

# STATES OF JERSEY



Jersey

## DRAFT HERITAGE (JERSEY) LAW 202-

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**Lodged au Greffe on 24th December 2025  
by the Minister for Sustainable Economic Development  
Earliest date for debate: 24th February 2026**

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STATES GREFFE



Jersey

## **DRAFT HERITAGE (JERSEY) LAW 202-**

### **European Convention on Human Rights**

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

In the view of the Minister for Sustainable Economic Development, the provisions of the Draft Heritage (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy K.F. Morel of St. John, St. Lawrence and Trinity**  
*Minister for Sustainable Economic Development*

Dated: 22nd December 2025

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## REPORT

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### Introduction

The **Draft Heritage (Jersey) Law 202-** (the “draft Law”) seeks to protect Jersey’s archaeological heritage by introducing clear legal obligations for reporting, recording, investigating and preserving objects and sites of archaeological significance.

Jersey’s archaeological heritage is a vital part of the Island’s identity, collective memory and a valuable resource for historical and scientific research. Currently, Jersey lacks a clear and comprehensive legal framework in this area. The existing approach relies heavily on Customary Law and voluntary reporting, which does not provide sufficient clarity or protection. Recent high-profile discoveries, such as the Le Câtillon II hoard, have highlighted the need for a statutory framework to manage significant finds transparently and consistently.

The draft Law seeks to address this gap by introducing clear legal obligations and processes for reporting, assessing, and preserving archaeological objects. If adopted, it will ensure compliance with international commitments under the Valletta Convention and other heritage-related treaties, while fostering responsible searching and discovery and ensuring public access to significant finds. By creating a statutory Historic Environment Record, licensing intrusive excavations, and enabling regulations for wider heritage protection, the draft Law would strengthen Jersey’s ability to safeguard its heritage for future generations.

The draft Law closes critical gaps by:

- **Protecting Irreplaceable Heritage:** Without a clear legal framework, archaeological objects and associated information are vulnerable to damage, dispersal, or private sale, undermining Jersey’s cultural legacy, while valuable information from non-designated archaeological sites may be destroyed.
- **Closing Legal Gaps:** Existing reliance on unwritten conventions provides no statutory obligation for reporting finds, creating uncertainty for finders, landowners, and authorities.
- **Meeting International Obligations:** Jersey is a signatory to several treaties and conventions that require robust heritage protection which this draft Law seeks to deliver.
- **Promoting Transparency and Fairness:** The draft Law would introduce clear processes for reporting, ownership, and rewards, balancing the interests of finders, landowners, and the public.
- **Supporting Research and Education:** By creating a Historic Environment Record and ensuring finds are preserved in public collections, the draft Law will help safeguard knowledge for scientific study and public benefit.
- **Preventing Future Disputes:** The draft Law will also provide a statutory framework to reduce ambiguity and potential future legal disputes over ownership and handling of significant finds.

This legislation proposes to introduce a fair reward system for finders and landowners while ensuring that objects of national significance remain accessible for public benefit.

Draft Regulations are appended (see **Appendix 1 and 2**) for information to demonstrate the Minister’s intentions with regards to Regulations providing for the licensing of archaeological excavations and about rewards paid under Article 18 and 13 respectively of the draft Law, which will be lodged if the draft Law is approved. Further, a draft code of practice is also published as an **Addendum** to this proposition for information to indicate the intended contents of the code of

practice that will be published under Article 14 of the draft Law, if the draft Law is approved. Earlier drafts of the Regulations and code of practice formed part of the consultation that closed on 8 September 2025.

## Summary of key provisions

### 1. Definitions and Ownership

The draft Law provides statutory definitions for key terms:

- **Archaeological Object:** An object created or modified by human activity, found on land, foreshore, or seabed, that is at least 300 years old or of historical interest, including human or ancient animal remains.
- **Treasure Trove:** Two or more objects, each composed of more than 50% gold or silver, deliberately hidden with intent to recover, and without a known owner or heirs.
- **Jersey National Antiquity:** Finds of exceptional cultural, archaeological, historical, or scientific significance to Jersey.

Ownership is clarified as follows:

- Jersey National Antiquities become the property of the Public of the Island.
- Treasure Trove is held in trust for the Crown by the Minister for Sustainable Economic Development.

### 2. Mandatory Reporting of Archaeological Objects

The draft Law would require any person who discovers an archaeological object – whether by chance or through activities such as metal detecting, to report the find to the designated authority – the Jersey Heritage Trust (the “Jersey Heritage”) within **14 days** of discovery. Failure to report a find, deposit it with Jersey Heritage or the withholding of key information about the find will constitute an offence. This provision will ensure that archaeological finds are properly recorded and assessed, safeguarding Jersey’s heritage and fulfilling obligations under the Valletta Convention.

### 3. Reward System

The draft Law introduces a reward scheme for significant finds identified as Treasure Trove or Jersey National Antiquities, to be shared between the finder and the landowner. Rewards will be determined based on expert advice and linked to market value.

### 4. Code of Practice

The Minister will be required to publish a Code of Practice (the “Code”) providing practical guidance on:

- Reporting and protecting archaeological finds.
- Responsible metal detecting.
- Licensing archaeological evaluations.

Failure to comply with the Code may be considered by the courts in considering questions of compliance with the draft Law or by the Minister when determining rewards.

## **5. Historic Environment Record (HER)**

The draft Law provides for the creation of a statutory Historic Environment Record (the “HER”), maintained by Jersey Heritage. All significant finds will be recorded in the HER, and this information, alongside data including previous finds, listed sites, conservation areas and other sites of interest, relevant reports and studies, and information on the historic, archaeological or architectural development of Jersey over time, will enable the HER to identify areas of higher archaeological potential for research and planning purposes. Sensitive information, such as precise find locations, will remain confidential to protect finders and landowners.

## **6. Licensing of Archaeological Excavations**

A licensing system will be introduced for intrusive archaeological investigations in non-designated areas, including foreshore and the seabed. A licence will not be required for activities that remain within the depth of the plough soil or the surface layers on the foreshore.

This measure supports Jersey’s compliance with international obligations under the Valletta Convention and will ensure that such investigations are carried out to recognised standards of good practice.

## **7. Preservation and Protection of Jersey’s Heritage**

The draft Law empowers the States Assembly to make regulations for the protection and preservation of Jersey’s broader heritage, including language, buildings, and intangible cultural traditions.

### **Financial and staffing implications**

The draft Law will be an improvement upon the existing Customary Law position. By putting guardrails in place and setting a clear mechanism for the valuation of finds we can ensure that taxpayers’ money is used prudently. As such, there are no additional financial, save the potential level of rewards, or staffing implications for the Government of Jersey in relation to this proposition.

The Minister’s duties and functions will be funded through existing Department for the Economy’s budget and resource.

### **Children’s Rights Impact Assessment**

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

### **Human Rights**

The notes on the human rights aspects of the draft Law in **Appendix 3** 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 1 TO REPORT

Draft Heritage (Reward) (Jersey) Regulations 202-

Regulation 1



Jersey

**DRAFT HERITAGE (REWARD) (JERSEY)  
REGULATIONS 202-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Articles 13 and 22(2)(a) of the Heritage (Jersey) Law 202- –

**1 Interpretation**

In these Regulations –

“applicant” means a finder or landowner who makes an application for a reward;

“finder’s share” means the share of the reward paid to the finder and apportioned under Regulation 3;

“landowner’s share” means the share of the reward paid to the landowner and apportioned under Regulation 3;

“Law” means the Heritage (Jersey) Law 202-.

**2 Application for share of reward and offence**

- (1) The Minister must determine whether to pay a reward if an application is made in the manner specified by the Minister within 28 days starting on the day after the day on which the Viscount gives the ruling of the inquest under Article 20B of the Inquests Law.
- (3) The application for a finder’s share must be made by a finder and the application for a landowner’s share must be made by a landowner.
- (4) If there is more than 1 finder or more than 1 landowner, only 1 of each is permitted to make an application and the respective share must be paid to the applicant.
- (5) If the Minister receives more than 1 application for a finder’s share or a landowner’s share, the Minister must make a decision about payment of a reward on the first application they receive.
- (6) After the reward has been paid, any further questions of apportionment must be settled between the individual finders or landowners.
- (7) An application for a reward cannot be made by a finder or landowner listed in the Schedule.

- (8) A person commits an offence and is liable to imprisonment for a term of 2 years and to a fine if that person knowingly or recklessly provides information connected with an application for a reward that is false or misleading.

### **3 Amount and payment of reward**

- (1) If the Minister pays a reward, the Minister must –
- (a) determine the amount of the reward; and
  - (b) apportion it so that 50% payable to the finder and 50% is payable to the landowner.
- (2) If the Minister decides that a person other than the finder or landowner should also receive a portion of the reward, the reward is apportioned so that one third is payable to the finder, one third is payable to the landowner and one third is payable to the other person.
- (3) When determining the amount of a reward, the Minister may reduce it to take account of the cost to Jersey Heritage or another expert body of stabilising and conserving the find and investigating whether it is treasure trove or a Jersey national antiquity.
- (4) The Minister may reduce a respective share of the reward if a finder or landowner –
- (a) has contravened Article 5 or 8 of the Law, whether or not a prosecution has been brought;
  - (b) has a previous conviction for an offence under the Law; or
  - (c) failed to comply with the code of practice.
- (5) The Minister must not –
- (a) pay the finder's share if all of the finders are convicted of an offence under Article 6 or Article 9 of the Law; or
  - (b) pay the landowner's share if all of the landowners are convicted of an offence under Article 6 or Article 9 of the Law
- (6) The Minister must set out in writing how they decided the amount of the reward.

### **4 Consultation with experts**

- (1) When determining the amount of the reward for a Jersey national antiquity, the Minister must consult with any experts as appear appropriate to the Minister about the market value of the Jersey national antiquity.
- (2) When determining the amount of the reward for a Jersey national antiquity that is treasure trove, the Minister must also consult with any experts as appear appropriate to the Receiver General.
- (3) When determining which experts must be consulted, the Minister and Receiver General must take into account the nature of the Jersey national antiquity and its historical context.

### **5 Review of decision**

- (1) If an applicant disagrees with the Minister's determination about the amount of a reward, they may request a review of the decision within 28 days beginning on the day the Minister informs them of the determination.

- (2) A request for a review must be made in writing in the manner specified by the Minister.
- (3) The review must be carried out within a reasonable period of time by a different Minister or an Assistant Minister, who must provide reasons for their decision.

## **6 Citation and commencement**

These Regulations may be cited as the Heritage (Reward) (Jersey) Regulations 202- and come into force immediately after the Heritage (Jersey) Law 202-.

## **SCHEDULE**

(Regulation 2)

### **FINDERS AND LANDOWNERS NOT ABLE TO MAKE APPLICATION FOR REWARD**

#### **1 Finders not able to make application**

A person who finds a Jersey national antiquity during an archaeological excavation licensed under the Heritage (Licensing of Archaeological Excavations) (Jersey) Regulations 202-.

#### **2 Landowners not able to make application**

Ministry, department or other administration of the States  
Non-Ministerial States body

## APPENDIX 2 TO REPORT

Draft Heritage (Licensing of Archaeological Excavations) (Jersey) Regulations 202- Regulation 1



**DRAFT HERITAGE (LICENSING OF  
ARCHAEOLOGICAL EXCAVATIONS) (JERSEY)  
REGULATIONS 202-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Articles 18 and 22(2)(a) of the Heritage (Jersey) Law 202- –

### **1 Interpretation**

In these Regulations –

- “applicant” has the meaning given in Regulation 4;
- “Chief Officer” has the meaning given in Article 1(1) of the Planning and Building (Jersey) Law 2002;
- “licence” means a licence granted by the Chief Officer under Regulation 5 and includes a modification of that licence;
- “licence holder” means a person to whom a licence has been granted;
- “Minister” means the Minister for the Environment.

### **2 Prohibition on conducting archaeological excavation without licence**

- (1) A person who undertakes an archaeological excavation on land otherwise than in accordance with a licence commits an offence and is liable to a fine.
- (2) In determining the amount of a fine to be imposed on a person convicted of an offence under this Article, a court must have regard to any financial benefit that has accrued, appears likely to accrue or could have accrued to the person in consequence of the offence.

### **3 Exceptions to requirement to have licence**

- (1) Regulation 2 does not apply to –
  - (a) a person who undertakes activity that is permitted under Article 55(3)(a) or (b) of the Planning Law on a site of special interest;

- (b) a person who undertakes an archaeological excavation in accordance with conditions specified in the grant of planning permission under Article 19 of the Planning Law;
  - (c) a person who undertakes an archaeological excavation for, or under the direction of, Jersey Heritage solely for the purpose of securing an archaeological object or structure that is in imminent danger of destruction, loss or decay; or
  - (d) an archaeological excavation that takes place on land other than the foreshore and does not disturb the land below the ploughsoil;
  - (e) an archaeological excavation that –
    - (i) takes place on the foreshore;
    - (ii) is within the surface of the foreshore; and
    - (iii) does not excavate into the hard-pack sub-surface.
- (2) In paragraph (2)(d), “ploughsoil” means soil on land that is regularly used for agricultural purposes and that is disturbed for those purposes.

#### **4 Application for licence**

- (1) A person who intends to undertake an archaeological excavation (“an applicant”) must apply for a licence in the form required by the Chief Officer.
- (2) The application must –
  - (a) include the following information –
    - (i) the specific area in which the excavation will take place;
    - (ii) the nature of the excavation;
    - (iii) the expected duration of the excavation;
    - (iv) evidence that permission for the excavation has been granted by the landowner;
    - (v) the name, professional qualifications and evidence of the professional competence of at least 1 individual responsible for the conduct of the excavation; and
    - (vii) any other information the Chief Officer requests;
  - (b) be accompanied by a project design that meets the standards of the Chartered Institute for Archaeologists or an equivalent organisation; and
  - (c) be accompanied by the fee (if any) prescribed by the Minister by Order.
- (3) An applicant or other person who knowingly or recklessly provides information connected with an application that is false or misleading commits an offence and is liable to imprisonment for a term of 2 years and to a fine.

#### **5 Grant of licence**

- (1) The Chief Officer may grant a licence to an applicant.
- (2) The licence must specify –
  - (a) the specific area in which the excavation will take place;
  - (b) the nature of the excavation;
  - (c) the period for which the licence is valid; and

- (d) the name of the individual responsible for the conduct of the excavation.
- (3) The licence may contain any conditions that the Chief Officer considers necessary.
- (4) Before granting a licence, the Chief Officer must publish, in a manner that brings it to the attention of details of persons affected –
  - (a) the nature of the excavation and the specific area in which it will take place; and
  - (b) the period and manner in which representations may be made about the excavation.
- (5) The Chief Officer must take account of any representations before deciding whether to grant the licence.
- (6) Before granting a licence, the Chief Officer must –
  - (a) take account of any representations received under paragraph (4)(b); and
  - (b) consult with Jersey Heritage (and may consult with other experts that the Chief Officer considers appropriate).
- (7) The Chief Officer must provide written reasons for a refusal to grant a licence and for any conditions contained in the licence.

## **6 Modification and cancellation of licence**

- (1) A licence holder may request that the licence is modified.
- (2) If the Chief Officer refuses to modify a licence, they must provide written reasons with the refusal.
- (3) The Chief Officer may modify or cancel a licence on their own initiative if they consider it necessary.
- (4) If the Chief Officer modifies or cancels a licence under paragraph (3), they must inform the licence holder and provide written reasons.

## **7 Review of decision of Chief Officer**

- (1) This Regulation applies if the Chief Officer –
  - (a) refuses to grant a licence;
  - (b) imposes a condition in a licence;
  - (c) modifies a licence;
  - (d) cancels a licence.
- (2) If this Regulation applies, the applicant or licence holder may request that the Minister reviews the decision.
- (3) The request must –
  - (a) be made no later than the end of the period of 28 days beginning with the date of the decision;
  - (b) be in the form required by the Minister; and
  - (c) include the grounds on which the request is made.
- (4) As soon as practicable the Minister must determine whether to refuse the request for a review or whether to review the Chief Officer's decision.

- (5) The Minister may replace the Chief Officer's decision with the Minister's own determination.
- (6) The Minister must give written reasons for their determination, including a determination to refuse the request for a review.

## **8 Appeal**

- (1) An applicant or licence holder aggrieved by a determination of the Minister under Regulation 7 may appeal to the Royal Court.
- (2) The applicant or licence holder must appeal within 28 days after the date on which the Minister informed them of the determination.
- (3) After hearing an appeal the Royal Court may uphold or cancel the determination of the Minister.
- (4) If the Royal Court cancels the determination, it may substitute its own decision or remit the decision to the Minister to be remade.

## **9 Transitional provision**

These Regulations do not apply to an archaeological excavation that is in progress when these Regulations come into force.

## **10 Citation and commencement**

These Regulations may be cited as the Heritage (Licensing of Archaeological Excavations) (Jersey) Regulations 202- and come into force immediately after the Heritage (Jersey) Law 202-.

**APPENDIX 3 TO REPORT****Human Rights Notes on the Draft Heritage (Jersey) Law 202-**

These Notes have been prepared in respect of the draft Heritage (Jersey) Law 202- (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 is a new Law that provides a statutory framework to protect Jersey’s heritage.

The purpose of the draft Law is to provide for the reporting, recording and preservation of objects of archaeological and historical significance to Jersey whilst preserving the customary Law position in relation to treasure trove.

The draft Law also includes Regulation-making powers to provide for:

- (a) the process for rewards for any object that the Viscount, having held an inquest, determines to be a Jersey national antiquity or treasure trove;
- (b) licensing of archaeological excavations that are not currently protected sites;
- (c) preservation and protection of Jersey’s heritage such as language, buildings, intangible heritage and culture;
- (d) to comply with international agreements that extend to Jersey and concern the protection or preservation of Jersey’s heritage or of objects of archaeological, historical or cultural significance.

The draft Law potentially engages three rights under the ECHR: the right to peaceful enjoyment of property under Article 1 Protocol 1; the right to a fair trial in Article 6; and the right to private and family life in Article 8.

The issues in respect of each of these rights and the reasons why the draft Law is compatible with them are set out below.

**Article 1 of Protocol No. 1 to the ECHR (“A1P1”): Peaceful enjoyment of property**

Article A1P1 provides –

*“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*

*The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”*

The requirement in Article 5 of the draft Law for a person to report an object they think may be an archaeological object (unless they can rely on an exception in Article 7) may amount to controls on the use of property and therefore to interference with the right afforded by A1P1.

A1P1 is a qualified right and Government's interference with a person's property rights is justified if a "fair balance" (*Sporrong and Lonnroth v Sweden* (1982)<sup>1</sup>) may be struck between private interests and depriving a person of their property rights where it can be shown that this is in the national or public interest. A key object under the Law is to ensure that archaeological heritage is protected, no matter where it is found in the Island. This accords with Jersey's obligations under the Valletta Convention<sup>2</sup> and other heritage-related treaties where States should introduce clear protections with respect to the reporting, recording, investigation and preserving of objects and sites of archaeological significance. Accordingly, A1P1 permits public interest interference for these purposes so long as a fair balance is maintained.

In considering whether a "fair balance" has been struck, that balance may also be proven if a person is provided with the opportunity to receive a financial sum to compensate for loss of their property rights. The draft Law at Article 13(1) provides that if the Viscount rules under Article 20B of the Inquests and Post-Mortem Examinations (Jersey) Law 1995 ("the 1995 Law") that an archaeological object is a Jersey national antiquity or treasure trove the Minister *must* determine whether to pay a reward to the finder, the landowner and any other person the Minister considers appropriate. Property rights are complex under Jersey law and so this power allows the Minister to exercise his discretion in considering the specifics of the case before him and the particular interests of those affected. Whilst the reward is discretionary as accords with the extant customary law position (and may be reduced in certain circumstances) the draft Law (and accompanying draft Heritage (Reward) (Jersey) Regulations 202-) ("the draft Reward Regulations") sets out objective parameters under which a reward might be claimed. Moreover, the value of the reward is to be determined in accordance with the amount of money that object might fetch on the open market. This would be considered proportionate and thus fair compensation, appropriately balancing the rights of the person who lost property in accordance with State interest in preserving the public interest aim of heritage protection. In addition, Articles 10 (Initial assessment of whether object is treasure trove or Jersey national antiquity) and Paragraph 1 to the Schedule amending the 1995 Law (Outcome of inquest under Article 20A), provide opportunities under specific circumstances for finds to be returned to the person who reported them, thereby providing further protection for private interests.

Article 18 (Licensing of archaeological excavations) provides powers for the States to make Regulations to require persons to obtain a license to conduct an archaeological excavation. The draft Heritage (Licensing of Archaeological Excavations) (Jersey) Regulations 202- will provide for the licensing system in this regard and would, subject to States approval, come into effect after the draft Law has been approved. The potential imposition of conditions on whether a person may undertake an archaeological investigation may amount to controls on the use of property and therefore to interferences with the rights afforded by A1P1. However, the licensing requirement is a legitimate aim in the interest of ensuring that excavations are conducted in accordance with best practice so that archaeological objects can be protected for the wider public interest. Accordingly, the introduction of a statutory licensing regime is a proportionate measure.

The jurisprudence of the European Court of Human Rights has established that States have a wide margin of appreciation, or discretion to decide what limitations on the use of property are in the public interest. The Court has said that paragraph (2) A1P1 sets the Contracting States up as sole judges of the "necessity" for such a law in "the general interest"<sup>3</sup>.

We therefore conclude that the draft Law is compatible with the A1P1.

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<sup>1</sup> 7151/75[1982] ECHR 5

<sup>2</sup> Convention for the Protection of Archaeological Heritage of Europe (1992) (extended to Jersey in 2000). See also the European Cultural Convention (The Paris Convention) 1954 (extended to Jersey in 1999) and the Convention for the protection of Archaeological Heritage of Europe (The Grandva Convention) 1985 (extended to Jersey in 1987).

<sup>3</sup> *Sporrong and Lonnroth v Sweden*.

**Article 6: Right to a fair trial**

The draft Law may also engage Article 6 of the ECHR, which provides –

- 1 *In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*
- 2 *Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.*

Article 6(1) ECHR requires that those who face a determination of their ‘civil rights and obligations’ or have any criminal charge brought against them must be entitled to a ‘fair and public hearing...by an independent and impartial tribunal’. With respect to the civil arm of Article 6, the guarantees afforded will only be relevant to the extent that an act or a decision is determinative of a ‘civil right’ or ‘obligation’.

Article 6 is an absolute right and may in theory be engaged by Article 23 (Consequential amendments) of the draft Law that amends the 1995 Law to provide that the Viscount must conduct an Inquest under draft Article 20A to determine if an archaeological object is a Jersey national antiquity or treasure trove or both. The Viscount must provide the outcome of the inquest in writing.

The draft Law does not include a right of appeal of the Viscount’s findings should a person be dissatisfied with the outcome of an inquest. However, Article 16 of the 1995 Law does provide that the Court may order a fresh inquest to be held and the former inquest quashed if it can be shown that by reason of fraud, irregularity of proceedings, the discovery of new facts or evidence or otherwise, it is necessary or desirable in the interests of justice that another inquest should be held. Accordingly, Article 23 is considered compatible with Article 6(1) ECHR.

Article 6(1) may also be engaged by Article 13 (Reward) of the draft Law which provides that the Minister must determine whether to pay a reward to the finder, landowner or any other person that the Minister considers appropriate. The draft Reward Regulations 202- which, subject to States approval, would be made under the draft Law, have the object of permitting a person to seek a review of the amount of a reward by another Minister, but will not provide for a statutory appeal process. However, the availability of judicial review remains a viable alternative avenue to seek further redress if desirable. The judicial review process in Jersey has full procedural safeguards<sup>4</sup> and the Royal Court is able and required pursuant to Article 7 of the Human Rights (Jersey) Law 2000 to ensure compatibility with Article 6.

With respect to the criminal limb of Article 6, there are a number of offences and penalties provided for under the draft Law. The Royal Court with its statutory and customary powers has full jurisdiction to hear all civil and criminal cases in Jersey, thereby fulfilling a key requirement of Article 6 of the ECHR by providing the appropriate access to a fair and public hearing within a reasonable time “by an independent and impartial tribunal”.

Accordingly, the provisions of the draft Law are considered to be compatible with both A1P1 and Article 6 of the ECHR.

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<sup>4</sup> See, for example, provision under the Royal Court Rules 2004.

**Article 8 ECHR: Right to respect for private life**

The draft Law potentially engages the right to respect for private life in Article 8 of the ECHR, which provides –

Article 8 of the ECHR provides –

1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*

The draft Law potentially engages Article 8 of the ECHR owing to the possibility of public interference with property rights (linking to A1P1 discussed above) and the finder's life/home when finds are discovered and required to be reported. Article 5 of the draft Law obliges a person to report an archaeological object that they believe, or have reason to believe, is an archaeological object, thereby possibly interfering with rights under Article 8(1). In particular, Article 5 requires a person to tell Jersey Heritage where the object has been found on a person's property and also to deposit the object with Jersey Heritage. However, for the reasons discussed above, it is considered that the interference would be justifiable under Article 8 owing to any such interference being in accordance with the law, in pursuit of the legitimate aim of heritage preservation and with the proposed provision of various new statutory procedures which are fair and proportionate, striking the appropriate balance between private rights and the public interest necessary in a democratic society.

Accordingly, the provisions of the draft Law are considered to be compatible with A1P1, Article 6 and Article 8 of the ECHR.

## EXPLANATORY NOTE

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This Law, if approved, will assist in securing Jersey's archaeological heritage by requiring the reporting, recording and preserving of objects of archaeological and historical significance.

*Part 1 (Articles 1 to 4)* contains definitions.

*Article 1* contains general definitions used in the Law.

*Article 2* defines "archaeological object".

*Article 3* defines "Jersey national antiquity". This is an archaeological object of exceptional significance or importance.

*Article 4* defines "treasure trove". This definition applies for the purposes of this Law, but the Law does not otherwise affect the customary law on treasure trove.

*Part 2 (Articles 5 to 7)* deals with the reporting and protecting of archaeological objects.

*Article 5* requires that a person who finds an object they believe might be an archaeological object must report it to Jersey Heritage within 14 days, including informing them of where it was found. Jersey Heritage may also ask the person to deposit the object with them. The same requirements apply to a person who acquires an object otherwise than by finding it.

*Article 6* contains offences relating to the reporting of an archaeological object. A person who, without reasonable excuse, does not comply with Article 5 commits an offence and is liable to imprisonment for a term of 12 months, an unlimited fine, or both. If a person knowingly provides false or misleading information when making a report to Jersey Heritage, the person commits an offence and is liable to imprisonment for a term of 2 years, an unlimited fine, or both.

*Article 7* contains exceptions to the reporting obligation in Article 5.

*Article 8* prohibits a person from discarding, damaging or destroying an object they believe to be an archaeological object and requires they take reasonable steps to preserve it. This applies while the person is waiting for a determination about whether the object is an archaeological object, a Jersey national antiquity or treasure trove.

*Article 9* provides that a person who Article 8 commits an offence and is liable to an unlimited fine.

*Part 3 (Articles 10 to 14)* makes provision for treasure trove and Jersey national antiquities, rewards for the finding of a Jersey national antiquity and a code of practice.

*Article 10* sets out the process that Jersey Heritage must follow to determine whether an object is an archaeological object and whether it may be treasure trove or a Jersey national antiquity (or both). The Viscount makes a ruling following an inquest under the Inquests and Post-Mortem Examinations (Jersey) Law 1995 (as amended by the Schedule to this Law) about whether an object is treasure trove or a Jersey national antiquity.

*Article 11* provides that a Jersey national antiquity that is not treasure trove belongs to the Public of the Island.

*Article 12* provides that a Jersey national antiquity that is treasure trove is held by the Minister for Sustainable Economic Development in trust for the Crown.

*Article 13* makes provision for a reward to be paid by the Minister to the finder of a Jersey national antiquity, the owner of the land on which the object was found and any other person the Minister considers appropriate. The reward must not exceed the market value of the Jersey national antiquity and must not be paid for human remains.

*Article 14* requires the Minister to prepare and publish a code of practice. This may specify archaeological objects that do not have to be reported. When considering whether a person has

complied with this Law, the code may be taken into account by a court, by the Viscount when holding an inquest and by the Minister when determining the amount of a reward.

*Part 4 (Article 15)* requires Jersey Heritage to maintain a historic environment record for Jersey. This places the current historic environment record on a statutory footing.

*Part 5 (Articles 16 to 18)* includes powers to make further provision to protect and preserve Jersey's heritage.

*Article 16* allows the States to make Regulations to comply with international agreements that extend to Jersey and internationally agreed provisions that the States consider it appropriate to apply in Jersey.

*Article 17* allows the States to make Regulations to facilitate the preservation and protection of Jersey's heritage, including language and intangible heritage.

*Article 18* allows the States to make Regulations to provide for the licensing of archaeological excavations.

*Part 6 (Articles 19 to 25)* contains final and miscellaneous provisions.

*Article 19* clarifies that, apart from the definition of treasure trove, which applies only for the purposes of this Law, this Law does not affect the customary law relating to treasure trove.

*Article 20* limits the liability for damages for listed people or bodies carrying out functions under the Law and any Regulations or Orders made under it.

*Article 21* makes provision in relation to offences committed by bodies corporate and partnerships.

*Article 22* sets the powers of the States when making Regulations under this Law.

*Article 23* introduces the *Schedule*, which contains consequential amendments. These include amendments to the Inquests and Post-Mortem Examinations (Jersey) Law 1995 to make provision for inquests to be held by the Viscount to decide whether an object is treasure trove or whether an archaeological object is a Jersey national antiquity.

*Article 24* gives the name of the Law and provides that it comes into force on a date specified by the Minister for Sustainable Economic Development by Order.



Jersey

## DRAFT HERITAGE (JERSEY) LAW 202-

### Contents

#### Article

<b>PART 1</b>	<b>21</b>
<b>INTERPRETATION</b>	
1	Interpretation ..... 21
2	Archaeological object ..... 22
3	Jersey national antiquity..... 22
4	Treasure trove ..... 22
<b>PART 2</b>	<b>23</b>
<b>REPORTING AND PROTECTION OF ARCHAEOLOGICAL OBJECTS</b>	
5	Reporting of archaeological objects ..... 23
6	Offences relating to reporting of archaeological objects ..... 23
7	Exception to obligation to report ..... 23
8	Protection of archaeological object..... 24
9	Offence relating to protection of archaeological object ..... 24
<b>PART 3</b>	<b>24</b>
<b>TREASURE TROVE AND JERSEY NATIONAL ANTIQUITIES</b>	
10	Initial assessment of whether object is treasure trove or Jersey national antiquity .. 24
11	Jersey national antiquities belong to Public of the Island ..... 25
12	Jersey national antiquity that is treasure trove..... 25
13	Reward ..... 25
14	Code of practice ..... 26
<b>PART 4</b>	<b>26</b>
<b>HISTORIC ENVIRONMENT RECORD</b>	
15	Historic environment record ..... 26
<b>PART 5</b>	<b>27</b>
<b>FURTHER PROVISIONS RELATING TO PRESERVATION AND PROTECTION OF JERSEY'S HERITAGE</b>	
	27
16	Compliance with international obligations and standards..... 27
17	Protection of heritage..... 28

18	Licensing of archaeological excavations .....	28
<b>PART 6</b>		<b>28</b>
FINAL AND MISCELLANEOUS PROVISIONS		28
19	Relationship with customary law.....	28
20	Limitation of civil liability .....	28
21	Offences by bodies corporate and others .....	29
22	Regulations .....	29
23	Consequential amendments.....	30
24	Citation and commencement .....	30
<b>SCHEDULE</b>		<b>31</b>
CONSEQUENTIAL AMENDMENTS		31
1	Inquests and Post-Mortem Examinations (Jersey) Law 1995 amended.....	31
2	Planning and Building (Jersey) Law 2002 amended .....	32
3	Shipping (Jersey) Law 2002 amended .....	33



Jersey

## DRAFT HERITAGE (JERSEY) LAW 202-

A LAW to provide for the securing of Jersey’s archaeological heritage, the reporting, recording and preservation of objects of archaeological and historical significance to Jersey, and for connected purposes.

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

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

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### PART 1

#### INTERPRETATION

#### 1 Interpretation

In this Law –

“archaeological object” has the meaning given in Article 2;

“code of practice” means the code of practice prepared and published under Article 14;

“find” means –

- (a) an archaeological object; or
- (b) 2 or more archaeological objects that are found together or within the same archaeological context;

“human remains” means the bodies, or parts of bodies, of once living *Homo sapiens* or *Homo neanderthalensis*, or other specimens of the genus *Homo*;

“Inquests Law” means the [Inquests and Post-Mortem Examinations \(Jersey\) Law 1995](#)

“Jersey” includes the territorial waters of Jersey;

“Jersey Heritage” means the Jersey Heritage Trust incorporated by an Act of Incorporation granted by the States by the Loi accordant un Acte d’Incorporation à l’Association dite “The Jersey Heritage Trust” registered on 3 June 1983;

- “Jersey national antiquity” has the meaning given in Article 3;
- “land” includes the foreshore;
- “Minister” means the Minister for Sustainable Economic Development;
- “Receiver of wreck” means the Receiver appointed under Article 128A of the [Shipping \(Jersey\) Law 2002](#) (the “Shipping Law”);
- “reward” means a reward paid under Article 13;
- “treasure trove” has the meaning given in Article 4;
- “wreck” has the meaning given in Article 128 of the Shipping Law.

## 2 Archaeological object

- (1) “Archaeological object” means an object found on or under the land or seabed of Jersey that –
- (a) has been created or modified by human activity and that –
    - (i) is at least 300 years old; or
    - (ii) is not 300 years old but is, or appears to be, of historical interest;
  - (b) is historical human remains or ancient animal remains; or
  - (c) is treasure trove.
- (2) Paragraph (1) includes an object that –
- (a) is wreck or is found in or on a wreck;
  - (b) was found by someone other than the person who currently has possession of it.

## 3 Jersey national antiquity

- “Jersey national antiquity” means an archaeological object that is, whether considered alone or as part of a larger find –
- (a) of exceptional scientific or academic significance for any branch or field of Jersey art, learning or history;
  - (b) so closely connected with Jersey national life and history that its loss would be a misfortune;
  - (c) of exceptional aesthetic importance; or
  - (d) otherwise of significant historical, archaeological or cultural interest.

## 4 Treasure trove

- (1) For the purposes of this Law, “treasure trove” means 2 or more objects, each of which is made of more than 50% gold or silver –
- (a) that have been deliberately hidden together on land with the intention that they are to be recovered; and
  - (b) whose owner, or whose owner’s heirs, are unknown.
- (2) For the purposes of determining if paragraph (1) applies –
- (a) if, after an object was hidden it becomes fused with another object, it is assessed as if it had not fused to the other object; and

- (b) if it is broken into separate parts, the separate parts are assessed as if the object had not broken.

## **PART 2**

### **REPORTING AND PROTECTION OF ARCHAEOLOGICAL OBJECTS**

#### **5 Reporting of archaeological objects**

- (1) A person who finds an object that they believe, or have reason to believe, is an archaeological object must report finding it to Jersey Heritage within 14 days, beginning on the day after the day on which the archaeological object is found.
- (2) When reporting the finding of an archaeological object, the person must tell Jersey Heritage where the archaeological object was found.
- (3) If requested by Jersey Heritage, the person must deposit the archaeological object with Jersey Heritage within 28 days beginning on the day after the day Jersey Heritage makes the request.
- (4) Paragraphs (1) and (3) also apply to a person who acquires an object other than by finding that they believe, or have reason to believe, is an archaeological object, in which case that acquisition must be reported within 14 days, beginning on the day after the day on which the person becomes aware that they have acquired such an object.

#### **6 Offences relating to reporting of archaeological objects**

- (1) A person commits an offence if that person, without reasonable excuse –
  - (a) fails to report, in accordance with Article 5(1) or (4), the finding or acquisition of an object that they believe, or have reason to believe, is an archaeological object;
  - (b) when reporting the finding of an archaeological object refuses to inform Jersey Heritage of the location where it was found; or
  - (c) if requested by Jersey Heritage to deposit an archaeological object, refuses to do so within 28 days beginning on the day after the day Jersey Heritage makes the request.
- (2) A person who commits an offence under paragraph (1) is liable to imprisonment for a term of 12 months and to a fine.
- (3) A person commits an offence and is liable to imprisonment for a term of 2 years and to a fine if that person knowingly or recklessly provides false or misleading information when reporting the finding or acquisition of an archaeological object.
- (4) In determining the amount of a fine to be imposed on a person convicted of an offence under this Article, the court must have regard to any financial benefit that has accrued, appears likely to accrue or could have accrued to the person in consequence of the offence.

#### **7 Exception to obligation to report**

- (1) Article 5 does not apply if –

- (a) the person reports the finding of the archaeological object to an authority referred to in paragraph (2);
  - (b) the code of practice specifies that the finding of the archaeological object does not need to be reported; or
  - (c) the object is found during the course of an archaeological excavation that is licensed under Regulations made under Article 18 of this Law and the licence contains conditions about when finds are to be reported.
- (2) The authorities are –
- (a) for human remains, the States of Jersey Police;
  - (b) for explosives or munitions, the States of Jersey Police or the coastguard;
  - (c) for objects that are wreck or are found in or on a wreck, the Receiver of wreck.

## **8 Protection of archaeological object**

- (1) Before a relevant decision is made, a person –
- (a) must not discard, damage or destroy an object that the person knows or has reason to believe is an archaeological object; and
  - (b) must take reasonable measures to preserve the object.
- (2) A “relevant decision” is –
- (a) an assessment by Jersey Heritage under Article 10 that the object is not an archaeological object;
  - (b) an assessment by Jersey Heritage under Article 10 that an archaeological object does not appear to be a Jersey national antiquity;
  - (c) a ruling by the Viscount under Article 20B of the Inquests Law that an object is not treasure trove or an archaeological object is not a Jersey national antiquity.

## **9 Offence relating to protection of archaeological object**

- (1) A person who, without reasonable excuse, contravenes Article 8(1) commits an offence and is liable to a fine.
- (2) In determining whether a person has taken reasonable steps to preserve an object, the court may take into account any instructions Jersey Heritage provided to the person in relation to the treatment or preservation of the object and any guidance provided in the code of practice.

# **PART 3**

## **TREASURE TROVE AND JERSEY NATIONAL ANTIQUITIES**

## **10 Initial assessment of whether object is treasure trove or Jersey national antiquity**

- (1) If a person has reported the finding or acquisition of an object to Jersey Heritage, Jersey Heritage must, within a reasonable time assess –
- (a) whether it is an archaeological object;

- (b) if it is an archaeological object, whether it may be a Jersey national antiquity;  
or
  - (c) whether it may be treasure trove;
- (2) If Jersey Heritage considers that the object may be treasure trove, it must inform the Receiver General, the Viscount and the person who reported finding or acquiring it, no later than 28 days after the day on which it makes that decision so that a ruling can be made under Article 20B of the Inquests Law as to whether the object is treasure trove.
  - (3) If Jersey Heritage considers that the object is an archaeological object and may be a Jersey national antiquity (but not treasure trove), it must inform the Viscount and the person who reported finding or acquiring it, no later than 28 days after the day on which it makes that decision so that a ruling can be made under Article 20B of the Inquests Law as to whether the archaeological object is a Jersey national antiquity.
  - (4) If Jersey Heritage does not consider that an object may be treasure trove or that an archaeological object may be a Jersey national antiquity, it must return the object or archaeological object to the person who reported it, and if the person does not want it Jersey Heritage may dispose of it.
  - (5) The Minister may, by Order, make further provision in relation to the procedure Jersey Heritage must follow when assessing or disposing of an object.

## **11 Jersey national antiquities belong to Public of the Island**

- (1) Unless Article 12 applies, a Jersey national antiquity belongs to the Public of the Island.
- (2) The Minister is responsible for ensuring that Jersey national antiquities are preserved and protected.

## **12 Jersey national antiquity that is treasure trove**

- (1) If a Jersey national antiquity is treasure trove, it is held by the Minister in trust for the Crown.
- (2) The Minister is responsible for ensuring that Jersey national antiquities that are treasure trove are preserved and protected.

## **13 Reward**

- (1) If the Viscount rules under Article 20B of the Inquests Law that an archaeological object is a Jersey national antiquity, the Minister must determine whether to pay a reward to the finder, the landowner and any other person the Minister considers appropriate.
- (2) If the Viscount rules under Article 20B of the Inquests Law that an archaeological object is a Jersey national antiquity and treasure trove, before paying a reward under paragraph (1) the Minister must consult the Receiver General and take account of their views including as to whether a reward should be paid to a person in addition to the finder and landowner.
- (3) The reward must not exceed the value the Jersey national antiquity would fetch on the open market.
- (4) A reward must not be paid in respect of human remains.

- (5) The States may make Regulations to provide for –
  - (a) a requirement that an application is made before the Minister determines whether to pay a reward and the procedure for that application;
  - (b) the procedure for determining whether a reward is to be paid;
  - (c) the amount of the reward;
  - (d) the circumstances in which a reward must or may be reduced;
  - (e) the persons to whom a reward may or may not be paid;
  - (f) Jersey national antiquities for which a reward may or may not be paid;
  - (g) the review of a decision about whether to pay a reward or the amount of the reward.
- (6) In this Article –

“finder” means a person named as a finder in the ruling of an inquest conducted under Article 20A of the Inquests Law;

“landowner” means a person named as the owner of the land in the ruling of an inquest conducted under Article 20A of the Inquests Law.

#### **14 Code of practice**

- (1) The Minister –
  - (a) must prepare and publish a code of practice that provides practical guidance in respect of the reporting and protection of archaeological objects; and
  - (b) may amend that code.
- (2) The code of practice may specify archaeological objects that do not need to be reported under Article 5.
- (3) When preparing and publishing, or re-publishing, the code of practice the Minister must consult –
  - (a) Jersey Heritage; and
  - (b) any other person or body the Minister considers appropriate.
- (4) A failure to comply with the code of practice prepared under paragraph (1) does not directly make a person liable to civil or criminal proceedings, but the code is admissible in proceedings and may be taken into account by –
  - (a) a court considering a question of compliance with this Law or Regulations or Orders made under it;
  - (b) the Viscount when holding an inquest under Article 20A of the Inquests Law;
  - (c) the Minister in determining the amount of a reward, if any, to be paid to a person in respect of an object, including a reduction of the reward.

### **PART 4**

#### **HISTORIC ENVIRONMENT RECORD**

#### **15 Historic environment record**

- (1) Jersey Heritage must maintain a historic environment record for Jersey.

- (2) A “historic environment record” is a system for storing and making available to the public information about –
- (a) a site or building that is included on the List of Sites of Special Interest maintained under Article 51 of the Planning and Building (Jersey) Law 2002 (the “Planning Law”) because of the special geological, archaeological, architectural, artistic, cultural or historical interest that attaches to the building or site;
  - (b) a conservation area designated under Article 56A of the Planning Law;
  - (c) other sites in Jersey that Jersey Heritage considers to be of archaeological, architectural, artistic, cultural or historical interest;
  - (d) objects that Jersey Heritage considers to be archaeological objects –
    - (i) the finding or acquisition of which are reported under this Law;
    - (ii) that have been found in the course of archaeological investigations; or
    - (iii) that are otherwise brought to the attention of Jersey Heritage;
  - (e) historic place names;
  - (f) the way in which the historic, archaeological or architectural development of Jersey, or any part of it, has contributed to its present character and about how that character may be preserved;
  - (g) historical, architectural, archaeological or scientific investigations or studies relating to –
    - (i) sites or objects referred to in sub-paragraphs (a) to (d); or
    - (ii) the development, preservation or present character of any part of Jersey.
- (3) Nothing in this Article prevents Jersey Heritage from using the historic environment record to store and make available to the public other archaeological, architectural, artistic, cultural or historical information that Jersey Heritage considers appropriate to preserve.
- (4) Jersey Heritage is required to include information in the historic environment record only if it has the information and considers it suitable for inclusion in the record.
- (5) Jersey Heritage must take the steps it considers reasonable to –
- (a) obtain information for inclusion in the historic environment record; and
  - (b) keep information in the historic environment record up to date.

## PART 5

### FURTHER PROVISIONS RELATING TO PRESERVATION AND PROTECTION OF JERSEY'S HERITAGE

#### 16 Compliance with international obligations and standards

The States may make Regulations to comply with –

- (a) international agreements that extend to Jersey and concern the protection or preservation of Jersey's heritage or of objects of archaeological, historical or cultural significance; or

- (b) internationally agreed provisions that concern the protection or preservation of objects of archaeological, historical or cultural significance and that the States considers it appropriate to apply in Jersey.

## **17 Protection of heritage**

- (1) The States may make Regulations to facilitate the preservation and protection of Jersey's heritage.
- (2) Without limiting paragraph (1), Regulations made under this Article may provide for the protection and preservation of language, buildings and intangible heritage and culture.

## **18 Licensing of archaeological excavations**

- (1) The States may make Regulations to provide for the licensing of an archaeological excavation.
- (2) Regulations made under paragraph (1) may provide for –
  - (a) the granting, modifying and cancellation of licences; and
  - (b) the review and appeal of decisions granting, modifying or cancelling of licences.
- (3) In this Article, “archaeological excavation” means an intrusive investigation on or under land or the seabed (whether or not the investigation involves the removal of the surface of the land or seabed) for the purpose –
  - (a) of searching generally for archaeological objects; or
  - (b) of searching for, exposing or examining a particular structure or thing of archaeological interest;

## **PART 6**

### **FINAL AND MISCELLANEOUS PROVISIONS**

## **19 Relationship with customary law**

- (1) For the purpose only of applying this Law, treasure trove has the meaning given in Article 4.
- (2) For other purposes, in relation to treasure trove, the customary law prevails.

## **20 Limitation of civil liability**

- (1) A person or body to whom this Article applies is not liable in damages for anything done or omitted in carrying out any function under this Law, or Regulations or Orders made under it.
- (2) This Article applies to the Minister, the Viscount, the Receiver of wreck, Jersey Heritage, and any person or body consulted by the Minister or Jersey Heritage when carrying out a function under this Law, or Regulations or Orders made under it.
- (3) Paragraph (1) does not apply –
  - (a) if it is shown that the act was done in bad faith; or

- (b) to prevent an award of damages made in respect of an act on the grounds that the act was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).

## 21 Offences by bodies corporate and others

- (1) In this Article –
  - “relevant offence” means an offence under this Law, or Regulations made under it, that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;
  - “relevant person” means –
    - (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
    - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
      - (i) a general partner; or
      - (ii) a limited partner who is participating in the management of the partnership;
    - (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
      - (i) a director, manager, secretary or other similar officer of the body corporate; and
      - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and
    - (d) a person purporting to act in any capacity described in sub-paragraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) Paragraph (4) applies if a relevant offence –
  - (a) is an offence that may be committed by neglect; and
  - (b) is proved to be attributable to neglect on the part of a relevant person.
- (4) The relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

## 22 Regulations

- (1) The States may make Regulations under this Law –
  - (a) to amend, insert or delete a definition;
  - (b) to specify another body or organisation instead of, or as well as, Jersey Heritage to carry out functions given to it under this Law;
  - (c) to amend or supplement the provisions relating to the reporting and protection of archaeological objects, including offences and penalties;

- (d) in consequence of any provision made by or under this Law, to make amendments to any enactment that appears to the States to be necessary.
- (2) When making Regulations under this Law, the States may –
- (a) create offences and specify penalties for those offences, but may not specify a penalty of imprisonment of more than 2 years for an offence;
  - (b) confer a power or impose a duty on the Minister to make, by Order, any provision that may be made by the Regulations except the power to amend a Law;
  - (c) make provision for prescribing and regulating the payment and recovery of expenses and provide for the payment of fees and charges;
  - (d) make amendments consequential to those Regulations to other enactments that appear to the States to be necessary.
- (3) A provision made by Regulations under this Law must not –
- (a) impose or increase taxation;
  - (b) take effect from a date earlier than that of the making of the Regulations containing the provision;
  - (c) amend the [Human Rights \(Jersey\) Law 2000](#); or
  - (d) be inconsistent with this Law.

### **23 Consequential amendments**

The Schedule contains consequential amendments.

### **24 Citation and commencement**

This Law may be cited as the Heritage (Jersey) Law 202- and comes into force on a day to be specified by the Minister by Order.

## SCHEDULE

(Article 23)

### CONSEQUENTIAL AMENDMENTS

#### 1 Inquests and Post-Mortem Examinations (Jersey) Law 1995 amended

After Part 4 of the Inquests Law there is inserted –

#### PART 4A

#### INQUEST CONCERNING TREASURE TROVE AND JERSEY NATIONAL ANTIQUITY

##### 20A Inquest concerning treasure trove and Jersey national antiquity

- (1) When the Viscount is notified under Article 10(2) or (3) of the Heritage Law that an object may be treasure trove or an archaeological object may be a Jersey national antiquity, the Viscount must hold an inquest without a jury into whether the object is treasure trove or the archaeological object is a Jersey national antiquity (or both).
- (2) The following Articles apply to the inquest –
  - (a) Article 8 (inquest without a jury);
  - (b) Article 9 (summoning of witnesses);
  - (c) Article 11 (proceedings at inquest);
  - (d) Article 12 (protection of witnesses and counsel);
  - (e) Article 13(1) (adjournment of inquest);
  - (f) Article 16 (Court may order fresh inquest to be held).
- (3) For the purposes of applying the Articles referred to in paragraph (2), references to the deceased and cause of death are to be read as references to the object or archaeological object and the circumstances in which it was found.
- (4) For the purposes of this Part –
  - (a) “Heritage Law” means the Heritage (Jersey) Law 202-; and
  - (b) the following terms have the meaning given in Article 1 of the Heritage Law –
    - (i) archaeological object;
    - (ii) Jersey Heritage;
    - (iii) Jersey national antiquity;
    - (iv) Minister;
    - (v) treasure trove.

**20B Ruling of inquest under Article 20A**

The Viscount must give their ruling in writing, which must include –

- (a) where the object was found;
- (b) when the object was found;
- (c) the person who found the object (regardless of whether that person reported finding the object);
- (d) the owner of the land on which the object was found;
- (e) if the inquest is concerned with whether the object is treasure trove, whether it is treasure trove;
- (f) if the inquest is concerned with whether an archaeological object is a Jersey national antiquity, whether it is a Jersey national antiquity;
- (g) whether any of the people who found the object or the owners of the land on which the object was found breached Articles 5 or 7 of the Heritage Law; and
- (h) any other findings of fact that the Viscount considers relevant.

**20C Outcome of inquest under Article 20A**

- (1) If the Viscount rules that an archaeological object is a Jersey national antiquity (whether or not it is also found to be treasure trove), it must be transferred to the Minister.
- (2) If the Viscount rules that the archaeological object is not a Jersey national antiquity but is treasure trove, it must be given to the Receiver General, or to a person nominated by the Receiver General.
- (3) If the Viscount rules that an archaeological object is not a Jersey national antiquity and is not treasure trove –
  - (a) if the archaeological object was found on the foreshore or on other land conveyed to the Public of the Island, the object must be returned to Jersey Heritage, which may keep or dispose of the object or return it to the person who reported finding it; or
  - (b) if the archaeological object was found on land that has not been conveyed to the Public of the Island, the object must be returned to the person who reported finding it.
- (4) If an archaeological object must be returned to the person who reported finding it under paragraph (3)(b) and the person does not want the object, it must be returned to Jersey Heritage, which may keep or dispose of the object.

**2 Planning and Building (Jersey) Law 2002 amended**

In Article 55 (certain activities restricted on sites of special interest) of the [Planning and Building \(Jersey\) Law 2002](#) –

- (a) in paragraph (1)(c), for “or (f)” there is substituted “, (f) or (g)”;
- (b) in paragraph (2), after sub-paragraph (f) there is inserted –
  - (g) to remove an archaeological object (within the meaning of the Heritage (Jersey) Law 202-).

### **3 Shipping (Jersey) Law 2002 amended**

After Article 146 (right to unclaimed wreck) of the Shipping (Jersey) Law 2002 there is inserted –

#### **146A Sale of wreck containing archaeological objects**

- (1) Before the Receiver sells wreck under Article 145 or 146, the Receiver must determine whether the wreck may be, or may contain, an archaeological object within the meaning of the Heritage (Jersey) Law 202-.
- (2) If the Receiver determines that the wreck may be, or may contain, an archaeological object, the Receiver must inform the Jersey Heritage Trust and comply with any instructions the body provides in relation to the storage and preservation of the object.