

ORDER IN COUNCIL

II
2003

ratifying a Projet de Loi

ENTITLED

The Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) (Amendment) Law, 2002

(Registered on the Records of the Island of Guernsey
on the 20th January, 2003.)



2003

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 20th day of January, 2003 before Sir de Vic Carey, Bailiff; present:— David Charles Lowe, Esquire, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael John Wilson, Michael Henry De La Mare and Michael John Tanguy, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 17th day of December, 2002, approving and ratifying a *Projet de Loi* of the States of Guernsey entitled “The Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) (Amendment) Law, 2002”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:—

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act, together with a copy of the said Order in Council be sent by Her Majesty’s Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively.

At the Court at Buckingham Palace

The 17th day of December, 2002

PRESENT,

The Queen's Most Excellent Majesty in Council

THE FOLLOWING, report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“IN ACCORDANCE WITH YOUR MAJESTY’S General Order of Reference of the 22nd day of February 1952 the Committee have considered a petition of the States of Guernsey:”

“That, in pursuance of their Resolution of 31st May, 2002, the States of Deliberation at a meeting on 31st July, 2002 approved a Projet de Loi entitled “The Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) (Amendment) Law, 2002” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction “The Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) (Amendment) Law, 2002” and to order that it shall have force of law in the Bailiwick of Guernsey.”

“THE COMMITTEE have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

HER MAJESTY, having taken the Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Bailiwick of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

HER MAJESTY'S Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

A. K. Galloway

PROJET DE LOI

ENTITLED

The Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) (Amendment) Law, 2002

THE STATES, in pursuance of their Resolution of the 31st day of May 2002^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.

Disclosure of information.

1. In section 2 of the Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law, 1991^b for subsection (3) there shall be substituted the following subsections -

"(3) Subject to subsection (1) and to any provision of an agreement for the supply of information which restricts the disclosure of the information supplied, information obtained by Her Majesty's Procureur or any person duly authorised under section 1(10) may be disclosed -

(a) to any person or body for the purposes of any investigation of an offence or prosecution in the Bailiwick or elsewhere;

^a Article VI of Billet d'État No. IX of 2002.

^b Order in Council No. III of 1991.

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- (b) to any competent authority; or
- (c) to the Administrator of the States of Guernsey Income Tax Authority.

(4) The following are competent authorities for the purposes of subsection (3)(b) -

- (a) any person or body having supervisory, regulatory or disciplinary functions in relation to financial services, any profession or any area of commercial activity;
- (b) any person having under the law of any country or territory outside the Bailiwick functions corresponding to any of the functions mentioned in subparagraph (a); and
- (c) any person appointed to investigate the affairs of a company in the Bailiwick or elsewhere."

Tipping off.

2. After section 2 of the Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law, 1991 there shall be inserted -

"Offences as to "tipping off".

2A. (1) A person is guilty of an offence if -

- (a) he knows or suspects that Her Majesty's Procureur is conducting an investigation, or proposing to conduct

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an investigation, using his powers under this Law; and

- (b) he discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation.

(2) Nothing in subsection (1) makes it an offence for a professional legal adviser to disclose any information or other matter -

- (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

- (b) to any person -

- (i) in contemplation of, or in connection with, legal proceedings; and

- (ii) for the purpose of those proceedings.

(3) Subsection (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(4) In proceedings against a person for an offence under subsection (1), it is a defence to prove that he did not know or suspect that the investigation or proposed investigation was likely to be prejudiced.

(5) No person authorised to act under section 1(10) shall be guilty of an offence under this section in respect of anything done by him in the

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course of his acting under the said authority.

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

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

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, to a fine, or to both."

Citation.

3. This Law may be cited as the Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) (Amendment) Law, 2002.