



Jersey

INVESTIGATION OF FRAUD (JERSEY) LAW 1991

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INVESTIGATION OF FRAUD (JERSEY) LAW 1991

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Jersey

INVESTIGATION OF FRAUD (JERSEY) LAW 1991

A LAW to make provision for the investigation of fraud and for connected purposes

Commencement [[see endnotes](#)]

1 Interpretation

In this Law –

“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;

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

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 the Attorney General 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 –
 - (a) by notice in writing require the person whose affairs are to be investigated (“the person under investigation”) or any other person whom he or she 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; and
 - (b) administer questions or otherwise obtain information accordingly.¹

- (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 the Attorney General so to relate; and
- (a) if any such documents are produced, the Attorney General may –
 - (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 the person's 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,
- the Bailiff may issue such a warrant as is mentioned in paragraph (5).
- (5) The warrant referred to in paragraph (4) is a warrant authorizing 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 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 the person –
- (a) on a prosecution for an offence under paragraph (14); or
 - (b) on a prosecution for some other offence where in giving evidence the person 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 the person 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 the lawyer's client.
- (9) A person shall not under this Article be required to disclose information or produce a document in respect of which the person 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 –
- (a) authorize any Crown Advocate; or
 - (b) subject to paragraph (11), authorize any other person, to exercise on behalf of the Attorney General all or any of the powers conferred on him or her by or under this Article, but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of the person specified in the authority.²
- (11) No person mentioned in paragraph (10)(b) shall be authorized to –
- (a) give a notice under paragraph (2)(a) or paragraph (3);
 - (b) make an application under paragraph (4);
 - (c) authorize any person or persons for the purposes of paragraph (6); or
 - (d) authorize the making of any requirement for the purposes of paragraph (9).³
- (12) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under paragraph (10) unless the person has, if required to do so, produced evidence of the person's authority.
- (13) Any person who without reasonable excuse fails to comply with a requirement imposed on the person under this Article shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 6 months or to a fine or to both.
- (14) A person who, in purported compliance with a requirement under this Article –
- (a) makes a statement which the person 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 2 years or to a fine or to both.
- (15) 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 the person knows or suspects are or would be relevant to such an investigation,

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

- (16) A person guilty of an offence under paragraph (15) shall, on conviction, be liable to imprisonment for a term not exceeding 7 years or to a fine or to both.
- (17) 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.

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 any person duly authorized under Article 2(10), but any information received by such a person by virtue of this paragraph may only be disclosed by the person for the purpose of a prosecution in Jersey or elsewhere.⁴
- (2) Without prejudice to the Attorney General's 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 the Attorney General 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 any person duly authorized under Article 2(10) may be disclosed –
 - (a) to any person or body for the purposes of any investigation of an offence or prosecution in Jersey or elsewhere; and
 - (b) to any competent authority.⁵
- (4) The following are competent authorities for the purposes of paragraph (3) –
 - (a) an inspector appointed under Article 128 of the [Companies \(Jersey\) Law 1991](#);
 - (b) any person or body having supervisory, regulatory or disciplinary functions in relation to financial services, any profession or any area of commercial activity;

- (c) any person having under the law of any country or territory outside Jersey functions corresponding to any of the functions of an inspector referred to in sub-paragraph (a); and
- (d) any person or body having under the law of any country or territory outside Jersey functions corresponding to any of the functions mentioned in sub-paragraph (b).⁶

4 Citation

This Law may be cited as the Investigation of Fraud (Jersey) Law 1991.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Investigation of Fraud (Jersey) Law 1991	L.8/1991	18 May 1991
Investigation of Fraud (Amendment) (Jersey) Law 1997	L.22/1997	13 June 1997
Investigation of Fraud (Amendment No. 2) (Jersey) Law 2003	L.33/2003	7 November 2003

Table of Renumbered Provisions

Original	Current
1(2)	spent, omitted from this revised edition
2(10A)	2(11)
(10B)	repealed by L.33/2003 ; former paragraph inserted by L.22/1997
(11)	(12)
(12)	(13)
(13)	(14)
(14)	(15)
(15)	(16)
(16)	(17)

Table of Endnote References

¹ Article 2(2)	<i>substituted by L.33/2003</i>
² Article 2(10)	<i>substituted by L.33/2003; former paragraph substituted by L.22/1997</i>
³ Article 2(11)	<i>substituted by L.33/2003; former paragraph inserted by L.22/1997</i>
⁴ Article 3(1)	<i>amended by L.22/1997</i>
⁵ Article 3(3)	<i>substituted by L.22/1997</i>
⁶ Article 3(4)	<i>inserted by L.22/1997</i>