

This is a translation of the

**Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée**

(Chapter 08.020)

as in force on 1 January 2019

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**LAW (1937) ON REMISSION OF PUNISHMENTS AND ON SUPERVISED RELEASE**

A LAW on remission of punishments and on supervised release

**1**

- (1) The word "Court", in this Law, includes the Royal Court (Inferior Number and Superior Number) and the Magistrate's Court, each within the limits of its jurisdiction.
- (2) The word "delegate", in this Law, means a person nominated under Article 7, or appointed under Article 3(4).

**2**

- (1) Whenever the Court has found that an accused has committed an offence of any sort, but is of the opinion that the accused, having regard to all the circumstances of the case, including the nature of the offence committed, his or her previous convictions and background, should not be sentenced to a particular punishment, or should be provisionally released, it may –
- (a) release the accused, or otherwise discharge him or her from the proceedings; or
- (b) order the provisional release of the accused, on condition that he or she enters into a written undertaking, with or without security or sureties, to be of good behaviour in the future and to appear before the Court to receive sentence whenever required to do so during such period, not exceeding 3 years, as the judgment shall specify.
- (2) Notwithstanding paragraph (1), in case of a sentence by the Court under Article 2 of the Criminal Justice (Community Service Orders) (Jersey) Law 2001, the Court may also order the release under supervision of the accused under both that paragraph and Article 3 of this Law.

**3**

- (1) The judgment of the Court granting provisional release under this Law may be made on the express condition that the accused undertakes in writing, with or without security or sureties, to submit to one or more of the following conditions, namely –

- (a) to be under the supervision of the delegate appointed in the judgment of the Court during the period specified in the judgment;
  - (b) to observe such other conditions as the Court shall deem necessary for securing such supervision;
  - (c) to observe such additional conditions with respect to residence and generally such other conditions as the Court may deem necessary with a view to the rehabilitation of the accused.
- (2) The Court shall cause to be delivered to the accused a notice in writing setting out the conditions imposed.
- (3) Save in the case mentioned in paragraph (4) the delegate appointed by the Court for the purposes of paragraph (1)(a) of this Article shall be one of the persons nominated under Article 7 of this Law.
- (4) The Court, if the special circumstances of the case so permit, may appoint as delegate such other person as it may think fit.
- (5) When the circumstances of the case so permit, a woman shall be preferred to act as delegate to supervise the liberty of a person of the female sex.
- (6) The Court, before arriving at a definite finding on the facts, may order a delegate to make preliminary enquiries about the accused and report to the Court.

#### 4

It shall be the duty of the delegate –

- (a) to visit and to receive visits from the accused under the delegate's supervision whenever and at such times as the delegate shall judge fit; subject to any orders that emanate from the Court;
- (b) to see that the accused observes the conditions of his or her undertaking;
- (c) to inform the Centenier seized of the case in accordance with Article 5; and
- (d) generally to advise and help the accused, and to assist him or her to find suitable employment.

#### 5

(1) Whenever the delegate is of the opinion that there is reason for the Court to reconsider the conditions of the provisional release of the accused, the delegate shall give notice thereof in writing (giving at the same time in writing his or her reasons for such assessment) to the Attorney General, where the supervised release was ordered by the Royal Court, or the Centenier seized of the case, where the supervised release was ordered by any other court, and the Attorney General may or the Centenier seized of the case shall, as the case may be, present the accused before the court which ordered the accused's supervised release, in order that the facts recorded in the said written notice may be adjudicated upon.

(2) The sureties, if any, of the accused shall be summoned at the instance of His Majesty's Attorney General or of the Centenier seized of the case, as the case may be, to appear in Court to hear the finding of the Court.

(3) The Court shall hear both the delegate and the accused and, after having, in addition, heard the conclusions of His Majesty's Attorney General or the observations of the Centenier seized of the case, as the case may be, may –

- (a) if it is of opinion that it would be expedient to do so, extend or shorten the duration of the undertaking of the accused, vary the conditions of the undertaking or add supplementary conditions thereto:

Provided that the duration shall in no case exceed three years from the date of the original order of the Court; or

- (b) if it is of opinion that the conduct of the accused is such as to make it no longer necessary that his or her liberty be supervised, discharge the accused, and his or her sureties, if any, from their respective undertaking; or
- (c) if it is of opinion that the accused has failed to observe the terms or conditions of his or her undertaking or any one of them, condemn the accused to undergo the punishment and penalties appropriate to the offence with which the accused was charged when the accused was released subject to supervision, and which he or she was found to have committed.

(4) In the case of an accused referred to in paragraph (2) of Article 2 of this Law, when the Court exercises its powers under paragraph (3) of this Article, it may also exercise its powers under Article 6(1) or Article 7(4) or Article 8(5), as the case may be, of the Criminal Justice (Community Service Orders) (Jersey) Law 2001.

(5) His Majesty's Attorney General or the Centenier seized of the case, as the case may be, may order the arrest of the accused, if he or she considers that this step is necessary in order to ensure the appearance of the accused in Court, for the purposes of this Article.

## 6

The Court –

- (a) if the delegate appointed by its judgment under Article 3(1) dies; or
- (b) if the delegate becomes, for any reason, unable to discharge the duties which were entrusted to the delegate by the Court; or
- (c) if it is of opinion that for any reason it is desirable that another delegate should be appointed in the place of the delegate appointed by the judgment of the Court,

may, at any time, appoint a new delegate to supervise the liberty of the accused.

## 7

(1) The States shall vote annually out of their General Revenues a sufficient sum to meet the costs of putting this Law into effect, including the salaries of the delegates.

(2) The Royal Court fully assembled<sup>[1]</sup> (the Magistrate and the Attorney General being invited to attend) shall nominate one or more persons to act as "Delegates" for the purposes –

- (a) of this Law; and
- (b) of any other Law or Regulation or statutory provision conferring duties and functions on a delegate nominated under this Article.

(3) A delegate shall take oath before the Royal Court well and faithfully to discharge the duties of his or her office.

(4) A delegate shall rank as a States' employee within the meaning of Article 1 of the Employment of States of Jersey Employees (Jersey) Law 2005.

(5) Notwithstanding that he or she is an employee of the States, a delegate may not be suspended from his or her employment other than by the Bailiff and may not be dismissed from his or her employment other than by a decision of the Superior Number of the Royal Court.

(6) None of the following, namely –

- (a) the Executive Director;
- (b) the Employment Council of the States;
- (c) a Minister;
- (d) a person acting for any of the above,

may direct in any way the carrying out of the duties of a delegate.

## 8

It shall be lawful for the States to make Regulations from time to time, which shall remain in force until repealed or amended, for putting this Law into operation.

## 9

This Law does not derogate in any way from the rights, privileges, prerogatives and discretions of the Attorney General in criminal or correctional matters.

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[1] *la Cour Royale assemblée en Corps* – effectively the Superior Number of the Royal Court