



Jersey

# **COURT OF APPEAL (JERSEY) LAW 1961**

## **Official Consolidated Version**

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## COURT OF APPEAL (JERSEY) LAW 1961

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Jersey

## COURT OF APPEAL (JERSEY) LAW 1961

A **LAW** to constitute a Court of Appeal, to amend the law relating to appeals in civil and criminal cases, and to provide for matters ancillary thereto

Commencement [[see endnotes](#)]

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### PART 1

#### THE COURT OF APPEAL

#### 1 Court of Appeal<sup>1</sup>

There shall be a Court of Appeal with such jurisdiction as is conferred upon it by this Law or the [Criminal Procedure \(Jersey\) Law 2018](#).

#### 1A Interpretation of Part 1<sup>2</sup>

In this Part, “quashing application” means an application under paragraph 3(1) or (2) of Schedule 2 to the [Criminal Procedure \(Jersey\) Law 2018](#).

#### 2 Judges of Court of Appeal

The Judges of the Court of Appeal shall be the Bailiff, the Deputy Bailiff and such persons as may be appointed by Her Majesty to be ordinary judges of the Court of Appeal, being persons who –

- (a) hold or have held judicial office in the Commonwealth;
- (b) have been at least 10 years in practice at the Bar in Jersey, whether as a Law Officer of the Crown or otherwise; or
- (c) have been at least 10 years in practice at the Bar in England and Wales, Scotland, Northern Ireland, Guernsey or the Isle of Man.

### **3 Tenure of office of ordinary judges**

An ordinary judge of the Court of Appeal shall hold office during good behaviour.

### **4 Restriction on practising**

No ordinary judge of the Court of Appeal shall, during the judge's continuance in office, practise at the Bar in Jersey or be concerned directly or indirectly, whether within or without Jersey, as counsel, solicitor, arbitrator or referee in any matter arising within Jersey.

### **5 Oath of office of ordinary judges**

Every ordinary judge of the Court of Appeal shall, upon taking office, take oath in the Royal Court in the form set out in Schedule 1.<sup>3</sup>

### **6 Remuneration and expenses of ordinary judges**

(1) The ordinary judges of the Court of Appeal shall receive such remuneration as may be determined by the Minister for Treasury and Resources and shall be entitled to reimbursement of all travelling and other expenses incurred by them in the discharge of their functions under this Law.<sup>4</sup>

(2) <sup>5</sup>

(3) <sup>6</sup>

### **7 Officers of Court of Appeal**

(1) Subject to rules of court, the Viscount shall, for all purposes of and incidental to the hearing of appeals by the Court of Appeal, and the execution and enforcement of any judgment or order made thereon, discharge duties analogous to those discharged by the Viscount in relation to proceedings in the Royal Court.

(2) Subject to rules of court, the Judicial Greffier shall, for all purposes of and incidental to the hearing of appeals by the Court of Appeal, discharge duties analogous to those discharged by the Judicial Greffier in relation to proceedings in the Royal Court.

### **8 Right to practise in Court of Appeal**

(1) Subject to the provisions of paragraph (3), as respects any appeal, quashing application or reference to the Court of Appeal and any proceedings preliminary or incidental to such an appeal, quashing application or reference, the right to practise in the Court of Appeal shall be restricted to the Attorney General, the Solicitor General, advocates of the Royal Court and solicitors of the Royal Court:

Provided that no solicitor of the Royal Court shall have any right of audience either before the Court or before any single judge of the Court upon any such appeal, quashing application, reference or preliminary proceedings.<sup>7</sup>

(2) For the purposes of this Article, the word "practise" shall include the doing in any office which is connected with the Court of Appeal or in which any business

connected with the Court is conducted and the transacting with any officer who is attached to the Court or with any judge of the Court of any act or thing required or necessary to be done in connection with any such appeals, quashing applications, references or proceedings.<sup>8</sup>

- (3) Subject as provided by rules of court, it shall be lawful for a party to a quashing application, an appeal under Part 2 or, for an appellant under Part 3, notwithstanding the foregoing provisions of this Article, to address the Court of Appeal or any single judge thereof both on the hearing of the appeal or quashing application and in any proceedings preliminary or incidental to the appeal or quashing application, and to do in any such office or to transact with any such officer as is mentioned in paragraph (2) any act or thing required or necessary to be done in connection with any such appeal, quashing application or proceedings.<sup>9</sup>

## **9 Convening and constitution of Court of Appeal**

- (1) The Court of Appeal shall be convened by the Bailiff or, in the absence of the Bailiff, by the Deputy Bailiff.<sup>10</sup>
- (1A) The Court of Appeal shall be duly constituted if it consists of an uneven number of judges, but not less than 3.<sup>11</sup>
- (1B) However, no judge of the Court of Appeal shall sit on –
- (a) the hearing of an appeal, quashing application or reference from or relating to a judgment, order, conviction or sentence pronounced, made or passed by any court of which the judge was a member; or
  - (b) the hearing of any proceedings preliminary or incidental to any such appeal, quashing application or reference.<sup>12</sup>
- (2) Subject to paragraph (3), the Bailiff shall be the President of the Court of Appeal.<sup>13</sup>
- (3) At any sitting of the Court of Appeal –
- (a) if the Bailiff is unable to act, the Deputy Bailiff shall preside; and
  - (b) if the Bailiff and the Deputy Bailiff are unable to act, the ordinary member of the Court who has the longest service as such a member shall preside, unless the members of the Court at the sitting decide otherwise.<sup>14</sup>
- (4) The Bailiff or the Deputy Bailiff may decline to preside in any case in which the Bailiff or Deputy Bailiff thinks it undesirable or inconvenient that he or she should do so, and in any such case the provisions of this Article shall have effect as if the Bailiff or Deputy Bailiff were unable to act.

## **10 Decisions of Court of Appeal**

The determination of any question before the Court of Appeal under this Law shall be according to the opinion of the majority of the judges constituting the Court.

## **11 Powers of single judge exercisable outside Jersey**

Where, under this Law, the powers of the Court of Appeal may be exercised by a single judge of the Court, such powers may be exercised in any place whether within or without Jersey.

## PART 2

### APPEALS IN CIVIL CAUSES AND MATTERS

#### 12 Jurisdiction

- (1) <sup>15</sup>
- (2) Subject as otherwise provided in this Law or in any other enactment, the Court of Appeal shall have jurisdiction to hear and determine appeals from any judgment or order of the Royal Court (not being an order or decision of the Judicial Greffier) when exercising jurisdiction in any civil cause or matter.<sup>16</sup>
- (3) For all purposes of and incidental to the hearing and determination of any appeal, and the amendment, execution and enforcement of any judgment or order made thereon, the Court of Appeal shall have all the power, authority and jurisdiction of the Royal Court, and shall have power, if it appears to the Court that a new trial or hearing ought to be had, to order that the verdict and judgment be set aside and that a new trial or hearing be had.<sup>17</sup>
- (4) The Court of Appeal shall exercise such additional appellate jurisdiction as may be conferred upon the Court by any enactment passed by the States and confirmed by Order of Her Majesty in Council.
- (5) This Part shall apply to *causes mixtes* as it applies to civil causes and matters.

#### 13 Limitation on appeals

- (1) No appeal shall lie under this Part –
  - (a) from any decision which, by virtue of any enactment, is final;
  - (b) from a final order for the dissolution or nullity of marriage or civil partnership, by any party who, having had time and opportunity to appeal from the decree on which the final order was founded, has not appealed from that decree;
  - (c) without the leave of the court making the order, from any order –
    - (i) made with the consent of the parties, or
    - (ii) as to costs only which by law are left to its discretion;
  - (d)
  - (e) without the leave of the court whose decision is sought to be appealed from, or of the Court of Appeal, from any interlocutory order or interlocutory judgment, except –
    - (i) where the liberty of the subject or the custody of minors is concerned,
    - (ii) in the case of a decree in a matrimonial cause or a judgment or order in an admiralty action determining liability,
    - (iii) in such other cases of the nature of final decisions as may be prescribed.<sup>18 19</sup>
- (2) An application to the Court of Appeal for leave pursuant to paragraph (1)(e) shall be made to a single judge of that Court.<sup>20</sup>

- (3) Subject to paragraph (4), the single judge's decision on the application shall be final.<sup>21</sup>
- (4) The single judge may at any stage refer the application to the full Court of Appeal for decision.<sup>22</sup>

#### **14 Appeals from the decisions of Court of Appeal<sup>23</sup>**

- (1) No appeal shall lie from a decision of the Court of Appeal under this Part without the leave of the Court or the special leave of Her Majesty in Council.
- (2) No appeal shall lie from a decision of the Court of Appeal to grant, or to refuse to grant, leave to appeal.

#### **15 Procedure and practice**

The jurisdiction vested in the Court of Appeal under this Part shall, so far as regards procedure and practice, be exercised in the manner provided by this Law or by rules of court, and, where no special provision is contained in this Law or in rules of court with reference thereto, any such jurisdiction shall be exercised in such manner as the Court of Appeal considers just and convenient.<sup>24</sup>

#### **16 Costs**

The costs of and incidental to all proceedings in the Court of Appeal under this Part shall be in the discretion of the Court, and the Court shall have full power to determine by whom and to what extent the costs are to be paid.

#### **17 References to experts**

- (1) Subject to rules of court, the Court of Appeal may refer to any person or persons selected by the Court for inquiry and report any question arising in any appeal under this Part.
- (2) In all cases of reference under paragraph (1), the person or persons selected by the Court of Appeal shall be deemed to be an officer or officers of the Court, and, subject to rules of court, shall have such authority and shall conduct the reference in such manner as the Court may direct.
- (3) The remuneration to be paid to any person or persons to whom any matter is referred under an order of the Court of Appeal shall be determined by the Court and shall be recoverable costs of the proceedings.

#### **18 Powers which may be exercised by a single judge of Court of Appeal**

- (1) In any appeal pending before the Court of Appeal under this Part, any matter incidental thereto not involving the decision of the appeal may be decided by a single judge of the Court, and a single judge may at any time make any interim order to prevent prejudice to the claims of any parties pending an appeal, as the judge may think fit.

- (2) Every order made by a single judge of the Court of Appeal in pursuance of this Article may be discharged or varied by any judges of the Court having power to hear and determine the appeal.
- (3) For the purposes of paragraph (1), an appeal is pending if –
  - (a) an application has been made to the Court of Appeal for leave to appeal, but has not been determined;
  - (b) an application has been made to that Court for an order authorizing (by whatever means) service of a notice of appeal, but has not been determined; or
  - (c) an appeal has been brought, but has not been determined.<sup>25</sup>

## **19 Rules of court under Part 2<sup>26</sup>**

- (1) Rules of court may be made by the Court of Appeal –
  - (a) for regulating and prescribing the procedure (including the method of pleading) and the practice to be followed in the Court in all appeals under this Part (including the procedure and practice to be followed in the office of the Judicial Greffier) and any matters incidental to or relating to any such procedure or practice, including (but without prejudice to the generality of the foregoing provision) the manner in which, and the time within which, any applications which under this Part or any enactment are to be made to the Court shall be made;
  - (b) for regulating the sittings of the Court and of the judges thereof whether sitting in court or elsewhere;
  - (c) for regulating any matters relating to the costs of proceedings in the Court;
  - (d) for repealing any enactments which related to matters with respect to which rules are made under this Article;
  - (e) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with or at any stage of any proceedings;
  - (f) for regulating or making provision with respect to any other matters which may require to be regulated or with respect to which provision may require to be made under this Part.
- (2) The power to make rules of court under this Article shall include power to make rules as to proceedings by or against the Crown.

## **20 Fees and percentages**

- (1) The Court of Appeal shall by rules of court fix the fees and percentages to be taken under this Part in the Court or in any office which is connected with the Court or in which any business connected with the Court is conducted or by any officer paid wholly or partly out of public funds who is attached to the Court or to any judge of the Court, and shall determine the manner of collection of such fees and percentages.
- (2) Fees and percentages taken under this Article shall be paid into the General Revenues of the States.

**21 Shorthand note and transcript of proceedings in court of first instance**

- (1) In any proceedings in which an appeal lies to the Court of Appeal under this Part, a shorthand note of the proceedings shall be taken, and on any appeal or application to the Court of Appeal a transcript of the note, or of so much thereof as the Court of Appeal or the court whose decision is appealed from or sought to be appealed from shall direct, shall be made for the use of the Court of Appeal.
- (2) The cost of the transcript of such shorthand note, in accordance with the scales of payment fixed for the time being by rules of court, shall be included in the recoverable costs of the proceedings.
- (3) In any case in which an appeal lies to Her Majesty in Council, the evidence of the witness in the original proceedings shall be transcribed from the shorthand note of those proceedings taken in pursuance of this Article.
- (4) A transcript of the shorthand note taken in pursuance of this Article shall be furnished to any party to the proceedings upon payment of such charges as are fixed for the time being by rules of court.
- (5) Rules of court for the purposes of this Article shall be made by the Superior Number of the Royal Court.

**PART 3****APPEALS IN CRIMINAL AND QUASI-CRIMINAL MATTERS****22 Appellate jurisdiction of superior number of Royal Court**

The appellate jurisdiction of the Superior Number of the Royal Court in criminal and quasi-criminal matters shall be that conferred upon it by this Part.

**23 Constitution of superior number of Royal Court**

For the purposes of this Part, the Superior Number of the Royal Court shall be duly constituted only if it consists of the Bailiff, the Deputy Bailiff or an ordinary judge of the Court of Appeal and not less than 5 Jurats:

Provided that no person shall sit on the hearing of an appeal to the Superior Number of the Royal Court under this Part from a sentence passed by any court of which the person was a member or on the hearing of any proceedings preliminary or incidental to any such appeal.<sup>27</sup>

**24 Right of appeal**

- (1) A person convicted on indictment by the Royal Court, whether sitting with or without a jury, may appeal under this Part to the Court of Appeal –
  - (a) against the person's conviction, on any ground of appeal which involves a question of law alone;
  - (b) with the leave of the Court of Appeal, or upon the certificate of the judge who presided at the person's trial that it is a fit case for appeal, against the person's conviction, on any ground of appeal which involves a question of

fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court to be a sufficient ground of appeal; and

- (c) with the leave of the Court of Appeal, against any sentence passed on the person for the offence (whether passed on his or her conviction or in subsequent proceedings), unless the sentence is one fixed by law:

Provided that where the appellant was –

- (i) convicted and sentenced by the Inferior Number of the Royal Court, or  
(ii) sentenced by that court in pursuance of powers conferred by any enactment mentioned in Article 25,

and the person's appeal is solely against sentence, such appeal shall lie to the Superior Number of the Royal Court and, accordingly, in relation to such an appeal references in this Part, other than Articles 29 and 43, to the Court of Appeal, shall, unless the context otherwise requires, be construed as references to the Superior Number of the Royal Court.<sup>28</sup>

- (2) The reference in paragraph (1)(c) to a sentence fixed by law shall not be taken to include a reference to an order imposed under Article 10 of the [Criminal Justice \(Life Sentences\) \(Jersey\) Law 2014](#).<sup>29</sup>
- (3) <sup>30</sup>

## 25 Right of appeal in cases where there has not been a conviction on indictment<sup>31</sup>

- (1) Where, in pursuance of Article 1(1) of the [Criminal Justice \(Probation Orders\) \(Jersey\) Law 1986](#) or Article 7(3) of the [Criminal Justice \(Community Service Orders\) \(Jersey\) Law 2001](#), a person has been dealt with by the Royal Court, the person may appeal under this Part to the Court of Appeal notwithstanding that the person is not a person convicted on indictment by the Royal Court.
- (2) Where, in pursuance of any of the provisions mentioned in paragraph (1) or Article 8(2) or (4) of the [Criminal Justice \(Community Service Orders\) \(Jersey\) Law 2001](#), a person has been sentenced by the Royal Court, the person may appeal against the sentence under this Part to the Court of Appeal notwithstanding that the person is not a person convicted on indictment.

## 26 Determination of appeals in ordinary cases

- (1) Subject to the following provisions of this Part, on any appeal against conviction, the Court of Appeal shall allow the appeal if it thinks that the verdict should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the court before which the appellant was convicted should be set aside on the ground of a wrong decision of any question of law or that, on any ground, there was a miscarriage of justice, and in any other case shall dismiss the appeal:

Provided that the Court may, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.<sup>32</sup>

- (2) Subject to the following provisions of this Part, the Court of Appeal shall, if it allows an appeal against conviction, quash the conviction, and direct a judgment and verdict of acquittal to be entered.<sup>33</sup>

- (3) On any appeal against sentence, the Court of Appeal shall, if it thinks that a different sentence should have been passed on the appellant in the proceedings from which the appeal is brought, quash the sentence and pass such other sentence warranted in law by the verdict (whether more or less severe) in substitution therefor as it thinks ought to have been passed, and in any other case shall dismiss the appeal.
- (4) Subject to the provisions of Article 37, the term of any sentence passed under this Part in substitution for a sentence passed on the appellant in the proceedings from which the appeal is brought shall, unless the Court of Appeal otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings, and references in the said Article 37 to any sentence to which an appellant is for the time being subject shall be construed accordingly.

## **27 Powers of court in special cases**

- (1) If it appears to the Court of Appeal that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the Court may either affirm the sentence passed on the appellant as a result of the trial, or pass such sentence in substitution therefor as it thinks proper and as may be warranted in law by the verdict on the count or part of the indictment on which the Court considers that the appellant has been properly convicted.
- (2) Where an appellant could, on the indictment, have been found guilty of an offence other than that of which the appellant was convicted and it appears to the Court of Appeal that the jury must have been satisfied of facts which proved the appellant guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict appealed from a verdict of guilty of that other offence and pass such sentence in substitution for the sentence passed as the result of the trial as may be warranted in law for that other offence, not being a sentence of greater severity.
- (3) If on any appeal it appears that, although the appellant was guilty of the act or omission charged against the appellant, at the time the act was done or the omission made, he or she suffered from a mental disorder (within the meaning given by Article 1 of the [Mental Health \(Jersey\) Law 2016](#)), so as not to be responsible according to law for the appellant's actions, the Court of Appeal may quash the sentence passed as a result of the trial and order the appellant to be detained during Her Majesty's pleasure.<sup>34</sup>

## **28 Power to order retrial<sup>35</sup>**

- (1) Where the Court of Appeal allows an appeal against conviction and it appears to the Court that the interests of justice so require, it may order the appellant to be retried on a fresh indictment to be brought in the Royal Court within the period of 2 months of the making of the order or such further period for which it may give leave for the indictment to be brought.
- (2) A person shall not under this Article be ordered to be retried for any offence other than –

- (a) the offence of which the person was convicted at the original trial and in respect of which the person's appeal is allowed as mentioned in paragraph (1);
  - (b) an offence of which the person could have been convicted at the original trial on an indictment for the first-mentioned offence; or
  - (c) an offence charged in an alternative count of the indictment in respect of which the Jurats or the jury, as the case may be, were discharged from giving a verdict in consequence of convicting the person of the first-mentioned offence.
- (3) The Court of Appeal may, on ordering a retrial, make such orders as appear to it to be necessary or expedient –
- (a) for the custody or release on bail of the person ordered to be retried pending the person's retrial; or
  - (b) for the retention pending the retrial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.
- (4) If the person ordered to be retried was, immediately before the determination of the person's appeal, liable to be detained in pursuance of an order or direction under the [Mental Health \(Jersey\) Law 2016](#), that order or direction shall continue in force pending the retrial as if the appeal had not been allowed and any order made by the Court of Appeal under this Article for the person's custody or release on bail shall have effect subject to the said order or direction.<sup>36</sup>
- (5) Schedule 2 shall have effect with respect to the procedure in the case of a person ordered to be retried, the sentence which may be passed if the retrial results in the person's conviction and the order for costs which may be made if the person is acquitted.

## **29 Judgments of Court of Appeal**

Unless the Court of Appeal directs to the contrary in cases where, in the opinion of the Court, the question is a question of law on which it would be convenient that separate judgments should be pronounced by the members of the Court, the judgment of the Court shall be pronounced by the President of the Court or such other member of the Court hearing the case as the President directs, and no judgment with respect to the determination of any question shall be separately pronounced by any other member of the Court.

## **30 General powers of court**

The Court of Appeal shall, for the purposes of and subject to the provisions of this Part, have full power to determine, in accordance with this Part, any questions necessary to be determined for the purpose of doing justice in the case before it.

## **30A Effect of order<sup>37</sup>**

Subject to the other provisions of this Part, an order made by the Court of Appeal or by the Superior Number of the Royal Court on any appeal under this Part shall have the like

effect and be enforced in the like manner as if it had been made by the court from which the appeal lies.

### **31 Re-vesting and restitution of property on conviction**

- (1) The operation of an order as to the disposal of any property on a conviction on indictment shall (unless the court before which the conviction takes place directs to the contrary in any case in which, in its opinion, the title to the property is not in dispute) be suspended –
  - (a) in any case, until the expiration of 10 days after the date of the conviction; and
  - (b) in cases where notice of appeal, or notice of application for leave to appeal, against conviction is given within 10 days after the date of the conviction, until the determination of the appeal, or, in any case where an application for leave to appeal is finally refused, of the application,and, in cases where the operation of any such order is suspended until the determination of the appeal, the order shall not take effect as to the property in question if the conviction is quashed on appeal.
- (2) Provision may be made by rules of court for securing the safe custody of any property during the period of suspension of the operation of any such order as is referred to in paragraph (1).
- (3) The Court of Appeal may by order annul or vary any order made on a trial for the disposal of any property although the conviction is not quashed, and the order if annulled shall not take effect and if varied shall take effect as so varied.

### **32 Time for appealing**

- (1) A person who wishes –
  - (a) to appeal under this Part; or
  - (b) to obtain leave to appeal under this Part,shall give notice of appeal or (as the case may be) notice of application for leave to appeal, in such manner as may be prescribed by rules of court.<sup>38</sup>
- (1A) Notice of appeal against conviction, or notice of application for leave to appeal against conviction, shall be given within 28 days of the date of the conviction.<sup>39</sup>
- (1B) Notice of appeal against sentence, or notice of application for leave to appeal against sentence, shall be given within 28 days of the date on which the sentence is passed.<sup>40</sup>
- (2) Rules of court made for the purposes of this Article shall enable any convicted person to present the person's case and arguments in writing, instead of by oral argument, if the person so desires, and any case or argument so presented shall be considered by the Court of Appeal.
- (3) The time within which notice of appeal or notice of an application for leave to appeal may be given may be extended at any time by the Court of Appeal.<sup>41</sup>
- (4) <sup>42</sup>

**33 Judge's report on appeal<sup>43</sup>**

- (1) This Article applies in the case of –
  - (a) an appeal by a person against conviction;
  - (b) an appeal by a person against sentence; or
  - (c) an application by a person for leave to appeal against conviction or sentence.
- (2) The President of the court before which the person is convicted, or sentenced, as the case may be, may furnish to the Court of Appeal a report giving the President's opinion upon the case or upon any point arising in the case.
- (3) The President of the court before which the person is convicted, or sentenced, as the case may be, shall furnish such a report to the Court of Appeal if required by the Court of Appeal to do so.
- (4) Rules of court may prescribe –
  - (a) parties to whom copies of a report furnished under this Article shall be given; and
  - (b) the manner in which the copies shall be so given.

**34 Supplemental powers of Court**

For the purposes of this Part, the Court of Appeal may, if it thinks it necessary or expedient in the interests of justice–

- (a) order the production of any document, exhibit or other thing connected with the proceedings if the production thereof appears to be necessary for the determination of the case;
- (b) if it thinks fit, order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in the manner provided by rules of court before the Bailiff, the Deputy Bailiff or an ordinary judge of the Court of Appeal, any officer of the Court or any other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court;
- (c) if it thinks fit, receive any evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness and, if the appellant makes an application for the purpose, of the husband or wife or civil partner of the appellant in cases where the evidence of the husband or wife or civil partner could not have been given at the trial except on such an application;
- (d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the Court conveniently be conducted before the Court, order the reference of the question, in manner provided by rules of court, for inquiry and report to a special commissioner appointed by the Court, and act upon the report of any such commissioner so far as it thinks fit to adopt it; and
- (e) appoint any person with special expert knowledge to act as assessor to the Court in any case in which it appears to the Court that such knowledge is required for the proper determination of the case,

and exercise in relation to the proceedings of the Court any other powers which may for the time being be exercised by the Court of Appeal on appeals in civil matters under this Law, and issue any warrants necessary for enforcing the orders or sentences of the Court:

Provided that in no case shall any sentence be increased by reason of or in consideration of any evidence which was not given at the trial.<sup>44</sup>

### **35 Legal assistance to appellant**

An appellant shall have the same right to legal aid in an appeal under this Part and in proceedings preliminary or incidental to such an appeal as the appellant would have in criminal proceedings instituted against him or her in the Royal Court.

### **36 Right of appellant to be present**

- (1) An appellant, notwithstanding that he or she is in custody, shall be entitled to be present (if the appellant desires it) –
  - (a) on the hearing of the appeal under this Part; and
  - (b) on the hearing of any application for leave to appeal under this Part.<sup>45</sup>
- (1A) However, an appellant shall not be entitled to be present at proceedings preliminary or incidental to the appeal, except where –
  - (a) rules of court provide that he or she shall have the right to be present;
  - (b) the Court of Appeal gives the appellant leave to be present; or
  - (c) he or she is not legally represented.<sup>46</sup>
- (2) The power of the Court of Appeal to pass any sentence under this Part may be exercised notwithstanding that the appellant is for any reason not present.

### **37 Admission of appellant to bail<sup>47</sup>**

- (1) An appellant who is not admitted to bail shall, pending the determination of the appeal, be treated in such manner as may be directed by prison rules.
- (2) The Court of Appeal may, if it thinks fit –
  - (a) on the application of the appellant at any stage of the proceedings prior to the determination of the appeal, grant the appellant bail pending the determination of the appeal; or
  - (b) revoke bail granted to the appellant by any court.<sup>48</sup>
- (2A) Paragraph (2) is without prejudice to Article 28(3).<sup>49</sup>
- (3) Where an appellant is admitted to bail, the time during which the appellant is at large after being so admitted shall be disregarded in computing the term of any sentence to which the appellant is for the time being subject.
- (4) <sup>50</sup>

**37A Time spent in custody pending appeal<sup>51</sup>**

- (1) The time during which an appellant is in custody pending the determination of the appeal shall, subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence to which the appellant is for the time being subject.
- (2) Where the Court of Appeal gives a contrary direction under paragraph (1), it shall state its reasons for doing so.
- (3) The Court of Appeal shall not give such a direction where –
  - (a) leave to appeal is granted under this Part; or
  - (b) any such certificate as is mentioned in Article 24(1)(b) has been given for the purposes of the appeal.

**38 Suspension of licences and custody of goods pending appeal**

Where notice of appeal or of an application for leave to appeal has been given in respect of a decision which includes –

- (a) an order for the suspension or withdrawal of a licence or other permit, the Bailiff may, unless it be otherwise provided by the enactment under which the licence or permit was granted, direct that the order be suspended pending the disposal of the appeal or application;
- (b) an order for the confiscation of goods, the goods shall be delivered into the custody of the Judicial Greffier pending the disposal of the appeal or application.

**39 Duties of Judicial Greffier under Part 3<sup>52</sup>**

- (1) The Judicial Greffier shall take all necessary steps for obtaining a hearing under this Part of any appeals or applications notice of which is given to the Judicial Greffier under this Part and shall obtain and lay before the Court of Appeal in proper form all documents, exhibits and other things relating to the proceedings in the court before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.
- (2) Any documents, exhibits or other things connected with the proceedings on the trial on indictment of any person who, if convicted, is entitled or may be authorized to appeal under this Part shall be kept in the custody of the Judicial Greffier, for such time as may be provided by rules of court made for the purpose, and subject to such power as may be given by the rules for the conditional release of any such documents, exhibits or things from that custody.
- (3) The Judicial Greffier shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under this Part to any persons who demand the same, to the Governor of the Prison and to such other officers and persons as the Judicial Greffier thinks fit, and the Governor of the Prison shall cause such forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under this Part and shall cause any such notice given by a prisoner in the Judicial Greffier's custody to be forwarded on behalf of the prisoner to the Judicial Greffier.

**40 Rules of court under Part 3<sup>53</sup>**

- (1) Rules of court for the purposes of this Part shall be made, subject, so far as the rules affect the Governor or any other officer of the Prison, to the approval of the Minister for Home Affairs –
  - (a) in relation to appeals to the Superior Number of the Royal Court, by the Superior Number of the Royal Court; and
  - (b) in relation to appeals to the Court of Appeal, by the Court of Appeal:

Provided that rules of court relating to appeals generally may be made by both Courts sitting together.<sup>54</sup>

- (2) Rules so made may make provision for regulating the sittings of the Courts and of the Bailiff, the Deputy Bailiff or an ordinary judge of the Court of Appeal, whether sitting in court or elsewhere, and for any matter for which provision is to be made under this Part by rules of court, and may regulate generally the practice and procedure under this Part, and the officers of any court before which an appellant has been convicted, and the Governor or other officers of the Prison and any other officers or persons, shall comply with any requirements of those rules so far as they affect those officers or persons, and compliance with such rules may be enforced by order of the Court to which the appeal lies.

**41 Powers under Part 3 which may be exercised by a single judge<sup>55</sup>**

The powers of the Court of Appeal under this Part to give leave to appeal, to extend the time within which notice of appeal or of an application for leave to appeal may be given, to grant or revoke bail or to allow the appellant to be present at any proceedings in cases where the appellant is not entitled to be present without leave, and such other powers to determine matters preliminary or incidental to an appeal as may be prescribed, may be exercised by any single judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions; but if the judge refuses an application on behalf of the appellant to exercise any such power under this Part in the appellant's favour, the appellant shall be entitled to have the application determined by the Court as duly constituted for the hearing and determining of appeals under this Part.<sup>56</sup>

**42 Shorthand notes of trial**

- (1) A shorthand note shall be taken of the proceedings at the trial on indictment of any person who has pleaded not guilty and who, if convicted, is entitled or may be authorized to appeal under this Part, and, on any appeal or application for leave to appeal, a transcript of the note or any part thereof shall, if the Judicial Greffier so directs, be made and furnished to the Judicial Greffier for the use of the Court, of the Attorney General and of the appellant:

Provided that a transcript shall be furnished to any party interested, upon payment of such charges as may be fixed by rules of court.

- (2) The Bailiff, if so requested by the Secretary of State, shall direct a transcript of the shorthand note to be made and furnished to the Bailiff for the Secretary of State.
- (3) The cost of the transcript of any such shorthand note shall be defrayed, in accordance with scales of payment fixed for the time being by rules of court, out of the General Revenues of the States, and rules of court may make such provision as

is necessary for securing the accuracy of the note to be taken and for the verification of the transcript.

- (4) Any moneys received from an interested party under the proviso to paragraph (1) shall be paid into the consolidated fund.<sup>57</sup>
- (5) In relation to the criminal and quasi-criminal proceedings mentioned in Article 44(2), a shorthand note shall be taken only in cases in which there has been a denial of the facts alleged by the Crown.
- (6) Any reference in this Article to a shorthand note includes a reference to a record of the proceedings by electronic means.<sup>58</sup>

#### **43 Prerogative of mercy**

Nothing in this Part shall affect the prerogative of mercy, but, as respects the conviction of a person on indictment by the Royal Court or the sentence passed on a person so convicted, being a conviction or sentence against which an appeal lies under this Part to the Court of Appeal, the Lieutenant-Governor may, if he or she thinks fit, at any time either –

- (a) refer the whole case to the Court of Appeal, and the case shall then be heard and determined by the Court as in the case of an appeal by a person convicted; or
- (b) if the Lieutenant-Governor desires assistance on any point arising in the case, refer that point to the Court of Appeal for its opinion thereon, and the Court shall consider the point so referred and furnish the Lieutenant-Governor with its opinion thereon accordingly.<sup>59</sup>

#### **44 Interpretation and application of Part 3**

- (1) In this Part, unless the context otherwise requires –
  - “appellant” includes a person who has been convicted and desires to appeal under this Part;
  - “confiscation order” means a confiscation order as defined in Article 1(1) of the [Proceeds of Crime \(Jersey\) Law 1999](#);
  - “prison rules” means rules made under Article 29 of the [Prison \(Jersey\) Law 1957](#);
  - “Prison” has the same meaning as in the [Prison \(Jersey\) Law 1957](#);
  - “sentence” includes any order (including an order of banishment or a confiscation order) made by a court when dealing with the person convicted, and the power of the Court of Appeal to pass a sentence includes a power to make any such order.<sup>60</sup>
- (2) This Part shall apply in the case of conviction by the Royal Court in any criminal or quasi-criminal proceedings, otherwise than by way of indictment, as it applies in the case of conviction on indictment.
- (3) Any reference in this Part to a jury shall, in relation to a trial conducted before a court without a jury, be construed as a reference to that court.

**PART 4<sup>61</sup>****REFERENCES AND APPEALS BY THE ATTORNEY GENERAL<sup>62</sup>****45 Reference to Court of Appeal of point of law following acquittal<sup>63</sup>**

- (1) Where a person tried in the Royal Court on indictment or otherwise has been acquitted (whether in respect of the whole or part of the indictment or charge) the Attorney General may, if he or she desires the opinion of the Court of Appeal on a point of law which has arisen in the case, refer that point to that Court, and that Court shall, in accordance with this Article consider the point and give its opinion on it.
- (2) For the purpose of its consideration of a point referred to it under this Article the Court of Appeal shall hear argument—
  - (a) by the Attorney General; and
  - (b) if the acquitted person desires to present any argument to the Court, by counsel on the person's behalf or, with the leave of the Court, by the acquitted person himself or herself.
- (3) Where, on a point being referred to the Court of Appeal under this Article the acquitted person appears by counsel for the purpose of presenting any argument to the Court the person shall be entitled to costs, that is to say to the payment out of the consolidated fund of such sums as are reasonably sufficient to compensate the person for expenses properly incurred by the person for the purpose of being represented on the reference; and any amount recoverable under this paragraph shall be ascertained, as soon as practicable, by the Judicial Greffier.<sup>64</sup>
- (4) A reference under this Article shall not affect the trial in relation to which the reference is made or any acquittal in that trial.

**45A Reference to Court of Appeal for review of sentence<sup>65</sup>**

- (1) This Article applies to any case in which sentence is passed on a person for –
  - (a) an offence for which the person is liable to imprisonment for a term of 12 months or longer (whether or not it is one for which he or she is also liable to any other penalty); or
  - (b) an offence to which this Article applies by reason of Regulations made under paragraph (5).
- (2) However, this Article shall not apply in respect of a confiscation order.
- (3) If it appears to the Attorney General –
  - (a) that the sentencing of a person in any proceedings in the Royal Court has been unduly lenient; and
  - (b) that the case is one to which this Article applies,the Attorney General may, with the leave of the Court of Appeal, refer the case to the Court of Appeal for it to review the sentencing of that person.

- (4) Without prejudice to the generality of paragraph (3), the condition specified in subparagraph (a) of that paragraph may be satisfied if it appears to the Attorney General that the Royal Court –
  - (a) erred in law as to its powers of sentencing; or
  - (b) failed to impose a sentence which it was required by law to impose.
- (5) The States may by Regulations declare that this Article shall apply to an offence.

#### **45B Court's powers on reference under Article 45A by Attorney General<sup>66</sup>**

- (1) On a reference under Article 45A, the Court of Appeal may –
  - (a) quash any sentence passed on the person for the offence (whether passed on his or her conviction or in subsequent proceedings); and
  - (b) in place of it pass such sentence as the Court thinks appropriate for the case and as the Royal Court had power to pass when dealing with the person.
- (2) In deciding under paragraph (1) the appropriate sentence to pass on a person for an offence, the Court of Appeal shall not make any allowance for the fact that the person is being sentenced for a second time in relation to the offence.

#### **45C Calculation of sentence passed on review<sup>67</sup>**

- (1) The term of any sentence passed by the Court of Appeal under Article 45B shall, unless the Court otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings in respect of which the reference was made.
- (2) Paragraph (1) shall not apply to a custodial sentence which is passed in place of a non-custodial sentence.
- (3) The time during which a person whose case has been referred for review under Article 45A is in custody pending its review shall be reckoned as part of the term of any sentence to which he or she is for the time being subject.

#### **45D Appeal by Attorney General in respect of confiscation order<sup>68</sup>**

- (1) This Article applies to any case in which –
  - (a) sentence is passed by the Royal Court on a person for an offence; and
  - (b) in passing the sentence, the Royal Court has jurisdiction to make a confiscation order.
- (2) If in a case to which this Article applies the Royal Court makes a confiscation order, the Attorney General may appeal to the Court of Appeal in respect of the order.
- (3) If in a case to which this Article applies the Royal Court decides not to make a confiscation order, the Attorney General may appeal to the Court of Appeal against the decision.
- (4) Paragraphs (2) and (3) shall not apply to an order or decision made by virtue of any of Articles 9, 12 and 13 of the 1999 Law.<sup>69</sup>

- (5) An appeal to the Court of Appeal under this Article lies only with the leave of the Court of Appeal.

#### **45E Court's powers on appeal by Attorney General<sup>70</sup>**

- (1) On an appeal under Article 45D(2), the Court of Appeal may confirm, quash or vary the confiscation order.
- (2) On an appeal under Article 45D(3), the Court of Appeal may confirm the decision, or if it believes that the decision is wrong –
  - (a) may itself proceed under paragraphs (3) to (8) (inclusive) of Article 3 of the 1999 Law, as the case may be; or
  - (b) may direct the Royal Court to proceed afresh under Article 3 of the 1999 Law, as the case may be.<sup>71</sup>
- (3) In directing the Royal Court under paragraph (2) to proceed afresh, the Court of Appeal may also give other directions, and if it does so the Royal Court shall comply with those directions in proceeding afresh in pursuance of this Article.

#### **45F Matters to be taken into account on appeal in respect of confiscation order<sup>72</sup>**

- (1) This Article applies if –
  - (a) the Court of Appeal makes or varies a confiscation order pursuant to Article 45E; or
  - (b) the Royal Court makes or varies a confiscation order in pursuance of a direction under paragraph (2) of that Article.
- (2) The court, in doing so, shall have regard –
  - (a) to any fine imposed on the respondent in respect of the offence (or any of the offences) concerned;
  - (b)
  - (c) in the case of an order under the 1999 Law, to any order which is specified in either of clauses (ii) and (iii) of Article 10(1)(a) of that Law and has been made against the respondent in respect of the offence concerned (or any of the offences concerned).<sup>73</sup>
- (3) However, the court is not required to have regard to an order to which paragraph (2) refers where the order has already been taken into account by the Royal Court in deciding for the purposes of –
  - (a)
  - (b) Article 4 of the 1999 Law,  
as the case may be, the amount which might be realized.<sup>74</sup>
- (4) If, in a case in which the court is proceeding under the 1999 Law, an order has been made against the respondent in respect of the offence concerned (or any of the offences concerned) under Article 2 of the [Criminal Justice \(Compensation Orders\) \(Jersey\) Law 1994](#) –
  - (a) the court shall have regard to the order; and

- (b) Article 3(7) of the 1999 Law shall not apply.
- (5) <sup>75</sup>
- (6) In a case in which the court is proceeding under the 1999 Law, in Article 5(5) of that Law –
- (a) the assumptions in sub-paragraph (a) of that paragraph do not apply with regard to property first held by the respondent on or after the relevant date;
  - (b) the assumption in sub-paragraph (b) of that paragraph does not apply with regard to expenditure incurred by the respondent on or after that date; and
  - (c) the assumption in sub-paragraph (c) of that paragraph does not apply with regard to property received (or assumed to have been received) by the respondent on or after that date.
- (7) In this Article –
- “court” means –
- (a) the Court of Appeal, if that court is itself proceeding under paragraphs (3) to (8) (inclusive) of Article 3 of the 1999 Law pursuant to Article 45E(2)(a); or
  - (b) the Royal Court, if that court is proceeding afresh that Article, on the direction of the Court of Appeal pursuant to Article 45E(2)(b);
- “relevant date” means the date on which the Royal Court decided not to make a confiscation order.<sup>76</sup>

#### **46 Right of person to be present<sup>77</sup>**

- (1) Notwithstanding that he or she is in custody –
- (a) a person whose sentencing is the subject of a reference to the Court of Appeal under Article 45A; or
  - (b) a respondent in an appeal under Article 45D,
- shall be entitled to be present (if he or she desires it) on the hearing of the matter.
- (2) However, paragraph (1) is subject to paragraphs (3) and (4).
- (3) A person in custody shall not be entitled to be present on any proceedings preliminary or incidental to a reference under Article 45A or to an appeal under Article 45D, unless the Court of Appeal gives the person leave to be present.
- (4) The power of the Court of Appeal to pass sentence on a person under Article 45B or to make any order under Article 45E may be exercised although he or she is not present.

#### **46A Time for proceedings under Part 4<sup>78</sup>**

- (1) Notice of –
- (a) a reference to the Court of Appeal under Article 45;
  - (b) an application for leave to refer a case to the Court of Appeal under Article 45A; or
  - (c) an application for leave to appeal to the Court of Appeal under Article 45D,

shall be given within 28 days from the day on which the sentence or the last of the sentences in the case was passed.

- (2) The time during which notice of –
- (a) a reference; or
  - (b) an application for leave to refer a case or for leave to appeal,
- may be given may be extended at any time by the Court of Appeal.

#### **46B Duties of Judicial Greffier under Part 4<sup>79</sup>**

If the Judicial Greffier is given notice of a reference under Article 45, an application or reference under Article 45A or an application or appeal under Article 45D, he or she shall –

- (a) take all necessary steps for obtaining a hearing of the matter; and
- (b) obtain and lay before the Court in proper form all documents, exhibits and other things which appear necessary for the proper determination of the matter.

#### **46C Powers under Part 4 which may be exercised by a single judge<sup>80</sup>**

- (1) In respect of any application, reference or appeal under this Part –
- (a) the power of the Court of Appeal to give leave to refer a case to it or to appeal to it;
  - (b) the power of the Court under Article 46 to give leave to a person to be present at any proceedings in any case where the person is not entitled to be present without leave;
  - (c) the power of the Court under Article 46A(2) to extend the time for giving notice; and
  - (d) such other powers to determine matters preliminary or incidental to the reference as may be prescribed,

may be exercised by any single judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions.

- (2) If the single judge refuses an application to exercise any power to which paragraph (1) refers, the applicant shall be entitled to have the application determined by the Court of Appeal as duly constituted for the hearing and determining of references under either of Articles 45 and 45A or appeals under Article 45D.

#### **46D Supplementary provisions as to Part 4<sup>81</sup>**

In respect of any application, reference or appeal under this Part –

- (a) Article 29 shall apply to any judgment of the Court of Appeal as that Article applies to a judgment of the Court under Part 3;
- (b) the Court of Appeal shall, for the purposes of and subject to the provisions of this Part, have the same powers as are conferred on it by Article 30 for the purposes of Part 3;

- (c) subject to the provisions of this Part, Article 30A shall apply to any order made by the Court of Appeal as it applies under Part 3 to an order made by it on any appeal;
- (d) Article 33 shall apply as it applies under Part 3 to an appeal and an application for leave to appeal;
- (e) the Court of Appeal shall for the purposes of this Part have the same powers as are conferred on it by Article 34 for the purposes of Part 3;
- (f) Article 35 shall apply to an acquitted person to whom Article 45 refers and to a person to whom Article 45A(1) refers as it applies to an appellant under Part 3; and
- (g) Article 40 shall apply as it applies in relation to appeals under Part 3 to the Court of Appeal and as it applies to appeals generally under that Part.

#### **46E Interpretation of Part 4<sup>82</sup>**

- (1) In this Part –
  - “1999 Law” means the [Proceeds of Crime \(Jersey\) Law 1999](#);
  - “respondent” means a person in whose case the making, or not making, of a confiscation order is the subject of an appeal under Article 45D.<sup>83</sup>
- (2) Expressions which –
  - (a) are used in this Part; and
  - (b) are also used in Part 3,shall have the same respective meanings as they have in Part 3.
- (3) Notwithstanding Articles 45A and 45D, where the person to whose sentencing either of those Articles refers was –
  - (a) convicted and sentenced by the Inferior Number of the Royal Court; or
  - (b) sentenced by that court in pursuance of powers conferred by any enactment mentioned in Article 25,the reference under Article 45A or the appeal under Article 45D (as the case may be) shall lie to the Superior Number of the Royal Court and accordingly, in relation to such a matter, references in this Part (other than Article 46D(a)) to the Court of Appeal shall, unless the context otherwise requires, be construed as references to the Superior Number of the Royal Court.

## **PART 5**

### **GENERAL**

#### **47 Application of Subordinate Legislation Law**

The [Subordinate Legislation \(Jersey\) Law 1960](#), shall apply to Rules of Court made under this Law.

**48 Saving**

Save as provided by Article 14, nothing in this Law shall affect the prerogative of Her Majesty or the jurisdiction of Her Majesty in Council.

**49 Interpretation**

In this Law, unless the context otherwise requires –

“judgment” includes decree;

“matter” includes *ex parte* proceedings;

“party” includes every person served with notice of or attending any proceedings;

“prescribed” means prescribed by rules of court;

“rules of court” includes forms.

**50 Citation**

This Law may be cited as the Court of Appeal (Jersey) Law 1961.

**SCHEDULE 1**

(Article 5)

**FORM OF OATH TO BE TAKEN BY JUDGES OF COURT OF APPEAL**

“Vous jurez et promettez par la foi et serment que vous devez à Dieu que bien et fidèlement vous exercerez la charge de Juge de la Cour d’Appel du Bailliage de Jersey; que vous soutiendrez et maintiendrez l’honneur et gloire de Dieu, et de sa pure parole; que vous conserverez et garderez les droits de Sa Majesté notre Souveraine Dame Elizabeth Deux, par la Grâce de Dieu Reine du Royaume-Uni de la Grande Bretagne et de l’Irlande du Nord et de ses autres Royaumes et Territoires, Chef du Commonwealth, Défenseur de la Foi, et qu’à Sa dite Majesté vous serez vrai et loyal sujet; que vous maintiendrez, soutiendrez et défendrez tous les lois, libertés, usages et anciennes coutumes dudit Bailliage, vous opposant à quiconque les voudrait enfreindre; et que vous administrerez bonne et brève justice à un chacun, sans acception de personne”.

**SCHEDULE 2<sup>84</sup>**

(Article 28(5))

**POWERS, PROCEDURE ETC. UPON RETRIAL**

- 1** Evidence given at a retrial must be given orally if it was given orally at the original trial, unless –
  - (a) all the parties to the retrial agree otherwise;
  - (b) Article 65 of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) (“Police Procedures Law”) applies; or
  - (c) the witness is unavailable to give evidence (otherwise than by reason of any of the 5 conditions in Article 65(2) of the Police Procedures Law being satisfied) and Article 64(1)(d) of that Law applies.
- 2** Where a person ordered to be retried is again convicted on retrial, the Royal Court may pass in respect of the offence any sentence authorized by law, not being a sentence of greater severity than that passed on the original conviction.
- 3** Without prejudice to its power to impose any other sentence, the Royal Court may pass in respect of the offence any sentence passed in respect of that offence on the original conviction notwithstanding that, on the date of the conviction on retrial, the offender has ceased to be of an age at which such a sentence could otherwise be passed.
- 4**
  - (1) Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when a like sentence passed at the original trial would have begun to run; but in computing the term of the person’s sentence or the period for which he or she may be detained thereunder, as the case may be, there shall be disregarded –
    - (a) any time before the person’s conviction on retrial which would have been disregarded in computing that term or period if the sentence had been passed at the original trial and the original conviction had not been quashed; and
    - (b) any time during which the person was released on bail under Article 28(3)
  - (2) The Criminal Proceedings (Computation of Sentences) (Jersey) Rules 1968 shall apply to any sentence imposed on conviction on retrial as if it had been imposed on the original conviction.
- 5** Where a person ordered to be retried is acquitted at his or her retrial, the costs which may be ordered to be paid out of public funds under the [Costs in Criminal Cases \(Jersey\) Law 1961](#), shall include –
  - (a) any costs which, at the original trial or prosecution, could have been ordered to be so paid under Article 2 of that Law if the person had been acquitted; and

- (b) if no order was made under Article 3 of that Law in respect of the person's expenses on appeal, any sums for the payment of which such an order could have been made.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Court of Appeal (Jersey) Law 1961	<a href="#">L.17/1961</a>	15 June 1964 ( <a href="#">R&amp;O.4531</a> )	
Court of Appeal (Amendment) (Jersey) Law 1976	<a href="#">L.20/1976</a>	12 November 1976	
Court of Appeal (Amendment No. 2) (Jersey) Law 1976	<a href="#">L.1/1977</a>	7 January 1977	
Court of Appeal (Amendment No. 3) (Jersey) Law 1985	<a href="#">L.6/1985</a>	1 March 1985	
<a href="#">Criminal Justice (Probation Orders) (Jersey) Law 1986</a>	<a href="#">L.12/1986</a>	4 July 1986	
Court of Appeal (Amendment No. 4) (Jersey) Law 1989	<a href="#">L.12/1989</a>	1 September 1989	
Court of Appeal (Amendment No. 5) (Jersey) Law 1991	<a href="#">L.27/1991</a>	4 October 1991	
Court of Appeal (Amendment No. 6) (Jersey) Law 1993	<a href="#">L.13/1993</a>	1 June 1994 ( <a href="#">R&amp;O.8681</a> )	
Court of Appeal (Amendment No. 7) (Jersey) Law 1998	<a href="#">L.41/1998</a>	18 December 1998	<a href="#">P.113/1998</a>
<a href="#">Criminal Justice (Community Service Orders) (Jersey) Law 2001</a>	<a href="#">L.8/2001</a>	1 June 2001 ( <a href="#">R&amp;O.78/2001</a> )	<a href="#">P.141/2000</a>
Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment) (Jersey) Law 2005	<a href="#">L.11/2005</a>	12 July 2005 ( <a href="#">R&amp;O.63/2005</a> )	<a href="#">P.80/2005</a>
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	<a href="#">R&amp;O.126/2005</a>	9 December 2005	<a href="#">P.203/2005</a>
Criminal Justice (Miscellaneous Provisions) (No. 2) (Jersey) Law 2007	<a href="#">L.34/2007</a>	2 November 2007	<a href="#">P.56/2007</a>
Court of Appeal (Amendment No. 8) (Jersey) Law 2008	<a href="#">L.25/2008</a>	3 August 2009 ( <a href="#">R&amp;O.63/2009</a> )	<a href="#">P.190/2007</a>
Civil Partnership (Consequential Amendments) (Jersey) Regulations 2012	<a href="#">R&amp;O.47/2012</a>	2 April 2012	<a href="#">P.12/2012</a>
<a href="#">Proceeds of Crime and Terrorism (Miscellaneous Provisions) (Jersey) Law 2014</a>	<a href="#">L.7/2014</a>	4 August 2014 ( <a href="#">R&amp;O.102/2014</a> )	<a href="#">P.163/2013</a>
<a href="#">Criminal Justice (Life Sentences) (Jersey) Law 2014</a>	<a href="#">L.26/2014</a>	24 October 2014	<a href="#">P.113/2014</a>

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018	<a href="#">R&amp;O.49/2018</a>	1 October 2018 ( <a href="#">R&amp;O.51/2018</a> )	<a href="#">P.48/2018</a>
<a href="#">Criminal Procedure (Jersey) Law 2018</a>	<a href="#">L.25/2018</a>	31 October 2019 ( <a href="#">R&amp;O.110/2019</a> )	<a href="#">P.118/2017</a>

◦Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

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### Table of Endnote References

<sup>1</sup> Article 1	<i>amended by L.25/2018</i>
<sup>2</sup> Article 1A	<i>inserted by L.25/2018</i>
<sup>3</sup> Article 5	<i>amended by L.41/1998</i>
<sup>4</sup> Article 6(1)	<i>amended by L.27/1991, L.25/2008</i>
<sup>5</sup> Article 6(2)	<i>repealed by R&amp;O.126/2005</i>
<sup>6</sup> Article 6(3)	<i>deleted by L.25/2008</i>
<sup>7</sup> Article 8(1)	<i>amended by L.25/2008, L.25/2018</i>
<sup>8</sup> Article 8(2)	<i>amended by L.25/2008, L.25/2018</i>
<sup>9</sup> Article 8(3)	<i>substituted by L.25/2018</i>
<sup>10</sup> Article 9(1)	<i>substituted by L.25/2008</i>
<sup>11</sup> Article 9(1A)	<i>inserted by L.25/2008</i>
<sup>12</sup> Article 9(1B)	<i>inserted by L.25/2008, amended by L.25/2018</i>
<sup>13</sup> Article 9(2)	<i>substituted by L.25/2008</i>
<sup>14</sup> Article 9(3)	<i>substituted by L.25/2008</i>
<sup>15</sup> Article 12(1)	<i>repealed by L.25/2008</i>
<sup>16</sup> Article 12(2)	<i>substituted by L.25/2008</i>
<sup>17</sup> Article 12(3)	<i>amended by L.25/2008</i>
<sup>18</sup> Article 13	<i>amended by L.13/1993; renumbered as paragraph (1) by L.25/2008</i>
<sup>19</sup> Article 13(1)	<i>amended by L.25/2008, R&amp;O.47/2012</i>
<sup>20</sup> Article 13(2)	<i>inserted by L.25/2008</i>
<sup>21</sup> Article 13(3)	<i>inserted by L.25/2008</i>
<sup>22</sup> Article 13(4)	<i>inserted by L.25/2008</i>
<sup>23</sup> Article 14	<i>substituted by L.25/2008;</i>
<sup>24</sup> Article 15	<i>amended by L.25/2008</i>
<sup>25</sup> Article 18(3)	<i>inserted by L.25/2008</i>
<sup>26</sup> Article 19	<i>heading amended by L.25/2008</i>
<sup>27</sup> Article 23	<i>amended by L.20/1976, L.6/1985, L.25/2008</i>
<sup>28</sup> Article 24(1)	<i>amended by L.6/1985, L.8/2001, L.25/2008</i>
<sup>29</sup> Article 24(2)	<i>inserted by L.11/2005, amended by L.26/2014</i>
<sup>30</sup> Article 24(3)	<i>repealed by L.25/2008;</i>
<sup>31</sup> Article 25	<i>inserted by L.12/1986, substituted by L.8/2001</i>
<sup>32</sup> Article 26(1)	<i>amended by L.41/1998</i>
<sup>33</sup> Article 26(2)	<i>amended by L.41/1998</i>
<sup>34</sup> Article 27(3)	<i>amended by R&amp;O.49/2018</i>
<sup>35</sup> Article 28	<i>inserted by L.41/1998</i>
<sup>36</sup> Article 28(4)	<i>amended by R&amp;O.49/2018</i>
<sup>37</sup> Article 30A	<i>inserted by L.25/2008</i>
<sup>38</sup> Article 32(1)	<i>substituted by L.25/2008</i>
<sup>39</sup> Article 32(1A)	<i>inserted by L.25/2008</i>
<sup>40</sup> Article 32(1B)	<i>inserted by L.25/2008</i>
<sup>41</sup> Article 32(3)	<i>amended by L.25/2008</i>
<sup>42</sup> Article 32(4)	<i>repealed by L.34/2007</i>

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- <sup>43</sup> *Article 33* substituted by L.25/2008
- <sup>44</sup> *Article 34* amended by R&O.47/2012
- <sup>45</sup> *Article 36(1)* substituted by L.25/2008
- <sup>46</sup> *Article 36(1A)* inserted by L.25/2008
- <sup>47</sup> *Article 37* heading amended by L.25/2008
- <sup>48</sup> *Article 37(2)* substituted by L.25/2008
- <sup>49</sup> *Article 37(2A)* inserted by L.25/2008
- <sup>50</sup> *Article 37(4)* repealed by L.25/2008
- <sup>51</sup> *Article 37A* inserted by L.25/2008
- <sup>52</sup> *Article 39* heading amended by L.25/2008
- <sup>53</sup> *Article 40* heading amended by L.25/2008
- <sup>54</sup> *Article 40(1)* amended by L.25/2008
- <sup>55</sup> *Article 41* heading amended by L.25/2008
- <sup>56</sup> *Article 41* amended by L.25/2008
- <sup>57</sup> *Article 42(4)* amended by L.25/2008
- <sup>58</sup> *Article 42(6)* inserted by L.25/2008
- <sup>59</sup> *Article 43* amended by L.25/2008
- <sup>60</sup> *Article 44(1)* substituted by L.25/2008, amended by L.7/2014
- <sup>61</sup> *Part 4* inserted by L.12/1989
- <sup>62</sup> *Part 4* heading substituted by L.25/2008
- <sup>63</sup> *Article 45* inserted by L.12/1989
- <sup>64</sup> *Article 45(3)* amended by L.25/2008
- <sup>65</sup> *Article 45A* inserted by L.25/2008
- <sup>66</sup> *Article 45B* inserted by L.25/2008
- <sup>67</sup> *Article 45C* inserted by L.25/2008
- <sup>68</sup> *Article 45D* inserted by L.25/2008
- <sup>69</sup> *Article 45D(4)* amended by L.7/2014
- <sup>70</sup> *Article 45E* inserted by L.25/2008
- <sup>71</sup> *Article 45E(2)* amended by L.7/2014
- <sup>72</sup> *Article 45F* inserted by L.25/2008
- <sup>73</sup> *Article 45F(2)* amended by L.7/2014
- <sup>74</sup> *Article 45F(3)* amended by L.7/2014
- <sup>75</sup> *Article 45F(5)* revoked by L.7/2014
- <sup>76</sup> *Article 45F(7)* amended by L.7/2014
- <sup>77</sup> *Article 46* substituted by L.25/2008
- <sup>78</sup> *Article 46A* inserted by L.25/2008
- <sup>79</sup> *Article 46B* inserted by L.25/2008
- <sup>80</sup> *Article 46C* inserted by L.25/2008
- <sup>81</sup> *Article 46D* inserted by L.25/2008
- <sup>82</sup> *Article 46E* inserted by L.25/2008
- <sup>83</sup> *Article 46E(1)* amended by L.7/2014
- <sup>84</sup> *Schedule 2* inserted by L.41/1998, amended by L.25/2018