



Jersey

CRIMINAL JUSTICE (INTERNATIONAL CO-OPERATION) (JERSEY) LAW 2001

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CRIMINAL JUSTICE (INTERNATIONAL CO- OPERATION) (JERSEY) LAW 2001

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Jersey

CRIMINAL JUSTICE (INTERNATIONAL CO-OPERATION) (JERSEY) LAW 2001

A LAW to enable Jersey to co-operate with other countries in criminal investigations and proceedings and for related purposes

Commencement [[see endnotes](#)]

1 Interpretation

In this Law –

“assigned matter” has the same meaning as in the [Customs and Excise \(Jersey\) Law 1999](#);

“customs officer” has the same meaning as “officer” in the [Customs and Excise \(Jersey\) Law 1999](#);

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“evidence” includes documents and other articles;

“items subject to legal professional privilege” shall have the same meaning as is given to the expression “items subject to legal privilege” by Article 1(1) of the [Proceeds of Crime \(Jersey\) Law 1999](#);

“letter of request” means a letter of request issued under Article 4(1) or (2);

“premises” includes any place and, in particular, includes –

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any offshore installations; and
- (c) any tent or movable structure;

“serious offence” means an offence for which the maximum sentence in Jersey is not less than one year’s imprisonment.¹

2 Service of overseas process in Jersey

- (1) This Article has effect where the Attorney General receives from the government of, or other authority in, a country or territory outside Jersey –
 - (a) a summons or other process requiring a person to appear as a defendant or to attend as a witness in criminal proceedings in that country or territory; or
 - (b) a document issued by a court exercising criminal jurisdiction in that country or territory and recording a decision of the court made in the exercise of that jurisdiction,together with a request for it to be served on a person in Jersey.
- (2) The Attorney General may cause the process or document to be served by post or, if the request is for personal service, instruct the Viscount to cause it to be personally served.
- (3) Service by virtue of this Article of any such process as is mentioned in paragraph (1)(a) shall not impose an obligation under the law of Jersey to comply with it.
- (4) Such a process served by virtue of this Article shall be accompanied by a notice –
 - (a) stating the effect of paragraph (3);
 - (b) indicating that the person on whom it is served may wish to seek advice as to the possible consequences of the person's failing to comply with the process under the law of the country or territory where it was issued; and
 - (c) indicating that under that law the person may not, as a witness, be accorded the same rights and privileges as would be accorded to the person as a witness in criminal proceedings in Jersey.
- (5) If the Viscount is instructed under this Article to cause a process or document to be served, the Viscount shall, after it has been served, forthwith inform the Attorney General when and how it was served and (if possible) furnish the Attorney General with a receipt signed by the person on whom it was served; and if the Viscount has been unable to cause the process or document to be served the Viscount shall forthwith inform the Attorney General of that fact and of the reason.

3 Service of Jersey process overseas

- (1) Process of any of the following descriptions, that is to say –
 - (a) a summons requiring a person charged with an offence to appear before a court in Jersey;
 - (b) a summons or order requiring a person to attend before a court in Jersey for the purpose of giving evidence in criminal proceedings,may be issued or made notwithstanding that the person in question is outside Jersey and may be served outside Jersey in accordance with arrangements made by the Attorney General.²

- (2) Service of process outside Jersey by virtue of this Article shall not impose an obligation under the law of Jersey to comply with it and accordingly failure to do so shall not constitute contempt of court or be a ground for issuing a warrant to secure the attendance of the person in question.
- (3) Paragraph (2) is without prejudice to the service of any process (with the usual consequences for non-compliance) on the person in question if subsequently effected in Jersey.

4 Overseas evidence for use in Jersey

- (1) If it appears to the Attorney General –
 - (a) that an offence has been committed or that there are reasonable grounds for suspecting that an offence has been committed; and
 - (b) that proceedings in respect of that offence have been instituted or that the offence is being investigated,the Attorney General may issue a letter of request, requesting assistance in obtaining outside Jersey such evidence as is specified in the letter for use in the proceedings or investigation.
- (2) If an application is made by the person charged in proceedings for an offence, the Bailiff may issue a letter of request, requesting assistance in obtaining outside Jersey such evidence as is specified in the letter for use in the proceedings.
- (3) A letter of request shall be sent to either –
 - (a) a court or tribunal specified in the letter and exercising jurisdiction in the place where the evidence is to be obtained; or
 - (b) any authority recognized by the government of the country or territory in question as the appropriate authority for receiving requests for assistance of the kind to which this Article applies.
- (4) Except with the consent of the court, tribunal or authority that supplied the evidence, evidence obtained by virtue of a letter of request shall not be used for any purpose other than that specified in that letter.
- (5) If the court, tribunal or authority that supplied a document or other article pursuant to a letter of request so requests, the document or other article shall be returned to that court, tribunal or authority when it is no longer required for the purpose stated in the letter of request or for any other purpose for which consent has been obtained in accordance with paragraph (4).
- (6) Evidence obtained by virtue of a letter of request shall, without being sworn to by a witness, be admissible in evidence and in exercising any discretion to exclude evidence otherwise admissible in relation to a statement contained in evidence taken pursuant to a letter of request the court before which it is sought to introduce that evidence shall have regard –
 - (a) to whether it was possible to challenge the statement by questioning the person who made it; and

- (b) if proceedings have been instituted, to whether local law allowed the parties to the proceedings to be legally represented when the evidence was taken.

5 Evidence for, and assistance in, criminal proceedings in overseas court etc.³

- (1) This Article applies where –
 - (a) the Attorney General receives a request for assistance in obtaining evidence in Jersey in connection with criminal proceedings which have been instituted, or a criminal investigation that is being carried on, in a country or territory outside Jersey;
 - (b) the request is received from –
 - (i) a court or tribunal exercising criminal jurisdiction in that country or territory or a prosecuting authority in that country or territory, or
 - (ii) any other authority in that country or territory which appears to the Attorney General to have the function of making requests of the kind; and
 - (c) the Attorney General is satisfied –
 - (i) that an offence under the law of the country or territory in question has been committed or that there are reasonable grounds for suspecting that such an offence has been committed, and
 - (ii) that proceedings in respect of that offence have been instituted in that country or territory or that an investigation into that offence is being carried on there.
- (2) In a case where this Article applies, the Attorney General may issue a notice in writing to a person specifying any of, or any combination of, the following requirements –
 - (a) that the person is required to give to the Attorney General, by the date specified in the notice, documents, or other articles, which are specified in the notice and that may constitute evidence for the purposes of the request;
 - (b) that the person –
 - (i) is required to give, to a court or the Viscount (as specified in the notice) documents, or other articles, which are specified in the notice and that may constitute evidence for the purposes of the request, and
 - (ii) may be required by the court or the Viscount (as specified in the notice) to attend and to give evidence in proceedings before the court or the Viscount in relation to that evidence;
 - (c) that the person may be required by the court or the Viscount (as specified in the notice) to attend and to give evidence in proceedings before the court or the Viscount in relation to the request.

- (3) A person shall not, without reasonable excuse, fail to comply with a requirement of a notice given to the person under paragraph (2) that is a requirement of the kind specified in sub-paragraph (a) of that paragraph, in relation to evidence that the person may, under Article 5A, be compelled to give in proceedings under this Article.
- (4) A person who contravenes paragraph (3) commits an offence and shall be liable to a fine.⁴
- (5) The court shall have the same powers for securing the attendance of –
 - (a) a person to whom a notice has been given under paragraph (2) specifying a requirement of the kind that is specified in sub-paragraph (b) or (c) of that paragraph; or
 - (b) any other witness,for the purpose of proceedings under this Article as it has for the purpose of other proceedings before the court.
- (6) The Viscount shall have the same powers for securing the attendance of –
 - (a) a person to whom a notice has been given under paragraph (2) specifying a requirement of the kind that is specified in sub-paragraph (b) or (c) of that paragraph; or
 - (b) any other witness,for the purposes of proceedings before the Viscount under this Article as the Royal Court has for the purposes of any proceedings before it.
- (7) The court or the Viscount, as the case may be, may in proceedings before it or him or her, take evidence on oath.
- (8) An order for costs shall not be made in proceedings before the Court or the Viscount.
- (9) For the avoidance of doubt it is declared that the [Bankers' Books Evidence \(Jersey\) Law 1986](#) applies to any proceedings before the court and the Viscount under this Article as it applies to other proceedings before the court.
- (10) The [Bankers' Books Evidence \(Jersey\) Law 1986](#) applies to the giving to the Attorney General, in pursuance of a requirement of a kind that is referred to in sub-paragraph (a) of paragraph (2) and that is specified in a notice given under that paragraph, of any evidence to which that Law applies, as if the giving of the evidence to the Attorney General took place in proceedings before a court.

5A Giving of evidence in proceedings under Article 5⁵

- (1) A person shall not be compelled to give in proceedings under Article 5 any evidence which the person could not be compelled to give –
 - (a) in criminal proceedings in Jersey; or
 - (b) subject to paragraph (2), in criminal proceedings in the country or territory from which the request under Article 5(1) has come.

- (2) Paragraph (1)(b) shall not apply unless the claim of the person questioned to be exempt from giving the evidence is conceded by the court, tribunal or other authority which made the request under Article 5(1).
- (3) If the claim made by a person is not conceded in accordance with paragraph (2) –
 - (a) the person may (subject to the other provisions of this Article) be required to give the evidence to which the claim relates; and
 - (b) the evidence shall not be transmitted to the court, tribunal or other authority which requested it if a court in the country or territory in question, on the matter being referred to it, upholds the claim.
- (4) In this Article, references to giving evidence include references to answering any question and to producing any document or other article and the references in paragraph (3) to the transmission of evidence given by a person shall be construed accordingly.
- (5) In this Article, references to giving evidence in proceedings under Article 5 shall include the giving of evidence to the Attorney General pursuant to a requirement that is specified in a notice given under Article 5(2) and that is of a kind that is specified in sub-paragraph (a) of Article 5(2).

5B Transmission of evidence received in proceedings under Article 5⁶

- (1) The evidence received by the court or the Viscount, as the case may be, shall be provided to the Attorney General for transmission to the court, tribunal or other authority which made the request under Article 5(1).
- (2) If, in order to comply with the request, it is necessary for the evidence to be accompanied by any certificate, affidavit or other verifying document, the court or the Viscount, as the case may be, shall also provide for transmission by the Attorney General of any document of that nature as may be specified in the notice nominating the court or Viscount.
- (3) The Attorney General may transmit to the court, tribunal or other authority which made the request under Article 5(1) any evidence that is provided to him or her pursuant to a notice given to a person under that Article in relation to the request.
- (4) If the evidence consists of a document the original or a copy may be transmitted, and if it consists of any other article the article itself or a description, photograph or other representation of it may be transmitted, as may be necessary in order to comply with the request.

5C Order to preserve data pending request for assistance⁷

- (1) Where an authority in a country or territory outside Jersey intends to submit a request for assistance under Article 5(1), that authority may request the Attorney General to apply to the court for an order (a ‘preservation order’) for the expeditious preservation of data stored by means of a computer system.
- (2) The request to the Attorney General must specify –

- (a) the authority seeking preservation;
 - (b) the offence that is the subject of a criminal investigation or proceedings together with a brief summary of the relevant facts;
 - (c) the data that is to be preserved and its relationship to the offence;
 - (d) any available information identifying the person in possession of the data or the computer system on which it is stored;
 - (e) the reason why the preservation is necessary; and
 - (f) that the authority intends to submit a request for assistance under Article 5(1) for assistance in obtaining the data.
- (3) On receiving the application by or on behalf of the Attorney General under this Article the court may, where it considers it in the interests of justice to do so, make an order for the data to be preserved pending a request being made under Article 5(1) or for such time as the court thinks fit.
 - (4) An application for a preservation order may be made *ex parte* to the Bailiff in chambers.
 - (5) A preservation order must provide for notice to be given to any person named within it.
 - (6) A person named within a preservation order who by any act or omission causes the damage, deletion, alteration, suppression or removal of any data preserved by the order is guilty of an offence and liable to imprisonment for a term of 5 years and to a fine.
 - (7) A person named within a preservation order may apply to the Bailiff in chambers for the order to be revoked or varied and the Bailiff must either rule upon the application or refer it to the Royal Court.

5D Offence of unauthorized disclosure of preservation order⁸

- (1) Where an order is made under Article 5C(3) a person must not disclose –
 - (a) the existence and contents of the order;
 - (b) the details of the making of the order and of any variation of it;
 - (c) the existence and contents of any requirement to provide assistance with giving effect to the order;
 - (d) the steps taken in pursuance of the order or of any such requirement; and
 - (e) any part of the data preserved by the order.
- (2) A person who contravenes paragraph (1) is guilty of an offence and liable to imprisonment for a term of 5 years and to a fine.
- (3) In proceedings against any person for an offence under this Article in respect of any disclosure, it is a defence for the accused to show that the accused could not reasonably have been expected, after first becoming aware of any of the matters mentioned in paragraph (1), to take steps to prevent the disclosure.

- (4) In proceedings against any person for an offence under this Article in respect of any disclosure, it is a defence for the accused to show that –
- (a) the disclosure was made by or to a professional legal adviser in connection with the giving, by the adviser to any client of the adviser, of advice about the effect of any provision of this Law; and
 - (b) the person to whom or, as the case may be, by whom it was made was the client or a representative of the client.
- (5) In proceedings against any person for an offence under this Article in respect of any disclosure, it is a defence for the accused to show that the disclosure was made by a professional legal adviser –
- (a) in contemplation of, or in connection with, any legal proceedings; and
 - (b) for the purposes of those proceedings.
- (6) Neither paragraph (4) nor paragraph (5) applies in the case of a disclosure made with a view to furthering any criminal purpose.

6 Additional co-operation powers

- (1) Subject to paragraph (2), if on an application by the Attorney General the Bailiff is satisfied that –
- (a) criminal proceedings have been instituted against a person in a country or territory outside Jersey, or that a person has been arrested in the course of a criminal investigation carried on there, or that there are reasonable grounds for suspecting that criminal proceedings will be instituted against a person in a country or territory outside Jersey, or that a person will be arrested in the course of a criminal investigation being carried on there;
 - (b) the conduct constituting the offence which is the subject of the proceedings or investigation would constitute a serious offence if it had occurred in Jersey; and
 - (c) there are reasonable grounds for suspecting that there is on premises in Jersey evidence relating to the offence, other than items subject to legal professional privilege,
- the Bailiff may issue a warrant authorizing a police officer to enter, if need be by force, and search those premises and to seize any such evidence found there.
- (2) The power of search conferred by paragraph (1) is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence as is there mentioned.
- (3) An application for a warrant under paragraph (1) shall not be made except in response to a request received –
- (a) from a court or tribunal exercising criminal jurisdiction in the overseas country or territory in question or a prosecuting authority in that country or territory; or

- (b) from any other authority in that country or territory which appears to the Attorney General to have the function of making requests for the purposes of this Article,

and any evidence seized by a police officer by virtue of this Article shall be furnished by the police officer to the Attorney General for transmission to that court, tribunal or authority.

- (4) If, in order to comply with the request, it is necessary for any such evidence to be accompanied by a certificate, affidavit or other verifying document, the police officer shall also furnish for transmission such document of that nature as is specified by the Attorney General.
- (5) If the evidence consists of a document the original or a copy shall be transmitted, and if it consists of any other article, the article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request.
- (6) In relation to conduct referred to in paragraph (1)(b) that would have concerned or related to an assigned matter if the conduct had occurred in Jersey –
- (a) a customs officer may be authorized by a warrant under paragraph (1) and shall have the same powers as a police officer under this Article; and
- (b) the references in paragraphs (1), (3) and (4) to a police officer shall include references to a customs officer.⁹
- (7) In the case of conduct described in paragraph (6) –
- (a) a customs officer may execute a warrant issued under paragraph (1), whether the warrant authorizes a customs officer or a police officer, and a police officer may execute a warrant issued under paragraph (1), whether the warrant authorizes a police officer or a customs officer; and
- (b) where a customs officer exercises the power of search pursuant to a warrant issued under paragraph (1), the customs officer shall have the same powers under this Article to seize evidence as a police officer notwithstanding that the evidence found is not in fact evidence of conduct described in paragraph (6).¹⁰
- (8) Nothing in this Article shall be construed as preventing anything lawfully seized by a person under any enactment from being accepted and retained by a customs officer if the thing relates to conduct described in paragraph (6).¹¹

7 Enforcement of overseas forfeiture orders

- (1) The States may by Regulations provide for the enforcement in Jersey of an order that –
- (a) is made by a court in a country or territory outside Jersey; and
- (b) is for the forfeiture and destruction, or the forfeiture and other disposal, of anything in respect of which an offence that would constitute a serious offence if the conduct constituting the offence

had occurred in Jersey has been committed or that was used or intended for use in connection with the commission of such an offence.¹²

- (2) Without prejudice to the generality of paragraph (1), Regulations under this Article may include a provision which, for the purpose of facilitating the enforcement of any order that may be made, has effect at times before there is an order to be enforced.
- (3) Without prejudice to the generality of paragraph (1), Regulations under this Article may provide for the registration by a court in Jersey of an order as a condition of its enforcement and prescribe requirements to be satisfied before an order can be registered.
- (4) Regulations under this Article may include such supplementary or incidental provisions as appear to the States to be necessary or expedient and may apply for the purposes of the Regulations (with such modifications as appear to the States to be appropriate) any provision relating to confiscation or forfeiture orders under any other enactment.
- (5) Regulations under this Article may make different provision for different cases.

8 Rules of Court

- (1) Provision may be made by Rules of Court for any purpose for which it appears to be necessary or expedient that provision should be made in connection with the provisions of this Law.
- (2) Rules made for the purposes of Article 5 may, in particular, make provision with respect to the persons entitled to appear or take part in proceedings before a court or the Viscount under that Article and for excluding the public from any such proceedings.¹³
- (3) The power to make Rules of Court under Article 13 of the [Royal Court \(Jersey\) Law 1948](#) shall include a power to make Rules for the purposes of this Article.

9 Citation

This Law may be cited as the Criminal Justice (International Co-operation) (Jersey) Law 2001.

SCHEDULE¹⁴

ENDNOTES

Table of Legislation History

| Legislation | Year and Number | Commencement |
|---|---------------------------|--|
| Criminal Justice (International Co-operation) (Jersey) Law 2001 | L.22/2001 | 6 November 2001 (R&O.154/2001) |
| Criminal Justice (International Co-operation) (Amendment) (Jersey) Law 2008 | L.16/2008 | 4 April 2008 |
| Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law 2012 | L.12/2012 | 22 June 2012 |
| States of Jersey Police Force Law 2012 | L.37/2012 | 1 August 2014 (R&O.87/2014) |
| Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014 | L.7/2014 | 4 August 2014 (R&O.102/2014) |
| Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016 | L.1/2016 | 20 September 2016 (R&O.98/2016) |
| Cybercrime (Jersey) Law 2019 | L.4/2019 | 3 May 2019 |

Table of Renumbered Provisions

| Original | Current |
|----------------|--|
| 1(2), (3), (4) | spent, omitted from this revised edition |
| 9 | spent, omitted from this revised edition |
| 10 | 9 |

Table of Endnote References

| | |
|----------------------------|--|
| ¹ Article 1 | <i>amended by L.12/2012, L.7/2014, L.37/2012</i> |
| ² Article 3(1) | <i>amended by L.12/2012</i> |
| ³ Article 5 | <i>substituted by L.16/2008</i> |
| ⁴ Article 5(4) | <i>amended by L.1/2016</i> |
| ⁵ Article 5A | <i>inserted by L.16/2008</i> |
| ⁶ Article 5B | <i>inserted by L.16/2008</i> |
| ⁷ Article 5C | <i>inserted by L.4/2019</i> |
| ⁸ Article 5D | <i>inserted by L.4/2019</i> |
| ⁹ Article 6(6) | <i>inserted by L.12/2012</i> |
| ¹⁰ Article 6(7) | <i>inserted by L.12/2012</i> |
| ¹¹ Article 6(8) | <i>inserted by L.12/2012</i> |
| ¹² Article 7(1) | <i>amended by L.16/2008</i> |
| ¹³ Article 8(2) | <i>substituted by L.16/2008</i> |
| ¹⁴ Schedule | <i>repealed by L.16/2008</i> |