

# STATES OF JERSEY



## **DRAFT DRUG TRAFFICKING OFFENCES (AMENDMENT No. 3) (JERSEY) LAW 201-**

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**Lodged au Greffe on 27th July 2010  
by the Minister for Home Affairs**

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**STATES GREFFE**





Jersey

## **DRAFT DRUG TRAFFICKING OFFENCES (AMENDMENT No. 3) (JERSEY) LAW 201-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Home Affairs has made the following statement –

In the view of the Minister for Home Affairs the provisions of the Draft Drug Trafficking Offences (Amendment No. 3) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Senator B.I. Le Marquand**

## REPORT

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The purpose of this draft Law is to amend the Drug Trafficking Offences (Jersey) Law 1988 to enable an officer of at least the rank of Assistant Director in the Customs and Immigration Service to apply by order for customer financial information, or account monitoring orders, during the course of a Customs investigation.

Article 44A, paragraphs (1) and (2) of the Drug Trafficking Offences (Jersey) Law 1988 states –

### **“Financial information and monitoring**

- (1) Part 1 of Schedule 2 shall have effect in respect of the obtaining of financial information.
- (2) Part 2 of Schedule 2 shall have effect in respect of account monitoring orders.”.

Article 2 of Part 1 of Schedule 2, as currently in force, sets out who may apply for an order under the schedule and states –

“An order under this Part of this Schedule may be made on the application of a police officer of at least the rank of chief inspector”.

Article 2(2) of Part 2 of Schedule 2, as currently in force, sets out who may apply for information for an account monitoring order and states –

“The description of information specified in an application for an account monitoring order may be varied by the police officer who applied for the order or another police officer of at least the rank of chief inspector”.

There are specific references to customs officers in the interpretation section of the Law, as currently drafted, as well as at Articles 40AA and 40B. However, those references do not extend to giving an officer in the Customs and Immigration Service, of an equivalent rank to a police inspector, the authority to apply for an order under Schedule 2 of the Law.

During the course of Customs operations there are occasions when such financial information would be extremely beneficial. Accordingly, it is deemed appropriate for an officer within the Customs and Immigration Service of an equivalent rank to a chief inspector, or above, to be able to apply for such orders. The equivalent of a Chief Inspector in the States of Jersey Police is an Assistant Director in the Customs and Immigration Service.

### **Financial and manpower implications**

There are no financial or manpower implications for the States arising from this amendment.

### **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister 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). On 23rd July 2010 the Minister for Home Affairs made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Home Affairs the provisions of the Draft Drug Trafficking Offences (Amendment No. 3) (Jersey) Law 201- are compatible with the Convention Rights.

## Explanatory Note

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This draft Law would amend the Drug Trafficking Offences (Jersey) Law 1988 (“Law”) by specifying the rank of customs officer who may apply for an order requiring a financial services business to provide customer information in relation to an investigation into drug money laundering or who may apply for an account monitoring order against a financial services business. Currently the Law allows a police officer to apply for such an order and defines “police officer” to include a customs officer. However although the Law specifies the rank of police officer who can apply for such an order, such rank is not applicable to customs officers. The draft Law specifies that a customs officer applying for either type of order must be of at least the rank of assistant director.

The draft Law would come into force 7 days after it is registered.



Jersey

## **DRAFT DRUG TRAFFICKING OFFENCES (AMENDMENT No. 3) (JERSEY) LAW 201-**

**A LAW** to amend further the Drug Trafficking Offences (Jersey) Law 1988.

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

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

### **1 Drug Trafficking Offences (Jersey) Law 1988 amended**

In Schedule 2 to the Drug Trafficking Offences (Jersey) Law 1988<sup>1</sup> –

- (a) for paragraph 2 of Part 1 there shall be substituted the following paragraph –

#### **“2 Who may apply for order**

An order under this Part of this Schedule may be made on the application of a police officer of at least the rank of chief inspector, or, in the case of an officer within the meaning of the Customs and Excise (Jersey) Law 1999<sup>2</sup>, an officer of at least the rank of assistant director.”;

- (b) in paragraph 1(1) of Part 2 for the words “of at least the rank of chief inspector” there shall be substituted the words “of at least the rank described in paragraph 2 of Part 1 of this Schedule”.

### **2 Citation and commencement**

This Law may be cited as the Drug Trafficking Offences (Amendment No. 3) (Jersey) Law 201- and shall come into force 7 days after it is registered.

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- <sup>1</sup> *chapter 08.580*  
<sup>2</sup> *chapter 24.660*