

Island of



Guernsey

Ordinance of the States

XLVIII
2006

Made24th August, 2006
Coming into Operation.....24th August, 2006
Laid before before the States25th October, 2006

The Prison Administration (Guernsey) (Amendment) Ordinance, 2006

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THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by section 3 of the Prison Administration (Guernsey) Law, 1949^a and all other powers enabling the States in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, hereby orders:-

Amendment of the Ordinance of 1998.

1. The Prison Administration (Guernsey) Ordinance, 1998, as amended^c ("**the Ordinance of 1998**"), is further amended in accordance with the provisions of this Ordinance.

2. In the Arrangement of Sections to the Ordinance of 1998 -

(a) for the reference to section 31 ("Remission, migration and determination of disciplinary awards.") substitute -

"31. Review of adjudicator's award.", and

(b) immediately after the reference to section 31, as amended by paragraph (a), insert -

^a Ordres en Conseil Vol. XIV, p. 159; Vol. XVII, p. 234; Vol. XIX, p. 213; Order in Council No. I of 1999.

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

^c Ordinance No. XXIII of 1998 and No. XXXII of 2002.

"31A Remission and mitigation of awards of adjudicator and Governor"

3. For section 31 of the Ordinance of 1998, substitute -

Review of adjudicator's award.

31. (1) If an award is made by an adjudicator under section 28(3) or 29(2), a prisoner may request that the award be reviewed.

(2) Unless there are exceptional circumstances, a request under subsection (1) must be made within 14 days of an award by an adjudicator.

(3) A request under subsection (1) shall be in writing and made to the Governor who shall, within three working days of receipt of such a request, provide the Bailiff with a copy.

(4) Upon receipt of a copy request provided under subsection (3), the Bailiff shall appoint the Deputy Bailiff or a Lieutenant Bailiff ("**the reviewer**") to conduct the review requested by a prisoner.

(5) The reviewer may only review the award made by the adjudicator and for the avoidance of doubt, no review may be made of any finding of fact determined by the adjudicator when deciding whether the offence, for which the award was made, was proved.

(6) The reviewer may only consider the papers relating to the adjudicator's inquiry and any written representations concerning the award made by or on behalf of the prisoner.

(7) Following consideration of the documents referred to in subsection (6) the reviewer may -

- (a) confirm the award made by the adjudicator,
- (b) if he is of the opinion that the award made by the adjudicator was unduly lenient, quash the award and substitute any other award which could have been imposed by the adjudicator, or
- (c) if he is of the opinion that the award made by the adjudicator was excessive, quash the award, and -
 - (i) substitute any other award which could have been imposed by the adjudicator, or
 - (ii) impose no further award.

(8) Notice of the decision of the reviewer shall be served on the prisoner.

(9) Any award in respect of which a request is made under subsection (1) shall remain in effect unless, and until, quashed under subsection (7)(b) or (c)."

4. After section 31 of the Ordinance of 1998, insert the following section-

"Remission and mitigation of awards of adjudicator and Governor.

31A. Subject to any directions given by the Home Department, the Governor may, on the grounds of subsequent good behaviour, remit or mitigate any award made by an adjudicator or the Governor."

Citation and Commencement.

5. This Ordinance may be cited as the Prison Administration (Guernsey) (Amendment) Ordinance, 2006 and shall come into force on the 24th August 2006.