

PROJET DE LOI

ENTITLED

The Criminal Justice (Special Verdicts) (Guernsey) Law, 1961 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XVIII, p. 355; as amended by the Mental Treatment (Amendment) (Guernsey) Law, 1964 (Ordres en Conseil Vol. XIX, p. 269); the Mental Treatment (Amendment) (Guernsey) Law, 1972 (Ordres en Conseil Vol. XXIII, p. 328); the Mental Health (Bailiwick of Guernsey) Law, 2010 (No. XV of 2011); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

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ARRANGEMENT OF SECTIONS

1. Persons found insane on indictment to be detained during pleasure.
2. Persons found not guilty by reason of insanity to be detained during pleasure.
3. Persons detained at commencement of Law.
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THE STATES, in pursuance of their Resolution of the twenty-fourth day of May, nineteen hundred and sixty-one, 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.

Persons found insane on indictment to be detained during pleasure.

1. (1) Where any person is indicted for any offence and upon presentation of the indictment that person is found by the Royal Court to be insane so that such person cannot be tried upon that indictment or if, upon the trial of any person so indicted, such person shall appear to the Royal Court to be insane, the Royal Court shall order him to be detained during Her Majesty's pleasure; and such person shall thereupon be detained in [an approved establishment] until further Order.

(2) In all cases of insanity so found in pursuance of the provisions of subsection (1) of this section Her Majesty may thereupon, and from time to time thereafter, make such order for the safe custody of such person during pleasure in such place and in such manner as to Her Majesty may seem fit.

NOTES

In section 1, the words in square brackets were substituted by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 1(a), with effect from 8th April, 2013.

The following cases have referred to this Law:

Law Officers of the Crown v Young Person [2024]GRC071
(Unreported, Royal Court, 19th August);

Law Officers of the Crown v Young Person [2024]GRC072
(Unreported, Royal Court, 28th October);

Law Officers of the Crown v W. King [2025]GRC045 (Unreported,
Royal Court, 17th January).

Persons found not guilty by reason of insanity to be detained during pleasure.

2. (1) Where in any indictment any act or omission is charged against any person as an offence, and it is given in evidence at the trial of such person for that offence that he was insane so as not to be responsible, according to law, for his actions at the time when the act was done or omission made, then, if it appears to the Royal Court that he did the act or made the omission charged but was insane as aforesaid at the time when he did or made the same, the Royal Court shall return a special verdict to the effect that the accused was not guilty of the offence charged against him by reason of insanity at the time when he did the act or made the omission and shall –

[(a) make a hospital treatment order in respect of him under section 66(3) of the Mental Health (Bailiwick of Guernsey) Law, 2010, or

(b) make no order].

[(2) Where –

(a) the offence to which the special verdict under subsection (1) relates is an offence the sentence for which is fixed by law, and

(b) the Royal Court has power to make a hospital treatment

order,

the Royal Court shall make a hospital treatment order with a restriction order (whether or not it would have power to make a restriction order apart from this subsection).]

NOTE

In section 2, first, the words in square brackets in subsection (1) and, second, subsection (2) were substituted by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, respectively paragraph 1(b) and paragraph 1(c), with effect from 8th April, 2013.

Persons detained at commencement of Law.

3. Any person who, on the commencement of this Law, is detained in accordance with the provisions of an Order of the Royal Court by reason of his having been found not guilty of an offence by reason of insanity shall thereupon and thereafter be deemed to be a person in respect of whom the Royal Court has made an Order under the provisions of subsection (1) of the last preceding section and the provisions of subsection (2) of that section shall have effect accordingly.

Detention in mental hospital during pleasure.

4. A person in respect of whom an Order has been made or is deemed to have been made by the Royal Court under section one [...] of this Law shall, notwithstanding any of the provisions of the [Mental Health (Bailiwick of Guernsey) Law, 2010], be received and detained in [an approved establishment] until Her Majesty's pleasure shall be made known and may there be detained during Her Majesty's pleasure.

NOTE

In section 4, the words omitted in the first pair of square brackets were

repealed, the words in the second pair of square brackets were substituted and the words in the third pair of square brackets were substituted by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, respectively paragraph 1(e), paragraph 1(d) and paragraph 1(a), with effect from 8th April, 2013.

Temporary release from mental hospital.

5. Where a person is detained in [an approved establishment] in accordance with the provisions of an Order made or deemed to have been made under section one [...] of this Law and [an approved medical practitioner responsible for the treatment of the patient] [...] is of opinion that it is necessary, in the interests of the patient, that he should be temporarily released from detention and is further of the opinion, having regard to the protection of other persons, that such person can safely be so released, whether in the care of a relative or otherwise, [the approved medical practitioner] shall so inform a Law Officer of the Crown who may, if he thinks fit, order the release of such person on licence for such period and subject to such conditions as he may deem necessary and he may at any time rescind or amend such order or any condition attaching thereto.

NOTES

In section 5,

the words in the first pair of square brackets were substituted by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 1(a), with effect from 8th April, 2013;

the words omitted in the second pair of square brackets were repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 1(e), with effect from 8th April, 2013;

the words in the third and fifth pairs of square brackets were substituted by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, respectively paragraph 1(f)(i) and paragraph 1(f)(ii), with effect from 8th April, 2013;¹

the words omitted in the fourth pair of square brackets were repealed by the Mental Treatment (Amendment) (Guernsey) Law, 1964, section 2(b), with effect from 1st December, 1964.

Retaking of persons who escape from mental hospital.

6. Any person detained in [an approved establishment] by virtue of an Order made or deemed to have been made under section one [...] of this Law who escapes may be retaken at any time after his escape by –

- (a) any officer of the mental hospital in which he was detained,
- (b) any person authorised by any such officer, or
- (c) any officer of police.

NOTE

In section 6, the words in the first pair of square brackets were substituted and the words omitted in the second pair of square brackets were repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, respectively paragraph 1(a) and paragraph 1(d), with effect from 8th April, 2013.

Amendment to 1950 Law.

7. In subsection (1) of section seven of the Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950, the words "guilty but insane" where those words occur in that subsection are hereby deleted and the words "not guilty by reason of insanity" are hereby substituted therefor.

[Application of Mental Health (Bailiwick of Guernsey) Law, 2010 to persons detained under this Law.

8. The provisions of the Mental Health (Bailiwick of Guernsey) Law, 2010, or any enactment, instrument or code of practice made or issued under that Law, relating to the powers and duties of [the Committee for Health & Social Care],

the Committee, a medical practitioner, an approved medical practitioner, an approved mental health practitioner, an approved social worker, an authorised nurse, an authorised occupational therapist or a police officer (all as defined in section 99 of that Law), concerning patients liable to be detained in approved establishments under that Law, shall have effect as if any reference therein to a patient includes a reference to a person detained in an approved establishment in pursuance of the provisions, other than section 2, of this Law.]

NOTE

Section 8 was substituted by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 1(g), with effect from 8th April, 2013.²

In section 8, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 6, with effect from 1st May, 2016.

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Interpretation.

9. (1) In this Law the following expressions have the meanings hereby respectively assigned to them, that is to say –

["**approved medical practitioner**" has the same meaning as in the Mental Health (Bailiwick of Guernsey) Law, 2010],

["**approved establishment**" has the same meaning as in the Mental Health (Bailiwick of Guernsey) Law, 2010],

["**hospital treatment order**" has the same meaning as in the Mental Health (Bailiwick of Guernsey) Law, 2010,]

"officer of police" has the same meaning as in the Larceny (Guernsey) Law, 1958,

["**restriction order**" has the same meaning as in the Mental Health (Bailiwick of Guernsey) Law, 2010,]

["**the Royal Court**" means the Royal Court of Guernsey sitting as an Ordinary Court.]

[...]

(2) Any reference in this Law to any other enactment shall be construed as including a reference to that enactment as re-enacted, amended, extended or applied by or under any other enactment including this Law.

NOTES

In section 9,

the definitions of the expressions "approved medical practitioner" and "approved establishment" were substituted and the definitions of the expressions "hospital treatment order", "restriction order" and "the Royal Court" were inserted by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, respectively paragraph 1(h)(i), paragraph 1(h)(ii), paragraph 1(h)(iii), paragraph 1(h)(iv) and paragraph 1(h)(v), with effect from 8th April, 2013;³

the words omitted in the sixth pair of square brackets were repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 1(h)(vi), with effect from 8th April, 2013.

The Larceny (Guernsey) Law, 1958 has since been repealed by the Theft (Bailiwick of Guernsey) Law, 1983, section 41(1), with effect from 1st July, 1984, subject to the transitional provisions in section 43 of the 1983 Law.

Citation.

10. This Law may be cited as the Criminal Justice (Special Verdicts) (Guernsey) Law, 1961.

NOTE

The Law received Royal Sanction on 25th September, 1961 and was registered on the Records of the Island of Guernsey and came into force on 17th October, 1961.

¹ These words were previously amended, in part, by the Mental Treatment (Amendment) (Guernsey) Law, 1964, section 2(a), with effect from 1st December, 1964.

² Prior to its substitution, section 8 was amended by the Mental Treatment (Amendment) (Guernsey) Law, 1972, section 2, with effect from 6th June, 1972.

3 Prior to its substitution, the definition of the expression "approved medical practitioner" was amended by the Mental Treatment (Amendment) (Guernsey) Law, 1964, section 2(a), with effect from 1st December, 1964.