

BILLET D'ÉTAT No. XVIII, 2006

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PROJET DE LOI

ENTITLED

The Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th October, 2005^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

General power to make Ordinances for the purpose of prohibiting etc. the consumption etc. of intoxicating liquor and right to enter regulated place.

1. (1) The States may by Ordinance make such provision as they think fit for the purpose of prohibiting, controlling or regulating -

- (a) the consumption, distribution, manufacture, possession, sale, storage or supply of intoxicating liquor,
- (b) any activity or practice relating to, or concerning, the consumption, distribution, manufacture, possession, sale, storage or supply of intoxicating liquor, and
- (c) the right of any person to enter, or having entered to remain upon -
 - (i) any regulated place, and

^a Article I of Billet d'État No. XVI of 2006.

- (ii) any public place in the vicinity of a regulated place.

Specific matters for which Ordinances may make provision.

2. An Ordinance under section 1 may, without limitation, make provision in relation to the following matters -

- (a) the prohibition, control and regulation of the sale or supply of intoxicating liquor -
 - (i) otherwise than under licence, and
 - (ii) subject to such conditions as may be specified,
- (b) the establishment of a licensing authority with responsibility for, and powers exercisable in relation to -
 - (i) the grant, suspension and revocation of licences to sell, or supply, intoxicating liquor,
 - (ii) the creation, and variation, of conditions upon which licences are granted,
 - (iii) the holders of such licences,
 - (iv) the premises, vessels and any other places from which intoxicating liquor is sold or supplied under the authority of such licences, and
 - (v) all related and incidental matters,

- (c) the levying of fees,
- (d) the prohibition, control and regulation of the consumption, distribution, storage and possession of alcohol in any public place,
- (e) the exclusion of any individual from -
 - (i) any regulated place, and
 - (ii) any public place in the vicinity of a regulated place,
- (f) powers of entry, inspection, search, seizure, detention and arrest for the purpose of ensuring compliance with the provisions of any Ordinance or other instrument under this Law (including, without limitation, powers exercisable by police officers to remove from any person, and detain or dispose of, any intoxicating liquor, and any object used to contain or supply that liquor), and
- (g) the seizure, deprivation of ownership or possession, destruction and disposal of intoxicating liquor and any object used to contain or supply that liquor.

General provisions as to subordinate legislation.

- 3. (1) An Ordinance under this Law -
 - (a) may be amended or repealed by a subsequent Ordinance hereunder, and

- (b) may contain such transitional, consequential, incidental, supplementary and savings provisions as the States think fit.

(2) Any power to make an Ordinance under this Law may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

- (b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences and may (for the avoidance of doubt) specify penalties which may be imposed by the courts,
- (b) may empower the Department, any other department, and any other body (including, without limitation, the Royal Court and any licensing authority established under this Law), to make or issue orders, rules, regulations, codes or guidance, whether as to matters in respect of which an Ordinance can be made under this Law or otherwise,
- (c) may provide that no liability shall be incurred by any specified person or body in respect of anything done or omitted to be done in the discharge or purported discharge of any of their functions under the Ordinance unless the thing is done or omitted to be done in bad faith,
- (d) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (e) may repeal, replace, amend, extend, adapt, modify or disapply -
 - (i) any enactment (including, without limitation, this Law), but only to the extent that it has force of law in Guernsey, and
 - (ii) any rule of custom or law, and

- (f) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.

Interpretation.

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

"a department" means any department, council or committee of the States, however styled,

"the Department" means the States Home Department,

"enactment" means any Law, Ordinance, Act of Parliament, Order in Council, regulation, order, rule of court or other legislative instrument having effect in Guernsey, and includes any provision of this Law and any provision or portion of a Law, Ordinance, Act of Parliament, Order in Council, regulation, order, rule of court or other legislative instrument,

"Guernsey" and **"the Island of Guernsey"** include Herm and Jethou,

"instrument under this Law" includes any order, rule, regulation, code or guidance made or issued under an Ordinance under this Law,

"intoxicating liquor" means any spirituous, vinous, fermented, malt, or other liquor, or combination of liquors -

- (a) intended for human consumption, and
- (b) having an alcoholic strength in excess of 1.2 per cent

of alcohol by volume at 20° Celsius,

"police officer" means a member of the salaried police force of the Island of Guernsey, or, within the limits of his jurisdiction, a member of the Special Constabulary,

"public place" includes any premises, vessel, place or area to which the public have access, whether on payment or otherwise, and

"regulated place" means -

- (a) any premises, vessel or other place in relation to which any licensing authority established under this Law may have responsibility or may exercise powers, and
- (b) such other premises, vessels or other places as are specified,

"the Royal Court" means the Royal Court of Guernsey,

"sale" includes the exposure for sale and offer or agreement for sale,

"specified" means specified under this Law, and

"States" means the States of Guernsey.

(2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Extent.

5. This Law shall have effect in the Islands of Guernsey, Herm and Jethou and the territorial waters adjacent thereto.

Citation.

6. This Law may be cited as the Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006.

PROJET DE LOI

ENTITLED

The Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006

ARRANGEMENT OF SECTIONS

Emergency workers

1. Assaulting, obstructing or hindering emergency workers.
2. Assaulting, obstructing or hindering persons assisting emergency workers.
3. Meaning of "emergency circumstances".
4. Provisions supplementary to sections 1 and 2.
5. Meaning of "emergency worker".

Health workers

6. Assaulting, obstructing or hindering health workers in hospitals.
7. Assaulting, obstructing or hindering persons assisting health workers in hospitals.
8. Provisions supplementary to sections 6 and 7.
9. Meaning of "health worker".

General

10. Penalties.
11. Saving for certain other offences.
12. Power to extend meaning of "emergency worker", etc.
13. Interpretation.
14. Power to amend Law by Ordinance.
15. Citation.

PROJET DE LOI

ENTITLED

The Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2006,^a have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Emergency workers

Assaulting, obstructing or hindering emergency workers.

1. (1) A person who -
 - (a) assaults, or
 - (b) without reasonable excuse, obstructs or hinders,

an emergency worker while the emergency worker is responding to emergency circumstances commits an offence.

(2) No offence is committed under subsection (1) unless the person who assaults, obstructs or hinders the emergency worker knows or ought reasonably to know that the emergency worker -

^a Article XI Billet d'État No. VIII of 2006.

(a) is acting in that capacity, and

(b) is or might be responding -

(i) to emergency circumstances, or

(ii) as if there were emergency circumstances.

(3) A person who gives false information with the intention that an emergency worker will, while responding to emergency circumstances or instead of doing so, act upon that information is to be regarded, for the purposes of subsection (1), as hindering the emergency worker.

(4) Subsection (3) does not prejudice the generality of section 4(a).

Assaulting, obstructing or hindering persons assisting emergency workers.

2. (1) A person who -

(a) assaults, or

(b) without reasonable excuse, obstructs or hinders,

a person assisting an emergency worker while the emergency worker is responding to emergency circumstances commits an offence.

(2) No offence is committed under subsection (1) unless the person who assaults, obstructs or hinders the person assisting an emergency worker knows or ought reasonably to know -

- (a) that the emergency worker is acting in that capacity,
- (b) that the emergency worker is or might be responding -
 - (i) to emergency circumstances, or
 - (ii) as if there were emergency circumstances, and
- (c) that the person being assaulted, obstructed or hindered is assisting the emergency worker acting in that capacity.

Meaning of "emergency circumstances".

3. (1) For the purposes of sections 1 and 2, an emergency worker is responding to emergency circumstances if -

- (a) he is going anywhere for the purpose of dealing with emergency circumstances occurring there, or
- (b) he is dealing with emergency circumstances or preparing to do so.

(2) For the purposes of this Law, circumstances are "**emergency circumstances**" if they are present or imminent and -

- (a) are causing or are likely to cause -
 - (i) serious injury to or the serious illness (including mental illness) of a person,

- (ii) serious harm to the environment (including the life and health of plants and animals),
- (iii) serious harm to any building or other property, or
- (iv) a worsening of any such injury, illness or harm, or

(b) are likely to cause the death of a person.

(3) For the purposes of sections 1 and 2, and notwithstanding subsection (2), circumstances to which an emergency worker is responding are to be taken to be emergency circumstances if the worker believes and has reasonable grounds for believing that those circumstances are or may be emergency circumstances.

Provisions supplementary to sections 1 and 2.

4. A person may be convicted of an offence under section 1 or 2 of obstructing or hindering notwithstanding that it is -

- (a) effected by means other than physical means, or
- (b) effected by action directed only at -
 - (i) any vehicle, vessel, apparatus, equipment or other thing, or
 - (ii) any animal,

used or to be used by an emergency worker or a person assisting an emergency worker.

Meaning of "emergency worker".

5. In this Law, "**emergency worker**" means a person acting in any of the following capacities -

- (a) a police officer,
- (b) a customs officer,
- (c) a full or part time member of any fire and rescue service,
- (d) a full or part time member of, or a person providing or employed in the provision of, any ambulance service,
- (e) a prison officer,
- (f) a probation officer,
- (g) a person appointed as Harbourmaster for a harbour in the Bailiwick and any person employed to assist a Harbourmaster,
- (h) a member of the crew of a vessel operated by -
 - (i) the Royal National Lifeboat Institution, or

(ii) any other person or organisation operating a vessel for the purpose of providing a rescue service,

or a person who musters the crew of such a vessel or attends to its launch or recovery,

(i) a medical practitioner,

(j) a nurse or midwife,

(k) a veterinary surgeon,

(l) a full or part time member of the Royal Navy, the Royal Marines, the Army or the Royal Air Force,

(m) a person providing services for the transport of organs, blood, equipment or personnel pursuant to arrangements made by, or at the request of, the States Department of Health and Social Services or a person or service mentioned in any of the above paragraphs,

(n) the States Emergency Planning Officer or any member of his staff, or

(o) a States employee carrying out functions on behalf of the States Public Services Department.

Health workers

Assaulting, obstructing or hindering health workers in hospitals.

6. (1) A person who, in a hospital or on land adjacent to and used wholly or mainly for the purposes of a hospital -

(a) assaults, or

(b) without reasonable excuse, obstructs or hinders,

a health worker commits an offence.

(2) No offence is committed under subsection (1) unless the person who assaults, obstructs or hinders the health worker knows or ought reasonably to know that the health worker is acting in that capacity.

Assaulting, obstructing or hindering persons assisting health workers in hospitals.

7. (1) A person who, in a hospital or on land adjacent to and used wholly or mainly for the purposes of a hospital -

(a) assaults, or

(b) without reasonable excuse, obstructs or hinders,

a person assisting a health worker commits an offence.

(2) No offence is committed under subsection (1) unless the person who assaults, obstructs or hinders the person assisting a health worker knows or ought reasonably to know -

(a) that the health worker is acting in that capacity, and

- (b) that the person being assaulted, obstructed or hindered is assisting the health worker acting in that capacity.

Provisions supplementary to sections 6 and 7.

8. A person may be convicted of an offence under section 6 or 7 of obstructing or hindering notwithstanding that it is -

- (a) effected by means other than physical means, or
- (b) effected by action directed only at any vehicle, apparatus, equipment or other thing used or to be used by a health worker or a person assisting a health worker.

Meaning of "health worker".

9. For the purposes of sections 6, 7 and 8 the following are "**health workers**" -

- (a) medical practitioners,
- (b) dentists,
- (c) nurses, midwives and health visitors,
- (d) physiotherapists,
- (e) a full or part time member of, or a person providing or employed in the provision of, any ambulance

service (including any air ambulance service) maintained in the Bailiwick,

- (f) social workers, and
- (g) any other persons who by reason of their employment have contact with patients or visitors to hospitals.

General

Penalties.

10. A person guilty of an offence under this Law is liable on summary conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Saving for certain other offences.

11. Nothing in this Law affects -

- (a) section 1 or 2 of the Offences against Police Officers (Bailiwick of Guernsey) Law, 1963^b, or
- (b) section 13 of the Fire Services (Guernsey) Law, 1989^c.

Power to extend meaning of "emergency worker", etc.

12. (1) The States Home Department may by regulation modify this Law by -

^b Ordres en Conseil Vol. XIX, p. 123; and No. VI of 1996.

^c Ordres en Conseil Vol. XXXI, p. 432.

- (a) adding a person or class or description of person to, or
- (b) removing a person or class or description of person from,

those whom it is an offence under this Law to assault, obstruct or hinder, and by making such provision in connection with that modification as it thinks fit.

(2) The States Home Department shall not make regulations under subsection (1)(a) unless it appears to the Department that the person to be added (or, as the case may be, each person of the class or description to be added) is one whose functions or activities are such that the person is likely, in the course of carrying them out, to have to deal with emergency circumstances or perform work at a hospital.

(3) Sections 14(3)(b) and (c) and 14(4) apply in relation to regulations under this section as they apply in relation to an Ordinance under this Law.

Interpretation.

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

"**ambulance service**" means an ambulance service (including an air ambulance service) maintained in the Bailiwick,

"**Bailiwick**" means the Bailiwick of Guernsey,

"customs officer" means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^d,

"dentist" : see subsection (2),

"emergency circumstances" : see section 3,

"emergency worker" : see section 5,

"fire and rescue service" means -

- (a) a fire and rescue service maintained in the Bailiwick,
or
- (b) a fire and rescue service maintained elsewhere, any member of which is present in the Bailiwick pursuant to an agreement or arrangement with or in respect of a service described in paragraph (a),

and (for the avoidance of doubt) includes a fire brigade,

"health visitor" : see subsection (2),

"health worker" : see section 9,

"hospital" includes any premises used for the purposes of his profession by a medical practitioner, dentist or physiotherapist,

^d Ordres en Conseil Vol. XXIII, p. 573; and No. XIII of 1991.

"medical practitioner" : see subsection (2),

"midwife" : see subsection (2),

"nurse" : see subsection (2),

"physiotherapist" : see subsection (2),

"police officer" means a member of the salaried police force of the Island of Guernsey and -

- (a) in relation to Guernsey, Herm and Jethou, and within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,
- (b) in relation to Alderney, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed pursuant to section 47 of the Government of Alderney Law, 2004^e, and
- (c) in relation to Sark, the Constable and the Vingtenier,

"prison officer" means a person employed in that capacity by, or acting in that capacity pursuant to an agreement or arrangement with, the States Home Department,

^e Order in Council No. III of 2005.

"probation officer" means a person employed in that capacity by the States Home Department,

"social worker" means a person employed in that capacity by the States Department of Health and Social Services,

"States" means the States of Guernsey,

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^f,

"veterinary surgeon" : see subsection (2).

(2) References in this Law to dentists, health visitors, medical practitioners, midwives, nurses, physiotherapists and veterinary surgeons are references to members of those professions who may lawfully practise in the part of the Bailiwick in which the offence under this Law is alleged to have occurred.

(3) The Interpretation (Guernsey) Law, 1948^g applies to the interpretation of this Law throughout the Bailiwick.

(4) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Power to amend Law by Ordinance.

^f Ordres en Conseil Vol. XXXI, p. 278.

^g Ordres en Conseil Vol. XIII, p. 355.

- 14.** (1) The States may by Ordinance amend this Law.
- (2) Subsection (1) is without prejudice to any power under this Law to make regulations (and vice versa).
- (3) An Ordinance under this Law -
- (a) may, for the avoidance of doubt -
- (i) create new offences, and
- (ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,
- (b) may be amended or repealed by a subsequent Ordinance hereunder, and
- (c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient.
- (4) Any power conferred by this Law to make an Ordinance may be exercised -
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.

Citation.

15. This Law may be cited as the Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006.

PROJET DE LOI

ENTITLED

The Homicide and Suicide (Bailiwick of Guernsey) Law, 2006

ARRANGEMENT OF SECTIONS

Provisions relating to homicide

1. Abolition of "constructive malice".
2. Persons suffering from diminished responsibility.
3. Provocation.

Provisions relating to suicide

4. Suicide to cease to be a crime.
5. Criminal liability for complicity in another's suicide.
6. Suicide pacts.

General provisions

7. Power to amend Law by Ordinance.
8. Citation.

PROJET DE LOI

ENTITLED

The Homicide and Suicide (Bailiwick of Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2006^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Provisions relating to homicide

Abolition of "constructive malice".

1. (1) Where a person kills another in the course or furtherance of some other offence, the killing does not amount to murder unless done with the same malice aforethought (express or implied) as is required for a killing to amount to murder when not done in the course or furtherance of another offence.

(2) For the purposes of subsection (1), a killing done in the course of or for the purpose of -

- (a) resisting an officer of justice,
- (b) resisting or avoiding or preventing a lawful arrest, or

^a Article XI of Billet d'État No. VIII of 2006.

- (c) effecting or assisting an escape or rescue from legal custody,

shall be treated as a killing in the course or furtherance of an offence.

Persons suffering from diminished responsibility.

2. (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being party to the killing.

(2) On a charge of murder, it is for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as a principal or as an accessory, to be convicted of murder is liable instead to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder does not affect the question of whether the killing amounted to murder in the case of any other party to it.

Provocation.

3. Where on a charge of murder there is evidence on which the Jurats can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self control, the question of whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the Jurats.

In determining that question the Jurats shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

Provisions relating to suicide

Suicide to cease to be a crime.

4. The rule of law whereby it is a crime for a person to commit suicide is abolished.

Criminal liability for complicity in another's suicide.

5. (1) A person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, is liable on conviction to imprisonment for a term not exceeding 14 years.

(2) If on the trial of an indictment for murder or manslaughter it is proved that the accused aided, abetted, counselled or procured the suicide of the person in question, the Jurats may find him guilty of that offence.

Suicide pacts.

6. (1) It is manslaughter, and not murder, for a person acting in pursuance of a suicide pact between him and another person to kill the other or be a party to the other being killed by a third person.

(2) Where it is shown that a person charged with the murder of another killed the other or was a party to his being killed, it is for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

(3) For the purposes of this section "**suicide pact**" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

General provisions

Power to amend Law by Ordinance.

7. (1) The States may by Ordinance amend this Law.
- (2) An Ordinance under this Law -
 - (a) may, for the avoidance of doubt -
 - (i) create new offences, and
 - (ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,
 - (b) may be amended or repealed by a subsequent Ordinance hereunder, and
 - (c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient.
- (3) Any power conferred by this Law to make an Ordinance may

be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.

Citation.

8. This Law may be cited as the Homicide and Suicide (Bailiwick of Guernsey) Law, 2006.

PROJET DE LOI

ENTITLED

The Nursing Homes and Residential Homes (Guernsey) (Amendment) Law, 2006

THE STATES, in pursuance of their Resolution of the 26th July, 2006^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Amendment of the 1976 Law.

1. (1) The Nursing Homes and Residential Homes (Guernsey) Law, 1976^b ("**the 1976 Law**") is amended as follows -

(a) immediately after section 1(5) of the 1976 Law, insert

-

"(6) Subject to subsection (7), there shall be payable in respect of a registration such annual renewal fee, payable on or before such date, as the States may, from time to time, by Ordinance prescribe.

(7) The Department may grant exemption from the

^a Article XVI of Billet d'État No. XIII of 2006.

^b Ordres en Conseil Vol. XXVI, p. 71.

requirement of subsection (6) in respect of any home which is funded primarily by charitable means.",

- (b) immediately after "home" in the final line of section 2 of the 1976 Law, insert -

", or on the ground that any annual renewal fee payable under subsection 1(6) has not been paid on or before the due date", and

- (c) for section 13 ("Variation and repeal of Ordinances and orders"), substitute -

"Ordinances and orders.

13. (1) An Ordinance or order under this Law -

- (a) may be amended or repealed by a subsequent Ordinance or order hereunder, and
- (b) may contain such transitional, consequential, incidental, supplementary and savings provisions as the States or Department, as the case may be, think fit.

(2) Any power conferred by this Law to make an Ordinance or order may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised -

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes, and

(iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Any order made under this Law shall be laid before a meeting of the States as soon as may be after being made and if at that meeting or the next subsequent meeting the States resolve that the order be annulled, the order shall cease to have effect but without prejudice to anything done under the order or to the making of a new order."

Citation.

2. This Law may be cited as the Nursing Homes and Residential Homes (Guernsey) (Amendment) Law 2006.

PROJET DE LOI

ENTITLED

The Public Order (Bailiwick of Guernsey) Law, 2006

ARRANGEMENT OF SECTIONS

1. Riot.
2. Violent disorder.
3. Affray.
4. Fear or provocation of violence.
5. Mental element: miscellaneous.
6. Procedure: miscellaneous.
7. Interpretation.
8. Offences abolished.
9. Power to amend Law by Ordinance.
10. Citation.

PROJET DE LOI

ENTITLED

The Public Order (Bailiwick of Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2006^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Riot.

1. (1) Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot.

(2) It is immaterial whether or not the 12 or more use or threaten unlawful violence simultaneously.

(3) The common purpose may be inferred from conduct.

(4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

(5) Riot may be committed in private as well as in public places.

^a Article XI of Billet d'État No. VIII of 2006.

(6) A person guilty of riot is liable on conviction on indictment to imprisonment for a term not exceeding 10 years, or to a fine, or to both.

Violent disorder.

2. (1) Where 3 or more persons who are present together use or threaten unlawful violence and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using or threatening unlawful violence is guilty of violent disorder.

(2) It is immaterial whether or not the 3 or more persons use or threaten unlawful violence simultaneously.

(3) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

(4) Violent disorder may be committed in private as well as in public places.

(5) A person guilty of violent disorder is liable -

(a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both, or

(b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Affray.

3. (1) A person is guilty of affray if he uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.

(2) Where 2 or more persons use or threaten the unlawful violence, it is the conduct of them taken together that must be considered for the purposes of subsection (1)

(3) For the purposes of this section a threat cannot be made by the use of words alone.

(4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

(5) Affray may be committed in private as well as in public places.

(6) A person guilty of affray is liable -

(a) on conviction on indictment, to imprisonment for a term not exceeding 3 years, or to a fine, or to both,

(b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Fear or provocation of violence.

4. (1) A person is guilty of an offence if he -

- (a) uses towards another person threatening, abusive or insulting words or behaviour, or
- (b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting,

with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

(2) An offence under this section may be committed in a public or private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is distributed or displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

(3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Mental element: miscellaneous.

5. (1) A person is guilty of riot only if he intends to use violence or is aware that his conduct may be violent.

(2) A person is guilty of violent disorder or affray only if he intends to use or threaten violence or is aware that his conduct may be violent or threaten violence.

(3) A person is guilty of an offence under section 4 only if he intends his words or behaviour, or the writing, sign or other visible representation, to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting.

(4) For the purposes of this section a person whose awareness is impaired by intoxication shall be taken to be aware of that of which he would be aware if not intoxicated, unless he shows either that his intoxication was not self-induced or that it was caused solely by the taking or administration of a substance in the course of medical treatment.

(5) In subsection (4) "intoxication" means any intoxication, whether caused by drink, drugs or other means, or by a combination of means.

(6) Subsections (1) and (2) do not affect the determination for the purposes of riot or violent disorder of the number of persons who use or threaten violence.

Procedure: miscellaneous.

6. (1) For the purposes of the rules against charging more than one offence in the same count or information, each of sections 1 to 4 create one offence.

(2) If on the trial on indictment of a person charged with violent disorder or affray the Jurats find him not guilty of the offence charged, they may find him guilty of an offence under section 4.

(3) The Royal Court has the same powers and duties in relation to a person who, by virtue of subsection (2), is convicted before it of an offence under

section 4 as the Magistrate's Court (or, as the case may be, the Court of Alderney or the Court of the Seneschal) would have on convicting him of the offence.

Interpretation.

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

"**dwelling**" means any structure or part of a structure occupied as a person's home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and for this purpose "structure" includes a tent, caravan, vehicle, vessel or other temporary or movable structure,

"**uniform scale**" means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^b, and

"**violence**" means any violent conduct, so that -

- (a) except in the context of affray, it includes violent conduct towards property as well as violent conduct towards persons, and
- (b) it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct (for example, throwing at or towards a person a missile of a kind capable of causing injury which does not hit or falls short).

^b Ordres en Conseil Vol. XXXI, p. 278.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Law throughout the Bailiwick.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Offences abolished.

8. The common law offences of riot, rout, unlawful assembly and affray are abolished.

Power to amend Law by Ordinance.

9. (1) The States may by Ordinance amend this Law.
- (2) An Ordinance under this Law -
- (a) may, for the avoidance of doubt -
- (i) create new offences, and
- (ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,
- (b) may be amended or repealed by a subsequent Ordinance hereunder, and
- (c) may contain such consequential, incidental,

^c Ordres en Conseil Vol. XIII, p. 355.

supplementary, transitional and savings provisions as may appear to be necessary or expedient.

(3) Any power conferred by this Law to make an Ordinance may be exercised -

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised -

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

(iii) any such provision either unconditionally or subject to any prescribed conditions.

Citation.

10. This Law may be cited as the Public Order (Bailiwick of Guernsey) Law, 2006.

The Public Highways (Temporary Closure) (Amendment) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 27th October, 2005^a, hereby order:-

Amendment of Ordinance of 1999.

1. (1) For section 4 of the Public Highways (Temporary Closure) Ordinance, 1999^b, substitute -

"Duties of and hearings by the Royal Court.

4. (1) The Royal Court shall not dispose of any application under this Ordinance unless the provisions of this Ordinance, when applicable to the particular case, have been complied with.

(2) Subject to subsection (3), an application made under this Ordinance shall be heard and determined by the Ordinary Court.

(3) The Ordinary Court may, if it thinks fit, refer -

(a) any application under this Ordinance, or

(b) any matter arising from any application,

to the Full Court for it to hear and determine."

^a Article I of Billet d'État No. XVI of 2005.

^b Ordinance No. I of 1999.

(2) In section 18(1) -

(a) immediately after the definition of "fire brigade",
insert -

"the Full Court" means the Royal Court of Guernsey sitting
as a Full Court;",

(b) immediately after the definition of "officer of police",
insert -

"the Ordinary Court" means the Royal Court of Guernsey
sitting as an Ordinary Court,", and

(c) for the definition of **"the Royal Court"** substitute -

"the Royal Court" means -

(a) the Ordinary Court or,

(b) where the matter has been referred under
section 4(3), the Full Court;". "

Citation.

2. This Ordinance may be cited as the Public Highways (Temporary Closure) (Amendment) Ordinance, 2006.

Commencement.

3. This Ordinance shall come into force on the 29th November 2006.

**The Reform (Amendment) (Guernsey) Law, 1972
(Amendment) Ordinance, 2006**

THE STATES, on the representations of the House Committee and in exercise of the powers conferred on them by section 15A of the Reform (Amendment) (Guernsey) Law, 1972, ("the 1972 Law"), as amended^a, hereby order:-

Amendment to section 12 of the 1972 Law – marking of ballot papers by absent voters and return to Registrar-General.

1. In section 12 of the 1972 Law, for "the day immediately preceding" substitute "noon on".

Citation.

2. This Ordinance may be cited as the Reform (Amendment) (Guernsey) Law, 1972 (Amendment) Ordinance, 2006.

^a Ordres en Conseil Vol. XXIII, p. 476 and Vol. XXVI, p. 255; Order in Council No. V of 1993 and No. XIII of 2003; also amended by Ordinance III of 2004.

The Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 29th November, 2006, and in exercise of the powers conferred on them by sections 7(4) and 14(2) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002^a and all other powers enabling them in that behalf, hereby order:-

Amendment of Ordinance.

1. After section 5(2) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006^b insert the following subsection -

"(2A) Subsections (1) and (2) of section 7 of the Law shall not apply to a relevant spent conviction when a question is asked by or on behalf of the Channel Islands Stock Exchange in order to assess the suitability of any person to be granted membership of the Exchange for the purpose of listing any fund on the Exchange."

Citation.

2. This Ordinance may be cited as the Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2006.

Commencement.

3. This Ordinance shall come into force on the 29th November, 2006.

^a Order in Council No. XIV of 2002.

^b Ordinance No. XVI of 2006.