



# LAW OFFICERS OF THE CROWN

## Guidance on Making an Extradition Request to the Bailiwick of Guernsey

### Introduction

1. This guidance gives an overview of the process for requesting the extradition of a person located in Guernsey. It is issued by His Majesty's Procureur (**HM Procureur**), or Attorney General, who is Guernsey's competent authority for this purpose. HM Procureur is always willing to provide further information or clarification to other jurisdictions when required.
2. References to Guernsey in this guidance mean the Bailiwick of Guernsey, which for the purposes of an extradition request is a single jurisdiction comprising the islands of Guernsey, Alderney and Sark.
3. There is a special backing of warrants process in place for requests from the United Kingdom, as well as from Jersey and the Isle of Man (who like Guernsey are Crown Dependencies, i.e. self-governing island territories under the sovereignty of the British Crown). This process, which reflects the longstanding constitutional relationship between the United Kingdom and the Crown Dependencies, enables the arrest and return of persons in Guernsey on the basis of a warrant issued by a competent court in England and Wales, Scotland, Northern Ireland, Jersey or the Isle of Man, as the case may be.
4. Requests from the United Kingdom are dealt with under United Kingdom enactments that apply in Guernsey<sup>1</sup>. Requests from Jersey and the Isle of Man are dealt with under the *Extradition (Crown Dependencies) (Bailiwick of Guernsey) Ordinance, 2023 (the Extradition Ordinance)* which is made under the *Extradition (Bailiwick of Guernsey) Law, 2019 (the Extradition Law)*. Both the Extradition Law and the Extradition Ordinance can be accessed at [www.guernseylegalresources.gg](http://www.guernseylegalresources.gg). Further information

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<sup>1</sup>Section 13 of the Indictable Offences Act 1848, read in conjunction with section 18 of the Criminal Justice Administration Act 1851, and in respect of Scotland and Northern Ireland with section 4 of the Indictable Offences Act Amendment Act 1868.

about the backing of warrants process for the United Kingdom and the Crown Dependencies may be obtained from HM Procureur.

5. All other jurisdictions wishing to make an extradition request to Guernsey should consult this guidance.

#### **Jurisdictions that can be assisted**

6. Guernsey can only extradite suspects to “designated territories”, of which there are two categories. These are listed in Part 1 and Part 2 of Schedule 1 of the Extradition Law.
7. Through its constitutional relationship with the United Kingdom, Guernsey is party to the Council of Europe Convention on Extradition 1956. However, Guernsey has never been a member of the European Community, or the European Union and the European Arrest Warrant does not apply in Guernsey.

#### **When Guernsey can assist**

8. Guernsey can only extradite a person for an “extradition offence”. There are different conditions depending on whether the person has been sentenced and if the conduct occurred in your jurisdiction.

##### A. Determining extradition offence for a person not yet sentenced

9. Conduct occurring in your jurisdiction will constitute an extradition offence if:
  - a. the same conduct would be an offence under Guernsey law if it had occurred here;
  - b. it would be punishable in Guernsey with a sentence of detention of at least 12 months; and
  - c. the offence is punishable in your territory with a sentence of detention of at least 12 months.
10. Conduct occurring outside your jurisdiction will constitute an extradition offence if the offence is punishable in your territory with a sentence of detention of at least 12 months, and either:
  - a. equivalent conduct would constitute an extra-territorial offence under Guernsey law; or
  - b. no part of the conduct occurs in Guernsey, but the conduct constitutes, or would constitute if it was committed in Guernsey, one of a number of specified offences, including genocide, crimes against humanity, war crimes and grave breaches of scheduled conventions.

## B. Determining extradition offence for a sentenced person

11. Conduct occurring in your jurisdiction will constitute an extradition offence if a sentence of detention of at least four months has been imposed, and:
  - a. the same conduct would be an offence under Guernsey law if it had occurred here; and
  - b. it would be punishable in Guernsey with a sentence of detention of at least 12 months.
12. Conduct occurring outside your jurisdiction will constitute an extradition offence if a sentence of detention of at least four months has been imposed, and either:
  - a. equivalent conduct would constitute an extra-territorial offence under Guernsey law punishable with a period of detention of at least 12 months; or
  - b. no part of the conduct occurs in Guernsey, but the conduct constitutes, or would constitute if it was committed in Guernsey, one of a number of specified offences, including genocide, crimes against humanity, war crimes and grave breaches of scheduled conventions.

## **Bars to extradition**

13. There are a number of situations or circumstances that will bar your request for extradition of a person from Guernsey or otherwise prevent it from being granted. These include the following (and further detail can be found in the Extradition Law):
  - a. your jurisdiction is not designated under the Extradition Law;
  - b. the Court is not satisfied that there is sufficient information or evidence to provide reasonable grounds to suspect that the person you want to extradite has committed an “extradition offence”;
  - c. the rule against double jeopardy;
  - d. extraneous considerations such as that, if extradited, the person might be prejudiced at trial or punished because of their race, religion, nationality, gender, sexual orientation or political opinions;
  - e. an unjust or oppressive passage of time;
  - f. hostage-taking considerations;
  - g. the Court does not consider your jurisdiction to be the appropriate forum for prosecuting the person’s conduct;
  - h. considerations arising where the person was not present when convicted;
  - i. the person’s physical or mental condition means it would be unjust or oppressive to extradite them;

- j. extradition would be incompatible with the person's Human Rights;
- k. where the person could face the death penalty for the offence concerned;
- l. the arrangements in place in your jurisdiction governing the prospect of the person being dealt with for certain other offences committed before extradition (that is, the principle of speciality);
- m. where the person has previously been extradited to Guernsey from another territory, and that other territory does not give any consent that is required to permit extradition to your jurisdiction.

14. If you have any questions, please do not hesitate to contact HM Procureur using the contact details below.

### **The Letter of Request (LOR)**

15. In order for the request to be processed as quickly as possible, the LOR should set out:
- a. the name and designation of the person making the request, and the basis on which they are authorised to make an extradition request;
  - b. that you want to extradite the named person for the purpose of:
    - i. prosecuting that person for an extradition offence; or
    - ii. retaining that person on the ground that they are unlawfully at large after sentencing for an extradition offence by a court in your jurisdiction;
  - c. what the extradition offence is, and the relevant law that creates the offence (whether statutory or non-statutory, that is, under common law or any equivalent of common law in your jurisdiction);
  - d. that under your law the offence is punishable with 12 months' imprisonment, or another form of detention, or a greater punishment;
  - e. where the person has already been convicted and sentenced in your jurisdiction, the sentence that has been imposed;
  - f. in the case of a convicted and sentenced prisoner who is unlawfully at large, the length of prison sentence the person received, which must be no less than 4 months.
16. Extracts of relevant legislation should be appended to the request.
17. Where the person you seek to extradite could be, will be, or has been, sentenced to death for the relevant offence, you must include a written assurance that a sentence of death will not be imposed or, if already imposed, will not be carried out.

## **Evidential requirements**

18. The LOR should contain sufficient material to enable a Guernsey court to conclude that there are reasonable grounds to justify the person's arrest. This material must provide reasonable grounds to suspect that the person you want to extradite has committed an extradition offence.
19. The standard of evidence required depends upon whether your jurisdiction is designated under Part 1 or Part 2 of Schedule 1 to the Extradition Law, as follows;
  - a. If your territory is included in the list in Part 1, the material provided need not be in a sworn affidavit or witness statement.
  - b. If your territory is only included in Part 2 of Schedule 1, you will need to provide the supporting material in the form of evidence. This means evidence must be provided in the form of sworn affidavits or witness statements, together with copies of any documentary exhibits.

## **Contact details and process**

20. The LOR should be sent to HM Procureur at [GuernseyLOR@gov.gg](mailto:GuernseyLOR@gov.gg).
21. The request should come from whichever authority in your territory has the legal power to issue such requests. This is specified in section 6 of the Extradition Law. Please contact HM Procureur if you are unsure. Your law may additionally require the Request to be sent through a diplomatic or consular channel.
22. In cases of urgency the request can be faxed or e-mailed. In cases of extreme urgency (for example there are good grounds to believe the suspect is due to leave Guernsey imminently) the request may even be made orally by telephone, provided an LOR follows as soon as possible afterwards. In such cases HM Procureur has power to apply for a provisional extradition arrest warrant on short notice (in such cases please make immediate contact with the persons listed below and/or the States of Guernsey Police for advice and assistance).
23. After HM Procureur acknowledges the validity of your request, the person with responsibility for the request will work directly with you to ensure that the request proceeds appropriately and that you are kept informed throughout of all matters which may affect it.