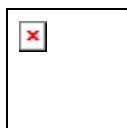


**PROJET D'ACTE (200-) METTANT EN VIGUEUR LA LOI (2001) (AMENDEMENT No. 8) REGLANT LA  
PROCEDURE CRIMINELLE**

---

**Logé au Greffe le 16 octobre 2001  
par le Comité de Législation**

---



**ETATS DE JERSEY**

**GREFFE DES ETATS**

## Report

This Act, in bringing into force most of the provisions of the *Loi* (2001) (*Amendement No. 8 réglant la procédure criminelle* - which was registered on 2nd March 2001 - implements the following reforms of the jury system and procedure in connection with Assize Trials.

In place of the existing disqualification from jury service for having been convicted of treason, felony or crime, a person will be disqualified if within the preceding ten years he has been convicted of any offence and sentenced to imprisonment or ordered to pay a fine exceeding Level 2 on the standard scale of fines (£500 at present) or been the subject of a probation order (or sentenced in like manner outside the Island). Any person who in the Island or elsewhere -

- (i) is awaiting trial for a criminal offence; or
- (ii) is in contempt of court; or
- (iii) is liable to arrest,

will similarly be disqualified from jury service.

The requirement in the *Loi* of 1864 that a juror be a *sujet Britannique* is removed.

The rules relating to challenges to juries have also been changed. At present an accused has the right to challenge peremptorily (i.e. without giving any reason for doing so) up to two jurors. Apart from this, the Crown and the defence may only challenge for cause, which relates *only* to victims of the offence, parents and relatives of the accused or victims up to the degree of uncle and nephew. There may also be a challenge where there is another civil or criminal process between the juror and accused or parents and relatives up to the degree of uncle and nephew. In place of that restricted scope for challenges to potential jurors, the Royal Court is vested with discretion to decide what amounts to proper cause to render a person unsuitable to serve on the jury in the case before it (for example, being unfamiliar with the language in which the proceedings are being conducted).

At present, the *Loi* of 1864 lays down fixed dates for criminal assizes. The Court will now be free to fix the date of an Assize trial upon indictment in the same way that it fixes a hearing date for an Inferior Number trial upon indictment.

The *Loi* of 1864 enables the dispersal of a jury before it has retired to consider its verdict. However, once the jury has retired to consider its verdict, it may not under any circumstances disperse. The Court will now have a discretion to permit a jury to disperse not only before but after it has retired to consider its verdict (subject to the constraint upon communications regarding the proceedings).

The *Loi* of 1864 presently requires the prosecution to notify the accused not only of the name of any prosecution witness but also of his or her address. This at present is an absolute requirement and no allowance is made for the possibility of intimidation of witnesses. This absolute requirement is removed and such disclosure becomes a matter in the first instance at the discretion of the prosecution. If the defence advocate for any reason requires the address of the prosecution witness whose address has not been disclosed, it will be open to him or her to apply to the Court to order disclosure.

The Articles of the *Loi* of 2001 which are not yet being brought into force are Articles 9, 11 and 13 relating to the *tirage*, that is, the drawing of jurors for each Assize. Those Articles confer an enabling power on the Superior Number of the Royal Court to make Rules of Court to make provision necessary to ensure -

- (a) that the names of members of the jury are drawn at random; and
- (b) that there will be a sufficient number of persons warned to serve on the jury.

The necessary Rules of Court are still in the course of drafting, but the remaining Articles of the *Loi* of 2001 are not dependant upon those Rules having been enacted by the Royal Court. Accordingly, the present *Acte* beings into force those remaining Articles the effects of which are described above.

This draft Act has no implications for the financial or manpower resources of the States.

### **Explanatory Note**

The purpose of this Act is to appoint 12th November 2001 as the day on which the Loi (2001) (Amendement No. 8) réglant la procédure criminelle, with the exception of Articles 9, 11 and 13, shall come into force. The remaining Articles shall be brought into force as soon as new Rules of Court necessary for their operation are ready.

The Loi (P.89 of 2000) was adopted by the States on 24th October 2000.

**Loi (2001) (Amendement No. 8) réglant la procédure criminelle**

---

ACTE (2001) METTANT EN VIGUEUR LA LOI (2001) (AMENDEMENT No. 8) REGLANT LA  
PROCEDURE CRIMINELLE

---

(Publié le \_\_\_\_\_ jour de \_\_\_\_\_ 200-)

---

**AUX ETATS DE L'ILE DE JERSEY**

---

L'An 200-, le \_\_\_\_\_ jour de \_\_\_\_\_

---

**LES ETATS**, en vertu des pouvoirs conférés par l'Article 21 de la Loi (2001) (Amendement No. 8) réglant la procédure criminelle,<sup>[1]</sup> ont adopté l'Acte suivant -

**1.** La Loi (2001) (Amendement No. 8) réglant la procédure criminelle, à l'exception des Articles 9, 11 et 13, entrera en vigueur le douze novembre 2001.

**2.** Cet Acte pourra être cité sous le titre d' "Acte (2001) mettant en vigueur la Loi (2001) (Amendement No. 8) réglant la procédure criminelle".

---

<sup>[1]</sup> Recueil des Lois, Volume 2001, page 34.