



Jersey

CRIMINAL PROCEDURE (JERSEY) RULES 2021

Official Consolidated Version

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CRIMINAL PROCEDURE (JERSEY) RULES 2021

THE CRIMINAL PROCEDURE RULES COMMITTEE makes these Rules under Articles 4, 43, 64(5), 65(4), 83(2), 84(4), 85(3), 98(11), 101(8), 105(6), 108(2) and 112 of the [Criminal Procedure \(Jersey\) Law 2018](#), Articles 13(5), 14(5) and 21 of the [Criminal Procedure \(Bail\) \(Jersey\) Law 2017](#), Articles 7 and 17 of the [Criminal Justice \(Evidence and Procedure\) \(Jersey\) Law 1998](#) and Articles 48A, 67I and 82K of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) –

Commencement [[see endnotes](#)]

PART 1

PRELIMINARY

1 Interpretation

(1) In these Rules –

“Bail Law” means the [Criminal Procedure \(Bail\) \(Jersey\) Law 2017](#);

“expert” means a person who appears to the court to possess the particular specialisation, qualifications or experience that enable him or her to give opinion on matters relevant to any aspects of the trial to which the person’s evidence relates;

“expert evidence” means evidence of an expert provided for the purpose of criminal proceedings based on the specialised knowledge or skill of that expert, and includes –

- (a) evidence given in the form of an opinion;
- (b) evidence required to determine fitness to plead; or
- (c) evidence for the purpose of sentencing;

“expert report” means the report given under Rule 49;

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

“PPCE Law” means the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#);

“ordinary service” means service of a document in accordance with Rule 3(1);

“personal service” means service of a document in accordance with Rule 3(2);

“proper address” means a person’s address for service, or, if the address for service is not known –

- (a) the business address of any advocate or solicitor who has agreed to accept service;
 - (b) a person's usual or last known address;
 - (c) in the case of a body corporate, the registered or principal office of the body; and
 - (d) in the case of a Minister, the official address of that Minister.
- “prosecutor” means the Attorney General or a person conducting proceedings on behalf of the Attorney General.
- (2) Any wording identified as a “Note” is included for the convenience of the reader only and does not form part of the Rules.

2 Jurisdiction of the Inferior Number

- (1) The Inferior Number may impose a custodial sentence for one or more terms the aggregate of which shall not exceed 4 years.
- (2) If a person pleads guilty before, or is found guilty by, the Inferior Number and the Inferior Number considers that the offences concerned warrant a custodial sentence in excess of 4 years, it shall refer the sentencing of that person to the Superior Number.
- (3) In this Rule “custodial sentence” does not include custody for failure to pay a fine.

3 Service of documents

- (1) Ordinary service of a document may be effected –
 - (a) by leaving it at the proper address of the person to be served;
 - (b) by post;
 - (c) by email or other electronic communication (where the parties agree that such communication may be used to effect service); or
 - (d) in such manner as the court may direct.
- (2) Personal service of a document may be effected, through the intermediary of the Viscount's Department, by –
 - (a) leaving it with the person to be served; or
 - (b) in the case of a body corporate, leaving a copy with any director, manager, secretary or other similar officer of the body, or by leaving it at or delivering it to the registered office of the body.
- (3) Except when rules of court or any other enactment otherwise expressly provide or the court otherwise orders, service of any document in any cause or matter may be effected by ordinary service.
- (4) When provision is made for the service of any document in any cause or matter to be effected by ordinary service, service may be effected by personal service.
- (5) Personal service is required in the case of a summons –
 - (a) to reply to an action in criminal or quasi-criminal proceedings brought by the Attorney General;
 - (b) to reply to an appeal if the determination of that appeal is within the competence of the court;

- (c) to reply to a reference if the determination of that reference is within the competence of the court.
- (6) A document served by a party to criminal proceedings –
 - (a) shall be served on the Greffier of the relevant court, and on each other party; and
 - (b) shall be served electronically.

4 Substituted service

- (1) If, in the case of any document which is required to be served personally on any person, it appears to the court that it is impracticable for any reason to serve that document personally on that person, the court may make an order for substituted service of that document.
- (2) An application for an order for substituted service shall be made by affidavit stating the facts on which the application is founded.
- (3) An order giving permission to effect substituted service of a document which requires the person to be served to appear before the court shall specify the date on which the appearance is required.
- (4) Substituted service of a document, in relation to which an order is made under this Rule, is carried out by taking whatever steps the court may direct to bring the document to the notice of the person to be served.

5 Reckoning of periods of time

- (1) Any period of time fixed by rules of court or by any judgment, order or direction for doing any act shall be reckoned in accordance with this Rule.
- (2) When an act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.
- (3) When an act is required to be done within or not less than a specified period before a specified date, the period ends immediately before that date.
- (4) When an act is required to be done a specified number of clear days before or after a specified date, at least that number of days shall intervene between the day on which the act is done and that date.
- (5) If, apart from this sub-paragraph, the period in question, being a period of 7 days or less includes a Saturday, Sunday, public holiday or bank holiday, Christmas Day or Good Friday, that day is excluded.
- (6) In paragraph (5) “public holiday” and “bank holiday” mean, respectively, a day appointed to be observed as a public holiday or as a bank holiday under the [Public Holidays and Bank Holidays \(Jersey\) Law 1951](#).

6 Extension of time in respect of days when the offices of the Viscount or the Greffier are closed

If the time prescribed by any judgment, order or direction for doing any act before the Greffier, or at the offices of the Viscount or the Greffier, expires on a Sunday or other day on which those offices are closed, the act is in time if done on the next day on which those offices are open.

7 Power to vary requirements

- (1) Nothing in these Rules prevents the court –
 - (a) allowing an application or notice to be given other than as set out in these Rules, or to be made or given orally; or
 - (b) dispensing with any requirement for a party to give notice of an application.
- (2) A direction or dispensation under paragraph (1) may be given by the trial judge during the trial.
- (3) The court or the Viscount may, on such terms as either thinks just, by order extend or abridge the period within which a person is required or authorised by rules of court or by any judgment, order or direction to do any act in any proceedings.
- (4) The court or the Viscount may extend any period referred to in paragraph (3) although the application for extension is not made until after the expiration of that period.
- (5) The period within which a person is required by rules of court or by any order or direction to serve, file or amend any document may be extended by consent in writing without an order being made for that purpose.

8 Indictment

- (1) An indictment prepared by the Attorney General under Article 43 of the Law (notice of proceedings and lodging of indictment) shall be prepared in writing in the form set out in Schedule 1.
- (2) In the paragraph of that form headed “count”, the Attorney General shall –
 - (a) describe the offence in ordinary language;
 - (b) identify any legislation that creates the offence; and
 - (c) give any particulars of the offence that are needed in order to make clear what the Attorney General alleges against the defendant.
- (3) If an offence has been committed more than once, the instances of the offence may be included in the same count if those instances, taken together, amount to a course of conduct with regard to the time, the place or the purpose of committing the offence.
- (4) Counts shall be numbered consecutively.
- (5) An indictment may contain –
 - (a) a count charging an offence that is substantially the same as the offence for which the defendant was sent for trial; or
 - (b) any other count charging an offence that the court is able to try and which is based on the prosecution evidence that has been served.
- (6) An indictment may contain charges for any offences, whether *crimes*, *délits* or *infractions*.
- (7) If a number of offences of the same or of a similar character have been admitted by the defendant –
 - (a) the first offence is to be set out as prescribed in paragraph (2); and
 - (b) the remainder of the offences may be set out as a list, with each entry stating –
 - (i) the date of the offence,
 - (ii) the place of the offence, and

- (iii) any other information necessary to identify the offence.
- (8) Where Article 43(3)(b) of the Law applies, the indictment shall be lodged and served at least 36 hours before the time directed for the defendant's first appearance before the court.

9 Application for joint or separate trials

- (1) This rule applies if a party wishes the court to order –
 - (a) the joint trial of –
 - (i) offences charged by separate indictments, or
 - (ii) defendants charged in separate indictments;
 - (b) separate trials of offences charged by the same indictment;
 - (c) separate trials of defendants charged in the same indictment; or
 - (d) the deletion of a count from an indictment.
- (2) A party shall –
 - (a) apply in writing –
 - (i) as soon as practicable after becoming aware of the grounds for doing so, and
 - (ii) before the trial begins, unless the grounds for the application do not arise before trial;
 - (b) serve the application on –
 - (i) the Greffier of the relevant court, and
 - (ii) each other party; and
 - (c) in the application –
 - (i) specify the order proposed, and
 - (ii) explain why it should be made.
- (3) A party who wishes to make representations in response to the application shall, not more than 10 days after service of the application, serve the representations on –
 - (a) the Greffier of the relevant court; and
 - (b) each other party.
- (4) If the same indictment charges more than one offence, the court may order separate trials of those offences if it is of the opinion that –
 - (a) the offences to be tried together are neither founded on the same facts nor form or are part of a series of offences of the same or a similar character;
 - (b) the defendant may otherwise be prejudiced or embarrassed in the defendant's defence; or
 - (c) for any other reason it is desirable that the defendant should be tried separately for any one or more of those offences.

10 Procedure on certain applications under the [Sex Offenders \(Jersey\) Law 2010](#)

- (1) The following applications to the court under the [Sex Offenders \(Jersey\) Law 2010](#) (applications other than on conviction or sentencing) shall be made by representation –

- (a) by the Attorney General under Articles 10(2), 10(3), 10(4)(b), 10(11), 11(1), 11(7), 11(10), 11(13), 12(1), 12(6), 13(2), 14(1), 15(2), 15(3) or 16(1);
 - (b) by the offender under Article 10(11);
 - (c) by the defendant under Article 11(7) or 11(13); or
 - (d) by the notifier under Article 12(6).
- (2) The Bailiff or the Magistrate (whichever is appropriate), sitting alone, may rule on a representation by which an application under paragraph (1) is made, whether or not an interim injunction is sought.

Note: Under Article 9 of the 2018 Law, the court may give any direction and take any step in order to manage a case (unless it would be inconsistent with these Rules or another enactment). In particular, the court may –

- (a) *give a direction on its own initiative or on application by a party;*
- (b) *ask or allow a party to propose a direction;*
- (c) *receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means;*
- (d) *give a direction –*
 - (i) *at a hearing, in public or in private, or*
 - (ii) *without a hearing;*
- (e) *fix, postpone, bring forward, extend, cancel or adjourn a hearing;*
- (f) *shorten or extend (even after it has expired) a time limit fixed by the Rules;*
- (g) *require that issues in the case should be –*
 - (i) *identified in writing, and*
 - (ii) *determined separately;*
- (h) *decide in what order the issues will be determined; and*
- (i) *specify the consequences of failing to comply with a direction.*

PART 2

BAIL

11 Form of application to show reasonable excuse where there is a surety

The prescribed form for an application under Article 13(4) of the Bail Law (to show that the defendant had a reasonable excuse for his or her failure to surrender to custody) is set out in Schedule 2.

12 Form of application to vary conditions of police bail

The prescribed form for an application to vary conditions of police bail under Article 30(6) or (8) or Article 31B(4) or (7) of the [Police Procedures and Criminal Evidence \(Jersey\) Law 2003](#) is set out in Schedule 3.

13 Address for service

- (1) A person who agrees to stand as surety under Article 12 of the Bail Law shall, before the person is approved by a court as a surety, provide an address for service in Jersey to that court.
- (2) A surety may change his or her address for service in Jersey by providing the new address to the court.

14 Form and content of summons of a surety

The prescribed form and content for a summons of a surety under Article 14(2) or (3) of the Bail Law (for the surety to appear before the court to show cause as to why he or she should not be required to pay the amount in which he or she is bound) is set out in Schedule 4.

15 Service of summons of a surety

- (1) Subject to an order of the court, a summons of a surety under Article 14(2) or (3) of the Bail Law may be served on the surety by –
 - (a) leaving it at the most recent address for service provided by the surety under Rule 13;
 - (b) posting it to that address;
 - (c) emailing it, or otherwise sending it electronically, to the surety, if the court is satisfied that the surety will receive it; or
 - (d) leaving it with the surety.
- (2) A summons served by post under paragraph (1)(b) is treated as having been served on the second day after the day on which it was posted, with that second day to be determined without taking into account any days on which there is no postal service in Jersey.

16 Timing of service

A summons shall be served under Rule 15 at least 4 clear days before the day on which the surety is required to appear before the court.

17 Declaration that summons is invalid

The court summoning the surety to appear before it may declare that a summons is invalid if it has not been served in accordance with these Rules.

18 Setting aside order made in absence of surety

- (1) If, in the absence of a surety, a court makes an order under Article 14(6) of the Bail Law that an amount is to be forfeited, the surety may apply to the court to have the order set aside.
- (2) The application shall be supported by an affidavit stating the reasons on which the applicant relies to have the order set aside.
- (3) The court may set aside the order if the court is satisfied that it is in the interests of justice to do so.

19 Recovery of forfeited amount

- (1) An order under Article 14(6) of the Bail Law that an amount is to be forfeited authorises the Viscount –
 - (a) to distrain on the movables of the surety including, subject to paragraph (2), by arrest on the surety's wages; and
 - (b) to apply the movables, or the proceeds from their sale (at a public auction or a valuation), towards satisfying the amount that is forfeited and the costs incurred by the Viscount.
- (2) If the court makes an order under Article 14(6) of the Bail Law that an amount is to be forfeited, the court shall either –
 - (a) establish the maximum weekly amount that may be the subject of an arrest on the surety's wages; or
 - (b) direct that no arrest of the surety's wages may take place.
- (3) A sale of the distrained movables may take place without the leave of the court if the Viscount is satisfied that the surety is aware of the making of the distraint.
- (4) If the Viscount is not satisfied that the surety is aware of the making of the distraint –
 - (a) the leave of the court shall be obtained for the sale of the distrained movables; and
 - (b) unless the court directs otherwise or the surety requests otherwise, the sale shall not take place before the expiration of 15 days after the day on which the court grants leave for the sale.
- (5) The Viscount shall, in respect of any proposed sale of the distrained movables, ensure that –
 - (a) notice of the name and address of the surety and of the proposed sale of the distrained movables is published in the Jersey Gazette not less than 10 days before the date fixed for the sale; and
 - (b) notice of the place and date fixed for the sale, and of all particulars relating to it, is published in the Jersey Gazette not less than 2 days before that date.
- (6) If the information referred to in paragraph (5)(b) is not published at the same time as the information referred to in paragraph (5)(a), the name and address of the surety shall be included as part of the notice referred to in paragraph (5)(b).

20 Certification by Judicial Greffier

A copy of the part of the decision of a court to grant a defendant bail that relates to the time and place appointed for the defendant to surrender to custody is certified for the purposes of Article 20(6) (failure to comply with summons) of the Bail Law if the Judicial Greffier, after comparing the copy to the part of the decision –

- (a) sets out the name of the defendant on the copy;
- (b) affirms in writing on the copy that it is a true copy of that part of the decision; and
- (c) signs and dates the copy.

PART 3

PREPARATORY HEARINGS

21 Application for a preparatory hearing

An eligible person making application under Article 53(3) of the Law (power to order preparatory hearing) for the making of an order for a preparatory hearing shall –

- (a) make the application in the form set out in Schedule 5;
- (b) include a concise statement of the grounds, having regard to Article 55(1) and (2) of the Law (preparatory hearing);
- (c) deliver the application to the Bailiff's Secretary; and
- (d) at the same time, deliver a copy of the application to each other party to the proceedings.

22 Time for making application

- (1) Subject to paragraphs (2) and (3), an application by the prosecutor or the defendant under Article 53(3) of the Law shall be made within 28 days of the defendant's being sent for trial or the proceedings otherwise being brought before the court.
- (2) The time for making such an application may be extended, either before or after it expires, on an application made under paragraph (3).
- (3) The application for an extension of time shall –
 - (a) also be made in the form set out in Schedule 5;
 - (b) specify the grounds of the application; and
 - (c) be delivered to the Bailiff's Secretary, and, at the same time, a copy shall be delivered to each other party to the proceedings.
- (4) Unless the Bailiff otherwise directs, an application for an extension of time under paragraph (2) is to be determined by the Bailiff without a hearing.
- (5) The Bailiff's Secretary shall notify the parties –
 - (a) of the time and place of any hearing under paragraph (4); and
 - (b) of the Bailiff's decision on an application under paragraph (2).

23 Representations concerning an application

If a party receives a copy of an application and proposes to make written representations to the Bailiff concerning the application, that party shall, within 7 days of receipt of the copy application –

- (a) serve those representations on the Bailiff's Secretary; and
- (b) serve a copy of the representations on the other party or, if there is more than one, each of the other parties in the case.

24 Determination of application and/or order for preparatory hearing

- (1) Unless the Bailiff otherwise directs, an application under Article 53(3) of the Law is determined by the Bailiff without a hearing.

- (2) The Bailiff's Secretary shall notify the parties of the determination of an application, or of an order for a preparatory hearing made of the Bailiff's own motion, in the form set out in Schedule 6.

25 Disclosure of prosecution case

- (1) If an order is made under Article 55(4) of the Law for the prosecutor to prepare and serve any documents, the order shall –
 - (a) identify the documents to be served; and
 - (b) require the prosecutor to serve a copy of each document on the other party or, if there is more than one, each of the other parties in the case.
- (2) The Judicial Greffier shall give notice of the order to the parties in the case.

26 Defence disclosure

- (1) The Judicial Greffier shall give notice, in the form set out in Schedule 7, of –
 - (a) an order made under Article 55(6) or (7) of the Law; and
 - (b) a requirement imposed under Article 55(9) of the Law in relation to an order made under Article 55(7) of the Law.
- (2) The notice shall be given to each party to whom the order or requirement applies, and to the prosecutor.
- (3) The notice referred to in paragraph (1) shall include a warning that if any party departs from the case disclosed by that party in pursuance of an order made under Article 55 of the Law, or fails to comply with such an order –
 - (a) the Bailiff, or any other party with the leave of the Bailiff, may make such comment as appears to him or her appropriate and the court or jury, as the case may be, may draw such inference as appears proper; and
 - (b) where the court is satisfied that any such departure or failure by a party constitutes an unnecessary or improper act or omission on his or her part, and that another party to the proceedings has incurred costs as a result, the court may make an order as to the payment of those costs by the party concerned.

PART 4

MISCELLANEOUS PRE-TRIAL PROCEDURES

27 Summons for jury service

- (1) The Viscount shall summon a person to attend for jury service using the form set out in Schedule 8.
- (2) A summons that is sent by post is deemed to be served on the second day after the day on which it was posted.

28 Application to the Royal Court for exemption from jury service

- (1) A person making application under Article 65(3) of the Law (Viscount's power to exempt from jury service) shall make that application in writing to the court no later than 7 days after receipt of the Viscount's decision under Article 65(1) of the Law.
- (2) A determination on the application may be made by the Bailiff sitting alone, with or without a hearing, and may be made orally.

29 Issue or withdrawal of summons or order

- (1) The court may issue or withdraw a witness summons or order with or without a hearing.
- (2) A hearing under Rules 29 to 31 shall be in private unless the court otherwise directs.

30 Application for witness summons or order

- (1) A party who wishes the court to issue a witness summons or order shall apply as soon as is practicable after becoming aware of the grounds for doing so using the form set out at Schedule 9.
- (2) A party applying for a witness summons or order shall –
 - (a) identify the proposed witness; and
 - (b) explain –
 - (i) what evidence the proposed witness can give or produce,
 - (ii) why it is likely to be material evidence, and
 - (iii) why it would be in the interests of justice to issue a summons or order as appropriate.

31 Application for a witness summons to produce confidential information

- (1) If a party wishes the court to require a proposed witness to produce or give in evidence confidential information about another person, that party shall apply as soon as practicable after becoming aware of the grounds for doing so using the form set out at Schedule 10.
- (2) An application under paragraph (1) may ask that the court require the proposed witness, in relation to another person –
 - (a) to produce in evidence a document or thing; or
 - (b) to give evidence about information believed to be held in confidence.
- (3) The court shall not issue a witness summons where this Rule applies unless –
 - (a) everyone served with the application has had at least 7 days in which to make representations, including representations about whether there should be a hearing of the application before the summons is issued; and
 - (b) the court is satisfied that it has been able to take adequate account of the duties and rights, including rights of confidentiality, of the proposed witness and of any person to whom the proposed evidence relates.

32 Court's assessment of relevance and confidentiality

- (1) A person served with an application for a witness summons requiring the proposed witness to produce in evidence a document or thing may object to that document or thing's production if –
 - (a) it is not likely to be material evidence; or
 - (b) even if it is likely to be material evidence, the duties or rights, including rights of confidentiality, of the proposed witness or of any person to whom the document or thing relates, outweigh the reasons for issuing a summons.
- (2) An objection under paragraph (1) shall be made in writing to the court.
- (3) The court may require the proposed witness to make the document or thing available for the objection to be assessed.
- (4) To assist the court in assessing the objection, the court may invite the assistance of –
 - (a) the proposed witness or any representative of the proposed witness; or
 - (b) a person to whom the document or thing relates or any representative of that person.

33 Defence case statement and witness notice

- (1) The defence case statement required by Article 83 of the Law (duty to give defence case statement) and the witness notice required under Article 85 of the Law (notification of intention to call defence witness) –
 - (a) shall be in the form set out in Schedule 11;
 - (b) shall be given not later than 14 days after receiving the documents required to be disclosed by Article 82(1) of the Law (duty of prosecution to disclose unused material).
- (2) If a defendant submits an amended defence case statement and witness notice, the amended version of the statement or notice –
 - (a) shall also be in the form set out in that Schedule; and
 - (b) shall be given not later than 2 days after the defendant is made aware of –
 - (i) a material change to a matter set out in a defence case statement,
 - (ii) a material change to the defence relied upon by the defendant, or
 - (iii) discovery of any information that should have been included in the witness notice, had the defendant been aware of it at the time of giving the witness notice.
- (3) In paragraph (2)(b) a reference to the defendant is also a reference to the defendant's legal representative.

PART 5

WITNESSES AND EVIDENCE

DIVISION 1 INTRODUCTORY

34 Evidence

- (1) Any party to criminal or quasi-criminal proceedings may apply to the court for an order authorising the Judicial Greffier or the Viscount to receive on oath or solemn affirmation the evidence, whether oral, in writing or by audio-visual recording, of any person who is in Jersey at the time of making the application, whose evidence is required for the proceedings, and who –
 - (a) will or may be out of Jersey at the date of the hearing;
 - (b) is prevented by sickness or other infirmity from coming to court; or
 - (c) it is feared may die before the hearing.
- (2) Unless otherwise directed by the court, evidence taken in accordance with paragraph (1) is admissible at the hearing only if the court is satisfied that –
 - (a) the deponent is dead or out of Jersey, or is unable from sickness or other infirmity to attend court; and
 - (b) the depositions are duly certified.
- (3) The Viscount and the Greffier may administer oaths or solemn affirmations to witnesses who appear to give evidence before them.

35 Opening and final representations

- (1) This Rule sets out the order of events at trial.
- (2) The prosecutor may open the case.
- (3) The Royal Court may –
 - (a) invite the defendant to identify concisely the matters in dispute, if necessary in terms approved by the court;
 - (b) if the defendant declines to do so, direct that the jurors or Jurats be given a copy of the defence case statement served under Rule 33; and
 - (c) edit that defence case statement in order to remove –
 - (i) reference to any inappropriate matters, and
 - (ii) reference to any matters evidence of which would not be admissible.
- (4) The prosecutor may make a final speech.
- (5) The defendant may make a final speech.

DIVISION 2
STATEMENTS NOT MADE IN ORAL EVIDENCE

36 Application of Rules

- (1) This Division applies to statements.
- (2) In this Division, “statement” means a statement not made in oral evidence that is admissible under Articles 64(1)(d), 65, 66(1)(c) or 67B of the PPCE Law (admissibility of statements not made in oral evidence).

37 Introducing statements

- (1) A party who wishes to introduce a statement shall serve notice in accordance with this Rule.
- (2) The notice shall –
 - (a) identify the statement;
 - (b) provide a copy of, or a link to, that statement and any evidence that the party considers to be material to the application;
 - (c) state the provision of the PPCE Law under which the statement is admissible;
 - (d) explain the circumstances that make the statement admissible; and
 - (e) explain how the party will prove those circumstances apply, if another party disputes them.
- (3) The statement shall be attached to the notice unless it contains only evidence that has already been served.
- (4) A party who wishes to introduce a statement shall serve the notice as soon as reasonably practicable after the defendant has pleaded not guilty.
- (5) A party may waive any entitlement to notice under this Rule by informing –
 - (a) the Judicial Greffier; and
 - (b) the party who would otherwise have been required to serve the notice.

38 Opposing the introduction of a statement

- (1) A party objecting to the introduction of a statement shall –
 - (a) apply to the court to determine the objection;
 - (b) serve the application as soon as reasonably practicable and in any event not later than 14 days after the relevant date as set out in paragraph (2).
- (2) The relevant date is the later of –
 - (a) either –
 - (i) the date of service of the notice to introduce the statement under Rule 37, or
 - (ii) if no notice is required under Rule 37, the date of service of the statement to which the party objects; and
 - (b) the date on which the defendant pleads not guilty.
- (3) The application to court shall explain –

- (a) which, if any, of the circumstances set out in the notice under Rule 37(2) that the party disputes;
 - (b) why the statement is not admissible; and
 - (c) any other objection to the statement.
- (4) The court may determine an application with or without a hearing, which may be public or private.

Note: Under Article 64 of the PPCE Law, a statement not made in oral evidence is admissible as evidence of any matter stated if –

- (a) *a statutory provision makes it admissible;*
- (b) *a rule of customary law referred to at Article 64A makes it admissible;*
- (c) *the parties agree to it being admissible; or*
- (d) *it is in the interests of justice for it to be admissible.*

Under Article 63 of the Law –

- (a) *a “statement” means any representation of fact of opinion, by any means, and includes a representation in pictorial form; and*
- (b) *a “matter stated” is something stated by someone with the apparent purpose of –*
 - (i) *causing another person to believe it, or*
 - (ii) *causing another person, or a machine, to act or operate on the basis that the matter is as stated.*

The Articles of the PPCE Law listed in this Part set out the conditions on which statements not made in oral evidence may be admitted under them.

If notice is not given as this Part requires, then under Article 67I(4) of the PPCE Law –

- (a) *the evidence is not admissible without the court’s permission;*
- (b) *if the court gives permission, it may draw such inferences as appear proper from the failure to give notice; and*
- (c) *the court may take the failure into account in exercising its powers to order costs.*

This Part does not require notice of a statement that is admissible under any of the following Articles of the PPCE Law –

- (a) *Article 64(1)(c) (all parties to the proceedings agree to it being admissible);*
- (b) *Article 66 (business and other documents), otherwise than documents sought to be admitted under Article 66(1)(c);*
- (c) *Article 64A (admissibility of statement under rules of customary law);*
- (d) *Article 67 (inconsistent statements); or*
- (e) *Article 67A (other previous statements of witness).*

This Part does not require notice of a statement that is admissible under an enactment other than the PPCE Law.

DIVISION 3 EVIDENCE OF BAD CHARACTER

39 Interpretation

Unless the context otherwise requires, words or phrases in this Division that are defined in Parts 8 or 9A of the PPCE Law have the same respective meanings as in that Law.

40 Introduction of evidence of bad character

- (1) A party who wishes to introduce evidence of a person's bad character, other than a defendant in respect of his or her own bad character, shall –
 - (a) in the case of a defendant's bad character, give notice in accordance with Rule 41; or
 - (b) in the case of the bad character of a person other than a defendant, make an application in accordance with Rule 42.
- (2) The notice or application shall –
 - (a) state the provision of the PPCE Law on which the party relies to have the evidence admitted, and explain why it applies;
 - (b) set out the facts of the misconduct on which the party applying to introduce the evidence relies; and
 - (c) explain how that party will prove those facts (whether by certificate of conviction, other official record or other evidence) if another party disputes them, and provide copies of or access to the materials relied upon.

41 Evidence of defendant's bad character

- (1) A prosecutor who wishes to introduce evidence of a defendant's bad character under Part 9A of the PPCE Law shall serve the notice not later than 21 days before the trial.
- (2) A defendant who wishes to introduce evidence of a co-defendant's bad character under Part 9A of the PPCE Law shall serve the notice –
 - (a) as soon as reasonably practicable; and
 - (b) in any event not later than 14 days after –
 - (i) the prosecutor discloses the material on which the notice is based, or
 - (ii) the defendant otherwise becomes aware of the information on which the notice is based.

42 Evidence of a non-defendant's bad character

- (1) A prosecutor who wishes to introduce evidence of the bad character of a person other than a defendant under Article 82J (non-defendant's bad character) of the PPCE Law shall serve the application not later than 21 days before the trial.
- (2) A party, other than the prosecutor, who wishes to introduce evidence of the bad character of a person other than a defendant under Article 82J of the PPCE Law shall serve the application –
 - (a) as soon as reasonably practicable; and
 - (b) in any event not later than 14 days after –
 - (i) the prosecutor discloses the material on which the notice is based, or
 - (ii) the defendant otherwise becomes aware of the information on which the notice is based.

43 Objecting to introduction of evidence of bad character

- (1) A party objecting to the introduction of evidence set out in a notice, or to an application under Rule 42 shall –

- (a) apply to the court to determine the objection; and
 - (b) serve the application as soon as reasonably practicable and in any event not later than 14 days after receipt of the notice served under that Rule.
- (2) The application shall explain –
- (a) which (if any) of the facts of the misconduct or disposition towards misconduct set out in the notice the party disputes;
 - (b) which (if any) of the facts of the misconduct or disposition towards misconduct set out in the notice the party admits;
 - (c) why the evidence set out in the notice is not admissible;
 - (d) why it would be unfair to admit the evidence; and
 - (e) any other objection to the notice.
- (3) The court may determine the application with or without a hearing, which may be in public or private.

Note: Under Article 82C of the PPCE Law, evidence of a person's bad character means evidence of a person's bad character means evidence of, or of a disposition towards, misconduct on that person's part, other than evidence that –

- (a) *has to do with the alleged facts of the offence; or*
- (b) *is evidence of misconduct in connection with the investigation or prosecution.*

Under Article 82E of the PPCE Law, evidence of the defendant's bad character is admissible if –

- (a) *all parties to the proceedings agree to the evidence being admissible;*
- (b) *the evidence is introduced by the defendant, or is given in answer to a question asked by the defendant in cross-examination which was intended to elicit that evidence;*
- (c) *it is important explanatory evidence;*
- (d) *it is relevant to an important matter in issue between the defendant and the prosecution;*
- (e) *it has substantial probative value in relation to an important matter in issue between the defendant and a co-defendant;*
- (f) *it is evidence to correct a false impression given by the defendant; or*
- (g) *the defendant has made an attack on another person's character.*

Articles 82E(5) and 82F to 82I of the Law supplement those requirements. The court shall not admit evidence under (d) or (g) if, on an application by the defendant, the court concludes that to do so would be unfair.

Under Article 82J of the PPCE Law, evidence of a non-defendant's bad character is admissible if –

- (a) *it is important explanatory evidence;*
- (b) *it has substantial probative value in relation to a matter which –*
 - (i) *is a matter in issue in the proceedings; and*
 - (ii) *is of substantial importance in the context of the case as a whole; or*
- (c) *all parties to the proceedings agree to the evidence being admissible.*

The Article explains requirements (a) and (b). Unless the parties agree to the evidence being admissible, it may not be introduced without the court's permission.

The fact that a person was convicted of an offence may be proved under Article 71 of the PPCE Law (conviction in Jersey).

See also Articles 64A and 66 of the PPCE Law (admissibility of statements contained in business and other documents).

Under Article 3 of the [Criminal Justice \(Evidence and Procedure\) \(Jersey\) Law 1998](#), a party may admit a matter of fact.

DIVISION 4 EXPERT EVIDENCE

44 Application

This Division applies when a party wishes to introduce expert evidence.

45 Leave of the court to introduce expert evidence

A party shall not adduce expert evidence at trial without the prior leave of the court.

46 Expert's duty to the court

An expert must –

- (a) give opinion which is objective and unbiased;
- (b) give only opinion which is within the expert's area or areas of expertise;
- (c) comply with directions made by the court, or immediately inform the court if he or she fails to, or is unable to, take any step required by a direction;
- (d) define, whether in the expert's report or, when giving evidence in person, the area or areas of the expert's expertise;
- (e) when giving evidence in person, draw the court's attention to any question to which the answer would be outside the expert's area or areas of expertise;
- (f) inform all parties and the court if the expert's opinion changes from that contained in the expert report; and
- (g) disclose to the party for whom the expert's evidence is commissioned anything that should be disclosed under Rule 48(1)(b).

47 Introduction of agreed expert evidence

- (1) A party who wishes to introduce expert evidence that is agreed by all parties shall serve that expert evidence as soon as practicable after the defendant whom it affects pleads not guilty.
- (2) A party on whom a summary is served shall, as soon as practicable (but in any event no later than 14 days after service of the expert evidence) serve a response stating –
 - (a) which, if any, of the expert evidence is agreed; and
 - (b) where a conclusion is not agreed, what are the disputed issues concerning that conclusion.

48 Introduction of expert evidence other than as agreed or unchallenged

- (1) A party who wishes to introduce expert evidence other than under Rule 47 shall –
 - (a) serve, as soon as is practicable, an expert report that complies with Rule 49;

- (b) serve with the report notice of anything of which the party is aware that might reasonably be capable of –
 - (i) undermining the reliability of the expert's opinion, or
 - (ii) detracting from the credibility or impartiality of the expert;
- (c) if another party so requests, give that party a copy of, or a reasonable opportunity to inspect –
 - (i) a record of any examination, measurement, test or experiment on which the expert's findings and opinion are based, or that were carried out in the course of reaching those findings and opinion, and
 - (ii) anything on which such examination, measurement, test or experiment was carried out.
- (2) Unless the parties agree, other than as directed by the court, a party shall not –
 - (a) introduce expert evidence that does not comply with paragraph (1); or
 - (b) introduce an expert report if the expert does not give evidence in person.

49 Expert's report

- (1) An expert's report shall contain –
 - (a) details of the expert's qualifications, relevant experience and accreditation;
 - (b) details of any literature or other information on which the expert has relied in making the report;
 - (c) statements setting out –
 - (i) any facts given to the expert that are material to the opinions expressed in the report,
 - (ii) which of the facts in the report are within the expert's own knowledge,
 - (iii) that the expert understands an expert's duty to the court under Rule 46 and that he or she has complied and will continue to comply with that duty;
 - (d) as much information as the court requires in order to decide if the expert's opinion is reliable enough to be admitted as evidence;
 - (e) a summary of the conclusions reached by the expert; and
 - (f) a declaration by the expert as to the truth of the report.
- (2) If an expert has based an opinion or inference on a representation of fact or opinion made by another person for the purposes of criminal proceedings, the expert report shall –
 - (a) identify the person who made the representation to the expert;
 - (b) give the qualifications, relevant experience and accreditation of that person; and
 - (c) certify that that person had personal knowledge of the matters stated in that representation.
- (3) If there is a range of opinion on the matters dealt with in the report, the report shall –
 - (a) summarise the range of opinion; and
 - (b) give reasons for the expert's own opinion.

50 Expert to be informed of service of report

A party who serves another party or the court with an expert's report shall immediately inform the expert of that fact.

51 Pre-hearing discussion of expert evidence

- (1) If more than one party wishes to introduce expert evidence, the court may direct the experts –
 - (a) to discuss the expert issues in the proceedings; and
 - (b) to prepare a statement for the court of the matters on which they agree and disagree, giving their reasons.
- (2) Other than that statement, the content of the experts' discussion shall not be referred to without the court's permission.
- (3) If an expert has not complied with a direction under this Rule, a party shall not introduce evidence from that expert without the court's permission.

52 Single joint expert

- (1) If more than one defendant wishes to introduce expert evidence on an issue at trial, the court may direct that the evidence is to be given by one expert only.
- (2) If the co-defendants cannot agree who should be the expert, the court may –
 - (a) select the expert from a list prepared or identified by the co-defendants; or
 - (b) direct that the expert be selected in another way.
- (3) If the court directs that a single joint expert is to be used, each of the co-defendants may give instructions to the expert.
- (4) A co-defendant who gives instruction to the expert shall, at the same time, send a copy of the instructions to the other co-defendant or co-defendants.
- (5) The court may –
 - (a) give directions as to the payment of the expert's fees or expenses;
 - (b) give directions as to any examination, measurement, test or experiment that the expert wishes to carry out; or
 - (c) before the expert is instructed, limit the amount that can be paid by way of fees and expenses to the expert.
- (6) Unless the court directs otherwise, the instructing co-defendants are jointly and severally liable for the expert's fees and expenses.

DIVISION 5
SPECIAL MEASURES

53 Application for special measures for a witness

- (1) A party who wishes to apply under paragraph Article 101(1)(b) of the Law shall do so as soon as reasonably practicable after the party has become aware of the need for special measures.

- (2) If an application is made in writing, it shall be made in the form set out at Schedule 12.
- (3) A party who objects to an application under Article 101(1)(b) of the Law shall apply to the court to determine the objection as soon as is reasonably practicable, and in any case not later than 14 days after the application under Article 101(1)(b) of the Law.
- (4) The court may determine an application under Article 101(1)(b) of the Law, or an objection under paragraph (3), with or without a hearing.

54 Application for special measures for a defendant who is an eligible witness

- (1) If the defendant applies to the court under Article 101(4) of the Law (power of the court to order special measures), the application shall be made in the form set out at Schedule 12, as soon as is reasonably practicable after the defendant has pleaded not guilty.
- (2) A party who objects to an application under Article 101(4) of the Law shall apply to the court to determine the objection as soon as is reasonably practicable, and in any case not later than 14 days after the application under Article 101(4) of the Law.
- (3) The court may determine an application under Article 101(4) of the Law, or an objection under paragraph (2), with or without a hearing.

55 Application to vary or discharge a special measures order

- (1) A party who wishes the court to vary or discharge a special measures order shall apply in writing as soon as reasonably practicable after becoming aware of the grounds for doing so.
- (2) The applicant shall –
 - (a) explain what material circumstances have changed since the order was given or last varied; and
 - (b) explain why the order should be varied or discharged.
- (3) The court may determine an application under this Rule with or without a hearing.

56 Application containing information withheld from another party

- (1) If a party applying for a special measures order wishes to withhold information contained in that application from another party, the party applying for a special measures order shall apply to the court.
- (2) The application to the court shall –
 - (a) identify the information;
 - (b) explain why the applicant thinks the information should be withheld from the other party.
- (3) The applicant shall notify the party from whom it is desired that the information is withheld that an application under paragraph (1) has been made.
- (4) The court may determine the application with or without a hearing, and any hearing may be held wholly or partly in the absence of the party from whom the information has been withheld.

- (5) The court may direct the applicant to serve on the other party any part of the application which has been withheld.

57 Representations in response to application for special measures direction

- (1) This Rule applies where a party wishes to make representations about –
- (a) an application for a special measures order;
 - (b) an application for the variation or discharge of a special measures order; or
 - (c) an order, variation or discharge that the court proposes on its own initiative.
- (2) A party who wishes to make such representations shall serve the representations not later than 7 days after –
- (a) service of the application; or
 - (b) notice of the order, variation or discharge, whichever is applicable.
- (3) If the party wishes to withhold from another party any information contained in the representations, that party shall –
- (a) mark that information to show that, unless the court directs, it is only for the court; and
 - (b) explain why the information has been withheld.
- (4) Representations against a special measures order shall explain –
- (a) why the witness is not eligible for assistance;
 - (b) if the witness is eligible for assistance, why –
 - (i) no special measure would be likely to improve the quality of the witness' evidence,
 - (ii) the proposed measure or measures would not be likely to maximise the quality of the witness' evidence, or
 - (iii) the proposed measure or measures might inhibit the effective testing of the evidence; and
 - (c) if the admission of video recorded evidence is proposed, why it would not be in the interests of justice for the recording, or any part of it, to be admitted as evidence.
- (5) Representations against the variation or discharge of a special measures order shall explain why the direction should not be varied or discharged.
- (6) The court may determine an application under this Rule with or without a hearing.

PART 6

COSTS AND SENTENCING

58 Costs incurred by act or omission

In determining the amount of costs to be awarded under Article 108 (provisions as to costs incurred because of act or omission) of the Law, the court shall take into consideration –

- (a) the rates and amounts of payments for the provision of legal aid contained in any Legal Aid Guidelines published by the Chief Minister under the [Access to Justice \(Jersey\) Law 2019](#); or

- (b) any written statement provided by a prosecutor, giving an estimate of the prosecutor's legal costs.

59 Taking offences into consideration

- (1) Subject to paragraph (3), when the court sentences any person in respect of an offence and the conditions in paragraph (2) are satisfied, the court may take one or more other offences committed by that person into consideration.
- (2) The conditions are –
 - (a) the defendant has admitted one or more other charges and requested that they be taken into consideration;
 - (b) the offences to which the other charges relate are of a similar nature to the offence for which sentence is being imposed and are otherwise within the jurisdiction of the court; and
 - (c) the Attorney General does not object.
- (3) An offence is not to be taken into consideration if –
 - (a) the court considers that it is in the public interest for the offence to be charged and tried separately;
 - (b) the offence to be taken into consideration is likely to attract a greater sentence than the offence being sentenced;
 - (c) the defendant would avoid a prohibition, ancillary order or similar consequence that it would have been desirable to impose on conviction;
 - (d) the offence to be taken into consideration constitutes a breach of an earlier sentence; or
 - (e) the offence to be taken into consideration is not founded on the same facts of evidence, nor part of a series of offences of the same or similar character.

60 Sentence where offence taken into consideration

- (1) Where the court takes one or more offences into consideration, it may impose in respect of the charged offence a greater sentence than it would have imposed had it not taken any offence into consideration.
- (2) Despite paragraph (1) –
 - (a) if the maximum sentence is fixed by law, the court may not exceed that maximum sentence; and
 - (b) the Youth Court, the Magistrate's Court or the Inferior Number of the Royal Court may not exceed the maximum of its sentencing jurisdiction.

61 Status of offences to be taken into consideration

An offence does not, by reason of its having been taken into consideration, become an offence in respect of which a person may make a plea of *autrefois convict*, but no proceedings for an offence that a court has taken into consideration may be instituted without the leave of the Attorney General.

62 Computation of custodial sentences

- (1) Subject to paragraph (3), the length of a custodial sentence imposed on an offender by the court is reduced by any period during which the offender was in custody, if any of the conditions in paragraph (2) are met.
- (2) The conditions are that the offender was in custody by order of the court made in connection with –
 - (a) proceedings relating to that sentence;
 - (b) proceedings relating to the offence for which the sentence was passed; or
 - (c) any proceedings from which the proceedings in (a) or (b) arose.
- (3) A period is to be disregarded for the purposes of paragraph (1) if that period ended before the making of, in respect of the offender –
 - (a) an order under Article 2 of the [Loi \(1937\) sur l'atténuation des peines et sur la mise en liberté surveillée](#);
 - (b) a community service order under the [Criminal Justice \(Community Service Orders\) \(Jersey\) Law 2001](#); or
 - (c) a suspension order made under the [Criminal Justice \(Suspension of Prison Sentences\) \(Jersey\) Law 2003](#).
- (4) A reference in any enactment to the length of a custodial sentence, unless the context otherwise requires, is to be construed as a reference to the sentence pronounced by the court and not the sentence as reduced by this Rule.

63 Fines and forfeitures

- (1) It shall be the duty of the Viscount to collect all fines, penalties and other monetary orders imposed by the court and to dispose of all forfeitures ordered by the court.
- (2) An order imposing a fine, penalty or other monetary order on a person authorises the Viscount to distrain on the movables of that person and to apply them, or the proceeds from their sale (at a public auction or a valuation), towards satisfying the fine, penalty or other monetary order and the costs incurred by the Viscount.
- (3) A sale of the distrained movables may take place without the leave of the court if the Viscount is satisfied that the person is aware of the making of the distraint.
- (4) If the Viscount is not satisfied that the person is aware of the making of the distraint –
 - (a) the leave of the court shall be obtained for the sale of the distrained movables; and
 - (b) unless the court directs otherwise or the person requests otherwise, the sale shall not take place before the expiration of 15 days after the day on which the court grants leave for the sale.
- (5) The Viscount shall, in respect of any proposed sale of the distrained movables, ensure that –
 - (a) notice of the name and address of the person and of the proposed sale of the distrained movables is published in the Jersey Gazette not less than 10 days before the date fixed for the sale; and
 - (b) notice of the place and date fixed for the sale, and of all particulars relating to it, is published in the Jersey Gazette not less than 2 days before that date.

- (6) If the information referred to in paragraph 5(b) is not published at the same time as the information referred to in paragraph 5(a), the name and address of the person shall be included as part of the notice referred to in paragraph 5(b).

PART 7

ENFORCEMENT OF BRITISH ISLANDS FORFEITURE ORDERS UNDER THE TERRORISM (JERSEY) LAW 2002

64 Interpretation of Part 7

In this Part –

“Terrorism Law” means the [Terrorism \(Jersey\) Law 2002](#);

“order” means English, Scottish, Northern Irish or Islands order (as the case may be) within the meaning of paragraph 9 of Schedule 3;

“Schedule 3” means Schedule 3 to the Terrorism Law.

65 Application for registration

- (1) An application by a person or body seeking registration in the Royal Court of an order shall be made on behalf of that person or body by the Attorney General on an *ex parte* application to the Bailiff in chambers.
- (2) An application under paragraph (1) shall be supported by an affidavit made by or on behalf of the person or body seeking registration –
- (a) exhibiting the order to which the application relates or a copy of it which satisfies the requirements of paragraph 10(9) of Schedule 3; and
 - (b) that, to the best of the deponent’s ability, gives particulars of such money or other property in respect of which the order is made as is in Jersey and identifies any person holding such money or other property.
- (3) Unless the Bailiff otherwise directs, an affidavit for the purposes of this Rule may contain statements of information or belief with the sources and grounds thereof.

66 Notice of registration

- (1) The Act of the Royal Court directing that an order be registered in the Royal Court is to provide for notice to be given to the persons affected by the registration of the order.
- (2) Unless the Bailiff otherwise directs, service of notice under paragraph (1) out of the jurisdiction –
- (a) is permissible without leave; and
 - (b) shall be effected by registered post.

67 Application to vary or set aside registration

- (1) An application to vary or set aside the registration of an order may be made to the Royal Court by representation supported by affidavit.

- (2) If an application under paragraph (1) is non-contentious it may be made to the Bailiff alone in chambers.
- (3) This Rule does not apply to a variation or cancellation under Rule 68.

68 Variation and cancellation of a registration

If effect has been given (whether in Jersey or elsewhere) to an order, or if the order has been varied or discharged by the court by which it was made, the person or body who sought registration shall notify the Attorney General who shall inform the Bailiff and –

- (a) if effect has been given in respect of all the money or other property to which the order applies, or if the order has been discharged by the court by which it was made, cancel the registration of the order; or
- (b) if effect has been given in respect of only part of the money or other property, or if the order has been varied by the court by which it was made, vary the registration of the order accordingly.

PART 8

FINAL

69 Citation and commencement

These Rules may be cited as the Criminal Procedure (Jersey) Rules 2021 and come into force on 1st October 2021.

SCHEDULE 1¹

(Rule 8)

FORM OF INDICTMENT

Before the Royal Court of Jersey

His Majesty's Attorney General

-v-

A.B.

A.B. is charged with the following offences –

Count 1 [if more than one count].


Statement of offence

Particulars of offence

SCHEDULE 2

(Rule 11)

APPLICATION TO SHOW REASONABLE EXCUSE FOR FAILURE TO SURRENDER TO CUSTODY WHERE THERE IS A SURETY

	<p align="center">APPLICATION TO SHOW REASONABLE EXCUSE FOR FAILURE TO SURRENDER TO CUSTODY</p> <p align="center"><i>Article 13(4) Criminal Procedure (Bail) (Jersey) Law 2017</i></p>
<p>A. To be completed by the Greffier:</p> <p align="center">To be heard at the Court on (Date) at (Time)</p>	
<p>B. To be completed by the Applicant:</p> <p>1. Applicant</p> <p>Surname: First Name(s).....</p> <p>Date of birth: Age:</p> <p>Bail address..... Postcode</p> <p>Email address:</p> <p>Contact telephone number(s):</p> <p>Name of Defendant (if not the Applicant)</p> <p>2. Special requirements</p> <p>Do you need an interpreter or have other special needs?</p> <p>If so, detail:</p> <p>3. Representation (if any)</p> <p>Name of Advocate:</p> <p>Firm:</p> <p>Telephone number:</p>	
1	FBS1

4. Bail history of the Defendant

Charge(s):.....

Date bail granted:.....

Attach a copy of current bail form (the record of the decision to grant bail).

Amount of security provided: £.....

Who paid the security?

When should the Defendant have attended the Magistrate's Court/Royal Court?

Date: Time:

What is the Defendant's reasonable excuse for not attending Court when required?

.....

.....

.....

.....

.....

.....

Declaration

To the best of my knowledge and belief the contents of this application are true and this application discloses all the information that is relevant to what the Court must decide.

Signed by the Applicant:


Name:

Date:

SCHEDULE 3

(Rule 12)

FORM OF APPLICATION TO VARY CONDITIONS OF BAIL

	APPLICATION TO VARY CONDITIONS OF BAIL <i>Article 30/31B Police Procedures and Criminal Evidence (Jersey) Law 2003</i>
A. To be completed by the Greffier: <p style="text-align: center;">To be heard at the Magistrate's Court, Union Street, St Helier on (Date) at (Time)</p>	
B. To be completed by the Applicant: 1. Applicant Surname: First Name(s) Date of birth: Age: Bail address Postcode Email address: Contact telephone number(s): 2. Special requirements Do you need an interpreter or have other special needs? If so, detail: 3. Representation (if any) Name of Advocate: Firm: Telephone number:	

4. Officer dealing with case

Name and rank of the Officer dealing with your case:

.....

Email address (if known):

Contact telephone number (if known):

5. Bail history

Date bail granted:.....

Current bail end date:.....

Attach copy of current bail form (the record of decision to grant bail).

Have you been charged with any offence(s)?

If so, which offence(s)?

If not, what offences are being investigated?

What variation are you asking for?

.....

.....

.....

If you have asked the Officer dealing with your case to agree this variation, when and how did you ask for it?

.....

What was the Officer's response? (attach a copy of any written response)

.....

.....

.....

IMPORTANT NOTE

The Magistrate may impose more onerous bail conditions and, if you have been charged with any offence, may refuse bail and remand you in custody.

<p>6. Basis of your Application</p> <p>Why do you want the condition(s) to be changed?</p>
<p>Declaration</p> <p>To the best of my knowledge and belief the contents of this application are true and this application discloses all the information that is relevant to what the Court must decide.</p> <p>Signed by the Applicant:</p> <p>Name:</p> <p>Date:</p>

3

RB1

Decision

Magistrate.....

On (Date).....

The Magistrate, having heard from the Applicant and the Police (or.....), has:

GRANTED the Application and imposed the following bail conditions:

.....

.....

.....

.....

OR **REFUSED** the Application.

OR **REFUSED** the Application and (post charge bail only) remanded the Applicant in custody.

(Delete as necessary)

Reasons for the Magistrate's decision

Signed:

Name:

Greffier Substitute

4

RB1

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SCHEDULE 4

(Rule 14)

SUMMONS OF A SURETY

..... is required to appear in the (court),
.....(address), on.....(day of the week), the day of
..... 20...., at o'clock in the (morning/afternoon), at the
instance of (court) to show cause why you should not be required, in
accordance with Article 14 of the [Criminal Procedure \(Bail\) \(Jersey\) Law 2017](#), to pay
the amount of (amount) pounds in which you are bound as surety in respect
of the prosecution brought against (defendant) for (charge(s)),
the defendant having failed to (details of failure to surrender
to custody or to comply with conditions).

If you do not appear, judgment requiring you to pay up to that amount may be given in
your absence.

(Signed)

SCHEDULE 5

(Rule 21(a) and 22(3))

**APPLICATION FOR PREPARATORY HEARING UNDER ARTICLE 55(3) OF THE CRIMINAL
PROCEDURE (JERSEY) LAW 2018 OR FOR AN EXTENSION OF TIME WITHIN WHICH TO
APPLY**

In the Royal Court of Jersey

Attorney General -v-

APPLICATION

I,
of [in case of
defendant]
prosecutor/defendant* in the above proceedings, make application for [a preparatory
hearing] [extension of time within which to apply for a preparatory hearing]* under
Article 55 of the [Criminal Procedure \(Jersey\) Law 2018](#).

CHARGES

The charges to which this application relates are [specify charges]

.....
.....
.....
.....

GROUND FOR APPLYING

[State the grounds on which the application is being made]

.....
.....
.....
.....

(Signed)
(Prosecutor/Defendant*)

Dated this day of , 20-

* delete as appropriate

SCHEDULE 6

(Rule 24)

**NOTIFICATION OF THE BAILIFF'S DETERMINATION OF AN APPLICATION AND/OR
ORDER FOR A PREPARATORY HEARING UNDER ARTICLE 55(3) OF THE CRIMINAL
PROCEDURE (JERSEY) LAW 2018**

In the Royal Court of Jersey

Attorney General -v-

THIS IS TO GIVE YOU NOTICE that the Bailiff, acting under Article 55(3) of the
[Criminal Procedure \(Jersey\) Law 2018](#), has [granted] [ordered] a preparatory hearing
in relation to the following charges:

Date and time of hearing (if known): *[identify each document to be prepared and
served on each party by the prosecution under Article 55(4) [Criminal Procedure
\(Jersey\) Law 2018](#) and any time limit]*:

[refused] a preparatory hearing in relation to the following charges:

Reasons for refusal:

(Signed)
Bailiff's Secretary

Dated this day of , 20-

SCHEDULE 7

(Rule 26)

**ORDER FOR DISCLOSURE BY DEFENDANT PRIOR TO PREPARATORY HEARING OR AT A
PREPARATORY HEARING UNDER ARTICLE 55(6), (7) OR (9) OF THE CRIMINAL
PROCEDURE (JERSEY) LAW 2018**

In the Royal Court of Jersey**Attorney General -v-**

THE BAILIFF has ordered the defendant, in relation to the following charges:
.....
.....
to[specify requirements and the date by which any of the specified requirements is to be
complied with]

Note A statement or notice required by virtue of Article 55(6)(a), (b), or (7) of the [Criminal Procedure \(Jersey\) Law 2018](#) (including a requirement imposed under Article 86(9) of that Law) need not disclose who will give evidence except to the extent that disclosure is required by Part 10 of the [Criminal Procedure \(Jersey\) Law 2018](#) or the Criminal Procedure (Jersey) Rules.

Warning*If any party departs from the case which he/she disclosed in pursuance of a requirement imposed under Article 55 of the [Criminal Procedure \(Jersey\) Law 2018](#) or fails to comply with such a requirement –*

- (a) *the Bailiff or, with the leave of the Bailiff, any other party may make such comment as appears to him or her appropriate and the jury may draw such inference as appears proper; and*
- (b) *where the Royal Court is satisfied that any such departure or failure by a party constitutes an unnecessary or improper act or omission on his or her part, and that another party to the proceeds has incurred costs as a result thereof, the Royal Court may make an order as to payment of those costs by the party concerned.*

(Signed)
Judicial Greffier

Dated this day of , 20-

SCHEDULE 8

(Rule 27)

FORM OF SUMMONS FOR JURY SERVICE

[First name] [Surname]
[Address]

Jury Summons

YOU ARE REQUIRED to appear before the Royal Court, Royal Square, St Helier, on **[DAY]**, the **[date]** day of **[Month]**, **[year]** at **[time]** for a [time] sitting, and any other days and times as the Court may direct, to serve on the Jury of the Criminal Assize. If you do not attend, you will be liable to a fine.

[Viscount/Viscount Substitute]

Served, this [date] day of [Month], [year].

Confidential to the addressee.
Not for publication.

If you have any queries relating to this Summons please call
[telephone number]

SCHEDULE 9

(Rule 30)

APPLICATION FOR A WITNESS SUMMONS

<p style="text-align: center;">APPLICATION FOR A WITNESS SUMMONS (Criminal Procedure (Jersey) Rules 2021, Rule 30. <i>This form is NOT for use where Rule 31 (confidential information) applies.)</i></p>
<p>Case details</p> <p>Name of defendant:</p> <p>Court:</p> <p>Charge(s):</p>
<p>THIS IS AN APPLICATION FOR AN ORDER THAT</p> <p>..... (name of proposed witness)</p> <p>must attend court to [give the evidence] [produce the documents or objects] described in this application.</p>
<p>PART A: information about the applicant <i>(tick and delete as applicable)</i></p> <p>[I am] [I represent] the prosecutor <input type="checkbox"/></p> <p> the defendant <input type="checkbox"/></p> <p>Name: </p> <p>Address: </p> <p>Phone: </p> <p>Fax: </p> <p>Email: </p>
<p>PART B: information about the application</p> <p>The witness can [give the following evidence] [produce the following documents or objects]:</p>

The evidence is likely to be material to an issue in the case because:

(Explain why you think the evidence would be material. The court CANNOT order the witness to give or produce evidence unless you can show that it is likely to be material evidence.)

I have taken the following steps to obtain the witness' attendance, but the witness will not attend without a summons:

(Explain why it is in the interests of justice to issue a summons.)

I have made this application as soon as reasonably practicable because:
(Explain any delay.)

I have served this application on the proposed witness No ☐ Yes ☐

PART C: supporting material

Have you included with this application any other information ?

No ☐ Yes ☐ If yes, list it here.

PART D: declaration

The statements contained in this application are true to the best of my knowledge and belief. I make them knowing that if I have wilfully stated anything which I know to be false or do not believe to be true I may be liable to prosecution.

Signed:

[[for] prosecutor]

[defendant / defendant's advocate]

Date:

SCHEDULE 10

(Rule 31)

**APPLICATION FOR A WITNESS SUMMONS; CONFIDENTIAL INFORMATION RELATING
TO ANOTHER PERSON**

<p style="text-align: center;">APPLICATION FOR A WITNESS SUMMONS: CONFIDENTIAL INFORMATION RELATING TO ANOTHER PERSON (Criminal Procedure (Jersey) Rules 2021, Rule 31)</p>												
<p>Case details</p> <p>Name of defendant:</p> <p>Court:</p> <p>Charge(s):</p>												
<p>THIS IS AN APPLICATION FOR AN ORDER THAT</p> <p>..... (name of proposed witness)</p> <p>must [produce in evidence] [give evidence about information contained in]</p> <table><tr><td>(tick as applicable)</td><td>social services records</td><td><input type="checkbox"/></td></tr><tr><td></td><td>health records</td><td><input type="checkbox"/></td></tr><tr><td></td><td>education records</td><td><input type="checkbox"/></td></tr><tr><td></td><td>other documents</td><td><input type="checkbox"/> (describe them)</td></tr></table> <p>that relate to (name the person concerned)</p>	(tick as applicable)	social services records	<input type="checkbox"/>		health records	<input type="checkbox"/>		education records	<input type="checkbox"/>		other documents	<input type="checkbox"/> (describe them)
(tick as applicable)	social services records	<input type="checkbox"/>										
	health records	<input type="checkbox"/>										
	education records	<input type="checkbox"/>										
	other documents	<input type="checkbox"/> (describe them)										

PART A: information about the applicant *(tick and delete as applicable)*

[I am] [I represent] the prosecutor ☐
 the defendant ☐

Name:

Address:

Phone:

Fax:

Email:

PART B: information about the application

Describe as fully as you can the documents that you want the witness to produce, or the information that you want the witness to give evidence about:

I believe that the witness has the documents or information I have described above because:

The documents, or the information contained in them, are likely to be material to an issue in the case because:

(Explain why you think the evidence would be material. The court CANNOT order the witness to produce documents, or give evidence about information contained in them, unless you can show that it is likely to be material evidence.)

I have taken the following steps to obtain the documents or information, but the witness will not provide them without a summons:

(Explain why it is in the interests of justice to issue a summons.)

I have made this application as soon as reasonably practicable because:

(Explain any delay.)

PART C: supporting material

Have you included with this application any other information ?

No ☐

Yes ☐

If yes, list it here (e.g. charge sheet, indictment, defence statement).

PART D: declaration

The statements contained in this application are true to the best of my knowledge and belief. I make them knowing that if I have wilfully stated anything which I know to be false or do not believe to be true I may be liable to prosecution.

Signed:

[[for] prosecutor]

[defendant / defendant's advocate]

Date:

SCHEDULE 11

(Rule 33)

FORM OF DEFENCE CASE STATEMENT AND WITNESS NOTICE

<p style="text-align: center;"><i>DEFENCE CASE STATEMENT AND WITNESS NOTICE</i> Articles 83 to 85 of the <u>Criminal Procedure (Jersey) Law 2018</u> Rule 33 of the Criminal Procedure (Jersey) Rules 2021</p>
<p>Case details</p> <p>Name of defendant:</p> <p>Court:</p> <p>Case reference number:</p> <p>Charge(s):</p> <p>Have you given a defence case statement or witness notice in this case before?</p> <p style="text-align: center;">No Yes</p> <p>If yes, give the date(s).</p>
<p>When to use this form</p> <p>If you are the defendant, and you are pleading not guilty, you must give the information required by Parts 2 and 3 of this form.</p> <p>You must return this form within 14 days after the day you receive the evidence paperwork from the prosecution.</p> <p>How to use this form</p> <ol style="list-style-type: none">1. Complete the case details box above, and Parts 1 to 3 below.2. Sign and date the completed form.3. Send a copy of the completed form to:<ol style="list-style-type: none">(a) the court, and(b) the prosecutor <p>before the time limit expires.</p> <p>If you need more time, you must write to the court to ask for this before the time limit expires.</p>

Part 1: Plea

I confirm that I intend to plead not guilty to [all the charges] [the following charges] *(delete as applicable)* against me:

Part 2: Nature of the defence

Under Article 84 of the [Criminal Procedure \(Jersey\) Law 2018](#), you must:

- (a) set out the nature of your defence, including any particular defences on which you intend to rely;
- (b) indicate the matters of fact on which you disagree with the prosecution, and in respect of each explain why;
- (c) set out the particulars of the matters of fact on which you intend to rely for the purposes of your defence;
- (d) indicate any point of law that you want to take, including any point about the admissibility of evidence or about abuse of process, and any authority you want to rely on; and
- (e) if your defence case statement includes an alibi (i.e. an assertion that you were in a place or area and at a particular time inconsistent with your having committed the offence), give particulars, including –
 - (i) the name, address and date of birth of any witness whom you believe can give evidence in support of that alibi,
 - (ii) if you do not know all of those details, any information that might help identify or find that witness.

Complete your statement below. If you need more space, add a further page.

Part 3: List of intended defence witness(es)

Do you intend to call anyone other than yourself as a witness at your trial?
(please tick yes or no)

No

Yes

If yes, give details below.

Name	Date of birth (if known)	Address, or any other contact or identifying details

IMPORTANT NOTICE

You must let the court and the prosecution know if, after you have sent this form in –

- (i) you decide to call a witness, other than yourself, whom you have not already identified in Part 3 of this form,
- (ii) you decide not to call a witness you have listed Part 3, or
- (iii) you discover information that you should have included in Part 2 or Part 3 if you had known it then.

Declaration

I understand that I am responsible for the accuracy and completeness of this document, and that if I –

- (a) do not provide a full and complete defence case statement before the time limit expires;**
- (b) give inconsistent defences in the defence case statement;**
- (c) at trial, rely on a defence, or facts, that I have not disclosed; or**

**(d) at trial, call a witness not included or adequately identified in a witness notice in advance,
the court may draw inferences in deciding whether or not I am guilty.**

This form must be signed by the defendant or the defendant's legal representative. If signed by a legal representative, he or she confirms that the defendant has read the completed form (or has had it read to him or her), understands it and agrees with it.

Signed: *defendant / defendant's advocate*
(delete as applicable)

Date:

SCHEDULE 12

(Rules 53 and 54)

APPLICATION FOR SPECIAL MEASURES DIRECTION**APPLICATION FOR A SPECIAL MEASURES DIRECTION**

(Criminal Procedure Rules, Rule 53 and 54)

Case details

Name of defendant:

Charge(s):

How to use this form. This form includes notes to help you complete it. They explain when a witness may be eligible for the assistance of special measures.

Complete the box above and give the details required in the boxes below. You must complete Parts A and B in all cases, and Parts C to H as appropriate. If you use an electronic version of this form, the boxes will expand. If you use a paper version and need more space, you may attach extra sheets.

Sign and date the completed form.

Send a copy of the completed form to:

- (a) the court, and
- (b) each other party to the case.¹

Notes:

1. You must send this form so as to reach the recipients as soon as possible.

2. A party who wishes to oppose this application must explain why they oppose it not more than 14 days after service of this application.

PART A: information about this application

A1. Do you want a court hearing of this application?

No ☐ **Yes** ☐ If yes, explain why.

A2. Is this application late?

No ☐ **Yes** ☐ If yes, explain why.

¹ In some circumstances, an applicant may omit information from the copy of this application that is served on another party: see Criminal Procedure (Jersey) Rules 2021, Rule 56

A3. Have you applied for a special measures direction for this witness in this case before?No ☐Yes ☐ If yes, give details and explain what has changed since then.**PART B: information about the witness****B1. Witness' details**

Name of witness:

Date of birth:

B2. Explain how the witness is eligible for assistance. Tick each relevant box. If the witness is eligible because of disability, or fear or distress, give details and explain why the quality of the witness' evidence is likely to be diminished because of that.

- | | |
|--|--------------------------|
| Witness is under 18 | <input type="checkbox"/> |
| Mental disorder | <input type="checkbox"/> |
| Significant impairment of intelligence | <input type="checkbox"/> |
| Physical disability or disorder | <input type="checkbox"/> |
| Witness is or is expected to be off-Island | <input type="checkbox"/> |
| Fear or distress | <input type="checkbox"/> |

B3. Explain why special measures would be likely to improve the quality of the witness' evidence.**B4. Which measure(s) would be likely to maximise so far as practicable the quality of the witness' evidence? Tick each you propose.**

- | | |
|---|--|
| Screening witness from defendant | <input type="checkbox"/> |
| Screening witness from public gallery | <input type="checkbox"/> |
| Evidence by live link | <input type="checkbox"/> complete Part C |
| Removal of gowns | <input type="checkbox"/> |
| Video recorded interview as evidence in chief | <input type="checkbox"/> complete Part D |
| Video recorded cross-examination | <input type="checkbox"/> complete Part E |
| Intermediary | <input type="checkbox"/> complete Part F |
| Aids to communication | <input type="checkbox"/> complete Part G |
| Other (please specify) | <input type="checkbox"/> complete Part H |

B5. What has been done to help the witness express an informed opinion about special measures? Care must be taken to explain to the witness (a) what is meant

by special measures, (b) what measure(s) may be available, and (c) what they would involve for the witness.²

B6. What views has the witness expressed about:

(a) his or her eligibility?

(b) whether special measures would be likely to improve the quality of his or her evidence?

(c) the measure(s) that you propose?

The views, concerns and requests expressed by the witness, or on his or her behalf, must be set out in detail.

PART C: evidence by live link

C1. Do you want the witness to give evidence:

using the court's own live link?

☐ or

from somewhere else?

☐

Tick which you propose. If you want the witness to give evidence by live link from somewhere else, answer question C2.

C2. Explain why you want the witness to give evidence from somewhere else. Give the address from which you propose the witness should give evidence, unless you want the court to direct that the address need not be revealed.

² If the witness does not want a special measure, he or she should be asked to explain why. The witness should also be told that if he or she changes his or her mind as the trial approaches, a further application to the court can be made.

C3. Who do you propose should accompany the witness while he or she gives evidence? **Give that person's name, if known, and relationship to the witness (if any).**

C4. Why would that person be an appropriate companion for the witness? **Include the witness' own views.**

PART D: video recorded interview as evidence in chief

D1. When was the interview? (date)

D2. Was the interview conducted through an intermediary?

No ☐ Yes ☐ If yes, complete Part F as well.

D3. Was any aid to communication used in conducting the interview?

No ☐ Yes ☐ If yes, give details.

D4. How long is the full version of the recording? (hours / minutes)

D5. Has an edited version been prepared for use in evidence?

No ☐ Yes ☐

D6. When did you serve:

(a) the full version? (date)

(b) the edited version (if any)? (date)

D7. Do you want the court's permission for the witness to give evidence in chief otherwise than by means of the recording?

No ☐ Yes ☐ If yes, explain why.

PART E: video recorded cross-examination

E1. Who do you propose should be present with the witness when the cross-examination and any re-examination takes place?

Tick each person you propose. Each member of the court and each legal representative acting in the proceedings must be able to see and hear the examination if they are not present with the witness. The defendant may not be present with the witness but must be able to see and hear the examination.

Defence advocate	<input type="checkbox"/>
Prosecution advocate	<input type="checkbox"/>
Judge / Jurats	<input type="checkbox"/>
Intermediary (if appointed)	<input type="checkbox"/> see also Part G
Witness supporter (if any)	<input type="checkbox"/>

Give the supporter's name, if known, and relationship to the witness (if any). Explain why that person would be an appropriate companion for the witness, including the witness' own views.

E2. Describe the proposed arrangements for questioning the witness. Ground Rules for questioning may be directed by the court. If a direction for the appointment of an intermediary is sought, see also Part G.

PART F: intermediary

F1. Describe the witness' communication needs, and the proposed arrangements for questioning the witness. Attach any relevant report, including an intermediary's assessment if available. Ground Rules for questioning must be discussed between the court, the advocates and the intermediary before the witness gives evidence, to establish (a) how questions should be put to help the witness understand them, and (b) how the proposed intermediary will alert the court if the witness has not understood, or needs a break.

F2. Give the proposed intermediary's (a) name and (b) (if relevant) occupation, skills and professional qualifications.

F3. Is the intermediary known, or related, to the witness?

No ☐ Yes ☐ If yes, give details.

F4. Has the intermediary been used in any other part of the investigation or pre-trial preparation?

No ☐ Yes ☐ If yes, give details.

F5. Where a video recorded interview was conducted through an intermediary:

(a) was that intermediary the person named above? Yes ☐ No ☐

If no, attach an additional Part F in respect of that intermediary, giving the details required by questions F2, F3, F4 and F5.

PART G: aids to communication**G1. What device is proposed as a communication aid?****G2. Might the use of this device affect the conduct of the trial?****No** ☐**Yes** ☐ If yes, give details.**PART H: other****H1: Explain why the special measure you have requested would be likely to improve the quality of the witness' evidence.****PART I: supporting material****Have you included with this application any other material?****No** ☐**Yes** ☐ If yes, list it here.**Signed:** **[prosecutor]****[defendant / defendant's advocate]****Date:**

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Criminal Procedure (Jersey) Rules 2021	R&O.113/2021	1 October 2021	

Project available at statesassembly.gov.je

Table of Endnote References

¹ *Schedule 1* revised on 11 January 2024 by Law Revision Board item [2023/1](#)