



Jersey

POLICE PROCEDURES AND CRIMINAL EVIDENCE (APPLICATION TO CUSTOMS AND EXCISE) (JERSEY) ORDER 2004

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Jersey

POLICE PROCEDURES AND CRIMINAL EVIDENCE (APPLICATION TO CUSTOMS AND EXCISE) (JERSEY) ORDER 2004

THE HOME AFFAIRS COMMITTEE, in pursuance of Article 107 of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#), orders as follows –

Commencement [[see endnotes](#)]

1 Interpretation

(1) In this Order –

“Agent of the Impôts” and “officer of the Impôts” have the same meaning as in the [Customs and Excise \(Jersey\) Law 1999](#);

“assigned matter” has the same meaning as in the [Customs and Excise \(Jersey\) Law 1999](#);

“customs and excise” means the Agent of the Impôts and officers of the Impôts;

“customs office” means a place for the time being occupied by officers of the Impôts;

“Law” means the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#).

(2) For the purposes of this Order, a person is in customs detention if –

(a) he has been taken to a customs office after being arrested for an offence; or

(b) he is arrested at a customs office after attending voluntarily at the office or accompanying an officer of the Impôts to it,

and is detained there or is detained elsewhere in the charge of an officer, and nothing shall prevent a detained person from being transferred between customs detention and police detention.

2 [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) applied to Customs and Excise¹

- (1) Subject to this Order, the provisions of the Law specified in Schedule 1 that relate to investigations of offences conducted by police officers or to persons detained by the police shall apply, as the case requires, to –
 - (a) investigations conducted by the Agent of the Impôts, and any officer of the Impôts, of offences that relate to assigned matters; or
 - (b) persons detained by the Agent of the Impôts or any officer of the Impôts.
- (2) The provisions of the Law, in their application under paragraph (1), shall be subject to the modifications set out in Schedule 2.

3 Limitation of application regarding charging and detention

Nothing in the application of the Law to customs and excise shall be construed as conferring upon an officer of the Impôts any power –

- (a) to charge a person with any offence;
- (b) to detain a person for an offence after a person has been charged with the offence unless –
 - (i) the detention is authorized by a Centenier for the purpose of a sample being taken from the person under Article 59 of the Law, and
 - (ii) the period of detention does not exceed 6 hours beginning when the person is charged with the offence.²

4 Extension of application regarding powers of seizure

- (1) Where the Law gives an officer of the Force power to seize and retain anything found upon a lawful search of premises, an officer of the Impôts shall have the same power notwithstanding that the thing found is not evidence of an offence in relation to an assigned matter.
- (2) Nothing in the application of the Law to customs and excise shall be construed to prevent anything lawfully seized by a person under any enactment from being accepted and retained by an officer of the Impôts.
- (3) Article 23 of the Law shall not apply to anything seized as liable to forfeiture under the [Customs and Excise \(Jersey\) Law 1999](#).

5 Article 8A inserted

After Article 8 of the Law there shall be inserted the following Article –

“8A Exception for Customs and Excise

Material in the possession of a person who acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office and which relates to an assigned matter, is neither excluded material

nor special procedure material for the purposes of any enactment such as is mentioned in Article 16(2) of this Law.”.

6

3

7 Citation

This Order may be cited as the Police Procedures and Criminal Evidence (Application to Customs and Excise) (Jersey) Order 2004.

SCHEDULE 1⁴

(Article 2)

PROVISIONS OF THE POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003 APPLIED

Article

1 to 3

5 to 8A

15 to 18

19, with the omission of paragraph (1)(c)

20 to 24

26 to 28

29, with the omission of paragraph (10)

29A to 33

34, with the omission of paragraph (6)(d)

35 to 47

50

51

52, with the omission of paragraph (11)

53, with the omission of paragraph (6)

54, with the omission of paragraph (13)

56, with the omission of paragraphs (13) and (14)

57, with the omission of paragraph (17)

58, with the omission of paragraph (10)

59, with the omission of paragraphs (1)(a)(i) to (iii), (8) and (9)

60, with the omission of paragraphs (8) to (10) and (11)(b)

61, with the omission of paragraph (1)(a)(i)

62, with the omission of paragraph (8)

75

107 to 108

109 to 110

Schedule 1, Part 2, with the omission of the offences numbered 1 to 5 and 7 to 11

Schedule 2

SCHEDULE 2⁵

(Article 2)

MODIFICATIONS OF THE POLICE PROCEDURES AND CRIMINAL EVIDENCE (JERSEY) LAW 2003

1 Article 20 modified

In Article 20 of the Law –

(a) for paragraph (1) there shall be substituted the following paragraph –

“(1) Subject to this Article, an officer of the Impôts may enter and search any premises occupied or controlled by a person who is under arrest for any offence which relates to an assigned matter within the meaning of the [Customs and Excise \(Jersey\) Law 1999](#), if he has reasonable grounds for suspecting that there is on premises evidence, other than items subject to legal privilege, that relates –

(a) to that offence; or

(b) to some other offence which is connected with or similar to that offence.”.

(b) for paragraph (4) there shall be substituted the following paragraph –

“(4) The powers conferred by this Article may not be exercised unless a senior officer has authorized them in writing.”;

(c) for paragraphs (6), (7) and (8) there shall be substituted the following paragraphs –

“(6) If an officer of the Impôts conducts a search by virtue of paragraph (5), he shall inform an officer of the Impôts of at least the rank of senior officer that he has made the search as soon as practicable after he has made it.

(7) An officer of the Impôts who authorizes a search or is informed of a search under paragraph (6), shall make a record in writing of the grounds for the search and of the nature of the evidence that was sought.

(8) An officer of the Impôts who authorizes or is informed of a search shall notify the Agent of the Impôts for record keeping and recording purposes.”.

2 Article 23 modified

In Article 23(3) of the Law for the words “the Force or the Honorary Police” there shall be substituted the words “customs and excise”.

3 Article 24 modified

In Article 24(5) of the Law for the words “the police” there shall be substituted the words “customs and excise”.

3A Article 32 modified

In Article 32 of the Law –

- (a) in paragraph (1), after “except in accordance with” there is inserted “Article 108 and”;
- (b) in paragraph (2) for “a custody officer” there is substituted “the custody officer”;
- (c) in paragraph (3) for “a custody officer at the police station where his detention was authorized or, if it was authorized at more than one station, a custody officer at the station where it was last authorized” there is substituted “the custody officer appointed in relation to that person”.

3B Article 34 modified

In Article 34 of the Law –

- (a) for paragraphs (1), and (2) there is substituted –
“**(1)** The Agent of the Impôts, or any person of at least the rank of senior officer of the Impôts that the Agent of the Impôts may direct, must appoint a custody officer in relation to any person for the time being in customs detention.”;
- (b) in paragraph (3), for “unless he is an officer of the Force of at least the rank of sergeant” there is substituted “unless he or she is employed in the rank of officer of the Impôts or a higher rank”;
- (c) in paragraph (4), for “Any officer of the Force” there is substituted “Any person employed in the rank of officer of the Impôts or higher rank”;
- (d) in paragraphs (7)(a) and (9), for “an officer of the Force” wherever they appear there is substituted “an employee in the rank of Officer of the Impôts or higher rank”.

3C Article 35 modified

In Article 35(1) of the Law, for “the custody officer at each police station where he is detained” there is substituted “the custody officer appointed in relation to that person”.

3D Article 37 modified

In Article 37(1)(a) of the Law, for “all persons in police detention at that station” there is substituted “all persons in respect of whom he or she has been appointed custody officer”.

3E Article 41 modified

In Article 41(6B) of the Law, for “superintendent” there is substituted “assistant director”.

3F Article 43 modified

In Article 43 of the Law –

- (a) in paragraph (3) for “for the police station at which he was charged” there is substituted “appointed in relation to that person”;
- (b) in paragraph (9) , after the item “sergeant” there is inserted the following item –
“station customs office”.

4 Article 50 modified

In Article 50 –

- (a) in paragraph (1)(a) and (b) for the words “the station” there shall be substituted the words “the customs office”;
- (b) at the end of paragraph (11) there shall be added the words “designated to perform functions and duties as such by the Agent of the Impôts”.

5 Article 51 modified

In Article 51 of the Law in paragraph (9) for the words “may not be carried out at a police station” there shall be substituted the words “may be carried out at a customs office only with the written consent of the person to be searched”.

6 Article 57 modified

In Article 57 of the Law in paragraphs (3)(a) and (4)(b) for the words “the police” there shall be substituted the words “customs and excise”.

7 Article 58 modified

In Article 58 of the Law –

- (a) in paragraph (1)(b), for the words “the Force” there shall be substituted the words “the Force or customs and excise”;
- (b) in paragraph (7) –
 - (i) for the words “the police” there shall be substituted the words “customs and excise”;
 - (ii) for the words “the Force or the Honorary Police” there shall be substituted the words “the Force, the Honorary Police or customs and excise”.

8 Article 75 modified

In Article 75(3) of the Law, for the definition “independent person” there shall be substituted the following definition –

“ ‘independent person’ does not include a police officer, the Agent of the Impôts, an officer of the Impôts or a person employed for, or engaged on, police purposes;”.

9 General modifications

- (1) Subject to the foregoing modifications, in the application of the Law to customs and excise, for any reference to a police officer (other than a reference to an honorary police officer) there shall be substituted a reference to an officer of the Impôts.
- (2) Subject to the foregoing modifications, in the application of the Law to customs and excise, for an expression in column 1 there shall be substituted the corresponding expression in column 2 –

<i>1</i>	<i>2</i>
Chief Officer	Agent of the Impôts
Chief Inspector	assistant director
the Force (except in Article 75(3), in the definition “police purposes”)	the Impôts
Inspector	senior officer
police custody	customs custody
police detention	customs detention
police station	customs office
sergeant	officer

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Police Procedures and Criminal Evidence (Application to Customs and Excise) (Jersey) Order 2004	R&O.141/2004	Article 6, 1 January 2005; remainder 1 December 2004
Police Procedures and Criminal Evidence (Application to Customs and Excise) (Amendment) (Jersey) Order 2005	R&O.166/2005	14 February 2006
Police Procedures and Criminal Evidence (Application to Customs and Excise) (Amendment No. 2) (Jersey) Order 2011	R&O.154/2011	17 November 2011
Connétables (Miscellaneous Provisions – Consequential Amendments) (Jersey) Regulations 2014	R&O.81/2014	1 August 2014 (R&O.80/2014)
Police Procedures and Criminal Evidence (Application to Customs and Excise) (Amendment No. 3) (Jersey) Order 2019	R&O.66/2019	24 July 2019 (R&O.63/2019)

Table of Renumbered Provisions

Original	Current
7(1)	7
7(2)	spent, omitted from this revised edition

Table of Endnote References

¹ Article 2	<i>substituted by R&O.154/2011</i>
² Article 3	<i>amended by R&O.166/2005, R&O.81/2014</i>
³ Article 6	<i>revoked by R&O.154/2011</i>
⁴ Schedule 1	<i>amended by R&O.166/2005, R&O.154/2011, R&O.66/2019</i>
⁵ Schedule 2	<i>amended by R&O.166/2005, R&O.154/2011, R&O.81/2014, R&O.66/2019</i>