

STATES OF JERSEY



DRAFT CRIMINAL JUSTICE (INSANE PERSONS) (AMENDMENT) (JERSEY) LAW 201-

**Lodged au Greffe on 27th October 2014
by the Chief Minister**

STATES GREFFE



Jersey

DRAFT CRIMINAL JUSTICE (INSANE PERSONS) (AMENDMENT) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Chief Minister has made the following statement –

In the view of the Chief Minister, the provisions of the Draft Criminal Justice (Insane Persons) (Amendment) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator I.J. Gorst**

Chief Minister

Dated: 24th October 2014

REPORT

The Criminal Justice (Insane Persons) (Jersey) Law 1964 (“the Law of 1964”) was enacted 50 years ago, and is undergoing a fundamental review along with the Mental Health (Jersey) Law which was enacted only 5 years later in 1969. The Law of 1964, in the words of its long title, made provision “*for the detention of persons charged with offences who are found insane on accusation or trial, or insane at the time of the commission of the offence.*” The reference to persons ‘found insane’ will not be replicated when the Law of 1964 is replaced with fresh provisions governing fitness to plead in criminal proceedings.

The purpose of this short amending Law, in advance of the review referred to above, is to remove the existing requirement under the Law of 1964 for the Superior Number of the Royal Court to try questions concerning the fitness of an accused person to plead to a criminal accusation or the ability of such a person to understand the nature of the trial, and instead to enable the Inferior Number to try such questions. It is not entirely clear why, in 1964, it was thought appropriate for the Full Court (of the Bailiff and at least 7 Jurats) to have to convene to determine such questions, but there is consensus that such a procedure is unnecessarily cumbersome, and that there is no reason why this function cannot be discharged by the Inferior Number (i.e. the Bailiff and 2 Jurats).

The Law of 1964 also makes provision requiring the detention of persons in ‘St. Saviour’s Hospital’ in given circumstances. This requirement may be unduly rigid in terms of which hospital is appropriate for this purpose; and therefore the reference to St. Saviour’s Hospital is replaced with a reference to a hospital within the meaning of Article 1 of the Mental Health (Jersey) Law 1969.

Financial and manpower implications

There are no financial or manpower implications, save that the amendment will reduce the administrative burden on the Bailiff’s Chambers and the Judicial Greffe by no longer having to convene the Full Court.

Human Rights

No human rights notes are annexed because the Law Officers’ Department indicated that the draft Law does not give rise to any human rights issues.

Explanatory Note

This draft Law would amend the Criminal Justice (Insane Persons) (Jersey) Law 1964 in two principal respects. First, by *Article 2* it would remove the requirement for the question of whether an accused person is unfit to plead, in Article 1 of that Law, to be tried by the Superior Number of the Royal Court.

Secondly, by *Article 4* it would replace the specific reference to detention of persons subject to orders under Article 1(3) of that Law in St. Saviour's Hospital, with a more general reference to detention in a hospital within the meaning given to that term by the Mental Health (Jersey) Law 1969.

References in the Criminal Justice (Insane Persons) (Jersey) Law 1964 to the death penalty would also be deleted.



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Arrangement

Article

1	Interpretation	9
2	Article 1 amended	9
3	Article 2 amended	9
4	Article 3 amended	10
5	Citation	10



Jersey

DRAFT CRIMINAL JUSTICE (INSANE PERSONS) (AMENDMENT) (JERSEY) LAW 201-

A LAW to amend the Criminal Justice (Insane Persons) (Jersey) Law 1964

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law, the “principal Law” means the Criminal Justice (Insane Persons) (Jersey) Law 1964¹.

2 Article 1 amended

In Article 1 of the principal Law –

- (a) in paragraph (1), the words “death or” and the words “to enable the Superior Number of the Royal Court” shall be deleted;
- (b) in paragraph (2), the words “by the Superior Number of the Royal Court as soon as may be” shall be deleted;
- (c) in paragraph (3) –
 - (i) for the words “Superior Number of the Royal Court” there shall be substituted the word “court”, and
 - (ii) the word “original” shall be deleted.

3 Article 2 amended

In Article 2(1) of the principal Law, the words “death or” shall be deleted.

4 Article 3 amended

- (1) In the heading to Article 3 of the principal Law, for the words “St. Saviour’s Hospital” there shall be substituted the word “hospital”.
- (2) In Article 3 of the principal Law –
 - (a) for the words “St. Saviour’s Hospital” in each place in which they occur there shall be substituted the words “a hospital”;
 - (b) for the word “Hospital” in each place in which it occurs there shall be substituted the word “hospital”.
- (3) At the end of Article 3 of the principal Law there shall be added the following paragraph –
 - “(3) In this Article, “hospital” has the meaning given by Article 1 of the Mental Health (Jersey) Law 1969².”.

5 Citation

This Law may be cited as the Criminal Justice (Insane Persons) (Amendment) (Jersey) Law 201-.

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- ¹ *chapter 08.280*
² *chapter 20.650*