



Jersey

CRIMINAL JUSTICE (EVIDENCE OF CHILDREN) (JERSEY) LAW 2002

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Jersey

CRIMINAL JUSTICE (EVIDENCE OF CHILDREN) (JERSEY) LAW 2002

A LAW to consolidate the provisions of the Criminal Justice (Evidence and Procedure) (Jersey) Law 1997 and certain provisions of the Children (Jersey) Law 1969 concerned with the giving of evidence of children and certain other persons by means of television links and video recording, the presence in court of children under the age of 17 at the trial of other persons, the conduct of proceedings where the victim is a child, the giving of unsworn evidence by children and other related provisions involving children and other persons.

Commencement [[see endnotes](#)]

1 Interpretation

In this Law –

“statement” includes any representation of fact, whether made in words or otherwise;

“video recording” means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track;

“witness” means a person who is not the accused or one of the accused in criminal proceedings.¹

2 Evidence through television links

- (1) A person to whom this Article applies may, with the leave of the court, give evidence through a live television link in any criminal proceedings if the accused is charged with –
 - (a) an offence which involves an assault on, or injury or a threat of injury to, a person;
 - (b) an offence under –
 - (i) Article 35 of the [Children \(Jersey\) Law 2002](#),

- (ii) the [Sexual Offences \(Jersey\) Law 2018](#), or under a provision of an enactment or customary law repealed or abolished by that Law,
 - (iii) Part 10 of the [Mental Health \(Jersey\) Law 2016](#), or Article 37 or 38 of the Mental Health (Jersey) Law 1969 (if the offence is alleged to have been committed before the repeal of that Law), or,
 - (iv) the [Protection of Children \(Jersey\) Law 1994](#);
- (c) a customary law offence of indecent assault, indecent exposure, or outraging public decency; or
- (d) an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within sub-paragraphs (a) to (c).²
- (2) This Article applies to a –
- (a) witness who is a child; and
 - (b) witness who is a patient within the meaning of the [Mental Health \(Jersey\) Law 2016](#) and capable of giving evidence.³
- (3) Article 3(10) shall apply for the purposes of this Article as it applies for the purposes of that Article, but with the omission of the references to a person being, in the cases there mentioned, under 15 years of age or under 18 years of age.

3 Video recordings of testimony from child witnesses and other witnesses

- (1) In any proceedings in connection with an offence referred to in Article 2(1) the court may give leave to allow a video recording to be given in evidence of an interview which –
- (a) is conducted between an adult and a witness described in Article 2(2)(a) or (b); and
 - (b) relates to any matter in issue in the proceedings.⁴
- (2) Subject to the exercise of any of its powers to exclude evidence which is otherwise admissible, the court shall give leave under paragraph (1) unless –
- (a) it appears that the witness will not be available for cross-examination;
 - (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court; or
 - (c) it considers that, having regard to all the circumstances of the case, in the interests of justice the recording ought not to be admitted.⁵
- (3) Where the court gives leave under paragraph (2), it may, if it considers that in the interests of justice any part of a recording ought not to be admitted, direct that that part shall be excluded.

- (4) In considering whether any part of a recording ought to be excluded under paragraph (3), the court shall consider whether any prejudice to the accused, or one of the accused, which might result from the admission of that part is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.
- (5) Where a video recording is admitted under this Article the witness –
 - (a) shall be called by the party who tendered it in evidence;
 - (b) may, with the leave of the court, be examined in chief on any matter which, in the opinion of the court, has been dealt with in his or her recorded testimony.⁶
- (6) Any statement made by the witness which is disclosed by a video recording given in evidence under this Article shall be treated as if given by that witness in direct oral testimony.⁷
- (7) Any statement referred to in paragraph (6) shall be admissible evidence of any fact of which such testimony from the witness would be admissible.⁸
- (8) No statement referred to in paragraph (6) shall be capable of corroborating any other evidence given by the witness.⁹
- (9) In estimating the weight, if any, to be attached to a statement referred to in paragraph (6), regard shall be had to all the circumstances from which any inference as to its accuracy or otherwise can reasonably be drawn.
- (10) In this Article “child” means a person who –
 - (a) in the case of proceedings specified in Article 2(1)(a) (or in sub-paragraph (d) of that paragraph where the principal offence is one specified in sub-paragraph (a) of that paragraph), is under 14 years of age or, if the person was under that age when the video recording was made, is under 15 years of age; or
 - (b) in the case of proceedings specified in Article 2(1)(b) or (c) (or in sub-paragraph (d) of that paragraph where the principal offence is one specified in sub-paragraph (b) or (c) of that paragraph) is under 17 years of age or, if the person was under that age when the video recording was made, is under 18 years of age.
- (11) Nothing in this Article shall prejudice the admissibility of any video recording which would be admissible apart from this Article.

4 Prohibition on persons under the age of 17 being present in court during the trial of other persons

Except by leave of the court, no person under the age of 17 years (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during proceedings preliminary thereto, except during such time as his or her presence is required as a witness or otherwise for the purpose of justice; and any child present in court when under this Article he or she is not permitted to be there shall be ordered to be removed.

5 Power to clear court while person under the age of 17 is giving evidence in certain cases

- (1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person under the age of 17 years is called as a witness, the court may direct that all or any persons, not being –
 - (a) members or officers of the court or parties to the case, their advocates or solicitors or persons otherwise directly concerned in the case; or
 - (b) *bona fide* representatives of newspapers, news agencies or sound or television broadcasting companies,be excluded from the court during the taking of the evidence of that witness.
- (2) The powers conferred on a court by this Article shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

6 Power to proceed with case in the absence of person under the age of 17

Where in any proceedings with relation to any of the offences mentioned in the Schedule to this Law, the court is satisfied that the attendance before the court of any person under the age of 17 years in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with in the absence of that person.

7 Extension of power to take deposition of person under the age of 17

- (1) Where the Bailiff is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any person under the age of 17 years in respect of whom any of the offences mentioned in the Schedule to this Law is alleged to have been committed would involve serious danger to the person's life or health, the Bailiff may direct that the deposition of the person be taken on oath in accordance with the Loi (1853) concernant la rédaction des dépositions and the depositions shall be admissible in evidence in the proceedings with relation to the offence either for or against the accused person without further proof thereof.
- (2) In this Article "registered medical practitioner" has the same meaning as in the [Medical Practitioners \(Registration\) \(Jersey\) Law 1960](#).

8 Evidence given by children

- (1) Evidence of a child in proceedings against any person for any offence shall be given unsworn.

- (2) A statement of unsworn evidence of a child may be taken for the purposes of proceedings against any person for any offence as if that evidence had been given on oath.
- (3) Evidence of a child shall be received unless it appears to the court that the child is incapable of giving intelligible testimony.
- (4) If any child whose evidence is received unsworn in accordance with paragraph (1) wilfully gives false evidence in such circumstances that the child would, if the evidence had been given on oath, have been guilty of perjury, the child shall be liable to be dealt with as if he or she had been convicted of an offence punishable in the case of an adult with a fine of level 1 on the standard scale.¹⁰
- (5) In this Article, “child” means a person under 14 years of age.

9 Cross-examination of alleged victims

- (1) No person who is charged with an offence referred to in Article 2(1) shall cross-examine in person any witness who is –
 - (a) alleged to be a person against whom the offence was committed or to have witnessed the commission of the offence; and
 - (b) a person to whom Article 2 applies, or is to be cross-examined following the admission under Article 3 of a video recording of testimony from the person.
- (2) Article 3(10) shall apply for the purposes of this Article as it applies for the purposes of that Article, but with the omission of the references to a person being, in the cases there mentioned, under 15 years of age or under 18 years of age.

10 Power to make Rules

Rules may be made in the manner prescribed by the [Royal Court \(Jersey\) Law 1948](#) to make such provision as appears to the Superior Number of the Royal Court to be necessary or expedient for the purposes of this Law.

11 Citation

This Law may be cited as the Criminal Justice (Evidence of Children) (Jersey) Law 2002.

SCHEDULE¹¹

(Articles 6 and 7)

**OFFENCES AGAINST PERSONS UNDER THE AGE OF 17 TO WHICH ARTICLES 6
AND 7 APPLY**

Murder or manslaughter.

Infanticide.

An offence under the [Sexual Offences \(Jersey\) Law 2018](#), or an offence repealed or abolished by that Law, or an attempt to commit either of those descriptions of offence.

A customary law offence of indecent assault or indecent exposure, or an attempt to commit such an offence.

An offence under any of Articles 74 to 76 of the [Mental Health \(Jersey\) Law 2016](#), or an offence under Article 38 of the Mental Health (Jersey) Law 1969 (if the offence is alleged to have been committed before the repeal of that Law), or an attempt to commit either such an offence.

An offence under Article 11(14) of the [Sex Offenders \(Jersey\) Law 2010](#).

Stealing a child or receiving a stolen child.

Assault.

An offence under Article 35 of the [Children \(Jersey\) Law 2002](#).

Any other offence involving bodily injury.

An offence under Article 2(1)(a) of the [Protection of Children \(Jersey\) Law 1994](#).

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Criminal Justice (Evidence of Children) (Jersey) Law 2002	L.27/2002	1 August 2005 (R&O.70/2005)	P.203/2001
Criminal Justice (Evidence of Children) (Amendment) (Jersey) Law 2002	L.45/2002	1 August 2005	P.138/2002
Law Revision (Miscellaneous Provisions) (Jersey) Law 2006	L.6/2006	10 March 2006	P.222/2005
Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018	R&O.49/2018	1 October 2018 (R&O.51/2018)	P.48/2018
Sexual Offences (Consequential Amendments) (Jersey) Regulations 2018	R&O.110/2018	23 November 2018	P.106/2018
Criminal Procedure (Jersey) Law 2018	L.25/2018	1 October 2021 (R&O.95/2021)	P.118

◦Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
1(1)	1
1(2) to (4)	Otiose, omitted
11	Spent, omitted
12	11

Table of Endnote References

¹ Article 1	amended by L.6/2006
² Article 2(1)	amended by L.45/2002, R&O.49/2018, R&O.110/2018
³ Article 2(2)	amended by L.6/2006, R&O.49/2018
⁴ Article 3(1)	amended by L.6/2006
⁵ Article 3(2)	amended by L.6/2006
⁶ Article 3(5)	amended by L.6/2006
⁷ Article 3(6)	amended by L.6/2006
⁸ Article 3(7)	amended by L.6/2006
⁹ Article 3(8)	amended by L.6/2006
¹⁰ Article 8(4)	amended by L.25/2018
¹¹ Schedule	amended by R&O.110/2018