

BILLET D'ÉTAT No. VII, 2013

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The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) (Amendment) Ordinance, 2013

THE STATES, in pursuance of their Resolution of the 27th April 2006^a, and in exercise of the powers conferred on them by Schedule 2 of the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006^b, hereby order:-

Amendment of 2006 Law.

1. Schedule 1 of the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 is amended by inserting in the "LIST OF PERSONS FOR THE PURPOSES OF SECTION 13", immediately after "3. A Jurat of the Royal Court.", the following additional entry -

"3A. A Judge of the Royal Court."

Interpretation.

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

(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.

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

^b Order in Council No. XIII of 2006.

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

Extent.

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

Citation.

4. This Ordinance may be cited as the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) (Amendment) Ordinance, 2013.

Commencement.

5. This Ordinance shall come into force on the 24th April, 2013.

The Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2013

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 7(4), 9(5) and 14(2) and (3) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002^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:-

Amendment of the 2006 Ordinance.

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

(2) Immediately after section 7, insert the following section -

"Exceptions for certain immigration or nationality purposes.

7A. (1) Sections 7(1), (2) and (3) and 8(1) and (2) of the Law shall not apply -

^a Ordres en Conseil Vol. XLII(1), p. 389; as amended by Order in Council No. XVI of 2009; Ordinance No. XXVI of 2010. See also Ordres en Conseil Vol. XLIII(1), p. 3; Order in Council No. XIV of 2009; Recueil d'Ordonnances Tome XXXI, p. 386; as amended by Tome XXXI, p. 667; Ordres en Conseil Vol. XXIX, p. 207.

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

^c Recueil d'Ordonnances Tome XXXI, p. 386; as amended by Tome XXXI, p. 667. See also Ordres en Conseil Vol. XXIX, p. 207.

- (a) in relation to any proceedings in respect of an immigration decision or a nationality decision, or
- (b) otherwise for the purposes of, or in connection with, any such decision.

(2) In this section -

"Community provision" means -

- (a) any provision contained in or arising under the Community Treaties or any Community instrument (in each case within the meaning of section 1(1) of the European Communities (Bailiwick of Guernsey) Law, 1973),
- (b) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under the Community Treaties, and
- (c) any decision or expression of opinion of the European Court or any court attached thereto under the Community Treaties,

"Immigration Acts" means the Immigration Act 1971, the Immigration Act 1988, the Asylum and Immigration Act 1996, the Immigration and Asylum Act 1999, the Immigration, Asylum and Nationality Act 2006, and any other Acts relating to immigration

control from time to time extended to (and modified for) the Bailiwick of Guernsey,

"immigration decision" means any decision, or proposed decision, of the Lieutenant-Governor, an immigration officer, or the States of Guernsey Home Department under or by virtue of the Immigration Acts or Immigration Rules, in relation to the entitlement of a person to enter or remain in the Bailiwick of Guernsey (including, in particular, the granting of a work permit, or the removal of a person from the Bailiwick of Guernsey whether by deportation or otherwise),

"immigration officer" means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971,

"Immigration Rules" means rules made under section 3 of the Immigration Act 1971, and

"nationality decision" means any decision, or proposed decision, of the Lieutenant-Governor under or by virtue of –

- (a) the British Nationality Act 1981,
- (b) the British Nationality (Hong Kong) Act 1990,
or
- (c) the Hong Kong (War Wives and Widows) Act 1996,

in relation to the good character of a person.

(3) The references in subsection (2) to the Immigration Acts and to the Acts listed in the definition of "**nationality decision**" include references to any Ordinance made under section 1 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994 or to any Community provision that is directly applicable in the Bailiwick of Guernsey."

(3) In section 9(1), insert in the appropriate alphabetical order the following definitions -

"**enactment**" means any Act, Law, Ordinance or subordinate legislation," , and

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect," .

Transitional.

2. (1) Section 1 applies in relation to -

- (a) convictions before, on or after the commencement date,
- (b) any application (for an immigration decision or a nationality decision) made on or after the 13th December, 2012, unless the application is finally determined before the commencement date, and

- (c) any proceedings begun on or after the 13th December, 2012, unless those proceedings are completed before the commencement date.

(2) Section 1 applies as mentioned in subsection (1) above whether or not, immediately before the commencement date -

- (a) the person concerned is treated as a rehabilitated person for the purposes of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 in respect of the conviction, or
- (b) the conviction is treated for the purposes of that Law as spent.

(3) Section 1 does not affect the validity of any proceedings completed, or any immigration decision or nationality decision which is made, before the commencement date.

(4) In this section -

"commencement date" means the date specified for the commencement of this Ordinance in section 3,

"immigration decision" has the meaning given by section 7A(2) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006, and

"nationality decision" has the meaning given by section 7A(2) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002

(Commencement, Exclusions and Exceptions) Ordinance, 2006.

Citation and commencement.

3. This Ordinance may be cited as the Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2013 and shall come into force on the 19th February, 2013.

The Egypt (Freezing of Funds) (Guernsey) (Amendment) Ordinance, 2013

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^b and all other powers enabling the States in that behalf, hereby orders:-

Amendment of Egypt (Freezing of Funds) (Guernsey) Ordinance, 2011.

1. (1) The Egypt (Freezing of Funds) (Guernsey) Ordinance, 2011^c ("**the Ordinance**") is amended as follows.

(2) For section 1(2) of the Ordinance, substitute the following section -

"(2) A person who infringes, or causes or permits any infringement of, any prohibition in, or requirement of, the EU Regulation is guilty of an offence."

(3) For section 2 of the Ordinance, substitute the following section -

^a Ordres en Conseil Vol. XXXV(1), p. 65.

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

^c Ordinance No. XIII of 2011

"Modification of Regulation.

2. The EU Regulation in its application to Guernsey is modified as follows -

- (a) Articles 1(e) and 14 shall not apply,
- (b) references to the competent authorities of or in the Member States shall be construed as references to the Policy Council,
- (c) references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,
- (d) subject to paragraph (e), references to the Member State or the Member State concerned shall be construed as references to the Policy Council,
- (e) references to the Member State concerned shall be construed as including Guernsey where such references concern the enforcement of decisions or public policy,
- (f) references to the Union shall be construed as including Guernsey,
- (g) references to the territory of the Union and its

airspace shall be construed as including Guernsey, its airspace and the territorial waters adjacent thereto,

- (h) references to ports of Member States shall be construed as including any port in Guernsey,
- (i) references to competent customs authorities of Member States shall be construed as including the Chief Officer of Customs and Excise,
- (j) references to nationals of Member States or from the territories of Member States shall be construed as including any person in Guernsey or from Guernsey, and
- (k) references to the law of a Member State shall be construed as including the law of Guernsey."

(4) In section 9 of the Ordinance, delete "and" where it appears after the definition of "Ordinary Court" and in the appropriate places insert the following definitions -

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

"Bailiff" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délegué and a Judge of the Royal Court,"

"Chief Officer of Customs and Excise" has the meaning given by section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,"

"enactment" includes a Law, an Ordinance and any subordinate legislation,"

"Judge of the Royal Court" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008,"

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect, and".

Citation.

2. This Ordinance may be cited as the Egypt (Freezing of Funds) (Guernsey) (Amendment) Ordinance, 2013.

Commencement.

3. This Ordinance shall come into force on the 18th February, 2013.

**The Iran (Restrictive Measures)
(Guernsey) (Amendment) Ordinance, 2013**

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^b and all other powers enabling the States in that behalf, hereby orders:-

Amendment of Iran (Restrictive Measures) (Guernsey) Ordinance, 2012.

1. In sections 9 and 10 of the Iran (Restrictive Measures) (Guernsey) Ordinance, 2012^c references to Article 32.1(d) shall be read as references to Article 30.6(d).

Citation.

2. This Ordinance may be cited as the Iran (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2013.

Commencement.

3. This Ordinance shall come into force on the 18th February, 2013.

^a Ordres en Conseil Vol. XXXV(1), p. 65.

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

^c Made by the States Legislation Select Committee on 4th April 2012

**The Tunisia (Freezing of Funds)
(Guernsey) (Amendment) Ordinance, 2013**

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^b and all other powers enabling the States in that behalf, hereby orders:-

Amendment of Tunisia (Freezing of Funds) (Guernsey) Ordinance, 2011.

1. (1) The Tunisia (Freezing of Funds) (Guernsey) Ordinance, 2011^c ("**the Ordinance**") is amended as follows.

(2) For section 1(2) of the Ordinance, substitute the following section -

"(2) A person who infringes, or causes or permits any infringement of, any prohibition in, or requirement of, the EU Regulation is guilty of an offence."

(3) For section 2 of the Ordinance, substitute the following section -

^a Ordres en Conseil Vol. XXXV(1), p. 65.

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

^c Ordinance No. XI of 2011

"Modification of Regulation.

2. The EU Regulation in its application to Guernsey is modified as follows -

- (a) Articles 1(e) and 14 shall not apply,
- (b) references to the competent authorities of or in the Member States shall be construed as references to the Policy Council,
- (c) references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,
- (d) subject to paragraph (e), references to the Member State or the Member State concerned shall be construed as references to the Policy Council,
- (e) references to the Member State concerned shall be construed as including Guernsey where such references concern the enforcement of decisions or public policy,
- (f) references to the Union shall be construed as including Guernsey,
- (g) references to the territory of the Union and its

airspace shall be construed as including Guernsey, its airspace and the territorial waters adjacent thereto,

- (h) references to ports of Member States shall be construed as including any port in Guernsey,
- (i) references to competent customs authorities of Member States shall be construed as including the Chief Officer of Customs and Excise,
- (j) references to nationals of Member States or from the territories of Member States shall be construed as including any person in Guernsey or from Guernsey, and
- (k) references to the law of a Member State shall be construed as including the law of Guernsey."

(4) In section 9 of the Ordinance -

- (a) for the definition of "Bailiff", substitute the following definition -

"**Bailiff**" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délegué and a Judge of the Royal Court,"
and

- (b) insert the following definitions in the appropriate

places -

""**advocate**" means an advocate of the Royal Court of Guernsey,"

""**Chief Officer of Customs and Excise**" has the meaning given by section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,"

""**enactment**" includes a Law, an Ordinance and any subordinate legislation,"

""**Judge of the Royal Court**" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008,"

""**subordinate legislation**" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect, and".

Citation.

2. This Ordinance may be cited as the Tunisia (Freezing of Funds) (Guernsey) (Amendment) Ordinance, 2013.

Commencement.

3. This Ordinance shall come into force on the 18th February, 2013.