

STATES OF JERSEY



Jersey

DRAFT COVID-19 (EMERGENCY PROVISIONS – COURTS) (JERSEY) REGULATIONS 202- (P.41/2020) SECOND AMENDMENT

**Lodged au Greffe on 20th April 2020
by the Corporate Services Scrutiny Panel**

STATES GREFFE

DRAFT COVID-19 (EMERGENCY PROVISIONS – COURTS) (JERSEY)
REGULATIONS 202- (P.41/2020) SECOND AMENDMENT

1 PAGE 12, REGULATION 3 –

In Regulation 3 for “2 Jurats” substitute “3 Jurats”.

2 PAGE 12, REGULATION 5 –

For Regulation 5 substitute –

“5 Variation of right to jury trial

- (1) This Regulation applies despite any other enactment whenever the Bailiff considers that at the time when a defendant’s case is expected to be ready for trial it is likely not to be practicable to assemble a jury.
- (2) Despite having elected under Article 48(2) of the 2018 Law to be tried by the Royal Court sitting with a jury the defendant may instead elect to be tried by the Inferior Number of the Royal Court sitting without a jury.
- (3) If the Royal Court has decided under Article 48(4) of the 2018 Law that the defendant should be tried by the Royal Court sitting with a jury but the Bailiff, having heard any submissions from the defence and the prosecution, considers that it is not appropriate to adjourn the case to be heard with a jury at a later date, the defendant must be tried by the Inferior Number of the Royal Court sitting without a jury.
- (4) In this Regulation “2018 Law” means the Criminal Procedure (Jersey) Law 2018.”.

3 PAGE 13, REGULATION 8 –

In Regulation 8 after “permissible” insert “for the Judicial Greffier”.

CORPORATE SERVICES SCRUTINY PANEL

REPORT

This amendment has been lodged to ensure that these Regulations allow the courts to maintain the highest standards of fairness, whilst still taking actions to mitigate the impact that Covid-19 may have on court proceedings.

The Panel consulted with the Law Society of Jersey on the proposed changes introduced through [P.41/2020](#). The information provided by the Law Society helped inform the decision-making process that led to these amendments.

The Panel would like to acknowledge the collaboration on this piece of work with the Education and Home Affairs Scrutiny Panel. The two Panels worked together closely on all aspects of this amendment, and were able to reach consensus on the most appropriate way in which to strike a balance between protecting the health of Royal Court participants and the rights of defendants.

With the possibility of remote access, and use of retired Jurats, the Panel believes that the Superior Number of Jurats should fall no lower than 3. This will maintain differentiation between the Superior and Inferior Number, which would, under the current proposal, be identical in the number of Jurats required to be quorate. This will avoid the possibility of split decisions of the Superior Number, while also allowing for the required flexibility under the current circumstances.

It is the view of the Panel that, where a defendant has previously elected for a jury trial under Article 48(2) of the [Criminal Procedure \(Jersey\) Law 2018](#), the decision as to whether or not the trial is maintained as a trial by jury or a trial by the Inferior Number should rest with the defendant rather than the Bailiff. This will mean the defendant is in control of whether they continue to be held on remand to await a jury trial, or opt for a potentially faster option.

Finally, the Panel agrees with the need to record trials; however, further clarification is needed to ensure that these can only be made and used at the discretion of the Judicial Greffier. This would include the broadcasting of trials as envisaged by Deputy M. Tadier of St. Brelade's [amendment](#) to P.41/2020, which is fully supported by the Panel.

Financial and manpower implications

The cost of this amendment is expected to be negligible.