

STATES OF JERSEY



DRAFT POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003 (APPOINTED DAY) (No. 5) ACT 201-

**Lodged au Greffe on 12th February 2010
by the Minister for Home Affairs**

STATES GREFFE



Jersey

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REPORT

The Police Procedures and Evidence (Jersey) Law, 2003 [PPCE] was registered in the Royal Court on the 3rd January 2003. With the exception of Part 5, most of the new law was brought into force during 2003 and 2004.

There has been a significant delay in bringing into force Part 5 of PPCE, which deals with police bail and detention at a police station, but it is important for ensuring compliance with the European Convention on Human Rights now that the Human Rights (Jersey) Law 2000 has come into force. As enacted, Part 5 of PPCE, amongst other matters, makes detailed and very specific provision as to the limitations on police detention and the production of a suspect before the Magistrate, either to seek authorisation of continued detention for questioning or for remand on bail or in custody after charge. This system currently enacted, but not in force, would depend upon ready access to the Magistrate, as and when needed, at virtually any time of any day or night for authorisations of further detention and to the Magistrate's Court on Saturdays and some public holidays for remands after charge. It is the potential for "on demand" access to the courts services that has been the reason for these provisions not having been brought into force.

In the light of the concerns about the possible resource implications of bringing Part 5 into force, as enacted, and with the implementation of the Human Rights (Jersey) Law 2000, it was decided, during 2006, to consider whether a revised version of Part 5 could be devised, which provided sufficient guarantees of proper treatment for persons detained by the Police and met the requirements of Article 5 of the ECHR, while not placing an unreasonable extra burden on resources for the Courts, lawyers and the police. It has proved far from easy, but a revised version of Part 5 is currently being consulted upon and will be brought forward for debate in 2010.

Notwithstanding the replacement of Part 5 which is envisaged, I see no reason why certain articles of Part 5, as enacted, concerning bail cannot be brought into force. In making this proposal, I have consulted with the Law Officers' Department, the States of Jersey Police, the Comité des Connétables and the Comité des Chefs de Police. The provisions in question are Articles 30(1), 31, 44 and 45(1).

Article 30(1) provides a new power for an officer of the Force, in addition to the existing power of a Connétable or Centenier, to release a person on bail where they

have been arrested but not charged with an offence. The only condition that may be applied is that the person appears at a police station or parish hall inquiry on a day and at a time notified to him, unless he previously receives written notice from the police officer who granted bail that his attendance is not required. Article 31 enables a custody officer to release a person on bail following their arrest for an offence where it appears that the offence cannot be completed within a reasonable time period. Article 44 enables a police officer to arrest a person who had been released on bail and who fails to attend at a police station or parish hall inquiry, whilst Article 45(1) enables a person to be re-arrested if further evidence justifying a further arrest has come to light since his release.

The text of Articles 30(1), 31, 44 and 45(1) is as follows:

Article 30 – Conditions of bail

- “(1) Where a person arrested for but not charged with an offence is released on bail by a Connétable or Centenier or, pursuant to this Part, by an officer of the Force, the bail may be subject to a condition only for the person’s appearance at a police station or parish hall inquiry on a day and at a time notified to him, unless he previously receives written notice from the police officer who granted bail that his attendance is not required.”.

Article 31 – Bail on arrest

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

Article 44 – Power of arrest if failure to attend at police station when required to do so

- “(1) A police officer may arrest any person who, having been released on bail under this Part to attend at a police station or parish hall enquiry, fails to attend as required.
- (2) A person who is arrested under this Article shall be taken to a designated police station as soon as practicable after the arrest.
- (3) For the purpose of Article 28, subject to the obligation in paragraph (2), an arrest under this Article shall be treated as an arrest for an offence.”.

Article 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.”.

In view of the new power to enable an officer of the Force to grant bail, I am proposing that these articles should be brought into force in 3 months’ time. This will allow sufficient time for officers of the Force to receive training in order to equip them for their new responsibilities and for working arrangements to be agreed with the Comité des Chefs de Police.

Financial and manpower statement

There are no additional financial or manpower implications arising from the adoption of this Draft Act.

Explanatory Note

This Act brings into force Articles 30(1), 31, 44 and 45(1) of the Police Procedures and Criminal Evidence (Jersey) Law 2003 (“the Law”) and provides for the construction of references in the Law to the custody officer, pending commencement of the Article which provides for the appointment of such an officer.

The Law was adopted by the States on 5th November 2002 (P.89/2002). Previous Appointed Day Acts have commenced the following provisions on the following dates –

18th March 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 and paragraph 1 of Schedule 5;
1st December 2004	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, in the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949; Article 113; Schedules 1 to 3; in Schedule 6, the repeal in the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949;
7th February 2006	Article 33, for the purposes of Orders made under Article 107;
20th March 2007	Part 11.



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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Article 114(2) and (3) of the Police Procedures and Criminal Evidence (Jersey) Law 2003¹, have made the following Act –

1 Interpretation

In this Act “Law” means the Police Procedures and Criminal Evidence (Jersey) Law 2003².

2 Provisions in Part 5 commenced

The following provisions of the Law shall come into force 3 months after this Act is made –

- (a) Article 30(1);
- (b) Article 31;
- (c) Article 44;
- (d) Article 45(1).

3 Construction pending commencement of Article 34

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.

4 Citation

This Act may be cited as the Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 5) Act 201-.

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- ¹ *chapter 23.750*
² *chapter 23.750*