



## ASCENSION

### REVISED EDITION OF THE LAWS, 2017

### CRIME AND CRIMINAL PROCEDURE

### TRIALS WITHOUT A JURY ORDINANCE, 2016<sup>1</sup>

*Ordinance A5 of 2016*

*In force 8 June 2016*

*No amendments to 1 November 2017*

*No subsidiary legislation to 1 November 2017*

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### TRIALS WITHOUT A JURY ORDINANCE, 2016<sup>2</sup>

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AN ORDINANCE to provide for trials on indictment without a jury; and for connected or incidental matters.

#### **Short title and commencement**

**1.** This Ordinance may be cited as the Trials Without A Jury Ordinance, 2016, and comes into force on 8 June 2016.

#### **Interpretation**

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<sup>1</sup> Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

<sup>2</sup> For the equivalent provision in St Helena, see section 167 of the Criminal Procedure Ordinance, 1975. Other provisions of that Ordinance apply to Ascension with necessary modifications by virtue of the St Helena Law (Application to Ascension) Ordinance, 1988.

2. In this Ordinance—  
**“Court”** means the Supreme Court of St Helena;  
**“party to the trial”** or **“party”** includes the prosecution;  
**“Registrar”** means the Registrar of the Supreme Court of St Helena.

### **Application of Ordinance**

3. This Ordinance applies where a defendant in any criminal matter is to be tried on indictment.

### **Order for trial to be conducted without jury**

4. (1) Notwithstanding anything to the contrary in any other law, a judge may order that a trial be conducted without a jury if the judge is satisfied that the interests of justice so require.

(2) An order under subsection (1) may be made on the application of any party to the trial or by the judge of his or her own volition.

(3) In making a determination as to whether the interests of justice require that the trial be conducted without a jury, the judge must have regard to all the circumstances prevailing, including any or all of the following:

- (a) the nature of the charges;
- (b) the complexity of the issues or matter to be determined, and any steps which might reasonably be taken to reduce the complexity of the trial;
- (c) the length of the trial, and any steps which might reasonably be taken to reduce the length of the trial;
- (d) the fact that that during the jury selection process, the number of successful peremptory challenges or challenges for cause to empanelling a juror provided by section 198 of the Criminal Procedure Ordinance, 1975 resulted in no reasonable prospect of a jury being selected under the prescribed rules;
- (e) the likelihood that, if a jury were selected, pre-trial publicity might influence its decision;
- (f) whether there is any information tending to suggest that jury tampering might arise.

### **Procedure for applications**

5. (1) An application under section 4 must be made to the court within 28 days after the committal of the defendant and served on all other parties.

- (2) A party who wishes to oppose an application made under section 4 –
  - (a) must do so within 7 days of receiving a copy of that application;
  - (b) must file with the court written representations, including a short explanation of the reasons for opposing such application; and
  - (c) must serve copies of the document filed under paragraph (b) on all other parties.

### **Representations by parties**

6. On receipt of an application under section 4, or if the judge of his or her own volition considers that the interests of justice might require that a trial take place without a jury,

the judge must appoint a day to hear representations from the parties to the trial, and after such parties have had full opportunity of being heard, make a determination on them.

### **Appeals**

**7. (1)** Subject to subsection (2), an appeal against an order under section 4 lies to the Court of Appeal of St Helena, and any determination by the Court of Appeal of St Helena is final.

**(2)** No appeal lies against an order under section 4, except on a point of law.

**(3)** Subject to subsection (2), notice of appeal by any party dissatisfied by the decision must be filed and served on all other parties within 7 days of a determination by the judge, accompanied by the ground of appeal and the point or points of law which the appellant wishes to raise.

**(4)** The Registrar must forthwith ensure that any such appeal is listed for hearing within 30 days of the filing of the appeal.

### **Further provisions about trials without jury**

**8. (1)** If a trial is conducted without a jury, the court has all the powers, authority and jurisdiction which the court would have had if the trial had been conducted with a jury (including power to determine any question and to make any finding which would be required to be determined or made by a jury).

**(2)** Except where the context otherwise requires, any reference in any enactment to a jury, the verdict of a jury or the finding of a jury is to be read, in relation to a trial conducted without a jury, as a reference to the court, the verdict of the court or the finding of the court respectively.

- (3)** If a trial is conducted without a jury and the court convicts a defendant—
- (a)** the court must give a judgment which states the reason for the conviction at the time of the conviction, or as soon as is reasonably practicable thereafter; and
  - (b)** the reference in Rule 20(2)(b) of the St Helena Court of Appeal Rules to the date of the decision appealed is to be read as a reference to the date of the judgment mentioned in paragraph *(a)*.

### **Pending proceedings**

- 9. (1)** This Ordinance applies in respect of proceedings for offences —
- (a)** committed after the commencement of this Ordinance;
  - (b)** committed before the commencement of this Ordinance if proceedings have not yet commenced.

**(2)** For the purposes of subsection (1)(b) proceedings are to be considered as commenced when charges have been instituted.

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