

STATES OF JERSEY



Jersey

DRAFT CRIMINAL PROCEDURE (BAIL) (JERSEY) LAW 2017 (APPOINTED DAY) ACT 201-

**Lodged au Greffe on 21st June 2019
by the Minister for Home Affairs**

STATES GREFFE

REPORT

This is the first of 2 Appointed Day Acts which will bring the [Criminal Procedure \(Bail\) \(Jersey\) Law 2017](#) (“Bail Law”) into force, together with the necessary changes to the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) (“PPCE”) to allow the Bail scheme to function.

The Bail Law was approved by the States Assembly on 19th July 2017, sanctioned by Order of Her Majesty in Council on 11th October 2017, and registered by the Royal Court on 20th October 2017. Together with the associated amendments to the PPCE, the Bail Law sets out the framework for the grant of bail to a defendant or suspect.

The Bail Law provides the defendant with the right to bail, subject to a number of exceptions set out in Schedule 1 to the Law, provides the courts and Police with clear powers to impose appropriate bail conditions, and enables those to be enforced.

By codifying and amending the law in relation to bail granted by the Police and the courts, the Bail Law will enhance the rights of suspects and defendants. Further, by enabling appropriate bail conditions to be imposed and enforced, it will help to protect victims and witnesses throughout the criminal process.

The Bail Law itself primarily deals with the management of bail by the courts, and the associated PPCE amendments address the treatment of bail by the Police and the Jersey Customs and Immigration Service.

The Act refers to a ‘substituted provision’, which will not come into force. As above, the Bail Law amends the PPCE, and adds a number of new Articles. These include a new Article 30, which deals with pre-charge bail. Paragraph (10)(b) of Article 30 erroneously reads that, upon an application to the Magistrate to vary Police bail conditions, the Magistrate has an option to overturn a person’s bail and remand the person into custody. This mirrors the arrangements for post-charge bail (new Article 31B(9)). The problem arises that where an individual has not yet been charged, there is no basis for them to be held in custody beyond a brief investigatory period after arrest, and so this wording would be confusing and undesirable. Therefore the Act does not commence Article 30(10)(b).

This Act will bring the Bail Law into force 7 days after it is adopted by the States.

Financial and manpower implications

There are no additional financial or manpower implications for the Government of Jersey arising from the adoption of this draft Appointed Day Act. The Law has been developed in such a way as to impose no additional requirement on the court service that cannot be met from existing resources.

EXPLANATORY NOTE

The Criminal Procedure (Bail) (Jersey) Law 2017 (the “Bail Law”) received Royal Assent on 11th October 2017.

This Act, if passed by the States, would bring all of the Bail Law into force, with the exception of one amendment contained in paragraph 4 of Schedule 2 to that Law, 7 days after it is passed.



Jersey

DRAFT CRIMINAL PROCEDURE (BAIL) (JERSEY) LAW 2017 (APPOINTED DAY) ACT 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES make this Act under Article 24 of the Criminal Procedure (Bail) (Jersey) Law 2017¹ –

1 Interpretation

In this Act –

“Bail Law” means the Criminal Procedure (Bail) (Jersey) Law 2017²;

“Police Procedures Law” means the Police Procedures and Criminal Evidence (Jersey) Law 2003³;

“substituted provision” means substituted Article 30(10)(b) of the Police Procedures Law set out in paragraph 4 of Schedule 2 (Police Procedures and Criminal Evidence (Jersey) Law 2003 amended) to the Bail Law.

2 Commencement of Bail Law

Except for the substituted provision, all of the Bail Law comes into force 7 days after the day this Act is passed.

3 Citation

This Act may be cited as the Criminal Procedure (Bail) (Jersey) Law 2017 (Appointed Day) Act 201-.

ENDNOTES

Table of Endnote References

<i>1</i>	<i>L.20/2017</i>
<i>2</i>	<i>L.20/2017</i>
<i>3</i>	<i>chapter 23.750</i>