

**DRAFT POWERS OF ARREST (INJUNCTIONS)
(JERSEY) LAW 199**

**Lodged au Greffe on 26th May 1998
by the Legislation Committee**



STATES OF JERSEY

STATES GREFFE

175

1998

P.109

Price code: B

Report

There are many circumstances in which injunctions are issued restraining a person from using violence against or molesting another person, or excluding someone from premises or from a specified area. The vast majority of such injunctions are issued to restrain spouses or partners and/or to protect their children. There are no clearly defined limits within which such injunctions may issue: it is a question of assessing the immediacy and gravity of the threat of violence or molestation in each case.

Any person who is in breach of an injunction is guilty of contempt of court which is punishable by a fine or imprisonment. If a person who is in breach of an injunction is to be committed for contempt, the victim of his or her actions must make a representation to the Royal Court supported by an affidavit setting out the circumstances of the breaches relied on or, if need be, the representor may give evidence directly to the Inferior Number. Because an injunction is an order of a civil court, only the Viscount, through his officers, can take action to enforce the order. Although police officers can intervene where a breach of the peace or an offence is threatened or occurs, they do not have jurisdiction as such to arrest a person for breach of a civil injunction.

The Legislation Committee regards the absence of a power of arrest in respect of breaches of a civil injunction as partially defeating the object of the injunction itself. The victim has, in effect, to await a full-blown breach of the injunction before any real sanction can be deployed and has scant protection against a breach which is actually happening or is immediately anticipated.

The Committee believes that a power of arrest ought to be available to police officers as well as to officers of the Viscount's Department if they have reasonable cause to suspect that a person against whom such an injunction has been granted has acted, is acting, or is about to act, in breach of that injunction.

This draft Law would confer that power.

Explanatory Note

The purpose of this draft Law is to provide the Viscount and police officers with powers of arrest for breach of an injunction against violence, a non-molestation injunction or an injunction excluding a person from specified premises or areas.

Article 1 contains interpretation provisions.

Article 2 sets out the injunctions to which the Law applies.

Article 3 empowers the Court to attach a power of arrest to an injunction if it considers it necessary for the protection of a person named in the injunction (*paragraph (1)*). The Court must state the period for which the power of arrest is to have effect. Where a power of arrest is attached an arrest may be made without warrant (*paragraph (2)*). *Paragraph (3)* empowers the Court to issue a warrant for arrest where there is reasonable cause for suspecting breach of an injunction to which no power of arrest is attached. Persons arrested under the Article are to be brought before the Court as soon as may be after their arrest and may not be released except on the direction of the Court (*paragraph (7)*).

Article 4 contains the short title.

POWERS OF ARREST (INJUNCTIONS) (JERSEY) LAW 199

A LAW to provide the Viscount and police officers with powers of arrest for breach of certain injunctions, and for connected purposes; sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 199)

STATES OF JERSEY

The day of 199

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

ARTICLE 1

Interpretation

(1) In this Law -

“the Court”, except in paragraph (8) of Article 3, means the Inferior Number of the Royal Court or the Bailiff;

“police officer” has the meaning given to it by the Police Force (Jersey) Law 1974.¹

(2) A reference in this Law to an enactment is a reference to that enactment as amended from time to time.

¹ Volume 1973-1974, page 375.

(3) A reference in this Law to a numbered Article without further identification is a reference to the Article so numbered in this Law.

(4) A reference in any Article of this Law to a paragraph, sub-paragraph or clause by number or letter only, and without further identification, is a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Article of this Law in which such reference occurs.

ARTICLE 2

Application of the Law

This Law applies to an injunction containing a provision (in whatever terms) -

- (a) restraining a person from using violence against or molesting another; or
- (b) excluding a person from specified premises or from a specified area.

ARTICLE 3

Powers of arrest

(1) Where the Court grants an injunction to which this Law applies, it may, if it considers it necessary to do so for the protection of any person referred to in the injunction, attach a power of arrest to the injunction.

(2) Where the Court attaches a power of arrest to an injunction to which this Law applies, it shall specify the period for which the power has effect.

(3) Where a power of arrest attached to an injunction to which this Law applies has effect, the Viscount or a police officer may, if he has reasonable cause to suspect that the person against whom the

injunction was granted has acted, is acting or is about to act in breach of the injunction, arrest him without warrant.

(4) Where a power of arrest is not attached to an injunction to which this Law applies or has ceased to have effect, the Bailiff may, if satisfied by information on oath that a person named in the injunction is in breach of it, issue a warrant for his arrest.

(5) A warrant issued under paragraph (4) may be executed by the Viscount or by any police officer.

(6) Subject to paragraph (7), where the Viscount or a police officer executes a warrant issued under paragraph (3), he may do so notwithstanding that it is not in his possession at the time.

(7) Where the Viscount or a police officer acts in pursuance of paragraph (6) the warrant shall, on the demand of the person arrested, be shown to him as soon as possible.

(8) A person arrested under paragraph (3) or (4) -

(a) shall be brought before the Court as soon as may be after his arrest; and

(b) shall not be released except by direction of the Court.

(9) In paragraph (8) “the Court” means the Inferior Number of the Royal Court.

ARTICLE 4

Short title

This Law may be cited as the Powers of Arrest (Injunctions) (Jersey) Law 199 .

CORRIGENDUM

P.109/98 Draft Powers of Arrest (Injunctions) (Jersey) Law 199

Page 6 -

In paragraph (6) of Article 3, in the second line, for the figure "(3)" there shall be substituted the figure "(4)".