

Island of



Guernsey

## Ordinance of the States

**XV**  
**2010**

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Made .....24th March, 2010

Coming into Operation.....24th March, 2010

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## **The Drug Trafficking (Bailiwick of Guernsey) (Amendment) Ordinance, 2010**

## **The Drug Trafficking (Bailiwick of Guernsey) (Amendment) Ordinance, 2010**

**THE STATES**, in pursuance of their Resolution of the 24<sup>th</sup> February, 2010<sup>a</sup>, and in exercise of the powers conferred on them by section 71A of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

### **Amendment of section 57 of the Law.**

1. Section 57 of the Law is amended as follows -

- (a) in subsection (1), omit ", for the purpose of avoiding prosecution for a drug trafficking offence or the making or enforcement in his case of a confiscation order",
- (b) in subsection (2) -
  - (i) for "having reasonable grounds to suspect", substitute "suspecting", and
  - (ii) omit ", for the purpose of assisting any person to avoid prosecution for a drug trafficking offence or the making or enforcement of a confiscation order", and
- (c) immediately after subsection (3) , insert the following subsections -

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<sup>a</sup> Article X of Billet d'État No. IV of 2010.

<sup>b</sup> Ordres en Conseil Vol. XL, p. 131; Order in Council No. II of 2005; Nos. XVI and XVII of 2007; No. XVII of 2008; Recueil d'Ordonnances Tome XXIX, p. 406; and Ordinance No. XXXVIII of 2008.

"(4) Where a person discloses to an officer of police a suspicion or belief that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking or discloses to an officer of police any matter on which such a suspicion or belief is based -

(a) the disclosure -

(i) shall not be treated as a breach of any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or contract or otherwise, and

(ii) shall not involve the person making it in any liability of any kind to any person by reason of such disclosure, and

(b) if he does any act in contravention of subsection (2) and the disclosure relates to the arrangement concerned, he does not commit an offence under this section if -

(i) the disclosure is made before he does the act concerned and the act is done with the consent of the officer of police (and in this case the person doing the act shall incur no liability of any kind to any person by reason of such act), or

(ii) the disclosure is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(5) For the purposes of this section, having possession of any property shall be taken to be doing an act in relation to it.

(6) In proceedings against a person for an offence under subsection (2), it is a defence to prove that -

- (a) he intended to disclose to an officer of police such a suspicion, belief or matter as is mentioned in subsection (4), but
- (b) there is reasonable excuse for his failure to make any such disclosure in the manner mentioned in subsections (4)(b)(i) and (4)(b)(ii).

(7) In the case of a person who was in employment at the time in question, subsections (4) and (6) shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to an officer of police.

(8) No officer of police or other person shall be guilty of an offence under subsection (2) in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Law or of any other enactment relating to drug trafficking or the proceeds of drug trafficking."

**Amendment of section 59 of the Law.**

2. Section 59 of the Law is amended as follows -

- (a) in subsection (1), for "another person's" substitute "the", and
- (b) for subsection (4), substitute -

"(4) The provision for any person of services or goods -

(a) which are of assistance to him in drug trafficking; or

(b) which the person providing the services or goods knows or suspects or has reasonable grounds to suspect may assist him in drug trafficking,

shall not be treated as consideration for the purposes of subsection (2)."

**Amendment of section 61 of the Law.**

3. Section 61 of the Law is amended as follows -

(a) for subsection (1)(b), substitute -

"(b) he discloses to any other person information or any other matter -

(i) which is likely to prejudice that investigation or proposed investigation, or

(ii) which is not already in the public domain and which, in the circumstances of that investigation or proposed investigation, it is unreasonable to disclose.",

(b) in subsection (2)(a), immediately after "section", insert "57," ,

(c) for subsection (2)(b), substitute -

"(b) he discloses to any other person information or any other matter -

(i) which is likely to prejudice any investigation which might be conducted following the disclosure; or

(ii) which is not already in the public domain and which, in the circumstances of any such investigation, it is unreasonable to disclose.",

(d) in subsection (3)(a), immediately after "section", insert "57,"

(e) for subsection (3)(b), substitute -

"(b) he discloses to any other person information or any other matter -

(i) which is likely to prejudice any investigation which might be conducted following the disclosure; or

(ii) which is not already in the public domain and which, in the circumstances of any such investigation, it is unreasonable to disclose.",  
and

(f) in subsection (6) immediately after "suspect" insert "or have reasonable grounds to suspect".

**Interpretation.**

4. In this Ordinance, "**the Law**" means the Drug Trafficking (Bailiwick of Guernsey) Law, 2000, as amended.

**Extent.**

5. This Ordinance has effect throughout the Bailiwick of Guernsey.

**Citation.**

6. This Ordinance may be cited as the Drug Trafficking (Bailiwick of Guernsey) (Amendment) Ordinance, 2010.

**Commencement.**

7. This Ordinance shall come into force on the 24<sup>th</sup> March, 2010.

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Her Majesty's Greffier.

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