

**Jersey Law 22/1961**

**“COST IN CRIMINAL CASES (JERSEY) LAW, 1961”,**

CONFIRMÉ PAR

**Ordre de Sa Majesté en Conseil**

en date du 26 mai 1961.

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*(Enregistré le 17 juin 1961).*

ARRANGEMENT OF ARTICLES

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## Article

1. Interpretation and application
2. Power of Royal Court or Police Court to award costs
3. Power of Superior Number of Royal Court or Court of Appeal to award costs
4. Payment of costs ordered to be paid out of public funds
5. Enforcement of costs payable by accused
6. Regulations
7. Saving
8. Short title and commencement

**COSTS IN CRIMINAL CASES (JERSEY) LAW, 1961.**

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**A LAW** to empower Courts of Justice to order the payment of costs in criminal and quasi-criminal cases and for purposes incidental thereto, sanctioned by Order of Her Majesty in Council of the

**26th day of MAY, 1961.**

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*(Registered on the 17th day of June, 1961).*

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**STATES OF JERSEY.**

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The 9th day of February, 1961.

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**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law : -

**ARTICLE 1**

**INTERPRETATION AND APPLICATION**

(1) In this Law, “public funds” means the General Revenues of the States.

(2) Article 2 of this Law shall apply to –

(a) the Royal Court sitting as a court of assize or “en Police Correctionnelle” or dealing with a matter of a criminal or quasi-criminal nature brought before the court by the Attorney General ;

(b) the Police Court sitting as a court of summary jurisdiction or enquiring into an offence as “Juge d’Instruction”.

(3) References in this Law to costs paid or ordered to be paid out of public funds shall be construed as including references to any sums so paid or ordered to be paid as compensation to or expenses of a witness or other person or as advocate's or solicitor's fees.

## ARTICLE 2

### **POWER OF ROYAL COURT OR POLICE COURT TO AWARD COSTS**

(1) Subject to the provisions of this Article, where any person is prosecuted or tried before a court to which this Article applies, the court may –

- (a) if the accused is convicted, order him to pay the whole or any part of the costs incurred in or about the prosecution and conviction ;
- (b) order the payment out of public funds of the costs of the prosecution ;
- (c) if the accused is discharged from the prosecution or acquitted, order the payment out of public funds of the costs of the defence.

(2) The costs which may be awarded by the Royal Court under paragraph (1) of this Article shall include the costs incurred in or about any proceedings before the “Juge d’Instruction”.

(3) The costs of the prosecution payable under sub-paragraph (b) of paragraph (1) of this Article shall be such sums as appear to the court reasonably sufficient to compensate any witness for the prosecution for the expense, trouble or loss of time properly incurred in or incidental to his attendance and giving evidence.

(4) The costs of the defence payable under sub-paragraph (c) of paragraph (1) of this Article shall be such sums as appear to the court reasonably sufficient to compensate the accused for the expenses properly incurred by him in carrying on the defence and to compensate

*Jersey Law 22/1961*      *Costs in Criminal Cases (Jersey) Law, 1961*

any witness for the defence for the expense, trouble or loss of time properly incurred in or incidental to his attendance and giving evidence.

(5) Notwithstanding that the court makes no order under sub-paragraph (c) of paragraph (1) of this Article for the payment of the costs of the defence, it may order the payment out of public funds of such sums as appear to the court reasonably sufficient to compensate any witness for the defence for the expense, trouble or loss of time properly incurred in or incidental to his attendance and giving evidence.

(6) Unless the court otherwise directs, no sum shall be payable in pursuance of an order under this Article to or in respect of any witness for the prosecution or defence who is a witness to character only.

(7) The amount of costs ordered to be paid under this Article shall be ascertained as soon as practicable by the Judicial Greffier.

(8) Where a person committed for trial is not ultimately tried, the court to which he is committed shall have the same power to order payment of costs under this Article as if the accused had been tried and acquitted.

(9) This Article shall apply where a person is committed by the Police Court to the Inferior Number of the Royal Court with a view to his being sentenced to Borstal training under Article 2 of the Criminal Justice (Jersey) Law, 1957,<sup>1</sup> as it applies where a person is convicted before the Royal Court, but shall not apply to the hearing by the Royal Court of an appeal from a decision of the Police Court.

(10) In this Article, the expression “witness” means a person properly attending to give evidence, whether or not he gives evidence ; and a person called to give evidence at the instance of the court may, whether or not he is a witness for the defence, be made the subject of an order under paragraph (5) of this Article.

<sup>1</sup> Tome 1957–1960, page 20.

## ARTICLE 3

**POWER OF SUPERIOR NUMBER OF ROYAL COURT OR  
COURT OF APPEAL TO AWARD COSTS**

(1) The Superior Number of the Royal Court or the Court of Appeal may, when it dismisses an appeal, or application for leave to appeal, under Part III of the Court of Appeal (Jersey) Law, 1961,<sup>2</sup> order the appellant to pay the whole or any part of the costs of the appeal or application, including the cost of any transcript of the shorthand notes of the proceedings at the trial made in accordance with a direction given by the Judicial Greffier under Article 40 of the said Law<sup>3</sup>.

(2) The Court of Appeal may, when it allows an appeal against a conviction, order the payment out of public funds of such sums as appear to the court reasonably sufficient to compensate the appellant for any expenses properly incurred in the prosecution of his appeal, including any proceedings preliminary or incidental thereto, or in carrying on his defence.

The amount of costs that the court has ordered to be paid under this paragraph shall as soon as practicable be ascertained by the Judicial Greffier.

(3) Whether or not the court makes an order under the provisions of this Article, there shall be defrayed out of public funds, up to an amount allowed by the court –

- (a) where, by reason of the insufficiency of the appellant's means, an advocate has been assigned to him, the fees and expenses of the advocate ;
- (b) the expenses of any witness attending on the order of the court, or examined in any proceedings incidental to an appeal in the court ;

<sup>2</sup> Page 109 of this volume.

<sup>3</sup> Page 121 of this volume.

*Jersey Law 22/1961*      *Costs in Criminal Cases (Jersey) Law, 1961*

- (c) the expenses of the appearance of the appellant on the hearing of his appeal or on any proceedings preliminary or incidental to the appeal ;
- (d) the expenses of and incidental to any examination of witnesses conducted by a person appointed by the court for the purpose, or of any reference of a question to a special commissioner appointed by the court ; and
- (e) the expenses of any person appointed as assessor to the court.

(4) Except as provided in this Article, no costs shall be allowed on the hearing or determination of an appeal, or of any proceedings preliminary or incidental to an appeal, under Part III of the Court of Appeal (Jersey) Law, 1961.<sup>4</sup>

#### ARTICLE 4

### **PAYMENT OF COSTS ORDERED TO BE PAID OUT OF PUBLIC FUNDS**

As soon as the amount due to any person as costs ordered or allowed under this Law to be paid out of public funds has been ascertained, the Judicial Greffier shall make out and deliver to that person, or to any person appearing to be acting on behalf of that person, an order on the Treasurer of the States for the payment of that amount, and the Treasurer of the States shall, upon sight of the order, pay to the person named therein, or his duly authorized agent, the sum specified in the order.

#### ARTICLE 5

### **ENFORCEMENT OF COSTS PAYABLE BY ACCUSED**

(1) Where the Royal Court orders the payment of costs by the accused under this Law, the payment shall be enforceable in the same

<sup>4</sup> Page 109 of this volume.

*Jersey Law 22/1961*      *Costs in Criminal Cases (Jersey) Law, 1961*

manner as an order for the payment of costs made by the Royal Court in a civil case or out of any money taken from the accused on arrest so far as the court directs.

(2)      Where the Court of Appeal orders the payment of costs by the appellant under this Law, the payment shall be enforceable in the same manner as an order for the payment of costs made by the Royal Court in a civil case.

(3)      Where the Police Court orders the payment of costs by the accused under this Law, the payment shall be enforceable as a sum adjudged to be paid by the conviction.

(4)      Where the Royal Court or the Police Court orders the payment of costs by the accused and also orders the payment of costs out of public funds, the costs, so far as they are payable under both orders, shall be primarily payable out of those funds ; and the court shall give notice to the Treasurer of the States of the order for the payment of costs by the accused.

(5)      To the extent that any costs are primarily payable out of public funds under this Law and have been paid out of those funds, payment of the costs shall be enforceable under this Article by the Treasurer of the States ; but, except as aforesaid, payment of costs shall be enforceable under this Article by the person to whom they are ordered to be paid :

Provided that this paragraph shall not apply where the payment of the costs is enforceable under this Article as a sum adjudged to be paid by the conviction of the Police Court.

## ARTICLE 6

### REGULATIONS

The States may make regulations generally for carrying this Law into effect and, in particular, may by such regulations prescribe the rates or scales of payment of any costs payable out of public funds under this Law and the conditions under which such costs may be allowed.

*Jersey Law 22/1961*

*Costs in Criminal Cases (Jersey) Law, 1961*

ARTICLE 7

**SAVING**

Nothing in this Law shall affect the provision in any enactment for the payment of the costs of the prosecution or defence of any offence out of any assets, money or funds other than public funds, or by any person other than the defendant.

ARTICLE 8

**SHORT TITLE AND COMMENCEMENT**

(1) This Law may be cited as the Costs in Criminal Cases (Jersey) Law, 1961.

(2) This Law shall come into force on such day as the States may by Act appoint.

**F. DE L. BOIS,**

*Greffier of the States.*