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By email

12th February 2026

Dear Chair,

Draft Heritage (Jersey) Law

Thank you for your letter of 5th February, in which you ask a number of questions relating to the Draft Heritage (Jersey) Law 202-. I have set out updates to each of these below:

1. *Could you provide the Panel with an overview of the draft Law, including its purpose, the associated regulations on reward and licensing, and the relevant code of practice?*

The draft Law provides a suite of provisions to compliment both the Heritage Strategy as well as assisting Jersey in its effective and timely implementation of a number of relevant international conventions, relating to heritage and antiquities, and provides for a platform for implementation of potential future conventions. The draft Law therefore aims to close critical gaps by:

- a. **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.
- b. **Closing Legal Gaps:** Existing reliance on unwritten conventions provides no statutory obligation for reporting finds, creating uncertainty for finders, landowners, and authorities.
- c. **Meeting International Obligations:** Jersey is a signatory to several treaties and conventions that require robust heritage protection which this draft Law seeks to deliver.
- d. **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.
- e. **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.
- f. **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.

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

The draft Law also proposes to introduce licencing of archaeological excavations for qualified professionals to complement existing legislation on development sites.

Finally, the draft Law proposes the development and publication of a Code of Practice that provides detailed information on how to comply with the draft legislative bundle.

2. *Could you confirm whether the Draft Law, along with its associated regulations and code of practice, aligns with the approaches taken in comparable jurisdictions such as the UK, other Crown Dependencies, and the EU?*

The draft Law aligns in intent with the approaches taken in comparable jurisdictions.

The underlying concept that 'treasure' belongs to the state, in one form or another, is ancient, being expressed in England and Scotland in Common Law, in Europe by national legislation that designates archaeological artefacts as national heritage and in Jersey, in the Très ancien coutumier. Modern legislation in comparable jurisdictions, as with the draft Law, reflects compliance with relevant international conventions to which the island is party. Inevitably for constitutional reasons the specifics of legislation differ to a degree in their mechanisms but the significant points are: firstly, that the desired outcomes are the same i.e. that important archaeological objects are placed in museums for public benefit and; secondly, that relevant legislation in those comparable jurisdictions has been in place for a very long time leaving Jersey, currently, as something of an outlier.

3. *The Draft Law, states "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." Can you advise the Panel if there are any resource implications for Jersey Heritage?*

Since 2022, when changes to the grant owing to the adoption of the 1% principle for cultural funding allowed, Jersey Heritage has developed the infrastructure to support implementation of the draft Law, should it be adopted. That includes relevant posts including the Finds Liaison Officer, the Historic Environment Record Officer and Historic Environment Archaeologist as well as the Historic Environment Record itself. Consequently, there is no additional cost to Jersey Heritage. However, there is inevitably a degree of uncertainty about the volume of finds that the convention-compliant mandatory reporting requirement will produce, so the situation will need to be monitored.

4. *Can you advise the Panel what aspects of Customary Law remain in the Draft Law and the reason for this?*

The draft Law retains the customary Crown right of treasure trove. Consideration was given to abolition which would be consistent with the approach taken in England and the Isle of Man which purport to abolish trove – although it should be noted that technically treasure trove still exists in the English and Manx Laws as a class of object because their definition of treasure includes items previously trove. Note also that all archaeological finds in Scotland are property of the Crown under *bona vacantia*.

Officers are of the view that there are constitutional reasons why disturbing the baseline customary law in this instance should be avoided for now and the draft Law makes it clear that for the purposes of interpreting its provisions, the definitions and requirements of what is contained in the draft prevail. Moreover, it is ultimately a matter for the Crown whether it wishes to dispose of its right – a negotiation which, even if considered desirable, would likely take many years. Thus, what the draft Law does is accommodate the Crown right in a manner consistent with the ambition to ensure relevant objects end up in public collections

for public benefit. In practice, for the purposes of the draft Law, treasure trove, now to be held in trust by the Minister, will be treated in the same way as “Jersey National Antiquities,” save for appropriate consultation with the Receiver-General.

5. *The Panel understands that in England, Wales the Treasure Act 1996 abolished common law of treasure trove can you advise why this was not considered in this Draft Law?*

Please see response to (4) above.

6. *The Panel notes from a [letter](#) on 29th July 2025 it was mentioned that: “ambiguous definition of treasure trove into the draft legislation has proven complex, such as defining what ‘masse’ means and ‘gold’ or ‘silver’. However, the Legislative Working Group and Crown are now satisfied with what has now been defined” can you advise the Panel why the definition of treasure trove was kept in and was any consideration of removing it?*

Since, for the above reasons, treasure trove is retained in the draft Law it is necessary to define it. The definition is consistent with the practical application of treasure trove by the Crown in Jersey, historically, and with English Common Law, which in the case of treasure trove shares a common Norman inheritance.

7. *With regards to the Treasure Trove definition, can you explain how in practice the definitions around the composition of an item will work? For example, how does an individual that discovers an item know the composition of the item to report it?*

The obligation to report treasure trove already exists in the customary law, so the challenge you identify has indeed been problematic, especially with the noted ambiguity around the customary definition. The reporting requirement in the draft Law applies to archaeological objects as defined, not just to trove, providing significantly improved clarity of advice to finders.

8. *Could you explain to the Panel how the Customary Law provisions retained in the Draft Law compare with those found in other jurisdictions that maintain elements of Customary Law in this area?*

The precise definitions of treasure trove in all jurisdictions have been the subject of legal debate for centuries and there is a huge legal and historical literature on this subject. Across jurisdictions with relevant legal traditions the core provisions are broadly consistent with one possible exception. The references to ‘masse’ in the commentaries on Jersey customary law have been defined in the draft Law to mean more than a single object. That is consistent with the principle that items lost rather than deliberately hidden with the intent of recovery will not be trove since it would be difficult to establish that a single object had not been lost, whereas it is more certain that a hoard was deliberately buried. This is, however, a difference with English trove where a single item could be trove.

9. *Can you advise the Panel on the offences and penalties in the draft Law?*

There are various offences and penalties in the draft Law. Primarily these concern the reporting of archaeological objects and the protection of objects. There are also enabling provisions in the draft Law to provide that Regulations made thereunder may also create offences and penalties within prescribed thresholds. The design of the offences and penalties were considered in light of similar provisions in both local legislation and comparable jurisdictions, such as the UK and the Isle of Man.

10. Could you advise the Panel on how enforceable the requirement is to report archaeological objects within 14 days of their discovery?

It is acknowledged that this provision may present some challenges upon enforcement, but it is noted that each case will turn on its facts and there will be considerable information that the person who finds the object must provide to Jersey Heritage. There is also a similar 14-day window given in the context of the UK Treasure Act and it is considered that the further guiding materials, such as the Code, will provide the public with detailed information in interpreting the Law and what is expected of them by way of complying with it.

11. Are you able to provide details for the Panel regarding the consequential amendments proposed in the draft Law?

The Consequential Amendments proposed in the draft Law are detailed in the Schedule. The first is an amendment made to the Inquests and Post-Mortem Examinations (Jersey) Law 1995 to provide for inquests concerning treasure trove and Jersey national antiquities. Accordingly, the changes concern addressing which of those articles in the 1995 Law would apply to an inquest for these purposes, as well as various matters of procedure and what happens at the conclusion of an inquest. Consequential amendments have also been proposed regarding the Planning and Building (Jersey) Law 2002, principally in relation to ensuring that included in those activities which are restricted at sites of special interest, is the removal of an archaeological object. Lastly, the Shipping (Jersey) Law 2002 will be amended to ensure that any archaeological objects which might be or are contained within wreck are reported to Jersey Heritage to ensure due preservation and storage

12. Can you outline for the Panel the appeal process that exists in the draft Law, the associated regulations and code of practice?

The draft Law does not include a right of appeal against the Viscount's findings should a person be dissatisfied with the outcome of an inquest. However, the Court may order a fresh inquest to be held and the former quashed if it can be shown that it is necessary or desirable in the interests of justice that another inquest should proceed. The draft Heritage (Valuation of Reward) Regulations 202- has 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. Finally, under the draft Heritage (Licensing of Archaeological Excavations) Regulations 202- there is an appeal route at draft Regulation 8 providing that an applicant or licence holder aggrieved by a determination of the Minister under Regulation 7 may appeal to the Royal Court. The Code of Practice does not contain appeal provisions.

Please note the following responses are for information only, as neither of the draft regulations: reward and/or archaeological licencing will be debated at this stage.

13. The draft Heritage (reward) (Jersey) regulations:

- a. In relation to Article 3(2), how should the reward be apportioned in cases where more than three individuals are deemed eligible to receive a share?*

If it's just finders and landowners, then Reg 3(1)(b) applies with Reg 2(6) and the individual finders and landowner will need to work out how to split their shares. Reg 3(2) allows for the reward to be split three ways. However, further thought is required

as to how best to apportion where there are other eligible individuals, and this issue will be addressed before draft regulations are lodged.

- b. *“A request for a review must be made in writing in the manner specified by the Minister.” Can you advise the Panel in what manner must a request for a review be submitted, given that it must be made in writing and in the form specified by the Minister?*

It is standard practice for Government to provide that the manner and form of applying for something is for the Minister to determine. This is to avoid having forms etc set out in legislation. However, these specifics i.e. the ‘manner’ and ‘form’ will be detailed in the Code and therefore remove any uncertainties on this process.

- c. *In relation to Article 5(3), can you confirm whether the Assistant Minister to the Minister for Sustainable Economic Development could be chosen to carry out the review? If that is possible, might this create a conflict of interest? Has any thought been given to requiring in the regulations that another designated Minister, for example the Minister for the Environment, be designated to conduct the review?*

The decision was to keep this open as it’s hard to second guess where a potential conflict of interest might lie in somewhere the size of Jersey. Any Minister or Assistant Minister doing the review should be one without a conflict of interest, but doesn’t necessarily need to be stated as that is a basic principle of good government. Ultimately, there would be grounds for judicial review if the reviewing Minister did have a conflict of interest.

14. *The Draft Heritage (Licensing of Archaeological Excavations) (Jersey) Regulations:*

- a. *The Panel notes Prohibition on conducting archaeological excavation without licence Article 2 (2) which states “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”. can you advise why the amount of the fine is left to the determination of the court instead of being stated in the regulations?*

This approach to a fine allows the Court to come to a view in the context of all the relevant facts and circumstances. This form of provision is not unusual and appears in other Jersey Laws.

15. *At what point does a discovery become classed as an archaeological excavation? For example, if someone is gardening in their own garden and uncovers an object or potential artifact, what is the process that should be followed?*

The draft Law distinguishes primarily by purpose and intent, not by whether archaeology is actually found. Accidental discovery during ordinary activities is treated very differently from deliberate searching. The draft Law specifically states that:

“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;

This therefore applies to deliberate searching and is consistent with the approach taken and well established in those jurisdictions which licence excavation such as Northern Ireland and the Republic of Ireland.

In the case of someone finding an object in their garden, by chance, the finder would be required to follow the guidance set out in the draft Code of Practice to firstly establish whether the item is an 'archaeological object' (see section 3 of the draft code). The mandatory reporting of archaeological objects is a fundamental provision of the proposed law.

16. The Panel notes the consultation response paper has been published. Can you outline for the Panel what changes were made to the draft Law arising directly from feedback during the consultation?

Details of changes following the public consultation can be found in [Heritage Law Consultation Summary Response](#) Appendix B. Schedule of Amendments (from page 29 onwards). In total there were 25 amendments to the proposed draft legislative bundle.

I hope the above information provides clarity to the areas you have raised.

Yours sincerely,



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Minister for Sustainable Economic Development