

**DRAFT POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 200- (P.89/2002): AMENDMENT**

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**Lodged au Greffe on 10th September 2002  
by the Home Affairs Committee**

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**STATES OF JERSEY**

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*For paragraph (3) of Article 16 substitute the following paragraph -*

“(3) Paragraph (2) shall not apply to an enactment specified in Regulations made by the States.”.

HOME AFFAIRS COMMITTEE

## Report

There has been a decision of the Judicial Committee of the House of Lords in a case involving the interrelationship between provisions of the Police and Criminal Evidence Act 1984, and the Criminal Justice Act 1988, which are very similar to Article 16 of the draft Law and provisions of the Proceeds of Crime (Jersey) Law 1999.

This decision clarifies the extent to which the safeguards under the draft Law in relation to access to confidential information are applicable to powers under enactments which confer rights of access to information which may be used for purposes which are not entirely those of a criminal investigation. From the decision it now seems likely that it was not in fact necessary to exclude all of the enactments mentioned in paragraph (3) of Article 16 of the draft Law, from the effect of paragraph (2) of that Article. The effect of paragraph (2) is to apply the new safeguards contained in Schedule 2 to the Law to all existing enactments which contain search powers, so that access to confidential information under those enactments will be subject to the new safeguard procedures.

However, there has not, unfortunately, been sufficient time to decide exactly which enactments should, and which should not, be included in paragraph (3), since this will require careful consideration of each provision in the light of the House of Lords' decision, and discussions with the interested parties, including the Law Officers' Department, the Police Force, Customs, the Financial Services Commission and, perhaps, private sector lawyers.

Rather than delay progress with the draft Law, which could result in further delays in the implementation of the Human Rights (Jersey) Law, 2000, the Committee has decided to prepare an amendment of the draft Law by replacing Article 16(3) with a provision which will enable the States to make Regulations to specify which enactments should be excluded from the operation of Article 16(2).

The amendment would enable the Law to be adopted by the States, on schedule, and enable discussions about how to deal with the question of which enactments to exclude, to be continued while the draft Law is being sanctioned by the Privy Council, so that the matter should be concluded, and the necessary Regulations be ready to be made, without delay, after the draft Law has been registered by the Royal Court later this year.

The amendment would have no financial or manpower implications and would not affect the compatibility of the draft Law with the Convention rights under the European Convention on Human Rights.