

Island of



Guernsey

## Ordinance of the States

**XVI**  
**2011**

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Made.....29th June, 2011

Coming into Operation .....29th June, 2011

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### **The Police Complaints (Guernsey) Law, 2008 (Commencement and Amendment) Ordinance, 2011**

## **The Police Complaints (Guernsey) Law, 2008 (Commencement and Amendment) Ordinance, 2011**

**THE STATES**, in pursuance of their Resolutions of the 26<sup>th</sup> January, 2005<sup>a</sup> and the 28<sup>th</sup> November, 2008<sup>b</sup>, and in exercise of the powers conferred on them by sections 20, 21 and 22(2) of the Police Complaints (Guernsey) Law, 2008<sup>c</sup>, and all other powers enabling them in that behalf, hereby order:-

### **Commencement of the Law.**

1. The Police Complaints (Guernsey) Law, 2008 comes into force on the 1<sup>st</sup> July, 2011.

### **Amendments to the Law.**

2. The Police Complaints (Guernsey) Law, 2008 is amended as set out in the Schedule.

### **Interpretation.**

3. (1) In this Ordinance, unless the context otherwise requires –

"commencement date" means the date specified in section 1 for the commencement of the Police Complaints (Guernsey) Law, 2008, and

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<sup>a</sup> Article VI of Billet d'État No. I of 2005.

<sup>b</sup> Article XIX of Billet d'État No. XV of 2008.

<sup>c</sup> Order in Council No. XIX of 2009.

"**the Law**" means the Police Complaints (Guernsey) Law, 2008, and includes any Ordinance or subordinate legislation made under that Law,

and words or expressions which are defined in the Police Complaints (Guernsey) Law, 2008 have the same meanings as in that Law.

(2) A reference in this Ordinance to an enactment, or any provision or part of it, is a reference to it as amended, or re-enacted or re-made (with or without modification), or extended or applied by or under any enactment.

**Saving and transitional provisions.**

4. (1) Nothing in the Law applies in relation to any conduct of a member of the Force that takes place before the commencement date.

(2) Without limiting the generality of subsection (1) –

- (a) no complaint may be made under Part II of the Law concerning any conduct of a member of the Force that takes place before the commencement date,
- (b) no matter may be referred to the Commission under section 6 of the Law concerning any conduct of a member of the Force that takes place before the commencement date,
- (c) no proceedings of any kind may be brought under the Law in relation to any conduct of a member of the Force that takes place before the commencement date.

- (3) For the avoidance of doubt, nothing in the Law applies to –
- (a) a complaint of any kind made before the commencement date,
  - (b) any form of proceedings concerning discipline brought (whether before or after the commencement date) as a result of such a complaint,
  - (c) any form of proceedings concerning discipline brought before the commencement date, or
  - (d) any form of proceedings seeking confirmation of any punishment imposed or awarded by the Chief Officer at or following any proceedings referred to in paragraph (b) or (c).

(4) Any conduct described in subsection (1) must be dealt with as if the Law had not been made.

(5) Any complaint or proceedings described in subsection (3) must be dealt with or (as the case may be) continued and concluded as if the Law had not been made.

**Citation.**

5. This Ordinance may be cited as the Police Complaints (Guernsey) Law, 2008 (Commencement and Amendment) Ordinance, 2011.

**Commencement.**

6. This Ordinance comes into force on the 29<sup>th</sup> June, 2011.

S.M.D. ROSS,  
Her Majesty's Deputy Greffier.

## SCHEDULE

### AMENDMENTS TO THE LAW

#### Section 2

<b>Provision</b>	<b>Amendment</b>
The following provisions and their headings: sections 3 to 10, 11(5) and 12(6)(b) and (7).	For the words "Chief Officer" every time they occur, substitute the words "appropriate authority".  For every reference to "he", "him", or "his" in relation to the Chief Officer, substitute "it", in the case of the first two words, and "its" in the case of the last word.
Section 4(3)	For paragraphs (b) and (c), substitute the following paragraphs–  <div style="margin-left: 40px;"> <p>"(b) the steps taken in dealing with the complaint, including any disciplinary proceedings brought under this Law, and</p> <p>(c) the outcome of the complaint, including any finding or decision in any disciplinary proceedings brought under this Law."</p> </div>
Section 11	For subsections (1) and (2), substitute the following subsection–  <div style="margin-left: 40px;"> <p>"(1) A disciplinary charge preferred at the direction of the Commission given under section 10(3) shall be heard by the Police Complaints Tribunal ("<b>the Complaints Tribunal</b>") which shall consist of the following members appointed by the Chairman of the Commission -</p> </div>

Provision	Amendment
	<p>(a) a serving or retired senior-ranking officer of another police force, as chairman</p> <p>(b) a qualified lawyer, and</p> <p>(c) a member of the Commission who has not been concerned with the case."</p>
Section 12(9)(d)	For the words "Complaints Tribunal", substitute the "respondent to the appeal, for a rehearing".
Section 12(14)	<p>For this subsection, substitute the following subsection –</p> <p>"(14) If on an appeal it appears to the Appeal Tribunal that –</p> <p>(a) all or any part of the decision or the punishment appealed was ultra vires or unreasonable,</p> <p>(b) there is critical new evidence that could not have been considered at the hearing held under section 11 or, as the case may be, the prescribed disciplinary proceedings, leading to the decision or the punishment</p>

Provision	Amendment
	<p style="text-align: center;">appealed, or</p> <p style="text-align: center;">(c) there was a serious breach of the procedures or other unfairness which could have materially affected the decision or the punishment appealed,</p> <p>the Appeal Tribunal may remit the case for rehearing as to all or part of the relevant proceedings, with such directions or determinations as the Appeal Tribunal shall deem just and appropriate."</p>
New section 14A	<p>Between section 14 and section 15, insert the following section–</p> <p style="text-align: center;"><b><u>"Delegation by the Department.</u></b></p> <p style="text-align: center;"><b>14A.</b> For the avoidance of doubt, the Department may delegate any of its functions under this Law or in relation to a disciplinary investigation or disciplinary proceedings to any employee of the States of Guernsey responsible to the Department, and references in this Law to <b>"the Department"</b> shall be construed accordingly."</p>
Section 19(1)	<p>Insert the following definitions in the correct alphabetical order–</p> <p style="text-align: center;">" <b>appropriate authority</b>", in relation to any complaint or proceedings, –</p>

Provision	Amendment
	<p>(a) in any case where the complaint or those proceedings concern the conduct of a senior-ranking officer, means the Department, and</p> <p>(b) in any other case, means the Chief Officer,</p> <p>"conduct" includes acts, omissions and statements (whether actual, alleged or inferred),</p> <p>"disciplinary charge", subject to subsection (1A), means disciplinary proceedings,</p> <p>"disciplinary proceedings" includes proceedings under any provision of this Law or any regulations made under it,</p> <p>"document" means anything in which information of any description is recorded and includes any recording of a visual image or images,</p> <p>"member" or "member of the Force" means any member of the Island Police Force,</p> <p>"qualified lawyer" means a person who meets the requirements of paragraphs (a) and (b) -</p>

Provision	Amendment
	<p>(a) the person is -</p> <p>(i) an Advocate of the Royal Court of Guernsey,</p> <p>(ii) a member of the Bar of England and Wales, the Bar of Northern Ireland or the Faculty of Advocates in Scotland, who is engaged in the practise of law,</p> <p>(iii) a solicitor of the Senior Courts of England and Wales, a solicitor in Scotland or a solicitor of the Court of Judicature of Northern Ireland, or</p> <p>(iv) a person entitled to practise law as a member of the legal profession in any other Commonwealth jurisdiction,</p> <p>of not less than five years standing, and</p> <p>(b) the person's name is on a list of persons approved by the Department and Her Majesty's Procureur as qualified to conduct regulated proceedings for the</p>

Provision	Amendment
	<p data-bbox="791 331 1364 539">purposes of the Law by reason of their relevant experience in or knowledge of employment-related proceedings or proceedings concerning discipline,</p> <p data-bbox="619 618 1364 768"><b>"regulated proceedings"</b> means proceedings set out in regulations made under this Law, including appeal proceedings under section 12 of this Law,</p> <p data-bbox="619 846 1364 996"><b>"senior-ranking officer"</b> means a member of the Island Police Force holding the rank of Superintendent or above,</p> <p data-bbox="619 1075 1364 1167"><b>"serving or retired senior-ranking officer of another police force" -</b></p> <p data-bbox="715 1245 1364 1514">(a) means any police officer who holds the rank of, or any person who has retired from service as, Chief Constable, Deputy Chief Constable, Assistant Chief Constable or its equivalent in -</p> <p data-bbox="791 1592 1364 1742">(i) any police force in England, Wales, Northern Ireland or Jersey, or</p> <p data-bbox="791 1821 1364 1861">(ii) the Isle of Man constabulary, but</p>

Provision	Amendment
	<p>(b) excludes any person who has at any time been a member of the Island Police Force,</p> <p>"<b>this Law</b>" includes any Ordinance or subordinate legislation made under it."</p>
New section 19(1A)	<p>Immediately after subsection (1) of section 19, insert the following subsection –</p> <p>"(1A) Unless the context requires otherwise –</p> <p>(a) any reference in this Law to preferring or bringing a "<b>disciplinary charge</b>" means to bring disciplinary proceedings under this Law, and</p> <p>(b) any reference in this Law to deciding or finding that a member of the Force is guilty of a "<b>disciplinary charge</b>" means to decide or find that the conduct of that member amounts to misconduct or gross misconduct (as these terms are defined in regulations made under this Law),</p> <p>and cognate references shall be construed accordingly."</p>

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