

# **STATES OF JERSEY**

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## **DRAFT INVESTIGATION OF FRAUD (AMENDMENT No. 2)(JERSEY) LAW 200**

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**Lodged au Greffe on 10th June 2003  
by the Legislation Committee**

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**STATES GREFFE**





Jersey

## **DRAFT INVESTIGATION OF FRAUD (AMENDMENT No. 2) (JERSEY) LAW 200**

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

The President of the Legislation Committee has made the following statement –

In the view of the Legislation Committee the provisions of the Draft Investigation of Fraud (Amendment No. 2, (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Deputy R.G. Le Hérissier of St. Saviour**

## **REPORT**

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Although Article 2 of the Investigation of Fraud (Jersey) Law 1991 (as amended) enables the Attorney General to authorize certain categories of persons to exercise powers of investigation under that Article, those so specified have in practice proved to be too restricted for the convenient administration of the Law. On some occasions, it is inappropriate to authorize a person from such a category. In other instances, it may be more efficient and less expensive to authorize some other person.

The proposed amendment would allow this, subject to the safeguards that already exist in the Law in respect of persons who are not Crown Advocates.

There are no adverse financial or manpower implications for the resources of the States in this proposal.

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

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 6th June 2003 the Legislation Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Legislation Committee, the provisions of the Draft Investigation of Fraud (Amendment No. 2, (Jersey) Law 200- are compatible with the Convention Rights.

## **Explanatory Note**

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Article 2 of the Investigation of Fraud (Jersey) Law 1991, as amended in 1997, enables the Attorney General to authorize –

- (a) a member of the Law Officers' Department ,
- (b) a police officer, or
- (c) someone nominated by an overseas person or body at whose request the Attorney General is conducting an investigation,

to exercise powers of investigation under that Article.

Except in the case of Crown Advocates, authorization is subject to restrictions set out in paragraph (10A) of that Article.

The effect of this amendment is to enable the Attorney General to authorize any person (whether or not of one of the above categories) to exercise those powers, subject to the restrictions that already apply to authorized persons who are not Crown Advocates.





Jersey

## DRAFT INVESTIGATION OF FRAUD (AMENDMENT No. 2) (JERSEY) LAW 200

A LAW to amend further the Investigation of Fraud (Jersey) Law 1991.<sup>[1]</sup>

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*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 –

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### 1 Interpretation

In this Law, “principal Law” means the Investigation of Fraud (Jersey) Law 1991.<sup>[2]</sup>

### 2 Amendment of Article 2

(1) In Article 2 of the principal Law, for paragraph (2)<sup>[3]</sup> there shall be substituted the following paragraph –

“(2) The Attorney General may –

- (a) by notice in writing require the person whose affairs are to be investigated (‘the person under investigation’) or any other person whom he has reason to believe has relevant information to answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith; and
- (b) administer questions or otherwise obtain information accordingly.”.

(2) In Article 2 of the principal Law, for paragraphs (10), (10A) and (10B)<sup>[4]</sup> there shall be substituted the following paragraphs –

“(10) The Attorney General may –

- (a) authorize any Crown Advocate; or
- (b) subject to paragraph (10A), authorize any other person,

to exercise on behalf of the Attorney General all or any of the powers conferred on him by or under this Article, but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of the person specified in the authority.

(10A) No person mentioned in sub-paragraph (b) of paragraph (10) shall be authorized to–

- (a) give a notice under sub-paragraph (a) of paragraph (2) or paragraph (3);
- (b) make an application under paragraph (4);
- (c) authorize any person or persons for the purposes of paragraph (6); or
- (d) authorize the making of any requirement for the purposes of paragraph (9)".

### **3 Citation and commencement**

This Law may be cited as the Investigation of Fraud (Amendment No. 2) (Jersey) Law 200-.



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

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

[3] *Volume 1990-1991, page 418.*

[4] *Volume 1990-1991, page 420 and Volume 1996-1997, page 663.*