

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

**THE TERRORISM AND CRIME (BAILIWICK OF GUERNSEY) (AMENDMENT) (NO. 2)  
ORDINANCE, 2024**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024" and to direct that the same shall have effect as an Ordinance of the States.

**EXPLANATORY MEMORANDUM**

This Ordinance amends the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 ("the Law") so that enforcement powers for terrorist investigations have the same degree of compulsion as equivalent enforcement powers under other existing legislation, in particular the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, the Drug Trafficking (Bailiwick of Guernsey) Law, 2000 and the Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007. This is achieved by creating offences in respect of terrorist investigations that are similar to those applicable to investigations under those other enactments.

The Ordinance inserts into Schedules 5, 6 and 7 of the Law the following criminal offences, and in the below summary "relevant material" means material relevant to a terrorist investigation:

- a) Section 1(3): obstructing a police officer acting under the authority of a Schedule 5, paragraph 1 warrant (warrant to enter premises to search for relevant material).
- b) Section 1(4): failing to comply with a Schedule 5, paragraph 4(2) order (court order to produce relevant material to the police, give the police access to the relevant material or state where that relevant material is).
- c) Section 1(4): failing to comply with a Schedule 5, paragraph 4(6) order (court order to allow the police to enter premises for the purpose of accessing relevant material).
- d) Section 1(4): knowingly or recklessly giving false or misleading information or documents in purported compliance with a Schedule 5, paragraph 4(2) order (see b) above).

- e) Section 1(4): obstructing a person acting under the authority of a Schedule 5, paragraph 4(2) order (see b) above).
- f) Section 1(5): failing to comply with a Schedule 5, paragraph 6(1) order (court order to provide an explanation for relevant material).
- g) Section 1(6): obstructing a police officer acting under the authority of a Schedule 5, paragraph 7(1) order (the same as a Schedule 5, paragraph 1 warrant - see a) above - only issued by a superintendent in cases of great emergency).
- h) Section 1(7): as a financial services business subject to an order under Schedule 6, paragraph 1 (order to provide customer information), knowingly or recklessly giving false or misleading information or documents in purported compliance with that order.
- i) Section 1(9): as a financial services business subject to an order under Schedule 7 (account monitoring order), failing to comply with a requirement of that order.
- j) Section 1(9): as a financial services business subject to an order under Schedule 7 (account monitoring order), knowingly or recklessly giving false or misleading information or documents in purported compliance with that order.

Corporate liability is expanded so that it covers offences under all three Schedules, meaning it will cover all of these new offences. This is achieved by introducing a new Schedule 7A (see sections 1(2) and 1(10)).

# The Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024

THE STATES, in pursuance of their Resolution of the 24<sup>th</sup> May 2023<sup>a</sup>, and in exercise of the powers conferred upon them by section 81A of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002<sup>b</sup>, and all other powers enabling them in that behalf, hereby order:-

## Amendment of the Terrorism and Crime Law.

1. (1) The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 is amended as follows.

(2) Immediately after section 39, insert the following section –

### "Schedule 5, 6 or 7 offences committed by bodies corporate.

39A. Schedule 7A (offences under Schedules 5, 6 or 7 committed by bodies corporate) shall have effect."

(3) Immediately after paragraph 1(5) of Schedule 5, insert the following subparagraph –

"(6) A person who obstructs a police officer acting under the authority of a warrant issued under this paragraph (whether or not paragraph 2 also applies) is guilty of an offence and liable on conviction to

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<sup>a</sup> Article XI of Billet d'État No. VII of 2023.

<sup>b</sup> Ordres en Conseil Vol. XLII(1), p. 427. This enactment has been amended.

imprisonment for a term not exceeding two years, or to a fine, or to both."

(4) Immediately after paragraph 5(5) of Schedule 5, insert the following subparagraphs -

"(6) A person commits an offence if they fail to comply with a requirement imposed upon them by or under an order made under paragraph 4(2) or (6).

(7) It is a defence for a person charged with an offence under subparagraph (6) to prove, on the balance of probabilities, that they had a reasonable excuse for the failure to comply with the requirement.

(8) A person guilty of an offence under subparagraph (6) is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(9) A person commits an offence if, in purported compliance with an order made under paragraph 4(2), they -

(a) make a statement, or provide any information or document, which they know to be false or misleading in a material particular, or

(b) recklessly make a statement, or recklessly provide any information or document, which is false or misleading in a material particular.

(10) A person commits an offence if they obstruct any person acting under the authority of an order granted under paragraph 4(2) or

4(6).

(11) A person guilty of an offence under subparagraph (9) or (10) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both."

(5) Immediately after paragraph 6(3) of Schedule 5, insert the following subparagraphs -

"(3A) A person commits an offence if they fail to comply with a requirement imposed upon them by or under an order made under subparagraph (1).

(3B) It is a defence for a person charged with an offence under subparagraph (3A) to prove, on the balance of probabilities, that they had a reasonable excuse for the failure to comply with the requirement.

(3C) A person guilty of an offence under subparagraph (3A) is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both."

(6) Immediately after paragraph 7(3) of Schedule 5, insert the following subparagraph -

"(3A) A person who obstructs a police officer acting under the authority of an order given under subparagraph (1) is guilty of an offence and liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both."

(7) Immediately after paragraph 1(6) of Schedule 6, insert the

following subparagraphs -

"(7) A financial services business commits an offence if, in purported compliance with an order made under this paragraph, it -

- (a) makes a statement, or provides any information or document, which it knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement, or recklessly provides any information or document, which is false or misleading in a material particular.

(8) A person guilty of an offence under subparagraph (7) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both."

(8) Delete paragraph 8 of Schedule 6.

(9) Immediately after paragraph 5(2) of Schedule 7, insert the following subparagraphs -

"(3) A financial services business commits an offence if it fails to comply with a requirement imposed on it by or under an account monitoring order.

(4) It is a defence for a person charged with an offence under subparagraph (3) to prove, on the balance of probabilities, that they had a reasonable excuse for the failure to comply with the requirement.

(5) A person guilty of an offence under subparagraph (3) is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(6) A financial services business commits an offence if, in purported compliance with an account monitoring order, it -

(a) makes a statement, or provides any information or document, which it knows to be false or misleading in a material particular, or

(b) recklessly makes a statement, or recklessly provides any information or document, which is false or misleading in a material particular.

(7) A person guilty of an offence under subparagraph (6) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both."

(10) Immediately after Schedule 7, insert the following Schedule -

"SCHEDULE 7A Section 39A  
OFFENCES UNDER SCHEDULE 5, 6 OR 7 COMMITTED BY BODIES  
CORPORATE OR UNINCORPORATE

1. (1) Where an offence under Schedule 5, 6 or 7 (in this paragraph "**a relevant offence**") is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in

any such capacity, that person as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subparagraph (1) applies to a member in connection with that person's functions of management as if that person were a director.

(3) Where a relevant offence is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where a relevant offence is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of the body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its

conviction of any such offence shall be paid from the funds of the body."

**Extent.**

2. This Ordinance shall have effect throughout the Bailiwick of Guernsey.

**Citation.**

3. This Ordinance may be cited as the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024.

**Commencement.**

4. This Ordinance shall come into force on the 22<sup>nd</sup> March, 2024.