



Jersey

L.32/2003

CRIME AND SECURITY (JERSEY) LAW 2003

Arrangement

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Jersey

CRIME AND SECURITY (JERSEY) LAW 2003

A LAW to create new offences regarding the use of weapons of mass destruction and noxious things and confer powers of entry in relation thereto; to amend the Criminal Hoaxes (Jersey) Law 2000; and to confer a power to make orders freezing the assets of a person outside the Island engaged in acts detrimental to the economy or which threaten life or property.

Adopted by the States

18th February 2003

Sanctioned by Order of Her Majesty in Council

8th October 2003

Registered by the Royal Court

7th November 2003

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

PART 1

INTRODUCTORY

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“Committee” means the Policy and Resources Committee;

“freezing order” means an Order made by the Committee under Article 8;

“Island person” means –

- (a) a national of the United Kingdom who is ordinarily resident in the Island;
- (b) a body incorporated under the laws of the Island;
- (c) a limited liability partnership registered under the Limited Liability Partnerships (Jersey) Law 1997;¹

“nuclear weapon” includes a nuclear explosive device that is not intended for use as a weapon;

“police officer” means an officer of the States of Jersey Police force or a member of the Honorary Police.

- (2) For the purposes of this Law a national of the United Kingdom is an individual who is –
 - (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas Citizen;
 - (b) a person who under the British Nationality Act 1981 of the United Kingdom Parliament is a British subject; or
 - (c) a British protected person within the meaning of that Act.
- (3) For the purposes of this Law, a reference to a resident of a country or territory outside the Island is –
 - (a) an individual who is ordinarily resident in such a country or territory; or
 - (b) a body incorporated under the law of such a country or territory.
- (4) For the purposes of paragraph (3)(b) in its application to Part 3, a branch situated in a country or territory outside the Island of an Island company or limited liability partnership shall be treated as a body incorporated under the law of the country or territory where the branch is situated.
- (5) In this Law a reference to a Part, Article or Schedule by number only, and without further identification, is a reference to the Part, Article or Schedule of that number in this Law.
- (6) A reference in an Article or Schedule of this Law to a paragraph, sub-paragraph or clause by number or letter only and without further identification is a reference to the paragraph, sub-paragraph or clause of that number or letter in the Article or Schedule in which it appears.
- (7) In this Law a reference to an enactment is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied under another enactment, including another provision of this Law.
- (8) For the purposes of paragraph (7), “enactment” includes an Act of the United Kingdom Parliament.

PART 2

WEAPONS OF MASS DESTRUCTION

2 Use etc. of nuclear weapons

- (1) It shall be an offence for a person to –
 - (a) knowingly cause a nuclear weapon explosion;
 - (b) develop or produce, or participate in the development or production of, a nuclear weapon;
 - (c) have a nuclear weapon in his or her possession;
-

- (d) participate in the transfer of a nuclear weapon; or
 - (e) engage in military preparations, or in preparations of a military nature, intending to use or threaten to use, a nuclear weapon.
- (2) Paragraph (1) is subject to any exception specified under paragraph (6) and to the defences in Article 3.
- (3) For the purposes of paragraph (1)(b) a person participates in the development or production of a nuclear weapon if the person does any act which –
 - (a) facilitates the development by another person of the capability to produce or use a nuclear weapon; or
 - (b) facilitates the making by another person of a nuclear weapon, knowing or having reason to believe that his or her act has (or will have) that effect.
- (4) For the purposes of paragraph (1)(d) a person participates in the transfer of a nuclear weapon if the person –
 - (a) buys or otherwise acquires it or agrees with another person to do so;
 - (b) sells or otherwise disposes of it or agrees with another person to do so; or
 - (c) makes arrangements under which another person either acquires or disposes of it or agrees with a third person to do so.
- (5) A person guilty of an offence under this Article shall be liable to imprisonment for life.
- (6) The States may by Regulations specify acts to which paragraph (1) does not apply.
- (7) This Article applies to acts done outside the Island, but only if they are done by an Island person.
- (8) Nothing in paragraph (7) affects any criminal liability arising otherwise than under that paragraph.

3 Defences for Article 2

- (1) In proceedings for an offence under Article 2(1)(c) or (d) relating to an object it is a defence for the accused to show that he or she did not know and had no reason to believe that the object was a nuclear weapon and the accused shall be taken to have shown that fact if –
 - (a) sufficient evidence is adduced to raise an issue with respect to it; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (2) In proceedings for an offence under Article 2(1)(c) or (d) it shall also be a defence for the accused to show that he or she knew or believed that the object was a nuclear weapon but, as soon as reasonably practicable after the accused first knew or believed that fact, the accused took all

reasonable steps to inform an officer of the States of Jersey Police Force of his or her knowledge or belief.

4 Assisting or inducing certain weapons - related acts overseas

- (1) It shall be an offence for a person to aid, abet, counsel or procure or incite another person, who is not an Island person, to do a relevant act outside the Island.
- (2) A relevant act is an act that, if done by an Island person, would be an offence under –
 - (a) Article 2;
 - (b) section 1 of the Biological Weapons Act 1974 as it is extended to the Island by Order in Council; or
 - (c) section 2 of the Chemical Weapons Act 1996 as it is extended to the Island by Order in Council.
- (3) A person accused of an offence under this Article in relation to a relevant act may raise any defence which would be open to a person accused of an offence mentioned in paragraph (2) in respect of that act.
- (4) A person guilty of an offence under this Article shall be liable to imprisonment for life.
- (5) This Article applies to acts done outside the Island, but only if they are done by an Island person.
- (6) Nothing in this Article affects any criminal liability arising apart from this Article.

5 Use of noxious things to cause harm and intimidate

- (1) It shall be an offence for a person to take any action which –
 - (a) involves the use of any noxious thing;
 - (b) has or is likely to have an effect falling within paragraph (2); and
 - (c) is designed –
 - (i) to influence the States of Jersey or the government of any other place or country, or
 - (ii) to intimidate the public or a section of the public of the Island or of any other place or country.
- (2) Action has an effect falling within this paragraph if it –
 - (a) causes serious violence against a person anywhere in the world;
 - (b) causes serious damage to property anywhere in the world;
 - (c) endangers human life or creates a serious risk to the health or safety of the public or a section of the public; or
 - (d) induces in members of the public the fear that the action is likely to endanger their lives or create a serious risk to their health or safety,but any effect on the person taking the action is to be disregarded.

- (3) It shall be an offence for a person to make a threat that he or she or another person will take any action which constitutes an offence under paragraph (1), intending, by the threat, to induce in any person, whether in the Island or elsewhere, the fear that the threat is likely to be carried out.
- (4) For a person to be guilty of an offence under paragraph (3), it is not necessary for that person to have any particular person in mind.
- (5) A person guilty of an offence under this Article shall be liable to imprisonment for a term not exceeding 14 years or to a fine, or both.

6 Powers of entry

- (1) If the Bailiff is satisfied on information on oath that there are reasonable grounds for suspecting that evidence of the commission of an offence under Article 2, 4 or 5 is to be found on any premises, the Bailiff may issue a warrant authorizing a police officer to enter the premises, if necessary by force, at any time within one month from the date of issue of the warrant and to search the premises.
- (2) The powers of a police officer who enters premises under the authority of a warrant include power –
 - (a) to take with the officer such other persons and such equipment as appear to him or her to be necessary;
 - (b) to inspect, seize and retain any substance, equipment or document found on the premises;
 - (c) to require any document or other information which is held in electronic form and is accessible from the premises to be produced in a form –
 - (i) in which the officer can read and copy it, or
 - (ii) from which it can readily be produced in a form in which the officer can read and copy it;
 - (d) to copy any document which the officer has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under Article 2, 4 or 5.
- (3) A police officer who enters premises under the authority of a warrant or by virtue of paragraph (2)(a) may search or cause to be searched any person on the premises who the officer has reasonable cause to believe may have in his or her possession any document or other thing which may be required as evidence for the purposes of proceedings in respect of an offence under Article 2, 4 or 5.
- (4) A police officer shall not search a person of the opposite sex.
- (5) It shall be an offence for a person to –
 - (a) wilfully obstruct a police officer in the exercise of a power conferred by a warrant under this Article; or

- (b) fail, without reasonable excuse, to comply with a reasonable request made by a police officer for the purpose of facilitating the exercise of such a power.
- (6) A person guilty of an offence under paragraph (5) shall be liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

7 Amendment of Criminal Hoaxes (Jersey) Law 2000

In Article 1 of the Criminal Hoaxes (Jersey) Law 2000² –

- (a) in paragraph (1) –
 - (i) after the words “some other person” there shall be inserted the words “, whether in the Island or elsewhere,”,
 - (ii) after the words “damage to property” there shall be inserted the words “or create a serious risk to human health”;
- (b) in paragraph (2) –
 - (i) for the words “him or any other person” there shall be substituted the words “any person, whether in the Island or elsewhere,”,
 - (ii) after the words “damage to property” there shall be inserted the words “or create a serious risk to human health”.

PART 3

FREEZING ORDERS

8 Power to make freezing order

- (1) The Committee may by Order make a freezing order if the following 2 conditions are satisfied.
- (2) The first condition is that the Committee believes that –
 - (a) action to the detriment of the Island’s economy (or part of it) has been or is likely to be taken by a person or persons; or
 - (b) action constituting a threat to the life or property of one or more individuals ordinarily resident in the Island, Island companies or limited liability partnerships has been or is likely to be taken by a person or persons.
- (3) If one person is believed to have taken or to be likely to take the action the second condition is that the person is –
 - (a) the government of a country or territory outside the Island; or
 - (b) a resident of a country or territory outside the Island.
- (4) If 2 or more persons are believed to have taken or to be likely to take the action the second condition is that each of them falls within sub-paragraph (a) or (b) of paragraph (3); and different persons may fall within different sub-paragraphs.

9 Contents of order

- (1) A freezing order is an order which prohibits persons from making funds available to or for the benefit of a person or persons specified in the order.
- (2) The order must provide that these are the persons who are prohibited –
 - (a) all persons in the Island; and
 - (b) all persons elsewhere who are –
 - (i) nationals of the United Kingdom,
 - (ii) Island companies, or
 - (iii) limited liability partnerships registered under the Limited Liability Partnerships (Jersey) Law 1997³.
- (3) The order may specify the following (and only the following) as the person or persons to whom or for whose benefit funds are not to be made available –
 - (a) the person or persons reasonably believed by the Committee to have taken or to be likely to take the action referred to in Article 8(2);
 - (b) any person the Committee reasonably believes has provided or is likely to provide assistance (directly or indirectly) to that person or any of those persons.
- (4) A person may be specified under paragraph (3) by –
 - (a) being named in the order; or
 - (b) falling within a description of persons set out in the order.
- (5) The description must be such that a reasonable person would know whether he or she fell within it.
- (6) Funds are financial assets and economic benefits of any kind.
- (7) A freezing order –
 - (a) may make different provision for different purposes;
 - (b) may include supplementary, incidental, saving or transitional provisions.
- (8) The Schedule contains further provisions about the contents of freezing orders but nothing in the Schedule affects the generality of paragraph (1).

10 Review and duration of freezing order

- (1) The Committee shall keep a freezing order under review.
- (2) A freezing order shall cease to have effect at the end of the period of 2 years beginning with the day on which it is made.

11 The Crown

- (1) A freezing order binds the Crown, subject to the following provisions of this Article.
- (2) No contravention by the Crown of a provision of a freezing order makes the Crown criminally liable but the Royal Court may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Nothing in this Article affects Her Majesty in her private capacity.

PART 4**CLOSING PROVISIONS****12 Offences: general**

- (1) Proceedings for an offence under this Law or included in a freezing order shall not be instituted except by or with the consent of the Attorney General.
- (2) Any person who aids, abets, counsels or procures the commission of an offence under this Law or included in a freezing order shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.
- (3) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (4) Where the affairs of a body corporate are managed by its members, paragraph (3) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

13 Orders

- (1) The Committee may by Order amend the definition "financial institution" in the Schedule.
- (2) The Subordinate Legislation (Jersey) Law 1960⁴ shall apply to Orders made under this Law.

14 Citation and commencement

This Law may be cited as Crime and Security (Jersey) Law 2003 and shall come into force on the seventh day following its registration.

D.C.G. FILIPPONI

Assistant Greffier of the States.

SCHEDULE

(Article 9(8))

FREEZING ORDERS**1 Interpretation of Schedule**

- (1) In this Schedule, “financial institution” means a person carrying on any business described in the Second Schedule to the Proceeds of Crime (Jersey) Law 1999.⁵
- (2) In this Schedule, a reference to a person specified in a freezing order as a person to whom or for whose benefit funds are not to be made available is to be read in accordance with Article 9(4).

2 Funds

A freezing order shall include provision that funds include gold, cash, deposits, securities (such as stocks, shares and debentures) and such other matters as the order may specify.

3 Making funds available

- (1) A freezing order shall include provision as to the meaning (in relation to funds) of making available to or for the benefit of a person.
- (2) In particular, an order may provide that the expression includes –
 - (a) allowing a person to withdraw from an account;
 - (b) honouring a cheque payable to a person;
 - (c) crediting a person’s account with interest;
 - (d) releasing documents of title (such as share certificates) held on a person’s behalf;
 - (e) making available the proceeds of realisation of a person’s property;
 - (f) making a payment to or for a person’s benefit under a contract;
 - (g) making a payment to or for a person’s benefit under any enactment (such as the enactments relating to social security);
 - (h) such other acts as the order may specify.

4 Licences

- (1) A freezing order shall include –
 - (a) provision for the granting of licences authorizing funds to be made available;
 - (b) provision that a prohibition under the order is not to apply if funds are made available in accordance with a licence.

- (2) In particular, an order may provide –
- (a) that a licence may be granted generally or to a specified person or persons or description of persons;
 - (b) that a licence may authorize funds to be made available to or for the benefit of persons generally or a specified person or persons or any description of persons;
 - (c) that a licence may authorize funds to be made available generally or for specified purposes;
 - (d) that a licence may be granted in relation to funds generally or to funds of a specified description;
 - (e) for a licence to be granted in pursuance of an application or without an application being made;
 - (f) for the form and manner in which applications for licences are to be made;
 - (g) for licences to be granted by the Committee or a person authorized by the Committee;
 - (h) for the form in which licences are to be granted;
 - (i) for licences to be granted subject to conditions;
 - (j) for licences to be of a defined or indefinite duration;
 - (k) for the charging of a fee to cover the administrative costs of granting a licence;
 - (l) for the variation and revocation of licences.

5 Information and documents

- (1) A freezing order may include provision that a person –
- (a) must provide information if required to do so and if it is reasonably needed for the purpose of ascertaining whether an offence under the order has been committed;
 - (b) must produce a document if required to do so and if it is reasonably needed for that purpose.
- (2) In particular, an order may include –
- (a) provision that a requirement to provide information or to produce a document may be made by the Committee or a person authorized by the Committee;
 - (b) provision that information must be provided, and a document must be produced, within a reasonable period specified in the order and at a place specified by the person requiring it;
 - (c) provision that the provision of information is not to be taken to breach any restriction on the disclosure of information (however imposed);
 - (d) provision restricting the use to which information or a document may be put and the circumstances in which it may be disclosed;

- (e) provision that a requirement to provide information or produce a document does not apply to privileged information or a privileged document;
- (f) provision that information is privileged if the person would be entitled to refuse to provide it on grounds of legal professional privilege in proceedings in the Royal Court;
- (g) provision that a document is privileged if the person would be entitled to refuse to produce it on grounds of legal professional privilege in proceedings in the Royal Court;
- (h) provision that information or a document held with the intention of furthering a criminal purpose is not privileged.

6 Disclosure of information

- (1) A freezing order may include provision requiring a person to disclose information as mentioned below if the following 3 conditions are satisfied.
- (2) The first condition is that the person required to disclose is specified or falls within a description specified in the order.
- (3) The second condition is that the person required to disclose knows or suspects, or has grounds for knowing or suspecting, that a person specified in the freezing order as a person to whom or for whose benefit funds are not to be made available –
 - (a) is a customer of the person required to disclose or has been a customer of the person required to disclose at any time since the freezing order came into force; or
 - (b) is a person with whom the person required to disclose has dealings in the course of his or her business or has had such dealings at any time since the freezing order came into force.
- (4) The third condition is that the information –
 - (a) on which the knowledge or suspicion of the person required to disclose is based; or
 - (b) which gives grounds for that person's knowledge or suspicion, came to that person in the course of the business of a financial institution.
- (5) The freezing order may require the person required to disclose to make a disclosure to the Committee of that information as soon as practicable after it comes to that person.
- (6) The freezing order may include –
 - (a) provision that the disclosure of information is not to be taken to breach any restriction on the disclosure of information (however imposed);
 - (b) provision restricting the use to which information may be put and the circumstances in which it may be disclosed by the Committee;
 - (c) provision that the requirement to disclose information does not apply to privileged information;

- (d) provision that information is privileged if the person would be entitled to refuse to disclose it on grounds of legal professional privilege in proceedings in the Royal Court;
- (e) provision that information held with the intention of furthering a criminal purpose is not privileged.

7 Offences

- (1) A freezing order may include any of the provisions set out in this paragraph.
- (2) A person commits an offence if the person fails to comply with a prohibition imposed by the order.
- (3) A person commits an offence if the person engages in an activity knowing or intending that it will enable or facilitate the commission by another person of an offence under a provision included under sub-paragraph (2).
- (4) A person commits an offence if the person –
 - (a) fails without reasonable excuse to provide information, or to produce a document, in response to a requirement made under the order;
 - (b) provides information, or produces a document, which the person knows is false in a material particular in response to such a requirement or with a view to obtaining a licence under the order;
 - (c) recklessly provides information, or produces a document, which is false in a material particular in response to such a requirement or with a view to obtaining a licence under the order; or
 - (d) fails without reasonable excuse to disclose information as required by a provision included under paragraph 6.
- (5) A person does not commit an offence under a provision included under sub-paragraph (2) or (3) if the person proves that he or she did not know and had no reason to suppose that the person to whom or for whose benefit funds were made available, or were to be made available, was the person (or one of the persons) specified in the freezing order as a person to whom or for whose benefit funds are not to be made available.
- (6) A person guilty of an offence under a provision included under sub-paragraph (2) or (3) shall be liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (7) A person guilty of an offence under a provision included under sub-paragraph (4) shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 4 on the standard scale, or both.

8 Offences by bodies corporate etc.

- (1) A freezing order may include the provisions set out in this paragraph.

- (2) If an offence under the order is committed by a limited liability partnership or body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,
- that person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

9 Compensation

- (1) A freezing order may include provision for the award of compensation to or on behalf of a person on the grounds that the person has suffered loss as a result of –
- (a) the order;
 - (b) the fact that a licence has not been granted under the order;
 - (c) the fact that a licence under the order has been granted on particular terms rather than others;
 - (d) the fact that a licence under the order has been varied or revoked.
- (2) In particular, the order may include –
- (a) provision about the person who may make a claim for an award;
 - (b) provision about the person to whom a claim for an award is to be made (which may include provision that it is to be made to the Royal Court);
 - (c) provision for the procedure for making and deciding a claim;
 - (d) provision that no compensation is to be awarded unless the claimant has behaved reasonably (which may include provision requiring the claimant to mitigate his or her loss, for instance by applying for a licence);
 - (e) provision that compensation must be awarded in specified circumstances or may be awarded in specified circumstances (which may include provision that the circumstances involve negligence or other fault);
 - (f) provision about the amount that may be awarded;
 - (g) provision for any compensation awarded to be paid out of the annual income of the States;
 - (h) provision about how compensation is to be paid (which may include provision for payment to a person other than the claimant).

10 Committee's duty to give reasons

A freezing order shall include the provision that if –

- (a) a person is specified in the order as a person to whom or for whose benefit funds are not to be made available; and
- (b) that person makes a written request to the Committee to state the reason why he or she is so specified,

as soon as is practicable the Committee must give the person the reason in writing.

¹ *Volume 1996-1997, page 503, Volume 1998, page 277, Volume 1999, page 527 and R&O 9232.*

² *Volume 2000, page 17.*

³ *Volume 1996-1997, page 503 and Volume 1998, page 277.*

⁴ *Tome VIII, page 849 and Volume 2001, pages 3 and 4.*

⁵ *Volume 1999, page 194.*

⁶ *Volume 1992-1993, page 437.*