



Jersey

# **CRIMINAL JUSTICE (YOUNG OFFENDERS) (JERSEY) LAW 2014**

## **Official Consolidated Version**

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Jersey

## CRIMINAL JUSTICE (YOUNG OFFENDERS) (JERSEY) LAW 2014

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## CRIMINAL JUSTICE (YOUNG OFFENDERS) (JERSEY) LAW 2014

A **LAW** to replace the Criminal Justice (Young Offenders) (Jersey) Law 1994 and to make provision for the establishment of a Placement Panel in relation to the detention of persons under 18 years and for connected purposes.<sup>1</sup>

Commencement [[see endnotes](#)]

### PART 1

#### OPENING

#### 1 Interpretation

- (1) In this Law, unless the context otherwise requires –
- “appropriate place of custody” means –
    - (a) secure accommodation in the case of a child or young person; or
    - (b) in the case of a male young person only, a young offender institution, as determined by the Panel in exercise of its functions under Article 18;
  - “child” means a person who has attained the age of 10 years and has not attained the age of 15 years;
  - “community service order” means an order made under the [Criminal Justice \(Community Service Orders\) \(Jersey\) Law 2001](#);
  - “Criminal Procedure Law” means the [Criminal Procedure \(Jersey\) Law 2018](#);
  - “Governor” has the same meaning as in the [Prison \(Jersey\) Law 1957](#);
  - “guardian” includes a person who, in the opinion of the court hearing the case in which a person under the age of 18 years is concerned, has for the time being care of that person;
  - “Minister” means the Minister for Justice and Home Affairs;
  - “Panel” means the Placement Panel for children and young persons established under Article 17;
  - “prison” or “the prison” means –
    - (a) the States of Jersey Prison at La Moye, excluding such part that is a young offender institution;
    - (b) any other prison which may be built in Jersey; or

(c) any building or part of a building designated to be a prison under Article 19(2) of the [Prison \(Jersey\) Law 1957](#);

“Probation Law” means the [Loi \(1937\) sur l’atténuation des peines et sur la mise en liberté surveillée](#);

“probation officer” means a *délégué* appointed under Article 7 of the Probation Law;

“probation order” means an order made under the Probation Law;

“remand” refers to detaining a child, young person or young adult in custody pursuant to –

(a) a court order; or

(b) a warrant issued by the Bailiff or a Jurat,

where such child, young person or young adult has not been convicted of an offence or who, having been convicted, has not been sentenced;

“secure accommodation” has the same meaning as in Article 1 of the [Children \(Jersey\) Law 2002](#);

“young adult” means a person who has attained the age of 18 years and has not attained the age of 21 years;

“young offender institution” means such part of the States of Jersey Prison at La Moye that is a young offender institution provided by the Minister under Article 27 of the [Prison \(Jersey\) Law 1957](#) or any other building or part of a building that is so provided;

“young person” means a person who has attained the age of 15 years and has not attained the age of 18 years;

“Youth Court” means the Court continued under Article 24; and

“youth detention” means any sentence of detention imposed under this Law on a child, young person or young adult following conviction.<sup>2</sup>

(2) The States may by Regulations amend any definition in paragraph (1).<sup>3</sup>

## PART 2

### PERSONS UNDER 21 – CRIMINAL RESPONSIBILITY, SENTENCING AND CUSTODY

#### 2 Age of criminal responsibility

It shall be conclusively presumed that no person under the age of 10 years can be guilty of an offence.

#### 3 Prohibition on sentences of imprisonment for children, young persons and young adults

- (1) No court shall pass a sentence of imprisonment on a person under the age of 21 years.
- (2) Nothing in paragraph (1) precludes a person under the age of 21 years serving the whole or part of a sentence of youth detention in a prison in accordance with the provisions of this Law.

#### **4 Sentences of youth detention<sup>4</sup>**

- (1) Subject to Article 5 and to the following provisions of this Article, where a person who is a child, young person or young adult is convicted of an offence which is, in the case of a person aged 21 years or over, punishable with imprisonment, the court may pass a sentence of youth detention.<sup>5</sup>
- (1A) Where a child is convicted of an offence, the court shall not impose a sentence of youth detention on him or her except where Article 5 applies.<sup>6</sup>
- (2) A court shall not pass a sentence of youth detention unless –
  - (a) Article 5 applies; or
  - (b) where Article 5 does not apply, it considers that no other method of dealing with the person is appropriate because it appears to the court that –
    - (i) the person has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to them,
    - (ii) only a custodial sentence would be adequate to protect the public from serious harm from the person, or
    - (iii) the offence or the totality of the offending is otherwise so serious that a non-custodial sentence cannot be justified.<sup>7</sup>
- (2A) The court shall state in open court its reasons for imposing a sentence of youth detention and shall explain to the person that on the person's release the person may be subject to a period of supervision in accordance with Article 9.<sup>8</sup>
- (3) Subject to paragraph (6), the maximum term of a sentence of youth detention that a court may impose is the same as the maximum term of imprisonment (including a maximum term of imprisonment for life) which a court could impose on a person aged 21 years or over for the same offence.
- (4) A court may pass consecutive sentences of youth detention in the same way as consecutive sentences of imprisonment.
- (5) Where an offender serving a sentence of youth detention is aged 21 years or over and is convicted of one or more further offences for which the offender is liable to imprisonment, the court may pass one or more sentences of imprisonment to run consecutively to the sentence of youth detention.
- (6) Notwithstanding paragraphs (3), (4) and (5), but subject to Articles 4A and 5, a court shall not pass on any one occasion a sentence or sentences on a young person the effect of which would be that the offender would on that occasion be sentenced to a term of youth detention exceeding 12 months and so much of any such term for which an offender is sentenced as exceeds 12 months shall be treated as remitted.<sup>9</sup>

#### **4A Sentence of youth detention for driving offences**

Where a young person who has attained the age of 17 years is convicted of an offence under the [Road Traffic \(Jersey\) Law 1956](#) or the [Motor Traffic \(Third-Party Insurance\) \(Jersey\) Law 1948](#), a court shall take no account of Article 4(6) when passing a sentence of youth detention in relation to that offence.<sup>10</sup>

## **5 Youth detention for offences where life sentence fixed by law and for other serious offences<sup>11</sup>**

- (1) Where a child, young person or young adult is convicted of murder or any other offence for which the sentence is fixed by law as imprisonment for life, the court shall sentence the person –
  - (a) to custody for life if it appears to the court that, at the time the offence was committed, the person was a young adult; or
  - (b) to be detained during her Majesty's pleasure if it appears to the court that, at the time the offence was committed, the person was a child or young person.<sup>12</sup>
- (2) <sup>13</sup>
- (3) Where –
  - (a) a child or young person is convicted of any offence that is punishable, in the case of a person aged 21 years or over, with imprisonment for 14 years or more;
  - (b) the offence is not an offence for which the sentence is fixed by law; and
  - (c) the court is of the opinion that none of the other methods in which the case may legally be dealt with is suitable,the court may sentence the offender to be detained for such period, not exceeding the maximum term of imprisonment for which the offence is punishable in the case of a person aged 21 years or over, as may be specified in the sentence.<sup>14</sup>
- (4) <sup>15</sup>

## **6 Sentence of youth detention for default**

- (1) Where in the case of a person aged 21 years or over a court could –
  - (a) fix a term of imprisonment in the event of default of payment of a fine, a compensation order or a sum due under a recognizance;
  - (b) commit the person to prison as the result of such default;
  - (c) commit the person to prison for contempt of court or any kindred offence,the court may, in the case of a person who has attained the age of 17 years but is under the age of 21 years, sentence the person to youth detention for a term not exceeding the term of imprisonment.
- (2) A court shall not sentence a person to youth detention under paragraph (1) unless it is of the opinion that no other method of dealing with the person is appropriate and it states its reasons in open court.
- (3) Articles 4, 5 and 6 of the [Criminal Justice \(Jersey\) Law 1957](#) and Articles 3 and 5 of the [Criminal Justice \(Compensation Orders\) \(Jersey\) Law 1994](#) shall apply as if –
  - (a) references to imprisonment were references to youth detention under this Article;
  - (b) in the case of a young person or young adult detained in a young offender institution, references to the Articles to the prison were construed to refer to the young offender institution; and
  - (c) in the case of a young person detained in secure accommodation, references to the prison were to that secure accommodation and references to the prison

governor were to the person in charge of managing the secure accommodation.

- (4) Notwithstanding anything in Article 5 of the [Criminal Justice \(Jersey\) Law 1957](#) or Article 5 of the [Criminal Justice \(Compensation Orders\) \(Jersey\) Law 1994](#), where a court has made an order under either Article 4 of the [Criminal Justice \(Jersey\) Law 1957](#) or, as the case may be, Article 3 of the [Criminal Justice \(Compensation Orders\) \(Jersey\) Law 1994](#), in respect of a person under the age of 21 years and that person is in default of that order, the officer responsible for the recovery of the fine or the sum due under the recognizance shall bring the person before the court which made the order and the court, after making such enquiry into the reasons for the default as appears to it to be requisite may, either –
- (a) order that the person shall forthwith serve the sentence of youth detention for the term which has been fixed previously; or
  - (b) make such other order with respect to the person as appears to be just.

## **7 Place of custody for children, young persons and young adults sentenced to youth detention<sup>16</sup>**

- (1) Where a court orders a young adult to be sentenced to youth detention, the court shall order the person to be detained –
- (a) in the case of a male young adult, in a young offender institution; or
  - (b) in the case of a female young adult, the prison.
- (2) Where a court orders a child or young person to be sentenced to youth detention, the court shall order the person to be detained in an appropriate place of custody.<sup>17</sup>
- (3) If a child or young person is required to be detained in an appropriate place of custody before a decision can be taken by the Panel determining the appropriate place of custody, the child or the young person shall, pending such decision, be remanded to secure accommodation unless, in the opinion of the court, having regard to all the relevant circumstances at the time –
- (a) in the case of a male young person, a young offender institution is considered to be more suitable for meeting his particular needs, including where no accommodation, or no suitable accommodation, is available in secure accommodation for him; or
  - (b) in the case of a female young person, the prison is considered to be more suitable for meeting her particular needs, including where no accommodation, or no suitable accommodation, is available in secure accommodation for her.<sup>18</sup>
- (4) Without prejudice to the exercise of powers under Article 10 in relation to a young person, the Panel shall determine the appropriate place of custody for a child or young person who is detained in accordance with paragraph (3) as soon as reasonably practicable and, in any event, within 72 hours or such other period as the Minister may specify by Order, from the time the child or young person is detained.<sup>19</sup>
- (5) Nothing in this Article affects the powers of the Secretary of State under Schedule 1 to the Crime (Sentences) Act 1997 of the United Kingdom.<sup>20</sup>



## **8 Matters affecting a court's power to pass a sentence of youth detention**

- (1) For the purpose of determining whether there is an appropriate method of dealing with an offender other than by passing a sentence of youth detention the court shall obtain and consider information about the circumstances and shall take into account information before the court which is relevant to the offender's character and physical and mental condition, and in particular the court shall, unless it considers it unnecessary to do so in a particular case, obtain a report on the offender from a probation officer.
- (2) If the Youth Court or the Magistrate's Court imposes a sentence of youth detention without having obtained a report from a probation officer it shall state in open court the reasons why it considered the report unnecessary.

## **9 Supervision of young offenders after release from youth detention**

- (1) Where a person who has been sentenced to a term of youth detention of 4 months or more is released from custody the person shall on being so released be under the supervision of a probation officer.
- (2) The period of supervision under paragraph (1) shall end with –
  - (a) the date on which the person would have been released from custody if the person had not been granted remission under the [Prison \(Jersey\) Law 1957](#); or
  - (b) the person's 22nd birthday,whichever is sooner, but in any event shall not extend more than 12 months from the date of the person's release.
- (3) While a person is under supervision the person shall comply with such written requirements as the Minister, after consultation with that person's supervisor, shall notify to the person.
- (4) The Minister may, after consulting with the person's supervisor, at any time modify or cancel any of the requirements notified in accordance with paragraph (3) and shall give written notice to the person under supervision of any such cancellation or modification.
- (5) If a person who is subject to supervision under this Article fails without reasonable excuse to comply with any requirement or modified requirement notified to the person under paragraph (3) or (4) the person shall be guilty of an offence and liable to –
  - (a) a fine of level 2 on the standard scale; or
  - (b) except in the case of a child, an appropriate custodial sentence for a period of 30 days.<sup>21</sup>
- (6) In paragraph (5) "appropriate custodial sentence" means a sentence –
  - (a) of imprisonment if the offender is aged 21 years or over when the offender is sentenced; or
  - (b) of youth detention in –
    - (i) an appropriate place of custody in the case of an offender who is a young person when sentenced,
    - (ii) a young offender institution in the case of an offender who is a male young adult when sentenced, or

- (iii) the prison in the case of an offender who is a female young adult when sentenced.
- (7) A person released from a custodial sentence passed under paragraph (5) shall not be liable to a period of supervision in consequence of the person's conviction under that paragraph.
- (8) A person's conviction under paragraph (5) shall not affect any liability to supervision to which the person was previously subject, and that liability shall accordingly continue until the end of the relevant period.

## **10 Power of Governor to move young adults and young persons in certain circumstances**

- (1) The Governor may require a person who is a male young adult remanded in custody or serving a sentence of youth detention to be moved to the prison, either for a fixed term or for the remaining part of the person's sentence or for the period of the person's remand if the Governor is of the opinion that –
  - (a) by reason of that person's behaviour it is not in the person's interests or the interests of other persons detained in the same young offender institution as him, to detain him in such an institution; or
  - (b) having regard to all relevant circumstances, the prison better meets the needs of the particular person.
- (2) The Governor's powers under paragraph (1) shall be exercised after consultation with the Panel in respect of a male person who has attained the age of 18 years whilst on remand in custody or serving a sentence of youth detention.
- (3) The Governor, with the agreement of the Panel and after the giving of written reasons, may require a female young person remanded in custody or serving a sentence of youth detention to be moved to the prison if the Panel is of the opinion that –
  - (a) by reason of the person's behaviour it is not in the person's interests or the interests of the other persons detained in the same secure accommodation as her to detain her in such accommodation; or
  - (b) having regard to all the relevant circumstances, the prison is more suitable for meeting her particular needs, including where no accommodation, or no suitable accommodation, is available in secure accommodation for her.
- (4) In cases of urgency, a female young person may be moved under paragraph (3) before the agreement of the Panel or its opinion has been obtained or written reasons given, but the Panel's opinion must be obtained and written reasons for the move must be given as soon as possible after the move has taken place.
- (5) The Governor may, if he or she considers it necessary in all the circumstances of the case, require a young adult or young person who is required to be detained in the prison or a young offender institution under this Law to be moved to a prison medical facility or to a hospital for medical treatment.
- (6) Where a person is transferred under this Article, the person shall be in lawful custody during the period of the transfer and the period of transfer shall be treated, where applicable, for all purposes as a part of the person's sentence.

**11 Attendance at court of parents of child or young person brought before court**

- (1) Where a child or young person is charged with an offence or is for any other reason brought before a court, a person who is a parent or guardian of that person and who is resident in Jersey shall, and if not so resident may be required by the Court, to attend at the court before which the case is held or determined during all the stages of the proceedings.
- (2) Paragraph (1) does not apply if the court is satisfied that it would be unreasonable to require the parent or guardian's attendance or that the parent or guardian's attendance at any stage of the proceedings is unnecessary.
- (3) In relation to a person –
  - (a) for whom the Minister for Children and Education has parental responsibility; or
  - (b) whom that Minister is looking after (within the meaning of Article 1A(a) or (b) of the [Children \(Jersey\) Law 2002](#)),the reference in paragraphs (1) and (2) to a person who is a parent or guardian of that person shall be construed as a reference to an officer of an administration of the States for which that Minister has responsibility.<sup>22</sup>
- (4) Where a child or young person is apprehended, such steps shall be taken as may be practicable to inform at least one person whose attendance is, or may be, required under this Article of that fact and of the place and time at which the person's attendance at the court is or may be required.

**12 Power to order parent or guardian to pay fine, etc.**

- (1) Where a child or young person is charged with an offence for the commission of which a fine or costs may be imposed, if the court is of the opinion that the case would be best met by the imposition of a fine or costs, whether with or without any other punishment, the court may, and shall if the offender is a child, order that the fine or costs awarded be paid by a parent or guardian of the offender instead of by the offender, unless the court is satisfied –
  - (a) that no parent or guardian can be found; or
  - (b) that it would be unreasonable to make such an order having regard to the circumstances of the case.
- (2) In the case of a child or young person charged with an offence, the court may order a parent of the person or the person's guardian to give security for the person's good behaviour.
- (3) An order under this Article may be made against a parent or guardian who, having been required to attend, has failed to do so, but except in that case, no such order shall be made without giving the parent or guardian an opportunity of being heard.
- (4) Sums ordered to be paid by a parent or guardian, either under this Article or on forfeiture of security for good behaviour, may be recovered from the parent or guardian and shall be disposed of as if the order had been made on the conviction of the parent or guardian of the offence with which the offender was charged.
- (5) A parent or guardian may appeal against an order under this Article as if the parent or guardian had been convicted of the offence with which the offender was charged.

**13** <sup>23</sup>**14 Determination of age**

For the purposes of this Law, the age of a person shall be deemed to be or to have been that which appears to the court, after receiving any available evidence, to be or to have been the person's age at the material time.

**15 Saving with regard to court proceedings involving children**

Nothing in this Law shall derogate from the provisions of Articles 4 to 8 of the [Criminal Justice \(Evidence of Children\) \(Jersey\) Law 2002](#) and Article 73 of the [Children \(Jersey\) Law 2002](#).

**PART 3****REMAND****16 Remand of children, young persons and young adults**

- (1) This Article applies to a person who is a child, young person or young adult.
- (2) Where a person to whom this Article applies is lawfully remanded in custody, the person must be remanded to –
  - (a) <sup>24</sup>
  - (b) subject to paragraph (3), an appropriate place of custody if the person is a child or young person;
  - (c) a young offender institution if the person is a male young adult; or
  - (d) the prison if the person is a female young adult.<sup>25</sup>
- (3) If a child or young person is required to be remanded in custody before a decision can be taken by the Panel determining an appropriate place of custody, the child or young person shall, pending such decision, be remanded to secure accommodation unless, in the opinion of the court or person who orders the person to be remanded in custody, having regard to all the relevant circumstances at the time –
  - (a) in the case of a male young person, a young offender institution is considered to be more suitable for meeting his particular needs, including where no accommodation, or no suitable accommodation, is available in secure accommodation for him; or
  - (b) in the case of a female young person, the prison is considered to be more suitable for meeting her particular needs, including where no accommodation, or no suitable accommodation, is available in secure accommodation for her.<sup>26</sup>
- (4) Without prejudice to the exercise of powers under Article 10 in relation to a young person, the Panel shall determine the appropriate place of custody for a child or young person who is remanded in accordance with paragraph (3) as soon as reasonably practicable and, in any event, within 72 hours or such other period as the Minister may specify by Order, from the time the child or young person is remanded.<sup>27</sup>

- (5) A place to which a person is remanded under paragraph (2) or (3) is referred to in this Article as a “place of custody”.
- (6) A person to whom this Article applies who is being detained for the purposes of, or whilst, being conveyed to a place of custody, shall be deemed to be in lawful custody.
- (7) A person who –
  - (a) knowingly assists or induces a person to whom this Article applies to escape from a place of custody;
  - (b) without lawful authority takes a person to whom this Article applies away from a place of custody; or
  - (c) knowingly harbours or conceals a person to whom this Article applies who has so escaped or been taken away, or prevents the person from returning to a place of custody,shall be guilty of an offence and liable to a fine and imprisonment for a term of 2 years.
- (8) The Bailiff or a Jurat may issue a warrant remanding in custody a person to whom this Article applies and a person who is so remanded, or a person to whom this Article applies who is remanded in custody pursuant to a court order, is a person lawfully remanded in custody for the purposes of this Article.

## PART 4

### PLACEMENT PANEL FOR CHILDREN AND YOUNG PERSONS<sup>28</sup>

#### 17 Placement Panel for children and young persons<sup>29</sup>

- (1) The Placement Panel for children and young persons shall be established.<sup>30</sup>
- (2) The Panel shall be a body corporate with perpetual succession and may –
  - (a) sue and be sued in its corporate name; and
  - (b) so far as is possible for a body corporate, exercise the rights and privileges and incur the liabilities and obligations of a natural person of full age and capacity.<sup>31</sup>

#### 18 Functions of the Panel

The Panel shall have the following functions –

- (a) determining the appropriate place of custody for a child or young person who is remanded in custody or sentenced to youth detention;
- (b) reviewing its decision concerning its placement of a child or young person in an appropriate place of custody within one month of the start of such placement and thereafter at intervals not exceeding 3 months and, where it thinks it appropriate to do so, requiring that child or young person to be moved to another appropriate place of custody (if available);
- (c) in the case of a female young person who is detained in the prison in exercise of powers under Article 7, 10 or 16, reviewing the initial decision to place her in prison within a week of the start of such placement and, thereafter, at intervals not

exceeding 1 month and, where it thinks appropriate to do so, requiring that she be moved to an appropriate place of custody;

- (d) making assessments of children and young persons for the purpose of exercising its functions under this Law;
- (e) consulting with the Secretary of State as to whether, in the case of a child or young person sentenced to youth detention, all or part of the sentence should be served outside Jersey under the Crime (Sentences) Act 1997 of the United Kingdom;
- (f) making arrangements for the delivery of a child or young person to or from any place of detention to or from which the child or young person is required to be moved under this Law.<sup>32</sup>

## **19 Matters to be taken into account by the Panel when exercising its functions**

In exercise of its functions under Article 18, the Panel shall consider what is in the best interests of the child or young person and of any other person who is or may be detained in the same place having regard to –

- (a) the behaviour of the child or young person;
- (b) any likely impact of the behaviour of other persons detained in a place of custody on the child or young person and any likely impact of the behaviour of the child or young person on other persons detained in the same place;
- (c) the views of the child or young person;
- (d) the opinion of any person having parental responsibility for the child or young person;
- (e) the educational needs of the child or young person;
- (f) such other matters as the Panel considers relevant; and
- (g) such other matters as the Minister may direct under Article 20.<sup>33</sup>

## **20 Functions of the Minister**

The Minister may issue directions to the Panel concerning the policies and any criteria which the Panel must take into account under Article 19 when exercising its functions under Article 18.

## **21 Powers of the Panel**

The Panel shall have the powers necessary or expedient to perform its functions including entering into contracts or other arrangements with any person for the purpose of exercising its functions.

## **22 States to make Regulations concerning the Panel**

The States shall, by Regulations, make provision for the appointment of members of the Panel and their removal, the holding of meetings of the Panel, rights of appeal by a young person against decisions of the Panel, and all such other matters relating to the constitution and governance of the Panel as the States think fit.

**23 Liability**

- (1) No person to whom this Article applies shall be liable in damages for anything done or omitted to be done in the discharge of any functions under this Law.
- (2) Paragraph (1) does not apply –
  - (a) if it is shown that the act or omission was done in bad faith; or
  - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that such act or omission was unlawful as a result of Article 7(1) of the [Human Rights \(Jersey\) Law 2000](#).
- (3) This Article applies to –
  - (a) the Panel and to any member of the Panel;
  - (b) the Youth Court and to any member of the Youth Court;
  - (c) to the Governor and to anyone acting on his or her behalf.

**PART 5****THE YOUTH COURT****24 Youth Court**

- (1) The Youth Court established under the Criminal Justice (Young Offenders) (Jersey) Law 1994 shall continue.
- (2) The Youth Court shall have the jurisdiction conferred upon it by this or any other enactment.
- (3) The Schedule shall have effect in relation to the constitution and procedures of the Youth Court.
- (4) Subject to the provisions of this Law, the provisions of any other enactment relating to the practice and procedure in the Magistrate's Court shall apply to the practice and procedure in the Youth Court.

**25 Persons to whom this Part applies**

A person to whom this Part applies is a child or young person.

**26 Jurisdiction of Youth Court**

- (1) The Youth Court shall have the same powers as are vested in the Magistrate's Court and shall have jurisdiction to hear charges against persons to whom this Part applies regardless of whether such a person attains the age of 18 before proceedings are completed, but, subject to paragraph (2) –
  - (a) a charge made jointly against a person to whom this Part applies and a person who has attained the age of 18 years shall be heard by the Magistrate's Court and not by the Youth Court;
  - (b) where a person to whom this Part applies is charged with an offence, the charge may be heard by the Magistrate's Court if a person who has attained the age of 18 years is charged at the same time with aiding, abetting, causing, procuring, allowing or permitting that offence;

- (c) where, in the course of proceedings before the Magistrate's Court, it appears that the person to whom the proceedings relate is a person to whom this Part applies, nothing in this paragraph shall be construed as preventing the Magistrate's Court, if it thinks fit, from continuing with the hearing and determination of those proceedings.
- (2) Notwithstanding the fact that the Magistrate's Court has heard a case involving a person to whom this Part applies, where that person is convicted of an offence and is, on the date of conviction, still under the age of 18 years, the Court may remand the person in custody or on bail for sentence by the Youth Court.
- (3) For the avoidance of doubt, it is declared that, in respect of a person to whom this Part applies, Articles 25 to 27 of the Criminal Procedure Law (concerning the sending of a defendant for sentencing or trial before the Royal Court) shall apply as if the reference in those Articles to the Magistrate, were to the Youth Court.<sup>34</sup>

## **27 Procedure in Youth Court**

- (1) The Youth Court shall sit as often as may be necessary for the purpose of exercising the jurisdiction conferred on it by or under this Law or any other enactment and, unless there are no cases before the Court, it shall sit on at least one occasion in each week.
- (2) No person shall be present at a sitting of the Youth Court except –
  - (a) members and officers of the court;
  - (b) parties to the case before the court, their advocates and solicitors, and witnesses and other persons directly concerned in that case;
  - (c) *bona fide* representatives of newspapers, news agencies or sound or television broadcasting companies;
  - (d) such other persons as the court may specially authorize to be present.

## **28 Miscellaneous provisions as to powers of Youth Court**

- (1) The Youth Court sitting for the purpose of hearing a charge against, or an application relating to, a person who is believed to be a person to whom this Part applies may, if it thinks fit to do so, proceed with the hearing and determination of the charge or application, notwithstanding that it is subsequently discovered that the person in question had attained the age of 18 years prior to the charge or application being made.
- (2) The attainment of the age of 18 years by a person in respect of whom a probation order or community service order is in force, or a person in whose case an order for conditional discharge has been made, shall not deprive the Youth Court of jurisdiction to enforce the person's attendance and deal with the requirements of the probation order or community service order, or the commission of a further offence, or to amend or discharge the probation order or community service order.

## **29 Appeals from Youth Court**

- (1) There shall be a Youth Appeal Court consisting of the Bailiff and 3 members of the panel appointed under paragraph 1 of the Schedule who were not members of the Youth Court from which the appeal is being heard.



- (2) A person convicted by the Youth Court may appeal to the Youth Appeal Court and the provisions of Articles 33 to 41 of the [Criminal Procedure \(Jersey\) Law 2018](https://www.jerseylaw.je/laws/current/Pages/07.595.aspx)<sup>35</sup> shall apply *mutatis mutandis* to any such appeal.<sup>35</sup>

## PART 6

### REPEALS, TRANSITIONAL AND SAVINGS PROVISIONS AND CONSEQUENTIAL AMENDMENTS

#### 30 Repeal of the Criminal Justice (Young Offenders) (Jersey) Law 1994

- (1) The Criminal Justice (Young Offenders) (Jersey) Law 1994 shall be repealed.<sup>36</sup>
- (2) Notwithstanding the repeal of the Criminal Justice (Young Offenders) (Jersey) Law 1994 (“1994 Law”) by this Law, Article 10 of the 1994 Law is saved for the purposes of the Transfer of Prisoners (Restricted Transfers) (Channel Islands and Isle of Man) Order 1998.<sup>37</sup>

#### 31 Regulations and Orders – general provisions

Any Regulations or Order under this Law may contain such transitional, consequential, incidental or supplementary provisions as appear to the States, or, as the case may be, the Minister making the Order, to be expedient for the purposes of the Regulations or the Order.<sup>38</sup>

#### 32 Consequential amendments to enactments and transitional provisions

- (1) The States may, by Regulations, amend any enactment, including this Law, for the purpose of making such provision as they consider necessary or expedient in consequence of the coming into force of any provision of this Law.
- (2) A child or young person who, on the date this Law comes into force, is detained, or required to be detained, in custody on remand or following the passing of a sentence shall be deemed to have been detained, or required to be detained, in custody under this Law and the Panel shall, accordingly, exercise its functions in relation to the placement of that child or young person in custody.
- (3) Paragraph (2) does not affect the length of any period of detention to which a child or young person has been sentenced before the date this Law comes into force.
- (4) In respect of a child or young person who, on the day this Law comes into force, is detained in custody on remand or following the passing of a sentence, the panel shall review the placement of –
- (a) a child or young person who is detained in an appropriate place of custody as soon as reasonably practicable after this Law comes into force and in any event not later than 3 months after the day that this Law comes into force;
  - (b) a female young person who is detained in prison as soon as reasonably practicable after this Law comes into force and in any event not later than one month after the day that this Law comes into force.<sup>39</sup>

## **PART 7**

### **CLOSING**

#### **33 Citation**

This Law may be cited as the Criminal Justice (Young Offenders) (Jersey) Law 2014 and shall come into force on such day or days as the States may by Act appoint.

**SCHEDULE<sup>40</sup>**

(Article 24)

**CONSTITUTION AND PROCEDURES OF YOUTH COURT****1 Appointment of members of Youth Court**

- (1) Subject to paragraph 2, the Youth Court shall be duly constituted if it consists of 3 members, one of whom is the Magistrate, who shall be the chairman, and one of whom is a woman (who may or may not be the Magistrate).
- (2) The members of the Youth Court other than the Magistrate shall be persons from a panel (hereinafter referred to as “the Youth Court Panel”) appointed for the purpose by the Superior Number of the Royal Court.
- (3) Every member of the Youth Court Panel shall, on appointment, take an oath to discharge the duties attached to that office well and faithfully.
- (4) No person shall remain on the Youth Court Panel for longer than 10 years and a member of the panel shall retire on the member’s 60th birthday.
- (5) The Superior Number of the Royal Court may make such appointments to, or deletions from, the Youth Court Panel as it considers necessary.

**2 Proceedings**

- (1) If a member of the Youth Court (other than the chairman) before which any proceedings take place absents himself or herself, the member shall cease to act further in those proceedings and the Court shall be duly constituted to continue those proceedings while it consists of the chairman and the other remaining member.
- (2) Where the trial of any matter is adjourned after the defendant has been convicted and before the defendant is sentenced or otherwise dealt with, the Youth Court which deals with the defendant need not be composed of the same members as that which convicted the defendant.
- (3) If, amongst members of the Court which sentences or deals with an offender, there are any who were not sitting when the defendant was convicted, the Court shall before sentencing or otherwise dealing with the defendant, make such inquiry into the facts and circumstances of the case as will enable the members who were not sitting when the offender was convicted to be fully acquainted with those facts and circumstances.
- (4) The Youth Court may be duly constituted by the chairman sitting alone for the purposes of –
  - (a) dealing with the remand of a defendant, the adjournment of any matter, or any application for, or in connection with, bail; or
  - (b) exercising any function under the Criminal Procedure Law which does not involve –
    - (i) any determination under Articles 25 to 27 of the Criminal Procedure Law (concerning the sending of a defendant for sentencing or trial before the Royal Court),

- (ii) the hearing of a defendant's trial (including a hearing, if required, under Article 78 of that Law to determine facts disputed), or
- (iii) the sentencing of a defendant.

### **3 Decisions of Youth Court**

- (1) The decision of the Youth Court on any matter shall be by a majority of the members and shall be pronounced by the chairman, or another member at the request of the chairman, and no other member of the court shall make a separate pronouncement on the matter.
- (2) Where the chairman and one other member only attend and remain present during the sitting of the court, the decision of the court shall, in the event of disagreement between the chairman and that other member, be the decision of the chairman and shall be pronounced by the chairman.
- (3) Where during or after the hearing and before the determination of a matter before the Youth Court it appears to the chairman that there is, or is likely to be, a difference of opinion between the members, the chairman shall cause the deliberations of the court on that matter to be conducted in private, and may if the chairman thinks fit adjourn the case for that purpose.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Criminal Justice (Young Offenders) (Jersey) Law 2014	<a href="#">L.27/2014</a>	23 November 2016 ( <a href="#">R&amp;O.114/2016</a> )
Criminal Justice (Young Offenders) (Consequential Provisions) (Jersey) Regulations 2016	<a href="#">R&amp;O.115/2016</a>	23 November 2016
Criminal Justice (Young Offenders) (No. 2) (Jersey) Law 2016	<a href="#">L.19/2016</a>	23 November 2016
States of Jersey (Transfer of Responsibilities and Functions) (Health and Social Services to Children and Housing) Order 2019	<a href="#">R&amp;O.100/2019</a>	9 October 2019
States of Jersey (Minister for Children and Education, Minister for Housing and Communities and Minister for External Relations and Financial Services) (Jersey) Order 2021	<a href="#">R&amp;O.29/2021</a>	2 March 2021
Criminal Procedure (Jersey) Law 2018	<a href="#">L.25/2018</a>	1 October 2021 ( <a href="#">R&amp;O.95/2021</a> )
Criminal Procedure (Consequential and Supplementary Amendments) (Jersey) Regulations 2021	<a href="#">R&amp;O.94/2021</a>	1 October 2021
States of Jersey (Transfer of Justice Functions – Chief Minister to Justice and Home Affairs) Order 2023	<a href="#">R&amp;O.76/2023</a>	21 September 2023

### Table of Endnote References

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- <sup>1</sup> Long title amended by L.19/2016
- <sup>2</sup> Article 1(1) numbered and amended by L.19/2016, amended by L.25/2018, R&O.76/2023
- <sup>3</sup> Article 1(2) added by L.19/2016
- <sup>4</sup> Article 4 heading amended by L.19/2016
- <sup>5</sup> Article 4(1) amended by L.19/2016
- <sup>6</sup> Article 4(1A) inserted by L.19/2016
- <sup>7</sup> Article 4(2) substituted by L.19/2016
- <sup>8</sup> Article 4(2A) inserted by L.19/2016
- <sup>9</sup> Article 4(6) amended by L.19/2016
- <sup>10</sup> Article 4A inserted by L.19/2016
- <sup>11</sup> Article 5 heading substituted by L.19/2016
- <sup>12</sup> Article 5(1) amended by L.19/2016
- <sup>13</sup> Article 5(2) deleted by L.19/2016
- <sup>14</sup> Article 5(3) amended by L.19/2016

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- <sup>15</sup> Article 5(4) *deleted by L.19/2016*
- <sup>16</sup> Article 7 *heading amended by L.19/2016*
- <sup>17</sup> Article 7(2) *amended by L.19/2016*
- <sup>18</sup> Article 7(3) *amended by L.19/2016*
- <sup>19</sup> Article 7(4) *substituted by L.19/2016*
- <sup>20</sup> Article 7(5) *inserted by L.19/2016*
- <sup>21</sup> Article 9(5) *amended by L.19/2016*
- <sup>22</sup> Article 11(3) *amended by L.19/2016, R&O.100/2019, R&O.29/2021*
- <sup>23</sup> Article 13 *deleted by L.25/2018*
- <sup>24</sup> Article 16(2)(a) *deleted by L.19/2016*
- <sup>25</sup> Article 16(2) *amended by L.19/2016*
- <sup>26</sup> Article 16(3) *amended by L.19/2016*
- <sup>27</sup> Article 16(4) *substituted by L.19/2016*
- <sup>28</sup> Part 4 *sub-heading substituted by L.19/2016*
- <sup>29</sup> Article 17 *heading substituted by L.19/2016*
- <sup>30</sup> Article 17(1) *amended by L.19/2016*
- <sup>31</sup> Article 17(2) *amended by L.19/2016*
- <sup>32</sup> Article 18 *amended by L.19/2016*
- <sup>33</sup> Article 19 *amended by L.19/2016*
- <sup>34</sup> Article 26(3) *substituted by L.25/2018*
- <sup>35</sup> Article 29(2) *amended by R&O.94/2021*
- <sup>36</sup> Article 30(1) *numbered by R&O.115/2016*
- <sup>37</sup> Article 30(2) *added by R&O.115/2016*
- <sup>38</sup> Article 31 *substituted by L.19/2016*
- <sup>39</sup> Article 32 *substituted by L.19/2016*
- <sup>40</sup> Schedule *amended by L.25/2018*