

BILLET D'ÉTAT No. XIII, 2006

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PROJET DE LOI

ENTITLED

The Criminal Justice (Attempts, Conspiracy and Jurisdiction) (Bailiwick of Guernsey) Law, 2006

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PROJET DE LOI

ENTITLED

The Criminal Justice (Attempts, Conspiracy and Jurisdiction) (Bailiwick of Guernsey) Law, 2006

THE STATES, in pursuance of their Resolutions of the 30th September, 1998^a and the 27th April 2006^b, 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.

PART I

ATTEMPTS, ETC

Attempts

Attempting to commit an offence.

1. (1) If, with intent to commit an offence to which this section applies, a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.

(2) A person may be guilty of attempting to commit an offence to which this section applies even though the facts are such that the commission of the offence is impossible.

^a Article XVI of Billet d'État No. XXI of 1998.

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

- (3) In any case where -
- (a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit an offence, but
 - (b) if the facts of the case had been as he believed them to be, his intention would be so regarded,

then, for the purposes of subsection (1), he shall be regarded as having had an intent to commit that offence.

(4) This section applies to any offence which, if it were completed, would be triable in the Bailiwick as an indictable offence, other than -

- (a) conspiracy (at common law or under Part II of this Law or any other enactment),
- (b) aiding, abetting, counselling or procuring the commission of an offence,
- (c) offences under section 2(1) (assisting offenders) or section 3(1) (accepting consideration for not disclosing information about arrestable offence) of the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006.

Extended jurisdiction in relation to certain attempts.

2. (1) If this section applies to an act, what the person doing the act

had in view shall be treated as an offence to which section 1 applies.

- (2) This section applies to an act if -
 - (a) it is done in the Bailiwick, and
 - (b) it would fall within section 1(1) as more than merely preparatory to the commission of -
 - (i) a Group A offence, or
 - (ii) an offence under section 3 of the Computer Misuse (Bailiwick of Guernsey) Law, 1991^c (unauthorised modification of computer material),

but for the fact that the offence, if completed, would not be an offence triable in the Bailiwick.

(3) In this section "**Group A offence**" has the meaning given by section 14(2).

(4) Subsection (1) is subject to section 19.

(5) Where a person does any act to which this section applies, the offence which he commits shall for all purposes be treated as the offence of attempting to commit the relevant Group A offence or, as the case may be, the offence under section 3 of the Computer Misuse (Bailiwick of Guernsey) Law,

^c Order in Council No. VIII of 1991.

1991.

Application of procedural and other provisions to offences under section 1.

3. (1) Any provision to which this section applies shall have effect with respect to an offence under section 1 of attempting to commit an offence as it has effect with respect to the offence attempted.

(2) This section applies to provisions of any of the following descriptions made by or under any enactment (whenever passed) -

- (a) provisions whereby proceedings may not be instituted or carried on otherwise than by, or on behalf or with the consent of, any person (including any provisions which also make other exceptions to the prohibition),
- (b) provisions conferring power to institute proceedings,
- (c) provisions as to the venue of proceedings,
- (d) provisions whereby proceedings may not be instituted after the expiration of a time limit,
- (e) provisions conferring a power of arrest or search,
- (f) provisions conferring a power of seizure and detention of property,
- (g) provisions whereby a person may not be convicted or committed for trial on the uncorroborated evidence of one witness (including any provision requiring the

evidence of not less than two credible witnesses),

- (h) provisions conferring a power of forfeiture, including any power to deal with anything liable to be forfeited,
- (i) provisions whereby, if an offence committed by a body corporate is proved to have been committed with the consent or connivance of another person, that person is also guilty of the offence.

Specific offences of attempt

Offences of attempt under other enactments.

4. (1) Subsections (2) to (5) have effect, subject to subsection (6) and to any inconsistent provision in any other enactment, for the purpose of determining whether a person is guilty of an attempt under a special statutory provision.

(2) For the purposes of this Law an attempt under a special statutory provision is an offence which -

- (a) is created by an enactment other than section 1, including an enactment passed after this Law, and
- (b) is expressed as an offence of attempting to commit another offence (in this section referred to as "the relevant full offence").

(3) A person is guilty of an attempt under a special statutory provision if, with intent to commit the relevant full offence, he does an act which is

more than merely preparatory to the commission of that offence.

(4) A person may be guilty of an attempt under a special statutory provision even though the facts are such that the commission of the relevant full offence is impossible.

(5) In any case where -

- (a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit the relevant full offence, but
- (b) if the facts of the case had been as he believed them to be, his intention would be so regarded,

then, for the purposes of subsection (3), he shall be regarded as having had an intent to commit that offence.

(6) Subsections (2) to (5) do not have effect in relation to an act done before the commencement of this Law.

Trial, etc, of offences of attempt

Trials and penalties.

5. (1) A person guilty by virtue of section 1 of attempting to commit an offence -

- (a) is, if the offence attempted is murder or any other offence the sentence for which is fixed by law, liable on conviction on indictment to imprisonment for life,

- (b) is, if the offence attempted is indictable but does not fall with paragraph (a), liable on conviction on indictment to any penalty to which he would have been liable on conviction on indictment of that offence, and
- (c) is, if the offence attempted is triable either on indictment or summarily, liable on summary conviction to any penalty to which he would have been liable on summary conviction of that offence.

(2) In any case in which a court may proceed to summary trial of a person charged with an offence, and charged under section 1 of attempting to commit it, or an attempt under a special statutory provision, the court may, without his consent, try the charges together.

(3) Where, in proceedings against a person for an offence under section 1, there is evidence sufficient in law to support a finding that he did an act falling within subsection (1) of that section, the question of whether or not his act fell within that subsection is a question of fact.

(4) Where, in proceedings against a person for an attempt under a special statutory provision, there is evidence sufficient in law to support a finding that he did an act falling within section 4(3), the question of whether or not his act fell within that section is a question of fact.

Supplementary

Effect of Part I on common law.

6. (1) The offence of attempt at common law and any offence at

common law of procuring materials for crime are abolished for all purposes not relating to acts done before the commencement of this Law.

(2) Except as regards offences committed before the commencement of this Law, references in any enactment passed before this Law which fall to be construed as references to the offence of attempt at common law shall be construed as references to the offence under section 1.

PART II CONSPIRACY

Conspiracy - general

The offence of conspiracy.

7. (1) Subject to the following provisions of this Part of this Law, if a person agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either -

- (a) will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement, or
- (b) would do so but for the existence of facts which render the commission of the offence or any of the offences impossible,

he is guilty of conspiracy to commit the offence or offences in question.

(2) Where liability for any offence may be incurred without

knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of the offence, a person shall nevertheless not be guilty of conspiracy to commit that offence by virtue of subsection (1) unless he and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.

(3) In this Part of this Law "**offence**" means an offence triable in the Bailiwick.

Conspiracy to commit offences outside the Bailiwick.

8. (1) Where each of the following conditions is satisfied in the case of an agreement, this Part of this Law has effect in relation to the agreement as it has effect in relation to an agreement falling within section 7(1).

(2) The first condition is that the pursuit of the agreed course of conduct would at some stage involve -

- (a) an act by one or more of the parties, or
- (b) the happening of some other event,

intended to take place in a country or territory outside the Bailiwick.

(3) The second condition is that the act or other event constitutes an offence under the law in force in that country or territory.

(4) The third condition is that the agreement would fall within section 7(1) as an agreement relating to the commission of an offence but for the fact that the offence would not be an offence triable in the Bailiwick if committed in

accordance with the parties' intentions.

- (5) The fourth condition is that -
- (a) a party to the agreement, or a party's agent, did anything in the Bailiwick in relation to the agreement before its formation,
 - (b) a party to the agreement became a party in the Bailiwick (by joining it either in person or through an agent), or
 - (c) a party to the agreement, or a party's agent, did or omitted anything in the Bailiwick in pursuance of the agreement.

(6) In the application of this Part of this Law to an agreement in the case of which each of the above conditions is satisfied, a reference to an offence is to be read as a reference to what would be the offence in question but for the fact that it is not an offence triable in the Bailiwick.

(7) Conduct punishable under the law in force in any country or territory is an offence under that law for the purposes of this section, however it is described in that law.

(8) Subject to subsection (9), the second condition is to be taken to be satisfied unless, not later than specified by the court, the defence serve on Her Majesty's Procureur a notice -

- (a) stating that, on the facts as alleged with respect to the

agreed course of conduct, the condition is not in their opinion satisfied,

- (b) showing their grounds for that opinion, and
- (c) requiring the prosecution to show that it is satisfied.

(9) The court may permit the defence to require the prosecution to show that the second condition is satisfied without the prior service of a notice under subsection (8).

(10) In the Royal Court the question whether the second condition is satisfied shall be decided by the Bailiff alone, and shall be treated as a question of law.

(11) Any act done by means of a message (however communicated) is to be treated for the purposes of the fourth condition as done in the Bailiwick if the message is sent or received in the Bailiwick.

(12) In any proceedings in respect of an offence triable by virtue of this section, it is immaterial to guilt whether or not the accused was a British citizen at the time of any act or other event proof of which is required for conviction of the offence.

(13) References in any enactment, instrument or document (except those in this Part of this Law) to an offence of conspiracy to commit an offence include an offence triable in the Bailiwick as such a conspiracy by virtue of this section (without prejudice to subsection (6)).

(14) Nothing in this section -

- (a) applies to an agreement entered into before this Law comes into force, or
- (b) imposes criminal liability on any person acting on behalf of, or holding office under, the Crown..

Exemptions from liability for conspiracy.

9. (1) A person is not by virtue of section 7 guilty of conspiracy to commit any offence if he is an intended victim of that offence.

(2) A person is not by virtue of section 7 guilty of conspiracy to commit any offence or offences if the only other person or persons with whom he agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions -

- (a) his spouse,
- (b) a person under the age of criminal responsibility, and
- (c) an intended victim of that offence or of each of those offences.

Penalties for conspiracy.

10. (1) A person guilty by virtue of section 7 of conspiracy to commit any offence or offences is liable on conviction on indictment -

- (a) in a case falling within subsection (2) or (3), to imprisonment for a term related in accordance with that subsection to the gravity of the offence or offences

in question (referred to below in this section as the "**relevant**" offence or offences), and

(b) in any other case, to a fine.

(2) Where the relevant offence or any of the relevant offences is an offence of any of the following descriptions -

(a) murder or any other offence the sentence for which is fixed by law,

(b) an offence for which a sentence extending to imprisonment for life is provided, or

(c) an indictable offence punishable with imprisonment for which no maximum term of imprisonment is provided,

the person convicted is liable to imprisonment for life.

(3) Where in a case other than one to which subsection (2) applies the relevant offence or any of the relevant offences is punishable with imprisonment, the person convicted is liable to imprisonment for a term not exceeding the maximum term provided for that offence or (where more than one such offence is in question) for any one of those offences (taking the longer or the longest term as the limit for the purposes of this section where the terms provided differ).

In the case of an offence triable either on indictment or summarily the references in this subsection to the maximum term provided for that offence are references to the maximum term so provided on conviction on indictment.

Abolitions, savings and transitional provisions.

11. (1) Subject to the following provisions of this section, the offence of conspiracy at common law is abolished.

(2) Subsection (1) does not affect the offence of conspiracy at common law so far as relates to conspiracy to defraud.

(3) Subsection (1) does not affect any offence of conspiracy at common law if and in so far as it may be committed by entering into an agreement to engage in conduct which -

(a) tends to corrupt public morals or outrages public decency, but

(b) would not amount to or involve the commission of an offence if carried out by a single person otherwise than in pursuance of an agreement.

(4) Subsection (1) does not affect -

(a) any proceedings commenced before the time when this Part of this Law comes into force, or

(b) any proceedings commenced after that time against a person charged with the same conspiracy as that charged in any proceedings commenced before that time.

(5) Sections 7 and 9 apply to things done before as well as to

things done after the time when this Part of this Law comes into force.

(6) The rules laid down by sections 7 and 9 apply for determining whether a person is guilty of an offence of conspiracy under any enactment other than section 7, but conduct which is an offence under any such other enactment is not also an offence under section 7.

(7) Incitement to commit the offence of conspiracy (whether the conspiracy incited would be an offence at common law or under section 7 or any other enactment) shall cease to be an offence.

(8) The fact that the person or persons who, so far as appears from the indictment on which any person has been convicted of conspiracy, were the only other parties to the agreement on which his conviction was based have been acquitted of conspiracy by reference to that agreement (whether after being tried with the person convicted or separately) is not a ground for quashing his conviction unless under all the circumstances of the case his conviction is inconsistent with the acquittal of the other person or persons in question.

(9) Any rule of law or practice inconsistent with the provisions of subsection (8) is abolished.

Conspiracy to defraud

Charges of and penalty for conspiracy to defraud.

12. (1) If -

- (a) a person agrees with any other person or persons that a course of conduct shall be pursued, and

- (b) that course of conduct will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement if the agreement is carried out in accordance with their intentions,

the fact that it will do so does not preclude a charge of conspiracy to defraud being brought against any of them in respect of the agreement.

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

Conspiracy to defraud - jurisdiction.

13. (1) A person may be guilty of conspiracy to defraud if -

- (a) a party to the agreement constituting the conspiracy, or a party's agent, did anything in the Bailiwick in relation to the agreement before its formation,
- (b) a party to it became a party in the Bailiwick (by joining it either in person or through an agent), or
- (c) a party to it, or a party's agent, did or omitted anything in the Bailiwick in pursuance of it,

and the conspiracy would be triable in the Bailiwick but for the fraud which the parties to it had in view not being intended to take place in the Bailiwick.

(2) Subsection (1) is subject to section 19.

PART III
JURISDICTION

Offences to which this Part applies.

14. (1) This Part applies to two groups of offences -
- (a) any offence mentioned in subsection (2) (a "**Group A offence**"), and
 - (b) any offence mentioned in subsection (3) (a "**Group B offence**").
- (2) The Group A offences are -
- (a) an offence under any of the following provisions of the Theft (Bailiwick of Guernsey) Law, 1983^d -
 - (i) section 1 (theft),
 - (ii) section 15 (obtaining property by deception),
 - (iii) section 15A (obtaining a money transfer by deception),
 - (iv) section 16 (obtaining a pecuniary advantage by deception),

^d Ordres en Conseil Vol. XXVIII, p. 5; No. I of 1991; No. IX of 1996; and No. XII of 1999.

- (v) section 17 (obtaining services by deception),
 - (vi) section 18 (evasion of liability by deception),
 - (vii) section 19 (false accounting),
 - (viii) section 21 (false statements by company directors, etc),
 - (ix) section 22(2) (procuring execution of valuable security by deception),
 - (x) section 23 (blackmail),
 - (xi) section 25 (handling stolen goods),
 - (xii) section 27A (dishonestly retaining a wrongful credit),
- (b) an offence under any of the following provisions of the Forgery and Counterfeiting (Bailiwick of Guernsey) Law, 2006 -
- (i) section 1 (forgery),
 - (ii) section 2 (copying a false instrument),
 - (iii) section 3 (using a false instrument),

- (iv) section 4 (using a copy of a false instrument),
 - (v) section 5 (offences relating to money orders, share certificates, passports, etc),
 - (vi) section 12 (counterfeiting notes and coins),
 - (vii) section 13 (passing, etc, counterfeit notes and coins),
 - (viii) section 14 (offences involving custody or control of counterfeit notes and coins),
 - (ix) section 15 (offences involving making or custody or control of counterfeiting materials and implements),
 - (x) section 18 (prohibition of importation of counterfeit notes and coins),
 - (xi) section 19 (prohibition of exportation of counterfeit notes and coins).
- (3) The Group B offences are -
- (a) conspiracy to commit a Group A offence,
 - (b) conspiracy to defraud,
 - (c) attempting to commit a Group A offence,

(d) incitement to commit a Group A offence.

(4) The States may by Ordinance amend subsection (2) or (3) by adding or removing any offence.

Jurisdiction in respect of Group A offences.

15. (1) For the purposes of this Part "**relevant event**", in relation to any Group A offence, means any act or omission or other event (including any result of one or more acts or omissions) proof of which is required for conviction of the offence.

(2) For the purpose of determining whether or not a particular event is a relevant event in relation to a Group A offence, any question as to where it occurred is to be disregarded.

(3) A person may be guilty of a Group A offence if any of the events which are relevant events in relation to the offence occurred in the Bailiwick.

Questions immaterial to jurisdiction in the case of certain offences.

16. (1) A person may be guilty of a Group A or Group B offence whether or not -

(a) he was a British citizen at any material time,

(b) he was in the Bailiwick at any such time.

(2) On a charge of conspiracy to commit a Group A offence, or on a charge of conspiracy to defraud in the Bailiwick, the defendant may be guilty of the offence whether or not -

- (a) he became a party to the conspiracy in the Bailiwick,
- (b) any act or omission or other event in relation to the conspiracy occurred in the Bailiwick.

(3) On a charge of attempting to commit a Group A offence, the defendant may be guilty of the offence whether or not -

- (a) the attempt was made in the Bailiwick,
- (b) it had an effect in the Bailiwick.

(4) Subsection (1)(a) does not apply where jurisdiction is given to try the offence in question by an enactment which makes provision by reference to the nationality of the person charged.

(5) Subsection (2) does not apply in relation to any charge of conspiracy brought by virtue of section 8.

(6) Subsection (3) does not apply in relation to any charge of attempting to commit a Group A offence brought by virtue of section 2.

Rules for determining certain jurisdictional questions relating to location of events.

17. In relation to a Group A or Group B offence -

- (a) there is an obtaining of property in the Bailiwick if the property is either despatched from or received at a place in the Bailiwick, and

- (b) there is a communication in the Bailiwick of any information, instruction, request, demand or other matter if it is sent by any means -
 - (i) from a place in the Bailiwick to a place elsewhere, or
 - (ii) from a place elsewhere to a place in the Bailiwick.

Incitement.

18. (1) A person may be guilty of incitement to commit a Group A offence if the incitement -

- (a) takes place in the Bailiwick, and
- (b) would be triable in the Bailiwick but for what the person charged had in view not being an offence triable in the Bailiwick.

(2) Subsection (1) is subject to section 19.

Relevance of external law.

19. (1) A person is guilty of an offence triable by virtue of section 13 only if the pursuit of the agreed course of conduct would at some stage involve -

- (a) an act or omission by one or more of the parties, or
- (b) the happening of some other event,

constituting an offence under the law in force where the act, omission or other event was intended to take place.

(2) A person is guilty of an offence triable by virtue of section 2 or by virtue of section 18 only if what he had in view would involve the commission of an offence under the law in force where the whole or any part of it was intended to take place.

(3) Conduct punishable under the law in force in any place is an offence under that law for the purposes of this section, however it is described in that law.

(4) Subject to subsection (6), a condition specified in subsection (1) or (2) shall be taken to be satisfied unless, not later than specified by the court, the defence serve on Her Majesty's Procureur a notice -

- (a) stating that, on the facts as alleged with respect to the relevant conduct, the condition is not in their opinion satisfied,
- (b) showing their grounds for that opinion, and
- (c) requiring the prosecution to show that it is satisfied.

(5) In subsection (4) "**the relevant conduct**" means -

- (a) where the condition in subsection (1) is in question, the agreed course of conduct, and

(b) where the condition in subsection (2) is in question, what the defendant had in view.

(6) The court, if it thinks fit, may permit the defence to require the prosecution to show that the condition is satisfied without the prior service of a notice under subsection (4).

(7) In the Royal Court the question whether the condition is satisfied shall be decided by the Bailiff alone.

Application of Part III.

20. Nothing in any provision of this Part of this Law applies to any act, omission or other event occurring before the commencement of that provision.

PART IV

INTERPRETATION, CITATION AND COMMENCEMENT

Interpretation.

21. (1) In this Law -

"Bailiwick" means the Bailiwick of Guernsey,

"Bailiff" means the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff or the Juge Délégué,

"Group A offence" : see section 14(2),

"Group B offence" : see section 14(3),

"Her Majesty's Procureur" includes Her Majesty's Comptroller,

"Magistrate's Court" means -

- (a) in Alderney, the Court of Alderney, and
- (b) in Sark, the Court of the Seneschal,

"offence" (in Part II) : see section 7(3).

(2) The Interpretation (Guernsey) Law, 1948^e 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.

Power to amend Law by Ordinance.

22. (1) The States may by Ordinance amend this Law.

(2) The provisions of subsection (1) are without prejudice to any other provision of this Law conferring power to enact Ordinances (and vice versa).

(3) An Ordinance under this Law -

- (a) may, for the avoidance of doubt -
 - (i) create new offences, and

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

- (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 and transitional provision 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.

23. This Law may be cited as the Criminal Justice (Attempts, Conspiracy and Jurisdiction) (Bailiwick of Guernsey) Law, 2006.

Commencement.

24. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions.

PROJET DE LOI

ENTITLED

The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006

ARRANGEMENT OF SECTIONS

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1. Threats to kill.

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Administration of poisons

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9. Maliciously administering poison, etc, with intent to injure, aggrieve, or annoy.

Indecent photographs of children

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12. Amendment of Misuse of Drugs Law.

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13. Intimidation etc. of persons concerned in administration of justice.
14. Intimidation etc. of witnesses and others.

Terrorism and Crime Law

15. Amendment of Terrorism and Crime Law.

Administration of Justice Law

16. Amendment of Administration of Justice Law.

Summary Offences Law

17. Amendment of Summary Offences Law.

Interpretation, etc

18. Interpretation.
19. Power to amend Law by Ordinance.
20. Citation.
21. Commencement.

SCHEDULE 1: List of persons for the purposes of section 13.

SCHEDULE 2: Power to amend Law by Ordinance.

PROJET DE LOI

ENTITLED

The Criminal Justice (Miscellaneous Provisions) (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.

Threats to kill

Threats to kill.

1. (1) A person who without lawful excuse makes to another person a threat, intending that that other person would fear it would be carried out, to kill that other person or a third person is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable -

(a) on conviction on indictment, to imprisonment for a term not exceeding 10 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.

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

*Assisting offenders***Assisting offenders.**

2. (1) Where a person has committed an arrestable offence, any other person who, knowing or believing him to be guilty of the offence or of some other arrestable offence, does without lawful authority or reasonable excuse any act with intent to impede his apprehension or prosecution is guilty of an offence.

(2) An "**arrestable offence**" means -

- (a) an offence for which the sentence is fixed by law, and
- (b) an offence for which a person of 21 years of age or over (not previously convicted) may be sentenced to imprisonment.

(3) If on the trial on indictment of an arrestable offence the Jurats are satisfied that the offence charged (or some other offence of which the accused might on that charge be found guilty) was committed, but find the accused not guilty of it, they may find him guilty of any offence under subsection (1) of which they are satisfied he is guilty in relation to the offence charged (or that other offence).

(4) A person committing an offence under subsection (1) with intent to impede the apprehension or prosecution of another person is liable -

- (a) on conviction on indictment, to imprisonment according to the gravity of the other person's offence as set out in subsection (5), 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.

(5) For the purposes of subsection (4)(a), the person committing the offence under subsection (1) is liable to imprisonment as follows -

- (a) if the other person's offence is one for which the sentence is fixed by law, he is liable to imprisonment for a term not exceeding 10 years,
- (b) if it is one for which a person (not previously convicted) may be sentenced to imprisonment for a term of 14 years, he is liable to imprisonment for a term not exceeding 7 years,
- (c) if it is not one included in paragraph (a) or (b) but is one for which a person (not previously convicted) may be sentenced to imprisonment for a term of 10 years, he is liable to imprisonment for a term not exceeding 5 years,
- (d) in any other case, he is liable to imprisonment for a term not exceeding 3 years.

Concealing offences and giving false information.

3. (1) Where a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence has been committed, and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or

agrees to accept for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable -
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
 - (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(3) The compounding of an offence other than treason is not an offence otherwise than under this section.

Offensive weapons

Prohibition of carrying offensive weapon without lawful authority, etc.

4. (1) A person who, without lawful authority or reasonable excuse, proof of which shall lie on him, has with him in a public place an offensive weapon is guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 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.

(2) Where a person is convicted of an offence under subsection (1) the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.

(3) In this Law -

"**offensive weapon**" means an article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him or by some other person, and

"**public place**" means any highway and any other premises or place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

Articles with blades

Offence of having article with blade or point in public place.

5. (1) Subject to subsections (4) and (5), a person who has an article to which this section applies with him in a public place is guilty of an offence.

(2) Subject to subsection (3), this section applies to any article which has a blade or is sharply pointed except a folding pocket-knife.

(3) This section applies to a folding pocket-knife if the cutting edge of its blade exceeds 3 inches.

(4) It is a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.

(5) Without prejudice to the generality of subsection (4), it is a defence for a person charged with an offence under this section to prove that he had the article with him -

- (a) for use at work,
- (b) for religious reasons, or
- (c) as part of any national costume.

(6) A person guilty of an offence under subsection (1) is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Offence of having article with blade or point, or offensive weapon, on school premises.

6. (1) A person who has an article to which section 5 applies with him on school premises is guilty of an offence.

(2) A person who has an offensive weapon with him on school premises is guilty of an offence.

(3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that he had good reason or lawful authority for having

the article or weapon with him on the premises in question.

(4) Without prejudice to the generality of subsection (3), it is a defence for a person charged with an offence under subsection (1) or (2) to prove that he had the article or weapon in question with him -

- (a) for use at work,
- (b) for educational purposes,
- (c) for religious reasons, or
- (d) as part of any national costume.

(5) A person guilty of an offence -

- (a) under subsection (1) is liable -
 - (i) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
 - (ii) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the uniform scale, or to both,
- (b) under subsection (2) is liable -
 - (i) on conviction on indictment, to imprisonment

for a term not exceeding 5 years, or to a fine,
or to both,

- (ii) 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.

(6) In this Law "**school premises**" means land used for the purpose of a school excluding any land occupied solely as a dwelling by a person employed at the school, and a "**school**" means an educational establishment in the Bailiwick.

Power of entry to search for articles with blade or point or offensive weapons.

7. (1) A police officer may enter school premises and search those premises and any person on those premises for -

- (a) any article to which section 5 applies, or
- (b) any offensive weapon,

if he has reasonable grounds for believing that an offence under section 6 is being or has been committed.

(2) If in the course of a search under this section a police officer discovers an article or weapon which he has reasonable grounds for suspecting to be an article or weapon of a kind described in subsection (1), he may seize and retain it.

(3) The police officer may use reasonable force, if necessary, in

the exercise of the power of entry conferred by this section.

Administration of poisons

Maliciously administering poison, etc, so as to endanger life or inflict grievous bodily harm.

8. (1) A person who unlawfully and maliciously administers to, or causes to be administered to or taken by, another person any poison or other destructive or noxious thing so as thereby to endanger the life of that person, or so as thereby to inflict on that person any grievous bodily harm, is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable -
- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 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.

Maliciously administering poison, etc, with intent to injure, aggrieve, or annoy.

9. (1) A person who unlawfully and maliciously administers to, or causes to be administered to or taken by, another person any poison or other destructive or noxious thing with intent to injure, aggrieve, or annoy that person is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable -
- (a) on conviction on indictment, to imprisonment for a

term not exceeding 5 years, or to a fine, or to both,

- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Indecent photographs of children

Amendment of Protection of Children Law.

10. (1) The Protection of Children (Bailiwick of Guernsey) Law, 1985^b is amended as follows.

- (2) For section 3A(4)^c substitute the following subsection -

"(4) A person guilty of an offence under this section is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 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."

^b Ordres en Conseil Vol. XXIX, p. 103; amended by No. I of 1991 and No. I of 2003.

^c Section 3A was inserted by No. I of 1991.

- (3) In section 8 the words "or section 3" are repealed.
- (4) After section 8 insert the following section -

"Punishment for offence under section 3.

8A. A person guilty of an offence under section 3 is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 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."

Corporal punishment

Abolition of judicial corporal punishment.

- 11.** The Corporal Punishment (Guernsey) Law, 1957^d is repealed.

Misuse of Drugs Law

Amendment of Misuse of Drugs Law.

- 12.** (1) The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974^e is amended as follows.

^d Ordres en Conseil Vol. XVII, p. 275.

^e Ordres en Conseil Vol. XXIV, p. 273.

(2) In section 26(1) after the words "an offence under this Law" insert "or a drug trafficking offence within the meaning of section 1(3) of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000^f".

(3) After section 34 insert a section 35 entitled "Amendment of Law by Ordinance" containing the provisions set out in paragraph 1 of Schedule 2 to this Law.

Intimidation

Intimidation etc. of persons concerned in administration of justice.

13. (1) A person who -

- (a) utters or sends threats to, or
- (b) in any way intimidates or menaces,

a person listed in Schedule 1 or any member of the family of a person so listed is guilty of an offence.

(2) A person guilty of an offence under this section is liable -

- (a) on conviction on indictment, to imprisonment for a period not exceeding 10 years, or to a fine, or to both.
- (b) on summary conviction, to a period of imprisonment not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

^f Order in Council No. VII of 2000.

(3) A "**member of the family**" in relation to an individual means the spouse, parent, grandparent, step-parent, child (including a step-child or an adopted child), grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece of the individual or of the individual's spouse, or any person who is cohabiting or residing with the individual.

Intimidation etc. of witnesses and others.

14. (1) A person commits an offence if -

- (a) he does an act which intimidates, and is intended to intimidate, another person ("**the victim**"),
- (b) he does the act knowing or believing that the victim is assisting in the investigation of an offence or is a witness or potential witness in proceedings for an offence, and
- (c) he does it intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with.

(2) A person commits an offence if -

- (a) he does an act which harms, and is intended to harm, another person or, intending to cause another person to fear harm, he threatens to do an act which would harm that other person,
- (b) he does or threatens to do the act knowing or believing

that the person harmed or threatened to be harmed ("**the victim**"), or some other person, has assisted in an investigation of an offence or has given evidence or particular evidence in proceedings for an offence, and

- (c) he does or threatens to do it because of that knowledge or belief.

(3) For the purposes of subsections (1) and (2) it is immaterial that the act is or would be done, or that the threat is made -

- (a) otherwise than in the presence of the victim, or
- (b) to a person other than the victim.

(4) The harm that may be done or threatened may be financial as well as physical (whether to the person or a person's property) and similarly as respects an intimidatory act which consists of threats.

(5) The intention required by subsection (1)(c) and the motive required by subsection (2)(c) need not be the only or the predominating intention or motive with which the act is done or, in the case of subsection (2), threatened.

(6) A person guilty of an offence under this section is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both,
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding

level 5 on the uniform scale, or to both,

(7) If, in proceedings against a person for an offence under subsection (1), it is proved that he did an act falling within paragraph (a) of that subsection with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the intention required by paragraph (c).

(8) If, in proceedings against a person for an offence under subsection (2), it is proved that within the relevant period -

- (a) he did an act which harmed, and was intended to harm, another person, or
- (b) intending to cause another person fear of harm, he threatened to do an act which would harm that other person,

and that he did the act, or (as the case may be) threatened to do the act, with the knowledge or belief required by paragraph (b) of that subsection, he shall be presumed, unless the contrary is proved, to have done the act or (as the case may be) threatened to do the act with the motive required by paragraph (c).

(9) In this section -

"investigation of an offence" means such an investigation by the police or other person charged with the duty of investigating offences or charging offenders,

"offence" includes an alleged or suspected offence, and

"relevant period" -

- (a) in relation to a witness in any proceedings for an offence, means the period beginning with the institution of the proceedings and ending with the first anniversary of the conclusion of the trial or, if there is an appeal, of the conclusion of the appeal,
- (b) in relation to a person who has, or is believed by the accused to have, assisted in an investigation of an offence, but was not also a witness in proceedings for an offence, means the period of one year beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation, and
- (c) in relation to a person who both has, or is believed by the accused to have, assisted in the investigation of an offence and was a witness in proceedings for the offence, means the period beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation and ending with the anniversary mentioned in paragraph (a).

(10) For the purposes of the definition of the relevant period in subsection (9) -

- (a) proceedings for an offence are instituted at the earliest of the following times -

- (i) when a summons or warrant is issued in respect of the offence, or
 - (ii) when a person is charged with the offence,
- (b) proceedings at a trial of an offence are concluded with the occurrence of any of the following -
- (i) the discontinuance of the prosecution,
 - (ii) the acquittal of the accused, or
 - (iii) the sentencing of or other dealing with the accused for the offence of which he was convicted, and
- (c) proceedings on appeal are concluded on the determination or abandonment of the appeal.

(11) This section is in addition to, and not in derogation from, any offences subsisting at common law.

Terrorism and Crime Law

Amendment of Terrorism and Crime Law.

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

^g Order in Council No. XVI of 2002.

- (2) After section 81 insert the following section -

"Amendment of Law by Ordinance.

81A. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders, regulations or rules (and vice versa).".

- (3) For paragraph 14(1) of schedule 8 substitute the following subparagraph -

"(1) This paragraph applies to a ship or aircraft which -

(a) arrives or is expected to arrive in any place in the Bailiwick, whether from another place in the Bailiwick or from outside the Bailiwick, or

(b) leaves or is expected to leave the Bailiwick.".

- (4) After paragraph 14(4)(c) of schedule 8 insert the following item -

"or (d) to goods.".

- (5) After paragraph 14(6) of schedule 8 insert the following subparagraph -

"(7) An examining officer may require that specified information be provided by the owners or agents of a ship or aircraft in electronic form."

Administration of Justice Law

Amendment of Administration of Justice Law.

16. (1) The Administration of Justice (Bailiwick of Guernsey) Law, 1991^h is amended as follows.

(2) In section 1(1) for the words "other than" substitute "including".

(3) After section 19 insert a section 20 entitled "Amendment of Law by Ordinance" containing the provisions set out in paragraph 1 of Schedule 2 to this Law.

Summary Offences Law

Amendment of Summary Offences Law.

17. (1) The Summary Offences (Bailiwick of Guernsey) Law, 1982ⁱ is amended as follows.

(2) In section 1, paragraph (l)^j (offensive weapons) is repealed.

^h Order in Council No. I of 1991.

ⁱ Ordres en Conseil Vol. XXVII, p. 397.

^j Paragraph (l) was inserted by Ordres en Conseil Vol. XXVIII, p. 436.

(3) In section 7(1), the definition of "offensive weapon"^k is repealed.

(4) After section 12 insert a section 13 entitled "Amendment of Law by Ordinance" containing the provisions set out in paragraph 1 of Schedule 2 to this Law.

Interpretation etc.

Interpretation.

18. (1) In this Law -

"arrestable offence" : see section 2(2),

"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^l,

"immigration officer" means a person appointed as such under the Immigration Act 1971^m,

"offensive weapon" : see section 4(3),

^k The definition of offensive weapon was inserted by Ordres en Conseil Vol. XXVIII, p. 436.

^l Ordres en Conseil Vol. XXIII, p. 573; amended by Orders in Council No. XIII of 1991 and No. X of 2004.

^m An Act of Parliament (1971 c. 77); extended to the Bailiwick by the Immigration (Guernsey) Order 1993 (No. 1796).

"police officer" means -

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

"prison officer" and **"probation officer"** mean a person employed in that capacity by the States of Guernsey Home Department,

"public place" : see section 4(3),

"school" and **"school premises"** : see section 6(6),

ⁿ Order in Council No. III of 2005.

"**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^o.

(2) The Interpretation (Guernsey) Law, 1948^p 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.

Power to amend Law by Ordinance.

19. The provisions of Schedule 2 have effect for the purposes of this Law.

Citation.

20. This Law may be cited as the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006.

Commencement.

21. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions.

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

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

SCHEDULE 1
LIST OF PERSONS FOR THE PURPOSES OF SECTION 13

Guernsey

1. The Bailiff, the Deputy Bailiff, a Lieutenant Bailiff or the Juge Délégué.
2. A Judge of the Court of Appeal.
3. A Jurat of the Royal Court.
4. The Magistrate or an Assistant Magistrate.
5. Her Majesty's Procureur or a Procureur Délégué.
6. Her Majesty's Comptroller or a Contrôle Délégué.
7. A person employed in the Chambers of the Bailiff or Law Officers of the Crown.
8. Her Majesty's Greffier or a Deputy Greffier.
9. Her Majesty's Sheriff or a Deputy Sheriff.
10. Her Majesty's Sergeant or a Deputy Sergeant.
11. A person employed in the office of Her Majesty's Greffier, Her Majesty's Sheriff or Her Majesty's Sergeant.

Alderney

12. A Jurat of the Court of Alderney.
13. The Greffier of Alderney or a Deputy Greffier.

Sark

14. The Seneschal of Sark or the Deputy Seneschal.
15. The Greffier of Sark or the Deputy Greffier.
17. The Prevôt of Sark or the Deputy Prevôt.

18. The Constable of Sark.
17. The Vingtenier of Sark.
19. A special constable in Sark.

Other offices

20. A member of any tribunal created by or under any enactment of the Bailiwick or any part thereof.
21. A police officer.
22. A customs officer.
23. A prison officer.
24. A probation officer.
25. An immigration officer.

SCHEDULE 2
POWER TO AMEND LAW BY ORDINANCE

Amendment of Law by Ordinance.

1. (1) The States may by Ordinance amend this Law.
 - (2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders or 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 and transitional provision 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.

2. Pursuant to sections 12, 16 and 17, the provisions of paragraph 1 have effect also for the purposes of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, the Administration of Justice (Bailiwick of Guernsey) Law, 1991 and the Summary Offences (Bailiwick of Guernsey) Law, 1982.

PROJET DE LOI

ENTITLED

The Forgery and Counterfeiting (Bailiwick of Guernsey) Law, 2006

ARRANGEMENT OF SECTIONS

PART I FORGERY AND KINDRED OFFENCES

Offences

1. The offence of forgery.
2. The offence of copying a false instrument.
3. The offence of using a false instrument.
4. The offence of using a copy of a false instrument.
5. Offences relating to money orders, share certificates, passports, etc.

Penalties, etc.

6. Penalties for offences under Part I.
7. Powers of search, forfeiture, etc.

Interpretation of Part I

8. Meaning of "instrument".
9. Meaning of "false" and "making".
10. Meaning of "prejudice" and "induce".

Miscellaneous

11. Abolition of offence of forgery at common law.

PART II
COUNTERFEITING AND KINDRED OFFENCES

Offences

12. Offences of counterfeiting notes and coins.
13. Offences of passing, etc, counterfeit notes and coins.
14. Offences involving custody or control of counterfeit notes and coins.
15. Offences involving making, custody or control of counterfeiting materials and implements.
16. Offence of reproducing British currency notes.
17. Offences of making, etc, imitation British coins.

Prohibition of importation and exportation of counterfeits

18. Prohibition of importation of counterfeit notes and coins.
19. Prohibition of exportation of counterfeit notes and coins.

Penalties, etc.

20. Penalties for offences under Part II.
21. Penalties for offences under Customs and Excise Law.
22. Powers of search, forfeiture, etc.
23. Directors' liability, etc.

Interpretation of Part II

24. Meaning of "currency note" and "protected coin".
25. Meaning of "counterfeit".

PART III
INTERPRETATION AND MISCELLANEOUS

26. Interpretation.
27. Power to amend Law by Ordinance.
28. Repeal.
29. Citation.
30. Commencement.

PROJET DE LOI

ENTITLED

The Forgery and Counterfeiting (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.

PART I

FORGERY AND KINDRED OFFENCES

Offences

The offence of forgery.

1. A person is guilty of forgery if he makes a false instrument with the intention that he or another shall use it to induce somebody to accept it as genuine and, by reason of so accepting it, to do or not to do some act to his own or any other person's prejudice.

The offence of copying a false instrument.

2. It is an offence for a person to make a copy of an instrument which is, and which he knows or believes to be, a false instrument with the intention that he or another shall use it to induce somebody to accept it as a copy of a genuine instrument and, by reason of so accepting it, to do or not to do some act to his own

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

or any other person's prejudice.

The offence of using a false instrument.

3. It is an offence for a person to use an instrument which is, and which he knows or believes to be, false with the intention of inducing somebody to accept it as genuine and, by reason of so accepting it, to do or not to do some act to his own or any other person's prejudice.

The offence of using a copy of a false instrument.

4. It is an offence for a person to use a copy of an instrument which is, and which he knows or believes to be, a false instrument with the intention of inducing somebody to accept it as a copy of a genuine instrument and, by reason of so accepting it, to do or not to do some act to his own or any other person's prejudice.

Offences relating to money orders, share certificates, passports, etc.

5. (1) It is an offence for a person to have in his custody or under his control an instrument to which this section applies which is, and which he knows or believes to be, false with the intention that he or another shall use it to induce somebody to accept it as genuine and, by reason of so accepting it, to do or not to do some act to his own or any other person's prejudice.

(2) It is an offence for a person to have in his custody or under his control, without lawful authority or excuse, an instrument to which this section applies which is, and which he knows or believes to be, false.

(3) It is an offence for a person to make or to have in his custody or under his control a machine or implement, or paper or any other material, which to his knowledge is or has been specially designed or adapted for the making of an instrument to which this section applies with the intention that he or another shall

make an instrument to which this section applies which is false and that he or another shall use the instrument to induce somebody to accept it as genuine and, by reason of so accepting it, to do or not to do some act to his own or any other person's prejudice.

(4) It is an offence for a person to make or to have in his custody or under his control any such machine, implement, paper or material, without lawful authority or excuse.

(5) The instruments to which this section applies are -

- (a) money orders,
- (b) postal orders,
- (c) Bailiwick postage stamps,
- (d) share certificates,
- (e) passports and documents which can be used instead of passports,
- (f) immigration documents,
- (g) cheques and other bills of exchange,
- (h) travellers' cheques,
- (i) bankers' drafts,

- (j) promissory notes,
- (k) cheque cards,
- (l) debit cards,
- (m) credit cards,
- (n) certified copies relating to an entry in a register of births, adoptions, marriages or deaths issued by Her Majesty's Greffier or a person lawfully authorised to issue certified copies relating to such entries, and
- (o) certificates relating to entries in such registers.

(6) In subsection (5)(d) "**share certificate**" means an instrument entitling or evidencing the title of a person to a share or interest -

- (a) in any public stock, annuity, fund or debt of any government, state or territory, including a state or territory which forms part of another state, or
- (b) in any stock, fund or debt of a body (whether corporate or unincorporated) established in the Bailiwick or elsewhere.

(7) In subsection (5)(f) "**immigration document**" means a card, adhesive label or other instrument which satisfies subsection (8) or (9).

(8) A card, adhesive label or other instrument satisfies this

subsection if -

- (a) it is designed to be given, in the exercise of a function under the Immigration Acts 1971 and 1988^b or any other enactment relating to immigration in force in the Bailiwick, to a person who has been granted leave to enter or remain in the Bailiwick, and
- (b) it carries information (whether or not wholly or partly electronically) about the leave granted.

(9) A card, adhesive label or other instrument satisfies this subsection if it is given to a person to confirm a right of his under the Community Treaties in respect of entry to or residence in the Bailiwick.

Penalties, etc.

Penalties for offences under Part I.

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

(2) A person guilty of an offence to which this subsection applies is liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or to both.

(3) The offences to which subsection (2) applies are offences

^b Acts of Parliament (1971 c. 77 and 1988 c. 14); extended to the Bailiwick by the Immigration (Guernsey) Order 1993 (No. 1796).

under the following provisions of this Part of this Law -

- (a) section 1,
- (b) section 2,
- (c) section 3,
- (d) section 4,
- (e) section 5(1), and
- (f) section 5(3).

(4) A person guilty of an offence under section 5(2) or 5(4) is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both.

Powers of search, forfeiture, etc.

7. (1) If it appears to the Bailiff or the appropriate judicial officer, from information given to him on oath, that there is reasonable cause to believe that a person has in his custody or under his control -

- (a) any thing which he or another has used, whether before or after the coming into force of this Law, or intends to use, for the making of any false instrument or copy of a false instrument, in contravention of section 1 or 2,
- (b) any false instrument or copy of a false instrument

which he or another has used, whether before or after the coming into force of this Law, or intends to use, in contravention of section 3 or 4, or

- (c) any thing custody or control of which without lawful authority or excuse is an offence under section 5,

the Bailiff or (as the case may be) the appropriate judicial officer may issue a warrant authorising a police officer to search for and seize the object in question and, for that purpose, to enter any premises specified in the warrant.

(2) A police officer may at any time after the seizure of any object suspected of falling within paragraph (a), (b) or (c) of subsection (1) (whether the seizure was effected by virtue of a warrant under that subsection or otherwise) apply to the Magistrate's Court for an order under this subsection with respect to the object, and the court, if it is satisfied -

- (a) that the object in fact falls within any of those paragraphs, and
- (b) that it is conducive to the public interest to do so,

may, subject to subsection (4), make such order as it thinks fit for the forfeiture of the object and its subsequent destruction or disposal.

(3) Subject to subsection (4), the court by or before which a person is convicted of an offence under this Part of this Law may order any object shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(4) The court shall not order any object to be forfeited under subsection (2) or (3) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

Interpretation of Part I

Meaning of "instrument".

8. (1) Subject to subsection (2), in this Part of this Law "**instrument**" means -

- (a) any document, whether of a formal or informal character,
- (b) any stamp issued or sold by a postal licensee, and
- (c) any disc, tape, sound track or other device on or in which information is recorded or stored by mechanical, electronic or other means.

(2) A currency note within the meaning of Part II of this Law is not an instrument for the purposes of this Part of this Law.

(3) A mark denoting payment of postage which a postal licensee authorises to be used instead of an adhesive stamp is to be treated for the purposes of this Part of this Law as if it were a stamp issued by the licensee concerned.

(4) In this section a "**postal licensee**" means a person authorised

by licence granted under the Post Office (Bailiwick of Guernsey) Law, 2001^c to provide postal services.

Meaning of "false" and "making".

9. (1) An instrument is false for the purposes of this Part of this Law -

- (a) if it purports to have been made in the form in which it is made by a person who did not in fact make it in that form,
- (b) if it purports to have been made in the form in which it is made on the authority of a person who did not in fact authorise its making in that form,
- (c) if it purports to have been made in the terms in which it is made by a person who did not in fact make it in those terms,
- (d) if it purports to have been made in the terms in which it is made on the authority of a person who did not in fact authorise its making in those terms,
- (e) if it purports to have been altered in any respect by a person who did not in fact alter it in that respect,
- (f) if it purports to have been altered in any respect on the authority of a person who did not in fact authorise the

^c Order in Council XV of 2001.

alteration in that respect,

- (g) if it purports to have been made or altered on a date on which, or at a place at which, or otherwise in circumstances in which, it was not in fact made or altered, or
- (h) if it purports to have been made or altered by an existing person but he did not in fact exist.

(2) A person is to be treated for the purposes of this Part of this Law as making a false instrument if he alters an instrument so as to make it false in any respect (whether or not it is false in some other respect apart from that alteration).

Meaning of "prejudice" and "induce".

10. (1) Subject to subsections (2) and (4), for the purposes of this Part of this Law an act or omission intended to be induced is to a person's prejudice if, and only if, it is one which, if it occurs -

- (a) will result -
 - (i) in his temporary or permanent loss of property,
 - (ii) in his being deprived of an opportunity to earn remuneration or greater remuneration, or
 - (iii) in his being deprived of an opportunity to gain a financial advantage otherwise than by way of remuneration,

- (b) will result in somebody being given an opportunity -
 - (i) to earn remuneration or greater remuneration from him, or
 - (ii) to gain a financial advantage from him otherwise than by way of remuneration, or
- (c) will be the result of his having accepted a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, in connection with his performance of any duty.

(2) An act which a person has an enforceable duty to do and an omission to do an act which a person is not entitled to do shall be disregarded for the purposes of the Part of the Law.

(3) In this Part of this Law references to inducing somebody to accept a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, include references to inducing a machine to respond to the instrument or copy as if it were a genuine instrument or, as the case may be, a copy of a genuine one.

(4) Where subsection (3) applies, the act or omission intended to be induced by the machine responding to the instrument or copy shall be treated as an act or omission to a person's prejudice.

(5) In this section "loss" includes not getting what one might get as well as parting with what one has.

*Miscellaneous***Abolition of offence of forgery at common law.**

11. The offence of forgery at common law is abolished for all purposes not relating to offences committed before the commencement of this Law.

PART II

COUNTERFEITING AND KINDRED OFFENCES

*Offences***Offences of counterfeiting notes and coins.**

12. (1) It is an offence for a person to make a counterfeit of a currency note or of a protected coin, intending that he or another shall pass or tender it as genuine.

(2) It is an offence for a person to make a counterfeit of a currency note or of a protected coin without lawful authority or excuse.

Offences of passing, etc, counterfeit notes and coins.

13. (1) It is an offence for a person -

- (a) to pass or tender as genuine any thing which is, and which he knows or believes to be, a counterfeit of a currency note or of a protected coin, or
- (b) to deliver to another any thing which is, and which he knows or believes to be, such a counterfeit, intending that the person to whom it is delivered or another shall

pass or tender it as genuine.

(2) It is an offence for a person to deliver to another, without lawful authority or excuse, any thing which is, and which he knows or believes to be, a counterfeit of a currency note or of a protected coin.

Offences involving custody or control of counterfeit notes and coins.

14. (1) It is an offence for a person to have in his custody or under his control any thing which is, and he knows or believes to be, a counterfeit of a currency note or of a protected coin, intending either to pass or tender it as genuine or to deliver it to another with the intention that he or another shall pass or tender it as genuine.

(2) It is an offence for a person to have in his custody or under his control, without lawful authority or excuse, any thing which is, and which he knows or believes to be, a counterfeit of a currency note or of a protected coin.

(3) It is immaterial for the purposes of subsections (1) and (2) that a coin or note is not in a fit state to be passed or tendered or that the making or counterfeiting of a coin or note has not been finished or perfected.

Offences involving making, custody or control of counterfeiting materials and implements.

15. (1) It is an offence for a person to make, or to have in his custody or under his control, any thing which he intends to use, or to permit any other person to use, for the purpose of making a counterfeit of a currency note or of a protected coin with the intention that it be passed or tendered as genuine.

(2) It is an offence for a person without lawful authority or excuse -

- (a) to make, or
- (b) to have in his custody or under his control,

any thing which, to his knowledge, is or has been specially designed or adapted for the making of a counterfeit of a currency note.

(3) Subject to subsection (4), it is an offence for a person to make, or to have in his custody or under his control, any implement which, to his knowledge, is capable of imparting to any thing a resemblance -

- (a) to the whole or part of either side of a protected coin,
or
- (b) to the whole or part of the reverse of the image on
either side of a protected coin.

(4) It is a defence for a person charged with an offence under subsection (3) to show -

- (a) that he made the implement or, as the case may be, had it in his custody or under his control with the written consent of the States Treasury and Resources Department ("**the Department**"), or
- (b) that he had lawful authority otherwise than by virtue of paragraph (a), or a lawful excuse, for making it or having it in his custody or under his control.

Offence of reproducing British currency notes.

16. (1) It is an offence for any person, unless the relevant authority has previously consented in writing, to reproduce on any substance whatsoever, and whether or not on the correct scale, any British currency note or any part of a British currency note.

(2) In this section -

"British currency note" means any note which -

- (a) has been lawfully issued in the Bailiwick, England and Wales, Scotland, Northern Ireland, Jersey or the Isle of Man,
- (b) is or has been customarily used as money in the country or territory where it was issued, and
- (c) is payable on demand, and

"relevant authority", in relation to a British currency note of any particular description, means the authority empowered by law to issue notes of that description.

Offences of making, etc, imitation British coins.

17. (1) It is an offence for a person -

- (a) to make an imitation British coin in connection with a scheme intended to promote the sale of any product or the making of contracts for the supply of any service, or

- (b) to sell or distribute imitation British coins in connection with any such scheme, or to have imitation British coins in his custody or under his control with a view to such sale or distribution,

unless the relevant authority has previously consented in writing to the sale or distribution of such imitation British coins in connection with that scheme.

- (2) In this section -

"British coin" means any coin which is legal tender in the Bailiwick, any part of the United Kingdom, Jersey or the Isle of Man,

"imitation British coin" means any thing which resembles a British coin in shape, size and the substance of which it is made,

"relevant authority" means -

- (a) in relation to a coin which is legal tender in the Bailiwick, the Department,
- (b) in relation to a coin which is legal tender in the United Kingdom, Her Majesty's Treasury, and
- (c) in relation to a coin which is legal tender in Jersey or the Isle of Man, the authority empowered by law to issue a coin of that description in that island.

Prohibition of importation and exportation of counterfeits

Prohibition of importation of counterfeit notes and coins.

18. The importation, landing or unloading of a counterfeit of a currency note or of a protected coin without the consent of the Department is prohibited.

Prohibition of exportation of counterfeit notes and coins.

19. The exportation of a counterfeit of a currency note or of a protected coin without the consent of the Department is prohibited.

Penalties, etc.

Penalties for offences under Part II.

20. (1) A person guilty of an offence to which this subsection applies is liable -

- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 12 months, or to both, and
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 10 years, or to both.

(2) The offences to which subsection (1) applies are offences under the following provisions of this Part of this Law -

- (a) section 12(1),
- (b) section 13(1),

(c) section 14(1), and

(d) section 15(1).

(3) A person guilty of an offence to which this subsection applies is liable -

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

(b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.

(4) The offences to which subsection (3) applies are offences under the following provisions of this Part of this Law -

(a) section 12(2),

(b) section 13(2).

(c) section 14(2),

(d) section 15(2), and

(e) section 15(3)

(5) A person guilty of an offence under section 16 or 17 is liable-

- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, and
- (b) on conviction on indictment, to a fine.

Penalties for offences under Customs and Excise Law.

21. (1) After section 23(1A)^d of the Customs and Excise Law insert the following subsection -

"(1B) In the case of an offence under subsection (1) committed in connection with the prohibition on importation, landing and unloading contained in section 18 of the Forgery and Counterfeiting (Bailiwick of Guernsey) Law, 2006, the penalty on conviction on indictment is imprisonment for a term not exceeding 10 years, or a fine, or both".

(2) After section 30(3)^e of the Customs and Excise Law insert the following subsection -

"(4) In the case of an offence under subsection (2) committed in connection with the prohibition on exportation contained in section 19 of the Forgery and Counterfeiting (Bailiwick of Guernsey) Law, 2006, the penalty on conviction on indictment is imprisonment for a term not exceeding 10 years, or a fine, or both."

^d Section 23(1A) was inserted by Order in Council No. XIII of 1991.

^e Section 30(3) was inserted by Order in Council No. XIII of 1991.

(3) After section 77(2)^f of the Customs and Excise Law insert the following subsection -

"(3) In the case of an offence under subsection (1) committed in connection with the prohibitions contained in sections 18 and 19 of the Forgery and Counterfeiting (Bailiwick of Guernsey) Law, 2006, the penalty on conviction on indictment is imprisonment for a term not exceeding 10 years, or a fine, or both."

Powers of search, forfeiture, etc.

22. (1) If it appears to the Bailiff or the appropriate judicial officer, from information given to him on oath, that there is reasonable cause to believe that a person has in his custody or under his control -

- (a) any thing which is a counterfeit of a currency note or of a protected coin, or which is a reproduction or imitation made in contravention of section 16 or 17, or
- (b) any thing which he or another has used, whether before or after the coming into force of this Law, or intends to use, for the making of any such counterfeit, or the making of any reproduction or imitation in contravention of section 16 or 17,

the Bailiff or (as the case may be) the appropriate judicial officer may issue a warrant authorising a police officer to search for and seize the object in question and, for that purpose, to enter any premises specified in the warrant.

^f Section 77(2) was inserted by Order in Council No. XIII of 1991.

(2) A police officer may at any time after the seizure of any object suspected of falling within paragraph (a) or (b) of subsection (1) (whether the seizure was effected by virtue of a warrant under that subsection or otherwise) apply to the Magistrate's Court for an order under this subsection with respect to the object, and the court, if it is satisfied -

(a) that the object in fact falls within one or other of those paragraphs, and

(b) that it is conducive to the public interest to do so,

may, subject to subsection (4), make such order as it thinks fit for the forfeiture of the object and its subsequent destruction or disposal.

(3) Subject to subsection (4), the court by or before which a person is convicted of an offence under this Part of this Law may order any thing shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(4) The court shall not order any thing to be forfeited under subsection (2) or (3) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

(5) Without prejudice to the generality of subsections (2) and (3), the powers conferred on the court by those subsections include power to direct that any object shall be passed to an authority with power to issue notes or coins or to any person authorised by such an authority to receive the object.

Directors' liability, etc.

23. (1) Where an offence under section 16 or 17 committed by a body corporate 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, he 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, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

*Interpretation of Part II***Meaning of "currency note" and "protected coin".**

24. (1) In this Part of this Law -

"**currency note**" means -

(a) any note which -

(i) has been lawfully issued in the Bailiwick, England and Wales, Scotland, Northern Ireland, Jersey or the Isle of Man.

(ii) is or has been customarily used as money in the country or territory where it was issued, and

(iii) is payable on demand, or

- (b) any note which -
 - (i) has been lawfully issued in some country or territory other than those mentioned in paragraph (a)(i), and
 - (ii) is customarily used as money in that country or territory, and

"protected coin" means any coin which -

- (a) is customarily used as money in any country or territory, or
- (b) is specified in regulations made by the Department for the purposes of this Part of this Law.

Meaning of "counterfeit".

25. (1) For the purposes of this Part of this Law a thing is a counterfeit of a currency note or of a protected coin -

- (a) if it is not a currency note or a protected coin but resembles a currency note or protected coin (whether on one side only or on both) to such an extent that it is reasonably capable of passing for a currency note or protected coin of that description, or
- (b) if it is a currency note or protected coin which has been so altered that it is reasonably capable of passing

for a currency note or protected coin of some other description.

- (2) For the purposes of this Part of this Law -
- (a) a thing consisting of one side only of a currency note, with or without the addition of other material, is a counterfeit of such a note,
- (b) a thing consisting -
- (i) of parts of two or more currency notes, or
- (ii) of parts of a currency note, or of parts of two or more currency notes, with the addition of other material,

is capable of being a counterfeit of a currency note.

(3) References in this Part of this Law to passing or tendering a counterfeit of a currency note or of a protected coin are not to be construed as confined to passing or tendering it as legal tender.

PART III INTERPRETATION AND MISCELLANEOUS

Interpretation.

26. (1) In this Law -

"appropriate judicial officer" means -

- (a) in Alderney, the Chairman of the Court of Alderney or, if he is absent or unable to act, a Jurat of the Court of Alderney authorised by him to act in that behalf,
- (b) in Sark, the Seneschal or, if he is absent or unable to act, the Deputy Seneschal,

"Bailiff" means the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff or the Juge Délégué,

"Bailiwick" means the Bailiwick of Guernsey,

"counterfeit" (in Part II) : see section 25,

"currency note" (in Part II) : see section 24,

"Customs and Excise Law" means the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^g,

"customs officer" means an officer within the meaning of section 1(1) of the Customs and Excise Law,

"Department" means the States Treasury and Resources Department,

"false" (in Part I) : see section 9,

^g Ordres en Conseil Vol. XXIII, p. 573; amended by Orders in Council No. XIII of 1991 and No. X of 2004.

"Her Majesty's Procureur" includes Her Majesty's Comptroller,

"induce" (in Part I) : see section 10,

"instrument" (in Part I) : see section 8,

"Magistrate's Court" means -

- (a) in Alderney, the Court of Alderney, and
- (b) in Sark, the Court of the Seneschal,

"making" (in Part I) : see section 9,

"police officer" means -

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

2004^h,

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

"prejudice" (in Part I) : see section 10,

"protected coin" (in Part II) : see section 24, and

"uniform scale" means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989ⁱ.

(2) The Interpretation (Guernsey) Law, 1948^j 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.

Power to amend Law by Ordinance.

27. (1) The States may by Ordinance amend this Law.

^h Order in Council No. III of 2005.

ⁱ Ordres en Conseil Vol. XXXI, p. 278.

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

- (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.

Repeal.

28. The Currency Offences (Guernsey) Law, 1950^k is repealed.

Citation.

29. This Law may be cited as the Forgery and Counterfeiting (Bailiwick of Guernsey) Law, 2006.

Commencement.

30. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions.

^k Ordres en Conseil Vol. XIV, p. 417.

PROJET DE LOI

ENTITLED

The Social Insurance (Guernsey) (Amendment) Law, 2006

THE STATES, in pursuance of their Resolution of the 28th September 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, Alderney, Herm and Jethou.

Amendment of Law of 1978.

1. (1) In the Arrangement of Sections, immediately following the reference to section 16 ("Persons to be treated as employers."), insert -

"Anti- avoidance

16A. General provision against avoidance.

16B. Contributions payable in proportion to total amount of income or earnings.

16C. Power to make regulations, directions and orders concerning avoidance.

16D. Provisions of sections 16A to 16C without prejudice to other provisions of Law."

(2) Immediately after section 16 insert -

^a Resolution 4 of Article XVI of Billet d'État No. XIV of 2005.

*"Anti-avoidance***General provision against legal avoidance.**

16A. (1) Where the effect of a transaction or series of transactions is the avoidance, reduction or deferral of the liability of any person ("**the person concerned**") to pay contributions, the Department may, in its discretion, make such adjustments as respects the liability of the person concerned to pay such contributions as may in its opinion be appropriate to counteract the avoidance, reduction or deferral of liability which would otherwise be effected by or as a result of that transaction or series of transactions.

(2) For the purposes of this section, a transaction includes any arrangement, agreement, operation, scheme or event, or any action, omission, decision or concurrence, whether or not -

- (a) enforceable by legal proceedings,
- (b) involving or dependent on any action by, or any omission, decision or concurrence of, the person concerned or any other person, or more than one person,
- (c) brought to a conclusion, and
- (d) involving or dependent on any other transaction.

(3) For the purposes of this section, and for the avoidance of doubt, it is immaterial -

- (a) when or where the transaction or series of transactions (or any of the series of transactions) occurs,
- (b) whether or not the transaction or series of transactions (or any of the series of transactions) -
 - (i) was undertaken by or on behalf of, or in conjunction with, the person concerned, or
 - (ii) was undertaken by or on behalf of, or in conjunction with, more than one person, and
- (c) whether or not the avoidance, reduction or deferral of liability -
 - (i) was an intended effect of the transaction or series of transactions, or any of the series of transactions, or
 - (ii) was the only or principal effect.

(4) In this section the expression "avoidance, reduction or deferral" of liability to pay contributions includes (without limitation) an increase or enhancement in the entitlement of the person concerned to a repayment of any contributions.

Contributions payable in proportion to total amount of income or earnings.

16B. (1) Every person who is liable to pay a contribution under this Law shall contribute in proportion to the total amount of all income or earnings, as the case may be, relevant to the class of contribution determined by the Department to be appropriate in his circumstances.

(2) For the purpose of subsection (1), the total amount of all income or earnings, as the case may be, relevant to the class of contribution concerned, includes amounts which -

(a) are determined under, or

(b) derived from the application of,

the provisions of sections 16C or any other provision of this Law.

Power to make regulations, directions and orders concerning avoidance.

16C. (1) Regulations may provide for such measures as appear reasonably necessary to the Department to counter avoidance, or reduction, of any liability to pay contributions of any class, including (without limitation) assignment of a monetary value to any asset, right, benefit or other thing available for the enjoyment of a contributor (whether that enjoyment is taken or foregone), for the purposes of determining the total amount of income or earnings, as the case may be, relevant to any class of contribution.

(2) The Department may, in any particular case, where it appears to the Department to be fair and reasonable with regard to the interests of the general body of insured persons -

(a) direct that -

(i) money, and

(ii) the monetary value (as determined by the Department) of assets, goods, services or other things,

provided for, or made available to, a contributor by another person, shall be treated as the income or earnings, as the case may be, of that contributor, and

(b) order the substitution of such amount (as determined by the Department) of income or earnings, as the case may be, which may be relevant to any class of contribution in place of the amount of income or earnings, as the case may be, declared by or on behalf of a contributor .

Provisions of section 16A to 16C without prejudice to other provisions of Law.

16D. The provisions of sections 16A to 16C are without prejudice to the generality of any other provision of this Law under which the Department has power to take measures for the purpose of -

- (a) countering avoidance, or reduction, of any liability to pay contributions of any class, or
- (b) ensuring fairness in relation to general body of insured persons."

(3) In section 4(1)(b) of the Law of 1978, the words "and under section seven of this Law by employed persons in certain cases" are repealed.

(4) Section 7 of the Law of 1978 is repealed.

(5) In section 88(5) -

- (a) for "they" substitute "it", and
- (b) delete "to them".

(6) Section 89 is repealed.

Interpretation.

3. (1) In this Law -

"**Arrangement of Sections**" means the arrangement of sections to the Law of 1978, and

"**the Law of 1978**" means the Social Insurance (Guernsey) Law,

1978 as amended^b.

(2) The provisions of the Interpretation (Guernsey) Law, 1948^c shall apply to the interpretation of this Law throughout the Islands of Guernsey, Alderney, Herm and Jethou.

Citation.

4. This Law may be cited as the Social Insurance (Guernsey) (Amendment) Law, 2006.

^b Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; No. V of 1990; Nos. V and XII of 1993; Ordinance No. XIV of 1993; Ordres en Conseil No. V of 1994, Nos. VI and XIII of 1995; No. I of 1998; No. VI of 1999; No. X of 2000; No. IX of 2001; No XXIV of 2003.

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

PROJET DE LOI

ENTITLED

The Vehicular Traffic (Causing Death by Driving) (Guernsey) (Amendment) 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 Island of Guernsey.

Amendment to Law of 1957.

1. In section 1(1) of the Vehicular Traffic (Causing Death by Driving) Law, 1957^b for the word "five" substitute "14".

Citation.

2. This Law may be cited as the Vehicular Traffic (Causing Death by Driving) (Guernsey) (Amendment) Law, 2006.

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

^b Ordres en Conseil Vol. XVII, p. 279.

**The Environmental Pollution (Guernsey) Law, 2004
(Commencement and Designation of Waste Disposal
Authority) Ordinance, 2006**

THE STATES, in pursuance of their Resolutions of the 26th February, 1997^a and 11th December 2003^b, and in exercise of the powers conferred on them by sections 29 and 76 of the Environmental Pollution (Guernsey) Law, 2004^c and all other powers enabling them in that behalf, hereby order:-

Commencement of certain Parts of the Law.

1. With the exception of Parts VI, VII and VIII thereof, the Environmental Pollution (Guernsey) Law, 2004 (hereinafter referred to as "**the Law**") shall come into force on the 26th July, 2006.

Designation of Waste Disposal Authority.

2. The States of Guernsey Public Services Department is designated as the Waste Disposal Authority under and for the purposes of the Law.

Citation.

3. This Ordinance may be cited as the Environmental Pollution (Guernsey) Law, 2004 (Commencement and Designation of Waste Disposal Authority) Ordinance, 2006.

^a Billet d'État No. II of 1997.

^b Article VI on Billet d'État No. XXVIII of 2003.

^c Orders in Council No. XIII of 2004.

**The Human Rights (Bailiwick of Guernsey) Law, 2000
(Commencement) Ordinance, 2006**

THE STATES, in exercise of the powers conferred on them by section 18(2) of the Human Rights (Bailiwick of Guernsey) Law, 2000^a and all other powers enabling them in that behalf, hereby order:-

Commencement of Law

1. The Human Rights (Bailiwick of Guernsey) Law 2000 shall come into force on the 1st September 2006.

Extent.

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

Citation.

3. This Ordinance may be cited as the Human Rights (Bailiwick of Guernsey) Law, 2000 (Commencement) Ordinance, 2006.

^a Order in Council No. XIV of 2000; amended by No. 1 of 2005.

The Uniform Scale of Fines (Bailiwick of Guernsey) (Amendment) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 31st May, 2006^a and in exercise of the powers conferred on them by section 1(3) of the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^b, hereby order:-

Amendment to the uniform scale of fines.

1. For the table in section 1(2) of the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^c substitute the following -

"TABLE

LEVEL ON THE SCALE	AMOUNT OF FINE
1	£500
2	£1,000
3	£2,000
4	£5,000
5	£10,000

^a Article IX of Billet d'État No. X of 2006.

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

^c The table was substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) (Amendment) Ordinance, 1991 (Recueil d'Ordonnances Tome XXV, p. 344) and further substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) (Amendment) Ordinance, 1998 (Ordinance No. XXII of 1998).

Transitional provisions.

2. (1) This Ordinance has effect only in relation to penalties imposed for offences committed on or after the date on which it comes into force.

(2) The maximum penalty to which an offender is liable for an offence committed before the date on which this Ordinance comes into force shall, in any proceedings on or after that date, be determined as if this Ordinance were not in force.

Repeal.

3. The Uniform Scale of Fines (Bailiwick of Guernsey) (Amendment) Ordinance, 1998^d is repealed.

Citation.

4. This Ordinance may be cited as the Uniform Scale of Fines (Bailiwick of Guernsey) (Amendment) Ordinance, 2006.

^d Ordinance No. XXII of 1998.

The Vehicular Traffic (Amendment) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 27th April 2006^a, and in exercise of all other powers enabling them in that behalf, hereby order:-

Amendment of Ordinance of 1929.

1. In Article V(1) of the Ordinance entitled "Ordonnance relative au Trafic Véhiculaire en cette Île" of the 2nd March, 1929, as amended^b for the words following "and shall be liable" there is substituted -

" -

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 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 of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law 1989^c, or to both."

Citation.

2. This Ordinance may be cited as the Vehicular Traffic (Amendment) Ordinance, 2006.

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

^b Recueil d'Ordonnances Tome VIII, p. 184; Article V was substituted by Tome XXII, p. 125.

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

The Belarus (Freezing of Funds) (Guernsey) Ordinance, 2006

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and all other powers enabling them in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, hereby orders:-

Application of, and infringement of, EC Regulation.

1. (1) Council Regulation (EC) No. 765/2006 of the 18th May, 2006^c imposing certain specific restrictive measures in view of the situation in Belarus ("**the EC Regulation**") is applicable in Guernsey in all respects as if Guernsey were a Member State.

(2) A person who infringes, or causes or permits any infringement of, Article 2 or 5 of the EC Regulation is guilty of an offence.

Modification of Regulation.

2. The EC Regulation in its application to Guernsey shall be modified as follows -

- (a) in Article 3(1) for the words "the competent authority of a Member State, as listed in Annex II," substitute

^a Order in Council No. III of 1994.

^b Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

^c OJ L134. 20.5.06. p. 1.

"the States of Guernsey Policy Council ("the Council"),

- (b) in Article 3(2) -
 - (i) for the words "the competent authority of a Member State, as listed in Annex II," substitute "the Council", and
 - (ii) for the words "the other competent authorities" substitute "the competent authorities of the Member States, as listed in Annex II,"
- (c) in Article 3(3) -
 - (i) for the words "The competent authority" substitute "The Council", and
 - (ii) for the words "the other Member States", substitute "the Member States, as listed in Annex II",
- (d) in Article 4(2) for the words "the competent authorities" substitute "the Council",
- (e) in Article 5(1)(a) -
 - (i) for the words "the competent authorities of the Member States listed in Annex II where they are resident or located" substitute "the

Council", and

- (ii) for the words "these competent authorities" substitute "the Council", and
- (f) in Article 5(1)(b) for the words "the competent authorities listed in Annex II" substitute "the Council".

Information.

3. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Council, of information for the purpose of ensuring compliance with the EC Regulation.

Penalties and proceedings.

4. (1) A person guilty of an offence under -

- (a) section 1 or subsection (3), or
- (b) paragraph 2(b) or (c) of the Schedule,

is liable -

- (i) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both,
- (ii) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(2) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(3) A person who in purported compliance with Article 5 of the EC Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

(4) Where a body corporate is guilty of an offence under this Ordinance, and the offence 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, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subsection (4) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Certain provisions of customs and excise Law applicable.

5. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^d applies to the detention of a person for an offence under section 1 as it applies to the detention of a person for an offence

^d Ordres en Conseil Vol. XXIII, p. 573; No. XIII of 1991; and No. X of 2004.

under the customs Laws or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 apply in relation to offences, penalties and proceedings for offences under this Ordinance as they apply to offences, penalties and proceedings for offences under the customs Laws or excise Laws.

Interpretation.

6. (1) In this Ordinance, except where the context requires otherwise -

"**Council**" means the States of Guernsey Policy Council,

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly,

"**customs Laws**" and "**excise Laws**" mean those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 and any other enactment for the time being in force relating to customs or, as the case may be, excise,

"**EC Regulation**" has the meaning given by section 1,

"**Guernsey**" means the Bailiwick of Guernsey apart from the Islands of Alderney and Sark, and

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

1989^e.

(2) A reference in this Ordinance to an enactment or to the EC Regulation is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

Citation.

7. This Ordinance may be cited as the Belarus (Freezing of Funds) (Guernsey) Ordinance, 2006.

Commencement.

8. This Ordinance shall come into force on the 13th June, 2006.

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

SCHEDULE

Section 3

INFORMATION

1. (1) The Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) such information and documents in his possession or control as the Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EC Regulation; and a person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(4) Where a person is convicted of an offence under this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(5) The power conferred by this paragraph to request any person

to produce documents shall include power to take copies of or extracts from any document so produced and to request that person or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

2. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, to any person exercising his powers under this Schedule, or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

3. (1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except -

- (a) with the consent of the person by whom the information was furnished or the document was

produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this subparagraph but such consent may instead be given by any person who is entitled to that information or to possession of that document in his own right,

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of Guernsey,
- (c) on the authority of the Council, to the European Commission or to any of the competent authorities listed in Annex II to the EC Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EC Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.

The Burma (Restrictive Measures) (Guernsey) Ordinance, 2006

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948, as amended^b, hereby orders:

Application of EC Regulation.

1. (1) Council Regulation (EC) No. 817/2006 of the 29th May, 2006^c imposing certain specific restrictive measures in view of the situation in Burma ("**the EC Regulation**") is applicable in Guernsey in all respects as if Guernsey were a Member State.

Offences.

2. (1) Any person who, except under the authority of a licence granted by the Council under this Ordinance, directly or indirectly infringes any of the following prohibitions in the EC Regulation -

(a) Article 2(a), prohibiting the provision of technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related material of all types, to any person, entity or body in, or for use in Burma,

(b) Article 2(b), prohibiting the provision of financing or

^a Order in Council No. III of 1994.

^b Ordres en Conseil Vol. XIII, p. 288 (there are amendments not material to this Ordinance).

^c OJ L148, 2.6.2006, p.1.

financial assistance related to military activities for any sale, supply, transfer or export of arms and related material to any person, entity or body in, or for use in Burma,

- (c) Article 2(c), prohibiting the participation, knowingly and intentionally, in activities the object or effect of which is to promote the transactions referred to in Article 2(a) or 2(b),
- (d) Article 3(a), prohibiting the sale, supply, transfer or export of equipment which might be used for internal repression, as listed in Annex I to the EC Regulation, whether or not originating in the Community, to any person, entity or body in, or for use in Burma,
- (e) Article 3(b), prohibiting the provision of technical assistance related to the equipment listed in Annex I to the EC Regulation, to any person, entity or body in, or for use in Burma,
- (f) Article 3(c), prohibiting the provision of financing or financial assistance related to the equipment listed in Annex I to the EC Regulation, to any person, entity or body in, or for use in Burma,
- (g) Article 3(d), prohibiting the participation, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in Articles 3(a), (b) or (c),
- (h) Article 9(1)(a), prohibiting the grant of any financial

loan or credit to Burmese state-owned enterprises listed in Annex IV to the EC Regulation,

- (i) Article 9(1)(b), prohibiting the acquisition or extension of a participation in Burmese state-owned enterprises listed in Annex IV to the EC Regulation, or
- (j) Article 9(2), prohibiting the participation in activities to circumvent the provisions of Article 9(1)(a) and (b),

is guilty of an offence.

(2) Any person who infringes, or causes or permits any infringement of Article 6 or 8 of the EC Regulation is guilty of an offence.

Licences.

3. (1) Authorisation for the transactions set out in section 2(1), as provided for in Article 4 of the EC Regulation, shall in Guernsey be by way of a licence in writing granted by the Council.

- (2) If, for the purpose of obtaining a licence, any person -
 - (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or
 - (b) recklessly makes any statement or furnishes an document or information which is false in a material particular,

he is guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information

furnished is void as from the time it was granted.

(3) Any person who, having acted under the authority of a licence granted under this section, fails to comply with any of the requirements or conditions to which the licence is subject is guilty of an offence, unless -

- (a) the licence had been previously modified by the Council without that person's consent, and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified.

Penalties and proceedings.

4. (1) A person guilty of an offence under -

- (a) section 2, 3, or subsection (3), or
- (b) paragraph 2(b) or 2(c) of the Schedule,

is liable -

- (i) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both, or
- (ii) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the uniform scale or to both.

(2) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable on summary conviction to imprisonment for a term not

exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(3) A person who in purported compliance with Article 8 of the EC Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

(4) Where a body corporate is guilty of an offence under this Ordinance, and the offence 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, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subsection (4) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Certain provisions of customs and excise Law applicable.

5. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^d applies to the detention of a person for an offence under section 2 or 3 as it applies to the detention of a person for an offence under the customs Laws or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 apply in relation to offences, penalties and proceedings for offences under this Ordinance as they apply to offences, penalties and proceedings for offences under the customs Laws or excise

^d Ordres en Conseil Vol. XXII, p, 573; and Order in Council No. XIII of 1991.

Laws.

Information.

6. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Council, of information for the purpose of ensuring compliance with the EC Regulation.

Modification of Regulation.

7. The EC Regulation in its application to Guernsey shall be modified as follows -

- (a) in Article 4 (1) for the words "the competent authorities of Member States as listed in Annex II" substitute "the Council",
- (b) in Article 7 (1) for the words "The competent authority of a Member State, as listed in Annex II," substitute "The Council",
- (c) in Article 7 (1)(d) for the words "the relevant competent authority has notified all other competent authorities" substitute "the Council has notified all competent authorities as listed in Annex II",
- (d) at the end of Article 7 for the last three lines substitute -

"The Council shall inform the competent authorities as listed in Annex II and the Commission of any authorisation granted under this paragraph"

- (e) in Article 8(1)(a) for the words "the competent authorities of the Member States listed in Annex II where they are resident or located" substitute "the Council" and for "these competent

authorities" substitute "the Council",

- (f) in Article 8(1)(b) for the words "the competent authorities listed in Annex II" substitute "the Council", and
- (g) in Article 9(5) for the words "The relevant competent authority, as listed in Annex II," substitute "the Council" and for "the other Member States" substitute "the Member States as listed in Annex II"

Interpretation.

8. (1) In this Ordinance -

"**Council**" means the States of Guernsey Policy Council,

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly,

"**customs Laws**" and "**excise Laws**" mean those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972 and any other enactment for the time being in force relating to customs or, as the case may be, excise,

"**EC Regulation**" has the meaning given by section 1,

"**Guernsey**" means the Bailiwick of Guernsey apart from Alderney and Sark,

"**Schedule**" means the schedule to this Ordinance, and

"**uniform scale**" means the uniform scale of fines specified by the

Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^e.

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

Revocation.

9. The Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) (Guernsey) Ordinance 2004^f is revoked.

Citation and commencement.

10. (1) This Ordinance may be cited as the Burma (Restrictive Measures) (Guernsey) Ordinance 2006.

(2) This Ordinance shall come into force on 13th June 2006.

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

^f Ordinance No XXXI of 2004.

SCHEDULE

Section 6

INFORMATION

1. (1) The Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) any information or document in his possession or control which the Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EC Regulation; and a person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(4) Where a person is convicted of an offence under this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(5) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person or, where that person is a body

corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

2. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, to any person exercising his powers under this Schedule, or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

3. (1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except -

- (a) with the consent of the person by whom the information was furnished or the document was produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this subparagraph

but such consent may instead be given by any person who is entitled to that information or to possession of that document in his own right,

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of Guernsey,
- (c) on the authority of the Council, to the European Commission or to any of the competent authorities listed in Annex II to the EC Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EC Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.