

# ORDER IN COUNCIL

**XII**  
**1990**

ratifying a Projet de Loi

ENTITLED

## **The Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990**

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(Registered on the Records of the Island of Guernsey  
on the 19th June, 1990.)

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1990

## ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 19th day of June, 1990 before Sir Charles Frossard, Kt., Bailiff; present:—Harry Wilson Bisson, Herbert Nicolle Machon, Geoffrey Ernest Le Page, Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss and Kenneth John Rowe, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 1st May, 1990, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur 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 of which Order in Council the tenor followeth:—

## At the Court at Buckingham Palace

The 1st day of May 1990

PRESENT,

### The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Jersey and Guernsey dated the 15th day of March 1990 in the words following, viz:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

‘1. That, in pursuance of their Resolution of the 23rd day of February, 1989, the States of Deliberation at a meeting held on the 30th day of November, 1989, approved a Bill or “Projet de Loi” entitled “The Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990”, and requested the Bailiff to present a most humble Petition to your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is as set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty may be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990”, and to order that the same shall have force of Law in the Bailiwick of Guernsey.’

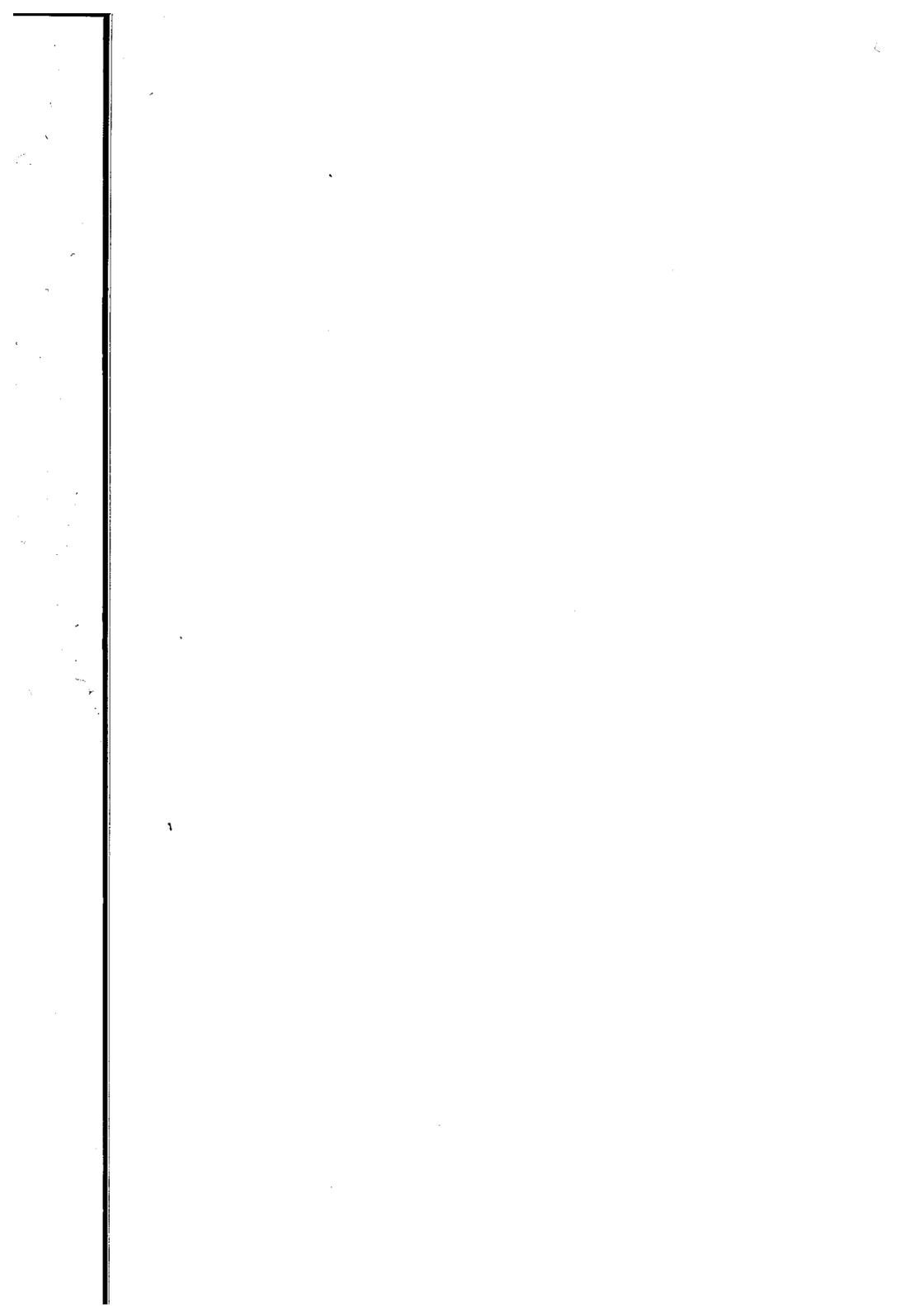
“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*G. I. de Deney.*



# PROJET DE LOI

ENTITLED

## **The Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990**

THE STATES, in pursuance of their Resolution of the 23rd day of February, 1989, 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.

1. (1) No person aged under 21 years shall be sentenced to imprisonment for an offence.

Youth  
detention  
for offenders  
under 21  
years.

(2) Where a person aged under 21 years but not under 14 years is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 years or over (not being an offence the sentence for which is fixed by law) and the court considers for reasons which shall be stated in open court that the only appropriate method of dealing with the offender is to pass a custodial sentence that sentence shall be one of youth detention.

(3) The maximum term of youth detention that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence.

(4) Where an offender—

(a) is convicted of more than one offence for which he is liable to a sentence of youth detention;

(b) is serving a sentence of youth detention and is convicted of one or more further offences for which he is liable to such a sentence,  
the court shall have the same power to impose consecutive youth detention sentences as if they were sentences of imprisonment.

(5) Where an offender—

(a) is serving a sentence of youth detention; and

(b) has attained the age of 21 years;

and is convicted of one or more further offences for which he is liable to imprisonment, the court shall have the power to pass one or more sentences of imprisonment to run consecutively upon the sentence of youth detention.

(6) A person serving a sentence of youth detention shall be deemed a prisoner for the purposes of the Prison Administration (Guernsey) Ordinance, 1959(a),

(7) A person aged under 21 years who, but for the provisions of this Law would have been liable to a period of imprisonment in default of payment of a fine, shall instead be liable to a period of youth detention and the provisions of sections 2 and 4 of this Law shall not apply thereto.

(8) A sentence of youth detention may be suspended and the provisions of the Criminal Justice (Power to Suspend Sentence) (Bailiwick of Guernsey) Law, 1972(b) shall apply in relation to sentence of youth detention as if they were sentences of imprisonment.

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(a) Recueil d'ordonnances Tome XII, p. 237.

(b) Ordres en Conseil Vol. XXIII, p. 346.

(9) A suspended sentence of youth detention shall be deemed to be a sentence of imprisonment when ordered to take effect in respect of an offender aged over 21 years.

2. (1) A court shall not pass a sentence of youth detention unless— Sentencing procedure.

(a) it is satisfied that the offender is unable or unwilling to respond to non-custodial penalties; or

(b) a custodial sentence is necessary for the protection of the public or the prevention of crime; or

(c) the offence was so serious that a non-custodial sentence cannot be justified.

(2) Before passing a sentence of youth detention the court shall take into account any information before it which is relevant to the offender's character and physical and mental condition.

(3) Before sentencing an offender to a term of 6 months or more youth detention, the court shall consider any report made in respect of the offender by the States Children Board or the Probation Officer and shall, unless satisfied that it would be undesirable to do so, cause a copy of any such report to be given to the offender or his Advocate; and in a case where the report is not given to the offender or his Advocate, it shall be summarised orally in open court.

3. (1) Subject to subsection (3) below, where—

(a) an offender has been sentenced to youth detention; and

Treating sentences as imprisonment in certain cases.

(b) either—

- (i) he attains the age of 21 years; or
- (ii) the conditions specified in subsection (2) below are satisfied,

the States Prison Board may direct that he shall be treated as if he had been sentenced to imprisonment for the same term.

(2) The conditions mentioned in subsection (1) above are—

- (a) that the offender has attained the age of 16 years, and
- (b) that he has been reported by the Governor of the States Prison as exercising a bad influence on the other inmates or was behaving in a disruptive manner to the detriment of those inmates.

(3) A person who under this section is treated as if sentenced to imprisonment instead of youth detention is not to be so treated for the purposes of section 4 of this Law.

Supervision  
after release.

4. (1) An offender released from a sentence of youth detention exceeding 21 days shall be under the supervision of a Probation Officer.

(2) Subject to the provisions of subsection (3) below the period of supervision shall start on the day of the offender's release and end—

- (a) 3 months therefrom; or
- (b) on the date on which his sentence would have expired if he had not been granted remission, whichever is the later.

(3) Where an offender is released on licence the period of supervision begins on the date his licence expires and ends on the date he would have been released if he had never been released on licence or granted remission.

(4) The maximum period of supervision in any case shall be 12 months.

(5) While a person is under supervision by virtue of this section he shall comply with such requirements, if any, as may for the time being be specified in writing by the States Prison Board and given to him prior to release on supervision.

(6) A person who without reasonable excuse fails to comply with a requirement under subsection (5) above shall be guilty of an offence and liable on conviction—

(a) to an appropriate custodial sentence not exceeding 30 days; or

(b) to a fine not exceeding level 4 on the uniform scale,

or to both.

(7) In subsection (6) above “appropriate custodial sentence” means—

(a) a sentence of imprisonment if the person has attained the age of 21 years when he is sentenced; or

(b) a sentence of youth detention if he has not attained that age.

(8) A person released from an appropriate custodial sentence imposed under subsection (6)(a) above shall not be liable to a period of supervision in respect of that sentence, but this provision shall not prejudice any liability to supervision to which he was previously subject, and that liability shall continue until the end of the supervision period.

(9) In this section—

“licence” means a licence under section 2 of the Parole Review Committee (Guernsey) Law, 1989(c);

“Probation Officer” means one or other of the Probation Officers for the time being employed by the States of Guernsey;

“remission” means remission under section 31 of the Prison Administration (Guernsey) Ordinance, 1959.

Appeals. 5. For the purpose of any enactment conferring rights of appeal, any sentence imposed under section 1 of the Law shall be treated as a sentence of imprisonment passed on the offender conferring a right of appeal.

Provision for Ordinances. 6. The States may by Ordinance vary any of the periods of time mentioned in this Law including making different provisions for different classes of offender.

Repeal. 7. The Borstal Training (Guernsey) Law, 1963(d) is repealed.

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(c) No. XVI of 1989.

(d) Ordres en Conseil Vol. XIX, p. 187.

8. (1) An offender who was sentenced to Borstal training on a date before the commencement of this Law and whose sentence has not expired at the commencement thereof shall be treated for all purposes of detention, arrest and supervision as if his sentence had been a sentence of youth detention for a term of 12 months.

Transitional provisions.

(2) An offender who was sentenced to a term of imprisonment (not being for an offence the sentence for which is fixed by law) whilst under the age of 21 years on a date before the commencement of this Law and whose sentence has not expired at the commencement thereof shall be treated for all purposes of detention, arrest and supervision as if his sentence had been a sentence of youth detention for the same term.

(3) An offender who was convicted by any court of an offence punishable with imprisonment whilst under the age of 21 years on a date before the commencement of this Law and who falls to be sentenced on a date after the commencement of this law shall be dealt with as if the powers conferred by this Law were in force on the date of his conviction.

9. (1) This Law may be cited as the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990.

Citation and commencement.

(2) This Law shall come into force on such date as the States may by Ordinance direct.

K. H. TOUGH,  
Her Majesty's Greffier.