

STATES OF JERSEY



DRAFT INTERNATIONAL CRIMINAL COURT (AMENDMENT) (JERSEY) LAW 201-

Lodged au Greffe on 3rd August 2015
by the Chief Minister

STATES GREFFE



Jersey

DRAFT INTERNATIONAL CRIMINAL COURT (AMENDMENT) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Chief Minister has made the following statement –

In the view of the Chief Minister, the provisions of the Draft International Criminal Court (Amendment) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator I.J. Gorst**

Chief Minister

Dated: 31st July 2015

REPORT

The International Criminal Court (Jersey) Law 2014 (“the Law”) was registered by the Royal Court on 17th October 2014 (having been adopted by the States of Jersey on 15th May 2014). The Law came into force on 5th January 2015.

In the course of drafting certain subordinate legislation under the Law, a need was identified to amend the Law in two minor respects:

- *Article 38 of the Law*

Article 38 makes provision regarding the detention of prisoners in Jersey in pursuance of a sentence of imprisonment imposed by the International Criminal Court (“the ICC”) and disapplies certain Jersey legislation that would otherwise apply to such prisoners. *Article 1* of the draft Law clarifies an ambiguity in paragraph (5)(c) of Article 38 by making it clear that that paragraph refers to the disapplication of Rules made under Article 29 of the Prison (Jersey) Law 1957 (rather than Article 29 of the Repatriation of Prisoners (Jersey) Law 2012).

- *Schedule 1 to the Law*

Schedule 1 makes supplementary provisions relating to the ICC. In particular, paragraph 1 empowers the Minister by Order to confer on the ICC the legal capacities of a body corporate and to provide that the ICC and certain personnel and others associated with the ICC shall have certain privileges and immunities. Paragraph 2 confers an Order-making power to make provision for giving effect to Rules of Procedure and Evidence having effect under the ICC Statute or under any related international Agreement which extends to Jersey.

Such Order-making powers are not consistent, however, with Article 4(5) of the Law, which requires the States *by Regulations* to make related provisions. Therefore *Article 2* of the draft Law amends Schedule 1 to the Law to make it consistent with Article 4(5), that is to say, to provide for the States to make the appropriate provisions by Regulations.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this draft Law.

Human Rights

No human rights notes are annexed because the Law Officers’ Department has indicated that the draft Law does not give rise to any human rights issues.

Explanatory Note

This Law would amend the International Criminal Court (Jersey) Law 2014 (“Law”).

Article 1 clarifies that a reference in Article 38(5)(c) of the Law to “that Law” is a reference to the Prison (Jersey) Law 1957. (Article 38(5)(c) concerns Jersey legislation that does not apply to a person detained in Jersey in pursuance of a sentence of the International Criminal Court).

Article 2 amends paragraphs 1 and 2 of Schedule 1 to the Law concerning the powers to make provision by subordinate legislation conferring legal capacity, privileges and immunities on the International Criminal Court and giving effect to Rules of Procedure and Evidence referred to in the Statute of the International Criminal Court (done at Rome on 17th July 1998). The amendment made by *Article 2* replaces the current Order making powers with Regulation making powers. The effect of these amendments is to achieve consistency with an existing provision in Article 4(5) of the Law which requires Regulations to be made in relation to specific provisions giving effect to the Rules of Procedure and Evidence referred to in Schedule 1.

Article 3 sets out the title of this Law and provides that it will come into force 7 days after it is registered by the Royal Court.



Jersey

DRAFT INTERNATIONAL CRIMINAL COURT (AMENDMENT) (JERSEY) LAW 201-

A LAW to amend the International Criminal Court (Jersey) Law 2014

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 –

1 Article 38 amended

In Article 38(5)(c) of the International Criminal Court (Jersey) Law 2014¹, for the words “that Law” there shall be substituted the words “the Prison (Jersey) Law 1957²”.

2 Schedule 1 amended

In Schedule 1 to the International Criminal Court (Jersey) Law 2014³ –

- (a) in paragraph 1(1) for the words “The Minister may by Order” there shall be substituted the words “The States may by Regulations”;
- (b) in paragraph 1(2) –
 - (i) for the words “The Minister may by Order” there shall be substituted the words “The States may by Regulations”, and
 - (ii) for the words “, in the Minister’s opinion,” there shall be substituted the words “the States decide”;
- (c) paragraph 1(3) shall be repealed;
- (d) in paragraph 2 –
 - (i) the word “(1)” in sub-paragraph (1) shall be deleted so that the sub-paragraph is unnumbered,
 - (i) for the words “The Minister may by Order make such provision as appears to the Minister” there shall be substituted the words “The

States may by Regulations make such provision as appears to the States”,

- (iii) sub-paragraph (2) shall be repealed.

3 Citation and commencement

This Law may be cited as the International Criminal Court (Amendment) (Jersey) Law 201- and shall come into force 7 days after the day it is registered by the Royal Court.

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- ¹ *L.31/2014*
² *chapter 23.775*
³ *L.31/2014*