



Jersey

CRIMINAL JUSTICE ACT 1987 (JERSEY) ORDER 1989

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APPENDIX



Jersey

CRIMINAL JUSTICE ACT 1987 (JERSEY) ORDER 1989

Jersey Order in Council 6/1989

THE CRIMINAL JUSTICE ACT 1987 (JERSEY) ORDER 1989.

(Registered on the 9th day of June, 1989.)

At the Court at Windsor Castle.

18th April, 1989.

PRESENT

The Queen's Most Excellent Majesty in Council.

HER MAJESTY, in pursuance of section 17(6) of the Criminal Justice Act 1987, is pleased, by and with the advice of Her Privy Council, to order, and it hereby ordered, as follows

1.-(1) This Order may be cited as the Criminal Justice Act 1987 (Jersey) Order 1989 and shall come into force on 18th May, 1989.

(2) Without prejudice to its earlier revocation and subject to Article 3 below this Order shall cease to have effect on the expiration of two years beginning with the date of its coming into force.

2. Section 2 of the Criminal Justice Act 1987 shall extend to the Bailiwick of Jersey subject to the modifications specified in the Schedule to this Order.

3. In any case in which a request under section 2(1) of the Criminal Justice Act 1987, as modified in its extension to the Bailiwick of Jersey by paragraph 2 of the Schedule to this Order, is made before the date on which this Order ceases to have effect by virtue of

Jersey Order in Council 6/1989 Criminal Justice Act 1987 (Jersey) Order 1989

Article 1(2) above, the powers of the Attorney General shall continue to be exercisable under that section as so modified as if this Order had not ceased to have effect.

G.I. DE DENEY

Clerk of the Privy Council.

SCHEDULE**(Article 2)****Modifications to Section 2 of the Criminal Justice Act 1987 as extended to the Bailiwick of Jersey**

1. Any reference to section 2 of the Criminal Justice Act 1987 or any provision thereof shall be construed, unless the contrary intention appears, as a reference to it as it has effect in the Bailiwick of Jersey; and any reference to section 1 of that Act shall be construed as a reference to it as it has effect in England and Wales and Northern Ireland.

2. In subsection (1) –

- (a) for “Director” there shall be substituted “Attorney General”, and
- (b) for the words from “only” to “the request” there shall be substituted “only on a request made by the Director of the Serious Fraud Office for the purposes of an investigation under section 1 of this Act, or on a request made by the Lord Advocate for the purposes of an investigation under legislation corresponding to that section and having effect in Scotland”.

3. In subsection (2) –

- (a) for “Director” there shall be substituted “Attorney General”, and
- (b) after “specified place” there shall be inserted “in the Bailiwick of Jersey”.

4. In subsection (3) –

- (a) for “Director” in each place where it occurs there shall be substituted “Attorney General”, and
- (b) after “such place” there shall be inserted “in the Bailiwick of Jersey”.

5. In subsection (4) –

- (a) for “on information on oath laid by a member of the Serious Fraud Office, a justice of the peace” there shall be substituted “on an application by the Attorney General, the Bailiff”, and
- (b) for “the information” there shall be substituted “the application”.

6. In subsection (5) –

- (a) for “constable” there shall be substituted “police officer”, and
- (b) for “information” there shall be substituted “application”.

7. For subsection (6) there shall be substituted the following subsection –

“(6) A police officer executing a warrant issued under subsection (4) above may be accompanied by any person expressly authorised for that purpose by the Attorney General.”.

Jersey Order in Council 6/1989 Criminal Justice Act 1987 (Jersey) Order 1989

8. For subsection (7) there shall be substituted the following subsection –

“(7) Without prejudice to his power to enter into agreements apart from this subsection, the Attorney General may enter into a written agreement for the supply of information to or by him subject, in either case, to an obligation not to disclose the information concerned otherwise than for a specified purpose.”.

9. In subsection (9), for “High Court” there shall be substituted “Royal Court”.

10. In subsection (10), for paragraph (b) there shall be substituted the following paragraph –

“(b) the Attorney General has authorised the making of the requirement.”.

11. For subsection (11) there shall be substituted the following subsection –

“(11) The Attorney General may authorise any Crown Advocate to exercise on his behalf all or any of the powers conferred by this section, but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified in the authority.”.

12. In subsection (13), for the words from “summary conviction” to the end there shall be substituted “conviction to imprisonment for a term not exceeding six months or to a fine or to both”.

13. In subsection (15), for paragraphs (a) and (b) there shall be substituted “on conviction, be liable to imprisonment for a term not exceeding two years or to a fine or to both”.

14. In subsection (16)(a), after “Serious Fraud Office” there shall be inserted “or an officer nominated by the Lord Advocate.”

15. In subsection (17), for paragraphs (a) and (b) there shall be substituted “on conviction, be liable to imprisonment for a term not exceeding 7 years or to a fine or to both”.

16. For subsection (19), there shall be substituted the following subsection –

“(19) In this section, the expression –

“police officer” means a member of the Honorary Police or a member of the States of Jersey Police Force;

“Serious Fraud Office” means the Serious Fraud Office constituted under section 1 of this Act.”.

CRIMINAL JUSTICE ACT 1987**CHAPTER 38***ARRANGEMENT OF SECTIONS.**PART I.**FRAUD.***Serious Fraud Office.**

Section

1. * * * * *
2. Director's investigation powers.
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PART II.

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ELIZABETH II**CRIMINAL JUSTICE ACT 1987****1987 CHAPTER 38**

AN ACT to make further provision for the investigation of and trials for fraud; and for connected purposes.

[15th May 1987.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows² –

*PART I***FRAUD****Serious Fraud Office**

1. * * * * *

2.-(1) The powers of the [Attorney General] under this section shall be exercisable, but [only on a request made by the Director of the Serious Fraud Office for the purposes of an investigation under section 1 of this Act, or on a request made by the Lord Advocate for the purposes of an investigation under legislation corresponding to that section and having effect in Scotland], in any case in which it appears to him that there is good reason to do so for the purpose of investigating the affairs, or any aspect of the affairs, of any person.

(2) The [Attorney General] may 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 answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place [in the Bailiwick of Jersey] and either at a specified time or forthwith.

(3) The [Attorney General] may by notice in writing require the person under investigation or any other person to produce at such place [in the Bailiwick of Jersey] as may be specified in the notice and either forthwith or at such time as may be so specified, any specified documents which appear to the [Attorney General] to relate to any matter relevant to the investigation or any documents of a specified description which appear to him so to relate; and –

(a) if any such documents are produced, the [Attorney General] may –

² Deletions and words in square brackets indicate adaptations and modifications made by the Criminal Justice Act 1987 (Jersey) Order, 1989.

Jersey Order in Council 6/1989 Criminal Justice Act 1987 (Jersey) Order 1989

- (i) take copies or extracts from them;
 - (ii) require the person producing them to provide an explanation of any of them;
- (b) If any such documents are not produced, the [Attorney General] may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (4) Where, [on an application by the Attorney General, the Bailiff] is satisfied, in relation to any documents, that there are reasonable grounds for believing –
- (a) that –
 - (i) a person has failed to comply with an obligation under this section to produce them;
 - (ii) it is not practicable to serve a notice under subsection (3) above in relation to them; or
 - (iii) the service of such a notice in relation to them might seriously prejudice the investigation; and
 - (b) that they are on premises specified in [the application],
- he may issue such a warrant as is mentioned in subsection (5) below.
- (5) The warrant referred to above is a warrant authorising any [police officer] –
- (a) to enter (using such force as is reasonably necessary for the purpose) and search the premises; and
 - (b) to take possession of any documents appearing to be documents of the description specified in the [application] or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.
- (6) [A police officer executing a warrant issued under subsection (4) above may be accompanied by any person or persons expressly authorised for that purpose by the Attorney General.]
- (7) [Without prejudice to his power to enter into agreements apart from this subsection, the Attorney General may enter into a written agreement for the supply of information to or by him subject, in either case, to an obligation not to disclose the information concerned otherwise than for a specified purpose.]
- (8) A statement by a person in response to a requirement imposed by virtue of this section may only be used in evidence against him –
- (a) on a prosecution for an offence under subsection (14) below; or
 - (b) on a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.

Jersey Order in Council 6/1989 Criminal Justice Act 1987 (Jersey) Order 1989

(9) A person shall not under this section be required to disclose any information or produce any document which he would be entitled to refuse to disclose or produce on grounds of legal privilege in proceedings in the [Royal Court], except that a lawyer may be required to furnish the name and address of his client.

(10) A person shall not under this section be required to disclose information or produce a document in respect of which he owes an obligation of confidence by virtue of carrying on any banking business unless –

- (a) the person to whom the obligation of confidence is owed consents to the disclosure or production; or
- (b) [the Attorney General has authorised the making of the requirement.]

(11) [The Attorney General may authorise any Crown Advocate to exercise on his behalf all or any of the powers conferred by this section, but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified in the authority.]

(12) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under subsection (11) above unless he has, if required to do so, produced evidence of his authority.

(13) Any person who without reasonable excuse fails to comply with a requirement imposed on him under this section shall be guilty of an offence and liable on [conviction to imprisonment for a term not exceeding six months or to a fine or to both.]

(14) A person who, in purported compliance with a requirement under this section –

- (a) makes a statement which he knows to be false or misleading in a material particular; or
- (b) recklessly makes a statement which is false or misleading in a material particular,

shall be guilty of an offence.

(15) A person guilty of an offence under subsection (14) above shall [on conviction, be liable to imprisonment for a term not exceeding two years or to a fine or to both].

(16) Where a person –

- (a) knows or suspects that an investigation by the police or the Serious Fraud Office [or an officer nominated by the Lord Advocate] into serious or complex fraud is being or is likely to be carried out; and
- (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which he knows or suspects are or would be relevant to such an investigation,

he shall be guilty of an offence unless he proves that he had no intention of concealing the facts disclosed by the documents from persons carrying out such an investigation.

Jersey Order in Council 6/1989 Criminal Justice Act 1987 (Jersey) Order 1989

(17) A person guilty of an offence under subsection (16) above shall [on conviction, be liable to imprisonment for a term not exceeding 7 years or to a fine or to both].

(18) In this section, “documents” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form.

(19) [In this section, the expression –

“police officer” means a member of the Honorary Police or a member of the States of Jersey Police Force;

“Serious Fraud Office” means the Serious Fraud Office constituted under section 1 of this Act.]

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PART II

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