

2022 No. 865

INTERNATIONAL CRIMINAL COURT

**The International Criminal Court Act 2001 (Guernsey) Order
2022**

Made - - - - - *19th July 2022*

Coming into force in accordance with article 1

At the Court at Windsor Castle, the 19th day of July 2022

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 79(3) of the International Criminal Court Act 2001(a), is pleased, by and with the advice of Her Privy Council, to make the following Order.

Citation and commencement

1. This Order may be cited as the International Criminal Court Act 2001 (Guernsey) Order 2022 and shall come into force on the same day as the International Criminal Court (Guernsey) Law 2019 comes into force.

Extension of the International Criminal Court Act 2001 to Guernsey

2.—(1) The following provisions of the International Criminal Court Act 2001 shall extend to the Bailiwick of Guernsey—

- (a) section 23(5) (extension of powers under United Nations Act 1946(b));
- (b) sections 44 and 45 (transfer of prisoners), subject to the modifications set out in the Schedule to this Order; and
- (c) section 83 and Schedule 10 (repeals), so far as they relate to section 1(4) of the Geneva Conventions Act 1957(c), the Genocide Act 1969(d) and section 1(5) of the Geneva Conventions (Amendment) Act 1995(e).

Richard Tilbrook
Clerk of the Privy Council

(a) 2001 c. 17.
(b) 1946 c. 45.
(c) 1957 c. 52.
(d) 1969 c. 12.
(e) 1995 c. 27.

SCHEDULE

Article 2(b)

Modifications of certain provisions of the 2001 Act in their extension to the Bailiwick of Guernsey

1.—(1) The International Criminal Court Act 2001 is to be read in accordance with this Schedule.

(2) Section 44 (Transfer to another part of the United Kingdom: transfer of ICC sentence) is to be read as if—

- (a) in the heading, the words “another part of” had been omitted;
- (b) in subsection (1)—
 - (i) for the words “the relevant Minister” there were substituted “Secretary of State”;
- (c) for the words “to another part of the United Kingdom” there were substituted “from the Bailiwick of Guernsey to any part of the United Kingdom”;
- (d) for subsection (2), there were substituted—

“(2) No such order shall be made without the agreement of the States Committee for Home Affairs; and no such order shall be made for the transfer of the prisoner to Scotland without the agreement of the Scottish Ministers.”;
- (e) in subsection (3), for the words “the relevant Minister” there were substituted “Secretary of State”; and
- (f) subsections (5) and (6) were omitted.

(3) Section 45 (Transfer to another part of the United Kingdom: transfer for temporary purposes) is to be read as if—

- (a) in the heading, the words “another part of” had been omitted;
- (b) in subsections (1), for the words “relevant Minister” there were substituted “Secretary of State”;
- (c) in subsections (1)(a) and (b), for the word “another” in each place that it occurs there were substituted “any”;
- (d) in subsection (2), for the words “relevant Minister” there were substituted “Secretary of State”;
- (e) for subsection (3) there were substituted—

“(3) No such order shall be made without the agreement of the States Committee for Home Affairs; and no such order shall be made for the transfer of the prisoner to Scotland without the agreement of the Scottish Ministers.”;
- (f) in subsection (4) for the words “relevant Minister” there were substituted “Secretary of State”; and
- (g) subsections (5) and (6) were omitted.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the Bailiwick of Guernsey specified provisions of the International Criminal Court Act 2001 (c. 17) (“the 2001 Act”) subject to the modifications set out in the Schedule.

In particular, section 23(5) of the 2001 Act enables United Nations Security Council (UNSC) resolutions which might, depending on their wording, override any immunities attaching to representatives of all States, including non-parties, to be implemented in the Bailiwick, where the UNSC refers a situation to the International Criminal Court (ICC) for investigation and prosecution. Section 44 of the 2001 Act enables the transfer of prisoners between the United Kingdom and the Bailiwick to serve the remainder of an ICC sentence. Section 45 of the 2001 Act provides for the temporary transfer of a prisoner in custody between the United Kingdom

jurisdictions and the Bailiwick for the purpose, for example, of attending criminal proceedings against that prisoner.

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£4.90

<http://www.legislation.gov.uk/id/uksi/2022/865>

ISBN 978-0-34-823820-4



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