

# STATES OF JERSEY



## **DRAFT SEXUAL OFFENCES (JERSEY) LAW 201- (P.18/2018): THIRD AMENDMENT**

---

**Lodged au Greffe on 6th March 2018  
by the Education and Home Affairs Scrutiny Panel**

---

**STATES GREFFE**

DRAFT SEXUAL OFFENCES (JERSEY) LAW 201- (P.18/2018):  
THIRD AMENDMENT

---

**PAGE 31, ARTICLE 2 –**

After Article 2(7) insert the following paragraph –

“(8) A person’s consent to an act is not to be taken as implied merely by virtue of the existence of any relationship between that person and any other person.”,

and renumber the subsequent paragraph (8) as paragraph (9) accordingly.

EDUCATION AND HOME AFFAIRS SCRUTINY PANEL

## REPORT

### Introduction

1. The Education and Home Affairs Scrutiny Panel has undertaken a review of the [Draft Sexual Offences \(Jersey\) Law 201-](#) (the “draft Law”), which has been lodged for debate by the States Assembly on 20th March 2018. The Panel intends to produce comments detailing the work it has undertaken prior to the debate taking place, however, in advance of the publication of its full comments, the Panel has identified 3 amendments to the draft Law which it shall be lodging separately.

### Amendment to Article 2

2. The Panel notes that [part 5 of the Serious Crimes Act \(2015\)](#) in the United Kingdom (Protection of Children and Others) contains reference to Female Genital Mutilation (FGM), grooming of children and domestic violence offences.<sup>1</sup> The Panel questioned why the draft Law contained reference to both FGM (Part 8) and grooming of children (Article 15), but offences in relation to domestic violence were not included. It was initially the view of the Panel that not including anything in relation to this offence was a missed opportunity for the draft Law.
3. Discussions with the Law Officers’ Department and the Law Draftsman highlighted the issue that this particular Law was designed to cover sexual offences, and therefore any other types of domestic violence offences (i.e. physical, mental abuse) would not be covered by this draft Law. It was explained to the Panel that future Laws are due to be brought forward where the inclusion of a statutory definition of domestic abuse would be able to be included. It is also noted that Schedule 1 of the [Draft Criminal Procedure \(Jersey\) Law 201-](#) creates a list of offences that spouses and civil partners may be compelled to give evidence for, which was formed from H.M. Attorney General’s guide on domestic violence. This would also go some way to covering domestic abuse cases.
4. Whilst the Panel accepted this argument, it was still of the opinion that more could be done within this draft Law to protect those who may be subject to abusive relationships. The Panel has therefore agreed that provision should be placed in Article 2(7) which clearly lays out that consent is not implied by the existence of a relationship between one person and another.
5. Whilst this does not go as far as the Panel would ideally like, the intention of the amendment is to create further clarity in law to protect victims of domestic abuse.

### Financial and manpower implications

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

---

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2015/9/part/5/enacted>