

STATES OF JERSEY



DRAFT INTERNATIONAL CRIMINAL COURT (REMAND TIME) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 22nd July 2016
by the Chief Minister

STATES GREFFE



Jersey

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REPORT

On 15th May 2014, the States adopted the [International Criminal Court \(Jersey\) Law 2014](#) (“the 2014 Law”) which was brought into force on 5th January 2015 by an Appointed Day Act (*see* [R&O.188/2014](#)), and was later amended by the [International Criminal Court \(Amendment\) \(Jersey\) Law 2016](#) (“the 2016 Law”), which came into force on 22nd April 2016.

The International Criminal Court (“ICC”) is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely – genocide, crimes against humanity and war crimes. The ICC is based on a treaty – the Rome Statute of the International Criminal Court (“the Rome Statute”) – adopted on 17th July 1998. It is intended to ask H.M. Government to extend its ratification of the Rome Statute to Jersey by Order in Council. Jersey will join 121 other countries that have ratified the Rome Statute.

Article 2 of the 2014 Law applies where H.M. Attorney General receives a request from the ICC for the arrest and surrender of a person who is alleged to have committed an ICC crime or to have been convicted by the ICC.

The Attorney General must transmit the request and the documents accompanying it to the Magistrate. If the request is accompanied by a warrant of arrest, and the Magistrate is satisfied that the warrant appears to have been issued by the ICC, the Magistrate must endorse the warrant for execution in Jersey. If, in the case of a person convicted by the ICC, the request is not accompanied by a warrant of arrest, but is accompanied by –

- a copy of the judgment of conviction;
- information to demonstrate that the person is the person referred to in the judgment of conviction; and
- where the person has been sentenced, a copy of the sentence imposed and a statement of any time already served and the time remaining to be served,

the Magistrate has to issue a warrant for the arrest of the person.

A warrant endorsed or issued under Article 2 is known as an ‘Article 2 warrant’.

Article 3 of the 2014 Law applies where the Attorney General receives from the ICC a request for the provisional arrest of a person who is alleged to have committed an ICC crime or to have been convicted by the ICC. The Attorney General must apply to

the Magistrate for a warrant for the arrest of the person, accompanied by a statement on oath that the person making the statement has reason to believe –

- that a request has been made on grounds of urgency by the ICC for the arrest of the person; and
- that the person is in, or on his or her way to, Jersey,

and the Magistrate must immediately issue a warrant for the arrest of the person.

A warrant issued under Article 3 is known as a provisional warrant.

Article 4 of the 2014 Law applies where a person has been arrested under a provisional warrant. The person must be brought before the Magistrate as soon as practicable. If an Article 2 warrant is produced to the Magistrate in respect of the person, the Magistrate then has to proceed as if the person had been arrested under that warrant. But if no Article 2 warrant is produced, the Magistrate must remand the person pending the production of such a warrant or until the period has elapsed for which the person may be so remanded under the Rules of Procedure and Evidence referred, whichever is the earlier.

‘Rules of Procedure and Evidence’ are given effect by Regulations made by the States under Schedule 1 to the 2014 Law. In giving effect to such Rules, the States are required by Article 4(5) of the 2014 Law to make provision specifying –

- (a) the period for which a person may be so remanded at any time; and
- (b) the total period for which a person may be so remanded, having regard to the time limits specified in the Rules of Procedure and Evidence.

These draft Regulations provide for the length of time that the court may remand a person arrested under a provisional warrant, pending the production of an Article 2 warrant.

Regulation 1(a) provides that the maximum period for a person may be remanded by the court at any one time is 18 days.

Regulation 1(b) provides that the total period for which a person may be remanded court may be remanded by the court is 60 days.

Financial and manpower implications

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

Explanatory Note

These Regulations make provision under the International Criminal Court (Jersey) Law 2014 (“Law”) in respect of a person arrested in Jersey under a provisional warrant, that is, a warrant issued by the Magistrate following a request to the Attorney General from the International Criminal Court (“ICC”) for the provisional arrest of a person who is alleged to have committed a crime within the ICC’s jurisdiction or who is alleged to have been convicted by the ICC. In the case of such an arrest, Article 4 of the Law requires the person to be brought before the Magistrate and for the person to be remanded pending the production of an “Article 2 warrant”. An “Article 2 warrant” means a warrant of arrest issued by the ICC and endorsed by the Magistrate or, in the case of a convicted person only, a warrant issued by the Magistrate where the ICC has supplied evidence of conviction.

Regulation 1 provides that the maximum period for which a person can be remanded at any time pending an Article 2 warrant is 18 days and that the total period for which a person can be remanded pending an Article 2 warrant is 60 days.

Regulation 2 sets out the title of these Regulations and provides that they will come into force 7 days after the day they are made.



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Arrangement

Regulation

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

THE STATES, in pursuance of Article 4(5) of, and paragraph 2 of Schedule 1 to, the International Criminal Court (Jersey) Law 2014¹, have made the following Regulations –

1 Remand time

For the purposes of Article 4(5) of the International Criminal Court (Jersey) Law 2014² –

- (a) the period specified under Article 4(5)(a) for which a person may be remanded pending the production of an Article 2 warrant in respect of that person is 18 days; and
- (b) the total period specified under Article 4(5)(b) for which a person may be so remanded is 60 days.

2 Citation and commencement

These Regulations may be cited as the International Criminal Court (Remand Time) (Jersey) Regulations 201- and shall come into force 7 days after the day they are made.

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- ¹ *chapter 17.520*
² *chapter 17.520*