of his or her time.
- (4) Where a minor described in sub-paragraph (3) divides his or her time equally between the households, the usual address of the minor is, for the purposes of the taking of the census, the household in which he or she is present at midnight.

3 Required information: households and communal establishments

- (1) The following information may be required with respect to a household for the purposes of a census –
 - (a) the property tenure;
 - (b) the property type;
 - (c) the number of bedrooms and other rooms;
 - (d) the number of cars, vans and motorcycles;
 - (e) for each resident whose usual address is the household, the information required by paragraph 4;
 - (f) the name and usual address of each visitor to Jersey present in the household;
 - (g) the name and usual address of each local visitor present in the household.
- (2) The following information may be required with respect to a communal establishment for the purposes of a census –
 - (a) the type of establishment;
 - (b) the name of the manager;
 - (c) a list of the names of residents whose usual address is the establishment (whether or not present);

- (d) the name and usual address of each visitor to Jersey present in the establishment;
- (e) the name and usual address of each local visitor present in the establishment.

4 Required information: residents

- (1) The following information may be required with respect to each resident for the purposes of a census –
 - (a) full name;
 - (b) sex or gender;
 - (c) usual address;
 - (d) date of birth;
 - (e) country of birth;
 - (f) nationality;
 - (g) cultural and ethnic background;
 - (h) present period of continuous residence in Jersey;
 - (i) whether present in or absent on census day from the household or communal establishment which is the person's usual address; and
 - (j) if the person is a member of a household, his or her relationship to the main householder.
- (2) If the resident is aged 16 or more, the following information may also be required in relation to that resident –
 - (a) marital status;
 - (b) residential and employment status as specified in Article 2(1) of the Control of Housing and Work (Jersey) Law 2012¹⁸;
 - (c) educational qualifications; and
 - (d) the extent to which the resident is working, or whether he or she is unemployed, engaged in full-time education, unable to work or not looking for work, and if not able to work or not looking for work, for what reason.
- (3) If a resident is aged 16 or more and employed, the following information may also be required in relation to that resident –
 - (a) title and description of main employment;
 - (b) hours worked per week;
 - (c) name and address (including postcode) of place of work;
 - (d) type of work (permanent or seasonal);
 - (e) mode of travel to work.

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- 1 *chapter 16.330*
 - 2 *chapter 16.325*
 - 3 *L.3/1951 (chapter 15.040)*
 - 4 *chapter 13.250*
 - 5 *P.106/2017*
 - 6 *P.106/2017*
 - 7 *chapter 24.950*
 - 8 *chapter 11.300*
 - 9 *chapter 26.900*
 - 10 *chapter 26.880*
 - 11 *chapter 26.550.70*
 - 12 *chapter 26.550.65*
 - 13 *chapter 26.600.80*
 - 14 *chapter 05.255*
 - 15 *P.106/2017*
 - 16 *chapter 08.785*
 - 17 *P.106/2017*
 - 18 *chapter 18.150*