



Jersey

COURT OF APPEAL (CRIMINAL) (RETRIAL AFTER ACQUITTAL) RULES 2021

Official Consolidated Version

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COURT OF APPEAL (CRIMINAL) (RETRIAL AFTER ACQUITTAL) RULES 2021

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THE COURT OF APPEAL makes these Rules under Article 40 of the [Court of Appeal \(Jersey\) Law 1961](#) and under paragraph 16 of Schedule 2 to the [Criminal Procedure \(Jersey\) Law 2018](#) –

Commencement [[see endnotes](#)]

1 Interpretation and application

- (1) In these Rules “Schedule 2” means Schedule 2 to the [Criminal Procedure \(Jersey\) Law 2018](#).
- (2) These Rules apply to determinations by the Court of Appeal under paragraph 4 of Schedule 2 whether to –
 - (a) quash an acquittal for an offence and order a person to be retried; or
 - (b) order that an acquittal outside Jersey is no bar to the person being tried in Jersey,if there is new and compelling evidence and it is in the interests of justice to make the order.

2 Application for reporting restriction pending an application for order for retrial

- (1) This Rule applies where –
 - (a) no application has been made under Rule 3;
 - (b) an investigation on behalf of the Attorney General has begun into an offence with a view to an application under that Rule; and
 - (c) the Attorney General wishes the Court of Appeal to make, vary or remove an order for a reporting restriction under paragraph 9 of Schedule 2.
- (2) The Attorney General must –
 - (a) lodge with the Court a written application; and
 - (b) unless the Court otherwise directs, send a copy of the application to the person who has been acquitted.
- (3) The application must, as appropriate –
 - (a) explain why the Attorney General wishes the Court to direct that it need not be sent to the person who was acquitted until the application under Rule 3 is made;

- (b) specify the proposed terms of the order, and for how long it should last;
- (c) explain why an order in the terms proposed is necessary;
- (d) explain why an order should be varied or removed.

3 Application for an order for retrial

- (1) This Rule applies where –
 - (a) a person has been acquitted of a qualifying offence in proceedings –
 - (i) before the Royal Court under the [Loi \(1864\) réglant la Procédure Criminelle](#),
 - (ii) on appeal against a conviction under that Loi,
 - (iii) on appeal from a decision on such an appeal,
 - (iv) under Part 7 of the [Criminal Procedure \(Jersey\) Law 2018](#),
 - (v) on appeal against a conviction under that Part 7, or
 - (vi) on appeal from a decision on such an appeal; or
 - (b) a person has been acquitted, in proceedings elsewhere than in Jersey, of an offence under the law of the place where the proceedings were held, if the commission of the offence as alleged would have amounted to or included the commission (in Jersey or elsewhere) of a qualifying offence; and
 - (c) the Attorney General wishes the Court of Appeal, as the case may be –
 - (i) to make an order quashing the acquittal and ordering that the person be retried for the offence, or
 - (ii) to determine whether the acquittal outside Jersey is a bar to the person's trial in Jersey and, if it is, whether that acquittal shall not be such a bar.
- (2) The Attorney General must lodge with the Court a written application.
- (3) The person who was acquitted must be served personally, or as a single judge may direct, with –
 - (a) a copy of the application; together with
 - (b) a notice charging the person with the offence, unless the person has already been arrested and charged.
- (4) The application must –
 - (a) give details, with relevant facts and dates, of the person's acquittal;
 - (b) explain –
 - (i) what new and compelling evidence there is against the person, and
 - (ii) why in all the circumstances it would be in the interests of justice for the Court to make the order sought;
 - (c) include or attach any application for the following, with reasons –
 - (i) an order under paragraph 7(6) of Schedule 2 for the production of any document, exhibit or other thing which in the Attorney General's opinion is necessary for the determination of the application,
 - (ii) an order under that paragraph for the attendance before the court of any witness who would be a compellable witness at the trial the Attorney General wishes the court to order, or
 - (iii) an order for a reporting restriction under paragraph 9 of Schedule 2; and

- (d) attach –
 - (i) written witness statements of the evidence on which the Attorney General relies as new and compelling evidence against the person,
 - (ii) relevant documents from the trial at which the person was acquitted, including a record of the offence or offences charged and of the evidence given, and
 - (iii) any other document or thing that the Attorney General thinks the Court will need to decide the application.

4 Respondent's notice

- (1) An acquitted person who has received a copy of an application may serve a respondent's notice, and must do so if he or she wishes to make representations to the Court.
- (2) The person must send the respondent's notice to the Judicial Greffier and a copy to the Attorney General not more than 28 days after –
 - (a) the person receives the application; or
 - (b) a direction to do so.
- (3) The respondent's notice must –
 - (a) give the date on which the respondent received the Attorney General's application;
 - (b) summarize any relevant facts not contained in that application;
 - (c) explain the respondent's grounds for opposing that application;
 - (d) include or attach any application for the following, with reasons –
 - (i) an extension of time within which to serve the respondent's notice,
 - (ii) bail pending the hearing of the Attorney General's application, if the respondent is in custody,
 - (iii) a direction to attend in person any hearing that the respondent could attend by live link, if the respondent is in custody,
 - (iv) an order under paragraph 7(6) of Schedule 2 for the production of any document, exhibit or other thing which in the respondent's opinion is necessary for the determination of the Attorney General's application,
 - (v) an order under that paragraph for the attendance before the Court of any witness who would be a compellable witness at the trial the Attorney General wishes the Court to order; and
 - (e) attach or identify any other document or thing that the respondent thinks the Court will need to decide the application.

5 Court of Appeal (Criminal) Rules 1964 to apply

The Court of Appeal (Criminal) Rules 1964 apply with the necessary modifications to an application in accordance with Rule 3.

6 Citation and commencement

These Rules may be cited as the Court of Appeal (Criminal) (Retrial after Acquittal) Rules 2021 and come into force on 1st October 2021.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Court of Appeal (Criminal) (Retrial after Acquittal) Rules 2021	R&O.117/2021	1 October 2021	

Projects available at statesassembly.gov.je

Table of Endnote References

There are currently no endnote references