

# ROYAL COURT OF JERSEY

## RC 24/02

### **Discontinuance of Criminal Proceedings**

This Practice Direction sets out the approach to be taken when a Notice of Discontinuance (“a/the Notice”) is issued in respect of criminal proceedings pursuant to Article 80 of the Criminal Procedure (Jersey) Law 2018.

Accordingly, this Practice Direction should be read in conjunction with Article 80 and in conjunction with the Magistrate’s Court Practice Direction- MC 23/02, Section 10.

#### **To whom should the Notice be sent?**

1. If, at the time notice is given, the Defendant remains within the jurisdiction of the Magistrate’s Court, the Notice shall be filed with the Magistrate’s Court Greffier and Defence Counsel, or the Defendant if the Defendant is unrepresented.
2. If, at the time notice is given, the Magistrate has already directed that the Defendant be sent to the Royal Court, the Notice shall be filed with the Judicial Greffier (Samedi Division). This shall be the case even where a Defendant has not yet been indicted by the Royal Court.
3. It follows from this that where a Defendant is within the jurisdiction of the Royal Court, following Indictment, but still within the preliminary stages of the proceedings, the Notice shall be filed with the Judicial Greffier (Samedi Division), Defence Counsel and the Defendant - if unrepresented.

#### **Procedure to be followed subsequent to filing of Notice.**

4. PD MC23-02 deals at paragraphs 10.1 –10.10 with the procedure to be followed in the case of Notices filed with the Magistrate’s Court Greffier.
5. In the case of Notices filed with the Judicial Greffier, the following procedure shall be adopted:

6. Where the Prosecution serves a Notice and the Defence does not serve notice that it wishes the proceedings to continue (Article 80 (5)), the case will be recorded by the Judicial Greffier as discontinued on the earlier of:
  - a) Receipt of notification that the Defence does not intend to serve notice that it wishes the proceedings to continue (Article 80 (6A) (b)); or
  - b) Fourteen days after service of the Prosecution Notice.

Any notices served by the Defence or the Defendant, under Article 80 (5) or notifications under Article 80 (6A) (b) shall also be served on the relevant Greffier. If the case is within the jurisdiction of the Royal Court, service should be via email to: [JGRSamedi@courts.je](mailto:JGRSamedi@courts.je)

7. Where the Defence notifies the Prosecution that it does not wish the proceedings to continue, it shall indicate to the Prosecution whether it intends to apply for costs.
8. If the application for costs is agreed, the Prosecution shall arrange for a Consent Order to be signed by both parties and thereafter the question of costs will be dealt with in the manner set out below.
9. If the proceedings are to continue, either because the Defence has given notice under Article 80 (5), or because the Defendant faces other charges, the case will remain listed for Indictment, or other appearance, as before.
10. Where proceedings have already commenced in the Royal Court and orders in respect of hearing dates or other matters have been made, the Prosecution shall arrange for a Consent Order to be signed by both parties to dispense with any outstanding orders or applications.
11. This Consent Order will also deal with the question of costs where costs are agreed (in respect of which, see below).
12. The Royal Court will generally deal with all such applications on the papers.
13. Where the Defendant is remanded in custody and all proceedings relating to the Defendant have been discontinued, the Royal Court/Bailiff will serve upon

the Prison formal notification that the Defendant may be released. The Defendant shall not be released until such notification has been received by the Prison.

### **Costs on discontinuance**

14. Where proceedings have been discontinued, the Royal Court may award costs following the principles in Pritchard -v- AG [2021] JRC 199 and Reis-v-AG [2023] JRC 043. Unless a costs application is opposed, it will be dealt with on the papers, following receipt of the Consent Order referred to in paragraphs 10 and 11 above. No such application will be necessary or appropriate if the Defendant is legally aided.
15. If the Defence has served notice that it wishes the proceedings to continue under Article 80 (5), or if the question of costs or any other matters are in dispute, the parties shall fix a hearing date before a Judge.
16. Where the Defence serves notice under Article 80 (5), any application for costs shall be included within that notice.
17. Upon receipt of that notice, the Prosecution shall provide to the Royal Court in writing any observations it has on the application, or notify the Royal Court that it has no such observations.

This Practice Direction shall come into force on 6 March 2024.