

Statutory Document No. 2024/0277

*Justice Reform Act 2021*

JUSTICE REFORM ACT 2021 (APPOINTED DAY) (NO. 3) ORDER 2024

Laid before Tynwald:

The Department of Home Affairs makes the following Order under section 2 of the Justice Reform Act 2021.

1 Title

This Order is the Justice Reform Act 2021 (Appointed Day) (No. 3) Order 2024.

2 Commencement of the Justice Reform Act 2021

The following provisions of the Justice Reform Act 2021 commence on 20 December 2024 –

- (a) sections 30, 31, 35, 37, 38, 39 and 41;
- (b) section 36, except in so far as it inserts section 8E(2) and 8E(3)(c) into the Criminal Jurisdiction Act 1993;
- (c) section 103(4), except in so far as it inserts “or” in subsection (1)(a), and subsection (1)(b), of the substituted section 24 into the Jury Act 1980;
- (d) section 103(5).

3 Consequential, incidental and transitional provisions

- (1) Where, before the commencement of sections 35 and 36 of the Justice Reform Act 2021 a defendant has been charged with an offence for which the defendant is to be tried on information after the commencement of those sections –
 - (a) the defendant may make an application under section 8A of the Criminal Jurisdiction Act 1993 before (but not after) the defendant has been arraigned in respect of that offence;
 - (b) if an application is made under section 8B(4) of the Criminal Jurisdiction Act 1993, a Deemster shall not make an order under section 8B(5) that the trial in respect of that offence is to be

conducted without a jury unless the defendant consents to the making of such an order;

- (c) if an application is made under section 8C(2) of the Criminal Jurisdiction Act 1993, a Deemster shall not make an order under section 8C(3) of that Act except in a case where the trial is a retrial and the jury in the previous trial was discharged because the Deemster was satisfied that –
 - (i) there was evidence that jury tampering had taken place; or
 - (ii) there was evidence of a real danger that jury tampering would have taken place had that trial continued and despite any steps (including the provision of police protection) which might reasonably have been taken to prevent jury tampering, the likelihood that it would have taken place was so substantial as to make it necessary in the interests of justice for the trial to be conducted without a jury.
- (2) The Criminal Jurisdiction Act 1993 is amended as follows –
 - (a) in section 5 (information of second or subsequent offence) –
 - (i) in subsection (2), after “offence only”, insert “or, in the case where the trial is being conducted without a jury, the court shall in the first instance inquire concerning the subsequent offence only”;
 - (ii) in subsection (3) –
 - (A) after “or the jury” insert “or, in the case where the trial is being conducted without a jury, the court”;
 - (B) after “be sworn again” insert “or, in the case where the trial is being conducted without a jury, the court shall inquire concerning the previous conviction”;
 - (iii) in subsection (4), after “inquire concerning the subsequent offence” insert “or, in the case where the trial is being conducted without a jury, the court shall inquire concerning the previous conviction at the same time as it inquires concerning the subsequent offence”;
 - (b) in section 8(2) (plea of not guilty) –
 - (i) for “the defendant being given in charge to a jury” substitute “any further steps being taken in the proceedings”;
 - (ii) after “verdict of a jury” insert “or a court”;
 - (c) in section 9 (unfitness to plead) –
 - (i) in subsection (1), omit “by a jury”;
 - (ii) in subsection (3), after “the jury return” insert “or, in the case where the trial is being conducted without a jury, the court returns”;

(iii) after subsection (3) insert –

33(3A) Subsections (3B) and (3C) apply in respect of any proceedings where a Deemster has made a direction under section 8A(2) or an order under section 8B(5) or 8C(3).

(3B) Where the question whether the defendant is under disability falls to be determined on the arraignment of the defendant and the trial proceeds, the question of fitness to be tried shall be determined by a Deemster without a jury.

(3C) The Deemster shall not make a determination under paragraph (3B) except on the written or oral evidence of two or more registered medical practitioners at least one of whom must be present at the court and at least one of whom is duly approved for the purposes of section 12 of the Mental Health Act 1998 as having special experience in the diagnosis or treatment of mental disorder.

(3D) Subsections (4) and (5) apply in any proceedings in respect of which subsections (3B) and (3C) do not apply. **32**;

(iv) in subsection (6), after “a jury” insert **33** or, in the case where the trial is being conducted without a jury, the court **32**;

(v) in subsection (7)(a), after “the jury are so satisfied, they shall make a finding” insert **33** or, in the case where the trial is being conducted without a jury, the court is so satisfied, it shall make a finding, **32**;

(vi) in subsection 7(b), for “if they are not so satisfied, they” substitute **33** if the jury are not or, as the case may be, the court is not, so satisfied, the jury or the court, as the case may be, **32**

(vii) in subsection (8), after “under subsection (6)” insert **33** in any proceedings in respect of which subsections (3B) and (3C) do not apply **32**;

(viii) after subsection (8) insert –

33(8A) A determination under subsection (6) shall be made in any proceedings in respect of which subsections (3B) and (3C) apply –

(a) where the question whether the defendant is under disability was determined on the arraignment of the defendant, by a Deemster other than the Deemster who determined that question;

(b) where that question was determined later, by the court by whom the defendant was being tried. **32**;

(d) in section 19(1)(b) (evidence of mental disorder), after “a jury” insert **33** or a court **32**;

(e) in section 21 (acquittal on grounds of insanity) –

(i) in subsection (1)-

- (A) after “to the jury” insert **or the court**;
 - (B) after “the jury shall return” insert, **or**, in the case where the trial is being conducted without a jury, the court shall return, **;**
 - (ii) in subsection (2), after “a jury” insert **or court**;
 - (f) in section 22(2) and (4) (alternative verdicts), after “the jury”, wherever it appears, insert **or the court**;
 - (g) in section 33(1)(a) (determination of appeals), after “the jury” insert **or the court**;
 - (h) in section 34 (substitution of verdict or sentence), in subsections (1) and (3) after “the jury” wherever it appears, insert **or court**;
 - (i) in section 36 (appeals in case of insanity or disability: supplemental), in subsections (1) and (3) after “the jury” wherever it appears, insert **or court**;
 - (j) in section 39(1)(c) (reference to appeal court after conviction etc), after “a jury” insert **or court**;
 - (k) in section 46(1)(c) (retrial of appellant) after “the jury” insert **or court**;
- (3) In section 7 (restrictions on reports of committal proceedings) of the Summary Jurisdiction Act 1989, after subsection (10), insert –
- (11)** Subsections 7(1), (2), (3), (5), (6), (7) and (8) shall apply to an application made under section 8A, 8B or 8C of the Criminal Jurisdiction Act 1993, a pre-trial hearing under section 8D or 8E of that Act or an appeal in respect of a pre-trial ruling under section 42A of that Act as if such an application, pre-trial hearing or appeal in respect of a pre-trial ruling were an inquiry under this section.
- (4) Until the first rules of court are made in relation to Courts of General Gaol Delivery under section 25 of the High Court Act 1991 (by virtue of section 57 of the Criminal Jurisdiction Act 1993) for the purposes of section 8B(4) the procedure shall be such as the presiding Deemster or court, as the case may be, shall determine.

MADE 11 DECEMBER 2024

JANE POOLE-WILSON

Minister for Justice and Home Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences sections 30, 31, 35, 36 (except for the insertion of section 8E(2) and 8E(3)(c) into the Criminal Jurisdiction Act 1993), 37, 38, 39, 41 and the remainder of section 103 (except for the insertion of subsection (1)(b) of the substituted section 24 into the Jury Act 1980) of the Justice Reform Act 2021 (“2021 Act”).

Sections 30, 31, 35, 36, 37, 38, 39 and 41 of the 2021 Act amend certain procedures in the Criminal Jurisdiction Act 1993 and, in particular, enable certain trials to be conducted without a jury (on the application of a defendant, for certain fraud cases or in cases where there is danger of jury tampering).

Section 103 of the 2021 Act, which amends the Jury Act 1980, was partially commenced by the Justice Reform Act 2021 (Appointed Day) (No. 1) Order 2022. This Order commences section 103(4) and (5) except in so far as it inserts new section 24(1)(b) into the Jury Act 1980. (New section 24(1)(b) makes provision to extend the circumstances when an offence is to be tried by a jury of 12 persons.)

Article 3 makes consequential, incidental and transitional provisions –

- (a) to enable a defendant to make an application under section 8A of the Criminal Jurisdiction Act 1993 to be tried without a jury before (but not after) he has been arraigned in respect of an offence for which he was charged before the commencement of that section;
- (b) to restrict the power of a Deemster on an application made under section 8B(4) of the Criminal Jurisdiction Act 1993 to order a trial without a jury in respect of a serious or complex fraud, so that the Deemster must not make such an order in respect of an offence for which a defendant is charged before the commencement of section 8B unless the defendant consents to the making of such an order;
- (c) to restrict the power of a Deemster to make an order under section 8C(3) of the Criminal Jurisdiction Act 1993 to order a trial without a jury in a case where the defendant is charged with the offence before the commencement of section 8C so that the Deemster may only make such an order where the trial is a retrial and the jury in the previous trial was discharged because jury tampering had taken place;
- (d) to amend the Criminal Jurisdiction Act 1993 in relation to cases where the question whether the defendant is under disability falls to be determined and the trial is to be conducted without a jury;
- (e) to apply section 7 (restrictions on reports of committal proceedings) of the Summary Jurisdiction Act 1989 to an application made under section 8A, 8B or 8C of the Criminal Jurisdiction Act 1993, a pre-trial hearing under section 8D or 8E of that Act or an appeal in respect of a pre-trial ruling under section 42A of that Act as if such an application, pre-trial hearing or

appeal in respect of a pre-trial ruling were an inquiry under section 7 of the Summary Jurisdiction Act 1989;

- (f) until the first rules of court are made for the purposes of section 8B(4), to enable the presiding Deemster or court, as the case may be to determine the procedure.

Sections 4 and 5 of the Justice Reform Act 2021 were brought into operation on 20 February 2024.

Sections 2(3), 88 to 102, 103(1), (2), (3), (6) and (7), 104 to 108 and 110 to 113 of the Justice Reform Act 2021 were brought into operation on 7 September 2022.

Sections 1 and 2(1) and (2) of the Justice Reform Act 2021 came into operation on the Act's announcement day (20 July 2021).