

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

14th April, 2020

Proposition No. P.2020/52

Committee for Home Affairs

The Sexual Offences (Bailiwick of Guernsey) Law, 2020

AMENDMENT

Proposed by: Deputy G A St Pier
Seconded by: Deputy H L de Sausmarez

In clause 4(2) of the draft Projet de Loi entitled "Sexual Offences (Bailiwick of Guernsey) Law, 2020" -

- (a) in paragraph (f), for ".", substitute ", and", and
- (b) insert a new paragraph after paragraph (f) -
 - "(g) B had voluntarily consumed alcohol or taken a substance which, having regard to when it was consumed or taken, was capable of causing or enabling B to be overpowered, stupefied or otherwise incapable of giving consent (as the case may be) at the time of the relevant act."

Explanatory note

Section 4 of the draft Projet de Loi provides that, where listed circumstances have taken place e.g. the complainant ("C") was threatened with violence by the defendant ("D") or C is unknowingly given a drug such as rohypnol, the court will presume that consent was not given by C, and/or D did not reasonably believe that C consented.

This amendment will add to the listed circumstances to include C's voluntary consumption of alcohol or other substance. This will underline the expectation that D should always seek to confirm if C consents to any activity which would be an offence if consent is not given, even if C is in a state of self-induced intoxication or stupefaction. The insertion of this further circumstance will also avoid any suggestion of victim-blaming.