

# STATES OF JERSEY



Jersey

## **DRAFT CRIMINAL PROCEDURE (JERSEY) LAW 2018 (APPOINTED DAY) ACT 201-**

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**Lodged au Greffe on 18th June 2019  
by the Minister for Home Affairs**

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**STATES GREFFE**



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## REPORT

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The States adopted the [Criminal Procedure \(Jersey\) Law 2018](#) (“the principal Law”) on 20th March 2018. The Law was sanctioned by Order of Her Majesty in Council on 11th July 2018, and registered in the Royal Court on 20th July 2018.

This Act will bring the necessary provisions of the Law into force to allow for the establishment of a ‘Criminal Procedure Rules Committee’, to allow the Rules governing court procedure to be made in advance of the main body of the Law being brought into force later this year.

Although mostly technical, the Act will have one material effect. Currently, where a person is charged with an offence in customary law, they are able to elect to be tried by a jury, and where they are charged with an offence codified in statute they are (with very few exceptions) tried by the Inferior Number, consisting of the Bailiff sitting with 2 Jurats.

This has historically created difficulties where a person is charged with 2 or more ‘linked’ offences (where several offences are committed in an inextricably connected way), some customary and some statutory, referred to as a ‘mixed indictment’. In that case, if a person elects for jury trial on the customary indictment then the cases cannot be tried together, so 2 trials must be managed. This creates issues around resourcing, and means that the same evidence is tried twice, with potentially perverse outcomes.

By activating Article 48 of the principal Law, the Act will allow trials on mixed indictments to be tried in whatever way the Court decides – both by jury or both by the Inferior Number.

This is a sensible improvement to the trial process in general. In addition, the latest MONEYVAL<sup>1</sup> assessment identified this as a potential issue, as fraud and related crimes span both customary and statutory law.

### **Financial and manpower implications**

There are no financial or manpower implications arising from the adoption of this draft Appointed Day Act.

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<sup>1</sup> The ‘Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism’, generally referred to as MONEYVAL. This is an independent monitoring mechanism within the Council of Europe, which reports to the Committee of Ministers on members’ compliance with relevant international standards.



**EXPLANATORY NOTE**

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The Draft Criminal Procedure (Jersey) Law 2018 (Appointed Day) Act 201- if passed, brings into force on the day after the day this Act is passed, certain provisions of the Criminal Procedure (Jersey) Law 2018 (the “Law”). In particular –

- Article 48 of the Law which deals with the method by which a person may be tried – i.e. by jury, or by the Inferior Number of the Royal Court. This Article replaces Article 1 of the Loi (1864) réglant la Procédure Criminelle (the “1864 Loi”) which is repealed;
- Part 13 of the Law which establishes the new Criminal Procedure Rules Committee (the “Committee”); and
- Article 118 (enactments repealed) only to the extent that Article 1 of the 1864 Loi listed in Schedule 5 to the Law is repealed.





Jersey

## **DRAFT CRIMINAL PROCEDURE (JERSEY) LAW 2018 (APPOINTED DAY) ACT 201-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES** make this Act under Article 119 of the Criminal Procedure (Jersey) Law 2018<sup>1</sup> –

### **1 Commencement of certain provisions of the Criminal Procedure (Jersey) Law 2018**

The following provisions of the Criminal Procedure (Jersey) Law 2018<sup>2</sup> come into force on the day after the day on which this Act is passed –

- (a) Part 1 (interpretation and application);
- (b) Article 48 (mode of trial);
- (c) Part 13 (establishment and functions of the Criminal Procedure Rules Committee);
- (d) Article 115 (Regulations);
- (e) Article 118 (enactments repealed) to the extent that only Article 1 of the Loi (1864) réglant la Procédure Criminelle<sup>3</sup> (listed in Schedule 5 at paragraph (4)) is repealed;
- (f) Article 119 (citation and commencement).

### **2 Citation**

This Act may be cited as the Criminal Procedure (Jersey) Law 2018 (Appointed Day) Act 201-.

**ENDNOTES****Table of Endnote References**

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<i>1</i>	<i>L.25/2018</i>
<i>2</i>	<i>L.25/2018</i>
<i>3</i>	<i>chapter 08.740</i>