

# **STATES OF JERSEY**

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## **DRAFT REGULATION OF INVESTIGATORY POWERS (AMENDMENT) (JERSEY) LAW 200-**

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**Lodged au Greffe on 6th February 2007  
by the Minister for Home Affairs**

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**STATES GREFFE**





Jersey

## **DRAFT REGULATION OF INVESTIGATORY POWERS (AMENDMENT) (JERSEY) LAW 200-**

### **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 Regulation of Investigatory Powers (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator W. Kinnard**

## **REPORT**

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The purpose of this draft Law is to make a number of minor and purely technical amendments of the Regulation of Investigatory Powers (Jersey) Law 2005.

These amendments would change the references in that Law to provisions of the Wireless Telegraphy Act 1949, which applied to Jersey, for regulating the use of the radio spectrum and requiring the licensing of apparatus for use in wireless telegraphy, to references to the equivalent provisions of the English statutes that have replaced them and now apply to Jersey in their stead.

The precise effect of the amendments is fully explained in the accompanying Explanatory Note.

### **Financial and manpower implications**

There are no financial or manpower implications for the States arising from the enactment of the 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 31st January 2007 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 Regulation of Investigatory Powers (Amendment) (Jersey) Law 200- are compatible with the Convention Rights.

## **Explanatory Note**

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This draft Law would amend the Regulation of Investigatory Powers (Jersey) Law 2005 (the “principal Law”) consequentially upon the repeal of the Wireless Telegraphy Act 1949 (the “1949 Act”), which was extended to Jersey by Order in Council, and its replacement by the Wireless Telegraphy Act 2006 (the “2006 Act”) and the Communications Act 2003, both of which are extended to Jersey by Order in Council.

*Article 1* provides for the interpretation of the principal Law.

*Article 2* provides for the interpretation of references to the 2006 Act within the principal Law.

*Article 3* amends Article 8 of the principal Law (lawful interception without a warrant) consequentially upon the repeal of the provisions for licensed or authorized interception under the 1949 Act and their replacement with the like provisions in the 2006 Act.

*Article 4* amends Article 22 of the principal Law, which sets out exceptions to the rule against the use, in legal proceedings, of evidence that discloses the use of interception or the contents of an intercepted communication. One exception is the use of such evidence in proceedings for a ‘relevant offence’. The amendment is to the definition of that expression, with the effect that it includes an offence under the 2006 Act of sending a misleading message (for example, a hoax emergency call) or the unauthorized use of wireless telegraphy apparatus to obtain information about the contents of communications, or communications data, or to disclose such information.

*Article 5* amends Article 32 of the principal Law consequentially upon the re-enactment, in the Communications Act 2003, of provision as to what constitutes the detection of the use of a television receiver.

*Article 6* is the citation and commencement provision.





Jersey

# DRAFT REGULATION OF INVESTIGATORY POWERS (AMENDMENT) (JERSEY) LAW 200-

## Arrangement

### Article

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<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Article 1 amended</u>
<u>3</u>	<u>Article 8 amended</u>
<u>4</u>	<u>Article 22 amended</u>
<u>5</u>	<u>Article 32 amended</u>
<u>6</u>	<u>Citation and commencement</u>







Jersey

## DRAFT REGULATION OF INVESTIGATORY POWERS (AMENDMENT) (JERSEY) LAW 200-

A LAW to amend the Regulation of Investigatory Powers (Jersey) Law 2005

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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 Regulation of Investigatory Powers (Jersey) Law 2005<sup>[1]</sup>.

### 2 Article 1 amended

In Article 1(1) of the principal Law –

(a) the definition “1949 Act” shall be deleted;

(b) after the definition “1994 Act” there shall be inserted the following definition –

“ ‘2006 Act’ means the Wireless Telegraphy Act 2006 of the United Kingdom as extended to Jersey by the Wireless Telegraphy (Jersey) Order 2006<sup>[2]</sup>.”;

(c) in the definition “wireless telegraphy” for the words “1949 Act” there shall be substituted the words “2006 Act”.

### 3 Article 8 amended

In Article 8(4) of the principal Law –

(a) in sub-paragraph (a) for the words “section 5 of the 1949 Act” there shall be substituted the words “section 48 of the 2006 Act”;

(b) in sub-paragraph (b) for clause (i) there shall be substituted the following clause –

“(i) the grant of wireless telegraphy licences under the 2006 Act.”;

(c) in sub-paragraph (b) for clause (iii) there shall be substituted the following clause–

“(iii) the enforcement of any provision of Part 2 of the 2006 Act (other than Chapter 2 and sections 27 to 31) or Part 3 of the 2006 Act, or any other enactment that relates to such interference.”.

**4 Article 22 amended**

In Article 22(11)(c) of the principal Law for the words “section 5 of the 1949 Act” there shall be substituted the words “section 47 or 48 of the 2006 Act”.

**5 Article 32 amended**

In Article 32(5)(a) of the principal Law for the words “section 1 of the 1949 Act” there shall be substituted the words “Part 4 of the Communications Act 2003 of the United Kingdom as extended to Jersey by the Broadcasting and Communications Act (Jersey) Order 2004”.

**6 Citation and commencement**

This Law may be cited as the Regulation of Investigatory Powers (Amendment) (Jersey) Law 200- and shall come into force 7 days after it is registered.

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[1]

L.17/2005

[2]

L.11/2007