# ROYAL COURT (JERSEY) LAW 1948

**Official Consolidated Version**

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Jersey

# ROYAL COURT (JERSEY) LAW 1948

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Jersey

# ROYAL COURT (JERSEY) LAW 1948

**A LAW** to modify the constitution of the Royal Court

Commencement [see endnotes]

## PART 1

THE JURATSHIP

### 1 Appointment of Jurats

Jurats shall be appointed by an Electoral College in the manner provided by this Law.

### 2 Qualifications for the office of Jurat

(1) A person shall, unless disqualified under the provisions of this Law or of any other enactment, be qualified to be appointed Jurat if the person has attained the age of 40 years and is a British subject and –

(a) was born in Jersey; or

(b) has during the 5 years preceding the day of appointment been ordinarily resident in Jersey.

(2) [1]

### 3 Disqualifications for the office of Jurat

Subject to the provisions of this Article, a person shall be disqualified for being appointed Jurat if –

(a) the person holds any paid office or other place of profit under the Crown or the States or any administration of the States;

(b) the person is a paid officer of any parochial authority;

(c) under Part 4 of the Capacity and Self-Determination (Jersey) Law 2016, a delegate is appointed in relation to that person;

(d) the person has an attorney without whom he or she may not act in matters real or personal;

(e) an application made by the person to the Royal Court to place his or her property under the control of the Court (*de remettre ses biens entre les mains de la Justice*) has been granted;

(f) the person's property has been declared *en désastre*;

(g) an application made by the person to the Royal Court to make a general cession of his or her property (*de faire cession générale de tous ses biens-meubles et héritages*) has been granted;

(h) the person's property has been adjudged by the Royal Court to be renounced (*adjugée renoncée*);

(i) the person has made a composition or arrangement with his or her creditors;

(j)

(k) the person has, within the 7 years immediately preceding the day of his or her appointment, been convicted anywhere in the British Commonwealth of any offence and ordered to be imprisoned for a period of not less than 3 months without the option of a fine;

(l) the person is the holder in his or her own name of a licence for the sale and consumption of spirituous liquors granted by the Assembly of Governor, Bailiff and Jurats, or is in the employment of any person to whom any such licence has been granted by the said Assembly;

(m) the person is conducting in Jersey the business of a brewer or is in the employment of any person by whom the business of a brewer is conducted in Jersey:

Provided that –

(i) the disqualifications attaching to a person for any of the reasons set out in sub-paragraph (e), (f), (g) or (h) shall cease if the proceedings are concluded by reason that the person has paid his or her debts in full or, if on the conclusion of the proceedings the person has not paid his or her debts in full, on the expiration of 5 years from the date of the conclusion of the proceedings,

(ii) the disqualification attaching to a person for the reason set out in sub-paragraph (i) shall cease, if the person pays his or her debts in full, on the date on which the payment is completed, or, in any other case, on the expiration of 5 years from the date on which the terms of the composition or arrangement are fulfilled.[2]

## 4 Appointment of Jurats[3]

(1) There shall be an Electoral College for the purpose of the appointment of Jurats.

(2) The Electoral College shall consist of –

(a) the Bailiff, who shall be its president;

(b) the Jurats;

(c) the Connétables of the 12 parishes of Jersey;

(d) the elected members of the States;

(e) members of the Jersey Bar, who have renewed their oath of Advocate within the 13 months preceding the meeting of the Electoral College; and

(f) Solicitors (*Ecrivains*) of the Royal Court:

Provided that a member of the Bar or a Solicitor shall cease to be a member of the Electoral College from the day upon which he or she is appointed as Viscount, Judicial Greffier or Greffier of the States:

Provided also that a Solicitor shall cease to be a member of the Electoral College from the day upon which there has been lodged with the Bailiff a certificate signed by the President and the Secretary of the Chambre des Ecrivains to the effect that such Solicitor has ceased, for any reason whatsoever, to practise or to be legally entitled to practise as a Solicitor of the Royal Court.[4]

(3) The Lieutenant-Governor, the Dean, the Attorney General and the Solicitor General shall be members of the Electoral College but, as such, shall not be entitled to vote nor to propose or second a candidate for appointment as Jurat.

(4) The Viscount, the Judicial Greffier and the Greffier of the States jointly shall at all times maintain a register of the names and addresses of the members for the time being of the Electoral College, and a copy of such register, signed by the Viscount, the Judicial Greffier and the Greffier of the States, shall at all times be exhibited in the vestibule of the Royal Court House.

(5) Subject to the following provisions of this Article, a person shall be appointed to the office of Jurat –

(a) where the person's nomination to that office is proposed by one member, and seconded by another member, of the Electoral College, in the form set out in Schedule 1; and

(b) if there are more candidates duly nominated than there are vacancies to be filled, where the person is elected to that office by the Electoral College.

(6) Within 28 days after the day on which it comes to the notice of the Bailiff that a vacancy has occurred from any cause whatsoever, among the Jurats, the Bailiff shall give notice of the vacancy to the members for the time being of the Electoral College.[5]

(7) Notice of a vacancy among the Jurats shall, on the written instructions of the Bailiff, be delivered by the Viscount to every member for the time being of the Electoral College and such notice shall specify the latest date (being a date not less than 10 days, and not more than 14 days, from the date of the notice, as may be specified therein) by which nominations of candidates for the vacancy are to be received by the Bailiff.

(8) Where there are only as many candidates nominated as there are vacancies to be filled, the person or persons so nominated shall be duly appointed to the office of Jurat and the Bailiff shall take the necessary steps for such person or persons to take the oath of office of Jurat in accordance with the provisions of paragraph (25).

(9) Where there are more candidates duly nominated than there are vacancies to be filled, the Bailiff shall summon a meeting of the Electoral College for a day not later than the 14th day after the last day for the receipt of nominations.

(10) A summons to attend a meeting of the Electoral College shall, on the written instructions of the Bailiff, be delivered by the Viscount to every member for the time

being of the Electoral College, 4 days at least before the day for which the meeting is summoned.

(11) The summons shall contain particulars of –

(a) the day upon which, and the hour and place at which, the meeting is to be held;

(b) the purpose for which the meeting is being summoned; and

(c) the particulars relating to the candidates nominated as set out in the forms of nomination, together with the names of their proposers and seconders.

(12) Subject to the provisions of paragraph (19), every member of the Electoral College shall be entitled to address the meeting.

(13) The meeting shall be held in public.[6]

(14) One or more secret ballots shall be held for each vacancy in accordance with the procedure described in this Article until a candidate has more than half of the votes cast in a ballot or more than half of the votes following a vote by the Bailiff as described in paragraph (18C).[7]

(15) Each member of the Electoral College shall have one vote in each ballot.[8]

(16) The Bailiff shall not vote other than in the circumstances described in paragraphs (18B) and (18C).[9]

(17) The Bailiff shall examine the voting papers following each ballot and shall forthwith, in the presence of the members of the Electoral College and of the public present at the meeting, declare the result of each ballot.[10]

(18) If no candidate receives more than half the votes cast in any ballot and the result of that ballot is that –

(a) there is a single candidate with the fewest votes, the procedure in paragraph (18A) shall be followed;

(b) there are 2 or more candidates with equally the fewest votes and at least one other candidate, the procedure in paragraph (18B) shall be followed; or

(c) there are only 2 candidates and they have equal numbers of votes, the procedure in paragraph (18C) shall be followed.[11]

(18A) The procedure referred to in paragraph (18)(a) is that the single candidate with the fewest votes shall withdraw from the election and a further ballot shall be held for the remaining candidates.[12]

(18B) The procedure referred to in paragraph (18)(b) is that a further ballot shall be held for the 2 or more candidates with equally the fewest votes, following which –

(a) if there is a single candidate with the fewest votes, that candidate shall withdraw from the election and a further ballot shall be held for all the remaining candidates in the election;

(b) if there are 2 candidates with equally the fewest votes –

(i) the Bailiff shall vote for one of those candidates,

(ii) the other candidate shall withdraw from the election, and

(iii) a further ballot shall be held for all the remaining candidates in the election; or

(c) if there are more than 2 candidates with equally the fewest votes, a further ballot shall be held for those candidates only, and –

(i) if that ballot results in a single candidate with the fewest votes, that candidate shall withdraw from the election, or

(ii) if that ballot results in 2 or more candidates with equally the fewest votes, the Bailiff shall vote for one of the candidates and the other of those candidates with equally the fewest votes shall withdraw from the election,

and a further ballot shall be held for all the remaining candidates in the election.[13]

(18C) The procedure referred to in paragraph (18)(c) is that –

(a) a further ballot must be held; and

(b) if the further ballot results in the 2 candidates again having an equal number of votes, the Bailiff shall vote for one of those candidates.[14]

(18D) When a candidate has received more than half of the votes cast in a ballot (other than a ballot for only 2 or more candidates with equally the fewest votes) or following the Bailiff's vote as described in paragraph (18C), the Bailiff shall declare that candidate elected to the office of Jurat.[15]

(19) No business other than the election of a Jurat or of Jurats shall, under any pretext whatsoever, be conducted at a meeting of the Electoral College.

(20) The quorum of the Electoral College shall be 40.

(21) If, 20 minutes after the time for which the meeting has been summoned, there is no quorum, the Bailiff shall adjourn the meeting for not more than 10 days.

(22) The Viscount shall, on the written instructions of the Bailiff, serve upon every member for the time being of the Electoral College (whether or not the member was present at the first meeting) a new summons which shall, *mutatis mutandis*, contain particulars similar to those required by paragraph (11) to be contained in a summons and shall be served in the manner prescribed by that paragraph.

(23) The members of the Electoral College, being duly assembled in adjourned meeting, shall proceed with the election of a Jurat or Jurats, whether a quorum be present or not, but, in all other respects, shall proceed in accordance with the foregoing provisions of this Article.

(24) The Greffier of the States shall attend meetings of the Electoral College, shall act as its Clerk and shall record its proceedings.

(25) The Viscount shall, on the instructions of the Bailiff, warn the candidate or candidates appointed to the office of Jurat to attend before the Royal Court of Jersey, for the purpose of taking oath of office of Jurat, on the day appointed for the purpose by the Bailiff, which day, however, shall not be less than 4, nor more than 10, days after the date of the Jurat's appointment:

Provided that if a candidate appointed to the office of Jurat is prevented by illness from attending before the Royal Court for the purpose of taking oath of office of Jurat on the day appointed for the purpose by the Bailiff, such candidate shall be permitted to take oath on such later date as may be appointed for the purpose by the Superior Number of the Royal Court.

(26) Every notice and summons to be delivered in pursuance of this Article shall be deemed to have been duly delivered if it has been delivered by hand at, or addressed through the post to, the address contained in the register mentioned in paragraph (4) as being the address of the person to whom it is to be so delivered or addressed.

**5** [16]

## 6 Contested appointments

(1) Any person who contests the validity of the appointment of a Jurat by the Electoral College may present a Remonstrance to the Superior Number of the Royal Court and shall, at the same time, declare on oath that, to the best of the person's knowledge, information and belief, the allegations contained in the Remonstrance are true.

(2) The case shall be heard with all possible expedition, either in term or in vacation.

(3) The Royal Court shall, on the motion of the Attorney General, declare null and void the appointment of a Jurat by the Electoral College –

(a) if the person appointed is disqualified for appointment under the provisions of this Law;

(b) if the person appointed is found by the Court to have made, directly or indirectly, any gift, promise or threat, in order to induce any one or more of the members of the Electoral College to vote in the person's favour or to refrain from voting in favour of any other candidate; or

(c) if the formalities prescribed by this Law for the convening of the meeting of the Electoral College, or for the conduct thereof, have not been duly carried out:

Provided that the Court, if it is satisfied that the meeting was convened and conducted in accordance with the spirit and intention of this Law and that the fortuitous omission of some of the formalities did not affect the decision of the meeting, shall confirm the appointment made at the meeting.

## 7 Oath of Jurat

(1) Every Jurat appointed by the Electoral College shall, before he or she enters upon the discharge of the Jurat's duties, take, on the motion of the Attorney General, oath of office before the Superior Number of the Royal Court in accordance with the form of oath set out in Form 1 in Schedule 2.[17]

(2) If a Jurat so appointed fails or refuses to take oath of office, the Court shall, on the motion of the Attorney General, declare the appointment null and void.

## 8 Void appointments[18]

If the appointment of a Jurat is declared null and void by the Superior Number of the Royal Court under the provisions of Article 6 or 7, the Bailiff shall immediately take the necessary steps with a view to the appointment of a Jurat in place of the Jurat whose appointment has been declared null and void as aforesaid.

## 8A Jurats' honorarium[19]

(1) The Bailiff must distribute the whole of an annual sum, known as the Jurats' honorarium, of an amount agreed by the Minister for Treasury and Resources, amongst the Jurats each calendar year –

(a) at whatever times that the Bailiff considers appropriate; and

(b) as the Bailiff considers appropriate in the particular circumstances, including the length of service by each Jurat during that year.

(2) The Bailiff must review the Jurats' honorarium annually, having regard to the percentage change, if any, in the RPI during the previous calendar year and if the Bailiff considers it appropriate after consulting the Minister for Treasury and Resources, the amount of the honorarium may be varied.

(3) In this Article "RPI" means the means the Retail Prices Index published by the Office of the Chief Statistician constituted under Article 5(1) of the Statistics and Census (Jersey) Law 2018.

## 8B [20]

## 9 Retirement and resignation of Jurats[21]

(1) Subject to this Article a Jurat ceases to hold office on attaining the age of 72.

(2) A Jurat may indicate an intention to retire before that age by giving not less than 6 months' notice to the Bailiff, or any other person nominated by the Bailiff, provided that at the end of that period of 6 months the Jurat will have completed 6 years' service.

(3) The Bailiff may permit the retirement of up to 2 Jurats in any year following an indication of intention to retire under paragraph (2).

(4) However –

(a) the number permitted to retire is reduced by the number of Jurats otherwise ceasing to hold office in that year (to a maximum of 2);

(b) if more Jurats than the number permitted under this Article have indicated an intention to retire in any one year, the length of service will determine who may retire under this Article.

(5) A Jurat may be required by the Court to resign –

(a) if for a continuous period of 12 months the Jurat fails, without good reason, to discharge the duties of the office; or

(b) if, in the opinion of the Court, the Jurat is permanently unable for any reason efficiently to carry out the duties of the office.

(6) A Jurat who is permitted to retire or required to resign under this Article must present to the Bailiff, for transmission to His Majesty in Council, a petition praying that His Majesty in Council may be pleased to permit the Jurat to retire, or resign from, the office of Jurat.[22]

(7) If a Jurat required to resign under paragraph (5) has not within a reasonable time presented a petition as required by paragraph (6), the Jurat is removable by Order of His Majesty in Council on the petition of the Superior Number of the Royal Court.[23]

(8) The retirement or resignation of a Jurat under this Article triggers a vacancy in the number of Jurats for the purposes of Article 4.

### 9AA Appointment to serve as a Jurat after retirement[24]

(1) Despite Article 1, a Jurat who has ceased to hold office or retired under Article 9 (other than by being required to resign under paragraph (5) of that Article) and who has not attained the age of 75 years may be called upon to serve as a Jurat for any period or in relation to any cause or matter as the Bailiff may determine.

(2) A person serving as a Jurat under paragraph (1) is not included in the total of 12 Jurats that may be appointed under customary law.

(3) An oath under Article 7 taken by a person before being called to serve under this Article continues to be binding on the person for the duration of that service.

### 9A Appointment of Guernsey Jurats to act as Jurats in Jersey [25]

(1) Notwithstanding Articles 1 and 2(1), the Bailiff may appoint one or more Jurats of the Guernsey Royal Court to act as a Jurat for the purpose of such particular cause or matter as the Bailiff may determine.

(2) The Bailiff may make an appointment under paragraph (1) only after consulting the Bailiff of Guernsey.

(3) A person appointed under paragraph (1) shall –

(a) subject to paragraph (4), before discharging his or her duties in relation to the cause or matter in respect of which he or she was appointed, take, on the motion of the Attorney General, oath of office before the Superior Number of the Royal Court, such oath being –

(i) substantially in the same form as that taken by a Jurat under Article 7, and

(ii) specified in Rules of Court under Article 13; and

(b) upon discharging such duties, cease to hold office forthwith.

(4) A person appointed under paragraph (1) shall not be required to take such oath if he or she has been previously appointed under that paragraph.

(5) A person appointed under paragraph (1) shall have all the powers of a Jurat for the purpose of discharging the duties in relation to the cause or matter in respect of which he or she was appointed.

## PART 2[26]

COMMISSIONERS

### 10 Appointment of Commissioners[27]

(1) The Bailiff may from time to time appoint qualified persons, to be known as Commissioners, to preside over the Royal Court.

(2) No person shall be qualified to be appointed a Commissioner unless the person –

(a) holds or has held judicial office in the Commonwealth;

(b) has been at least 10 years in practice –

(i) at the Bar, or

(ii) as a Solicitor (*Ecrivain*) of the Royal Court,

in Jersey, whether as a Law Officer of the Crown or otherwise; or

(c) has been at least 10 years in practice at the Bar in England and Wales, Scotland, Northern Ireland, Guernsey or the Isle of Man.

(3) An appointment under paragraph (1) may be made for the purposes of the hearing of such civil, criminal or mixed causes or matters as the Bailiff thinks fit and may be made for –

(a) the hearing of a particular cause or matter; or

(b) a specified term.

(4) Where an appointment under paragraph (1) is made for the hearing of a particular cause or matter, such appointment shall continue for the duration of the hearing of that cause or matter.

(5) Where the appointment is made for a term, the term shall be specified in the instrument of appointment.[28]

(6) In the case of a Commissioner appointed for a term, the Bailiff –

(a) may, with the agreement of the Commissioner, extend the term for such period as the Bailiff thinks appropriate; and

(b) may from time to time authorize or require the Commissioner to exercise, whether for the purposes of this Law or for any other purposes, such other judicial functions of the Bailiff as the Bailiff specifies.[29]

(7) Notwithstanding the other provisions of this Article, the Bailiff may, if the Bailiff thinks fit, terminate the appointment of a Commissioner on the ground of incapacity or misbehaviour.[30]

(8) Commissioners shall receive such remuneration as may be determined, after consultation with the Bailiff, by the Minister for Treasury and Resources, and shall be entitled to reimbursement of all travelling and other expenses incurred by them in the discharge of their functions under this Article.[31]

(9) Monies payable under paragraph (8) shall be defrayed out of the annual income of the States.

(10) [32]

## 11 Oath of Commissioner[33]

(1) Every Commissioner appointed by the Bailiff shall, before the Commissioner enters upon the discharge of his or her duties, take, on the motion of the Attorney General, oath of office before the Superior Number of the Royal Court in accordance with the form of oath set out in Form 2 in Schedule 2.[34]

(2) If a Commissioner so appointed fails or refuses to take oath of office, the Court shall, on the motion of the Attorney General, declare the appointment null and void.

### 12 Powers of Commissioners[35]

(1) Where a Commissioner presides over the Royal Court the powers of the Bailiff specified in Article 15 shall be exercised by that Commissioner.

(2) A Commissioner appointed by the Bailiff for a specified term may exercise, whether for the purposes of this Law or for any other purposes, such other judicial functions of the Bailiff as the Bailiff may from time to time authorize or require.

## PART 2A[36]

FAMILY JUDGES

### 12A Appointment of Family Judge

(1) The Bailiff may appoint qualified people to carry out judicial functions in relation to proceedings within the jurisdiction of the Family Division (see Article 14), and a person so appointed is to be known as a "Family Judge".

(2) A person is not qualified to be appointed as a Family Judge unless the person –

(a) holds or has held judicial office in the Commonwealth;

(b) has been at least 10 years in practice in Jersey, whether as a Law Officer of the Crown or otherwise –

(i) at the Bar, or

(ii) as a solicitor (*écrivain*) of the Royal Court; or

(c) has been at least 10 years in practice at the Bar, or as a solicitor, in England and Wales, Scotland, Northern Ireland, Guernsey, or the Isle of Man.

(3) A Family Judge is entitled to –

(a) the remuneration that is determined by the States Employment Board after consultation with the Bailiff and negotiation with the Family Judge;

(b) reimbursement of all travel and other expenses incurred by them in the discharge of their functions; and

(c) a pension.

(4) Monies payable under paragraph (3) must be paid out of the annual income of the States.

(5) The Bailiff may, if the Bailiff thinks fit, terminate the appointment of a Family Judge.

### 12B Oath of Family Judge

A Family Judge must, on taking office, take oath of office in the Royal Court in the form set out in Form 3 in Schedule 2.

### 12C Regulations

The States may by Regulations amend this Law and any other enactment (whenever made) to make incidental, supplementary, consequential or transitional provision as the States think necessary or expedient as a result of the creation of the office of Family Judge.

## PART 3

PRACTICE AND PROCEDURE

### 13 Rules of Court

(1) For the purposes of all civil causes and matters, Rules of Court may be made by the Superior Number of the Royal Court, with the advice and assistance of the Rules Committee –

(a) for regulating and prescribing the procedure (including the method of pleading) and the practice to be followed in the Royal Court (including the procedure and practice to be followed in the Departments of the Viscount and of the Judicial Greffier) and any matters incidental to or relating to any such procedure or practice, including (but without prejudice to the generality of the foregoing) the manner in which, and the time within which, any applications which under this Law or any enactment are to be made to the Royal Court shall be made;

(b) for distributing among the divisions of the Royal Court business in or with respect to which the Royal Court has for the time being jurisdiction and for transferring to another division any business of a division or any jurisdiction vested in a division by any enactment in respect of any business, and for making such incidental or transitional provision as may be necessary or expedient in consequence of any such distribution or transfer;

(c) for regulating and prescribing the procedure on appeals from any court to the Royal Court;

(d) for regulating the sittings of the Royal Court, whether sitting in court or in chambers;

(e) for prescribing what part of the non-contentious business of the Royal Court may be transacted in chambers, either before the Bailiff alone, or before the Bailiff and Jurats, or before the Judicial Greffier, and, in respect of the business to be transacted before the Bailiff and Jurats in chambers, for prescribing the number of Jurats whose presence shall be requisite;

(f) for regulating any matters relating to costs of proceedings in the Royal Court;

(g) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with or at any stage of any proceedings;

(h) for taxing costs in any cause or matter in the Royal Court or in any proceedings preliminary or incidental to any such cause or matter;

(i) for regulating the optional use of the English language in all causes and matters whatsoever in the Royal Court and in any proceedings preliminary or incidental to any such cause or matter;

(j) for amending or repealing any enactments which relate to matters with respect to which rules are made under this Article;

(k) for regulating or making provision with respect to any other matters which may require to be regulated or with respect to which provision may require to be made under this Law;

(l) for abolishing any functions of a *prévôt* or a *sergent*;

(m) for the carrying out of any functions of a *prévôt* or a *sergent* by such persons or by such means as may be specified in the rules;

(n) for regulating and prescribing in relation to the Petty Debts Court any matters which may be regulated and prescribed under this Article (other than sub-paragraph (c)) in relation to the Royal Court:

Provided that in the application of sub-paragraph (e), in rules made under this sub-paragraph, the reference to the Bailiff alone and to the Bailiff and Jurats shall be construed as a reference to the Magistrate;

(o) in relation to the collection of fines and other penalties imposed by any court and the disposal of forfeitures.[37]

(2) Rules of Court made under this Article shall apply to all civil proceedings by or against the Crown.[38]

(3) [39]

(4) For the purpose of advising and assisting the Superior Number of the Royal Court in the making of rules, there shall be a Committee (in this Article referred to as the "Rules Committee") composed of 2 advocates appointed by the Jersey Bar and of 2 Solicitors (*Ecrivains*) appointed by the Chambre des Ecrivains.

(5) The term of office of any person who is a member of the Rules Committee shall be such as may be specified in the appointment.

(6) For the avoidance of doubt, it is declared that the Attorney General, Viscount, Solicitor General and the Judicial Greffier shall be summoned to attend every sitting of the Superior Number of the Royal Court at which it is proposed to make or consider the making of Rules of Court under this Article.

## 14 Family division[40]

(1) The Matrimonial Causes Division constituted under Article 3 of the Matrimonial Causes (Jersey) Law 1949, shall be known as the Family Division.

(2) Any reference in an enactment or document to the Matrimonial Causes Division shall, so far as may be necessary to preserve the effect of the enactment or document, be construed as a reference to the Family Division.

## 15 Powers of the Bailiff and Jurats

(1) Except as provided in paragraph (1AA), in all causes and matters, civil, criminal and mixed, the Bailiff shall be the sole judge of law and shall award the costs, if any.[41]

(1AA) Where Article 15A(2) applies, the Bailiff shall also be a judge of fact.[42]

(1A) For the purposes of this Law, a question of procedure is one of law.[43]

(2) In all causes and matters, civil, criminal and mixed, other than criminal causes tried before the Criminal Assizes, in which causes the jury shall, as heretofore, find the verdict, the Jurats shall, subject to Article 17(2), be the sole judges of fact and shall assess the damages, if any.[44]

(3) In all criminal and mixed causes, the Jurats shall determine the sentence, fine or other sanction to be pronounced or imposed.

(4) In all causes and matters, civil, criminal or mixed, the Bailiff shall have a casting vote whenever the Jurats –

(a) being 2 in number, are divided in opinion as to the facts or as to the damages to be awarded or as to the sentence, fine or other sanction to be pronounced or imposed; or

(b) being more than 2 in number, are so divided in opinion with respect to any one or more of the matters specified in sub-paragraph (a) that the giving of a casting vote is necessary for the finding of a majority opinion.

## 15A Quorum of the Inferior number[45]

(1) Subject to paragraph (2), the Inferior Number of the Royal Court shall be composed only of the Bailiff and 2 Jurats.

(2) If, in a criminal cause one of the Jurats dies or is otherwise indisposed, for the purposes of hearing and determining that particular cause, the Inferior Number of the Royal Court shall be composed only of the Bailiff and one Jurat.

## 16 Quorum of the Superior Number[46]

(1) The Superior Number of the Royal Court must for all purposes, criminal or civil, be duly constituted only if it consists of the Bailiff and not less than 3 Jurats.[47]

(2) This Article does not affect the constitution of the Superior Number of the Royal Court under Article 23 of the Court of Appeal (Jersey) Law 1961.[48]

## 17 Bailiff as sole judge[49]

(1) Any cause or matter in which only issues of law arise may be determined by the Bailiff sitting alone.

(2) Any civil cause or matter –

(a) in which issues of law and fact arise; and

(b) in which –

(i) the parties to the proceedings have applied to the Judicial Greffier for certification that the cause or matter is suitable for trial by the Bailiff alone, and

(ii) the Judicial Greffier has granted such certification,

may, if the Bailiff thinks fit, be determined by the Bailiff sitting alone.

(3) The Judicial Greffier shall not grant a certificate under paragraph (2)(b) unless the Judicial Greffier is of the opinion that the issues raised are predominantly issues of law.

## 18 References to the Superior Number of the Royal Court

Whenever it deems it proper so to do, the Inferior Number of the Royal Court may, in exercise of its inherent jurisdiction, or of any power conferred upon the Court by any enactment, whether made before or after the coming into force of this Law, refer to the Superior Number of the Royal Court any cause or matter, civil, criminal or mixed, and, upon any such reference –

(a) the respective powers of the Bailiff and Jurats shall be exercised in the manner prescribed by Article 15; and

(b) the Superior Number of the Royal Court shall be deemed to be exercising original jurisdiction.

## 19 Registration of Orders, Warrants and Letters

Notwithstanding anything in this Law contained, the Jurats of the Royal Court shall remain judges as to whether any Order, Warrant or Letter should, under the provisions of the Order of His Majesty in Council of the 21st day of May 1679, and registered by the States on the 3rd day of July 1679,[50] be registered or as to whether the matter is one in which it would be proper, under the provisions of the said Order of His Majesty in Council, to suspend registration:

Provided that the Bailiff shall have a casting vote if the Jurats –

(a) being 2 in number, are divided in opinion; or

(b) being more than 2 in number, are so divided that the giving of a casting vote is necessary for the finding of a majority opinion.

# PART 4

GENERAL

## 20 Temporary substitution of office holders[51]

If the office of –

(a) Bailiff;

(b) Attorney General;

(c) Viscount;

(d) Solicitor General;

(e) Judicial Greffier;

(f) Greffier of the States; or

(g) Family Judge,

be vacant, or if the holder of any such office be prevented by absence from Jersey, illness, or any other lawful cause, from performing the duties of the office, then the duties under this Law of the holder of such office shall be performed by the person who is for the time being discharging the duties of such office.

## 21 Saving of assembly of Governor, Bailiff and Jurats

Nothing in this Law shall affect the constitution or the jurisdiction of the Assembly of Governor, Bailiff and Jurats.

## 21A Savings and transitional provision[52]

(1) Articles 10(6) and (7) and 12, as substituted by the Royal Court (Amendment No. 11) (Jersey) Law 2005, shall, in addition to their application in relation to any Commissioner appointed under Article 10 after the time when that Law comes into force, also apply in relation to any Commissioner appointed under Article 10 before that time whose appointment is still in force at that time.

(2) Except as provided in this Article, the amendments made to this Law by the Royal Court (Amendment No. 11) (Jersey) Law 2005 shall not affect the terms of any appointment under Article 10 still in force at the time when the latter Law comes into force or the functions of any Commissioner appointed under that Article before that time.

(3) Article 15(1A), as inserted by the Royal Court (Amendment No. 11) (Jersey) Law 2005, shall, from the time when that Law comes into force, apply to any proceedings that commence or continue after that time.

(4) The amendment of this Law by the Royal Court (Amendment No. 11) (Jersey) Law 2005 shall not invalidate any proceedings that have commenced, but not been concluded, at the time when the latter Law comes into force, or anything done before that time in respect of any proceedings.

(5) Paragraphs (6) and (7) apply in relation to a person who, immediately before the date on which the Family Division Registrar (Change of Status and Title) (Jersey) Law 2025 comes into force (the "relevant date"), was –

(a) designated by the Judicial Greffier under Article 6 of the Departments of the Judiciary and the Legislature (Jersey) Law 1965;

(b) authorised by the Judicial Greffier, under Article 9(6) of the Departments of the Judiciary and the Legislature (Jersey) Law 1965, to carry out judicial functions that may be undertaken by the Judicial Greffier under Article 3(4) of the Matrimonial Causes (Jersey) Law 1949 and Rule 2 of the Matrimonial Causes Rules 2005; and

(c) known as a Family Division Registrar.[53]

(6) The person is treated on and after the relevant date as if they have –

(a) been appointed under Article 12A(1); and

(b) taken the oath of office mentioned in Article 12B.[54]

(7) For the purposes only of a claim under Part 6, 6A or 7 of the Employment (Jersey) Law 2003, the person is not to be treated as having been an employee immediately before the relevant date.[55]

## 22 Citation

This Law may be cited as the Royal Court (Jersey) Law 1948.

# SCHEDULE 1[56]

(Article 4(5))

JERSEY

## ROYAL COURT (JERSEY) LAW 1948

## FORM OF NOMINATION OF CANDIDATE FOR OFFICE OF JURAT

We, the undersigned, members of the Electoral College constituted under the Royal Court (Jersey) Law 1948, recommend the following person –

| Name | Forenames | Date of Birth | Residence | Occupation |
|---|---|---|---|---|
| | | | | |

as a candidate for appointment to the office of Jurat of the Royal Court and we declare that, to the best of our knowledge, information and belief, the said candidate –

(a) is qualified for appointment to the office of Jurat of the Royal Court in accordance with the provisions of the said Law; and

(b) is not disqualified for appointment to the said office in accordance with the provisions of the said Law or otherwise.

This day of 20 .

Proposer Signed.....

Seconder Signed.....

# SCHEDULE 2[57]

## FORM 1

(Article 7)

## SERMENT DES JUSTICIERS

Vous ..... puisqu'il a plu à ..... Dieu vous appeller légitimement en cette Charge, jurez et promettez par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez l'état et charge de Juré-Justicier, en la Cour Royale de notre Souverain Charles Trois, par la Grâce de Dieu, Roi de la Grande Bretagne, de l'Irlande et des Dominions Britanniques d'outre mer, Défenseur de la Foi, en cette son Isle de Jersey, la Majesté de laquelle vous reconnoissez sous Dieu, suprême Gouverneur en tous ses Royaumes, Provinces, et Dominions, renonçant à toutes supériorités foraines et étrangères; Vous garderez le droit de Sa Majesté, et de ses sujets, et soutiendrez l'honneur et gloire de Dieu, et de sa pure et sacrée parole; Vous administrerez bonne et briève justice également tant aux riches qu'aux pauvres, sans acception de personne, suivant les Loix, Coutumes et Usages confirmés par nos Privilèges, en les soutenant avec nos libertés et franchises, vous opposant à quiconque les voudroit enfreindre. Item vous ferez punir et châtier tous Traîtres, Meurtriers, Larrons, Blasphémateurs du sacré Nom de Dieu, Yvrognes et autres personnes scandaleuses, chacun selon son démérite, vous opposant à tous séditieux, à ce que la force demeure au Roi et à sa Justice. Vous assisterez à la Cour toutes fois et quantes que vous en serez requis, si vous n'avez une excuse légitime, et en tel cas vous mettrez un autre Justicier en votre place, donnant votre avis, opinion et conseil, selon la pureté de votre conscience. Vous honorerez et ferez respecter la Cour, et garderez et ferez respecter la Cour, et garderez et ferez garder le droit des Veuves, Orphélins, Etrangers et autres personnes indéfendues; finalement en vos conclusions, vous vous rangerez et conformerez au meilleur et plus sain avis de Monsieur le Bailly, et de Messieurs de la Justice; Vous le promettez sur votre conscience.

## FORM 2

(Article 11)

## OATH OF OFFICE OF COMMISSIONER[58]

You swear and promise before God that well and faithfully you will exercise the office of Commissioner; that you will be faithful and bear true allegiance to His Majesty King Charles the Third, his heirs and successors, according to law; that you will uphold and maintain the laws and usages and the privileges and freedoms of Jersey and that you will vigorously oppose whomsoever may seek to destroy them; that you will administer justice to all manner of persons without favour or partiality; and that you will take heed of the good advice and counsel of the Jurats as the case may require.

## FORM 3[59]

(Article 12B)

## OATH OF OFFICE OF FAMILY JUDGE

You swear and promise before God that well and faithfully you will exercise the office of Family Judge; that you will be faithful and bear true allegiance to His Majesty King Charles the Third, his heirs and successors, according to law; that you will uphold and maintain the laws and usages and the privileges and freedoms of Jersey and that you will vigorously oppose whomsoever may seek to destroy them; and that you will administer justice to all manner of persons without favour or partiality.

# ENDNOTES

## Table of Legislation History

| Legislation | Year and Number | Commencement | ◦Projet No (where applicable) |
|---|---|---|---|
| Royal Court (Jersey) Law 1948 | L.8/1948 | 15 January 1949 (original Articles 13, 14, 15 in force 1 February 1965 R&O.4617)<br><br>28 July 2025 – self-expiry of Article 8B | |
| Judicial and Legislative Functions (Separation) (Jersey) Law 1951 | L.1/1951 | 3 February 1951 | |
| Royal Court (Amendment) (Jersey) Law 1951 | L.2/1951 | 10 February 1951 | |
| Service of Process and Taking of Evidence (Jersey) Law 1960 | L.12/1960 | 9 July 1960 | |
| Official Publications (Jersey) Law 1960 | L.21/1960 | 1 December 1960 (R&O.4173) | |
| Court of Appeal (Jersey) Law 1961 | L.17/1961 | 15 June 1964 | |
| Law Reform (Miscellaneous Provisions) (Jersey) Law 1967 | L.6/1967 | 26 June 1967 | |
| Royal Court (Amendment No. 2) (Jersey) Law 1974 | L.25/1974 | 25 October 1974 | |
| Royal Court (Amendment No. 3.) (Jersey) Law 1979 | L.27/1979 | 30 November 1979 | |
| Royal Court (Amendment No. 4) (Jersey) Law 1985 | L.1/1985 | 11 January 1985 | |
| Royal Court (Amendment No. 5) (Jersey) Law 1990 | L.11/1990 | 22 June 1990 | |
| Royal Court Amendment No. 6) (Jersey) Law 1991 | L.26/1991 | 4 October 1991 | |
| Administration of Justice (Interim Payments and Provisional Damages (Jersey) Law 1993 | L.5/1993 | 5 February 1993 | |
| Royal Court (Amendment No. 7) (Jersey) Law 1993 | L.35/1993 | 1 March 1994 (R&O.8653) | |
| Royal Court (Amendment No. 8) (Jersey) Law 1996 | L.13/1996 | 1 September 1996 (R&O.8955) | |
| Royal Court (Amendment No. 9) (Jersey) Law 1997 | L.23/1997 | 13 June 1997 | |
| Royal Court (Possession Orders) (Jersey) Law 1998 | L.9/1998 | 3 April 1998 | |

| Legislation | Year and Number | Commencement | ◦Projet No (where applicable) |
|---|---|---|---|
| Royal Court (Amendment No. 10) (Jersey) Law 1998 | L.38/1998 | 27 November 1998 | P.119/1998 |
| Subordinate Legislation (Amendment No. 2) (Jersey) Law 2001 | L.2/2001 | 23 February 2001 | P.205/2000 |
| Royal Court (Amendment No. 11) (Jersey) Law 2005 | L.15/2005 | 15 July 2005 | P.7/2005 |
| Public Finances (Consequential Amendments) (Jersey) Regulations 2005 | R&O.126/2005 | 9 December 2005 | P.203/2005 |
| Court of Appeal (Amendment No. 8) (Jersey) Law 2008 | L.25/2008 | 3 August 2009 (R&O.63/2009) | P.190/2007 |
| Royal Court (Amendment No. 12) (Jersey) Law 2010 | L.7/2010 | 23 April 2010 | P.19/2009 |
| Royal Court (Amendment No. 13) (Jersey) Law 2012 | L.45/2012 | 22 December 2012 | P.93/2012 |
| Royal Court (Amendment No. 14) (Jersey) Law 2016 | L.23/2016 | 28 October 2016 | P.43/2016 |
| Royal Court (Amendment No. 15) (Jersey) Law 2018 | L.7/2018 | 17 February 2018 | P.101/2017 |
| 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 |
| Covid-19 (Election of Jurats) (Jersey) Regulations 2021 | R&O.86/2021 | 1 July 2021 | P.60/2021 |
| Legislation (Jersey) Law 2021 | L.8/2021 | 28 September 2021 (R&O.112/2021) | P.26/2021 |
| Criminal Procedure (Jersey) Law 2018 | L.25/2018 | 1 October 2021 (R&O.95/2021) | P.118/2017 |
| Covid-19 (Amendments – Further Extensions) (Jersey) Regulations 2021 | R&O.127/2021 | 15 October 2021 | P.84/2021 |
| Covid-19 (Amendments – Extensions to September 2022) (Jersey) Regulations 2022 | R&O.35/2022 | 1 April 2022 | P.28/2022 |
| Royal Court (Amendment No. 16) (Jersey) Law 2022 | L.12/2022 | 29 April 2022 | P.126/2021 |
| Family Division Registrar (Change of Status and Title) (Jersey) Law 2025 | L.1/2025 | 14 April 2025 (R&O.20/2025) | P.56/2024 |
| Royal Court and Stamp Duties and Fees (Jersey) Amendment Law 2025 | L.9/2025 | 28 April 2025 (R&O.22/2025) | P.67/2024 (re-issue) |
| Criminal Justice (Procedures) (Jersey) Amendment Law 2026 | L.38/2026 | 17 July 2026 | P.38/2026 |

◦Projets available at statesassembly.gov.je

## Table of Renumbered Provisions

| Original | Current |
|---|---|
| 1 | spent, omitted from this revised edition |
| 2 | 1 |
| 3 | 2 |
| 4 | 3 |
| (j) | (i) |
| (k) | (j) |
| (l) | (k) |
| (m) | (l) |
| (n) | (m) |
| 5 | 4 |
| (12) | repealed by L.21/1960 |
| (13) | (12) |
| (14) | (13) |
| (15 | (14) |
| (16) | (15) |
| (17) | (16) |
| (18) | (17) |
| (19) | (18) |
| (20) | (19) |
| (21) | (20) |
| (22) | (21) |
| (23) | (22) |
| (24) | spent, omitted from this revised edition |
| (25) | (23) |
| (26) | (24) |
| (27) | (25) |
| (28 | (26) |
| 6 | 5 |
| 7 | 6 |
| 8 | 7 |
| 9 | 8 |
| 10 | 9 |
| PART 1A | PART 2 |
| 10A | 10 |
| 10B | 11 |
| 10C | 12 |
| 11(1) | 13(1) |
| (aa) | (b) |
| (b) | (c) |
| (c) | (d) |
| (d) | (e) |
| (e) | (f) |
| (f) | (g) |

| Original | Current |
|---|---|
| (g) | (h) |
| (h) | (i) |
| (j) | (j) |
| (k) | (k) |
| (l), (m), (n), (o) | inserted from L.6/1967 |
| 11A | 14 |
| 12 | spent, omitted from this revised edition |
| 13 | 15 |
| 13A | 16 |
| 13B | 17 |
| 14 | 18 |
| 15 | 19 |
| 16 | 20 |
| 17 | 21 |
| 18 | spent, omitted from this revised edition |
| 19 | spent, omitted from this revised edition |
| 20 | spent, omitted from this revised edition |
| 21 | 22 |
| First Schedule | Schedule 1 |
| Second Schedule | Schedule 2 |

## Table of Endnote References

[1] *Article 2(2)* — *amended by L.1/1951, deleted by L.12/2022*
[2] *Article 3* — *amended by L.7/2018, R&O.49/2018*
[3] *Article 4* — *substituted by L.2/1951*
[4] *Article 4(2)* — *amended by L.27/1979, L.11/1990, L.35/1993*
[5] *Article 4(6)* — *amended by L.23/2016*
[6] *Article 4(13)* — *substituted by L.7/2010*
[7] *Article 4(14)* — *substituted by L.7/2010*
[8] *Article 4(15)* — *substituted by L.7/2010*
[9] *Article 4(16)* — *substituted by L.7/2010*
[10] *Article 4(17)* — *substituted by L.7/2010*
[11] *Article 4(18)* — *substituted by L.7/2010*
[12] *Article 4(18A)* — *inserted by L.7/2010*
[13] *Article 4(18B)* — *inserted by L.7/2010*
[14] *Article 4(18C)* — *inserted by L.7/2010*
[15] *Article 4(18D)* — *inserted by L.7/2010*
[16] *Article 5* — *repealed by R&O.126/2005, inserted by R&O.86/2021, expired on 30 September 2022*
[17] *Article 7(1)* — *amended by L.1/2025*
[18] *Article 8* — *substituted by L.2/1951*
[19] *Article 8A* — *inserted by L.9/2025*
[20] *Article 8B* — *inserted by L.9/2025, expired on 28 July 2025*
[21] *Article 9* — *substituted by L.25/1974, L.12/2022*
[22] *Article 9(6)* — *revised on 11 January 2024 by Law Revision Board item 2023/1*
[23] *Article 9(7)* — *revised on 11 January 2024 by Law Revision Board item 2023/1*
[24] *Article 9AA* — *inserted by L.12/2022*

| | |
|---|---|
| [25] *Article 9A* | *inserted by L.45/2012, heading amended by L.12/2022* |
| [26] *Part 2* | *inserted by L.1/1985* |
| [27] *Article 10* | *inserted by L.1/1985* |
| [28] *Article 10(5)* | *substituted by L.15/2005* |
| [29] *Article 10(6)* | *substituted by L.15/2005* |
| [30] *Article 10(7)* | *substituted by L.15/2005* |
| [31] *Article 10(8)* | *amended by L.26/1991, L.25/2008*<br>*correction published March 2007: substitute "Minister for Treasury and Resources" for "Finance and Economics Committee"* |
| [32] *Article 10(10)* | *inserted by L.26/1991, deleted by L.8/2021* |
| [33] *Article 11* | *inserted by L.1/1985* |
| [34] *Article 11(1)* | *amended by L.1/2025* |
| [35] *Article 12* | *substituted by L.15/2005* |
| [36] *Part 2A* | *inserted by L.1/2025* |
| [37] *Article 13(1)* | *amended by L.6/1967, L.13/1996; there are numerous provisions in other Laws extending the power to make rules of court, amended by L.25/2018* |
| [38] *Article 13(2)* | *amended by L.25/2018* |
| [39] *Article 13(3)* | *amended by L.2/2001, deleted by L.8/2021* |
| [40] *Article 14* | *inserted by L.13/1996* |
| [41] *Article 15(1)* | *amended by L.25/2018* |
| [42] *Article 15(1AA)* | *inserted by L.25/2018* |
| [43] *Article 15(1A)* | *inserted by L.15/2005* |
| [44] *Article 15(2)* | *amended by L.38/1998* |
| [45] *Article 15A* | *inserted by L.25/2018* |
| [46] *Article 16* | *inserted by L.23/1997* |
| [47] *Article 16(1)* | *amended by L.38/2026* |
| [48] *Article 16(2)* | *substituted by L.38/2026* |
| [49] *Article 17* | *inserted by L.38/1998* |
| [50] | *Ordres du Conseil, Tome II, page 15, which provides in part: "…for the future all Orders Warrants or letters…shall be sent into the said Island…shall not be henceforth put in Execution…until they be first presented to [the] Royal Court…in order to be registered and published and in any case any of the said Orders Warrants, or letters be found to infringe the Petitioner's said Ancient Laws Charters and Privileges …[the] Royal Court may suspend the Registering and publishing …and the Execution thereof, until upon their representations His Majesty's pleasure be further known"* |
| [51] *Article 20* | *amended by L.1/2025* |
| [52] *Article 21A* | *inserted by L.15/2005* |
| [53] *Article 21A(5)* | *inserted by L.1/2025* |
| [54] *Article 21A(6)* | *inserted by L.1/2025* |
| [55] *Article 21A(7)* | *inserted by L.1/2025* |
| [56] *Schedule 1* | *substituted by L.2/1951* |
| [57] *Schedule 2* | *revised on 11 January 2024 by Law Revision Board item 2023/1* |
| [58] *Schedule 2* | *Form 2 inserted by L.1/1985* |
| [59] *Schedule 2* | *Form 3 inserted by L.1/2025* |