

STATES OF JERSEY

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DRAFT EXTRADITION (JERSEY) LAW 200

Lodged au Greffe on 9th March 2004
by the Policy and Resources Committee

STATES GREFFE



Jersey

DRAFT EXTRADITION (JERSEY) LAW 200

European Convention on Human Rights

The President of the Policy and Resources Committee has made the following statement –

In the view of the Policy and Resources Committee the provisions of the Draft Extradition (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator F.H. Walker**

REPORT

Introduction

Proposals to introduce to the Island a domestic legal framework to deal with extradition were made approximately 2 years ago.

They were made by the Policy and Resources Committee after the United Kingdom Government informed the States of Jersey that existing legislation dealing with extradition was being reviewed.

Historically the United Kingdom Parliament has passed Extradition Acts which were expressed to have direct application in Jersey. Under the 1989 Act, the effect of such legislation was that a District Judge sitting at Bow Street Magistrates' Court in London could determine the fate of a British (or other) National living in Jersey accused of a crime elsewhere. This position has been considered unacceptable because it is an exception to the general rule that the writ of the United Kingdom courts does not run in Jersey and this privilege is enshrined in ancient Royal Charters and therefore the United Kingdom Extradition Act of 1989 might be viewed as having trespassed on this privilege. This problem did not arise under the 1870 Act, which required a warrant emanating from the United Kingdom court to be backed by the Bailiff before being put into effect.

The introduction of a new Extradition Act in the United Kingdom has allowed Jersey the opportunity of rectifying this unsatisfactory situation by introducing legislation which will enable the insular courts to deal directly with extradition requests.

This legislation will also be an important step forward on the road to asserting a greater international personality, in that it will enable the Island to make decisions concerning extradition without legal or political intervention from the United Kingdom. Furthermore, in the course of the official exchanges which have taken place with the United Kingdom, the principle that Jersey may legislate independently to implement international agreements and that the United Kingdom legislation cannot be imposed without the consent of the Island Authorities has been confirmed.

It will allow the insular courts to decide whether to issue a warrant for the arrest of a person travelling to the Island or already on the Island, to conduct extradition hearings and also to determine whether there are grounds upon which the person can be properly extradited.

At present the position is that no customary powers exist in respect of extradition and the insular courts do not possess the inherent jurisdiction to deal with extradition matters. This draft legislation will prescribe the procedures to be applied from the time of receipt of an extradition request until all issues have been dealt with including those involving post-extradition matters. The provisions of this draft Law include the powers of arrest, search and seizure of evidence, bail, the extradition hearing, the appeal process, outgoing requests and all issues arising from and incidental to extradition.

The legislation has been considered carefully to ensure that the international obligations to which the Island is subject are fully met. In large measure, these obligations are the same as those which affect the United Kingdom, but differences have arisen in connection with the European Arrest Warrant which binds the United Kingdom through its relationship with the European Union, but does not bind Jersey whose relationship with the Union is governed by Protocol 3. These differences are reflected in the proposed legislation.

Detail

As this is the first time that Jersey legislation will be dealing directly with extradition, a brief explanation of the various parts of the draft Law is necessary.

Part 1 contains introductory and interpretive provisions including a definition of an "extradition offence".

An extradition crime has been defined by conduct rather than by referring to a list of criminal offences deemed by virtue of a statute to be extraditable. This will result in a more flexible system, avoiding costly and time-consuming arguments that would otherwise arise concerning whether an offence is an extradition crime. It also avoids the need to revise the list of extraditable offences every time a new statutory offence is created.

Part 2 sets out in detail the procedures to be followed after a request has been made to Jersey from a requesting state. This part deals with how the courts are to decide whether or not a person should be extradited. It also specifies the administrative functions to be carried out by the Attorney General.

The States will be asked in due course to make Regulations specifying in Schedule 1 to the draft Law countries from which requests for extradition will ordinarily be entertained.

The draft Law is prescriptive in nature and is a staged procedure detailing exactly what issues are to be determined, when in the process these issues are to be decided and upon which information these issues should be determined.

This part also deals with the appeal process. Previous experience in the United Kingdom has shown that there have been too many avenues of appeal available, leading to unnecessary and costly delays, at least in part because the challenges to the judicial and administrative decisions could and did take place separately. Therefore the avenues of appeal have been limited under the draft Law by preventing an appeal taking place until the judicial and the administrative decisions have been made, thereby ensuring that any challenge to them would take place in one process. Also, there will be no right of appeal to the Court of Appeal from a decision of the Royal Court; instead the appeal will be directly to the Judicial Committee of the Privy Council. This reflects the position in United Kingdom Extradition Act where an appeal is made from the High Court directly to the House of Lords, thereby bypassing the Court of Appeal. These provisions should create a more efficient and expeditious system of processing extradition cases.

Part 3 of the draft Law introduces a new concept in extradition legislation namely, re-extradition.

Re-extradition arises where a person, whilst serving a term of imprisonment or other form of detention in Jersey, is extradited to a designated territory to stand trial. The person is convicted and sentenced in the designated territory and then returned to Jersey to serve the remainder of the sentence on the understanding that the person will be re-extradited to the designated territory upon release to serve the "overseas sentence".

Re-extradition is not automatic and the person upon release from detention shall be taken before the Magistrate for a decision as to whether re-extradition should take place.

Part 3 and Schedule 2 of the draft Law deals with procedure to be adopted and the matters that the Magistrate should take into consideration in relation to re-extradition. The procedure is similar to the process adopted in Part 2

Part 4 of the draft Law deals with the process of making a request to another State to surrender up a person to face criminal proceedings in Jersey either to stand trial, to be sentenced or to serve a sentence already imposed by the insular courts. There is also provision to allow the Attorney General, on behalf of Jersey, to make a request directly to a State to return a fugitive, thereby circumventing the process of going through diplomatic channels via the United Kingdom.

This provision has particular significance because it provides Jersey with greater international recognition. It is likely that a number of countries within the Commonwealth who are members of the London Scheme will designate Jersey, thereby recognising the Attorney General as the appropriate authority to make a request directly on behalf of Jersey.

Part 5 deals with police powers of search and seizure of evidence and the treatment of detained persons after arrest. The provisions concerning the seizure of material including special procedure and excluded material mirror those provisions in the Police Procedures and Criminal Evidence (Jersey) Law 2003.

This Part also deals with powers to take fingerprints and samples, and to conduct searches and examinations of a person detained under an extradition arrest warrant. It also allows a detained person to be photographed with the use of reasonable force where consent is withheld.

This Part also makes provision for any evidence seized or produced under the powers of the draft Law to be handed over by the police to the appropriate authority of the requesting state or a person acting on behalf of the appropriate authority.

This Part also enables the Home Affairs Committee to give further effect to the statutory provisions on the treatment of persons to be extradited whilst in police custody, and the exercise of police powers.

Part 6 enables the Magistrate's and the Royal Courts involved in the extradition process to consider the issue of bail; and sets out the issues to be considered before bail is granted. There will be a presumption in favour of bail unless the person is unlawfully at large having already been convicted in the requesting state.

Of particular significance is the provision that, if the person having been granted bail breaches any condition attached to bail absconds or attempts to abscond, the presumption in favour of bail will no longer apply. The presumption in favour of bail does not apply where the person is unlawfully at large after conviction.

Part 7 contains several disparate provisions. This Part deals with the power to defer extradition if, before a person is extradited, a competing request is received from another requesting state.

There is also provision for a person to be extradited where the territory has not been designated under the Law but special arrangements have been made by the United Kingdom on behalf of Jersey.

Further, this part makes provision for young persons who have not yet attained the age of 18. Although the proceedings will still be heard in the Magistrate's Court, the Magistrate will have the discretion to sit "in camera". There are also provisions concerning the remand of young persons, where necessary, pending extradition.

Also, this Part deals with National Security considerations, as well as the machinery to amend and modify the Law.

Financial and manpower implications

Given the relatively few requests for extradition made or received in recent years, and the fact that the Attorney General's office is in practice currently involved in those which do take place, the introduction of the draft Law is not expected to require any additional manpower or financial resources.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee 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). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 2nd March 2004 the Policy and Resources Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Policy and Resources Committee the provisions of the Draft Extradition (Jersey) Law 200- are compatible with the Convention Rights.

Note: The Finance and Economics Committee's comments are to follow.

Explanatory Note

This draft Law provides for extradition from and to Jersey.

Extradition is a legal process by which a person in one country who is accused of an offence in another country, or is said to be unlawfully at large after being convicted there, may be sent to that other country.

Extradition from Jersey will only be available to designated territories (unless special arrangements have been made on behalf of Jersey for extradition to a non-designated territory).

The process begins with a request from the country seeking extradition. This may be made formally at the outset to the Attorney General. However, proceedings may also be commenced less formally on a provisional basis - for example, in case of urgency.

In the first instance, the person concerned is brought before the Magistrate on an extradition arrest warrant. The Magistrate, acting judicially, holds an “extradition hearing”. At the hearing, the court must decide whether the request is in order, and whether there are any bars to the person’s extradition. It must also consider whether extradition would infringe the person’s human rights. If any of these circumstances apply, the Magistrate must discharge the person. The court in any case has a discretion to discharge a person, or postpone proceedings, on account of the person’s health.

If none of those considerations applies, the Magistrate must send the case to the Attorney General, who then has to decide whether to order the person’s extradition. In some circumstances (notably, if the person will be liable to the death penalty), the Attorney General must instead order that the person be discharged. If there are competing requests for extradition, or the person is serving a sentence of detention in Jersey, there is in any event a discretion to defer extradition.

There are rights of appeal to the Royal Court, and from the Royal Court directly to the Privy Council, against decisions relating to extradition from Jersey.

The countries from which Jersey will ordinarily entertain requests for extradition – the “designated territories” – are of two categories. The procedure for each of the categories differs in some respects. When dealing with an application from a designated territory of the first category, the Magistrate may act on information other than evidence. In dealing with an application from a designated territory of the second category, the court must consider the sufficiency of the evidence against a person accused of an offence, or convicted *in absentia* with a right to a retrial.

There are also provisions in the Law for re-extradition. These apply where a person who is already serving a sentence in Jersey is extradited to a designated country and sentenced there for an offence, and is then returned to Jersey to complete his or her sentence here. On the person’s release from detention in Jersey, the Magistrate may hold an extradition hearing to determine whether the person should be re-extradited to the other country.

The Law also enables the Attorney General to request any overseas designated territory to extradite a person to Jersey. The request may be made by the Attorney General directly to the other designated territory or through a Secretary of State.

The procedure on extradition from designated Commonwealth countries or from Hong Kong differs slightly from that for other territories. In both cases, the person may be prosecuted for the extradition offence itself and any lesser offences disclosed by the information relating to it. He or she may also be prosecuted for any other offence if the extraditing designated territory consents, and for any offence committed in Jersey since his or her extradition. Subject to this, the person may not be prosecuted in Jersey for any offences.

However, these restrictions cease to apply to a person who is extradited from a designated Commonwealth country, or from Hong Kong, once he or she has been allowed for at least 45 days an opportunity to leave the Island.

In the case of other territories, the restrictions will cease to apply if for any reason the person returns to the other country, or he or she is given any opportunity to leave Jersey (however brief).

The Law, which is based on the Extradition Bill in the United Kingdom, is set out in the following way –

INTRODUCTORY PROVISIONS

Article 1 explains the meaning of expressions used in the Law.

A “designated territory” is a State or other country specified in Schedule 1. A designated territory “of the first category” is one specified in Part 1 of that Schedule, and a designated territory “of the second category” is one specified in Part 2 of that Schedule.

Article 2 provides that the Law shall apply for the purposes of all requests for extradition or re-extradition that are received in Jersey after the commencement of the Law, and all requests for extradition to Jersey that are made after that date. It also provides that it is immaterial whether an extradition offence has been committed before or after the Law comes into force.

Article 3 explains the expression “extradition offence”, when used in relation to a person who is accused but not convicted of an offence in a designated territory, or is alleged to be unlawfully at large after conviction there but before sentence.

In those circumstances, it means any of the following –

- (a) conduct that occurs in the designated territory, and would be an offence if committed in Jersey, and is punishable in both places by detention for at least 12 months,
- (b) conduct that occurs outside the designated territory, but is punishable in the territory by detention for not less than 12 months, and in corresponding circumstances would in Jersey be an extraterritorial offence punishable by detention for at least 12 months,
- (c) conduct that occurs outside the designated territory and Jersey, but would be an offence if committed in Jersey, and in both places is punishable by detention for at least 12 months, or
- (d) conduct occurring outside the designated territory and Jersey, and is punishable in the designated territory by detention for at least 12 months, and constitutes or if committed in Jersey would constitute an offence relating to genocide, a crime against humanity or a war crime.

However, Article 3 must be read subject to Article 5.

Article 4 explains “extradition offence” when used in relation to a person who, having been sentenced in a designated territory, is alleged to be unlawfully at large.

In those circumstances, it means any of the following –

- (a) conduct that occurs in the designated territory and would, if committed in Jersey, be an offence punishable by detention for at least 12 months,
- (b) conduct that occurs outside the designated territory, but would in corresponding circumstances be regarded in Jersey as an extra-territorial offence punishable by detention for at least 12 months, or
- (c) conduct that occurs outside the designated territory and Jersey, but would if committed in Jersey constitute an offence punishable by detention for at least 12 months,
- (d) conduct that occurs outside the designated territory and Jersey that constitutes in Jersey or, if committed in Jersey, would constitute an offence relating to genocide, a crime against humanity or a war crime and be punishable by detention for at least 12 months,

if, in any such case, the person whose extradition is requested has been sentenced to detention for at least 4 months in the designated territory.

It also means.

This Article is also subject to Article 5.

Article 5 provides that if a military offence is not an offence under the general criminal law of Jersey, it will not be regarded here as an extradition offence.

Article 6 provides that other countries specified in Part 1 of Schedule 1 are designated territories of the first category.

It also provides that other countries specified in Part 2 of Schedule 1 are designated territories of the second

category.

The States will have power, by Regulations, to specify territories in Schedule 1.

PART 2

EXTRADITION FROM JERSEY

This Part sets out the procedures to be followed on requests to Jersey to extradite persons to designated territories.

Article 7 requires the Attorney General, on receipt of a valid request for the extradition of a person in Jersey to such a territory, to issue a certificate that the request is made in the approved way.

A request is valid if it states that the person is accused in the territory of an offence specified in the request, or is unlawfully at large after conviction by a court in the territory of such an offence, and it is made in the approved way.

The request is made in the approved way if it is made by or on behalf of the appropriate authority in the territory.

On issuing a certificate, the Attorney General is to send it with the request to the Magistrate.

However, this Article is subject to Article 65, under which the Attorney General may defer a request if there are competing requests for extradition.

Arrest

Articles 8 to 11 provide for the issue of an extradition arrest warrant, and the procedure to be followed on executing the warrant.

Article 8 authorizes the Magistrate, after receiving the Attorney General's certificate, to issue a warrant for the person's arrest.

The Magistrate may do so if he or she has reasonable grounds for believing that the offence is an extradition offence, and there is sufficient information (in the case of a territory of the first category) or evidence (in the case of a territory of the second category) to justify the arrest of a person accused of the offence or unlawfully at large after conviction for the offence.

The warrant may be executed by any police officer.

Article 9 provides that a person is arrested under a warrant must be given a copy of it as soon as possible.

The person must also be brought before the Magistrate as soon as practicable, unless the Attorney General decides under Article 65 to defer the request where there is a competing request for extradition.

If the person is not given a copy of the warrant promptly, he or she may apply to the Magistrate to be discharged. The court has a discretion to order the person's discharge.

If the person is not brought before the Magistrate as required under the Article, he or she may apply to the court to be discharged. In that event, the Magistrate must order the person's discharge.

As soon as possible after the person is brought before the court, the Magistrate must inform the person of the contents of the request for extradition. The Magistrate must explain that the person may consent to being extradited, and what will happen if the person consents. The person must also be told that consent, once given, is irrevocable.

The Magistrate may remand the person in custody or on bail.

Article 10 enables the Magistrate to issue a provisional warrant for the arrest of a person even though a request for extradition has not been received, if the Magistrate is satisfied that the person is believed to be in or en route to Jersey.

Article 11 stipulates that a person arrested on a provisional warrant must be brought before the Magistrate as soon as practicable. It also contains the other requirements and powers that apply when a person is arrested on an extradition arrest warrant issued under Article 8.

However, if the Magistrate does not receive a request for extradition and the Attorney General's certificate within 45 days after the person's arrest, the person must be discharged.

The Home Affairs Committee may by Order set a longer time limit than 45 days in respect of requests by any designated territory that is specified in such an Order.

The extradition hearing

Articles 12 to 27 deal with the procedure to be followed at the hearing before the Magistrate.

Article 12 provides that where a person is arrested under an extradition arrest warrant issued under *Article 7*, the Magistrate must fix a date for the extradition hearing when the person first appears before the court. This must be within 2 months of the person's first appearance. If the Magistrate believes that it is in the interests of justice to do so, he or she may from time to time fix a later date.

If the extradition hearing does not commence on the date so fixed, and the person so requests, the Magistrate must order that he or she be discharged.

Under *Article 13* the same provisions apply in the case of a person arrested on a provisional warrant, if the Magistrate receives the formal request for extradition and the Attorney General's certificate within the time stipulated in *Article 11*.

Article 14 provides that the Magistrate shall act only in a judicial role at the extradition hearing, and shall have the same powers as if the proceedings were a trial.

Under *Article 15* the Magistrate must first decide whether the documents sent to the court include the request, the Attorney General's certificate, particulars of the person and of the offence and (where applicable) the authorization in the designated territory for his or her arrest or a certificate of the person's conviction and sentence in that territory.

If the Magistrate decides that they do not include that information, the person must be discharged.

If the Magistrate decides that they do include the information, he or she must then decide whether the person before the court is the one whose extradition is requested, whether the offence is an extradition offence, and whether copies of the documents in support of the request have been given to the person.

The question whether the person is the one whose extradition is requested is to be decided on a balance of probabilities.

If the Magistrate decides any of the questions in the negative, the person must be discharged.

If all of them are decided in the affirmative, the Magistrate must then decide whether there are any bars to extradition.

Article 16 sets out bars to extradition. These are –

- (a) the rule against double jeopardy;
- (b) extraneous considerations;
- (c) the passage of time; and
- (d) hostage-taking considerations.

If the Magistrate finds that any of these bars apply, the court must discharge the person.

If the court decides that there are no bars to extradition, it must proceed under *Article 21* if the person has not been convicted in the designated territory concerned, or under *Article 22* if the person has been convicted there and is alleged to be unlawfully at large.

Article 17 sets out the rule against double jeopardy, which means that the person's extradition is barred where he or she would be entitled to be discharged by reason of previous acquittal or previous conviction if charged in Jersey with the offence.

Article 18 provides that a person's extradition is barred by reason of extraneous considerations if the real motive for the request for extradition is to prosecute or punish the person for ethnic, religious, political or sexual considerations, or if the person might be prejudiced at trial or punished for those considerations.

Article 19 provides that extradition is barred if it would be unjust or oppressive because of the passage of time.

Under *Article 20* a person's extradition is in certain circumstances barred by reason of hostage-taking

considerations. These are that the designated territory seeking extradition is party to the International Convention against the Taking of Hostages opened for signature in New York in 1979, and that the person concerned might be prejudiced at trial because it would not be possible for him or her to communicate with the authorities in the territory who are entitled to exercise rights of protection in relation to that person. It must also appear that the alleged extradition offence constitutes an offence under section 1 of the Taking of Hostages Act 1982 of the United Kingdom (as applied to Jersey) or an attempt to commit such an offence.

Article 21 applies if the person has not been convicted in the territory requesting extradition.

If it is a territory of the first category, and the Magistrate has decided that there are no bars to extradition, the Magistrate must then proceed directly under Article 24, which requires the court to decide whether the person's extradition would be compatible with the European Convention on Human Rights.

If it is a territory of the second category the Magistrate must first decide whether there is sufficient evidence for the person to stand trial, before going on to consider his or her human rights. If there is not enough evidence, the Magistrate must discharge the person. If there is sufficient evidence, the Magistrate is required to proceed to consider the question of human rights under Article 24.

Article 22 applies if the person has already been convicted in the territory requesting extradition and is alleged to be unlawfully at large. It applies whether the territory is of the first or second category, but the procedure for each category differs slightly.

The Magistrate must decide whether the person was convicted in his or her absence. If the person was not present, the Magistrate must also decide whether or not he or she was deliberately absent.

If the person was absent but did not stay away deliberately, and would not be entitled to be retried, the Magistrate must order his or her discharge.

If the person was either present or deliberately absent, the Magistrate must proceed directly to consider the issue of human rights under Article 24.

If the person was absent but did not stay away deliberately, and the person would in any event be entitled to a retrial if convicted *in absentia*, the following procedure applies –

- (a) if the territory concerned is of the first category, the Magistrate must proceed directly to consider the issue of the person's human rights under Article 24;
- (b) if the territory concerned is of the second category, the Magistrate must first proceed under Article 23.

Article 23 requires the Magistrate to decide whether there is sufficient evidence for the person to stand trial in the designated territory of the second category.

If the evidence is insufficient, the Magistrate must discharge the person.

If there is sufficient evidence, the Magistrate must next proceed under Article 24.

Article 24 requires the Magistrate to decide whether a person's extradition would be compatible with his or her rights under the European Convention on Human Rights.

If it would not be, the Magistrate must discharge the person.

If it would be, the Magistrate must then send the case to the Attorney General for the latter's decision as to whether the person is to be extradited.

Article 25 provides that if the Attorney General is informed during an extradition hearing that the person concerned is charged with an offence in Jersey, the court must adjourn the hearing until the case is disposed of.

If the person is sentenced for the offence, the Magistrate may then adjourn the extradition hearing until the sentence has been served.

Article 26 provides that if in the course of an extradition hearing the Magistrate is informed that the person is already serving a sentence of detention in Jersey, the court may adjourn the hearing until the sentence has been served.

Under *Article 27* the Magistrate must remand the person, if informed at any time during the extradition hearing that the Attorney General has ordered under Article 65 that the hearing is to be deferred until a competing extradition request is disposed of.

Under *Article 28*, the Magistrate may discharge a person or adjourn extradition proceedings if, because of his or

her physical or mental condition, it would be unjust or oppressive to extradite the person.

Article 29 requires the Magistrate, when sending a case to the Attorney General, to tell the person that there is a right of appeal to the Royal Court after the Attorney General has made a decision, and to remand the person pending that decision.

The duty to inform the person of the right of appeal does not apply if the person has consented to extradition.

Attorney General's functions

Articles 30 to 39 deal with the functions of the Attorney General after the Magistrate has sent a case, at the end of the extradition hearing, for the Attorney General's decision whether the person is to be extradited.

Under *Article 30* the Attorney General must consider whether he or she is prohibited from ordering the person's extradition by reason of any of the following considerations –

- (a) liability to the death sentence;
- (b) specialty; or
- (c) earlier extradition to Jersey from another territory.

If the Attorney General decides that any such prohibition applies, the person must be discharged.

If the Attorney General decides that the prohibition does not apply, he or she must order the person's extradition unless –

- (a) the request is withdrawn;
- (b) the proceedings are deferred for a competing extradition claim; or
- (c) the person is discharged by the Attorney General on grounds of national security.

Article 31 prohibits extradition if the person concerned is liable to the death penalty in the territory requesting his extradition, unless the Attorney General receives a written assurance that the person will not be executed and the Attorney General considers the assurance adequate.

Article 32 prohibits the extradition of a person to a territory with which Jersey does not have specialty arrangements.

This prohibition does not apply if the person has consented to being extradited, or waives his or her right not to be extradited.

A specialty arrangement is one in which a person who is extradited to the territory may only be dealt with in one of the following circumstances –

- (a) if the offence is one in respect of which he or she was extradited,
- (b) it is an extradition offence (not being a capital offence) disclosed by the same facts,
- (c) it is an extradition offence in respect of which the Attorney General consents to the person's being dealt with, or
- (d) the person is given an opportunity to leave the territory before being dealt with there.

Article 33 prohibits a person's extradition from Jersey if he or she was extradited here from another territory whose consent is required to the further extradition, and it has not given that consent.

Article 34 requires the Attorney General to defer a decision whether to extradite a person, if the person is charged with an offence in Jersey and the charge has not been disposed of.

If the person is subsequently sentenced to be detained in Jersey in respect of the offence, the Attorney General has a discretion to defer a decision on extradition until the sentence has been served.

Article 35 gives the Attorney General a discretion to defer a decision on extradition if the person concerned is already serving another sentence of detention in Jersey.

Article 36 requires the Attorney General to decide within 2 months whether to order a person's extradition.

The period for decision will ordinarily begin on the day on which the Magistrate sends the case to the Attorney General. However, where the Attorney General is required to defer a decision or has a discretion to do so, the

period will be calculated from the date on which the circumstances in which it is deferred cease to obtain.

The Royal Court may in any event extend the time limit periodically.

Article 37 specifies the date from which time limits for the purposes of Articles 30 and 36 are to be calculated.

Under *Article 38* the Attorney General must tell the person concerned that he or she has ordered extradition, and that the person has a right of appeal to the Court of Appeal.

The Attorney General must also inform a representative of the territory requesting extradition.

Article 39 provides that an order by the Attorney General for a person's discharge must be made in writing, and signed by the Attorney General or an authorized Crown Advocate.

Appeals

Articles 40 to 54 provide for rights of appeal to the Royal Court, and for rights of appeal directly from the Royal Court to the Privy Council.

Article 40 gives a person whose extradition is requested a right of appeal to the Royal Court against a decision by the Magistrate at the end of an extradition hearing. The appeal may not be heard until the Attorney General has decided whether to order extradition, and may not proceed if he or she orders the person's discharge.

This Article does not give a right of appeal to a person who has consented to being extradited.

Article 41 sets out the Royal Court's powers on such an appeal. It may allow the appeal, refer the case back to the Magistrate or dismiss the appeal.

If it allows the appeal, the Royal Court must discharge the person and quash the Attorney General's extradition order.

Article 42 enables an appeal to be made by a designated territory requesting a person's extradition, against a decision by the Magistrate at the extradition hearing that results in the person's being discharged.

Article 43 sets out the powers of the Royal Court on such an appeal. It may allow it, refer the case back to the Magistrate or dismiss the appeal. The appeal may only be allowed on the ground that the Magistrate decided a relevant question wrongly, or that a new issue has been raised or that new evidence is available that would have led the Magistrate to make a different decision.

If it allows the appeal, the Royal Court must quash the order by which the person was discharged, and remit it to the Magistrate.

Article 44 provides for the remand of a person, in custody or on bail, pending the determination of an appeal under *Article 42* on behalf of the territory seeking his extradition.

Article 45 gives a person a right of appeal to the Royal Court if the Attorney General orders his or her extradition, and the person has not consented to the order.

Article 46 sets out the Royal Court's powers on allowing such an appeal. If it does so, it must discharge the person and quash the order.

Article 47 enables an appeal to be made by a designated territory requesting a person's extradition, against an order by the Attorney General that the person shall be discharged.

Article 48 sets out the Royal Court's powers on allowing such an appeal. If it does so, it must quash the order discharging the person and order his or her extradition.

Article 49 provides that if an appeal against the Attorney General's discharge of a person is brought on behalf of the territory requesting extradition, the Magistrate must remand the person in custody or on bail while the appeal is pending.

Under *Article 50* the Royal Court may award costs on an appeal.

Article 51 provides that rules of court shall prescribe the time limit for starting the hearing of an appeal to the Royal Court.

Article 52 gives a further right of appeal directly to the Privy Council from a decision of the Royal Court on any appeal to that court under Part 2 of the Law.

However, the further right of appeal lies only by leave of the Royal Court or the Privy Council itself. Leave will

not be granted unless the Royal Court certifies that there is a point of exceptional public importance, and it appears to the court granting leave that the Privy Council should consider the point.

Article 53 sets out the powers of the Privy Council on appeal.

If the Privy Council allows an appeal by a person whose extradition is requested, it will discharge the person and, where an extradition order has been made, quash that order.

If it allows an appeal by a territory requesting a person's extradition, it will (according to the nature of the appeal) either quash the order discharging that person and order extradition, or remit the case to the Magistrate with directions on its determination.

Article 54 provides that a decision by the Magistrate or the Attorney General under Part 2 may only be questioned in legal proceedings on appeal under Part 2.

Time limit for extradition

Articles 55 to 57 deal with the time limits for carrying out an extradition order.

Article 55 provides that if the Attorney General orders a person's extradition, and no notice of appeal is filed within the time limit for doing so, the person must be extradited within 28 days. If extradition does not take place within that time the person may apply to the Magistrate to be discharged. The Magistrate must discharge the person unless there is reasonable cause for the delay.

This Article is subject to *Article 57* (under which the Attorney General may in certain circumstances require an undertaking to return the person to complete a sentence in Jersey).

Article 56 provides that if there is an appeal under Part 2, and the outcome is that the person is to be extradited, he or she must be extradited within 28 days. If the person is not, he or she may apply to the Magistrate to be discharged. The Magistrate must discharge the person unless there is reasonable cause for the delay.

This Article is also subject to *Article 57*.

Article 57 provides that if the Attorney General orders the extradition of a person who is serving a sentence of detention in Jersey, the order may be made on the condition that the person is not to be extradited until an undertaking is given on behalf of the territory concerned to the Attorney General. In imposing that condition, the Attorney General may specify the terms of the undertaking.

If the person is accused but not convicted of the offence in the other territory, the terms may include a requirement that he or she be kept in custody until the outcome of proceedings against the person in the territory, and then returned to Jersey to complete his or her sentence here. Where the person is alleged to be unlawfully at large after conviction in the territory requesting extradition, the terms may include a requirement that he or she shall be returned to Jersey, to complete his or her sentence here, after the person has served any sentence imposed in the other territory for the extradition offence and for any other offence for which he or she may be dealt with in that territory.

If the undertaking is not received within 21 days and the person applies to the Royal Court to be discharged, the court must order his or her discharge.

Withdrawal of request for extradition

Articles 58 to 61 provide for the discharge of a person on the withdrawal of a request for extradition.

Under *Article 58*, the Magistrate must discharge the person if informed by the Attorney General before the extradition hearing has ended that the request has been withdrawn.

Under *Article 59* the Attorney General must order the person's discharge, if after the case has been referred to the Attorney General but before the person is extradited, the Attorney General is informed that the request has been withdrawn.

Under *Article 60* if there is an appeal by the person before the Royal Court, it must discharge the person and quash any extradition order. If there is an appeal before the Royal Court by the territory concerned, it must dismiss the appeal. In either case, the court must do so within 7 days.

Under *Article 61*, if there is an appeal by the person before the Privy Council, it must discharge the person and

quash any extradition order. If the appeal is by the territory concerned, the Privy Council must dismiss it.

Consent to extradition

Article 62 provides that a person arrested under an extradition arrest warrant may consent to being extradited. Consent must be in writing. Once given, it is irrevocable.

Article 63 provides that if the case has not been sent to the Attorney General for a decision whether to make an extradition order, the consent must be given to the Magistrate in the prescribed form.

Article 64 provides that if the case has been sent to the Attorney General for a decision whether to make an extradition order, the consent is to be given to the Attorney General.

Competing extradition requests

Article 65 provides that if the Attorney General receives a request for the extradition of a person who is in Jersey, and another request is then received for the same person's extradition before the first is disposed of, the Attorney General may defer one of the requests until the other is dealt with.

If an extradition order has already been made, but it has not been carried into effect, the Attorney General may defer its execution.

In deciding which request to defer, the Attorney General must take into account the relative seriousness of each offence, the places where the offences were allegedly committed, the dates on which they were allegedly committed and the date of receipt of each request, and whether in each case the person concerned is accused of the offence or alleged to be unlawfully at large.

Post-extradition matters

Article 66 enables the Attorney General to consent, in the case of a person who has already been extradited to another territory, to the person's being dealt with there for an offence other than the one for which he or she was extradited.

However, the Attorney General may only do so if he or she decides –

- (a) that the other offence is also an extradition offence;
- (b) that the case is one which the Magistrate would have sent to the Attorney General for a decision whether to extradite; and
- (c) that the Attorney General is not prohibited by the draft Law from ordering extradition.

Article 67 deals with the case in which, after a person has been extradited to a designated territory from Jersey, the Attorney General receives a request from the appropriate authority in that territory for the Attorney General's consent to that person's further extradition from the territory to another designated territory.

The Attorney General may order extradition, subject to the same requirements as apply under Article 66.

Article 68 provides that notices that are to be served by the Attorney General, under Article 66 or Article 67, to person to whom proceedings under either of those Articles relates, may be given to the person personally or by leaving it at his or her last known or usual home with another person, or by posting it to him or her there.

Article 69 provides that if a person who is serving a sentence of detention in Jersey is extradited to a designated territory and subsequently returned to serve the remainder of his or her sentence here, the person is liable to complete the sentence in Jersey.

The time spent by the person abroad, in consequence of his or her extradition, will not count as time served as part of the sentence in Jersey. However, this exclusion will not apply if the person was extradited to be prosecuted for an offence, and has not been convicted.

Repatriation cases

Article 70 relates to the case in which a person, having been sentenced in one overseas territory, is transferred in pursuance of repatriation arrangements to serve the sentence in another territory.

If the person's extradition from Jersey is sought by either of those territories on the ground that he or she is unlawfully at large, and the territory making the request is a designated territory, extradition proceedings may be pursued in Jersey.

PART 3

RE-EXTRADITION FROM JERSEY

Article 71 sets out 5 conditions for a re-extradition hearing.

In particular, the person concerned must have been extradited under Part 2 to the other country. At the time of extradition, he or she must have been serving a sentence of detention in Jersey. The person must also have been sentenced to at least 4 months detention in the other country for an offence committed there before his or her extradition – and before serving that sentence, the person must have been returned to Jersey to serve the remainder of his or her sentence here.

Article 72 provides for a re-extradition hearing before the Magistrate. The person concerned must be brought before the Magistrate as soon as possible after the time at which he or she is due to be released in Jersey.

If the Magistrate finds that the territory is not a designated territory, and the person applies for his or her release, the Magistrate must discharge the person.

If the Magistrate decides it is a designated territory, the hearing is to proceed under *Article 73* as if it were an extradition hearing and the proceedings were to be held in accordance with Schedule 2 to the Law.

Article 74 provides that the fact that the Magistrate discharges the person does not affect any conditions of his or her release pursuant to the Jersey sentence.

PART 4

EXTRADITION TO JERSEY

This Part of the Law sets out the procedure to be followed on requests to overseas territories to extradite persons to Jersey.

Under *Article 75* the Attorney General may, directly or through a Secretary of State, request the extradition of a person from any overseas territory.

Article 76 sets out the conditions on which Jersey may deal with a person who is extradited here from a Commonwealth country or Hong Kong.

The person may only be dealt with for –

- (a) the offence for which he or she was extradited,
- (b) lesser offences disclosed by the information provided to the other territory in support of Jersey's request for extradition, and
- (c) other offences for which the other territory consents to the person's being dealt with here.

However, these conditions do not prevent the person's being prosecuted for offences committed in Jersey after his or her extradition here. They cease to apply in any event on the expiry of a period of 45 days starting on the first day on which the person is given an opportunity to leave Jersey after being extradited here.

Under *Article 77*, the same restrictions apply if a person is extradited to Jersey from any other territory, with the difference that those conditions will in any event cease to apply if the person returns to the territory from which he or she was extradited or is given an opportunity to leave Jersey (whether or not he or she has been allowed 45 days in which to do so).

Article 78 provides that if a person who is extradited to Jersey from a designated territory was before extradition convicted in Jersey for an offence other than the one for which he or she is extradited, the punishment for that

other offence shall be remitted.

The conviction for the other offence will nevertheless stand.

Article 79 requires the Attorney General to arrange the free repatriation of a person who has been extradited to Jersey, where –

- (a) the extradition proceedings have not commenced here within 6 months, or
- (b) the person is acquitted or discharged,

and the person asks for free repatriation.

PART 5

POLICE POWERS

Warrants and orders

Under *Article 80* the Bailiff or a Jurat may, on the application of a police officer, issue a search and seizure warrant.

A search and seizure warrant authorizes a police officer to enter and search specified premises and seize material that may be used in evidence.

This Article does not authorize the seizure of “special procedure material” or “excluded material” within the meaning of the Police Procedures and Criminal Evidence (Jersey) Law 2003.

Searches under search and seizure warrants must be conducted solely for the purpose of obtaining evidence for the prosecution of the extradition offence, and must not be used for an investigation as to whether or not the extradition offence has been committed.

Under *Article 81* the Bailiff or a Jurat may, on the application of a police officer, issue a production order.

A production order requires a specified person to produce special material or excluded material to a police officer, or to give a police officer access to it, within a specified time.

Article 82 sets out the grounds on which a production order may be made.

Article 83 stipulates the way in which special procedure material or excluded material that is stored electronically must be made available to comply with a production order.

Under *Article 84* the Bailiff may issue a warrant authorizing a police officer to seize and retain special procedure material or excluded material if the Bailiff is satisfied that it is not practicable to communicate with a person in order to implement a production order.

Search and seizure without warrant

Article 85 authorizes a police officer to enter and search premises without a warrant, for the purpose of executing an extradition arrest warrant, and to seize and retain relevant evidence found there.

Article 86 authorizes a police officer to enter and search premises without a warrant, and to seize and retain relevant evidence found there, if a person was arrested on the premises on an extradition arrest warrant or was there immediately before being arrested.

Article 87 enables a police officer to search a person who has been arrested on an extradition arrest warrant elsewhere than at a police station.

The police officer may do so if he or she has reasonable grounds for believing that the person presents a danger, or is concealing evidence or anything that might assist the person to escape.

The police officer may seize and retain anything relating to those considerations that is found on the person.

Article 88 enables a police officer to enter and search without a warrant premises occupied or controlled by a person who has been arrested on an extradition arrest warrant, and to seize and retain any relevant thing found there.

This power may only be exercised on the written authorization of a police officer not below the rank of inspector or the Connétable or a Centenier of the parish. A copy of the authorization must be sent to the Chief Officer of the States of Jersey Police Force.

Treatment following arrest

Article 89 provides for the taking of fingerprints and samples from a person arrested on an extradition arrest warrant.

Article 90 deals with the search and examination of a person who is detained in a police station after being arrested on an extradition arrest warrant.

The powers under this Article may only be exercised for the purpose of ascertaining identity, and only on the authorization of an officer not below the rank of inspector.

Article 91 provides for the photographing of a person who is arrested on an extradition arrest warrant and detained at a police station.

Article 92 enables the Home Affairs Committee, by Order, to apply modified provisions of the Police Procedures and Criminal Evidence (Jersey) Law 2003 relating to searches of detained persons, intimate searches, the right to have someone informed on one's arrest and access to legal advice.

General

Article 93 enables a police officer to deliver to the appropriate authority in a designated territory, or to its representative, anything seized or produced under Part 4 of the Law.

Article 94 enables the Committee to prescribe codes of practice in respect of matters arising from the exercise of powers under Part 5.

If the Committee proposes to do so, it must publish a draft and consider any representations.

A code of practice is admissible in evidence in proceedings under the Law, and is to be taken into account by a court when considering anything to which the code appears to it to be relevant.

However, non-compliance with a code does not of itself give rise to criminal or civil liability.

Article 95 authorizes the use of reasonable force, if necessary, in the exercise of powers under Part 5 of the Law.

PART 6

BAIL

Article 96 requires a court to consider whether to grant bail whenever a person who is in custody on an extradition case appears before the court.

Article 97 establishes a presumption in favour of granting bail unless there is a risk that the person in custody will fail to appear, commit an offence or interfere with the course of justice.

The presumption will cease to apply if the person does not comply with the conditions of bail, or fails to surrender into custody when required or leaves or attempts to leave Jersey without the permission of a court.

The presumption will not apply in any event where the person is alleged to be at large after being convicted of an offence.

It will not apply either in proceedings in Jersey under Part 4 in respect of a request for a person's extradition to Jersey, if the Attorney General has given an undertaking that the person will be kept in custody pending the conclusion of the proceedings against him in Jersey in respect of the offence. In such a case, a court may only grant bail in exceptional circumstances.

Under *Article 98* a court may impose conditions in granting bail.

Article 99 requires a court, when granting bail, to explain to the person concerned the circumstances in which the presumption in favour of bail will cease.

Article 100 enables a court to vary terms of bail.

Article 101 empowers a police officer to arrest without a court order a person who has been granted bail, if the police officer reasonably believes that the person is about to leave Jersey without the permission of a court.

The person must be brought before a court as soon as reasonably practicable.

Under *Article 102* a court may order the arrest of a person who has been granted bail, if it is satisfied that there are reasonable grounds for believing that the person has contravened his conditions of bail, or has attempted or will attempt to leave Jersey without permission or has not surrendered into custody when required, or is unlikely to do so.

A person who is arrested on such an order must be brought before a court as soon as reasonably practicable.

Article 103 provides that a written statement by a surety to a police officer that a person on bail is about to leave Jersey constitutes reasonable grounds for the police officer to believe that he is about to do so.

PART 7

OTHER PROVISIONS

Article 104 stipulates time limits for extradition in cases in which it has been deferred pending the disposal of another request for extradition, and the Magistrate has ordered under *Article 106 (q.v.)* that the deferral shall cease.

In those circumstances, the period of 28 days within which the person must be extradited if the Attorney General subsequently makes an extradition order on the deferred request is to be calculated either from the day on which the order is made or, if there is an appeal, on the day on which the appeal becomes final.

Article 105 provides that where extradition proceedings in respect of one request are deferred in favour of another that is then disposed of, the Magistrate may order the deferred proceedings to be resumed. Such an order may only be made within 21 days of the date of disposal of the other proceedings.

The Magistrate also has a discretion to discharge the person to whom the deferred proceedings relate.

If the Magistrate does not within the 21 day period either order that the proceedings be resumed or discharge the person, and he or she applies to be discharged, the Magistrate must then discharge the person.

Article 106 contains corresponding provisions where an extradition order has already been made, but has been deferred until a competing extradition claim has been disposed of.

Article 107 explains when a request for extradition is to be taken to have been disposed of.

Article 108 explains when a charge is to be taken to have been disposed of.

Article 109 enables proceedings to be taken in Jersey for the extradition of a person to a territory that is not a designated territory, if special arrangements have been made on behalf of Jersey with that territory. A certificate by the Attorney General that the arrangements have been made, and that the territory is not a designated territory, is conclusive evidence of those matters. Extradition proceedings may then be taken as if the territory were a designated territory of the second category, and the Law shall apply accordingly. However, the period within which the extradition papers must be given to the Magistrate may not be extended beyond the initial 45 day time limit under *Article 11(10)(a)*.

In giving his certificate, the Attorney General may also certify that other provisions of the law are to be treated as having been modified, if the special arrangements so provide.

Article 110 provides that on a request for extradition for genocide, a crime against humanity or a war crime, it is not an objection that it is an offence having retrospective effect.

The effect of *Article 111* is that an extradition hearing relating to a person under the age of 18 years will not be open to the public unless the Magistrate orders otherwise.

Article 112 provides for the custody of persons who are remanded without bail under the Law. They are to be held in the appropriate institutions to which they would be sent if charged with offences in Jersey. However, if it would be inappropriate because of the nature of an extradition offence or a young person's circumstances to send that person to a place ordinarily required for persons of his or her age, the Magistrate may remand the person to some

other suitable place of custody.

Article 113 enables the Home Affairs Committee to make Orders modifying the effect of the Law in its application to a case in which a request for extradition is made in respect of more than one offence.

Under *Article 114* the Attorney General may on the grounds of national security issue a certificate directing that a request for extradition is not to be proceeded with.

Article 115 allows documents relating to proceedings under the Law to be sent by facsimile, and facsimile documents to be receivable in evidence.

Article 116 allows documents authenticated abroad to be received in evidence.

Article 117 applies to extradition proceedings the provisions of the Criminal Justice (Evidence and Procedure) (Jersey) Law 1998 relating to admissions of fact and the admissibility of written statements in evidence.

Article 118 applies the criminal burden and standard of proof to extradition proceedings, except where the draft Law expressly provides otherwise (as it does in Article 14).

Article 119 enables the Home Affairs Committee, by Order, to extend the provisions of the draft Law relating to police officers to customs officers.

Article 120 contains general machinery provisions relating to Regulations and Orders made under the Law.

Article 121 enables the States, by Regulations, to modify the Law to give effect to international obligations that apply to or bind Jersey.

Article 122 consequentially amends other enactments.

Article 123 specifies how the Law may be cited, and provides for it to come into force on a day or days to be appointed by the States by Act.

Schedule 1 lists designated countries.

Schedule 2 sets out in full, for convenience of reference, Part 2 of the Law as modified to apply to re-extradition.

Schedule 3 contains consequential amendments to other enactments.



Jersey

DRAFT EXTRADITION (JERSEY) LAW 200

Arrangement

Article

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Jersey

DRAFT EXTRADITION (JERSEY) LAW 200

A LAW to provide for extradition.

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 –

PART 1

INTRODUCTORY PROVISIONS

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“appropriate consent” has the same meaning as it has in Article 1(1) of the Police Procedures and Criminal Evidence (Jersey) Law 2003;^[1]

“Chief Officer of Police” means the Chief Officer of the States of Jersey Police Force;

“designated territory” means a territory that is specified in Part 1 or Part 2 of Schedule 1;

“designated territory of the first category” means a designated territory that is specified in Part 1 of Schedule 1;

“designated territory of the second category” means a designated territory that is specified in Part 2 of Schedule 1;

“excluded material” has the same meaning as it has in Article 6(1) of PPCEL,^[2]

“extradition” includes re-extradition;

“extradition arrest warrant” means –

(a) a warrant issued under Article 7; or

(b) a provisional warrant;

“extradition claim” means a request for a person’s extradition;

“extradition hearing” means the hearing at which the Magistrate is to deal with a request for extradition to a designated territory;

“fingerprints” has the same meaning as it has in Article 1(1) of PPCEL,^[3]

“honorary police officer” means a member of the Honorary Police;

“intimate search” has the same meaning as it has in Article 1(1) of PPCEL,^[4]

“items subject to legal privilege” has the same meaning as it has in Article 5 of PPCEL,^[5]

“Magistrate” means the ‘Juge d’Instruction’ appointed under the Lois (1864 à 2000) concernant le charge de Juge d’Instruction^[6] and includes a person exercising those functions;

“non-intimate sample” has the same meaning as it has in Article 1(1) of PPCEL,^[7]

“police officer” mean a member of the States of Jersey Police Force or an honorary police officer;

“PPCEL” means the Police Procedures and Criminal Evidence (Jersey) Law 2003^[8]

“police station” does not include a parish hall;

“premises” has the same meaning as it has in Article 1(1) of PPCEL,^[9]

“provisional warrant” means a warrant issued under Article 9;

“re-extradition hearing” means an extradition hearing under Part 3;

“special procedure material” has the same meaning as it has in Article 7(4) of PPCEL,^[10]

“territory” includes a State and any other country.

- (2) In this Law, references to a valid request for a person’s extradition are references to a request that is valid because it satisfies the requirements in Article 7(3).
- (3) In this Law, taking a photograph includes using a process by means of which a visual image may be produced, and “photographed” shall be construed accordingly.

2 Application of Law

- (1) This Law shall apply for the purposes of –
 - (a) every request for extradition or re-extradition that is received in Jersey on or after the day on which the Law comes into force; and
 - (b) every request for extradition to Jersey that is made by the Attorney General on or after the day on which this Law comes into force.
- (2) For the purposes of this Law, it is immaterial whether an extradition offence is committed before or after the commencement of this Law.

3 “Extradition offence” – persons not sentenced

- (1) This Article applies to conduct of a person who –
 - (a) is accused in a designated territory of the commission of an offence constituted by the conduct but has not been convicted of the offence; or
 - (b) is alleged to be unlawfully at large after conviction by a court in a designated territory of an offence constituted by the conduct, and has not been sentenced for the offence.
- (2) The conduct constitutes an extradition offence in relation to the designated territory if –
 - (a) the conduct occurs in the designated territory;
 - (b) the conduct would constitute an offence under the law of Jersey, punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment, if it occurred in Jersey; and

- (c) the conduct is so punishable under the law of the designated territory (however it is described in that law).
- (3) The conduct also constitutes an extradition offence in relation to the designated territory if –
 - (a) the conduct occurs outside the designated territory;
 - (b) the conduct is punishable under the law of the designated territory with imprisonment or another form of detention for a term of 12 months or a greater punishment (however it is described in that law); and
 - (c) in corresponding circumstances, equivalent conduct would constitute an extra-territorial offence under the law of Jersey punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (4) The conduct also constitutes an extradition offence in relation to the designated territory if –
 - (a) the conduct occurs outside the designated territory and no part of it occurs in Jersey;
 - (b) the conduct would constitute an offence under the law of Jersey, punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment, if it occurred in Jersey; and
 - (c) the conduct is so punishable under the law of the designated territory (however it is described in that law).
- (5) The conduct also constitutes an extradition offence in relation to the designated territory if –
 - (a) the conduct occurs outside the designated territory and no part of it occurs in Jersey;
 - (b) the conduct is punishable under the law of the designated territory with imprisonment or another form of detention for a term of 12 months or a greater punishment (however it is described in that law); and
 - (c) the conduct constitutes or, if committed in Jersey, would constitute an offence to which paragraph (6) refers.
- (6) The offences to which this paragraph refers are –
 - (a) an offence under section 51 or section 58 of the International Criminal Court Act 2001 (c.17 of the United Kingdom as it applies to Jersey (relating to genocide, crimes against humanity and war crimes);
 - (b) an offence under section 52 or section 59 of that Act (relating to conduct that is ancillary to those crimes and is committed outside the jurisdiction); and
 - (c) an ancillary offence, as defined in section 55 or section 62 of that Act, in relation to an offence to which either of sub-paragraphs (a) and (b) refers.
- (7) This Article is subject to Article 5.

4 “Extradition offence” – persons sentenced

- (1) This Article applies to conduct of a person who –
 - (a) is alleged to be unlawfully at large after conviction, by a court in a designated territory, of the offence constituted by the conduct; and
 - (b) has been sentenced for the offence.
- (2) The conduct constitutes an extradition offence in relation to the designated territory if –
 - (a) the conduct occurs in the designated territory;
 - (b) the conduct would constitute an offence under the law of Jersey, punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment, if it occurred in Jersey; and
 - (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the designated territory in respect of the conduct.

- (3) The conduct also constitutes an extradition offence in relation to the designated territory if –
 - (a) the conduct occurs outside the designated territory;
 - (b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the designated territory in respect of the conduct; and
 - (c) in corresponding circumstances, equivalent conduct would constitute an extra-territorial offence under the law of Jersey punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment.
- (4) The conduct also constitutes an extradition offence in relation to the designated territory if –
 - (a) the conduct occurs outside the designated territory and no part of it occurs in Jersey;
 - (b) the conduct would constitute an offence under the law of Jersey, punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment, if it occurred in Jersey; and
 - (c) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the designated territory in respect of the conduct.
- (5) The conduct also constitutes an extradition offence in relation to the designated territory if –
 - (a) the conduct occurs outside the designated territory and no part of it occurs in Jersey;
 - (b) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment has been imposed in the designated territory in respect of the conduct; and
 - (c) the conduct constitutes or, if committed in Jersey, would constitute an offence to which paragraph (6) refers.
- (6) The offences to which this paragraph refers are –
 - (a) an offence under section 51 or section 58 of the International Criminal Court Act 2001 (c.17 of the United Kingdom as it applies to Jersey (relating to genocide, crimes against humanity and war crimes);
 - (b) an offence under section 52 or section 59 of that Act (relating to conduct that is ancillary to those crimes and is committed outside the jurisdiction); and
 - (c) an ancillary offence, as defined in section 55 or section 62 of that Act, in relation to an offence to which either of sub-paragraphs (a) and (b) refers.
- (7) This Article is subject to Article 5.

5 Military offences

If conduct constitutes an offence under the military law of the designated territory, but does not constitute an offence under the general criminal law of Jersey, it does not constitute an extradition offence under Article 3 or Article 4.

6 Designated territories

- (1) A designated territory is a territory that is specified in Schedule 1.
- (2) A designated territory of the first category is a territory that is specified in Part 1 of Schedule 1.
- (3) A designated territory of the second category is a territory that is specified in Part 2 of Schedule 1.
- (4) The States may by Regulations –
 - (a) specify any territory in Part 1 or Part 2 of Schedule 1;
 - (b) vary the description of any territory that is specified in either of those Parts; or
 - (c) delete any territory from either of those Parts.

PART 2

EXTRADITION FROM JERSEY

7 Extradition request and certificate

- (1) If the Attorney General receives a valid request for the extradition to a designated territory of a person who is in Jersey, the Attorney General shall issue a certificate under this Article.
- (2) However, paragraph (1) does not apply if the Attorney General decides under Article 65 that the request is not to be proceeded with.
- (3) A request for a person's extradition is valid if it contains a statement –
 - (a) that the person is accused in the designated territory of the commission of an offence specified in the request; or
 - (b) that the person is alleged to be unlawfully at large after conviction by a court in the designated territory of an offence specified in the request,and the request is made in the approved way.
- (4) A request for extradition to a designated territory that is a British overseas territory is made in the approved way if it is made by or on behalf of the person administering the designated territory.
- (5) If the Hong Kong Special Administrative Region of the People's Republic of China is a designated territory, a request for extradition to it is made in the approved way if it is made by or on behalf of the government of the Region.
- (6) A request for extradition to any other designated territory is made in the approved way if it is made by –
 - (a) an authority of the designated territory whom the Attorney General believes to have the function of making requests for extradition in that designated territory; or
 - (b) a diplomatic or consular representative of the designated territory.
- (7) A certificate under this Article shall certify that the request is made in the approved way.
- (8) If a certificate is issued under this Article, the Attorney General shall send –
 - (a) the request; and
 - (b) the certificate,to the Magistrate.

Arrest

8 Arrest warrant following extradition request

- (1) This Article applies if the Attorney General sends documents to the Magistrate under Article 7.
- (2) If the Magistrate has reasonable grounds for believing –
 - (a) that the offence in respect of which extradition is requested is an extradition offence; and
 - (b) that there is evidence to which paragraph (3) refers,the Magistrate may issue a warrant for the arrest of the person whose extradition is requested.
- (3) The evidence to which this paragraph refers is –
 - (a) if the person whose extradition is requested is accused of the commission of the offence, evidence that would justify the arrest of a person accused of the offence within Jersey; or

- (b) if the person whose extradition is requested is alleged to be unlawfully at large after conviction of the offence, evidence that would justify the arrest of a person unlawfully at large after conviction of the offence within Jersey.
- (4) However, if the designated territory to which extradition is requested is a designated territory of the first category, paragraphs (2) and (3) shall have effect as if references in them to evidence were references to information.
- (5) A warrant may be executed by any police officer.
- (6) A warrant may be executed whether or not, at the time of the arrest, the warrant or a copy of it is in the possession of the police officer executing it.

9 Person arrested under Article 8

- (1) This Article applies if a person is arrested under a warrant issued under Article 8.
- (2) As soon as practicable after his or her arrest, a copy of the warrant shall be given to the person.
- (3) The arrested person shall be brought as soon as practicable before the Magistrate.
- (4) However, paragraph (3) does not apply if the Attorney General decides under Article 65 that the request for the person's extradition is not to be proceeded with.
- (5) If paragraph (2) is not complied with, and the person applies to the Magistrate to be discharged, the Magistrate may order that he or she be discharged.
- (6) If paragraph (3) is not complied with, and the person applies to the Magistrate to be discharged, the Magistrate shall order that he or she be discharged.
- (7) As soon as practicable after the person first appears or is brought before the Magistrate –
 - (a) the Magistrate shall inform the person of the contents of the request for extradition;
 - (b) the Magistrate shall inform the person that he or she may consent to being extradited to the designated territory to which the person's extradition is requested;
 - (c) the Magistrate shall explain to the person the effect of consent, and the procedure that will apply if the person gives consent; and
 - (d) the Magistrate shall also explain to the person that consent must be given in writing, and that it is irrevocable.
- (8) The Magistrate, when the person first appears or is brought before the Magistrate, shall remand the person in custody or on bail.
- (9) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.

10 Provisional warrant

- (1) This Article applies if the Magistrate is satisfied on information in writing and on oath that a person to whom paragraph (2) refers–
 - (a) is or is believed to be in Jersey; or
 - (b) is or is believed to be on his or her way to Jersey.
- (2) This paragraph refers to –
 - (a) a person who is accused in a designated territory of the commission of an offence; or
 - (b) a person who is alleged to be unlawfully at large after conviction of an offence by a court in a designated territory.
- (3) The Magistrate may issue a warrant for the arrest of the person (a provisional warrant) if the Magistrate has reasonable grounds for believing –

- (a) that the offence of which the person is accused or has been convicted is an extradition offence; and
 - (b) that there is written evidence to which paragraph (4) refers.
- (4) The evidence to which this paragraph refers is –
- (a) if the person in respect of whom the warrant is sought is accused of the commission of the offence, evidence that would justify the arrest of a person accused of the offence within Jersey; or
 - (b) if the person in respect of whom the warrant is sought is alleged to be unlawfully at large after conviction of the offence, evidence that would justify the arrest of a person unlawfully at large after conviction of the offence within Jersey.
- (5) However, if the designated territory to which extradition is requested is a designated territory of the first category, paragraphs (3) and (4) shall have effect as if references in them to evidence were references to information.
- (6) A provisional warrant may be executed by any police officer.
- (7) A provisional warrant may be executed whether or not, at the time of the arrest, the warrant or a copy of it is in the possession of the police officer executing it.

11 Person arrested under provisional warrant

- (1) This Article applies if a person is arrested under a provisional warrant.
- (2) As soon as practicable after his or her arrest, a copy of the warrant shall be given to the person.
- (3) The arrested person shall be brought as soon as practicable before the Magistrate.
- (4) However, paragraph (3) does not apply in a case where the Attorney General has received a valid request for the person's extradition, if the Attorney General decides under Article 65 that the request is not to be proceeded with.
- (5) If paragraph (2) is not complied with, and the person applies to the Magistrate to be discharged, the Magistrate may order that he or she be discharged.
- (6) If paragraph (3) is not complied with, and the person applies to the Magistrate to be discharged, the Magistrate shall order that he or she be discharged.
- (7) As soon as practicable after the person first appears or is brought before the Magistrate –
 - (a) the Magistrate shall inform the person that he or she is accused of the commission of an offence in a designated territory, or that he or she is alleged to be unlawfully at large in a designated territory;
 - (b) the Magistrate shall inform the person that he or she may consent to being extradited to the designated territory in which the person is accused of the commission of an offence or is alleged to have been convicted of an offence;
 - (c) the Magistrate shall explain to the person the effect of consent, and the procedure that will apply if the person gives consent; and
 - (d) the Magistrate shall also explain to the person that consent must be given in writing, and that it is irrevocable.
- (8) The Magistrate, when the person first appears or is brought before the Magistrate, shall remand the person in custody or on bail.
- (9) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (10) The Magistrate shall order that the person be discharged if the documents to which Article 7(8) refers are not received by the Magistrate –
 - (a) within 45 days commencing on the day on which the person was arrested; or

- (b) within any longer period that is specified, by Order, in respect of that designated territory.

The extradition hearing

12 Date of hearing on arrest under Article 8

- (1) When a person arrested under a warrant issued under Article 8 first appears or is brought before the Magistrate, the Magistrate shall fix a date on which the extradition hearing is to begin.
- (2) The date fixed under paragraph (1) shall not be later than the end of the period of 2 month commencing on the date on which the person first appears or is brought before the Magistrate.
- (3) If before the date fixed under paragraph (1) (or under this paragraph) a party to the proceedings applies to the Magistrate for a later date to be fixed, and the Magistrate believes that it is in the interests of justice to do so, the Magistrate may fix a later date.
- (4) An application under paragraph (3) may be made on more than one occasion, and the Magistrate may exercise his or her power under that paragraph on any such application.
- (5) If the extradition hearing does not begin on or before the date fixed under this Article, and the person applies to the Magistrate to be discharged, the Magistrate shall order that he or she be discharged.

13 Date of hearing on arrest under provisional warrant

- (1) When –
 - (a) a person is arrested under a provisional warrant; and
 - (b) the documents referred to in Article 7(8) are received by the Magistrate within the period required by Article 11(10),the Magistrate shall fix a date on which the extradition hearing is to begin.
- (2) The date fixed under paragraph (1) shall not be later than the end of the period of 2 month commencing on the date on which the Magistrate receives the documents.
- (3) If before the date fixed under paragraph (1) (or under this paragraph) a party to the proceedings applies to the Magistrate for a later date to be fixed, and the Magistrate believes that it is in the interests of justice to do so, the Magistrate may fix a later date.
- (4) An application under paragraph (3) may be made on more than one occasion, and the Magistrate may exercise the power under that paragraph on any such application.
- (5) If the extradition hearing does not begin on or before the date fixed under this Article, and the person applies to the Magistrate to be discharged, the Magistrate shall order that he or she be discharged.

14 General provisions as to extradition hearing

- (1) At the extradition hearing –
 - (a) the proceedings shall be conducted in the same way as proceedings that are conducted in accordance with Article 12A of the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949^[11]
 - (b) the Magistrate shall perform only a judicial role; and
 - (c) the Magistrate shall have the same powers (as nearly as may be) as he or she would have if the proceedings were a trial before the Magistrate of the person whose extradition is requested.
- (2) If the Magistrate adjourns the proceedings, the Magistrate shall remand the person in custody or on bail.

- (3) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (4) In relation to the extradition hearing, Article 2 of the Costs in Criminal Cases (Jersey) Law 1961^[12] shall apply as if –
 - (a) the reference in that other Law to conviction were a reference to an order that the person be extradited under this Law; and
 - (b) the reference in that other Law to discharge from prosecution were a reference to the person's discharge under this Law.

15 Initial stages of extradition hearing

- (1) If a person who is alleged to be the person whose extradition is requested appears or is brought before the Magistrate for the extradition hearing, the Magistrate shall decide whether the documents sent to the Magistrate under Article 7 consist of or include any of the following–
 - (a) the documents to which Article 7(8) refers;
 - (b) particulars of the person whose extradition is requested;
 - (c) particulars of the offence specified in the request;
 - (d) in the case of a person accused of an offence, a warrant for the person's arrest issued in the designated territory, or a judicial document issued in that designated territory and authorizing his or her arrest; and
 - (e) in the case of a person alleged to be unlawfully at large after conviction of an offence, a certificate of the conviction, and of the sentence (if the person has been sentenced), issued in the designated territory.
- (2) If the Magistrate decides in the negative the question in paragraph (1), the Magistrate shall order that the person be discharged.
- (3) If the Magistrate decides that question in the affirmative, the Magistrate shall decide –
 - (a) whether the person appearing or brought before the Magistrate is the person whose extradition is requested;
 - (b) whether the offence specified in the request is an extradition offence; and
 - (c) whether copies of the documents sent to the Magistrate under Article 6 have been served on the person.
- (4) The Magistrate shall decide the question in paragraph (3)(a) on a balance of probabilities.
- (5) If the Magistrate decides in the negative any of the questions in paragraph (3), the Magistrate shall order that the person be discharged.
- (6) If the Magistrate decides each of those questions in the affirmative, the Magistrate shall proceed under Article 16 (relating to bars to extradition).

16 Bars to extradition

- (1) If the Magistrate is to proceed under this Article, the Magistrate shall decide whether the person's extradition to the designated territory is barred by reason of –
 - (a) the rule against double jeopardy;
 - (b) extraneous considerations;
 - (c) the passage of time; or
 - (d) hostage-taking considerations.
- (2) The questions in paragraph (1) shall be determined in accordance with Articles 17 to 20 (inclusive).
- (3) If the Magistrate decides in the affirmative any of the questions in paragraph (1), the Magistrate shall

order the person's discharge.

- (4) If the Magistrate decides each of those questions in the negative, and the person is accused of the commission of the extradition offence but it is not alleged that the person is unlawfully at large after conviction of the offence, the Magistrate shall proceed under Article 21 (relating to persons who, though accused, have not been convicted).
- (5) If the Magistrate decides each of those questions in the negative, and it is alleged that the person is unlawfully at large after conviction of the extradition offence, the Magistrate shall proceed under Article 22 (relating to persons who have been convicted).

17 Rule against double jeopardy

A person's extradition to a designated territory is barred by reason of the rule against double jeopardy if (but only if) it appears that the person would be entitled to be discharged under any rule of law relating to previous acquittal or previous conviction if charged with the extradition offence in Jersey.

18 Extraneous considerations

A person's extradition to a designated territory is barred by reason of extraneous considerations if (but only if) it appears –

- (a) that the request for extradition, though purporting to be made on account of the extradition offence, is in fact made for the purpose of prosecuting or punishing the person on account of the person's race, religion, nationality, gender, sexual orientation or political opinions; or
- (b) that, if extradited, the person might be prejudiced at trial or punished, detained or restricted in personal liberty by reason of the person's race, religion, nationality, gender, sexual orientation or political opinions.

19 Passage of time

A person's extradition to a designated territory is barred by reason of the passage of time if (but only if) it appears that it would be unjust or oppressive to extradite the person by reason of the passage of time –

- (a) since the extradition offence was allegedly committed by the person; or
- (b) since the person is alleged to have become unlawfully at large, as the case may be.

20 Hostage-taking considerations

- (1) A person's extradition to a designated territory is barred by reason of hostage-taking considerations if (but only if) the designated territory is a party to the International Convention against the Taking of Hostages opened for signature at New York on 18th December 1979, and it appears that –
 - (a) the person, if extradited, might be prejudiced at trial because communication between the person and the appropriate authorities would not be possible; and
 - (b) the act or omission constituting the extradition offence also constitutes an offence under section 1 of the Taking of Hostages Act 1982 (c.28) of the United Kingdom as it applies to Jersey, or an attempt to commit such an offence.
- (2) The appropriate authorities are the authorities of the designated territory who are entitled to exercise rights of protection in relation to the person.
- (3) A certificate issued by the Attorney General that a territory is a party to the Convention is conclusive evidence of that fact for the purposes of paragraph (1).

21 Case where person has not been convicted

- (1) If the Magistrate is to proceed under this Article, but the designated territory to which extradition is requested is a designated territory of the first category, the Magistrate shall instead proceed directly under Article 24 (relating to human rights).
- (2) If the Magistrate is to proceed under this Article in respect of a request to extradite a person to a designated territory of the second category, the Magistrate shall decide whether there is sufficient evidence for the person to stand trial.
- (3) In deciding the question in paragraph (2), the Magistrate may treat a statement made by a person in a document as admissible evidence of a fact if –
 - (a) the statement is made by the person to a police officer or to another person charged with the duty of investigating offences or charging offenders; and
 - (b) direct oral evidence by the person of the fact would be admissible.
- (4) In deciding whether to treat a statement made by a person in a document as admissible evidence of a fact, the Magistrate shall in particular have regard to –
 - (a) the nature and source of the document;
 - (b) whether or not, having regard to the nature and source of the document and to any other circumstances that appear to the Magistrate to be relevant, it is likely that the document is authentic;
 - (c) the extent to which the statement appears to supply evidence that would not readily be available if the statement were not treated as being admissible evidence of the fact;
 - (d) the relevance of the evidence that the statement appears to supply to any issue likely to have to be determined by the Magistrate in deciding the question in sub-paragraph (1); and
 - (e) any risk that the admission or exclusion of the statement will result in unfairness to the person whose extradition is sought, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the proceedings.
- (5) A summary in a document of a statement made by a person shall be treated as a statement made by the person in the document for the purposes of paragraph (3).
- (6) If the Magistrate decides the question in paragraph (2) in the negative, the Magistrate shall order that the person be discharged.
- (7) If the Magistrate decides that question in the affirmative, the Magistrate shall proceed under Article 24 (human rights).

22 Case where person has been convicted

- (1) If the Magistrate is to proceed under this Article, he or she shall decide whether the person was present when convicted.
- (2) If the Magistrate decides that the person was present when convicted, the Magistrate shall proceed directly under Article 24 (human rights).
- (3) If the Magistrate decides that the person was not present when convicted, the Magistrate shall decide whether the person deliberately absented himself or herself from the trial.
- (4) If the Magistrate decides that the person deliberately absented himself or herself from the trial, the Magistrate shall proceed directly under Article 24 (human rights).
- (5) If the Magistrate decides that the person did not deliberately absent himself or herself from the trial, the Magistrate shall decide whether the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial.

- (6) If the Magistrate decides that the person did not deliberately absent himself or herself from the trial, the Magistrate shall order that the person be discharged.
- (7) If –
 - (a) the Magistrate decides that the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial; and
 - (b) the designated territory to which extradition is requested is a designated territory of the first category,
 the Magistrate shall proceed directly under Article 24 (human rights).
- (8) If –
 - (a) the Magistrate decides that the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial; and
 - (b) the designated territory to which extradition is requested is a designated territory of the second category,
 the Magistrate shall proceed under Article 23 (relating to convictions *in absentia*).
- (9) The Magistrate shall not decide under paragraph (7) or paragraph (8) that a person would be entitled to a retrial or (on appeal) to a review amounting to a retrial unless, in any proceedings that would allegedly constitute a retrial or review amounting to a retrial –
 - (a) the person would have the right to defend himself or herself in person or through legal assistance of his or her own choosing or, if the person does not have sufficient means to pay for legal assistance, the right to be given it free when the interests of justice so require; and
 - (b) the person would also have the right to examine witnesses against him or her or to have them examined, and to obtain the attendance and examination of witnesses on his or her own behalf under the same conditions as the witnesses against the person.

23 Conviction in absentia in designated territory of second category

- (1) If the Magistrate is to proceed under this Article, the Magistrate shall decide whether there is sufficient evidence for the person to stand trial.
- (2) In deciding the question in paragraph (1), the Magistrate may treat a statement made by a person in a document as admissible evidence of a fact if –
 - (a) the statement is made by the person to a police officer or to another person charged with the duty of investigating offences or charging offenders; and
 - (b) direct oral evidence by the person of the fact would be admissible.
- (3) A summary in a document of a statement made by a person shall be treated as a statement made by the person in the document for the purposes of paragraph (2).
- (4) In deciding whether to treat a statement made by a person in a document as admissible evidence of a fact, the Magistrate shall in particular have regard to –
 - (a) the nature and source of the document;
 - (b) whether or not, having regard to the nature and source of the document and to any other circumstances that appear to the Magistrate to be relevant, it is likely that the document is authentic;
 - (c) the extent to which the statement appears to supply evidence that would not readily be available if the statement were not treated as being admissible evidence of the fact;
 - (d) the relevance of the evidence that the statement appears to supply to any issue likely to have to be determined by the Magistrate in deciding the question in paragraph (1); and
 - (e) any risk that the admission or exclusion of the statement will result in unfairness to the person whose extradition is sought, having regard in particular to whether it is likely to be possible to

controvert the statement if the person making it does not attend to give oral evidence in the proceedings.

- (5) Except as otherwise provided in this Article, in deciding the question in paragraph (1), the Magistrate may admit evidence if (but only if) it would be admissible in criminal proceedings.
- (6) If the Magistrate decides in the negative the question in paragraph (1), the Magistrate shall order that the person be discharged.
- (7) If the Magistrate decides that question in the affirmative, the Magistrate shall proceed under Article 24 (human rights).

24 Consideration of human rights

- (1) If the Magistrate is required by any of Articles 21, 22 or 23 to proceed under this Article, the Magistrate shall decide whether the person's extradition would be compatible with the Convention Rights within the meaning of the Human Rights (Jersey) Law 2000.^[13]
- (2) If the Magistrate decides in the negative the question in paragraph (1), the Magistrate shall order that the person be discharged.
- (3) If the Magistrate decides that question in the affirmative, the Magistrate shall send the case to the Attorney General for the latter's decision as to whether the person is to be extradited.

25 Deferral by Magistrate where person charged with offence in Jersey

- (1) If at any time during the extradition hearing the Magistrate is informed on behalf of the Attorney General that the person is charged with an offence in Jersey, the Magistrate shall adjourn the extradition hearing until –
 - (a) the charge is disposed of;
 - (b) the charge is withdrawn;
 - (c) an order is made for the charge to lie on the file; or
 - (d) a declaration is made that the charge has been abandoned.
- (2) If a sentence of imprisonment or another form of detention is imposed in respect of the offence in Jersey with which the person is charged, the Magistrate may adjourn the extradition hearing until the sentence has been served.
- (3) If, before the Magistrate adjourns the extradition hearing under paragraph (2), he or she has decided under Article 17 whether the person's extradition is barred by reason of the rule against double jeopardy, the Magistrate must decide that question again after the resumption of the extradition hearing.

26 Deferral by Magistrate where person serving sentence in Jersey

If at any time during the extradition hearing the Magistrate is informed on behalf of the Attorney General that the person whose extradition is requested is serving a sentence of imprisonment or another form of detention in Jersey, the Magistrate may adjourn the extradition hearing until the sentence has been served.

27 Other requests for extradition

- (1) If at any time in the extradition hearing, the Magistrate is informed by or on behalf of the Attorney General –
 - (a) that the Attorney General has received another valid request for the person's extradition to a designated territory;

- (b) that the request has not been disposed of; and
- (c) that the Attorney General has made an order under Article 65(2) for further proceedings on the request under consideration by the Magistrate to be deferred until the other request has been disposed of,

the Magistrate shall remand the person in custody or on bail.

- (2) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.

28 Consideration of physical or mental condition

- (1) If at any time in the extradition hearing it appears to the Magistrate that the condition to which paragraph (2) refers is satisfied, the Magistrate shall—
 - (a) order the person’s discharge; or
 - (b) adjourn the extradition hearing until it appears to the Magistrate that the condition to which paragraph (2) refers is no longer satisfied.
- (2) The condition to which this paragraph refers is that the physical or mental condition of the person is such that it would be unjust or oppressive to extradite the person.

29 Sending of case to Attorney General

- (1) This Article applies if the Magistrate sends a case to the Attorney General for decision whether a person is to be extradited.
- (2) If this Article applies, the Magistrate shall inform the person in ordinary language –
 - (a) that the person has a right to appeal to the Royal Court; and
 - (b) that if the right of appeal is exercised, the appeal will not be heard until the Attorney General has made the decision.
- (3) However, paragraph (2) does not apply if the person has consented under Article 62 to his or her extradition.
- (4) If this Article applies, the Magistrate shall remand the person in custody or on bail –
 - (a) to await the Attorney General’s decision; and
 - (b) to await extradition to the designated territory to which extradition is requested (if the Attorney General orders the person to be extradited).
- (5) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.

Attorney General’s functions

30 Attorney General’s consideration of case

- (1) If the Magistrate sends a case to the Attorney General for a decision as to whether a person is to be extradited, the Attorney General shall decide whether he or she is prohibited under –
 - (a) Article 31 (relating to the death penalty);
 - (b) Article 32 (relating to speciality); or
 - (c) Article 33 (relating to earlier extradition to Jersey from another territory),from ordering the person’s extradition.
- (2) If the Attorney General decides that he or she is prohibited under any Article to which paragraph (1) refers from ordering the person’s extradition, the Attorney General shall order that the person be discharged.

- (3) If the Attorney General decides that he or she is not prohibited under any Article to which paragraph (1) refers from ordering the person's extradition, the Attorney General shall order the person to be extradited to the designated territory to which his or her extradition is requested unless –
 - (a) the Attorney General is informed that the request has been withdrawn;
 - (b) the Attorney General makes an order under paragraph (2) or paragraph (3) of Article 6 (relating to competing claims for extradition) for further proceedings on the request to be deferred and the person is discharged under Article 105; or
 - (c) the Attorney General orders under Article 114 (relating to national security) that the person be discharged.
- (4) In deciding the questions in paragraph (1), the Attorney General is not required to consider any representations received by him or her after the end of the permitted period.
- (5) The permitted period is the period of 6 weeks starting with the appropriate day.

31 Death penalty

- (1) The Attorney General shall not order a person's extradition to a designated territory if the person could be, will be or has been sentenced to death for the offence concerned in that designated territory.
- (2) Paragraph (1) does not apply if the Attorney General receives a written assurance that a sentence of death –
 - (a) will not be imposed; or
 - (b) if imposed, will not be carried out,and the Attorney General considers that assurance adequate.

32 Speciality

- (1) The Attorney General shall not order a person's extradition to a designated territory if there are no speciality arrangements with that designated territory.
- (2) Paragraph (1) does not apply if before the case was sent to the Attorney General, the person had consented under Article 62 to being extradited.
- (3) There are speciality arrangements with a designated territory if (but only if) under the law of that designated territory or arrangements made between it and Jersey, a person who is extradited to the designated territory from Jersey may be dealt with in the designated territory for an offence committed before the person's extradition only where –
 - (a) the offence is one to which paragraph (4) refers; or
 - (b) the person is first given an opportunity to leave the designated territory.
- (4) The offences to which this paragraph refers are –
 - (a) the offence in respect of which the person is extradited;
 - (b) an extradition offence disclosed by the same facts as that offence, other than one in respect of which a sentence of death could be imposed;
 - (c) an extradition offence in respect of which the Attorney General consents to the person's being dealt with; and
 - (d) an offence in respect of which the person waives the right that he or she would have had (but for this sub-paragraph) not to be dealt with for the offence.
- (5) Arrangements made with a designated territory that is a Commonwealth country or a British overseas territory may be made –
 - (a) for a particular case;

- (b) for a particular class or particular classes of case; or
 - (c) generally, in respect of all cases.
- (6) A certificate issued by or under the authority of the Attorney General confirming the existence of arrangements with a designated territory that is a Commonwealth country or a British overseas territory and stating the terms of the arrangements is conclusive evidence of those matters.

33 Earlier extradition to Jersey from another territory

The Attorney General shall not order a person's extradition to a designated territory if –

- (a) the person was extradited to Jersey from another territory (the extraditing territory);
- (b) under arrangements existing between Jersey and the extraditing territory, that territory's consent is required to the person's extradition from Jersey to the designated territory in respect of the extradition offence under consideration; and
- (c) that consent has not been given on behalf of the extraditing territory.

34 Deferral by Attorney General where person charged with offence in Jersey

- (1) If the Magistrate sends a case to the Attorney General for a decision as to whether a person is to be extradited, and the person is charged with an offence in Jersey, the Attorney General shall not make a decision with regard to the person's extradition until –
 - (a) the charge is disposed of;
 - (b) the charge is withdrawn;
 - (c) an order is made for the charge to lie on the file; or
 - (d) a declaration is made that the charge has been abandoned.
- (2) If a sentence of imprisonment or another form of detention is imposed in respect of the offence in Jersey with which the person is charged, the Attorney General may defer making a decision with regard to the person's extradition until the sentence has been served.

35 Deferral by Attorney General where person serving sentence in Jersey

If –

- (a) the Magistrate sends a case to the Attorney General for a decision as to whether a person is to be extradited; and
 - (b) the person is serving a sentence of imprisonment or another form of detention in Jersey,
- the Attorney General may defer making a decision with regard to the person's extradition until the sentence has been served.

36 Time limit for order for extradition or discharge

- (1) If –
 - (a) the Magistrate sends a case to the Attorney General for a decision whether a person is to be extradited;
 - (b) within the period of 2 months commencing on the appropriate day, the Attorney General does not make an order for the person's extradition or discharge; and
 - (c) the person applies to the Royal Court to be discharged,the Royal Court shall order that the person be discharged.

- (2) The Royal Court may, on an application made by the Attorney General before the end of the period specified in paragraph (1)(b), extend that period from time to time.

37 The appropriate day

- (1) This Article applies for the purposes of Articles 30 and 36 if the Magistrate sends a case to the Attorney General for the Attorney General's decision whether a person is to be extradited.
- (2) If the person is charged with an offence in Jersey, the appropriate day is –
 - (a) the day on which the charge is disposed of;
 - (b) the day on which the charge is withdrawn;
 - (c) the day on which an order is made for the charge to lie on the file; or
 - (d) the day on which a declaration is made that the charge has been abandoned.
- (3) If under Article 34(2) or Article 35 the Attorney General defers making a decision until the person has served a sentence, the appropriate day is the day on which the person finishes serving the sentence.
- (4) If Article 65 (competing extradition requests) applies to the request for the person's extradition (the request concerned), the appropriate day is –
 - (a) the day on which the Attorney General makes an order under Article 65, if the order is for proceedings on the other request to be deferred; or
 - (b) the day on which an order is made under Article 105, if the order under Article 65(2) is for proceedings on the request concerned to be deferred and the order under Article 103 is for the proceedings to be resumed.
- (5) If more than one of paragraphs (2) to (4) (inclusive) applies, the appropriate day is the latest of the days specified in those paragraphs that applies.
- (6) In any other case, the appropriate day is the day on which the Magistrate sends the case to the Attorney General for a decision as to whether the person is to be extradited.

38 Information to be given by Attorney General

- (1) If the Attorney General orders a person's extradition under this Part, the Attorney General shall –
 - (a) inform the person of the order;
 - (b) inform the person in ordinary language that he or she has a right of appeal to the Royal Court; and
 - (c) inform any person who is acting on behalf of the designated territory concerned that the Attorney General has made the order.
- (2) However, the requirement to inform a person of his or her right of appeal does not apply if the person has consented under Article 62 to being extradited.
- (3) If the Attorney General –
 - (a) orders a person's extradition under this Part; and
 - (b) has received in respect of the matter an assurance to which Article 31(2) (death sentence) refers,the Attorney General shall give the person a copy of the assurance when under paragraph (1) informing the person of the order.
- (4) If the Attorney General orders that a person be discharged, the Attorney General shall inform –
 - (a) the person; and
 - (b) a person acting on behalf of the designated territory concerned,

that the Attorney General has made the order.

39 Making of order for extradition or discharge

An order –

- (a) under Article 30 for a person's extradition; or
- (b) under Article 30 or Article 59 (relating to the withdrawal of an extradition request after the case is sent to the Attorney General) that a person be discharged,

shall be made in writing, and signed by the Attorney General or by a Crown Advocate authorized by the Attorney General for that purpose.

Appeals

40 Appeal to Royal Court against sending of case to Attorney General

- (1) A person may appeal to the Royal Court against a decision by the Magistrate that results in the case being sent to the Attorney General for a decision as to whether the person is to be extradited.
- (2) However, paragraph (1) does not apply if before the case was sent to the Attorney General the person consented under Article 62 to being extradited.
- (3) An appeal under this Article may be brought on a question of law or fact.
- (4) If an appeal is brought under this Article before the Attorney General has decided whether the person is to be extradited, the appeal shall not be heard until the Attorney General has made that decision.
- (5) No appeal may be brought or proceeded with under this Article if the Attorney General has ordered that the person be discharged.
- (6) Notice of an appeal under this Article shall be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which the Attorney General informs the person under Article 38(1) that the Attorney General has ordered the person's extradition.

41 Royal Court's powers on appeal against sending of case to Attorney General

- (1) On an appeal under Article 41, the Royal Court may–
 - (a) allow the appeal;
 - (b) direct the Magistrate to decide again any question or questions that the Magistrate decided at the extradition hearing; or
 - (c) dismiss the appeal.
- (2) The Royal Court may allow the appeal only on the ground specified in paragraph (3) or the ground specified in paragraph (4).
- (3) The ground to which this paragraph refers is –
 - (a) that the Magistrate ought to have decided differently a question before the Magistrate at the extradition hearing; and
 - (b) that if the Magistrate had decided the question in the way in which it ought to have decided, the Magistrate would have been required to order that the person be discharged.
- (4) The ground to which this paragraph refers is –
 - (a) that an issue is raised that was not raised at the extradition hearing, or that evidence is available that was not available at the extradition hearing;
 - (b) that the issue or evidence would have resulted in the Magistrate's deciding differently a

question before the Magistrate at the extradition hearing; and

- (c) that if the Magistrate had decided the question in that different way, the Magistrate would have been required to order that the person be discharged.
- (5) If the Royal Court allows the appeal, it shall –
- (a) order that the person be discharged; and
 - (b) quash the order for the person’s extradition.
- (6) Where, on an appeal under Article 40, the Royal Court has directed the Magistrate to decide any question or questions again, and the Magistrate does so –
- (a) if the Magistrate comes to a different decision on any such question than at the extradition hearing, the Magistrate shall order that the person be discharged; and
 - (b) if the Magistrate does not come to a different decision on any such question than at the extradition hearing, the appeal shall be taken to have been dismissed by a decision of the Royal Court.

42 Appeal to Royal Court against discharge by Magistrate

- (1) An appeal on behalf of the designated territory concerned may be brought to the Royal Court against a decision by the Magistrate at an extradition hearing that results in the Magistrate’s ordering that a person be discharged.
- (2) However, paragraph (1) does not apply if the order that the person be discharged was made under Article 58 (relating to the withdrawal of an extradition request before the end of the extradition hearing).
- (3) An appeal under this Article may be brought on a question of law or fact.
- (4) Notice of an appeal under this Article shall be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which the order for the person’s discharge is made.

43 Royal Court’s powers on appeal against discharge by Magistrate

- (1) On an appeal under Article 42, the Royal Court may–
 - (a) allow the appeal;
 - (b) direct the Magistrate to decide the relevant question again; or
 - (c) dismiss the appeal.
- (2) A question is the relevant question if the Magistrate’s decision on it resulted in the order that the person be discharged.
- (3) The Royal Court may allow the appeal only on the ground specified in paragraph (4) or the ground specified in paragraph (5).
- (4) The ground to which this paragraph refers is –
 - (a) that the Magistrate ought to have decided the question differently; and
 - (b) that if the Magistrate had decided the question in the way in which it ought to have been decided, the Magistrate would not have been required to order that the person be discharged.
- (5) The ground to which this paragraph refers is –
 - (a) that an issue is raised that was not raised at the extradition hearing, or that evidence is available that was not available at the extradition hearing;
 - (b) that the issue or evidence would have resulted in the Magistrate’s deciding differently the question in respect of which the decision resulted in the order that the person be discharged; and

- (c) that if the Magistrate had decided the question in that way, he or she would not have been required to order that the person be discharged.
- (6) If the Royal Court allows the appeal, it shall –
 - (a) quash the order that the person be discharged;
 - (b) remit the case to the Magistrate; and
 - (c) direct the Magistrate to proceed as required if the Magistrate had decided the question differently at the extradition hearing.
- (7) Where, on an appeal under Article 42, the Royal Court has directed the Magistrate to decide a question again, and the Magistrate does so –
 - (a) if the Magistrate comes to a different decision on the question than at the extradition hearing, the Magistrate shall proceed as would have been required if he or she had decided it in that different way at the extradition hearing; and
 - (b) if the Magistrate does not come to a different decision on the question than at the extradition hearing, the appeal shall be taken to have been dismissed by a decision of the Royal Court.

44 Detention pending conclusion of appeal against discharge by Magistrate

- (1) If immediately after the Magistrate orders that a person be discharged, the Magistrate is informed on behalf of the designated territory concerned of an intention to appeal under Article 42, the Magistrate shall remand the person in custody or on bail while the appeal is pending.
- (2) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (3) An appeal under Article 42 ceases to be pending when–
 - (a) it is abandoned;
 - (b) the Royal Court dismisses the appeal and the circumstances to which paragraph (4) refers apply;
 - (c) the end of the period of 28 days commencing on the day on which leave to appeal to the Privy Council, against the decision of the Royal Court on the appeal, is granted; or
 - (d) no further step can be taken on behalf of the designated territory in relation to the appeal unless a court grants leave to take a step out of time,
 whichever occurs first.
- (4) The circumstances to which this paragraph refers are that on the dismissing of the appeal by the Royal Court the court is not immediately informed on behalf of the designated territory of an intention to apply for such leave.

45 Appeal to Royal Court against extradition order by Attorney General

- (1) A person may appeal to the Royal Court against a decision by the Attorney General ordering the person's extradition.
- (2) However, paragraph (1) does not apply if the person has under Article 62 consented to be extradited.
- (3) An appeal under this Article may be brought on a question of law or fact.
- (4) Notice of an appeal under this Article shall be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which the Attorney General informs the person under Article 38(1) that the Attorney General has ordered the person's extradition.

46 Royal Court's powers on appeal against extradition order by Attorney General

- (1) On an appeal under Article 42, the Royal Court may allow or dismiss the appeal.
- (2) The Royal Court may allow the appeal only on the ground specified in paragraph (3) or the ground specified in paragraph (4).
- (3) The ground to which this paragraph refers is –
 - (a) that the Attorney General ought to have decided differently a question before the Attorney General; and
 - (b) that if the Attorney General had decided the question in the way in which it ought to have been decided, the Attorney General would not have ordered the person's extradition.
- (4) The ground to which this paragraph refers is –
 - (a) that an issue is raised that was not raised when the case was being considered by the Attorney General, or information is available that was not available at that time;
 - (b) that the issue or information would have resulted in the Attorney General deciding differently a question before the Attorney General; and
 - (c) that if the Attorney General had decided the question in that way, he or she would not have ordered the person's extradition.
- (5) If the Royal Court allows the appeal, it shall –
 - (a) order that the person be discharged; and
 - (b) quash the order for the person's extradition.

47 Appeal to Royal Court against discharge by Attorney General

- (1) An appeal may be brought on behalf of the designated territory concerned, to the Royal Court, against a decision by the Attorney General that results in the Attorney General's ordering that a person be discharged.
- (2) However, paragraph (1) does not apply if the order that the person be discharged was made under Article 59 (withdrawal of extradition request after case sent to Attorney General).
- (3) An appeal under this Article may be brought on a question of law or fact.
- (4) Notice of an appeal under this Article must be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which under Article 38(4) the Attorney General informs a person acting on behalf of the designated territory that the order has been made.

48 Royal Court's powers on appeal against discharge by Attorney General

- (1) On an appeal under Article 47, the Royal Court may–
 - (a) allow the appeal; or
 - (b) dismiss the appeal.
- (2) The Royal Court may allow the appeal only on the ground specified in paragraph (3) or the ground specified in paragraph (4).
- (3) The ground to which this paragraph refers is –
 - (a) that the Attorney General ought to have decided differently a question before the Attorney General; and
 - (b) that if the Attorney General had decided the question in the way in which it ought to have been decided, the Attorney General would have ordered the person's extradition.
- (4) The ground to which this paragraph refers is –
 - (a) that an issue is raised that was not raised when the case was being considered by the Attorney General, or information is available that was not available at that time;

- (b) that the issue or information would have resulted in the Attorney General deciding differently a question before the Attorney General; and
 - (c) if the Attorney General had decided the question in that way, the Attorney General would have ordered the person's extradition.
- (5) If the Royal Court allows the appeal, it shall –
- (a) quash the order the person that the person be discharged; and
 - (b) order the person's extradition.

49 Detention pending conclusion of appeal against discharge by Attorney General

- (1) If, immediately after the Attorney General orders that a person be discharged, the Attorney General is informed on behalf of the designated territory of an intention to appeal under Article 47, the Magistrate shall remand the person in custody or on bail while the appeal is pending.
- (2) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (3) An appeal under Article 47 is pending until–
 - (a) it is abandoned;
 - (b) the Royal Court dismisses the appeal and the circumstances to which paragraph (4) refers apply;
 - (c) the end of the period of 28 days commencing on the day on which leave to appeal to the Privy Council, against the decision of the Royal Court on the appeal, is granted; or
 - (d) no further step can be taken on behalf of the designated territory in relation to the appeal unless a court grants leave to take a step out of time,
 whichever occurs first.
- (4) The circumstances to which this paragraph refers are that on the dismissing of the appeal by the Royal Court the court is not immediately informed on behalf of the designated territory of an intention to apply for such leave.

50 Costs on appeal to Royal Court

On any appeal to it under this Part, the Royal Court may make such order as costs (in respect of the proceedings before it or in respect of the extradition hearing) as it considers just and reasonable.

51 Time limit for start of hearing of appeal to Royal Court

- (1) Rules of court shall prescribe the period within which the Royal Court shall begin to hear an appeal under any of Articles 40, 42, 45 and 47.
- (2) The Royal Court may from time to time extend the period in a particular case, if the court believes that it is in the interests of justice to do so.
- (3) The Royal Court shall begin to hear the appeal before the end of the period.
- (4) If paragraph (3) is not complied with and the appeal is under Article 40 or Article 45
 - (a) the appeal shall be taken to have been allowed by a decision of the Royal Court;
 - (b) the person whose extradition has been ordered shall be taken to have been discharged by order of the Royal Court; and
 - (c) the order for the person's extradition shall be taken to have been quashed by the Royal Court.
- (5) If paragraph (3) is not complied with and the appeal is under Article 42 or Article 47, the appeal shall be taken to have been dismissed by a decision of the Royal Court.

52 Further appeal to Privy Council

- (1) An appeal lies to the Privy Council from a decision of the Royal Court on an appeal under any of Articles 40, 42, 45 and 47.
- (2) An appeal under this Article lies at the instance of –
 - (a) the person whose extradition is requested; or
 - (b) a person acting on behalf of the designated territory.
- (3) An appeal under this Article lies only with the leave of the Royal Court or the Privy Council.
- (4) Leave to appeal under this Article shall not be granted unless –
 - (a) the Royal Court has certified that there is a point of law of general public importance involved in the decision; and
 - (b) it appears to the court granting leave that the point is one that ought to be considered by the Privy Council.
- (5) An application to the Royal Court for leave to appeal under this Article against its decision shall be made before the end of the period of 14 days commencing on the day on which the court makes that decision.
- (6) An application to the Privy Council for leave to appeal under this Article shall be made before the end of the period of 14 days commencing on the day on which the Royal Court refuses leave to appeal.
- (7) If leave to appeal under this Article is granted, the appeal shall be brought before the end of the period of 28 days commencing on the day on which leave is granted.
- (8) If paragraph (7) is not complied with–
 - (a) the appeal shall be taken to have been brought; and
 - (b) the appeal shall be taken to have been dismissed by the Privy Council immediately after the end of the period specified in that paragraph.
- (9) For the purpose of paragraph (8)(b)–
 - (a) any power of a court to extend the period permitted for giving notice of appeal; and
 - (b) any power of a court to grant leave to take a step out of time,shall be disregarded.
- (10) The Royal Court may grant bail to a person appealing under this Article or applying for leave to appeal under this Article.

53 Powers of Privy Council on appeal

- (1) On an appeal under Article 52, the Privy Council may allow or dismiss the appeal.
- (2) If the person whose extradition is requested brings an appeal under Article 52, and the Privy Council allows the appeal, the Privy Council shall –
 - (a) order that the person be discharged; and
 - (b) if the appeal was against a decision of the Royal Court to dismiss an appeal under Article 40 or Article 45 or to allow an appeal under Article 47, quash the order for the person's extradition.
- (3) If –
 - (a) the Royal Court allows an appeal under Article 40 or 45 by the person whose extradition is requested or dismisses an appeal under Article 47 by a person acting on behalf of the designated territory;

- (b) a person acting on behalf of the designated territory brings an appeal under Article 52 against the decision of the Royal Court; and
- (c) the Privy Council allows the appeal,

the Privy Council shall quash the order discharging the person made by the Royal Court under Article 41(5) or Article 48(5), or by the Attorney General under this Part, and order the person to be extradited.

- (4) If –
 - (a) the Royal Court dismisses an appeal under Article 42 against a decision made by the Magistrate at the extradition hearing;
 - (b) a person acting on behalf of the designated territory brings an appeal under Article 52 against the decision of the Royal Court; and
 - (c) the Privy Council allows the appeal,the Privy Council shall take the steps to which paragraph (5) refers.
- (5) The steps to which this paragraph refers are –
 - (a) to quash the order of the Magistrate discharging the person whose extradition is requested;
 - (b) to remit the case to the Magistrate; and
 - (c) to direct the Magistrate to proceed as he or she would have been required to do if the Magistrate had decided the relevant question differently.
- (6) A question is the relevant question if the Magistrate's decision on it resulted in the order that the person be discharged.

54 Appeal to be only remedy

A decision under this Part of the Magistrate or the Attorney General may be questioned in legal proceedings only by means of an appeal under this Part.

Time limit for extradition

55 Time limit for extradition if there is no appeal

- (1) If –
 - (a) the Attorney General orders a person's extradition to a designated territory; and
 - (b) no notice of an appeal under Article 40 or Article 45 is given before the end of the period of 14 days commencing on the day on which the Attorney General informs the person under Article 38(1) that the Attorney General has ordered the person's extradition,the person shall be extradited to the designated territory before the end of the period of 28 days commencing the day on which the Attorney General makes the order.
- (2) If –
 - (a) the person is not extradited to the designated territory before the end of the period of 28 days commencing the day on which the Attorney General makes the order; and
 - (b) the person applies to the Magistrate to be discharged,the Magistrate shall order that the person be discharged, unless reasonable cause is shown for the delay.
- (3) For the purposes of paragraph (1)–
 - (a) any power of a court to extend the period permitted for giving notice of appeal; and
 - (b) any power of a court to grant leave to take a step out of time,

shall be disregarded.

- (4) This Article is subject to Article 57(6).

56 Time limit for extradition if there is an appeal

- (1) If –
- (a) there is an appeal to the Royal Court under any of Articles 40, 45 and 47 against a decision or order relating to a person's extradition to a designated territory; and
 - (b) the effect of the decision of the relevant court on appeal is that the person is to be extradited there,
- the person shall be extradited to the designated territory before the end of the required period.
- (2) The required period is 28 days commencing–
- (a) on the day on which the decision of the relevant court on appeal becomes final; or
 - (b) the day on which further proceedings on appeal are abandoned.
- (3) The relevant court on appeal is –
- (a) the Royal Court, if there is no further appeal to the Privy Council against the decision on the appeal to the Royal Court, or proceedings on any further appeal to the Privy Council are abandoned; or
 - (b) the Privy Council, if there is a further appeal to the Privy Council and proceedings on that further appeal are not abandoned.
- (4) The decision of the Royal Court becomes final –
- (a) at the end of the period for applying to the Royal Court for leave to appeal to appeal to the Privy Council under Article 52, if there is no application to the Royal Court for leave under Article 52(5);
 - (b) at the end of the period permitted for applying to the Privy Council for leave to appeal under Article 52, if the Royal Court refuses leave to appeal under Article 52(5) and there is an application to the Privy Council itself for leave under Article 52(6);
 - (c) if the Privy Council refuses leave to appeal under Article 52(6); or
 - (d) if, leave to appeal under Article 52 having been granted, paragraph (7) of that Article (relating to the time for bringing the appeal) is not complied with.
- (5) The decision of the Privy Council becomes final when it is made.
- (6) If –
- (a) paragraph (1) is not complied with; and
 - (b) the person applies to the Magistrate to be discharged,
- the Magistrate shall order that the person be discharged, unless reasonable cause is shown for the delay.
- (7) For the purposes of paragraph (4)–
- (a) any power of a court to extend the period permitted for giving notice of appeal; and
 - (b) any power of a court to grant leave to take a step out of time,
- shall be disregarded.
- (8) This Article is subject to Article 57(6).

57 Undertaking in relation to person serving sentence in Jersey

- (1) If –

- (a) the Attorney General orders a person's extradition to a designated territory; and
 - (b) the person is serving a sentence of imprisonment or another form of detention in Jersey,
- the Attorney General may make the order for extradition subject to the condition that extradition is not to take place before the Attorney General receives an undertaking given on behalf of the designated territory in terms specified by the Attorney General.
- (2) The terms that may be specified by the Attorney General in relation to a person accused in a designated territory of the commission of an offence include terms –
 - (a) that the person be kept in custody until the conclusion of the proceedings against the person for the offence and any other offence in respect of which the person is permitted to be dealt with in the designated territory; and
 - (b) that the person be returned to Jersey on the conclusion of those proceedings to serve the remainder of the person's sentence.
 - (3) The terms that may be specified by the Attorney General in relation to a person alleged to be unlawfully at large after conviction of an offence by a court in a designated territory include terms that the person be returned to Jersey to serve the remainder of his or her sentence after serving any sentence imposed on that person in the designated territory for –
 - (a) the offence; and
 - (b) any other offence in respect of which the person is permitted to be dealt with in the designated territory.
 - (4) Paragraphs (5) and (6) apply if the Attorney General makes an order for extradition subject to a condition under paragraph (1).
 - (5) If the Attorney General does not receive the undertaking before the end of the period of 21 days commencing on the day on which he or she makes the order, and the person applies to the Royal Court to be discharged, the court shall order that the person be discharged.
 - (6) If the Attorney General receives the undertaking before the end of that period –
 - (a) in a case where Article 55 (relating to the time limit for extradition if there is no appeal) applies, the period of 28 days specified in Article 55(1) for the person's extradition to the designated territory concerned shall commence on the day on which the Attorney General receives the undertaking; and
 - (b) in a case where Article 56 (relating to the time limit for extradition if there is an appeal) applies, the period of 28 days specified in Article 56(2) for the person's extradition to the designated territory concerned shall commence on the day on which the decision on the appeal becomes final (within the meaning of that Article) or the day on which the Attorney General receives the undertaking, whichever is later.

Withdrawal of request for extradition

58 Withdrawal of request before end of extradition hearing before Magistrate

- (1) If, at any time in the period to which paragraph (2) refers, the Magistrate is informed by the Attorney General that a request for a person's extradition has been withdrawn, the Magistrate shall order that the person be discharged.
- (2) The period to which this paragraph refers is the period –
 - (a) commencing when the person first appears or is brought before the Magistrate following the person's arrest; and
 - (b) ending when the Magistrate orders the person to be discharged or sends the case to the Attorney General for a decision as to whether the person is to be extradited.
- (3) If the person is not before the Magistrate at the time when the Magistrate orders that the person be

discharged, the Magistrate shall inform the person of the order as soon as practicable.

59 Withdrawal of request after case sent to Attorney General

If, at any time in the period –

- (a) commencing when the Magistrate sends the case to the Attorney General for a decision as to whether the person is to be extradited; and
- (b) ending when the person is extradited in pursuance of the request for extradition or is discharged,

the Attorney General is informed that the request for the person's extradition has been withdrawn, the Attorney General shall order that the person be discharged.

60 Withdrawal of request while appeal to Royal Court pending

(1) If at any time in the period –

- (a) commencing when notice of an appeal to the court is given by the person whose extradition is requested or by a person acting on behalf of the designated territory to which the person's extradition is requested; and
- (b) ending when proceedings on the appeal are abandoned or the court makes its decision on the appeal,

the Royal Court is informed by the Attorney General that a request for a person's extradition has been withdrawn, the court shall take the steps specified in paragraph (2) or paragraph (3) (as the case requires).

- (2) If the appeal is under Article 40 or Article 45 (relating to appeals by persons whose extradition is requested), the Royal Court shall –
 - (a) order the person's discharge; and
 - (b) quash the order for the person's extradition, if the Attorney General has ordered the person's extradition.
- (3) If the appeal is under Article 42 or Article 47 (relating to appeals against the discharge of person whose extradition is requested), the Royal Court shall dismiss the appeal.
- (4) If the person is not before the Royal Court at the time when the court orders his or her discharge, the court shall inform the person of the order as soon as practicable.

61 Withdrawal of request while appeal to Privy Council pending

(1) If at any time in the period –

- (a) commencing when leave to appeal to the Privy Council is granted to the person whose extradition is requested or a person acting on behalf of the designated territory to which that extradition is requested; and
- (b) ending when proceedings on the appeal are abandoned or the Privy Council makes its decision on the appeal,

the Privy Council is informed by the Attorney General that a request for a person's extradition has been withdrawn, the Privy Council shall take the steps specified in paragraph (2) or paragraph (3) (as the case requires).

- (2) If the appeal is brought by the person whose extradition is requested, the Privy Council shall –
 - (a) order that the person be discharged; and
 - (b) quash the order for the person's extradition, in a case where the appeal was against a decision of the Royal Court to dismiss an appeal under Article 40 or Article 45 (appeals by person

whose extradition is requested).

- (3) If the appeal is brought by a person acting on behalf of the designated territory, the Privy Council shall dismiss the appeal.
- (4) If the person whose extradition is requested is not before the Privy Council at the time when it orders that the person be discharged, the Privy Council shall inform the person of the order as soon as practicable.

Consent to extradition

62 General provisions as to consent to extradition

- (1) A person arrested under a warrant issued under Article 8 may consent to being extradited to the designated territory to which extradition is requested.
- (2) A person arrested under a provisional warrant may consent to being extradited to the designated territory in which the person is accused of the commission of an offence or is alleged to have been convicted of an offence.
- (3) Consent under this Article must be given in writing, and is irrevocable.

63 Consent to extradition before case sent to Attorney General

- (1) If a person consents under Article 62 to being extradited before the person's case is sent to the Attorney General for the Attorney General's decision as to whether the person is to be extradited, the consent must be given to the Magistrate, in a manner to be prescribed by rules of court.
- (2) If the Magistrate has not under Article 12 or Article 13 fixed a date on which the extradition hearing is to begin, the Magistrate is not required to do so.
- (3) If the extradition hearing has begun, the Magistrate is no longer required to proceed or continue proceeding under any of Articles 15 to 28 (inclusive) (relating to the extradition hearing).
- (4) The Magistrate shall send the case to the Attorney General for a decision as to whether the person is to be extradited.
- (5) The person shall be taken to have waived any right that he or she would have (apart from the consent) not to be dealt with in the designated territory for an offence committed before the person's extradition.

64 Consent to extradition after case sent to Attorney General

If a person consents to being extradited under Article 62 after the person's case is sent to the Attorney General for a decision as to whether the person is to be extradited, the consent shall be given to the Attorney General.

Competing extradition requests

65 Competing extradition requests

- (1) This Article applies if –
 - (a) the Attorney General receives a valid request for a person's extradition to a designated territory;
 - (b) the person is in Jersey; and
 - (c) before the person is extradited in pursuance of the request or discharged, the Attorney General

receives another valid request for the person's extradition.

- (2) If neither of the requests has been disposed of, the Attorney General may order proceedings (or further proceedings) on one of the requests to be deferred until the other request has been disposed of.
- (3) If an order for a person's extradition has been made in pursuance of the request under consideration, the Attorney General may order the person's extradition in pursuance of that request to be deferred until the other request has been disposed of.
- (4) In applying this Article, the Attorney General shall take account of –
 - (a) the relative seriousness of the offences concerned;
 - (b) the place where each offence was committed (or was alleged to have been committed);
 - (c) the date when each offence was committed (or was alleged to have been committed);
 - (d) the date when each request was received; and
 - (e) whether, in the case of each offence, the person is alleged to be accused of its commission (but not convicted of the offence), or is alleged to be unlawfully at large after conviction of the offence.

Post-extradition matters

66 Consent to dealing with another offence

- (1) This Article applies if –
 - (a) a person is extradited to a designated territory; and
 - (b) the Attorney General receives a valid request for the Attorney General's consent to the person being dealt with in the designated territory for an offence other than the offence in respect of which the person was extradited.
- (2) A request for consent is valid if it is made by an authority of the designated territory, and the Attorney General believes that the authority has the function in that designated territory of making requests for the consent to which paragraph (1)(b) refers.
- (3) The Attorney General shall serve notice on the person that the Attorney General has received the request for consent, unless the Attorney General is satisfied that it would be impracticable to do so.
- (4) The Attorney General shall decide whether the offence is an extradition offence.
- (5) If the Attorney General decides that the offence is not an extradition offence, the Attorney General shall refuse to give consent.
- (6) If the Attorney General decides that the offence is an extradition offence, the Attorney General shall decide whether the Magistrate would send the case to the Attorney General under Articles 16 to 28 (inclusive) for the Attorney General's decision whether the person should be extradited if –
 - (a) the person were in Jersey; and
 - (b) the Magistrate were required to proceed under Article 16 in respect of the offence for which the Attorney General's consent is requested.
- (7) If the Attorney General decides the question in paragraph (6) in the negative, the Attorney General shall refuse to give consent.
- (8) If the Attorney General decides that question in the affirmative, the Attorney General shall decide whether, if the person were in Jersey, the person's extradition in respect of the offence would be prohibited under any of Articles 31, 32 and 33.
- (9) If the Attorney General decides the question in paragraph (8) in the affirmative, the Attorney General shall refuse to give consent.

- (10) If the Attorney General decides that question in the affirmative, the Attorney General may give consent.

67 Consent to further extradition to designated territory

- (1) This Article applies if –
 - (a) a person is extradited to a designated territory (the requesting territory); and
 - (b) the Attorney General receives a valid request for the Attorney General’s consent to the person’s extradition to another designated territory for an offence other than the offence in respect of which the person was extradited.
- (2) A request for consent is valid if it is made by an authority that is an authority of the requesting territory, and the Attorney General believes that the authority has the function in that territory of making requests for the consent to which paragraph (1)(b) refers.
- (3) The Attorney General shall serve notice on the person that the Attorney General has received the request for consent, unless the Attorney General is satisfied that it would be impracticable to do so.
- (4) The Attorney General shall decide whether the offence is an extradition offence in relation to the designated territory to which paragraph (1)(b) refers.
- (5) If the Attorney General decides that the offence is not an extradition offence, the Attorney General shall refuse to give consent.
- (6) If the Attorney General decides that the offence is an extradition offence, the Attorney General shall decide whether the Magistrate would send the case to the Attorney General under Articles 16 to 28 (inclusive) for the Attorney General’s decision whether the person should be extradited if –
 - (a) the person were in Jersey; and
 - (b) the Magistrate were required to proceed under Article 16 in respect of the offence for which the Attorney General’s consent is requested.
- (7) If the Attorney General decides the question in paragraph (6) in the negative, the Attorney General shall refuse to give consent.
- (8) If the Attorney General decides that question in the affirmative, the Attorney General shall decide whether, if the person were in Jersey, the person’s extradition in respect of the offence would be prohibited under any of Articles 31, 32 and 33.
- (9) If the Attorney General decides the question in paragraph (8) in the affirmative, the Attorney General shall refuse to give consent.
- (10) If the Attorney General decides that question in the affirmative, the Attorney General may give consent.

68 Service of notices

Service of a notice on a person under either of Articles 66 and 67 may be effected –

- (a) by delivering the notice to the person;
- (b) by leaving it for the person with another person at the last known or usual place of abode of the person to be served; or
- (c) by sending it to the person to be served, by post in a letter addressed to him or her at that place of abode.

69 Return of person to Jersey to serve remainder of sentence

- (1) This Article applies to a person who –

- (a) is serving a sentence of imprisonment or another form of detention in Jersey;
 - (b) is extradited to a designated territory; and
 - (c) is subsequently returned to Jersey to serve the remainder of that sentence.
- (2) A person to whom this Article applies is liable to be detained in pursuance of the person's sentence.
 - (3) If the person is at large, he or she shall be treated as being unlawfully at large.
 - (4) Time during which, as a result of his or her extradition, the person was not in Jersey shall not count as time served by the person as part of his or her sentence.
 - (5) Paragraph (4) does not apply if –
 - (a) the person was extradited for the purpose of being prosecuted for an offence; and
 - (b) he or she has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the designated territory.
 - (6) In a case to which paragraph (5) refers, time during which as a result of his or her extradition the person was not in Jersey counts as time served by the person as part of his or her sentence if (but only if) it was spent in custody in connection with the offence or any other offence in respect of which he or she was permitted to be dealt with in the designated territory.

Repatriation cases

70 Persons serving sentences outside territory where convicted

- (1) This Article applies if –
 - (a) a request is made for a person's extradition to a designated territory, and the request contains the statement to which paragraph (2) refers; or
 - (b) a provisional warrant for a person's arrest is sought on behalf of a designated territory, and information given in writing and on oath contains the statement to which paragraph (2) refers.
- (2) The statement to which this paragraph refers is a statement –
 - (a) that the person is unlawfully at large from a prison in one territory (the imprisoning territory) in which the person was serving a sentence after conviction of an offence by a court in another territory (the convicting territory); and
 - (b) that the person was serving the sentence in pursuance of international arrangements for prisoners sentenced in one territory to be repatriated to another territory in order to serve their sentences.
- (3) If the designated territory is either the imprisoning territory or the convicting territory –
 - (a) Article 7(3) shall have effect as if the reference in that provision to the statement to which the paragraph refers were a reference to the statement to which paragraph (2) of this Article refers and
 - (b) Article 10(1) shall have effect as if the reference in that provision to a person to whom paragraph (2) of that Article refers were a reference to the person to whom paragraph (1)(b) of this Article refers.
- (4) If the designated territory is the imprisoning territory –
 - (a) Articles 8(2)(a), 10(3)(a) and 11(3)(b) shall have effect as if the references in those provisions to an extradition offence were references to an extradition offence in relation to the convicting territory;
 - (b) Articles 11(7)(b) and 62(2) shall have effect as if the references in those provisions to the designated territory in which the person is accused of the commission of an offence or is alleged to have been convicted of an offence were references to the imprisoning territory;

- (c) Article 11(10)(b) shall have effect as if the reference in that provision to the designated territory were a reference to the imprisoning territory;
- (d) Articles 4(1), (2), (3), (4) and (5), 5, 15(1)(e) and 57(3) shall have effect as if the reference in that provision to a designated territory were references to the convicting territory; and
- (e) Paragraphs (5), (7)(a) and (8)(a) of Article 22 shall have effect as if the references in those provisions to the person's being entitled were references to the person's being entitled in the convicting territory.

PART 3

RE-EXTRADITION FROM JERSEY

71 Conditions for re-extradition

- (1) Article 72 applies in relation to a person if the 5 conditions in paragraphs (2), (3), (4), (5) and (6) of this Article are satisfied.
- (2) The first condition is that the person was extradited to a designated territory in accordance with Part 2.
- (3) The second condition is that the person was serving a sentence of imprisonment or another form of detention in Jersey ("the Jersey sentence") before he or she was extradited.
- (4) The third condition is that the request in pursuance of which the person was extradited contained a statement that the person was accused of the commission of an offence.
- (5) The fourth condition is that a certificate issued by a judicial authority of the designated territory shows that –
 - (a) a sentence of imprisonment or another form of detention for a term of 4 months or a greater punishment ("the overseas sentence") was imposed on the person in that designated territory; and
 - (b) the overseas sentence was imposed on the person in respect of the offence specified in the warrant or request, or any other offence committed before the person's extradition in respect of which he or she was permitted to be dealt with in that designated territory.
- (6) The fifth condition is that before serving the overseas sentence the person was returned to Jersey to serve the remainder of the Jersey sentence.

72 Initial stages of re-extradition hearing

- (1) If this Article applies in relation to a person, he or she shall be brought as soon as practicable after the relevant time before the Magistrate, who shall decide whether the person is to be re-extradited again to the designated territory in which the overseas sentence was imposed.
- (2) The relevant time is the time at which the person would otherwise be released from detention pursuant to the Jersey sentence (whether or not on licence).
- (3) If paragraph (1) is not complied with, and the person applies to the Magistrate to be discharged, the Magistrate shall order that the person be discharged.
- (4) The person shall be treated as continuing in legal custody until he or she is brought before the Magistrate under paragraph (1) or is taken to be discharged under paragraph (3).
- (5) If the person is brought before the Magistrate under paragraph (1), the Magistrate shall decide whether or not the territory in which the overseas sentence was imposed is a designated territory.
- (6) If the Magistrate decides that the territory is a designated territory, Article 73 applies.

- (7) If the Magistrate decides that the territory is not a designated territory, the Magistrate shall order the person's discharge.

73 Applicability of Law to re-extradition

- (1) If this Article applies, this Law applies as it would if –
- (a) a valid request for the person's extradition to the designated territory concerned had been made under Part 2;
 - (b) the request contained a statement that the person was alleged to be unlawfully at large after conviction of the relevant offence; and
 - (c) the relevant offence were specified in the request.
- (2) The provisions in Schedule 2 shall apply to proceedings under this Part, instead of the provisions in Part 2.
- (3) The relevant offence is the offence in respect of which the overseas sentence is imposed.

74 Discharge not to affect conditions of release

A person's discharge as a result of Article 72 or Article 73 does not affect any conditions on which the person is released from detention pursuant to the Jersey sentence.

PART 4

EXTRADITION TO JERSEY

75 Attorney General may request extradition to Jersey

The Attorney General may, directly or through a Secretary of State, request an appropriate authority of any other territory to extradite a person to Jersey.

76 Commonwealth countries and Hong Kong

- (1) If –
- (a) a person is extradited to Jersey from a designated territory under a law of the designated territory corresponding to this Law; and
 - (b) the designated territory is a Commonwealth country, a British overseas territory or the Hong Kong Special Administrative Region of the People's Republic of China,
- the person may be dealt with in Jersey, for an offence committed before the person's extradition, only if the offence is one to which paragraph (3) refers or the protected period has ended.
- (2) A person is dealt with in Jersey for an offence if –
- (a) the person is tried in Jersey for the offence; or
 - (b) the person is detained with a view to trial in Jersey for the offence.
- (3) The offences to which this paragraph refers are –
- (a) the offence in respect of which the person is extradited;
 - (b) a lesser offence disclosed by the information provided to the designated territory in respect of that offence; and
 - (c) an offence in respect of which consent to the person being dealt with is given by or on behalf of the relevant authority.

- (4) The protected period is 45 days commencing on the first day after the person's extradition to Jersey on which the person is given an opportunity to leave Jersey.
- (5) An offence is a lesser offence in relation to another offence if the court by which the person is dealt with in Jersey considers that if the person is convicted of both offences, the court should impose a less severe penalty for the first offence than the penalty that it should impose for the other offence.
- (6) The relevant authority is –
 - (a) if the person has been extradited from a Commonwealth country, the government of that country;
 - (b) if the person has been extradited from a British overseas territory, the person administering the territory; and
 - (c) if the person has been extradited from the Hong Kong Special Administrative Region of the People's Republic of China, the government of the Region.

77 Other designated territories

- (1) If –
 - (a) a person is extradited to Jersey from a designated territory under the law of the designated territory corresponding to this Law; and
 - (b) the designated territory is not one specified in Article 76(1)(b),
the person may be dealt with in Jersey for an offence committed before his or her extradition only if the offence is one to which paragraph (3) refers or the condition to which paragraph (4) refers is satisfied.
- (2) A person is dealt with in Jersey for an offence if –
 - (a) the person is tried in Jersey for the offence; or
 - (b) the person is detained with a view to trial in Jersey for the offence.
- (3) The offences to which this paragraph refers are –
 - (a) the offence in respect of which the person is extradited;
 - (b) an offence disclosed by the information provided to the designated territory in respect of that offence; and
 - (c) an offence in respect of which consent to the person being dealt with is given on behalf of that designated territory.
- (4) The condition to which this paragraph refers is –
 - (a) that the person has returned to the designated territory from which the person was extradited; or
 - (b) that the person has been given an opportunity to leave Jersey.

78 Remission of punishment for other offences

If –

- (a) a person is extradited to Jersey from a designated territory under a law of the designated territory corresponding to this Law;
- (b) before the person's extradition, he or she has been convicted of an offence in Jersey; and
- (c) the person has not been extradited in respect of that offence,

the punishment for the offence shall be treated as remitted, but the person's conviction for the offence shall be treated as a conviction for all other purposes.

79 Return of person acquitted or not tried

- (1) If –
 - (a) a person is accused in Jersey of the commission of an offence;
 - (b) the person is extradited to Jersey in respect of the offence from a designated territory under a law of the designated territory corresponding to this Law; and
 - (c) the condition to which paragraph (2) refers or the condition to which paragraph (3) refers is satisfied,

the Attorney General shall, if asked to do so by the person, arrange for the person to be sent back to the designated territory free of charge and with as little delay as possible.
- (2) The condition to which this paragraph refers is that –
 - (a) proceedings against the person for the offence are not begun before the end of the period of 6 months commencing on the day on which the person arrives in Jersey on his or her extradition; and
 - (b) before the end of the period of 3 months commencing immediately after the end of the period in sub-paragraph (a), the person asks the Attorney General to return him or her to the designated territory from which the person was extradited.
- (3) The condition to which this paragraph refers is that –
 - (a) at the person's trial for the offence, he or she is acquitted or discharged; and
 - (b) before the end of the period of 3 months commencing immediately after the date of his or her acquittal or discharge, the person asks the Attorney General to return him or her to the designated territory from which the person was extradited.

PART 5

POLICE POWERS

Warrants and orders

80 Search and seizure warrants

- (1) The Bailiff or a Jurat may, on an application made by a police officer, issue a search and seizure warrant if the Bailiff or Jurat is satisfied that the requirements for the issue of a search and seizure warrant are fulfilled.
- (2) An application for a search and seizure warrant under this Article shall state –
 - (a) that the extradition of a person specified in the application is sought under Part 2 or Part 3;
 - (b) that the warrant is sought in relation to premises specified in the application;
 - (c) that the warrant is sought in relation to material, or material of a description, specified in the application; and
 - (d) that the material, or material of that description, is believed to be on the premises.
- (3) The application shall also state that the person is accused in a designated territory of the commission of an offence that is specified in the application and is an extradition offence.
- (4) A search and seizure warrant is a warrant authorizing a police officer –
 - (a) to enter and search the premises specified in the application for the warrant; and
 - (b) to seize and retain any material to which paragraph (5) refers that is found there.

- (5) This paragraph refers to material that –
 - (a) would be likely to be admissible evidence at a trial in Jersey for the offence specified in the application for the warrant (on the assumption that conduct constituting that offence would constitute an offence in Jersey); and
 - (b) does not consist of or include items subject to legal privilege, special procedure material or excluded material.
- (6) The requirements for the issue of a search and seizure warrant are that there are reasonable grounds for believing –
 - (a) that the offence specified in the application has been committed by the person specified in the application;
 - (b) that the person is in Jersey, or is on his or her way to Jersey;
 - (c) that the offence is an extradition offence;
 - (d) that there is material specified in paragraph (5) on premises specified in the application; and
 - (e) that any of the conditions to which paragraph (7) refers is satisfied.
- (7) The conditions to which this paragraph refers are –
 - (a) that it is not practicable to communicate with a person entitled to grant entry to the premises;
 - (b) that it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with a person entitled to grant access to the material to which paragraph (6)(d) refers;
 - (c) that entry to the premises will not be granted unless a warrant is produced; or
 - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a police officer arriving at the premises can secure immediate entry to them.

81 Production orders

- (1) The Bailiff may, on an application made by a police officer, make a production order if satisfied that the requirements for the making of a production order are fulfilled.
- (2) An application for a production order under this Article shall state –
 - (a) that the extradition of a person specified in the application is sought under Part 2 or Part 3;
 - (b) that the order is sought in relation to premises specified in the application;
 - (c) that the order is sought in relation to material, or material of a description, specified in the application;
 - (d) that the material is special procedure material or excluded material; and
 - (e) that a person specified in the application appears to be in possession or control of the material.
- (3) The application shall also state that the person is accused in a designated territory of the commissior of an offence that –
 - (a) is specified in the application; and
 - (b) is an extradition offence.
- (4) A production order is an order either –
 - (a) requiring the person whom the application for the order specifies as appearing to be in possession or control of special material or excluded material to produce it to a police officer (within the period stated in the order) for the police officer to take away; or
 - (b) requiring that person to give a police officer access to the material within the period stated in the order.
- (5) The period stated in a production order shall be a period of 7 days commencing on the day on which the order is made, unless it appears to the Bailiff that a longer period would be appropriate.

- (6) Production orders shall have effect as if they were orders of the Royal Court.

82 Requirements for making of production order

- (1) The requirements for the making of a production order are that there are reasonable grounds for believing –
 - (a) that the offence specified in the application has been committed by the person so specified;
 - (b) that the person is in Jersey, or is on his or her way to Jersey;
 - (c) that the offence is an extradition offence;
 - (d) that there is material that consists of or includes special procedure material or excluded material on premises specified in the application; and
 - (e) that the material would be likely to be admissible evidence at a trial in Jersey for the offence specified in the application (on the assumption that conduct constituting that offence would constitute an offence in Jersey).
- (2) It must also appear that other methods of obtaining the material –
 - (a) have been tried without success; or
 - (b) have not been tried because they were bound to fail.
- (3) It must also be in the public interest that the material should be produced or that access to it should be given.

83 Electronically stored information

- (1) This Article applies if any of the special procedure material or excluded material that is specified in an application for a production order consists of information stored in any electronic form.
- (2) If the order requires a person to produce the material to a police officer to take away, it has effect as an order to produce the material in a form –
 - (a) in which it can be taken away by the police officer; and
 - (b) in which it is visible and legible, or from which it can readily be produced in a visible and legible form.
- (3) If the order requires a person to give a police officer access to the material, it has effect as an order to give the police officer access to the material –
 - (a) in a form in which it is visible and legible; or
 - (b) in a form from which it can readily be produced in a visible and legible form.

84 Special procedure material and excluded material

- (1) The Bailiff may, on an application made by a police officer, issue a warrant under this Article if satisfied –
 - (a) that the requirements for the making of a production order are fulfilled; and
 - (b) that any of the conditions to which paragraph (4) refers is satisfied.
- (2) An application for a warrant under this Article shall state –
 - (a) that the extradition of a person specified in the application is sought under Part 2 or Part 3;
 - (b) that the warrant is sought in relation to premises specified in the application;
 - (c) that the warrant is sought in relation to material, or material of a description, specified in the application; and
 - (d) that the material is special procedure material or excluded material.

- (3) The application shall also state that the person is accused in a designated territory of the commission of an offence that is specified in the application and is an extradition offence.
- (4) The conditions to which this paragraph refers are –
 - (a) that it is not practicable to communicate with a person entitled to grant entry to the premises;
 - (b) that it is practicable to communicate with a person entitled to grant entry to the premises, but it is not practicable to communicate with a person entitled to grant access to the special procedure material or excluded material to which Article 82(1)(d) refers; and
 - (c) that the material contains information that is subject to a restriction on disclosure or to an obligation of secrecy contained in an enactment (whether passed or made before or after the commencement of this Article) and is likely to be disclosed in breach of the restriction or obligation if a warrant is not issued.
- (5) A warrant under this Article authorizes a police officer to enter and search the premises specified in the application for the warrant, and –
 - (a) to seize and retain any material found there that is special procedure material to which paragraph (6) refers, if the application for the warrant states that the warrant is sought in relation to special procedure material; and
 - (b) to seize and retain any material found there that is excluded material to which paragraph (6) refers, if the application for the warrant states that the warrant is sought in relation to excluded material.
- (6) This paragraph refers to material that would be likely to be admissible in evidence at a trial in Jersey for the offence specified in the application for the warrant, if conduct constituting the offence would constitute an offence in Jersey.

Search and seizure without warrant

85 Entry and search to effect arrest

- (1) If a police officer has power to arrest a person under an extradition arrest warrant, and has reasonable grounds for believing that the person is on any premises, the police officer may enter and search those premises for the purpose of exercising the power of arrest.
- (2) The power to search that is conferred by paragraph (1) is exercisable only to the extent reasonably required for the purpose of exercising the power of arrest.
- (3) A police officer who has entered premises in exercise of the power conferred by paragraph (1) may seize and retain anything that is on the premises, if he or she has reasonable grounds for believing –
 - (a) that it has been obtained in consequence of the commission of an offence or it is evidence in relation to an offence; and
 - (b) that it is necessary to seize it in order to prevent its being concealed, lost, damaged, altered or destroyed.
- (4) An offence includes an offence committed outside Jersey.
- (5) Where the premises contain 2 or more separate dwellings, the power to enter and search that is conferred by paragraph (1) is exercisable only in respect of–
 - (a) parts of the premises that the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other dwelling comprised in the premises; and
 - (b) any dwelling that is comprised in the premises, if the police officer has reasonable grounds for believing that the person to whom the search relates may be in that dwelling.

86 Entry and search of premises on arrest

- (1) This Article applies if a person has been arrested under an extradition arrest warrant at a place other than a police station.
- (2) A police officer may enter and search any premises in which the person was present at the time of the arrest; or immediately before the arrest, if the police officer has reasonable grounds for believing –
 - (a) where the person has not been convicted of the offence to which paragraph (3) refers, that there is on the premises evidence (other than items subject to legal privilege) relating to the offence; or
 - (b) where in any case, there is on the premises evidence (other than items subject to legal privilege) relating to the identity of the person.
- (3) The offence to which this paragraph refers is –
 - (a) the offence in respect of which extradition is requested, if the arrest was under a warrant issued under Article 8; or
 - (b) the offence of which the person is accused, if the arrest was under a provisional warrant.
- (4) The power to search that is conferred by paragraph (2)–
 - (a) is, if the person has not been convicted of the offence, a power to search for evidence (other than items subject to legal privilege) relating to the offence; and
 - (b) is, in any case, a power to search for evidence (other than items relating to legal privilege) relating to the identity of the person.
- (5) The power to search that is conferred by paragraph (2) is exercisable only to the extent that is reasonably required for the purpose of discovering evidence in respect of which the power is available by virtue of paragraph (4).
- (6) A police officer may seize and retain anything for which he or she may search by virtue of paragraph (4).
- (7) A police officer who has entered premises in exercise of the power that is conferred by paragraph (2) may seize and retain anything that is on the premises if he or she has reasonable grounds for believing –
 - (a) that it has been obtained in consequence of the commission of an offence or it is evidence in relation to an offence; and
 - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (8) An offence includes an offence committed outside Jersey.
- (9) If the premises contain 2 or more separate dwellings, the power that is conferred by paragraph (2) is exercisable only in respect –
 - (a) any dwelling that is comprised in the premises and is a dwelling in which the arrest took place or the person was present immediately before his arrest; and
 - (b) parts of the premises which the occupier of any such dwelling uses in common with the occupier of any other dwelling comprised in the premises.

87 Search of person on arrest

- (1) This Article applies if a person has been arrested under an extradition arrest warrant at a place other than a police station.
- (2) A police officer may search the person if the police officer has reasonable grounds for believing that the person may present a danger to himself or herself or others.
- (3) A police officer may search the person if the police officer has reasonable grounds for believing that the person may have concealed on him or her anything –

- (a) that the person might use to assist him or her to escape from lawful custody; or
 - (b) that might be evidence relating to an offence or the identity of the person.
- (4) The power to search that is conferred by paragraph (3)–
- (a) is a power to search for anything falling within either of sub-paragraphs (a) and (b) of the paragraph; and
 - (b) is exercisable only to the extent that is reasonably required for the purpose of discovering such a thing.
- (5) The powers conferred by paragraphs (2) and (3) do not authorize a police officer to require a person to remove any clothing in public, other than an outer coat, jacket or gloves.
- (6) The powers conferred by paragraphs (2) and (3) authorize a search of a person's mouth.
- (7) A police officer who is searching a person in exercise of the power that is conferred by paragraph (2) may seize and retain anything that the police officer finds, if he or she has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or herself or any other person.
- (8) A police officer searching a person in exercise of the power conferred by paragraph (3) may seize and retain anything the police officer finds, if the police officer has reasonable grounds for believing –
- (a) that the person might use it to assist him or her to escape from lawful custody; or
 - (b) that it is evidence of an offence or of the identity of the person or has been obtained in consequence of the commission of an offence.
- (9) An offence includes an offence committed outside Jersey.
- (10) Nothing in this Article affects the powers conferred by Article 39 of the Terrorism (Jersey) Law 2002^[14] (relating to the stopping and searching of suspected terrorists and the seizure and retention of suspected evidence).

88 Entry and search of premises after arrest

- (1) This Article applies if a person has been arrested under an extradition arrest warrant.
- (2) A police officer may enter and search any premises occupied or controlled by the person, if the police officer has reasonable grounds for believing –
- (a) where the person has not been convicted of the offence to which paragraph (3) refers, that there is on the premises evidence (other than items subject to legal privilege) relating to the offence; or
 - (b) where in any case, there is on the premises evidence (other than items subject to legal privilege) relating to the identity of the person.
- (3) The offence to which this paragraph refers is –
- (a) the offence in respect of which extradition is requested, if the arrest was under a warrant issued under Article 8; and
 - (b) the offence of which the person is accused, if the arrest was under a provisional warrant.
- (4) The power to search that is conferred by paragraph (2)–
- (a) is, if the person has not been convicted of the offence, a power to search for evidence (other than items subject to legal privilege) relating to the offence; and
 - (b) is, in any case, a power to search for evidence (other than items relating to legal privilege) relating to the identity of the person.
- (5) The power to search that is conferred by paragraph (2) is exercisable only to the extent that is reasonably required for the purpose of discovering evidence in respect of which the power is available by virtue of paragraph (4).

- (6) A police officer may seize and retain anything for which the police officer may search by virtue of paragraphs (4) and (5).
- (7) A police officer who has entered premises in exercise of the power that is conferred by paragraph (2) may seize and retain anything that is on the premises if the police officer has reasonable grounds for believing –
 - (a) that it has been obtained in consequence of the commission of an offence, or it is evidence in relation to an offence; and
 - (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.
- (8) An offence includes an offence committed outside Jersey.
- (9) The power to enter and search that is conferred by paragraph (2) may be exercised only if a police officer of a rank not lower than that of inspector, or the Connétable or a Centenier of the parish, has give written authorization for its exercise, or –
 - (a) the power is exercised before the person arrested is taken to a police station; and
 - (b) the presence of the person at a place other than a police station is necessary for the effective exercise of the power to search.
- (10) A Connétable or Centenier who gives written authorization for the exercise of the power that is conferred by paragraph (2) shall send a copy of the authorization to the Chief Officer of Police.
- (11) The power that is conferred by paragraph (6) may be exercised only if a police officer of a rank no lower than that of inspector has given written authorization for its exercise.

Treatment following arrest

89 Fingerprints and samples

- (1) If a person has been arrested under an extradition arrest warrant and is detained at a police station, fingerprints may be taken from the person only if they are taken by a police officer –
 - (a) with the appropriate consent given in writing; or
 - (b) under paragraph (3).
- (2) If a person has been arrested under an extradition arrest warrant and is detained at a police station, a non-intimate sample may be taken from the person only if it is taken by a police officer –
 - (a) with the appropriate consent given in writing; or
 - (b) under paragraph (3).
- (3) Fingerprints or a non-intimate sample may be taken from the person without the appropriate consent only if a police officer of a rank not lower than that of inspector authorizes the fingerprints or sample to be taken.

90 Searches and examinations

- (1) If a person –
 - (a) has been arrested under an extradition arrest warrant; and
 - (b) is detained at a police station,
 the person may on the authorization of a police officer of a rank not lower than that of inspector be searched or examined, or both, for the purpose of facilitating the ascertainment of the person's identity.
- (2) An identifying mark found on a search or examination under this Article may be photographed –

- (a) with the appropriate consent; or
 - (b) without the appropriate consent, if that consent is withheld or it is not practicable to obtain it.
- (3) The only persons who may carry out searches or examinations, or take photographs, under this Article are –
- (a) police officers; and
 - (b) persons designated for the purposes of this Article by the Chief Officer of Police.
- (4) A person may not under this Article –
- (a) carry out a search or examination of a person of the opposite sex; or
 - (b) take a photograph of any part of the body of a person of the opposite sex.
- (5) An intimate search may not be carried out under this Article.
- (6) Ascertaining a person’s identity includes ascertaining that he or she is not a particular person.
- (7) Marks include features and injuries, and a mark is an identifying mark if its existence in a person’s case facilitates the ascertainment of the person’s identity.

91 Photographs

- (1) If a person has been arrested under an extradition arrest warrant and is detained at a police station, the person may be photographed –
- (a) with the appropriate consent; or
 - (b) without the appropriate consent, if that consent is withheld or it is not practicable to obtain it.
- (2) A person proposing to take a photograph of a person under this Article –
- (a) may, for the purpose of doing so, require the removal of any item or substance worn on or over the whole or any part of the head or face of the person to be photographed; and
 - (b) may, if the requirement is not complied with, remove the item or substance.
- (3) The only persons who may take photographs under this Article are –
- (a) police officers; and
 - (b) persons designated for the purposes of this Article by the Chief Officer of Police.

92 Other treatment and rights

- (1) The Home Affairs Committee may by Order apply the provisions to which paragraph (2) refers to persons to whom paragraph (3) refers, with such modifications as are specified in the Order.
- (2) This paragraph refers to the following provisions of PPCEL –
- (a) Article 50^[15] (relating to searches of detained persons);
 - (b) Article 51^[16] (relating to intimate searches);
 - (c) Article 52^[17] (relating to the right, when arrested, to have someone informed); and
 - (d) Article 54^[18] (relating to access to legal advice).
- (3) This paragraph refers to any persons who –
- (a) are arrested under extradition arrest warrants at police stations;
 - (b) are taken to police stations after being arrested elsewhere under extradition arrest warrants; or
 - (c) are detained at police stations after being arrested under extradition arrest warrants.

General

93 Delivery of seized property

- (1) This Article applies to anything that has been seized or produced under this Part.
- (2) A police officer may deliver any such thing to a person who is or is acting on behalf of an authority if the police officer has reasonable grounds for believing that the authority –
 - (a) is an authority of the designated territory concerned; and
 - (b) has functions such that it is appropriate for the thing to be delivered to it.
- (3) If the seizure power was a warrant issued under this Part or the thing was produced under an order made under this Part, the designated territory concerned is the one specified in the application for the warrant or the order.
- (4) If the seizure power was Article 85(3), paragraph (6) or paragraph (7) of Article 86, paragraph (7) paragraph (8) of Article 87 or paragraph (6) or paragraph (7) of Article 88, the designated territory concerned is –
 - (a) the designated territory to which a person's extradition is requested, where the applicable arrest power is a warrant issued under Article 8; or
 - (b) the designated territory in which a person is accused of the commission of an offence or has been convicted of an offence, where the applicable arrest power is a provisional warrant.
- (5) The applicable extradition arrest power is –
 - (a) the extradition arrest power under which a police officer had power of arrest, where the seizure power was Article 85(3); or
 - (b) the extradition arrest power under which a person was arrested, where the seizure power was paragraph (6) or paragraph (7) of Article 86, paragraph (7) or paragraph (8) of Article 87 paragraph (6) or paragraph (7) of Article 88.

94 Codes of practice

- (1) The Home Affairs Committee may by Order make codes of practice in connection with –
 - (a) the exercise of the powers that are conferred by this Part;
 - (b) the retention, use and return of anything seized or produced under a power that is conferred by this Part;
 - (c) access to anything so seized or produced;
 - (d) the taking of photographs and copies of anything so seized or produced; and
 - (e) the retention, use, disclosure and destruction of any fingerprint, sample or photograph taken under a power conferred by this Part.
- (2) If proposing to make a code of practice under this Article, the Home Affairs Committee shall –
 - (a) publish a draft of the code;
 - (b) consider any representations made to the Committee about the draft within a reasonable time after it is published; and
 - (c) if the Committee thinks it appropriate, modify the draft in the light of any such representations.
- (3) A code of practice shall not come into force before it has been laid before the States.
- (4) A failure by a police officer to comply with a provision of a code issued under this Article does not of itself make the police officer liable to criminal or civil proceedings.
- (5) A code issued under this Article is admissible in evidence in proceedings under this Law, and shall be

taken into account by a court in determining any question to which it appears to the court to be relevant.

95 Reasonable force

A person may use reasonable force, if necessary, in the exercise of a power conferred by this Part.

PART 6

BAIL

96 Duty of court to consider bail for person in custody

- (1) This Article applies on each occasion on which a person in custody in respect of whom a request for extradition has been made appears under this Law before a court.
- (2) It shall be the duty of the court to consider whether the person should be granted bail pending the determination of the case.

97 Presumption in favour of bail

- (1) A court shall grant bail pending the determination of the case, to a person whose extradition is requested, unless there are substantial grounds for believing that (if released on bail) the person would –
 - (a) fail to appear before a court when required to do so;
 - (b) commit an offence; or
 - (c) interfere or attempt to interfere with any witness or otherwise to obstruct the course of justice in any proceedings.
- (2) In deciding whether to grant bail, the court shall have regard to the following considerations –
 - (a) the nature and seriousness of the case, and the probable outcome;
 - (b) the character and antecedents of the person whose extradition is requested, and the person's associations and ties with Jersey; and
 - (c) any other relevant factors.
- (3) The presumption in favour of bail to which paragraph (1) refers does not apply if the court considering the matter of bail for any person is satisfied that the person –
 - (a) has contravened any condition of bail granted under this Law;
 - (b) has failed to surrender to the custody of a court when required under this Law to do so; or
 - (c) without the permission of a court, has previously left or attempted to leave Jersey or any other jurisdiction to avoid extradition.
- (4) The presumption in favour of bail to which paragraph (1) refers does not apply if the person for whom the matter of bail is being considered is alleged to be unlawfully at large after conviction of an offence.
- (5) In proceedings under Part 3 (relating to re-extradition from Jersey), the presumption in favour of bail to which paragraph (1) refers does not apply if–
 - (a) the Attorney General has given an undertaking in connection with the extradition to Jersey of the person for whom the matter of bail is being considered; and
 - (b) the undertaking includes terms that the person shall be kept in custody until the conclusion of any proceedings against that person in Jersey for an offence.
- (6) In a case to which paragraph (5) refers, a court may grant bail to the person if (but only if) the court

considers that there are exceptional circumstances that justify it.

98 Bail conditions

- (1) In granting bail under this Law, a court may impose such conditions of bail as it thinks fit.
- (2) In particular, the court may require the person to whom bail is to be granted, or is granted, to provide one or more recognizances or sureties (as the court specifies) for the person's surrender to the custody of a court at the time and place appointed for the person to do so.
- (3) Where it is a condition of bail that a surety is provided, it is also a condition of bail that if the surety believes at any time that the person whose extradition is requested is unlikely to surrender to the custody of a court at the time and place appointed for the person to do so –
 - (a) the surety must inform a police officer forthwith; and
 - (b) the surety must as soon as practicable deliver to a police officer a statement in writing by the surety confirming the information.
- (4) Paragraphs (2) and (3) do not limit the generality of paragraph (1).

99 Warning to person bailed

When a court grants bail under this Law to a person, it shall explain to the person the effect of Article 97(3) (relating to the circumstances in which the presumption in favour of bail does not apply).

100 Variation of bail

If a court grants bail under this Law, it may subsequently vary any of the conditions of bail –

- (a) of its own motion;
- (b) on the application of any party to the proceedings; or
- (c) on the application of a surety.

101 Arrest without court order

- (1) If a police officer believes on reasonable grounds that a person who has been granted bail under this Law is about to leave Jersey without the permission of a court, the police officer may arrest and detain the person without a court order.
- (2) A police officer who arrests and detains a person under paragraph (1) shall bring the person before a court as soon as is reasonably practicable.

102 Arrest on order of court

- (1) If a court is satisfied that there are reasonable grounds to believe that a person who has been granted bail under this Law –
 - (a) has contravened any condition of the person's bail;
 - (b) has attempted to leave Jersey without the permission of a court, or is about to attempt to do so; or
 - (c) has not surrendered or is for any reason unlikely to surrender to the custody of a court, at the time and place appointed for the person to do so,the court may order that the person be arrested and brought before a court.
- (2) An order under paragraph (1) authorizes every police officer to arrest and detain the person to whom

it relates, and to bring the person before a court.

- (3) A police officer who arrests and detains a person to whom an order under paragraph (1) relates shall bring the person before a court as soon as is reasonably practicable.

103 Evidence

- (1) If a person is granted bail under this Law, a statement in writing delivered to a police officer by a surety, informing the police officer that the surety believes that the person who has been granted bail is about to leave Jersey shall constitute reasonable grounds for the police officer to believe that the person granted bail is about to leave Jersey.
- (2) Paragraph (1)–
 - (a) does not apply if the police officer believes on reasonable grounds that the statement is untrue; and
 - (b) does not exclude any other reasonable grounds for belief.
- (3) A record of a court to the effect that a person to whom bail has been granted under this Law has failed to surrender to the custody of that court at the time and place appointed for that person to do so shall be sufficient evidence, unless the contrary is proved, of that failure.

PART 7

OTHER PROVISIONS

104 Time limit for extradition following deferral for competing claim

- (1) This Article applies if –
 - (a) an order is made under this Law for a person to be extradited to a designated territory in pursuance of a request for the person’s extradition;
 - (b) before the person is extradited to the designated territory, an order is made under Article 65(3) for the person’s extradition in pursuance of the request to be deferred; and
 - (c) the Magistrate makes an order under Article 106 for the person’s extradition in pursuance of the request to cease to be deferred.
- (2) In a case where Article 55 applies, the period of 28 days to which Article 55(1) refers shall commence on the day on which the order under Article 106(1) is made.
- (3) In a case where Article 56 applies, the period of 28 days to which Article 56(2) refers shall commence on the day on which the decision on the appeal becomes final (within the meaning of that Article) or (if later) the day on which the order under Article 106(1) is made.

105 Proceedings where proceedings on warrant or request deferred

- (1) If –
 - (a) an order is made under this Law deferring proceedings on an extradition claim (the deferred claim) until another extradition claim in respect of the person has been disposed of; and
 - (b) the other extradition claim is disposed of,the Magistrate may make an order for proceedings on the deferred claim to be resumed.
- (2) No order under paragraph (1) may be made after the end of the period of 21 days commencing on the day on which the other extradition claim is disposed of.
- (3) If the person applies to the Magistrate to be discharged, the Magistrate may order that the person be

discharged.

- (4) If the person applies to the Magistrate to be discharged, the Magistrate shall order the person's discharge if –
 - (a) the period of 21 days to which paragraph (2) refers has ended; and
 - (b) the Magistrate has not made an order under paragraph (1) and has not ordered that the person be discharged.

106 Proceedings where extradition deferred

- (1) If –
 - (a) an order is made under this Law deferring a person's extradition in pursuance of an extradition claim (the deferred claim) until another extradition claim in respect of the person has been disposed of; and
 - (b) the other extradition claim is disposed of,the Magistrate may make an order for the person's extradition in pursuance of the deferred claim to cease to be deferred.
- (2) No order under paragraph (1) may be made after the end of the period of 21 days commencing on the day on which the other extradition claim is disposed of.
- (3) If the person applies to the Magistrate to be discharged, the Magistrate may order that the person be discharged.
- (4) If the person applies to the Magistrate to be discharged, the Magistrate shall order the person's discharge if –
 - (a) the period of 21 days to which paragraph (2) refers has ended; and
 - (b) the Magistrate has not made an order under paragraph (1) and has not ordered that the person be discharged.

107 Disposal of request for extradition

- (1) A request for a person's extradition is disposed of –
 - (a) when an order is made for the person's discharge in respect of the request and there is no further possibility of an appeal;
 - (b) when the person is taken to be discharged in respect of the request; or
 - (c) when an order is made for the person's extradition in pursuance of the request and there is no further possibility of an appeal.
- (2) There is no further possibility of an appeal against an order for a person's discharge or extradition –
 - (a) when the period permitted for giving notice of the appeal to the Royal Court ends, if notice is not given before the end of that period;
 - (b) when the decision of the Royal Court on the appeal becomes final, if there is no appeal to the Privy Council against that decision; or
 - (c) when the decision of the Privy Council on the appeal is made, if there is such an appeal.
- (3) The decision of the Royal Court on the appeal becomes final –
 - (a) when the period permitted for applying to the Royal Court for leave to appeal to the Privy Council ends, if there is no such application;
 - (b) when the period permitted for applying to the Privy Council for leave to appeal to it ends, if the Royal Court refuses leave to appeal and there is no application to the Privy Council for leave to appeal;

- (c) when the Privy Council refuses leave to appeal to it; or
 - (d) at the end of the period 28 days commencing on the day on which leave to appeal to the Privy Council is granted, if no such appeal is brought before the end of that period.
- (4) For the purposes of paragraphs (2) and (3)–
- (a) any power of a court to extend the period permitted for giving notice of appeal or for applying for leave to appeal; and
 - (b) any power of a court to grant leave to take a step out of time,
- shall be ignored.

108 Disposal of charge

- (1) A charge against a person is disposed of –
- (a) if the person is acquitted in respect of it, when he or she is acquitted; or
 - (b) if the person is convicted in respect of it, when there is no further possibility of an appeal against the conviction.
- (2) There is no further possibility of an appeal against a conviction –
- (a) when the period permitted for giving notice of application for leave to appeal to the Court of Appeal against the conviction ends, if the leave of the Court of Appeal is required and no such notice is given before the end of that period;
 - (b) when the Court of Appeal refuses leave to appeal against the conviction, if the leave of the Court of Appeal is required and notice of application for leave is given before the end of that period;
 - (c) when the period permitted for giving notice of appeal to the Court of Appeal against the conviction ends, if notice is not given before the end of that period;
 - (d) when the decision of the Court of Appeal becomes final, if there is no appeal to the Privy Council against that decision; or
 - (e) when the decision of the Privy Council is made, if there is such an appeal.
- (3) The decision of the Court of Appeal becomes final –
- (a) when the period permitted for applying to the Privy Council for special leave to appeal to it ends, if there is no application for leave to appeal;
 - (b) when the Privy Council refuses leave to appeal to it; or
 - (c) at the end of the permitted period, which is 28 days commencing on the day on which leave to appeal to the Privy Council is granted, if no such appeal is brought before the end of that period.
- (4) For the purposes of paragraphs (2) and (3) –
- (a) any power of a court to extend the period permitted for giving notice of appeal or of application for leave to appeal or for applying for leave to appeal; and
 - (b) any power of a court to grant leave to take a step out of time,
- shall be ignored.

109 Special extradition arrangements

- (1) This Article applies if the Attorney General believes –
- (a) that arrangements have been made between the United Kingdom on behalf of Jersey, and another territory, for the extradition of a person from Jersey to the territory; and
 - (b) the territory is not a designated territory.

- (2) The Attorney General may certify that the conditions in sub-paragraphs (a) and (b) of paragraph (1) are satisfied in relation to the extradition of the person.
- (3) If the Attorney General issues a certificate under paragraph (2), this Law shall apply in respect of the person's extradition to the territory as if it were a designated territory of the second category.
- (4) As applied by paragraph (3), this Law shall have effect—
 - (a) as if Articles 8(4), 10(5), 11(10)(b) and 21(1) were omitted; and
 - (b) with any other modifications specified in the certificate.
- (5) A certificate under paragraph (2) in relation to a person is conclusive evidence that the conditions in sub-paragraphs (a) and (b) of paragraph (1) are satisfied in relation to the person's extradition from Jersey to the territory.

110 Genocide, crimes against humanity and war crimes

- (1) If a valid request for a person's extradition is made in respect of an offence specified in paragraph (2), it is not an objection to extradition under this Law that the person could not have been punished for the offence under the law in force at the time when and in the place where he or she is alleged to have committed the act of which the person is accused or of which he or she has been convicted.
- (2) The offences to which this paragraph refers are –
 - (a) any offence that, if committed in Jersey, would be punishable as an offence under section 51 or section 58 of the International Criminal Court Act 2001 (c.17) of the United Kingdom as it applies to Jersey (genocide, crimes against humanity and war crimes);
 - (b) any offence that, if committed in Jersey, would be punishable as an offence under section 52 or section 59 of that Act (conduct that is ancillary to those crimes and is committed outside the jurisdiction);
 - (c) any offence that, if committed in Jersey, would be punishable as an ancillary offence, as defined in section 55 or section 62 of that Act, in relation to an offence to which either of sub-paragraphs (a) and (b) refers; and
 - (d) any offence that is punishable in Jersey as an offence under section 1 of the Geneva Conventions Act 1957 (c.52) of the United Kingdom as it applies to Jersey (relating to grave breaches of scheduled conventions).

111 Young persons

In any proceedings before the Magistrate under this Law relating to the extradition of a person who is under the age of 18 years, Article 13(2) of the Criminal Justice (Young Offenders) (Jersey) Law 1994^[19] shall apply as it applies to proceedings in the Youth Court established by Article 11 of that Law,^[20] unless the Magistrate orders otherwise.

112 Custody

- (1) If a court remands a person in custody under this Law, the person shall be committed to the institution to which he or she would have been committed if charged with an offence before that court.
- (2) The provisions of the Criminal Justice (Young Offenders) (Jersey) Law 1994^[21] shall apply to a person under the age of 21 years who is remanded in custody under this Law, as if the person were remanded in custody in respect of an offence committed or alleged to have been committed by the person in Jersey, but this paragraph is subject to paragraph (3).

- (3) Notwithstanding any enactment or rule of law to the contrary, where a person under the age of 21 years is to be remanded in custody under this Law, and it appears to the Magistrate that, having regard to –
 - (a) the nature and seriousness of any offence in respect of which a person's extradition under this Law has been requested; and
 - (b) the person's apparent character, maturity and other circumstances,it is not appropriate to remand him or her in custody in a place to which the Magistrate would otherwise be required in law to remand the person, the Magistrate may instead remand the person in custody in any other place that the Magistrate considers appropriate.
- (4) A person in custody following arrest under this Law who escapes from custody may be retaken in the same way as if the person had been in custody following arrest or apprehension in respect of an offence committed in Jersey.
- (5) An order for a person's extradition under this Law is sufficient authority for a person to whom the order is directed or a police officer –
 - (a) to receive the person;
 - (b) to keep the person in custody until extradited under this Law; and
 - (c) to convey the person to the designated territory to which the person is to be extradited under this Law.

113 Extradition for more than one offence

The Home Affairs Committee may by Order provide for this Law to have effect with specified modifications in relation to a case where a request for extradition is made in respect of more than one offence.

114 National security

- (1) This Article applies if the Attorney General believes that the conditions in paragraphs (2), (3) and (4) are satisfied in relation to a person.
- (2) The first condition is that the person's extradition is sought or will be sought under Part 2 or Part 3 in respect of an offence.
- (3) The second condition is –
 - (a) that in engaging in the conduct constituting or alleged to constitute the offence, the person was acting in the exercise of a function conferred or imposed by or under an enactment; or
 - (b) that as a result of an authorization given by the Attorney General, the person is not liable under the criminal law of any part of Jersey for the conduct constituting or alleged to constitute the offence.
- (4) The third condition is that the person's extradition in respect of the offence would be against the interests of national security.
- (5) If this Article applies, the Attorney General may certify that the conditions in paragraphs (2), (3) and (4) are satisfied in relation to the person.
- (6) If the Attorney General issues a certificate under paragraph (5), he or she may direct that a request for the person's extradition in respect of the offence is not to be proceeded with.
- (7) If the Attorney General issues a certificate under paragraph (5), he or she may order the person's discharge instead of or in addition to giving a direction under paragraph (6).
- (8) The Attorney General may consult a Secretary of State acting under any one or more of paragraphs (5), (6) and (7).

- (9) If the Attorney General gives a direction under paragraph (6) in respect of a request for extradition then –
- (a) if the Attorney General has not issued a certificate under Article 7 that the request is made in the approved way, the Attorney General is no longer required to do so;
 - (b) if the person is arrested under a warrant issued by the Magistrate under Article 8 or under a provisional warrant, there is no requirement for the person to appear or be brought before the Magistrate and he or she shall be discharged;
 - (c) the Magistrate is no longer required to proceed or continue proceeding under Articles 9, 11, 12 and 13, if the person appears or is brought before the Magistrate;
 - (d) if the extradition hearing has begun, the Magistrate is no longer required to proceed or to continue proceeding under Articles 14 to 28 (inclusive) (relating to the extradition hearing);
 - (e) if the person has given to the Magistrate the person's consent to being extradited, the Magistrate is no longer required to send the case to the Attorney General for his or her decision whether the person is to be extradited;
 - (f) if an appeal has been brought to the Royal Court or the Privy Council, the Royal Court or the Privy Council (as the case may be) is no longer required to hear or to continue hearing the appeal; and
 - (g) if the person's extradition has been ordered, there is no requirement for the person to be extradited.
- (10) Any –
- (a) certificate under paragraph (5);
 - (b) direction under paragraph (6); or
 - (c) order under paragraph (7),
- shall be in writing, and shall be signed by the Attorney General.

115 Documents sent by facsimile

- (1) This Article applies if a document to be sent in connection with proceedings under this Law is sent by facsimile transmission.
- (2) This Law shall have effect as if the document received by facsimile transmission were the document used to make the transmission.
- (3) The document received by facsimile transmission may be received in evidence accordingly.

116 Receivable documents

- (1) A duly authenticated document issued in a designated territory may be received in evidence in proceedings under this Law.
- (2) A document issued in a designated territory is duly authenticated if (but only if) –
 - (a) it purports to be signed by a judge, magistrate or other judicial authority of the designated territory; or
 - (b) it purports to be authenticated by the oath or affirmation of a witness.
- (3) Nothing in this Article prevents a document that is not duly authenticated from being received in evidence in proceedings under this Law.

117 Written statements and admissions

- (1) The provisions specified in paragraph (2) apply in relation to proceedings under this Law as they

apply in relation to criminal proceedings.

- (2) The provisions to which this paragraph refers are –
 - (a) Article 3 of the Criminal Justice (Evidence and Procedure) (Jersey) Law 1998^[22] (which Article relates to admissions of fact); and
 - (b) Article 9 of that Law^[23] (which Article relates to the admissibility of written statements as evidence).

118 Burden and standard of proof

- (1) This Article applies if, in proceedings under this Law, a question arises as to the burden or standard of proof.
- (2) The question shall be decided by applying any enactment or rule of law that would apply if the proceedings were criminal proceedings.
- (3) An enactment or rule of law that is to be applied under paragraph (2) shall be applied as if–
 - (a) the person whose extradition is sought (or who has been extradited) were accused of an offence; and
 - (b) the designated territory concerned were the prosecution.
- (4) Paragraphs (2) and (3) are subject to any express provision of this Law.

119 Customs officers

The Home Affairs Committee may make an Order providing that any provision of this Law that applies in relation to police officers or to persons arrested by police officers shall apply (with such modifications, if any, as may be specified in the Order) to officers of the Impôts or to persons arrested by officers of the Impôts.

120 Subordinate legislation

- (1) Regulations made under Article 6–
 - (a) may designate a territory by name or by its falling within a description set out in the Regulations;
 - (b) may provide that this Law shall have effect in respect of a designated territory with such modifications as are specified in the Regulations;
 - (c) may make any supplementary, incidental or consequential provision, and any transitory, transitional or saving provision, for the purposes of or in consequence of or for giving full effect to any of the provisions of this Law; and
 - (d) if made for any purpose to which sub-paragraph (c) refers, may in particular provide for any provision of this Law that comes into force before any other provision of this Law has come into force to have effect with such modifications as are specified in the Regulations until that other provision does come into force.
- (2) The Home Affairs Committee may make Orders relating to any of the following matters –
 - (a) specifying, in respect of a designated territory, a time limit for the purpose of Article 11(10)(b);
 - (b) prescribing the form of any document required for the purposes of this Law (other than a form that is to be or may be prescribed by rules of court);
 - (c) providing for any other matters that are to be or is may be prescribed under any other provisions of this Law (other than matters that are to be or may be prescribed by rules of court);

- (d) providing for such other matters as are reasonably necessary for or incidental to the purpose of carrying this Law into effect.
- (3) Regulations and Orders made under this Law may include supplementary, incidental, saving and transitional provisions.
- (4) The powers of the Superior Number of the Royal Court to make rules under the Royal Court (Jersey) Law 1948^[24] shall include power to make rules for the purposes of this Law.

121 Implementation of international obligations

The States may by Regulations modify this Law to give effect to any international agreement, other international instrument or international obligation, that relates to extradition, and is applicable to or binding on Jersey.

122 Amendments to other enactments

The enactments specified in Schedule 3 shall be consequentially amended in the manner specified in that Schedule.

123 Citation and commencement

- (1) This Law may be cited as the Extradition (Jersey) Law 200.
- (2) This Law shall come into force on such day as the States may by Act appoint, and different days may be appointed for different provisions of this Law.

SCHEDULE 1

(Article 6(1))

DESIGNATED TERRITORIES

Part 1 - Designated territories of the first category

Part 2 - Designated territories of the second category

SCHEDULE 2

(Article 73(2))

RE-EXTRADITION PROCEEDINGS

1 General provisions as to re-extradition hearing

- (1) At the re-extradition hearing –
 - (a) the proceedings shall be conducted in the same way as proceedings that are conducted in accordance with Article 12A of the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949;^[25]
 - (b) the Magistrate shall perform only a judicial role; and
 - (c) the Magistrate shall have the same powers (as nearly as may be) as he or she would have if the proceedings were a trial before the Magistrate of the person whose re-extradition is requested.
- (2) If the Magistrate adjourns the proceedings, the Magistrate shall remand the person in custody or on bail.
- (3) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (4) In relation to the re-extradition hearing, Article 2 of the Costs in Criminal Cases (Jersey) Law 1961^[26] shall apply as if –
 - (a) the reference in that other Law to conviction were a reference to an order that the person be re-extradited under this Law; and
 - (b) the reference in that other Law to discharge from prosecution were a reference to the person’s discharge under this Law.

2 Initial stages of re-extradition hearing

- (1) If a person who is alleged to be the person whose re-extradition is requested appears or is brought before the Magistrate for the re-extradition hearing, the Magistrate shall decide whether the offence specified in the request is an extradition offence.
- (2) If the Magistrate decides the question in sub-paragraph (1) in the negative, the Magistrate shall order that the person be discharged.
- (3) If the Magistrate decides that question in the affirmative, the Magistrate shall proceed under paragraph 3 (relating to bars to re-extradition).

3 Bars to re-extradition

- (1) If the Magistrate is to proceed under this paragraph, the Magistrate shall decide whether the person’s re-extradition to the designated territory is barred by reason of –
 - (a) the rule against double jeopardy;
 - (b) extraneous considerations; or
 - (d) hostage-taking considerations.
- (2) The questions in sub-paragraph (1) shall be determined in accordance with paragraphs 4, 5 and 6.
- (3) If the Magistrate decides in the affirmative any of the questions in sub-paragraph (1), the Magistrate shall order the person’s discharge.
- (4) If the Magistrate decides each of those questions in the negative, the Magistrate shall proceed under

paragraph 7.

4 Rule against double jeopardy

A person's re-extradition to a designated territory is barred by reason of the rule against double jeopardy if (but only if) it appears that the person would be entitled to be discharged under any rule of law relating to previous acquittal or previous conviction if charged with the extradition offence in Jersey.

5 Extraneous considerations

A person's re-extradition to a designated territory is barred by reason of extraneous considerations if (but only if) it appears –

- (a) that the request for re-extradition, though purporting to be made on account of the extradition offence, is in fact made for the purpose of prosecuting or punishing the person on account of the person's race, religion, nationality, gender, sexual orientation or political opinions; or
- (b) that, if re-extradited, the person might be prejudiced at trial or punished, detained or restricted in personal liberty by reason of the person's race, religion, nationality, gender, sexual orientation or political opinions.

6 Hostage-taking considerations

(1) A person's re-extradition to a designated territory is barred by reason of hostage-taking considerations if (but only if) the designated territory is a party to the International Convention against the Taking of Hostages opened for signature at New York on 18th December 1979, and it appears that –

- (a) the person, if re-extradited, might be prejudiced at trial because communication between the person and the appropriate authorities would not be possible; and
 - (b) the act or omission constituting the extradition offence also constitutes an offence under section 1 of the Taking of Hostages Act 1982 (c.28) of the United Kingdom as it applies to Jersey, or an attempt to commit such an offence.
- (2) The appropriate authorities are the authorities of the designated territory who are entitled to exercise rights of protection in relation to the person.
- (3) A certificate issued by the Attorney General that a territory is a party to the Convention is conclusive evidence of that fact for the purposes of sub-paragraph (1).

7 Course of hearing where Magistrate is to proceed

- (1) If the Magistrate is to proceed under this paragraph, he or she shall decide whether the person was present when convicted.
- (2) If the Magistrate decides that the person was present when convicted, the Magistrate shall proceed directly under paragraph 9 (human rights).
- (3) If the Magistrate decides that the person was not present when convicted, the Magistrate shall decide whether the person deliberately absented himself or herself from the trial.
- (4) If the Magistrate decides that the person deliberately absented himself or herself from the trial, the Magistrate shall proceed directly under paragraph 9 (human rights).
- (5) If the Magistrate decides that the person did not deliberately absent himself or herself from the trial, the Magistrate shall decide whether the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial.
- (6) If the Magistrate decides that the person did not deliberately absent himself or herself from the trial,

the Magistrate shall order that the person be discharged.

(7) If –

- (a) the Magistrate decides that the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial; and
- (b) the designated territory to which re-extradition is requested is a designated territory of the first category,

the Magistrate shall proceed directly under paragraph 9 (human rights).

(8) If –

- (a) the Magistrate decides that the person would be entitled to a retrial or (on appeal) to a review amounting to a retrial; and
- (b) the designated territory to which re-extradition is requested is a designated territory of the second category,

the Magistrate shall proceed under paragraph 8 (relating to convictions *in absentia*).

(9) The Magistrate shall not decide under sub-paragraph (7) or sub-paragraph (8) that a person would be entitled to a retrial or (on appeal) to a review amounting to a retrial unless, in any proceedings that would allegedly constitute a retrial or review amounting to a retrial –

- (a) the person would have the right to defend himself or herself in person or through legal assistance of his or her own choosing or, if the person does not have sufficient means to pay for legal assistance, the right to be given it free when the interests of justice so require; and
- (b) the person would also have the right to examine witnesses against him or her or to have them examined, and to obtain the attendance and examination of witnesses on his or her own behalf under the same conditions as the witnesses against the person.

8 Conviction in absentia in designated territory of second category

- (1) If the Magistrate is to proceed under this paragraph, the Magistrate shall decide whether there is sufficient evidence for the person to stand trial.
- (2) In deciding the question in sub-paragraph (1), the Magistrate may treat a statement made by a person in a document as admissible evidence of a fact if –
 - (a) the statement is made by the person to a police officer or to another person charged with the duty of investigating offences or charging offenders; and
 - (b) direct oral evidence by the person of the fact would be admissible.
- (3) A summary in a document of a statement made by a person shall be treated as a statement made by the person in the document for the purposes of sub-paragraph (2).
- (4) In deciding whether to treat a statement made by a person in a document as admissible evidence of a fact, the Magistrate shall in particular have regard to –
 - (a) the nature and source of the document;
 - (b) whether or not, having regard to the nature and source of the document and to any other circumstances that appear to the Magistrate to be relevant, it is likely that the document is authentic;
 - (c) the extent to which the statement appears to supply evidence that would not readily be available if the statement were not treated as being admissible evidence of the fact;
 - (d) the relevance of the evidence that the statement appears to supply to any issue likely to have to be determined by the Magistrate in deciding the question in sub-paragraph (1); and
 - (e) any risk that the admission or exclusion of the statement will result in unfairness to the person whose re-extradition is sought, having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give oral evidence in the

proceedings.

- (5) Except as otherwise provided in this paragraph, in deciding the question in sub-paragraph (1), the Magistrate may admit evidence if (but only if) it would be admissible in criminal proceedings.
- (6) If the Magistrate decides in the negative the question in sub-paragraph (1), the Magistrate shall order that the person be discharged.
- (7) If the Magistrate decides that question in the affirmative, the Magistrate shall proceed under paragraph 9 (human rights).

9 Consideration of human rights

- (1) If the Magistrate is required by either of paragraphs 7 and 8 to proceed under this paragraph, the Magistrate shall decide whether the person's re-extradition would be compatible with the Convention rights within the meaning of the Human Rights (Jersey) Law 2000.^[27]
- (2) If the Magistrate decides in the negative the question in sub-paragraph (1), the Magistrate shall order that the person be discharged.
- (3) If the Magistrate decides that question in the affirmative, the Magistrate may order that the person be re-extradited to the designated territory.
- (4) If the Magistrate makes an order under sub-paragraph (3), the Magistrate shall remand the person in custody or on bail to await re-extradition to the designated territory.
- (5) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.

10 Deferral by Magistrate where person charged with offence in Jersey

- (1) If at any time during the re-extradition hearing the Magistrate is informed on behalf of the Attorney General that the person is charged with an offence in Jersey, the Magistrate shall adjourn the re-extradition hearing until –
 - (a) the charge is disposed of;
 - (b) the charge is withdrawn;
 - (c) an order is made for the charge to lie on the file; or
 - (d) a declaration is made that the charge has been abandoned.
- (2) If a sentence of imprisonment or another form of detention is imposed in respect of the offence in Jersey with which the person is charged, the Magistrate may adjourn the re-extradition hearing until the sentence has been served.
- (3) If, before the Magistrate adjourns the re-extradition hearing under sub-paragraph (2), he or she has decided under paragraph 4 whether the person's re-extradition is barred by reason of the rule against double jeopardy, the Magistrate must decide that question again after the resumption of the re-extradition hearing.

11 Deferral by Magistrate where person serving sentence in Jersey

If at any time during the re-extradition hearing the Magistrate is informed on behalf of the Attorney General that the person whose re-extradition is requested is serving a sentence of imprisonment or another form of detention in Jersey, the Magistrate may adjourn the re-extradition hearing until the sentence has been served.

12 Other requests for re-extradition

- (1) If at any time in the re-extradition hearing, the Magistrate is informed by or on behalf of the Attorney

General –

- (a) that the Attorney General has received another valid request for the person's extradition to a designated territory;
- (b) that the request has not been disposed of; and
- (c) that the Attorney General has made an order under paragraph 52(2) for further proceedings or the request under consideration by the Magistrate to be deferred until the other request has been disposed of,

the Magistrate shall remand the person in custody or on bail.

- (2) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.

13 Consideration of physical or mental condition

- (1) If at any time in the re-extradition hearing it appears to the Magistrate that the condition to which sub-paragraph (2) refers is satisfied, the Magistrate shall–
 - (a) order the person's discharge; or
 - (b) adjourn the re-extradition hearing until it appears to the Magistrate that the condition to which sub-paragraph (2) refers is no longer satisfied.
- (2) The condition to which this sub-paragraph refers is that the physical or mental condition of the person is such that it would be unjust or oppressive to re-extradite the person.

14 Sending of case to Attorney General

- (1) This paragraph applies if the Magistrate sends a case to the Attorney General for decision whether a person is to be re-extradited.
- (2) If this paragraph applies, the Magistrate shall inform the person in ordinary language –
 - (a) that the person has a right to appeal to the Royal Court; and
 - (b) that if the right of appeal is exercised, the appeal will not be heard until the Attorney General has made the decision.
- (3) However, sub-paragraph (2) does not apply if the person has consented under paragraph 48 to his or her re-extradition.
- (4) If this paragraph applies, the Magistrate shall remand the person in custody or on bail –
 - (a) to await the Attorney General's decision; and
 - (b) to await re-extradition to the designated territory to which re-extradition is requested (if the Attorney General orders the person to be re-extradited).
- (5) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.

Attorney General's functions

15 Attorney General's consideration of case

- (1) If the Magistrate sends a case to the Attorney General for a decision as to whether a person is to be re-extradited, the Attorney General shall decide whether he or she is prohibited under –
 - (a) paragraph 16 (relating to the death penalty);
 - (b) paragraph 17 (relating to speciality); or
 - (c) paragraph 18 (relating to earlier extradition to Jersey from another territory),from ordering the person's re-extradition.

- (2) If the Attorney General decides that he or she is prohibited under any paragraph to which sub-paragraph (1) refers from ordering the person's re-extradition, the Attorney General shall order that the person be discharged.
- (3) If the Attorney General decides that he or she is not prohibited under any paragraph to which sub-paragraph (1) refers from ordering the person's re-extradition, the Attorney General shall order the person to be re-extradited to the designated territory to which his or her re-extradition is requested unless –
 - (a) the Attorney General is informed that the request has been withdrawn;
 - (b) the Attorney General makes an order under sub-paragraph (2) or sub-paragraph (3) of paragraph 52 (relating to competing claims for extradition) for further proceedings on the request to be deferred and the person is discharged under Article 105; or
 - (c) the Attorney General orders under Article 114 (relating to national security) that the person be discharged.
- (4) In deciding the questions in sub-paragraph (1), the Attorney General is not required to consider any representations received by him or her after the end of the permitted period.
- (5) The permitted period is the period of 6 weeks starting with the appropriate day.

16 Death penalty

- (1) The Attorney General shall not order a person's re-extradition to a designated territory if the person could be, will be or has been sentenced to death for the offence concerned in that designated territory.
- (2) Sub-paragraph (1) does not apply if the Attorney General receives a written assurance that a sentence of death –
 - (a) will not be imposed; or
 - (b) if imposed, will not be carried out,and the Attorney General considers that assurance adequate.

17 Speciality

- (1) The Attorney General shall not order a person's re-extradition to a designated territory if there are no speciality arrangements with that designated territory.
- (2) Sub-paragraph (1) does not apply if before the case was sent to the Attorney General, the person had consented under paragraph 47 to being re-extradited.
- (3) There are speciality arrangements with a designated territory if (but only if) under the law of that designated territory or arrangements made between it and Jersey, a person who is re-extradited to the designated territory from Jersey may be dealt with in the designated territory for an offence committed before the person's re-extradition only where –
 - (a) the offence is one to which sub-paragraph (4) refers; or
 - (b) the person is first given an opportunity to leave the designated territory.
- (4) The offences to which this sub-paragraph refers are –
 - (a) the offence in respect of which the person is re-extradited;
 - (b) an extradition offence disclosed by the same facts as that offence, other than one in respect of which a sentence of death could be imposed;
 - (c) an extradition offence in respect of which the Attorney General consents to the person's being dealt with; and
 - (d) an offence in respect of which the person waives the right that he or she would have had (but

for this clause) not to be dealt with for the offence.

- (5) Arrangements made with a designated territory that is a Commonwealth country or a British overseas territory may be made –
 - (a) for a particular case;
 - (b) for a particular class or particular classes of case; or
 - (c) generally, in respect of all cases.
- (6) A certificate issued by or under the authority of the Attorney General confirming the existence of arrangements with a designated territory that is a Commonwealth country or a British overseas territory and stating the terms of the arrangements is conclusive evidence of those matters.

18 Earlier extradition to Jersey from another territory

The Attorney General shall not order a person's re-extradition to a designated territory if –

- (a) the person was extradited to Jersey from another territory (the extraditing territory);
- (b) under arrangements existing between Jersey and the extraditing territory, that territory's consent is required to the person's re-extradition from Jersey to the designated territory in respect of the extradition offence under consideration; and
- (c) that consent has not been given on behalf of the extraditing territory.

19 Deferral by Attorney General where person charged with offence in Jersey

- (1) If the Magistrate sends a case to the Attorney General for a decision as to whether a person is to be re-extradited, and the person is charged with an offence in Jersey, the Attorney General shall not make a decision with regard to the person's re-extradition until –
 - (a) the charge is disposed of;
 - (b) the charge is withdrawn;
 - (c) an order is made for the charge to lie on the file; or
 - (d) a declaration is made that the charge has been abandoned.
- (2) If a sentence of imprisonment or another form of detention is imposed in respect of the offence in Jersey with which the person is charged, the Attorney General may defer making a decision with regard to the person's re-extradition until the sentence has been served.

20 Deferral by Attorney General where person serving sentence in Jersey

If –

- (a) the Magistrate sends a case to the Attorney General for a decision as to whether a person is to be re-extradited; and
 - (b) the person is serving a sentence of imprisonment or another form of detention in Jersey,
- the Attorney General may defer making a decision with regard to the person's re-extradition until the sentence has been served.

21 Time limit for order for re-extradition or discharge

- (1) If –
 - (a) the Magistrate sends a case to the Attorney General for a decision whether a person is to be re-extradited;
 - (b) within the period of 2 months commencing on the appropriate day, the Attorney General does

not make an order for the person's re-extradition or discharge; and

(c) the person applies to the Royal Court to be discharged,
the Royal Court shall order that the person be discharged.

- (2) The Royal Court may, on an application made by the Attorney General before the end of the period specified in sub-paragraph (1)(b), extend that period from time to time.

22 The appropriate day

- (1) This paragraph applies for the purposes of paragraphs 15 and 21 if the Magistrate sends a case to the Attorney General for the latter's decision whether a person is to be re-extradited.
- (2) If the person is charged with an offence in Jersey, the appropriate day is –
- (a) the day on which the charge is disposed of;
 - (b) the day on which the charge is withdrawn;
 - (c) the day on which an order is made for the charge to lie on the file; or
 - (d) the day on which a declaration is made that the charge has been abandoned.
- (3) If under paragraph 19(2) or paragraph 20 the Attorney General defers making a decision until the person has served a sentence, the appropriate day is the day on which the person finishes serving the sentence.
- (4) If paragraph 52 (competing extradition requests) applies to the request for the person's re-extradition (the request concerned), the appropriate day is –
- (a) the day on which the Attorney General makes an order under paragraph 52, if the order is for proceedings on the other request to be deferred; or
 - (b) the day on which an order is made under Article 105, if the order under paragraph 52(2) is for proceedings on the request concerned to be deferred and the order under Article 105 is for the proceedings to be resumed.
- (5) If more than one of sub-paragraphs (2), (3) and (4) applies, the appropriate day is the latest of the days specified in those sub-paragraphs that applies.
- (6) In any other case, the appropriate day is the day on which the Magistrate sends the case to the Attorney General for a decision as to whether the person is to be re-extradited.

23 Information to be given by Attorney General

- (1) If the Attorney General orders a person's re-extradition, the Attorney General shall –
- (a) inform the person of the order;
 - (b) inform the person in ordinary language that he or she has a right of appeal to the Royal Court; and
 - (c) inform any person who is acting on behalf of the designated territory concerned that the Attorney General has made the order.
- (2) However, the requirement to inform a person of his or her right of appeal does not apply if the person has consented under paragraph 61 to being re-extradited.
- (3) If the Attorney General –
- (a) orders a person's re-extradition; and
 - (b) has received in respect of the matter an assurance to which paragraph 16(2) (death sentence) refers,

the Attorney General shall give the person a copy of the assurance when under sub-paragraph (1) informing the person of the order.

- (4) If the Attorney General orders that a person be discharged, the Attorney General shall inform –
 - (a) the person; and
 - (b) a person acting on behalf of the designated territory concerned,that the Attorney General has made the order.

24 Making of order for re-extradition or discharge

An order –

- (a) under paragraph 16 for a person's re-extradition; or
- (b) under paragraph 16 or paragraph 45 (relating to the withdrawal of a reextradition request after the case is sent to the Attorney General) that a person be discharged,

shall be made in writing, and signed by the Attorney General or by a Crown Advocate authorized by the Attorney General for that purpose.

Appeals

25 Appeal to Royal Court against sending of case to Attorney General

- (1) A person may appeal to the Royal Court against a decision by the Magistrate ordering that a person be re-extradited under this Part.
- (2) However, sub-paragraph (1) does not apply if the person consented to his or her re-extradition under paragraph 47 before the case was sent to the Attorney General.
- (3) An appeal under this paragraph may be brought on a question of law or fact.
- (4) Notice of an appeal under this paragraph shall be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which the order is made.

26 Royal Court's powers on appeal against sending of case to Attorney General

- (1) On an appeal under paragraph 25, the Royal Court may–
 - (a) allow the appeal; or
 - (b) dismiss the appeal.
- (2) The Royal Court may allow the appeal only on the ground specified in sub-paragraph (3) or the ground specified in sub-paragraph (4).
- (3) The ground to which this sub-paragraph refers is –
 - (a) that the Magistrate ought to have decided differently a question before the Magistrate at the re-extradition hearing; and
 - (b) that if the Magistrate had decided the question in the way in which it ought to have decided, the Magistrate would have been required to order that the person be discharged.
- (4) The ground to which this sub-paragraph refers is –
 - (a) that an issue is raised that was not raised at the re-extradition hearing, or that evidence is available that was not available at the re-extradition hearing;
 - (b) that the issue or evidence would have resulted in the Magistrate's deciding differently a question before the Magistrate at the re-extradition hearing; and
 - (c) that if the Magistrate had decided the question in that different way, the Magistrate would have been required to order that the person be discharged.

- (5) If the Royal Court allows the appeal, it shall –
 - (a) order that the person be discharged; and
 - (b) quash the order for the person’s re-extradition.

27 Appeal to Royal Court against discharge by Magistrate

- (1) An appeal on behalf of the designated territory concerned may be brought to the Royal Court against a decision by the Magistrate at a re-extradition hearing that results in the Magistrate’s ordering that a person be discharged.
- (2) However, sub-paragraph (1) does not apply if the order that the person be discharged was made under paragraph 43 (relating to the withdrawal of a re-extradition request before the end of the re-extradition hearing).
- (3) An appeal under this paragraph may be brought on a question of law or fact.
- (4) Notice of an appeal under this paragraph shall be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which the order for the person’s discharge is made.

28 Royal Court’s powers on appeal against discharge by Magistrate

- (1) On an appeal under paragraph 27, the Royal Court may–
 - (a) allow the appeal; or
 - (c) dismiss the appeal.
- (2) A question is the relevant question if the Magistrate’s decision on it resulted in the order that the person be discharged.
- (3) The Royal Court may allow the appeal only on the ground specified in sub-paragraph (4) or the ground specified in sub-paragraph (5).
- (4) The ground to which this sub-paragraph refers is –
 - (a) that the Magistrate ought to have decided the question differently; and
 - (b) that if the Magistrate had decided the question in the way in which it ought to have been decided, the Magistrate would not have been required to order that the person be discharged.
- (5) The ground to which this sub-paragraph refers is –
 - (a) that an issue is raised that was not raised at the re-extradition hearing, or that evidence is available that was not available at the re-extradition hearing;
 - (b) that the issue or evidence would have resulted in the Magistrate’s deciding differently the question in respect of which the decision resulted in the order that the person be discharged; and
 - (c) that if the Magistrate had decided the question in that way, he or she would not have been required to order that the person be discharged.
- (6) If the Royal Court allows the appeal, it shall –
 - (a) quash the order that the person be discharged; and
 - (b) direct the Magistrate to proceed as required if the Magistrate had decided the question differently at the re-extradition hearing.

29 Detention pending conclusion of appeal against discharge by Magistrate

- (1) If immediately after the Magistrate orders that a person be discharged, the Magistrate is informed on

behalf of the designated territory concerned of an intention to appeal under paragraph 27, the Magistrate shall remand the person in custody or on bail while the appeal is pending.

- (2) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (3) An appeal under paragraph 27 ceases to be pending when—
 - (a) it is abandoned;
 - (b) the Royal Court dismisses the appeal and the circumstances to which sub-paragraph (4) refers apply;
 - (c) the end of the period of 28 days commencing on the day on which leave to appeal to the Privy Council, against the decision of the Royal Court on the appeal, is granted; or
 - (d) no further step can be taken on behalf of the designated territory in relation to the appeal unless a court grants leave to take a step out of time,whichever occurs first.
- (4) The circumstances to which this sub-paragraph refers are that on the dismissing of the appeal by the Royal Court, the court is not immediately informed on behalf of the designated territory of an intention to apply for such leave.

30 Appeal to Royal Court against re-extradition order by Attorney General

- (1) A person may appeal to the Royal Court against a decision by the Attorney General ordering the person's re-extradition.
- (2) However, sub-paragraph (1) does not apply if the person has under paragraph 47 consented to be re-extradited.
- (3) An appeal under this paragraph may be brought on a question of law or fact.
- (4) Notice of an appeal under this paragraph shall be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which the Attorney General informs the person under paragraph 23(1) that the Attorney General has ordered the person's re-extradition.

31 Royal Court's powers on appeal against re-extradition order by Attorney General

- (1) On an appeal under paragraph 27, the Royal Court may allow or dismiss the appeal.
- (2) The Royal Court may allow the appeal only on the ground specified in sub-paragraph (3) or the ground specified in sub-paragraph (4).
- (3) The ground to which this sub-paragraph refers is –
 - (a) that the Attorney General ought to have decided differently a question before the Attorney General; and
 - (b) that if the Attorney General had decided the question in the way in which it ought to have been decided, the Attorney General would not have ordered the person's re-extradition.
- (4) The ground to which this sub-paragraph refers is –
 - (a) that an issue is raised that was not raised when the case was being considered by the Attorney General, or information is available that was not available at that time;
 - (b) that the issue or information would have resulted in the Attorney General deciding differently a question before the Attorney General; and
 - (c) that if the Attorney General had decided the question in that way, he or she would not have ordered the person's re-extradition.
- (5) If the Royal Court allows the appeal, it shall –
 - (a) order that the person be discharged; and

- (b) quash the order for the person's re-extradition.

32 Appeal to Royal Court against discharge by Attorney General

- (1) An appeal may be brought on behalf of the designated territory concerned, to the Royal Court, against a decision by the Attorney General that results in the Attorney General's ordering that a person be discharged.
- (2) However, sub-paragraph (1) does not apply if the order that the person be discharged was made under paragraph 44 (withdrawal of re-extradition request after case sent to Attorney General).
- (3) An appeal under this paragraph may be brought on a question of law or fact.
- (4) Notice of an appeal under this paragraph must be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which under paragraph 23(4) the Attorney General informs a person acting on behalf of the designated territory that the order has been made.

33 Royal Court's powers on appeal against discharge by Attorney General

- (1) On an appeal under paragraph 32, the Royal Court may–
 - (a) allow the appeal; or
 - (b) dismiss the appeal.
- (2) The Royal Court may allow the appeal only on the ground specified in sub-paragraph (3) or the ground specified in sub-paragraph (4).
- (3) The ground to which this sub-paragraph refers is –
 - (a) that the Attorney General ought to have decided differently a question before the Attorney General; and
 - (b) that if the Attorney General had decided the question in the way in which it ought to have been decided, the Attorney General would have ordered the person's re-extradition.
- (4) The ground to which this sub-paragraph refers is –
 - (a) that an issue is raised that was not raised when the case was being considered by the Attorney General, or information is available that was not available at that time;
 - (b) that the issue or information would have resulted in the Attorney General deciding differently a question before the Attorney General; and
 - (c) if the Attorney General had decided the question in that way, the Attorney General would have ordered the person's re-extradition.
- (5) If the Royal Court allows the appeal, it shall –
 - (a) quash the order the person that the person be discharged; and
 - (b) order the person's re-extradition.

34 Detention pending conclusion of appeal against discharge by Attorney General

- (1) If, immediately after the Attorney General orders that a person be discharged, the Attorney General is informed on behalf of the designated territory of an intention to appeal under paragraph 32, the Magistrate shall remand the person in custody or on bail while the appeal is pending.
- (2) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (3) An appeal under paragraph 32 is pending until–
 - (a) it is abandoned;
 - (b) the Royal Court dismisses the appeal and the circumstances to which sub-paragraph (4) refers

apply;

- (c) the end of the period of 28 days commencing on the day on which leave to appeal to the Privy Council, against the decision of the Royal Court on the appeal, is granted; or
- (d) no further step can be taken on behalf of the designated territory in relation to the appeal unless a court grants leave to take a step out of time,

whichever occurs first.

- (4) The circumstances to which this sub-paragraph refers are that on the dismissing of the appeal by the Royal Court the court is not immediately informed on behalf of the designated territory of an intention to apply for such leave.

35 Costs on appeal to Royal Court

On any appeal to it under this Schedule, the Royal Court may make such order as costs (in respect of the proceedings before it or in respect of the re-extradition hearing) as it considers just and reasonable.

36 Time limit for start of hearing of appeal to Royal Court

- (1) Rules of court shall prescribe the period within which the Royal Court shall begin to hear an appeal under any of paragraphs 25, 27, 30 and 32.
- (2) The Royal Court may from time to time extend the period in a particular case, if the court believes that it is in the interests of justice to do so.
- (3) The Royal Court shall begin to hear the appeal before the end of the period.
- (4) If sub-paragraph (3) is not complied with and the appeal is under paragraph 25 or paragraph 30
 - (a) the appeal shall be taken to have been allowed by a decision of the Royal Court;
 - (b) the person whose re-extradition has been ordered shall be taken to have been discharged by order of the Royal Court; and
 - (c) the order for the person's re-extradition shall be taken to have been quashed by the Royal Court.
- (5) If sub-paragraph (3) is not complied with and the appeal is under paragraph 27 or paragraph 32 the appeal shall be taken to have been dismissed by a decision of the Royal Court.

37 Further appeal to Privy Council

- (1) An appeal lies to the Privy Council from a decision of the Royal Court on an appeal under any of paragraphs 25, 27, 30 and 32.
- (2) An appeal under this paragraph lies at the instance of –
 - (a) the person whose re-extradition is requested; or
 - (b) a person acting on behalf of the designated territory.
- (3) An appeal under this paragraph lies only with the leave of the Royal Court or the Privy Council.
- (4) Leave to appeal under this paragraph shall not be granted unless –
 - (a) the Royal Court has certified that there is a point of law of general public importance involved in the decision; and
 - (b) it appears to the court granting leave that the point is one that ought to be considered by the Privy Council.
- (5) An application to the Royal Court for leave to appeal under this paragraph against its decision shall be made before the end of the period of 14 days commencing on the day on which the court makes that decision.

- (6) An application to the Privy Council for leave to appeal under this paragraph shall be made before the end of the period of 14 days commencing on the day on which the Royal Court refuses leave to appeal.
- (7) If leave to appeal under this paragraph is granted, the appeal shall be brought before the end of the period of 28 days commencing on the day on which leave is granted.
- (8) If sub-paragraph (7) is not complied with—
 - (a) the appeal shall be taken to have been brought; and
 - (b) the appeal shall be taken to have been dismissed by the Privy Council immediately after the end of the period specified in that sub-paragraph.
- (9) For the purpose of sub-paragraph (8)(b)—
 - (a) any power of a court to extend the period permitted for giving notice of appeal; and
 - (b) any power of a court to grant leave to take a step out of time,
 shall be disregarded.
- (10) The Royal Court may grant bail to a person appealing under this paragraph or applying for leave to appeal under this paragraph.

38 Powers of Privy Council on appeal

- (1) On an appeal under paragraph 37, the Privy Council may allow or dismiss the appeal.
- (2) If the person whose re-extradition is requested brings an appeal under paragraph 37, and the Privy Council allows the appeal, the Privy Council shall –
 - (a) order that the person be discharged; and
 - (b) if the appeal was against a decision of the Royal Court to dismiss an appeal under paragraph 25 or paragraph 30 or to allow an appeal under paragraph 32, quash the order for the person's re-extradition.
- (3) If –
 - (a) the Royal Court allows an appeal under paragraph 25 or paragraph 30 by the person whose re-extradition is requested or dismisses an appeal under paragraph 32 by a person acting or behalf of the designated territory;
 - (b) a person acting on behalf of the designated territory brings an appeal under paragraph 37 against the decision of the Royal Court; and
 - (c) the Privy Council allows the appeal,
 the Privy Council shall quash the order discharging the person made by the Royal Court under paragraph 26(5) or paragraph 33(5), or by the Attorney General, and order the person to be re-extradited.
- (4) If –
 - (a) the Royal Court dismisses an appeal under paragraph 27 against a decision made by the Magistrate at the re-extradition hearing;
 - (b) a person acting on behalf of the designated territory brings an appeal under paragraph 37 against the decision of the Royal Court; and
 - (c) the Privy Council allows the appeal,
 the Privy Council shall take the steps to which sub-paragraph (5) refers.
- (5) The steps to which this sub-paragraph refers are –
 - (a) to quash the order of the Magistrate discharging the person whose re-extradition is requested;
 - (b) to remit the case to the Magistrate; and

- (c) to direct the Magistrate to proceed as he or she would have been required to do if the Magistrate had decided the relevant question differently.
- (6) A question is the relevant question if the Magistrate's decision on it resulted in the order that the person be discharged.

39 Appeal to be only remedy

A decision under this Schedule of the Magistrate or the Attorney General may be questioned in legal proceedings only by means of an appeal under this Schedule.

Time limit for re-extradition

40 Time limit for re-extradition if there is no appeal

- (1) If –
 - (a) the Magistrate orders a person's re-extradition to a designated territory; and
 - (b) no notice of an appeal under paragraph 25 or paragraph 30 is given before the end of the period permitted under that paragraph,the person shall be re-extradited to the designated territory before the end of the period of 28 days commencing the day on which the Magistrate makes the order.
- (2) However, sub-paragraph (1) does not apply if the order for the person's re-extradition is made under paragraph 48.
- (3) If –
 - (a) the person is not re-extradited to the designated territory before the end of the period of 28 days commencing the day on which the Magistrate makes the order; and
 - (b) the person applies to the Magistrate to be discharged,the Magistrate shall order that the person be discharged, unless reasonable cause is shown for the delay.
- (4) For the purposes of sub-paragraph (1)–
 - (a) any power of a court to extend the period permitted for giving notice of appeal; and
 - (b) any power of a court to grant leave to take a step out of time,shall be disregarded.
- (5) This paragraph is subject to paragraph 42(6).

41 Time limit for re-extradition if there is an appeal

- (1) If –
 - (a) there is an appeal to the Royal Court under any of paragraphs 25, 30 and 32 against a decision or order relating to a person's re-extradition to a designated territory; and
 - (b) the effect of the decision of the relevant court on appeal is that the person is to be re-extradited there,the person shall be re-extradited to the designated territory before the end of the required period.
- (2) The required period is 28 days commencing–
 - (a) on the day on which the decision of the relevant court on appeal becomes final; or
 - (b) the day on which further proceedings on appeal are abandoned.

- (3) The relevant court on appeal is –
 - (a) the Royal Court, if there is no further appeal to the Privy Council against the decision on the appeal to the Royal Court, or proceedings on any further appeal to the Privy Council are abandoned;
 - (b) the Privy Council, if there is a further appeal to the Privy Council and proceedings on that further appeal are not abandoned.
- (4) The decision of the Royal Court becomes final –
 - (a) at the end of the period for applying to the Royal Court for leave to appeal to appeal to the Privy Council under paragraph 37, if there is no application to the Royal Court for leave under paragraph 37(5);
 - (b) at the end of the period permitted for applying to the Privy Council for leave to appeal under paragraph 37, if the Royal Court refuses leave to appeal under paragraph 37(5) and there is no application to the Privy Council itself for leave under paragraph 37(6);
 - (c) if the Privy Council refuses leave to appeal under paragraph 37(6); or
 - (d) if, leave to appeal under paragraph 37 having been granted, sub-paragraph (7) of the paragraph (relating to the time for bringing the appeal) is not complied with.
- (5) The decision of the Privy Council becomes final when it is made.
- (6) If –
 - (a) sub-paragraph (1) is not complied with; and
 - (b) the person applies to the Magistrate to be discharged,
the Magistrate shall order that the person be discharged, unless reasonable cause is shown for the delay.
- (7) For the purposes of sub-paragraph (4)–
 - (a) any power of a court to extend the period permitted for giving notice of appeal; and
 - (b) any power of a court to grant leave to take a step out of time,
shall be disregarded.
- (8) This paragraph is subject to paragraph 42(6).

42 Undertaking in relation to person serving sentence in Jersey

- (1) If –
 - (a) the Magistrate orders a person’s re-extradition to a designated territory; and
 - (b) the person is serving a sentence of imprisonment or another form of detention in Jersey,
the Magistrate may make the order for re-extradition subject to the condition that re-extradition is not to take place before the Magistrate receives an undertaking given on behalf of the designated territory in terms specified by the Magistrate.
- (2) The terms that may be specified by the Magistrate in relation to a person accused in a designated territory of the commission of an offence include terms –
 - (a) that the person be kept in custody until the conclusion of the proceedings against the person for the offence and any other offence in respect of which the person is permitted to be dealt with in the designated territory; and
 - (b) that the person be returned to Jersey on the conclusion of those proceedings to serve the remainder of the person’s sentence.
- (3) The terms that may be specified by the Magistrate in relation to a person alleged to be unlawfully at large after conviction of an offence by a court in a designated territory include terms that the person

be returned to Jersey to serve the remainder of his or her sentence after serving any sentence imposed on that person in the designated territory for –

- (a) the offence; and
 - (b) any other offence in respect of which the person is permitted to be dealt with in the designated territory.
- (4) Sub-paragraphs (5) and (6) apply if the Magistrate makes an order for re-extradition subject to a condition under sub-paragraph (1).
- (5) If the Magistrate does not receive the undertaking before the end of the period of 21 days commencing on the day on which he or she makes the order, and the person applies to the Royal Court to be discharged, the Royal Court shall order that the person be discharged.
- (6) If the Magistrate receives the undertaking before the end of that period –
- (a) in a case where paragraph 40 (relating to the time limit for re-extradition if there is no appeal) applies, the period of 28 days specified in paragraph 40(1) for the person's re-extradition to the designated territory concerned shall commence on the day on which the Magistrate receives the undertaking; and
 - (b) in a case where paragraph 41 (relating to the time limit for re-extradition if there is an appeal) applies, the period of 28 days specified in paragraph 41(2) for the person's re-extradition to the designated territory concerned shall commence on the day on which the decision on the appeal becomes final (within the meaning of that paragraph) or the day on which the Magistrate receives the undertaking, whichever is later.

Withdrawal of request for re-extradition

43 Withdrawal of request before end of re-extradition hearing before Magistrate

- (1) If, at any time in the period to which sub-paragraph (2) refers, the Magistrate is informed by the Attorney General that a request for a person's re-extradition has been withdrawn, the Magistrate shall order that the person be discharged.
- (2) The period to which this sub-paragraph refers is the period –
 - (a) commencing when the person first appears or is brought before the Magistrate following the person's arrest; and
 - (b) ending when the Magistrate orders the person to be discharged or sends the case to the Attorney General for a decision as to whether the person is to be re-extradited.
- (3) If the person is not before the Magistrate at the time when he Magistrate orders that the person be discharged, the Magistrate shall inform the person of the order as soon as practicable.

44 Withdrawal of request after case sent to Attorney General

If, at any time in the period –

- (a) commencing when the Magistrate sends the case to the Attorney General for a decision as to whether the person is to be re-extradited; and
 - (b) ending when the person is re-extradited in pursuance of the request for re-extradition or is discharged,
- the Attorney General is informed that a request for the person's re-extradition has been withdrawn, the Attorney General shall order that the person be discharged.

45 Withdrawal of request while appeal to Royal Court pending

- (1) If at any time in the period –

- (a) commencing when notice of an appeal to the court is given by the person whose re-extradition is requested or by a person acting on behalf of the designated territory to which the person's re-extradition is requested; and
- (b) ending when proceedings on the appeal are abandoned or the court makes its decision on the appeal,

the Royal Court is informed by the Attorney General that a request for a person's re-extradition has been withdrawn, the court shall take the steps specified in sub-paragraph (2) or sub-paragraph (3) (as the case requires).

- (2) If the appeal is under paragraph 25 or paragraph 30 (relating to appeals by persons whose re extradition is requested), the Royal Court shall –
 - (a) order the person's discharge; and
 - (b) quash the order for the person's re-extradition, if the Attorney General has ordered the person's re-extradition.
- (3) If the appeal is under paragraph 27 or paragraph 32 (relating to appeals against the discharge of persons whose re-extradition is requested), the Royal Court shall dismiss the appeal.
- (4) If the person is not before the Royal Court at the time when the court orders his or her discharge, the court shall inform the person of the order as soon as practicable.

46 Withdrawal of request while appeal to Privy Council pending

- (1) If at any time in the period –
 - (a) commencing when leave to appeal to the Privy Council is granted to the person whose re-extradition is requested or a person acting on behalf of the designated territory to which that re-extradition is requested; and
 - (b) ending when proceedings on the appeal are abandoned or the Privy Council makes its decision on the appeal,

the Privy Council is informed by the Attorney General that a request for a person's re-extradition has been withdrawn, the Privy Council shall take the steps specified in sub-paragraph (2) or sub-paragraph (3) (as the case requires).

- (2) If the appeal is brought by the person whose re-extradition is requested, the Privy Council shall –
 - (a) order that the person be discharged; and
 - (b) quash the order for the person's re-extradition, in a case where the appeal was against a decision of the Royal Court to dismiss an appeal under paragraph 25 or paragraph 30 (appeal by persons whose re-extradition is requested).
- (3) If the appeal is brought by a person acting on behalf of the designated territory, the Privy Council shall dismiss the appeal.
- (4) If the person whose re-extradition is requested is not before the Privy Council at the time when it orders that the person be discharged, the Privy Council shall inform the person of the order as soon as practicable.

Consent to re-extradition

47 General provisions as to consent to re-extradition

- (1) A person brought before the Magistrate under Article 72 may consent to the person's re-extradition to the designated territory in which the overseas sentence was imposed.
- (2) Consent under this paragraph must be given in writing before the Magistrate, and is irrevocable.

48 Consent to re-extradition before case sent to Attorney General

- (1) If a person consents under paragraph 47 to being re-extradited –
 - (a) the Magistrate shall remand the person in custody or on bail; and
 - (b) if the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (2) If the Magistrate has not fixed a date on which the re-extradition hearing is to begin, the Magistrate is not required to do so.
- (3) If the re-extradition hearing has begun, the Magistrate is no longer required to proceed or continue proceeding under any of paragraphs 2 to 13 (inclusive) (relating to the re-extradition hearing).
- (4) The Magistrate shall, within the period of 10 days commencing on the day on which the consent is given, order that the person be re-extradited to the designated territory.
- (5) The person shall be taken to have waived any right that he or she would have (apart from the consent) not to be dealt with in the designated territory for an offence committed before the person's re-extradition.
- (6) Sub-paragraph (4) has effect subject to paragraph 50.
- (7) If sub-paragraph (4) is not complied with, and the person applies to the Magistrate to be discharged the Magistrate shall order that the person be discharged.

49 Time limit for re-extradition following consent

- (1) This paragraph applies if the Magistrate makes an order under paragraph 48(4) for a person's re-extradition to a designated territory.
- (2) The person shall be re-extradited to the designated territory before the end of the period of 28 days commencing on the day on which the order is made.
- (3) If sub-paragraph (2) is not complied with, and the person applies to the Magistrate to be discharged the Magistrate shall order that the person be discharged, unless reasonable cause is shown for the delay.

50 Deferral for competing extradition claim following consent

- (1) This paragraph applies if –
 - (a) a person consents under paragraph 47 to being re-extradited to a designated territory; and
 - (b) before the Magistrate orders the person's re-extradition under paragraph 48(4), the Magistrate is informed that the conditions in sub-paragraph (2) are met.
- (2) The conditions to which this sub-paragraph refers are that –
 - (a) the Attorney General has received another valid request for the person's extradition to a designated territory; and
 - (b) the other request has not been disposed of.
- (3) The Magistrate shall not make an order under paragraph 48(4) until he or she is informed what order has been made under paragraph 52(2).
- (4) If the order under paragraph 52(2) is for further proceedings on the request under consideration to be deferred until the other request, or the warrant, has been disposed of, the judge shall remand the person in custody or on bail.
- (5) If the Magistrate remands the person in custody, the Magistrate may later grant bail to the person.
- (6) If –

- (a) the order under sub-paragraph (2) or (3) of paragraph 52 is for further proceedings on the request under consideration to be deferred until the other request, or the warrant, has been disposed of; and
- (b) an order is made under Article 105 for proceedings on the request under consideration to be resumed,

the period specified in paragraph 48(4) is 10 days commencing the day on which the order under Article 105 is made.

- (7) If the order under paragraph 52(2) is for further proceedings on the other request, or the warrant, to be deferred until the request under consideration has been disposed of, the period specified in paragraph 48(4) is 10 days commencing on the day on which the Magistrate is informed of the order

51 Re-extradition following deferral for competing claim

If –

- (a) an order is made under paragraph 48(4) for a person to be re-extradited to a designated territory in pursuance of a request for the person's re-extradition;
- (b) before the person is re-extradited to the designated territory an order is made under paragraph 52(2) for the person's re-extradition in pursuance of the request to be deferred;
- (c) the Magistrate makes an order under Article 106(2) for the person's re-extradition in pursuance of the request to cease to be deferred,

the required period for the purposes of paragraph 49(2) is 28 days starting with the day on which the order under Article 106(2) is made.

Competing extradition requests

52 Competing extradition requests

- (1) This paragraph applies if –
 - (a) the Attorney General receives a valid request for a person's re-extradition to a designated territory;
 - (b) the person is in Jersey; and
 - (c) before the person is re-extradited in pursuance of the request or discharged, the Attorney General receives another valid request for the person's extradition.
- (2) If neither of the requests has been disposed of, the Attorney General may order proceedings (or further proceedings) on one of the requests to be deferred until the other request has been disposed of.
- (3) If an order for a person's extradition has been made in pursuance of the request under consideration, the Attorney General may order the person's extradition in pursuance of that request to be deferred until the other request has been disposed of.
- (4) In applying this paragraph, the Attorney General shall take account of –
 - (a) the relative seriousness of the offences concerned;
 - (b) the place where each offence was committed (or was alleged to have been committed);
 - (c) the date when each offence was committed (or was alleged to have been committed);
 - (d) the date when each request was received; and
 - (e) whether, in the case of each offence, the person is alleged to be accused of its commission (but not convicted of the offence), or is alleged to be unlawfully at large after conviction of the offence.

53 Consent to dealing with another offence

- (1) This paragraph applies if –
 - (a) a person is re-extradited to a designated territory; and
 - (b) the Attorney General receives a valid request for the Attorney General’s consent to the person being dealt with in the designated territory for an offence other than the offence in respect of which the person was extradited.
- (2) A request for consent is valid if it is made by an authority of the designated territory, and the Attorney General believes that the authority has the function in that designated territory of making requests for the consent to which paragraph (1)(b) refers.
- (3) The Attorney General shall serve notice on the person that the Attorney General has received the request for consent, unless the Attorney General is satisfied that it would be impracticable to do so.
- (4) The Attorney General shall decide whether the offence is an extradition offence.
- (5) If the Attorney General decides that the offence is not an extradition offence, the Attorney General shall refuse to give consent.
- (6) If the Attorney General decides that the offence is an extradition offence, the Attorney General shall decide whether the Magistrate would send the case to the Attorney General under paragraphs 3 to 13 (inclusive) for the Attorney General’s decision whether the person should be re-extradited if –
 - (a) the person were in Jersey; and
 - (b) the Magistrate were required to proceed under paragraph 3 in respect of the offence for which the Attorney General’s consent is requested.
- (7) If the Attorney General decides the question in sub-paragraph (6) in the negative, the Attorney General shall refuse to give consent.
- (8) If the Attorney General decides that question in the affirmative, the Attorney General shall decide whether, if the person were in Jersey, the person’s re-extradition in respect of the offence would be prohibited under any of paragraphs 16, 17 and 18.
- (9) If the Attorney General decides the question in sub-paragraph (8) in the affirmative, the Attorney General shall refuse to give consent.
- (10) If the Attorney General decides that question in the affirmative, the Attorney General may give consent.

54 Consent to further extradition to designated territory

- (1) This paragraph applies if –
 - (a) a person is re-extradited to a designated territory (the requesting territory); and
 - (b) the Attorney General receives a valid request for the Attorney General’s consent to the person’s extradition to another designated territory for an offence other than the offence in respect of which the person was re-extradited.
- (2) A request for consent is valid if it is made by an authority of the designated territory, and the Attorney General believes that the authority has the function in that designated territory of making requests for the consent to which sub-paragraph (1)(b) refers.
- (3) The Attorney General shall serve notice on the person that the Attorney General has received the request for consent, unless the Attorney General is satisfied that it would be impracticable to do so.
- (4) The Attorney General shall decide whether the offence is an extradition offence in relation to the

designated territory to which sub-paragraph (1)(b) refers.

- (5) If the Attorney General decides that the offence is not an extradition offence, the Attorney General shall refuse to give consent.
- (6) If the Attorney General decides that the offence is an extradition offence, the Attorney General shall decide whether the Magistrate would send the case to the Attorney General under paragraphs 3 to 13 (inclusive) for the Attorney General's decision whether the person should be extradited if –
 - (a) the person were in Jersey; and
 - (b) the Magistrate were required to proceed under paragraph 15 in respect of the offence for which the Attorney General's consent is requested.
- (7) If the Attorney General decides the question in sub-paragraph (6) in the negative, the Attorney General shall refuse to give consent.
- (8) If the Attorney General decides that question in the affirmative, the Attorney General shall decide whether, if the person were in Jersey, the person's extradition in respect of the offence would be prohibited under any of paragraphs 16, 17 and 18.
- (9) If the Attorney General decides the question in sub-paragraph (8) in the affirmative, the Attorney General shall refuse to give consent.
- (10) If the Attorney General decides that question in the affirmative, the Attorney General may give consent.

55 Return of person to Island to serve remainder of sentence

- (1) This paragraph applies to a person who –
 - (a) is serving a sentence of imprisonment or another form of detention in Jersey;
 - (b) is re-extradited to a designated territory; and
 - (c) is subsequently returned to Jersey to serve the remainder of that sentence.
- (2) A person to whom this paragraph applies is liable to be detained in pursuance of the person's sentence.
- (3) If the person is at large, he or she shall be treated as being unlawfully at large.
- (4) Time during which, as a result of his or her re-extradition, the person was not in Jersey shall not count as time served by the person as part of his or her sentence.
- (5) Sub-paragraph (4) does not apply if–
 - (a) the person was re-extradited for the purpose of being prosecuted for an offence; and
 - (b) he or she has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the designated territory.
- (6) In a case to which sub-paragraph (5) refers, time during which as a result of his or her re-extradition the person was not in Jersey counts as time served by the person as part of his or her sentence if (but only if) it was spent in custody in connection with the offence or any other offence in respect of which he or she was permitted to be dealt with in the designated territory.

SCHEDULE 3

(Article 122)

ENACTMENTS AMENDED

Enactment	Amendment
Police Procedures and Criminal Evidence (Jersey) Law 2003	<p>By inserting in Article 1(1) of that Law,^[28] in its appropriate alphabetical order, the following definition –</p> <p>“ ‘extradition arrest warrant’ has the same meaning as it has in Article 1(1) of the Extradition (Jersey) Law 2000; ^[29].”.</p> <p>In Article 55(14) of that Law^[30] –</p> <p>(a) in sub-paragraph (a), by deleting the word “or”;</p> <p>(b) in sub-paragraph (b), by substituting for the full stop the word “; or”;</p> <p>(c) by adding the following sub-paragraph –</p> <p>“(c) applies to a person who is arrested under an extradition arrest warrant.”.</p> <p>By adding to Article 57 of that Law^[31] the following paragraph –</p> <p>“(18) Nothing in this Article applies to a person who is arrested under an extradition arrest warrant.”.</p>

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- [1] *Volume 2003, page 19.*
- [2] *Volume 2003, page 26.*
- [3] *Volume 2003, page 20.*
- [4] *Volume 2003, page 21.*
- [5] *Volume 2003, page 25.*
- [6] *Tomes I-III, page 303, Volume 1968-1969, page 343, Volume 1992-1993, page 443 and Volume 2000, page 751.*
- [7] *Volume 2003, page 21.*
- [8] *Volume 2003, page 13.*
- [9] *Volume 2003, page 21.*
- [10] *Volume 2003, page 22.*
- [11] *Tome VII, page 549 and Volume 1999, page 217.*
- [12] *Volume 1961-1962, page 156 and Volume 1996-1997, page 171.*
- [13] *Volume 2000, page 659.*
- [14] *Volume 2002, page 686.*
- [15] *Volume 2003, page 63.*
- [16] *Volume 2003, page 64.*
- [17] *Volume 2003, page 66.*
- [18] *Volume 2003, page 68.*
- [19] *Volume 1994-1995, page 49.*
- [20] *Volume 1994-1995, page 47.*
- [21] *Volume 1994-1995, page 35, Volume 1999, pages 429, 435 and 516, Volume 2001, page 48, and R&O 8859.*
- [22] *Volume 1998, page 701.*
- [23] *Volume 1998, page 707.*
- [24] *Tome VII, page 502, Volume 1979-1981, page 195, Volume 1984-1985, page 175, Volume 1990-1991, pages 113 and 855, Volume 1992-1993, page 461, Volume 1996-1997, pages 147 and 667, Volume 1998, page 659 and Volume 2001, page 7.*
- [25] *Tome VII, page 549 and Volume 1999, page 217.*
- [26] *Volume 1961-1962, page 156 and Volume 1996-1997, page 171.*
- [27] *Volume 2000, page 659 and Volume 2002, page 705.*
- [28] *Volume 2003, page 20.*
- [29] *P.38/2004.*
- [30] *Volume 2003, page 72.*
- [31] *Volume 2003, page 74.*