POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003

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Jersey

POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003

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Jersey

POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003[1]

A LAW to make further provision in relation to the powers and duties of the police, persons in police or customs detention and criminal evidence; and for purposes connected therewith and incidental thereto.[2]

Commencement [see endnotes]

PART 1

INTERPRETATION

1 General interpretation

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

"Agent of the Impôts" and "officer of the Impôts" shall be construed in accordance with Article 4 of the Customs and Excise (Jersey) Law 1999;

"analysis", in relation to a skin impression, includes comparison and matching;

"appropriate consent" means –

(a) in relation to a person who has attained the age of 18 years, the consent of that person;

(b) in relation to a person who has not attained the age of 18 years, but has attained the age of 14 years, the consent of that person and the person's parent or guardian; and

(c) in relation to a person who has not attained the age of 14 years, the consent of the person's parent or guardian;

"Chief Officer" means the Chief Officer of the Force;

"child" has the meaning given in Article 1(1) of the Young Offenders Law;

"Class A drug" has the meaning given in Article 3 of the Misuse of Drugs (Jersey) Law 1978;

"confession" includes any statement wholly or partly adverse to the person who made it, whether made to a person in authority or not and whether made in words or otherwise;

"court" means the Magistrate's Court, Royal Court or Youth Court;

"Criminal Procedure Law" means the Criminal Procedure (Jersey) Law 2018;

"Criminal Procedure Rules" shall be construed in accordance with Article 111(1) and 112 of the Criminal Procedure Law;

"criminal proceedings" means proceedings before the court for the determination of a case against a defendant;

"custody officer" shall be construed in accordance with Article 34;

"defendant" means a person –

(a) charged with an offence; or

(b) convicted of an offence and awaiting sentence;

"designated police station" shall be construed in accordance with Article 33;

"document" means anything in which information of any description is recorded;

"excluded material" has the meaning assigned to it by Article 6(1);

"extradition arrest warrant" has the same meaning as it has in Article 1(1) of the Extradition (Jersey) Law 2004;

"fingerprints", in relation to any person, means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of –

(a) any of that person's fingers; or

(b) either of the person's palms;

"Force" means the States of Jersey Police Force;

"honorary police officer" means a member of the Honorary Police;

"hovercraft" means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

"Immigration Act 1971" means the Immigration Act 1971 of the United Kingdom as it is extended to Jersey, with modifications, by the Immigration (Jersey) Order 1993;

"intimate sample" means –

(a) a sample of blood, semen or any other tissue fluid, urine or pubic hair;

(b) a dental impression;

(c) a swab taken from a person's body orifice other than the mouth;

"intimate search" means a search which consists of the physical examination of a person's body orifices other than the mouth;

"items subject to legal privilege" has the meaning assigned to it by Article 5;

"journalistic material" has the meaning assigned to it by Article 8;

"legal representative" includes any person employed by a firm of advocates or solicitors, who is not an advocate or solicitor, but who is, for the time being, notified

by the person's employer to the Chief Officer as a legal representative for the purposes of this Law;

"Magistrate" means the "Juge d'Instruction" appointed under the Loi (1864) concernant la charge de Juge d'Instruction and includes a person exercising those functions;

"Minister" means the Minister for Justice and Home Affairs;

"misuse", in relation to a drug, means misuse of the drug by taking it by way of any form of self-administration, whether or not involving assistance by another person;

"money laundering offence" means an offence in respect of which a confiscation order may be made under Article 3 of and Schedule 1 to the Proceeds of Crime (Jersey) Law 1999;

"non-intimate sample" means –

(a) a sample of hair other than pubic hair;

(b) a sample taken from a nail or from under a nail;

(c) a swab taken from any part of a person's body including the mouth but not any other body orifice;

(d) saliva;

(e) a skin impression;

"offensive weapon" means any article –

(a) made or adapted for use for causing injury to persons; or

(b) intended by the person having it with the person for that use by the person or by some other person;

"officer of the Force" means a member of the States of Jersey Police Force;

"parent or guardian" means, in the case of a child or young person in the care of the Minister for Health and Social Services, that Minister;

"personal records" has the meaning assigned to it by Article 7;

"police detention" shall be construed in accordance with Article 2;

"police station" shall not include, in Parts 5 and 6, any parish hall;

"premises" includes any place and, in particular, includes –

(a) any vehicle, vessel, aircraft or hovercraft; and

(b) any tent or movable structure;

"prescribed" means prescribed by Criminal Procedure Rules;

"proceedings" means criminal proceedings;

"prohibited article" has the meaning assigned to it by Article 4;

"prosecution" means the Attorney General or a prosecutor within the meaning of Article 1(2)(b) of the Criminal Procedure Law;

"registered medical practitioner" has the same meaning as in the Medical Practitioners (Registration) (Jersey) Law 1960;

"registered nurse" shall be construed in accordance with the Nursing and Midwifery Order 2001 of the United Kingdom, as amended from time to time, or any further enactment of the United Kingdom regarding registration which may replace it;

"relevant evidence" means, in relation to an offence, anything that would be admissible in evidence at a trial for the offence;

"relevant offence" means any offence specified by Order under Article 49(5);

"relevant time" means the time from which the period of detention of a person is to be calculated in accordance with Article 2(2);

"rules" means Criminal Procedure Rules, and 'rule' shall be construed accordingly;

"secure accommodation" has the same meaning as in Article 1(1) of the Children (Jersey) Law 2002;

"serious offence" has the meaning assigned to it by Article 3;

"skin impression", in relation to any person, means any record (other than a fingerprint) which is a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of the whole or any part of the person's foot or of any other part of the person's body;

"special procedure material" has the meaning assigned to it by Article 6(4);

"speculative search", in relation to a person's fingerprints or samples, means a check against other fingerprints or samples or against information derived from other samples referred to in Article 58(1);

"sufficient" and "insufficient", in relation to a sample, shall be construed in accordance with paragraph (2);

"terrorism" has the meaning given in Article 2 of the Terrorism (Jersey) Law 2002;

"terrorism provisions" means Article 37 of the Terrorism (Jersey) Law 2002 and any provision of Schedule 8 to that Law conferring a power of detention;

"vessel" includes any ship, boat, raft or other apparatus constructed or adapted for floating on water;

"Young Offenders Law" means the Criminal Justice (Young Offenders) (Jersey) Law 2014;

"young person" has the meaning given in Article 1(1) of the Young Offenders Law;

"Youth Appeal Court" means the court constituted under Article 29 of the Young Offenders Law;

"Youth Court" means the court continued under Article 24 of the Young Offenders Law.[3]

(2) In this Law, "sufficient" and "insufficient", in relation to a sample, means sufficient or insufficient, in point of quantity or quality, for the purpose of enabling information to be produced by the means of analysis used or to be used in relation to the sample and references to a sample's proving insufficient include references to where, as a consequence of –

(a) the loss, destruction or contamination of the whole or any part of the sample;

(b) any damage to the whole or a part of the sample; or

(c) the use of the whole or a part of the sample for an analysis which produced no results or which produced results some or all of which must be regarded, in the circumstances, as unreliable,

the sample has become unavailable or insufficient for the purpose of enabling information, or information of a particular description, to be obtained by means of analysis of the sample.

(3) [4]

(4) In this Law, a reference to an enactment includes any provision of an Order in Council or Act of Parliament having effect in Jersey and a reference to an enactment being passed includes a reference to such an Order in Council or Act of Parliament being enacted.

2 Meaning of police detention

(1) A person is in police detention for the purposes of this Law if –

(a) the person has been taken to a police station after being arrested for an offence or after being arrested under Article 37 of the Terrorism (Jersey) Law 2002; or

(b) the person is arrested at a police station after attending voluntarily at the station or accompanying a police officer to it,

and is detained there or is detained elsewhere in the charge of a police officer, except that a person who is at court after being charged is not in police detention for those purposes.[5]

(2) For the purposes of this Law the relevant time from which the period of detention of a person is to be calculated –

(a) in any case, except where sub-paragraph (b) or (c) applies, shall be the time at which the person arrested arrives at the first police station to which the person is taken after the person's arrest;

(b) in the case of a person arrested outside Jersey, shall be the time at which that person arrives at the first police station in Jersey in which the offence for which the person was arrested is being investigated or the time 12 hours after the time of that person's entry into Jersey, whichever is the earlier; or

(c) in the case of a person who attends voluntarily at a police station or accompanies a police officer to a police station without having been arrested, and is arrested at the police station, shall be the time of the person's arrest.

(3) For the purposes of this Law, any reference to a period of time or a time of day, in relation to a period of detention of a person, is to be treated as approximate only.

3 Meaning of "serious offence"

(1) This Article has effect for determining whether an offence is a serious offence for the purposes of this Law.

(2) The following offences are always serious –

(a) an offence, whether under customary law or under any enactment, specified in Part 1 of Schedule 1;

(b) an offence under an enactment specified in Part 2 of Schedule 1; and

(c) any of the offences mentioned in sub-paragraphs (a) to (e) in the definition "drug trafficking" in Article 1(1) of the Misuse of Drugs (Jersey) Law 1978. [6]

(3) Subject to paragraphs (4) and (5), any other offence is serious only if its commission –

(a) has led to any of the consequences specified in paragraph (6); or

(b) is intended or is likely to lead to any of those consequences.

(4) An offence which consists of making a threat is serious if carrying out the threat would be likely to lead to any of the consequences specified in paragraph (6).

(5) [7]

(6) The consequences mentioned in paragraphs (3) and (4) are –

(a) serious harm to the security of Jersey or to public order;

(b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;

(c) the death of any person;

(d) serious injury to any person;

(e) substantial financial gain to any person;

(f) serious financial loss to any person.

(7) Loss is serious for the purposes of this Article if, having regard to all the circumstances, it is serious for the person who suffers it.

(8) In this Article "injury" includes any disease and any impairment of a person's physical or mental condition.

(9) Conspiring or attempting to commit a serious offence or aiding, abetting, counselling, inciting or procuring the commission of a serious offence is a serious offence.[8]

(10) The States may, by Regulations, amend Schedule 1.

4 Meaning of "prohibited article"

(1) An article is prohibited for the purposes of this Law if it is –

(a) an offensive weapon; or

(b) an article –

(i) made or adapted for use in the course of or in connection with a specified offence,

(ii) intended by the person having it with him or her for use by the person or by some other person in the course of or in connection with a specified offence, or

(iii) used by any person in the course of or in connection with a specified offence.

(2) In paragraph (1)(b), "specified offence" means any of the following –

(a) larceny, including robbery;

(b) breaking and entering or illegal entry;

(c) offences under Article 53 of the Road Traffic (Jersey) Law 1956; and

(d) fraud, obtaining by false pretences, embezzlement and fraudulent conversion.

5 Meaning of "items subject to legal privilege"

(1) Subject to paragraph (2), in this Law "items subject to legal privilege" means –

(a) communications between a professional legal adviser and the advisor's client or any person representing the adviser's client made in connection with the giving of legal advice to the client;

(b) communications between a professional legal adviser and the adviser's client or any person representing the adviser's client or between such an adviser or the advisor's client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and

(c) items enclosed with or referred to in such communications and made in connection with the giving of legal advice or in connection with or in contemplation of legal proceedings and for the purposes of such proceedings, when they are in the possession of a person who is entitled to possession of them.

(2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

6 Meaning of "excluded material" and "special procedure material"

(1) Subject to paragraphs (2) and (3), in this Law "excluded material" means –

(a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which the person holds in confidence;

(b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence;

(c) journalistic material which a person holds in confidence and which consists of documents, or of records other than documents.

(2) A person holds material other than journalistic material in confidence for the purposes of this Article if the person holds it subject –

(a) to an express or implied undertaking to hold it in confidence; or

(b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment passed after this Law.

(3) A person holds journalistic material in confidence for the purposes of this Article if –

(a) the person holds it subject to an undertaking, restriction or obligation described in paragraph (2); and

(b) it has been continuously held, by one or more persons, subject to that undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

(4) In this Law, "special procedure material" means –

(a) material to which paragraph (5) applies; and

(b) journalistic material, other than excluded material.

(5) Subject to paragraphs (6) to (8), this paragraph applies to material, other than items subject to legal privilege and excluded material, in the possession of a person who –

(a) acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office; and

(b) holds it subject to an express or implied undertaking to hold it in confidence, or to a restriction or obligation mentioned in paragraph (2)(b).

(6) Where material is acquired by an employee from the employee's employer and in the course of the employee's employment or by a company from an associated company, it is only special procedure material if it was special procedure material immediately before the acquisition.

(7) Where material is created by an employee in the course of the employee's employment, it is only special procedure material if it would have been special procedure material had the employee's employer created it.

(8) Where material is created by a company on behalf of an associated company, it is only special procedure material if it would have been special procedure material had the associated company created it.

(9) For the purposes of this Article, a company is to be treated as another's associated company at a given time if, at that time, or at any other time within one year previously, one of the 2 has control of the other, or both are under the control of the same person or persons.

(10) For the purposes of this Article, a person shall be taken to have control of a company if the person exercises, or is able to exercise or is entitled to acquire, direct or indirect control over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if the person possesses or is entitled to acquire –

(a) the greater part of the share capital or issued share capital of the company or of the voting power in the company;

(b) that part of the issued share capital of the company which would, if the whole of the income of the company were in fact distributed among the participators, without regard to any rights which the person or any other person has as a loan creditor, entitle the person to receive the greater part of the amount so distributed; or

(c) those rights which would in the event of the winding-up of the company or in any other circumstances, entitle the person to receive the greater part of the assets of the company which would then be available for distribution among the participators.

(11) Where 2 or more persons together satisfy any of the conditions of paragraph (10), they shall be taken to have control of the company.

(12) For the purposes of paragraph (10) a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date, or will at a future date be entitled to acquire.

(13) For the purposes of paragraphs (10) and (11), there shall be attributed to any person any rights or powers of a nominee for the person, that is to say, any rights or powers which another person possesses on the first person's behalf or may be required to exercise on the first person's direction or behalf.

(14) For the purposes of paragraphs (10) and (11), there may also be attributed to any person all the rights and powers of any company of which the person has, or the person and associates of the person have, control or any 2 or more of those companies, or of any associate of the person or of any 2 or more associates of his or hers, including those attributed to a company or associate under paragraph (13), but not those attributed to an associate under this paragraph, and those attributions shall be made under this paragraph which will result in the company being treated as under the control of 5 or fewer participators if it can be so treated.

(15) In this Article –

(a) "associate" means, in relation to a participator and correspondingly in relation to a person other than a participator –

(i) any relative of the participator,

(ii) any person with whom the participator is in partnership,

(iii) the trustee or trustees of any settlement in relation to which the participator is, or any relative of the participator, living or dead, is or was, a settlor, and

(iv) where the participator is interested in any shares or obligations of the company which are subject to any trust, or are part of the estate of a deceased person, the trustee or trustees of the settlement concerned or the personal representatives of the deceased and, if the participator is a company, any other company interested in those shares or obligations;

(b) "loan creditor", in relation to a company, means subject to paragraphs (17) and (18), a creditor in respect of any redeemable loan capital issued by the company or in respect of any debt incurred by the company –

(i) for any money borrowed or capital assets acquired by the company,

(ii) for any right to receive income created in favour of the company, or

(iii) for consideration the value of which to the company was, at the time when the debt was incurred, substantially less than the amount of the debt including any premium on it;

(c) a "participator" is, in relation to any company, a person having a share or interest in the capital or income of the company and, without prejudice to the generality of the preceding words, includes –

(i) any person who possesses, or is entitled to acquire, share capital or voting rights in the company,

(ii) any loan creditor of the company,

(iii) any person who possesses, or is entitled to acquire, a right to receive or participate in distributions of the company of any amounts payable by

the company, in cash or in kind, to loan creditors by way of premium on redemption, and

(iv) any person who is entitled to secure that income or assets whether present or future of the company will be applied directly or indirectly for the person's benefit;

(d) "relative" means husband or wife or civil partner, parent or remoter forebear, child or remoter issue, or brother or sister.[9]

(16) References in paragraph (15)(c) to being entitled to do anything apply where a person is presently entitled to do it at a future date, or will at a future date be entitled to do it.

(17) Subject to paragraph (18), a person who is not the creditor in respect of any debt or loan capital to which paragraph (15)(b) applies but nevertheless has a beneficial interest therein shall, to the extent of that interest, be treated for the purposes of this Article as a loan creditor in respect of that debt or loan capital.

(18) A person carrying on a business of banking shall not be deemed to be a loan creditor in respect of any loan capital or debt issued or incurred by the company for money lent by the person to the company in the ordinary course of that business.

7 Meaning of "personal records"

In this Law "personal records" means documentary and other records concerning an individual, whether living or dead, who can be identified from them and relating –

(a) to the individual's physical or mental health;

(b) to spiritual counselling or assistance given or to be given to the individual; or

(c) to counselling or assistance given or to be given to the individual, for the purposes of the individual's personal welfare, by any voluntary organization or by an individual who –

(i) by reason of the organization or individual's office or occupation has responsibilities for the individual's personal welfare, or

(ii) by reason of an order of a court has responsibilities for the individual's supervision.

8 Meaning of "journalistic material"

(1) Subject to paragraph (2), in this Law "journalistic material" means material acquired or created for the purposes of journalism.

(2) Material is only journalistic material for the purposes of this Law if it is in possession of a person who acquired or created it for the purposes of journalism.

(3) A person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

PART 2

POWERS TO STOP AND SEARCH

9 Power of police officer to stop and search persons, vehicles etc.

(1) A police officer may exercise any power conferred by this Article –

(a) in any place to which, at the time when the officer proposes to exercise the power, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; or

(b) in any other place to which people have ready access at the time when the officer proposes to exercise the power but which is not a dwelling.

(2) Subject to paragraphs (3) to (5), a police officer –

(a) may search any person or vehicle, or anything which is in or on a vehicle, for stolen or prohibited articles; and

(b) may detain a person or vehicle for the purpose of that search.

(3) This Article shall not give a police officer power to search a person or vehicle or anything in or on a vehicle unless the officer has reasonable grounds for suspecting that he or she will find stolen or prohibited articles.

(4) If a person is in a garden or yard occupied with and used for the purposes of a dwelling or on other land so occupied and used, a police officer may not search the person in the exercise of the power conferred by this Article unless the police officer has reasonable grounds for believing –

(a) that the person does not reside in the dwelling; and

(b) that the person is not in the place in question with the express or implied permission of a person who resides in the dwelling.

(5) If a vehicle is in a garden or yard occupied with and used for the purposes of a dwelling or on other land so occupied and used, a police officer may not search the vehicle or anything in or on it in the exercise of the power conferred by this Article unless the officer has reasonable grounds for believing –

(a) that the person in charge of the vehicle does not reside in the dwelling; and

(b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.

(6) If in the course of a search under this Article a police officer discovers anything which the officer has reasonable grounds for suspecting to be a stolen or prohibited article, the officer may seize it.

(7) For the purposes of this Article, any reference to a stolen article includes an article obtained –

(a) by means of larceny, including robbery; or

(b) by means of fraud, obtaining by false pretences, embezzlement or fraudulent conversion.

10 Provisions relating to search under Article 9 and other powers

(1) A police officer who detains a person or vehicle in the exercise of the power conferred by Article 9 or of any other power to search a person without first arresting the person or to search a vehicle without making an arrest, need not conduct a search if it appears to the officer subsequently that no search is required or that a search is impracticable.

(2) If a police officer contemplates a search, other than a search of an unattended vehicle, in the exercise of the power conferred by Article 9 or of any other power to search a person without first arresting the person or to search a vehicle without making an arrest, the officer shall, subject to paragraph (4), take reasonable steps before he or she commences the search to bring to the attention of the appropriate person –

(a) if the police officer is not in uniform, documentary evidence that he or she is a police officer; and

(b) whether the officer is in uniform or not, the matters specified in paragraph (3),

and the police officer shall not commence the search until he or she has done so.

(3) The matters referred to in paragraph (2) are –

(a) the name of the police officer and, in the case of an honorary police officer, the parish to which the officer is appointed;

(b) the object of the proposed search;

(c) the police officer's grounds for proposing to make it; and

(d) the effect of Article 12(7) or (8), as may be appropriate.

(4) A police officer need not bring the effect of Article 12(7) or (8) to the attention of the appropriate person if it appears to the police officer that it will not be practicable to make the record referred to in Article 12(1).

(5) On completing a search of an unattended vehicle or anything in or on that vehicle in the exercise of any power mentioned in paragraph (2) a police officer shall leave a notice –

(a) stating that the officer has searched it;

(b) giving the name of the police station to which the officer is attached, or in the case of an honorary police officer, the parish to which the officer is appointed;

(c) stating that an application for compensation for any damage caused by the search may be made to that police station or parish; and

(d) stating the effect of Article 12(8).

(6) The police officer shall leave the notice inside the vehicle unless it is not reasonably practicable to do so without damaging the vehicle.

(7) The time for which a person or vehicle may be detained for the purposes of that search is the time reasonably required to permit a search to be carried out either at the place where the person or vehicle was first detained or nearby.

(8) Neither the power conferred by Article 9 nor any other power to detain and search a person without first arresting the person or to detain and search a vehicle without making an arrest shall be construed as authorizing a police officer to require a person to remove any of his or her clothing in public other than an outer coat, jacket, gloves or headgear.

(9) This Article and Article 9 apply, with necessary modifications, to vessels, aircraft and hovercraft as they apply to vehicles.

(10) In this Article "the appropriate person" means –

(a) if the officer proposes to search a person, that person; and

(b) if the officer proposes to search a vehicle, or anything in or on a vehicle, the person in charge of the vehicle.

11 Powers to stop and search in anticipation of violence

(1) Where an officer of the Force of at least the rank of chief inspector reasonably believes that incidents involving serious violence may take place in any locality, and it is expedient to do so to prevent their occurrence, the officer may give an authorization that the powers to stop and search persons and vehicles conferred by this Article shall be exercisable at any place within that locality for a period not exceeding 24 hours.

(2) The power conferred by paragraph (1) may be exercised by an inspector if the inspector reasonably believes that incidents involving serious violence are imminent and no chief inspector is available.

(3) If it appears to an officer of the Force of at least the rank of chief inspector that it is expedient to do so, having regard to offences which have, or are reasonably suspected to have, been committed in connection with any incident falling within the authorization, the officer may direct that the authorization shall continue in being for a further 6 hours.

(4) This Article confers on any officer of the Force in uniform power –

(a) to stop any pedestrian and search the pedestrian or anything carried by the pedestrian for offensive weapons or dangerous instruments; and

(b) to stop any vehicle and search the vehicle, its driver and any passenger for offensive weapons or dangerous instruments.

(5) An officer of the Force may, in the exercise of any of the powers referred to in paragraph (4), stop any person or vehicle and make any search the officer thinks fit whether or not the officer has any grounds for suspecting that the person or vehicle is carrying weapons or articles of that kind.

(6) If, in the course of a search under this Article, an officer of the Force discovers a dangerous instrument or an article which the officer has reasonable grounds for suspecting to be an offensive weapon, the officer may seize it.

(7) Any things seized by an officer of the Force pursuant to this Article may be retained in accordance with an Order made by the Minister.

(8) The Minister may by Order regulate the retention and safe keeping, and the disposal and destruction, in circumstances specified in the Order, of things seized pursuant to this Article.

(9) This Article applies, with necessary modifications, to vessels, aircraft and hovercraft as it applies to vehicles.

(10) A person who fails to stop or to stop the vehicle when required to do so by an officer of the Force in the exercise of his or her powers under this Article shall be guilty of

an offence and liable to imprisonment for a term of one month and to a fine of level 2 on the standard scale[10].

(11) Any authorization under this Article shall be in writing and signed by the officer giving it and shall specify the locality in which and the period during which the powers conferred by this Article are exercisable and a direction under paragraph (3) shall also be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.

(12) In this Article, any reference to a dangerous instrument means an instrument which has a blade or is sharply pointed.

12 Duty to make records concerning searches

(1) Where a police officer has carried out a search in the exercise of any power conferred by Article 9 the officer shall make a record of it in writing unless it is not practicable to do so.

(2) If a police officer is required by paragraph (1) to make a record of a search but it is not practicable to make the record immediately, the officer shall make it as soon as practicable after the completion of the search.

(3) The record of a search of a person shall include a note of the person's name, if the police officer knows it, but a police officer may not detain a person to find out his or her name.

(4) If a police officer does not know the name of the person whom the officer has searched, the record of the search shall include a note otherwise describing that person.

(5) The record of a search of a vehicle shall include a note describing the vehicle.

(6) The record of a search of a person or a vehicle –

(a) shall state –

(i) the object of the search,

(ii) the grounds for making it,

(iii) the date and time when it was made,

(iv) the place where it was made,

(v) whether anything, and if so what, was found,

(vi) whether any, and if so what, injury to a person or damage to property appears to the police officer to have resulted from the search;

and

(b) shall identify the police officer making it.

(7) If a police officer who conducted a search of a person made a record of it, the person who was searched shall be entitled to a copy of the record if he or she asks for one before the end of the period specified in paragraph (9).

(8) If the owner of a vehicle which has been searched or the person who was in charge of the vehicle at the time when it was searched asks for a copy of the record of the search before the end of the period specified in paragraph (9) and the police officer

who conducted the search made a record of it, the person who made the request shall be entitled to a copy.

(9) The period mentioned in paragraphs (7) and (8) is the period of 12 months beginning with the date on which the search was made.

(10) The requirements imposed by this Article with regard to records of searches of vehicles shall apply also to records of searches of vessels, aircraft and hovercraft.

(11) An honorary police officer who makes a record of a search shall forward a copy to the Chef de Police of the parish to which the officer is appointed who shall send it to the Chief Officer for record-keeping and reporting purposes.[11]

13 Vehicle checks

(1) This Article shall have effect in relation to the conduct of vehicle checks by police officers for the purpose of ascertaining whether a vehicle is carrying –

(a) a person who has committed an offence, other than an offence under the Road Traffic (Jersey) Law 1956 which is not a serious offence;

(b) a person who is a witness to such an offence;

(c) a person intending to commit such an offence; or

(d) a person who is unlawfully at large.

(2) Subject to paragraph (4), there shall only be a vehicle check if an officer of the Force of at least the rank of chief inspector or a Chef de Police in connection with a road in his or her parish authorizes it in writing.[12]

(3) An officer or a Chef de Police may only authorize a vehicle check under paragraph (2) –

(a) for the purpose of ascertaining whether a vehicle is carrying a person specified in paragraph (1)(a), if he or she has reasonable grounds –

(i) for believing that the offence is a serious offence, and

(ii) for suspecting that the person is, or is about to be, in the locality in which vehicles would be stopped if the vehicle check were authorized;

(b) for the purpose of ascertaining whether a vehicle is carrying a person specified in paragraph (1)(b), if he or she has reasonable grounds for believing that the offence is a serious offence;

(c) for the purpose of ascertaining whether a vehicle is carrying a person specified in paragraph (1)(c), if he or she has reasonable grounds –

(i) for believing that the offence would be a serious offence, and

(ii) for suspecting that the person is, or is about to be, in the locality in which vehicles would be stopped if the vehicle check were authorized;

(d) for the purpose of ascertaining whether a vehicle is carrying a person specified in paragraph (1)(d), if he or she has reasonable grounds for suspecting that the person is, or is about to be, in that locality.[13]

(4) An officer of the Force below the rank of chief inspector or a Centenier in connection with a road in his or her parish may authorize a vehicle check if it appears to the

officer or Centenier that it is required as a matter of urgency for one of the purposes specified in paragraph (1).

(5) If an authorization is given under paragraph (4), the officer or Centenier who gives it shall as soon as possible –

(a) make a written record of the time at which he or she gives it; and

(b) cause an officer of the Force of at least the rank of chief inspector or the Chef de Police, as the case may be, to be informed that it has been given.[14]

(6) An officer of the Force or the Chef de Police to whom a report is made under paragraph (5) may, in writing, authorize the vehicle check to continue.[15]

(7) If such an officer or Chef de Police considers that the vehicle check should not continue, he or she shall record in writing –

(a) the fact that it took place; and

(b) the purpose for which it took place.[16]

(8) An officer of the Force or the Chef de Police giving an authorization under this Article shall specify the locality in which vehicles are to be stopped.[17]

(9) An officer of the Force or the Chef de Police giving an authorization under this Article, other than an authorization under paragraph (4), shall specify a period, not exceeding 7 days, during which the vehicle check may continue and may direct that the vehicle check shall be continuous or shall be conducted at specified times, during that period.[18]

(10) If it appears to an officer of the Force of at least the rank of chief inspector or a Chef de Police that a vehicle check ought to continue beyond the period for which it has been authorized he or she may, from time to time, in writing specify a further period, not exceeding 7 days, during which it may continue.[19]

(11) Every written authorization shall specify –

(a) the name of the officer of the Force or the Chef de Police giving it;

(b) the purpose of the vehicle check; and

(c) the locality in which vehicles are to be stopped.[20]

(12) The duties to specify the purposes of a vehicle check imposed by paragraphs (7) and (11) include duties to specify any relevant serious offence.

(13) Where a vehicle is stopped in a vehicle check, the person in charge of the vehicle at the time when it is stopped shall be entitled to obtain a written statement of the purpose of the vehicle check if he or she applies for that statement not later than the end of the period of 3 months from the day on which the vehicle was stopped.

(14) Nothing in this Article shall affect the exercise by police officers of any power to stop vehicles for purposes other than those specified in paragraph (1).

(15) A Chef de Police who authorizes a vehicle check under this Article or who is informed of an authorization pursuant to paragraph (5)(b) shall promptly inform the Chief Officer of the authorization for record keeping and recording purposes.[21]

14 Reports of recorded searches and of vehicle checks

(1) Every annual report made by the Chief Officer shall contain information –

(a) about searches recorded under Article 12 which have been carried out during the period to which it relates; and

(b) about vehicle checks authorized during that period under Article 13.

(2) The information about searches shall not include information about specific searches but shall include –

(a) the total numbers of searches in each month during the period to which the report relates for stolen articles, for offensive weapons and for other prohibited articles; and

(b) the total number of persons arrested in each month in consequence of searches of each of the descriptions specified in sub-paragraph (a).

(3) The information about vehicle checks shall include information –

(a) about the reason for authorizing each vehicle check; and

(b) about the result of each of them.

PART 3

POWERS OF ENTRY, SEARCH AND SEIZURE

Search warrants

15 Power to authorize entry and search of premises

(1) On an application made by a police officer, the Bailiff or a Jurat may issue a warrant authorizing a police officer to enter and search premises if he or she is satisfied that there are reasonable grounds for believing –

(a) that a serious offence has been committed of which there is evidence on premises specified in the application –

(i) which is likely to be of substantial value, whether by itself or together with other evidence, to the investigation of the offence,

(ii) which is likely to be relevant, and

(iii) which does not consist of or include items subject to legal privilege, excluded material or special procedure material;

or

(b) that there are goods on premises specified in the application which have been unlawfully obtained,

and that any of the conditions in paragraph (3) applies.

(2) A police officer may seize and retain anything for which a search has been authorized under paragraph (1).

(3) The conditions mentioned in paragraph (1) are –

(a) that it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;

(c) that entry to the premises will not be granted unless a warrant is produced;

(d) that the purpose of a search may be frustrated or seriously prejudiced unless a police officer arriving at the premises can secure immediate entry to them.

(4) The power to issue a warrant conferred by this Article is in addition to any power to do so otherwise conferred.

(5) In paragraph (1)(b), "goods" includes money and every other description of movable property.

16 Special provisions as to access

(1) A police officer may obtain access to material to which this Article applies for the purposes of a criminal investigation by making an application under Schedule 2 and in accordance with that Schedule.[22]

(1A) This Article applies to –

(a) excluded material;

(b) special procedure material; and

(c) material stored on a computer or stored on a device that is remotely accessible via the internet and accessible by the person who stored it but not to users of the internet generally.[23]

(2) Subject to paragraph (3), any enactment passed before this Law under which a search of premises for the purposes of a criminal investigation could be authorized by the issue of a warrant to a police officer shall cease to have effect so far as it relates to the authorization of searches –

(a) for items subject to legal privilege;

(b) for excluded material; or

(c) for special procedure material consisting of documents or records other than documents.

(3) The States may by Regulations disapply paragraph (2) to an enactment so far as the enactment relates to the authorization of searches for material described in either or both of sub-paragraphs (b) and (c) of that paragraph.

17 Safeguards for search warrants under any enactment

(1) This Article and Article 18 have effect in relation to the issue to police officers under any enactment, including an enactment passed after this Law, of warrants to enter and search premises, and an entry on or search of premises under a warrant is unlawful unless the application for and the issue of the warrant comply with this Article and the execution of the warrant complies with Article 18.

(2) Where a police officer applies for a warrant referred to in paragraph (1), the officer shall state the ground on which the officer makes the application and the enactment under which the warrant would be issued, specify the premises which it is desired to

enter and search and identify, so far as is practicable, the articles and persons to be sought.

(3) An application for that warrant shall be made ex parte and supported by information on oath.

(4) The police officer shall answer on oath any question that the person hearing the application asks the officer.

(5) A warrant shall authorize an entry on 2 occasions only, the second of which shall be within 3 days of the first.

(6) A warrant shall specify the name of the person who applies for it, the date on which it is issued, the enactment under which it is issued and the premises to be searched, and shall identify, so far as is practicable, the articles to be sought.

(7) Two copies shall be made of a warrant.

(8) The copies shall be clearly certified as copies.

18 Execution of search warrants under any enactment

(1) A warrant to enter and search premises may be executed by any police officer.

(2) The warrant may authorize persons to accompany any police officer who is executing it.

(3) The first entry and search under a warrant shall be within one month from the date of its issue.

(4) Entry and search under a warrant shall be at a reasonable hour unless it appears to the police officer executing it that the purpose of a search may be frustrated by an entry at a reasonable hour.

(5) Where the occupier of premises which are to be entered and searched is present at the time when a police officer seeks to execute a warrant to enter and search them, the police officer –

(a) shall identify himself or herself to the occupier and, if not in uniform, shall produce to the occupier documentary evidence that he or she is a police officer;

(b) shall produce the warrant to the occupier; and

(c) shall supply the occupier with a copy of it.

(6) Where the occupier of the premises is not present at the time when a police officer seeks to execute the warrant but some other person who appears to the police officer to be in charge of the premises is present, paragraph (5) shall have effect as if any reference to the occupier were a reference to that other person.

(7) If there is no person present who appears to the police officer to be in charge of the premises, the officer shall on each occasion when the warrant is executed leave a copy of the warrant in a prominent place on the premises.

(8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(9) A police officer executing a warrant shall make an endorsement on it stating whether the articles sought were found and whether any articles were seized, other than articles which were sought.

(10) A warrant which has been executed for a second time or has not been fully executed within the time authorized for its execution, shall be returned to the office of the person issuing it.

(11) A warrant which is returned under paragraph (10) shall be retained until whichever is the later of –

(a) the expiry of 12 months from the date of its return;

(b) a decision not to prefer criminal charges in support of which articles seized pursuant to the warrant would be produced in evidence; or

(c) the disposal of any criminal proceedings in which articles seized pursuant to the warrant are produced as evidence.

(12) For the purposes of paragraph (11)(c), criminal proceedings are disposed of upon whichever is the earlier of –

(a) their being discontinued;

(b) the acquittal of the defendant;

(c) the expiry of any time limit for appealing against conviction, without an appeal having been made; or

(d) the conviction of the defendant, where no right of appeal lies from the conviction.

(13) If, during the period for which a warrant is to be retained, the occupier of the premises to which it relates asks to inspect it, the occupier shall be allowed to do so.

Entry and search without search warrant

19 Entry for purpose of arrest etc.

(1) Subject to this Article, and without prejudice to any other enactment, a police officer may enter and search any premises –

(a) for the purpose of arresting a person whom the officer has reasonable cause to suspect has committed an offence, or where the officer has reasonable cause to suspect that any offence is in progress on the premises or is about to be or has been committed on the premises;

(b) where the officer has reasonable cause to suspect that any person is committing, is about to commit or has committed an offence on the premises; or

(c) for the purpose of saving life or limb or preventing serious damage to property.

(2) The States may by Regulations exclude from the application of paragraph (1) an offence or category of offences.

(3) Except for the purpose specified in paragraph (1)(b) or (c), the powers of entry and search conferred by this Article –

(a) are only exercisable if the police officer has reasonable grounds for believing that the person whom he or she is seeking is on the premises; and

(b) are limited, in relation to premises consisting of 2 or more separate dwellings, to powers to enter and search –

(i) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any of those dwellings, and

(ii) any of the dwellings in which the police officer has reasonable grounds for believing that the person whom he or she is seeking may be.

(4) The power of search conferred by this Article is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.

20 Entry and search after arrest

(1) Subject to this Article, a police officer may enter and search any premises occupied or controlled by a person who is under arrest for a serious offence or for any other offence the punishment for which is imprisonment for a term of one year or more, if the officer has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates –

(a) to that offence; or

(b) to some other offence which is connected with or similar to that offence.

(2) A police officer may seize and retain anything for which he or she may search under paragraph (1).

(3) The power to search conferred by paragraph (1) is only a power to search to the extent that it is reasonably required for the purpose of discovering that evidence.

(4) Subject to paragraph (5), the powers conferred by this Article may not be exercised unless, in the case of the Force, an officer of at least the rank of inspector, or in the case of an honorary police officer, a Centenier in respect of premises in his or her parish, has authorized them in writing.[24]

(5) A police officer may conduct a search under paragraph (1) before taking the person to a police station and without obtaining an authorization under paragraph (4), if the presence of that person at a place other than a police station is necessary for the effective investigation of the offence.

(6) If a police officer conducts a search by virtue of paragraph (5), the police officer shall inform, in the case of the Force, an officer of at least the rank of inspector or, in the case of an honorary police officer, a Centenier in respect of premises in his or her parish, that the police officer has made the search as soon as practicable after he or she has made it.[25]

(7) An officer of the Force or Centenier who authorizes a search or is informed of a search under paragraph (6) shall make a record in writing of the grounds for the search and of the nature of the evidence that was sought.[26]

(8) A Centenier who authorizes or is informed of a search shall notify the Chief Officer for record keeping and recording purposes.[27]

(9) If the person who was in occupation or control of the premises at the time of the search is in police detention at the time the record is to be made, the officer shall make the record as part of the person's custody record.

Seizure

21 General power of seizure etc.

(1) The powers conferred by paragraphs (2), (3) and (4) are exercisable by a police officer who is lawfully on any premises.

(2) The police officer may seize anything which is on the premises if he or she has reasonable grounds for believing –

(a) that it has been obtained in consequence of the commission of an offence; and

(b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) The police officer may seize anything which is on the premises if he or she has reasonable grounds for believing –

(a) that it is evidence in relation to an offence which he or she is investigating or any other offence; or

(b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.

(4) The police officer may require any information which is stored in any electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can be readily produced in a visible and legible form if the officer has reasonable grounds for believing –

(a) that it is evidence in relation to an offence which he or she is investigating or any other offence or it has been obtained in consequence of the commission of an offence; and

(b) that it is necessary to do so in order to prevent it being concealed, lost, tampered with or destroyed.

(5) The powers conferred by this Article are in addition to any power otherwise conferred.

(6) No power of seizure conferred on a police officer under any enactment, including an enactment passed after this Law, is to be taken to authorize the seizure of items which the police officer exercising the power has reasonable grounds for believing to be items subject to legal privilege.

22 Extension of powers of seizure to computerized information

(1) Every power of seizure which is conferred by an enactment to which this Article applies on a police officer who has entered premises in the exercise of a power conferred by an enactment shall be construed as including a power to require any information stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can be readily produced in a visible and legible form.

(2) This Article applies –

(a) to any enactment passed before this Law;

(b) to Articles 15 and 20;

(c) to paragraph 12 of Schedule 2; and

(d) to any enactment passed after this Law.

23 Access and copying

(1) A police officer who seizes anything in the exercise of a power conferred by any enactment, including an enactment passed after this Law, shall, if so requested by a person showing himself or herself to be the occupier of premises on which it was seized or to have had custody or control of it immediately before the seizure, provide that person with a record of what he or she seized.

(2) The police officer shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to paragraph (8), if a request for permission to be granted access to anything which has been seized by a police officer, and is retained by the Force or the Honorary Police for the purpose of investigating an offence, is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized or by someone acting on behalf of that person, the officer shall allow the person who made the request access to it under the supervision of a police officer.

(4) Subject to paragraph (8), if a request for a photograph or copy of it is made to the officer in charge of the investigation by a person who had custody or control of it immediately before it was so seized, or by someone acting on behalf of that person, the officer shall –

(a) allow the person who made the request access to it under the supervision of a police officer for the purpose of photographing or copying it; or

(b) photograph or copy it, or cause it to be photographed or copied.

(5) A police officer may also photograph or copy, or have photographed or copied, anything which he or she has power to seize, without a request being made under paragraph (4).

(6) Where anything is photographed or copied under paragraph (4)(b) the photograph or copy shall be supplied to the person who made the request.

(7) The photograph or copy shall be so supplied within a reasonable time from the making of the request.

(8) The police officer in charge of the investigation for the purposes of which anything is seized may refuse to grant access to, or to supply a photograph or copy of it if the officer has reasonable grounds for believing that to do so would prejudice –

(a) that investigation;

(b) the investigation of an offence other than the offence for the purposes of investigating which the thing was seized; or

(c) any criminal proceedings which may be brought as a result of the investigation of which the officer is in charge, or the investigation mentioned in sub-paragraph (b).

24 Retention

(1) Subject to paragraph (4), anything which has been lawfully seized or taken away by a police officer may be retained for so long as is necessary in all the circumstances.

(2) Without prejudice to the generality of paragraph (1) –

(a) anything seized for the purposes of a criminal investigation may be retained, except as provided by paragraph (4) –

(i) for use as evidence at a trial for an offence, or

(ii) for forensic examination or for investigation in connection with an offence;

and

(b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.

(3) Nothing seized on the ground that it may be used to cause physical injury to any person, to damage property, to interfere with evidence or to assist in escape from police detention or lawful custody, may be retained when the person from whom it was seized is no longer in police detention or the custody of a court or is in the custody of a court but has been released on bail.

(4) Nothing may be retained for either of the purposes mentioned in paragraph (2)(a) if a photograph or copy would be sufficient for that purpose.

(5) Nothing in this Article affects the power of a court to make an order with respect to the disposal of any property in the possession of the police.

25 Powers for a Jurat to issue a search warrant

(1) Where, under any of the enactments listed in Schedule 3, power is given to the Bailiff to issue a search warrant, that power may be exercised by a Jurat subject to the same conditions imposed on the Bailiff by that enactment.

(2) The States may, by Regulations, amend Schedule 3.

PART 4

TREATMENT OF PERSONS ON ARREST

26 Information to be given on arrest

(1) Subject to paragraph (5), where a person is arrested, otherwise than by being informed that he or she is under arrest, the arrest is not lawful unless the person arrested is informed that he or she is under arrest as soon as is practicable after his or her arrest.

(2) Where a person is arrested by a police officer, paragraph (1) applies regardless of whether the fact of the arrest is obvious.

(3) Subject to paragraph (5), no arrest is lawful unless the person arrested is informed of the ground for the arrest at the time of, or as soon as is practicable after, the arrest.

(4) Where a person is arrested by a police officer, paragraph (3) applies regardless of whether the ground for the arrest is obvious.

(5) Nothing in this Article shall be taken to require a person to be informed that he or she is under arrest or of the ground for the arrest if it was not reasonably practicable for the person to be so informed by reason of the person having escaped from arrest before the information could be given.

27 Voluntary attendance at police station etc.

Where, for the purpose of assisting with an investigation, a person attends voluntarily at a police station or at any other place where a police officer is present or accompanies a police officer to a police station or that other place without having been arrested –

(a) the person shall be entitled to leave at will unless he or she is placed under arrest;

(b) the person shall be informed at once that he or she is under arrest if a decision is taken by a police officer to prevent the person from leaving at will.

28 Arrest elsewhere than at police station

(1) Subject to this Article, where a person is –

(a) arrested by a police officer for an offence; or

(b) taken into custody by a police officer after being arrested for an offence by a person other than a police officer,

at any place other than a police station, the person shall be taken to a police station by a police officer as soon as practicable after the arrest.

(2) Subject to paragraphs (3) and (4), the police station to which an arrested person is taken under paragraph (1) shall be a designated police station.

(3) A police officer may take an arrested person to any police station unless it appears to the police officer that it may be necessary to keep the arrested person in police detention for more than 6 hours.

(4) A police officer may take an arrested person to any police station if –

(a) either –

(i) the police officer has arrested the person without the assistance of any other police officer and no other police officer is available to assist him or her, or

(ii) the police officer has taken the person into custody from a person other than a police officer without the assistance of any other police officer and no other police officer is available to assist him or her; and

(b) it appears to the police officer that he or she will be unable to take the arrested person to a designated police station without the arrested person injuring himself or herself, the police officer or some other person.

(5) If the first police station to which an arrested person is taken after his or her arrest is not a designated police station, the person shall be taken to a designated police station not more than 6 hours after his or her arrival at the first police station unless the person is released previously.

(6) A person arrested by a police officer at a place other than a police station shall be released if a police officer is satisfied, before the person arrested reaches a police station, that there are no grounds for keeping the person under arrest.

(7) A police officer who releases a person under paragraph (6) shall record the fact that he or she has done so.

(8) The police officer shall make the record as soon as is practicable after the release.

(9) Nothing in paragraph (1) shall prevent a police officer delaying taking a person who has been arrested to a police station if the presence of that person elsewhere is necessary in order to carry out any investigations that it is reasonable to carry out immediately.

(10) Where there is delay in taking a person who has been arrested to a police station after the person's arrest, the reasons for the delay shall be recorded when the person first arrives at a police station.

(11) Nothing in paragraph (1) shall be taken to affect –

(a) paragraph 16(3) or 18(1) of Schedule 2 to the Immigration Act 1971; or

(b) any provision of the Terrorism (Jersey) Law 2002.[28]

(12) Nothing in paragraph (9) shall be taken to affect paragraph 18(3) of Schedule 2 to the Immigration Act 1971.

(13) Where a person is arrested outside Jersey on suspicion of an offence committed in Jersey, the person, notwithstanding anything to the contrary in the Indictable Offences Act 1848 of the United Kingdom, be dealt with under this Law as if he or she had been arrested in Jersey.

28A Person may not be detained in custody without authorisation[29]

(1) This Article applies to –

(a) a person arrested on suspicion of having committed an offence; or

(b) a person who is treated as arrested for an offence under Article 32(6).[30]

(1A) A person to whom this Article applies may be detained in custody in prison if the arresting police officer obtains an authorisation that –

(a) complies with Rule 3(2) of the Prison (Jersey) Rules 2007; and

(b) is signed by the Magistrate, a Jurat or the Bailiff.[31]

(2) The police officer receiving that authorisation must provide it to an officer of the prison at the same time as delivering the arrested person.

29 Search upon arrest

(1) A police officer may search an arrested person, in any case where the person to be searched has been arrested at a place other than a police station, if the police officer has reasonable grounds for believing that the arrested person may present a danger to himself or herself or others.

(2) Subject to paragraphs (3) to (5), a police officer shall also have power in that case –

(a) to search the arrested person for anything which the person might use to assist him or her to escape from lawful custody or which might be evidence relating to an offence; and

(b) to enter and search any premises in which the person was when arrested or immediately before the person was arrested for evidence relating to the offence for which he or she has been arrested.

(3) The power to search conferred by paragraph (2) is only a power to search to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence.

(4) The powers conferred by this Article to search a person shall not be construed as authorizing a police officer to require a person to remove any of his or her clothing in public other than an outer coat, jacket, gloves or headgear, but shall authorize a search of a person's mouth.

(5) A police officer may not search a person in the exercise of the powers conferred by paragraph (2)(a) unless the officer has reasonable grounds for believing that the person to be searched may have concealed on him or her anything for which a search is permitted under that sub-paragraph.

(6) A police officer may not search premises in the exercise of the power conferred by paragraph (2)(b) unless the officer has reasonable grounds for believing that there is evidence on the premises for which a search is permitted under that sub-paragraph.

(7) In so far as the power of search conferred by paragraph (2)(b) relates to premises consisting of 2 or more separate dwellings, it shall be limited to a power to search –

(a) any dwelling in which the arrest took place or in which the person arrested was immediately before his or her arrest; and

(b) any parts of the premises which the occupier of that dwelling uses in common with the occupiers of any other dwellings comprised in the premises.

(8) A police officer searching a person in the exercise of the power conferred by paragraph (1) may seize and retain anything the officer finds, if the officer has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or herself or to any other person.

(9) A police officer searching a person in the exercise of the powers conferred by paragraph (2)(a) may seize and retain anything the officer finds, other than items subject to legal privilege, if the officer has reasonable grounds for believing –

(a) that that person might use it to assist him or her to escape from lawful custody; or

(b) that it is evidence of an offence or has been obtained in consequence of the commission of an offence.

(10) Nothing in this Article shall be taken to affect the power conferred by Article 39 of the Terrorism (Jersey) Law 2002.[32]

PART 5

BAIL AND DETENTION

Bail

29A Interpretation of Part 5[33]

In this Part, any reference to the release of a person on, or with bail, means the release of that person on bail either unconditionally or with such requirement or conditions as may be imposed in accordance with Article 30 or 31B.

30 Police grant of bail subject to conditions where person arrested for but not charged with an offence[34]

(1) This Article applies where, under this Part, a Centenier or an officer of the Force (as the case may be) releases on bail a person arrested for, but not charged with an offence.

(2) The Centenier or officer of the Force may grant the person bail subject to a requirement for the person to attend a parish hall inquiry or return to a police station, on a day and at a time notified to the person.

(3) If before the day and time notified under paragraph (2) the person is no longer required to attend a parish hall inquiry or return to a police station, a police officer shall notify the person in writing that he or she is released from bail and from any requirement to attend a parish hall inquiry or return to a police station.

(4) Where it appears to the Centenier or an officer of the Force that it is necessary to do so –

(a) for the purpose of preventing the person from failing to attend a parish hall inquiry or returning to a police station (as the case may be);

(b) for the purpose of preventing the person from committing an offence while on bail;

(c) for the purpose of preventing the person from interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or herself, or any other person; or

(d) for the protection of the person's or, if he or she is under the age of 18, for that person's own welfare or in his or her own interests,

the Centenier or officer of Force may impose such conditions of bail as appear to him or her to be necessary for that purpose.

(5) A person granted bail subject to any conditions imposed under paragraph (4) may request a Centenier or an officer of the Force to vary the conditions of bail and, in doing so, that Centenier or officer of the Force may remove those conditions or impose different, including more onerous conditions.

(6) A request made under paragraph (5) shall be determined not later than 96 hours after it is received, and in default of any determination within that period, the person granted bail may apply to the Magistrate to vary his or her conditions of bail.

(7) Where a Centenier or an officer of the Force, pursuant to paragraph (4), imposes conditions of bail or, pursuant to paragraph (5), varies any condition of bail, he or she shall give the person granted bail a copy of the record of those conditions setting out the reasons for imposing or varying such conditions.

(8) Where a Centenier or an officer of the Force imposes conditions of bail under paragraph (4) or, upon a request under paragraph (5), refuses to vary the conditions of bail, the person granted bail may apply to the Magistrate to review the Centenier's or officer of the Force's decision.

(9) An application under paragraph (6) or (8) shall be made in the prescribed form, and shall be heard not later than the first sitting of the Magistrate's Court after the application is made.

(10) Where paragraph (6) or (8) applies the Magistrate may –

(a) remove any condition of bail or impose different conditions, including more onerous conditions; or

(b) [not in force]

(11) The Magistrate shall provide the person granted bail with a copy of the record of his or her decision in the prescribed form, or in the absence of such a form, in such written form as the Magistrate determines, which shall include the reasons for denying bail or imposing or varying any condition of bail, as soon as practicable after the record is made.

(12) There shall be no right of appeal against a decision of the Magistrate under this Article.

31 Bail on arrest

Where, following a person's arrest for an offence, it appears to the custody officer[35] that the inquiry into the offence cannot be completed within a reasonable period he may release that person on bail.

31A Limit on duration of bail of person arrested for but not charged with offence[36]

(1) This Article applies where a Centenier or an officer of the Force (as the case may be), under Article 30(1) or 31, releases on bail a person arrested for, but not charged with an offence.

(2) Except as authorized under paragraph (4), a Centenier or an officer of the Force cannot keep the person on such bail for the offence for a continuous period of more than 6 months.

(3) The continuous period of 6 months includes any further period of bail for the offence that is granted –

(a) on the person's return to a parish hall or police station (as the case may be) to answer to bail for the offence; or

(b) following the person's arrest under Article 44.

(4) On an application made by a Centenier or an officer of the Force before the expiry of the continuous period of 6 months, the Magistrate may authorize bail to be granted by a Centenier or an officer of the Force in connection with the offence for a further

period, specified by the Magistrate, that would cause the continuous period to exceed 6 months.

(5) On an application made by a Centenier or an officer of the Force before the expiry of the further period specified by the Magistrate under paragraph (4), the Magistrate may authorize bail to be granted by a Centenier or an officer of the Force in connection with the offence for such further period as the Magistrate may specify.

(6) If the Magistrate gives an authorization under paragraph (4) or (5), the Magistrate may direct the Centenier or officer of the Force as to the conditions that must, may or must not be attached to the grant of bail, and the Centenier or officer granting bail must have regard to those directions.

(7) There shall be no right of appeal against a decision of the Magistrate under this Article.

31B Grant of bail by Centenier where person is charged with an offence[37]

(1) This Article applies where a Centenier releases on bail a person charged with an offence (the 'person charged').

(2) Where it appears to the Centenier that it is necessary to do so –

(a) for the purpose of preventing the person charged from failing to surrender to the custody of the court;

(b) for the purpose of preventing the person charged from committing an offence while on bail;

(c) for the purpose of preventing the person charged from interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or herself, or any other person; or

(d) for the protection of the person charged or, if he or she is under the age of 18, for that person's own welfare or in his or her own interests,

the Centenier may impose such conditions of bail as appear to him or her to be necessary for that purpose.[38]

(3) A person charged who has been granted bail subject to conditions, may request a Centenier to vary the conditions of bail and, in doing so, that Centenier may remove those conditions or impose different, including more onerous conditions.

(4) A request made under paragraph (3) shall be determined not later than 96 hours after it is received, and in default of any determination within that period, the person charged may apply to the Magistrate to vary his or her conditions of bail.

(5) Where a Centenier, pursuant to paragraph (2), imposes conditions of bail or, pursuant to paragraph (3), varies any condition of bail, he or she shall give the person charged a copy of the record of those conditions setting out the reasons for imposing or varying such conditions.

(6) Where the record referred to in paragraph (5) is prescribed, the record shall be made in that form.

(7) Where a Centenier imposes conditions of bail under paragraph (2) or, upon a request under paragraph (3), refuses to vary the conditions of bail, the person charged may apply to the Magistrate to review the Centenier's decision.

(8) An application under paragraph (4) or (7) shall be made in the prescribed form and shall be heard not later than the first sitting of the Magistrate's Court after the application is made.

(9) Where paragraph (4) or (7) applies the Magistrate may –

(a) remove any condition of bail or impose different, including more onerous conditions; or

(b) overturn the Centenier's decision to grant bail and remand the person into custody.

(10) The Magistrate shall provide the person charged with a copy of the record of his or her decision in the prescribed form, or in the absence of such a form, in such written form as the Magistrate determines, including the reasons for denying bail or imposing or varying any condition of bail, as soon as practicable after the record is made.

(11) There shall be no right of appeal against a decision of the Magistrate under this Article.

Detention - conditions and duration

32 Limitations on police detention

(1) A person arrested for an offence shall not be kept in police detention except in accordance with the provisions of this Part.

(2) Subject to paragraph (3), if at any time a custody officer becomes aware, in relation to any person in police detention who has not been charged with an offence, that the grounds for the detention of that person have ceased to apply and is not aware of any other grounds on which the continued detention of that person could be justified under the provisions of this Part, the custody officer shall, subject to paragraph (4), order his immediate release from custody.

(3) Save as provided in Article 35(8), no person in police detention who has been arrested for but not charged with an offence shall be released except on the authority of a custody officer at the police station where his detention was authorized or, if it was authorized at more than one station, a custody officer at the station where it was last authorized.

(4) A person who appears to the custody officer to have been unlawfully at large when he was arrested shall not be released pursuant to paragraph (2).

(5) A person whose release is ordered under paragraph (2) shall be released without bail unless it appears to the custody officer that there is need for further investigation of any matter in connection with which he was detained at any time during the period of his detention or that proceedings may be taken against him in respect of that matter, and, if it so appears, he may be released on bail by the custody officer.

(6) For the purposes of this Part a person who returns to a police station to answer to bail or is arrested under Article 44 shall be treated as arrested for an offence and the offence in connection with which he was granted bail shall be deemed to be that offence.

33 Designated police stations[39]

(1) The Chief Officer shall designate police stations which, except as provided by Article 28, shall be the stations to be used for the purpose of detaining arrested persons.

(2) The police stations designated under paragraph (1) shall provide enough accommodation for that purpose.

(3) The Chief Officer may designate a station which was not previously designated and may direct that a designation of a station previously made shall cease to operate.

(4) In a case of emergency the Chief Officer may designate any place, whether or not that place is a police station, as a designated police station for a period specified in the designation and any place so designated shall be a designated police station for the purposes of this Law.

34 Custody officers at police stations

(1) One or more custody officers shall be appointed for each designated police station.

(2) A custody officer for a designated police station shall be appointed by the Chief Officer or by any other officer of the Force that the Chief Officer may direct.

(3) No-one may be appointed a custody officer unless he is an officer of the Force of at least the rank of sergeant.

(4) Any officer of the Force may perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.

(5) Subject to this Article and to Article 37, none of the functions of a custody officer in relation to a person shall be performed by an officer who, at the time when the function falls to be performed, is involved in the investigation of an offence for which that person is in police detention at that time.

(6) Nothing in paragraph (5) shall be taken to prevent a custody officer –

(a) performing any function assigned to custody officers by this Law or by a code of practice brought into operation under this Law;

(b) carrying out the provisions of Article 37;

(c) doing anything in connection with the identification of a suspect; or

(d) doing anything under Articles 29 and 30 of the Road Traffic (Jersey) Law 1956.[40]

(7) Where an arrested person is taken to a police station which is not a designated police station, the functions in relation to him which at a designated police station would be the functions of a custody officer shall be performed –

(a) by an officer of the Force who is not involved in the investigation of an offence for which he is in police detention, if such an officer is readily available; and

(b) if such an officer is not readily available, by the police officer who took him to the station or any other police officer.

(8) References to a custody officer in the following provisions of this Law include references to a police officer other than a custody officer who is performing the functions of a custody officer by virtue of paragraph (4) or (7).

(9) Where by virtue of paragraph (7) a police officer who took an arrested person to a police station is to perform the functions of a custody officer in relation to him, the officer shall, as soon as practicable, inform an officer of the Force who is attached to a designated police station and is of at least the rank of inspector, that he is to do so.

35 Duties of custody officer before charge

(1) Where a person is arrested for an offence, the custody officer at each police station where he is detained after his arrest –

(a) shall, as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest, determine whether there is, in his opinion, sufficient evidence to charge that person with the offence for which he was arrested; and

(b) may detain the person arrested at the police station for any period necessary to enable him to make that determination and for any further period necessary to enable that person to be charged.

(2) If the custody officer determines that there is not that evidence, he shall release the person arrested either on bail or without bail, unless he has reasonable grounds for believing that the person's detention without being charged is necessary –

(a) to secure or preserve evidence relating to an offence for which he is under arrest; or

(b) to obtain that evidence by questioning him.

(3) If the custody officer has reasonable grounds for so believing, he may authorize the person arrested to be kept in police detention.

(4) Where a custody officer authorizes a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.

(5) Subject to paragraph (6), the written record shall be made in the presence of the person arrested who shall at that time be informed by the custody officer of the grounds for his detention.

(6) Paragraph (5) shall not apply where the person arrested is, at the time when the written record is made –

(a) incapable of understanding what is said to him;

(b) violent or likely to become violent; or

(c) in urgent need of medical attention.

(7) Subject to Article 39(3), if the custody officer determines that there is, in his opinion, sufficient evidence to charge the person arrested with the offence for which he was arrested, that officer –

(a) shall arrange for a Centenier to attend the police station as soon as reasonably practicable to consider whether the person should be charged; and

(b) may either detain the person arrested to await the arrival of the Centenier or release that person, with or without bail.[41]

(8) The Centenier who attends the police station may charge the person arrested or release him without charge, with or without bail, and where, at the time of his release, a decision has not been taken whether he should be charged with the offence for which he was arrested, the custody officer shall so inform him.[42]

(9) Subject to Article 39(3), if the person arrested is not in a fit state to be dealt with under paragraph (7), he may be kept in police detention until he is.

36 Duties of Centenier after charge[43]

(1) This Article applies to a person in police detention and for the purposes of this Article only, the expression 'police detention' includes a person who attends voluntarily at, or accompanies a police officer to a police station, but who is not arrested at the station.

(2) Where a Centenier charges a person in police detention with an offence, the Centenier shall order the person's release from police detention, either on bail or without bail, unless –

(a) the person's name or address cannot be ascertained or the Centenier has reasonable grounds for doubting whether a name or address given by the person as his or her name or address is that person's real name or address;

(b) the Centenier has reasonable grounds for believing that the person will, if granted bail, fail to surrender to the custody of the court at the time and place appointed for the person to do so;

(c) the Centenier has reasonable grounds for believing that the detention of the person is necessary to prevent him or her from committing an offence or, in the case of a child or young person, from committing a serious offence;

(d) in the case of a person of full age, the Centenier has reasonable grounds for believing that the detention of the person is necessary to enable a sample to be taken from him under Article 59;

(e) the Centenier has reasonable grounds for believing that the detention of the person is necessary to prevent him or her from interfering with the administration of justice or with the investigation of offences or of a particular offence; or

(f) the Centenier has reasonable grounds for believing that the detention of the person is necessary for his or her own protection.[44]

(3) If the Centenier does not order the release of a person charged with an offence ('person charged') from police detention under paragraph (2), the Centenier shall authorize the keeping of that person in police detention but may not authorize that he or she be kept in police detention by virtue of sub-paragraph (d) after the end of the period of 6 hours beginning from the time at which that person was charged with the offence.

(4) If, under paragraph (3), the Centenier authorizes that a person charged be kept in police detention, the Centenier shall, as soon as practicable, make a written record of the grounds for the detention.

(5) Subject to paragraph (6), the written record shall be made in the presence of the person charged who shall at that time be informed by the Centenier of the grounds for his or her detention.

(6) Paragraph (5) shall not apply where the person charged is, at the time when the written record is made –

(a) incapable of understanding what is said to him or her;

(b) violent or likely to become violent; or

(c) in urgent need of medical attention.

(7) [45]

(8) [46]

(9) [47]

36A Appropriate place of detention for children or young people kept in police detention[48]

(1) This Article applies if a Centenier authorises that a child or young person charged with an offence is to be kept in police detention under Article 36(3).

(2) The Centenier must, pending the child's or young person's attendance before the relevant court, ensure that the child or young person is transferred to an appropriate place of detention as soon as practicable.

(3) An appropriate place of detention is –

(a) suitable accommodation provided by the Minister for Children and Families under Article 22B of the Children (Jersey) Law 2002 ("suitable accommodation"); or

(b) secure accommodation.

(4) Unless paragraph (5) applies, a Centenier must ensure that the child or young person is transferred to suitable accommodation.

(5) A Centenier must not transfer a child or young person to secure accommodation instead of suitable accommodation unless 1 or more of the following conditions apply –

(a) the Centenier has reasonable grounds for believing that detaining the child or young person in suitable accommodation would not adequately –

(i) prevent the occurrence of any of the grounds set out in Article 36(2)(b), (c) or (e);

(ii) protect the child or young person as required under Article 36(2)(f); or

(iii) prevent the child or young person from injuring themselves or other people;

(b) it is impracticable for the Centenier to transfer the child or young person to suitable accommodation;

(c) there is no available suitable accommodation to which the child or young person may be transferred.

(6) The Centenier must, upon the child's or young person's attendance before the relevant court, produce a certificate to the court certifying which of the conditions under paragraph (5) apply and –

(a) if paragraph (5)(a) applies, the Centenier must also state in the certificate the grounds for the Centenier's belief; or

(b) if paragraph (5)(b) applies, the Centenier must also state in the certificate why the transfer is impracticable.

(7) A Centenier must not authorise the continued keeping in police detention at a police station of a child or young person unless –

(a) it is impracticable for the Centenier to transfer the child or young person to secure accommodation under paragraph (5); or

(b) there is no available secure accommodation to which the child or young person may be transferred under paragraph (5).

(8) The Centenier must, upon the child's or young person's attendance before the relevant court, produce a certificate to the court certifying which of the conditions under paragraph (7) apply and, if paragraph (7)(a) applies, the Centenier must also state in the certificate why the transfer is impracticable.

(9) For the purpose of ensuring a child's or young person's transfer to an appropriate place of detention, it is lawful for a person acting on behalf of the Minister for Children and Families to carry out the transfer of that child or young person to the appropriate place of detention, and to detain them for the purpose of carrying out that transfer.

(10) In this Article, "relevant court" means –

(a) the Youth Court; or

(b) if Article 26(1)(a) or (b) of the Young Offenders Law applies, the Magistrate's Court.

37 Responsibilities in relation to persons detained

(1) Subject to paragraphs (2) and (4), the custody officer at a police station shall ensure –

(a) that all persons in police detention at that station are treated in accordance with this Law and any code of practice brought into operation under it and relating to the treatment of persons in police detention; and

(b) that all matters relating to those persons which are required by this Law or by any codes of practice to be recorded are recorded in the custody records relating to those persons.

(2) If the custody officer, in accordance with any code of practice brought into operation under this Law, transfers or permits the transfer of a person in police detention to the custody of a police officer investigating an offence for which that person is in police detention or to the custody of a police officer who has charge of that person outside the police station –

(a) paragraph (1)(a) ceases to apply to the custody officer in relation to that person; and

(b) the police officer to whom the transfer is made shall ensure that the person is treated in accordance with the provisions of this Law and of any codes of practice as are mentioned in paragraph (1).[49]

(3) If the person detained is subsequently returned to the custody of the custody officer, the police officer investigating the offence shall report to the custody officer as to

the manner in which this Article and the codes of practice have been complied with while that person was in his custody.

(4) If a child or young person is transferred to an appropriate place of detention under Article 36A(2), paragraph (1) ceases to apply to the custody officer in relation to that child or young person.[50]

(5) Where a police officer of higher rank than the custody officer gives directions relating to a person in police detention and the directions are at variance with any decision made or action taken by the custody officer under this Part or with the decision or action which would but for the directions have been made or taken by him, the custody officer shall refer the matter at once to an officer of the Force of at least the rank of chief inspector.

38 Review of police detention

(1) Reviews of the detention of each person in police detention in connection with the investigation of an offence shall be carried out in accordance with this Article –

(a) in the case of a person who has been charged with an offence (regardless of whether or not he or she was arrested before being charged), by the Centenier who preferred the charge or, if that Centenier is not immediately available, another Centenier;

(b) in the case of a person who has been arrested but not charged, by an officer of the Force of at least the rank of inspector who has not been directly involved in the investigation.[51]

(2) The officer to whom it falls to carry out a review is referred to in this Article as a "review officer".

(3) In respect of a person to whom paragraph (1)(a) applies –

(a) the custody officer shall, at any time that it appears to him that the grounds for the detention of that person have ceased to apply and that it does not appear to him that there are any other grounds on which the continued detention of that person could be justified under the provisions of this Part, request the review officer to review the detention of that person; and

(b) the review officer shall, without delay, carry out the review.

(4) In respect of a person to whom paragraph (1)(b) applies –

(a) the first review shall be not later than 6 hours after the detention was first authorized;

(b) the second review shall be not later than 9 hours after the first;

(c) subsequent reviews shall be at intervals of not more than 9 hours.

(5) A review may be postponed –

(a) if, having regard to all the circumstances prevailing at the time for it specified in paragraph (3) or (4), it is not practicable to carry out the review at that time; or

(b) without prejudice to the generality of sub-paragraph (a) –

(i) if at that time the person in detention is being questioned by a police officer and the review officer is satisfied that an interruption of the

questioning for the purpose of carrying out the review would prejudice the investigation in connection with which he is being questioned, or

(ii) if at that time no review officer is readily available.

(6) If a review is postponed under paragraph (5) it shall be carried out –

(a) in a case to which paragraph (3) applies, as soon as is practicable; or

(b) in a case to which paragraph (4) applies, as soon as is practicable after the latest time specified for it in that paragraph.

(7) If a review is carried out after postponement under paragraph (5), the fact that it was so carried out shall not affect any requirement of this Article as to the time at which any subsequent review is to be carried out.

(8) The review officer shall record the reasons for any postponement of a review in the custody record.

(9) Subject to paragraph (10), where the person whose detention is under review has not been charged before the time of the review, Article 35(1) to (6) shall have effect in relation to him, but with the substitution –

(a) of references to the person whose detention is under review for references to the person arrested; and

(b) of references to the review officer for references to the custody officer.

(10) Where a person has been kept in police detention by virtue of Article 35(9), paragraphs (1) to (6) of that Article shall not have effect in relation to him but the review officer shall determine whether he is yet in a fit state.

(11) Where the person whose detention is under review has been charged before the time of the review, Article 36 or 36A shall have effect in relation to him or her.[52]

(12) Where a person whose detention is under review is a person to whom paragraph (1)(b) refers and an officer of higher rank than the review officer gives directions relating to that person which are at variance with any decision made or action taken by the review officer under this Part or with any decision or action which would but for the directions have been made or taken by him, the review officer shall refer the matter at once to an officer of the Force of at least the rank of chief inspector.

(13) Before determining whether to authorize a person's continued detention the review officer shall give that person, unless he is asleep, or any legal representative of his who is available at the time of the review, an opportunity to make representations to him about the detention.

(14) Subject to paragraph (15), the person whose detention is under review or his legal representative may make representations under paragraph (13) either orally or in writing.

(15) The review officer may refuse to hear oral representations from the person whose detention is under review if he considers that he is unfit to make those representations by reason of his condition or behaviour.

39 Limits on period of detention without charge

(1) Subject to this Article and to Articles 40 and 41, a person shall not be kept in police detention for more than a period of 24 hours without being charged.

(2) When a person who is in police detention is removed to hospital because he is in need of medical treatment, any time during which he is being questioned in hospital or on the way there or back by a police officer for the purpose of obtaining evidence relating to an offence shall be included in any period which falls to be calculated for the purposes of this Part, but any other time while he is in hospital or on his way there or back shall not be so included.

(3) Subject to paragraph (4), a person who at the expiry of 24 hours after the relevant time is in police detention and has not been charged shall be released at that time either on bail or without bail.

(4) Paragraph (3) shall not apply to a person whose detention for more than 24 hours after the relevant time has been authorized or is otherwise permitted in accordance with Article 40 or 41.

(5) A person released under paragraph (3) shall not be re-arrested for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release, but this paragraph shall not prevent an arrest under Article 44.

40 Authorization of continued detention

(1) Where an officer of the Force of at least the rank of chief inspector has reasonable grounds for believing –

(a) that the detention of a person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain that evidence by questioning him;

(b) that an offence for which the person is under arrest is a serious offence; and

(c) that the investigation is being conducted diligently and expeditiously,

he may authorize the keeping of that person in police detention for a period expiring at or before 48 hours after the relevant time.[53]

(2) Where an officer mentioned in paragraph (1) has authorized the keeping of a person in police detention for a period expiring less than 48 hours after the relevant time, that officer may authorize the keeping of that person in police detention for a further period expiring not more than 48 hours after that time if the conditions specified in paragraph (1) are still satisfied when he gives the authorization.[54]

(3) No authorization under paragraph (1) shall be given in respect of any person –

(a) more than 24 hours after the relevant time; or

(b) before the second review of his detention under Article 38 has been carried out.

(4) Where an officer authorizes the keeping of a person in police detention under paragraph (1), he shall –

(a) inform that person of the grounds for his continued detention; and

(b) record the grounds in that person's custody record.

(5) Before determining whether to authorize the keeping of a person in detention under paragraph (1) or (2), the officer shall give that person or any legal representative of his who is available at the time when it falls to the officer to determine whether to

give the authorization, an opportunity to make representations to him about the detention.

(6) Subject to paragraph (7), the person in detention or his legal representative may make representations under paragraph (5) either orally or in writing.

(7) The officer to whom it falls to determine whether to give the authorization may refuse to hear oral representations from the person in detention if he considers that he is unfit to make those representations by reason of his condition or behaviour.

(8) Where an officer authorizes the keeping of a person in detention under paragraph (1) and at the time of the authorization he has not yet exercised a right conferred on him by Article 52 or 54, the officer shall inform him of that right, shall decide whether he should be permitted to exercise it, shall record the decision in his custody record and if the decision is to refuse to permit the exercise of the right, shall also record the grounds for the decision in that record.

(9) Where an officer has authorized the keeping of a person who has not been charged in detention under paragraph (1) or (2), the custody officer shall release him from detention, either on bail or without bail, not later than 48 hours after the relevant time, unless –

(a) he has been charged with an offence; or

(b) his continued detention is authorized or otherwise permitted in accordance with Article 41.[55]

(10) A person released under paragraph (9) shall not be re-arrested for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release but this paragraph shall not prevent an arrest under Article 44.

40A Applications under Article 41 or 42[56]

In relation to any application made under Article 41 or 42, nothing in those Articles shall be taken to require the Magistrate to sit on a Sunday.

41 Warrants of further detention

(1) Where on an application on oath made by a police officer and supported by information in writing the Magistrate is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, he may issue a warrant of further detention authorizing the keeping of that person in police detention.

(2) The Magistrate may not hear an application for a warrant of further detention unless the person to whom the application relates –

(a) has been given a copy of the information; and

(b) has been brought before the Magistrate's Court for the hearing.

(3) An application for a warrant of further detention shall not be heard in open court.

(4) The person to whom the application relates shall be entitled to be legally represented at the hearing and, if he is not so represented but wishes to be so represented –

(a) the Magistrate shall adjourn the hearing to enable him to obtain representation; and

(b) he may be kept in police detention during the adjournment.

(5) A person's further detention is only justified for the purposes of this Article or Article 42 if –

(a) his detention without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain that evidence by questioning him;

(b) an offence for which he is under arrest is a serious offence; and

(c) the investigation is being conducted diligently and expeditiously.

(6) An application for a warrant of further detention may be made at any time before the expiry of 48 hours after the relevant time.[57]

(6A) This paragraph applies in a case where it is a Sunday or a day where it is not otherwise practicable for the court to sit at the expiry of 48 hours after the relevant time.[58]

(6B) Where paragraph (6A) applies –

(a) subject to paragraph (8), an application for a warrant of further detention may be made as soon as practicable after the expiry of 48 hours after the relevant time but before the expiry of 72 hours after the relevant time;

(b) an officer of the Force of at least the rank of superintendent must, before the expiry of 48 hours after the relevant time, provide the custody officer with written authorization to make an application under sub-paragraph (a); and

(c) the court must sit during the 24 hours following the expiry of the 48 hours after the relevant time.[59]

(7) Where an application for a warrant of further detention is made under paragraph (6B) –

(a) the person to whom the application relates may be kept in police detention until the application is heard; and

(b) the custody officer shall –

(i) make a note in that person's custody record of the fact that he or she was kept in police detention for more than 48 hours after the relevant time, and of the reason why he or she was so kept, and

(ii) as soon as possible after the expiry of the 48 hours after the relevant time, notify the Attorney General of the fact that the person has been kept in police detention for more than 48 hours after the relevant time.[60]

(8) If an application for a warrant of further detention is made after the expiry of 48 hours after the relevant time and it appears to the court that it would have been reasonable for a police officer to make it before the expiry of that period, the court shall dismiss the application.[61]

(9) Where, on an application mentioned in paragraph (1), the Magistrate is not satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified he shall –

(a) refuse the application; or

(b) adjourn the hearing of it until a time not later than 48 hours after the relevant time.[62]

(10) The person to whom the application relates may be kept in police detention during the adjournment.

(11) A warrant of further detention shall state the time at which it is issued and authorize the keeping in police detention of the person to whom it relates for the period stated in it.

(12) Subject to paragraph (13), the period stated in a warrant of further detention shall be any period the court thinks fit, having regard to the evidence before it.

(13) The period shall not be longer than 48 hours or end later than 96 hours after the relevant time.[63]

(14) Any information submitted in support of an application under this Article shall state –

(a) the nature of the offence for which the person to whom the application relates has been arrested;

(b) the general nature of the evidence on which that person was arrested;

(c) what inquiries relating to the offence have been made by the Force or the Honorary Police and what further inquiries are proposed by them; and

(d) the reasons for believing the continued detention of that person to be necessary for the purposes of those further inquiries.

(15) Where an application under this Article is refused, the person to whom the application relates shall forthwith be charged or, subject to paragraph (16), released by the custody officer, either on bail or without bail.

(16) A person need not be released under paragraph (15) –

(a) before the expiry of 24 hours after the relevant time; or

(b) before the expiry of any longer period for which his continued detention is or has been authorized under Article 40.

(17) Where an application under this Article is refused, no further application shall be made under this Article in respect of the person to whom the refusal relates, unless supported by evidence which has come to light since the refusal.

(18) Where a warrant of further detention is issued, the person to whom it relates shall be released by the custody officer from police detention, either on bail or without bail, upon or before the expiry of the warrant unless he is charged.

(19) A person released under paragraph (18) shall not be re-arrested for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release, but this paragraph shall not prevent an arrest under Article 44.

42 Extension of warrants of further detention

(1) On an application on oath made by a police officer and supported by information in writing the Magistrate may extend a warrant of further detention issued under Article 41 if he is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified.

(2) Subject to paragraph (3), the period for which a warrant of further detention may be extended shall be any period the court thinks fit, having regard to the evidence before it.

(3) The period shall not be longer than 36 hours or end later than 96 hours after the relevant time.

(4) Where a warrant of further detention has been extended under paragraph (1), or further extended under this paragraph, for a period ending before 96 hours after the relevant time, on an application mentioned in that paragraph, the Magistrate may further extend the warrant if he is satisfied as there mentioned, and paragraphs (2) and (3) apply to any further extensions as they apply to extensions under paragraph (1).

(5) A warrant of further detention shall, if extended or further extended under this Article, be endorsed with a note of the period of the extension.

(6) Article 41(2), (3), (4) and (14) shall apply to an application made under this Article as they apply to an application made under that Article.

(7) Where an application under this Article is refused, the person to whom the application relates shall forthwith be charged or, subject to paragraph (8), released by the custody officer, either on bail or without bail.

(8) A person need not be released under paragraph (7) before the expiry of any period for which a warrant of further detention issued in relation to him has been extended or further extended on an earlier application made under this Article.

Detention – miscellaneous

43 Detention after charge[64]

(1) Paragraph (2) applies if a person is charged with an offence and after being charged –

(a) is kept in police detention under Article 36(3);

(b) is detained in custody in prison under an Article 28A authorisation; or

(c) in the case of a child or young person, is detained in an appropriate place of detention described in Article 36A(3).

(2) Unless paragraph (6) applies, the person must be brought before the court as soon as practicable and, in any event, within the period of 48 hours beginning with the time when they were charged with the offence.[65]

(3) Christmas Day, Good Friday and Sundays are disregarded for the purpose of calculating the period specified in paragraph (2).

(4) Paragraph (5) applies if the court is not due to sit within the period specified in paragraph (2).[66]

(5) The custody officer must inform the Judicial Greffier that there is a person to whom paragraph (2) applies, and the Judicial Greffier must arrange for the court to sit within the period specified in paragraph (2).[67]

(6) A person who is in hospital is not required to be brought before the court if they are not well enough.[68]

(7) [69]

44 Power of arrest for breach of bail[70]

(1) This Article applies to a person granted bail under this Part.

(2) A police officer may arrest the person if the person does not comply with a requirement, or breaches any condition of bail imposed in accordance with Article 30 or 31B.

(3) A person arrested under paragraph (2) shall be taken to a designated police station as soon as practicable after arrest.

45 Further provisions after arrest

(1) Nothing shall prevent the re-arrest of a person released on bail to attend at a police station if new evidence justifying a further arrest has come to light since his release.

(3) Where a person who has been granted bail and either has attended at the police station in accordance with the grant of bail or has been arrested under Article 44 is detained at a police station, any time during which he was in police detention prior to being granted bail shall be included as part of any period which falls to be calculated under this Part.

(4) Where a person who was released on bail to attend at a police station is re-arrested, this Part shall apply to him as it applies to a person arrested for the first time, but this paragraph shall not apply to a person who is arrested under Article 44 or has attended a police station to answer bail, and who accordingly is treated by Article 32(6) as arrested for an offence.

46 Remands in police custody

(1) Where the Magistrate's Court has power to remand a person in custody it may, if the remand is for a period not exceeding 3 days, commit him to detention at a police station.

(2) Where a person is committed to detention at a police station under paragraph (1) –

(a) he shall not be kept in that detention unless there is a need for him to be so detained for the purposes of inquiries into other offences;

(b) if kept in that detention, he shall be brought back before the court as soon as that need ceases;

(c) he shall be treated as a person in police detention to whom the duties under Article 37 relate; and

(d) his detention shall be subject to periodic review at the times set out in Article 38.

47 Records of detention

(1) The Chief Officer shall cause the Force to keep written records showing for each year –

(a) the number of persons kept in police detention for more than 24 hours and subsequently released without charge;

(b) the number of applications for warrants of further detention and the results of the applications; and

(c) in relation to each warrant of further detention –

(i) the period of further detention authorized by it,

(ii) the period which the person named in it spent in police detention on its authority, and

(iii) whether he was charged or released without charge.

(2) Every annual report made by the Chief Officer shall contain information about the matters mentioned in paragraph (1) in respect of the period to which the report relates.

48 Savings[71]

Nothing in this Part shall affect –

(a) the powers conferred on immigration officers by section 4 of and Schedule 2 to the Immigration Act 1971;

(b) the powers conferred by virtue of Article 37 of or Schedule 8 to the Terrorism (Jersey) Law 2002;

(c) any duty of a police officer under –

(i) section 129, 190 or 202 of the Army Act 1955 of the United Kingdom as applied to the Island by the Army Act 1955 (Jersey) Order 1996;

(ii) section 129, 190 or 202 of the Air Force Act 1955 of the United Kingdom as applied to the Island by the Air Force Act 1955 (Jersey) Order 1996; or

(iii) section 107 of the Naval Discipline Act 1957 of the United Kingdom as applied to the Island by the Naval Discipline Act 1955 (Jersey) Order 1996;

(d) any right of a person in police detention to apply for a writ of habeas corpus or other prerogative remedy.

48A Criminal Procedure Rules for purposes of Part 5[72]

The power to make Criminal Procedure Rules under Article 112 of the Criminal Procedure Law includes the power to make rules for the purposes of this Part.

PART 6

QUESTIONING AND TREATMENT OF PERSONS BY POLICE OFFICERS

49 Fingerprinting of certain offenders

(1) If a person has been convicted of a relevant offence, has not at any time been in police detention for the offence and has not had his or her fingerprints taken in the course of the investigation of the offence by the police or since the conviction, any

police officer may at any time not later than one month after the date of the conviction require the person to attend a police station in order that his or her fingerprints may be taken.

(2) Where a person convicted of a relevant offence has had his or her fingerprints taken, either in the course of the investigation by the police or since the conviction and –

(a) the fingerprints taken do not constitute a complete set of fingerprints; or

(b) some or all of the fingerprints taken are not of sufficient quality to allow satisfactory analysis, comparison or matching,

any police officer may, at any time not later than one month after the date of the conviction or, if later, the date on which some or all of the fingerprints are found to be not of such quality, require the person to attend a police station in order that his or her fingerprints may be taken again.

(3) A requirement under paragraph (1) or (2) –

(a) shall give the person a period of at least 7 days within which he or she shall so attend; and

(b) may direct the person to so attend at a specified time of day or between specified times of day.

(4) Any police officer may arrest a person who has failed to comply with a requirement under paragraph (1) or (2).

(5) The Minister may by Order specify offences that are relevant offences for the purposes of this Law.

50 Searches of detained persons

(1) The custody officer at a police station shall ascertain and record or cause to be recorded everything which a person has with him or her when he or she is –

(a) brought to the station after being arrested elsewhere or after being committed to custody by an order or sentence of a court; or

(b) arrested at the station or detained there, as a person falling within Article 32(6), under Article 35.

(2) In the case of an arrested person the record shall be made as part of his or her custody record.

(3) Subject to paragraph (4), a custody officer may seize and retain that thing or cause that thing to be seized and retained.

(4) Clothes and personal effects may only be seized if the custody officer –

(a) believes that the person from whom they are seized may use them –

(i) to cause physical injury to himself or herself or any other person,

(ii) to damage property,

(iii) to interfere with evidence, or

(iv) to assist the person to escape;

or

(b) has reasonable grounds for believing that they may be evidence relating to an offence.

(5) Where anything is seized, the person from whom it is seized shall be told the reason for the seizure unless the person is –

(a) violent or likely to become violent; or

(b) incapable of understanding what is said to him or her.

(6) Subject to paragraph (10), a person may be searched if the custody officer considers it necessary to enable the officer to comply with paragraph (1) and to the extent that the custody officer considers necessary for that purpose.

(7) Subject to paragraph (10), a person who is in custody at a police station or is in police detention otherwise than at a police station may at any time be searched in order to ascertain whether the person has with him or her anything which the person could use for the purposes specified in paragraph (4)(a).

(8) Subject to paragraph (9), a police officer may seize and retain, or cause to be seized and retained, anything found in that search.

(9) A police officer may only seize clothes and personal effects in the circumstances specified in paragraph (4).

(10) An intimate search may not be conducted under this Article.

(11) A search under this Article shall be carried out by a police officer.[73]

(12) The police officer carrying out a search shall be of the same sex as the person searched.[74]

51 Intimate searches

(1) Subject to this Article, an officer of the Force of at least the rank of inspector may authorize an intimate search of a person who has been arrested and is in police detention if the officer has reasonable grounds for believing –

(a) that that person may have concealed on him or her anything which the person could use to cause physical injury to himself or herself or others and which the person might so use while he or she is in police detention or in the custody of a court; or

(b) that that person may have concealed on him or her a controlled drug, as defined in Article 3(1)(a) of the Misuse of Drugs (Jersey) Law 1978, and was in possession of it with the appropriate criminal intent before his or her arrest.

(2) An officer may not authorize an intimate search of a person for anything unless the officer has reasonable grounds for believing that it cannot be found without that person being intimately searched.

(3) An officer may give an authorization under paragraph (1) orally or in writing but, if the officer gives it orally, the officer shall confirm it in writing as soon as is practicable.

(4) An intimate search which is only a drug offence search shall be by way of examination by a registered medical practitioner.

(5) Except as provided by paragraph (4), an intimate search shall be by way of examination by a registered medical practitioner unless an officer of the Force of at least the rank of inspector considers that this is not practicable.

(6) An intimate search which is not carried out as mentioned in paragraph (5) shall be carried out by an officer of the Force.

(7) An officer of the Force may not carry out an intimate search of a person of the opposite sex.

(8) No intimate search may be carried out except –

(a) at a police station;

(b) at a hospital;

(c) at a registered medical practitioner's surgery; or

(d) at some other place used for medical purposes.

(9) An intimate search which is only a drug offence search may not be carried out at a police station.

(10) If an intimate search of a person is carried out, the custody record relating to the person shall state which parts of the person's body were searched and why they were searched.

(11) The information required to be recorded by paragraph (10) shall be recorded as soon as practicable after the completion of the search.

(12) The custody officer at a police station may seize and retain anything which is found on an intimate search of a person, or cause it to be seized and retained –

(a) if the officer believes that the person from whom it is seized may use it –

(i) to cause physical injury to himself or herself or any other person,

(ii) to damage property,

(iii) to interfere with evidence, or

(iv) to assist him or her to escape;

or

(b) if the officer has reasonable grounds for believing that it may be evidence relating to an offence.

(13) Where anything is seized under this Article, the person from whom it is seized shall be told the reason for the seizure unless the person is –

(a) violent or likely to become violent; or

(b) incapable of understanding what is said to him or her.

(14) Every annual report made by the Chief Officer shall contain information about searches under this Article which have been carried out during the period to which it relates.

(15) The information about those searches shall include –

(a) the total number of searches;

(b) the number of searches conducted by way of examination by a registered medical practitioner;

(c) the number of searches not so conducted but conducted in the presence of that person; and

(d) the result of the searches carried out.

(16) The information shall also include, as separate items, the total number of drug offence searches and the result of those searches.

(17) In this Article –

"the appropriate criminal intent" means an intent to commit an offence under –

(a) Article 8(2) of the Misuse of Drugs (Jersey) Law 1978; or

(b) Article 61 of the Customs and Excise (Jersey) Law 1999;

"drug offence search" means an intimate search for a controlled drug which an officer has authorized by virtue of paragraph (1)(b).

52 Right to have someone informed when arrested

(1) Where a person has been arrested and is being held in custody in a police station or on other premises, the person shall be entitled, if he or she so requests, to have one friend or relative or other person who is known to the person or who is likely to take an interest in the person's welfare told, as soon as is practicable except to the extent that delay is permitted by this Article, that the person has been arrested and is being detained there.

(2) Delay is only permitted in the case of a person who is in police detention for a serious offence and if an officer of the Force of at least the rank of inspector authorizes it.

(3) In any case the person in custody shall be permitted to exercise the right conferred by paragraph (1) within 36 hours from the relevant time.

(4) An officer may give an authorization under paragraph (2) orally or in writing but, if the officer gives it orally, the officer shall confirm it in writing as soon as is practicable.

(5) Subject to paragraph (6), an officer may only authorize delay where the officer has reasonable grounds for believing that telling the named person of the arrest –

(a) will lead to interference with or harm to evidence connected with a serious offence or interference with or physical injury to other persons;

(b) will lead to the alerting of other persons suspected of having committed that offence but not yet arrested for it; or

(c) will hinder the recovery of any property obtained as a result of that offence.

(6) An officer may also authorize delay where the serious offence is a money laundering offence and the officer has reasonable grounds for believing –

(a) that the detained person has benefited from the offence; and

(b) that telling the named person of the arrest will hinder the recovery of the value of the property obtained, or of the pecuniary advantage derived, by the detained person from or in connection with the offence.[75]

(7) If a delay is authorized the detained person shall be told the reason for it and the reason shall be noted on the person's custody record.

(8) The duties imposed by paragraph (7) shall be performed as soon as is practicable.

(9) The rights conferred by this Article on a person detained at a police station or other premises are exercisable whenever the person is transferred from one place to another, and this Article applies to each subsequent occasion on which they are exercisable as it applies to the first occasion.

(10) There shall be no further delay in permitting the exercise of the right conferred by paragraph (1) once the reason for authorizing delay ceases to subsist.

(11) Nothing in this Article shall apply to a person detained under the terrorism provisions.[76]

(12) [77]

53 Additional rights of persons not of full age who are arrested

(1) Where a person not of full age is in police detention, any steps which are practicable shall be taken to ascertain the identity of a person responsible for his or her welfare.

(2) Where the identity of a person responsible for the welfare of the person detained can be ascertained the person responsible shall be informed, as soon as practicable –

(a) that the person has been arrested;

(b) why the person has been arrested; and

(c) where the person is being detained.

(3) For the purposes of this Article the persons who may be responsible for the welfare of a person not of full age are –

(a) his or her parent or guardian; or

(b) any other person who has for the time being assumed responsibility for his or her welfare.

(4) If it appears that at the time of the person's arrest a supervision order or interim supervision order made under the Children (Jersey) Law 2002 is in force in respect of the person, the person responsible for his or her supervision shall also be informed as described in paragraph (2) as soon as it is reasonably practicable to do so.

(5) The rights conferred on a person not of full age by paragraphs (2) to (4) are in addition to his or her rights under Article 52.

(6) The reference in paragraph (1) to a person not of full age who is in police detention includes a reference to a like person who has been detained under the terrorism provisions, and in paragraph (2) any reference to arrest includes that detention.

54 Access to legal advice

(1) A person arrested and held in custody in a police station or other premises shall be afforded facilities, if the person so requests, to consult a legal representative in private at any time, by telephone, in writing or in person.

(2) Subject to paragraph (3), a request under paragraph (1) and the time at which it was made shall be recorded in the custody record.

(3) That request need not be recorded in the custody record of a person who makes it at a time while the person is at a court after being charged with an offence.

(4) If a person makes that request, the person shall be afforded the facilities to consult a legal representative as soon as is practicable except to the extent that delay is permitted by this Article.

(5) In any case the person shall be afforded the facilities to consult a legal representative within 36 hours from the relevant time.

(6) Delay in compliance with a request is only permitted in the case of a person who is in police detention for a serious offence and if an officer of the Force of at least the rank of chief inspector authorizes it.

(7) An officer may give an authorization under paragraph (6) orally or in writing but, if the officer gives it orally, the officer shall confirm it in writing as soon as is practicable.

(8) Subject to paragraph (9), an officer may only authorize delay where the officer has reasonable grounds for believing that the exercise of the right conferred by paragraph (1) at the time when the person detained desires to exercise it –

(a) will lead to interference with or harm to evidence connected with a serious offence or interference with or physical injury to other persons;

(b) will lead to the alerting of other persons suspected of having committed that offence but not yet arrested for it; or

(c) will hinder the recovery of any property obtained as a result of that offence.

(9) An officer may also authorize delay where the serious offence is a money laundering offence and the officer has reasonable grounds for believing –

(a) that the detained person has benefited from the offence; and

(b) that telling the named person of the arrest will hinder the recovery of the value of the property obtained, or of the pecuniary advantage derived, by the detained person from or in connection with the offence.[78]

(10) If delay is authorized the detained person shall be told the reason for it and the reason shall be noted on the person's custody record.

(11) The duties imposed by paragraph (10) shall be performed as soon as is practicable.

(12) There shall be no further delay in permitting the exercise of the right conferred by paragraph (1) once the reason for authorizing delay ceases to subsist.

(13) Nothing in this Article shall apply to a person detained under the terrorism provisions.[79]

(14) [80]

(15) [81]

(16) [82]

(17) [83]

55 Fingerprinting

(1) Except as provided by this Article no person's fingerprints shall be taken without the appropriate consent.

(2) Consent to the taking of a person's fingerprints shall be in writing if it is given at a time when the person is at a police station.

(3) The fingerprints of a person detained at a police station may be taken without the appropriate consent –

(a) if an officer of the Force of at least the rank of inspector authorizes them to be taken; or

(b) if the person has been charged with a relevant offence or informed that he or she may be prosecuted for such an offence and the person has not had his or her fingerprints taken in the course of the investigation of the offence by the police.

(4) Where a person detained at a police station and charged with a relevant offence or informed that he or she will be prosecuted for such an offence has had his or her fingerprints taken in the course of the investigation of the offence by the police, the person's fingerprints may be taken again, without the appropriate consent, if –

(a) the fingerprints taken on the previous occasion do not constitute a complete set of his or her fingerprints; or

(b) some or all of the fingerprints taken on the previous occasion are not of sufficient quality to allow satisfactory analysis, comparison or matching (whether in the case in question or generally).

(5) An officer may only give an authorization under paragraph (3)(a) if the officer has reasonable grounds –

(a) for suspecting the involvement of the person whose fingerprints are to be taken in a criminal offence; and

(b) for believing that the person's fingerprints will tend to confirm or disprove such involvement.

(6) The fingerprints of a person who has answered to bail at a court or police station may be taken, without the appropriate consent, at the court or police station if the court or an officer of the Force of at least the rank of inspector authorizes them to be taken.

(7) A court or officer may only give an authorization under paragraph (6) if –

(a) the person who has answered to bail has answered to it for a person whose fingerprints were taken on a previous occasion and there are reasonable grounds for believing that the person who has answered to bail is a different person from the person whose fingerprints were taken previously; or

(b) the person who has answered to bail claims to be a different person from a person whose fingerprints were taken on a previous occasion.

(8) An officer may give an authorization under paragraph (3)(a) or (6) orally or in writing but, if the officer gives it orally, the officer shall confirm it in writing as soon as is practicable.

(9) Any person's fingerprints may be taken without the appropriate consent if the person has been convicted of a relevant offence.

(10) In a case where by virtue of paragraph (3), (4), (6) or (9) a person's fingerprints are taken without the appropriate consent –

(a) the person shall be told the reason before his or her fingerprints are taken; and

(b) the reason shall be recorded as soon as is practicable after the fingerprints are taken.

(11) If a person's fingerprints are taken at a police station, whether with or without the appropriate consent –

(a) before the fingerprints are taken, an officer shall inform the person that they may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the fingerprints have been taken.

(12) If a person is detained at a police station when the fingerprints are taken, the reason for taking them, and in the case falling within paragraph (11), the fact referred to in sub-paragraph (b) of that paragraph shall be recorded on the person's custody record.

(13) Where a person's fingerprints are taken electronically they shall be taken only in such manner and using such devices as the Minister has approved for the purposes of electronic fingerprinting.

(14) Nothing in this Article –

(a) affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971;

(b) applies to a person arrested or detained under the terrorism provisions; or

(c) applies to a person who is arrested under an extradition arrest warrant.[84]

56 Intimate samples

(1) Subject to Article 59, an intimate sample may be taken from a person in police detention, or who is being held in police custody on the authority of a court, only if an officer of the Force of at least the rank of inspector authorizes it to be taken and the appropriate consent is given.

(2) An intimate sample may be taken from a person who is not in police detention but from whom, in the course of the investigation of an offence, 2 or more non-intimate samples suitable for the same means of analysis have been taken which have proved insufficient if an officer of the Force of at least the rank of inspector authorizes it to be taken and the appropriate consent is given.

(3) An officer may only give an authorization under paragraph (1) or (2) if the officer has reasonable grounds –

(a) for suspecting the involvement of the person from whom the sample is to be taken in a relevant offence; and

(b) for believing that the sample will tend to confirm or disprove the person's involvement.

(4) An officer may give an authorization under paragraph (1) or (2) orally or in writing but, if the officer gives it orally, the officer shall confirm it in writing as soon as is practicable.

(5) The appropriate consent shall be given in writing.

(6) Where an authorization has been given and it is proposed that an intimate sample shall be taken in pursuance of the authorization, an officer shall inform the person from whom the sample is to be taken of the giving of the authorization and of the grounds for giving it.

(7) The grounds referred to in paragraph (6) include the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(8) If an intimate sample is taken from a person the authorization by virtue of which it was taken, the grounds for giving the authorization and the fact that the appropriate consent was given, shall be recorded as soon as is practicable after the sample is taken.

(9) If an intimate sample is taken from a person at a police station –

(a) before the sample is taken, an officer shall inform the person that it may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.

(10) If an intimate sample is taken from a person detained at a police station, the matters required to be recorded by paragraph (8) or (9) shall be recorded in the person's custody record.

(11) An intimate sample, other than a sample of urine or a dental impression, may only be taken from a person by a registered medical practitioner or a registered nurse and a dental impression may only be taken by a dentist.[85]

(12) Where the appropriate consent to the taking of an intimate sample from a person was refused without good cause, in any proceedings against that person for an offence a court, in determining whether there is a case to answer and a court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper.

(13) Nothing in this Article affects Articles 28 to 32 of the Road Traffic (Jersey) Law 1956.

(14) Nothing in this Article applies to a person arrested or detained under the terrorism provisions and paragraph (2) shall not apply where the non-intimate samples mentioned in that paragraph where taken under paragraph 11 of Schedule 9 to the Terrorism (Jersey) Law 2002.[86]

57 Other samples

(1) Except as provided by this Article a non-intimate sample may not be taken from a person without the appropriate consent.

(2) Consent to the taking of a non-intimate sample shall be given in writing.

(3) A non-intimate sample may be taken from a person without the appropriate consent if –

(a) the person is in police detention or is being held in custody by the police on the authority of a court; and

(b) an officer of the Force of at least the rank of inspector authorizes it to be taken without the appropriate consent.

(4) A non-intimate sample may be taken from a person, whether or not the person falls within paragraph (3)(a), without the appropriate consent if –

(a) the person has been charged with a relevant offence or informed that he or she may be prosecuted for that offence; and

(b) either the person has not had a non-intimate sample taken from him or her in the course of the investigation of the offence by the police or the person has had a non-intimate sample taken from him or her but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

(5) A non-intimate sample may be taken from a person without the appropriate consent if the person has been convicted of a relevant offence.

(6) An officer may only give an authorization under paragraph (3) if the officer has reasonable grounds –

(a) for suspecting the involvement of the person from whom the sample is to be taken in a relevant offence; and

(b) for believing that the sample will tend to confirm or disprove the person's involvement.

(7) An officer may give an authorization under paragraph (3) orally or in writing but, if the officer gives it orally, the officer shall confirm it in writing as soon as is practicable.

(8) An officer shall not give an authorization under paragraph (3) for the taking from any person of a non-intimate sample consisting of a skin impression if –

(a) a skin impression of the same part of the body has already been taken from that person in the course of the investigation of the offence; and

(b) the impression previously taken is not one that has proved insufficient.

(9) Where an authorization has been given and it is proposed that a non-intimate sample shall be taken in pursuance of the authorization, an officer shall inform the person from whom the sample is to be taken of the giving of the authorization and of the grounds for giving it.

(10) The grounds referred to in paragraph (9) include the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(11) If a non-intimate sample is taken from a person by virtue of paragraph (3) the authorization by virtue of which it was taken and the grounds for giving the authorization, shall be recorded as soon as is practicable after the sample is taken.

(12) In a case where by virtue of paragraph (4) or (5) a sample is taken from a person without the appropriate consent the person shall be told the reason before the sample is taken and the reason shall be recorded as soon as practicable after the sample is taken.

(13) If a non-intimate sample is taken from a person at a police station, whether with or without the appropriate consent –

(a) before the sample is taken, a police officer shall inform the person that it may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.

(14) If a non-intimate sample is taken from a person detained at a police station, the matters required to be recorded by paragraph (11), (12) or (13) shall be recorded in the person's custody record.

(15) Where a non-intimate sample consisting of a skin impression is taken electronically from a person, it must be taken only in such manner, and using such devices, as the Minister has approved for the purpose of the electronic taking of such an impression.

(16) Paragraph (5) shall not apply to persons convicted before this Article comes into force.

(17) Nothing in this Article applies to a person arrested or detained under the terrorism provisions.[87]

(18) Nothing in this Article applies to a person who is arrested under an extradition arrest warrant.[88]

58 Fingerprints and samples - supplementary provisions

(1) Fingerprints or samples or the information derived from samples taken under any power conferred by this Part from a person who has been arrested on suspicion of being involved in a relevant offence or has been charged with or informed that he or she will be prosecuted for such an offence may be checked against other fingerprints or samples or the information derived from other samples –

(a) held in connection with or as a result of an investigation of an offence;

(b) contained in records held by or on behalf of the Force;

(c) contained in any similar records held by a police force elsewhere in the British Islands or in Northern Ireland; or

(d) contained in any similar records held by any other police force or authority, body or person specified pursuant to paragraph (2).

(2) The Minister may by Order specify, for the purposes of paragraph (1)(d) –

(a) any police force of a country or territory outside the British Islands and Northern Ireland;

(b) any person or public authority in the British Islands or Northern Ireland having functions which consist of or include the provision of criminal intelligence, the prevention and detection of serious crime, the investigation of crimes and the charging of offences;

(c) any person or public authority of a country or territory outside the British Islands and Northern Ireland whose functions correspond to those of a police force or otherwise consist of or include the investigation of conduct contrary to the law of that country or territory, or the apprehension of persons guilty of such conduct;

(d) any person with functions under any international agreement which consist of or include –

(i) the investigation of conduct which is unlawful under the law of one or more places, prohibited by such an agreement or contrary to international law, or

(ii) the apprehension of persons guilty of such conduct.

(3) Where –

(a) fingerprints or samples have been taken from any person in connection with the investigation of an offence but otherwise than in circumstances to which paragraph (1) applies; and

(b) that person has given his or her written consent to the use, in a speculative search, of the fingerprints or of the samples and of information derived from them,

the fingerprints or, as the case may be, those samples and that information may be checked against any of the fingerprints, samples or information mentioned in that paragraph.

(4) A consent given for the purposes of paragraph (3) cannot be withdrawn.

(5) Where a sample of hair other than pubic hair is to be taken the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.

(6) Where any power to take a sample is exercisable in relation to a person the sample may be taken in a prison or other institution to which the Prison (Jersey) Law 1957 applies.

(7) Any police officer may, within the allowed period, require a person who is neither in police detention nor held in custody by the police on the authority of a court to attend a police station in order to have a sample taken where –

(a) the person has been charged with a relevant offence or informed that he or she will be prosecuted for that offence and either –

(i) the person has not had a sample taken from him or her in the course of the investigation of the offence by the Force or the Honorary Police, or

(ii) the person has had a sample so taken from him or her but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient; or

(b) the person has been convicted of a relevant offence and either –

(i) the person has not had a sample taken from him or her since the conviction, or

(ii) the person has had a sample taken from him or her, before or after his or her conviction, but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

(8) The period allowed for requiring a person to attend a police station for the purpose specified in paragraph (7) is –

(a) for a person falling within sub-paragraph (a) –

(i) in the case described in sub-paragraph (a)(i), one month beginning with the date of the charge, or

(ii) in the case described in sub-paragraph (a)(ii), the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient;

(b) for a person falling within sub-paragraph (b) –

(i) in the case described in sub-paragraph (b)(i), one month beginning with the date of the conviction, or

(ii) in the case described in sub-paragraph (b)(ii), the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient.

(9) A requirement under paragraph (7) shall give the person at least 7 days within which the person shall so attend and may direct the person to attend at a specified time of day or between specified times of day.

(10) Any police officer may arrest a person who has failed to comply with a requirement under paragraph (7).

(11) In this Article "the appropriate officer" is –

(a) in the case of a person falling within paragraph (7)(a), the officer investigating the offence with which that person has been charged or as to which the person was informed that he or she would be prosecuted;

(b) in the case of a person falling within paragraph (7)(b), the officer in charge of the police station from which the investigation of the offence of which the person was convicted was conducted.

59 Testing for presence of Class A drugs

(1) Without prejudice to the generality of Articles 56 and 57, a sample of urine or a non-intimate sample may be taken from a person of full age in police detention, for the purpose of ascertaining whether the person has any specified Class A drug in his body, if an officer of the Force has asked the person to give a sample and –

(a) the person has been charged with –

(i) larceny, including robbery,

(ii) breaking and entering or illegal entry,

(iii) any offence under Article 53 of the Road Traffic (Jersey) Law 1956; or

(iv) any offence under Article 5 or 8(1) or (2) of the Misuse of Drugs (Jersey) Law 1978 or under Article 33 or 61(2) of the Customs and Excise (Jersey) Law 1999, if committed in respect of a specified Class A drug;

or

(b) the person has been charged with any offence, and an officer of the Force of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorized the sample to be taken.

(2) Before asking the person to give a sample, an officer of the Force must –

(a) warn the person that if, when so asked, he or she fails without good cause to give the sample, the person may be liable to prosecution; and

(b) in a case within paragraph (1)(b), inform the person that the authorization has been given and of the grounds for it.

(3) A sample may be taken under this Article only by a specified person.

(4) Information obtained from a sample taken under this Article may be disclosed –

(a) for the purpose of informing any decision about granting bail in criminal proceedings to the person concerned;

(b) where the person concerned is in police detention or remanded in or committed to custody by an order of court or pursuant to a warrant issued under Article 13 of the Loi (1864) réglant la procédure criminelle or has been granted such bail, for the purpose of informing any decision about his or her supervision;

(c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his or her supervision or release;

(d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.

(5) An officer may give an authorization under paragraph (1)(b) orally or in writing but, if the officer gives it orally, the officer shall confirm it in writing as soon as is practicable.

(6) If a sample is taken pursuant to an authorization under paragraph (1)(b), the authorization and the grounds for the suspicion shall be recorded as soon as is practicable after the sample is taken.

(7) If the sample is taken from a person detained at a police station, the matters required to be recorded by paragraph (6) shall be recorded in the person's custody record.

(8) Nothing in this Article shall affect Articles 28 to 32 of the Road Traffic (Jersey) Law 1956.

(9) Nothing in this Article applies to a person arrested or detained under the terrorism provisions.[89]

(10) A person who fails without good cause to give any sample which may be taken from the person under this Article shall be guilty of an offence and liable to imprisonment for a term of 3 months and to a fine of level 3 on the standard scale.

(11) The Minister may by Order –

(a) specify Class A drugs for the purposes of paragraph (1);

(b) amend paragraph (1)(a) so as to add, modify or omit any description of offence and so as to extend it to persons who have been arrested for, but not charged with, the offences in question;

(c) specify persons for the purposes of paragraph (3).

60 Retention, use and destruction of fingerprints and samples

(1) Where –

(a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and

(b) paragraph (3) does not require them to be destroyed,

the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.

(2) In paragraph (1) –

(a) the reference to using a fingerprint includes a reference to allowing any check to be made against it under paragraph (1) or (3) of Article 58 and to disclosing it to any person;

(b) the reference to using a sample includes a reference to allowing any check to be made under paragraph (1) or (3) of Article 58 against it or against information derived from it and to disclosing it or any such information to any person;

(c) the reference to a crime includes a reference to any conduct which –

(i) constitutes one or more criminal offences under the law of Jersey or of any country or territory outside Jersey, or

(ii) is, or corresponds to, any conduct which, if it all took place in Jersey, would constitute one or more criminal offences; and

(d) the references to an investigation and to a prosecution include references, respectively, to any investigation outside Jersey of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside Jersey.

(3) If fingerprints or samples are taken from a person in connection with the investigation of an offence and that person is not suspected of having committed the offence, they shall, except as provided in this Article, be destroyed as soon as they have fulfilled the purpose for which they were taken.

(4) Samples and fingerprints are not required to be destroyed under paragraph (3) if –

(a) they were taken for the purposes of the investigation of an offence of which a person has been convicted; and

(b) a sample or, as the case may be, fingerprint was also taken from the convicted person for the purposes of that investigation.

(5) Subject to paragraph (6), where a person is entitled under paragraph (3) to the destruction of any fingerprint or sample taken from the person (or would be but for paragraph (4)), neither the fingerprint nor the sample, nor any information derived from the sample, shall be used –

(a) in evidence against the person who is or would be entitled to the destruction of that fingerprint or sample; or

(b) for the purposes of the investigation of any offence,

and paragraph (2) applies for the purposes of this paragraph as it applies for the purposes of paragraph (1).

(6) Where a person from whom a fingerprint or sample has been taken consents in writing to its retention –

(a) that sample need not be destroyed under paragraph (3);

(b) paragraph (5) shall not restrict the use that may be made of the fingerprint or sample or, in the case of a sample, of any information derived from it; and

(c) that consent –

(i) shall be treated as comprising a consent for the purposes of Article 58(3), and

(ii) cannot be withdrawn.

(7) For the purposes of paragraph (6), it shall be immaterial whether the consent is given at, before or after the time when the entitlement to the destruction of the fingerprint or sample arises.

(8) If fingerprints are destroyed –

(a) any copies of the fingerprints shall also be destroyed; and

(b) any police officer controlling access to computer data relating to the fingerprints shall make access to the data impossible, as soon as it is practicable to do so.

(9) A person who asks to be allowed to witness the destruction of his or her fingerprints or copies of them shall have a right to witness it.

(10) If paragraph (8)(b) falls to be complied with and the person to whose fingerprints the data relates asks for a certificate that it has been complied with, that certificate shall be issued to the person, not later than the end of the period of 3 months beginning with the day on which the person asks for it, by the Chief Officer or a person authorized by the Chief Officer or on his or her behalf for the purposes of this Article.

(11) Nothing in this Article –

(a) affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971; or

(b) applies to a person arrested or detained under the terrorism provisions.

(12) For the purposes of this Article, a person who is cautioned or fined for any offence following a parish hall enquiry shall not be regarded as having been cleared of that offence, and any fingerprints or samples taken from that person in pursuance of the investigation of that offence need not be destroyed.

PART 7

CODES OF PRACTICE - GENERAL

61 Codes of practice

(1) The Minister shall bring into operation, in accordance with Article 62, codes of practice –

(a) in connection with –

(i) the exercise by police officers of statutory powers to search a person without first arresting the person or to search a vehicle without making an arrest,

(ii) the detention, treatment, questioning and identification of persons by police officers,

(iii) searches of premises by police officers,

(iv) the seizure of property found by police officers on persons or premises, and

(v) the exercise by police officers of powers under Article 59;

(b) requiring the recording, by any electronic means, of interviews of persons suspected of the commission of criminal offences, or of specified descriptions of criminal offences, which are held by police officers at police stations or specified descriptions of police stations.

(2) The Minister may bring into operation, in accordance with Article 62, a code of practice specifying matters of which an officer of the Force must be satisfied and matters to which an officer of the Force must have regard in order to determine, for the purposes of the grounds for detention, that there is sufficient evidence to charge a person.

62 Codes of practice - supplementary

(1) When the Minister proposes to bring into operation a code of practice, the Minister shall prepare and publish a draft of that code, shall consider any representations made to the Minister about the draft and may modify the draft accordingly.

(2) After the Minister has complied with paragraph (1), the Minister may bring the code into operation by Order.

(3) An Order bringing a code of practice into operation may contain any transitional provisions or savings that appear to the Minister to be necessary or expedient in connection with the code of practice thereby brought into operation.

(4) The Minister may from time to time revise the whole or any part of a code of practice and bring into operation that revised code, and this Article shall apply, with appropriate modifications, to that revised code as it applies to the first code brought into operation.

(5) Persons other than police officers responsible for investigating offences or charging offenders shall, when so doing, have regard to any relevant provision of a code.

(6) A failure on the part of a police officer to comply with any provision of a code or of any person other than a police officer responsible for investigating offences or charging offenders to have regard to any relevant provision of a code, shall not of itself render the officer liable to any criminal or civil proceedings.

(7) A code shall be admissible in evidence in all criminal proceedings, and if any provision of a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(8) In this Article any reference to criminal proceedings includes –

(a) proceedings in Jersey or elsewhere before a court-martial constituted under the Army Act 1955, or the Air Force Act 1955 or the Naval Discipline Act 1957 or a disciplinary court constituted under section 50 of the said Act of 1957 as those Acts of the United Kingdom are respectively applied to Jersey by the Army Act 1955 (Jersey) Order 1996, the Air Force Act 1955 (Jersey) Order 1996 and the Naval Discipline Act 1957 (Jersey) Order 1996;

(b) proceedings before the Courts-Martial Appeal Court; and

(c) proceedings before a Standing Civilian Court, that is the Court established by section 6 of and Schedule 3 to the Armed Forces Act 1976 of the United Kingdom.

PART 8

DOCUMENTARY EVIDENCE IN CRIMINAL PROCEEDINGS

63 Interpretation of Part 8[90]

In this Part –

"copy" in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly;

"matter stated" in relation to a statement, means where the purpose, or one of the purposes, of the person making the statement appears to the court to have been –

(a) to cause another person to believe the matter; or

(b) to cause another person to act or a machine to operate on the basis that the matter is as stated;

"statement" means any representation of fact or opinion made by a person by whatever means including a representation made in a sketch, photofit or other pictorial form.

64 Admissibility of statement not made in oral evidence[91]

(1) In criminal proceedings a statement not made in oral evidence in the proceedings is admissible as evidence of any matter stated if, but only if –

(a) any provision of this Part or any other provision of an enactment makes it admissible;

(b) any rule of customary law referred to in Article 64A makes it admissible;

(c) all parties to the proceedings agree to it being admissible; or

(d) the court is satisfied that it is in the interests of justice for it to be admissible.

(2) In deciding whether a statement not made in oral evidence should be admitted under paragraph (1)(d), the court must have regard to the following factors (and to any others it considers relevant) –

(a) how much probative value the statement has (assuming it to be true) in relation to a matter in issue in the proceedings, or how valuable it is for the understanding of other evidence in the case;

(b) what other evidence has been, or can be, given on the matter or evidence mentioned in sub-paragraph (a);

(c) how important the matter or evidence mentioned in sub-paragraph (a) is in the context of the case as a whole;

(d) the circumstances in which the statement was made;

(e) how reliable the maker of the statement appears to be;

(f) how reliable the evidence of the making of the statement appears to be;

(g) whether oral evidence of the matter stated can be given and, if not, why it cannot;

(h) the amount of difficulty involved in challenging the statement; and

(i) the extent to which that difficulty would be likely to prejudice the party facing it.

(3) Nothing in this Part affects the exclusion of evidence of a statement on grounds other than the fact that it is a statement not made in oral evidence in the proceedings.

64A Admissibility of statement under rules of customary law[92]

For the purposes of Article 64(1)(b), any rule of customary law in respect of the following –

(a) public information, including any rule under which –

(i) published works dealing with matters of a public nature (such as histories, scientific works, dictionaries and maps) are admissible as evidence of facts of a public nature stated in them,

(ii) public documents (such as public registers, and returns made under public authority with respect to matters of public interest) are admissible as evidence of facts stated in them,

(iii) records (such as the records of certain courts, treaties, Crown grants, pardons and commissions) are admissible as evidence of facts stated in them, or

(iv) evidence relating to a person's age or date or place of birth may be given by a person without personal knowledge of the matter;

(b) *res gestae*;

(c) confessions;

(d) admissions by agents;

(e) common enterprise; and

(f) expert evidence.

65 Cases where a witness is unavailable[93]

(1) In criminal proceedings a statement not made in oral evidence in the proceedings is admissible as evidence of any matter stated if –

(a) oral evidence given in the proceedings by the person who made the statement would be admissible as evidence of that matter;

(b) the person who made the statement (the relevant person) is identified to the court's satisfaction; and

(c) any condition listed in paragraph (2) is satisfied.

(2) The conditions are –

(a) that the relevant person is dead;

(b) that the relevant person is unfit to be a witness because of his or her bodily or mental condition;

(c) that the relevant person is outside Jersey and it is not reasonably practicable to secure his or her attendance;

(d) that the relevant person cannot be found although such steps as it is reasonably practicable to take to find him or her have been taken;

(e) that through fear, the relevant person does not give (or does not continue to give) oral evidence in the proceedings, either at all or in connection with the subject matter of the statement, and the court gives leave for the statement to be given in evidence.

(3) For the purposes of paragraph (2)(e) 'fear' is to be widely construed and, for example, includes fear of the death or injury of another person or financial loss.

(4) Leave may be given under paragraph (2)(e) only if the court considers that the statement ought to be admitted in the interests of justice, having regard –

(a) to the statement's contents;

(b) to any risk that its admission or exclusion will result in unfairness to any party to the proceedings (and in particular to how difficult it will be to challenge the statement if the relevant person does not give oral evidence);

(c) in appropriate cases, whether special measures for the giving of evidence by fearful witnesses could be made in relation to the relevant person; and

(d) to any other relevant circumstances.

(5) Any condition set out in paragraph (2) which is in fact satisfied, is to be treated as not satisfied if it is shown that the circumstances described in that paragraph are caused –

(a) by the person in support of whose case it is sought to give the statement in evidence; or

(b) by a person acting on the above mentioned person's behalf,

in order to prevent the relevant person giving oral evidence in the proceedings (whether at all or in connection with the subject matter of the statement).

66 Business and other documents[94]

(1) In criminal proceedings a statement contained in a document is admissible as evidence of any matter stated if –

(a) oral evidence given in the proceedings would be admissible as evidence of that matter;

(b) the requirements of paragraph (2) are satisfied; and

(c) the additional requirements of paragraph (5) are satisfied, in a case where paragraph (4) applies.

(2) The requirements of this paragraph are satisfied if –

(a) the document or the part containing the statement was created or received by a person in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office;

(b) the person who supplied the information contained in the statement (the relevant person) had or may reasonably be supposed to have had personal knowledge of the matters dealt with; and

(c) each person (if any) through whom the information was supplied from the relevant person to the person referred to in sub-paragraph (a) received the information in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office.

(3) The persons mentioned in paragraph (2)(a) and (b) may be the same person.

(4) If the statement –

(a) was prepared for the purposes of pending or contemplated criminal proceedings, or for a criminal investigation; but

(b) was not obtained pursuant to a request under Article 4 of the Criminal Justice (International Co-operation) (Jersey) Law 2001,

the additional requirements of paragraph (5) must be satisfied.

(5) Where paragraph (4) applies, the additional requirements of this paragraph are satisfied if –

(a) any condition listed in Article 65(2) is satisfied; or

(b) the relevant person cannot reasonably be expected to have any recollection of the matters dealt with in the statement (having regard to the length of time since he or she supplied the information and all other circumstances).

(6) A statement is not admissible under this Article if the court makes a direction to that effect under paragraph (7).

(7) The court may make a direction under this paragraph if satisfied that the statement's reliability as evidence for the purpose for which it is tendered is doubtful in view of –

(a) its contents;

(b) the source of the information contained in it;

(c) the way in which, or the circumstances in which, the information was supplied or received; or

(d) the way in which, or the circumstances in which, the document concerned was created or received.

67 Inconsistent statements[95]

(1) If, in criminal proceedings a person gives oral evidence and –

(a) the person admits making a previous inconsistent statement; or

(b) a previous inconsistent statement made by the person is proved by virtue of Article 78, 79 or 80,

the inconsistent statement is admissible as evidence of any matter stated of which oral evidence by the person would be admissible.

(2) If in criminal proceedings evidence of an inconsistent statement by any person is given under Article 67E(2)(c), the statement is admissible as evidence of any matter stated in it of which oral evidence by that person would be admissible.

67A Other previous statements of witnesses[96]

(1) This Article applies where a person (the witness) is called to give evidence in criminal proceedings.

(2) If a previous statement by the witness is admitted as evidence to rebut a suggestion that his or her oral evidence has been fabricated, that statement is admissible as evidence of any matter stated of which oral evidence by the witness would be admissible.

(3) A statement made by the witness in a document –

(a) which is used by the witness to refresh his or her memory while giving evidence;

(b) on which the witness is cross-examined; and

(c) which as a consequence is received in evidence in the proceedings,

is admissible as evidence of any matter stated of which oral evidence by the witness would be admissible.

(4) A previous statement by the witness is admissible as evidence of any matter stated of which oral evidence by him or her would be admissible, if –

(a) any of the 3 conditions set out in paragraphs (5) to (7) is satisfied; and

(b) while giving evidence the witness indicates that to the best of his or her belief he or she made the statement, and that to the best of that witness' belief it states the truth.

(5) The 1st condition is that the statement identifies or describes a person, object or place.

(6) The 2nd condition is that the statement was made by the witness when the matters stated were fresh in his or her memory but he or she does not remember them, and cannot reasonably be expected to remember them, well enough to give oral evidence of them in the proceedings.

(7) The 3rd condition is that –

(a) the witness claims to be a person against whom an offence has been committed;

(b) the offence is one to which the proceedings relate;

(c) the statement consists of a complaint made by the witness (whether to a person in authority or not) about conduct which would, if proved, constitute the offence or part of the offence;

(d) the complaint was not made as a result of a threat or a promise; and

(e) before the statement is adduced the witness gives oral evidence in connection with its subject matter.

(8) For the purposes of paragraph (7) the fact that the complaint was elicited (for example, by a leading question) is irrelevant unless a threat or a promise was involved.

67B Additional requirement for admissibility of multiple statements not made in oral evidence[97]

A statement not made in oral evidence is not admissible to prove the fact that an earlier statement not made in oral evidence was made unless –

(a) either of the statements is admissible under Article 66, 67 or 67A;

(b) all parties to the proceedings so agree; or

(c) the court is satisfied that the value of the evidence in question, taking into account how reliable the statements appear to be, is so high that the interests of justice require the later statement to be admissible for that purpose.

67C Documents produced as exhibits[98]

(1) This Article applies if on a trial for an offence before the Royal Court sitting with a jury –

(a) a statement made in a document is admitted in evidence under Article 67 or 67A; and

(b) the document or a copy of it is produced as an exhibit.

(2) The exhibit must not accompany the jury when it retires to consider its verdict unless –

(a) the Bailiff considers it appropriate; or

(b) all the parties to the proceedings agree that it should accompany the jury.

67D Capability to make statement[99]

(1) Nothing in Article 65, 67 or 67A makes a statement admissible as evidence if it was made by a person who did not have the required capability at the time when he or she made the statement.

(2) Nothing in Article 66 makes a statement admissible as evidence if any person who, in order for the requirements of Article 66(2) to be satisfied, must at any time have supplied or received the information concerned or created or received the document or part concerned –

(a) did not have the required capability at that time; or

(b) cannot be identified but cannot reasonably be assumed to have had the required capability at that time.

(3) For the purposes of this Article a person has the required capability if he or she is capable of –

(a) understanding questions put to him or her about the matters stated; and

(b) giving answers to such questions which can be understood.

(4) Where by reason of this Article there is an issue as to whether a person had the required capability when he or she made a statement –

(a) proceedings held for the determination of the issue must take place in the absence of the jury (if there is one);

(b) in determining the issue the court may receive expert evidence and evidence from any person to whom the statement in question was made;

(c) the burden of proof on the issue lies on the party seeking to adduce the statement, and the standard of proof is the balance of probabilities.

67E Credibility[100]

(1) This Article applies if, in criminal proceedings –

(a) a statement not made in oral evidence in the proceedings is admitted as evidence of a matter stated; and

(b) the maker of the statement does not give oral evidence in connection with the subject matter of the statement.

(2) In such a case –

(a) any evidence which (if the maker of the statement had given such evidence) would have been admissible as relevant to his or her credibility as a witness is so admissible in the proceedings;

(b) evidence may, with the court's leave, be given of any matter which (if the maker of the statement had given such evidence) could have been put to him or her in cross-examination as relevant to his or her credibility as a witness but which could not have been adduced by the cross-examining party;

(c) evidence tending to prove that the maker of the statement made (at whatever time) any other statement, inconsistent with the statement admitted as evidence, is admissible for the purpose of showing that he or she contradicted himself or herself.

(3) If, as a result of evidence admitted under this Article, an allegation is made against the maker of a statement, the court may permit a party to lead additional evidence of such description as the court may specify for the purposes of denying or answering the allegation.

(4) In the case of a statement in a document which is admitted as evidence under Article 66, each person who, in order for the statement to be admissible, must have –

(a) supplied or received the information concerned; or

(b) created or received the document or part of the document concerned,

is to be treated as the maker of the statement for the purposes of paragraphs (1) to (3).

67F Stopping proceedings where evidence is unconvincing[101]

(1) If, on a defendant's trial for an offence before the Royal Court, the Court is satisfied at any time after the close of the case for the prosecution that –

(a) the case against the defendant is based wholly or partly on a statement not made in oral evidence in the proceedings; and

(b) the evidence provided by the statement is so unconvincing that, considering its importance to the case against the defendant, his or her conviction of the offence would be unsafe,

the Royal Court must either acquit the defendant of the offence or, if it considers that there ought to be a retrial, the Bailiff must, if the trial is before the Royal Court sitting with a jury, discharge the jury.

(2) Where –

(a) under paragraph (1) the Royal Court acquits a defendant of an offence; and

(b) the circumstances are such that, apart from this paragraph, the defendant could, if acquitted of that offence, be found guilty of another offence,

the defendant may not be found guilty of that other offence if the Royal Court is satisfied as mentioned in paragraph (1) in respect of it.

(3) If –

(a) in a case where Article 58(3)(ii) of the Mental Health (Jersey) Law 2016 applies and, where under Article 59(1) of that Law, the Royal Court finds that the defendant did in fact do the act with which he or she is charged; and

(b) the court is satisfied, as mentioned in paragraph (1), at any time after the close of the case for the prosecution that –

(i) the case against the defendant is based wholly or partly on a statement not made in oral evidence in the proceedings, and

(ii) the evidence provided by the statement is so unconvincing that, considering its importance to the case against the person, a finding that he or she did the act or made the omission would be unsafe,

the Royal Court must either acquit the defendant of the offence or, if it considers that there ought to be a rehearing and the trial is before the Royal Court sitting with a jury, the Bailiff must discharge the jury.

(4) This paragraph does not prejudice any other power of the Royal Court to acquit a person of an offence or to discharge a jury.

67G Confessions[102]

Nothing in this Part makes a confession by a defendant admissible if it is not admissible under Article 74 or 74A.

67H Representations other than by a person[103]

(1) Where a representation of any fact –

(a) is made otherwise than by a person; but

(b) depends for its accuracy on information supplied (directly or indirectly) by a person,

the representation is not admissible in criminal proceedings as evidence of the fact unless it is proved that the information was accurate.

(2) Paragraph (1) does not affect the operation of the presumption under customary law that a mechanical device has been properly set or calibrated.

67I Criminal Procedure Rules for purposes of Part 8 and effect of failure to comply with rules[104]

(1) The power to make Criminal Procedure Rules under Article 112 of the Criminal Procedure Law includes the power to make rules for the purposes of this Part.

(2) Notwithstanding the generality of the power referred to in paragraph (1), rules for the purposes of this Part may –

(a) make provision about the procedure to be followed and other conditions to be fulfilled by a party proposing to tender a statement in evidence under any provision of this Part; or

(b) require a party proposing to tender the evidence to serve on each party to the proceedings such notice, and such particulars of, or relating to, the evidence, as may be prescribed.

(3) The rules may provide that the evidence is to be treated as admissible by agreement of the parties if –

(a) a notice has been served in accordance with provision made under paragraph (2)(b); and

(b) no counter-notice in the prescribed form objecting to the admission of the evidence has been served by a party.

(4) If a party proposing to tender evidence fails to comply with a prescribed requirement applicable to it –

(a) the evidence is not admissible except with the court's leave;

(b) where leave is given, the court or jury may draw such inferences from the failure as appear proper; and

(c) the failure may be taken into account by the court in considering the exercise of its powers with respect to costs.

(5) In considering whether or how to exercise any of its powers under paragraph (4) the court shall have regard to whether there is any justification for the failure to comply with the requirement.

(6) A person shall not be convicted of an offence solely on an inference drawn under paragraph (4)(b).

(7) Rules under this Article may –

(a) limit the application of any provision of the rules to prescribed circumstances;

(b) subject any provision of the rules to prescribed exceptions; or

(c) make different provision for different cases or circumstances.

67J Proof of statements in documents[105]

Where a statement in a document is admissible as evidence in criminal proceedings, the statement may be proved by producing either –

(a) the document; or

(b) a copy of the document or of the material part of it (whether or not the document exists),

authenticated in whatever way the court may approve.

68 [106]

69 [107]

70 [108]

70A Order to preserve data pending criminal investigation[109]

(1) The court may make an order, referred to in this Law as a "preservation order", on an application made by or on behalf of the Attorney General where it considers it is in the interests of justice to do so.

(2) A preservation order is an order providing that certain data specified in the application be preserved pending criminal investigation or for such time as the court thinks fit.

(3) An application for a preservation order may be made *ex parte* to the Bailiff in chambers.

(4) The court must not make a preservation order unless it is satisfied that there are reasonable grounds for believing –

(a) that a serious offence has been committed; and

(b) the data specified in the application includes evidence that relates to that offence or to some other offence that is connected with, or similar to, that offence.

(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 rule upon the application or refer it to the Royal Court.

70B Offence of unauthorized disclosure of preservation order[110]

(1) Where an order is made under Article 70A(1) 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.

PART 9

EVIDENCE IN CRIMINAL PROCEEDINGS - GENERAL

Convictions and acquittals

71 Proof of convictions and acquittals

(1) Where in any proceedings the fact that a person has in Jersey been convicted or acquitted of an offence is admissible in evidence, it may be proved by producing a certificate of conviction or acquittal relating to that offence, and proving that the person named in the certificate as having been convicted or acquitted of the offence is the person whose conviction or acquittal of the offence is to be proved.

(2) For the purposes of this Article a certificate of conviction or of acquittal shall consist of a certificate, signed by the Judicial Greffier, giving the substance and effect, omitting the formal parts, of the indictment or charge and of the conviction or acquittal, and a document purporting to be a duly signed certificate of conviction or acquittal under this Article shall be taken to be that certificate unless the contrary is proved.

(3) The method of proving a conviction or acquittal authorized by this Article shall be in addition to and not to the exclusion of any other authorized manner of proving a conviction or acquittal.

72 Conviction as evidence of commission of offence

(1) In any proceedings the fact that a person other than the accused has been convicted of an offence by or before a court in Jersey shall be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those proceedings, that that person committed that offence, whether or not any other evidence of the person's having committed that offence is given.

(2) In any proceedings in which by virtue of this Article a person other than the accused is proved to have been convicted of an offence by or before a court in Jersey, the person shall be taken to have committed that offence unless the contrary is proved.

(3) In any proceedings where evidence is admissible of the fact that the accused has committed an offence, in so far as that evidence is relevant to any matter in issue in the proceedings for a reason other than a tendency to show in the accused a disposition to commit the kind of offence with which the accused is charged, if the accused is proved to have been convicted of the offence by or before a court in Jersey, the accused shall be taken to have committed that offence unless the contrary is proved.

(4) Nothing in this Article shall prejudice –

(a) the admissibility in evidence of any conviction which would be admissible apart from this Article; or

(b) the operation of any enactment whereby a conviction or a finding of fact in any proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.

73 Provisions supplementary to Article 72

(1) Where evidence that a person has been convicted of an offence is admissible by virtue of Article 72 then, without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the conviction was based, the contents of any document which is admissible as evidence of the conviction and the contents of the indictment or charge-sheet on which the person in question was convicted shall be admissible in evidence for that purpose.

(2) Where in any proceedings the contents of any document are admissible in evidence by virtue of paragraph (1), a copy of that document, or of the material part of it, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.

(3) Nothing in Article 72 shall be construed as rendering admissible in any proceedings evidence of any conviction other than a subsisting one.

Confessions

74 Confessions

(1) In any proceedings a confession made by an accused person may be given in evidence against the accused in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this Article.

(2) If, in any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained –

(a) by oppression of the person who made it; or

(b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by the accused in consequence thereof,

the court shall not allow the confession to be given in evidence against the accused except in so far as the prosecution proves to the court beyond reasonable doubt that the confession, notwithstanding that it may be true, was not obtained as aforesaid.

(3) In any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, the court may of its own motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in paragraph (2).

(4) The fact that a confession is wholly or partly excluded in pursuance of this Article shall not affect the admissibility in evidence –

(a) of any facts discovered as a result of the confession; or

(b) where the confession is relevant as showing that the accused speaks, writes or expresses himself or herself in a particular way, of so much of the confession as is necessary to show that the accused does so.

(5) Evidence that a fact to which this paragraph applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by the accused or on his or her behalf.

(6) Paragraph (5) applies –

(a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this Article; and

(b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.

(7) Nothing in Part 8 shall prejudice the admissibility of a confession made by an accused person.

(8) In this Article "oppression" includes torture, inhuman or degrading treatment, and the use or threat of violence, whether or not amounting to torture.

74A Confessions may be given in evidence for co-accused[111]

(1) In any criminal proceedings a confession made by an accused person may be given in evidence for another person charged in the same proceedings (a 'co-accused') in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this Article.

(2) If, in criminal proceedings where a co-accused proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained –

(a) by oppression of the person who made the confession; or

(b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by the accused person,

the court shall not allow the confession to be given in evidence for the co-accused except in so far as it is proved to the court on the balance of probabilities that the confession (notwithstanding that it may be true) was not so obtained.

(3) Before allowing a confession made by an accused person to be given in evidence for a co-accused in criminal proceedings, the court may of its own motion require the fact that the confession was not obtained as described in paragraph (2) to be proved on the balance of probabilities.

(4) The fact that a confession is wholly or partly excluded under this Article shall not affect the admissibility in evidence –

(a) of any facts discovered as a result of the confession; or

(b) where the confession is relevant as showing that the accused speaks, writes or expresses himself or herself in a particular way, of so much of the confession as is necessary to show that he or she does so.

(5) This paragraph applies –

(a) to any fact discovered as a result of a confession which is wholly excluded under this Article; and

(b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.

(6) Evidence that a fact to which paragraph (5) applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by that person, or on his or her behalf.

(7) In this Article "oppression" carries the same meaning as in Article 74(8).

75 Confessions by mentally impaired persons

(1) Without prejudice to the general duty of the Bailiff at a trial on indictment to direct the jury or, as the case may be, the Jurats, on any matter on which it appears to the Bailiff appropriate to do so, where at that trial the case against the accused depends wholly or substantially on a confession by the accused and the court is satisfied that the accused is mentally impaired and that the confession was not made in the presence of an independent person, the Bailiff shall –

(a) warn the jury or, as the case may be, the Jurats, that there is special need for caution before convicting the accused in reliance on the confession; and

(b) explain that the need arises because of the circumstances mentioned in this paragraph.

(2) In any case where at the trial of a person before the Magistrate's Court for an offence it appears to the court that a warning under paragraph (1) would be required if the trial were on indictment, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his or her confession.

(3) In this Article –

"independent person" does not include a police officer or a person employed for, or engaged on, police purposes;

"mentally impaired", in relation to a person, means that the person is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning;

"police purposes" includes the purposes of –

(a) police cadets undergoing training with a view to becoming members of the Force; and

(b) civilians employed for the purposes of the Force or of those cadets.

Miscellaneous

76 Exclusion of unfair evidence

(1) Subject to paragraph (2), in any proceedings a court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would so adversely affect the fairness of the proceedings that the court ought not to admit it.[112]

(2) Nothing in this Article shall –

(a) prejudice any rule of law requiring a court to exclude evidence; or

(b) apply to extradition proceedings.[113]

(3) Nothing in this Law shall prejudice any power of any court to exclude evidence, whether by preventing questions from being put or otherwise, at its discretion.

77 Time for taking accused's evidence

If at the trial of any person for an offence the defence intends to call 2 or more witnesses to the facts of the case and those witnesses include the accused, the accused shall be called before the other witness or witnesses unless the court in its discretion otherwise directs.

Witnesses

78 How far witnesses may be discredited by the party producing

In any criminal proceedings, a party producing a witness shall not be allowed to impeach the witness's credit by general evidence of bad character, but the party may, in case the witness shall in the opinion of the court prove adverse –

(a) contradict the witness by other evidence; or

(b) by leave of the court, prove that the witness has made at other times a statement inconsistent with the witness's present testimony,

but, before the last-mentioned proof can be given, the circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness, and the witness shall be asked whether or not the witness has made that statement.

79 As to proof of contradictory statements of adverse witness

In any criminal proceedings, if a witness, upon cross-examination as to a former statement made by the witness relative to the subject matter of the indictment or proceedings, and inconsistent with the witness's present testimony, does not distinctly admit that the witness has made that statement, proof may be given that the witness did in fact make it, but before that proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and the witness shall be asked whether or not the witness has made that statement.

80 Cross-examination as to previous statements in writing

(1) In any criminal proceedings, a witness may be cross-examined as to previous statements made by the witness in writing, or reduced into writing, relative to the subject matter of the proceeding, without that writing being shown to the witness, but if it is intended to contradict that witness by the writing, the witness's attention shall, before that contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting the witness.

(2) Any court may, at any time during the trial, require the production of any writing referred to in paragraph (1) for inspection, and that court may thereupon make any use of it for the purposes of the trial that that court sees fit.

81 Proof of conviction of a witness for an offence may be given

In any criminal proceedings, a witness may be questioned as to whether the witness has been convicted of any offence, and upon being so questioned, if the witness either denies or does not admit the fact, or refuses to answer, it shall be lawful for the cross-examining party to prove that conviction.

82 Evidence by certificate

(1) In any criminal proceedings, a certificate purporting to be signed by a police officer, or by a person having the prescribed qualifications, and certifying that a plan or drawing exhibited thereto is a plan or drawing made by the person or officer of the place or object specified in the certificate, and that the plan or drawing is correctly drawn to a scale so specified, shall be evidence of the relative position of the things shown on the plan or drawing.

(2) Nothing in this Article shall be deemed to make a certificate admissible as evidence in proceedings for an offence except in a case where and to the extent to which oral evidence to the like effect would have been admissible in those proceedings.

(3) Nothing in this Article shall be deemed to make a certificate admissible as evidence in proceedings for any offence –

(a) unless a copy thereof has, not less than 7 days before the hearing or trial, been served in the prescribed manner on the person charged with the offence; or

(b) if that person, not later than 3 days before the hearing or trial or within any further time the court may in special circumstances allow, serves notice in the prescribed form and manner on the other party requiring the attendance at the trial of the person who signed the certificate.

PART 9A[114]

EVIDENCE OF BAD CHARACTER

Interpretation and general provisions

82A Interpretation of Part 9A[115]

(1) In this Part –

"bad character" is to be construed in accordance with Article 82C;

"co-defendant", in relation to a defendant, means a person charged with an offence in the same proceedings;

"important matter" means a matter of substantial importance in the context of the case as a whole;

"misconduct" means the commission of an offence or other reprehensible behaviour;

"probative value", and "relevant" (in relation to an item of evidence), are to be read in accordance with Article 82B;

"prosecution evidence" means evidence which is to be (or has been) adduced by the prosecution, or which a witness is to be invited to give (or has given) in cross-examination by the prosecution.

(2) Where a defendant is charged with two or more offences in the same criminal proceedings, the provisions of this Part (except Article 82E(2)) have effect as if each offence were charged in separate proceedings, and references to the offence with which the defendant is charged are to be construed accordingly.

(3) Nothing in this Part affects the exclusion of evidence –

(a) under the rule, in Article 78, against a party impeaching the credit of their own witness by general evidence of bad character; or

(b) on grounds other than the fact that it is evidence of a person's bad character.

82B Assumption of truth in assessment of relevance or probative value[116]

(1) Subject to paragraph (2), a reference in this Part to the relevance or probative value of evidence, is a reference to its relevance or probative value on the assumption that it is true.

(2) In assessing the relevance or probative value of an item of evidence for any purpose of this Part, a court need not assume that the evidence is true if it appears, on the basis of any material before the court (including any evidence it decides to hear on the matter), that no court or jury could reasonably find it to be true.

82C Bad character[117]

References in this Part to evidence of a person's 'bad character' are to evidence of, or of a disposition towards, misconduct on his or her part, other than evidence which –

(a) has to do with the alleged facts of the offence with which the defendant is charged; or

(b) is evidence of misconduct in connection with the investigation or prosecution of that offence.

82D Abolition of customary law rules in relation to bad character evidence[118]

Any rule of customary law governing the admissibility of evidence of bad character in criminal proceedings is abolished.

Evidence of bad character

82E Defendant's bad character – admissibility of evidence[119]

(1) In criminal proceedings, evidence of the defendant's bad character is admissible if, but only if –

(a) all parties to the proceedings agree to the evidence being admissible;

(b) the evidence is adduced by the defendant himself or herself or is given in answer to a question asked by him or her in cross-examination and intended to elicit it;

(c) it is important explanatory evidence; or

(d) it is admissible under any of Articles 82F to 82I.

(2) The court must not admit evidence under Article 82F or Article 82G if, on an application by the defendant to exclude it, it appears to the court that the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

(3) On an application to exclude evidence under paragraph (2) the court must have regard, in particular, to the length of time between the matters to which that evidence relates and the matters which form the subject of the offence charged.

(4) In proceedings for an offence committed, or alleged to have been committed, by a defendant who has attained the age of 21, evidence of his or her conviction for an offence when under the age of 15 is not admissible unless the court is satisfied that the interests of justice require the evidence to be admissible.

(5) For the purposes of paragraph (1)(c), evidence is important explanatory evidence if –

(a) without it, the court or jury would find it impossible or difficult properly to understand other evidence in the case; and

(b) its value for understanding the case as a whole is substantial.

82F Matter in issue between the defendant and the prosecution[120]

(1) Subject to paragraph (2), evidence of a defendant's bad character is admissible if it is relevant to an important matter in issue between the defendant and the prosecution which includes –

(a) the question whether the defendant has a propensity to commit offences of the kind with which he or she is charged, except where the defendant having such a propensity makes it no more likely that he or she is guilty of the offence; or

(b) the question whether the defendant has a propensity to be untruthful, except where it is not suggested that the defendant's case is untruthful in any respect.

(2) Only prosecution evidence is admissible under this Article.

(3) Where paragraph (1)(a) applies, a defendant's propensity to commit offences of the kind with which he or she is charged may (without prejudice to any other way of doing so) be established by evidence that the defendant has been convicted of –

(a) an offence of the same description as the one with which he or she is charged; or

(b) an offence of a similar nature or type as the one with which he or she is charged.

(4) Paragraph (3) does not apply in the case of a particular defendant if the court is satisfied that, by reason of the length of time since the conviction or for any other reason, it would be unjust for it to apply in his or her case.

(5) For the purposes of paragraph (3)(a), 2 offences are of the same description as each other if the statement of the offence in a summons under Article 14 or 19 of the Criminal Procedure Law, or indictment under Article 43 of that Law, would, in each case, be in the same terms.[121]

(6) For the purposes of paragraph (3)(b), the States may, by Regulations, make provision as to what constitutes 2 offences as being of a similar nature or type as each other.

(7) Where –

(a) a defendant has been convicted of an offence under the law of any country other than Jersey ("the previous offence"); and

(b) the previous offence would constitute an offence under the law of Jersey ("the corresponding offence") if it were committed in Jersey at the time of the trial for the offence with which the defendant is now charged ("the current offence"),

paragraph (8) applies for the purpose of determining if the previous offence and the current offence are of the same description or of a similar nature or type.

(8) For the purpose of making the determination referred to in paragraph (7) –

(a) the previous offence is of the same description as the current offence if the corresponding offence is of that same description as defined under paragraph (5); or

(b) the previous offence is of a similar nature or type as the current offence if the current offence and the corresponding offence are of a similar nature or type as provided under the Regulations referred to in paragraph (6).

82G Attack on another person's character[122]

(1) Evidence of a defendant's bad character is admissible if the defendant has made an attack on another person's character.

(2) Only prosecution evidence is admissible under this Article.

(3) A defendant makes an attack on another person's character if –

(a) he or she adduces evidence attacking the other person's character;

(b) he or she (or any legal representative appointed to cross-examine a witness in the defendant's interests) asks questions in cross-examination that are intended to elicit such evidence, or are likely to do so; or

(c) evidence is given of an imputation about the other person made by the defendant –

(i) on being questioned under caution, before charge, about the offence with which he or she is charged, or

(ii) on being charged with the offence or officially informed that he or she might be prosecuted for it.

(4) In paragraph (3)(a) "evidence attacking the other person's character" means evidence to the effect that the other person –

(a) has committed an offence (whether a different offence from the one with which the defendant is charged or the same one); or

(b) has behaved, or is disposed to behave, in a reprehensible way.

(5) In paragraph (3)(c), "imputation about the other person" means an assertion to that effect.

82H Matter in issue between the defendant and a co-defendant[123]

(1) Evidence of a defendant's bad character is admissible if it has substantial probative value in relation to an important matter in issue between the defendant and a co-defendant.

(2) Evidence which is relevant to the question whether the defendant has a propensity to be untruthful is admissible only if the nature or conduct of his or her defence is such as to undermine the co-defendant's defence.

(3) Only evidence –

(a) which is to be (or has been) adduced by the co-defendant; or

(b) which a witness is to be invited to give (or has given) in cross-examination by the co-defendant,

is admissible under this Article.

82I Evidence to correct a false impression[124]

(1) Evidence of a defendant's bad character is admissible if it is evidence to correct a false impression given by the defendant.

(2) The defendant gives a false impression if he is responsible for the making of an express or implied assertion which is apt to give the court or jury a false or misleading impression about the defendant.

(3) Evidence to correct such an impression is evidence which has probative value in correcting it.

(4) Only prosecution evidence is admissible under this Article and provided it goes no further than is necessary to correct the false impression.

(5) A defendant is treated as being responsible for the making of an assertion if –

(a) the assertion is made by the defendant in the proceedings (whether or not in evidence given by him or her);

(b) the assertion was made by the defendant –

(i) on being questioned under caution, before charge, about the offence with which he or she is charged, or

(ii) on being charged with the offence or officially informed that he or she might be prosecuted for it,

and evidence of the assertion is to be given in the proceedings;

(c) the assertion is made by a witness called by the defendant;

(d) the assertion is made by any witness in cross-examination in response to a question asked by the defendant that is intended to elicit it, or is likely to do so; or

(e) the assertion was made by any person out of court, and the defendant adduces evidence of it in the proceedings.

(6) A defendant who would otherwise be treated as responsible for the making of an assertion shall not be so treated if, or to the extent that, he or she withdraws it or disassociates himself or herself from it.

(7) Where it appears to the court that a defendant, by means of his or her conduct (other than the giving of evidence) in the proceedings, is seeking to give the court or jury an impression about himself or herself that is false or misleading, the court may, if it appears just to do so, treat the defendant as being responsible for the making of an assertion which is apt to give that impression.

(8) In paragraph (7), "conduct" includes appearance or dress.

82J Non-defendant's bad character[125]

(1) In criminal proceedings evidence of the bad character of a person other than the defendant is admissible if and only if –

(a) it is important explanatory evidence;

(b) it has substantial probative value in relation to a matter which –

(i) is a matter in issue in the proceedings, and

(ii) is of substantial importance in the context of the case as a whole; or

(c) all parties to the proceedings agree to the evidence being admissible.

(2) For the purposes of paragraph (1)(a) evidence is important explanatory evidence if –

(a) without it, the court or jury would find it impossible or difficult, properly to understand other evidence in the case; and

(b) its value for understanding the case as a whole is substantial.

(3) In assessing the probative value of evidence for the purposes of paragraph (1)(b) the court must have regard to the following factors (and to any others it considers relevant) –

(a) the nature and number of the events, or other things, to which the evidence relates;

(b) when those events or things are alleged to have happened or existed;

(c) where –

(i) the evidence is evidence of a person's misconduct, and

(ii) it is suggested that the evidence has probative value by reason of similarity between that misconduct and other alleged misconduct,

the nature and extent of the similarities and the dissimilarities between each of the alleged instances of misconduct; and

(d) where –

(i) the evidence is evidence of a person's misconduct,

(ii) it is suggested that that person is also responsible for the misconduct charged, and

(iii) the identity of the person responsible for the misconduct charged is disputed,

the extent to which the evidence shows or tends to show that the same person was responsible each time.

(4) Except where paragraph (1)(c) applies, evidence of the bad character of a person other than the defendant must not be given without leave of the court.

82K Criminal Procedure Rules for purposes of Part 9A[126]

(1) The power to make Criminal Procedure Rules under Article 112 of the Criminal Procedure Law includes the power to make rules for the purposes of this Part.

(2) Notwithstanding the generality of the power referred to in paragraph (1), rules for the purposes of this Part may, and, where the party in question is the prosecution, must, contain provision requiring a party who –

(a) proposes to adduce evidence of a defendant's bad character; or

(b) proposes to cross-examine a witness with a view to eliciting such evidence,

to serve on the defendant such notice, and such particulars of, or relating to, the evidence, as may be prescribed.

(3) The rules may provide that the court or the defendant may, in such circumstances as may be prescribed, dispense with a requirement imposed by virtue of paragraph (2).

(4) In considering the exercise of its powers with respect to costs, the court may take into account any failure by a party to comply with a requirement imposed by virtue of paragraph (2) and not dispensed with by virtue of paragraph (3).

(5) Rules under this Article may –

(a) limit the application of any provision of the rules to prescribed circumstances;

(b) subject any provision of the rules to prescribed exceptions; or

(c) make different provision for different cases or circumstances.

PART 10[127]

PART 11

CONTROL OF INTRUSIVE SURVEILLANCE

99 Interpretation of Part 11

In this Part –

"authorization" means an authorization under Article 101;

"interference" in relation to wireless telegraphy, means the prejudicing by any emission or reflection of electro-magnetic energy of the fulfilment of the purposes of the telegraphy, either generally or in part, and, without prejudice to the generality of the preceding words, as respects all, or as respects any, of the recipients or intended recipients of any message, sound or visual image intended to be conveyed by the telegraphy, and the expression "interfere" shall be construed accordingly;

"wireless telegraphy" means the emitting or receiving, over paths which are not provided by any material substance constructed or arranged for that purpose, of electro-magnetic energy of a frequency not exceeding 3 million megacycles a second, being energy which either –

(a) serves for the conveying of messages, sound or visual images, whether the messages, sound or images are actually received by any person or not, or for the actuation or control of machinery or apparatus; or

(b) is used in connection with the determination of position, bearing, or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class.

100 Authorizations

No entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorized by an authorization having effect under this Part.

101 Authorizations to interfere with property etc.

(1) Where paragraph (2) applies, the Attorney General may authorize –

(a) the taking of any action, in respect of any property, as the Attorney General may specify; or

(b) the taking of any action as the Attorney General may specify, in respect of wireless telegraphy.

(2) This paragraph applies where the Attorney General believes –

(a) that it is necessary for the action specified to be taken for the purpose of preventing or detecting serious crime or in the interests of the security of the Island; and

(b) that the taking of the action is proportionate to what the action seeks to achieve.

(3) The matters to be taken into account in considering whether the requirements of paragraph (2) are satisfied in the case of any authorization shall include whether what it is thought necessary to achieve by the authorized action could reasonably be achieved by other means.

(4) In this Article "serious crime" means –

(a) conduct which constitutes one or more offences –

(i) which involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose, or

(ii) for which a person who has attained the age of 21 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; or

(b) conduct which is, or corresponds to, any conduct which, if it all took place in Jersey, would constitute an offence, or offences, of the kind referred to in sub-paragraph (a).[128]

102 Authorizations: form and duration etc.

(1) An authorization shall be in writing, except that in an urgent case an authorization may be given orally.

(2) An authorization shall, unless renewed under paragraph (3), cease to have effect –

(a) if given orally, at the end of the period of 72 hours beginning with the time when it took effect;

(b) in any other case, at the end of the period of 3 months beginning with the day on which it took effect.

(3) If at any time before an authorization would cease to have effect the Attorney General considers it necessary for the authorization to continue to have effect for the purpose for which it was issued, the Attorney General may, in writing, renew it for a period of 3 months beginning with the day on which it would cease to have effect.

(4) The Attorney General shall cancel an authorization given by him or her if satisfied that the action authorized by it is no longer necessary.

103 Notification of authorizations etc.

The Attorney General shall from time to time and, in any event, at least every 12 months, notify the Commissioner, in writing, of authorizations given, renewed or cancelled by the Attorney General and, where an authorization was given orally, of the grounds on which the case was believed to be urgent.

104 The Commissioner

(1) The Bailiff shall appoint one of the ordinary judges of the Court of Appeal as a Commissioner to keep under review the carrying out by the Attorney General of the functions conferred on the Attorney General by this Part.

(2) The Commissioner shall hold office in accordance with the terms of his or her appointment, and there shall be paid to him or her out of money provided by the States any allowances that the Minister for Treasury and Resources may direct.[129]

(3) As soon as practicable after the end of each year, the Commissioner shall make a report to the Bailiff with respect to the carrying out of his or her functions under this Part.

(4) The Bailiff shall cause a copy of every annual report under paragraph (3) to be laid before the States, and every copy shall include a statement as to whether any matter has been excluded from it in pursuance of paragraph (5).

(5) If it appears to the Bailiff, after consultation with the Commissioner, that the publication of any matter in an annual report under paragraph (4) would be prejudicial to the security of the British Islands or to the detection of crime, the Bailiff may exclude that matter from the copy of the report laid before the States.

PART 12[130]

PART 13

MISCELLANEOUS AND SUPPLEMENTARY

107 Application of Law to Customs and Excise

(1) The Minister, after consultation with the Minister for Treasury and Resources, may by Order direct –

(a) that any provision of this Law which relates to investigations of offences conducted by police officers or to persons detained by the police shall apply, subject to any modifications that the Order may specify, to investigations conducted by the Agent of the Impôts and any officer of the Impôts of offences which relate to assigned matters, as defined in Article 1 of the Customs and Excise (Jersey) Law 1999, or to persons detained by the said Agent or officers; and

(b) that, in relation to investigations of offences conducted by the said Agent or officers –

(i) this Law shall have effect as if the following Article were inserted after Article 8 –

"8A Exception for Customs and Excise

Material in the possession of a person who acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office and which relates to an assigned matter, as defined in Article 1 of the

Customs and Excise (Jersey) Law 1999, is neither excluded material nor special procedure material for the purposes of any enactment such as is mentioned in Article 16(2) of this Law.", and

(ii) Article 51 shall have effect with the omission of paragraph (1)(b).

(2) Nothing in any Order under paragraph (1) shall be taken to limit any powers exercisable under Article 53 of the Customs and Excise (Jersey) Law 1999.

108 Extended remand in customs custody of suspected drug offender[131]

Where the Magistrate's Court has power to remand in custody any person aged 18 or more brought before it on a charge of an offence against Article 6(1) of the Misuse of Drugs (Jersey) Law 1978 or a drug trafficking offence it may, if it considers it appropriate to do so, commit him to detention by the Agent of the Impôts for a period not exceeding 192 hours.

109 Power of police officer to use reasonable force

Where any provision of this Law confers a power on a police officer and does not provide that the power may only be exercised with the consent of some person, other than a police officer, the officer may use reasonable force, if necessary, in the exercise of the power.

110 Statutory indemnity

Without prejudice to Article 62(7), a failure on the part of a police officer to comply with any time limit imposed by or under this Law shall not, in the absence of bad faith, render the officer liable to any civil proceedings.

111 Abrogation of certain powers of police officers

(1) There shall cease to have effect –

(a) the customary right of search reserved to a Connétable or Centenier:

(b) subject to paragraph (2), the customary power of entry without a warrant; and

(c) that part of any enactment which authorizes a police officer to search a person in police detention at a police station and carry out an intimate search of that person.

(2) Paragraph (1) shall not affect any customary power of entry without a warrant to deal with or prevent a breach of the peace.

112 Amendments and repeals

(1) The enactments mentioned in Schedule 5 shall have effect with the amendments there specified.

(2) The enactments mentioned in column 1 of Schedule 6, which include enactments already obsolete or unnecessary, shall be repealed to the extent specified in column 2 of that Schedule.

113 Regulations and Orders

(1) Except insofar as this Law otherwise provides, any power to make any Regulations or Orders may be exercised –

(a) either in relation to all those cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and

(b) so as to make in relation to the cases in respect of which it is exercised –

(i) the full provision to which the power extends or any less provision whether by way of exception or otherwise,

(ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of case, or different provision as respects the same case or class of case for different purposes of this Law, or

(iii) any of those provisions either unconditionally or subject to any specified conditions.

(2) Without prejudice to any specific provision of this Law, any Regulations or Order under this Law may contain any transitional, consequential, incidental or supplementary provisions that appear to the States or the Minister making the Order, to be necessary or expedient for the purposes of the Regulations or Order.

(3) [132]

114 Citation and commencement

(1) This Law may be cited as the Police Procedures and Criminal Evidence (Jersey) Law 2003.

(2) This Law shall come into force on such day or days as the States may by Act appoint, and different days may be appointed for different provisions and for different purposes.

(3) An Act under this Article may make any transitional provision that appears to be necessary or expedient in connection with the provisions brought into operation by it.

SCHEDULE 1[133]

(Article 3)

SERIOUS OFFENCES

PART 1

Offences mentioned in Article 3(2)(a)

1. Treason.
2. Murder.
3. Manslaughter.
4.
5. Kidnapping.
6.
7.
8. Gross indecency.
9. Indecent assault.
10. Publication of obscene material.

PART 2

Offences mentioned in Article 3(2)(b)

1. Articles 2 and 3 of the Loi (1884) sur les matières explosives.
2. Articles 5 to 7, 9 to 12, and 14 to 18 of the Sexual Offences (Jersey) Law 2018.

2a. Articles 28, 29, 35 and 36 of the Sexual Offences (Jersey) Law 2018, if the offence is against a child.

2b. Article 40 of the Sexual Offences (Jersey) Law 2018, if the relevant offence for the purpose of that Article is an offence under a provision mentioned in paragraph 2 or 2a.

3. Articles 3, 4 and 5 of the Official Secrets (Jersey) Law 1952.
4. Articles 23 and 26 of the Road Traffic (Jersey) Law 1956.
5. Section 1 of the Taking of Hostages Act 1982 of the United Kingdom as extended to Jersey by Order in Council.
6. In the Misuse of Drugs (Jersey) Law 1978 –

   (a) any act described in the definition "drug trafficking" in Article 1(1);

(b) Article 19B (except that an offence under that Article is not a serious offence for the purposes of Article 13 of this Law).

7. Article 1 of the Torture (Jersey) Law 1990.

8. Section 1 of the Aviation Security Act 1982 of the United Kingdom as it is extended to Jersey by Order in Council.

9. Section 1 of the Aviation and Maritime Security Act 1990 of the United Kingdom as extended to Jersey by Order in Council.

10. Article 2 of the Protection of Children (Jersey) Law 1994.

11. Articles 38 and 39 of the Firearms (Jersey) Law 2000.

12. Any offence under the Corruption (Jersey) Law 2006

13. Any offence in the Crime (Transnational Organized Crime) (Jersey) Law 2008.

14. In the Proceeds of Crime (Jersey) Law 1999 –

(a) Articles 30 and 31; and

(b) Articles 34A, 34D, 35 and 37(4) (except that an offence against any of these provisions is not a serious offence for the purposes of Article 13 of this Law).

15. In the Terrorism (Jersey) Law 2002 –

(a) Articles 15, 16, 17, 50, 51, 52, 53 and 54; and

(b) Articles 19, 21 and 35 (except that an offence against any of these Articles is not a serious offence for the purposes of Article 13 of this Law).

16. Articles 7(10), 8(5), 9(7), 10(14), 11(14) and 12(9) of the Sex Offenders (Jersey) Law 2010.

17. In the Sanctions and Asset-Freezing (Jersey) Law 2019 –

(a) Articles 10, 11, 12, 13, 14 and 17; and

(b) Article 32 (except that an offence against Article 32 is not a serious offence for the purposes of Article 13 of this Law). [134]

SCHEDULE 2[135]

(Article 16)

ACCESS TO CERTAIN MATERIAL

Making of orders by the Bailiff

1 If, on an application made by a police officer, the Bailiff is satisfied that one or other of the sets of access conditions in paragraph 2 is fulfilled, the Bailiff may make an order under paragraph 3.

2(1) The first set of access conditions is fulfilled if –

(a) there are reasonable grounds for believing –

(i) that a serious offence has been committed,

(ii) that there is material to which Article 16 applies that is in the possession or control of a person, or on premises, specified in the application,

(iii) that the material is likely to be of substantial value, whether by itself or together with other material, to the investigation in connection with which the application is made, and

(iv) that the material is likely to be relevant evidence;

(b) other methods of obtaining the material have been tried without success or have not been tried because it appeared that they were bound to fail; and

(c) it is in the public interest, having regard to the benefit likely to accrue to the investigation if the material is obtained and to the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

(2) The second set of access conditions is fulfilled if –

(a) there are reasonable grounds for believing that there is material which consists of or includes excluded material or special procedure material on premises specified in the application;

(b) but for Article 16(2), a search of the premises for that material could have been authorized by the issue of a warrant to a police officer under an enactment other than this Schedule; and

(c) the issue of such a warrant would have been appropriate.

3 An order under this paragraph is an order that the person who appears to the Bailiff to be in possession or control of the material to which the application relates shall produce it to a police officer for the officer to take away or give a police officer access to it, not later than the end of the period of 7 days from the date of the order or the end of any longer period that the order may specify.

4 Where the material consists of information contained in a computer –

(a) an order to produce to a police officer shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and

(b) an order to give a police officer access shall have effect as an order to give a police officer access to the material in a form in which it is visible and legible.

5 For the purposes of Articles 22 and 23 material produced in pursuance of an order under paragraph 3 shall be treated as if it were material seized by a police officer.

Notices of applications for orders

6 An application for an order under paragraph 3 shall be made *inter partes* and in chambers.

7 Notice of the application may be served on a person either by delivering it to the person or by leaving it at the person's proper address or by sending it by post to the person in a registered letter or by the recorded delivery service.

8 Notice of the application may be served on a body corporate, by serving it on the body's secretary or clerk or other similar officer and on a partnership, by serving it on one of the partners.

9 For the purposes of this Schedule, the proper address of a person, in the case of a secretary or clerk or other similar officer of a body corporate, shall be that of the registered or principal office of that body, in the case of a partner of a firm shall be that of the principal office of the firm and in any other case shall be the last known address of the person to be served.

10 Where notice of an application has been served on a person, he or she shall not conceal, destroy, alter or dispose of the material to which the application relates except with the leave of the Bailiff or with the written permission of an officer of the Force of at least the rank of inspector, until the application is dismissed or abandoned or the person has complied with an order under paragraph 3 made on the application.

Issue of warrants by the Bailiff

11 If on an application made by a police officer the Bailiff –

(a) is satisfied that either set of access conditions is fulfilled and that any of the further conditions set out in paragraph 13 is also fulfilled; or

(b) is satisfied that the second set of access conditions is fulfilled and that an order under paragraph 3 relating to the material has not been complied with,

the Bailiff may issue a warrant authorizing a police officer to search for the material and enter any premises necessary for the purposes of the search.

12 A police officer may seize and retain anything for which a search has been authorized under paragraph 11.

13 The further conditions mentioned in paragraph 11 are –

(a) that it is not practicable to communicate with any person entitled to grant entry to any premises to which the application relates;

(b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

(c) that the material contains information which –

(i) is subject to a restriction or obligation mentioned in Article 6(2)(b); and

(ii) is likely to be disclosed in breach of it if a warrant is not issued;

(d) that service of notice of an application for an order under paragraph 3 may seriously prejudice the investigation.

14(1) If a person fails to comply with an order under paragraph 3, the Bailiff may deal with the person as if he or she had committed a contempt of the Royal Court.

(2) Any enactment relating to contempt of the Royal Court shall have effect in relation to such a failure as if it were that contempt.

Costs

15 The costs of any application under this Schedule and of anything done or to be done in pursuance of an order made under it shall be in the discretion of the Bailiff.

SCHEDULE 3[136]

(Article 25)

ENACTMENTS CONFERRING POWER TO ISSUE A SEARCH WARRANT

Agricultural Land (Control of Sales and Leases) (Jersey) Law 1974	Article 6(1)
Companies (Jersey) Law 1991	Article 132
Computer Misuse (Jersey) Law 1995	Article 13(1)
Control of Borrowing (Jersey) Law 1947	Article 2(11)
Control of Housing and Work (Jersey) Law 2012	Article 35(4)
Currency Offences (Jersey) Law 1952	Article 18(3)
Customs and Excise (Jersey) Law 1999	Article 51(2)
Emergency Powers and Planning (Jersey) Law 1990	Article 14(4)
Firearms (Jersey) Law 2000	Article 49
Food (Jersey) Law 2023	Article 27(1)
Mental Health (Jersey) Law 2016	Article 35
Misuse of Drugs (Jersey) Law 1978	Article 19(2), 19(2A) and 19(2B)
Official Secrets (Jersey) Law 1952	Article 9(1)
Protection of Children (Jersey) Law 1994	Article 4(1)
Reservoirs (Jersey) Law 1996	Article 17(6)
Statutory Nuisances (Jersey) Law 1999	Article 10(3)
Video Recordings (Jersey) Law 1990	Article 12(1)
Water Pollution (Jersey) Law 2000	Article 32(4)
Weights and Measures (Jersey) Law 1967	Article 33(3)
Wildlife (Jersey) Law 2021	Article 42

SCHEDULE 4[137]

SCHEDULE 5

(Article 112(1))

CONSEQUENTIAL AMENDMENTS

Evidence of Matrimonial Matters (Jersey) Law 1952

1. Article 1(2) of the Evidence of Matrimonial Matters (Jersey) Law 1952 shall be repealed.

(remainder of Schedule 5 not in force on the revision date)

SCHEDULE 6

(Article 112(2))

REPEALS

Column 1	Column 2
Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949	Article 7A

(remainder of Schedule 6 not in force on the revision date)

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Police Procedures and Criminal Evidence (Jersey) Law 2003	L.5/2003	Parts 1, 8 and 9, Article 112(1) to the extent that it relates to paragraph 1 of Schedule 5, Article 114, Schedule 4, paragraph 1 of Schedule 5 in force 18 March 2003 (R&O.15/2003) Parts 2, 3, 4, 6, 7, 10 and 12, Articles 107, 109, 110 and 111, Article 112(2) to the extent that it relates to the repeal, in Schedule 6, of Article 7A of the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949, Article 113, Schedules 1 to 3, in Schedule 6, the repeal of Article 7A of the Magistrate's Court Miscellaneous Provisions (Jersey) Law 1949 in force 1 December 2004 (R&O.137/2004) Article 33, for the purposes of Orders made under Article 107, in force 7 February 2006 (R&O.12/2006) Part 11 (Articles 99 to 104) in force 20 March 2007 (R&O.42/2007)	P.89/2002

Legislation	Year and No	Commencement	◦Projet No (where applicable)
		Articles 30(1), 31, 44 and 45(1) in force 10 June 2010 (R&O.22/2010) The remaining provisions of Part 5 and Article 108 in force 24 July 2019 (R&O.63/2019). Not in force – Schedule 5 (except paragraph 1) and Schedule 6 (except the repeal of Article 7A of the Magistrate's Court Miscellaneous Provisions (Jersey) Law 1949)	
Extradition (Jersey) Law 2004	L.24/2004	1 October 2004 (R&O.114/2004)	P.39/2004
Police Procedures and Criminal Evidence (Jersey) Law 2003 (Amendment) (Jersey) Regulations 2004	R&O.138/2004	1 December 2004, except Regulation 7	P.187/2004
Data Protection (Jersey) Law 2005	L.2/2005	1 December 2005 (R&O.134/2005)	P.70/2004
States of Jersey (Amendments and Construction Provisions No. 7) (Jersey) Regulations 2005	R&O.47/2005	9 December 2005	P.61/2005
Corruption (Jersey) Law 2006	L.12/2006	6 March 2007 (R&O.38/2007)	P.198/2005
Crime (Transnational Organized Crime) (Jersey) Law 2008	L.29/2008	1 August 2008	P.132/2007
Police Procedures and Criminal Evidence (Amendment of Schedule 1) (No. 1) (Jersey) Regulations 2008	R&O.119/2008	30 September 2008	P.130/2008
Sex Offenders (Jersey) Law 2010	L.18/2010	1 January 2011 (R&O.128/2010)	P.132/2009
Terrorist Asset-Freezing (Jersey) Law 2011	L.8/2011	1 April 2011	P.191/2010
Civil Partnership (Consequential Amendments) (Jersey) Regulations 2012	R&O.47/2012	2 April 2012	P.12/2012

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Criminal Justice (Miscellaneous Provisions) (No. 3) (Jersey) Law 2012	L.7/2012	30 March 2012	P.173/2011
Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 2013	R&O.30/2013	1 July 2013 (R&O.63/2013)	P.3/2013
Connétables (Miscellaneous Provisions – Consequential Amendments) (Jersey) Regulations 2014	R&O.81/2014 (amended by L.20/2017)	1 August 2014 (R&O.80/2014) 24 July 2019 – Regulation 29(g) and (h) (R&O.63/2019)	P.78/2014
Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014	L.7/2014	4 August 2014 (R&O.102/2014)	P.163/2013
Dentistry (Jersey) Law 2015	L.17/2015	24 February 2016 (R&O.22/2016)	P.89/2015
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)	P.87/2015
Criminal Justice (Young Offenders) (Consequential Provisions) (Jersey) Regulations 2016	R&O.115/2016	23 November 2016	P.99/2016
States of Jersey Police Force (Amendment No. 2) Law 2017	L.22/2017	27 October 2017	P.30/2017
Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018	R&O.49/2018	1 October 2018 (R&O.51/2018)	P.48/2018
Sexual Offences (Consequential Arrangements) (Jersey) Regulations 2018	R&O.110/2018	23 November 2018	P.106/2018
Cybercrime (Jersey) Law 2019	L.4/2019	3 May 2019	P.134/2018
Criminal Procedure (Bail) (Jersey) Law 2017	L.20/2017	24 July 2019 – except substituted Article 30(10)(b) set out in paragraph 4 of Schedule 2 (R&O.62/2019) Not in force – substituted Article 30(10)(b) set out in paragraph 4 of Schedule 2	P.52/2017

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Criminal Procedure (Jersey) Law 2018	L.25/2018	31 October 2019 – Schedule 3 except paragraph 10 only to the extent of repealing Article 106 and Schedule 4 (amended by R&O.111/2019) (R&O.110/2019) 1 October 2021 – remainder of Schedule 3 (R&O.95/2021) (Paragraph 9 of Schedule 3 amended by R&O.111/2019)	P.118/2017
Wildlife (Jersey) Law 2021	L.4/2021	4 June 2021	P.110/2020
Legislation (Jersey) Law 2021	L.8/2021	28 September 2021 (R&O.112/2021)	P.26/2021
Criminal Procedure (Consequential and Supplementary Amendments) (Jersey) Regulations 2021	R&O.94/2021	1 October 2021	P.59/2021
Sanctions and Asset-Freezing (Amendment No. 3) (Jersey) Law 2023	L.8/2023	17 July 2023 (R&O.59/2023)	P.4/2023
States of Jersey (Transfer of Justice Functions – Chief Minister to Justice and Home Affairs) Order 2023	R&O.76/2023	21 September 2023	
Children and Young People (Place of Police Detention) (Jersey) Amendment Law 2025	L.21/2025	19 December 2025	P.40/2025
Food (Jersey) Law 2023	L.4/2023	17 March 2026 (R&O.28/2026)	P.105/2022
Criminal Justice (Procedures) (Jersey) Amendment Law 2026	L.38/2026	17 July 2026	P.38/2026

◦Projets available at statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
1(4), (5)	spent, omitted from this revised edition
(6)	(4)
(7)	spent, omitted from this revised edition
Schedule 5	paragraph 3 deleted by R&O.138/2004

Table of Endnote References

[1]	*This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 7) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
[2] *Long title*	*amended by L.25/2018*
[3] *Article 1(1)*	*amended by L.7/2014, L.17/2015, R&O.115/2016, L.22/2017, L.20/2017, L.25/2018, R&O.76/2023, L.21/2025*
[4] *Article 1(3)*	*deleted by L.7/2014*
[5] *Article 2(1)*	*amended by R&O.138/2004*
[6] *Article 3(2)*	*amended by L.7/2014*
[7] *Article 3(5)*	*deleted by R&O.138/2004*
[8] *Article 3(9)*	*amended by L.29/2008*
[9] *Article 6(15)*	*amended by R&O.47/2012*
[10]	*The monetary value of levels on the standard scale of fines is set by the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993 chapter 08.360*
[11] *Article 12(11)*	*amended by R&O.81/2014*
[12] *Article 13(2)*	*amended by R&O.81/2014*
[13] *Article 13(3)*	*amended by R&O.81/2014*
[14] *Article 13(5)*	*amended by R&O.81/2014*
[15] *Article 13(6)*	*amended by R&O.81/2014*
[16] *Article 13(7)*	*amended by R&O.81/2014*
[17] *Article 13(8)*	*amended by R&O.81/2014*
[18] *Article 13(9)*	*amended by R&O.81/2014*
[19] *Article 13(10)*	*amended by R&O.81/2014*
[20] *Article 13(11)*	*amended by R&O.81/2014*
[21] *Article 13(15)*	*amended by R&O.81/2014*
[22] *Article 16(1)*	*substituted by L.4/2019*
[23] *Article 16(1A)*	*inserted by L.4/2019*
[24] *Article 20(4)*	*amended by R&O.81/2014*
[25] *Article 20(6)*	*amended by R&O.81/2014*
[26] *Article 20(7)*	*amended by R&O.81/2014*
[27] *Article 20(8)*	*amended by R&O.81/2014*
[28] *Article 28(11)*	*amended by R&O.138/2004*
[29] *Article 28A*	*inserted by R&O.94/2021*
[30] *Article 28A(1)*	*substituted by L.38/2026*
[31] *Article 28A(1A)*	*inserted by L.38/2026*
[32] *Article 29(10)*	*amended by R&O.138/2004*
[33] *Article 29A*	*inserted by L.20/2017, substituted by L.25/2018*
[34] *Article 30*	*substituted by L.20/2017*
[35] *Article 31*	*Article 3 of the Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No.5) Act 2010 makes the following transitional arrangement - Until such time as Article 34 of the Law is brought into force, a reference in a provision of the Law that is in force to the custody officer shall be construed as a reference to the member of the Force who is, for the time being, appointed as such by the Chief Officer.*

[36] *Article 31A*	*inserted by L.20/2017*
[37] *Article 31B*	*inserted by L.20/2017*
[38] *Article 31B(2)*	*amended by L.38/2026*
[39] *Article 33*	*only commenced on 7.2.06 for the purposes of Orders made under Article 107*
[40] *Article 34(6)*	*editorial change, in sub-paragraph (d), "Articles 16B and 16C" deleted, "Articles 29 and 30" inserted instead*
[41] *Article 35(7)*	*amended by R&O.81/2014, L.20/2017*
[42] *Article 35(8)*	*amended by R&O.81/2014*
[43] *Article 36*	*substituted by L.20/2017*
[44] *Article 36(2)*	*amended by L.21/2025, L.38/2026*
[45] *Article 36(7)*	*deleted by L.21/2025*
[46] *Article 36(8)*	*deleted by L.21/2025*
[47] *Article 36(9)*	*deleted by L.21/2025*
[48] *Article 36A*	*inserted by L.21/2025*
[49] *Article 37(2)*	*amended by L.21/2025*
[50] *Article 37(4)*	*amended by L.20/2017, substituted by L.21/2025*
[51] *Article 38(1)*	*amended by L.20/2017*
[52] *Article 38(11)*	*substituted by L.20/2017, amended by L.21/2025*
[53] *Article 40(1)*	*amended by L.20/2017*
[54] *Article 40(2)*	*amended by L.20/2017*
[55] *Article 40(9)*	*amended by L.20/2017*
[56] *Article 40A*	*inserted by L.20/2017*
[57] *Article 41(6)*	*substituted by L.20/2017*
[58] *Article 41(6A)*	*inserted by L.20/2017*
[59] *Article 41(6B)*	*inserted by L.20/2017*
[60] *Article 41(7)*	*amended by L.20/2017*
[61] *Article 41(8)*	*amended by L.20/2017*
[62] *Article 41(9)*	*amended by L.20/2017*
[63] *Article 41(13)*	*substituted by L.20/2017*
[64] *Article 43*	*text substituted by L.21/2025*
[65] *Article 43(2)*	*amended by L.38/2026*
[66] *Article 43(4)*	*amended by L.38/2026*
[67] *Article 43(5)*	*amended by L.38/2026*
[68] *Article 43(6)*	*amended by L.38/2026*
[69] *Article 43(7)*	*deleted by L.38/2026*
[70] *Article 44*	*substituted by L.20/2017*
[71] *Article 48*	*amended by R&O.138/2004*
[72] *Article 48A*	*inserted by L.20/2017, substituted by L.25/2018*
[73] *Article 50(11)*	*amended by L.22/2017*
[74] *Article 50(12)*	*amended by L.22/2017*
[75] *Article 52(6)*	*substituted by L.7/2014*
[76] *Article 52(11)*	*substituted by R&O.138/2004*
[77] *Article 52(12)*	*deleted by R&O.138/2004*
[78] *Article 54(9)*	*substituted by L.7/2014*
[79] *Article 54(13)*	*substituted by R&O.138/2004*
[80] *Article 54(14)*	*deleted by R&O.138/2004*
[81] *Article 54(15)*	*deleted by R&O.138/2004*
[82] *Article 54(16)*	*deleted by R&O.138/2004*
[83] *Article 54(17)*	*deleted by R&O.138/2004*
[84] *Article 55(14)*	*amended by L.24/2004, R&O.138/2004*
[85] *Article 56(11)*	*amended by L.17/2015*

[86] *Article 56(14)* — *substituted by R&O.138/2004*
[87] *Article 57(17)* — *amended by R&O.138/2004*
[88] *Article 57(18)* — *inserted by L.24/2004*
[89] *Article 59(9)* — *amended by R&O.138/2004*
[90] *Article 63* — *substituted by L.25/2018*
[91] *Article 64* — *substituted by L.25/2018*
[92] *Article 64A* — *inserted by L.25/2018*
[93] *Article 65* — *substituted by L.25/2018*
[94] *Article 66* — *substituted by L.25/2018*
[95] *Article 67* — *substituted by L.25/2018*
[96] *Article 67A* — *inserted by L.25/2018*
[97] *Article 67B* — *inserted by L.25/2018*
[98] *Article 67C* — *inserted by L.25/2018*
[99] *Article 67D* — *inserted by L.25/2018*
[100] *Article 67E* — *inserted by L.25/2018*
[101] *Article 67F* — *inserted by L.25/2018*
[102] *Article 67G* — *inserted by L.25/2018*
[103] *Article 67H* — *inserted by L.25/2018*
[104] *Article 67I* — *inserted by L.25/2018*
[105] *Article 67J* — *inserted by L.25/2018*
[106] *Article 68* — *repealed by L.25/2018*
[107] *Article 69* — *repealed by L.25/2018*
[108] *Article 70* — *repealed by L.25/2018*
[109] *Article 70A* — *inserted by L.4/2019*
[110] *Article 70B* — *inserted by L.4/2019*
[111] *Article 74A* — *inserted by L.25/2018*
[112] *Article 76(1)* — *correction published March 2007: substitute "affect" for "effect"*
[113] *Article 76(2)* — *amended by R&O.94/2021*
[114] *Part 9A* — *inserted by L.25/2018*
[115] *Article 82A* — *inserted by L.25/2018*
[116] *Article 82B* — *inserted by L.25/2018*
[117] *Article 82C* — *inserted by L.25/2018*
[118] *Article 82D* — *inserted by L.25/2018*
[119] *Article 82E* — *inserted by L.25/2018*
[120] *Article 82F* — *inserted by L.25/2018*
[121] *Article 82F(5)* — *amended by L.25/2018, temporarily amended by R&O.111/2019, temporary amendment reversed by R&O.111/2019*
[122] *Article 82G* — *inserted by L.25/2018*
[123] *Article 82H* — *inserted by L.25/2018*
[124] *Article 82I* — *inserted by L.25/2018*
[125] *Article 82J* — *inserted by L.25/2018*
[126] *Article 82K* — *inserted by L.25/2018*
[127] *Part 10* — *deleted by L.25/2018*
[128] *Article 101(4)* — *substituted by L.29/2008*
[129] *Article 104(2)* — *substituted by R&O.47/2005*
[130] *Part 12* — *deleted by L.25/2018*
[131] *Article 108* — *amended by L.20/2017*
[132] *Article 113(3)* — *deleted by L.8/2021*
[133] *Schedule 1* — *amended by L.12/2006, L.29/2008, R&O.119/2008, L.18/2010, L.8/2011, L.7/2014, R&O.110/2018, L.8/2023*
[134] — *item numbering revised using law revision powers*
[135] *Schedule 2* — *amended by L.4/2019*

[136] *Schedule 3*	*amended by L.2/2005, R&O.30/2013, L.7/2014, R&O.49/2018, L.4/2021, editorial change, in the entry for the Currency Offences (Jersey) Law 1952, "Article 29(1)" deleted, "Article 18(3)" inserted instead, editorial change, entries for the Public Health (Control of Building) (Jersey) Law 1956 and the Protection of Animals (Jersey) Law 1980 deleted, amended by L.4/2023*
[137] *Schedule 4*	*repealed by L.25/2018*