

PROJET DE LOI

ENTITLED

The Criminal Justice (Attendance Centre) (Guernsey) Law, 1982 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XXVII, p. 409; as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Criminal Evidence and Miscellaneous Provisions (Bailiwick of Guernsey) Law, 2002 (No. 1 of 2003, Ordres en Conseil Vol. XLIII(1), p. 3); the Bail (Bailiwick of Guernsey) Law, 2003 (No. XVII of 2003, Ordres en Conseil Vol. XLIII(1), p. 485); the Resolution of the States of Guernsey of 24th April, 1991 (Billet XI, proposition 1(4)).

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THE STATES, in pursuance of their Resolution of the twenty-ninth day of November, nineteen hundred and seventy-nine, 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.

Attendance centres and scheme of occupation and instruction.

1. (1) The Committee may provide attendance centres, that is to say places in which offenders may be ordered to attend, in pursuance of orders made under subsection (1) of the next succeeding section, and be given under supervision appropriate occupation and instruction; and for that purpose the Committee may make arrangements for the use of any premises owned by or under the control of the States.

(2) For the purposes of the last preceding subsection, the appropriate occupation and instruction given at an attendance centre shall be such as to occupy the persons attending thereat during the period of attendance in a manner conducive to health of mind and body and such occupation and instruction shall be in accordance with a scheme as the Committee may, from time to time, by order prescribe.

(3) Any power conferred by the last preceding subsection to make any order shall be construed as a power exercisable in like manner to vary or repeal the order.

NOTE

The following Order has been made under section 1:

*Criminal Justice (Attendance Centre) (Occupation and Instruction)
Order, 1997.*

Attendance at an attendance centre.

2. (1) Where a Court has power, or would but for any statutory restrictions upon the imprisonment of young offenders have power, to impose imprisonment on a person who is under twenty-one years of age, or to deal with any such person under Article six of the Law entitled "Loi relative à la Probation de Délinquants" registered on the twenty-third day of November, nineteen hundred and twenty-nine^a, for failure to comply with any of the requirements of a probation order, the Court may, if it has been notified by the Committee that an attendance centre is available for the reception from that Court of persons of his class or description, order him to attend at such an attendance centre, to be specified in the order, for such number of hours as may be so specified:

Provided that no such order shall be made in the case of a person who has been previously sentenced to imprisonment, Borstal training, or has been made subject to a special care order.

(2) The aggregate number of hours for which a person may be required to attend at an attendance centre in pursuance of an order made under subsection (1) of this section –

- (a) shall not be less than twelve except where he is under fourteen years of age and the Court is of opinion,

^a Ordres en Conseil Vol. VIII, p. 363.

having regard to his age or any other circumstances, that twelve hours would be excessive, and

- (b) shall not exceed twelve except where the Court is of opinion, having regard to all the circumstances, that twelve hours would be inadequate, and in that case shall not exceed twenty-four hours.

(3) The times at which an offender is required to attend at an attendance centre in pursuance of an order made under subsection (1) of this section shall be such as to avoid interference, so far as practicable, with his school hours or working hours, and the first such time shall be specified in the order (being a time at which the attendance centre is available for the attendance of the offender in accordance with the notification of the Committee) and the subsequent times shall be fixed by the officer in charge of the attendance centre, having regard to the offender's circumstances:

Provided that an offender shall not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.

(4) The Court by which an order has been made under subsection (1) of this section may, on the application of the offender or of the officer in charge of the attendance centre specified in the order –

- (a) by order discharge the order, or
- (b) by order vary the day or hour specified therein for the offender's first attendance at the attendance centre.

(5) If the Court by which an order under subsection (1) of this

section was made is satisfied by information on oath that the person in whose case the order was made –

- (a) has failed without reasonable excuse to attend at the attendance centre in accordance with the order, or
- (b) while attending at the attendance centre has committed a breach of any Ordinance for the time being in force made under the provisions of the next succeeding section which cannot be adequately dealt with under that Ordinance,

the Court may order that he be apprehended or be warned to appear before the Court.

(6) If it is proved to the satisfaction of the Court before which an offender appears or is brought under the last preceding subsection that he has failed to attend as aforesaid, or has committed such a breach of any Ordinance as aforesaid, the Court may revoke the order requiring his attendance at the attendance centre and deal with him in any manner in which he could have been dealt with by the Court if the order had not been made.

NOTES

In accordance with the provisions of the Criminal Evidence and Miscellaneous Provisions (Bailiwick of Guernsey) Law, 2002, section 19, with effect from 20th January, 2003, the reference in this section to a sentence of borstal training within the meaning of the Criminal Justice (Borstal Training) (Guernsey) Law, 1963 shall be construed as a reference to a sentence of youth detention within the meaning of the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990.

In accordance with the provisions of the Bail (Bailiwick of Guernsey) Law, 2003, section 2(4)(d), with effect from 5th April, 2004, section 2 of that Law ("The right to bail") applies to a person who, having been convicted of an offence, appears or is brought before a court to be dealt with under this section.

The Loi relative à la Probation de Délinquants, 1929 has since been repealed by the Probation (Bailiwick of Guernsey) Law, 2018, section 21(1), with effect from 17th October, 2019.

Ordinance for the management of attendance centres.

3. (1) The States may, from time to time, by Ordinance, make provision for the regulation and management of attendance centres.

(2) Any power conferred by the last preceding subsection to make any Ordinance shall be construed as a power exercisable in like manner to vary or repeal the Ordinance.

NOTE

The following Ordinance has been made under section 3:

Criminal Justice (Attendance Centre) Ordinance, 1983.

Responsibilities of the officer in charge.

4. The officer in charge of an attendance centre shall be responsible to and shall obey the orders of the Committee in respect of the maintenance of discipline at the attendance centre and generally in respect of the operation of any Ordinance for the time being in force made under section three of this Law and of any scheme for the time being in force prescribed under section one of this Law.

Rights of Appeal.

5. For the purposes of any enactment conferring rights of appeal and notwithstanding any limitations therein on rights of appeal, any order made by a Court under subsection (1) or subsection (6) of section two of this Law shall be treated as a sentence passed on the offender by that Court for the offence for which the order was made conferring a right of appeal.

Interpretation.

6. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"the Committee" means the [Committee for Home Affairs],

"the officer in charge" means the person for the time being appointed by the States [Policy & Resources Committee] to be in charge of an attendance centre and includes any person for the time being in charge of an attendance centre acting by or under the authority of the officer in charge.

(2) Any reference in this Law to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Law.

NOTES

In section 6, the words in square brackets in the definition of the expression "the officer in charge" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its

*President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*²

In accordance with their Resolution of 24th April, 1991, concerning Billet d'État No. XI, dated 12th April, 1991, the States directed that the Island Police Committee as established under Article 2 of the Loi ayant rapport à la Police Salariée pour l'Île entière, 1920, the States Committees (Amendment) Law, 1948 and the Police Committee (Amendment) Law, 1990 should be the States Committee for Home Affairs. The functions, rights and liabilities of the States Committee for Home Affairs and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were subsequently transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Citation.

7. This Law may be cited as the Criminal Justice (Attendance Centre) (Guernsey) Law, 1982.

Commencement.

8. (1) This Law shall come into force on such day as the States may by Ordinance appoint.

(2) Any power conferred by any provisions of this Law to make any Ordinance or order may be exercised at any time after the registration of this Law and before the day on which this Law shall come into force:

Provided that such Ordinance or order shall not come into force until this Law shall come into force.

NOTE

The Law was brought into force on 1st January, 1984 by the Criminal Justice (Attendance Centre) (Guernsey) Law, 1982 (Commencement) Ordinance, 1983, section 1.

1 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 12(a), with effect from 6th May, 2004.

2 The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Civil Service Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 12(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.