



Jersey

# **COSTS IN CRIMINAL CASES (JERSEY) LAW 1961**

## **Official Consolidated Version**

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## COSTS IN CRIMINAL CASES (JERSEY) LAW 1961

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Jersey

## COSTS IN CRIMINAL CASES (JERSEY) LAW 1961

A LAW to empower Courts of Justice to order the payment of costs in criminal and quasi-criminal cases and for purposes incidental thereto

Commencement [[see endnotes](#)]

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### 1 Interpretation and application

- (1) In this Law –
  - ‘Criminal Procedure Law’ means the [Criminal Procedure \(Jersey\) Law 2018](#);
  - ‘Criminal Procedure Rules’ shall be construed in accordance with Article 111(1) and 112 of the Criminal Procedure Law;
  - ‘public fund’ means money of the States.<sup>1</sup>
- (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 Magistrate’s 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.

### 2 Power of Royal Court or Magistrate’s 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 the accused 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) shall include the costs incurred in or about any proceedings before the Juge d'Instruction.
- (3) The costs of the prosecution payable under paragraph (1)(b) 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 the witness's attendance and giving evidence.
- (4) The costs of the defence payable under paragraph (1)(c) shall be such sums as appear to the court reasonably sufficient to compensate the accused for the expenses properly incurred by the accused in carrying on the defence and to compensate any witness for the defence for the expense, trouble or loss of time properly incurred in or incidental to the witness's attendance and giving evidence.
- (5) Notwithstanding that the court makes no order under paragraph (1)(c) 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 the witness's 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) Subject to Article 5A, the amount of costs ordered to be paid under this Article shall be determined by the Magistrate or the Royal Court by way of summary assessment.<sup>2</sup>
- (8) Where a person committed for trial is not ultimately tried, the court to which the person 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 sent by the Magistrate's Court to the Royal Court under Part 6 of the Criminal Procedure Law, to receive sentence 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 Magistrate's Court.<sup>3</sup>
- (10) In this Article, the expression "witness" means a person properly attending to give evidence, whether or not the witness gives evidence; and a person called to give evidence at the instance of the court may, whether or not the person is a witness for the defence, be made the subject of an order under paragraph (5).

### **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 3 of the [Court of Appeal \(Jersey\) Law 1961](#), 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 42 of the said Law.
- (2) This paragraph applies where –

- (a) the Superior Number of the Royal Court allows an appeal against a sentence; or
  - (b) the Court of Appeal allows an appeal against a conviction or a sentence.<sup>4</sup>
- (2A) Where paragraph (2) applies, the Royal Court or Court of Appeal (as the case may be) may 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 the appellant's appeal, including any proceedings preliminary or incidental thereto, or in carrying on the appellant's defence.<sup>5</sup>
- (2B) Subject to Article 5A, the amount of costs that the Royal Court or Court of Appeal has ordered to be paid under paragraph (2A) shall be determined by way of summary assessment by the court which determines the appeal.<sup>6</sup>
- (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 the appellant, 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;
  - (c) the expenses of the appearance of the appellant on the hearing of the appellant's 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 3 of the [Court of Appeal \(Jersey\) Law 1961](#).

#### **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 or under Criminal Procedure Rules, to be paid out of public funds has been assessed, 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 the person's duly authorized agent, the sum specified in the order from any money made available for the purpose under the [Public Finances \(Jersey\) Law 2019](#).<sup>7</sup>

#### **5 Enforcement of costs payable by accused**

- (1) Where the Royal Court orders the payment of costs by the accused under this Law or under Criminal Procedure Rules, 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 or out of any money taken from the accused on arrest so far as the court directs.<sup>8</sup>

- (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 Magistrate's Court orders the payment of costs by the accused under this Law or under Criminal Procedure Rules, the payment shall be enforced as a civil debt without further order of the Court.<sup>9</sup>
- (4) Where the Royal Court or the Magistrate's 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.<sup>10</sup>

#### **5A Assessment of costs<sup>11</sup>**

- (1) Where costs are assessed under Articles 2 and 3 and if the court to which those Articles apply makes an order for the payment of such costs, the amount awarded must be reasonably sufficient to compensate the recipient for costs –
  - (a) actually, reasonably and properly incurred; and
  - (b) which are reasonable in amount.
- (2) The court may order the payment of any of the following –
  - (a) a proportion of the amount assessed;
  - (b) a stated amount less than that amount;
  - (c) costs from or until a certain date only;
  - (d) costs relating only to particular steps taken; or
  - (e) costs relating only to a distinct part of the case.

#### **6 Regulations<sup>12</sup>**

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 or by the defendant under this Law and the conditions under which such costs may be allowed.

#### **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.

**8 Citation**

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

## ENDNOTES

### Table of Legislation History

Legislation	Year and Number	Commencement
Costs in Criminal Cases (Jersey) Law 1961	<a href="#">L.22/1961</a>	1 January 1963 ( <a href="#">R&amp;O.4400</a> )
Costs in Criminal Cases (Amendment) (Jersey) Law 1997	<a href="#">L.45/1997</a>	21 November 1997
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	<a href="#">R&amp;O.126/2005</a>	9 December 2005
Public Finances (Jersey) Law 2019	<a href="#">L.10/2019</a>	23 July 2019 ( <a href="#">R&amp;O.67/2019</a> )
Criminal Procedure (Jersey) Law 2018	<a href="#">L.25/2018</a>	1 October 2021 ( <a href="#">R&amp;O.95/2021</a> )
<a href="#">Access to Justice (Jersey) Law 2019</a>	<a href="#">L.11/2019</a>	1 April 2022 ( <a href="#">R&amp;O.91/2021</a> )

### Table of Endnote References

<sup>1</sup> Article 1(1)	<i>substituted by R&amp;O.126/2005, L.25/2018</i>
<sup>2</sup> Article 2(7)	<i>substituted by L.25/2018</i>
<sup>3</sup> Article 2(9)	<i>amended by L.45/1997, L.25/2018</i>
<sup>4</sup> Article 3(2)	<i>amended by L.45/1997, substituted by L.25/2018</i>
<sup>5</sup> Article 3(2A)	<i>inserted by L.25/2018</i>
<sup>6</sup> Article 3(2B)	<i>inserted by L.25/2018</i>
<sup>7</sup> Article 4	<i>amended by R&amp;O.126/2005, L.10/2019, L.25/2018</i>
<sup>8</sup> Article 5(1)	<i>amended by L.25/2018</i>
<sup>9</sup> Article 5(3)	<i>substituted by L.25/2018</i>
<sup>10</sup> Article 5(5)	<i>amended by L.25/2018</i>
<sup>11</sup> Article 5A	<i>inserted by L.25/2018</i>
<sup>12</sup> Article 6	<i>amended by L.11/2019</i>