

This is a translation of the

Loi (1864) concernant la charge de Juge d'Instruction

(Chapter 07.525)

as in force on 1 January 2019

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Law (1864) concerning the office of Magistrate (Juge d'Instruction)

A LAW determining the establishment, mode of appointment, and the functions of the Magistrate

WHEREAS the Law of Criminal Procedure, passed by the States on 23 March 1863, and sanctioned by Her Majesty in Council on 1 March 1864, imposes on the Magistrate new and onerous functions, which will oblige him to a daily and prolonged court attendance, and will occupy all the time at his disposal, and will hinder his ability to perform any other public function;

That, consequently, this office cannot be occupied by a Jurat, whose presence at sittings of the Royal Court is often required, and even indispensable, for the due administration of Justice, and that there is an urgent necessity to provide for the regular execution of the provisions of the said Procedure Law by the establishment of a special, permanent and indispensable Magistracy;

To these ends the States have resolved to adopt the following Law, subject to the sanction of her Most Excellent Majesty in Council –

Article 1

- (1) The same Magistrate shall discharge the functions of both Judge of the Magistrate's Court and Judge of the Petty Debts Court; he or she shall be appointed by the Bailiff and, if the Bailiff judges it necessary, the Bailiff may appoint one or more Assistant Magistrates to assist the Magistrate in discharging the duties of that office, and in this Law and in any other legislation a reference to the Magistrate includes a reference to the Assistant Magistrate.
- (2) The following shall be deemed to be qualified to discharge such office –

- (a) Jurats of the Royal Court;
- (b) advocates and solicitors (écrivains) of the Royal Court of at least 10 years standing or who have held office as a Crown Officer;
- (c) any person who is or has been in office as a Judge in the Commonwealth;
- (d) any person who has practised for at least 10 years –
 - (i) either at the Bar of England and Wales or as a Solicitor of the Senior Courts of England and Wales,
 - (ii) either as a member of the Faculty of Advocates or as a Solicitor in Scotland,
 - (iii) either at the Bar of Northern Ireland or as a Solicitor of the Court of Judicature of Northern Ireland, or
 - (iv) at the Bar of Guernsey.

Article 2

- (1) The Magistrate appointed by virtue of Article 1 of the present Law (hereinafter referred to as “the Magistrate”) shall take oath before the Royal Court well and faithfully to discharge the duties of his or her office.
- (2) The Magistrate shall cease to exercise his or her functions when he or she shall attain the age of 70 years; provided that it shall be lawful for the States to keep him or her in office for an additional fixed period.
- (3) The Magistrate may not be dismissed from office other than by virtue of an Order of His Majesty in Council.

Article 3

The Magistrate shall receive such salary and allowances, and shall be entitled to such pensions and bonuses as shall be determined from time to time by the States Employment Board established under the Employment of States of Jersey Employees (Jersey) Law 2005 following consultation by the Board with the Magistrate.

Article 4

In case of a vacancy in the said office by the death or the resignation of the Magistrate or for any other reason, the vacancy shall be filled in the manner provided by Article 1.

Article 5

Once sworn to office, the Magistrate may not discharge any other public office. If the person appointed is a Jurat, that office shall become vacant upon the person being sworn to office as Magistrate, and a public election shall immediately be ordered by the Royal Court to replace him or her, subject to the exception contained in Article 6.

Article 6

In the case of absence of the Magistrate for any reason or in the case of a vacancy in the office of Magistrate, or for any other reason for which the Bailiff considers it necessary, the Bailiff shall appoint a person having the necessary qualification referred to in Article 1(2) to perform the functions of the Magistrate during that absence or vacancy or for such period as the Bailiff may consider necessary.

Unofficial Translation