

# ORDER IN COUNCIL

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2004

ratifying a Projet de Loi

ENTITLED

## The Prevention of Corruption (Bailiwick of Guernsey) Law, 2003

(Registered on the Records of the Island of Guernsey  
on the 19th January, 2004.)



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2004

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 19th day of January, 2004 before Sir de Vic Carey, Bailiff; present:— David Charles Lowe, 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 Henry De La Mare, Michael John Tanguy, Esquires, and Susan Mowbray, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 10th day of December, 2003, approving and ratifying a *Projet de Loi* of the States of Guernsey entitled “The Prevention of Corruption (Bailiwick of Guernsey) Law, 2003”, THE COURT, after the reading of the said Order in Council and 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.

## At the Court at Buckingham Palace

The 10th day of December, 2003

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 the 1st of November, 2001, the States of Deliberation at a meeting on the 24th September, 2003, approved a Projet de Loi entitled “The Prevention of Corruption (Bailiwick of Guernsey) Law, 2003” 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 Prevention of Corruption (Bailiwick of Guernsey) Law, 2003” 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 Prevention of Corruption (Bailiwick of Guernsey) Law, 2003**

### ARRANGEMENT OF SECTIONS

1. Corrupt transactions with agents.
2. Meaning of "agent".
3. Corruption by public officials.
4. Corruption committed outside the Bailiwick.
5. Corruption occurring partially in the Bailiwick.
6. Offences by bodies corporate.
7. Search warrants.
8. Interpretation.
9. Common law bribery.
10. Repeal.
11. Citation.

# PROJET DE LOI

ENTITLED

## **The Prevention of Corruption (Bailiwick of Guernsey) Law, 2003**

**THE STATES**, in pursuance of their Resolution of the 1<sup>st</sup> day of November 2001<sup>a</sup>, 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.

### **Corrupt transaction with agents.**

1. (1) An agent or any other person who corruptly -
  - (a) accepts or obtains; or
  - (b) agrees to accept or attempts to obtain,

for himself, or for any other person, any gift, consideration or advantage as an inducement to, or reward for, or otherwise on account of, the agent doing any act or making any omission in relation to his office or position or his principal's affairs or business shall be guilty of an offence.

- (2) A person who corruptly -

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<sup>a</sup> Article XXI of Billet d'État No. XXI of 2001.

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- (a) gives or agrees to give, or
- (b) offers,

any gift, consideration or advantage to an agent or any other person, whether for the benefit of that agent, person or other person, as an inducement to, or reward for, or otherwise on account of, the agent doing any act or making any omission in relation to his office or position or his principal's affairs or business shall be guilty of an offence.

- (3) For the purposes of this section it is immaterial if -
  - (a) the principal's affairs or business have no connection with the Bailiwick and are conducted in a country or territory outside the Bailiwick;
  - (b) the agent's functions have no connection with the Bailiwick and are carried out in a country outside the Bailiwick.
- (4) 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; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years, to a fine, or to both.

(5) In this section -

**"consideration"** includes valuable consideration of any kind;

**"principal"** includes any employer.

**Meaning of "agent".**

2. (1) In this Law -

**"agent"** includes -

- (a) any person employed by or acting for another,
- (b) without prejudice to the generality of paragraph (a), a person of any of the following descriptions -
  - (i) a member of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark,
  - (ii) the Bailiff, the Deputy Bailiff or a Lieutenant Bailiff,
  - (iii) a Judge of the Court of Appeal,
  - (iv) a Jurat of the Royal Court,
  - (v) the Magistrate or Assistant Magistrates,
  - (vi) a Jurat of the Court of Alderney,

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- (vii) a member of any tribunal created by or under any enactment of the Bailiwick or any part thereof,
- (viii) the Seneschal of Sark or his Deputy,
- (ix) Her Majesty's Procureur and any Procureur délégué,
- (x) Her Majesty's Comptroller and any Contrôle délégué,
- (xi) Her Majesty's Greffier and his Deputies,
- (xii) Her Majesty's Sheriff and his Deputies,
- (xiii) Her Majesty's Sergeant and his Deputies,
- (xvi) the Clerk of the Court of Alderney,
- (xv) the Greffier of Sark or his Deputy,
- (xvi) the Prevôt of Sark or his Deputy,
- (xvii) the Constable and Vingtenier of Sark;
- (xviii) a person elected to Parochial office in Guernsey;
- (xix) a member of a Parish Douzaine;

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- (xx) an auditor;
  - (xxi) a non States member of a States' Committee;
  - (xxii) a member of any body created by or under any enactment responsible for the regulation of any type of business or other activity,
  - (xxiii) any other person employed by or acting on behalf of the public administration in any part of the Bailiwick, and
- (c) without prejudice to the generality of paragraph (a), a person of any of the following descriptions -
- (i) a member of the government of any other country or territory,
  - (ii) a member of a parliament, regional or national, of any other country or territory,
  - (iii) a member of the European Parliament,
  - (iv) a member of the Court of Auditors of the European Communities,
  - (v) a member of the Commission of the European Communities,

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- (vi) a public prosecutor in any other country or territory,
- (vii) a Judge of a court in any other country or territory,
- (viii) a Judge of any court established under an international agreement,
- (ix) a member of, or any other person employed by or acting for or on behalf of, any body established under an international agreement,
- (x) a member of a body created by law in any other country or territory responsible for the regulation of any type of business or other activity, and
- (xi) any other person employed by or acting on behalf of the public administration of any other country or territory.

(2) The States by Ordinance may amend subsection (1).

**Corruption by public officials.**

3. (1) A public official who does or does not do any act in relation to his office for the purpose of corruptly obtaining a gift, consideration or advantage for himself or any other person shall be guilty of an offence.

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(2) 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; or

(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years, to a fine, or to both.

(3) In this section -

**"consideration"** includes valuable consideration of any kind;

**"public official"** means a person referred to in section 2(1)(b).

**Corruption committed outside the Bailiwick.**

4. (1) This section applies if -

(a) a Bailiwick person or a body incorporated under the law of any part of the Bailiwick does or omits to do anything in a country or territory outside the Bailiwick, and

(b) the act or omission would, if done in the Bailiwick, constitute any offence under this Law.

(2) In such a case -

(a) the act or omission constitutes the offence concerned,

and

- (b) proceedings for the offence may be taken in the Bailiwick.

(3) A "**Bailiwick person**" means a person who is an agent by reason of section 2(1)(b) or any other person who is ordinarily resident in the Bailiwick and who is -

- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981 is a British subject, or
- (c) a British protected person within the meaning of that Act.

**Corruption occurring partially in the Bailiwick.**

5. A person may be tried in the Bailiwick for an offence under sections 1 or 3, if any of the acts or omissions alleged to constitute the offence was committed in the Bailiwick notwithstanding that other acts or omissions constituting the offence were committed outside the Bailiwick.

**Offences by bodies corporate.**

6. (1) Where an offence under this Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary

or other officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director or manager of the body corporate.

**Search warrants.**

7. (1) The Bailiff or appropriate judicial officer on hearing evidence on oath from a police officer may, if he is satisfied that there are reasonable grounds for suspecting that evidence of or relating to the commission of an offence under this Law ("an offence") is to be found in any place, issue a warrant for the search of any premises and any persons found on those premises.

(2) A warrant issued under this section shall authorise police officers and any other persons named in the warrant to enter within one calendar month of the date of issue of the warrant, using if necessary reasonable force, the premises named in the warrant, and to search them and any persons found on them and to seize anything found in the possession of a person present at the time of the search which a police officer involved in conducting the search reasonably believes to be evidence of or relating to the commission of an offence or suspected offence.

(3) A police officer acting under the authority of a warrant under this section may -

(a) require any person present at the place where the search is being carried out to give to the police officer his name and address, and

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- (b) arrest without warrant any person who -
  - (i) obstructs or attempts to obstruct a police officer in the carrying out of his duties,
  - (ii) fails to comply with a requirement under paragraph (a), or
  - (iii) gives a name or address which the police officer has reasonable cause for believing is false or misleading.

(4) A person who obstructs or attempts to obstruct a police officer acting under the authority of a warrant issued under this section, fails to comply with a requirement under subsection (3)(a), or gives a false or misleading name or address to a police officer so acting shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a period not exceeding 6 months, to a fine not exceeding level 5 on the uniform scale, or to both.

(5) The power to issue a warrant under this section is without prejudice to any other power conferred by statute for the issue of a warrant for the search of any place or person.

(6) No application for a warrant under this section may be made without the consent of Her Majesty's Procureur.

**Interpretation.**

8. (1) In this Law -

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"**agent**" has the meaning given by section 2,

"**appropriate judicial officer**" means -

- (a) in Alderney, the Chairman of the Court of Alderney or, if he is absent or unable to act, a Jurat of the Court of Alderney authorised by him to act in that behalf,
- (b) in Sark, the Seneschal or, if he is absent or unable to act, his deputy,

"**Bailiwick**" means the Bailiwick of Guernsey,

"**Bailiwick person**" has the meaning given in section 4(4),

"**Her Majesty's Procureur**" save for in section 2(1)(b) includes Her Majesty's Comptroller,

"**police officer**" means -

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,
- (b) in relation to Alderney, a member of the said salaried police force, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a member of the Alderney Special Constabulary established pursuant to

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section 46A of the Government of Alderney Law, 1987<sup>b</sup>,

- (c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of the Island of Guernsey, and
- (d) an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>c</sup>.

(2) The provisions of the Interpretation (Guernsey) Law, 1948<sup>d</sup> shall apply to the interpretation of this Law throughout the Bailiwick.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, replaced or re-enacted (in either case, with or without modification), extended or applied.

**Common law bribery.**

9. The common law offence of bribery is abolished.

**Repeal.**

10. The Corruption (Alderney) Law, 1994<sup>e</sup> is repealed.

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<sup>b</sup> Ordres en Conseil Vol. XXX, p.37, Vol. XXXI, pp.83 and 306; Order in Council No. XI of 1993; No. IX of 1995; No. IV of 1996; No. IV of 1998; and No. I of 2000.

<sup>c</sup> Ordres en Conseil Vol. XXIII, p.573 and No. XIII of 1991.

<sup>d</sup> Ordres en Conseil Vol. XIII, p.355.

<sup>e</sup> Order in Council No. XXXI of 1994.

**Citation.**

**11.** This Law may be cited as the Prevention of Corruption (Bailiwick of Guernsey) Law, 2003.