



Jersey

# **CRIMINAL JUSTICE (EVIDENCE AND PROCEDURE) (JERSEY) LAW 1998**

## **Official Consolidated Version**

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## CRIMINAL JUSTICE (EVIDENCE AND PROCEDURE) (JERSEY) LAW 1998

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## CRIMINAL JUSTICE (EVIDENCE AND PROCEDURE) (JERSEY) LAW 1998

A **LAW** to provide in criminal proceedings for formal admissions of facts; for matters relating to the admissibility of expert evidence; for the reading of written statements as evidence; and for other purposes<sup>1</sup>

Commencement [[see endnotes](#)]

### PART 1

#### INTRODUCTORY

#### 1 Interpretation<sup>2</sup>

In this Law, unless the context otherwise requires –

“Criminal Procedure Law” means the [Criminal Procedure \(Jersey\) Law 2018](#);

“expert report” means a written report by a person dealing wholly or mainly with matters on which the person is (or would if living be) qualified to give expert evidence;

“maker” means in relation to a written statement to which Article 9 refers, the person by whom the statement is made;

“party” includes a Connétable or Centenier who presents a person before a Magistrate;

“prescribed period” means, in Article 6, the period of 7 days immediately following committal to the Royal Court for trial (disregarding public holidays, bank holidays and general holidays in Jersey);

“subsequent criminal proceedings”, in relation to a matter, includes an appeal and a retrial in respect of the matter;

“trial” includes a retrial.

## **2 Application**

The provisions of this Law apply notwithstanding Article 95 of the Criminal Procedure Law as to the giving of oral evidence on oath by a competent witness in criminal proceedings.<sup>3</sup>

## **PART 2**

### **FORMAL ADMISSIONS**

## **3 Admissions of fact**

- (1) Where the conditions in this Article are satisfied, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by any party.
- (2) An admission under this Article may be made before or during the proceedings.
- (3) The conditions to which paragraph (1) refers are –
  - (a) in the case of an accused who is an individual, the admission may only be made by the accused personally, or by his or her advocate acting on his or her behalf;
  - (b) where it is made by any person otherwise than in court, it shall be in writing;
  - (c) where it is made in writing by any individual, it shall purport to be signed by the individual;
  - (d) where it is made in writing by a body corporate, it shall purport to be signed by a director, manager, secretary or other similar officer of the body corporate; and
  - (e) where it is made at any stage before the trial, by an accused who is an individual –
    - (i) it shall be approved (whether at the time it is made or subsequently) by the accused's advocate, and
    - (ii) it shall be so approved expressly as a formal admission under this Article.

## **4 Effect of admission**

- (1) An admission of a fact under Article 3 by a party in any criminal proceedings shall be conclusive evidence in those proceedings of that fact, as against that party.
- (2) An admission by a party under Article 3, for the purpose of proceedings relating to any matter, shall be treated as an admission by that party for the purpose of any subsequent criminal proceedings relating to that matter.

## **5 Withdrawal of admission**

With the leave of the court, an admission under Article 3 may be withdrawn –

- (a) in the proceedings for the purpose of which it was made; or

- (b) in any subsequent criminal proceedings relating to the same matter.

## **PART 3<sup>4</sup>**

6 <sup>5</sup>

## **PART 4**

### **EXPERT EVIDENCE**

#### **7 Notice of expert evidence<sup>6</sup>**

- (1) Rules of court may make provision for –
- (a) requiring any party to criminal proceedings before the court to disclose to the other party or parties any expert evidence that the party proposes to adduce in the proceedings; and
  - (b) prohibiting a party who fails to comply in respect of any evidence with any requirement imposed by virtue of sub-paragraph (a) from adducing that evidence without the leave of the court.<sup>7</sup>
- (2) Rules of court for the purposes of this Article –
- (a) may specify the kind of expert evidence to which they apply; and
  - (b) may exempt facts or matters of any description specified in the rules.

#### **8 Expert reports**

- (1) An expert report is admissible as evidence in criminal proceedings, whether or not the person making it attends to give evidence orally in those proceedings.
- (2) However, if it is proposed that the person making the report shall not give evidence orally, the report is only admissible with the leave of the court.
- (3) For the purpose of determining whether to give leave, the court shall have regard –
- (a) to the contents of the report;
  - (b) to the reasons why it is proposed that the person making the report shall not give evidence orally;
  - (c) to any risk, having regard in particular to whether it is likely to be possible to controvert statements in the report if the person making it does not attend to give evidence orally in the proceedings, that its admission or exclusion will result in unfairness to an accused; and
  - (d) to any other circumstances that appear to the court to be relevant.
- (4) An expert report, when admitted, shall be evidence of any fact or opinion of which the person making it could have given evidence orally.

## PART 5

### READING OF STATEMENTS AS EVIDENCE

#### 9 Admissibility of written statements as evidence

- (1) Where the conditions in this Article are satisfied, a written statement by any person is admissible as evidence in any criminal proceedings to the same extent as if it were oral evidence to that effect by that person.
- (2) In every case –
  - (a) the statement shall purport to be signed by the person who has made it;
  - (b) the statement shall contain a declaration by that person to the effect that it is true to the best of the person's knowledge and belief and that the person made the statement knowing that, if it were tendered in evidence, the person would be liable to prosecution if the person wilfully stated in it anything which the person knew to be false or did not believe to be true;
  - (c) before the statement is tendered in evidence, a copy shall be served, by or on behalf of the party proposing to tender it, on each of the other parties in the proceedings; and
  - (d) none of the other parties or his or her advocate, within 7 days after being served with a copy, shall have served on the party proposing to tender the statement a notice in writing that the other party objects.
- (3) Where the statement is made by a person who is under the age of 20 years, it shall give the person's age.
- (4) Where the statement is made by a person who cannot read it –
  - (a) it shall have been read to the person before he or she signs it; and
  - (b) it shall be accompanied by a declaration, by the person who read the statement to the person, that it was read to him or her before he or she signed it.
- (5) Where the statement refers to any other document as an exhibit, each copy of the statement that is served under this Article on any other party shall be accompanied by –
  - (a) a copy of the document; or
  - (b) information that will enable that party to inspect the document or a copy of it.
- (6) Notwithstanding paragraph (1), the conditions in paragraph (2)(c) and (d) shall not apply if each party agrees before or during the hearing that the statement may be tendered in evidence.

**10** <sup>8</sup>**11 Reading of statement**

- (1) Unless the court directs otherwise, a statement that is admitted in evidence under Article 9 shall be read aloud at the hearing.<sup>9</sup>
- (2) An account shall be given orally, if the court so directs, of as much of the statement as is not read aloud.<sup>10</sup>
- (3) <sup>11</sup>

**12 Admissibility of exhibits<sup>12</sup>**

Where a statement is admitted in evidence under Article 9, and it refers to any document or object as an exhibit and identifies it, the document or object shall be treated as if it had been produced as an exhibit, and identified in court, by the maker of the statement.

**13 Oral evidence**

- (1) A party who serves, under Article 9(2)(c), a copy of a statement, may call the maker of the statement to give oral evidence.<sup>13</sup>
- (2) The court may –
  - (a) of its own motion; or
  - (b) on the application of any party,require the maker of the statement to give oral evidence.<sup>14</sup>
- (3) <sup>15</sup>

**14 Attendance of witnesses<sup>16</sup>**

Where a statement is tendered as evidence under Article 9, the maker of the statement need not attend the proceedings as a witness unless the maker of the statement is –

- (a) warned, under Article 97 of the Criminal Procedure Law, to attend before the court to give oral evidence; or
- (b) is required, under Article 13, to give oral evidence.

**PART 6****MISCELLANEOUS****14A Evidence through television links<sup>17</sup>**

- (1) A witness other than the accused may, with the leave of the court, give evidence through a live television link in any proceedings for an offence, or in any proceedings on an appeal arising from such proceedings, if the witness is outside Jersey.



- (2) A statement made on oath by a witness outside Jersey and given in evidence through a link by virtue of this Article shall be treated for the purposes of the law relating to perjury as having been made in the proceedings in which it is given in evidence.

#### **14B Abolition of requirement for warning about uncorroborated evidence<sup>18</sup>**

- (1) Any requirement that the Bailiff, in a trial before the Royal Court for an offence, give, merely for the reason set out in paragraph (2), a warning to the jury or the Jurats about convicting the accused on the uncorroborated evidence of a person is hereby abrogated.
- (2) The reason is that the person is –
  - (a) an alleged accomplice of the accused;
  - (b) a child; or
  - (c) in a case where the offence charged is a sexual offence, the person in respect of whom the accused is alleged to have committed the offence.
- (3) Any requirement that –
  - (a) is applicable at the trial of a person before the Magistrate; and
  - (b) corresponds to the requirement mentioned in paragraph (1),is hereby abrogated.
- (4) <sup>19</sup>

#### **15 False statements**

- (1) If any person in a written statement tendered in evidence in criminal proceedings under Article 9 wilfully makes a statement that is material in those proceedings and that the person knows to be false or does not believe to be true, the person shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine or to both.
- (2) Any person who wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under paragraph (1) shall be liable to be dealt with, tried and punished as a principal offender.

#### **16 Service**

- (1) A document that is to be served or may be served on any person or party (other than a body corporate) under this Law may be served in any of the following ways –
  - (a) by delivering it to the person or party or to his or her advocate personally;
  - (b) by addressing it to the person or party and –
    - (i) leaving it at his or her usual or last known place of abode or business, or
    - (ii) sending it in a registered letter or by the recorded delivery service, addressed to him or her at that place of abode or business;

- (c) by addressing it to the person or party's advocate and –
    - (i) leaving it at the advocate's office, or
    - (ii) sending it in a registered letter or by the recorded delivery service, addressed to the advocate at that office; or
  - (d) by transmitting it to the person or party or to his or her advocate by electronic means.
- (2) A document that is to be served or may be served on a body corporate under this Law may be served –
- (a) by delivering it to its secretary or clerk at its registered or principal office, or to its advocate personally; or
  - (b) by sending it to its registered or principal office, or to its advocate, in any other manner described in paragraph (1).

## **17 Criminal Procedure Rules<sup>20</sup>**

The power to make Criminal Procedure Rules under Article 112 of the Criminal Procedure Law includes the power to make rules for the purposes of this Law.

## **18 Citation**

This Law may be cited as the Criminal Justice (Evidence and Procedure) (Jersey) Law 1998.

## ENDNOTES

### Table of Legislation History

Legislation	Year and Number	Commencement
Criminal Justice (Evidence and Procedure) (Jersey) Law 1998	<a href="#">L.42/1998</a>	19 December 1998
Criminal Justice (Miscellaneous Provisions) (No. 3) (Jersey) Law 2012	<a href="#">L.7/2012</a>	30 March 2012
Criminal Procedure (Jersey) Law 2018	<a href="#">L.25/2018</a>	31 October 2019 – Schedule 4, paragraph 6(a) (except for the words “and “and depositions” ”), (b)(i) and (d) ( <a href="#">R&amp;O.110/2019</a> )  1 October 2021 – remainder of Schedule 4, paragraph 6 ( <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

### Table of Renumbered Provisions

Original	Current
PART I	PART 1
1(2), (3)	spent, omitted from this revised edition
PART II	PART 2
PART III	PART 3
PART IV	PART 4
PART V	PART 5
PART VI	PART 6
18	spent, omitted from this revised edition
19	18

### Table of Endnote References

<sup>1</sup> Long title	amended by L.7/2012, L.25/2018
<sup>2</sup> Article 1	amended by L.25/2018
<sup>3</sup> Article 2	editorial change, “procédure criminelle” deleted, “Procédure Criminelle” inserted instead, substituted by L.25/2018
<sup>4</sup> Part 3	repealed by L.25/2018
<sup>5</sup> Article 6	repealed by L.25/2018
<sup>6</sup> Article 7	heading amended by R&O.94/2021
<sup>7</sup> Article 7(1)	amended by R&O.94/2021
<sup>8</sup> Article 10	deleted by L.25/2018
<sup>9</sup> Article 11(1)	amended by L.25/2018

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- <sup>10</sup> Article 11(2) *amended by L.25/2018*  
<sup>11</sup> Article 11(3) *deleted by L.25/2018*  
<sup>12</sup> Article 12 *amended by L.25/2018*  
<sup>13</sup> Article 13(1) *substituted by L.25/2018*  
<sup>14</sup> Article 13(2) *amended by L.25/2018*  
<sup>15</sup> Article 13(3) *deleted by L.25/2018*  
<sup>16</sup> Article 14 *substituted by L.25/2018*  
<sup>17</sup> Article 14A *inserted by L.7/2012*  
<sup>18</sup> Article 14B *inserted by L.7/2012*  
<sup>19</sup> Article 14B(4) *deleted by L.25/2018*  
<sup>20</sup> Article 17 *substituted by L.25/2018*