



Jersey

## CRIMINAL JUSTICE (LIFE SENTENCES) (JERSEY) LAW 2014

### Arrangement

---

#### Article

<b>PART 1</b>		<b>3</b>
<hr/>		
	INTERPRETATION	3
1	Interpretation.....	3
2	Meaning of “racially or religiously aggravated murder”.....	4
3	Meaning of “murder aggravated by sexual orientation or disability”.....	4
<b>PART 2</b>		<b>5</b>
<hr/>		
	MINIMUM PERIODS OF IMPRISONMENT FOR MANDATORY LIFE SENTENCES	5
4	Starting points.....	5
5	Starting point for exceptionally serious cases.....	5
6	Starting point for particularly serious cases.....	6
7	Starting point for other cases where offence committed whilst offender was an adult.....	6
8	Starting point for other cases where offence committed while offender was a child.....	7
9	Aggravating and mitigating factors.....	7
10	Court to order minimum period of imprisonment.....	7
11	Determination of duration of minimum period of imprisonment.....	8
12	When court shall order minimum period of imprisonment to be for whole of offender’s life.....	8
13	Court must give reasons for order made.....	8
<b>PART 3</b>		<b>9</b>
<hr/>		
	MINIMUM PERIODS OF IMPRISONMENT FOR DISCRETIONARY LIFE SENTENCES	9
14	Court to order minimum period of imprisonment.....	9
15	Determination of minimum period of imprisonment.....	9
16	Court must give reasons for order made.....	9

**PART 4** **9**

---

RELEASE ON LICENCE 9

17 Panel ..... 9

18 General provisions relating to licences..... 10

19 Duty to release on licence certain life prisoners..... 10

20 Power to release on licence other life prisoners ..... 11

21 Power to release on licence life prisoners on compassionate grounds ..... 11

**PART 5** **12**

---

MISCELLANEOUS AND CLOSING PROVISIONS 12

22 Law not to restrict application of certain other laws ..... 12

23 Transitional provision – application to offences committed before this  
Law comes into force..... 12

24 Repeal ..... 12

25 Saving provision ..... 12

26 Court of Appeal (Jersey) Law 1961 amended ..... 12

27 Regulations ..... 12

28 Citation ..... 13



Jersey

## CRIMINAL JUSTICE (LIFE SENTENCES) (JERSEY) LAW 2014

A **LAW** to make provision for a minimum period of imprisonment to be ordered by a court when a person is sentenced to life imprisonment and for review of such a person's detention and release from prison on licence

*Adopted by the States*

*18th July 2014*

*Sanctioned by Order of Her Majesty in Council*

*8th October 2014*

*Registered by the Royal Court*

*17th October 2014*

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### PART 1

#### INTERPRETATION

##### 1 Interpretation

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

“child” means a person who has not attained the age of 18 years;

“discretionary life sentence” means a sentence of life imprisonment which is not a mandatory life sentence;

“licence”, in relation to the release of a life prisoner from prison, shall be construed in accordance with Article 18;

“life prisoner” means a person serving in Jersey a sentence in respect of which an order for a minimum period of imprisonment has been made;

“mandatory life sentence” means a sentence of life imprisonment which is fixed by law as described in paragraph (2);

“minimum period of imprisonment” means the period specified by a court in an order under Article 10 or Article 14;

“Minister” means the Minister for Home Affairs;

“murder which is aggravated by sexual orientation or disability” shall be construed in accordance with Article 3;

“murder which is racially or religiously aggravated” shall be construed in accordance with Article 2;

“prison” includes any form of custody or detention in which a person is lawfully placed under a sentence of life imprisonment;

“starting point”, in relation to an offender, means a period calculated under Article 5, 6, 7 or 8, as the case may be, in relation to the offender.

- (2) In this Law, a sentence of life imprisonment is taken to be fixed by law if a court that finds a person guilty of the offence to which the sentence relates must, by law, impose that sentence.
- (3) In this Law, a reference to a sentence of life imprisonment includes a sentence of custody for life or detention during Her Majesty’s pleasure.

## **2 Meaning of “racially or religiously aggravated murder”**

- (1) For the purposes of this Law, a murder is racially or religiously aggravated if –
  - (a) at the time of, or immediately before or after, committing the murder the offender demonstrates towards the victim of the offence hostility based on the victim’s membership of (or presumed membership of), or association with, a racial or religious group; or
  - (b) the offence is motivated wholly or partly by hostility –
    - (i) towards members of a racial or religious group based on their membership of that group, or
    - (ii) towards persons who associate with a racial or religious group.
- (2) For the purposes of paragraph (1)(a) or (b), it is immaterial whether or not the offender’s hostility is also based, to any extent, on –
  - (a) the fact or presumption that any person or group of persons belongs to any racial or religious group; or
  - (b) any other factor not mentioned in that paragraph.
- (3) In this Article –

“presumed” means presumed by the offender;

“racial group” means a group of persons that may be defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins;

“religious group” means a group of persons defined by reference to religious belief or lack of religious belief.

## **3 Meaning of “murder aggravated by sexual orientation or disability”**

- (1) For the purposes of this Law, a murder is aggravated by sexual orientation or disability if –

- 
- (a) at the time of, or immediately before or after, committing the murder, the offender demonstrates towards the victim of the offence hostility based on –
    - (i) the sexual orientation (or presumed sexual orientation) of the victim, or
    - (ii) a disability (or presumed disability) of the victim; or
  - (b) the offence is motivated wholly or partly –
    - (i) by hostility towards persons who are of a particular sexual orientation, or
    - (ii) by hostility towards persons who have a disability or a particular disability.
- (2) In this Article –
- “disability” means any physical or mental impairment;
- “presumed” means presumed by the offender;
- “sexual orientation” of a person includes whether the person engages in prostitution.

## **PART 2**

### **MINIMUM PERIODS OF IMPRISONMENT FOR MANDATORY LIFE SENTENCES**

#### **4 Starting points**

A court which sentences an offender to a mandatory life sentence shall fix, in accordance with Articles 5, 6, 7 or 8, as the case may be, the appropriate starting point in relation to the offender for the purposes of Article 10.

#### **5 Starting point for exceptionally serious cases**

- (1) The appropriate starting point in relation to an offender who is given a mandatory life sentence shall be the whole of the offender’s life if –
  - (a) the offender was 21 years of age or older when he or she committed the offence or offences to which the starting point relates; and
  - (b) the court considers that the offender’s offence, or the combination of the offender’s offence and other offences of the offender that are associated with the offence, is exceptionally serious.
- (2) Without limiting the generality of paragraph (1), cases that would normally be regarded as exceptionally serious include the following –
  - (a) murder of 2 or more persons, where each murder involves any of the following –
    - (i) a substantial degree of premeditation or planning,
    - (ii) the abduction of the victim,

- (iii) sexual or sadistic conduct;
- (b) murder of a child, if the murder involves the abduction of the child or sadistic or sexual motivation;
- (c) murder for the purposes of advancing a political, religious or ideological cause;
- (d) murder by an offender previously convicted of murder.

## **6 Starting point for particularly serious cases**

- (1) The appropriate starting point in relation to an offender who is given a mandatory life sentence shall be the period of 30 years if –
  - (a) the court does not consider that the offender's case falls within Article 5(1);
  - (b) the offender was 18 years of age or older when he or she committed the offence or offences to which the starting point relates; and
  - (c) the court considers that the offender's offence, or the combination of the offender's offence and other offences of the offender that are associated with the offence, is particularly serious.
- (2) Without limiting the generality of paragraph (1), cases that would normally be regarded as particularly serious include the following –
  - (a) murder of a police officer, or prison officer, in the course of the officer's duty;
  - (b) murder involving the use of a firearm or explosives;
  - (c) murder for gain (such as murder in the course of a robbery or burglary, or for payment or in the expectation of gain as a result of death);
  - (d) murder done with the intention of obstructing or interfering with the course of justice;
  - (e) murder involving sexual or sadistic conduct;
  - (f) murder of 2 or more persons;
  - (g) murder which is racially or religiously aggravated;
  - (h) murder which is aggravated by sexual orientation or disability.

## **7 Starting point for other cases where offence committed whilst offender was an adult**

The appropriate starting point in relation to an offender who is given a mandatory life sentence shall be the period of 15 years if –

- (a) the court does not consider that the offender's case falls within Article 5(1) or 6(1); and
- (b) the offender was 18 years of age or older when he or she committed the offence or offences to which the starting point relates.

---

**8 Starting point for other cases where offence committed while offender was a child**

The appropriate starting point in relation to an offender who is given a mandatory life sentence shall be the period of 12 years if the offender had not attained the age of 18 years when he or she committed the offence or offences to which the starting point relates.

**9 Aggravating and mitigating factors**

- (1) After having fixed a starting point in relation to an offender, the court shall take into account any aggravating or mitigating factors, to the extent that it has not allowed for those factors in fixing the starting point.
- (2) Aggravating factors that may be relevant to the offence of murder include the following –
  - (a) the factors mentioned in Articles 5(2) and 6(2);
  - (b) a significant degree of planning or premeditation;
  - (c) that the victim was particularly vulnerable because of age or disability;
  - (d) mental or physical suffering inflicted on the victim before death;
  - (e) the abuse of a position of trust;
  - (f) the use of duress or threats against another person to facilitate the commission of the offence;
  - (g) that the victim was providing a public service or performing a public duty;
  - (h) concealment, destruction or dismemberment of the body.
- (3) Mitigating factors that may be relevant to the offence of murder include the following –
  - (a) an intention to cause serious bodily harm rather than to kill;
  - (b) lack of premeditation;
  - (c) that the offender suffered from any mental disorder or mental disability which, although not within Article 3(1) of the Homicide (Jersey) Law 1986<sup>1</sup>, lowered the degree of culpability of the offender;
  - (d) that the offender was provoked (for example by prolonged stress) in a way not amounting to the defence of provocation;
  - (e) that the offender acted to any extent in self-defence;
  - (f) a belief by the offender that the murder was an act of mercy;
  - (g) the age of the offender.

**10 Court to order minimum period of imprisonment**

The court shall, after having –

- (a) fixed under Article 4 a starting point in relation to an offender; and

- (b) considered under Article 9 aggravating or mitigating factors in relation to the offender,

order in relation to the offender a minimum period of imprisonment in respect of the offence or offences.

### **11 Determination of duration of minimum period of imprisonment**

- (1) The court may, under Article 10, order a minimum period of imprisonment of any length, including a period that is the whole of the offender's life, irrespective of the starting point fixed by the court.
- (2) Notwithstanding paragraph (1), the court shall only order a minimum period of imprisonment that is the whole of the offender's life if the offender was 21 years of age or older when he or she committed the offence or offences to which the order relates.
- (3) In determining the length of a minimum period of imprisonment in relation to an offender, the court may take into account any period that, before the offender was sentenced for the offence or offences to which the minimum period of imprisonment relates, he or she spent on remand in relation to the offence or offences.

### **12 When court shall order minimum period of imprisonment to be for whole of offender's life**

- (1) The court shall, under Article 10, order a minimum period of imprisonment that is the whole of an offender's life if –
  - (a) the offender was 21 years of age or older when he or she committed the offence or offences to which the order relates; and
  - (b) the court is satisfied that such a period is justified because of the seriousness of the offence or the seriousness of the combination of the offence and other offences associated with the offence.
- (2) In determining whether to make an order under Article 10 of a minimum period of imprisonment that is the whole of an offender's life, the court shall have regard to the principles set out in Articles 5, 6, 7, 8 and 9.

### **13 Court must give reasons for order made**

After making an order under Article 10 the court shall state in open court, in ordinary language, its reasons for making the order.



**PART 3****MINIMUM PERIODS OF IMPRISONMENT FOR DISCRETIONARY LIFE SENTENCES****14 Court to order minimum period of imprisonment**

A court which sentences an offender to a discretionary life sentence shall order, in relation to that offender, a minimum period of imprisonment in respect of that offence or offences.

**15 Determination of minimum period of imprisonment**

- (1) The court may, under Article 14, order a minimum period of imprisonment of any length, including a period that is the whole of the offender's life.
- (2) Notwithstanding paragraph (1), the court shall only order a minimum period of imprisonment that is the whole of the offender's life if –
  - (a) the offender was 21 years of age or older when he or she committed the offence or offences to which the order relates; and
  - (b) the court is satisfied that such a period is justified because of the seriousness of the offence or the seriousness of the combination of the offence and other offences associated with the offence.
- (3) In determining the length of a minimum period of imprisonment in relation to an offender, the court may take into account such matters as it thinks fit, including any of the following –
  - (a) the seriousness of the offence;
  - (b) the seriousness of the combination of the offence and other offences associated with the offence; and
  - (c) any period that, before the offender was sentenced for the offence to which the minimum period of imprisonment relates, the offender spent on remand in relation to the offence.

**16 Court must give reasons for order made**

After making an order under Article 14 the court shall state, in open court, in ordinary language, its reasons for making the order.

**PART 4****RELEASE ON LICENCE****17 Panel**

- (1) For the purposes of this Part, there shall be a Panel comprising the Bailiff and 2 Jurats appointed by the Bailiff.

- (2) Subject to paragraph (3), the Panel shall determine its own procedures for the purposes of exercising its functions under this Part.
- (3) A decision is binding on the Panel if it is agreed by the Bailiff and at least one other member of the Panel.

### **18 General provisions relating to licences**

- (1) Where a life prisoner is released from prison on licence under this Part, the licence shall, unless previously revoked under paragraph (4), remain in force until his or her death.
- (2) A life prisoner subject to a licence shall be under the supervision of such person as may be specified in the licence and shall comply with such conditions as may be specified in the licence by the Panel.
- (3) The Panel may modify or cancel any condition in the licence at any time.
- (4) If so directed by the Panel in the case of any life prisoner who has been released from prison on licence under this Part, the Minister shall revoke the licence and recall the life prisoner to prison.
- (5) A life prisoner recalled to prison under paragraph (4) –
  - (a) on his or her return to prison, shall be informed of the reasons for his or her recall and of his or her right to make representations; and
  - (b) may make representations in writing with respect to his or her recall.
- (6) If, after consideration of the representations made under paragraph (5), the Panel directs the immediate release from prison on licence of the life prisoner, the Minister shall release the prisoner on licence immediately.

### **19 Duty to release on licence certain life prisoners**

- (1) In this Part, a reference to the relevant part of a life prisoner's sentence is a reference to the part of the sentence specified in an order under Article 10 or 14 made in respect of the life prisoner for a minimum period of imprisonment.
- (2) If a life prisoner is serving 2 or more sentences in respect of which there is an order for a minimum period of imprisonment, this Article does not apply to him or her unless he or she has served the relevant part of each such sentence.
- (3) As soon as –
  - (a) a life prisoner has served the relevant part of his or her sentence; and
  - (b) the Panel has directed the life prisoner's release from prison following a referral of the life prisoner's case by the Minister,the Minister must release the life prisoner from prison on licence.
- (4) A life prisoner may require the Minister to refer his or her case to the Panel at any time –

- (a) after he or she has served the relevant part of his or her sentence; and
  - (b) where there has been a previous referral by the Minister under this Article, after the end of the period of 2 years beginning with the disposal of that referral.
- (5) The Panel shall not give a direction under paragraph (3) unless the Panel is satisfied that it is no longer necessary for the protection of the public that the life prisoner should be confined in prison.
- (6) In determining for the purposes of this Article whether a life prisoner has served the relevant part of his or her sentence, no account shall be taken of any time the prisoner is unlawfully at large within the meaning of Article 30 of the Prison (Jersey) Law 1957<sup>2</sup>.

## **20 Power to release on licence other life prisoners**

- (1) The Panel may, at any time, following a referral by the Minister, direct the Minister to release from prison on licence a life prisoner in respect of whom there is an order for a minimum sentence of more than 25 years (including a minimum sentence for life) if –
- (a) the life prisoner has served 25 years or more of his or her sentence; and
  - (b) the Panel is satisfied that it is no longer necessary that the life prisoner should be confined in prison for each of following the purposes –
    - (i) retribution and deterrence to others,
    - (ii) rehabilitation of the prisoner, and
    - (iii) protection of the public.
- (2) A life prisoner may require the Minister to refer his or her case to the Panel at any time –
- (a) after he or she has served 25 years of his or her sentence; and
  - (b) where there has been a previous referral by the Minister under this Article, after the end of the period of 2 years beginning with the disposal of that referral.
- (3) In determining for the purposes of this Article whether a life prisoner has served 25 years or more of his or her sentence, no account shall be taken of any time the prisoner is unlawfully at large within the meaning of Article 30 of the Prison (Jersey) Law 1957.

## **21 Power to release on licence life prisoners on compassionate grounds**

- (1) The Panel may, at any time, release a life prisoner from prison on licence on compassionate grounds if it is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.

- (2) Before releasing a prisoner under paragraph (1), the Panel shall consult the Minister, unless the circumstances are such to render such consultation impracticable.

## **PART 5**

### **MISCELLANEOUS AND CLOSING PROVISIONS**

#### **22 Law not to restrict application of certain other laws**

Nothing in this Law restricts the application of any law relating to previous convictions.

#### **23 Transitional provision – application to offences committed before this Law comes into force**

Nothing is to be taken to prevent or limit the application of this Law to a person who commits an offence before the date that this Law comes into force or to a person who, having been charged with an offence (regardless of the plea entered), has not been sentenced before that date.

#### **24 Repeal**

The Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment) (Jersey) Law 2005<sup>3</sup> is repealed.

#### **25 Saving provision**

Notwithstanding the repeal of the Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment) (Jersey) Law 2005, Article 19 of that Law in relation to applications for orders shall be treated as if it continued in force in respect of persons sentenced before that Law came into force and references to the powers of the Royal Court under that Law shall be construed as referring to the equivalent powers under this Law.

#### **26 Court of Appeal (Jersey) Law 1961 amended**

In Article 24(2) of the Court of Appeal (Jersey) Law 1961<sup>4</sup> for the words “the Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment) (Jersey) Law 2005” there shall be substituted the words “Article 10 of the Criminal Justice (Life Sentences) (Jersey) Law 2014<sup>5</sup>”.

#### **27 Regulations**

- (1) The States may, by Regulations –
- (a) make such transitional provisions and savings as it considers necessary or expedient, or amend any enactment, in consequence of any provision of this Law; or
  - (b) amend any provision of this Law.

- (2) Any Regulations under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the States to be necessary or expedient for the purposes of the Regulations.

**28 Citation**

This Law may be cited as the Criminal Justice (Life Sentences) (Jersey) Law 2014 and shall come into force 7 days after it is registered.

**L.-M. HART**

*Deputy Greffier of the States*

- 
- 1* chapter 08.600
  - 2* chapter 23.775
  - 3* L.11/2005 (chapter 08.335)
  - 4* chapter 07.245
  - 5* L.26/2014