

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE CRIMINAL JUSTICE (MISCELLANEOUS AMENDMENTS) (BAILIWICK OF GUERNSEY)
ORDINANCE, 2022**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the following enactments (the enactments) –

- The Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001(the International Cooperation Law);
- The Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 (PPACE);
- The Drug Trafficking (Bailiwick of Guernsey) Law, 2000 (the Drug Trafficking Law);
- The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (the Terrorism Law);
- The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (the Proceeds of Crime Law)
- The Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988 (the Magistrate's Court Appeals Law);
- The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 (the Misuse of Drugs Law);
- The Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 (RIPL)
- The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006 (the Rehabilitation of Offenders Ordinance); and
- The Disclosure (Bailiwick of Guernsey) Law, 2007 (the Disclosure Law).

The purpose of the amendments is to improve the effectiveness of the Bailiwick's criminal justice framework in a number of areas.

Section 1 of the Ordinance amends the International Cooperation Law. The effect of the amendments is to introduce a power for the court to order the preservation of electronic material that may be relevant to an international investigation (breach of which is a criminal offence), and to specify that public authorities are not liable to assistance provided to other jurisdictions under certain specific enactments unless this was done in bad faith or comprised a breach of human rights.

Section 2 of the Ordinance amends PPACE. The effect of the amendments is to introduce a power for the court to order the preservation of electronic material that may be relevant to a domestic investigation.

Section 3 of the Ordinance amends the Drug Trafficking Law. The effect of the amendments is to give the Magistrate's Court the power to make orders in drugs related cases for the preservation and confiscation of property with a value of £25,000 or less.

Section 4 of the Ordinance amends the Terrorism Law. The effect of the amendments is to give the Magistrate's Court the power to make orders in terrorism related cases for the preservation and confiscation of property with a value of £25,000 or less.

Section 5 of the Ordinance amends the Proceeds of Crime Law. The effect of the amendments is to give the States the power to make provision by Ordinance for the management of property that has been detained or removed from a person under certain specified enactments, and to seized, and to give the Magistrate's Court the power to make orders in criminal cases other than those linked to drugs or terrorism for the preservation and confiscation of property with a value of £25,000 or less.

Section 6 of the Ordinance amends the Magistrate's Court Appeals Law. This amendment is consequential to the amendments referred to above which give the Magistrate's Court the power to make orders for the preservation and confiscation of property, and its effect is to bring those orders within the scope of the appeal provisions applicable to decisions of the Magistrate's Court.

Section 7 of the Ordinance amends the Misuse of Drugs Law. The effect of the amendments is to increase the sentencing powers of the Magistrate's Court in drug related cases.

Section 8 of the Ordinance amends RIPL. The effect of the amendments is to increase the available sentence for failure to comply with a notice requiring a person to provide a key to protected information.

Section 9 of the Ordinance amends the Rehabilitation of Offenders Ordinance. The effect of the amendments is to give the Alderney Gambling Control Commission the same powers as the Guernsey Financial Services Commission currently has to obtain information about spent convictions for licensing purposes, and to enable it and other authorities who deal with sensitive information to ask such questions for their own employment purposes.

Section 10 of the Ordinance amends the Disclosure Law. The effect of the amendments is to introduce a reporting obligation in relation to the proliferation of weapons of mass destruction and its financing, to remove some inconsistencies regarding proportionality requirements for the purposes of information sharing, to widen the information sharing

powers of the Revenue Service and to substitute references to the Financial Intelligence Unit across the legal framework for references to the Financial Intelligence Service.

Sections 12, 13 and 14 deal respectively with extent, citation and commencement.

The Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022

THE STATES, in pursuance of their Resolution of the 24th November, 2021^a, and in exercise of the powers conferred on them by section 65 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003^b, sections 9A and 9B of the Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001^c, sections 7(4) and 14 of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002^d, sections 71A and 72 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000^e, sections 81A and 82 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^f, sections 53A and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^g, sections 14 and 16 of the Disclosure (Bailiwick of Guernsey) Law, 2007^h, section 35 of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974ⁱ, section 93 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^j, section 20 of the Interpretation and Standard Provisions (Bailiwick of

a Article IV of Billet d'État No. XXIII of 2021.

b Order in Council No. XXX of 2003. This enactment has been amended.

c Ordres en Conseil Vol. XLI, p.240. This enactment has been amended.

d Ordres en Conseil Vol. XLII, p.389. This enactment has been amended.

e Ordres en Conseil XL, p.131. This enactment has been amended.

f Ordres en Conseil Vol. XLII, p. 427. This enactment has been amended.

g Ordres en Conseil Vol. XXXIX, p. 137. This enactment has been amended.

h Order in Council No. XVI of 2007. This enactment has been amended.

i Ordres en Conseil Vol. XXIV, p.273. This enactment has been amended.

j Order in Council No. XXIII of 2003. This enactment has been amended.

Guernsey) Law, 2016^k and all other powers enabling them in that behalf, hereby order:-

Preservation orders, etc.

Amendment of International Co-operation Law.

1. (1) The Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001 is amended as follows.

(2) After section 4B, insert –

"Order to preserve data pending request for assistance.

4C. (1) Where an authority in a country or territory outside the Bailiwick has submitted or intends to submit a request for assistance under section 4(1), that authority may request His Majesty's Procureur to apply to the Royal Court constituted by the Bailiff sitting alone for an order (a "**preservation order**") for the expeditious preservation of data stored by means of a computer system.

(2) The request to His Majesty's Procureur must specify –

- (a) the authority seeking preservation,
- (b) the offence that is the subject of a criminal investigation or proceedings together with a brief summary of the relevant facts,

^k Order in Council No. V of 2018. This enactment has been amended.

- (c) the data that is to be preserved and its relationship to the offence,
- (d) any available information identifying the person in possession of the data or the computer system on which it is stored,
- (e) the reason why the preservation is necessary, and
- (f) that the authority intends to submit a request for assistance under section 4(1) for assistance in obtaining the data.

(3) His Majesty's Procureur may apply to the Royal Court constituted by the Bailiff sitting alone for a preservation order under this Law, in the absence of a request by an authority in a country or territory outside the Bailiwick that she make such an application, in circumstances where she is satisfied that –

- (a) the preservation of the data which is the subject of the application is necessary,
- (b) the relevant authority in that country or territory is likely to submit a request for assistance under section 4(1) for assistance in obtaining the data, and

(c) there are reasons to believe that the data may not be preserved if His Majesty's Procureur were to wait for that authority to make such a request.

(4) On receiving the application by or on behalf of His Majesty's Procureur under this section the court may, where it considers it is in the interests of justice to do so, make an order for the data to be preserved pending a request being made under section 4(1) or for such time as the court thinks fit.

(5) An application for a preservation order may be made ex parte in private.

(6) A preservation order must provide for notice to be given to any person named within it.

(7) A person named within a preservation order who by any act or omission causes the damage, deletion, alteration, suppression or removal of any data preserved by the order is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 5 years or to a fine or both.

(8) A person named within a preservation order may apply to the Bailiff for the order to be revoked or varied, and on such application being made the Bailiff may either determine it or refer it to the Royal Court sitting as an Ordinary Court.

Offence of unauthorised disclosure of preservation order.

4D. (1) Where an order is made under section 4C(4) a person must not disclose –

- (a) the existence and contents of the order,
- (b) the details of the making of the order and of any variation of it,
- (c) the existence and contents of any requirement to provide assistance with giving effect to the order,
- (d) the steps taken in pursuance of the order or of any such requirement, and
- (e) any part of the data preserved by the order.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 5 years or to a fine or both.

(3) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence for the accused to show that the accused could not reasonably have been expected, after first becoming aware of any of the matters mentioned in subsection (1), to take steps to prevent the disclosure.

(4) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that –

(a) the disclosure was made by or to a professional legal adviser in connection with the giving, by the adviser to any client of the adviser, of advice about the effect of any provision of this Law, and

(b) the person to whom or, as the case may be, by whom it was made was the client or a representative of the client.

(5) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the disclosure was made only to the extent necessary to enable compliance with the order.

(6) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the disclosure was made by a professional legal adviser –

(a) in contemplation of, or in connection with, any legal proceedings; and

(b) for the purposes of those proceedings.

(7) None of subsections (4), (5) or (6) applies in the case of a disclosure made with a view to furthering any criminal purpose."

(3) After section 8A insert –

"Protection from liability

Protection from liability for damages, costs and consequential loss.

8B. (1) Subject to subsections (2) and (3), notwithstanding the provisions of any other enactment, a public authority shall not be liable –

- (a) in damages,
- (b) for consequential loss, or
- (c) for costs in legal proceedings,

in respect of any act done in the discharge or purported discharge of the public authority's functions under this Law or any enactment specified in Schedule 3 or subordinate legislation made under such enactment which entitles the public authority to give assistance to a relevant authority of any country or territory outside the Bailiwick unless it is shown that the act was done in bad faith.

(2) Subsection (1) –

- (a) shall not apply so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000, and

(b) is, for the avoidance of doubt, without prejudice to any other protection from liability enjoyed by a public authority in any particular case, whether under statute or otherwise.

(3) A public authority may rely on the good faith of the relevant authority to which it gave the assistance referred to in subsection (1) to prove that the public authority did not act in bad faith.

(4) The States of Guernsey Committee for Home Affairs may by regulations amend Schedule 3."

(3) In section 9B(1) and (2), in both places it appears for "Ordinance or rule" substitute "Ordinance or rule, or regulations".

(4) In section 10, in the appropriate alphabetical order, insert the following definitions –

""**assistance**" includes assistance in respect of obtaining evidence or information, obtaining assets, conducting investigations and conducting searches, and assistance in any legal proceedings,"

""**damages**" includes loss or damage to property,"

in the definition of premises for "." substitute ",", and after that definition insert –

""**public authority**" has the meaning given in the Human Rights (Bailiwick of Guernsey) Law, 2000, and

"relevant authority", in relation to a country or territory outside the Bailiwick, means an authority in that country or territory that requests assistance."

(4) After Schedule 2, insert the Schedule to this Ordinance as Schedule 3.

Amendment of PPACE.

2. (1) The Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 is amended as follows.

(2) For the heading of section 9 substitute "Provisions as to access to, and preservation of, data", and for section 9(1) substitute -

"(1) For the purposes of a criminal investigation –

(a) a police officer may obtain access to –

(i) special material, or

(ii) material stored on a computer or stored on a device that is remotely accessible via the internet and accessible by the

person who stored it but not to users of
the internet generally, and

- (b) His Majesty's Procureur may apply for an order
that specified data be preserved,

by making an application for an order under paragraph 4 or paragraph 17 of
Schedule 1 (as the case may be) and in accordance with the applicable
provisions of that Schedule."

- (3) In the index of defined expressions at section 92, after the
definition of premises insert –

"preservation order	Schedule 1".
---------------------	--------------

- (4) In Schedule 1 –

- (a) for the heading "PROCEDURE FOR SPECIAL
MATERIAL" substitute the heading "ACCESS TO,
AND PRESERVATION OF, CERTAIN MATERIAL",
- (b) for the subheading "*Making of orders by the Bailiff*",
substitute "*Making of access orders by the Bailiff*",
- (c) in paragraph 2(a)(ii), from "which consists" to the end
substitute "to which section 9 applies that is in the
possession or control of a person, or on premises,
specified in the application",

- (d) in paragraph 4, after "possession" insert "or control",
 - (e) in paragraph 12, for "enter and search the premises" substitute "search for the material and enter any premises necessary for the purposes of the search", and
 - (f) in paragraph 14(a), for "the premises" substitute "any premises".
- (5) After paragraph 16 insert-

"Making of preservation orders"

17. The Royal Court constituted by the Bailiff sitting alone may make an order, referred to in this Schedule as a "**preservation order**", on an application made by or on behalf of His Majesty's Procureur where it considers it is in the interests of justice to do so.

18. A preservation order is an order providing that certain data specified in the application be preserved pending criminal investigation or for such time as the court thinks fit.

19. An application for a preservation order may be made ex parte in private.

20. The court must not make a preservation order unless it is satisfied that there are reasonable grounds for believing that -

- (a) an offence has been committed, and
- (b) the data specified in the application includes evidence that relates to that offence or to some other offence that is connected with, or similar to, that offence.

21. A preservation order must provide for notice to be given to any person named within it.

22. A person named within a preservation order who by any act or omission causes the damage, deletion, alteration, suppression or removal of any data preserved by the order is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 5 years or to a fine or both.

23. A person named within a preservation order may apply to the Bailiff for the order to be revoked or varied, and the Bailiff may determine the application or refer it to the Royal Court sitting as an Ordinary Court.

Preservation orders: offences

24. Where an order is made under paragraph 17, a person must not disclose –

- (a) the existence and contents of the order,
- (b) the details of the making of the order and of any variation of it,

- (c) the existence and contents of any requirement to provide assistance with giving effect to the order,
- (d) the steps taken in pursuance of the order or of any such requirement, and
- (e) any part of the data preserved by the order.

25. A person who contravenes paragraph 24 is guilty of an offence and liable on conviction to a term of imprisonment not exceeding 5 years or a fine or both.

26. In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the person could not reasonably have been expected, after first becoming aware of any of the matters mentioned in paragraph 24, to take steps to prevent the disclosure.

27. In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that –

- (a) the disclosure was made by or to a professional legal adviser in connection with the giving, by the adviser to any client of the adviser, of advice about the effect of any provision of this Law, and

- (b) the person to whom or, as the case may be, by whom it was made was the client or a representative of the client.

28. In proceedings against any person for an offence under this Schedule in respect of any disclosure, it is a defence to show that the disclosure was made by a professional legal adviser –

- (a) in contemplation of, or in connection with, any legal proceedings, and
- (b) for the purposes of those proceedings.

29. Neither paragraph 27 nor paragraph 28 applies in the case of a disclosure made with a view to furthering any criminal purpose."

Powers of the Magistrate's Court

Amendment of Drug Trafficking Law.

3. (1) The Drug Trafficking (Bailiwick of Guernsey) Law, 2000 is amended as follows.

(2) In section 2(1), for "the Royal Court (**"the Court"**)" substitute "the Court".

(3) After section 69, insert -

"Interpretation – powers of the Magistrate's Court and references to the Court.

69A. (1) Subject to the provisions of this section, in this Law "**the Court**" and "**the Full Court**" mean the Royal Court sitting as a Full Court.

(2) The Magistrate's Court may make a confiscation order under this Law in any case where the amount that might be realised at the time the confiscation order is to be made against the defendant (within the meaning of section 6) is £25,000 or less, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(3) The Magistrate's Court may make a restraint order under this Law in any case where the realisable property to which the order applies does not exceed £25,000 in value, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(4) The Magistrate's Court may make a realty charging order under this Law in any case where the money the payment to the Crown of which is to be secured by the order does not exceed £25,000 in value, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(5) The Magistrate's Court may make a personalty charging order in any case where the value of the interest created or assigned (as the case may be) does not exceed £25,000, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court."

(6) In section 70, after both ""**the Court**"" and ""**the Full Court**"" , for "section 69(1)" substitute "section 69A".

Amendment of the Terrorism Law.

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

(2) In section 19(1), delete "before the Royal Court sitting as an Ordinary Court".

(3) In paragraphs 3(1), (3), (4), (5) and (7), 4(5) and 5(1) of Schedule 2 (Forfeiture Orders), each time it appears for "the Royal Court" substitute "the Court".

(4) After paragraph 3(10) of Schedule 2, insert –

"(11) Subject to subparagraph (12), in this paragraph and paragraphs 4 and 5, "**the Court**" means the Royal Court.

(12) The Magistrate's Court may make a restraint order under this paragraph in any case where the property to which the order applies does not exceed £25,000 in value, and consequently, as this paragraph applies to such cases, "**the Court**" means the Royal Court or the Magistrate's Court."

(5) In paragraph 6(2) and 6(3) of Schedule 3 (Forfeiture of Terrorist Cash), each time it appears for "the Royal Court sitting as an Ordinary Court" substitute "the Court".

(6) After paragraph 6(4) of Schedule 3, insert –

"(4A) Subject to subparagraphs (4B) to (7), in this paragraph **"the Court"** means the Royal Court sitting as an Ordinary Court.

(4B) The Magistrate's Court may make an order under this paragraph in any case where the property to which the order applies does not exceed £25,000 in value, and consequently, as this paragraph applies to such cases, **"the Court"** means the Royal Court sitting as an Ordinary Court or the Magistrate's Court."

Amendment of the Proceeds of Crime Law.

5. (1) The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 is amended as follows.

(2) In section 2(1), for "the Royal Court (**"the Court"**)" substitute "the Court".

(3) After section 49E, insert –

"Management of seized etc. property

Management of seized etc. property.

49EA. (1) The States may by Ordinance prescribe the principles, policies and procedures applicable to the management of property falling within subsection (2).

(2) Property falls within this subsection if it is seized, restrained, frozen, confiscated, forfeited or otherwise detained or removed under and in accordance with the provisions of this Law or –

- (a) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,
- (b) the Criminal Justice (International Co-operation) (Bailiwick of Guernsey) Law, 2001,
- (c) the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002,
- (d) the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006.
- (e) the Forfeiture of Money, Etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007,
- (f) the Cash Controls (Bailiwick of Guernsey) Law, 2007, or
- (g) the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011.

(3) The Committee may by regulation amend the list of enactments in subsection (2).".

(4) In section 52, after ""**Court**"" for "section 2(1)" substitute "section 52A".

(5) After section 52 insert –

"Interpretation – powers of the Magistrate's Court and references to the Court.

52A. (1) Subject to the provisions of this section and section 53, in this Law "**the Court**" and "**the Full Court**" mean the Royal Court sitting as a Full Court.

(2) The Magistrate's Court may make a confiscation order under this Law in any case where the amount that might be realised at the time the confiscation order is to be made against the defendant (within the meaning of section 6) is £25,000 or less, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(3) The Magistrate's Court may make a restraint order under this Law in any case where the realisable property to which the order would apply does not exceed £25,000 in value, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(4) The Magistrate's Court may make a realty charging order under this Law in any case where the money the payment to the Crown of which is to be secured by the order does not exceed £25,000 in value, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court.

(5) The Magistrate's Court may make a personalty charging order in any case where the value of the interest created or assigned (as the case may be) does not exceed £25,000, and consequently, as this Law applies to such cases, "**the Court**" means the Royal Court sitting as a Full Court or the Magistrate's Court."

(6) For the heading of section 53 substitute "Constitution of Royal Court for the purposes of this Law", and in section 53(1) and (2), in each place it appears for "the Court" substitute "the Royal Court".

Amendment of Magistrate's Court (Criminal Appeals) Law.

6. (1) The Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988¹ is amended as follows.

(2) In section 1, after paragraph (a) insert –

"(aa) if such case results in the making of a confiscation order, a forfeiture order, a restraint order, a personalty charging order or a realty charging order under the Drug Trafficking (Bailiwick of Guernsey) Law, 2000, the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 or the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, at the instance of the defendant in the proceedings

¹ Ordres en Conseil Vol. XXXI., p. 83. This enactment has been amended.

in which the order was made, against the making of the order,".

(3) After section 4(1), insert –

"(1A) Where an order of a type referred to in section 1(aa) has been made, and the defendant (D) in the proceedings in which the order was made desires to appeal against the making of the order but has not sufficient means to enable D to obtain legal aid for the purpose, D may make an application to the Magistrate's Court for free legal aid.".

(4) In section 4(2), for "preceding subsection" substitute "preceding subsections".

Sentencing

Amendment of Misuse of Drugs Law.

7. (1) The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 is amended as follows.

(2) In the table at Schedule 3 (Prosecution and Punishment of Offences), in the fourth, fifth, sixth and seventh columns (Punishment), wherever a phrase set out in subsection (3) appears against "(a) Summary" under the third column (Mode of prosecution), substitute for that phrase "2 years or three times level 5 on the uniform scale, or both".

(3) The phrases referred to in subsection (2) are "12 months or three times level 5 on the uniform scale or both" and "6 months or level five on the uniform scale, or both".

Amendment of RIPL.

8. (1) The Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 is amended as follows.

(2) In section 49(5)(a), for "two years" substitute "five years", and in section 49(5)(b) for "six months" substitute "two years".

Miscellaneous

Amendment of Rehabilitation of Offenders Ordinance.

9. (1) The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006^m is amended as follows.

(2) In the heading of section 5 after "financial" insert ", egambling" and in section 5(1) –

(a) after "Commission" insert "or the Alderney Gambling Control Commission (as the case may be)", and

(b) in paragraph (a) after "financial" insert ", eGambling", and after "paragraph 1" insert "or 1A".

(3) In section 9, after the definition of "Commission" insert –

^m Recueil d'Ordonnances Tome XXXI, p. 386. This enactment has been amended.

"eGambling permission" means any licence, consent, authorisation, certificate, registration or other permission required to be obtained from the Alderney Gambling Control Commission by or under any enactment,".

(4) At the end of Part II of Schedule 1, insert –

- "13. The Director of the Revenue Service, or any of his or her deputies, or any office or employment in the Revenue Service.
- 14. The Registrar of Beneficial Ownership, or any of his or her deputies, or any office or employment in his or her offices.
- 15. The Registrar of Companies, or any of his or her deputies, or any office or employment in his or her offices.
- 16. The Registrar of Limited Liability Partnerships, or any of his or her deputies, or any office or employment in his or her offices.
- 17. The Registrar of Foundations, or any of his or her deputies, or any office or employment in his or her offices.
- 18. The Registrar of Non Profit Organisations, or any of his or her deputies, or any office or employment in his or her offices.
- 19. Any appointment or employment as an officer, servant or agent of the Alderney Gambling Control Commission.

20. Any person employed by the States of Guernsey whose functions include dealing with matters relating to the implementation of international sanctions."

(4) In the heading of Schedule 4 after "FINANCIAL" insert ", EGAMBLING", and after paragraph 1 insert –

- "1A. Any licence, consent, authorisation, certificate, registration or other permission required to be obtained from the Alderney Gambling Control Commission by or under any enactment.",

and after paragraph 4 insert –

- "4A. Any office, occupation or work in the employment of, or undertaken on behalf of, a holder of an eGambling permission.
- 4B. Any office, occupation or work in the employment of, or undertaken on behalf of, an applicant for an eGambling permission."

Amendment of Disclosure Law.

10. (1) The Disclosure (Bailiwick of Guernsey) law, 2007ⁿ is amended as follows.

(2) After section 3A, insert –

ⁿ Order in Council No. XVI of 2007. This enactment has been amended.

"Proliferation of weapons of mass destruction.

3B. Sections 1, 2, 3 and 3A apply to the proliferation of weapons of mass destruction, and the financing of the proliferation of weapons of mass destruction, as they apply to money laundering, and shall be construed accordingly."

(3) Sections 6(3), 9(4) and 10(3) are repealed.

(4) After section 9(3), insert –

"(3A) No obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise prevents the disclosure to the Financial Intelligence Unit, in accordance with the following provisions of this section, of information to which this section applies if the disclosure is –

(a) made for the purpose of improving the effective provision and use by the Director of the Revenue Service and the Financial Intelligence Unit of information relating to –

(i) money laundering,

(ii) terrorist financing,

(iii) the proliferation of weapons of mass destruction,

- (iv) the financing of the proliferation of weapons of mass destruction, or
- (v) the investigation of offences under section 75CC and regulations made under section 171A of the Income Tax Law of the Income Tax (Guernsey) Law, 1975 ("**the Income Tax Law**"), or
- (b) otherwise made in circumstances and satisfies other conditions set out in regulations that may be made for this purpose by the Committee for Home Affairs."

(5) For section 9(6), substitute –

"(6) Information obtained by means of a disclosure authorised by subsection (2), (3) or (3A) shall not be further disclosed by–

- (a) a police officer,
- (c) the Financial Intelligence Unit, or
- (d) the Commission (as the case may be),

except –

- (i) for a purpose mentioned in those subsections, and

- (ii) with the consent of the Director of the Revenue Service, and
- (iii) in the case of information disclosed to the Financial Intelligence Unit, the consent of the relevant person, body or authority falling within subsection (2)(b), if the disclosure is of, or relates to, information supplied by such a person, body or authority."

(6) After section 9, insert –

"Consent by Director of the Revenue Service to onward disclosure.

9A. Where the Director of the Revenue Service has disclosed information to which section 9 applies to a person, body or authority in a jurisdiction outside the Bailiwick for the purposes of –

- (a) an approved international agreement (within the meaning of section 75C of the Income Tax Law,
- (b) an international tax measure (within the meaning of section 75CC(1B) of the Income Tax Law), or
- (c) regulations made under section 171A of the Income Tax Law,

he or she may consent to that person, body or authority disclosing that information within that foreign jurisdiction, if the disclosure is made for a purpose set out in section 9(2)(a) – (h).".

Amendment of Disclosure Law and other enactments: the Financial Intelligence Unit.

11. In the Disclosure (Bailiwick of Guernsey) Law, 2007, and any other enactment in which it appears, in each place it appears for "Financial Intelligence Service" substitute "Financial Intelligence Unit".

Final

Extent.

12. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

13. This Ordinance may be cited as the Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022.

Commencement.

14. (1) This Ordinance shall come into force on the day appointed for this purpose by regulations made by the Committee for Home Affairs; and different dates may be appointed for different provisions and for different purposes.

(2) Regulations under subsection (1) 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, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new

regulations.

SCHEDULE

Section 1(4)

"SCHEDULE 3

Section 8B(1)

1. Bankers' Books Evidence (Guernsey) Law, 1954
2. Disclosure (Bailiwick of Guernsey) Law, 2007
3. Competition (Enabling Provisions) (Guernsey) Law, 2009
4. Drug Trafficking (Bailiwick of Guernsey) Law, 2000
5. International Criminal Court (Bailiwick of Guernsey) Law, 2019
6. Criminal Justice (Fraud Investigation) (Guernsey) Law, 1991
7. Proceeds of Crime (Bailiwick of Guernsey) Law, 1999
8. Income Tax (Guernsey) Law, 1975
9. Extradition (Bailiwick of Guernsey) Law, 2011
10. Sanctions (Bailiwick of Guernsey) Law, 2018
11. Terrorist Asset Freezing (Bailiwick of Guernsey) Law,
12. Terrorism and Crime (Bailiwick of Guernsey) Law, 2002
13. Charities and non-Profit Organisations (Registration) (Sark) Law, 2010"