



Jersey

CRIMINAL PROCEDURE (JERSEY) AMENDMENT RULES 2024

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CRIMINAL PROCEDURE (JERSEY) AMENDMENT RULES 2024

Made

27th March 2024

Coming into force

3rd April 2024

THE CRIMINAL PROCEDURE RULES COMMITTEE makes these Rules under Article 112 of the [Criminal Procedure \(Jersey\) Law 2018](#) and Article 17 of the [Domestic Abuse \(Jersey\) Law 2022](#) –

1 Amendment of the [Criminal Procedure \(Jersey\) Rules 2021](#)

These Rules amend the [Criminal Procedure \(Jersey\) Rules 2021](#).

2 Part 7A inserted

After Part 7 there is inserted –

“PART 7A

DOMESTIC ABUSE (JERSEY) LAW 2022

69 Application and interpretation of Part 7A

- (1) This Part applies to applications and appeals made under the following provisions of the Domestic Abuse Law –
 - (a) in Part 3 (Domestic Abuse Protection Orders) –
 - (i) an application pursuant to Article 5(2) for a domestic abuse protection order, otherwise than on conviction or sentencing,
 - (ii) an appeal pursuant to Article 8(2) against a domestic abuse protection order,
 - (iii) an application pursuant to Article 9(2) to vary or revoke a domestic abuse protection order;
 - (b) in Part 4 (Notification Requirements and Disclosure of Information) –
 - (i) an application pursuant to Article 11(2) for an offender to be made subject to notification requirements, otherwise than on conviction or sentencing,

- (ii) an appeal pursuant to Article 13(2) against the imposition of notification requirements, and
 - (iii) an application pursuant to Article 14(2) to vary or revoke notification requirements.
- (2) In this Part, references to Article numbers are to Article numbers in the Domestic Abuse Law.
- (3) In this Part –
 - “A” means a person who has been convicted of a relevant offence, in respect of whom an application or appeal is made or is intended to be made, and “B” means a person against whom that relevant offence has been committed;
 - “appeal” means an appeal to the Royal Court pursuant to Article 8(2) or 13(2), or an appeal to the Youth Appeal Court pursuant to Article 13(2);
 - “appellant” means a person specified at Article 8(2) or 13(2) when bringing or intending to bring an appeal;
 - “court” means the Magistrate’s Court, the Youth Court, the Youth Appeal Court or the Royal Court;
 - “Domestic Abuse Law” means the [Domestic Abuse \(Jersey\) Law 2022](#);
 - “Greffier” means the Greffier of the relevant court;
 - “judge” means the Bailiff or the Magistrate (whichever is appropriate);
 - “respondent” means –
 - (a) in the case of an application pursuant to Article 5(2), A and B;
 - (b) in the case of an appeal pursuant to Article 8(2), each person, other than the appellant, who pursuant to paragraph (4) of that Article, has the right to be heard on an appeal;
 - (c) in the case of an application pursuant to Article 9(2), each person, other than the applicant, who pursuant to paragraph (3) of that Article, has the right to be heard on an application;
 - (d) in the case of an application pursuant to Article 11(2), A;
 - (e) in the case of an appeal pursuant to Article 13(2), the Attorney General or A as the case may be; and
 - (f) in the case of an application pursuant to Article 14(2), the Attorney General or A as the case may be.

70 Commencement of application or appeal

- (1) Subject to paragraphs (2) and (3), an application or appeal shall be commenced as follows –
 - (a) in the case of an application pursuant to Article 5(2) or 11(2), otherwise than on conviction or sentencing, by representation to the court in which the person was convicted;
 - (b) in the case of an appeal pursuant to Article 8(2), by the appellant giving notice of appeal in the form set out at Schedule 13 to these Rules (and in accordance with the time limit specified at Article 8(3));
 - (c) in the case of an appeal pursuant to Article 13(2), by the appellant giving notice of appeal in the form set out at Schedule 14 to these Rules (and in accordance with the time limit specified at Article 13(3)); and

- (d) in the case of an application pursuant to Article 9(2) or 14(2), by representation in substantially the form set out at Schedule 15 to these Rules.
- (2) In the case of an application pursuant to Article 5(2), where A was convicted in the Youth Court, the application shall be made to the Magistrate's Court.
- (3) In the case of an application pursuant to Article 11(2), where A –
 - (a) is over 18 years of age; and
 - (b) was convicted in the Youth Court,the application shall be made to the Magistrate's Court.
- (4) An application or appeal must –
 - (a) be in writing;
 - (b) specify the grounds;
 - (c) specify the relief sought;
 - (d) in the case of an application pursuant to Article 5(2) –
 - (i) include a report on the welfare of any person under the age of 18 whose interests are relevant to the giving of the order,
 - (ii) if the application seeks an order that would limit or prevent A from entering the premises where B lives, include, so far as reasonably possible, the names and opinions of any other person who lives at the premises and is personally connected to A or B;
 - (e) in the case of an application pursuant to Article 5(2), 9(2), 11(2) or 14(2), include a copy of any statement provided by A on the matter;
 - (f) in the case of an application pursuant to Article 5(2) or 9(2), include a copy of any statement provided by B on the matter;
 - (g) include any request that the application or appeal be heard in private;
 - (h) be signed by the applicant or appellant, or by the applicant's or appellant's advocate,and be sent to the Greffier.
- (5) The Greffier shall send a copy of the application or notice of appeal to each respondent, and shall at the same time give written notification to each respondent of the requirements of Rule 71.

71 Respondent's notice

- (1) A respondent who has received a copy of an application or notice of appeal in accordance with Rule 70(5) may serve a respondent's notice, and must do so if –
 - (a) the respondent wants to make representations to the court; or
 - (b) the court so directs.
- (2) The respondent must send the respondent's notice to the Greffier not more than 8 days after –
 - (a) the respondent receives the application or notice of appeal; or
 - (b) a direction to do so.
- (3) The respondent's notice must –

- (a) state if the respondent wants to make representations at the hearing of the application or appeal;
 - (b) include any request that the application or appeal be heard in private; and
 - (c) include or attach any application, with reasons, for an extension of time within which to serve the respondent's notice.
- (4) The Greffier shall send a copy of the respondent's notice to each of the other parties.

72 Amendment of representation, notice of appeal or respondent's notice

A representation, notice of appeal or respondent's notice may be amended with the leave of the court.

73 Directions

When each respondent has served a respondent's notice, or the time limit for serving it has expired, the Greffier shall –

- (a) make arrangements for the hearing as soon as may be of the application or appeal by the court; and
- (b) give such directions to the parties as may be necessary in connection with the hearing, including (but without limiting what directions may be given) directions as to the lodging, in advance of the hearing, of copies of documents, including authorities, and summary arguments that each party intends to put to the court.

74 Hearing of application or appeal

- (1) When a date has been fixed for the hearing of the application or appeal, the Greffier shall give notice of the date to the parties.
- (2) A determination on an application pursuant to Article 5(2), 9(2), 11(2) or 14(2) may be made by a judge sitting alone.

75 Party in custody

- (1) This rule applies where the applicant, appellant or respondent is in custody.
- (2) The person –
 - (a) shall be entitled to be present (if he or she desires it) on the hearing of the application or appeal as the case may be, either in person or (if the Court so directs) by video link; but
 - (b) shall not be entitled to be present at proceedings preliminary or incidental to the application or appeal unless the person is given leave by the court to be present.
- (3) When the court has made a decision or determination, if the person has not been present the Greffier shall give notice of the decision or determination of the court to the person.

76 Abandonment

- (1) An applicant or appellant at any time may abandon his or her application or appeal by written notice to the Greffier, and on such notice being given the application or appeal shall be taken to have been dismissed.
- (2) Where an application or appeal is taken to have been dismissed under this Rule, the Royal Court may still make an award of costs.

77 Court may sit in private

A court may, in the interests of justice, sit in private in any proceedings in which the court is exercising, or considering exercising, a power under Part 3 or Part 4 of the Domestic Abuse Law.

78 Court may dispense with requirements of this Part

A court may, in the interests of justice, dispense with any requirement of this Part.”.

3 Schedules 13 to 15 inserted

After Schedule 12 there are inserted the following Schedules –

“SCHEDULE 13

(Rule 70(1)(b))

FORM OF NOTICE OF APPEAL AGAINST DOMESTIC ABUSE PROTECTION ORDER

IN THE ROYAL COURT OF JERSEY

On appeal from the Magistrate’s Court

NOTICE OF APPEAL AGAINST A DECISION OF THE COURT TO [ISSUE/REFUSE AN APPLICATION TO ISSUE/IMPOSE CERTAIN PROHIBITIONS OR REQUIREMENTS IN]¹ A DOMESTIC ABUSE PROTECTION ORDER UNDER PART 3 OF THE DOMESTIC ABUSE (JERSEY) LAW 2022

Name of the person _____

TAKE NOTICE that, on appeal from the decision of the Magistrate’s Court made on the day of _____, 20____ to [issue/refuse an application to issue/impose certain prohibitions or requirements in]² a domestic abuse protection order, the appellant will ask the Royal Court to order that:³

¹ Delete as appropriate

² Delete as appropriate

³ State order applied for

Particulars of offence⁴
(use separate sheet if nec.)

THE GROUNDS of appeal are:⁵
(use separate sheet if nec.)

(Signed).....
(Appellant).

Date:.....

⁴ Give full details, including circumstances

⁵ State grounds of appeal

SCHEDULE 14

(Rule 70(1)(c))

FORM OF NOTICE OF APPEAL AGAINST ORDER FOR NOTIFICATION REQUIREMENTS (DOMESTIC ABUSE)

[IN THE ROYAL COURT OF JERSEY

On appeal from the Magistrate’s Court]

[IN THE YOUTH APPEAL COURT OF JERSEY

On appeal from the Youth Court]

NOTICE OF APPEAL AGAINST A DECISION OF THE COURT TO [ORDER THAT/REFUSE AN APPLICATION FOR AN ORDER THAT]⁶ A PERSON BE SUBJECT TO THE NOTIFICATION REQUIREMENTS UNDER PART 4 OF THE DOMESTIC ABUSE (JERSEY) LAW 2022

Name of the person _____

TAKE NOTICE that, on appeal from the decision of the [Magistrate’s Court/Youth Court] made on the _____ day of _____, 20____ to [order that/refuse an application for an order that]⁷ a person be subject to the notification requirements, the appellant will ask the [Royal Court/Youth Appeal Court] to order that:⁸

Particulars of offence⁹
(use separate sheet if nec.)

THE GROUNDS of appeal are:¹⁰
(use separate sheet if nec.)

(Signed).....
(Appellant).

Date:.....

⁶ Delete as appropriate

⁷ Delete as appropriate

⁸ State order applied for

⁹ Give full details, including circumstances

¹⁰ State grounds of appeal

SCHEDULE 15

(Rule 70(1)(d))

FORM OF REPRESENTATION –**APPLICATION TO VARY OR REVOKE DOMESTIC ABUSE PROTECTION ORDER OR
NOTIFICATION REQUIREMENTS**

IN THE MATTER OF [NAME]
AND IN THE MATTER OF AN APPLICATION UNDER ARTICLE [9 / 14] OF THE
DOMESTIC ABUSE (JERSEY) LAW 2022

REPRESENTATION

The Representation of [name] (the “Applicant”) shows that:-

1. On the [date], [name] (the “Person”) was convicted in the [court] of the following offences, each of which is a relevant offence under Article 1(1) of the [Domestic Abuse \(Jersey\) Law 2022](#) (the “Law”):-
[details of offence(s)]
2. The Person was sentenced on the [date] to [details of sentence] for the above listed offence(s).
3. On [the same occasion] [date] the [court] ordered that the Person be subject to [a Domestic Abuse Protection Order (“DAPO”)] [notification requirements] with the following terms:-
[terms of the order, including duration]
4. During the duration of the [DAPO/notification requirements] the Person has [complied/not complied] with the terms of the order.
5. The Person’s circumstances have changed in the time since the order was issued, to such an extent that the terms of the order are no longer necessary or proportionate, as follows:
[details of the change of circumstances and why the terms of the order are no longer necessary or proportionate].
6. The following documents are annexed hereto in support of this Representation:
[list of documents and their dates].
7. Accordingly, the Applicant applies to the [court] pursuant to Article [9(2) / 14(2)] of the Law for an order that:-
[- the Person no longer be subject to the [DAPO/notification requirements]
[- the terms of the [DAPO/notification requirements] be varied as follows: [details of proposed variation]]

The Applicant prays for the following relief:

[that the court order pursuant to Article 9(4) of the Law that the Person no longer be subject to the DAPO]

[that the court order pursuant to Article 9(4) of the Law that the terms of the DAPO be varied as follows: [details of proposed variation]]

[that the court order pursuant to Article 14(3) of the Law that the Person no longer be subject to the notification requirements]

[that the court order pursuant to Article 14(3) of the Law that the terms of the notification requirements be varied as follows: [details of proposed variation]].”

4 Citation and commencement

These Rules may be cited as the Criminal Procedure (Jersey) Amendment Rules 2024 and come into force 7 days after they are made.

R. MACRAE

R. MORLEY-KIRK

M. PRESTON

M. HARRIS

N. FOX

Criminal Procedure Rules Committee