

Supreme Court Act

This version is out of date

Principal Act

Act. No. 1960-02		<i>Commencement</i>	1.9.1960
		<i>Assent</i>	17.3.1960
Amending enactment	Relevant current provisions	Commencement date	
Act. 1960-11	ss. 8, 14, 17, 38(1)		
1961-19	s. 6		
1965-24	ss. 28, 35		
1966-29	ss. 20, 35		
1967-01	—		
1968-24	s. 16		
1969-30	ss. 2, 11, 28(1), 29		
1970-03	s. 28(1)		
Regs. of 28.5.1970	s. 20		
Act. 1971-14	s. 28(2)		
1972-06	s. 19		
1974-24	ss. 20-21		
1975-24	ss. 27, 36		
1977-01	s. 13		
1977-02	—		
1977-35	ss. 2, 4(2), 6(1), 18(2)-(3), 26		
1978-06	s. 23		
1978-29	s. 37		
1980-04	ss. 3(2), 34, 38(1)		
1983-44	—		
1983-48	s. 36		
1986-24	ss. 28-29, 32, 38(cc).		1.1.1987
1987-34	s. 20(q)		27.12.1987
1988-35	ss. 17, 17A-17B, 20-21, 36A.		15.12.1988
1997-25	s. 20(q)		21.8.1997
1997-32	ss. 35A-35H, 28(1), (c), 29(1)(a), Sch		16.10.1997
2002-12	ss. 39-72		19.12.2002
2004-23	s. 35A(1), Sch Part I.		1.5.2004
2004-11	ss. 38A-38B		1.9.2004
2008-05	ss. 41(1)-(3), 73, Sch.		1.1.2007
2007-17	s. 37		14.6.2007
2007-24	ss. 3, 27(1), 28(3), 36, 38B(4)		28.6.2007
2010-10	s. 12A		6.5.2010
2010-16	s. 36B		8.7.2010

2010-20	ss. 19-22I, 23-27, 27A-27V, 35A, Schs. 2-4	1.1.2011 ²
LN. 2011/105	ss. 72A-72G	7.7.2011
Act. 2012-09	ss. 27E(2)-(3), 27G(3)	27.9.2012
2012-17	s. 12A(1)-(2), (2A), (3)-(4)	22.11.2012
LN. 2013/134	ss. 35A(1), 35H(1), 41, Sch. 1	1.7.2013
2015/003	s. 72C(3)	10.1.2015
Act. 2015-14	ss. 27W, 27X, 28(1)(c), (2A), 29(1)(a), (ba), (1A), 34(3)(b), 35	1.7.2015 ³
2015-19	ss. 29	6.8.2015
2016-18	s. 16, Sch. 2	23.4.2018
2017-10	Sch. 2	13.6.2018
LN. 2020/523	ss. 72A-72G	1.1.2021
2020/528	ss. 41, 42(1), 64(1), 67	1.1.2021
2021/481	Sch. 4	9.12.2021
Act. 2017-15	ss. 2, 27W(5), (10), 28(1)(d), (3), 29(1)(c), 31(1)-(2), 32, 34(1)(aa), 35	30.12.2022 ¹
LN. 2023/216	ss. 39-72	27.7.2023
“	ss. 35A-35H	1.9.2023

The Supreme Court (Admiralty Practice) Rules and the Supreme Court (Prize Court Fees) Rules 1940 are printed under the title Colonial Courts of Admiralty Act 1890.

The Supreme Court Fund Regulations are printed under the title Public Finance (Control and Audit).

Transposing:

Directive 77/249/EEC
 Directive 98/5/EC
 Directive 2006/100/EC
 Directive 2008/52/EC
 Directive 2013/25/EU

Implementing:

Regulation (EU) No 1215/2012

English sources:

Juries Act 1825 (6 Geo.4 c.50)
 County Courts Act 1934 (24 & 25 Geo.5 c.53)

² See LN. 2010/183

³ See LN. 2015/102

¹ Commencement Notice (LN.2022/348)

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FINANCIAL OFFENCES

AN ACT TO AMEND THE LAW RELATING TO THE SUPREME COURT OF JUDICATURE IN GIBRALTAR.

Short title.

1. This Act may be cited as the Supreme Court Act.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“Authorised Person” has the same meaning as in the Legal Services Act 2017.

“Constitution” means the Constitution of Gibraltar as set out in Annex 1 to the Gibraltar Constitution Order 1969;

“court” means the Supreme Court of Gibraltar and includes the Chief Justice, and any additional judge thereof, whether sitting in court or in chambers or elsewhere;

“prescribed” means prescribed by rules of court;

“Registrar” means the Registrar of the Supreme Court appointed under the provisions of section 3.

PART I.
ADMINISTRATION.

Appointment of Registrar.

3. There shall be attached and belong to the Court a Registrar appointed by the Governor acting on the advice of the Judicial Services Commission.

Duties of Registrar.

- 4.(1) The Registrar shall perform all such duties as are respectively performed by the Master, Registrar, Taxing Master or Keeper of the Records of Her Majesty's High Court of Justice in England and shall be Registrar of the Supreme Court in its Admiralty jurisdiction and he and the other officers of the court shall be subject to such orders as they may from time to time receive from the Chief Justice. The Registrar shall be a Commissioner of the said court to administer oaths and take solemn declarations or affirmations in lieu of oaths and also to take examinations of witnesses de bene esse.

(2) Any ruling or other decision of any kind whatsoever in any civil criminal proceedings by the Registrar in exercise of the duties imposed upon him by subsection (1) shall be subject to appeal to the court.

Jurisdiction of Registrar in absence of judge.

5.(1) If at any time neither the Chief Justice nor an additional judge is present in Gibraltar or readily available to hear and determine any matter of an urgent nature it shall be lawful for the Registrar to hear and determine any matter which might lawfully be determined by the Chief Justice or additional judge sitting in chambers and any order, direction or warrant made, given or issued by the Registrar under the provisions of this section shall for all purposes and at all times be of the same force and effect as though such order, direction or warrant has been made, given or issued by the Chief Justice, or an additional judge.

(2) In any matter, not to be dealt with in chambers, if by reason of the death or unavoidable absence of the Chief Justice or an additional judge, a court cannot be held under this Act on any day on which it has been appointed to be held, the Registrar shall adjourn the court to such day as he may deem convenient, and enter in the minute book the cause of such adjournment.

Appointment and duties of Sheriff and Marshal.

6.(1) The Registrar shall be the Sheriff of Gibraltar and shall, by himself or by his sufficient deputies to be by him appointed and authorized under his hand and for whom he shall be responsible, and execute all such writs, warrants, orders, commands and process of the court as he shall be required by the court to execute, and make return of the same together with the manner of the execution thereof to the court, and receive and detain in prison all such persons as shall be committed to the custody of the Sheriff by the court, and shall be Marshal of the Supreme Court in its Admiralty jurisdiction:

Provided that, whenever the court directs or awards any process against the Sheriff or awards any process in any cause, matter or thing wherein the Sheriff by reason of any good cause of challenge which would be allowed against any sheriff in England cannot by law execute the same, in every such case the court shall appoint some other fit person to execute and return the same and the said process shall be directed to the person so to be named for that purpose and the cause of such proceeding shall be entered on the record of the court.

(2) In the exercise of his powers and duties as Sheriff of Gibraltar, the Registrar may exercise such powers and shall perform such duties as are from time to time exercised or performed by a sheriff in England in accordance with the law from time to time in force in England with respect thereto.

Powers of Deputy Registrar.

7. It shall be competent for the person holding the appointment of Deputy Registrar of the Court subject to such directions as the Chief Justice may from time to time deem expedient to give to perform any act or discharge any duty which the Registrar may lawfully do or is required by law to do and for such purposes the person holding such appointment as aforesaid shall have all powers, privileges and authority of the Registrar:

Provided however, that the Deputy Registrar shall not exercise any of the powers conferred upon the Registrar by section 5(1).

Duty of police officers.

8. It shall be the duty of every police officer to assist in effecting any execution, attachment or committal ordered by court or carried out under rules of court.

Seal of court.

9.(1) The Supreme Court shall continue to use the same seal or a similar seal as hitherto and such seal shall be kept in the custody of the Registrar.

(2) All process issuing out of the court which by any rules of court or otherwise requires to be sealed shall be impressed with the seal of the court.

(3) All process purporting to be sealed as aforesaid, and all copies, certificates and other documents purporting to be sealed as aforesaid or to be stamped with the official stamp of the court shall be received in evidence without further proof thereof.

Sittings of court.

10.(1) The court shall sit for the trial of criminal and civil causes and for the disposal of other legal business pending at such times as the Chief Justice may direct.

(2) The Registrar shall ordinarily give notice beforehand of all such sittings.

PART II.
JURISDICTION AND POWERS.

Supreme court a court of record.

11. The Supreme Court for Gibraltar established by section 56 of supreme the Constitution shall be a superior court of record and, subject to the provisions of the Constitution; shall be constituted and have the jurisdiction and powers hereinafter specified.

Court to have jurisdiction of High Court in England.

12. The court shall in addition to any other jurisdiction conferred by this or any other Act, within Gibraltar and subject as in this Act mentioned, possess and exercise all the jurisdiction, powers and authorities which are from time vested in and capable of being exercised by Her Majesty's High Court of Justice in England.

Jurisdiction of Family Judge.

12A.(1) There shall be one or more puisne judges in the Supreme Court to whom shall be designated all family proceedings.

(2) The judges referred to in subsection (1) shall be known as Family Judges and shall deal with family proceedings.

(2A) Where, in accordance with subsection (1), more than one judge is designated all family proceedings, references in this, and any other legislation, to “the Family Judge” shall be construed as a reference to any of the Family Judges.

(3) Notwithstanding the other provisions of this section, the Family Judge may be allocated any matter, other than family proceedings, by the Chief Justice.

(4) *Deleted.*

(5) For the purpose of this section, “family proceedings” shall have the meaning assigned to it by section 25 of the Children Act 2009.

(6) Nothing in this section shall—

- (a) limit or otherwise affect the competence and jurisdiction of all judges of the Supreme Court to deal with family proceedings; and
- (b) limit or otherwise affect the competence and jurisdiction of the Family Judge to deal with matters other than family proceedings.

(7) Where a judge other than the Family Judge deals with a family proceedings reference in any other legislation to the Family Judge shall be a reference to the judge that has dealt with those proceedings.

International conventions affecting jurisdiction.

13.(1) The provisions of this section shall apply for the purpose of giving effect as respects Gibraltar to any convention for the time being in force, by virtue of which the High Contracting Parties to the Convention, or their property are rendered liable to legal proceedings in the courts of the other High Contracting Parties and in the courts of any territory for whose external

relations a High Contracting Party is responsible and which has been included in the ratification of such High Contracting Party.

(2) As from such day as the Governor may, by notice in the Gazette, state as being the day on which any such convention has come into force as respects Gibraltar, every High Contracting Party to the convention shall, for the purposes of any proceedings brought in the Supreme Court against that party or in respect of property of that party in accordance with the provisions of the convention, be deemed to have submitted to the jurisdiction of the court; and the court shall, in determining whether or to what extent any such proceedings are within its jurisdiction, give effect to any provision of the convention (including any protocol thereto) prescribing the mode of proof of any material circumstance.

(3) The Governor may by notice in the Gazette name those countries which Her Majesty by Order in Council has certified as being the High Contracting Parties to any such convention, in respect of what territories they are respectively parties, and to what extent they have availed themselves of any provision of the convention for suspending or modifying the operation of the convention, and any such notice shall, except in so far as it has been superseded by a subsequent notice, be conclusive evidence of the matters so certified.

Avoidance of multiplicity of proceedings.

14. In the exercise of the jurisdiction granted by this Act the court shall have power to grant and shall grant either absolutely or on such terms as shall seem just, all such remedies or relief whatsoever interlocutory or final as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim or defence properly put forward by them respectively or which shall appear in such cause or matter; so that as far as possible all matters in controversy between the parties respectively may be completely and finally determined and all multiplicity of legal proceedings concerning any of such matters avoided.

Practice and procedure.

15. The jurisdiction vested in the court shall be exercised (as far as regards practice and procedure) in the manner provided by this or any other Act or by such rules as may be made pursuant to this Act or any other Act and in default thereof, in substantial conformity with the law and practice for the time being observed in England in the High Court of Justice.

Power to appoint receivers for persons under disability.

16. The court shall have power to appoint guardians and committees of the persons and estates of minors and persons suffering from mental disorder within the meaning of the Mental Health Act 2016 and unable to govern themselves or their estates, and for that purpose to enquire into, hear and determine, by inspection of the person the subject of such inquiry, or by examination on oath or otherwise of the party in whose custody or charge such person maybe, or of any other person or persons, or by such other ways and means by which the truth may be best

discovered, and to act in all cases whatsoever as fully and amply to all intents and purposes as the Lord High Chancellor or the grantee from the Crown of the persons and estates of minors and persons suffering from mental disorder may” lawfully do in England.

Power of review.

17.(1) The court shall have full power, jurisdiction and authority to review the proceedings of all inferior courts of justice in Gibraltar, and if necessary to set aside or correct the same.

(2) Without prejudice to the generality of subsection (1), the court may upon application by or on behalf of the Attorney-General, order any inferior court to send to the Registrar the record of proceedings in any criminal case or matter, and may also require in addition to such record a statement showing in detail the proceedings taken with reference to the whole case or any particular matter, and if it appears to the court that there has been any material error in the proceedings of the inferior court, it may, after hearing the defendant or counsel on his behalf, set aside or vary any judgment or order of the inferior court and pass such judgment or make such order, or remit the case or matter to the inferior court with such directions, if any, as justice may require:

Provided that no application under this subsection may be made with regard to a sentence passed on conviction by an inferior court.

(3) The application by or on behalf of the Attorney-General referred to in subsection (2) may be made only within a period of thirty days of the date of the judgment or order of the inferior court to which it relates.

Orders of mandamus, prohibition and certiorari.

17A. The court shall have jurisdiction to make orders of mandamus, prohibition and certiorari in those classes of cases in which it had power to do so immediately before the commencement of this section.

Application for judicial review.

17B.(1) An application to the court for one or more of the following forms of relief, namely–

- (a) an order of mandamus, prohibition or certiorari; or
- (b) a declaration or injunction under subsection (2),

shall be made in accordance with rules of court by a procedure to be known as an application for judicial review.

(2) A declaration may be made or, subject to the provisions of the Crown Proceedings Act, an injunction granted under this subsection in any case where an application for judicial review, seeking that relief, has been made and the court considers that, having regard to-

- (a) the nature of the matters in respect of which relief may be granted by orders of mandamus, prohibition or certiorari;
- (b) the nature of the persons and bodies against whom relief may be granted by such orders; and
- (c) all the circumstances of the case,

it would be just and convenient for the declaration to be made or of the injunction to be granted, as the case may be.

(3) No application for judicial review shall be made unless the leave of the court has been obtained in accordance with rules of court; and the court shall not grant leave to make such an application unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

(4) On an application for judicial review the court may award damages to the applicant if-

- (a) he has joined with his application a claim for damages arising from any matter to which the application relates; and
- (b) the court is satisfied that, if the claim had been made in an action begun by the applicant at the time of making his application, he would have been awarded damages.

(5) If, on an application for judicial review seeking an order of certiorari, the court quashes the decision to which the application relates, the court may remit the matter to the court, tribunal or authority concerned, with a direction to reconsider it and reach a decision in accordance with the findings of the court.

(6) Where the court considers that there has been undue delay in making an application for judicial review, the court may refuse to grant-

- (a) leave for the making of the application; and
- (b) any relief sought on the application,

if it considers that the granting of the relief sought would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.

(7) Subsection (6) is without prejudice to any enactment or rule of court which has the effect of limiting the time within which an application for judicial review may be made.

Summary power to punish contempt.

18.(1) If any Person—

- (a) being served with a subpoena to attend the court as a witness in accordance with rules of court refuses or neglects to attend the court pursuant to such subpoena; or
- (b) being present in court and required to give evidence refuses to be sworn or to give evidence; or
- (c) assaults or obstructs an officer of the court while in the execution of his duty; or
- (d) commits any contempt before the court,

it shall be lawful for the court to punish such person in a summary way by a fine of £50, or by commitment to prison for two months, if the court shall think that the contempt is one which may be disposed of without having recourse to its more formal and extensive jurisdiction:

Provided that nothing herein contained shall affect or abridge the right of any plaintiff or defendant to proceed against any party for not appearing pursuant to his subpoena for the recovery of any special damage such plaintiff or defendant may have sustained by reason of the disobedience of any such party:

Provided also that no person having been served with a subpoena shall be so punished for refusing or neglecting to attend the court unless there has been paid or tendered to him at the time of the service of the subpoena such sum in respect of his expenses (including in such cases as may be prescribed compensation for loss of time) as may be prescribed by rules of court.

(2) Payment of any fine imposed by the court under this section may be enforced upon the order of the court—

- (a) in like manner as payment of any debt adjudged by the court to be paid may be enforced under this Act; or
- (b) in like manner as payment of a sum adjudged to be paid on summary conviction may be enforced under the Criminal Procedure Act.

(3) The court may in its discretion direct that the whole or any part of any such fine, after deducting the costs, shall be applicable towards indemnifying the party injured by the refusal or neglect.

PART III
TRIAL BY JURY

19. Repealed

Qualification for jury service.

19A.(1) Subject to this Part, a person is qualified to serve as a juror in the Supreme Court and is liable to be included on the jury list if he is not less than 18 nor more than 65 years of age and—

- (a) he is eligible for registration as an elector under the Parliament Act; or
- (b) he has been ordinarily resident in Gibraltar for a continuous period of at least 5 years before the jury list is drawn up.

(2) A person must not be included on the jury list if—

- (a) he is mentally disabled and by reason of his disability cannot reasonably be expected to perform the duties of a juror;
- (b) he does not have an adequate knowledge of English to perform the duties of a juror;
- (c) he is disqualified for jury service by virtue of subsection (5); or
- (d) he is ineligible for jury service by virtue of subsection (6).

(3) Subject to subsection (2), a person aged 66 or more but who has not reached the age of 71 may volunteer for service as a juror, and may apply to the Registrar to be included among persons liable for jury service, and the Registrar if satisfied that the person—

- (a) is eligible for registration as an elector in accordance with section 3 of the Parliament Act; or
- (b) has been ordinarily resident in Gibraltar for a continuous period of at least 5 years before the jury list is drawn up,

must include his or her name on the jury list accordingly.

(4) In subsection (2) “mentally disabled” has the meaning given to that term by Part I of Schedule 2.

(5) The persons who are disqualified for jury service are those listed in Part II of Schedule 2.

(6) The persons who are ineligible for jury service due to their profession being listed in Part I of Schedule 3.

Jury list.

19B.(1) The Registrar must—

- (a) before the first Sunday in September in each alternate year make a list in the prescribed form of all persons qualified and liable to serve as jurors;
- (b) cause a copy of the list to be published at such time and place as the Chief Justice may direct;
- (c) attach to each such copy a notice stating that all objections to the list will be heard by the magistrates’ court at a time and place stated in it, being not less than 15 nor more than 21 days from the date of publication of the notice.

(2) At the time and place so stated, there must be a sitting of the magistrates’ court for the revision of the jury list at which, upon any evidence adduced before it or of its own knowledge, information and belief, the court may—

- (a) strike out from the list the name of any person included in it who is not qualified or liable to serve; or
- (b) add to the list the name of any person who is qualified and claims the right to serve as a juror.

(3) Any person may appear before the magistrates’ court at the revision of the list either personally or by counsel and claim that he is or is not liable to serve as a juror.

(4) The list when revised—

- (a) must be certified by the clerk of the magistrates’ court and delivered to the Registrar;
- (b) comes into force from the 1st day of October next after it is certified; and
- (c) remains in force for 2 years.

(5) Every person whose name is included in the jury list as revised by the magistrates' court shall, subject to the provisions of this Part, be liable to serve as a juror notwithstanding that he may have been entitled by reason of some disqualification or exemption to claim that he ought not to be in the jury list.

Service of summons.

19C.(1) A summons to serve as a juror must be in the prescribed form and served by the Registrar at least 6 clear days before the day appointed for the sitting of the court—

- (a) by delivering it to the person to be summoned or, if he is not present, by leaving it at his usual place of abode or place of business; or
- (b) by sending it by registered post addressed to him at his usual place of abode or place of business.

(2) No person may be summoned to serve on any jury or inquest more than once in any period of two years, unless all the jurors on the list have been already summoned to serve during the year.

(3) A written summons sent or delivered to any person under subsection (1) must be accompanied by a notice informing him—

- (a) of how many days he is expected to attend court;
- (b) of the effect of sections 19E, 19F, 19G, 19H, 19I, 22E and 22F; and
- (c) that he may make representations to the Registrar with a view to obtaining the withdrawal of the summons, if for any reason he is no longer qualified for jury service, or wishes or is entitled to be excused.

(4) If a person is summoned under this section, the Registrar may at any time put or cause to be put to him such questions as the Registrar thinks fit in order to establish whether or not the person is qualified for jury service.

(5) A certificate signed by the Registrar stating that a written summons was duly served in accordance with subsection (1) is admissible as evidence in any proceedings, without proof of the Registrar's signature or official character.

Withdrawal or alteration of summons.

19D. If it appears to the Registrar, at any time before the day on which any person summoned under section 19C is first to attend, that his attendance is unnecessary, or can be dispensed

with on any particular day or days, the Registrar may withdraw or alter the summons by notice served in the same way as a notice of summons.

Attendance and service.

19E.(1) Subject to subsection (2), a person summoned under section 19C–

- (a) must attend the Supreme Court for the number of days directed by the summons or by the Registrar; and
- (b) is liable to serve on any jury.

(2) No more than–

- (a) one person from each household;
- (b) 3 persons employed as registered nurses in Gibraltar;
- (c) 3 persons employed as teachers in Gibraltar (including no more than 1 teacher from a particular school);
- (d) 3 members of the City Fire Brigade;

may be summoned to serve as a juror at the same time.

Excusal for previous jury service.

19F.(1) If a person summoned under section 19C shows to the satisfaction of the Registrar, or of the court–

- (a) that he has served on a jury, or duly attended to serve on a jury, in the 2 years ending with the service of the summons on him; or
- (b) that the court has excused him from jury service for a period which has not terminated,

the Registrar or court must excuse him from attending, or further attending, pursuant to the summons.

(2) Records of persons summoned under section 19C must be kept in the manner the Registrar determines, and the Registrar may, if he thinks fit, make arrangements for allowing inspection of the records by members of the public in such circumstances and subject to such conditions as he determines.

(3) A person duly attending in compliance with a summons under this Part is entitled on application to the Registrar to a certificate recording that he has so attended.

Excusal for certain persons.

19G.(1) If a person summoned under section 19C–

- (a) shows to the satisfaction of the Registrar or the court that he is among the persons listed in Part II of Schedule 3; and
- (b) states that he wishes to be excused from jury service,

the Registrar or court, as the case may be, must excuse him from such service and, if applicable, from attending the Supreme Court in relation to such summons.

(2) An application to the Registrar for excusal under this section must be made in person and at least one clear day before the day appointed for the sitting of the court.

Discretionary excusal.

19H.(1) If a person summoned under section 19C shows to the satisfaction of the Registrar or the court that there is good reason why he should be excused from attending pursuant to the summons, the Registrar or court, as the case may be, may excuse him from so attending.

(2) An application to the Registrar for excusal under this section must be made in person and at least one clear day before the day appointed for the sitting of the court.

(3) Without affecting other provisions of this section or section 19G, the court before which a person is summoned to attend under this Part may excuse that person from so attending.

Discretionary deferral.

19I.(1) If a person summoned under section 19C shows to the satisfaction of the Registrar that there is good reason why his attendance pursuant to the summons should be deferred, the Registrar may defer his attendance, and, if he does so, must vary the days on which that person is summoned to attend and the summons has effect accordingly.

(2) If an application under subsection (1) has been granted or refused, the powers conferred by that subsection may not be exercised subsequently in relation to the same summons.

Discharge of summons in case of doubt as to capacity.

19J. If at any time it appears to the Registrar or the court, in the case of a person attending pursuant to a summons under this Part, that on account of the person's insufficient

understanding of English there is doubt as to his capacity to act effectively as a juror, even if the person is on the jury list, the Registrar or court, as the case may be, must determine whether or not he should act as a juror and, if not, must discharge the summons.

20. Repealed

Number of jurors.

20A.(1) The jury must consist of 9 persons except for the trial of a person arraigned on an indictment for murder when the jury must consist of 12 persons.

(2) If it appears to the court that the duration of the trial may exceed 4 weeks, the court may order that no more than 3 persons (in this Part referred to as “additional jurors”) are to be chosen in accordance with the provisions of section 20B in addition to the number of jurors specified in subsection (1).

(3) The provisions of section 21C apply in respect of any person chosen as an additional juror.

(4) This section does not affect the operation of the system of lay assessors provided for in Part IIIA.

Choosing the jury.

20B.(1) The jury is to be chosen from among the number of persons summoned to attend by ballot in open court, until the required number of jurors, including the number of any additional jurors ordered by the court under section 20A(2) appear and, after all just causes of challenge have been allowed, remain as fair and indifferent.

(2) The same procedure is to be followed whenever it is necessary to form a new jury.

(3) The power of summoning jurors under section 19C may be exercised after balloting has begun, as well as earlier, and if exercised after balloting has begun the court may dispense with balloting for persons summoned under that section.

(4) If a case is brought on for trial during the time that a jury in any other case is deliberating, a new jury may be drawn.

(5) No more than one teacher, one member of the City Fire Brigade and one registered nurse may be chosen to be included in a jury to try a particular issue.

Summoning in exceptional circumstances.

20C. 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 require any persons who are in, or in the vicinity of, the court, to be summoned (without any written notice) for jury service up to the number needed (after allowing for any who are not qualified under section 19A, and for excusals and challenges) to make up a full jury.

Challenge.

20D.(1) In proceedings for the trial of any person for an offence on indictment–

- (a) that person may challenge all or any of the jurors for cause; and
- (b) any challenge for cause must be tried by the judge before whom that person is to be tried.

(2) A challenge to a juror in any court must be made after his name has been drawn by ballot (unless the court, pursuant to section 20B(3) has dispensed with balloting for him) and before he is sworn.

(3) The fact that a person summoned to serve on a jury is not qualified to serve is a ground of challenge for cause; but subject to that, and to the other provisions of this section, nothing in this Part affects the law relating to challenge of jurors.

(4) This section does not affect the right of challenge to the array, that is to say the right of challenge on the ground that the person responsible for summoning the jurors in question is biased or has acted improperly.

Jury may try several issues.

20E.(1) If no objection is made by either party the court may–

- (a) try any issue with the same jury that has previously tried or been drawn to try a previous issue; or
- (b) order the name of any person on such jury whom both parties consent to withdraw or who is justly challenged, or whom the court excuses, to be set aside, and another person to be chosen by lot.

(2) If one or more additional jurors have been chosen, the court may appoint an additional juror to be a member of the jury, subject to the powers of the court contained in this section, and only when no additional juror is available may another person be chosen by ballot.

21. *Repealed*

Swearing of juror.

21A.(1) A juror must be sworn immediately after he has been chosen.

- (2) No more than one member of a jury to try an issue in a court may be sworn at a time.

Appointment of foreman.

21B.(1) When the jurors have been sworn, they must appoint one of their number to be foreman.

- (2) If a majority of the jurors do not agree in the appointment of a foreman within a time the court considers reasonable, the court must appoint a foreman.

- (3) The functions of the foreman are—

- (a) to preside during the deliberations of the jury;
- (b) to ask any information from the court that is required by the jury or any of the jurors;
- (c) to announce the verdict of the jury.

Continuation of trial on death or discharge of juror.

21C.(1) If one or more additional jurors have been chosen, such a person is to be treated as and has the obligations of a juror for the period of the trial up to the time that either—

- (a) he is appointed as a juror by reason of subsection (3)(a); or
- (b) the jury consider their verdict, at which time the court must discharge any additional juror in respect of the trial.

- (2) If the court discharges an additional juror under subsection (1)(b), it may require the person to attend the court as an additional juror if the same jury tries another issue.

- (3) If in the course of a trial a juror dies or is discharged by the court, whether as being through illness incapable of continuing to act or for any other reason, then—

- (a) if one or more additional jurors has been chosen, the court must appoint such person or persons, selected in the order in which additional jurors were chosen, as juror in place of a juror who has died or was discharged; or

- (b) if no additional juror has been chosen, or any additional juror chosen has been appointed juror or is not otherwise available to be appointed juror, but the number of the members of the jury is not reduced below 7,

the jury is for all the purposes of the trial properly constituted, and the trial must proceed and a verdict may be given accordingly.

(4) On a trial for murder, subsection (3)(b) does not apply on the death or discharge of a juror unless–

- (a) assent to its applying is given in writing by or on behalf of both the prosecution and the defendant, or each of the defendants; and
- (b) in any event the number of jurors is not reduced below 10.

Discharge of jury: General power.

21D.(1) Without affecting section 21C, the judge may at any time discharge a jury and order a retrial if he thinks fit to do so.

(2) If the reason for the discharge is because jury tampering appears to have taken place, section 21E applies.

Discharge of jury for jury tampering.

21E.(1) If a judge is minded during a trial on indictment to discharge the jury because jury tampering appears to have taken place, then before taking any steps to discharge the jury, the judge must–

- (a) inform the parties that he is minded to discharge the jury;
- (b) inform the parties of the grounds on which he is so minded; and
- (c) allow the parties an opportunity to make representations.

(2) If the judge, after considering any such representations, discharges the jury, he may, subject to subsection (4), order that the trial is to continue without a jury if he is satisfied that–

- (a) jury tampering has taken place; and
- (b) to continue the trial without a jury would be fair to the defendant or defendants.

(3) If the judge considers that it is necessary in the interests of justice for the trial to be terminated, he must terminate the trial.

(4) If a trial is continued without a jury, the court has all the powers, authorities and jurisdiction which the court would have had if the trial had been continued 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).

(5) Unless the context otherwise requires, any reference in an enactment to a jury, the verdict of a jury or the finding of a jury is to be read, in relation to a trial continued without a jury, as a reference to the court, the verdict of the court or the finding of the court.

(6) If a trial is continued without a jury and the court convicts a defendant—

- (a) the court must give a judgment which states the reasons for the conviction at, or as soon as reasonably practicable after, the time of the conviction; and
- (b) for purposes of an appeal (or any other purpose) the date of the conviction is to be read as a reference to the date of that judgment.

(7) This section does not affect section 256 of the Criminal Procedure Act.

Delivery of verdicts.

21F.(1) Every verdict in a criminal case must be delivered orally in open court by the foreman of the jury, and must thereupon be recorded and read over to the jury before they are discharged.

(2) In every case the foreman must announce the number of jurors who agreed on the verdict and the number who dissented.

Majority verdicts.

21G.(1) If a person is arraigned on indictment for murder, the court must not accept any verdict of the jury unless it is unanimous.

(2) In any other criminal case, the court may accept a verdict upon which at least 7 of the jurors are agreed, subject to subsections (3) and (4).

(3) The court may only accept a majority verdict if the jury are unable to reach a unanimous verdict after deliberating for a time the court considers reasonable having regard to the nature and complexity of the case, not being less than 2 hours from the conclusion of the summing-up.

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

(5) The verdict of a majority of the jurors accepted by the court under this section is as good and valid in all respects as a unanimous verdict.

Jury unable to reach verdict.

21H.(1) If in any case the court is satisfied that there is no reasonable prospect of the jury agreeing upon a verdict which the court can accept, the court must, subject to subsection (2), discharge the jury and either—

- (a) cause a new jury to be at once impanelled and sworn and charged with the case; or
- (b) adjourn the proceedings to a date the court thinks fit.

(2) A jury must not be discharged before it has deliberated for at least 3 hours after the conclusion of the summing-up.

(3) A trial with a new jury must proceed *de novo* as if the first jury had not been impanelled.

Stay or reversal of judgment.

21I.(1) No judgment after verdict in any trial by jury in any court may be stayed or reversed by reason that—

- (a) the provisions of this Part 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 19A;
- (c) any juror was wrongly named or described; 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.

(3) Nothing in subsection (1) applies to any objection to a verdict on the ground of personation.

22. Repealed

Views.

22A.(1) The Chief Justice may by rules of court make provision for viewing of sites by jurors.

(2) The places that a juror may be called on to view are not restricted to any particular locality.

Separation.

22B. If, on the trial of any person for an offence on indictment, the court thinks fit, it may at any time (either before or after the jury have been directed to consider their verdict) permit the jury to separate.

Documents produced as exhibits.

22C.(1) This section applies if on a trial before a judge and jury for an offence—

- (a) a statement made in a document is admitted in evidence; and
- (b) the document or a copy of it is produced as an exhibit.

(2) The exhibit must not accompany the jury when they retire to consider their verdict unless—

- (a) the court considers it appropriate; or
- (b) all the parties to the proceedings agree that it should accompany the jury.

Refreshment.

22D. Jurors, after being sworn, may, in the discretion of the court, be allowed reasonable refreshment at the court's expense.

Payment for jury service.

22E.(1) Subject to this section, a person who serves as a juror is entitled, in respect of his attendance at court for the purpose of performing jury service, to receive payment, at rates determined from time to time by the Minister, by way of allowances for—

- (a) travelling and subsistence; and
- (b) any loss of earnings which he would otherwise have made or received.

(2) The Registrar must determine the actual amounts payable to persons under subsection (1) and the manner of making those payments, and all such payments are to be made out of the Consolidated Fund.

(3) For the purpose of subsection (1) a person who, in obedience to a summons to serve on a jury, attends for service as a juror is deemed to serve as a juror even if he is not subsequently sworn.

Offences and penalties.

22F.(1) Subject to subsections (2) to (4), a person who—

- (a) when duly summoned under section 19C fails to attend (on the first or on any subsequent day on which he is required to attend by the summons or by the Registrar) in compliance with the summons; or
- (b) after attending pursuant to a summons, is not available when called on to serve as a juror, or is unfit for service by reason of drink or drugs,

commits an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(2) Subsection (1)(a) does not apply to a person summoned otherwise than under section 20C, unless the summons was duly served on him not later than 6 days before the date fixed by the summons for his first attendance.

(3) A person does not commit an offence under subsection (1) if he can show some reasonable cause for his failure to comply with the summons, or for not being available when called on to serve.

(4) This section has effect subject to the provisions of this Part about the withdrawal or alteration of a summons and about the granting of any excusal or deferral.

(5) A person who—

- (a) having been summoned under section 19C makes, or causes or permits to be made on his behalf, any false representation to the Registrar with the intention of evading jury service;
- (b) makes or causes 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 him pursuant to section 19C(4), refuses without reasonable excuse to answer, or gives an answer which he knows to be false in a material particular, or recklessly gives an answer which is false in a material particular;
- (d) knowing that he is not qualified for jury service under Part I of Schedule 2 serves on a jury; or
- (e) knowing that he is disqualified from jury service under Part II of Schedule 2, serves on a jury,

commits an offence.

- (6) A person who commits an offence under subsection (5) is liable on summary conviction—
 - (a) in the case of an offence of serving on a jury when disqualified - to a fine at level 5 on the standard scale;
 - (b) in any other case – to a fine at level 3 on the standard scale.

Application of Part III to civil actions.

22G. Subject to sections 22H and 22I, the provisions of this Part apply so far as they are appropriate, mutatis mutandis, to juries summoned for the trial of any civil action.

Jurors may be required to stand by.

22H.(1) Subject to subsection (2) in any civil action, it shall be lawful for the court, if it thinks it fit to do so, at the request of either party, to order any juror to stand by.

(2) When the panel is exhausted, the names of all those who have been ordered to stand by must be called over again and may not be objected to by either party except for cause.

Verdicts in civil actions.

22I. In any civil action tried by the court with a jury, the verdict of the jury need not be unanimous and the court may—

- (a) accept a verdict upon which at least 7 jurors are agreed, if the jury are unable to reach an unanimous verdict after deliberation for such time as the court may consider reasonable, not being less than two hours from the conclusion of the summing-up;

- (b) with the consent of all parties to the case, and after the jury have deliberated for such time as the court may consider reasonable not being less than three hours, accept the verdict of a simple majority of the jurors.

23 to 27 Repealed

PART IIIA
TRIAL WITH LAY ASSESSORS

27A.(1) If–

- (a) one or more defendants are to be tried on an indictment which includes one or more financial offences as defined in Schedule 4 to this Act (whether or not any one or more of the defendants is also charged with an offence or offences which are not financial offences);
- (b) in the opinion of the Attorney-General the evidence of the offence charged–
 - (i) would be sufficient for the person charged to be committed for trial; and
 - (ii) reveals a case of a financial offence of such complexity that it is appropriate that the management of the case should without delay be taken over by the Supreme Court;
- (c) before the magistrates’ court begins to inquire into the case as examining magistrates the Attorney-General gives the court a notice certifying that opinion;
- (d) the Attorney-General informs the magistrates’ court that he intends to make an application under section 27B(1) that the case be conducted with lay assessors; and
- (e) the Attorney-General informs the magistrates’ court that at the time of giving the notice under paragraph (c) there are at least 10 names on the lay assessors list,

the magistrates’ court must, subject to subsection (2), proceed immediately to commit the case for trial in accordance with section 132 of the Criminal Procedure Act.

(2) Paragraphs (a) and (b) of section 132(1) of the Criminal Procedure Act do not apply to cases where the Attorney-General has given the court a notice under this section.

Application by prosecution for case to be conducted with lay assessors.

27B.(1) If–

- (a) one or more defendants are to be tried on indictment which includes one or more financial offences as defined in Schedule 4 to this Act (whether or not the bill of indictment includes offences which are not financial offences); and
- (b) notice has been given under section 27A in respect of that offence or those offences,

the prosecution may apply to a judge for the trial to be conducted with lay assessors instead of a jury.

(2) If an application under subsection (1) is made and the judge is satisfied that the condition in subsection (3) is fulfilled, he may make an order that the trial is to be conducted with lay assessors; but if he is not so satisfied he must refuse the application.

(3) The condition is that the complexity of the offence or the probable length of the trial (or both) is likely to make the trial so burdensome to the members of a jury hearing it that the interests of justice require that the trial should be conducted with lay assessors instead of a jury.

(4) In deciding whether or not the condition in subsection (3) is fulfilled, the judge must have regard to any steps which might reasonably be taken to reduce the complexity or length of the trial.

(5) A step is not to be regarded as reasonable for the purposes of subsection (4) if it would significantly disadvantage the prosecution.

Procedure for applications under section 27B.

27C.(1) An application under section 27B must be determined at a preliminary hearing in the Supreme Court.

(2) The parties to the preliminary hearing must be given an opportunity to make representations with respect to the application.

(3) The Chief Justice may make rules of court regulating the procedure to be followed prior to and at a preliminary hearing pursuant to this section.

Effect of an order for trial with lay assessors.

27D.(1) If a judge refuses an order under section 27B for the trial to be with lay assessors, the trial must proceed as a jury trial in accordance with Part III.

(2) If a judge makes an order under section 27B for the trial to be with lay assessors, the trial to which the order relates is to be conducted with lay assessors, or, if there are insufficient lay assessors available, by a judge alone without a jury.

(3) If a trial is conducted with lay assessors, or by a judge alone, the court has all the powers, authorities and jurisdiction which it would have if the trial were 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).

(4) Unless the context otherwise requires, any reference in an 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 with lay assessors or by a judge alone, as a reference to the court, the verdict of the court or the finding of the court.

(5) If a trial is conducted with lay assessors or by a judge alone and the court convicts a defendant—

- (a) the court must give a judgment which states the reasons for the conviction at, or as soon as reasonably practicable after, the time of the conviction, and
- (b) a reference to a date of conviction in any enactment is to be read as a reference to the date of the judgment mentioned in paragraph (a).

Lay assessors list.

27E.(1) The Registrar must—

- (a) make a list in the prescribed form of all persons who have volunteered and who are qualified to serve as lay assessors;
- (b) cause a copy of the list to be published at such time and at such place as the Chief Justice directs.

(2) Any person aged not less than 18 or more than 72 may volunteer for service as a lay assessor, and may apply to the Registrar to be included on the lay assessors list, and the Registrar if satisfied that the person has the necessary qualifications for a lay assessor, must include his or her name on the lay assessor list accordingly.

(3) A person is qualified for inclusion on the lay assessors list if he—

- (a) is qualified to be a juror under Part III;

(b) is approved by the Judicial Services Commission (in this part referred to as “the Commission”) as a person with relevant experience, qualifications and background to serve as a lay assessor in a trial of a complex financial offence; and

(c) is able to devote adequate time to the hearing of such a trial.

Provided that a person shall not be disqualified from inclusion on the lay assessors list if the reason for his disqualification from being a juror is his age or his being a justice of the peace.

(4) The procedure for approval by the Commission is as set out in section 27F.

(5) The provisions of section 19B relating to the publication, certifying and revision of the jury list do not apply to the lay assessors list.

Procedure for approval as a lay assessor.

27F.(1) A person who wishes to be approved as a lay assessor must apply to the Registrar in writing and provide relevant supporting documents.

(2) The Registrar must refer the application to the Commission as soon as practicable after receipt of the application.

(3) The Commission may make any enquiries it considers appropriate as to the experience and qualification of the applicant, including interviewing the applicant and any other person who may have relevant information.

(4) The Commission, upon reaching a decision, must notify its decision in writing to the applicant and to the Registrar.

(5) Members of the Commission are not eligible to serve as lay assessors.

Inclusion on the lay assessors list.

27G.(1) A person who is on the lay assessors list may at any time, by writing to the Registrar, resign from the list, but not after having been called for service in a trial as a lay assessor until notified that his services are no longer required or until the conclusion of the trial, whichever is the later.

(2) Inclusion on the lay assessors list does not affect a person’s liability to jury service as provided by Part III.

(3) A person who ceases to be qualified for jury service (other than by virtue of his age or his being a justice of the peace) ceases by virtue of that fact to be included on the lay assessors list.

(4) The lay assessors list must be reviewed at the end of 2 years from first publication and every 2 years thereafter.

(5) A person on the lay assessors list at the time of a review who is still qualified to serve is deemed to apply for renewal of the approval unless he notifies the Registrar in writing that he does not seek renewal of approval.

Service of summons.

27H.(1) If the Registrar receives notice that the prosecution intends to apply for a case to be tried with lay assessors instead of a jury, he must give written notice to all the persons on the lay assessors list to stand by for attendance at court if the application is approved.

(2) If the application is approved, the trial must be adjourned for a sufficient period to enable the Registrar to summon the lay assessors for attendance at court.

(3) No two spouses may be summoned to serve as lay assessors for the same trial.

Attendance and excusal.

27I.(1) Sections 19E, 19F and 19H apply in respect of attendance by and excusing of persons summoned as lay assessors as they apply to persons summoned as jurors, except that in section 19F(1)(a) the reference to 2 years is to be read as a reference to 4 years.

(2) For the purpose of those sections, service as a lay assessor counts as jury service.

Number of lay assessors.

27J.(1) In a trial with lay assessors, there must be 2 lay assessors for the whole of the trial unless one of the assessors dies or becomes medically unfit to perform the duties of a lay assessor (as certified in writing by a medical practitioner), in which case the trial may continue with one lay assessor.

(2) If both lay assessors die or become unfit as mentioned in subsection (1), the trial may continue with the judge alone as the arbiter of fact as well as of law.

Selection of lay assessors.

27K.(1) The lay assessors are to be chosen from among the number of persons summoned to attend as lay assessors by ballot in open court, until 2 lay assessors, after all just causes of challenge have been allowed, remain as fair and indifferent.

(2) If it appears to the court that there are not 2 lay assessors to try the case, the court may proceed to try the case with one lay assessor.

(3) If it appears to the court that there is not one lay assessor to try the case, the judge may proceed to try the case alone as arbiter of fact as well as of law.

(4) Each lay assessor must be sworn as soon as he is chosen.

Challenge to lay assessors.

27L.(1) In proceedings for the trial of any person under this Part–

- (a) that person may challenge all or any of the lay assessors for cause; and
- (b) any challenge for cause must be tried by the judge before whom the person is to be tried.

(2) A challenge to a lay assessor must be made after his name has been drawn by ballot and before he is sworn.

(3) The fact that a person summoned to serve as a lay assessor is not qualified to serve is a ground of challenge for cause.

(4) There is no right–

- (a) of peremptory challenge of a lay assessor;
- (b) of challenge on the ground that the person responsible for summoning the lay assessors is biased or has acted improperly.

Discharge of assessors.

27M.(1) The judge may at any time discharge the assessors and order a retrial if he thinks fit to do so.

(2) If the judge is minded during a trial with lay assessors to discharge the assessors because they appear or either of them appears to have been the subject of improper influence by or on behalf of the defendant, then before taking any steps to discharge the assessors the judge must–

- (a) inform the parties that he is minded to discharge the assessors;
- (b) inform the parties of the grounds on which he is so minded; and
- (c) allow the parties an opportunity to make representations.

(3) If the judge, after considering any such representations, discharges the assessors, he may, subject to subsection (4), order that the trial is to continue without a jury if he is satisfied that—

- (a) improper influence has been brought; and
- (b) to continue the trial without assessors would be fair to the defendant or defendants.

(4) If the judge considers that it is necessary in the interests of justice for the trial to be terminated, he must terminate the trial.

Commencing or continuing trial without assessors.

27N.(1) If a trial is commenced or continued without assessors, the court has all the powers, authorities and jurisdiction which the court would have had if the trial had been continued with assessors (including power to determine any question and to make any finding which would be required to be determined or made by assessors).

(2) Unless the context otherwise requires, any reference in an enactment to a jury, the verdict of a jury or the finding of a jury is to be read, in relation to a trial commenced or continued without a jury, as a reference to the court, the verdict of the court or the finding of the court.

(3) If a trial is commenced or continued without assessors and the court convicts a defendant—

- (a) the court must give a judgment which states the reasons for the conviction at, or as soon as reasonably practicable after, the time of the conviction; and
- (b) for purposes of an appeal (or any other purpose) the date of the conviction is to be read as a reference to the date of that judgment.

Role of lay assessors.

27O.(1) In a trial with lay assessors, the assessors and the judge together decide issues of fact and arrive at a verdict on the defendant.

(2) The lay assessors do not need to retire when points of law are being argued in the case, but do not take any part in the decision on such points.

(3) The lay assessors may ask questions of witnesses and may take notes.

(4) Section 22A applies to views by lay assessors as it applies to view by jurors.

(5) Section 22C does not apply to documents in trial with lay assessors, but all documents may be taken with them when they retire.

(6) At the conclusion of the evidence and before final speeches by counsel, the judge must direct the lay assessors in open court as to the admissible evidence and as to the law applicable in the case.

(7) After the judge's direction, counsel for the prosecution and counsel for the defence may in turn address the court.

(8) The lay assessors retire with the judge to consider the verdict, but if the lay assessors ask any questions which require a ruling on law by the judge, the judge must announce the question and his ruling in open court.

Verdict in trial with lay assessors.

27P.(1) The verdict in a case tried with lay assessors is the verdict of the judge and assessors (the "members of the court") and must be delivered orally in open court by the judge.

(2) In every case each member of the court must announce the verdict that he has reached, without stating his reasons for it.

(3) The judge—

- (a) may accept a verdict upon which at least 2 of the members of the court agree; or
- (b) if there is only one lay assessor - may only accept a verdict on which he and that assessor agree.

(4) The verdict of a majority of the members of the court (or of the 2 remaining members) announced by the judge under this section is as good and valid in all respects as a unanimous verdict.

(5) When announcing the verdict of the court, the judge must state the facts and the matters of law which were relied on in reaching the verdict, and if the verdict was by a majority, must indicate the nature of the difference of opinion.

Judgment in trial by judge alone.

27Q.(1) The order of speeches in a trial commenced or continued by judge alone is as in section 27O.

(2) The verdict in a case tried or continued by the judge alone must be delivered orally in open court by the judge, who must state his findings of fact and ruling on matters of law.

Stay or reversal of judgment.

27R.(1) No judgment after verdict in a trial by lay assessors in any court may be stayed or reversed by reason that—

- (a) the provisions of this Part about the summoning or impanelling of lay assessors, or the selection of assessors by ballot, have not been complied with;
- (b) a lay assessor was not qualified in accordance with section 27E(3);
- (c) any lay assessor was wrongly named or described; or
- (d) any lay assessor 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.

(3) Nothing in subsection (1) applies to any objection to a verdict on the ground of personation.

Refreshment and payment.

27S.(1) Lay assessors, after being sworn and for the duration of the case, are entitled to reasonable refreshment during sittings of the court at the court's expense.

(2) The provisions of section 22E as to payment of jurors apply equally to lay assessors.

Offences by lay assessors.

27T.(1) Subject to subsection (2), a person who—

- (a) when duly summoned under this Part fails to attend (on the first or on any subsequent day on which he is required to attend by the summons or by the Registrar) in compliance with the summons; or
- (b) after attending pursuant to a summons, is not available when called on to serve as a lay assessor, or is unfit for service by reason of drink or drugs,

commits an offence.

(2) A person does not commit an offence under subsection (1) if he can show some reasonable cause for his failure to comply with the summons, or for not being available when called on to serve.

(3) A person who knowing that he is not qualified as a lay assessor serves as an assessor, commits an offence.

(4) A person who commits an offence under subsection (1) or (3) is liable on summary conviction to the statutory maximum fine.

Rules of court.

27U.(1) The Chief Justice may by rules of court make such provision as appears to him necessary or expedient for the purposes of this Part.

(2) Without limiting subsection (1), rules of court may in particular make provision for time limits within which applications under this Part must be made or within which other things in connection with this Part must be done.

(3) Nothing in this section limits any other enactment conferring powers to make rules of court, including section 27C(3).

Amendment of Schedule 4.

27V. The Minister may, after consultation with the Chief Justice, by order amend Schedule 4.

**PART IV.
BARRISTERS AND SOLICITORS.**

Interpretation of Part IV

27W.(1) The following definitions apply for the purposes of this Part.

(2) Completion of an “approved academic course in Gibraltar Law” means attending and passing the examinations and assessments included in a course in Gibraltar law which—

- (a) is taught and examined at an approved institution;
- (b) is taught over the course of one full academic year and consists of a minimum of 48 hours’ tuition; and
- (c) covers such areas of Gibraltar law as the Minister with responsibility for justice, in consultation with the Chief Justice, deems appropriate.

(3) An “approved establishment” means a set of barristers’ chambers or a solicitor’s office approved by the Chief Justice as an establishment where the practical training requirement may be undertaken.

(4) An “approved institution” means the University of Gibraltar or such other institution as the Minister with responsibility for justice, in consultation with the Chief Justice, designates.

(5) “Legal services” for the purposes of this part of the Act shall mean any activities in respect of which a person would need to be registered in Parts 1, 2, 3 or 5 of the Register and hold a practising certificate pursuant to the Legal Services Act 2017.

(6) The “practical training requirement” means a period of no less than 12 months’ employment at an approved establishment during which time training is undertaken in at least three of the following areas of practice—

- (a) Commercial Law;
- (b) Property Law;
- (c) Litigation;
- (d) Private Client.

(7) The training undertaken in each area of practice in accordance with subsection (6) shall be for a period of not less than three months.

(8) A “professional skills course” means a course undertaken at an approved institution in such form and covering such subjects and skills as shall be specified by the Minister with responsibility for justice in consultation with the Chief Justice (including Financial and Business Skills, Advocacy and Communication Skills and Client Care and Professional Standards).

(9) In this Part—

- (a) a reference to the examinations and assessments included in any course validated by the Bar Council for call to the Bar of England and Wales by any one of the Inns of Court in England includes the examinations formerly set by the Council of Legal Education for that purpose;
- (b) a reference to the examinations and assessments included in any course validated by the Law Society of England and Wales for admission as a solicitor of the Supreme Court of England and Wales includes the examinations formerly set by the Law Society of England and Wales for that purpose.

(10) Notwithstanding anything contained in this Act the Government of Gibraltar shall be an approved establishment for the purpose of undertaking the practical training requirement and completion of a period of no less than 12 months employment within the Government of

Gibraltar as a lawyer under the supervision of the Attorney General shall be deemed sufficient to meet the practical training requirement.

Practical training requirement

27X.(1) The Chief Justice may approve an establishment for the purposes of the provision of the practical training requirement only if he is satisfied, following an application by the establishment, that it—

- (a) is a set of barristers' chambers or a solicitor's office providing legal services and engaged predominantly in matters of Gibraltar law;
- (b) is able, in accordance with subsections (6) and (7) of section 27W, to provide adequate training for a period of 12 months in at least three of the following subjects—
 - (i) Commercial Law;
 - (ii) Property Law;
 - (iii) Litigation;
 - (iv) Private Client;
- (c) comprises of at least three barristers or solicitors admitted under this Act of whom—
 - (i) one must be of no fewer than 10 years' standing; and
 - (ii) the other two must be of no fewer than 7 years' standing.

(2) The Chief Justice may issue rules or guidance consisting of such requirements, information and advice as he considers appropriate—

- (a) with respect to the provision by approved establishments of the practical training requirement;
- (b) setting out minimum standards required for the successful completion of the practical training requirement;
- (c) regarding the submission to him of proper records of training, in such form and at such intervals as he deems appropriate, by approved establishments providing the practical training requirement;
- (d) regarding the content and form of applications for approval under subsection (1).

(3) The Chief Justice may in exceptional circumstances approve an establishment for the purposes of the provision of the practical training requirement notwithstanding that such establishment does not satisfy the requirement of paragraph (c) of sub-section (1), and may impose on such establishment so approved such restrictions and conditions as he may think fit.

Admission of barristers.

28.(1) The Chief Justice may approve, admit and enroll as barristers of the Supreme Court any person who satisfies the following requirements, that is to say—

- (a) he has been called to the Bar in England or Northern Ireland, or has been admitted as an advocate in the Court of Session in Scotland;
- (b) he is not at the time of his application for admission disbarred, or removed from the roll of advocates in Scotland, or suspended from practice as such barrister or advocate;
- (c) since his admission in the United Kingdom or the Republic of Ireland he has completed—
 - (i) a period of at least six months' pupillage with a practising barrister of at least five years professional standing in England, Northern Ireland, the Republic of Ireland or Gibraltar, or a practising advocate of at least five years professional standing in Scotland, or has passed the examinations and assessments included in any course validated by the Bar Council of England and Wales for call to the Bar of England and Wales by any one of the Inns of Court in England or by an equivalent body in Northern Ireland, the Republic of Ireland or Scotland; and
 - (ii) the practical training requirement; and
 - (iii) an approved academic course in Gibraltar Law; and
 - (iv) the professional skills course; and
- (d) he intends on admission to practise in Gibraltar to provide legal services in or from within Gibraltar under Part 1, 3 or 5 of the Register of Authorised Persons established by the Legal Services Act 2017.

(2) The Chief Justice may admit a person as a barrister under this section for the purpose of any particular case or cases, notwithstanding that such person does not satisfy the

requirements of paragraphs (c) and (d) of sub-section (1), and may impose on a person so admitted such restrictions and conditions as he may think fit.

(2A) The Chief Justice may admit a person as a barrister under this section, notwithstanding that such person does not satisfy the requirements of paragraphs (c)(ii) and (iv) of sub-section (1), where he is satisfied that such person has sufficient experience so as to make the imposition of such requirements unnecessary.

(3) *Repealed*

Admission of solicitors.

29.(1) The Chief Justice may approve admit and enroll as solicitors of the Supreme Court of Gibraltar any person who satisfies the following requirements, that is to say—

- (a) he has—
 - (i) been admitted as a solicitor of the Supreme Court of Judicature in England, or in any court of record in Northern Ireland or the Republic of Ireland, or as a solicitor admitted to practice in Scotland, or
 - (ii) passed the examinations and assessments included in any course validated by the Law Society of England and Wales for admission as a solicitor of the Supreme Court of England and Wales; and
- (b) he is not at the time of his application for admission struck off the rolls or suspended from practice as a solicitor; and
- (ba) since his admission referred to in paragraph (a)(i) or his passing of examinations and assessments referred to in paragraph (a)(ii) he has completed—
 - (i) the practical training requirement; and
 - (ii) an approved academic course in Gibraltar Law; and
 - (iii) the professional skills course; and
- (c) he intends on admission to practise in Gibraltar to provide legal services in or from within Gibraltar under Part 1, 3 or 5 of the Register of Authorised Persons established by the Legal Services Act 2017.

(1A) The Chief Justice may admit a person as a solicitor under this section, notwithstanding that such person does not satisfy the requirements of paragraphs (ba)(i) and (iii) of sub-section

(1), where he is satisfied that such person has sufficient experience so as to make the imposition of such requirements unnecessary.

(2) Every person duly approved, admitted and enrolled as a solicitor of the Supreme Court of Gibraltar shall be at liberty to act also as a barrister.

Enrolment of solicitors.

30.(1) Every person admitted or entitled to practice as a solicitor of the court as aforesaid, shall cause his name to be enrolled in a book to be kept for the purpose in the office of the Registrar, and to be called the Roll of the Court, and he shall be entitled to a certificate of enrolment under the seal of the court. No person whose name shall not be enrolled as aforesaid shall be entitled to practise in any of the courts of Gibraltar, and no solicitor shall actually practise without first taking out a certificate.

(2) No solicitor not duly certificated shall be entitled to sue for, or recover, any fee, reward or disbursement on account of, or in relation to any act or proceeding done, or taken by him in his professional capacity.

Barristers and solicitors may practice in all courts.

31.(1) Subject to sub-section (2), it shall be lawful for persons enrolled as barristers or solicitors to practise as such in all the courts in Gibraltar.

(2) Subsection (1) shall apply to persons enrolled as barristers or solicitors who are registered only in the register established under section 6(3)(e) of the Legal Services Act, to the extent specified in section 6(10)(b) of that Act only.

Barristers may act as solicitors.

32. All barristers shall be at liberty to act also as solicitors and shall be entitled to sue for and recover any fee reward or disbursement on account of, in relation to any act or proceeding done, or taken by them in their professional capacity as such solicitors.

Law relating to barristers and solicitors.

33.(1) Subject to the provisions of this Act and of any rules of court for the time being in force the law in England for the time being in force relating to barristers and solicitors shall extend to Gibraltar, and shall apply to all persons practicing as barristers or solicitors in Gibraltar.

(2) The rules prescribed from time to time by the Bar Council and the Law Society in England in regard to the professional conduct of barristers and solicitors shall with such modifications as the Chief Justice may deem fit to allow be respectively observed by barristers and solicitors in Gibraltar.

Disciplinary powers of Chief Justice.

34.(1) The Chief Justice may, for reasonable cause—

- (a) order the name of any barrister or solicitor to be struck off the Roll of the Court;
- (aa) order that the name of a person be removed from the Register established under the Legal Services Act 2017.
- (b) suspend any barrister or solicitor from practising within Gibraltar during any period specified by the Chief Justice;
- (c) administer any reprimand to any barrister or solicitor;
- (d) order any barrister or solicitor to repay or forego any fee; or
- (e) on the investigation of any complaint relating to the professional conduct of a barrister or solicitor, or on the determination of any proceedings relating to the professional conduct of a barrister or solicitor, make such order as he thinks fit as to the payment by the barrister or solicitor or the complainant or any other party of the costs of the investigation or proceedings.

(2) The Chief Justice may at any time, for good cause, set aside or annul any order made under subsection (1).

(3) Where the Chief Justice—

- (a) makes or refuses to make an order under subsection (1); or
- (b) on application refuses to set aside or annul under subsection (2) any such order,

in respect of any barrister or solicitor, that barrister or solicitor may appeal against the decision to the Court of Appeal, but in every other case the decision of the Chief Justice in any proceedings referred to in subsection (1) or subsection (2) shall be final.

35. *Repealed*

PART V.
MISCELLANEOUS.

Interest on judgment debts.

36. Every judgment debt shall carry interest, from the time the judgment is entered until it is satisfied, at such rate as the Minister with responsibility for justice may by order direct and such interest may be levied under a writ of execution on the judgment.

Fees to betaken in the Supreme Court.

36A. Without prejudice to the provisions of sections 37 and 38, the Chief Justice has, and is deemed always to have had, the power by rules to prescribe, vary or abolish the fees to be taken in the Supreme Court.

Recovery of insurance premiums by way of costs.

36B. Where in any proceedings a costs order is made in favour of any party who has taken out an insurance policy against the risk of incurring a liability in those proceedings, the costs payable to him may, subject in the case of court proceedings to rules of court, include costs in respect of the premium of the policy.

Rules regulating funds in Court.

37. It shall be lawful for the Chief Justice, with the concurrence of the Minister responsible for Justice, to make rules regulating the payment of moneys into court and the lodgment of securities and effects in court, the investment of funds in court and the payment out of moneys in court, the transfer of securities and the delivery out of effects, and, without prejudice of the generality of the foregoing, such rules may—

- (a) prescribe what moneys are to be invested, and in what manner, and what moneys are to be retained un-invested;
- (b) authorize the payment of interest on moneys that are un-invested, prescribe the rate of interest from time to time payable, and specify the moneys on which interest shall accrue and the moneys on which interest shall not accrue;
- (c) subject to the provisions of the Exchange Control Act, make any necessary provision regarding moneys in foreign currencies;
- (d) authorize the employment of an agent in transacting any business relating to funds in court and the payment to him of any commission or fee subject to such rules and to any order of the court;
- (e) make provision for the transfer to the Consolidated Fund of moneys lying unclaimed, without prejudice to the right of the persons, if any, entitled thereto;
- (f) prescribe the accounts to be kept, the forms to be used and the returns to be rendered.

Rules of court.

♦38.(1) It shall be lawful for the Chief Justice to make rules of court for carrying this Act into effect and in particular for all or any of the following matters:-

- (a) for regulating the sittings of the Supreme Court for the dispatch of civil business therein and of a judge sitting in chambers;
- (b) for regulating the pleading, practice and procedure in the Supreme Court in civil cases and in matters which in Her Majesty's High Court of Justice in England come within the jurisdiction of the Crown side of the Queen's Bench Division thereof;
- (cc) for regulating pupillage generally, including the qualifications for admission to pupillage, the manner in which pupillage may be served, appeals in respect of pupillage, and the approval and termination of pupillage.
- (c) the summoning, impanelling and challenging of jurors and the fees to be paid in respect of trials of civil actions by jury;
- (d) for regulating the admission of barristers and solicitors to practise in the Supreme Court, their professional practice, conduct and discipline and for those purposes for delegating to any two or more persons (being barristers or solicitors) on such terms as may be specified in the rules, any of the powers conferred on him by section 34 (other than the powers of disenrolment and suspension);
- (e) for regulating the powers of commissioners for oaths, the fees and costs of barristers and solicitors and the hours of opening and closing the offices of the court;
- (f) generally for regulating any matters relating to the practice and procedure of the court or to the duties of the officers thereof or the costs of proceedings therein;
- (g) regulating access to and the use of the Law Library of the Supreme Court, prescribing fees for such access and use and the penalties to be paid for any damage to or loss of books therein and the method of recovering of such penalties.

(2) Rules made under this section may empower the making of orders at any stage of any proceedings directing that specified facts may be proved at the trial by affidavit with or without

♦ *The powers conferred by this section were enlarged by section 5 of the Judgments (Reciprocal Enforcement) Ordinance and by section 14 of the Evidence Ordinance.*

the attendance of the deponent for cross-examination, notwithstanding that a party desires his attendance for cross-examination and that he can be produced for that purpose.

(3) The power to make rules conferred by this section shall include the power to make rules with respect to all or any of the matters dealt with by the rules of the Supreme Court in England made from time to time.

(4) Where any provision in respect of the practice or procedure of any of Her Majesty's Courts the jurisdiction of which or of any courts substituted for or united and consolidated with which is vested by this Act in the Supreme Court are contained in any Act of the Parliament at Westminster rules of court may be made under this section modifying those provisions to any extent that may be deemed necessary by the Chief Justice for adapting the same to the Supreme Court.

Civil Procedure Rules.

38A.(1) Subject to this and any other Act (and without prejudice to the generality of sections 15 and 38), and to rules made under this Act specifying otherwise, the Civil Procedure Rules made (and as amended from time to time) under the Civil Procedure Act 1997 in England and Wales shall apply in Gibraltar with such modifications (for example, in nomenclature) as the circumstances in Gibraltar may require.

(2) The Chief Justice may make Rules supplementing, amending or modifying the Civil Procedure Rules as they apply to Gibraltar.

Masters.

38B.(1) The small claims jurisdiction of the court (as defined in the Civil Procedure Rules), may be exercised by a judicial officer to be known as a Master.

(2) The Chief Justice may direct such other matters as he may determine to be heard by a Master, but such matters shall be limited to those which may be heard by a Master or district judge in England and Wales.

(3) A Master shall also have jurisdiction to hear and determine any summons issued under section 5 of the Debtors Act 1869 in respect of any judgment or decree, irrespective of the amount concerned.

(4) The Governor acting on the advice of the Judicial Service Commission may appoint any person appearing to him to have the requisite knowledge and experience to act as a Master.

(5) An appeal from a decision of a Master shall lie to the Chief Justice or an additional judge.

PARTS VI to XI

Deleted

39. to 72. *Deleted*

PART X

Regulations

73. The Government may make regulations in order to amend any Schedule to this Act for the purpose of giving effect to the law of the European Communities or European Union.

SCHEDULE 1

Deleted

SCHEDULE 2

(Section 19A)

Persons disqualified from jury service**Part I - Mentally disabled persons.**

1. A person who suffers or has suffered from mental illness, psychopathic disorder, mental disability or severe mental disability and on account of that condition—

- (a) is resident in a hospital or similar institution; or
- (b) regularly attends for treatment by a medical practitioner; and
- (c) in the opinion of the judge is not capable of performing functions of a juror.

2. A person for the time admitted to hospital under Part II of the Mental Health Act 2016.

3. A person whose property and affairs are managed by the court under Part 5 of the Mental Health Act 2016.

4. In this Part of this Schedule—

- (a) “mental disability” means a state of arrested or incomplete development of mind (not amounting to severe mental disability) which includes significant impairment of intelligence and social functioning;
- (b) “severe mental disability” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning;
- (c) other expressions are to be construed in accordance with the Mental Health Act 2016.

Part II – Other persons disqualified.

1. A person who is on bail in criminal proceedings.

2. A person who has at any time been sentenced in Gibraltar or elsewhere to—

- (a) imprisonment for life, detention for life or custody for life;
- (b) detention during Her Majesty’s pleasure;

- (c) a custodial sentence of 5 years or more.
- 3. A person who at any time in the previous 10 years has in Gibraltar or elsewhere—
 - (a) served any part of a custodial sentence; or
 - (b) had passed on him a suspended custodial sentence.

SCHEDULE 3

(Sections 19A(6) and 19G)

Part I – Persons ineligible for jury service due to their profession.

1. Serving Judges and Magistrates.
2. Serving police officers, prison officers and customs officers.
3. Serving probation officers and other persons engaged in the administration of justice.
4. Doctors of medicine and dentists employed in Gibraltar in such capacity.

Part II – Persons who may be excused.

1. Ministers of religion.
2. Members of Parliament.
3. Practising barristers, solicitors and notaries.
4. Former Judges.
5. Members of Her Majesty's naval, military or air forces in respect of whom their commanding officer certifies that it would be significantly prejudicial to the service if they were absent from duty.

SCHEDULE 4

(Sections 27A(1) and 27B(1))

FINANCIAL OFFENCES

An offence under any of the following provisions is a financial offence for purposes of Part IIIA-

1. The following offences under the Crimes Act 2011-

- 416 – Fraud by false representation
- 417 – Fraud by failing to disclose information
- 418 – Fraud by abuse of position
- 422(1) - Obtaining services dishonestly
- 425(1) - False accounting
- 426(1) - False statements by company directors, etc
- 427(1) - Suppression, etc., of documents

2. An offence under Part II of the Proceeds of Crime Act 2015.

3. An offence under sections 410, 411, and 412 of the Financial Services Act 2019.

4. The following offences under the Companies Act 2014-

- 398 – Offences by officers of companies in liquidation
- 399 - Falsification of books
- 400 - Fraud by officers of companies which have gone into liquidation
- 401 – Liability where proper accounts not kept

5. An offence under the Terrorism Act 2018 in relation to funding.