

**DRAFT INVESTIGATION OF FRAUD  
(JERSEY) LAW 199**

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**Lodged au Greffe on 12th February 1991  
by the Finance and Economics Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

160

1991

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**Explanatory Note**

The purpose of this Law is to make provision for the investigation of cases of serious and complex fraud. In particular, it enables the insular authorities to give assistance to other jurisdictions in their investigation of such cases.

Provisions of this kind already exist in Jersey through an Order in Council which extended to Jersey, with modifications, section 2 of the Criminal Justice Act 1987. The Order in Council will cease to have effect on 18th May 1991 and this Law is intended to replace it.

**INVESTIGATION OF FRAUD (JERSEY) LAW 1991**

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**A LAW** to make provision for the investigation of fraud and for connected purposes, sanctioned by Order of Her Majesty in Council of the

day of 199

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*(Registered on the day of 199 )*

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**STATES OF JERSEY**

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The day of 1991

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**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

**ARTICLE 1**

**Interpretation**

(1) In this Law -

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

“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.

(2) Any reference in this Law to a numbered Article or paragraph is a reference to the Article of that number in this Law, or

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to the paragraph of that number in the Article of this Law in which the reference occurs.

**ARTICLE 2**

**Attorney General's powers of investigation**

(1) The powers of the Attorney General under this Article shall be exercisable in any case in which it appears to him that -

- (a) there is a suspected offence involving serious or complex fraud, wherever committed; and
- (b) 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 the investigation at a specified place 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 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 -
  - (i) take copies or extracts from them;

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- (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) If, 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 Article to produce them;
- (ii) it is not practicable to serve a notice under paragraph (3) 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 paragraph (5).

(5) The warrant referred to in paragraph (4) 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

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necessary for preserving them and preventing interference with them.

(6) A police officer executing a warrant issued under paragraph (4) may be accompanied by any person or persons expressly authorized for that purpose by the Attorney General.

(7) A statement by a person in response to a requirement imposed by virtue of this Article may only be used in evidence against him -

- (a) on a prosecution for an offence under paragraph (13); or
- (b) on a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.

(8) A person shall not under this Article 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 professional privilege in proceedings in the Royal Court, except that a lawyer may be required to furnish the name and address of his client.

(9) A person shall not under this Article 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 authorized the making of the requirement.

(10) The Attorney General may authorize any Crown Advocate to exercise on his behalf all or any of the powers conferred by this Article, but no such authority shall be granted except for the

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purpose of investigating the affairs, or any aspect of the affairs, of a person specified in the authority.

(11) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under paragraph (9) unless he has, if required to do so, produced evidence of his authority.

(12) Any person who without reasonable excuse fails to comply with a requirement imposed on him under this Article 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.

(13) A person who, in purported compliance with a requirement under this Article -

- (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 and liable on conviction to imprisonment for a term not exceeding two years or to a fine or to both.

(14) If any person -

- (a) knows or suspects that an investigation by the Attorney General 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,

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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.

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

(16) For avoidance of doubt, the powers of the Attorney General under this Article shall be exercisable notwithstanding that the suspected offence was committed prior to the coming into force of this Law.

### ARTICLE 3

#### Disclosure of information

(1) If any information is subject to an obligation of secrecy imposed by or under any enactment whether passed before or after this Law, that obligation shall not have effect to prohibit the disclosure of that information to the Attorney General or a Crown Advocate duly authorized under paragraph (10) of Article 2, but any information received by such a person by virtue of this paragraph may only be disclosed by him for the purpose of a prosecution in the Bailiwick or elsewhere.

(2) Without prejudice to his power to enter into agreements apart from this paragraph, the Attorney General may enter into an 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.

(3) Subject to paragraph (1) and to any provision of an agreement for the supply of information which restricts the disclosure of the information supplied, information obtained by the Attorney General or a Crown Advocate duly authorized under paragraph (10) of Article 2 may be disclosed in the interests of justice to any person or body for the purposes of any investigation of an offence or prosecution in the Bailiwick or elsewhere.



*Investigation of Fraud (Jersey) Law 1991***ARTICLE 4****Citation and commencement**

This Law may be cited as the Investigation of Fraud (Jersey) Law 1991, and shall come into force on the eighteenth day of May 1991, or on the day following its registration in the Royal Court, whichever is later.