

STATES OF JERSEY



Jersey

DRAFT CRIMINAL PROCEDURE (JERSEY) LAW 2018 (APPOINTED DAY) (No. 4) ACT 202-

**Lodged au Greffe on 22nd June 2021
by the Minister for Home Affairs
Earliest date for debate: 20th July 2021**

STATES GREFFE

REPORT

This Appointed Day Act will bring into force the final provisions of the [Criminal Procedure \(Jersey\) Law 2018](#) (the “Criminal Procedure Law”), which was approved by the Assembly on 20th March 2018.

The Criminal Procedure Law has been brought into force in sections as work has been completed on the necessary Rules of Court and operational process changes have been made to support the improvements in court procedures.

The Act will give effect to the following provisions –

Some wording in **Part 4 (Role of the Attorney General)** is brought into force to ensure that cross-references are complete once the provisions below are activated.

All of **Part 5 (Functions and jurisdiction of the Magistrate)** will be activated. This Part specifies the functions and jurisdiction of the Magistrate and provides for the Magistrate to sit at any time and in any place to hear proceedings and to remand defendants or release them on bail. It details the maximum penalties which may be imposed by the Magistrate, currently the imposition of a £10,000 fine, imprisonment for a term of 12 months or a combination of both, which can be amended by Regulations.

The remaining provisions of **Part 6 (Proceedings in the Magistrate’s Court)** will be brought into force. Provisions will be activated to describe how proceedings will move between the Magistrate’s Court and the Royal Court for trial or sentencing. These provisions in this Part are designed to speed up the process of disposing of cases by ensuring that they can always be dealt with in the most appropriate venue. It also makes provision in respect of appeals, including setting a time of 7 days within which a notice of appeal must be given. This Part also ensures the Magistrate’s Court has powers to correct technical errors and provides for the payment of appropriate costs.

Part 7 (Proceedings in the Royal Court) is brought into force, except for Article 48 (which specifies when cases are tried by juries), which is already in force. Powers are included to amend indictments and send cases back to the Magistrate’s Court. Arrangements are made for a defendant’s first appearance in the Royal Court, and for sentencing cases where some facts are in dispute.

Part 8 (Preparatory hearings and rulings in the Royal Court) is brought entirely into force. This Part makes provision regarding preparatory and pre-trial hearings between indictment and the start of a trial. The Bailiff is able to make rulings on the conduct of the trial which bind the parties until the end of trial. In addition, this Part restricts reporting of preparatory hearings and pre-trial rulings, subject to certain exemptions, and creates an offence of unlawful publication. These provisions have been drawn primarily from the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) and are consolidated into the Criminal Procedure Law with few amendments.

Articles 63 to 65 of Part 9 (Juries) are brought into force, making provision in relation to eligibility for jury service. This includes the provision that persons over the age of 18 and under the age of 72 who would be eligible to vote, unless exempt or disqualified for a particular reason, are eligible to sit as a member of a jury.

The remainder of **Part 11 (Provisions in relation to defendants and witnesses)** is brought into force. This Part replaces earlier enactments in respect of criminal proceedings and includes a wider range of offences that would give rise to an exemption from the general rule that spouses and civil partners cannot be compelled to give evidence for the prosecution or another defendant (detailed in Schedule 1). This Part

makes provision for the summoning of witnesses, and for penalties for a failure to comply with warnings to attend court. It establishes how the competence of defendants and witnesses to give evidence should be determined and prevents defendants from personally cross-examining witnesses to specified offences. It makes provision for offences of intimidation or harm to jurors and witnesses, with a penalty of up to 10 years imprisonment and an unlimited fine.

All of **Part 12 (Costs in criminal proceedings)** is brought into force. This Part provides that the defence or the prosecution (or in some cases, if Regulations are made to that effect, a third party), may be required to pay the costs of another party to proceedings, where those costs are incurred as a result of unnecessary or improper act or omission.

In **Part 14 (Miscellaneous and closing provisions)** the heading is brought into force.

All of **Schedule 1 (Offences in respect of which a spouse or civil partner of a defendant is compellable to give evidence)** is brought into force. This Schedule prescribes offences where a spouse or civil partner of a defendant can be compelled to give evidence for the prosecution or another defendant. These include sexual offences and other offences which involve injury, threats or harassments, and which are against the spouse or civil partner, or any individual under 18 or vulnerable person, whether or not they are related to the defendant or part of the same household.

The remaining amendments made by **Schedule 3 (Police Procedures and Criminal Evidence (Jersey) Law 2003 amended)** are brought into force. These repeal provisions in that Law which are being replaced by the provisions brought into force above.

The remainder of **Schedule 4 (Enactments consequentially amended)** is brought into force. This makes the necessary amendments to other legislation to align with the provisions of the Criminal Procedure Law.

The remainder of **Schedule 5 (Enactments repealed)** is brought into force to repeal outdated legislation replaced by the Criminal Procedure Law.

Financial and manpower implications

A significant investment of time and resources has been made across the Criminal Justice System to implement the many changes brought about by the enactment of the new law in 2018. These are now complete or being finalised and the effect of the new systems should be that criminal cases are dealt with more justly and more efficiently.

As these changes are now materially complete, there are no direct financial or staffing implications arising from this Act.

EXPLANATORY NOTE

The Criminal Procedure (Jersey) Law 2018 (Appointed Day) (No. 4) Act 202-, if passed, will bring into force all remaining uncommenced provisions of the Criminal Procedure (Jersey) Law 2018 on 1st October 2021.



Jersey

DRAFT CRIMINAL PROCEDURE (JERSEY) LAW 2018 (APPOINTED DAY) (No. 4) ACT 202-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make this Act under Article 119 of the Criminal Procedure (Jersey) Law 2018¹ –

1 Commencement of remaining provisions of the Criminal Procedure (Jersey) Law 2018

All provisions of the Criminal Procedure (Jersey) Law 2018², to the extent that they are not already in force, come into force on 1st October 2021.

2 Citation

This Act may be cited as the Criminal Procedure (Jersey) Law 2018 (Appointed Day) (No. 4) Act 202-.

ENDNOTES

Table of Endnote References

1	<i>L.25/2018</i>
2	<i>L.25/2018</i>