

# STATES OF JERSEY



## **DRAFT CRIMINAL JUSTICE (INTERNATIONAL CO-OPERATION) (AMENDMENT No. 2) (JERSEY) LAW 201-**

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**Lodged au Greffe on 15th November 2011  
by the Minister for Home Affairs**

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**STATES GREFFE**





Jersey

**DRAFT CRIMINAL JUSTICE (INTERNATIONAL  
CO-OPERATION) (AMENDMENT No. 2) (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 Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law 201- are compatible with the Convention Rights.

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

## REPORT

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The Draft Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law 201- would extend to Customs Officers the power to conduct searches where information relating to an offence has been requested by a country outside of Jersey and the offence concerns a customs matter.

Under the Criminal Justice (International Co-operation) (Jersey) Law 2001, the Attorney General can receive requests for assistance from an appropriate authority outside the Island in relation to a serious offence committed in that jurisdiction and where criminal proceedings are/will be constituted in the jurisdiction concerned. At the present time, however, only Police Officers are authorised to provide that assistance.

Under Article 6 of the Law, the Bailiff can issue a warrant authorising a Police Officer to enter and search premises where it is believed that evidence may be found to support a serious offence that has been committed outside the Island, where criminal proceedings either have been or will be instituted and where an appropriate authority has applied to the Attorney General for assistance.

It was felt appropriate for Customs Officers to have similar powers to those applicable to Police Officers under the Law. This would be particularly beneficial when the DNRED (French Customs) have had a drug seizure in France and the French authorities have applied for, and been granted assistance in, the Island.

The draft Law will resolve this issue by amending Articles 1 and 6 of the Law to include Customs Officers.

### **Financial and manpower implications**

There are no new financial or manpower implications for the States arising from the adoption of this draft Law.

### **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 11th November 2011 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 Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law 201- are compatible with the Convention Rights.

## Explanatory Note

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This draft Law extends to customs officers the power to conduct a search in cases where information relating to an offence has been requested by a country or territory outside Jersey and the offence concerns a customs matter. To do this, the draft Law amends the Criminal Justice (International Co-operation) (Jersey) Law 2001.

*Article 1* allows the draft Law to refer to the Criminal Justice (International Co-operation) (Jersey) Law 2001 as simply the “principal Law”.

*Article 2* defines the term “assigned matter” as having the same meaning as in the Customs and Excise (Jersey) Law 1999, that is, a matter in relation to which customs officers have duties by virtue of any enactment. In addition, the term “customs officer” is defined to mean an officer within the meaning of that Law.

*Article 3* clarifies existing wording in Article 3 of the principal Law.

*Article 4* allows customs officers to conduct searches (under search warrant) that currently may only be conducted by the police. Customs officers may conduct such a search if the offence being investigated occurred overseas but would, if it had occurred in Jersey, have related to an assigned matter.

*Article 5* names the draft Law and provides for it to commence a week after it is registered in the Royal Court.





Jersey

**DRAFT CRIMINAL JUSTICE (INTERNATIONAL  
CO-OPERATION) (AMENDMENT No. 2) (JERSEY)  
LAW 201-**

**Arrangement**

**Article**

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Jersey

**DRAFT CRIMINAL JUSTICE (INTERNATIONAL  
CO-OPERATION) (AMENDMENT No. 2) (JERSEY)  
LAW 201-**

**A LAW** to amend further the Criminal Justice (International Co-operation) (Jersey) Law 2001.

*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 Interpretation**

In this Law “principal Law” means the Criminal Justice (International Co-operation) (Jersey) Law 2001<sup>1</sup>.

**2 Article 1 amended**

In Article 1 of the principal Law before the definition of “document” there shall be inserted the following definitions –

“‘assigned matter’ has the same meaning as in the Customs and Excise (Jersey) Law 1999<sup>2</sup>;

‘customs officer’ has the same meaning as ‘officer’ in the Customs and Excise (Jersey) Law 1999;”.

**3 Article 3 amended**

In Article 3(1) of the principal Law after the words “Process of” there shall be inserted the words “any of”.

**4 Article 6 amended**

After Article 6(5) of the principal Law there shall be inserted the following paragraphs –

- “(6) In relation to conduct referred to in paragraph (1)(b) that would have concerned or related to an assigned matter if the conduct had occurred in Jersey –
  - (a) a customs officer may be authorized by a warrant under paragraph (1) and shall have the same powers as a police officer under this Article; and
  - (b) the references in paragraphs (1), (3) and (4) to a police officer shall include references to a customs officer.
- (7) In the case of conduct described in paragraph (6) –
  - (a) a customs officer may execute a warrant issued under paragraph (1), whether the warrant authorizes a customs officer or a police officer, and a police officer may execute a warrant issued under paragraph (1), whether the warrant authorizes a police officer or a customs officer; and
  - (b) where a customs officer exercises the power of search pursuant to a warrant issued under paragraph (1), the customs officer shall have the same powers under this Article to seize evidence as a police officer notwithstanding that the evidence found is not in fact evidence of conduct described in paragraph (6).
- (8) Nothing in this Article shall be construed as preventing anything lawfully seized by a person under any enactment from being accepted and retained by a customs officer if the thing relates to conduct described in paragraph (6).”.

**5 Citation and commencement**

- (1) This Law may be cited as the Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law 201-.
- (2) This Law shall come into force on the 7th day after it is registered.

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- <sup>1</sup> *chapter 08.300*  
<sup>2</sup> *chapter 24.660*