



Jersey

**COURT OF APPEAL (CRIMINAL)  
(REFERENCE FOR REVIEW OF SENTENCE)  
RULES 2009**

**Official Consolidated Version**

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Jersey

## COURT OF APPEAL (CRIMINAL) (REFERENCE FOR REVIEW OF SENTENCE) RULES 2009

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Jersey

## COURT OF APPEAL (CRIMINAL) (REFERENCE FOR REVIEW OF SENTENCE) RULES 2009

THE COURT OF APPEAL, in pursuance of Articles 40 and 46D(g) of the [Court of Appeal \(Jersey\) Law 1961](#), has made the following Rules –

Commencement [[see endnotes](#)]

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### 1 Interpretation

In these Rules –

“application” means an application by the Attorney General to the Court of Appeal for leave to make a reference;

“Law” means the [Court of Appeal \(Jersey\) Law 1961](#);

“offender” has the meaning given in the definition of “reference”;

“reference” means a reference under Article 45A of the Law by the Attorney General of a case to the Court of Appeal for it to review the sentencing of a person (hereinafter referred to as “the offender”) in a proceeding in the Royal Court.

### 2 Applications

(1) An application shall be in writing and must –

(a) specify –

- (i) the name of the offender,
- (ii) the date on which, and the offence of which, he or she was convicted,
- (iii) the sentence passed on the offender in respect of that offence, and
- (iv) the date on which the sentence was passed (if later than the date under sub-paragraph (ii)); and

(b) state why it appears to the Attorney General that the sentencing of the offender was unduly lenient.

(2) The statement under paragraph (1)(b) must –

(a) concisely summarize the arguments in support; and

- (b) identify any relevant authorities.

### **3 Notice of application**

Notice of the application for the purpose of Article 46A(1)(b) of the Law is given by lodging 5 copies of it with the Judicial Greffier.

### **4 Notice to offender**

- (1) The Judicial Greffier shall, within 2 days of receiving the application, send by recorded delivery to the offender –
  - (a) a copy of the application; and
  - (b) a respondent's notice form as set out in the Schedule.<sup>1</sup>
- (2) The Judicial Greffier shall also advise the offender in writing –
  - (a) that the outcome of the reference may make a difference to the sentence passed on the offender, and in particular may result in a more severe sentence;
  - (b) that the offender may serve a respondent's notice; and
  - (c) if the offender wishes to consult an advocate –
    - (i) to do so as soon as possible, and
    - (ii) that the offender may request the appointment by the Bâtonnier of an advocate to represent the offender on legal aid.

### **5 Respondent's notice**

- (1) An offender who has received a copy of an application may serve a respondent's notice, and must do so if –
  - (a) the offender wants to make representations to the Court; or
  - (b) the Court so directs.
- (2) The offender must send the respondent's notice to the Judicial Greffier and a copy to the Attorney General not more than 14 days after –
  - (a) the offender receives the application; or
  - (b) a direction to do so.
- (3) The respondent's notice must –
  - (a) say if the respondent wants to make representations at the hearing of the application; and
  - (b) include or attach any application for the following, with reasons –
    - (i) an extension of time within which to serve the respondent's notice,
    - (ii) permission to attend a hearing that the respondent does not have a right to attend.
- (4) The respondent must, not more than 28 days after sending the respondent's notice to the Judicial Greffier, lodge with the Judicial Greffier 5 copies of –

- (a) a summary of the arguments the respondent intends to put to the Court; and
- (b) the authorities the respondent intends to cite.

## **6 References**

- (1) If the Court of Appeal gives the Attorney General leave to make a reference, the Court may treat the application for leave as the reference.
- (2) If the Court does not treat the application for leave as the reference, it must give directions with regard to the hearing of the reference.

## **7 Withdrawal or amendment of application or reference**

The Attorney General may withdraw or amend an application or reference at any time before the Court has begun the hearing of the application or reference as the case may be or, after that, and until the Court has given its decision, may withdraw or amend the application or reference by leave of the Court, and notice of such withdrawal or amendment shall be served on the offender by the Attorney General.

## **8 Citation**

These Rules may be cited as the Court of Appeal (Criminal) (Reference for Review of Sentence) Rules 2009.

**SCHEDULE**

(Rule 4(1)(b))

**The Court of Appeal of Jersey**

**RESPONDENT’S NOTICE**

**In re an application by Her Majesty’s Attorney General for leave to make a reference to the Court of Appeal under Article 45A of the [Court of Appeal \(Jersey\) Law 1961](#) for review of sentence**

**A. THE RESPONDENT:<sup>1</sup>**

Surname: .....

Forenames: .....

.....

Address:<sup>2</sup> .....

.....

.....

.....

Post Code: .....

Date of Birth: .....

**B. HEARING BEFORE THE ROYAL COURT**

Bailiff/Deputy Bailiff/Commissioner .....

Date(s) of hearing(s): .....

Date of receipt of Attorney General’s application: .....

<sup>1</sup> Give your full name.  
<sup>2</sup> If in custody give address where you are detained.

**C. THE RESPONDENT –**

- (i) [wants] [does not want]<sup>3</sup> to make representations at the hearing of the application
- (ii) [wants] [does not want]<sup>3</sup> to apply for an extension of time in which to serve the respondent's notice<sup>4</sup>
- (iii) [wants] [does not want]<sup>3</sup> to apply for permission to attend a hearing that the respondent does not have a right to attend<sup>5</sup>

**D. THE REASONS** for any application(s) for extension of time and/or permission to attend a hearing are:

.....

.....

.....

.....

.....

**Signature**

Signature of respondent

[OR: Details of any person signing on behalf of the respondent:

.....

.....

.....]

<sup>3</sup> Delete as appropriate.

<sup>4</sup> If you do want an extension of time, state reasons in section **D**.

<sup>5</sup> If you do wish to apply for such permission, state reasons in section **D**.

**IMPORTANT**

**A respondent's notice must be sent to the Judicial Greffier (and a copy sent to the Attorney General) not more than 14 days after the respondent received a copy of the Attorney General's application.**

**The respondent then has 28 days within which to lodge with the Judicial Greffier 5 copies of –**

- (a) a summary of the arguments the respondent intends to put to the Court of Appeal; and**
- (b) the authorities the respondent intends to cite.**



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Court of Appeal (Criminal) (Reference for Review of Sentence) Rules 2009	<a href="#">R&amp;O.79/2009</a>	3 August 2009
Court of Appeal (Criminal) (Amendment No. 2) Rules 2021	<a href="#">R&amp;O.118/2021</a>	24 September 2021

### Table of Endnote References

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<sup>1</sup> *Rule 4(1)*                      *amended by R&O.118/2021*