



Jersey

CRIMINAL JUSTICE (INTERNATIONAL CO- OPERATION) (AMENDMENT) (JERSEY) LAW 2008

Arrangement

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CRIMINAL JUSTICE (INTERNATIONAL CO-OPERATION) (AMENDMENT) (JERSEY) LAW 2008

A LAW to amend the Criminal Justice (International Co-operation) (Jersey) Law 2001.

Adopted by the States

7th November 2007

Sanctioned by Order of Her Majesty in Council

12th March 2008

Registered by the Royal Court

28th March 2008

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

1 Interpretation

In this Law, “principal Law” means the Criminal Justice (International Co-operation) (Jersey) Law 2001¹.

2 Article 5 substituted

In the principal Law, for Article 5 there shall be substituted the following Articles –

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

(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 –

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- (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 of level 4 on the standard scale.
 - (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 1986² 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 5

- (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 5

- (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.”.

3 Article 7 amended

In Article 7(1)(a) of the principal Law, the words “designated for the purposes of this Article by the Regulations” shall be deleted.

4 Article 8 amended

In the principal Law, in Article 8, for paragraph (2) there shall be substituted the following paragraph –

“(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.”

5 Schedule repealed

The Schedule to the principal Law shall be repealed.

6 Saving for Regulations

Regulations made under Article 7 of the principal Law which are in force immediately before this Law comes into force shall remain in force until revoked by further Regulations made under that Article as amended by this Law.

7 Citation and commencement

(1) This Law may be cited as the Criminal Justice (International Co-operation) (Amendment) (Jersey) Law 2008.

(2) This Law shall come into force 7 days after it is registered.

A.H. HARRIS

Deputy Greffier of the States

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- ¹ *chapter 08.300*
² *chapter 08.040*