



Jersey

# **CRIMINAL PROCEDURE (QUALIFYING OFFENCES) (JERSEY) REGULATIONS 2019**

## **Contents**

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### **Regulation**

1	Qualifying offences .....	3
2	Schedule 2 to the Criminal Procedure (Jersey) Law 2018 amended .....	7
3	Citation and commencement .....	7

### **ENDNOTES**

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Table of Endnote References .....	8
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Jersey

## CRIMINAL PROCEDURE (QUALIFYING OFFENCES) (JERSEY) REGULATIONS 2019

*Made* *23rd October 2019*

*Coming into force* *31st October 2019*

**THE STATES** make these Regulations under Article 115 and paragraph 2(8) of Schedule 2 to the Criminal Procedure (Jersey) Law 2018<sup>1</sup> –

### 1 Qualifying offences

- (1) For the purposes of paragraph 2 of Schedule 2 (quashing of person's acquittal and retrial) to the Criminal Procedure (Jersey) Law 2018<sup>2</sup>, the Table –
- (a) in column 1, specifies offences (with their description) that are qualifying offences; and
  - (b) in column 2 describes any limitation on the scope of the offences specified in column 1,
- as follows –

**Table of Qualifying Offences**

1 – Offences	2 – limitation on scope of offences
<b>(1) Miscellaneous offences under customary law</b>	
Arson.	
Treason.	
Any offence under customary law not otherwise mentioned in this Table that carries no maximum sentence and for which the sentence is impossible by the Superior Number of the Royal Court.	
<b>(2) Offences against the person under customary law</b>	
Kidnapping.	
Manslaughter.	

1 – Offences	2 – limitation on scope of offences
Murder.	
<b>(3) Sexual offences under customary law</b>	
Indecent assault.	
Gross indecency occurring before 23rd November 2018.	
Incest occurring before 23rd November 2018.	
Rape occurring before 23rd November 2018.	
<b>(4) Offences under the Sexual Offences (Jersey) Law 2018</b>	
Article 5 (rape).	
Article 6 (sexual penetration without consent).	
Article 8 (causing sexual act without consent).	Where the sexual act caused, allegedly involved any penetration described in Article 8(2)(a)(i) to (iv).
Article 9(1) and (2) only (penile penetration or sexual penetration of a young child).	
Article 10 (causing or inciting a sexual act with a young child).	The offence is one of causing engagement in an act and the act allegedly involved any penetration described in Article 10(2)(a)(i) to (iv).
<b>(5) Sexual offences under the Mental Health (Jersey) Law 2016<sup>3</sup></b>	
Article 74 (sexual offences: prohibited acts).	The offence of committing a prohibited act described in Article 74(2)(a) or (b) allegedly involved penetration (within the meaning of Article 77(3)).
Article 76 (sexual offences: coercion).	The prohibited act referred to in Article 76 is one described in Article 74(2)(a) or (b) and allegedly involved penetration (within the meaning of Article 77(3)).
<b>(6) Drugs offence under the Customs and Excise (Jersey) Law 1999<sup>4</sup></b>	
Article 61 (fraudulent evasion of prohibitions and restrictions).	The offence of evasion of prohibition or restriction in connection with alleged importation or exportation having effect by virtue of Article 4 of the Misuse of

1 – Offences	2 – limitation on scope of offences
	Drugs Law where the goods were a Class A drug.
<b>(7) Drugs offences under the Misuse of Drugs Law</b>	
Article 5 (restrictions on production and supply of controlled drugs).	The offences under Articles 5, 8(2) and 11B are in respect of a Class A controlled drug allegedly being produced, supplied, offered for supply, carried, concealed or had in possession of.
Article 8(2) (restrictions on possession of controlled drugs).	
Article 11B (use of ships for illicit traffic of drugs).	
<b>(8) Offences under the Loi (1884) sur les matières explosives<sup>5</sup></b>	
Article 2 (causing by means of any explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property).	
Article 3(1) (doing any act with intent to cause or conspiring to cause by means of any explosive substance, an explosion likely to endanger life or to cause serious injury to property or making, possessing or having control of any explosive substance with the intention of endangering life or causing serious injury to property).	
<b>(9) Offences under the International Criminal Court (Jersey) Law 2014<sup>6</sup></b>	
Article 45 (genocide, crimes against humanity and war crimes).	
Article 46 (conduct ancillary to genocide, etc. committed outside jurisdiction).	
<b>(10) Offences under the Crime and Security (Jersey) Law 2003<sup>7</sup></b>	
Article 2 (use etc. of nuclear weapons).	
Article 4 (assisting or inducing certain weapons – related acts overseas).	
<b>(11) Offences under the Terrorism (Jersey) Law 2002<sup>8</sup></b>	
Article 51 (directing terrorist organization).	
Article 55 (terrorist bombing: jurisdiction).	

1 – Offences	2 – limitation on scope of offences
<b>(12) Offences under the Firearms (Jersey) Law 2000<sup>9</sup></b>	
Article 38 (possession of firearms with intent to injure).	
Article 39 (use of firearms to resist arrest, etc.).	
<b>(13) Offence under the Torture (Jersey) Law 1990<sup>10</sup></b>	
Article 1 (torture).	
<b>(14) Offences under the Chemical Weapons Act 1996 as extended to Jersey by the Chemical Weapons Act 1996 (Jersey) Order 1998<sup>11</sup></b>	
Section 2 (use etc. of chemical weapons).	
Section 11 (premises or equipment for producing chemical weapons).	
<b>(15) Offence under the Taking of Hostages Act 1982 as extended to Jersey by the Taking of Hostages (Jersey) Order 1982<sup>12</sup></b>	
Section 1 (hostage-taking).	
<b>(16) Offence under the Biological Weapons Act 1974 as extended to Jersey by the Biological Weapons Act 1974 (Jersey) Order 1974<sup>13</sup></b>	
Section 1 (restriction on development etc. of certain biological agents and toxins and of biological weapons).	
<b>(17) Offence under the Geneva Conventions Act 1957 as extended to Jersey by the Geneva Conventions Act (Jersey) Order 1966<sup>14</sup> subject to the exceptions and modifications applied by the Geneva Conventions (Amendment) Act 1995 as extended to Jersey by the Geneva Conventions Act (Jersey) Order 1999<sup>15</sup></b>	
Section 1 (grave breaches of scheduled conventions).	
<b>(18) Inchoate offences</b>	
Conspiring or attempting to commit an offence which is a qualifying offence.	
Aiding, abetting, counselling, inciting or procuring the commission of an offence which is a qualifying offence.	

(2) In this Regulation, any reference to –

- (a) “Misuse of Drugs Law” means the Misuse of Drugs (Jersey) Law 1978<sup>16</sup>;

- (b) “Class A drug” means any of the substances and products for the time being specified in Part 1 of Schedule 2 to the Misuse of Drugs Law;
- (c) “controlled drug” has the meaning given in Article 3(1)(a) of the Misuse of Drugs Law;
- (d) “produce” has the meaning given in Article 1(1) of the Misuse of Drugs Law.

## **2 Schedule 2 to the Criminal Procedure (Jersey) Law 2018 amended**

In Schedule 2 to the Criminal Procedure (Jersey) Law 2018<sup>17</sup>, after paragraph 2(1)(c) there is inserted –

- “(d) before the Royal Court under the Loi (1864) réglant la Procédure Criminelle<sup>18</sup> including an appeal against a conviction under that Loi, or an appeal from a decision on such an appeal.”.

## **3 Citation and commencement**

These Regulations may be cited as the Criminal Procedure (Qualifying Offences) (Jersey) Regulations 2019 and come into force on 31st October 2019.

**W.J.C. MILLOW**

*Assistant Greffier of the States*

**ENDNOTES****Table of Endnote References**

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<i>1</i>	<i>L.25/2018</i>
<i>2</i>	<i>L.25/2018</i>
<i>3</i>	<i>L.29/2016</i>
<i>4</i>	<i>chapter 24.660</i>
<i>5</i>	<i>chapter 23.250</i>
<i>6</i>	<i>chapter 17.520</i>
<i>7</i>	<i>chapter 08.110</i>
<i>8</i>	<i>chapter 17.860</i>
<i>9</i>	<i>chapter 23.200</i>
<i>10</i>	<i>chapter 17.875</i>
<i>11</i>	<i>chapter 17.140</i>
<i>12</i>	<i>chapter 17.840</i>
<i>13</i>	<i>chapter 17.105</i>
<i>14</i>	<i>chapter 17.350</i>
<i>15</i>	<i>chapter 17.385</i>
<i>16</i>	<i>chapter 08.680</i>
<i>17</i>	<i>L.25/2018</i>
<i>18</i>	<i>chapter 08.740</i>