

DRAFT POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 200-

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European Convention on Human Rights

The President of the Home Affairs Committee has made the following statement -

In the view of the Home Affairs Committee the provisions of the Draft Police Procedures and Criminal Evidence (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Deputy A.J. Layzell**

REPORT

Introduction

1. Proposals for major reforms of the Island's law on policing procedures and police powers were made several years ago by former Chief Officers of the States Police, by the Clothier Report into Policing Services and by the Edwards Report. More recently, the need to make substantial changes has been heightened by the States' decision to adopt the Human Rights (Jersey) Law 2000 which, in effect, requires that policing powers are clearly set out by law and that the limits of those powers are readily ascertainable.
2. The call for reform of the existing situation usually took the form of a general statement that Jersey needed to introduce a law which mirrored the Police and Criminal Evidence Act 1984 ("PACE"), which is the backbone of police powers and the guarantor of suspects' rights, in the U.K. The call for implementation of a 'Jersey PACE', easily made, has proved difficult to achieve, as the long gestation period for the draft Law demonstrates. As work progressed, it became increasingly obvious how difficult it would be to replace powers and practices whose origins were sometimes lost in the mists of time and whose precise extent was often unclear. It was particularly difficult to design a new legal regime, based on U.K. legislation, to fit the very different policing regime in the Island.
3. The Home Affairs Committee believes that the draft Police Procedures and Criminal Evidence (Jersey) Law 200-, after much consultation and revision, strikes the right balance between the need to preserve the position of the Honorary Police and the imperative that police powers and practices are compatible with the 21st century. Thus, for instance, the customary law power of search reserved for honorary police officers, up to now, will be abolished and replaced with specific ascertainable search powers for all police officers to exercise, while the right of the honorary police to prefer charges against suspects and to grant bail after charge, has been preserved.
4. Approaching comprehensive reform of this importance in areas of the law which have sometimes been very difficult to define with confidence, is a task to be undertaken carefully and deliberately. The Committee is confident that the new Law will achieve the object desired, without unwelcome effects. As well as the important provisions about police powers and suspects' rights, the new Law will bring about improvements in the law of criminal evidence and in court procedures.

The effect of the draft Law

5. Part 1 contains interpretation provisions, including the definition of the term "confidential material" in Article 6. This is a 'Jersey' concept. In view of the lack of general powers to search for evidence in respect of non-statutory offences, it proved impossible to follow the PACE provisions on special procedure material and excluded material. The effect of the provisions in Article 16 and Schedule 2 is that the police may get access to material which is within the description of confidential material upon the authority of a judicial order. In the U.K., the police may obtain access to special procedure material by a similar means but cannot get access to excluded material unless they could have had access to it before the introduction of PACE.
6. In the U.K., excluded material includes such things as personal records, samples of human tissue or fluids, medical records and journalistic material which is held in confidence. Special procedure material is information other than excluded matter, but which is held under an express or implied obligation of confidence or statutory restriction on disclosure or obligation of secrecy by someone who came by, or acquired, the material in a business or professional capacity (e.g. records and accounts held by a bank, accountant or lawyer).
7. The Jersey concept combines these categories but allows access to them in the circumstances set out in Schedule 2, on the issue of an order. This is wider than the law in the U.K. Thus, for the first time in Jersey, it will be possible for the police to obtain permission to have access to all material which may be evidence for customary law offences, such as murder, rape, larceny or fraud, and, subject to the safeguards built into the draft law, to get access to confidential material (as defined) relating to such offences. Those powers of access to information will be more extensive than the powers enjoyed by the U.K. police.
8. However, there are certain existing statutory offences or statutory powers for obtaining information to which these restrictions will not apply. They include terrorist and drug trafficking offences. The reason for this exclusion is that the laws concerned already provide for safeguards for protection of access to material as evidence, which are similar to those in the draft Law. Note, however, that in no circumstances will the police be enabled to gain access to items subject to legal privilege (as defined in Article 5 of the draft Law).
9. Parts 2 and 3 contain new police powers to stop and search persons and vehicles and to enter premises, with

safeguards to prevent abuse of these powers. This will have the effect of setting out in one place the full powers of the police to search etc., without a warrant; they will replace the customary law power of search, the extent of which is both limited (probably to search for stolen goods) and uncertain. Not only do the new powers go some way further than the customary law powers, but putting them in statutory form will ensure that the powers are Human Rights Convention compliant. The customary law power is probably vulnerable to challenge under Article 8 (protection of private and family life) and Article 1 of Protocol 1 to the Convention.

10. Parts 4 and 5 will, for the first time, set out in statutory form the rights of a person in police detention. The States of Jersey Police already follow procedures voluntarily which are based on the U.K. PACE “Code C”, so the new powers will not constitute a significant change for them. But the Law puts those powers on a firm basis.
11. Part 5 introduces a new police power to grant bail before charge and introduces, at the request of the Honorary Police, specific provisions about imposing conditions on grant of bail after charge. This Part also contains important provisions about the powers of the custody officer, who is responsible for seeing that the requirements of the Law for treatment of persons in police detention are adhered to, while taking into account the rôle of the Honorary Police in charging suspected persons and granting bail after charge.
12. Of particular significance is the establishment, for the first time, of statutory limits on police detention without charge, together with the requirement to review that detention at intervals and, for the issue of warrants for extended detention by the Magistrate. Broadly, these limits follow those in force in the U.K.
13. These provisions, taken together, are, like much of the Law, intended to achieve a proper balance between the exercise by the police of the powers needed to investigate and solve crime, and the rights of the individual not to be subjected to excessive powers or unjustified abuse of his/her fundamental rights and freedoms.
14. Part 6 deals with further matters relating to the investigation by police and treatment of persons in custody including new powers to search, and new and better provisions to obtain fingerprints and other samples, including intimate searches and samples (as defined), putting these matters for the first time on a statutory basis. This will aid considerably police investigative powers while preserving the rights of the individual.
15. Part 7 enables codes of practice to be made by the Home Affairs Committee to give further effect to the statutory provisions on treatment of suspects and exercise of police powers. As mentioned, the States of Jersey Police have, for several years, effectively governed their activities by voluntary observance of a localised version of “Code C”.
16. Part 8 includes several new and important provisions on criminal evidence covering, for the first time in Jersey, so called first-hand hearsay evidence and evidence of business records. These provisions should provide an improvement in the way evidence is received in criminal cases.
17. Part 9 deals with various matters on the law of criminal evidence which have hitherto been the subject of some uncertainty or have not been recognised at all in Jersey. Of particular importance are the provisions dealing with evidence of a confession, which will replace the so called “judges rules”, and the new power for the court to exclude evidence obtained unfairly. This, it is to be noted, will be in addition to any existing customary law power of the Courts to exclude evidence.
18. Part 10 gives new powers to the Royal Court to hold preparatory hearings in complex or certain other types of case and makes provision for pre-trial rulings. Again, these procedures should lead to considerable savings in court time.
19. Part 11 contains new statutory powers to govern the use by the police of intrusive methods of surveillance. This Part is intended, by putting such matters on a statutory basis, to enable intrusive surveillance to be carried out in a way which is compatible with the Convention rights, particularly the Article 8 right to respect for private and family life. Authorisations for such surveillance will be given by the Attorney General.
20. Part 12 introduces restrictions on press reporting of committal proceedings. Unless the defence agrees otherwise, no details of the proceedings will be able to be published. This is obviously important to avoid public knowledge of a criminal matter in advance of the trial, which could lead to the accused being denied a fair trial.
21. Part 13 contains several disparate provisions, of which the most significant are the application of the draft law to customs officers, the right for police officers to use reasonable force and the abrogation of the customary law power of search.

Financial and manpower implications

22. The introduction of this legislation will result in increased revenue costs, estimated to be £140,000 in the first year, associated mainly with the DNA sampling of offenders (approximately 1,300 per annum), DNA profiling referrals to the United Kingdom and the necessary secretarial support. Although given a high priority in the recent decision conferencing exercise, no specific funds were allocated for this task. There are also additional costs associated with Class 'A' drug testing and the typing of taped interviews. There are no manpower implications emanating directly from the legislation.

European Convention on Human Rights

23. Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 16th August 2001 the Home Affairs Committee made the following statement before Second Reading of this projet in the States Assembly -
24. In the view of the Home Affairs Committee the provisions of the Draft Police Procedures and Criminal Evidence (Jersey) Law 200- are compatible with the Convention Rights.

- Notes:
1. The Finance and Economics Committee's comments are to follow.
 2. The Human Resources Committee's comments are to follow.

Explanatory Note

This draft Law makes further provision in relation to the powers and duties of the police, persons in police or customs detention, criminal evidence and the conduct of criminal proceedings.

The draft Law is in 13 Parts and 6 Schedules.

Part 1	-	Interpretation.
Part 2	-	Powers to stop and search.
Part 3	-	Powers of entry, search and seizure.
Part 4	-	Treatment of persons on arrest.
Part 5	-	Bail and detention.
Part 6	-	Questioning and treatment of persons by police officers.
Part 7	-	Codes of practice - general.
Part 8	-	Documentary evidence in criminal proceedings.
Part 9	-	Evidence in criminal proceedings - general.
Part 10	-	Preparatory hearings and rulings.
Part 11	-	Control of intrusive surveillance.
Part 12	-	Reporting of committal and other criminal proceedings.
Part 13	-	Miscellaneous and supplementary.

Part 1 Interpretation

Articles 1 to 8 contain interpretative material.

Part 2 Powers to stop and search

Article 9 describes the places in which, and the circumstances under which, a police officer may stop and search a person or vehicle and detain the person or vehicle for the purposes of the search. The purpose of the search must be to find stolen or prohibited articles.

Article 10 sets out the conditions attached to a search under *Article 9* and other powers of search before arrest.

Article 11 gives a police officer power to stop and search a person or vehicle where there is a reasonable belief that incidents involving serious violence may take place and the search may prevent those incidents. This power is exercisable on the written authority of an officer of the States of Jersey Police Force (the "Force") of or above the rank of Chief Inspector. The purpose of the search is to find offensive weapons or dangerous instruments. Things found can be seized and retained in accordance with the provisions of an Order made by the Home Affairs Committee (the "Committee").

Article 12 imposes a duty on a police officer carrying out such a search to keep a record of what he does.

Article 13 provides that an officer of the Force of or above the rank of Chief Inspector, or a Connétable in his parish, may authorize a check of vehicles to see if they are carrying persons who have committed or are about to commit an offence, other than a road traffic offence, or who are unlawfully at large. Authorizations for vehicle checks must be in writing and related to a specified time and place.

Article 14 obliges the Chief Officer of the Force to include details of searches and vehicle checks and their results in an annual report.

Part 3 Powers of entry, search and seizure

Article 15 empowers the Bailiff or a Jurat, if satisfied that there may be relevant evidence relating to a serious offence or unlawfully obtained goods on premises, to issue a warrant authorizing a police officer to enter and search those premises.

Article 16 sets out, by reference to Schedule 2, the procedures to be followed by a police officer seeking access to confidential material.

Article 17 describes the safeguards that apply when a police officer is applying for a search warrant under any enactment and provides that a search carried out with a warrant issued other than according to the provisions of this Article is unlawful.

Article 18 states the method of execution of search warrants. A search carried out with a warrant not executed in accordance

with this Article is unlawful.

Articles 19 and 20 make provision for entry into and search of premises without a warrant.

Article 21 describes the powers of seizure of a police officer lawfully on premises either with or without a warrant.

Article 22 makes special provision for seizure of material stored in electronic form.

Article 23 sets out the procedures to be followed where an occupier of premises from which material has been seized wishes to have access to that material for the purposes of copying it.

Article 24 describes the powers of a police officer to retain material seized as a result of a search of premises.

Article 25 extends to a Jurat the power of the Bailiff under the enactments listed in Schedule 3 to issue a search warrant.

Part 4 Treatment of persons on arrest

Article 26 describes the information to be given to a person when he is arrested and provides that, if he is not given that information as soon as practicable after the arrest, the arrest is unlawful.

Article 27 provides that a person voluntarily attending a police station to assist in an investigation shall be entitled to leave at will unless he is subsequently arrested.

Article 28 sets out the procedures to be followed where a person is arrested other than at a police station.

Article 29 describes the powers of a police officer to search a person who has been arrested.

Part 5 Bail and detention

Article 30 describes the conditions which may be attached to bail, according to whether it is granted before or after charge.

Article 31 gives power to a custody officer, that is an officer of the Force of or above the rank of sergeant appointed as a custody officer, to grant bail to a person who has been arrested but not charged. The powers granted under this Article are in addition to and not in derogation of the powers of a Connétable or Centenier to grant bail.

Article 32 describes the limitations that are placed on police detention.

Article 33 empowers the Chief Officer to designate police stations to be used for detaining arrested persons. A station must have enough accommodation for that purpose.

Article 34 requires the Chief Officer to appoint a custody officer for each designated police station and describes the functions of those officers.

Article 35 describes a custody officer's duties before a person is charged. The custody officer must decide whether there is, in his opinion, enough evidence to charge the arrested person. If there is not, he must release or bail the arrested person. If he takes the opposite view he must inform the Connétable or a Centenier who, after a review of the evidence, may or may not charge the arrested person.

Article 36 describes the duties of a Connétable or Centenier after he has charged a person.

Article 37 requires persons in police custody to be treated in accordance with the provisions of the draft Law and any code of practice under it.

Article 38 provides that the detention of a person in police custody must be periodically reviewed. If the person has been charged the review must be by the Connétable or a Centenier. If he has not been charged the review must be by an officer of the Force of or above the rank of Inspector unconnected with the investigation in connection with which the person is in custody.

Article 39 sets a limit of 24 hours on the period for which a person can be detained without being charged.

Article 40 provides that the period of detention may be extended to 36 hours if an officer of the Force of or above the rank of

Chief Inspector authorizes it and the criteria in this Article are met.

Article 41 empowers a court to further extend the period of detention by warrant by up to 36 hours if the requirements of this Article are fulfilled.

Article 42 states that a warrant under *Article 41* may be extended by up to 36 hours but in any event not beyond a period of 96 hours from the time the detention commenced as calculated under *Article 39*.

Article 43 relates to detention after charge and requires a person so detained to be brought before a court at its first sitting after he is charged.

Article 44 empowers a police officer to arrest a person who has failed to respond to bail.

Article 45 relates to persons arrested after being granted bail where new evidence, justifying re-arrest, comes to light.

Article 46 empowers the Magistrate to remand a person in police custody for up to 3 days.

Article 47 requires the Chief Officer to ensure that the Force keeps records relating to persons detained in custody and to include information from those records in his annual report.

Article 48 is a saving provision relating to powers of immigration officers and police and customs officers' duties relating to members of the armed forces. A person's right to seek habeas corpus or other prerogative remedy is also preserved.

Part 6 Questioning and treatment of persons by police officers

Article 49 empowers a police officer to take the fingerprints of certain offenders and specifies the conditions attached to the exercise of that power.

Article 50 relates to police powers to search and seize the personal effects of persons in police custody.

Article 51 describes when and how an intimate search may be carried out on a person who has been arrested and is in police detention.

Article 52 entitles a person who has been arrested and is in police custody, subject to certain exceptions, to have one person informed that he has been arrested.

Article 53 describes the additional rights that a person who is not of full age has after he is arrested.

Article 54 entitles a person arrested and held in police custody to be provided with facilities so that he may consult a legal representative privately at any time. There are exceptions and qualifications to this right when the person is arrested for a serious offence or a drug trafficking, money laundering or terrorism offence.

Article 55 requires that a person must give consent before his fingerprints may be taken but also provides for exceptions and details those exceptions.

Article 56 requires that a person must give consent before an intimate sample may be taken and further requires that an inspector or higher rank of officer authorizes the taking of the sample. However, where consent is refused without good cause a court, in any criminal proceedings against the person, may draw any proper inferences from that refusal.

Article 57 requires that a person must give consent before a non-intimate sample may be taken but also provides for exceptions and details those exceptions.

Article 58 contains supplementary provisions relating to the methods of taking samples and checking fingerprints and samples against other fingerprints and samples, records of which are held by the Force or other police forces and authorities concerned with criminal intelligence or the prevention and investigation of crime

Article 59 empowers a police officer to require a person charged with theft or burglary or an offence in respect of a Class A controlled drug to supply a urine sample or non-intimate sample for the purpose of ascertaining whether the person has any such drugs in his body. The information obtained may be used for the purpose of informing any decision about the person's bail, supervision or sentencing or to ensure that he receives advice and treatment.

Article 60 describes the circumstances under which fingerprints and samples may be retained and used or must be destroyed.

Part 7 Codes of practice - general

Articles 61 and 62 contain provisions relating to the Codes of Practice which shall be brought into operation by Order of the Committee.

Part 8 Documentary evidence in criminal proceedings

Article 63 is the interpretation provision for Part 8.

Article 64 details the circumstances in which evidence in a document is admissible in criminal proceedings to the same extent as direct oral evidence.

Article 65 relates to evidence in business documents and provides that, subject to certain conditions, the evidence is admissible to the same extent as direct oral evidence.

Article 66 confers on a court the discretion to exclude evidence which would be admissible under *Article 64 or 65*.

Article 67 gives a court a discretion to exclude a statement which would be admissible under *Article 64 or 65* if it is not prepared in accordance with Article 4 of the Criminal Justice (International Co-operation) (Jersey) Law 2001.

Article 68 relates to proof of statements in documents and permits proof by production of a copy of a document if it is authenticated in a manner approved by the court.

Article 69 applies the procedures set out in *Schedule 4* to *Articles 64 to 68*

Article 70 makes special provision for proof of microfilm copies.

Part 9 Evidence in criminal proceedings - general

Article 71 sets out the procedures to be followed to prove that a person has been convicted or acquitted of an offence.

Article 72 provides that when a conviction is proved this is also proof that the offence to which the conviction relates was committed.

Article 73 supplements *Article 72* by providing that where the commission of an offence is proved under that Article the contents of any document used as proof thereof shall also be proof of the facts of that offence.

Article 74 allows the confession of an accused person to be admissible in evidence against him providing the prosecution prove beyond reasonable doubt that the confession was not obtained by oppression or by any other means that would render the confession unreliable. Although the confession may be inadmissible facts discovered as a result of the confession may, in certain circumstances, be admissible.

Article 75 deals with confessions by mentally impaired persons and requires the Bailiff to warn the Jurats or the jury of a special need for caution when considering that evidence.

Article 76 states the general discretion of the court, notwithstanding that evidence may be admissible, to exclude it if to admit it would adversely affect the fairness of the proceedings.

Article 77 provides that, if the accused is to give evidence, he should do so before any other defence witness.

Articles 78 to 81 are provisions relating to the treatment of hostile witnesses and how and to what extent they may be discredited.

Article 82 sets out the procedures for proving the contents of a plan or drawing by means of a certificate.

Part 10 Preparatory hearings and rulings

Article 83 applies the provisions of this Part to committals for trial to the Royal Court which occur after this Article comes into force.

Article 84 empowers the Bailiff, on application or on his own motion, to order a preparatory hearing for certain trials which involve a victim or witness who is a child or mentally disordered person or for a trial which appears to him to be likely to be so long or so complex that a preparatory hearing would have substantial benefits.

Article 85 states that the trial begins at the commencement of the preparatory hearing and the accused should be arraigned at that time.

Article 86 and 87 provide that the Bailiff may adjourn a preparatory hearing and make rulings on admissibility of evidence and questions of law. He may also require the prosecution and the defence to make certain specified disclosures aimed at achieving one or more of the purposes set out in *Article 84* and he may make those requirements at or before the commencement of the hearing.

Article 88 is a power to make Rules of Court.

Article 89 permits the Bailiff or any other party to the proceedings to comment where a party departs from any facts disclosed under *Article 87* and the Royal Court or jury may draw any reasonable inferences from that departure.

Article 90 permits a party to appeal to the Court of Appeal against any ruling of the Bailiff, with leave of the Bailiff or the Court of Appeal.

Article 91 prohibits the reporting of a preparatory hearing except in the circumstances set out in the Article.

Article 92 makes it an offence to contravene *Article 91* and describes the categories of persons who may be guilty of that offence.

Article 93 defines a pre-trial hearing.

Article 94 permits the Bailiff either on application or on his own motion to rule on admissibility of evidence or questions of law at a pre-trial hearing.

Articles 95 and 96 apply similar provisions to pre-trial hearings as apply to preparatory hearings and which are contained in *Articles 91 and 92*.

Article 97 applies *Articles 93 to 96* to pre-trial hearings beginning on or after this Article comes into force.

Article 98 describes the circumstances in which a witness outside the Island may, with leave of the court, give evidence through a live television link. The accused can not avail himself of those procedures.

Part 11 Control of intrusive surveillance

Article 99 is the interpretation provision for *Part 11*.

Article 100 prohibits interference with property or wireless telegraphy, save as is authorized by this Part.

Article 101 permits the Attorney General to authorize, in certain circumstances, the interference prohibited by *Article 100*.

Article 102 describes the form that these authorizations must take and how long they may last.

Article 103 requires the Attorney General to make returns of information regarding authorizations to the Commissioner.

Article 104 empowers the Bailiff to appoint an ordinary judge of the Court of Appeal as the Commissioner to review the manner in which the Attorney General carries out his functions under *Articles 101 to 103*. The Commissioner is required to make an annual report to the Bailiff which report is to be laid before the States.

Part 12 Reporting of committal and other criminal proceedings

Article 105 makes it an offence to report committal proceedings except in the circumstances provided and identifies the categories of persons who may be guilty of the offence.

Article 106 empowers a court to prohibit the reporting of criminal proceedings if it is necessary to do so to avoid substantial

risk of prejudice to the administration of justice in those proceedings or any other criminal proceedings. There is a right of appeal against the order. It is an offence to contravene the order and the Article identifies the categories of persons who may be guilty of the offence.

Part 13 Miscellaneous and supplementary

Article 107 enables the Committee, after consultation with the Finance and Economics Committee, to make an Order applying the draft Law to customs and excise investigations, with modifications.

Article 108 enables the Magistrate to remand a person charged with an offence of possession of a controlled drug or drug trafficking to the custody of customs officers for a period up to 192 hours.

Article 109 provides that where a police officer has a power, the exercise of which does not require the consent of any person, he may use reasonable force, if necessary, in the exercise of the power.

Article 110 indemnifies a police officer against any civil proceedings which may otherwise have arisen because of a failure on his part to comply with any time limit, if he has acted in good faith.

Article 111 abrogates the customary right of search reserved to a Connétable and Centenier and any customary power of entry without a warrant and any enactment permitting a police officer to search a person in a police station or carry out an intimate search.

Article 112 together with Schedules 5 and 6 are the amendments and repeals provisions.

Article 113 contains provision relating to the making of Regulations and Orders under the draft Law.

Article 114 is the citation and commencement provision.

Schedule 1 specifies offences which constitute “serious offences” for the purposes of the Law.

Schedule 2 makes provision for the Bailiff to order the production of confidential material.

Schedule 3 lists enactments which empower the Bailiff to issue a search warrant and which are extended by *Article 24* to give Jurats that power.

Schedule 4 makes further provision as to statements admitted as evidence.

Schedule 5 makes consequential amendments to other enactments.

Schedule 6 makes consequential repeals in other enactments.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993 level 1 is £50; level 2 is £500; level 3 is £2,000; level 4 is £5,000.

**POLICE PROCEDURES AND CRIMINAL EVIDENCE
(JERSEY) LAW 200-**

ARRANGEMENT OF ARTICLES

PART 1

INTERPRETATION

1. General interpretation
2. Meaning of police detention
3. Meaning of “serious offence”
4. Meaning of “prohibited article”
5. Meaning of “items subject to legal privilege”
6. Meaning of “confidential material”
7. Meaning of “personal records”
8. Meaning of “journalistic material”

PART 2

POWERS TO STOP AND SEARCH

9. Power of police officer to stop and search persons, vehicles etc.
10. Provisions relating to search under Article 9 and other powers
11. Powers to stop and search in anticipation of violence
12. Duty to make records concerning searches
13. Vehicle checks
14. Reports of recorded searches and of vehicle checks

PART 3

POWERS OF ENTRY, SEARCH AND SEIZURE

Search warrants

15. Power to authorize entry and search of premises
16. Special provisions as to access
17. Safeguards for search warrants under any enactment
18. Execution of search warrants under any enactment

Entry and search without search warrant

19. Entry for purpose of arrest etc.
20. Entry and search after arrest

Seizure

21. General power of seizure etc.
22. Extension of powers of seizure to computerized information
23. Access and copying
24. Retention
25. Powers for a Jurat to issue a search warrant

PART 4

TREATMENT OF PERSONS ON ARREST

26. Information to be given on arrest

27. Voluntary attendance at police station etc.
28. Arrest elsewhere than at police station
29. Search upon arrest

PART 5

BAIL AND DETENTION

Bail

30. Conditions of bail
31. Bail on arrest

Detention - conditions and duration

32. Limitations on police detention
33. Designated police stations
34. Custody officers at police stations
35. Duties of custody officer before charge
36. Duties of Connétable or Centenier after charge
37. Responsibilities in relation to persons detained
38. Review of police detention
39. Limits on period of detention without charge
40. Authorization of continued detention
41. Warrants of further detention
42. Extension of warrants of further detention

Detention - miscellaneous

43. Detention after charge
44. Power of arrest if failure to attend at police station when required to do so
45. Further provisions after arrest
46. Remands in police custody
47. Records of detention
48. Savings

PART 6

QUESTIONING AND TREATMENT OF PERSONS BY POLICE OFFICERS

49. Fingerprinting of certain offenders
50. Searches of detained persons
51. Intimate searches
52. Right to have someone informed when arrested
53. Additional rights of persons not of full age who are arrested
54. Access to legal advice
55. Fingerprinting
56. Intimate samples
57. Other samples
58. Fingerprints and samples - supplementary provisions
59. Testing for presence of Class A drugs
60. Retention, use and destruction of fingerprints and samples

PART 7

CODES OF PRACTICE - GENERAL

61. Codes of practice
62. Codes of practice - supplementary

PART 8

DOCUMENTARY EVIDENCE IN CRIMINAL PROCEEDINGS

63. Interpretation of Part 8
64. First-hand hearsay
65. Business etc. documents
66. Principles to be followed
67. Statements in documents that appear to have been prepared for purposes of criminal proceedings or investigations
68. Proof of statements contained in documents
69. Documentary evidence - supplementary
70. Microfilm copies

PART 9

EVIDENCE IN CRIMINAL PROCEEDINGS - GENERAL

Convictions and acquittals

71. Proof of convictions and acquittals
72. Conviction as evidence of commission of offence
73. Provisions supplementary to Article 72

Confessions

74. Confessions
75. Confessions by mentally impaired persons
76. Exclusion of unfair evidence
77. Time for taking accused's evidence

Witnesses

78. How far witnesses may be discredited by the party producing
79. As to proof of contradictory statements of adverse witness
80. Cross examination as to previous statements in writing
81. Proof of conviction of a witness for an offence may be given
82. Evidence by certificate

PART 10

PREPARATORY HEARINGS AND RULINGS

Preparatory hearings

83. Application and interpretation of Part 10
84. Power to order preparatory hearing
85. Start of trial and arraignment
86. The preparatory hearing
87. Orders before preparatory hearing
88. Rules of court
89. Later stages of trial
90. Appeals to Court of Appeal
91. Restrictions on reporting preparatory hearings
92. Offences in connection with reporting preparatory hearings

Rulings

93. Meaning of pre-trial hearing
94. Power to make rulings
95. Restrictions on reporting rulings
96. Offences in connection with reporting rulings
97. Application of Articles 93 to 96

98. Evidence through television links

PART 11

CONTROL OF INTRUSIVE SURVEILLANCE

- 99. Interpretation of Part 11
- 100. Authorizations
- 101. Authorizations to interfere with property etc.
- 102. Authorizations: form and duration etc.
- 103. Notification of authorizations etc.
- 104. The Commissioner

PART 12

REPORTING OF COMMITTAL AND OTHER CRIMINAL PROCEEDINGS

- 105. Committal proceedings
- 106. Contemporary reports of criminal proceedings

PART 13

MISCELLANEOUS AND SUPPLEMENTARY

- 107. Application of Law to Customs and Excise
- 108. Extended remand in customs custody of suspected drug offender
- 109. Power of police officer to use reasonable force
- 110. Statutory indemnity
- 111. Abrogation of certain powers of police officers
- 112. Amendments and repeals
- 113. Regulations and Orders
- 114. Citation and commencement

SCHEDULES

- | | |
|------------|---|
| SCHEDULE 1 | Serious offences |
| SCHEDULE 2 | Confidential material |
| SCHEDULE 3 | Enactments conferring power to issue a search warrant |
| SCHEDULE 4 | Provisions supplementary to Articles 64 to 69 |
| SCHEDULE 5 | Consequential amendments |
| SCHEDULE 6 | Repeals |

**POLICE PROCEDURES AND CRIMINAL EVIDENCE
(JERSEY) LAW 200-**

A LAW to make further provision in relation to the powers and duties of the police, persons in police or customs detention, criminal evidence and the conduct of criminal proceedings; and for purposes connected therewith and incidental thereto; sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 200-)

STATES OF JERSEY

The day of 200-

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

PART I

INTERPRETATION

ARTICLE 1

General interpretation

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

“1996 Law” means the Prevention of Terrorism (Jersey) Law 1996;^[1]

“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;^[2]

“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 17 years, the consent of that person;
- (b) in relation to a person who has not attained the age of 17 years, but has attained the age of 14 years, the consent of that person and his parent or guardian; and
- (c) in relation to a person who has not attained the age of 14 years, the consent of his parent or guardian;

“Chief Officer” means the Chief Officer of the Force;

“civilian support officer” means a person designated to perform duties and functions as such by the Chief Officer;

“Class A drug” has the meaning given in Article 3 of the Misuse of Drugs (Jersey) Law 1978;^[3]

“Committee” means the Home Affairs Committee;

“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;

“confidential material” has the meaning assigned to it by Article 6;

“custody officer” shall be construed in accordance with Article 34;

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

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

“drug trafficking” and “drug trafficking offence” have the same meaning as in the Drug Trafficking Offences (Jersey) Law 1988;^[4]

“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 his 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 the Island, with modifications, by the Immigration (Jersey) Order 1993;^[5]

“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 his employer to the Chief Officer as a legal representative for the purposes of this Law;

“Magistrate” means the ‘Juge d’Instruction’ appointed under the Lois (1864 à 2000) concernant la charge de Juge d’Instruction^[6] and includes a person exercising those functions;

“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 the First Schedule to the Proceeds of Crime (Jersey) Law 1999;^[7]

“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 him for that use by him or by some other person;

“parent or guardian” means, in the case of a child or young person in the care of the Health and Social Services Committee, that Committee;

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

“police detention” shall be construed in accordance with Article 2;

“police officer” mean a member of the Force or an honorary police officer;

“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 Rules made by the Royal Court;

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

“registered dentist” has the same meaning as in the Dentists (Registration) (Jersey) Law 1961,^[8]

“registered medical practitioner” has the same meaning as in the Medical Practitioners (Registration) (Jersey) Law 1960;^[9]

“registered nurse” shall be construed in accordance with the Nursing and Midwifery Order 2001 (statutory instrument no.253 of 2002), 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);

“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 his foot or of any other part of his body;

“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 assigned to it by the 1996 Law;^[10]

“terrorism provisions” means Article 13(1) of the 1996 Law^[11] and any provision of the Second or Fifth Schedules to that Law conferring a power of arrest or detention;

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

“Youth Appeal Court” means the court constituted under Article 15 of the Criminal Justice (Young Offenders) (Jersey) Law 1994;^[12]

“Youth Court” means the court established by Article 11 of the Criminal Justice (Young Offenders) (Jersey) Law 1994.^[13]

(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) In this Law, any reference to a person’s proceeds of drug trafficking shall be construed in accordance with the Drug Trafficking Offences (Jersey) Law 1988.^[14]

(4) A reference in this Law to a Part, Article or Schedule by number only, and without further identification, is a reference to the Part, Article or Schedule of that number in this Law.

(5) A reference in an Article or other division of this Law to a paragraph, sub-paragraph or clause by number or letter only and without further identification, is a reference to the paragraph, sub-paragraph or clause of that number or letter in the Article or other division in which it appears.

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

(7) Unless the context otherwise requires, where this Law refers to any enactment, the reference is to that enactment as amended from time to time and includes a reference to that enactment as extended or applied under another enactment, including another provision of this Law.

ARTICLE 2

Meaning of police detention

- (1) A person is in police detention for the purposes of this Law if -
 - (a) he has been taken to a police station after being arrested for an offence or after being arrested under Article

13 of the 1996 Law^[15] or under paragraph 6 of the Fifth Schedule to that Law^[16] by an examining officer who is a police officer; or

- (b) he 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.

(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 he is taken after his arrest;
- (b) in the case of a person arrested outside the Island, shall be the time at which that person arrives at the first police station in the Island in which the offence for which he was arrested is being investigated or the time 12 hours after the time of that person's entry into the Island, 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 his 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.

ARTICLE 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 the definition "drug trafficking offence" in Article 1(1) of the Drug Trafficking Offences (Jersey) Law 1988.^[17]

(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) An offence under Articles 3, 7, 8, 9 or 10 of the 1996 Law is always a serious offence for the purposes of Article 52 or 54, and conspiring or attempting to commit any of those offences is also always a serious offence for those purposes.

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

- (a) serious harm to the security of the Island 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 or procuring the commission of a serious offence is a serious offence.

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

ARTICLE 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, or
 - (ii) intended by the person having it with him for use by him 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 28 of the Road Traffic (Jersey) Law 1956;^[18] and
- (d) fraud, obtaining by false pretences, embezzlement and fraudulent conversion.

ARTICLE 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 his client or any person representing his client made in connection with the giving of legal advice to the client;
- (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his 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.

ARTICLE 6

Meaning of “confidential material”

- (1) Subject to this Article, in this Law “confidential 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 he 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 he 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) he 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) Subject to paragraphs (5) to (7), confidential material includes material, other than items subject to legal privilege, 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).

- (5) Where material is acquired by an employee from his employer and in the course of his employment or by a company from an associated company, it is only confidential material if it was confidential material immediately before the acquisition.

- (6) Where material is created by an employee in the course of his employment, it is only confidential material if it would have been confidential material had his employer created it.

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

- (8) 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.

- (9) For the purposes of this Article, a person shall be taken to have control of a company if he 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 he 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; or

- (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 he or any other person has as a loan creditor, entitle him 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 him to receive the greater part of the assets of the company which would then be available for distribution among the participators.

(10) Where 2 or more persons together satisfy any of the conditions of paragraph (9), they shall be taken to have control of the company.

(11) For the purposes of paragraph (9) 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.

(12) For the purposes of paragraphs (9) and (10), there shall be attributed to any person any rights or powers of a nominee for him, that is to say, any rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.

(13) For the purposes of paragraphs (9) and (10), there may also be attributed to any person all the rights and powers of any company of which he has, or he and associates of his have, control or any 2 or more of those companies, or of any associate of his or of any 2 or more associates of his, including those attributed to a company or associate under paragraph (12), 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.

(14) 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 his, 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 (16) and (17), 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 his benefit;

(d) “relative” means husband or wife, parent or remoter forebear, child or remoter issue, or brother or sister.

(15) References in paragraph (14)(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.

(16) Subject to paragraph (17), a person who is not the creditor in respect of any debt or loan capital to which paragraph (14)(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.

(17) 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 him to the company in the ordinary course of that business.

ARTICLE 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 his physical or mental health;

(b) to spiritual counselling or assistance given or to be given to him; or

(c) to counselling or assistance given or to be given to him, for the purposes of his personal welfare, by any voluntary organization or by an individual who -

(i) by reason of his office or occupation has responsibilities for his personal welfare, or

(ii) by reason of an order of a court has responsibilities for his supervision.

ARTICLE 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

ARTICLE 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 he 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 he 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 he has reasonable grounds for suspecting that he 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 him in the exercise of the power conferred by this Article unless the police officer has reasonable grounds for believing -
- (a) that he does not reside in the dwelling; and
 - (b) that he 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 he 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 he has reasonable grounds for suspecting to be a stolen or prohibited article, he 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.

ARTICLE 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 him or to search a vehicle without making an arrest, need not conduct a search if it appears to him 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 him or to search a vehicle without making an arrest, he shall, subject to paragraph (4), take reasonable steps before he 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 is a police officer; and
 - (b) whether he is in uniform or not, the matters specified in paragraph (3),

and the police officer shall not commence the search until he 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 he 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 he has searched it;
- (b) giving the name of the police station to which he is attached, or in the case of an honorary police officer, the parish to which he 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 him 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 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 police officer proposes to search a person, that person; and
- (b) if he proposes to search a vehicle, or anything in or on a vehicle, the person in charge of the vehicle.

ARTICLE 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, he 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 he 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, he 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 him or anything carried by him 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 he thinks fit whether or not he 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 he has reasonable grounds for suspecting to be an offensive weapon, he 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 Committee.

(8) The Committee 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 powers under this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding one month or to a fine not exceeding level 2 on the standard scale, ^[19] or both.

(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.

ARTICLE 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 he 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, he 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 his name, if the police officer knows it, but a police officer may not detain a person to find out his name.

(4) If a police officer does not know the name of the person whom he 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 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 Connétable of the parish to which he is appointed who shall send it to the Chief Officer for record-keeping and reporting purposes.

ARTICLE 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^[20] 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 Connétable in connection with a road in his parish authorizes it in writing.

(3) An officer or a Connétable 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 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 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 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 has reasonable grounds for suspecting that the person is, or is about to be, in that locality.

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

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

(6) An officer of the Force or Connétable to whom a report is made under paragraph (5) may, in writing, authorize the vehicle check to continue.

(7) If such an officer or Connétable considers that the vehicle check should not continue, he shall record in writing -

(a) the fact that it took place; and

(b) the purpose for which it took place.

(8) An officer of the Force or Connétable giving an authorization under this Article shall specify the locality in which vehicles are to be stopped.

(9) An officer of the Force or Connétable 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.

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

(11) Every written authorization shall specify -

(a) the name of the officer of the Force or Connétable giving it;

(b) the purpose of the vehicle check; and

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

(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 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 Connétable 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.

ARTICLE 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

ARTICLE 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 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, or confidential 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.

ARTICLE 16

Special provisions as to access

- (1) A police officer may obtain access to confidential material for the purposes of a criminal investigation by making an application under Schedule 2 and in accordance with that Schedule.
- (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 for items subject to legal privilege or for confidential material.
- (3) Paragraph (2) shall not apply to -
 - (a) the Drug Trafficking Offences (Jersey) Law 1988;^[21]
 - (b) the Investigation of Fraud (Jersey) Law 1991;^[22]
 - (c) the 1996 Law;^[23]
 - (d) the Financial Services (Jersey) Law 1998;^[24]
 - (e) the Proceeds of Crime (Jersey) Law 1999;^[25]
 - (f) the Criminal Justice (International Co-operation) (Jersey) Law 2001.^[26]

ARTICLE 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), he shall state the ground on which he 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 him.
- (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.

ARTICLE 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 to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a police officer;
 - (b) shall produce the warrant to him; and
 - (c) shall supply him 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, he 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, he shall be allowed to do so.

Entry and search without search warrant

ARTICLE 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 he has reasonable cause to suspect has committed an offence, or where he 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 he 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 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 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.

ARTICLE 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 he 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 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 Connétable or Centenier in respect of premises in his parish, has authorized them in writing.
- (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), he 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 Connétable or Centenier in respect of premises in his parish, that he has made the search as soon as practicable after he has made it.
- (7) An officer of the Force, Connétable 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.
- (8) A Connétable or Centenier who authorizes or is informed of a search shall notify the Chief Officer for record keeping and recording purposes.
- (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 his custody record.

Seizure

ARTICLE 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 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 has reasonable grounds for believing -
- (a) that it is evidence in relation to an offence which he 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 he has reasonable grounds for believing -
- (a) that it is evidence in relation to an offence which he 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.

ARTICLE 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.

ARTICLE 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 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 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 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 he 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 he is in charge, or the investigation mentioned in sub-paragraph (b).

ARTICLE 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.

ARTICLE 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

ARTICLE 26

Information to be given on arrest

- (1) Subject to paragraph (5), where a person is arrested, otherwise than by being informed that he is under arrest, the arrest is not lawful unless the person arrested is informed that he is under arrest as soon as is practicable after his 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 is under arrest or of the ground for the arrest if it was not reasonably practicable for him to be so informed by reason of his having escaped from arrest before the information could be given.

ARTICLE 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) he shall be entitled to leave at will unless he is placed under arrest;
- (b) he shall be informed at once that he is under arrest if a decision is taken by a police officer to prevent him from leaving at will.

ARTICLE 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, he 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 him without the assistance of any other police officer and no other police officer is available to assist him, or
 - (ii) the police officer has taken him 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; and
 - (b) it appears to the police officer that he will be unable to take the arrested person to a designated police station without the arrested person injuring himself, the police officer or some other person.

(5) If the first police station to which an arrested person is taken after his arrest is not a designated police station,

he shall be taken to a designated police station not more than 6 hours after his arrival at the first police station unless he 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 him under arrest.

(7) A police officer who releases a person under paragraph (6) shall record the fact that he 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 his arrest, the reasons for the delay shall be recorded when he 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) Article 14(5) and (6) of the 1996 Law and paragraphs 7(4) and 8(2) and (3) of the Second Schedule and paragraphs 6(6) and 7(2) and (3) of the Fifth Schedule to that Law.

(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 the Island on suspicion of an offence committed in the Island, he shall, notwithstanding anything to the contrary in the Indictable Offences Act 1848 of the United Kingdom, be dealt with under this Law as if he had been arrested in the Island.

ARTICLE 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 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 he might use to assist him to escape from lawful custody or which might be evidence relating to an offence; and

(b) to enter and search any premises in which he was when arrested or immediately before he was arrested for evidence relating to the offence for which he 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 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 he has reasonable grounds for believing that the person to be searched may have concealed on him 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 he 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 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 he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself 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 he finds, other than items subject to legal privilege, if he has reasonable grounds for believing -

- (a) that that person might use it to assist him 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 powers conferred by Article 14(2), (3) and (4) of the 1996 Law. ^[27]

PART 5

BAIL AND DETENTION

Bail

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.

(2) Where a person charged with an offence is released on bail by a Connétable or Centenier that officer, where it appears to him that it is necessary to do so for the purpose of preventing that person from -

- (a) failing to surrender to custody; or
- (b) committing an offence while on bail; or
- (c) interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or any other person,

may impose such conditions of bail, including taking a recognizance or surety for the person's surrender to custody, as appear to the officer to be necessary for that purpose.

(3) Where a Connétable or Centenier has granted bail to a person charged with an offence the officer may, at the request of that person, vary the conditions of bail and, in doing so, may impose conditions or more onerous conditions.

(4) Where a Connétable or Centenier, pursuant to paragraph (2), imposes any condition of bail or, pursuant to paragraph (3), varies or imposes new conditions of bail, he shall, with a view to enabling the accused to consider requesting him or the Magistrate to vary the conditions, give reasons for imposing or varying the conditions and give notice of the reasons to the accused.

(5) Where a Connétable or Centenier grants bail to a person charged with an offence, varies the conditions of that person's bail or, upon a request by that person for variation, refuses to vary the conditions of bail, the Magistrate may, on

application by or on behalf of that person, grant bail or vary the conditions of bail and, in doing so, may remove or impose conditions or impose more onerous conditions.

(6) An application described in paragraph (5) shall be heard as soon as is practicable and in any event not later than the first sitting after it is made.

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.

Detention - conditions and duration

ARTICLE 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.

ARTICLE 33

Designated police stations

(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.

ARTICLE 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 16B and 16C of the Road Traffic (Jersey) Law 1956. ^[28]
 - (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.

ARTICLE 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 the Connétable or 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 Connétable or Centenier or release that person, with or without bail, to return to the police station.
- (8) The Connétable or 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.
- (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.

ARTICLE 36

Duties of Connétable or Centenier after charge

- (1) Where a person arrested for an offence is charged with an offence, the Connétable or Centenier who prefers the charge shall order his release from police detention, either on bail or without bail, unless -
- (a) if the person arrested is not a juvenile -
 - (i) his name or address cannot be ascertained or the officer has reasonable grounds for doubting whether a name or address given by him as his name or address is his real name or address,
 - (ii) the officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer bail,
 - (iii) the officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from committing an offence,
 - (iv) in the case of a person of full age, the officer 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,
 - (v) the officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from interfering with the administration of justice or with the investigation of offences or of a particular offence, or

(vi) the officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection;

or

(b) if he is a juvenile -

(i) any of the requirements of sub-paragraph (a) is satisfied, or

(ii) the officer has reasonable grounds for believing that he ought to be detained in his own interests.

(2) If the release of a person arrested is not required by paragraph (1), the officer may authorize him to be kept in police detention but may not authorize a person to be kept in police detention by virtue of paragraph (1)(a)(iv) after the end of the period of 6 hours beginning when he was charged with the offence.

(3) Where, pursuant to paragraph (2), an officer authorizes a person who has been charged to be kept in police detention, he shall, as soon as practicable, make a written record of the grounds for the detention.

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

(5) Paragraph (4) 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;

(b) violent or likely to become violent; or

(c) in urgent need of medical attention.

(6) Where an officer authorizes a juvenile to be kept in police detention under paragraph (1), the officer shall, unless he certifies -

(a) that, by reason of the circumstances specified in the certificate, it is impracticable for him to do so; or

(b) in the case of a juvenile who has attained the age of 12 years, that no secure accommodation is available and that keeping him in other publicly provided accommodation would not be adequate to protect the public from serious harm from him,

secure that the juvenile is moved to publicly provided accommodation.

(7) Where a juvenile is moved to publicly provided accommodation under paragraph (6), it shall be lawful for any person acting on behalf of the Education Committee to detain him.

(8) A certificate made under paragraph (6) in respect of a juvenile shall be produced to the court before which he is first brought thereafter.

(9) In the case of a juvenile charged with a violent offence or sexual offence, any reference in this Article to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical or psychological, occasioned by further offences of that nature committed by him.

(10) In this Article -

“juvenile” means a person who is or appears to be under the age of 17 years;

“officer” means the Connétable or Centenier who prefers the charge under paragraph (1);

“publicly provided accommodation” means accommodation provided by the Education Committee under the Children (Jersey) Law 1969;^[29]

“secure accommodation” means accommodation provided for the purposes of restricting liberty;

“sexual offence” means rape, sodomy, bestiality, incest, indecent assault, committing an act of gross indecency with or in the presence of another person, indecent exposure, any offence under the Loi (1895) modifiant le droit criminel,^[30] other than Article 9 thereof, the Protection of Children (Jersey) Law 1994^[31] or Article 45 of the Mental Health (Jersey) Law 1969^[32] or any offence of attempting or conspiring to commit or inciting another to commit any of the aforementioned offences but shall not include the offence of sodomy performed as a homosexual act which would not be an offence but for Article 2 of the Sexual Offences (Jersey) Law 1990;^[33]

“violent offence” means an offence which leads, or is intended or likely to lead, to a person’s death or to physical injury to a person, and includes an offence which is required to be charged as arson, whether or not it would otherwise fall within this definition.

ARTICLE 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) the custody officer shall cease in relation to that person to be subject to paragraph (1)(a); 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).

(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 juvenile is moved to publicly provided accommodation under Article 36(6), the custody officer shall cease in relation to that person to be subject to paragraph (1).

(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.

ARTICLE 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 arrested and charged, by the honorary police officer who prefers the charge or, if he is not immediately available, the Connétable or another Centenier; and
- (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.

- (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 (1) to (6) shall have effect in relation to him, with the substitution of references to the person whose detention is under review for references to the person arrested.
- (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.

ARTICLE 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.

ARTICLE 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 36 hours after the relevant time.

(2) Where an officer mentioned in paragraph (1) has authorized the keeping of a person in police detention for a period expiring less than 36 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 36 hours after that time if the conditions specified in paragraph (1) are still satisfied when he gives the authorization.

(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 36 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.

(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.

ARTICLE 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) Subject to paragraph (8), an application for a warrant of further detention may be made-
- (a) at any time before the expiry of 36 hours after the relevant time; or
 - (b) in a case where it is not practicable for the court to sit at the expiry of 36 hours after the relevant time but the court will sit during the 6 hours following the end of that period, at any time before the expiry of the said 6 hours.
- (7) In a case to which paragraph (6)(b) applies -
- (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 make a note in that person's custody record -
 - (i) of the fact that he was kept in police detention for more than 36 hours after the relevant time, and
 - (ii) of the reason why he was so kept.

(8) If an application for a warrant of further detention is made after the expiry of 36 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.

(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 36 hours after the relevant time.

(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 36 hours.

(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.

ARTICLE 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

ARTICLE 43

Detention after charge

(1) Where a person is charged with an offence and after being charged is kept in police detention or is detained pursuant to arrangements made under Article 36(6) or a warrant issued under Article 13 of the Loi (1864) réglant la procédure criminelle,^[34] he shall be brought before the Magistrate's Court in accordance with this Article.

(2) He shall be brought before the court as soon as is practicable and in any event not later than the first sitting

after he is charged with the offence.

(3) If the court is not due to sit either on the day on which he is charged or on the next day, the custody officer for the police station at which he was charged shall inform the Judicial Greffier that there is a person to whom paragraph (2) applies.

(4) Subject to paragraph (5), where the Judicial Greffier has been informed under paragraph (3) that there is a person to whom paragraph (2) applies, he shall arrange for the court to sit not later than the day next following the relevant day.

(5) Where the day next following the relevant day is Christmas Day, Good Friday or a Sunday, the Judicial Greffier shall, under paragraph (4), arrange for a court to sit not later than the first day after the relevant day which is not one of those days.

(6) Nothing in this Article requires a person who is in hospital to be brought before the court if he is not well enough.

(7) In this Article “the relevant day” means the day on which the person was charged.

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.

(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.

ARTICLE 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.

ARTICLE 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.

ARTICLE 48

Savings

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 or by virtue of Article 13 of the 1996 Law or the Third Schedule to that Law;^[35]
- (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.

PART 6

QUESTIONING AND TREATMENT OF PERSONS BY POLICE OFFICERS

ARTICLE 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 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 him to attend a

police station in order that his fingerprints may be taken.

(2) Where a person convicted of a relevant offence has had his 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 him to attend a police station in order that his 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 shall so attend; and
- (b) may direct him 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 Committee may by Order specify offences that are relevant offences for the purposes of this Law.

ARTICLE 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 when he 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 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 any other person,
- (ii) to damage property,
- (iii) to interfere with evidence, or
- (iv) to assist him 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 he

is -

- (a) violent or likely to become violent; or
- (b) incapable of understanding what is said to him.

(6) Subject to paragraph (10), a person may be searched if the custody officer considers it necessary to enable him 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 he has with him anything which he 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 or by a civilian support officer.

(12) The police officer or civilian support officer carrying out a search shall be of the same sex as the person searched.

ARTICLE 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 he has reasonable grounds for believing -

- (a) that that person may have concealed on him anything which he could use to cause physical injury to himself or others and which he might so use while he is in police detention or in the custody of a court; or
- (b) that that person may have concealed on him a controlled drug, as defined in Article 3(1)(a) of the Misuse of Drugs (Jersey) Law 1978,^[36] and was in possession of it with the appropriate criminal intent before his arrest.

(2) An officer may not authorize an intimate search of a person for anything unless he 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 he gives it orally, he 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 him shall state which parts of his 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 he believes that the person from whom it is seized may use it -

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

(ii) to damage property,

(iii) to interfere with evidence, or

(iv) to assist him to escape;

or

(b) if he 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 he is -

(a) violent or likely to become violent; or

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

(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 6(2) of the Misuse of Drugs (Jersey) Law 1978,^[37] or

(b) Article 61 of the Customs and Excise (Jersey) Law 1999,^[38]

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

ARTICLE 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, he shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable except to the extent that delay is permitted by this Article, that he 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 he gives it orally, he shall confirm it in writing as soon as is practicable.

(5) Subject to paragraph (6), an officer may only authorize delay where he 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; or

(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 drug trafficking offence or money laundering offence and the officer has reasonable grounds for believing -

(a) where the offence is a drug trafficking offence, that the detained person has benefited from drug trafficking and that the recovery of the value of that person's proceeds of drug trafficking will be hindered by telling the named person of the arrest;

(b) where the offence is a money laundering offence, that the detained person has benefited from the offence and that the recovery of the value of the property obtained by that person from or in connection with the offence or of the pecuniary advantage derived by him from or in connection with it will be hindered by telling the named person of the arrest.

(7) If a delay is authorized the detained person shall be told the reason for it and the reason shall be noted on his 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 he 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) In this Article references to a person who has been arrested include references to a person who has been detained under the terrorism provisions and "arrest" includes detention under those provisions.

(12) In its application to a person who has been arrested or detained under the terrorism provisions -

(a) paragraph (2) shall have effect as if for the words "for a serious offence" there were substituted the words "under the terrorism provisions";

- (b) paragraph (3) shall have effect as if for the words from “within” onwards there were substituted the words “before the end of the period beyond which he may no longer be detained without the authority of the Bailiff”; and
- (c) paragraph (5) shall have effect as if at the end there were added -
 - “or
 - (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
 - (e) by alerting any person, will make it more difficult -
 - (i) to prevent an act of terrorism, or
 - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.”.

ARTICLE 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 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 he has been arrested; and
 - (c) where he 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 parent or guardian; or
 - (b) any other person who has for the time being assumed responsibility for his welfare.
- (4) If it appears that at the time of his arrest a supervision order or interim supervision order made under the Children (Jersey) Law 1969^[39] is in force in respect of him, the person responsible for his 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 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.

ARTICLE 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 he 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 he is at a court after being charged with an offence.

(4) If a person makes that request, he 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 he 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 he gives it orally, he shall confirm it in writing as soon as is practicable.

(8) Subject to paragraph (9), an officer may only authorize delay where he 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; or
- (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 drug trafficking offence or money laundering offence and the officer has reasonable grounds for believing -

- (a) where the offence is a drug trafficking offence, that the detained person has benefited from drug trafficking and that the recovery of the value of that person's proceeds of drug trafficking will be hindered by the exercise of the right conferred by paragraph (1);
- (b) where the offence is a money laundering offence, that the detained person has benefited from the offence and that the recovery of the value of the property obtained by that person from or in connection with the offence or of the pecuniary advantage derived by him from or in connection with it will be hindered by the exercise of the right conferred by paragraph (1).

(10) If delay is authorized the detained person shall be told the reason for it and the reason shall be noted on his 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) The reference in paragraph (1) to a person arrested includes a reference to a person who has been detained under the terrorism provisions.

(14) In the application of this Article to a person who has been arrested or detained under the terrorism provisions

- (a) paragraph (5) shall have effect as if for the words from "within" onwards there were substituted the words "before the end of the period beyond which he may no longer be detained without the authority of the Bailiff";
- (b) paragraph (6) shall have effect as if for the words "for a serious offence" there were substituted the words "under the terrorism provisions"; and
- (c) paragraph (8) shall have effect as if at the end there were added-

“or

- (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
- (e) by alerting any person, will make it more difficult -
 - (i) to prevent an act of terrorism, or
 - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.”.

(15) If an officer of the Force of at least the rank of chief inspector has reasonable grounds for believing that, unless he gives a direction under paragraph (16), the exercise by a person arrested or detained under the terrorism provisions of the right conferred by paragraph (1) will have any of the consequences specified in paragraph (8) as it has effect by virtue of paragraph (14), he may give a direction under paragraph (16).

(16) A direction under this paragraph is a direction that a person desiring to exercise the right conferred by paragraph (1) may only consult a legal representative in the sight and hearing of an officer of the Force of at least the rank of inspector who has no connection with the case.

(17) A direction under paragraph (16) shall cease to have effect once the reason for giving it ceases to subsist.

ARTICLE 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 he 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 he has been charged with a relevant offence or informed that he may be prosecuted for such an offence and he has not had his 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 will be prosecuted for such an offence has had his fingerprints taken in the course of the investigation of the offence by the police, his 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 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 he 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 he gives it orally, he shall confirm it in writing as soon as is practicable.
- (9) Any person's fingerprints may be taken without the appropriate consent if he 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) he shall be told the reason before his 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 him 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 his 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 Committee 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; or
 - (b) except as provided in Article 14(7) of, and paragraph 7(5) of the Fifth Schedule to, the 1996 Law,^[40] applies to a person arrested or detained under the terrorism provisions.

ARTICLE 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 he 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 his involvement.

(4) An officer may give an authorization under paragraph (1) or (2) orally or in writing but, if he gives it orally, he 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 him 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 his 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 registered dentist.

(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 16A to 16E of the Road Traffic (Jersey) Law 1956.^[41]

(14) Nothing in this Article, except as provided in Article 14(8) and (10) of, and paragraph 7(6) and (8) of the Fifth Schedule to, the 1996 Law^[42] applies to a person arrested or detained under the terrorism provisions.

ARTICLE 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) he 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 he falls within paragraph (3)(a), without the appropriate consent if -

(a) he has been charged with a relevant offence or informed that he may be prosecuted for that offence; and

(b) either he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police or he has had a non-intimate sample taken from him 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 he has been convicted of a relevant offence.

(6) An officer may only give an authorization under paragraph (3) if he 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 his involvement.

(7) An officer may give an authorization under paragraph (3) orally or in writing but, if he gives it orally, he 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 he 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 him 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 his 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 Committee 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, except as provided in Article 14(9) and (10) of and paragraph 7(7) and (8) of the Fifth Schedule to the 1996 Law,^[43] applies to a person arrested or detained under the terrorism provisions.

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 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 Committee 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 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^[44] 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 will be prosecuted for that offence

and either -

(i) he has not had a sample taken from him in the course of the investigation of the offence by the Force or the Honorary Police, or

(ii) he has had a sample so taken from him 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) he has not had a sample taken from him since the conviction, or

(ii) he has had a sample taken from him, before or after his conviction, but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

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 he shall so attend and may direct him 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).

(8) 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 he was informed that he 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 he was convicted was conducted.

ARTICLE 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 he has any specified Class A drug in his body, if an officer of the Force has asked him to give a sample and-

(a) he has been charged with -

(i) larceny, including robbery,

(ii) breaking and entering or illegal entry,

(iii) any offence under Article 28 of the Road Traffic (Jersey) Law 1956,^[45] or

(iv) any offence under Article 5 or 6(1) or (2) of the Misuse of Drugs (Jersey) Law 1978^[46] or under Article 33 or 61(2) of the Customs and Excise (Jersey) Law 1999,^[47] if committed in respect of a specified Class A drug;

or

(b) he 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 him that if, when so asked, he fails without good cause to give the sample, he may be liable to prosecution; and

(b) in a case within paragraph (1)(b), inform him 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^[48] or has been granted such bail, for the purpose of informing any decision about his 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 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 he gives it orally, he 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 his custody record.

(8) Nothing in this Article shall affect Articles 16A to 16E of the Road Traffic (Jersey) Law 1956.^[49]

(9) Nothing in this Article, except as provided in Article 14(8) and (10) of, and paragraph 7(6) and (8) of the Fifth Schedule to, the 1996 Law^[50] applies to a person arrested or detained under the terrorism provisions.

(10) A person who fails without good cause to give any sample which may be taken from him under this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 3 months or a fine not exceeding level 3 on the standard scale,^[51] or both.

(11) The Committee 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).

ARTICLE 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 the Island or of any country or territory outside the Island, or
 - (ii) is, or corresponds to, any conduct which, if it all took place in the Island, 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 the Island of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the Island.

(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 him (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 fingerprints or copies of them shall have a right to witness it.

(10) If paragraph (8)(b) fails 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 him, not later than the end of the period of 3 months beginning with the day on which he asks for it, by the Chief Officer or a person authorized by him or on his 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

ARTICLE 61

Codes of practice

- (1) The Committee 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 him 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 Committee 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 he must have regard in order to determine, for the purposes of the grounds for detention, that there is sufficient evidence to charge a person.

ARTICLE 62

Codes of practice - supplementary

(1) When the Committee proposes to bring into operation a code of practice, it shall prepare and publish a draft of that code, shall consider any representations made to it about the draft and may modify the draft accordingly.

(2) After the Committee has complied with paragraph (1), it 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 Committee to be necessary or expedient in connection with the code of practice thereby brought into operation.

(4) The Committee 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 him 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 the Island 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 the Island 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

ARTICLE 63

Interpretation of Part 8

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;

“statement” means any representation of fact or opinion however made.

ARTICLE 64

First-hand hearsay

(1) Subject to paragraph (4), a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if -

- (a) the requirements of one of the sub-paragraphs of paragraph (2) are satisfied; or
 - (b) the requirements of paragraph (3) are satisfied.
- (2) The requirements mentioned in paragraph (1)(a) are -
- (a) that the person who made the statement is dead or, by reason of his bodily or mental condition, unfit to attend as a witness;
 - (b) that the person who made the statement is outside the Island and it is not reasonably practicable to secure his attendance; or
 - (c) that all reasonable steps have been taken to find the person who made the statement, but that he cannot be found.
- (3) The requirements mentioned in paragraph (1)(b) are -
- (a) that the statement was made to a police officer or some other person responsible for investigating offences or to a person authorized by the Attorney General to take a statement; and
 - (b) that the person who made it does not give oral evidence through fear or because he is kept out of the way.

(4) Paragraph (1) shall not render admissible a confession made by an accused person that would not be admissible under Article 74.

ARTICLE 65

Business etc. documents

(1) Subject to paragraphs (3) and (4) a statement in a document shall be admissible in criminal proceedings as evidence of any fact of which oral evidence would be admissible if the following conditions are satisfied -

- (a) the document 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; and
- (b) the information contained in the document was supplied by a person, whether or not the maker of the statement, who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt with.

(2) Paragraph (1) applies whether the information contained in the document was supplied directly or indirectly but, if it was supplied indirectly, only if each person through whom it was supplied received it -

- (a) in the course of a trade, business, profession or other occupation; or
- (b) as the holder of a paid or unpaid office.

(3) Paragraph (1) shall not render admissible a confession made by an accused person that would not be admissible under Article 74.

(4) A statement prepared otherwise than in accordance with Article 4 of the Criminal Justice (International Co-operation) (Jersey) Law 2001^[52] for the purposes of pending or contemplated criminal proceedings or a criminal investigation, shall not be admissible by virtue of paragraph (1) unless the requirements of one of the sub-paragraphs of Article 64(2) of this Law are satisfied, the requirements of paragraph (3) of that Article are satisfied or the person who mad

the statement cannot reasonably be expected, having regard to the time which has elapsed since he made the statement and to all the circumstances, to have any recollection of the matters dealt with in the statement.

ARTICLE 66

Principles to be followed

- (1) If, having regard to all the circumstances, a court, in any proceedings, is of the opinion that in the interests of justice a statement which is admissible by virtue of Article 64 or 65 nevertheless ought not to be admitted, it may direct that the statement shall not be admitted.
- (2) Without prejudice to the generality of paragraph (1), the court shall have regard -
 - (a) to the nature and source of the document containing the statement and to whether or not, having regard to its nature and source and to any other circumstances that appear to the court to be relevant, it is likely that the document is authentic;
 - (b) to the extent to which the statement appears to supply evidence which would otherwise not be readily available;
 - (c) to the relevance of the evidence that it appears to supply to any issue which is likely to have to be determined in the proceedings; and
 - (d) to any risk, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused.

ARTICLE 67

Statements in documents that appear to have been prepared for purposes of criminal proceedings or investigations

- (1) Where a statement which is admissible in criminal proceedings by virtue of Article 64 or 65 appears to the court to have been prepared otherwise than in accordance with Article 4 of the Criminal Justice (International Co-operation) (Jersey) Law 2001, ^[53] for the purposes of pending or contemplated criminal proceedings or of a criminal investigation, the statement shall not be given in evidence in any criminal proceedings without the leave of the court, and the court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interests of justice.
- (2) In considering whether its admission would be in the interests of justice, the court shall have regard to -
 - (a) the contents of the statement;
 - (b) any risk, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings, that its admission or exclusion will result in unfairness to the accused; and
 - (c) any other circumstances that appear to the court to be relevant.

ARTICLE 68

Proof of statements contained in documents

Where a statement contained in a document is admissible as evidence in criminal proceedings, it may be proved by the production of that document or, whether or not that document is still in existence, by the production of a copy of that document, or of the material part of it, authenticated in any manner that the court may approve, and it is immaterial for the purposes of this Article how many removes there are between a copy and the original.

ARTICLE 69

Documentary evidence - supplementary

- (1) Nothing in this Part shall prejudice the admissibility of a statement not made by a person while giving oral

evidence in court which is admissible otherwise than by virtue of this Part.

- (2) Schedule 4 shall have effect for the purpose of supplementing this Article and Articles 64 to 68.

ARTICLE 70

Microfilm copies

In any criminal proceedings the contents of a document may, whether or not the document is still in existence, be proved by the production of an enlargement of a microfilm copy of that document or of the material part of it, authenticated in any manner that the court may approve.

PART 9

EVIDENCE IN CRIMINAL PROCEEDINGS - GENERAL

Convictions and acquittals

ARTICLE 71

Proof of convictions and acquittals

(1) Where in any proceedings the fact that a person has in the Island 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.

ARTICLE 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 the Island 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 his 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 the Island, he 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 he is charged, if the accused is proved to have been convicted of the offence by or before a court in the Island, he 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.

ARTICLE 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

ARTICLE 74

Confessions

(1) In any proceedings a confession made by an accused person may be given in evidence against him 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 him in consequence thereof,

the court shall not allow the confession to be given in evidence against him 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 in a particular way, of so much of the confession as is necessary to show that he 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 him or on his 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.

ARTICLE 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 him appropriate to do so, where at that trial the case against the accused depends wholly or substantially on a confession by him and the court is satisfied that he 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 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 he is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning; and

“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

ARTICLE 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 effect the fairness of the proceedings that the court ought not to admit it.

(2) Nothing in this Article shall -

- (a) prejudice any rule of law requiring a court to exclude evidence; or
- (b) apply to extradition proceedings or proceedings pursuant to Article 19 of the Loi (1864) réglant la procédure criminelle.^[54]

(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.

ARTICLE 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

ARTICLE 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 his credit by general evidence of bad character, but he may, in case the witness shall in the opinion of the court prove adverse -

- (a) contradict him by other evidence; or
- (b) by leave of the court, prove that he has made at other times a statement inconsistent with his 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 he shall be asked whether or not he has made that statement.

ARTICLE 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 him relative to the subject matter of the indictment or proceedings, and inconsistent with his present testimony, does not distinctly admit that he has made that statement, proof may be given that he 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 he shall be asked whether or not he has made that statement.

ARTICLE 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 him in writing, or reduced into writing, relative to the subject matter of the proceeding, without that writing being shown to him, but if it is intended to contradict that witness by the writing, his 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 him.

(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.

ARTICLE 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 he has been convicted of any offence, and upon being so questioned, if he 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.

ARTICLE 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 him 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 10

PREPARATORY HEARINGS AND RULINGS

Preparatory hearings

ARTICLE 83

Application and interpretation of Part 10

- (1) This Part applies in relation to an offence if on or after the commencement of this Article the accused is committed for trial or proceedings are instituted before the Royal Court for the offence concerned.
- (2) References in this Part to the prosecutor are to the Attorney General or any advocate acting on his behalf.

ARTICLE 84

Power to order preparatory hearing

- (1) Where it appears to the Bailiff -
 - (a) that a case is one in which, by virtue of Article 2 or 3 of the Criminal Justice (Evidence and Procedure) (Jersey) Law 1997, ^[55] a person may give evidence through a live television link or a video recording of an interview may be given in evidence; or
 - (b) that a case is so complex or is a case the trial of which is likely to be so long that substantial benefits are likely to accrue from a hearing before the trial and for any of the purposes mentioned in paragraph (2),

he may order that a hearing (in this Part referred to as a “preparatory hearing”) shall be held.

- (2) The purposes are those of -
 - (a) identifying issues which are likely to be material to the verdict of the Royal Court or jury;
 - (b) assisting comprehension of those issues;
 - (c) expediting the proceedings before the Royal Court or jury;
 - (d) assisting the management of the trial.
- (3) The Bailiff may make an order under paragraph (1) on the application of the prosecutor, on the application of an accused or of his own motion.

ARTICLE 85

Start of trial and arraignment

If the Bailiff orders a preparatory hearing the trial shall start with that hearing and arraignment shall take place at the start of that hearing, unless it has taken place before then.

ARTICLE 86

The preparatory hearing

- (1) At the preparatory hearing the Bailiff may exercise any of the powers specified in this Article.
- (2) He may adjourn a preparatory hearing from time to time.
- (3) He may make a ruling as to any question as to the admissibility of evidence and any other question of law relating to the case.
- (4) He may order the prosecutor -
 - (a) to give the Royal Court and each accused a written statement (a "case statement") of the matters falling within paragraph (5);
 - (b) to prepare the prosecution evidence and any explanatory material in a form that appears to the Bailiff to be likely to aid comprehension by the Royal Court or jury and to give it in that form to that court and to each accused;
 - (c) to give the Royal Court and each accused written notice of documents the truth of the contents of which ought in the prosecutor's view to be admitted and of any other matters which in his view ought to be agreed;
 - (d) to make any amendments of any case statement given in pursuance of an order under sub-paragraph (a) that appear to the Bailiff to be appropriate, having regard to objections made by any accused.
- (5) The matters referred to in paragraph (4)(a) are-
 - (a) the principal facts of the case for the prosecution;
 - (b) the witnesses who will speak to those facts;
 - (c) any exhibits relevant to those facts;
 - (d) any proposition of law on which the prosecutor proposes to rely;
 - (e) the consequences in relation to any of the charges or counts in the indictment that appear to the prosecutor to flow from the matters falling within sub-paragraphs (a) to (d).
- (6) Where the Bailiff has ordered the prosecutor to give a case statement and the prosecutor has complied with the order, the Bailiff may order each accused -
 - (a) to give the Royal Court and the prosecutor a written statement setting out in general terms the nature of his defence and indicating the principal matters on which he takes issue with the prosecution;
 - (b) to give the Royal Court and the prosecutor written notice of any objections that he has to the case statement;
 - (c) to give the Royal Court and the prosecutor written notice of any point of law, including any point as to the admissibility of evidence, which he wishes to take, and any authority on which he intends to rely for that purpose.
- (7) Where the Bailiff has ordered the prosecutor to give notice under paragraph (4)(c) and the prosecutor has complied with the order, the Bailiff may order each accused to give the Royal Court and the prosecutor a written notice stating -
 - (a) the extent to which he agrees with the prosecutor as to documents and other matters to which the notice under paragraph (4)(c) relates; and
 - (b) the reason for any disagreement.

(8) The Bailiff, on making an order under paragraph (6) or (7), shall warn each accused of the possible consequences under Article 89 of not complying with it.

(9) If it appears to the Bailiff that reasons given in pursuance of paragraph (7) are inadequate, he shall so inform the person giving them and may require him to give further or better reasons.

(10) An order under this Article may specify the time within which any requirement contained in it is to be complied with.

(11) An order or ruling made under this Article shall have effect throughout the trial, unless it appears to the Bailiff, on application made to him, that the interests of justice require him to vary or discharge it.

ARTICLE 87

Orders before preparatory hearing

(1) This Article applies where the Bailiff orders a preparatory hearing and he decides that any order which could be made under Article 86(4) to (7) at the hearing should be made before the hearing.

(2) In that case he may make that order before the hearing or at the hearing and Article 86(4) to (11) shall apply accordingly.

ARTICLE 88

Rules of court

(1) The power to make rules of court under the Royal Court (Jersey) Law 1948^[56] shall include a power -

- (a) to provide that anything required to be given by an accused in pursuance of a requirement imposed under Article 86 need not disclose who will give evidence;
- (b) to make provision as to the minimum or maximum time that may be specified under Article 86(10);
- (c) to prescribe anything that shall or may be prescribed under this Law.

(2) The power to make rules of court under the Court of Appeal (Jersey) Law 1961^[57] shall include a power to specify the time within which an appeal under this Law to the Court of Appeal shall be made and to regulate generally the practice and procedure relating to any such appeal.

ARTICLE 89

Later stages of trial

(1) Any party may depart from the case he disclosed in pursuance of a requirement imposed under Article 86.

(2) Where a party departs from the case he disclosed in pursuance of a requirement imposed under Article 86 or a party fails to comply with that requirement, the Bailiff or, with the leave of the Bailiff, any other party may make any comment that appears to the Bailiff or the other party to be appropriate and the Royal Court or jury may draw any inference that appears proper.

(3) In deciding whether to give leave the Bailiff shall have regard to the extent of the departure or failure and to whether there is any justification for it.

(4) Except as provided by this Article no part of a statement given under Article 86(6)(a) or of any other information relating to the case for an accused which was given in pursuance of a requirement imposed under Article 86, may be disclosed at a later stage in the trial without the consent of the accused concerned.

ARTICLE 90

Appeals to Court of Appeal

(1) An appeal shall lie to the Court of Appeal from any ruling of the Bailiff under Article 86(3), but only with the leave of the Bailiff or of the Court of Appeal.

(2) The Bailiff may continue a preparatory hearing notwithstanding that leave to appeal has been granted under paragraph (1), but the trial shall not otherwise proceed further until after the appeal has been determined or abandoned.

(3) On the hearing of the appeal the Court of Appeal may confirm, reverse or vary the decision appealed against.

ARTICLE 91

Restrictions on reporting preparatory hearings

(1) Except as provided by this Article no written report of proceedings falling within paragraph (2) shall be published in the Island and no report of those proceedings shall be included in a relevant programme for reception in the Island.

(2) The following proceedings fall within this paragraph -

(a) a preparatory hearing;

(b) an application for leave to appeal in relation to that hearing; and

(c) an appeal in relation to that hearing.

(3) The Bailiff in dealing with a preparatory hearing may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of the preparatory hearing or an application to the Bailiff for leave to appeal to the Court of Appeal under Article 90(1) in relation to the preparatory hearing.

(4) The Court of Appeal may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of an appeal to the Court of Appeal under Article 90(1) in relation to a preparatory hearing or an application to that Court for leave to appeal to it under Article 90(1) in relation to a preparatory hearing.

(5) Where there is only one accused and he objects to the making of an order under paragraph (3) or (4) the Bailiff or the Court of Appeal shall make the order if satisfied after hearing the representations of the accused that it is in the interests of justice to do so and if the order is made it shall not apply to the extent that a report deals with that objection or those representations.

(6) Where there are 2 or more accused and one or more of them objects to the making of an order under paragraph (3) or (4) the Bailiff or the Court of Appeal shall make the order if satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so and if the order is made it shall not apply to the extent that a report deals with that objection or those representations.

(7) Paragraph (1) shall not apply to the following at the conclusion of the trial of the last of the accused to be tried -

(a) the publication of a report of a preparatory hearing;

(b) the publication of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to that hearing;

(c) the inclusion in a relevant programme of a report of a preparatory hearing; or

(d) the inclusion in a relevant programme of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to that hearing.

(8) Paragraph (1) shall not apply to a report which contains only one or more of the following matters-

(a) the identity of the court and the name of the person presiding;

(b) the name, home address, occupation and age of the accused and any witness;

- (c) the offence or offences, or a summary of them, with which an accused is charged;
- (d) the name of any advocate in the proceedings;
- (e) where the proceedings are adjourned, the date and place to which they are adjourned;
- (f) any arrangements as to bail;
- (g) whether legal aid was granted to an accused.

(9) The addresses that may be published or included in a relevant programme under paragraph (8) are addresses at any relevant time and at the time of their publication or inclusion in a relevant programme.

(10) Nothing in this Article affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(11) In this Article and in Article 92 -

“publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990 of the United Kingdom, as extended to the Island by the Broadcasting Act 1990 (Jersey) Order 1991^[58] and the Broadcasting Act 1990 (Jersey) (No. 2) Order 1991;^[59]

“relevant time” means a time when events giving rise to the changes to which the proceedings relate occurred.

ARTICLE 92

Offences in connection with reporting preparatory hearings

(1) If a report is published or included in a relevant programme in contravention of Article 91 each of the following persons shall be guilty of an offence -

- (a) in the case of a publication of a written report as part of a newspaper or periodical any proprietor, editor or publisher of the newspaper or periodical;
- (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
- (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(2) A person guilty of an offence under this Article shall be liable to a fine.

(3) Proceedings for an offence under this Article shall not be commenced without the consent of the Attorney General.

Rulings

ARTICLE 93

Meaning of pre-trial hearing

(1) For the purposes of this Part a hearing is a pre-trial hearing if it relates to a trial for an offence in the Royal Court and it takes place after the accused has been committed for trial for the offence concerned or after the proceedings for the offence have been instituted in the Royal Court and before the start of the trial.

(2) For the purposes of this Article the start of a trial occurs when a jury is sworn to consider the issue of guilt or

fitness to plead or when the Royal Court, sitting with Jurats, sits to examine those issues, or, if the Royal Court accepts a plea of guilty before it begins to determine those issues, when that plea is accepted, but this is subject to Article 85.

ARTICLE 94

Power to make rulings

(1) The Bailiff may make, at a pre-trial hearing, a ruling as to any question as to the admissibility of evidence and any other question of law relating to the case concerned.

(2) A ruling may be made under this Article on an application by a party to the case or of the Bailiff's own motion.

(3) Subject to paragraph (4), a ruling made under this Article has binding effect from the time it is made until the case against each accused is disposed of, and the case against an accused is disposed of if he is acquitted or convicted or the prosecutor decides not to proceed with the case against him.

(4) The Bailiff may discharge, vary or further vary a ruling made under this Article if it appears to him that it is in the interests of justice to do so, and he may act under this paragraph on an application by a party to the case or of his own motion.

(5) No application may be made under paragraph (4) unless there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the last application was made.

(6) For the purposes of this Article the prosecutor is the Attorney General or any advocate acting on his behalf.

ARTICLE 95

Restrictions on reporting rulings

(1) Except as provided by this Article no written report of matters falling within paragraph (2) shall be published in the Island and no report of matters falling within paragraph (2) shall be included in a relevant programme for reception in the Island.

(2) The following matters fall within this paragraph -

(a) a ruling made under Article 94;

(b) proceedings on an application for a ruling to be made under Article 94;

(c) an order that a ruling made under Article 94 be discharged or varied;

(d) proceedings on an application for a ruling made under Article 94 to be discharged or varied.

(3) The Bailiff, in dealing with any matter falling within paragraph (2), may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of the matter.

(4) Where there is only one accused and he objects to the making of an order under paragraph (3) the Bailiff shall make the order if he is satisfied after hearing the representations of the accused that it is in the interests of justice to do so, and if the order is made it shall not apply to the extent that a report deals with that objection or those representations.

(5) Where there are 2 or more accused and one or more of them objects to the making of an order under paragraph (3) the Bailiff shall make the order if he is satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so, and if the order is made it shall not apply to the extent that a report deals with that objection or those representations.

(6) Paragraph (1) shall not apply to the publication of a report of matters, or the inclusion in a relevant programme of a report of matters, at the conclusion of the trial of the last accused to be tried.

(7) Nothing in this Article affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(8) In this Article and in Article 96, “publish” and “relevant programme” have the same meaning as in Article 91.

ARTICLE 96

Offences in connection with reporting rulings

(1) If a report is published or included in a relevant programme in contravention of Article 95 each of the following persons shall be guilty of an offence -

- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
- (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
- (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(2) A person guilty of an offence under this Article shall be liable to a fine.

(3) Proceedings for an offence under this Article shall not be commenced without the consent of the Attorney General.

ARTICLE 97

Application of Articles 93 to 96

Articles 93 to 96 apply in relation to pre-trial hearings beginning on or after the commencement of this Article.

ARTICLE 98

Evidence through television links

(1) A witness other than the accused may, with the leave of the court, give evidence through a live television link in any proceedings for an offence or any appeal arising from such proceedings if the witness is outside the Island.

(2) A statement made on oath by a witness outside the Island and given in evidence through a link by virtue of this Article shall be treated for the purposes of the law relating to perjury as having been made in the proceedings in which it is given in evidence.

(3) Where, in the case of any proceedings before the Youth Court leave is given for evidence to be given through a television link and suitable facilities for receiving that evidence are not available at the court, the court may sit for the purposes of the whole or any part of those proceedings at any place at which those facilities are available and which has been appointed for the purposes of this paragraph by the Magistrate.

(4) Rules of Court may make any provision that appears to be necessary or expedient for the purposes of this Article.

PART 11

CONTROL OF INTRUSIVE SURVEILLANCE

ARTICLE 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.

ARTICLE 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.

ARTICLE 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 he may specify; or
 - (b) the taking of any action as he 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 conduct which constitutes one or more offences -
 - (a) 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
 - (b) 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.

ARTICLE 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, he 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 if satisfied that the action authorized by it is no longer necessary.

ARTICLE 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 him and, where an authorization was given orally, of the grounds on which the case was believed to be urgent.

ARTICLE 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 him by this Part.

(2) The Commissioner shall hold office in accordance with the terms of his appointment, and there shall be paid to him out of money provided by the States any allowances that the Finance and Economics Committee direct.

(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 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

REPORTING OF COMMITTAL AND OTHER CRIMINAL PROCEEDINGS

ARTICLE 105

Committal proceedings

(1) Except as provided by paragraphs (2), (5) and (10), no person shall publish in the Island a written report, or include in a relevant programme for reception in the Island, a report of any committal proceedings in the Island containing any matter other than that permitted by paragraph (6).

(2) Subject to paragraph (3), the court shall, on application made in any committal proceedings by the accused, order that paragraph (1) shall not apply to a report of those proceedings.

(3) Where, in the case of 2 or more accused, one of them objects to the making of an order under paragraph (2), the court shall only make the order if it is satisfied, after hearing the representations of that accused, that it is in the interests of justice to do so.

(4) An order under paragraph (2) shall not apply to a report of proceedings under paragraph (3), but any decision of the court to make or not to make that order may be contained in a report published or included in a relevant programme

before the time authorized by paragraph (5).

(5) A person may publish, or include in a relevant programme, a report of committal proceedings containing any matter other than that permitted by paragraph (6) -

- (a) where the court determines not to commit any of the accused for trial, after it so determines; or
- (b) where the court commits any of the accused for trial, after the conclusion of the trial of the last to be tried,

and where at any time during the inquiry the court decides to deal with the case of any of the accused, while committing the other accused for trial, a person may, after the court determines to proceed as aforesaid, publish or include in a relevant programme, as part of a report of the court's dealing with the case of an accused, a report of so much of the committal proceedings as took place before the determination.

(6) There may be contained in a report of committal proceedings, published or included in relevant programme, without an order under paragraph (2) before the time authorized by paragraph (5) -

- (a) the identity of the court and the name of the person presiding;
- (b) the name, home address, occupation and age of the accused and any witness;
- (c) the offence or offences with which the accused is charged, or a summary of them;
- (d) the name of the legal representative of the accused and the name of the person presenting the case;
- (e) any decision of the court to commit the accused for trial, and any decision of the court on the disposal of the case of any accused not committed;
- (f) where the court commits an accused for trial, the charge or charges on which he is committed;
- (g) where the committal proceedings are adjourned, the date to which they are adjourned;
- (h) any arrangements as to bail on committal or adjournment; and
- (i) whether legal aid has been granted to an accused.

(7) If a report is published, or included in a relevant programme in contravention of this Article the following shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale^[60] -

- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
- (b) in the case of a publication of a written report otherwise than as part of a newspaper or a periodical, the person who publishes it; and
- (c) in the case of the inclusion of a report in a relevant programme, any body corporate which provides the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(8) Proceedings for an offence against this Article shall not be commenced without the consent of the Attorney General.

(9) Paragraph (1) shall be in addition to, and not in derogation from, any other enactment or rule of customary law with respect to the publication of reports of proceedings of any court.

(10) For the purposes of this Article, committal proceedings shall, in relation to any charge for an offence, be deemed to include any proceedings in the court before the court proceeds to inquire into the offence as to whether to commit for trial of that offence, but where the court has begun to try an offence and decides to discontinue the trial and to proceed to inquire whether to commit for trial of that offence, a report of any proceedings on the charge for the offence which was published or broadcast before the court determined to proceed as aforesaid shall not contravene the provisions of this Article.

(11) In this Article “publish” and “relevant programme” have the same meaning as in Article 91.

ARTICLE 106

Contemporary reports of criminal proceedings

(1) In any criminal proceedings, a court may, where it appears to the court to be necessary for avoiding a substantial risk of prejudice to the administration of justice in those proceedings, or in any other criminal proceedings pending or imminent, order that -

- (a) publication in the Island of a written report; or
- (b) inclusion of any report in a relevant programme for reception in the Island,

of the proceedings or of any part of the proceedings, be postponed for any period that the court thinks necessary for that purpose.

(2) A court may make an order under paragraph (1) of its own motion or on application by any of the parties and, where a court makes an order under paragraph (1), it may give any directions that appear to the court to be necessary for the purposes of the order.

(3) A person aggrieved by an order under paragraph (1) may appeal in the case of an order made by the Magistrate’s Court, to the Inferior Number of the Royal Court or in the case of an order made by the Youth Court, to the Youth Appeal Court or in the case of an order made by the Royal Court, to the Court of Appeal, and the decision of the court hearing that appeal shall be final.

(4) On the hearing of an appeal under paragraph (3) the court may -

- (a) stay any proceedings in any other court until after the appeal is disposed of;
- (b) confirm, reverse or vary the order complained of; and
- (c) make an order as to costs.

(5) Where a court has made an order under paragraph (1), if a report is published or included in a relevant programme in contravention of that order the following shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale^[61] -

- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
- (b) in the case of publication of a written report otherwise than as a part of a newspaper or periodical, the person who publishes it;
- (c) in the case of the inclusion of a report in a relevant programme, any body corporate which provides the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(6) This Article shall be in addition to, and not in derogation from, any other enactment or rule of customary law with respect to the publication of reports and proceedings of any court.

(7) In this Article “publish” and “relevant programme” have the same meaning as in Article 91.

PART 13

MISCELLANEOUS AND SUPPLEMENTARY

ARTICLE 107

Application of Law to Customs and Excise

- (1) The Committee, after consultation with the Finance and Economics Committee, 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,^[62] 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 -

“ARTICLE 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 1999,⁶² is not confidential 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.^[63]

ARTICLE 108

Extended remand in customs custody of suspected drug offender

Where the Magistrate’s Court has power to remand in custody any person aged 17 or more brought before it on a charge of an offence against Article 6(1) of the Misuse of Drugs (Jersey) Law 1978^[64] 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.

ARTICLE 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.

ARTICLE 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 him liable to any civil proceedings.

ARTICLE 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.

ARTICLE 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.

ARTICLE 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 Committee making the Order, to be necessary or expedient for the purposes of the Regulations or Order.

(3) The Subordinate Legislation (Jersey) Law 1960^[65] shall apply to Orders made under this Law.

ARTICLE 114

Citation and commencement

(1) This Law may be cited as the Police Procedures and Criminal Evidence (Jersey) Law 200-.

(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

(Article 3)

SERIOUS OFFENCES

PART 1

Offences mentioned in Article 3(2)(a)

1. Treason.
2. Murder.
3. Manslaughter.
4. Rape.
5. Kidnapping.
6. Incest with a girl under the age of 13.
7. Sodomy with a person under the age of 16.
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.^[66]
2. Article 2 of the Loi (1895) modifiant le droit criminel.^[67]
3. Articles 3, 4 and 5 of the Official Secrets (Jersey) Law 1952.^[68]
4. Articles 14A and 15A of the Road Traffic (Jersey) Law 1956.^[69]
5. Section 1 of the Taking of Hostages Act 1982 of the United Kingdom as extended to the Island by Order in Council.
6. Any of the offences mentioned in the definition “drug trafficking offence” in Article 1(1) of the Drug Trafficking Offences (Jersey) Law 1988.^[70]
7. Article 1 of the Torture (Jersey) Law 1990.^[71]
8. Section 1 of the Aviation Security Act 1982 of the United Kingdom as it is extended to the Island by Order in Council.
9. Section 1 of the Aviation and Maritime Security Act 1990 of the United Kingdom as extended to the Island by Order in Council.
10. Article 2 of the Protection of Children (Jersey) Law 1994.^[72]

11. Articles 38 and 39 of the Firearms (Jersey) Law 2000. [\[73\]](#)

SCHEDULE 2

(Article 16)

Confidential material

Making of orders by the Bailiff

1. If, on an application made by a police officer, the Bailiff is satisfied that the access conditions are fulfilled, he may make an order under paragraph 3.

2. The access conditions are fulfilled if -

(a) there are reasonable grounds for believing -

(i) that a serious offence has been committed,

(ii) that there is material which consists of confidential material or includes that material and does not also include items subject to legal privilege 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.

3. An order under this paragraph is an order that the person who appears to the Bailiff to be in possession of the material to which the application relates shall produce it to a police officer for him 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 4(a) 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 him or by leaving it at his proper address or by sending it by post to him 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 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 he 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 is satisfied that the access conditions in paragraph 2 are fulfilled and that any of the further conditions set out in paragraph 13 is also fulfilled or that an order under paragraph 3 relating to the material has not been complied with, he may issue a warrant authorizing a police officer to enter and search the premises.

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 the 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 him as if he 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

(Article 25)

Enactments conferring power to issue a search warrant

Borrowing Control (Jersey) Law 1947	Article 2(3) ^[74]
Housing (Jersey) Law 1949	Article 13(1) ^[75]
Official Secrets (Jersey) Law 1952	Article 9(1) ^[76]
Currency Offences (Jersey) Law 1952	Article 29(1) ^[77]
Public Health (Control of Building) (Jersey) Law 1956	Article 10(2) ^[78]
Food and Drugs (Jersey) Law 1966	Article 44(2) ^[79]
Weights and Measures (Jersey) Law 1967	Article 33(3) ^[80]
Children (Jersey) Law 1969	Article 8(1), Article 10(1) and 10 (3), and Article 59 (2) ^[81]
Mental Health (Jersey) Law 1969	Article 53(1) and 53 (2) ^[82]
Agricultural Land (Control of Sales and Leases) (Jersey) Law 1974	Article 6(1) ^[83]
Misuse of Drugs (Jersey) Law 1978	Article 17(2) ^[84]
Protection of Animals (Jersey) Law 1980	Article 7(1) ^[85]

Data Protection (Jersey) Law 1987	Fourth Schedule, paragraphs 1 and 2 [86]
Drug Trafficking Offences (Jersey) Law 1988	Article 20(1) and 20 (2) [87]
Emergency Powers and Planning (Jersey) Law 1990	Article 13(4) [88]
Video Recordings (Jersey) Law 1990	Article 12(1) [89]
Companies (Jersey) Law 1991	Article 132 [90]
Protection of Children (Jersey) Law 1994	Article 5(1) [91]
Computer Misuse (Jersey) Law 1995	Article 12(1) [92]
Reservoirs (Jersey) Law 1996	Article 17(6) [93]
Customs and Excise (Jersey) Law 1999	Article 51(2) [94]
Statutory Nuisances (Jersey) Law 1999	Article 10(3) [95]
Conservation of Wildlife (Jersey) Law 2000	Article 18 [96]
Firearms (Jersey) Law 2000	Article 49 [97]
Food Safety (Miscellaneous Provisions) (Jersey) Law 2000	Article 5(3) [98]
Water Pollution (Jersey) Law 2000	Article 32(4) [99]

SCHEDULE 4

(Article 69(2))

Provisions supplementary to Articles 64 to 69

Documentary evidence - supplementary

1. Where a statement is admitted in evidence in criminal proceedings by virtue of Part 8 -
 - (a) any evidence which, if the person making the statement had been called as a witness, would have been admissible as relevant to his credibility as a witness shall be admissible for the purpose in those proceedings;
 - (b) evidence may, with the leave of the court, be given of any matter which, if that person had been called as a witness, could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the cross-examining party; and
 - (c) evidence tending to prove that that person, whether before or after making the statement, made, whether orally or not, some other statement which is inconsistent with it shall be admissible for the purpose of showing that he has contradicted himself.
2. A statement which is given in evidence by virtue of Part 8 shall not be capable of corroborating evidence given by the person making it.
3. In estimating the weight, if any, to be attached to that statement regard shall be had to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.
4. For the purpose of deciding whether or not a statement is so admissible the court may draw any reasonable inference -
 - (a) from the circumstances in which the statement was made or otherwise came into being; or
 - (b) from any other circumstances, including the form and contents of the document in which the statement is contained.
5. Provision may be made by Rules of Court for supplementing the provisions of Articles 64 to 69.

SCHEDULE 5

(Article 112(1))

Consequential amendments

Evidence of Matrimonial Matters (Jersey) Law 1952

1. Article 1(2) of the Evidence in Matrimonial Matters (Jersey) Law 1952^[100] shall be repealed.

Police Force (Jersey) Law 1974

2. In Article 3(2) of the Police Force (Jersey) Law 1974,^[101] for sub-paragraph (b) there shall be substituted the following sub-paragraph -

“(b) the granting of bail to a person after he is charged with an offence;”.

Prevention of Terrorism (Jersey) Law 1996

- 3.-(1) After paragraph (6) of Article 14 of the Prevention of Terrorism (Jersey) Law 1996^[102] there shall be added the following paragraphs -

“(7) Paragraphs (1) to (13) of Article 55 of the Police Procedures and Criminal Evidence (Jersey) Law 200-^[103] shall apply to the taking of a detained person’s fingerprints by a police officer under paragraph (6) of this Article as if for paragraph (5) there were substituted the following paragraph -

‘(5) An officer may only give an authorization under paragraph (3)(a) for the taking of a person’s fingerprints if he is satisfied that it is necessary to do so in order to assist in determining -

- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which Article 13 of the Prevention of Terrorism (Jersey) Law 1996^[104] applies; or
- (b) whether he is subject to an exclusion order under that Law,

or if the officer has reasonable grounds for suspecting that person’s involvement in an offence under that Law and for believing that his fingerprints will tend to confirm or disprove his involvement.’.

(8) Paragraphs (1) to (12) of Article 56 of the Police Procedures and Criminal Evidence (Jersey) Law 200-^[105] shall apply to the taking of an intimate sample from a detained person under paragraph (6) of this Article as if -

- (a) for paragraph (3) there were substituted -

‘(3) An officer may only give an authorization under paragraph (1) or (2) for the taking of an intimate sample if he is satisfied that it is necessary to do so in order to assist in determining -

- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which Article 13 of the Prevention of Terrorism (Jersey) Law 1996¹⁰⁴ applies; or
- (b) whether he is subject to an exclusion order under that Law,

or if the officer has reasonable grounds for suspecting that person’s involvement in an offence under that Law and for believing that an intimate sample will tend to confirm or disprove his involvement.’; and

- (b) in paragraph (7), after the word ‘include’ there were inserted the words ‘where relevant’.

(9) Paragraphs (1) to (15) of Article 57 of the Police Procedures and Criminal Evidence (Jersey) Law 200-^[106] shall apply to the taking of a non-intimate sample from a detained person by a police officer under paragraph

(6) of this Article as if -

(a) for paragraph (6) there were substituted -

‘(6) An officer may only give an authorization under paragraph (3) for the taking of a non-intimate sample if he is satisfied that it is necessary to do so in order to assist in determining -

- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which Article 13 of the Prevention of Terrorism (Jersey) Law 1996^[107] applies; or
- (b) whether he is subject to an exclusion order under that Law,

or if the officer has reasonable grounds for suspecting that person’s involvement in an offence under that Law and for believing that a non-intimate sample will tend to confirm or disprove his involvement.’; and

(b) in paragraph (10) after the word ‘include’ there were inserted the words ‘where relevant’.

(10) In this Article ‘intimate sample’ and ‘non-intimate sample’ have the same meaning as in the Police Procedures and Criminal Evidence (Jersey) Law 200-^[108]’.

(2) In the Fifth Schedule to the Prevention of Terrorism (Jersey) Law 1996 after sub-paragraph (4) of paragraph 7^[109] there shall be added the following sub-paragraphs -

“(5) Paragraphs (1) to (13) of Article 55 of the Police Procedures and Criminal Evidence (Jersey) Law 200-¹⁰⁸ shall apply to the taking of a person’s fingerprints by any person pursuant to sub-paragraph (3) of this paragraph as if for paragraph (5) there were substituted the following paragraph -

‘(5) An officer may only give an authorization under paragraph (3)(a) for the taking of a person’s fingerprints if he is satisfied that it is necessary to do so in order to assist in determining -

- (a) whether that person is or has been concerned with the commission, preparation or instigation of acts of terrorism to which paragraph 2 of the Fifth Schedule to the Prevention of Terrorism (Jersey) Law 1996^[110] applies;
- (b) whether he is subject to an exclusion order under that Law; or
- (c) whether there are grounds for suspecting that he has committed an offence under Article 7 of that Law.’.

(6) Paragraphs (1) to (12) of Article 56 of the Police Procedures and Criminal Evidence (Jersey) Law 200-^[111] shall apply to the taking of an intimate sample from a person under sub-paragraph (3) of this paragraph as if -

(a) for paragraph (3) there were substituted -

‘(3) An officer may only give an authorization under paragraph (1) or (2) for the taking of an intimate sample if he is satisfied that it is necessary to do so in order to assist in determining -

- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which paragraph 2 of the Fifth Schedule to the Prevention of Terrorism (Jersey) Law 1996^[112] applies; or
- (b) whether he is subject to an exclusion order under that Law; or
- (c) whether there are grounds for suspecting that he has committed an offence under Article 7 of that Law.’; and

(b) in paragraph (7), after the word ‘include’ there were inserted the words ‘where relevant’.

(7) Paragraphs (1) to (15) of Article 57 of the Police Procedures and Criminal Evidence (Jersey) Law 200-¹¹¹ shall apply to the taking of a non-intimate sample from a person by a police officer under sub-paragraph (3) of this paragraph as if -

(a) for paragraph (6) there were substituted -

‘(6) An officer may only give an authorization under paragraph (3) for the taking of a non-intimate sample if he is satisfied that it is necessary to do so in order to assist in determining -

(a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which paragraph 2 of the Fifth Schedule to the Prevention of Terrorism (Jersey) Law 1996^[113] applies;

(b) whether he is subject to an exclusion order under that Law; or

(c) whether there are grounds for suspecting that he has committed an offence under Article 7 of that Law.’; and

(b) in paragraph (10), after the word ‘include’ there were inserted the words ‘where relevant’.

(8) In this paragraph, ‘intimate sample’ and ‘non-intimate sample’ have the same meaning as in the Police Procedures and Criminal Evidence (Jersey) Law 200-^[114]”.

SCHEDULE 6

(Article 112(2))

Repeals

Column 1

Column 2

Loi (1864) réglant la procédure criminelle

Article 14^[115]

Magistrate's Court (Miscellaneous Provisions)
(Jersey) Law 1949

Article 7A^[116]

Police Force (Jersey) Law 1974

Article 3(2)(a)^[117]

[1] Volume 1996-1997, page 177.

[2] Volume 1999, page 552.

[3] Volume 1975-1978, page 452.

[4] Volume 1988-1989, pages 260 and 261, Volume 1996-1997, page 431 and Volume 1999, page 627.

[5] Volume 1992-1993, page 289 and Volume 1998, pages 293 and 297 to 301.

[6] Tomes I-III, page 303, Volume 1992-1993, page 443 and Volume 2000, page 751.

[7] Volume 1999, pages 127 and 193.

[8] Volume 1961-1962, page 136.

[9] Tome VIII, page 829.

[10] Volume 1996-1997, page 182.

[11] Volume 1996-1997, page 194.

[12] Volume 1994-1995, page 50.

[13] Volume 1994-1995, page 47.

[14] Volume 1988-1989, page 259, Volume 1994-1995, page 55 and Volume 1999, page 627.

[15] Volume 1996-1997, page 194.

[16] Volume 1996-1997, page 239.

[17] Volume 1988-1989, page 261, Volume 1996-1997, page 431 and Volume 1999, page 627.

[18] Tome VIII, page 612 and R & Os 6998 and 8077.

[19] Volume 1992-1993, page 437.

[20] Tome VIII, page 579 and R & Os 6998, 7004, 7020, 7072, 7081, 7219, 7229, 7411, 7472, 7495, 7878, 7917, 8016, 8077, 8096, 8150, 8160, 8196, 8340, 8457, 8624, 8722, 9116, 9180, 9205, 9294, 9308 and 178/2001.

[21] Volume 1988-1989, page 259, Volume 1994-1995, page 55 and Volume 1999, page 627.

[22] Volume 1990-1991, page 417 and Volume 1996-1997, page 662.

[23] Volume 1996-1997, page 177.

[24] Volume 1998, page 507, Volume 1999, pages 413, 420 and 527, Volume 2000, pages 705 and 716 to 745, Volume 2002, page 107 and R & Os 9402 and 127/2000.

[25] Volume 1999, page 111.

- [26] Volume 2001, page 159.
- [27] Volume 1996-1997, page 195.
- [28] Tome VIII, page 604 and R & Os 8016, 8624 and 9116.
- [29] Volume 1968-1969, page 247, Volume 1970-1972, page 511, Volume 1973-1974, page 371, Volume 1979-1981, page 25, Volume 1986-1987, pages 20 and 173, Volume 1994-1995, pages 58 and 118, Volume 1996-1997, pages 15 and 616 and Volume 1999, pages 431, 434 and 515.
- [30] Tomes IV-VI, page 132, Volume 1961-1962, page 95, Volume 1968-1969, page 340 and Volume 1996-1997, page 1053.
- [31] Volume 1994-1995, page 75, Volume 1996-1997, page 1059, Volume 1998, page 722 and Volume 1999, page 529.
- [32] Volume 1968-1969, page 394.
- [33] Volume 1990-1991, page 140.
- [34] Tomes I-III, page 286.
- [35] Volume 1996-1997, pages 194 and 218.
- [36] Volume 1975-1978, page 452.
- [37] Volume 1975-1978, page 453.
- [38] Volume 1999, page 598.
- [39] Volume 1968-1969, page 247, Volume 1970-1972, page 511, Volume 1973-1974, page 371, Volume 1979-1981, page 25, Volume 1986-1987, pages 20 and 173, Volume 1994-1995, pages 58 and 118, Volume 1996-1997, pages 15 and 616 and Volume 1999, pages 431, 434 and 515.
- [40] Volume 1996-1997, pages 196 and 240, as prospectively amended by this draft Law.
- [41] Tome VIII, page 604 and R & Os 8016, 8624 and 9116.
- [42] Volume 1996-1997, pages 196 and 240, as prospectively amended by this draft Law.
- [43] Volume 1996-1997, pages 196 and 240, as prospectively amended by this draft Law.
- [44] Tome VIII, page 657, Volume 1979-1981, page 365, Volume 1986-1987, page 20, Volume 1994-1995, page 61 and Volume 1996-1997, page 801.
- [45] Tome VIII, page 612 and R & Os 6998 and 8077.
- [46] Volume 1975-1978, page 453.
- [47] Volume 1999, pages 574 and 599.
- [48] Tomes I-III, page 286.
- [49] Tome VIII, page 604 and R & Os 8016, 8624 and 9116.
- [50] Volume 1996-1997, pages 196 and 240, as prospectively amended by this draft Law.
- [51] Volume 1992-1993, page 437.
- [52] Volume 2001, page 163.
- [53] Volume 2001, page 163.
- [54] Tomes I-III, page 288, Volume 1996-1997, page 168 and Volume 1998, page 713.
- [55] Volume 1996-1997, pages 610 and 611.
- [56] Tome VII, page 502, Volume 1979-1981, page 195, Volume 1984-1985, page 175, Volume 1990-1991, pages 113 and 855, Volume 1992-1993, page 461, Volume 1996-1997, pages 147 and 667, Volume 1998, page 659 and Volume 2001, page 7.
- [57] Volume 1961-1962, page 99, Volume 1975-1978, pages 191 and 205, Volume 1984-1985, page 187, Volume 1986-1987, page 74, Volume 1988-1989, page 399, Volume 1990-1991, page 857, Volume 1992-1993, page 123, Volume 1998, page 693 and Volume 2001, page 48.
- [58] Volume 1990-1991, page 293 and Volume 1998, page 377.
- [59] Volume 1990-1991, page 555.
- [60] Volume 1992-1993, page 437.
- [61] Volume 1992-1993, page 437.
- [62] Volume 1999, page 542.

- [63] Volume 1999, page 591.
- [64] Volume 1975-1978, page 453.
- [65] Tome VIII, page 849 and Volume 2001, pages 3 and 4.
- [66] Tomes IV-VI, page 50 and Volume 1979-1981, page 201.
- [67] Tomes IV-VI, page 134 and Volume 1996-1997, page 1053.
- [68] Tome VIII, pages 55, 57 and 58.
- [69] Tome VIII, pages 601 and 603 and R & O 9116.
- [70] Volume 1988-1989, page 261, Volume 1996-1997, page 431 and Volume 1999, page 627.
- [71] Volume 1990-1991, page 1.
- [72] Volume 1994-1995, page 76 and Volume 1996-1997, page 1060.
- [73] Volume 2000, pages 118 and 142.
- [74] Tome VII, page 389.
- [75] Tome VII, page 541.
- [76] Tome VIII, page 59.
- [77] Tome VIII, page 83.
- [78] Tome VIII, page 515.
- [79] Volume 1966-1967, page 193.
- [80] Volume 1966-1967, page 675.
- [81] Volume 1968-1969, pages 258, 261, 262 and 301 and Volume 1970-1972, page 512.
- [82] Volume 1968-1969, pages 408 and 409.
- [83] Volume 1973-1974, page 251.
- [84] Volume 1975-1978, page 462, Volume 1982-1983, page 157 and Volume 1996-1997, page 426.
- [85] Volume 1979-1981, page 313.
- [86] Volume 1986-1987, page 374.
- [87] Volume 1988-1989, page 290 and Volume 1996-1997, page 474.
- [88] Volume 1990-1991, page 127.
- [89] Volume 1990-1991, page 287.
- [90] Volume 1990-1991, page 1008.
- [91] Volume 1994-1995, page 79 and Volume 1996-1997, page 1062.
- [92] Volume 1994-1995, page 263.
- [93] Volume 1996-1997, page 68.
- [94] Volume 1999, page 590.
- [95] Volume 1999, page 643.
- [96] Volume 2000, page 52.
- [97] Volume 2000, page 125.
- [98] Volume 2000, page 10.
- [99] Volume 2000, page 185.
- [100] Tome VIII, page 95.
- [101] Volume 1973-1974, page 376.

- [102] Volume 1996-1997, page 196.
- [103] P.89/2002.
- [104] Volume 1996-1997, page 194.
- [105] P.89/2002.
- [106] P.89/2002.
- [107] Volume 1996-1997, page 194.
- [108] P.89/2002.
- [109] Volume 1996-1997, page 240.
- [110] Volume 1996-1997, page 235.
- [111] P.89/2002.
- [112] Volume 1996-1997, page 235.
- [113] Volume 1996-1997, page 235.
- [114] P.89/2002.
- [115] Tomes I-III, page 286.
- [116] Tome VII, page 547.
- [117] Volume 1973-1974, page 376.