

# STATES OF JERSEY



## DRAFT REPATRIATION OF PRISONERS (JERSEY) LAW 201-

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Lodged au Greffe on 26th April 2011  
by the Minister for Home Affairs

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STATES GREFFE





Jersey

## **DRAFT REPATRIATION OF PRISONERS (JERSEY) LAW 201-**

### **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 Repatriation of Prisoners (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Senator B.I. Le Marquand**

## REPORT

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### Introduction

1. Although there has been a Repatriation of Prisoners Act in the United Kingdom since 1984 [“the 1984 Act”], this was never extended to Jersey and there remains no statutory foundation for the transfer of prisoners from Jersey to non-UK jurisdictions. Moreover, since that time, there have been a number of Conventions, both EU and Council of Europe, to help facilitate the transfer of sentenced persons between member states, again, none of which have been extended to Jersey.
2. This report covers the legislative background to this subject; the purpose and provisions of the Draft Repatriation of Prisoners (Jersey) Law 201-; the practical implications of implementing the new Law; and the financial and manpower implications.

### Legislative Background

#### United Kingdom Legislation

3. Section 9(4) of the 1984 Act enabled Her Majesty, by Order in Council, to extend the 1984 Act to any of the Channel Islands, the Isle of Man or to any colony. Orders in Council were made in relation to the Isle of Man and the Overseas Territories, but not in relation to Jersey or Guernsey. There was some discussion in the 1990s on extending the Act, but the Committee of the day decided that there was a more pressing need at the time to put in place provision for the restricted transfer of prisoners to the UK through Schedule 1 to the Crime Sentences Act 1997. Restricted transfers to the UK means that prisoners who are sentenced in Jersey, but who serve their sentence in the UK, will serve it in accordance with the Jersey system for remission, i.e. not exceeding one third off the full sentence. The Crime Sentences Act 1997 was extended to Jersey by the Transfer of Prisoners (Restricted Transfers) (Channel Islands and Isle of Man) Order 1998 [L.39/98]. However, this does not provide any legislative means by which Jersey can repatriate prisoners to non-UK jurisdictions from which they might originate. To facilitate this, the preferred course is to enact domestic Jersey legislation, rather than to extend the 1984 Act. This is more consistent with the increasingly independent status of the Island. Moreover, an Order in Council would have to be drafted in the UK on instructions from Jersey and this is unlikely to be given the high priority which is required.

#### Council of Europe Convention

4. The United Kingdom is a signatory to 2 multi-party prisoner transfer agreements: the Council of Europe Convention on the Transfer of Sentenced Persons (1983) and the Commonwealth Scheme for the Transfer of Convicted Offenders (1990). It signed the Council of Europe Convention on 25th August 1983 and the Commonwealth Scheme on 27th June 1991.

5. The general principles of the Council of Europe Convention are that –
- The Parties undertake to afford each other the widest measure of co-operation in respect of the transfer of sentenced persons in accordance with the Convention.*
- A person sentenced in the territory of a Party may be transferred to the territory of another Party, in accordance with the Convention, in order to serve the sentence imposed on him. To that end, he may express his interest to the sentencing State or to the receiving State in being transferred under the Convention.*
- Transfer may be requested by either the sentencing State or the receiving State.*
6. A sentenced person may be transferred under the Convention only on certain conditions, amongst which are that the judgment must be final, the conduct for which the person was sentenced must constitute a criminal offence under the law of the receiving State, and the sentencing and receiving States must of course agree to the transfer. The receiving State must continue the enforcement of the sentence.
7. In addition to the multi-party arrangements to which the United Kingdom is a signatory, it has concluded around 20 bilateral prisoner transfer agreements with certain countries. The Department is currently researching the possibility of having certain agreements extended to Jersey.

#### Additional Protocol

8. On 9th February 2009, the United Kingdom signed the Additional Protocol to the Council of Europe Convention on the Transfer of Sentenced Persons (1997). It was ratified on 17th July 2009 and entered into force on 1st November 2009. Among other things, the Additional Protocol stipulates that: “*The consent of the sentenced person shall not be required to the transfer of the execution of the sentence.*” This is applicable in 2 circumstances, the first of which is of particular interest to Jersey:
- Where the prisoner is to be deported at the end of sentence;
  - Where the prisoner has fled from the sentencing State to his/her State of nationality. This enables the prisoner to be arrested in his own country and for the sentence to be transferred and enforced in that country.
9. Notwithstanding the above conditions, the Draft Repatriation of Prisoners (Jersey) Law 201- [hereinafter referred to as “the Law”], will not be confined within the limits of the Additional Protocol. Once the Law is in force, the way will be open to implement other more far reaching arrangements under which transfers may take place, with or without the consent of the prisoner. Indeed, the issue of consent is an important consideration and this has been further refined by an EU Framework Decision (see paragraph 11).

### Jersey and the Council of Europe Convention

10. The Council of Europe Convention (including the Additional Protocol) has not been ratified on behalf of Jersey because of the absence of direct statutory provision enabling repatriation of prisoners from and to Jersey. Ratification of the Convention (and the Additional Protocol) on Jersey's behalf is a possible way to enable us to repatriate prisoners to their country of origin, but the extension of the 1984 Act by Order in Council is no longer considered the appropriate way to pursue that objective. As stated above, the statutory regime for repatriation of prisoners from and to Jersey ought instead to be contained in Jersey primary legislation.

### Council of Europe Framework Decision 2008/909/HA

11. To complete the picture in relation to relevant international arrangements, on 27th November 2008 the European Union adopted Council Framework Decision 2008/909/JHA '*on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.*' At Article 6.2(a) of the Framework Decision there is an additional criterion to the two above under the Additional Protocol to the effect that the consent of the sentenced person is not required where the transfer is to the Member State of nationality in which the sentenced person lives.
12. Member States are required to comply with the provisions of Framework Decision 2008/909/HA by 5th December 2011. However, in the case of Poland, allowance has been made for the practical and material consequences of transfer of Polish citizens convicted in other Member States, especially in the light of an increased mobility of labour within the EU. In view of this, in the case of Poland, there is likely to be a temporary derogation of limited scope for a maximum period of 5 years. This may be of significance to Jersey should we seek to enter into a bi-lateral agreement with Poland at a later date.
13. Ways are currently being explored by the Crown Dependencies, in consultation with the United Kingdom, of engaging with the EU Member States (by way of individual bi-lateral treaties or extending those currently negotiated by the UK government) to bring about mutual recognition as between the CDs and EU States. Important as this is, it is a task separate and distinct from the drafting of legislation to implement the Council of Europe Convention.
14. As an aside, connected with the Framework Decision is the need to lay a statutory foundation for the mutual enforcement of non-custodial sentences such as probation, community service, *etc.* sentences within the British Islands. This again is a separate piece of work should the Island wish to put such arrangements in place.

## **Purpose and Provisions of the Law**

### Principal Purpose

15. The principal purpose of the Law is to fulfil the same purpose in this jurisdiction as the Repatriation of Prisoners Act 1984 fulfils in the United Kingdom, i.e. to make provision for facilitating the transfer between Jersey and places outside the British Isles of persons detained in prisons, hospitals or other institutions by virtue of orders made by courts and tribunals.

### Transfer of a prisoner into or out of Jersey

16. Under the Law, warrants providing for the transfer of a prisoner into or out of Jersey will be issued by the Minister for Home Affairs provided:
- (a) international arrangements apply to Jersey which provide for the transfer between Jersey and a country or territory outside the British Islands of a prisoner;
  - (b) the Minister and the appropriate authority of that country or territory have each agreed to the transfer under those arrangements of the prisoner; and
  - (c) in a case in which the terms of those arrangements provide for the prisoner to be transferred only with his or her consent ('a consent case'), the prisoner's consent has been given.
17. The Minister must not issue a warrant in any case where, before the transfer in question takes place, circumstances arise or are brought to the Minister's attention which in the Minister's opinion make it inappropriate that the transfer should take place. If one has been issued in such circumstances, it should be revoked. In particular, a warrant for a transfer out would not be issued unless the transfer appears to the Minister to be appropriate, or it appears to the Minister that the transfer is for the purpose of a prisoner's temporary return. In the case of a transfer to Jersey, there would have to be close ties with Jersey whether or not the prisoner was a British citizen; the fact that the prisoner abroad was a British citizen would not of itself bring into play the power of the Minister to accept a prisoner.
18. When issuing a warrant, other than one superseding an earlier warrant, the Minister must satisfy himself that all reasonable steps have been taken to inform the prisoner in writing in the prisoner's own language:
- (a) of the substance, so far as relevant to the prisoner's case, of the international arrangements governing the transfer;
  - (b) of the effect of the warrant on the prisoner;
  - (c) in the case of a transfer into Jersey, of the effect of the Law relating to the prisoner's detention under that warrant;
  - (d) in the case of a transfer out of Jersey, broadly the effect the law of the country or territory to which the prisoner is to be transferred as applies to transfers;
  - (e) of the Minister's powers in relation to the revocation of warrants.

19. Where the prisoner's consent is required, the Minister cannot issue a warrant unless satisfied that the prisoner's consent has been given. Once consent is given, it cannot be withdrawn after a warrant has been issued.

#### The practical effect of warrants

20. For a transfer out of Jersey, a warrant authorises the taking of the prisoner to any place in Jersey; his/her removal from Jersey; and his/her delivery to the place of arrival either from Jersey or from the United Kingdom into the custody of a person representing the appropriate authority of the country or territory to which the prisoner is to be transferred.
21. For a transfer into Jersey, a warrant authorises the bringing of the prisoner into Jersey from a place outside the British Islands; the taking of the prisoner to a place in Jersey that complies with the provisions of the warrant; and the detention of the prisoner in Jersey in accordance with the provisions of the warrant.
22. The Minister is required to consider the appropriateness of the provisions in the warrant, in particular in relation to whether they are equivalent to more than the maximum penalties (if any) that may be imposed on a person who in Jersey commits a corresponding offence, or are framed without reference to the length of the period during which the prisoner would have been detained in the sending country and the length of the period treated as having been served by the prisoner when the provisions take effect.

#### Transfer of responsibility for detention

23. The Minister can issue a warrant transferring responsibility for the continued enforcement of a sentence to Jersey, or from Jersey to another State, where the sentenced person has escaped or absconded from lawful custody and fled to another country. The purpose of this warrant is to prevent a prisoner from escaping the fulfilment of his sentence by removing himself to another country. The powers and processes in respect of this warrant mirror those in respect of a warrant issued to transfer a prisoner into or out of Jersey.
24. The Law also provides for the arrest and detention of a person believed to be unlawfully at large in Jersey from a foreign jurisdiction. This then enables the Minister to determine whether or not to issue a warrant transferring responsibility for the continued enforcement of the prisoner's sentence from the country in which it was imposed to Jersey.

#### Temporary return of a prisoner

25. The Law provides for the temporary return of a prisoner, either from Jersey to a country outside the British Islands from which the prisoner was previously transferred into Jersey under this Law, or to Jersey from a country outside the British Islands to which the prisoner was previously transferred from Jersey under this Law.

#### Operation of warrant and re-taking prisoners

26. Where a warrant has been issued, the prisoner is deemed to be in the legal custody of the Minister at any time when, being in Jersey or on board a Jersey ship, a British ship, a British aircraft or a British hovercraft, the prisoner is being transferred or being kept in custody under the warrant. The Minister can



designate an authorised person to take the prisoner to or from any place, or to keep the prisoner in custody, under the warrant. Such a person will have all the powers, authority, protection and privileges of a member of the States of Jersey Police Force. Such a power is important where Prison staff are unable to effect the transfer or a prisoner is being collected for other reasons. Additionally, a prisoner who escapes or is unlawfully at large may be arrested and taken to any place to which he or she is able to be taken under the warrant.

#### Revocation of Warrants

27. The Minister can revoke warrants and issue new ones to give effect to international arrangements for transfer or where appropriate to cater for other circumstances.

#### Expenses

28. Any expenses incurred by the Minister in operating the Law will be defrayed out of public funds. In the case of a transfer into Jersey, the Minister has a power to recover any expenses incurred in connection with the conveyance of the prisoner to Jersey. However, the Minister need not take recovery action if he considers that such action would be unreasonable, either because of the exceptional circumstances of the case or because the means of the prisoner are insufficient to meet the expenses, and their recovery is impracticable.

#### **Implementation – Practical Implications**

29. Although the exact size and make-up of the Prison population is constantly changing, it is possible to gain an understanding of the likely effect of the Law's introduction from an analysis of the present position. During February 2011, the average total Prison population was 186. Of that total, there were 100 prisoners who were not 'local to Jersey', broken down as follows:

Table 1: Prisoners – Foreign Nationals and UK (23rd February 2011)

Sentence	Poland	Portugal	UK	Others
0.5< 1yr	1	0	3 (1)	
1< 2yrs	0	4	7 (1)	1
2< 3yrs	1	1	3 (1)	
3< 4yrs	0	3	2	
4yrs + over	6 (3)	18 (2)	23 (1)	6
Remand	1	3	13 (2)	5
<b>Totals</b>	<b>9 (3)</b>	<b>28 (2)</b>	<b>49 (6)</b>	<b>12</b>

#### Notes to the Table:

- Others include – Brazil, France, India, Morocco, Romania and Spain.
- Figures not in brackets reflect the total number of prisoners in each category.
- Figures in brackets relate to the number of females included in the totals.
- Deportation Orders – Poland – of the above total, 3 orders issued with 6 pending.
- Deportation Orders – Portugal – of the above total, 6 orders issued with 10 pending.
- Deportation Orders – Others – of the above total, 5 orders pending.

30. None of the prisoners from Poland, or from countries in the 'others' category above, who are not subject to a Deportation Order can claim a close tie to Jersey. Therefore, they would all be candidates for repatriation under the Law. Because of the Island's much longer association with Portugal and Madeira, it is much more difficult to generalise as to whether close ties exist or not. Each case would bear close examination. However, at least half of the prisoners in the total do not receive regular visits or are more regularly visited by friends rather than relatives. In any case, 16 are candidates for deportation. It should be noted, however, that deportation takes place on completion of a custodial sentence whereas repatriation arrangements could be made immediately a person enters custody.
31. There are currently 49 'UK prisoners' in La Moye Prison, and it is this category which provides the greatest potential for making financial savings. It is important to note that Jersey has an additional 41 'UK prisoners', not included in Table 1, who are currently serving their sentence in UK prisons. Since the introduction of the UK Crime Sentences Act 1997, all transfers to England and Wales have been carried out on a 'restricted' basis, meaning that in whichever British jurisdiction the prisoner is serving a sentence imposed by the Jersey Court, he or she will be subject to the Jersey custodial regime. Whether transfers of UK prisoners take place on a restricted or unrestricted basis in the future is beyond the scope of this proposition. There will need to be a review of transfers within the British Islands at a later date in the light of experience gained once the Law is in force.
32. Although there does not appear to be any reliable means of ascertaining precise numbers, there may be people from Jersey serving a custodial sentences in foreign prisons. However, the numbers are not thought to be significant. It is difficult to quantify potential savings, but these would manifest themselves in terms of staff reductions as the Prison population reduced and judicious use is made of cell accommodation. As part of the Comprehensive Spending Review, the Department has a savings target of £240,000 from 2013, equating to 5 Prison officer posts.

### **Financial and manpower implications**

33. As explained in paragraph 32, net savings are envisaged through the process of repatriation of prisoners. The only direct cost associated with operating this law is the cost of conveying prisoners back to their home jurisdiction to serve the rest of their sentence. These costs can be absorbed within the Prison budget.
34. In relation to capital projects, the Prison Development Plan will need to be reviewed to take account of a potential reduction in the prison population as this is likely to impact upon the accommodation and regime requirements. Re-provision of cell accommodation in recent years has been essential in order to eradicate the need for 'slopping out'. In other words, the priority has been to address the quality, rather than the quantity, of accommodation. The future requirement for the latter now needs to be re-assessed. The main issue will be how to best separate the different prisoner populations (female, young offenders, vulnerable prisoners, etc.) rather than the total number of cells.

### **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 20th April 2011 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 Repatriation of Prisoners (Jersey) Law 201- are compatible with the Convention Rights.

## Explanatory Note

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This Law will facilitate the transfer between Jersey and a country or territory outside the British Islands of persons who are detained in prisons, hospitals or other institutions by virtue of orders made by courts or tribunals in the course of the exercise of their criminal jurisdiction. The Transfer of Prisoners (Restricted Transfers) (Channel Islands and Isle of Man) Order 1998 applies in respect of the transfer of prisoners between Jersey and any part of the British Islands.

*Article 1* contains definitions of expressions used in this Law.

*Article 2* provides that where international arrangements apply to Jersey which provide for the transfer between Jersey and a country or territory outside the British Islands of a “prisoner” (as defined in *Article 1*), if the Minister for Home Affairs (“Minister”) and the appropriate authority of that country or territory have agreed to the transfer of a prisoner pursuant to those arrangements then the Minister must issue a warrant providing for the transfer of the prisoner into or out of Jersey. The transfer can be made without the prisoner’s consent, but in a case where the arrangements provide for the transfer to take place only with the prisoner’s consent, that consent must have been given before the transfer takes place. The Minister must not issue the warrant unless he or she considers it appropriate to do so, having regard to any close ties the prisoner has with Jersey, or unless the transfer is for a temporary return of the prisoner. (The procedure for the temporary return of a prisoner is dealt with in *Article 10*.) *Article 2(2) to (6)* sets out the information that must be given to the prisoner before issuing the warrant and the manner in which the prisoner’s consent may be given. *Article 2(7)* provides that the Minister must not issue the warrant, or if he or she has issued one, must revoke it, if circumstances arise, or are brought to the Minister’s attention which, in the Minister’s opinion, make it inappropriate for the transfer to take place.

*Article 3* sets out the effect of a warrant for the transfer of a prisoner out of Jersey. The order by virtue of which the prisoner is required to be detained continues to have effect after the prisoner’s removal from Jersey so as to apply to the prisoner if he or she is again in Jersey at any time during which under that order he or she is to be, or could be, detained. The Minister may give a direction varying the Order or providing for it to cease to have effect if he or she considers it appropriate to do so in order to give effect to the international agreements governing the transfer.

*Article 4* sets out the effect of a warrant for the transfer of a prisoner into Jersey. Subject to the provisions in *Article 10(2) to (4)* (which concerns the temporary return of a prisoner – see below), the provisions in the warrant must be provisions with respect to the detention of a person in a prison, a hospital or other institution, and which may be lawfully contained in an order made either in pursuance of the exercise of its criminal jurisdiction by a court in Jersey, or for the purpose of giving effect to such an order. The Minister must have regard to whether the warrant contains provisions which provide for maximum penalties that are higher than those that may be imposed for an equivalent offence in Jersey or which are framed without reference to the length of sentence, or how much of the sentence is to be treated as having been served. *Article 4(5)* introduces the *Schedule* (see paragraph below on the provisions in the *Schedule*). Under *Article 4(6)* the warrant takes effect upon the delivery of the

prisoner at the place in Jersey where effect is able to be given to the provisions in the warrant.

*Article 5* enables the Minister to issue a warrant transferring responsibility for the continued enforcement of a sentence to Jersey, or from Jersey to another State, where the sentenced person has escaped or absconded from lawful custody and fled to another country. The purpose of this warrant is to prevent a prisoner from escaping the fulfilment of his sentence by removing himself to another country. The powers and processes in respect of this warrant mirror those in respect of a warrant issued under *Article 2*.

*Article 6* provides that the effect of a warrant under *Article 5* issued in respect of a person who has fled from Jersey is to transfer responsibility for the detention of a person and the continued enforcement of the sentence from the Minister to the authorities of the country or territory in which the person is present. The powers and processes in respect of the transfer of responsibility from Jersey mirror those for a transfer of a sentenced person out of Jersey under *Article 3*.

*Article 7* provides that the effect of a warrant under *Article 5* issued in respect of a person who has fled to Jersey is to authorize the taking into custody and the detention of the relevant person in Jersey in accordance with the provisions of that warrant. The powers and processes in respect of the transfer of responsibility to Jersey for the continued enforcement of the sentence mirror those for a transfer of a sentenced person into Jersey under *Article 4*.

*Article 8* provides for the Magistrate to issue a warrant for the arrest and detention of a person believed to be unlawfully at large from a foreign jurisdiction and who is present in Jersey, upon receipt of a certificate issued by the Minister certifying that the Minister has reasonable grounds for believing the person to be unlawfully at large and that the Minister has requested written confirmation from the country or territory concerned of the details of that person's case. The purpose is to ensure that a person can be arrested and detained in custody while the Minister determines whether or not to issue a warrant under *Article 5*.

*Article 9* provides for the Magistrate to issue a warrant for a person's arrest on receipt of a certificate issued by the Minister certifying that the person named is believed to be a person unlawfully at large from a foreign prison sentence who is present in Jersey, and that relevant documentation has been received from the sentencing State concerned. The Magistrate may issue the arrest warrant if he or she is satisfied that there are reasonable grounds for believing that the person is a prisoner by virtue of an order made in the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction. The warrant may be executed anywhere in Jersey by any "authorized person" (see paragraph below on *Article 11*). The arrested person will be given a copy of the arrest warrant and be brought before the Magistrate as soon as practicable.

*Article 10* provides for the temporary return of a prisoner either from Jersey to a country or territory outside the British Islands from which the prisoner was previously transferred into Jersey under this Law or any other enactment, or to Jersey from a country or territory outside the British Islands to which the prisoner was previously transferred from Jersey under this Law.

*Article 11(1)* provides that where a warrant has been issued under this Law, the prisoner is deemed (subject to any contrary provision in the warrant) to be in the legal

custody of the Minister where he or she is in Jersey or on board a British or Jersey ship, or a British aircraft or hovercraft and being taken in custody to or from any place under the warrant.

*Article 11(2)* enables the Minister to designate a person as an “authorized person” who may execute a warrant and take a prisoner to or from any place, or keep the prisoner in custody, under the warrant. By *Article 11(3)*, an authorized person has all the powers and duties of a member of the States of Jersey Police. *Article 11(4)* provides for the arrest of a prisoner who escapes or is unlawfully at large.

*Article 12* sets out the circumstances when the Minister may revoke a warrant and the effect of a new warrant that replaces a revoked warrant.

*Article 13(1)* provides for any expenses incurred by the Minister in the execution of this Law to be defrayed out of public funds. *Article 13(2)* sets out the duty of the Minister to secure payment of any expenses incurred by him or her, and *Article 13(3)* provides for circumstances when that duty does not apply.

*Article 14* provides that a certificate of the Minister as to the matters referred to in that Article is conclusive evidence of the matter certified.

*Article 15* confers power on the States to make Regulations to amend or modify enactments in relation to a prisoner transferred to or from Jersey, and to make Regulations to amend the *Schedule* to this Law. The power to make Regulations includes the power to make such incidental, supplemental, transitional or consequential provisions as appear to the States to be appropriate.

*Article 16* provides that Rules of Court may be made for the purposes of this Law.

*Article 17* states how this Law may be cited, and for commencement to be on such day or days as the States may by Act appoint.

The *Schedule* provides for the operation of certain enactments in relation to the transfer of a prisoner into Jersey (other than a prisoner temporarily transferred). In particular, paragraph 3 provides for the calculation of time remaining to be served in respect of a transferred prisoner; and paragraph (4) describes how the Rehabilitation of Offenders (Jersey) Law 2001 is to be applied.



Jersey

## DRAFT REPATRIATION OF PRISONERS (JERSEY) LAW 201-

### Arrangement

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Jersey

## DRAFT REPATRIATION OF PRISONERS (JERSEY) LAW 201-

A **LAW** to make provision for facilitating the transfer between Jersey and places outside the British Islands of persons for the time being detained in prisons, hospitals or other institutions by virtue of orders made in the course of the exercise by courts and tribunals of their criminal jurisdiction and for connected purposes.

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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

(1) In this Law –

“British aircraft” means a British-controlled aircraft within the meaning of section 92 of the Civil Aviation Act 1982 of the United Kingdom, as extended to Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990<sup>1</sup>, or one of Her Majesty’s aircraft;

“British hovercraft” means a British-controlled hovercraft within the meaning of section 92 of the Civil Aviation Act 1982 of the United Kingdom, as applied in relation to hovercraft by virtue of provision made under the Hovercraft Act 1968 of the United Kingdom, or one of Her Majesty’s hovercraft;

“British ship” means a British ship, as defined in section 1 of the Merchant Shipping Act 1995 of the United Kingdom, other than a Jersey ship;

“authorized person” means a person designated an authorized person by the Minister under Article 11(2);

“Jersey ship” means a Jersey ship within the meaning of Article 2 of the Shipping (Jersey) Law 2002<sup>2</sup>;

“Minister” means the Minister for Home Affairs;

“order” includes any sentence, direction, warrant or other means of giving effect to the decision of a court or tribunal;

“prison” unless the context otherwise requires, includes a young offender institution and a remand centre;

“prisoner” means a person for the time being required to be detained in a prison, a hospital, or any other institution –

- (a) by virtue of an order made by a court or tribunal in Jersey in the course of the exercise of its criminal jurisdiction;
  - (b) by virtue of an order made by a court or tribunal in any country or territory outside the British Islands in the course of the exercise of its criminal jurisdiction; or
  - (c) under the provisions of –
    - (i) this Law,
    - (ii) the law of Jersey, or
    - (iii) the law in any country or territory outside the British Islands, which have effect with respect to the transfer between different countries and territories (or different parts of a country or territory) of persons required to be detained in prisons, hospitals or other institutions by virtue of orders made in the course of the exercise by courts and tribunals of their criminal jurisdiction.
- (2) In this Law references to international arrangements applying to Jersey are arrangements by which Jersey has expressly agreed to be bound, whether entered into between Jersey and another country or territory; or between the United Kingdom on behalf of Jersey and another country or territory.

## **2 Issue of warrant for transfer of prisoner between Jersey and country or territory outside the British Islands**

- (1) Where –
  - (a) international arrangements apply to Jersey which provide for the transfer between Jersey and a country or territory outside the British Islands of a prisoner;
  - (b) the Minister and the appropriate authority of that country or territory have each agreed to the transfer under those arrangements of the prisoner; and
  - (c) in a case in which the terms of those arrangements provide for the prisoner to be transferred only with the prisoner’s consent, the prisoner’s consent has been given in accordance with paragraph (5),

the Minister must issue a warrant providing for the transfer of the prisoner into or out of Jersey.

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- (2) The Minister must not issue a warrant providing for the transfer of any prisoner into Jersey unless –
    - (a) the transfer appears to the Minister to be appropriate having regard to any close ties which that person has with Jersey; or
    - (b) it appears to the Minister that the transfer is for the purpose of a temporary return of the prisoner, as described in Article 10.
  - (3) The Minister must not issue a warrant, other than one superseding an earlier warrant, unless satisfied that all reasonable steps have been taken to inform the prisoner in writing in the prisoner's own language –
    - (a) of the substance, so far as relevant to the prisoner's case, of the international arrangements governing the transfer;
    - (b) of the effect in relation to the prisoner of the warrant;
    - (c) in the case of a transfer into Jersey, of the effect of the law relating to the prisoner's detention under that warrant (including the effect of an enactment under which the prisoner is able to be released earlier than provided for by the terms of the warrant);
    - (d) in the case of a transfer out of Jersey, of the effect of so much of the law of the country or territory to which the prisoner is to be transferred as has effect with respect to transfers under those arrangements; and
    - (e) of the powers of the Minister under this Law in relation to the revocation of warrants.
  - (4) The Minister must not issue a warrant superseding an earlier warrant unless the requirements described in paragraph (3) have been fulfilled in relation to the earlier warrant.
  - (5) Where the international arrangements governing the transfer provide for a prisoner to be transferred only with the prisoner's consent the Minister must not issue a warrant unless satisfied that the prisoner's consent has been given in a manner authorized by those arrangements and was so given either –
    - (a) by the prisoner; or
    - (b) in circumstances where it appears to the Minister inappropriate by reason of the physical or mental condition or the youth of the prisoner for the prisoner to act for himself or herself, by a person appearing to the Minister to be an appropriate person to have acted on the prisoner's behalf.
  - (6) A consent given for the purposes of paragraph (1)(c) must not be capable of being withdrawn after a warrant has been issued in respect of the prisoner and, accordingly, a purported withdrawal of that consent after that time shall not affect the validity of the warrant, or of any provision which by virtue of Article 12 subsequently supersedes provisions of that warrant, or of any direction given in relation to the prisoner under Article 3(3).
  - (7) The Minister must not issue a warrant, or if the Minister has issued one, must revoke it, in any case where, before the transfer in question takes place, circumstances arise or are brought to the Minister's attention

which, in the Minister's opinion, make it inappropriate for the transfer to take place.

### **3 Effect of warrant: transfers out of Jersey**

- (1) The effect of a warrant for a transfer out of Jersey shall be to authorize –
  - (a) the taking of the prisoner to a place in Jersey;
  - (b) the prisoner's removal from Jersey; and
  - (c) the prisoner's delivery at the place of arrival, from Jersey, into the custody of a person representing the appropriate authority of the country or territory to which the prisoner is to be transferred.
- (2) An order by virtue of which the prisoner is required to be detained continues to have effect after the prisoner's removal from Jersey so as to apply to the prisoner if he or she is again in Jersey at any time when under that order he or she is to be, or could be, detained.
- (3) At any time after the removal of the prisoner from Jersey, the Minister may give a direction varying the order or providing for the order to cease to have effect if the Minister considers it appropriate to do so in order to give effect to the international arrangements governing the transfer.
- (4) The power to vary the order includes power by direction –
  - (a) to provide for how any period during which the prisoner is out of Jersey is to be treated for the purposes of that order; and
  - (b) to provide for the prisoner to be treated as having been released on licence under Article 17 of the Prison (Jersey) Law 1957<sup>3</sup>.

### **4 Effect of warrant: transfers into Jersey**

- (1) The effect of a warrant for a transfer into Jersey shall be to authorize –
  - (a) the bringing of the prisoner into Jersey from a place outside Jersey;
  - (b) the taking of the prisoner to a place in Jersey at which effect is able to be given to whatever provision the warrant contains for implementing the international arrangements under which the prisoner is being transferred; and
  - (c) the detention of the prisoner in Jersey in accordance with the provisions of the warrant, being provisions appearing to the Minister appropriate for giving effect to the international arrangements governing the transfer.
- (2) Subject to Article 10(2) to (4) any provision in the warrant described in paragraph (1) for implementing the international arrangements governing the transfer –
  - (a) must be a provision with respect to the detention of a person in a prison, a hospital or other institution; and
  - (b) must be a provision that may lawfully be contained in an order made either –
    - (i) in the course of the exercise of its criminal jurisdiction by a court in Jersey, or

- (ii) otherwise than by a court, but for the purpose of giving effect to such an order.
- (3) In determining what provisions are appropriate for giving effect to the international arrangements governing the transfer, the Minister must, to the extent that appears consistent with those arrangements, have regard to the inappropriateness of the warrant's containing provisions which –
  - (a) are equivalent to more than the maximum penalties (if any) that may be imposed on a person who in Jersey commits an offence corresponding to that in respect of which the prisoner is required to be detained in the country or territory from which the prisoner is to be transferred; or
  - (b) are framed without reference to the length –
    - (i) of the period during which the prisoner is, but for the transfer, required to be detained in that country or territory, and
    - (ii) of so much of that period as will have been, or be treated as having been, served by the prisoner when the provisions take effect.
- (4) Subject to paragraph (7) and the Schedule, a provision contained by virtue of paragraph (1)(c) in the warrant shall for all purposes have the same effect as the same provision contained in an order made as mentioned in paragraph (2)(b)(i) or, as the case may be, paragraph (2)(b)(ii).
- (5) The Schedule shall have effect with regard to the operation of certain enactments in relation to provisions contained by virtue of paragraph (1)(c) in a warrant under this law.
- (6) A provision contained in a warrant for giving effect to the international arrangements governing the transfer takes effect with the delivery of the prisoner to the place in Jersey at which effect is able to be given to the provisions of the warrant.
- (7) Paragraph (4) shall not confer any right of appeal on the prisoner against provisions contained by virtue of paragraph (1)(c) in a warrant under this Law.

**5 Transfer of responsibility for detention and release of prisoner present outside the country or territory in which prisoner is required to be detained**

- (1) Where –
  - (a) international arrangements apply to Jersey which provide for the transfer between Jersey and a country or territory outside the British Islands of responsibility for the detention and release of prisoners;
  - (b) the Minister and the appropriate authority of that country or territory have each agreed under those arrangements to the transfer of responsibility for the detention and release of a particular prisoner; and

- (c) in a case in which the terms of those arrangements provide for the transfer of responsibility to take place only with the prisoner's consent, that consent has been given in a manner authorized by those arrangements,

the Minister must issue a warrant providing for the transfer of responsibility for the detention and release of the prisoner to the Minister (where the prisoner is present in Jersey) or from the Minister (where the prisoner is present outside Jersey).

- (2) The Minister must not issue a warrant under this Article providing for the transfer of responsibility for the detention and release of a prisoner to the Minister unless –
- (a) that prisoner is a British citizen; and
- (b) the transfer appears to the Minister to be appropriate having regard to any close ties which that prisoner has with Jersey.
- (3) The Minister must not issue a warrant under this Article where, after the duty in paragraph (1) has arisen, circumstances arise or are brought to the Minister's attention which, in the Minister's opinion, make it inappropriate for the transfer of responsibility to take place.
- (4) The Minister must not issue a warrant under this Article (other than one superseding an earlier warrant) unless satisfied that all reasonable steps have been taken to inform the prisoner in writing in the prisoner's own language –
- (a) of the substance, so far as relevant to the case, of the international arrangements in accordance with which it is proposed to transfer responsibility for the prisoner's detention and release;
- (b) of the effect in relation to the prisoner of the warrant which it is proposed to issue under this Article;
- (c) in the case where the Minister is transferring the responsibility for the detention and release of the prisoner to the appropriate authority of a country or territory outside the British Islands, of the effect in relation to the prisoner's case of so much of the law of the country or territory concerned as has effect with respect to transfers of responsibility for the prisoner's detention and release under those arrangements;
- (d) in the case where the Minister has agreed to a prisoner being transferred to Jersey, of the effect in relation to the prisoner's case of the law applicable in Jersey relating to the prisoner's detention under that warrant and subsequent release (including the effect of any enactment under which the prisoner may be released earlier than provided for by the terms of the warrant); and
- (e) of the powers of the Minister under Article 12.
- (5) The Minister must not issue a warrant superseding an earlier warrant under this Article unless the requirements of paragraph (4) were fulfilled in relation to the earlier warrant.
- (6) A consent given for the purposes of paragraph (1)(c) –
- (a) must have been given in accordance with Article 2(5); and

- (b) shall not be capable of being withdrawn after a warrant under this Article has been issued in respect of the prisoner, and, accordingly, a purported withdrawal of that consent after that time shall not affect the validity of the warrant, or of any provision which, by virtue of Article 12, subsequently supersedes the provisions of that warrant, or of any direction given in relation to the prisoner under Article 6(4).

## **6 Effect of warrant: transfer of responsibility for prisoner from the Minister**

- (1) This Article applies in respect of a warrant issued under Article 5 relating to a person who is a prisoner by virtue of an order made in the course of the exercise by a court or tribunal in Jersey of its criminal jurisdiction, or any provision of this Law, and who is present in a country or territory outside the British Islands.
- (2) The effect of the warrant shall be to transfer responsibility for the detention and release of that prisoner from the Minister to the appropriate authority of the country or territory in which the prisoner is present.
- (3) The order by virtue of which the prisoner is required to be detained at the time the warrant is issued shall continue to have effect after the transfer of responsibility so as to apply to the prisoner if he or she comes to be in Jersey at any time when under that order he or she is to be, or may be, detained.
- (4) At any time after the transfer of responsibility, the Minister may give a direction varying the order or providing for the order to cease to have effect if the Minister considers it appropriate to do so in order to give effect to the international arrangements governing the transfer.
- (5) The power under paragraph (4) to vary the order includes power by direction –
  - (a) to provide for how any period during which the detention and release of the prisoner is, by virtue of the warrant, the responsibility of a country or territory outside the British Islands is to be treated for the purposes of the order; and
  - (b) to provide for the prisoner to be treated as having been released or discharged.
- (6) For the purposes of this Article the reference in paragraph (3) to the order by virtue of which a prisoner is required to be detained at the time the warrant is issued includes a reference to any subsequent order by virtue of which the prisoner continues to be required to be detained, whether or not the original order ceases to have effect.

## **7 Effect of warrant: transfer of responsibility for prisoner to the Minister**

- (1) This Article applies in respect of a warrant issued under Article 5 relating to a person who is a prisoner by virtue of an order made in the course of the exercise by a court or tribunal outside Jersey of its criminal jurisdiction and who is present in Jersey.

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- (2) The effect of the warrant shall be to transfer responsibility for the detention and release of that prisoner to the Minister and to authorize –
    - (a) the taking of that person in custody to such place in Jersey as may be specified in the warrant, being a place at which effect may be given to the provisions contained in the warrant by virtue of sub-paragraph (b); and
    - (b) the detention of that person in Jersey in accordance with such provisions as may be contained in the warrant, being provisions appearing to the Minister to be appropriate for giving effect to the international arrangements in accordance with which responsibility for that person is transferred.
  - (3) A provision must not be contained by virtue of paragraph (2)(b) in the warrant unless –
    - (a) it is a provision with respect to the detention of a person in a prison, a hospital or any other institution; and
    - (b) it is a provision which at the time the warrant is issued may be contained in an order made either –
      - (i) in the course of the exercise of its criminal jurisdiction by a court or tribunal in Jersey, or
      - (ii) otherwise than by a court or tribunal but for the purpose of giving effect to an order made as mentioned in clause (i).
  - (4) Article 4(3) applies for determining for the purposes of paragraph (2)(b) what provisions are appropriate for giving effect to the international arrangements mentioned in that paragraph in a prisoner's case as it applies for the purposes of Article 4(1)(c) in the case of a prisoner who is to be transferred into Jersey.
  - (5) A provision contained by virtue of paragraph (2)(b) in the warrant shall take effect with the delivery of the prisoner to the place specified in the warrant for the purposes of paragraph (2)(a).
  - (6) For the purposes of determining whether at any particular time any such order as is mentioned in paragraph (3)(b) could have been made as so mentioned, there shall be disregarded both –
    - (a) any requirement that certain conditions must be satisfied before the order is made; and
    - (b) any restriction on the minimum period in respect of which the order may be made.

## **8 Arrest and detention with a view to establishing whether a person is a prisoner convicted outside British Islands**

- (1) The Minister may issue a certificate stating that the Minister –
  - (a) considers that there are reasonable grounds for believing that a person in Jersey is a prisoner by virtue of an order made in the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction; and
  - (b) has requested written confirmation from the country or territory concerned of the details of that person's case.



- (2) The Minister may send the certificate (with any other documents appearing to the Minister to be relevant) to the Magistrate with a view to obtaining the issue of a warrant under paragraph (3).
- (3) The Magistrate may, on receiving the certificate, issue a warrant for the arrest of the person concerned if the Magistrate is satisfied that there are reasonable grounds for believing that the person is a prisoner by virtue of an order made in the exercise of its criminal jurisdiction by a court or tribunal in a country or territory outside the British Islands.
- (4) The warrant may be executed in Jersey by any authorized person (and it is immaterial whether or not the authorized person is in possession of the warrant or a copy of it).
- (5) A person arrested under this Article shall, as soon as is practicable –
  - (a) be given a copy of the warrant for the person's arrest; and
  - (b) be brought before the Magistrate.
- (6) The Magistrate may order that a person before the Magistrate who is the subject of a certificate under this Article is to be detained from the time the order is made until the end of the period of 7 days beginning with the day after that on which the order is made.
- (7) The purpose of an order under paragraph (6) is to secure the detention of the person concerned while –
  - (a) written confirmation is obtained from a representative of the country or territory concerned of the details of the person's case;
  - (b) it is established whether the person is a prisoner by virtue of an order made in the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction; and
  - (c) any application for an order under Article 9 is made in respect of that person.
- (8) Subject to paragraph (9), a person detained under such an order may be released at any time during the period mentioned in paragraph (6) and shall be released at the end of that period (if not released sooner).
- (9) Paragraph (8) ceases to apply to the detained person if, during that period, an order under Article 9(6) is made in respect of the person.
- (10) It is immaterial for the purposes of paragraph 9 whether or not the person concerned has previously been arrested under this Article.

**9 Arrest and detention with a view to determining whether to issue a warrant under Article 5**

- (1) The Minister may issue a certificate stating that the Minister –
  - (a) considers that a person in Jersey is a prisoner by virtue of an order made in the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction; and
  - (b) has received written confirmation from a representative of the country or territory concerned of the details of that person's case,

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and it is immaterial for the purposes of this Article whether or not the person concerned has been previously arrested or detained under Article 8.

- (2) The Minister may send the certificate (with a copy of the written confirmation mentioned in paragraph (1)(b) and any other documents appearing to the Minister to be relevant) to the Magistrate with a view to obtaining the issue of a warrant under paragraph (3).
- (3) The Magistrate may, on receiving the certificate, issue a warrant for the arrest of the person concerned if the Magistrate is satisfied that there are reasonable grounds for believing that the person is a prisoner by virtue of an order made in the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction.
- (4) The warrant may be executed anywhere in Jersey by any authorized person (and it is immaterial whether or not that person is in possession of the warrant or a copy of it).
- (5) A person arrested under this Article must, as soon as is practicable –
  - (a) be given a copy of the warrant for his or her arrest; and
  - (b) be brought before the Magistrate.
- (6) The Magistrate may, on the application of the Minister, order that a person before the Magistrate who –
  - (a) is the subject of a certificate under this Article; and
  - (b) the Magistrate is satisfied is a prisoner by virtue of an order made in the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction,must be detained from the time the order is made until the end of the period of 14 days beginning with the day after that on which the order is made.
- (7) The purpose of an order under paragraph (6) is to secure the detention of the person concerned until –
  - (a) it is determined whether to issue a warrant under Article 5; and
  - (b) if so determined, such a warrant is issued.
- (8) Subject to paragraph (9), a person detained under such an order may be released at any time during the period mentioned in paragraph (6) and must be released at the end of that period (if not released sooner).
- (9) Paragraph (8) ceases to apply to the detained person if, during that period, a warrant under Article 5 is issued in respect of him or her.
- (10) It is immaterial for the purposes of paragraph (6) whether or not the person concerned has previously been arrested or detained under Article 8 or arrested under this Article.

## **10 Temporary return of a prisoner**

- (1) A single warrant (“a temporary return warrant”) may provide for the transfer of a prisoner both out of and into, or into and out of, Jersey if it

appears to the Minister that the transfers are for the purpose of the temporary return of the prisoner either –

- (a) from Jersey to a country or territory outside the British Islands from which the prisoner has previously been transferred into Jersey under this Law or any other enactment (“outward temporary return warrant”); or
  - (b) to Jersey from a country or territory outside the British Islands to which the prisoner has previously been transferred from Jersey under this Law (“inward temporary return warrant”).
- (2) The provisions in an outward temporary return warrant may, where the prisoner was required when that warrant was issued to be detained in accordance with provisions so contained in an earlier warrant, require the prisoner, upon returning to Jersey, to continue to be detained in accordance with those earlier provisions.
  - (3) A warrant issued containing any such requirement must provide that any period in which the provisions contained in the earlier warrant had effect during which the prisoner was out of Jersey and in custody are to be treated (except to such extent as may be specified in the warrant in order that effect can be given to the international arrangements in question) as a period during which the prisoner was detained under the provisions contained in the earlier warrant.
  - (4) The provisions contained in an inward temporary return warrant may require the prisoner to be detained in accordance with any order which, on the prisoner’s return to Jersey, will apply in respect of the prisoner under Article 3(2) and the Schedule shall not apply in relation to the provisions contained in such a warrant.

## **11 Operation of warrant and re-taking prisoners**

- (1) Where a warrant has been issued under this Law, the prisoner is deemed (subject to any contrary provision in the warrant) to be in the legal custody of the Minister at any time when, being in Jersey or on board a British ship or Jersey ship, a British aircraft or a British hovercraft, the prisoner is being taken under the warrant to or from any place, or being kept in custody under the warrant.
- (2) The Minister may designate a person as an authorized person for the purposes of executing any warrant issued under this Law and for taking the prisoner to or from any place, or for keeping the prisoner in custody, under the warrant.
- (3) An authorized person has all the powers and duties of a member of the States of Jersey Police Force.
- (4) A prisoner who escapes or is unlawfully at large may be arrested and taken to any place to which the prisoner is able to be taken under the warrant.

## 12 Revocation of warrants

- (1) If, at any time, it appears to the Minister appropriate, in order to give effect to international arrangements providing for transfer, or because circumstances have arisen which in the Minister's opinion make it inappropriate for the transfer to take place, the Minister may, upon revoking the warrant, issue a new warrant.
- (2) A new warrant, despite any defect in the revoked warrant, may –
  - (a) contain provisions that supersede any of the provisions of the previous warrant;
  - (b) contain any provision that could have been contained in the previous warrant;
  - (c) operate so that –
    - (i) a provision in it is treated as having taken effect when the earlier provisions took effect,
    - (ii) things done under the earlier provisions are treated as having been done under the new provisions, and
    - (iii) an enactment in force when the new warrant is issued is treated as having been in force when the provisions in the earlier warrant took effect.

## 13 Expenses of repatriation

- (1) Any expenses incurred by the Minister in the execution of this Law are to be defrayed out of public funds.
- (2) The Minister has a duty, in the case of the transfer of a person into Jersey under this Law, to secure the payment to the Minister by that person, or from some other source, of the amount of any expenses incurred by the Minister in connection with the conveyance of that person to Jersey, and for this purpose, the Minister is empowered to require a person to give an undertaking to pay the Minister the whole or any part of that amount, to enforce such an undertaking and to make any such other arrangements for recovering that amount as a debt due to the States as the Minister thinks fit.
- (3) This duty does not apply to the extent that in any case it appears to the Minister unreasonable to exercise any of the powers conferred either because of the exceptional circumstances of the case or because the means of the prisoner are insufficient to meet the expenses, and their recovery, whether immediately or at some future time, from the prisoner or from any other source is impracticable.

## 14 Certificates

In any proceedings, the certificate of the Minister –

- (a) that a particular country or territory is a party to any international arrangements for the transfer of prisoners that have effect as between Jersey and that country or territory;

- (b) that the appropriate authority of any country or territory has agreed to the transfer of a particular person in accordance with any such arrangements; or
  - (c) that, for the purposes of any provision of this Law, a particular person is or represents the appropriate authority of any country or territory,
- is conclusive evidence of the matter certified.

## **15 Regulations**

- (1) The States may make Regulations for carrying this Law into effect and in particular which –
  - (a) amend or modify enactments in relation to a prisoner transferred to or from Jersey under this Law;
  - (b) amend the Schedule; and
  - (c) amend this Law for the purpose of giving effect to any provision in a treaty or Convention to which Jersey is a party or which is intended to have effect in Jersey.
- (2) The power to make Regulations under this Law may be exercised so as to make –
  - (a) different provision for different cases and different purposes; and
  - (b) such incidental, supplementary, transitional or consequential provisions as appear to the States to be appropriate.

## **16 Rules of Court**

The power of the Royal Court to make Rules of Court under Article 13 of the Royal Court (Jersey) Law 1948<sup>4</sup> and Article 29 of the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949<sup>5</sup>, shall include a power to make Rules for the purposes of this Law.

## **17 Citation and commencement**

This Law may be cited as the Repatriation of Prisoners (Jersey) Law 201- and shall come into force on such day or days as the States may by Act appoint.

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**SCHEDULE**

(Article 4(5))

**OPERATION OF CERTAIN ENACTMENTS IN RELATION TO THE PRISONER****1 Application of Schedule**

This Schedule applies where a warrant is issued under this Law providing for the transfer of a prisoner into Jersey, except that it does not apply where the warrant contains provisions for the temporary return of a prisoner to Jersey.

**2 Interpretation**

In this Schedule “the relevant provisions” means the provisions contained in the warrant by virtue of Article 4(1)(c) of this Law or, in the case of a warrant which contains such a requirement as is referred to in Article 10(2) of this Law, the provisions in accordance with which the prisoner continues, in pursuance of that requirement, to be detained.

**3 Release on licence and remission**

- (1) Subject to sub-paragraph (2), in determining for the purposes of Article 17 of the Prison (Jersey) Law 1957<sup>6</sup> or Rule 63 of the Prison (Jersey) Rules 2007<sup>7</sup> whether the prisoner has at any time served a particular proportion or part of his or her sentence the prisoner’s sentence shall be deemed to begin with the day on which the relevant provisions take effect.
- (2) If the warrant specifies a period to be taken into account for the purposes of this paragraph, the prisoner’s sentence and the amount he or she has served shall, so far only as the question whether he or she has served a particular part of his or her sentence is concerned, be deemed to be increased by that period.

**4 Rehabilitation of offenders**

The relevant provisions shall be disregarded for the purposes of the application, in relation to any offence of which the prisoner was convicted in a country or territory outside the British Islands, of the Rehabilitation of Offenders (Jersey) Law 2001<sup>8</sup>, except Article 2(2).

**5 The States of Jersey Law 2005**

For the purposes of Article 8(1)(h) of the States of Jersey 2005<sup>9</sup>, the prisoner shall, while detained in accordance with the relevant provisions, be deemed to be detained in pursuance of the order by which, at the time of his or her transfer into Jersey, he or she was required to be detained in the country or territory from which he or she was transferred.

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- 1* chapter 03.805
  - 2* chapter 19.885
  - 3* chapter 23.775
  - 4* chapter 07.770
  - 5* chapter 07.595
  - 6* chapter 23.775
  - 7* chapter 23.775.30
  - 8* chapter 08.840
  - 9* chapter 16.800