



## ASCENSION

### REVISED EDITION OF THE LAWS, 2017

### CRIME AND CRIMINAL PROCEDURE

### **JURIES (ASCENSION) ORDINANCE, 1979<sup>1</sup>**

*Ordinance SH6 of 1979  
In force 16 November 1979*

*Applied to Ascension by Ordinance A1 of 1985 with amendments which have been incorporated in the text.*

*Amended by SH Ordinances 5 of 2015, 12 of 2016, 14 of 2017.  
(Ord. SH14/2017 applied by L.N.A4/2017 w.e.f. 19 December 2017.)*

*No subsidiary legislation to 18 December 2017*

**Note:**

For selection and empanelling of jurors and their functions in a trial, see the Criminal Procedure (Ascension) Ordinance, 1975 sections 197 to 200 and 211 to 215.

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### **JURIES (ASCENSION) ORDINANCE, 1979**

#### ARRANGEMENT OF SECTIONS

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<sup>1</sup> *This text is not authoritative but was prepared by the Law Revision Commissioner under section 14 of the Revised Edition of the Laws Ordinance, 1999 as stating the law at 19 December 2017.*

18. Offences  
Schedule: Eligibility for jury service

### **JURIES (ASCENSION) ORDINANCE, 1979**

AN ORDINANCE to make provision in the law of Ascension as to juries, jurors and jury service and for connected purposes.

#### **Short title**

1. This Ordinance may be cited as the Juries Ordinance, 1979.

#### **Qualification for jury service**

2. (1) Subject to this Ordinance, every person between the ages of 18 and 70 years, who is resident within Ascension, and who has a knowledge of the English language sufficient to enable him or her to understand the evidence of witnesses, the address of counsel and the Judge's summing up, is qualified and liable to serve as a juror, subject to the exceptions provided in the Schedule.

(2) Notwithstanding anything herein contained the Supreme Court ("**the court**") may, of its own motion or on the application of the Registrar of the Supreme Court or of any party interested, discharge any person summoned to serve as a juror who is unable to satisfy the court or Registrar that his or her knowledge of the English language is sufficient for the purposes aforesaid.

#### **Summoning**

3. (1) Subject to this Ordinance, the Administrator is responsible for the summoning of jurors to attend for service in the court and for determining the occasions on which they are to attend when so summoned, and the number to be summoned.

(2) In making arrangements to discharge his or her duty under subsection (1), the Administrator must have regard to the convenience of the persons summoned and to their respective places of residence.

(3) Subject to this Ordinance, jurors must be so summoned by notice in writing sent by post, or delivered by hand.

(4) A written summons sent or delivered to any person under subsection (3) must be accompanied by a notice informing the person—

- (a) of the effect of sections 9(1), 10 and 18(5) of this Ordinance; and
- (b) that he or she may make representations to an officer designated by the Administrator for the purpose (in this Ordinance called "**the appropriate officer**") and in accordance with arrangements made by the Administrator, with a view to obtaining the withdrawal of the summons, if for any reason the person is not qualified for jury service, or wishes or is entitled to be excused.

(4A) If a person attends pursuant to such a summons, or to a summons under section 6, the appropriate officer may put or cause to be put to the person any questions the officer thinks fit in order to establish whether or not the person is qualified for jury service.

(5) A certificate signed by the appropriate officer and stating that a written summons under this Ordinance, properly addressed, was posted by the officer is admissible as evidence in any proceedings without proof of his or her signature or official character.

#### **Withdrawal or alteration of summonses**

4. If it appears to the appropriate officer, at any time before the day on which any person summoned under section 3 is first to attend, that the person's attendance is unnecessary, or can be dispensed with on any particular day or days, the appropriate officer may withdraw or alter the summons by notice served in the same way as a notice of summons.

#### **Panels**

5. (1) The arrangements to be made by the Administrator under this Ordinance include the preparation of lists of persons summoned as jurors (in this Ordinance called "panels"); and –

- (a) the information to be included in panels;
- (b) the court sittings for which they are prepared;
- (c) their division into parts or sets (whether according to the day of first attendance or otherwise);
- (d) their enlargement or amendment; and
- (e) all other matters relating to the contents and form of the panels,

must be such as the Administrator from time to time directs.

(2) A party to proceedings in which jurors are or may be called on to try an issue, and any person acting on behalf of a party to such proceedings, is entitled to reasonable facilities for inspecting the panel from which the jurors are or will be drawn.

(3) The right conferred by subsection (2) is not exercisable after the close of the trial by jury (or after the time when it is no longer possible for there to be a trial by jury).

(4) The court may, if it thinks fit, at any time afford to any person facilities for inspecting the panel, although not given the right by subsection (2).

#### **Summoning in exceptional circumstances**

6. (1) If it appears to the court that a jury to try any issue before the court will be, or probably will be, incomplete, the court may, if the court thinks fit, require any persons who are in the court, or in its vicinity, to be summoned (without any written notice) for jury service up to the number needed (after allowing for any who may not be qualified under section 2 of this Ordinance, and for refusals and challenges) to make up a full jury.

(2) The names of the persons so summoned must be added to the panel and the court must proceed as if those so summoned had been included in the panel in the first instance.

#### **Attendance**

7. Subject to this Ordinance, a person summoned under it must attend for as many

days as are directed by the summons or by the appropriate officer.

### **Excusal for previous jury service**

**8. (1)** If a person summoned under this Ordinance shows to the satisfaction of the appropriate officer, or of the court that—

- (a) he or she has served on a jury, or duly attended to serve on a jury, in the prescribed period ending with the service of the summons on the person; or
- (b) the court has excluded him or her from jury service for a period which has not terminated,

the officer or court must excuse the person from attending, or further attending, pursuant to the summons.

**(2)** In subsection (1) “**the prescribed period**” means 2 years or any longer period the Administrator prescribes.

**(3)** Records of persons summoned under this Ordinance, and of persons included in panels, must be kept in a manner the Administrator directs, and the Administrator may, if he or she thinks fit, make arrangements for allowing inspection by members of the public of the records so kept in circumstances and subject to conditions the Administrator prescribes.

**(4)** A person duly attending in compliance with a summons under this Ordinance is entitled on application to the appropriate officer to a certificate recording that the person has so attended.

**(5)** *Repealed*

### **Excusal for certain persons and discretionary excusal**

**9. (1)** A person summoned under this Ordinance is entitled, if he or she so wishes, to be excused from jury service if he or she is among the persons listed in Part III of the Schedule; but, except as provided by that Part of the Schedule in the case of members of the forces, a person is not by this section exempted from the obligation to attend if summoned unless the person is excused from attending under subsection (2).

**(2)** If any person summoned under this Ordinance shows to the satisfaction of the appropriate officer that there is good reason why he or she should be excused from attending pursuant to the summons, the appropriate officer –

- (a) may excuse the person from so attending; and
- (b) must do so if the reason shown is that the person is entitled under subsection (1) to excusal.

**(3)** There is a right of appeal to the court before which the person is summoned to attend against any refusal of the appropriate officer to excuse the person under subsection (2).

**(4)** Without affecting other provisions of this section, the court before which a person is summoned to attend under this Ordinance may excuse that person from attending.

### **Discharge of summons in case of doubt as to capacity to act effectively as a juror**

**10.** (1) If it appears to the appropriate officer, in the case of a person attending pursuant to a summons under this Ordinance, that on account of physical disability or insufficient understanding of English there is doubt as to the person's capacity to act effectively as a juror, the person may be brought before the judge, who must determine whether or not the person should act as a juror and, if not, must discharge the summons.

(2) For the purpose of subsection (1), “**the judge**” means any person authorised by law to hold the court.

### **The ballot and swearing of jurors**

**11.** (1) The jury to try an issue before a court must be selected by ballot in open court from the panel, or part of the panel, of jurors summoned to attend at the time and place in question.

(2) The power of summoning jurors under section 6 may be exercised after balloting has begun, as well as earlier, and if it is exercised after balloting has begun the court may dispense with balloting for persons summoned under that section.

(3) No 2 or more members of a jury to try an issue in a court may be sworn together.

(4) Subject to subsection (5), the jury selected by any one ballot must try only one Issue; but any juror is liable to be selected on more than one ballot.

(5) Subsection (4) does not prevent—

- (a) the trial of 2 or more issues by the same jury if the trial of the second or last issue begins within 24 hours from the time when the jury is constituted;
- (b) in a criminal case - the trial of fitness to plead by the same jury as that by whom the defendant is being tried; or
- (c) in a criminal case beginning with a special plea - the trial of the defendant on the general issue by the jury trying the special plea.

(6) In the cases within subsection (5)(a), (b) and (c) –

- (a) the court may, on the trial of the second or any subsequent issue, instead of proceeding with the same jury in its entirety, order any juror to withdraw, if the court considers he or she could be justly challenged or excused, or if the parties to the proceedings consent; and
- (b) the juror to replace that juror must, subject to subsection (2), be selected by ballot in open court.

### **Separation**

**12.** Upon the trial of any person for an offence on indictment the court may, if it thinks fit, at any time whether before or after the jury have been directed to consider their verdict, permit them to separate.

### **Views**

**13.** Supreme Court rules, and rules of court for civil cases, may make provision

with respect to views by jurors, and the places to which a juror may be called on to go to view is not restricted to any particular area.

### **Continuation of criminal trial on death or discharge of a juror**

**14. (1)** If in the course of a trial of any person for an offence on indictment any member of the jury dies or is discharged by the court whether as being through illness incapable of continuing to act or for any other reason, but the number of its members is not reduced below 7, the jury is nevertheless (subject to subsection (3)) to be considered as remaining for all the purposes of that trial properly constituted, and the trial must proceed and a verdict may be given accordingly.

**(2)** *Repealed*

**(3)** Notwithstanding subsection (1), on the death or discharge of a member of the jury in the course of a trial of any person for an offence on indictment the court may discharge the jury in any case where the court sees fit to do so.

### **Majority verdicts**

**15. (1)** Subject to subsections (2) and (3), the verdict of a jury in proceedings in the court need not be unanimous if the jury consists of 8 or more jurors and at least 7 of them agree on the verdict.

**(2)** The court must not accept a verdict of guilty by virtue of subsection (1) unless the foreman of the jury has stated in open court the number of jurors who respectively agreed to and dissented from the verdict.

**(3)** A court must not accept a verdict by virtue of subsection (1) unless it appears to the court that the jury have had a period of time for deliberation that the court thinks reasonable having regard to the nature and complexity of the case; and the court must in any event not accept such a verdict unless it appears to the court that the jury have had at least 2 hours for deliberation.

**(4)** *Omitted<sup>2</sup>*

### **Judgements: stay or reversal**

**16. (1)** Judgement after verdict in any trial by jury in any court must not be stayed or reversed only because—

- (a)* the provisions of this Ordinance about the summoning or impanelling of jurors, or the selection of jurors by ballot, have not been complied with;
- (b)* a juror was not qualified in accordance with section 2;
- (c)* any juror was misnamed or misdescribed; or
- (d)* any juror was unfit to serve.

**(2)** Subsection (1)(a) does not apply to any irregularity if objection is taken at, or as soon as practicable after, the time it occurs, and the irregularity is not corrected.

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<sup>2</sup> There is no jury in a civil case

(3) Subsection (1) does not apply to any objection to a verdict on the ground of personation.

### **Payment for jury service**

17. (1) A person who serves as a juror is entitled, in respect of his or her attendance at court for the purpose of performing jury service, to receive payments, at the prescribed rates and subject to any prescribed conditions.

(2) In subsection (1) “**prescribed**” means prescribed by rules made under the Superior Courts (Appeals and Rules) Ordinance, 2017.

### **Offences**

18. (1) Subject to subsections (2) to (4), it is an offence —

- (a) for a person duly summoned under this Ordinance to fail to attend (on the first or on any subsequent day on which the person is required to attend by the summons or by the appropriate officer) in compliance with the summons; or
- (b) for a person, after attending pursuant to a summons, not to be available when called on to serve as a juror, or to be unfit for service by reason of drink or drugs.

Penalty: A fine of £100.

(2) An offence under subsection (1) is punishable either on summary conviction or as a criminal contempt of court committed in the face of the court.

(3) Subsection (1)(a) does not apply to a person summoned otherwise than under section 6, unless the summons was duly served on the person on a date not later than 7 days before the date fixed by the summons for his or her first attendance.

(4) A person is not liable to be punished under the preceding provisions of this section if the person can show some reasonable cause for his or her failure to comply with the summons, or for not being available when called on to serve, and those provisions have effect subject to the provisions of this Ordinance about the withdrawal or alteration of a summons and about the granting of any excusal.

(5) It is an offence for a person—

- (a) having been summoned under this Ordinance, to make or cause or permit to be made on his or her behalf, any false representation to the appropriate officer with the intention of evading jury service;
- (b) to make or cause to be made on behalf of another person who has been so summoned any false representation to that officer with the intention of enabling the other to evade jury service;
- (c) when any question is put to the person pursuant to section 3(4), to refuse without reasonable excuse to answer, or to give an answer which the person knows to be false in a material particular, or recklessly to give an answer which is false in a material particular; or
- (d) knowing that the person is ineligible for jury service under Group A, B or C in Part I of the Schedule, or disqualified under Part II of that Schedule, to serve on a jury.

Penalty: A fine of £200 in the case of an offence of serving on a jury when disqualified and, in

any other case, a fine of £100.

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**SCHEDULE**  
(Sections 2(1), 9(1), 18(5))

**INELIGIBILITY AND DISQUALIFICATION  
FOR AND EXCUSAL FROM JURY SERVICE**

**PART I**  
**PERSONS INELIGIBLE**

**Group A - The Judiciary**

- Judges
- Registrars, deputy registrars and assistant registrars of any court
- Chief Magistrate
- Justices of the Peace
- A person who has at any time been a person falling within any description specified above in this group

**Group B - Others concerned with administration of justice**

- The Attorney General
- Legal practitioners, whether or not in actual practice as such
- Solicitors' articled clerks
- Barristers' clerks and their assistants
- The Crown Prosecutor
- Officers employed by the Government of St Helena and concerned wholly or mainly with the day-to-day administration of the legal system or any part of it
- Officers and staff of any court, if their work is wholly or mainly concerned with the day-to-day administration of the court
- Chief Coroner, Deputy Chief Coroner and Coroners
- Clerk of the Peace
- A shorthand writer in any court
- Probation officers and persons appointed to assist them
- A member of the St Helena Police Service, including special constables
- Civilians employed for police purposes by the St Helena Police Service
- A person who at any time within the last 10 years has been a person falling within any description specified above in this group

**Group C - The clergy**

- A person in holy orders
- A regular minister of any religious denomination.

**Group D - The mentally disordered**

- A person who suffers or has suffered from mental disorder and on account of that condition either—



- (a) is resident in a hospital or other similar institution; or
- (b) regularly attends for treatment by a medical practitioner.
- A person who under the Mental Health and Mental Capacity Ordinance, 2015 has been determined to suffer from mental disability so as to be unable to perform the duties of a juror.

**PART II  
PERSONS DISQUALIFIED**

- A person who has at any time been sentenced in the Supreme Court of St Helena—
  - (a) to imprisonment for life or for a term of 5 years or more; or
  - (b) to be detained during the Governor’s pleasure.
- A person who at any time in the last ten years has, in St Helena or Ascension—
  - (a) served any part of a sentence of imprisonment or detention, being a sentence for a term of three months or more; or
  - (b) been detained in a remand home.

**PART III  
PERSONS EXCUSABLE AS OF RIGHT**

**Medical and other similar professions**

The following, if actually practising their profession and registered (including provisionally or temporarily registered), enrolled or certified under a written law relating to that profession—

- medical practitioners
- veterinary surgeons
- dentists
- veterinary practitioners
- nurses
- pharmaceutical chemists
- midwives

**The Forces**

Full time serving members of any of Her Majesty’s naval, military or air forces

Full time serving members of the United States of America naval, military or air force

**Island Council**

Members of the Island Council, including ex officio members

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