

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

THE EXTRADITION (BAILIWICK OF GUERNSEY) LAW, 2019

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Extradition (Bailiwick of Guernsey) Law, 2019", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

The Law makes appropriate provision equivalent to the Category 2 procedures in the Extradition Act 2003 ("the 2003 Act"). This is explained further below.

Extradition from the Bailiwick is currently governed by Parts I to V of the Extradition Act 1989 ("the 1989 Act"), which is expressed as having direct effect within the Crown Dependencies as if they were part of the United Kingdom. The 1989 Act in its application to the UK was repealed and replaced by the 2003 Act, which did not apply to the Crown Dependencies. At the same time the 1989 Act was preserved in its application to the Crown Dependencies until its replacement either by domestic extradition legislation or by the extension of the 2003 Act.

The 2003 Act differs from the 1989 Act in a number of significant ways. As well as bringing the extradition regime up to date with international developments, the procedures of the 2003 Act are more streamlined and have reduced the risk of an otherwise valid extradition request being refused for purely technical reasons.

Under the 2003 Act, there are three extradition regimes, as follows:

1. extradition under the European Arrest Warrant (Category 1) – this is applicable to all EU member states and is a backing of warrants/surrender system rather than extradition per se. In broad terms, if the UK receives an arrest warrant from another member state and is satisfied that it is a valid warrant, it must give effect to it without going into the merits;

2. extradition to countries based on information only (Category 2 – specially designated countries) – this is where a hearing on the merits is required but the bar is low as only information, not evidence, is required in support of the extradition request. This applies either because it is required under the terms of an extradition treaty with the country in question (e.g. the USA) or because the country is a signatory to the Council of Europe convention on extradition (as that convention requires signatories to take this approach to one another); and
3. extradition to countries based on evidence (Category 2 – other designated countries) - this is where a hearing on the merits is required and must be supported by evidence.

As a non-EU member state Guernsey could only implement the two types of Category 2 regime set out in 2 and 3 above.

In order to align with the United Kingdom it has been necessary to replicate (at Schedule 1, which is amendable by Ordinance under section 5) the United Kingdom listings for the two types of Category 2 regime and also treat all EU member states as information-only countries (other than the United Kingdom itself, as that is already covered by existing separate and long-standing legislation).

Under the Law, jurisdiction is vested in the Magistrate's Court at first instance, which is consistent with the approach in Jersey and the United Kingdom, and H.M. Procureur has the functions assigned to a prosecutor in the 2003 Act, which is consistent with the approach taken in Jersey.

Part I of the Law is concerned with introductory provisions, including in relation to conduct that constitutes an extradition offence, and the designated territories. Parts II and III deal with extradition and re-extradition from the Bailiwick, including appeals, and Part IV with extradition to the Bailiwick. Part V is concerned with relevant police powers, including powers of search and seizure, and Part VI makes miscellaneous and final provision, including in respect of transferring persons from Alderney or Sark to Guernsey.

PROJET DE LOI

ENTITLED

The Extradition (Bailiwick of Guernsey) Law, 2019

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PROJET DE LOI

ENTITLED

The Extradition (Bailiwick of Guernsey) Law, 2019

THE STATES, in pursuance of their Resolution of the 21st day of September 2016^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART I

INTRODUCTORY PROVISIONS

Application of Law.

1. (1) This Law shall apply for the purposes of -
 - (a) every request for extradition or re-extradition that is received in the Bailiwick on or after the day on which this Law comes into force, and
 - (b) every request for extradition to the Bailiwick that is made by Her Majesty's Procureur on or after the day on which this Law comes into force.
- (2) For the purposes of this Law, it is immaterial whether an

^a Article I of Billet d'État No. XXIII of 2016.

extradition offence is committed before or after the commencement of this Law.

Extradition offences – persons not sentenced.

2. (1) This section sets out whether a person's conduct constitutes an extradition offence in a case where the person -

- (a) is accused in a designated territory of the commission of an offence constituted by the conduct, or
- (b) has been convicted in that territory of an offence constituted by the conduct but not sentenced for it.

(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 laws of the Bailiwick, punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment, if it occurred in the Bailiwick, and
- (c) the conduct is so punishable under the law of the designated territory.

(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, and
- (c) in corresponding circumstances, equivalent conduct would constitute an extra-territorial offence under the laws of the Bailiwick.

(4) The conduct also constitutes an extradition offence in relation to the designated territory if –

- (a) the conduct occurs outside the designated territory,
- (b) no part of the conduct occurs in the Bailiwick,
- (c) the conduct constitutes, or if committed in the Bailiwick would constitute, an offence mentioned in subsection (5), and
- (d) 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.

(5) The offences to which subsection (4) refers are –

- (a) an offence that if committed in the Bailiwick would be punishable as an offence under section 45 of the International Criminal Court (Bailiwick of Guernsey) Law, 2019 (genocide, crimes against humanity and war crimes),
- (b) an offence that if committed in the Bailiwick would be punishable as an offence under section 46 of that Law (conduct ancillary to genocide, etc. committed outside the jurisdiction), and
- (c) any offence that is punishable in the Bailiwick as an offence under section 1 of the Geneva Conventions Act 1957^b as it applies to the Bailiwick^c (relating to grave breaches of scheduled conventions).

Extradition offences – persons sentenced.

3. (1) This section sets out whether a person's conduct constitutes an extradition offence in a case where the person -

- (a) has been convicted in a designated territory of the commission of an offence constituted by the conduct, and
- (b) has been sentenced for the offence.

^b An Act of Parliament 1957 c. 52.

^c The Geneva Conventions Act 1957 is extended to the Bailiwick by the Geneva Conventions Act (Guernsey) Order 1966 (U.K.SI 1966 No. 948) subject to the exceptions and modifications specified in the Schedule to that Order.

(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 laws of the Bailiwick, punishable with imprisonment or another form of detention for a term of 12 months or a greater punishment, if it occurred in the Bailiwick, 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

laws of the Bailiwick punishable as mentioned in subsection (2)(b).

(4) The conduct also constitutes an extradition offence in relation to the designated territory if –

- (a) the conduct occurs outside the designated territory,
- (b) no part of the conduct occurs in the Bailiwick,
- (c) the conduct constitutes, or if committed in the Bailiwick would constitute, an offence mentioned in subsection (5),
- (d) a sentence of imprisonment or another form of detention for a term of four months or a greater punishment has been imposed in the designated territory in respect of the conduct.

(5) The offences to which subsection (4) refers are –

- (a) an offence that if committed in the Bailiwick would be punishable as an offence under section 45 of the International Criminal Court (Bailiwick of Guernsey) Law, 2019 (genocide, crimes against humanity and war crimes),
- (b) an offence that if committed in the Bailiwick would be punishable as an offence under section 46 of that Law

(conduct ancillary to genocide, etc. committed outside the jurisdiction), and

- (c) any offence that is punishable in the Bailiwick as an offence under section 1 of the Geneva Conventions Act 1957 as it applies to the Bailiwick (relating to grave breaches of scheduled conventions).

Military offences, and meaning of "conduct".

4. 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 the Bailiwick, it does not constitute an extradition offence under section 2 or 3; and references in those sections to "conduct" (except in the expression "equivalent conduct") are to the conduct specified in the request for the person's extradition.

Designated territories.

5. (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) A designated territory may be specified in Part 1 of Schedule 1 for some purposes of this Law and specified in Part 2 of that Schedule for other purposes of this Law and references to a designated territory of the first category or the second category shall be construed accordingly.

- (5) The States may by Ordinance –
- (a) amend Schedule 1 by specifying any additional territory in Part 1 or Part 2 of that Schedule,
 - (b) amend Schedule 1 by specifying any additional territory in Part 1 of that Schedule for some purposes of this Law and in Part 2 of that Schedule for other purposes of this Law,
 - (c) amend Schedule 1 by varying the description of any territory that is specified in either Part 1 or Part 2 of that Schedule, including (but not limited to) by specifying it in Part 1 of that Schedule for some purposes of this Law and in Part 2 of that Schedule for other purposes of this Law,
 - (d) amend Schedule 1 by deleting any territory from either or both of those Parts, and
 - (e) make special provision, whether by amendment to Schedule 1 or otherwise, in relation to the extradition and re-extradition of persons to and from Jersey and the Isle of Man.

PART II

EXTRADITION FROM THE BAILIWICK

Extradition request and certificate.

6. (1) If Her Majesty's Procureur receives a valid request for the extradition to a designated territory of a person who is in the Bailiwick, Her Majesty's Procureur shall issue a certificate under this section.

(2) However, Her Majesty's Procureur may refuse to issue a certificate under this section if -

- (a) Her Majesty's Procureur has power under section 75 to order that proceedings on the request be deferred,
- (b) the person whose extradition is requested has been recorded by Her Majesty's Procureur as a refugee within the meaning of the Refugee Convention; or
- (c) the person whose extradition is requested has been granted leave to enter or remain in the United Kingdom on the ground it would be a breach of Article 2 or 3 of the Human Rights Convention to remove the person whose extradition is requested to the territory to which extradition is requested.

(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 and the request is made with a view to the person's arrest and extradition to the designated territory for

the purpose of being prosecuted for the offence, 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 Her Majesty's Procureur 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 section shall certify that the request is

made in the approved way.

(8) If a certificate is issued under this section, Her Majesty's Procureur shall send -

(a) the request, and

(b) the certificate,

to the Magistrate's Court.

(9) At any time after Her Majesty's Procureur has issued a certificate under this section, he or she must not consider whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Law.

Arrest

Arrest warrant following extradition request.

7. (1) This section applies if Her Majesty's Procureur sends documents to the Magistrate's Court under section 6.

(2) If the Judge 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 subsection (3) refers,

the Magistrate's Court may issue a warrant for the arrest of the person whose extradition is requested.

(3) The evidence to which this section 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 the Bailiwick, 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 the Bailiwick.

(4) However, if the designated territory to which extradition is requested is a designated territory of the first category, subsections (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 officer of police.

(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 officer of police executing it.

Person arrested under section 7.

8. (1) This section applies if a person is arrested under a warrant issued under section 7.

(2) As soon as practicable after his or her arrest, a copy of the warrant shall be given to the person.

(3) Subject to subsection (4) and section 117 (transfer from Alderney or Sark to Guernsey), the arrested person shall be brought as soon as practicable before the Magistrate's Court.

(4) Subsection (3) does not apply if Her Majesty's Procureur decides under section 75 that the request for the person's extradition is not to be proceeded with.

(5) If subsection (2) is not complied with, and the person applies to the Magistrate's Court to be discharged, the Magistrate's Court may order that the person be discharged.

(6) If subsection (3) is not complied with, and the person applies to the Magistrate's Court to be discharged, the Magistrate's Court shall order that the person be discharged.

(7) As soon as practicable after the person first appears or is brought before the Magistrate's Court -

- (a) the Judge shall inform the person of the contents of the request for extradition,
- (b) the Judge 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 Judge shall explain to the person the effect of consent, and the procedure that will apply if the person gives consent, and
- (d) the Judge shall also explain to the person that consent must be given in writing, and that it is irrevocable.

(8) The Magistrate's Court, when the person first appears or is brought before the Magistrate's Court, shall remand the person in custody or on bail.

(9) If the Magistrate's Court remands the person in custody, the Magistrate's Court may later grant bail to the person.

Provisional warrant.

9. (1) This section applies if the Magistrate's Court is satisfied on information in writing and on oath that a person to whom subsection (2) refers -

- (a) is or is believed to be in the Bailiwick, or
- (b) is or is believed to be on his or her way to the Bailiwick.

(2) This subsection 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's Court may issue a warrant for the arrest of the person (a provisional warrant) if the Judge has reasonable grounds for believing

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- (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 subsection (4) refers.

(4) The evidence to which this section 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 the Bailiwick, 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 the Bailiwick.

(5) However, if the designated territory to which extradition is requested is a designated territory of the first category, subsections (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 officer of police.

(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 officer of police executing it.

Person arrested under provisional warrant.

10. (1) This section 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) Subject to subsection (4) and section 117, the arrested person shall be brought as soon as practicable before the Magistrate's Court.

(4) Subsection (3) does not apply in a case where Her Majesty's Procureur has received a valid request for the person's extradition, if Her Majesty's Procureur decides under section 75 that the request is not to be proceeded with.

(5) If subsection (2) is not complied with, and the person applies to the Magistrate's Court to be discharged, the Magistrate's Court may order that the person be discharged.

(6) If subsection (3) is not complied with, and the person applies to the Magistrate's Court to be discharged, the Magistrate's Court shall order that the person be discharged.

(7) As soon as practicable after the person first appears or is brought before the Magistrate's Court -

- (a) the Judge 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 Judge 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 Judge shall explain to the person the effect of consent, and the procedure that will apply if the person gives consent, and
- (d) the Judge shall also explain to the person that consent must be given in writing, and that it is irrevocable.

(8) The Magistrate's Court, when the person first appears or is brought before the Magistrate's Court, shall remand the person in custody or on bail.

(9) If the Magistrate's Court remands the person in custody, the Magistrate's Court may later grant bail to the person.

(10) The Magistrate's Court shall order that the person be

discharged if the documents to which section 6(8) refers are not received by the Magistrate's Court -

- (a) within 45 days commencing on the day on which the person was arrested, or
- (b) within any longer period that is specified, by regulations, in respect of that designated territory.

The extradition hearing

Date of hearing on arrest under section 7.

11. (1) When a person arrested under a warrant issued under section 7 first appears or is brought before the Magistrate's Court, the Magistrate's Court shall fix a date on which the extradition hearing is to begin.

(2) The date fixed under subsection (1) shall not be later than the end of the period of 2 months commencing on the date on which the person first appears or is brought before the Magistrate's Court.

(3) If before the date fixed under subsection (1) (or under this section) a party to the proceedings applies to the Magistrate's Court for a later date to be fixed, and the Judge believes that it is in the interests of justice to do so, the Magistrate's Court may fix a later date.

(4) An application under subsection (3) may be made on more than one occasion, and the Magistrate's Court may exercise its power under that section on any such application.

(5) If the extradition hearing does not begin on or before the date fixed under this section, and the person applies to the Magistrate's Court to be discharged, the Magistrate's Court shall order that the person be discharged.

Date of hearing on arrest under provisional warrant.

12. (1) When -

- (a) a person is arrested under a provisional warrant, and
- (b) the documents to which section 6(8) refers are received by the Magistrate's Court within the period required by section 10(10),

the Magistrate's Court shall fix a date on which the extradition hearing is to begin.

(2) The date fixed under subsection (1) shall not be later than the end of the period of 2 months commencing on the date on which the Magistrate's Court receives the documents.

(3) If, before the date fixed under subsection (1) (or under this section), a party to the proceedings applies to the Magistrate's Court for a later date to be fixed, and the Judge believes that it is in the interests of justice to do so, the Magistrate's Court may fix a later date.

(4) An application under subsection (3) may be made on more than one occasion, and the Magistrate's Court may exercise the power under that section on any such application.

(5) If the extradition hearing does not begin on or before the date

fixed under this section, and the person applies to the Magistrate's Court to be discharged, the Magistrate's Court shall order that the person be discharged.

General provisions as to extradition hearing.

13. (1) At the extradition hearing the Magistrate's Court shall have the same powers (as nearly as may be) as it would have if the proceedings were a trial before the Magistrate's Court of the person whose extradition is requested.

(2) If the Magistrate's Court adjourns the proceedings, it shall remand the person in custody or on bail.

(3) If the Magistrate's Court remands the person in custody, it may later grant bail to the person.

Person charged with offence in the Bailiwick before extradition hearing.

14. (1) This section applies if –

- (a) a person has been brought before the Magistrate's Court under section 8(3) or 10(3) but the extradition hearing has not begun, and
- (b) the court is informed that the person is charged with an offence in the Bailiwick.

(2) The Magistrate's Court must order further proceedings in respect of the extradition to be adjourned until one of these occurs –

- (a) the charge is disposed of,

- (b) the charge is withdrawn,
- (c) proceedings in respect of the charge are discontinued.

(3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the court may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

Person serving sentence in the Bailiwick before extradition hearing.

15. (1) This section applies if -
- (a) a person has been brought before the Magistrate's Court under section 8(3) or 10(3) but the extradition hearing has not begun, and
 - (b) the court is informed that the person is in custody serving a sentence of imprisonment or another form of detention in the Bailiwick.

(2) Where this section applies the court may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

Initial stages of extradition hearing.

16. (1) This section applies if a person who is alleged to be the person whose extradition is requested appears or is brought before the Magistrate's Court for the extradition hearing.

- (2) The Magistrate's Court shall decide whether the documents

sent to the Magistrate's Court under section 6 consist of or include any of the following -

- (a) the documents to which section 6(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 authorising his or her arrest, and
- (e) in the case of a person alleged to be unlawfully at large after conviction for an offence, a certificate of the conviction, and of the sentence (if the person has been sentenced), issued in the designated territory.

(3) If the Magistrate's Court decides in the negative the question in subsection (2), the Magistrate's Court shall order that the person be discharged.

(4) If the Magistrate's Court decides that question in the affirmative, the Magistrate's Court shall decide -

- (a) whether the person appearing or brought before the Magistrate's Court 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's Court under section 6 have been served on the person.

(5) The Magistrate's Court shall decide the question in subsection (4)(a) on a balance of probabilities.

(6) If the Magistrate's Court decides in the negative any of the questions in subsection (4), the Magistrate's Court shall order that the person be discharged.

(7) If the Magistrate's Court decides each of those questions in the affirmative, the Magistrate's Court shall proceed under section 17 (bars to extradition).

Bars to extradition.

17. (1) If the Magistrate's Court is required to proceed under this section, the Magistrate's Court 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,

(d) hostage-taking considerations, or

(e) forum.

(2) Sections 18 to 25 apply for the interpretation of subsection (1).

(3) If the Magistrate's Court decides in the affirmative any of the questions in subsection (1), the Magistrate's Court shall order the person's discharge.

(4) If the Magistrate's Court 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's Court shall proceed under section 26 (case where person has not been convicted).

(5) If the Magistrate's Court 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's Court shall proceed under section 27 (case where person has been convicted).

Rule against double jeopardy.

18. 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 the Bailiwick.

Extraneous considerations.

19. 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.

Passage of time.

20. 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.

Hostage-taking considerations.

21. (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^d as it applies to the Bailiwick, 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 Her Majesty's Procureur that a territory is a party to the Convention is conclusive evidence of that fact for the purposes of section (1).

Forum.

22. (1) The extradition of a person ("D") to a designated territory is barred by reason of forum if the extradition would not be in the interests of justice.

(2) For the purposes of this section, the extradition would not be in the interests of justice if the Magistrate's Court –

^d An Act of Parliament (1982 c.28).

- (a) decides that a substantial measure of D's relevant activity was performed in the Bailiwick, and
 - (b) decides, having regard to the specified matters relating to the interests of justice (and only those matters), that the extradition should not take place.
- (3) These are the specified matters relating to the interests of justice –
 - (a) the place where most of the loss or harm resulting from the extradition offence occurred or was intended to occur,
 - (b) the interests of any victims of the extradition offence,
 - (c) any belief of Her Majesty's Procureur that the Bailiwick, or a particular part of the Bailiwick, is not the most appropriate jurisdiction in which to prosecute D in respect of the conduct constituting the extradition offence,
 - (d) were D to be prosecuted in a part of the Bailiwick for an offence that corresponds to the extradition offence, whether evidence necessary to prove the offence is or could be made available in the Bailiwick,

- (e) any delay that might result from proceeding in one jurisdiction rather than another,
- (f) the desirability and practicability of all prosecutions relating to the extradition offence taking place in one jurisdiction, having regard (in particular) to –
 - (i) the jurisdictions in which witnesses, co-defendants and other suspects are located, and
 - (ii) the practicability of the evidence of such persons being given in the Bailiwick or in jurisdictions outside the Bailiwick,
- (g) D's connections with the Bailiwick.

(4) In deciding whether the extradition would not be in the interests of justice, the Magistrate's Court must have regard to the desirability of not requiring the disclosure of material which is subject to restrictions on disclosure in the designated territory concerned.

(5) If, on an application by Her Majesty's Procureur, it appears to the Magistrate's Court that Her Majesty's Procureur has considered the offences for which D could be prosecuted in the Bailiwick, or a part of the Bailiwick, in respect of the conduct constituting the extradition offence, the Magistrate's Court must make Her Majesty's Procureur a party to the proceedings on the question of whether D's extradition is barred by reason of forum.

(6) In this section "D's relevant activity" means activity which is material to the commission of the extradition offence and is alleged to have been performed by D.

Effect of Procureur's certificates on forum proceedings.

23. (1) The Magistrate's Court, when hearing proceedings under section 22 (the "forum proceedings"), must decide that the extradition is not barred by reason of forum if (at a time when the Magistrate's Court has not yet decided the proceedings) the Magistrate's Court receives a Procureur's certificate relating to the extradition.

(2) That duty to decide the forum proceedings in that way is subject to the determination of any question relating to the Procureur's certificate raised in accordance with section 25.

(3) A designated prosecutor may apply for the forum proceedings to be adjourned for the purpose of assisting Her Majesty's Procureur -

(a) in considering whether to give a Procureur's certificate relating to the extradition,

(b) in giving such a certificate, or

(c) in sending such a certificate to the Magistrate's Court.

(4) If such an application is made, the Magistrate's Court must –

(a) adjourn the forum proceedings until the application is decided, and

- (b) continue the adjournment, for such period as appears to the Magistrate's Court to be reasonable, if the application is granted.

(5) But the Magistrate's Court must end the adjournment if the application is not granted.

Procureur's certificates.

24. (1) A "**Procureur's certificate**" is a certificate given by Her Majesty's Procureur which –

- (a) certifies both matter A and matter B, and
- (b) certifies either matter C or matter D.

(2) Matter A is that Her Majesty's Procureur has considered the offences for which D could be prosecuted in the Bailiwick, or a part of the Bailiwick, in respect of the conduct constituting the extradition offence.

(3) Matter B is that Her Majesty's Procureur has decided that there are one or more such offences that correspond to the extradition offence (the "**corresponding offences**").

(4) Matter C is that –

- (a) Her Majesty's Procureur has made a formal decision as to the prosecution of D for the corresponding offences,

(b) that decision is that D should not be prosecuted for the corresponding offences, and

(c) the reason for that decision is a belief that –

(i) there would be insufficient admissible evidence for the prosecution, or

(ii) the prosecution would not be in the public interest.

(5) Matter D is that Her Majesty's Procureur believes that D should not be prosecuted for the corresponding offences because there are concerns about the disclosure of sensitive material in –

(a) the prosecution of D for the corresponding offences, or

(b) any other proceedings.

(6) In relation to the extradition of any person to a designated territory, neither this section nor any other rule of law (whether or not contained in an enactment) may require Her Majesty's Procureur –

(a) to consider any matter relevant to giving a Procureur's certificate, or

(b) to consider whether to give a Procureur's certificate.

(7) In this section "**sensitive material**" means material which appears to Her Majesty's Procureur to be sensitive, including material appearing to be sensitive on grounds relating to –

- (a) national security,
- (b) international relations, or
- (c) the prevention or detection of crime (including grounds relating to the identification or activities of witnesses, informants or any other persons supplying information to the police or any other law enforcement agency who may be in danger if their identities are revealed).

Questioning of Procureur's certificate.

25. (1) No decision of Her Majesty's Procureur relating to a Procureur's certificate in respect of D's extradition (a "**relevant certification decision**") may be questioned except on an appeal under section 45 or 50 against an order for that extradition.

(2) For the purpose of –

- (a) determining whether to give permission for a relevant certification decision to be questioned, and
- (b) determining any such question (if that permission is given),

the Royal Court must apply the procedures and principles which would be applied by it on an application for judicial review.

(3) In a case where the Royal Court quashes a Procureur's certificate, the Royal Court shall decide the question of whether or not the extradition is barred by reason of forum.

(4) Where the Royal Court is required to decide that question by virtue of subsection (3) –

(a) sections 22 to 24 and this section apply in relation to that decision (with the appropriate modifications) as they apply to a decision by a Magistrate's Court, and

(b) in particular –

(i) a reference in this section to an appeal under section 45 or 50 has effect as a reference to an appeal under section 57 to the Privy Council, and

(ii) a reference in this section to the Royal Court has effect as a reference to the Privy Council.

(5) For the purposes of sections 21 to 24 and this section –

(a) "**extradition offence**" means the offence specified in the request for extradition (including the conduct that constitutes the extradition offence),

- (b) in determining for any purpose whether an offence corresponds to the extradition offence, regard must be had in particular to the nature and seriousness of the two offences, and
- (c) a reference to a formal decision as to the prosecution of D for an offence is a reference to a decision (made after complying with, in particular, any applicable requirement concerning a code of practice) that D should, or should not, be prosecuted for the offence.

Case where person has not been convicted.

26. (1) If the Magistrate's Court is required to proceed under this section, but the designated territory to which extradition is requested is a designated territory of the first category, the Magistrate's Court shall instead proceed directly under section 29 (human rights).

(2) If the Magistrate's Court is required to proceed under this section and the designated territory to which extradition is requested is a designated territory of the second category, the Magistrate's Court shall decide whether there is sufficient evidence for the person to stand trial.

(3) In deciding the question in subsection (2), the Magistrate's Court 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 an officer of police 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's Court 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's Court 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's Court in deciding the question in subsection (2), 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 subsection (3).

(6) If the Magistrate's Court decides the question in subsection (2) in the negative, the Magistrate's Court shall order that the person be discharged.

(7) If the Magistrate's Court decides that question in the affirmative, the Magistrate's Court shall proceed under section 29 (human rights).

(8) If the Magistrate's Court is required to proceed under this section and the territory to which extradition is requested is designated for the purposes of this section by regulations made by the Committee –

(a) it must not decide under subsection (1), and

(b) it must proceed under section 29.

Case where person has been convicted.

27. (1) If the Magistrate's Court is required to proceed under this section, it shall decide whether the person was present when convicted.

(2) If the Magistrate's Court decides that the person was present when convicted, the Magistrate's Court shall proceed directly under section 29 (human rights).

(3) If the Magistrate's Court decides that the person was not present when convicted, the Magistrate's Court shall decide whether the person deliberately absented himself or herself from the trial.

(4) If the Magistrate's Court decides that the person deliberately absented himself or herself from the trial, the Magistrate's Court shall proceed directly under section 29 (human rights).

(5) If the Magistrate's Court decides that the person did not deliberately absent himself or herself from the trial, the Magistrate's Court 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's Court decides the question in subsection (5) in the affirmative the Magistrate's Court shall proceed under section 28 (convictions in absentia).

(7) If the Magistrate's Court decides the question in subsection (5) in the negative the Magistrate's Court shall order the person's discharge.

(8) The Magistrate's Court shall not decide the question in subsection (5) in the affirmative 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.

Conviction in absentia in designated territory.

28. (1) If the Magistrate's Court is required to proceed under this section, the Magistrate's Court shall decide whether there is sufficient evidence for the person to stand trial.

(2) In deciding the question in subsection (1), the Magistrate's Court 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 an officer of police 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 subsection (2).

(4) In deciding whether to treat a statement made by a person in a document as admissible evidence of a fact, the Magistrate's Court 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's Court 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's Court in deciding the question in subsection (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 section, in deciding the question in subsection (1), the Magistrate's Court may admit evidence if (but only if) it would be admissible in criminal proceedings.

(6) If the Magistrate's Court decides in the negative the question in subsection (1), the Magistrate's Court shall order that the person be discharged.

(7) If the Magistrate's Court decides that question in the affirmative, the Magistrate's Court shall proceed under section 29 (human rights).

(8) If the Magistrate's Court is required to proceed under this section and the territory to which extradition is requested is designated for the purposes of this section by regulations made by the Committee –

(a) the Magistrate's Court must not decide under subsection (1), and

(b) he or she must proceed under section 29 (human rights).

Consideration of human rights.

29. (1) If the Magistrate's Court is required by any of sections 26, 27 or 28 to proceed under this section, the Magistrate's Court shall decide whether the person's extradition would be compatible with the Convention Rights within the meaning of the Human Rights Law.

(2) If the Magistrate's Court decides in the negative the question in subsection (1), the Magistrate's Court shall order that the person be discharged.

(3) If the Magistrate's Court decides that question in the affirmative, the Magistrate's Court shall send the case to Her Majesty's Procureur for the latter's decision as to whether the person is to be extradited.

Deferral by Magistrate's Court where person charged with offence in the Bailiwick.

30. (1) If at any time during the extradition hearing the Magistrate's Court is informed on behalf of Her Majesty's Procureur that the person is charged with an offence in the Bailiwick, the Magistrate's Court shall adjourn the extradition hearing until until one of these occurs –

- (a) the charge is disposed of,
- (b) the charge is withdrawn,
- (c) proceedings in respect of the charge are discontinued.

(2) If a sentence of imprisonment or another form of detention is imposed in respect of the offence in the Bailiwick with which the person is charged, the Magistrate's Court may adjourn the extradition hearing until the sentence has been served.

(3) If, before the Magistrate's Court adjourns the extradition hearing under subsection (2), it has decided under section 17 whether the person's extradition is barred by reason of the rule against double jeopardy, the Magistrate's Court must decide that question again after the resumption of the extradition hearing.

Deferral by Magistrate's Court where person serving sentence in the Bailiwick.

31. If at any time during the extradition hearing the Magistrate's Court is informed on behalf of Her Majesty's Procureur that the person whose extradition is requested is serving a sentence of imprisonment or another form of detention in the Bailiwick, the Magistrate's Court may adjourn the extradition hearing until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

Other requests for extradition.

32. (1) If at any time in the extradition hearing, the Magistrate's Court is informed by or on behalf of Her Majesty's Procureur that –

- (a) Her Majesty's Procureur has received another valid request for the person's extradition to a designated territory,
- (b) the request has not been disposed of, and
- (c) Her Majesty's Procureur has made an order under section 75(2) for further proceedings on the request under consideration by the Magistrate's Court to be deferred until the other request has been disposed of,

the Magistrate's Court shall remand the person in custody or on bail.

(2) If the Magistrate's Court remands the person in custody, it may later grant bail to the person.

Consideration of physical or mental condition.

33. (1) If at any time in the extradition hearing it appears to the

Magistrate's Court that the condition to which subsection (2) refers is satisfied, the Magistrate's Court shall –

- (a) order the person's discharge, or
- (b) adjourn the extradition hearing until it appears to the Magistrate's Court that the condition to which subsection (2) refers is no longer satisfied.

(2) The condition to which subsection (1) refers is that the physical or mental condition of the person is such that it would be unjust or oppressive to extradite the person.

Sending of case to Her Majesty's Procureur.

34. (1) This section applies if the Magistrate's Court sends a case to Her Majesty's Procureur for decision as to whether a person is to be extradited.

(2) If this section applies, the Judge 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 Her Majesty's Procureur has made the decision.

(3) However, subsection (2) does not apply if the person has consented under section 72 to his or her extradition.

(4) If this section applies, the Magistrate's Court shall remand the person in custody or on bail –

- (a) to await Her Majesty's Procureur's decision, and
- (b) to await extradition to the designated territory to which extradition is requested (if Her Majesty's Procureur orders the person to be extradited).

(5) If the Magistrate's Court remands the person in custody, it may later grant bail to the person.

Functions of Her Majesty's Procureur

Her Majesty's Procureur's consideration of case.

35. (1) If the Magistrate's Court sends a case to Her Majesty's Procureur for a decision as to whether a person is to be extradited, Her Majesty's Procureur shall decide whether he or she is prohibited under –

- (a) section 36 (death penalty),
- (b) section 37 (speciality), or
- (c) section 38 (earlier extradition to the Bailiwick from another territory),

from ordering the person's extradition.

(2) If Her Majesty's Procureur decides that he or she is prohibited under any section to which subsection (1) refers from ordering the person's extradition, Her Majesty's Procureur shall order that the person be discharged.

(3) If Her Majesty's Procureur decides that he or she is not prohibited under any section to which subsection (1) refers from ordering the person's extradition, Her Majesty's Procureur shall order the person to be extradited to the designated territory to which his or her extradition is requested unless –

- (a) Her Majesty's Procureur is informed that the request has been withdrawn,
- (b) Her Majesty's Procureur makes an order under section 75(2) or (3) (relating to competing claims for extradition) for further proceedings on the request to be deferred and the person is discharged under section 106, or
- (c) Her Majesty's Procureur orders under section 122 (national security) that the person be discharged.

(4) In deciding the questions in subsection (1), Her Majesty's Procureur 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 4 weeks starting with the appropriate day (in respect of which see section 42).

(6) In the case of a person who has consented under section 72 to his or her extradition, HM Procureur is not required –

- (a) to wait until the end of the permitted period before ordering the person's extradition, or
- (b) to consider any representations received after the order is made.

Death penalty.

36. (1) Her Majesty's Procureur 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) Subsection (1) does not apply if Her Majesty's Procureur receives a written assurance that a sentence of death –

- (a) will not be imposed, or
- (b) if imposed, will not be carried out,

and Her Majesty's Procureur considers that assurance adequate.

Speciality.

37. (1) Her Majesty's Procureur shall not order a person's extradition to a designated territory if there are no speciality arrangements with that designated territory.

(2) Subsection (1) does not apply if before the case was sent to Her

Majesty's Procureur, the person had consented under section 72 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 the Bailiwick, a person who is extradited to the designated territory from the Bailiwick 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 subsection (4) refers, or
- (b) the person is first given an opportunity to leave the designated territory.

(4) The offences to which this section 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 Her Majesty's Procureur 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 subsection) 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 Her Majesty's Procureur 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.

Earlier extradition to the Bailiwick from another territory.

38. Her Majesty's Procureur shall not order a person's extradition to a designated territory if –

- (a) the person was extradited to the Bailiwick from another territory (the extraditing territory),
- (b) under arrangements existing between the Bailiwick and the extraditing territory, that territory's consent is required to the person's extradition from the Bailiwick 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.

Deferral: person charged with offence in the Bailiwick.

39. (1) If the Magistrate's Court sends a case to Her Majesty's Procureur for a decision as to whether a person is to be extradited, and the person is charged with an offence in the Bailiwick, Her Majesty's Procureur shall not make a decision with regard to the person's extradition until the charge is disposed of or withdrawn, or 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 the Bailiwick with which the person is charged, Her Majesty's Procureur may defer making a decision with regard to the person's extradition until the sentence has been served.

Deferral: person serving sentence in the Bailiwick.

40. If –

- (a) the Magistrate's Court sends a case to Her Majesty's Procureur for a decision as to whether a person is to be extradited, and
- (b) the person is in custody serving a sentence of imprisonment or another form of detention in the Bailiwick,

Her Majesty's Procureur may defer making a decision with regard to the person's extradition until the sentence has been served.

Time limit for order for extradition or discharge.

41. (1) If –

- (a) the Magistrate's Court sends a case to Her Majesty's Procureur for a decision whether a person is to be extradited,
- (b) within the period of 2 months commencing on the appropriate day (in respect of which see section 42), Her Majesty's Procureur 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 Her Majesty's Procureur before the end of the period specified in subsection (1)(b), extend that period from time to time.

The appropriate day.

42. (1) This section applies for the purposes of sections 35 and 41 if the Magistrate's Court sends a case to Her Majesty's Procureur for Her Majesty's Procureur's decision whether a person is to be extradited.

(2) If the person is charged with an offence in the Bailiwick, the appropriate day is –

- (a) the day on which the charge is disposed of,

- (b) the day on which the charge is withdrawn, or
- (c) the day on which proceedings in respect of the charge are discontinued.

(3) If under section 39(2) or section 40 Her Majesty's Procureur defers making a decision until the person has served a sentence, the appropriate day is the day on which the person is released from detention pursuant to the sentence (whether on licence or otherwise).

(4) If section 75 (competing extradition requests) applies to the request for the person's extradition (the request concerned), the appropriate day is –

- (a) the day on which Her Majesty's Procureur makes an order under that section, if the order is for proceedings on the other request to be deferred, or
- (b) the day on which an order is made under section 107, if the order under section 75 is for proceedings on the request concerned to be deferred and the order under section 107 is for the proceedings to be resumed.

(5) If more than one of subsections (2) to (4) applies, the appropriate day is the latest of the days specified in those sections that applies.

(6) In any other case, the appropriate day is the day on which the Magistrate's Court sends the case to Her Majesty's Procureur for a decision as to whether the person is to be extradited.

Information to be given by Her Majesty's Procureur.

43. (1) If Her Majesty's Procureur orders a person's extradition under this Part, he or she must in writing –

- (a) inform the person of the order,
- (b) inform the person in ordinary language that the person 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 he or she 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 section 72 to being extradited.

(3) If Her Majesty's Procureur –

- (a) orders a person's extradition under this Part, and
- (b) has received in respect of the matter an assurance to which section 36(2) (death sentence) refers,

he or she must give the person a copy of the assurance when under subsection (1) informing the person of the order.

(4) If Her Majesty's Procureur orders that a person be discharged, Her Majesty's Procureur shall inform –

- (a) the person, and
- (b) the authorities of the designated territory concerned,

that he or she has made the order.

Making of order for extradition or discharge.

44. An order –

- (a) under section 35 for a person's extradition, or
- (b) under section 35 or section 69 (withdrawal of request after case sent to Her Majesty's Procureur) that a person be discharged,

shall be made in writing, and signed by Her Majesty's Procureur.

Appeals

Appeal to Royal Court against sending of case to Her Majesty's Procureur.

45. (1) Subject to subsection (2), a person may appeal to the Royal Court against a decision by the Magistrate's Court that results in the case being sent to Her Majesty's Procureur for a decision as to whether the person is to be extradited.

(2) Subsection (1) does not apply if before the case was sent to Her Majesty's Procureur the person consented under section 72 to being extradited.

(3) An appeal under this section may be brought on a question of law or fact and lies only with leave of the Royal Court.

(4) If an appeal is brought under this section before Her Majesty's Procureur has decided whether the person is to be extradited, the appeal shall not be heard until Her Majesty's Procureur has made that decision.

(5) No appeal may be brought or proceeded with under this section if Her Majesty's Procureur has ordered that the person be discharged.

(6) If notice of an appeal under section 52 against the decision which resulted in the order for the person's discharge is given in accordance with subsection (4) of that section –

(a) subsections (4) and (5) do not apply, and

(b) no appeal may be brought under this section if the Royal Court has made its decision on the appeal.

(7) Notice of application for leave to appeal under this section shall be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which Her Majesty's Procureur informs the person under section 43 that he or she has ordered the person's extradition ("**the permitted period**").

(8) However, where a person gives notice of application for leave to appeal after the end of the permitted period, the Royal Court may not for that reason refuse to entertain the application if the person did everything reasonably possible to ensure that the notice was given as soon as it could be given.

Royal Court's powers on appeal against sending of case to Her Majesty's Procureur.

46. (1) On an appeal under section 45, the Royal Court may –
- (a) allow the appeal,
 - (b) direct the Magistrate's Court to decide again any question or questions that the Magistrate's Court decided at the extradition hearing, or
 - (c) dismiss the appeal.
- (2) The Royal Court may allow the appeal only if the conditions in subsection (3) or in subsection (4) are satisfied.
- (3) The conditions are –
- (a) that the Magistrate's Court ought to have decided differently a question before it at the extradition hearing, and
 - (b) that if the Magistrate's Court had decided the question in the way in which it ought to have decided, it would have been required to order that the person be discharged.
- (4) The conditions are –

- (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 Court's deciding differently a question before it at the extradition hearing, and
- (c) that if the Magistrate's Court had decided the question in that different way, it 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 section 45, the Royal Court has directed the Magistrate's Court to decide any question or questions again, and it does so –

- (a) if it comes to a different decision on any such question than at the extradition hearing, it must order that the person be discharged, and
- (b) if it 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.

(7) If the Royal Court makes a direction under subsection (1)(b) it shall remand the person in custody or on bail; and if the Royal Court remands the person in custody it may later grant bail.

Appeal to Royal Court against discharge by Magistrate's Court.

47. (1) An appeal on behalf of the designated territory concerned may be brought to the Royal Court against a decision by the Magistrate's Court at an extradition hearing that results in the Magistrate's Court's ordering that a person be discharged.

(2) However, subsection (1) does not apply if the order that the person be discharged was made under section 68.

(3) An appeal under this section may be brought on a question of law or fact and lies only with the leave of the Royal Court.

(4) Notice of an appeal under this section 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.

Royal Court's powers on appeal against discharge by Magistrate's Court.

48. (1) On an appeal under section 47, the Royal Court may –

(a) allow the appeal,

(b) direct the Magistrate's Court to decide the relevant question again, or

(c) dismiss the appeal.

(2) A question is the relevant question if the Magistrate's Court's decision on it resulted in the order that the person be discharged.

(3) The Royal Court may allow the appeal only if the conditions in subsection (4) or in subsection (5) are satisfied.

(4) The conditions are –

(a) that the Magistrate's Court ought to have decided the question differently, and

(b) that if it had decided the question in the way in which it ought to have been decided, it would not have been required to order that the person be discharged.

(5) The conditions are –

(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 Court'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's Court had decided the question in that way, it 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's Court, and
- (c) direct the Magistrate's Court to proceed as required if it had decided the question differently at the extradition hearing.

(7) If the Royal Court makes a direction under subsection (1)(b)

and –

- (a) the Magistrate's Court comes to a different decision on the question than at the extradition hearing, it must proceed as would have been required if it had decided it in that different way at the extradition hearing, and
- (b) if the Magistrate's Court 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.

(8) If the Royal Court –

- (a) allows the appeal, or
- (b) makes a direction under subsection (1)(b),

it must remand the person in custody or on bail; and if the Royal Court remands the person in custody it may later grant bail.

Detention pending conclusion of appeal against discharge by Magistrate's Court.

49. (1) If, immediately after the Magistrate's Court orders that a person be discharged, it is informed on behalf of the designated territory concerned of an intention to appeal under section 47, it must remand the person in custody or on bail while the appeal is pending.

(2) If the Magistrate's Court remands the person in custody, it may later grant bail to the person.

(3) An appeal under section 47 is pending until –

- (a) it is abandoned,
- (b) the Royal Court dismisses the appeal and the circumstances to which subsection (4) refers apply,
- (c) the Royal Court makes a direction under section 48(1)(b) and the circumstances to which subsection (4) refers apply,
- (d) 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, if no appeal to the Privy Council is brought before the end of that period, or

- (e) 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 subsection refers are that on the dismissing of the appeal by the Royal Court, the Royal Court is not immediately informed on behalf of the designated territory of an intention to apply for leave to appeal to the Privy Council.

Appeal to Royal Court against extradition order by Her Majesty's Procureur.

50. (1) A person may appeal to the Royal Court against a decision by Her Majesty's Procureur ordering the person's extradition.

(2) However, subsection (1) does not apply if the person has consented to being extradited.

(3) An appeal under this section may be brought on a question of law or fact but lies only with leave of the Royal Court.

(4) Notice of an application for leave to appeal under this section shall be given in accordance with rules of court before the end of the period of 14 days commencing on the day on which Her Majesty's Procureur informs the person under section 43 that he or she has ordered the person's extradition ("**the permitted**

period").

(5) Notice of an application for leave to appeal under this section may be given after the end of the permitted period if it is an application for leave to appeal on human rights grounds.

(6) Notice of an application for leave to appeal on human rights grounds given after the end of the permitted period must be given before the person is extradited to the designated territory in accordance with section 61.

(7) Where notice of application for leave to appeal is given in accordance with subsections (5) and (6), the Royal Court is to grant leave only if it appears to the Royal Court that –

(a) the appeal is necessary to avoid injustice, and

(b) the circumstances are exceptional and make it appropriate for the appeal to be heard.

(8) Where a person gives notice of application for leave to appeal after the end of the permitted period (whether or not the application is for leave to appeal on human rights grounds), the Royal Court must not for that reason refuse to entertain the application if the person did everything reasonably possible to ensure that the notice was given as soon as it could be given.

(9) In this section "**to appeal on human rights grounds**" means to appeal against the order for the person's extradition on the grounds (and only on the grounds) that the extradition would not be compatible with the Convention rights within the meaning of the Human Rights Law.

Royal Court's powers on appeal against extradition order by Her Majesty's Procureur.

51. (1) On an appeal under section 50, the Royal Court may allow or dismiss the appeal.

(2) The Royal Court may allow the appeal only on the ground specified in section (3) or the ground specified in section (4).

(3) The ground to which this section refers is –

- (a) that Her Majesty's Procureur ought to have decided differently a question before him or her, and
- (b) that if Her Majesty's Procureur had decided the question in the way in which it ought to have been decided, he or she would not have ordered the person's extradition.

(4) The ground to which this section refers is –

- (a) that an issue is raised that was not raised when the case was being considered by Her Majesty's Procureur, or information is available that was not available at that time,
- (b) that the issue or information would have resulted in Her Majesty's Procureur deciding differently a question before him or her, and

(c) that if Her Majesty's Procureur 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.

Appeal to Royal Court against discharge by Her Majesty's Procureur.

52. (1) An appeal to the Royal Court may be brought on behalf of the designated territory concerned against a decision by Her Majesty's Procureur that results in Her Majesty's Procureur ordering that a person be discharged.

(2) However, subsection (1) does not apply if the order that the person be discharged was made under section 69 (withdrawal of request after case sent to Her Majesty's Procureur).

(3) An appeal under this section may be brought on a question of law or fact, and lies only with the leave of the Royal Court.

(4) Notice of an application for leave to appeal under this section 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 section 43(4) Her Majesty's Procureur informs a person acting on behalf of the designated territory that the order has been made.

Royal Court's powers on appeal against discharge by Her Majesty's Procureur.

53. (1) On an appeal under section 52, the Royal Court may –
- (a) allow the appeal, or
 - (b) dismiss the appeal.
- (2) The Royal Court may allow the appeal only if the conditions in subsection (3) or in subsection (4) are satisfied.
- (3) The conditions are –
- (a) that Her Majesty's Procureur ought to have decided differently a question before him or her, and
 - (b) that if Her Majesty's Procureur had decided the question in the way in which it ought to have been decided, he or she would have ordered the person's extradition.
- (4) The conditions are –
- (a) that an issue is raised that was not raised when the case was being considered by Her Majesty's Procureur, or information is available that was not available at that time,
 - (b) that the issue or information would have resulted in Her Majesty's Procureur deciding differently a

question before him or her, and

- (c) if Her Majesty's Procureur had decided the question in that way, he or she would have ordered the person's extradition.

(5) If the Royal Court allows the appeal, it shall –

- (a) quash the order that the person be discharged, and
- (b) order the person's extradition.

(6) If the Royal Court allows the appeal it shall remand the person in custody or on bail, and if the Royal Court remands the person in custody it may later grant bail.

Detention pending conclusion of appeal against discharge by Her Majesty's Procureur.

54. (1) This section applies in a case where Her Majesty's Procureur orders the person's discharge under this Part.

(2) Subject to subsection (3) -

- (a) the order made by the Magistrate's Court under section 34(4) ("**the remand order**") remains in force until the end of the period of three days beginning with the day on which the person's discharge is ordered, and

- (b) if within that period Her Majesty's Procureur is informed in writing on behalf of the designated territory of an intention to appeal under section 52, the remand order remains in force while the appeal is pending.

(3) If the person is remanded in custody under section 34(4), the appropriate judge may grant bail.

(4) An appeal under section 52 is pending until –

- (a) it is abandoned,
- (b) the Royal Court allows the appeal, or dismisses the appeal, and it is not immediately informed on behalf of the designated territory of an intention to appeal to the Privy Council,
- (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, if no appeal to the Privy Council is brought before the end of that period, 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.

Costs on appeal to Royal Court.

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

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

56. (1) Rules of court shall prescribe the period ("**the period**") within which the Royal Court shall begin to hear an appeal under any of sections 45, 47, 50 and 52.

(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 subsection (3) is not complied with and the appeal is under section 45 or section 50 –

- (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 subsection (3) is not complied with and the appeal is under section 47 or section 52, the appeal shall be taken to have been dismissed by a decision of the Royal Court.

Further appeal to Privy Council.

57. (1) An appeal lies to the Privy Council from a decision of the Royal Court on an appeal under any of sections 45, 47, 50 and 52.

(2) An appeal under this section 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 section lies only with the leave of the Royal Court or the Privy Council.

(4) Leave to appeal under this section 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 section 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 section 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 section 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 subsection (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 section.

(9) For the purpose of subsection (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 section or applying for leave to appeal under this section.

Powers of Privy Council on appeal.

58. (1) On an appeal under section 57, the Privy Council may allow or dismiss the appeal.

(2) If the person whose extradition is requested brings an appeal under section 57, and the Privy Council allows the appeal, it 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 section 45 or section 50 or to allow an appeal under section 47 or section 52, quash the order for the person's extradition.

(3) If -

- (a) the Royal Court allows an appeal under section 45 or 50 by the person whose extradition is requested or dismisses an appeal under section 52 by a person acting on behalf of the designated territory,
- (b) a person acting on behalf of the designated territory brings an appeal under section 51 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 section 46(5) or section 51(5), or by Her Majesty's Procureur under this Part, and order the person to be extradited.

(4) If –

- (a) the Royal Court dismisses an appeal under section 47 against a decision made by the Magistrate's Court at the extradition hearing,
- (b) a person acting on behalf of the designated territory brings an appeal under section 57 against the decision of the Royal Court, and
- (c) the Privy Council allows the appeal,

the Privy Council shall take the steps to which subsection (5) refers.

(5) The steps to which this section refers are –

- (a) to quash the order of the Magistrate's Court discharging the person whose extradition is requested,
- (b) to remit the case to the Magistrate's Court, and
- (c) to direct the Magistrate's Court to proceed as it would have been required to do if it had decided the relevant question differently.

(6) A question is the relevant question if the Magistrate's Court's decision on it resulted in the order that the person be discharged.

(7) In a case where subsections (3) to (5) apply, the Privy Council must remand, in custody or on bail, the person whose extradition is requested.

(8) If the Privy Council remands the person in custody the Royal Court may later grant bail.

Detention pending conclusion of certain appeals under section 57.

59. (1) This section applies if—

- (a) on an appeal under section 45 or 50 the Royal Court orders the person's discharge, and
- (b) immediately after it does so, the court is informed on behalf of the designated territory of an intention to appeal under section 57.

(2) The Royal Court must remand the person in custody or on bail while the appeal is pending.

(3) If the Royal Court remands the person in custody it may later grant bail.

(4) An appeal under section 57 ceases to be pending at the earliest of these times –

- (a) when the proceedings on the appeal are discontinued,
- (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the Privy Council against the decision of the Royal Court on the appeal under section 45 or 50 is granted, if no appeal to the Privy Council is brought before the end of that period,
- (c) when there is no further step that can be taken on behalf of the designated territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).

Appeal to be only remedy.

60. A decision under this Part of the Magistrate's Court or Her Majesty's Procureur may be challenged in legal proceedings only by means of an appeal under this Part.

Time limit for extradition

Time limit for extradition if there is no appeal.

61. (1) This section applies if Her Majesty's Procureur orders a person's extradition to a designated territory and -

- (a) no notice of an appeal under section 45 or section 50 is given before the end of the period of 14 days commencing on the day on which Her Majesty's Procureur informs the person under section 43(1) that

he or she has ordered the person's extradition, or

- (b) notice is given during that period but the Royal Court refuses leave to appeal to it.

(2) The person must be extradited to the designated territory before the end of the required period, which is 28 days starting with –

- (a) the day on which Her Majesty's Procureur makes the extradition order (where subsection (1)(a) applies and no order is made under section 63 or section 66),
- (b) the day on which the decision of the Royal Court refusing leave to appeal to it becomes final (where subsection (1)(b) applies and no order is made under section 63 or section 66), or
- (c) the earliest day on which the extradition order may be carried out (where an order is made under section 63 or section 66).

(3) The decision of the Royal Court refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal.

(4) If subsection (2) is not complied with and the person applies to the appropriate judge to be discharged the judge must order his or her discharge, unless reasonable cause is shown for the delay.

(5) For the purposes of subsections (1) to (3) -

- (a) any power of a court to extend the period permitted for giving notice of application for leave to appeal, and
- (b) any power of a court to grant leave to take a step out of time,

shall be disregarded.

(6) If leave to appeal to the Royal Court is granted on an application notice of which was given after the end of the the end of the period of 14 days commencing on the day on which Her Majesty's Procureur informs the person under section 43(1) that he or she has ordered the person's extradition, this section ceases to apply (but section 62 applies instead).

Time limit for extradition if there is an appeal.

62. (1) If –

- (a) there is an appeal to the Royal Court under any of sections 45, 50 and 52 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) However, if the day referred to in paragraph (a) or (b) of subsection (2) is earlier than the earliest day on which, by reason of an order under section 63 or section 66, the extradition order may be carried out ("**the postponed date**"), the required period is 28 days beginning with the postponed date.

- (4) 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.

- (5) 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 the Privy Council, if there is no

such application,

- (b) at the end of the period permitted for applying to the Privy Council for leave to appeal, if the Royal Court refuses leave to appeal and there is no application to the Privy Council itself for leave to appeal,
- (c) if the Privy Council refuses leave to appeal to it, or
- (d) if, leave to appeal under section 57 having been granted, subsection (7) of that section (relating to the time for bringing the appeal) is not complied with.

(6) The decision of the Privy Council becomes final when it is made.

(7) If –

- (a) subsection (1) is not complied with, and
- (b) the person applies to the Magistrate's Court to be discharged,

the Magistrate's Court shall order that the person be discharged, unless reasonable cause is shown for the delay.

(8) For the purposes of subsection (5) –

- (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.

Magistrate's Court informed after extradition order that person is charged with offence in Bailiwick.

63. (1) This section applies if –

- (a) Her Majesty's Procureur has made an order for a person's extradition under this Part, and
- (b) before the extradition order is carried out the Magistrate's Court is informed that the person is charged with an offence in the Bailiwick.

(2) The Magistrate's Court must order the extradition order not to be carried out until one of these occurs –

- (a) the charge is disposed of,
- (b) the charge is withdrawn,
- (c) proceedings in respect of the charge are discontinued.

(3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the Magistrate's Court may order the

extradition order not to be carried out until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

(4) Rules of court may provide that where there is an appeal against the extradition order –

- (a) a reference in this section to the Magistrate's Court has effect, in prescribed circumstances, as if it were a reference to the court hearing the appeal, and
- (b) this section has effect with any other prescribed modifications.

Extradition following deferral for competing claim

64. (1) This section applies if –

- (a) an order is made under this Part for a person to be extradited to a designated territory in pursuance of a request for his or her extradition,
- (b) before the person is extradited to the territory an order is made under section 75(2) for the person's extradition in pursuance of the request to be deferred, and
- (c) the Magistrate's Court makes an order under section 107(1) for the person's extradition in pursuance of the request to cease to be deferred.

(2) In a case where section 61 applies, the required period for the purposes of section 61(2) is 28 days starting with the day on which the order under section 107(1) is made.

(3) In a case where section 62 applies, the required period for the purposes of section 62(2) is 28 days starting with the day on which the decision of the relevant court on the appeal becomes final (within the meaning of that section) or (if later) the day on which the order under section 107(1) is made.

Asylum claim.

65. (1) If -

- (a) an order is made for a person to be extradited in pursuance of a request, and
- (b) the person has made an asylum claim (whether before or after the making of the request),

the person must not be extradited in pursuance of the request before the asylum claim is finally determined; and sections 61 and 62 have effect subject to this.

(2) If His Excellency allows the asylum claim, the claim is finally determined when he makes his decision on the claim.

(3) If His Excellency rejects the asylum claim, the claim is finally determined –

- (a) when His Excellency makes his decision on the claim, if there is no right to appeal against His Excellency's decision on the claim,
- (b) when the period permitted for appealing against His Excellency's decision on the claim ends, if there is such a right but there is no such appeal,
- (c) when the appeal against that decision is finally determined or is withdrawn or abandoned, if there is such an appeal.

(4) An appeal against His Excellency's decision on an asylum claim is not finally determined for the purposes of subsection (3) at any time when a further appeal or an application for leave to bring a further appeal –

- (a) has been instituted and has not been finally determined or withdrawn or abandoned, or
- (b) may be brought.

(5) The possibility of an appeal out of time with leave must be ignored for the purposes of subsections (3) and (4).

Magistrate's Court informed after extradition order that person is serving sentence in the Bailiwick.

66. (1) This section applies if –

- (a) Her Majesty's Procureur has made an order for a person's extradition under this Part, and
- (b) before the extradition order is carried out the Magistrate's Court is informed that the person is serving a sentence of imprisonment or another form of detention in the Bailiwick.

(2) The Magistrate's Court may order the extradition order not to be carried out until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

(3) Rules of court may provide that where there is an appeal against the extradition order –

- (a) reference in this section to the Magistrate's Court has effect, in prescribed circumstances, as if it were a reference to the court hearing the appeal, and
- (b) this section has effect with any other prescribed modifications.

Undertaking in relation to person serving sentence in the Bailiwick.

67. (1) If –

- (a) Her Majesty's Procureur 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 the Bailiwick,

Her Majesty's Procureur may make the order for extradition subject to the condition that extradition is not to take place before he or she receives an undertaking given on behalf of the designated territory in terms specified by him or her.

(2) The terms that may be specified by Her Majesty's Procureur 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 the Bailiwick on the conclusion of those proceedings to serve the remainder of his or her sentence.

(3) The terms that may be specified by Her Majesty's Procureur 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 the Bailiwick 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) Subsections (5) and (6) apply if Her Majesty's Procureur makes an order for extradition subject to a condition under subsection (1).

(5) If Her Majesty's Procureur 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 Her Majesty's Procureur receives the undertaking before the end of that period –

- (a) in a case where section 61 (relating to the time limit for extradition if there is no appeal) applies, the period of 28 days specified in section 61(1) for the person's extradition to the designated territory concerned shall commence on the day on which Her Majesty's Procureur receives the undertaking, and
- (b) in a case where section 62 (relating to the time limit for extradition if there is an appeal) applies, the period of 28 days specified in section 62(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 section) or the day on which Her Majesty's Procureur receives the undertaking, whichever is later.

Withdrawal of request for extradition

Withdrawal of request before end of extradition hearing before Magistrate's Court.

68. (1) If, at any time in the period to which subsection (2) refers, the Magistrate's Court is informed by Her Majesty's Procureur that a request for a person's extradition has been withdrawn, the Magistrate's Court must order that the person be discharged.

(2) The period to which this section refers is the period –

- (a) commencing when the person first appears or is brought before the Magistrate's Court following the person's arrest, and
- (b) ending when the Magistrate's Court orders the person to be discharged or sends the case to Her Majesty's Procureur for a decision as to whether the person is to be extradited.

(3) If the person is not before the Magistrate's Court at the time when the Magistrate's Court orders that the person be discharged, the Judge shall inform the person of the order as soon as practicable.

Withdrawal of request after case sent to Her Majesty's Procureur.

69. If, at any time in the period –

- (a) commencing when the Magistrate's Court sends the case to Her Majesty's Procureur 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,

Her Majesty's Procureur is informed that the request for the person's extradition has been withdrawn, he or she must order that the person be discharged.

Withdrawal of request while application or appeal to Royal Court pending.

70. (1) If at any time in the period –

- (a) commencing when notice of an application for leave to appeal to the Royal 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 with the relevant day.

(2) For the purposes of this section, the "**relevant day**" is –

- (a) if the Royal Court refuses leave to appeal to it, the day on which the decision to refuse leave becomes final,
- (b) if leave to appeal is given but proceedings on the appeal are discontinued, the day of discontinuance,
- (c) if leave to appeal is given and proceedings on the appeal are not discontinued, the day on which the court

makes its decision on the appeal.

(3) For the purposes of subsection (2)(a), the decision to refuse leave becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal (ignoring any power of a court to grant leave to take a step out of time).

(4) If the appeal is under section 45 or section 50 (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 Her Majesty's Procureur has ordered the person's extradition.

(5) If the application or appeal is under section 47 or section 52, the Royal Court shall dismiss the application or appeal.

(6) 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.

Withdrawal of request while appeal to Privy Council pending.

71. (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 Her Majesty's Procureur that a request for a person's extradition has been withdrawn, the Privy Council shall take the steps specified in subsection (2) or (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 section 45 or section 50 (appeals by persons 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

General provisions as to consent to extradition.

72. (1) A person arrested under a warrant issued under section 7 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 section must be given in writing, and is irrevocable.

(4) If legal aid is available to a person arrested under a warrant issued under section 7 or a person arrested under a provisional warrant, such a person must be informed of his or her right to apply for legal aid, and be given the opportunity to apply for legal aid, before that person may give his or her consent to being extradited.

(5) In this section, "**legal aid**" means representation for the purposes of criminal proceedings provided under a scheme made under the Legal Aid (Bailiwick of Guernsey) Law, 2003^e.

Consent to extradition before case sent to Her Majesty's Procureur.

73. (1) If a person consents under section 72 to being extradited before the person's case is sent to Her Majesty's Procureur for his or her decision as to whether the person is to be extradited, the consent must be given before the

^e Order in Council No. VI of 2004; as amended by Ordinance No. XXXIII of 2003; No. XXXIX of 2015; No. IX of 2016; Nos. XXVI and XLII of 2018.

Magistrate's Court, in a manner to be prescribed by rules of court, and the following provisions of this section apply.

(2) If the Magistrate's Court has not under section 11 or section 12 fixed a date on which the extradition hearing is to begin, the Magistrate's Court is not required to do so.

(3) If the extradition hearing has begun, the Magistrate's Court is no longer required to proceed or continue proceeding under any of sections 16 to 33 (relating to the extradition hearing).

(4) The Magistrate's Court shall send the case to Her Majesty's Procureur for a decision as to whether the person is to be extradited.

Consent to extradition after case sent to Her Majesty's Procureur.

74. If a person consents to being extradited under section 72 after the person's case is sent to Her Majesty's Procureur for a decision as to whether the person is to be extradited, the consent shall be given before Her Majesty's Procureur.

Competing extradition requests

Competing extradition requests.

75. (1) This section applies if –

- (a) Her Majesty's Procureur receives a valid request for a person's extradition to a designated territory,
- (b) the person is in the Bailiwick, and

- (c) before the person is extradited in pursuance of the request or discharged, Her Majesty's Procureur receives another valid request for the person's extradition.

(2) If neither of the requests has been disposed of, Her Majesty's Procureur 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, Her Majesty's Procureur 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 section, Her Majesty's Procureur 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

Consent to dealing with another offence.

76. (1) This section applies if –

- (a) a person is extradited to a designated territory, and
- (b) Her Majesty's Procureur receives a valid request for his or her 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 if Her Majesty's Procureur believes that the authority has the function in that designated territory of making requests for the consent to which subsection (1)(b) refers.

(3) Her Majesty's Procureur must serve notice on the person that he or she has received the request for consent, unless he or she is satisfied that it would be impracticable to do so.

(4) Her Majesty's Procureur shall decide whether the offence is an extradition offence.

(5) If Her Majesty's Procureur decides that the offence is not an extradition offence, he or she must refuse to give consent.

(6) If Her Majesty's Procureur decides that the offence is an extradition offence, he or she must decide whether the Magistrate's Court would send the case to Her Majesty's Procureur under sections 17 to 33 (for his or her decision whether the person should be extradited) if –

- (a) the person were in the Bailiwick, and
- (b) the Magistrate's Court were required to proceed under section 17 in respect of the offence for which Her Majesty's Procureur's consent is requested.

(7) If Her Majesty's Procureur decides the question in subsection (6) in the negative, he or she must refuse to give consent.

(8) If Her Majesty's Procureur decides that question in the affirmative, he or she must decide whether, if the person were in the Bailiwick, the person's extradition in respect of the offence would be prohibited under any of sections 36, 37 and 38.

(9) If Her Majesty's Procureur decides the question in subsection (8) in the affirmative, he or she must refuse to give consent.

(10) If Her Majesty's Procureur decides that question in the negative, he or she may give consent.

Consent to further extradition to designated territory.

77. (1) This section applies if –

- (a) a person is extradited to a designated territory (the requesting territory), and
- (b) Her Majesty's Procureur receives a valid request for his or her 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 Her Majesty's Procureur believes that the authority has the function in that territory of making requests for the consent to which subsection (1)(b) refers.

(3) Her Majesty's Procureur must serve notice on the person that he or she has received the request for consent, unless he or she is satisfied that it would be impracticable to do so.

(4) Her Majesty's Procureur must decide whether the offence is an extradition offence in relation to the designated territory to which subsection (1)(b) refers.

(5) If Her Majesty's Procureur decides that the offence is not an extradition offence, he or she must refuse to give consent.

(6) If Her Majesty's Procureur decides that the offence is an extradition offence, Her Majesty's Procureur must decide whether the Magistrate's Court would send the case to him or her under sections 17 to 33 for Her Majesty's Procureur's decision whether the person should be extradited if –

- (a) the person were in the Bailiwick, and
- (b) the Magistrate's Court were required to proceed under section 17 in respect of the offence for which Her Majesty's Procureur's consent is requested.

(7) If Her Majesty's Procureur decides the question in subsection (6) in the negative, he or she must refuse to give consent.

(8) If Her Majesty's Procureur decides that question in the affirmative, he or she must decide whether, if the person were in the Bailiwick, the person's extradition in respect of the offence would be prohibited under any of sections 36, 37 and 38.

(9) If Her Majesty's Procureur decides the question in subsection (8) in the affirmative, he or she must refuse to give consent.

(10) If Her Majesty's Procureur decides that question in the affirmative, he or she may give consent.

Service of notices under sections 76 and 77.

78. Service of a notice on a person under either of sections 76 and 77 may be effected –

- (a) by delivering the notice to the person,
- (b) by leaving it for the person with another person at his or her last known or usual place of abode, or

- (c) by sending it to the person to be served, by post in a letter addressed to the person at that place of abode.

Return of person to the Bailiwick to serve remainder of sentence.

79. (1) This section applies to a person who –

- (a) is serving a sentence of imprisonment or another form of detention in the Bailiwick,
- (b) is extradited to a designated territory, and
- (c) is subsequently returned to the Bailiwick to serve the remainder of that sentence.

(2) A person to whom this section applies who is not entitled to be released from detention pursuant to the sentence –

- (a) is liable to be detained in pursuance of his or her sentence, and
- (b) if at large, shall be treated as being unlawfully at large.

(3) Time during which, as a result of his or her extradition, the person was not in the Bailiwick does not count as time served by the person as part of his or her sentence.

(4) Subsection (3) does not apply if –

- (a) the person was extradited for the purpose of being

prosecuted for an offence, and

- (b) the person has not been convicted of the offence or of any other offence in respect of which he or she was permitted to be dealt with in the designated territory.

(5) In a case to which subsection (4) refers, time during which as a result of his or her extradition the person was not in the Bailiwick counts as time served by the person as part of the person's 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.

(6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence –

- (a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return,
- (b) if the person was not released on licence at that time, subsections (7) to (9) apply in relation to the person ("the offender").

(7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.

(8) An officer of police may –

- (a) take the offender into custody, and
- (b) convey the offender to the place mentioned in subsection (7).

(9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.

Persons serving sentences outside territory where convicted.

80. (1) This section applies if –

- (a) a request is made for a person's extradition to a designated territory, and the request contains the statement referred to in subsection (2), 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 referred to in subsection (2).

(2) The statement is one that the person –

- (a) is alleged to be 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) 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) section 6(3) shall have effect as if the reference in that provision to the statement to which that section refers were a reference to the statement to which subsection (2) of this section refers, and

- (b) section 9(1) shall have effect as if the reference in that provision to a person to whom subsection (2) of that section refers were a reference to the person to whom subsection (1)(b) of this section refers.

(4) If the designated territory is the imprisoning territory –

- (a) sections 7(2)(a), 9(3)(a) and 16(4)(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) sections 10(7)(b) and 72(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) section 10(10)(b) shall have effect as if the reference in that provision to the designated territory were a reference to the imprisoning territory,
- (d) sections 3, 4, 16(2)(e) and 67(3) shall have effect as if the references in those provisions to a designated territory were references to the convicting territory, and
- (e) section 27(5) shall have effect as if after "entitled" there were inserted "in the convicting territory".

PART III

RE-EXTRADITION FROM THE BAILIWICK

Conditions for re-extradition.

81. (1) Section 82 applies in relation to a person if the five conditions in sections (2), (3), (4), (5) and (6) of this section are satisfied.

(2) The first condition is that the person was extradited to a designated territory in accordance with Part II.

(3) The second condition is that the person was serving a sentence of imprisonment or another form of detention in the Bailiwick ("the Bailiwick sentence") before the person 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 four 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 -
 - (i) the offence specified in the warrant or request, or
 - (ii) any other offence committed before his or her extradition in respect of which the person 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 the Bailiwick to serve the remainder of the Bailiwick sentence.

Initial stages of re-extradition hearing.

82. (1) If this section applies in relation to a person, the person must be brought as soon as practicable after the relevant time before the Magistrate's

Court, and the Magistrate's Court shall decide whether he or she is to be re-extradited 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 Bailiwick sentence (whether or not on licence).

(3) If subsection (1) is not complied with, and the person applies to the Magistrate's Court to be discharged, the court must 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's Court under subsection (1) or is ordered to be discharged under subsection (3).

(5) If the person is brought before the Magistrate's Court under subsection (1), the Magistrate's Court must decide whether or not the territory in which the overseas sentence was imposed is a designated territory.

(6) If the Magistrate's Court decides that the territory is a designated territory, section 83 applies.

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

Applicability of Law to re-extradition.

83. (1) If this section 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 II,

- (b) the request contained a statement that the person was alleged to be unlawfully at large after conviction of the relevant offence,
- (c) the relevant offence were specified in the request,
- (d) the hearing at which the Magistrate's Court is to make the decision referred to in section 82(1) were the extradition hearing, and
- (e) the proceedings before the Magistrate's Court were under Part II.

(2) Part II shall apply to proceedings under this Part, subject to the modifications in Schedule 2.

(3) The relevant offence is the offence in respect of which the overseas sentence is imposed.

Discharge not to affect conditions of release.

84. A person's discharge as a result of section 82 or section 83 does not affect any conditions on which the person is released from detention pursuant to the Bailiwick sentence.

PART IV
EXTRADITION TO THE BAILIWICK

Her Majesty's Procureur may request extradition to the Bailiwick.

85. Her Majesty's Procureur may request an appropriate authority of any other territory to extradite a person to the Bailiwick.

Commonwealth countries and Hong Kong.

86. (1) Subject to section 115, if –

- (a) a person is extradited to the Bailiwick 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 the Bailiwick, for an offence committed before the person's extradition, only if the offence is one to which subsection (3) refers or the protected period has ended.

(2) A person is dealt with in the Bailiwick for an offence if –

- (a) the person is tried in the Bailiwick for the offence, or
- (b) the person is detained with a view to trial in the Bailiwick for the offence.

(3) The offences to which this section 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 the Bailiwick on which the person is given an opportunity to leave the Bailiwick.

(5) An offence is a lesser offence in relation to another offence if the maximum punishment for it is less severe than the maximum punishment 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.

Remission of punishment for other offences.

87. If -

- (a) a person is extradited to the Bailiwick 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 the Bailiwick, and
- (c) the person has not been extradited in respect of that offence,

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

Return of person acquitted or not tried.

88. (1) If -

- (a) a person is accused in the Bailiwick of the commission of an offence,
- (b) the person is extradited to the Bailiwick 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 subsection (2) refers or the condition to which subsection (3) refers is satisfied,

Her Majesty's Procureur 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 section refers is that -

- (a) proceedings against the person for the offence are not begun before the end of the period of six months commencing on the day on which the person arrives in the Bailiwick on his or her extradition, and
- (b) before the end of the period of three months commencing immediately after the end of the period in paragraph (a), the person asks Her Majesty's Procureur to return him or her to the designated territory from which the person was extradited.

- (3) The condition to which this section 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 three months commencing immediately after the date of his or her acquittal or discharge, the person asks Her Majesty's

Procureur to return him or her to the designated territory from which the person was extradited.

Return to extraditing territory to serve sentence.

89. (1) This section applies if-

- (a) a person is extradited to the Bailiwick from a territory for the purposes of being prosecuted for an offence, and
- (b) the person's extradition is made subject to a condition that an undertaking is given by or on behalf of the Bailiwick as to the person's return to the territory.

(2) Her Majesty's Procureur may give an undertaking to a person acting on behalf of the territory as to the person's return to the territory.

(3) The terms which may be included by Her Majesty's Procureur in an undertaking given under subsection (2) in relation to a person include terms that if the person is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it, the person is to be returned to the territory to serve the sentence.

(4) A person who is to be returned to a territory by virtue of an undertaking given under subsection (2) must be returned as soon as is reasonably practicable after the sentence is imposed and any other proceedings in respect of the offence are concluded.

(5) If subsection (4) is complied with the sentence for the offence is treated as served but the person's conviction for the offence must be treated as a conviction for all other purposes.

(6) The sentence for the offence is treated as served under subsection (5) only in so far as it consists of the sentence of imprisonment or another form of detention mentioned in subsection (3).

(7) Subsection (8) applies if-

- (a) subsection (4) is not complied with, and
- (b) the person applies to the court which imposed the sentence to expedite return to the territory.

(8) The court must order return by such date as is specified in the order unless reasonable cause is shown for the delay.

(9) If a person is to be returned by virtue of an undertaking given under subsection (2), an officer of police may-

- (a) remove the person from any prison or other institution where the person is detained,
- (b) keep the person in custody until returned, and
- (c) convey the person to the territory to which the person is to be returned.

(10) Nothing in this section requires the return of a person to a territory in a case in which Her Majesty's Procureur is not satisfied that the return is compatible with the Convention rights within the meaning of the Human Rights Law.

PART V

POLICE POWERS

Search and seizure warrants.

90. (1) The Bailiff may, on an application made by an officer of police, issue a search and seizure warrant if he or she 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 section must state -

- (a) that the extradition of a person specified in the application is sought under Part II or Part III,
- (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 must 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 authorising an officer of police –

(a) to enter and search the premises specified in the application for the warrant, and

(b) to seize and retain any material found there which falls within subsection (5).

(5) Material falls within this subsection if -

(a) it would be likely to be admissible evidence at a trial in the Bailiwick for the offence specified in the application for the warrant (on the assumption that conduct constituting that offence would constitute an offence in the Bailiwick), and

(b) it does not consist of or include items subject to legal privilege, or special 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 the Bailiwick, or is on his or her way to the Bailiwick,
 - (c) that the offence is an extradition offence,
 - (d) that there is material specified in subsection (5) on premises specified in the application, and
 - (e) that any of the conditions to which subsection (7) refers is satisfied.
- (7) The conditions to which this section 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 subsection (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 an officer of police arriving at the premises can secure immediate entry to them.

Production orders.

91. (1) The Bailiff may, on an application made by an officer of police, 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 section must state -

- (a) that the extradition of a person specified in the application is sought under Part II or Part III,
- (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 material, and
- (e) that a person specified in the application appears to be in possession or control of the material.

(3) The application must also state that a person specified in the application is accused in a designated territory of the commission 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 to produce it to an officer of police (within the period stated in the order) for the officer to take away, or
- (b) requiring that person to give an officer of police 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.

Requirements for making of production order.

92. (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 the Bailiwick, or is on his or her way to the Bailiwick,

- (c) that the offence is an extradition offence,
- (d) that there is material that consists of or includes special material on premises specified in the application, and
- (e) that the material would be likely to be admissible evidence at a trial in the Bailiwick for the offence specified in the application (on the assumption that conduct constituting that offence would constitute an offence in the Bailiwick).

(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.

Electronically stored information.

93. (1) This section applies if any of the special 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 an officer of police 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 officer of police,
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 an officer of police access
to the material, it has effect as an order to give the officer of police 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.

Warrants: special material.

94. (1) The Bailiff may, on an application made by an officer of police,
issue a warrant under this section if satisfied -

(a) that the requirements for the making of a production
order are fulfilled, and

(b) that any of the conditions to which subsection (4) refers
is satisfied.

(2) An application for a warrant under this section must state -

(a) that the extradition of a person specified in the

application is sought under Part II or Part III,

- (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 material.

(3) The application must 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 section 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 material to which section 92(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 section) and is likely to be disclosed in breach of the restriction or obligation if a warrant is not issued.

(5) A warrant under this section authorises an officer of police to enter and search the premises specified in the application for the warrant, and to seize and retain any material found there that is special material to which subsection (6) refers.

(6) This subsection refers to material that would be likely to be admissible in evidence at a trial in the Bailiwick for the offence specified in the application for the warrant, if conduct constituting the offence would constitute an offence in the Bailiwick.

Search and seizure without warrant

Entry and search to effect arrest.

95. (1) If an officer of police has power to arrest a person under an extradition arrest warrant, and has reasonable grounds for believing that the person is on any premises, he or she may enter and search those premises for the purpose of exercising the power of arrest.

(2) The power to search that is conferred by subsection (1) is exercisable only to the extent reasonably required for the purpose of exercising the power of arrest.

(3) An officer of police who has entered premises in exercise of the power conferred by subsection (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 the Bailiwick.
- (5) Where the premises contain two or more separate dwellings, the power to enter and search that is conferred by subsection (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 officer of police has reasonable grounds for believing that the person to whom the search relates may be in that dwelling.

Entry and search of premises on arrest.

96. (1) This section applies if a person has been arrested under an extradition arrest warrant at a place other than a police station.

(2) An officer of police 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 officer of police has reasonable grounds for believing -

- (a) where the person has not been convicted of the offence to which subsection (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 section refers is -

- (a) the offence in respect of which extradition is requested, if the arrest was under a warrant issued under section 7, 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 subsection (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 subsection (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 subsection (4).

(6) An officer of police may seize and retain anything for which he or she may search by virtue of subsection (4).

(7) An officer of police who has entered premises in exercise of the power that is conferred by subsection (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 the Bailiwick.

(9) If the premises contain two or more separate dwellings, the power that is conferred by subsection (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 or her 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.

Search of person on arrest.

97. (1) This section applies if a person has been arrested under an extradition arrest warrant at a place other than a police station.

(2) An officer of police may search the person if the officer of police has reasonable grounds for believing that the person may present a danger to himself or herself or others.

(3) An officer of police may search the person if the officer of police has reasonable grounds for believing that the person may have concealed on his or her person anything -

- (a) that the person might use to assist the person 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 subsection (3) –

- (a) is a power to search for anything falling within either of paragraphs (a) and (b) of that subsection, 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 subsections (2) and (3) do not authorise an officer of police to require a person to remove any clothing in public, other than an outer coat, jacket or gloves.

(6) The powers conferred by subsections (2) and (3) authorise a search of a person's mouth.

(7) An officer of police who is searching a person in exercise of the power that is conferred by subsection (2) may seize and retain anything that the officer of police finds, if he or she has reasonable grounds for believing that the person searched ("P") might use it to cause physical injury to P or to any other person.

(8) An officer of police searching a person in exercise of the power conferred by subsection (3) may seize and retain anything the officer of police finds, if the officer of police 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 the

Bailiwick.

(10) Nothing in this section affects the powers conferred by section 44 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^f (relating to the stopping and searching of suspected terrorists and the seizure and retention of suspected evidence).

Entry and search of premises after arrest.

98. (1) This section applies if a person has been arrested under an extradition arrest warrant.

(2) An officer of police may enter and search any premises occupied or controlled by the person, if the officer of police has reasonable grounds for believing -

- (a) if the person has not been convicted of the offence to which subsection (3) refers, that there is on the premises evidence (other than items subject to legal privilege) relating to the offence, or
- (b) in any case, there is on the premises evidence (other than items subject to legal privilege) relating to the identity of the person.

^f Order in Council No. XVI of 2002; as amended by Order in Council No. VII of 2005; No. XIII of 2006; No. XIII of 2010; No. XI of 2011; No. XIV of 2012; Ordinance No. XXXIII of 2003; No. XLVI of 2007; Nos. XIII, XX and XXXVII of 2010; No. XXIX of 2014; No. LIV of 2014; No. IX of 2016; No. XXVI of 2018; No. XLV of 2018; G.S.I. No. 16 of 2003; G.S.I. No. 41 of 2005; and G.S.I. No. 5 of 2017.

- (3) The offence to which this subsection refers is -
- (a) the offence in respect of which extradition is requested, if the arrest was under a warrant issued under section 7, 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 subsection (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 subsection (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 subsection (4).

(6) An officer of police may seize and retain anything for which the officer of police may search by virtue of subsections (4) and (5).

(7) An officer of police who has entered premises in exercise of the power that is conferred by subsection (2) may seize and retain anything that is on

the premises if the officer of police 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 the Bailiwick.

(9) The powers to enter, search and seize that are conferred by subsection (2) and (6) may be exercised only if a relevant officer has given written authorisation 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) For the purposes of this section "**a relevant officer**" means –

- (a) a member of the Island Police Force who holds the rank of inspector or above,

- (b) a member of any police force which may be established

by the States of Alderney who holds the rank of inspector or above, or

- (c) a customs officer of the grade of senior investigation officer or above.

Treatment following arrest

Fingerprints and samples.

99. (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 an officer of police -

- (a) with the appropriate consent given in writing, or
- (b) under subsection (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 an officer of police -

- (a) with the appropriate consent given in writing, or
- (b) under subsection (3).

(3) Fingerprints or a non-intimate sample may be taken from the person without the appropriate consent only if a relevant officer authorises the fingerprints or sample to be taken.

(4) For the purposes of this section, "**relevant officer**" has the meaning given in section 98.

Searches and examinations.

100. (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 authorisation of an officer of police 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 section 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 section are -

- (a) officers of police, and
- (b) persons designated for the purposes of this section by

the Chief Officer of Police or the Chief Officer of Customs and Excise.

- (4) A person may not under this section -
 - (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 section.
- (6) For the purposes of this section –
 - (a) ascertaining a person's identity includes ascertaining that he or she is not a particular person,
 - (b) taking a photograph includes using a process by means of which a visual image may be produced, and photographing a person shall be construed accordingly, and
 - (c) 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.

Photographs.

101. (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 section -

- (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 section are -

- (a) officers of police, and
- (b) persons designated for the purposes of this section by the Chief Officer of Police.

Other treatment and rights.

102. (1) The Committee may by regulations apply the provisions to which subsection (2) refers to persons to whom subsection (3) refers, with such

modifications as are specified in the regulations.

- (2) This section refers to the following provisions of PPACE -
 - (a) section 62 (searches of detained persons),
 - (b) section 63 (intimate searches),
 - (c) section 64 (right to have someone informed when arrested), and
 - (d) section 66 (access to legal advice).
- (3) This section 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

Delivery of seized property.

103. (1) This section applies to anything that has been seized or produced under this Part.

(2) An officer of police may deliver any such thing to a person who is or is acting on behalf of an authority if the officer of police 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 conferred by section 95(3), section 96(6) or (7), section 97(7) or (8), or section 98(6) or (7), 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 section 7, 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 an officer of police had power of arrest, where the seizure power was conferred by section 95(3), or
 - (b) the extradition arrest power under which a person was arrested, where the seizure power was conferred by section 96(6) or (7), section 97(7) or (8) or section 98(6) or (7).

Codes of practice.

104. (1) The Committee may by regulations 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) When the Committee proposes to make a code of practice under this section, it shall publish a draft of that code, shall consider any representations made to it about the draft and may modify the draft accordingly.

(3) A failure by an officer of police to comply with a provision of a code issued under this section does not of itself make the officer of police liable to criminal or civil proceedings.

(4) A code issued under this section 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.

Reasonable force.

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

PART VI
OTHER PROVISIONS

Proceedings on deferred request.

106. (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 in the person's favour,

the Magistrate's Court may make an order for proceedings on the deferred claim to be cease to be deferred.

(2) No order under subsection (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's Court to be discharged, the Magistrate's Court may order that the person be discharged.

(4) If the person applies to the Magistrate's Court to be discharged, the Magistrate's Court must order the person's discharge if –

- (a) the period of 21 days to which subsection (2) refers has ended, and
- (b) it has not made an order under subsection (1) and has not ordered that the person be discharged.

(5) An extradition claim made in respect of a person is disposed of in a person's favour if either of the conditions referred to in section 108(1)(a) or (b) is met in respect of the person.

Proceedings where extradition deferred.

107. (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 in the person's favour,

the Magistrate's Court may make an order for the person's extradition in pursuance of the deferred claim to cease to be deferred.

(2) No order under subsection (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's Court to be discharged, the Magistrate's Court may order that the person be discharged.

(4) If the person applies to the Magistrate's Court to be discharged, the Magistrate's Court must order the person's discharge if –

- (a) the period of 21 days to which subsection (2) refers has ended, and
- (b) it has not made an order under subsection (1) and has not ordered that the person be discharged.

(5) An extradition claim made in respect of a person is disposed of in a person's favour if either of the conditions referred to in section 108(1(a) or (b)

is met in respect of the person.

Disposal of request for extradition.

108. (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 application for leave to 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 refusing leave to appeal to it becomes final,
- (c) 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 refusing leave to appeal to it becomes final when, in accordance with rules of court, there is no further step that can be taken in relation to the application for leave to appeal.

- (4) 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 of 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.

- (5) For the purposes of subsections (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 disregarded.

Disposal of charge.

109. (1) A charge against a person is disposed of –

- (a) when the person 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 period of 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 subsections (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.

Special extradition arrangements.

110. (1) This section applies if Her Majesty's Procureur believes -

- (a) that arrangements have been made between the United Kingdom on behalf of the Bailiwick, and another territory, for the extradition of a person from the Bailiwick to the territory, and
- (b) the territory is not a designated territory.

(2) Her Majesty's Procureur may certify that the conditions in paragraphs (a) and (b) of subsection (1) are satisfied in relation to the extradition of the person.

(3) If Her Majesty's Procureur issues a certificate under subsection (2), this Law shall apply in respect of the person's extradition to the territory as if it were a designated territory.

(4) As applied by subsection (3), this Law shall have effect -

- (a) as if sections 7(4), 9(5), 10(10(b)), 26(8) and 28(8) were

omitted, and

- (b) with such modifications as are specified in the certificate.

(5) A certificate under subsection (2) in relation to a person is conclusive evidence that the conditions in paragraphs (a) and (b) of subsection (1) are satisfied in relation to the person's extradition from the Bailiwick to the territory.

Genocide, crimes against humanity and war crimes.

111. (1) If a valid request for a person's extradition is made in respect of an offence specified in subsection (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 section refers are –

- (a) an offence that if committed in the Bailiwick would be punishable as an offence under section 45 of the International Criminal Court (Bailiwick of Guernsey) Law, 2019 (genocide, crimes against humanity and war crimes),
- (b) an offence that if committed in the Bailiwick would be punishable as an offence under section 46 of that Law (conduct ancillary to genocide, etc. committed outside the jurisdiction), and

- (c) any offence that is punishable in the Bailiwick as an offence under section 1 of the Geneva Conventions Act 1957 as it applies to the Bailiwick (relating to grave breaches of scheduled conventions).

Custody.

112. (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) 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's Court 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 the person in custody in a place to which the Magistrate's Court would otherwise be required in law to remand the person, he or she may instead remand the person in custody in any other place that it considers appropriate.

(3) A person in custody following arrest under this Law who escapes from custody may be retaken in the same way as if he or she had been in

custody following arrest or apprehension in respect of an offence committed in the Bailiwick.

(4) An order for a person's extradition under this Law is sufficient authority for a person to whom the order is directed or an officer of police –

- (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.

Extradition for more than one offence.

113. The Committee may by regulations 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.

Dealing with person for other offences.

114. (1) This section applies if a person is extradited to the Bailiwick from a territory which is not -

- (a) a designated territory, or
- (b) a territory falling within section 86(1)(b).

(2) Subject to section 115, the person may be dealt with in the Bailiwick for an offence committed before the person's extradition only if -

- (a) the offence is one falling within subsection (3), or
 - (b) the condition in subsection (4) is satisfied.
- (3) The offences are –
 - (a) the offence in respect of which the person is extradited;
 - (b) an offence disclosed by the information provided to the territory in respect of that offence;
 - (c) an offence in respect of which consent to the person being dealt with is given on behalf of the territory.
- (4) The condition is that –
 - (a) the person has returned to the territory from which the person was extradited, or
 - (b) the person has been given an opportunity to leave the Bailiwick.
- (5) A person is dealt with in the Bailiwick for an offence if –
 - (a) the person is tried there for it, or
 - (b) the person is detained with a view to trial there for it.

Detention of person for trial in the Bailiwick for other offences.

115. (1) Section 86 or section 114 does not prevent a person in whose case that section applies from being detained with a view to trial in the Bailiwick for an offence if the conditions in subsection (2) are satisfied.

(2) The conditions are –

- (a) the Bailiwick and the territory from which the person was extradited have each made a declaration under Article 14(3) of the Convention on Extradition done at Paris on 13 December 1957, and the declarations are still in force,
- (b) Her Majesty's Procureur makes a request for the consent referred to in section 86(3)(c) or 114(3)(c) in respect of the offence ("**the consent request**"), and
- (c) Her Majesty's Procureur gives notification, which is explicitly acknowledged on behalf of the territory, of the date on which the detention is to begin ("**the notified date**").

(3) This section applies only to detention during the period beginning with the notified date and ending with whichever of the following occurs first -

- (a) if a notification of opposition to the detention is given on behalf of the territory, the date on which Her Majesty's Procureur receives it,

- (b) the date on which Her Majesty's Procureur receives notification given on behalf of the territory as to whether the consent request is granted or refused,
- (c) the expiry of the period of 90 days beginning with the date on which the consent request is received.

Restriction on bail where undertaking given by Her Majesty's Procureur.

116. (1) This section applies in relation to a person if –

- (a) Her Majesty's Procureur has given an undertaking in connection with the person's extradition to the Bailiwick, and
- (b) the undertaking includes terms that the person be kept in custody until the conclusion of any proceedings against him in the Bailiwick for an offence.

(2) A court may grant bail to the person in the proceedings only if the court considers that there are exceptional circumstances which justify it.

Transfer from Alderney or Sark to Guernsey.

117. (1) Where a person is arrested in Alderney or Sark under a warrant issued under section 7 or under a provisional warrant issued under section 9, the appropriate judicial officer shall authorise the transfer of the person to Guernsey as soon as is practicable.

(2) Where a person is so transferred the person shall thereafter be dealt with by the court as if the person had been arrested in Guernsey.

(3) The "**appropriate judicial officer**" for the purposes of subsection (1) shall be –

(a) in Alderney, the Chairman of the Court of Alderney or, if the Chairman is absent or unable to act, a Jurat of the Court of Alderney authorised by the Chairman to act in that capacity, and

(b) in Sark, the Seneschal.

Parties to international conventions.

118. (1) The Committee may by regulations –

(a) designate an international Convention to which the Bailiwick is a party, and

(b) specify conduct to which the Convention applies.

(2) If Her Majesty's Procureur believes, in respect of a request for a person's extradition, that –

(a) the request is for extradition to a territory that is a party to a Convention designated under subsection (1)(a),

(b) the territory is not a designated territory, and

- (c) the conduct specified in the request is conduct specified under subsection (1)(b),

Her Majesty's Procureur may certify that the conditions in paragraphs (a) to (c) are satisfied in relation to the extradition of the person.

(3) If Her Majesty's Procureur issues a certificate under subsection (2) this Law applies in respect of the person's extradition to the territory as if the territory were a designated territory.

(4) As applied by subsection (3), this Law has effect as if –

- (a) sections 2, 3, 7(4), 9(5), 10(10)(b), 26(8) and 28(8) were omitted, and
- (b) the conduct that constituted an extradition offence for the purposes of Part 2 were the conduct specified under subsection (1)(b).

(5) A certificate under subsection (3) in relation to a person is conclusive evidence that the conditions in paragraphs (a) to (c) of subsection (2) are satisfied in relation to the person's extradition.

Use of live links at certain hearings.

119. (1) This section applies in relation to a hearing in proceedings under this Law, other than an extradition hearing.

(2) If satisfied that the person affected by an extradition claim is likely to be in custody during the hearing, the court may give a live-link evidence

direction in respect of that person under the Live-Link Evidence (Bailiwick of Guernsey) Ordinance, 2008^g at any time before the hearing if it is satisfied that the conditions set out in section 1(2) of that Ordinance are fulfilled.

(3) Such a direction may be given in relation to all subsequent hearings to which this section applies, or to such hearing or hearings to which this section applies as may be specified or described in the direction.

Live links: supplementary.

120. (1) The court may rescind a live-link evidence direction at any time before or during a hearing to which it relates.

(2) The court must not give a live-link evidence direction or rescind such a direction unless the parties to the proceedings have been given the opportunity to make representations.

(3) If a hearing takes place in relation to the giving or rescinding of a live-link evidence direction, the court may require or permit any party to the proceedings who wishes to make representations to do so through a live link.

(4) If in a case where the court has power to give a live link direction but decides not to do so, the reasons for not doing so must be stated in open court.

(5) For the purposes of this section and section 119 –

(a) a person is affected by an extradition claim if –

^g Ordinance No. XI of 2008; as amended by No. X of 2011.

- (i) a request for the person's extradition is made, or
 - (ii) a warrant under section 9 is issued in respect of the person, and
- (b) references to being in custody include references to being in police detention within the meaning of PPACE.

Young persons.

121. In any proceedings before the Magistrate's Court under this Law relating to the extradition of a person who is under the age of 18 years, section 8(1) and (2) of the Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008^h shall apply as it applies to proceedings in the Juvenile Court, unless the Magistrate's Court orders otherwise.

National security.

122. (1) This section applies if Her Majesty's Procureur believes that the conditions in subsections (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 II or Part III in respect of an offence.

(3) The second condition is -

(a) that in engaging in the conduct constituting or alleged

^h Order in Council No. VI of 2009; as amended by Ordinance No. IX of 2016.

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 authorisation given by Her Majesty's Procureur, the person is not liable under the criminal law of any part of the Bailiwick 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 section applies, Her Majesty's Procureur may certify that the conditions in subsections (2), (3) and (4) are satisfied in relation to the person.

(6) If Her Majesty's Procureur issues a certificate under subsection (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 Her Majesty's Procureur issues a certificate under section (5), he or she may order the person's discharge instead of or in addition to giving a direction under subsection (6).

(8) If Her Majesty's Procureur gives a direction under subsection (6) in respect of a request for extradition, then –

- (a) if Her Majesty's Procureur has not issued a certificate

under section 6 that the request is made in the approved way, he or she is no longer required to do so,

- (b) if the person is arrested under a warrant issued by the Magistrate's Court under section 7 or under a provisional warrant, there is no requirement for the person to appear or be brought before the Magistrate's Court and the person shall be discharged,
- (c) the Magistrate's Court is no longer required to proceed or continue proceeding under sections 8, 10, 11 and 12, if the person appears or is brought before the Magistrate's Court,
- (d) if the extradition hearing has begun, the Magistrate's Court is no longer required to proceed or to continue proceeding under sections 16 to 33 (relating to the extradition hearing),
- (e) if the person has given to the Magistrate's Court the person's consent to being extradited, the Magistrate's Court is no longer required to send the case to Her Majesty's Procureur for Her Majesty's Procureur's 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 subsection (5),
- (b) direction under subsection (6), or
- (c) order under subsection (7),

shall be in writing, and shall be signed by Her Majesty's Procureur.

Documents sent by facsimile and email.

123. (1) This section applies if a document to be sent in connection with proceedings under this Law is sent by facsimile transmission or email.

(2) This Law shall have effect as if the document received by facsimile transmission or email were the document used to make the transmission.

(3) The document received by facsimile transmission or email may be received in evidence accordingly.

(4) This section is without prejudice to the provisions of the

Electronic Transactions (Guernsey) Law, 2000ⁱ.

Receivable documents.

124. (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 officer of the designated territory,
- (b) it purports to be certified, whether by seal or otherwise, by the Ministry or Department of the territory responsible for justice or for foreign affairs, or
- (c) it purports to be authenticated by the oath or affirmation of a witness.

(3) Nothing in this section prevents a document that is not duly authenticated from being received in evidence in proceedings under this Law.

Written statements and admissions.

125. (1) The provisions specified in subsection (2) apply in relation to proceedings under this Law as they apply in relation to criminal proceedings.

ⁱ Order in Council No. VIII of 2000; as amended by Ordinance No. XXXIII of 2003; No. XIV of 2014; No. IX of 2016; and No. XXIV of 2017

- (2) The provisions to which this section refers are –
 - (a) section 1 of the Administration of Justice (Bailiwick of Guernsey) Law 1991^j (proof by written statement), and
 - (b) section 2 of that Law (admissions of facts).

Burden and standard of proof.

126. (1) This section 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 subsection (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) Subsections (2) and (3) are subject to any express provision of this Law.

^j Ordres en Conseil Vol. XXXIII, p. 49; as amended by Ordres en Conseil Vol. XXV(1), p. 271; Vol. XXVI, pp. 256, 577 and 639; Order in Council No. I of 2003; No. XIII of 2006; and No. XVIII of 2009.

Subordinate legislation.

127. (1) The Committee may make Regulations relating to any of the following matters –

- (a) specifying, in respect of a designated territory, a time limit for the purpose of section 10(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 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.

(2) Regulations under this Law shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(3) Where the Committee proposes to make regulations under this section applying in Alderney or Sark, it shall consult -

- (a) the Policy and Finance Committee of the States of Alderney, or
- (b) the Policy and Finance Committee of the Chief Pleas of Sark,

as the case may be; but a failure to comply with this section shall not invalidate any regulations made under this section.

(4) Regulations applying in Alderney or Sark made under this section by the Committee cease to have effect -

- (a) in Alderney if, within the period of four months immediately following the approval date, the States of Alderney resolve to disapprove their application to Alderney, and
- (b) in Sark if, at the first or second meeting of the Chief Pleas of Sark following the approval date, the Chief Pleas resolve to disapprove their application to Sark.

(5) If the States of Alderney or the Chief Pleas of Sark resolve to disapprove the application of regulations in accordance with subsection (4), the regulations cease to have effect in Alderney or (as the case may be) Sark, but without prejudice to -

- (a) anything done under the regulations in Alderney or (as the case may be) Sark, or

(b) the making of new regulations having effect in Alderney or (as the case may be) Sark.

(6) In this section, "approval date", in relation to regulations, means the date of their enactment by the Committee.

Amendments to other enactments.

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

Interpretation.

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

"appropriate consent" has the same meaning as it has in section 91 of PPACE,

"asylum claim" means a claim made by a person to the Lieutenant-Governor that to remove that person from or require that person to leave the Bailiwick would breach the Bailiwick's obligations under the Refugee Convention,

"Chief Officer of Customs and Excise" has the same meaning as it has in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^k.

^k Ordres en Conseil Vol. XXIII, p. 573; amended by Ordres en Conseil Vol. XXIV, p. 87; Vol. XXXI, p. 278; Vol. XXXIII, p. 217; Order in Council No. X of 2004; No. II of 2010; No. XIV of 2007; No. XV of 2012; Ordinance No. XXXIII of 2003; No. XXIX of 2004; No. XLVIII of 2007; No. XXXV of 2007; No. VII of 2008; No. XLIII of 2013; No. XL of 2014; No. IX of 2016; No. XXXI of 2017; G.S.I. No. 56 of 2008; G.S.I.

"Chief Officer of Police" means the Chief Officer of the Island Police Force,

"the Committee" means the Committee for Home Affairs of the States of Guernsey,

"Commonwealth country" means a member of the Commonwealth of Nations,

"designated territory", "designated territory of the first category" and "designated territory of the second category": see section 5,

"extradition" includes re-extradition,

"extradition arrest warrant" means –

- (a) a warrant issued under section 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's Court is to deal with a request for extradition to a designated territory,

No. 76 of 2009; G.S.I. No. 97 of 2010; G.S.I. No. 42 of 2011; G.S.I. No. 54 of 2012; G.S.I. No. 53 of 2013; G.S.I. No. 61 of 2014; G.S.I. No. 70 of 2015; G.S.I. No. 46 of 2016; G.S.I. No. 81 of 2017; and G.S.I. No. 56 of 2018.

"fingerprints" has the same meaning as it has in section 91 of PPACE,

"the Human Rights Convention" means the European Convention on Human Rights,

"the Human Rights Law" means the Human Rights (Bailiwick of Guernsey) Law, 2000^l,

"intimate search" has the same meaning as it has in section 91 of PPACE,

"Island Police Force" means the salaried police force of the island of Guernsey,

"items subject to legal privilege" has the same meaning as it has in section 24 of PPACE,

"Judge" means a person appointed to the office of Judge of the Magistrate's Court under section 2 of the Magistrate's Court (Guernsey) Law, 2008^m,

"non-intimate sample" has the same meaning as it has in section 91 of PPACE,

^l Order in Council No. XIV of 2000; amended by Order in Council No. I of 2005; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. XX of 2015; No. IX of 2016; No. XXVI of 2018; and G.S.I. No. 27 of 2006.

^m Order in Council No. XVIII of 2009; amended by Ordinance No. XXII of 2009; and No. IX of 2016.

"**PPACE**" means the Police Powers and Criminal Evidence (Bailiwick of Guernsey Law, 2003ⁿ,

"**premises**" has the same meaning as it has in section 91 of PPACE,

"**Procureur's certificate**": section 24,

"**provisional warrant**" means a warrant issued under section 8,

"**re-extradition hearing**" means an extradition hearing under Part III,

"**the Refugee Convention**" means the United Nations Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951, and the Protocol relating to the Status of Refugees, which entered into force on 4 October 1967,

"**the Royal Court**" means the Royal Court sitting as an Ordinary Court,

"**special material**" has the same meaning as it has in section 25 of PPACE, and

"**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

ⁿ Order in Council No. XXIII of 2003; as amended by Order in Council No. XVI of 2009; No. XV of 2011; Ordinance No. XXXIII of 2003; No. XXIX of 2011; No. XXXIX of 2015; and No. IX of 2016; No. XXVI of 2018.

requirements in section 6(3).

(3) In this Law, "**taking a photograph**" includes using a process by means of which a visual image may be produced, and "**photographed**" and related expressions shall be construed accordingly.

Citation and commencement.

130. (1) This Law may be cited as the Extradition (Bailiwick of Guernsey) Law, 2019.

(2) This Law shall come into force on such day as the Committee may by regulations appoint, and different days may be appointed for different provisions of this Law.

SCHEDULE 1

Section 5

DESIGNATED TERRITORIES

PART 1

DESIGNATED TERRITORIES OF THE FIRST CATEGORY

Albania,

Andorra,

Armenia,

Aruba,

Australia,

Azerbaijan,

Belgium,

Bulgaria,

Bonaire,

Bosnia and Herzegovina,

Canada,

Croatia,

Curaçao,

Cyprus,

Czech Republic,

Denmark,

Estonia,

Finland,

Faroe Islands,

Finland,

France,

Georgia,

Germany,

Gibraltar,

Greenland,

Greece,

Hong Kong Special Administrative Region (for the purposes of sections 7 and 9 only),

Hungary,

Iceland,

Ireland,

Israel,

Italy,

Latvia,

Liechtenstein,

Lithuania,

Luxembourg,

Macedonia, FYR,

Malta,

Moldova,

Monaco,

Montenegro,

New Zealand,

Norway,

Poland,

Portugal,

The Republic of Korea,

Romania,

Russian Federation,

Saba,

San Marino,

Serbia .

Sint Eustatius,

Sint Maarten,

Slovakia,

Slovenia,

South Africa,

Spain,

Sweden,

Switzerland,

The Netherlands,

Turkey,

Ukraine,

The United States of America.

PART 2

DESIGNATED TERRITORIES OF THE SECOND CATEGORY

Algeria,

Antigua and Barbuda,

Argentina,

The Bahamas,

Bangladesh,

Barbados,

Belize,

Bolivia,

Botswana,

Brazil,

British Antarctic Territory,

British Indian Ocean Territory,

Brunei,

Cayman Islands,

Chile,

Colombia,

Cook Islands,

Cuba,

Dominica,

Ecuador,

El Salvador,

Falkland Islands,

Fiji,

The Gambia,

Ghana,

Grenada,

Guatemala,

Guyana,

Hong Kong Special Administrative Region (except for the purposes of sections 7 and 9),

Haiti,

India,

Iraq,

Jamaica,

Kenya,

Kiribati,

Kosovo,

Lesotho,

Liberia,

Libya,

Malawi,

Malaysia,

Maldives,

Mauritius,

Mexico,

Montserrat,

Nauru,

Nicaragua,

Nigeria,

Panama,

Papua New Guinea,

Paraguay,

Peru,

Philippines,

Pitcairn, Henderson, Ducie and Oeno Islands,

Saint Christopher and Nevis,

Saint Helena, Ascension and Tristan da Cunha,

Saint Lucia,

Saint Vincent and the Grenadines,

Seychelles,

Sierra Leone,

Singapore,

Solomon Islands,

South Georgia and the South Sandwich Islands,

The Sovereign Base Areas of Akrotiri and Dhekalia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960),

Sri Lanka,

Swaziland,

Tanzania,

Thailand,

Tonga,

Trinidad and Tobago,

Turks and Caicos Islands

Tuvalu,

Uganda,

Uruguay,

The United Arab Emirates,

Vanuatu,

Virgin Islands,

Western Samoa,

Zambia,

Zimbabwe.

SCHEDULE 2

Section 83(2).

RE-EXTRADITION PROCEEDINGS

1. In section 16, omit subsections (2), (3) and (5).
2. In section 16, for subsection (4) substitute –

"(4) The Magistrate's Court must decide whether the offence specified in the request is an extradition offence."- 3. In section 16(6), for "any of the questions" substitute "the question".
- 4. In section 16(7), for "those questions" substitute "that question".
- 5. In section 17(1), omit paragraph (c).
- 6. Omit section 20.
- 7. In section 29(3), for the words from "shall send the case" to "extradited" substitute "may order the person to be extradited to the designated territory".
- 8. In section 29, after subsection (3) insert -

"(4) If the Magistrate's Court makes an order under subsection (3) it must remand the person in custody or on bail to wait for his or her extradition to the territory.

(5) If the Magistrate's Court remands the person in custody it may later grant bail."

9. In section 45, for subsection (1) substitute –

"(1) A person may appeal to the Royal Court against an order that the person be extradited."

10. In section 45(2), for the words from "before the case" to "extradited" substitute "the order is made under section 73".

11. In section 45, omit subsections (4), (5) and (6).

12. In section 45(7), for the words from "Her Majesty's Procureur" to "extradition" substitute "the order is made".

13. In section 46, omit subsections (1)(b) and (6).

14. In section 48, omit subsections (1)(b), (7) and 8(b).

15. In section 61, after subsection (1) insert –

"(1A) However, this section does not apply if the order is made under section 73.",

and in subsection (2)(a) for "the Her Majesty's Procureur" substitute "the Magistrate's Court".

16. In section 64, after subsection (1) insert –

"(1A) However, this section does not apply if the order for the person's extradition is made under section 73."

17. In section 67(1)(a), and (2) to (6), for "the Her Majesty's Procureur" substitute "the Magistrate's Court".

18. In section 72(1), for the words from "arrested" to "requested" substitute "brought before the Magistrate's Court under section 82(1) may consent to his or her extradition to the territory in which the overseas sentence was imposed".

19. In section 72(3), after "in writing," insert "must be given before the Magistrate's Court,".

20. In section 73, after subsection (1) insert -

"(1A) The Magistrate's Court must remand the person in custody or on bail.

(1B) If the Magistrate's Court remands the person in custody it may later grant bail."

21. In section 73(4), for the words from "send the case" to "extradited" substitute "within the period of 10 days starting with the day on which consent is given order the person's extradition to the designated territory".

22. In section 73, after subsection (4) insert -

"(5) If subsection (4) is not complied with and the person applies to the Magistrate's Court to be discharged the Magistrate's Court must order the person's discharge.".

23. After section 73 insert –

"Extradition to designated territory following consent.

73A. (1) This section applies if the Magistrate's Court makes an order under section 73(4) for a person's extradition to a designated territory.

(2) The person must be extradited to the designated territory before the end of the required period, which is 28 days starting with the day on which the order is made.

(3) If subsection (2) is not complied with and the person applies to the Magistrate's Court to be discharged the Magistrate's Court must order the person's discharge, unless reasonable cause is shown for the delay.

Extradition claim following consent.

73B. (1) This section applies if -

- (a) a person consents under section 72 to his or her extradition to a designated territory, and

- (b) before the judge orders his or her extradition under section 73(4), the Magistrate's Court is informed that the conditions in subsection (2) are met.

(2) The conditions are that -

- (a) Her Majesty's Procureur has received another valid request for the person's extradition to a designated territory,
- (b) the other request has not been disposed of.

(3) The judge must not make an order under section 73(4) until he or she is informed what order has been made under section 75(2).

(4) If the order under section 75(2) is for further proceedings on the request under consideration to be deferred until the other request has been disposed of, the judge must remand the person in custody or on bail.

(5) If the Magistrate's Court remands the person in custody the Magistrate's Court may later grant bail.

(6) If -

- (a) the order under section 75(2) is for further proceedings on the request under consideration

to be deferred until the other request has been disposed of, and

- (b) an order is made under section 106 for proceedings on the request under consideration to be resumed,

the period specified in section 73(4) must be taken to be 10 days starting with the day on which the order under section 106 is made.

(7) If the order under section 75(2) is for further proceedings on the other request to be deferred until the request under consideration has been disposed of, the period specified in section 73(4) must be taken to be 10 days starting with the day on which the Magistrate's Court is informed of the order.

Extradition following deferral for competing claim.

73C. (1) This section applies if -

- (a) an order is made under section 73(4) for a person to be extradited to a designated territory in pursuance of a request for his or her extradition,
- (b) before the person is extradited to the territory an order is made under section 75(2) for the person's extradition in pursuance of the request to be deferred,

(c) the Magistrate's Court makes an order under section 107(1) for the person's extradition in pursuance of the request to cease to be deferred.

(2) The required period for the purposes of section 73A(2) is 28 days starting with the day on which the order under section 107(2) is made."

SCHEDULE 3

Section 128

AMENDMENTS TO OTHER ENACTMENTS

Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003

1. The Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 is amended as follows.

2. In section 67(15) –

(a) in paragraph (a), delete the word "or",

(b) in paragraph (b), for "." substitute ", or",

(c) insert the following paragraph –

"(c) applies to a person who is arrested under an extradition arrest warrant."

3. At the end of section 69 insert –

"(19) Nothing in this section applies to a person who is arrested under an extradition arrest warrant."

4. In section 91(3), in the appropriate place insert –

""**extradition arrest warrant**" has the same meaning as it has in section 129 of the Extradition (Bailiwick of Guernsey) Law, 2019,".

5. In section 92, in the appropriate place insert –

"

extradition arrest warrant	Section 91
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".

Bail (Bailiwick of Guernsey) Law, 2003

1. The Bail (Bailiwick of Guernsey) Law, 2003^o is amended as follows.
2. In section 1(2) (meaning of "bail in criminal proceedings"), in paragraph (b) for "." substitute ", or", and after paragraph (b) insert –

"(c) bail grantable in connection with extradition proceedings in respect of an offence."

3. In section 2 (the right to bail), in subsection (3) omit the words ", or in respect of proceedings against a fugitive offender for the offence".

4. In section 2 after subsection (3) insert –

"(3A) This section also applies to a person ("P") whose extradition is sought in respect of an offence, when –

^o Order in Council No. XVII of 2003; amended by No. VI of 2009; Ordinance No. XXXIII of 2003; No. IX of 2016.

- (a) P appears or is brought before a court in the course of or in connection with extradition proceedings in respect of the offence, or
- (b) P applies to a court for bail or for a variation of the conditions of bail in connection with the proceedings.

(3B) However, subsection (3A) above does not apply if the person is alleged to be unlawfully at large after conviction of the offence."

5. In section 9 (reconsideration of decisions granting bail), at the end of subsection (2) insert ", and this section applies to proceedings where the Magistrate's Court has granted bail in connection with extradition proceedings".

6. In section 11 (liability to arrest for absconding or breaking conditions of bail) after subsection (1) insert –

"(1A) Subsection (1B) applies if –

- (a) a person has been released on bail in connection with extradition proceedings,
- (b) the person is under a duty to surrender into the custody of an officer of police, and
- (c) the person fails to surrender to custody at the time appointed for the person to do so.

(1B) The Magistrates' Court may issue a warrant for the person's arrest."

7. In section 11 after subsection (4) insert –

"(4A) A person who has been released on bail in connection with extradition proceedings and is under a duty to surrender into the custody of an officer of police may be arrested without warrant by an officer of police on any of the grounds set out in paragraphs (a) to (c) of subsection (3).

(4B) A person arrested in pursuance of subsection (4A) above shall be brought as soon as practicable and in any event within 24 hours after his or her arrest before the Magistrate's Court."

8. In section 11(5) after "subsection (4)" insert "or (4B)".

9. In section 15 (prosecution right of appeal), after subsection (1) insert –

"(1A) Where the Magistrates' Court grants bail to a person in connection with extradition proceedings, the prosecution may appeal to the Royal Court against the granting of bail."

10. In section 15(2), for "Such an appeal" substitute "An appeal under subsection (1) or (1A) ".

11. In section 19(6) omit the definition of "**proceedings against a fugitive offender**" and in the appropriate places insert -

""**extradition proceedings**" means proceedings under the Extradition (Bailiwick of Guernsey) Law, 2019," and

""**prosecutor**", in relation to extradition proceedings, means the person acting on behalf of the territory to which extradition is sought,".

12. In the Schedule, at the end insert –

"21. In this Schedule, "**criminal proceedings**" includes extradition proceedings."