

STATES OF JERSEY

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DRAFT POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003 (AMENDMENT) (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 2nd November 2004
by the Home Affairs Committee**

STATES GREFFE



Jersey

DRAFT POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003 (AMENDMENT) (JERSEY) REGULATIONS 200-

REPORT

The draft Terrorism (Jersey) Law 200- was lodged on 7th May 2002 (P.75/2002) and subsequently adopted by the States on 25th June 2002, sanctioned by Her Majesty in Council on 22nd October 2002 and registered in the Royal Court on 8th November 2002.

The draft Police Procedures and Criminal Evidence (Jersey) Law 200- was lodged on 28th May 2002 (P.89/2002), adopted by the States on 5th November 2002, sanctioned by Her Majesty in Council on 17th December 2002 and registered in the Royal Court on 3rd January 2003.

Therefore, at the time the draft Police Procedures and Criminal Evidence (Jersey) Law 200- was lodged, the draft Terrorism (Jersey) Law 200- had not been adopted by the States. There was no guarantee that it would finally become a Law in the form in which it had been lodged, or that it would be adopted at all. Technically, it would not become a Law until it was registered in the Royal Court on 8th November 2002.

Accordingly the Police Procedures and Criminal Evidence (Jersey) Law 200- was prepared on the basis of the law in force at the time, being the Prevention of Terrorism (Jersey) Law 1996.

The Terrorism (Jersey) Law 2002 came into force on 1st September 2003 and repealed the Prevention of Terrorism (Jersey) Law 1996. Accordingly these Regulations, made in exercise of the enabling power in the Legislation (Amending Power) (Jersey) Law 1999, which the States enacted to enable them to deal with situations of this kind, amend the Police Procedures and Criminal Evidence (Jersey) Law 2003 so as to remove all references to the Prevention of Terrorism (Jersey) Law 1996 and introduce necessary references to the Terrorism (Jersey) Law 2002.

There are no financial or manpower implications arising from these Regulations.

Explanatory Note

These Regulations amend the Police Procedures and Criminal Evidence (Jersey) Law 2003 (the ‘2003 Law’) so as to replace references in it to the Prevention of Terrorism (Jersey) Law 1996 (the ‘1996 Law’) with references to the Terrorism (Jersey) Law 2002 (the ‘2002 Law’) and make other amendments also consequential upon the repeal and replacement of the 1996 Law by the 2002 Law.

Regulation 1 is the interpretation provision.

Regulation 2 has the effect that –

- (a) the definition “terrorism” in the 2003 Law is the same as that in the 2002 Law;
- (b) the definition “terrorism provisions” in the 2003 Law means Article 37 (the power to arrest a suspected terrorist) of the 2002 Law and the powers of detention at a harbour or airport conferred by Schedule 8 of the 2002 Law.

Regulation 3 replaces a reference to arrest for a suspected terrorist offence under the 1996 Law with a reference to arrest as a suspected terrorist under the 2002 Law.

Regulation 4 deletes a provision which provided for the application, in the case of a suspected terrorist, of rules in the 2003 Law regarding detention, as the 2002 Law contains its own rules regarding the detention of suspected terrorists.

Regulation 5 has the effect that the procedures in the 2003 Law for a person arrested other than at a police station do not apply to an arrest under the 2002 Law.

Regulation 6 replaces a reference to powers in the 1996 Law of search of a suspected terrorist offender with a reference to powers in the 2002 Law of search of a suspected terrorist.

Regulation 7 replaces a reference to powers of arrest and detention under the 1996 Law with a reference to powers of arrest and detention under the 2002 Law.

Regulation 8 removes a modification, in the case of a person arrested under the 1996 Law, of the right, in the 2003 Law to have someone informed following arrest. The modification is replaced with a disapplication, in the case of a person arrested or detained under the 2002 Law, of those rules. The rules are disappplied because the 2002 Law contains its own rules concerning the right to have someone informed when arrested or detained.

Regulation 9 makes a change similar to that made by Regulation 8, but in relation to access to legal advice following arrest or detention.

Regulation 10 disappplies the rules in the 2003 Law regarding fingerprinting in the case of a person arrested under the 2002 Law, again, because that Law contains its own rules regarding fingerprinting.

Regulation 11 makes a change similar to that made by Regulation 10, but in relation to the taking of intimate samples.

Regulation 12 makes a change similar to that made by Regulation 10, but in relation to the taking of non-intimate samples.

Regulation 13 disappplies the rules in the 2003 Law regarding testing for Class A drugs in the case of a suspected terrorist.

Regulation 14 deletes amendments to the 1996 Law which are otiose now that the 1996 Law has been repealed.

Regulation 15 cites the name of these Regulations and provides for them to come into force on the same day as the provisions of the 2003 Law that they amend.



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Arrangement

Regulation

<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Article 1(1) amended</u>
<u>3</u>	<u>Article 2(1)(a) amended</u>
<u>4</u>	<u>Article 3(5) deleted</u>
<u>5</u>	<u>Article 28(11)(b) substituted</u>
<u>6</u>	<u>Article 29(10) amended</u>
<u>7</u>	<u>Article 48(b) substituted</u>
<u>8</u>	<u>Article 52 amended</u>
<u>9</u>	<u>Article 54 amended</u>
<u>10</u>	<u>Article 55(14)(b) amended</u>
<u>11</u>	<u>Article 56(14) substituted</u>
<u>12</u>	<u>Article 57(17) amended</u>
<u>13</u>	<u>Article 59(9) amended</u>
<u>14</u>	<u>Schedule 5 paragraph 3 deleted</u>
<u>15</u>	<u>Citation and commencement</u>



Jersey

DRAFT POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003 (AMENDMENT) (JERSEY) REGULATIONS 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 2 of the Legislation (Amending Power) (Jersey) Law 1999,^[1] following the passing of the Terrorism (Jersey) Law 2002,^[2] have made the following Regulations –

1 Interpretation

In these Regulations, the “Law” means the Police Procedures and Criminal Evidence (Jersey) Law 2003.^[3]

2 Article 1(1) amended

In Article 1(1) of the Law –

- (a) the definition “1996 Law”,^[4] shall be deleted;
- (b) in the definition “terrorism”,^[5] for the words “assigned to it by the 1996 Law” there shall be substituted the words “given in Article 2 of the Terrorism (Jersey) Law 2002^[6]”;
- (c) in the definition “terrorism provisions”,^[7] for the words “Article 13(1) of the 1996 Law and any provision of the Second or Fifth Schedules to that Law conferring a power of arrest or detention” there shall be substituted the words “Article 37 of the Terrorism (Jersey) Law 2002^[8] and any provision of Schedule 8 to that Law^[9] conferring a power of detention”.

3 Article 2(1)(a) amended

In Article 2(1)(a) of the Law,^[10] for the words “under Article 13 of the 1996 Law or under paragraph 6 c the Fifth Schedule to that Law by an examining officer who is a police officer” there shall be substituted the words “under Article 37 of the Terrorism (Jersey) Law 2002^[11]”.

4 Article 3(5) deleted

Article 3(5) of the Law^[12] shall be deleted.

5 Article 28(11)(b) substituted

For Article 28(11)(b) of the Law^[13] there shall be substituted the following sub-paragraph –

“(b) any provision of the Terrorism (Jersey) Law 2002;^[14]”.

6 Article 29(10) amended

In Article 29(10) of the Law,^[15] for the words “the powers conferred by Article 14(2), (3) and (4) of the 1996 Law” there shall be substituted the words “the power conferred by Article 39 of the Terrorism (Jersey) Law 2002^[16]”.

7 Article 48(b) substituted

For Article 48(b) of the Law^[17] there shall be substituted the following paragraph –

“(b) the powers conferred by virtue of Article 37 of or Schedule 8 to the Terrorism (Jersey) Law 2002;^[18]”.

8 Article 52 amended

In Article 52 of the Law,^[19] for paragraphs (11) and (12) there shall be substituted the following paragraph –

“(11) Nothing in this Article shall apply to a person detained under the terrorism provisions.”.

9 Article 54 amended

In Article 54 of the Law,^[20] for paragraphs (13) to (17) there shall be substituted the following paragraph –

“(13) Nothing in this Article shall apply to a person detained under the terrorism provisions”.

10 Article 55(14)(b) amended

In Article 55(14)(b) of the Law,^[21] the words “except as provided in Article 14(7) of, and paragraph 7(5) of the Fifth Schedule to, the 1996 Law,” shall be deleted.

11 Article 56(14) substituted

For Article 56(14) of the Law^[22] there shall be substituted the following paragraph –

“(14) Nothing in this Article applies to a person arrested or detained under the terrorism provisions and paragraph (2) shall not apply where the non-intimate samples mentioned in that paragraph were taken under paragraph 11 of Schedule 9 to the Terrorism (Jersey) Law 2002;^[23]”.

12 Article 57(17) amended

In Article 57(17) of the Law^[24] the words “, except as provided in Article 14(9) and (10) of and paragraph 7(7) and (8) of the Fifth Schedule to the 1996 Law,” shall be deleted.

13 Article 59(9) amended

In Article 59(9) of the Law^[25] the words “, except as provided in Article 14(8) and (10) of, and paragraph 7(6) and (8) of the Fifth Schedule to, the 1996 Law” shall be deleted.

14 Schedule 5 paragraph 3 deleted

Paragraph 3 of Schedule 5 to the Law^[26] shall be deleted.

15 Citation and commencement

- (1) These Regulations may be cited as the Police Procedures and Criminal Evidence (Jersey) Law 2003 (Amendment) (Jersey) Regulations 200-.
- (2) These Regulations shall come into force on 1st December 2004, with the exception of Regulation 7, which shall come into force on the same day as Article 48 of the Police Procedures and Criminal Evidence (Jersey) Law 2003.

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- [1] *Recueil des Lois, Volume 1999, page 660.*
- [2] *Recueil des Lois, Volume 2002, page 645 and No. 69/2003.*
- [3] *Recueil des Lois, Volume 2003, page 13 and Volume 2004, page 945.*
- [4] *Recueil des Lois, Volume 2003, page 19.*
- [5] *Recueil des Lois, Volume 2003, page 22.*
- [6] *Recueil des Lois, Volume 2002, page 653.*
- [7] *Recueil des Lois, Volume 2003, page 22.*
- [8] *Recueil des Lois, Volume 2002, page 685.*
- [9] *Recueil des Lois, Volume 2002, page 761.*
- [10] *Recueil des Lois, Volume 2003, page 23.*
- [11] *Recueil des Lois, Volume 2002, page 685.*
- [12] *Recueil des Lois, Volume 2003, page 24.*
- [13] *Recueil des Lois, Volume 2003, page 45.*
- [14] *Recueil des Lois, Volume 2002, page 645 and R&O 69/2003.*
- [15] *Recueil des Lois, Volume 2003, page 47.*
- [16] *Recueil des Lois, Volume 2002, page 686.*
- [17] *Recueil des Lois, Volume 2003, page 62.*
- [18] *Recueil des Lois, Volume 2002, pages 685 and 761.*
- [19] *Recueil des Lois, Volume 2003, page 67.*
- [20] *Recueil des Lois, Volume 2003, page 69 and 70.*
- [21] *Recueil des Lois, Volume 2003, page 72.*
- [22] *Recueil des Lois, Volume 2003, page 73.*
- [23] *Recueil des Lois, Volume 2002, page 781.*
- [24] *Recueil des Lois, Volume 2003, page 74.*
- [25] *Recueil des Lois, Volume 2003, page 78.*
- [26] *Recueil des Lois, Volume 2003, page 114.*