

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**PROJET DE LOI**

Entitled

**THE SEXUAL ASSAULT REFERRAL CENTRE (PROCEDURE) (BAILIWICK OF GUERNSEY)  
LAW, 2024**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Sexual Assault Referral Centre (Procedure) (Bailiwick of Guernsey) Law, 2024", and to authorise the Bailiff to present a most humble petition to His Majesty praying for His Royal Sanction thereto.

**EXPLANATORY MEMORANDUM**

The general purpose of this Law is to regulate the manner in which the Sexual Assault Referral Centre ("the SARC") retains and discloses evidence and information emanating from clients, including from a forensic medical examination ("FME") of such clients. This Law is partly modelled on the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 ("the Scottish Act").

Part I introduces the examination service and retention service and explains who is entitled to those services.

Part II concerns the examination service i.e. the provision of FMEs. An FME is a physical medical examination carried out for purposes that include collecting evidence for use in the investigation and prosecution of sexual crime. A client (of any age) can be referred to the SARC by a police officer. Alternatively, a client aged over 16 can refer themselves directly to the SARC and request an FME. The service can also be offered to those who say they have suffered harmful sexual behaviour by a child under the age of criminal responsibility (currently 12 years old). Professional obligations in respect of the conduct of FMEs, including the information required to be given to clients, is also covered.

Part III covers the retention service, meaning the storage of evidence collected during FMEs, where such evidence has not already been transferred to the police. This ensures evidence is preserved for potential criminal investigations and proceedings. Evidence can include personal items of property and this Part regulates the circumstances in which such items can be returned to the client on request. The circumstances in which evidence is destroyed is also covered by this Part. By virtue of section 10, if the SARC carries out an FME on a self-referring client but then later learns that they were under

the minimum age required for self-referral (e.g. if they lied about their age), the validity of the procedures and the admissibility of evidence collected are unaffected, notwithstanding that revelation. Transitional arrangements in respect of evidence currently being held by the SARC (i.e. prior this enactment) are also covered.

Part IV covers when the SARC should share "incident information" with the Guernsey Police, and when such incident information should be anonymised. Incident information refers to the details of the crime alleged by a self-referring client. The type of disclosure will depend on both the wishes of the client and whether there are specified, exceptional circumstances where the SARC has a duty to disclose contrary to those wishes. The exceptional circumstances are contained within section 16.

Under section 17, the police can request that the SARC transfer evidence to them in four circumstances namely where a) a client is referred to the SARC by the police, b) a self-referring client subsequently reports the alleged crime to the police, c) the client has agreed that the SARC can disclose incident information to the police without anonymisation, or d) it is subsequently discovered that the self-referring client was under the minimum age for self-referral (16 years old).

Section 18 stipulates that a failure to comply with the aforementioned provisions of Part IV does not by itself render evidence inadmissible in criminal proceedings or render such proceedings an abuse of process.

Section 19 confirms that existing court powers (found outside this enactment) continue to apply in respect of evidence held by the SARC, but the Court must have regard to the importance of the SARC being able to provide the examination service and the retention service in a confidential manner and must refuse the application unless the order is necessary to avoid a material risk of a miscarriage of justice or there are other exceptional reasons why it is in the interests of justice to grant the application.

Part V covers miscellaneous provisions, including a power to amend the Law by ordinance (or certain provisions by regulation) and the interpretation and savings provisions.

Part V also contains an exclusion of liability (in section 21) so that when the SARC or its employees carry out duties under Part III (relating to the retention of evidence) or Part IV (relating to the sharing of information and transfer of evidence) there is no liability in damages or personal liability in civil proceedings unless the act or omission was in bad faith. This protects SARC professionals when they are making difficult decisions regarding evidence obtained from clients, such as whether items of personal property should be returned (section 8), or whether the serious harm test (section 16) justifies disclosure without agreement. It intentionally does not extend to the remainder of the Law meaning, for example, the exclusion of liability would not apply to a negligently performed FME causing personal injury. There is also a standard clause concerning human rights claims.

# PROJET DE LOI

ENTITLED

## **The Sexual Assault Referral Centre (Procedure) (Bailiwick of Guernsey) Law, 2024**

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# PROJET DE LOI

ENTITLED

## **The Sexual Assault Referral Centre (Procedure) (Bailiwick of Guernsey) Law, 2024**

**THE STATES**, in pursuance of their Resolution of the 17<sup>th</sup> October 2023<sup>a</sup>, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### PART I

#### INTRODUCTION

#### **Meaning of the Sexual Assault Referral Centre.**

1. Throughout this Law, any reference to "**the SARC**" is a reference to the Sexual Assault Referral Centre established by the Committee for providing -

(a) the examination service (see section 3), and

(b) the retention service (see section 7).

#### **Availability of service.**

2. (1) The SARC's examination service is to be available to any person falling within section 3(2), regardless of the person's place of residence.

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<sup>a</sup> Article VI of Billet d'État No. XVII of 2023.

(2) The SARC's retention service is to be available in relation to any person to whom the SARC provides the examination service.

PART II  
THE EXAMINATION SERVICE

**The examination service.**

3. (1) The examination service consists of providing forensic medical examinations to persons falling within subsection (2), but subject to the limitations set out in section 4.

(2) A person falls within this subsection if -

(a) the person is referred by a police officer to the SARC for a forensic medical examination in connection with an incident in which -

(i) a sexual offence is alleged to have been committed against the person, or

(ii) the person is alleged to have been the subject of harmful sexual behaviour by a child under the age of criminal responsibility, or

(b) the person -

(i) is aged 16 or over,

(ii) is not referred by a police officer to the SARC, and

- (iii) requests a forensic medical examination in connection with an incident reported to the SARC by the person as being of the type mentioned in paragraph (a).

(3) Throughout this Law, a "**forensic medical examination**" is a physical medical examination carried out for purposes including the collection of evidence for use in connection with -

- (a) any investigation of the incident which gave rise to the need for the examination, or
- (b) any proceedings in relation to the incident.

(4) The Committee may by regulations substitute a different age for the age for the time being specified in subsection (2)(b)(i).

(5) The age substituted for the age for the time being specified in subsection (2)(b)(i) in regulations made under subsection (4) must be -

- (a) no lower than 13, and
- (b) no higher than 18.

(6) Regulations under subsection (4) may make any incidental, supplementary, consequential, transitional, transitory or saving provision.

(7) In subsection (2) -

**"sexual offence"** -

- (a) means an offence which involves -
  - (i) an element of physical, sexual contact, or
  - (ii) the ejaculation of semen, or the emission of urine or saliva sexually, onto a person, and
- (b) includes an act done outside the Bailiwick which, if done in the Bailiwick, would constitute such an offence,

"**harmful sexual behaviour**" means behaviour (in the Bailiwick or elsewhere) which -

- (a) causes or risks causing harm (whether physical or not) to another person, and
- (b) involves -
  - (i) an element of physical, sexual contact, or
  - (ii) the ejaculation of semen, or the emission of urine or saliva sexually, onto a person.

**Limitation on provision of forensic medical examinations.**

4. Nothing in this Law requires -
- (a) a forensic medical examination to be carried out where a professional judgement is made that the examination should not be carried out, or

- (b) a particular action to be carried out as part of a forensic medical examination where a professional judgement is made that the action should not be carried out.

**Information to be provided before examination.**

5. (1) This section applies where a person is referred for or requests a forensic medical examination as mentioned in section 3(2).

(2) Before any evidence is collected -

- (a) the person who has been referred for or, as the case may be, who requested the examination must, so far as reasonably practicable, be provided with the information mentioned in subsection (3), and
- (b) the information must, so far as reasonably practicable, be explained to the person.

(3) The information is -

- (a) information about -
  - (i) the circumstances in which any evidence collected during the examination may be transferred to a police officer, and
  - (ii) the purposes for which such evidence may then be used, and

- (b) where the forensic medical examination is requested under section 3(2)(b), information about -
  - (i) the person's rights to request the return of certain items under section 8 and to request the destruction of evidence under section 9(a),
  - (ii) the destruction of evidence under section 9(b), and
  - (iii) the circumstances in which information relating to the incident can be shared with a police officer under Part IV.

(4) Failure to comply with subsection (2) does not by itself render any evidence collected during the examination inadmissible in any proceedings in relation to the incident.

(5) In this section "**incident**" means the incident that gave rise to the need for a forensic medical examination.

**Health care needs.**

6. (1) The SARC must take such steps as are reasonably practicable to ensure that, where a person is referred for or requests a forensic medical examination as mentioned in section 3(2), any health care needs of the person arising from the incident that gave rise to the need for the examination are identified and addressed.

(2) Subsection (1) applies even where the person does not proceed to undergo a forensic medical examination.

- (3) In discharging its obligation under subsection (1), the SARC -
  - (a) is to have regard to the importance of providing health care in a way that seeks to avoid re-traumatisation and is otherwise trauma-informed, and
  - (b) may refer the person to other service providers.

PART III  
THE RETENTION SERVICE

**The retention service.**

7. (1) The retention service consists of storing, for the purpose mentioned in subsection (2), evidence which -

- (a) was collected during a forensic medical examination carried out by virtue of section 3, and
- (b) has not been transferred to a police officer under section 17.

(2) The purpose is the preservation of the evidence for use in connection with -

- (a) any investigation of the incident that gave rise to the need for the examination, or
- (b) any proceedings in relation to that incident.

**Return of certain items of evidence.**

8. (1) This section applies where evidence collected during a forensic medical examination carried out by virtue of section 3(2)(b) and stored by the SARC under section 7 includes an item that was worn or otherwise present during the incident that gave rise to the need for the examination.

(2) The person who underwent the examination may request in writing that the item be returned to the person.

(3) Subsection (4) applies where -

(a) the SARC is not satisfied that the requested item belongs to the person who made the request,

(b) the SARC considers that the requested item should not be returned to the person on safety grounds,

(c) the person who made the request is under the age of 18 years, or

(d) a request under section 17(2) for the transfer of the requested item to a police officer -

(i) was made before the making of the request under subsection (2), or

(ii) is made after the making of the request under subsection (2) but before the requested item is returned to the person.

- (4) Where this subsection applies, the SARC must -
  - (a) refuse the request, and
  - (b) except in a case mentioned in subsection (3)(d), explain the reason for the refusal to the person who made the request as soon as reasonably practicable.

(5) If subsection (4) does not apply, the SARC must comply with the request as soon as reasonably practicable.

**Destruction of evidence.**

9. (1) Subject to the remainder of this section, the SARC must ensure that any evidence collected during a forensic medical examination carried out by virtue of section 3(2)(b) and stored by the SARC under section 7 is destroyed as soon as reasonably practicable after whichever of the following occurs first -

- (a) the expiry of the period of 30 days beginning with the day of the making, by the person who underwent the examination, of a valid request that the evidence be destroyed, or
- (b) the expiry of 24 months from the relevant date or, if the SARC has agreed in writing with the person who underwent the examination to store the evidence for more than 24 months from the relevant date, the expiry of such a longer period agreed.

(2) For the purpose of subsection (1)(a) a "**valid request**" is a request in writing from a person who has attained the age of 18 years.

- (3) For the purpose of subsection (1)(b) the "**relevant date**" is –
- (a) if the person who underwent the examination had attained the age of 18 years on the date of that examination, the date that the evidence was collected,
  - (b) if the person who underwent the examination was under the age of 18 years on the date of that examination, the date that the person attains that age.
- (4) The SARC must ensure that evidence is not destroyed under subsection (1)–
- (a) on the basis of a valid request made under paragraph (a) of that subsection if the request is withdrawn by the person who made it before the expiry of the period mentioned in that paragraph, or
  - (b) if subsection (5) or (6) applies.
- (5) This subsection applies where –
- (a) a request was made under section 17(2) before the expiry of the period mentioned in subsection (1)(a) or, as the case may be, (b) for evidence to be transferred to a police officer, and
  - (b) at the time the period expires, the request has not been complied with.

(6) Subject to subsection (7), this subsection applies where a request is made under section 17(2) for evidence to be transferred to a police officer -

- (a) after the expiry of the period mentioned in subsection (1)(a) or, as the case may be, (b), and
- (b) before the evidence is destroyed.

(7) Subsection (6) does not apply where the request is made at a time when it is not reasonably practicable to stop the destruction of the evidence.

(8) The Committee may by regulations amend the periods specified in subsections (1)(a) and (1)(b) and such regulations may make -

- (a) different provision for different purposes,
- (b) any incidental, supplementary, consequential, transitional, transitory or saving provision.

**Retention and destruction after examination of self-referring, under-age person.**

10. (1) Subsection (2) applies where -

- (a) a forensic medical examination has been carried out by virtue of section 3(2)(b), and
- (b) the SARC subsequently establishes that the person was, at the time of the examination, under the age mentioned in that section at that time.

(2) The fact that the person was under that age at that time does not on its own -

- (a) affect the validity of -
  - (i) the carrying out of the examination,
  - (ii) anything done by the SARC prior to the person's true age being established in relation to any evidence collected during the examination,
  - (iii) the continuing storage of any such evidence under section 7,
- (b) render evidence collected during the forensic medical examination inadmissible in any proceedings in relation to the incident that gave rise to the need for a forensic medical examination, or
- (c) render such proceedings an abuse of process.

**Transitional arrangements for the retention and destruction of evidence.**

11. (1) This section applies where, on the commencement of this Law, the SARC already has in its possession evidence obtained from a forensic medical examination of a person who, if this Law had been in force at the time of that examination, would have fallen within section 3(2)(b).

(2) The provisions of this Part and sections 17 to 19 apply (with any necessary modifications) to the retention, destruction and transfer of that evidence as though that evidence -

- (a) was collected on the day that this Law commenced,

- (b) was collected during a forensic medical examination carried out by virtue of section 3(2)(b), and
- (c) is being stored under section 7.

#### PART IV

#### SHARING OF INFORMATION AND TRANSFER OF EVIDENCE

##### **Non-disclosure where self-referring client wishes to report to police.**

12. (1) This section applies where a self-referring client indicates that they wish to directly report the incident to a police officer.

(2) Where this section applies then, subject to sections 16, 17 and 19, the SARC does not have any obligation to disclose to a police officer incident information.

##### **Disclosure without anonymisation with agreement of self-referring client.**

13. (1) This section applies where a self-referring client -

- (a) does not wish to directly report the incident to a police officer, but
- (b) agrees to the SARC providing incident information to a police officer without that information being anonymised.

(2) Where this section applies then, subject to the remainder of this section, the SARC must disclose incident information to a police officer without anonymising that information.

(3) Before any disclosure under subsection (2), the SARC must explain to the self-referring client that -

(a) the consequences of the self-referring client's agreement described in subsection (1)(b) are that a police officer may -

(i) commence a criminal investigation,

(ii) request evidence from the SARC under section 17, and

(iii) contact the self-referring client with a view to securing a statement from the self-referring client, and

(b) if a criminal investigation results in criminal proceedings against an alleged perpetrator of the incident, it is possible, although not inevitable, that the self-referring client's attendance at trial will be compelled through powers under other enactments, or under the customary law.

(4) Until disclosure under subsection (2), a self-referring client may withdraw their agreement under subsection (1)(b), in which case -

(a) the incident information must not be disclosed under subsection (2), and

- (b) the self-referring client may instead agree to proceed in accordance with section 12, 14 or 15.

**Anonymised disclosure with agreement of self-referring client.**

14. (1) This section applies where a self-referring client -

- (a) does not wish to directly report the incident to a police officer, but
- (b) agrees to the SARC providing incident information to a police officer provided that the information is anonymised.

(2) Where this section applies then, subject to the remainder of this section and sections 16, 17 and 19, the SARC must disclose incident information to a police officer in a manner that ensures that the information is anonymised.

(3) Before disclosure under subsection (2), it must be explained to the self-referring client that the consequences of anonymisation are that a police officer -

- (a) will not be able to request evidence from the SARC under section 17, and
- (b) may not have sufficient information or evidence to commence a criminal investigation.

(4) Until disclosure under subsection (2), a self-referring client may withdraw their agreement under subsection (1)(b), in which case -

- (a) the incident information must not be disclosed under subsection (2), and
- (b) the self-referring client may instead agree to proceed in accordance with section 12, 13 or 15.

(5) After a disclosure under subsection (2), a self-referring client may agree to the SARC providing incident information to a police officer without that information being anonymised, in which case section 13 applies.

**Non-disclosure where self-referring client does not agree to disclosure.**

15. (1) This section applies when a self-referring client -

- (a) does not wish to directly report the incident to a police officer, and
- (b) will not agree to the SARC providing incident information to a police officer irrespective of whether or not that information is anonymised.

(2) Where this section applies then, subject to sections 16, 17 and 19, the SARC must not disclose incident information to a police officer.

**Disclosure without agreement.**

16. (1) Nothing in this Part affects any obligation under any other enactment or the customary law to disclose information (whether to a police officer or otherwise) in order to safeguard -

- (a) any person who is under the age of 18 years,

- (b) any person who is vulnerable, or
- (c) a self-referring client who lacks capacity, within the meaning of section 4 of the Capacity (Bailiwick of Guernsey) Law, 2020<sup>b</sup>, to make a decision on the sharing of information under this Part,

and accordingly a disclosure in such circumstances does not contravene any provision of this Part, irrespective of the absence of the self-referring client's agreement to such a disclosure.

(2) Notwithstanding the provisions of this Part, the SARC must disclose incident information without anonymisation to a police officer when -

- (a) a forensic medical examination has been carried out by virtue of section 3(2)(b), and
- (b) the SARC subsequently establishes that the person was, at the time of the examination, under the age mentioned in that section at that time,

and accordingly a disclosure in such circumstances does not contravene any provision of this Part, irrespective of the absence of the self-referring client's agreement to such a disclosure.

(3) Where the serious harm test is met, and notwithstanding the provisions of this Part, the SARC must disclose as much incident information to a

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<sup>b</sup> Order in Council No. II of 2021; this enactment has been amended.

police officer as, in the SARC's assessment, is sufficient to mitigate the risk of serious physical or psychological harm.

(4) Subsection (3) applies irrespective of whether such a disclosure would be contrary to a self-referring client's wish for -

- (a) no disclosure, or
- (b) only anonymised disclosure.

(5) In subsection (3) "**the serious harm test**" means that, if the disclosure is not made, or if it is made only after being anonymised, as the case may be, the self-referring client, the public or any particular person or class of person would be at a material risk of serious physical or psychological harm.

(6) If, in accordance with any provision of this section, a decision is made to disclose incident information without the self-referring client's agreement to that disclosure, the self-referring client must be informed of that decision unless the SARC assesses that -

- (a) it is impracticable to do so,
- (b) it would expose the self-referring client to a material risk of physical or psychological harm, or
- (c) there would be a substantial risk of prejudice to the administration of justice if the client was so informed.

**Transfer of evidence to police.**

17. (1) This section applies in any of the following circumstances namely -

(a) where a forensic medical examination has been carried out following a person being referred for such an examination as mentioned in section 3(2)(a),

(b) where -

(i) a forensic medical examination has been carried out following a person requesting such an examination as mentioned in section 3(2)(b), and

(ii) either -

(A) the person has subsequently reported the incident in connection with which the examination took place to a police officer, or

(B) the SARC has under section 13 disclosed incident information without anonymisation, and with the agreement of the person, to a police officer,

(c) where -

- (i) a forensic medical examination has been carried out following a person requesting such an examination as mentioned in section 3(2)(b),
- (ii) the SARC has subsequently established that the person was, at the time of the examination, under the age mentioned in that section at that time, and
- (iii) accordingly incident information without anonymisation has been disclosed to a police officer under section 16(2).

(2) Where this section applies, a police officer may request the transfer to the police officer of any evidence collected during the examination and stored or otherwise held by the SARC that is required for the purposes of -

- (a) investigation of the incident that gave rise to the need for the examination, or
- (b) proceedings in relation to the incident.

(3) The SARC must comply with the request as soon as reasonably practicable.

**Non-compliance with this Part.**

18. (1) Failure to comply with any of sections 12 to 17 does not by itself -

- (a) render evidence inadmissible in any proceedings in relation to the incident, or
- (b) render such proceedings an abuse of process.

(2) A court may, if it considers it to be in the interests of justice to do so, consider any failure to comply with the provisions of this Part when deciding whether or not to issue a witness summons obliging a self-referring client's attendance at court proceedings.

**Court order for disclosure or production of SARC material.**

19. (1) Nothing in this Part alters the obligation of the SARC to comply with a court order made under any other enactment or under the customary law for the disclosure of, or production of, material held by the SARC.

(2) Subsection (3) applies when -

- (a) a person makes an application for a court order described in subsection (1), and
- (b) section 17 does not apply.

(3) Where this subsection applies, the court must have regard to the importance of the SARC being able to provide the examination service and the retention service in a confidential manner and must refuse the application unless -

- (a) the granting of the application is necessary to avoid a material risk of a miscarriage of justice, or

(b) there are other exceptional reasons why it is in the interests of justice to grant the application.

(4) This section is without prejudice to any other criteria required for the making of the order, within the enactment or the customary law (as the case may be) under which the application is made.

(5) Where a court receives an application for an order described in subsection (1) it may, prior to determining the application, direct the SARC to retain the material specified in the direction until further direction.

(6) The SARC must comply with a direction under subsection (5) and the direction suspends any obligation of the SARC under this Law to destroy or return the material specified in the direction.

(7) Where a court makes a direction under subsection (5) it must, if it refuses the application, revoke the direction under subsection (5) and notify the SARC that it has done so.

**Interpretation of this Part.**

20. In this Part –

"**anonymised**" means disclosed in such a manner, such as through the use of redactions, that the self-referring client's identity is not revealed to the police officer receiving the information, and "**anonymisation**" shall also be construed accordingly,

"**incident**" means the incident reported to the SARC by the self-referring client as being of the type mentioned in section 3(2)(a),

**"incident information"** means any fact relating to the incident, including the identity of any person involved in that incident, and

**"self-referring client"** means a person to whom section 3(2)(b) applies.

PART V  
MISCELLANEOUS PROVISIONS

**Exclusion of liability.**

21. (1) The SARC, and anyone employed by the SARC, shall not be –
- (a) liable in damages, or
  - (b) personally liable in any civil proceedings,

in respect of anything done or omitted to be done after the commencement of this Law in the discharge or purported discharge of functions under Part III or Part IV, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.<sup>c</sup>

**Power to make Ordinances.**

22. (1) The States may by Ordinance amend –
- (a) Part II of this Law in respect of –

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<sup>c</sup> Order in Council No. XIV of 2000; this enactment has been amended.

- (i) the type of incident in connection with which the examination service may be provided, or
  - (ii) the circumstances in which the examination service may be provided to a person without that person having been referred to the SARC by a police officer,
- (b) Part III of this Law in respect of the circumstances in which -
  - (i) a person's request for items to be returned to that person under section **Error! Reference source not found.** may or must be accepted or refused, or
  - (ii) the SARC may or must destroy or retain evidence,
- (c) Part IV of this Law in respect of -
  - (i) the circumstances in which information may, must or must not be shared with, disclosed to, transferred to or produced to a police officer (including the circumstances in which such information may, must or must not be anonymised),
  - (ii) the matters that may or must be considered by a court when deciding whether to grant an

application for the disclosure or production of material held by the SARC, and the criteria to be applied when determining such an application, or

(iii) the power of the court to prohibit the destruction of material held by the SARC pending the court's determination of an application for the disclosure or production of that material,

(d) sections 24 and 25 **Error! Reference source not found.** and any defined term (including the definition of that term) elsewhere in this Law, or

(e) any provision of this Law -

(i) in respect of the information that may or must be given to any person using (or deciding whether to use) the examination service or the retention service, or

(ii) that the Committee has power to amend by regulation.

(2) The States may by Ordinance make any provision they think fit -

(a) in respect of the processes and procedures of the SARC,  
or

(b) for the purposes of, in connection with, or for giving full effect to, this Law,

and may, for this purpose and by such an Ordinance, modify this enactment, any other enactment or the customary law.

**Further provision regarding regulations.**

23. Regulations made by the Committee pursuant to sections 3(4) or 9(8) shall be laid before a meeting of the States as soon as possible after being made; and if at that or the next meeting the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done under them or to the making of new regulations.

**Interpretation.**

24. (1) In this Law, unless the context requires otherwise -

"**age of criminal responsibility**" means the minimum age at which a child can be guilty of a criminal offence in accordance with section 3 of the Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008<sup>d</sup>,

"**anonymised**" has the meaning given in section 20,

"**the Committee**" means the Committee for Home Affairs,

"**evidence**" has the meaning given in section 25,

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<sup>d</sup> Order in Council No.VI of 2009; this enactment has been amended.

**"the examination service"** has the meaning given in section 3(1),

**"forensic medical examination"** has the meaning given in section 3(3),

**"harmful sexual behaviour"** has the meaning given in section 3(7),

**"investigation"** means -

- (a) a criminal investigation, or
- (b) a police investigation of behaviour by a child under the age of criminal responsibility,

**"police officer"** means -

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limits of the member's jurisdiction, a member of the special constabulary of the Island of Guernsey,
- (b) in relation to Alderney, a member of the salaried police force of the Island of Guernsey, a member of any police force which may be established by the States of Alderney and, within the limits of the special constable's jurisdiction, a special constable appointed

pursuant to section 47 of the Government of Alderney Law, 2004<sup>e</sup>,

- (c) in relation to Sark, the Constable, the Vingtenier and a member of the salaried police force of the Island of Guernsey,

"**proceedings**" means criminal proceedings,

"**relevant date**" has the meaning given in section 9(3),

"**the retention service**" has the meaning given in section 7(1),

"**the SARC**" has the meaning given in section 1,

"**self-referring client**" has the meaning given in section 20,

"**sexual offence**" has the meaning given in section 3(7), and

"**valid request**" has the meaning given in section 9(2).

(2) References in this Law to the need for a forensic medical examination include, where the person referred for or, as the case may be, requesting the examination does not proceed to undergo such an examination, reference to the need for the referral or, as the case may be, request for such an examination.

(3) Subsection (4) applies where, by virtue of section 25(3), something is to be regarded as having been collected or created during or in

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<sup>e</sup> Order in Council No. III of 2005; this enactment has been amended.

connection with a forensic medical examination despite the person who was referred for or requested the examination not proceeding to undergo such an examination.

(4) Where this subsection applies, Parts III and IV are to be read as if a forensic medical examination has been carried out, and references to the person undergoing the examination are to be construed accordingly.

**Meaning of references to "evidence".**

25. (1) References in this Law (however expressed) to evidence collected during a forensic medical examination include reference to -

- (a) images created,
- (b) samples (for example, samples of blood, semen, urine, or hair and samples taken by swabbing a person's genitals or bodily orifices) collected,
- (c) any notes or other records (including notes or records about matters other than the physical condition of the person undergoing the examination) created,
- (d) items worn or otherwise present during the incident that gave rise to the need for such an examination and collected,

during or in connection with the examination.

(2) Such references do not include reference to anything collected or created during or in connection with the examination if the thing was collected or created for use other than use as is mentioned in section 3(3) (for example, for use in

identifying, recording and addressing the health care needs of the person undergoing the examination).

(3) Anything collected or created in anticipation of a forensic medical examination being carried out under this Law is to be regarded as having been collected or created during or in connection with such an examination even where the person who was referred for or, as the case may be, requested the examination does not proceed to undergo such an examination.

(4) References in this section to images, notes and other records include reference to those things in all forms that the things exist (for example, digital or physical form).

**Extent.**

26. This Law shall have effect in the Bailiwick of Guernsey.

**Citation.**

27. This Law may be cited as The Sexual Assault Referral Centre (Procedure) (Bailiwick of Guernsey) Law, 2024.

**Commencement.**

28. This Law shall come into force on the date of its registration on the records of the Island of Guernsey.