

ORDER IN COUNCIL

XXV
1990

ratifying a Projet de Loi

ENTITLED

The Prevention of Terrorism (Bailiwick of Guernsey) Law, 1990

(Registered on the Records of the Island of Guernsey
on the 4th December, 1990.)



1990

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 4th day of December, 1990 before Graham Martyn Dorey, Esquire, Deputy Bailiff; present:—Harry Wilson Bisson, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley, Kenneth John Rowe and Lawrence Oscar Ozanne, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 31st day of October, 1990, approving and ratifying a *Projet de Loi* entitled “The Prevention of Terrorism (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 31st day of October 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 Guernsey and Jersey dated the 10th day of October 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 31st day of January, 1990, the States of Deliberation at a meeting held on the 28th day of June, 1990, approved a Bill or “Projet de Loi” entitled “The Prevention of Terrorism (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 might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Prevention of Terrorism (Bailiwick of Guernsey) Law, 1990”, and to order that the same shall have force of law in the Bailiwick of Guernsey.”

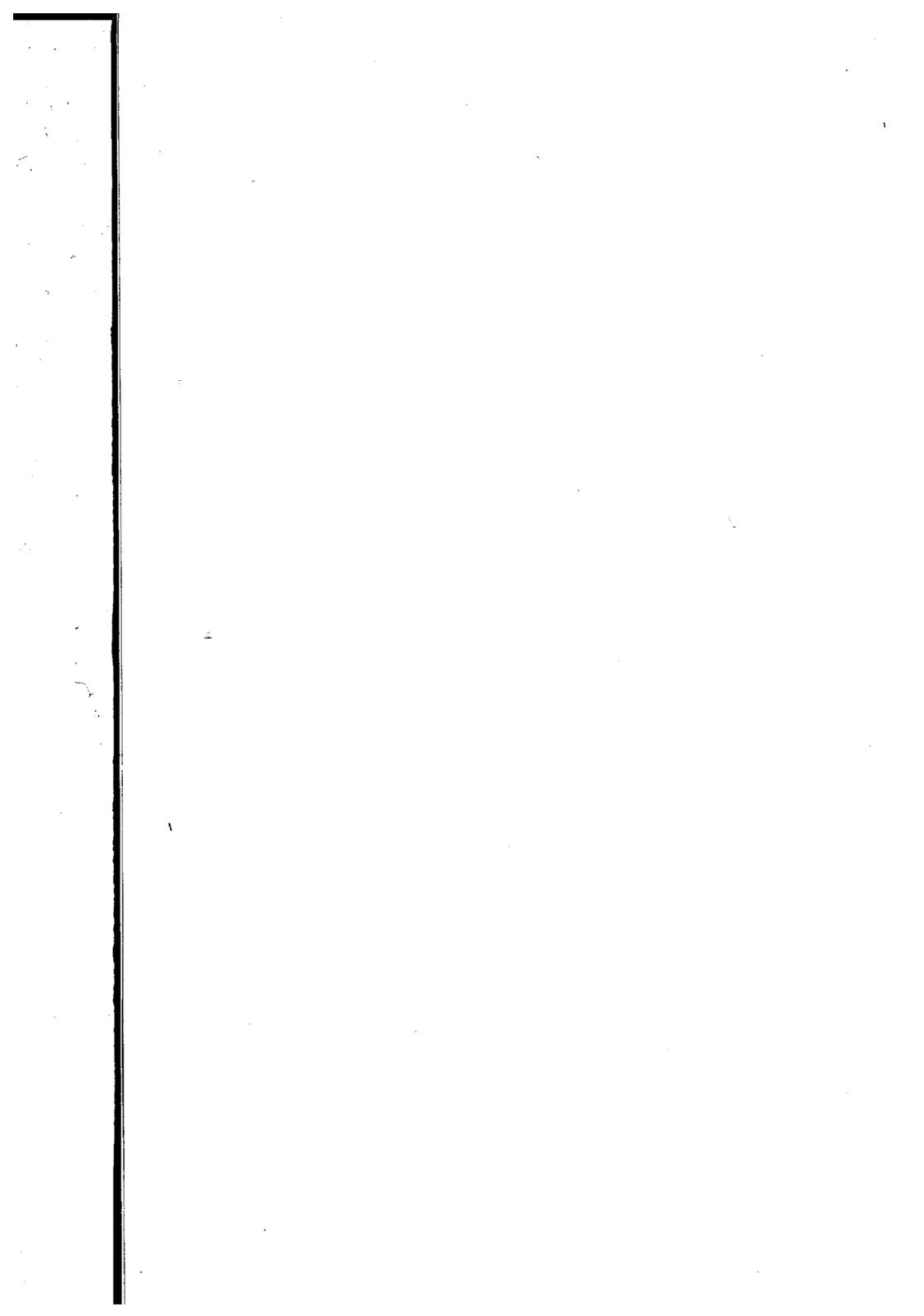
“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer 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 Prevention of Terrorism (Bailiwick of Guernsey) Law, 1990

ARRANGEMENT OF SECTIONS

Section

PART I

PROSCRIBED ORGANISATIONS

1. Proscribed organisations.
2. Membership, support and meetings.
3. Display of public support.

PART II

EXCLUSION ORDERS

4. General.
5. Exclusion orders.
6. Offences in respect of exclusion orders.

PART III

FINANCIAL ASSISTANCE FOR TERRORISM

7. Contributions towards acts of terrorism.
8. Contributions towards resources of proscribed organisations.
9. Assisting in retention or control of terrorist funds.
10. Disclosure of information about terrorist funds.
11. Penalties and forfeiture.

Section

PART IV

ARREST, DETENTION AND CONTROL OF
ENTRY

12. Arrest and detention of suspected persons.
13. Provisions supplementary to section 12.
14. Port and entry controls.

PART V

INFORMATION AND PROCEEDINGS

15. Investigation of terrorist activities.
16. Information about acts of terrorism.
17. Evidence.

PART VI

GENERAL AND SUPPLEMENTARY

18. Interpretation.
19. Use of reasonable force.
20. Immigration Act 1971.
21. General provisions as to subordinate legislation.
22. Consequential amendments.
23. Transitional provisions.
24. Expenses and receipts.
25. Citation.
26. Commencement and duration.

SCHEDULE 1—PROSCRIBED ORGANISATIONS

SCHEDULE 2—EXCLUSION ORDERS

SCHEDULE 3—SUPERVISION OF DETENTION
AND EXAMINATION POWERS

SCHEDULE 4—FORFEITURE ORDERS

SCHEDULE 5—PORT CONTROL

SCHEDULE 6—DESIGNATED PORTS

SCHEDULE 7—TERRORIST INVESTIGATIONS

SCHEDULE 8—CONSEQUENTIAL AMEND-
MENTS

SCHEDULE 9—REPEALS

PROJET DE LOI

ENTITLED

The Prevention of Terrorism (Bailiwick of Guernsey) Law, 1990

THE STATES, in pursuance of their Resolution of the 31st day of January, 1990, 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.

PART I

PROSCRIBED ORGANISATIONS

Proscribed organisations.

1. (1) An organisation specified in Schedule 1 is a proscribed organisation for the purposes of this Law.

(2) An organisation which passes under a name mentioned in Schedule 1 shall be treated as proscribed whatever relationship, if any, it has to any other organisation of the same name.

(3) The States Emergency Council may by order—

(a) add to Schedule 1 any organisation that appears to it to be concerned in, or in promoting or encouraging, terrorism occurring in the Bailiwick or United Kingdom and connected with the affairs of Northern Ireland;

(b) remove an organisation from Schedule 1.

(4) In this section "organisation" includes any association or combination of persons.

2. (1) Subject to subsection (3), a person is guilty of an offence if he—

**Membership,
support and
meetings.**

- (a) belongs or professes to belong to a proscribed organisation;
- (b) solicits or invites support for a proscribed organisation other than support with money or other property; or
- (c) arranges or assists in the arrangement or management of, or addresses, any meeting of three or more persons (whether or not it is a meeting to which the public are admitted) knowing that the meeting is—
 - (i) to support a proscribed organisation;
 - (ii) to further the activities of such an organisation; or
 - (iii) to be addressed by a person belonging or professing to belong to such an organisation.

(2) A person guilty of an offence under subsection (1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale or to both.

(3) A person belonging to a proscribed organisation is not guilty of an offence under subsection (1)(a) by reason of belonging to the organisation if he shows—

(a) that he became a member at a time when it was not a proscribed organisation under the current legislation; and

(b) that he has not since he became a member taken part in any of its activities at a time when it was a proscribed organisation under that legislation.

(4) In subsection (3) “the current legislation”, in relation to any time, means whichever of the following was in force at that time—

(a) the Prevention of Terrorism (Temporary Provisions) Act 1974(a);

(b) the Prevention of Terrorism (Temporary Provisions) Act 1976(b);

(c) the Prevention of Terrorism (Temporary Provisions) Act 1984(c); or

(d) this Law.

(5) The reference in subsection (3) to a person becoming a member of an organisation is a reference to the only or last occasion on which he became a member.

Display of
public
support.

3. (1) A person who in a public place—

(a) wears any item of dress; or

(b) wears, carries or displays any article,

in such a way or in such circumstances as to arouse reasonable apprehension that he is a member or supporter of a proscribed organisation is guilty of

(a) An Act of Parliament (1974 c.56).

(b) An Act of Parliament (1976 c.8).

(c) An Act of Parliament (1984 c.8).

an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale or to both.

(2) In this section "public place" includes any highway and any premises to which at the material time the public have, or are permitted to have, access, whether on payment or otherwise.

PART II

EXCLUSION ORDERS

4. (1) The Lieutenant-Governor may exercise the **General.** powers conferred on him by this Part of this Law in such a way as appears to him to be expedient to prevent acts of terrorism connected with the affairs of Northern Ireland.

(2) Schedule 2 (exclusion orders) shall have effect.

(3) The detention powers conferred by Schedule 2 are subject to supervision in accordance with Schedule 3.

5. (1) If the Lieutenant-Governor is satisfied that **Exclusion orders.** any person—

(a) is or has been concerned in the commission, preparation or instigation of acts of terrorism connected with the affairs of Northern Ireland; or

(b) is attempting or may attempt to enter the Bailiwick with a view to being so concerned,

the Lieutenant-Governor may make an order (an "exclusion order") against him prohibiting him from being in or entering the Bailiwick.

(2) In deciding whether to make an exclusion order against a person ordinarily resident in the Bailiwick, the Lieutenant-Governor shall have regard to whether that person's connection with any country or territory outside the Bailiwick is such as to make it appropriate that such an order should be made.

(3) An exclusion order shall not be made against a person who is a British Citizen and who is at the time ordinarily resident in the Bailiwick and has then been ordinarily resident in the Bailiwick throughout the last three years.

Offences in
respect of
exclusion
orders.

6. (1) A person subject to an exclusion order is guilty of an offence if he fails to comply with the order at a time after he has been, or has become liable to be, removed from the Bailiwick under Schedule 2.

(2) A person is guilty of an offence—

(a) if he is knowingly concerned in arrangements for securing or facilitating the entry into the Bailiwick of a person whom he knows or has reasonable grounds for believing to be an excluded person; or

(b) if he knowingly harbours such a person in the Bailiwick.

(3) In subsection (2) "excluded person" means a person subject to an exclusion order who has been, or has become liable to be, removed from the Bailiwick under Schedule 2.

(4) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale or to both.

PART III

FINANCIAL ASSISTANCE FOR TERRORISM

7. (1) A person is guilty of an offence if he—

Contributions towards acts of terrorism.

- (a) solicits or invites another person to give, lend or otherwise make available, whether for consideration or not, any money or other property; or
- (b) receives or accepts from another person, whether for consideration or not, any money or other property,

intending that it shall be applied or used for the commission of, or in furtherance of or in connection with, acts of terrorism to which this section applies or having reasonable cause to suspect that it may be so applied or used.

(2) A person is guilty of an offence if he—

- (a) gives, lends or otherwise makes available to another person, whether for consideration or not, any money or other property; or

- (b) enters into or is otherwise concerned in an arrangement whereby money or other property is or is to be made available to another person,

knowing or having reasonable cause to suspect that it will or may be applied or used as mentioned in subsection (1).

(3) The acts of terrorism to which this section applies are—

- (a) acts of terrorism connected with the affairs of Northern Ireland; and
- (b) subject to subsection (4), acts of terrorism of any other description except acts connected solely with the affairs of the Bailiwick or any part of the United Kingdom other than Northern Ireland.

(4) Subsection (3)(b) does not apply to an act done or to be done outside the Bailiwick unless it constitutes or would constitute an offence triable in the Bailiwick.

(5) In proceedings against a person for an offence under this section in relation to an act within subsection (3)(b) done or to be done outside the Bailiwick—

- (a) the prosecution need not prove that the person knew or had reasonable cause to suspect that the act constituted or would constitute an offence triable in the Bailiwick; but
- (b) it is a defence to prove that he did not know and had no reasonable cause to

suspect that the facts were such that the act constituted or would constitute such an offence.

8. (1) A person is guilty of an offence if he—

Contributions towards resources of proscribed organisations.

- (a) solicits or invites another person to give, lend or otherwise make available, whether for consideration or not, any money or other property for the benefit of a proscribed organisation;
- (b) gives, lends or otherwise makes available or receives or accepts, whether for consideration or not, any money or other property for the benefit of such an organisation; or
- (c) enters into or is otherwise concerned in an arrangement whereby money or other property is or is to be made available for the benefit of such an organisation.

(2) In proceedings against a person for an offence—

- (a) under subsection (1)(b), it is a defence to prove that he did not know and had no reasonable cause to suspect that the money or property was for the benefit of a proscribed organisation;
- (b) under subsection (1)(c), it is a defence to prove that he did not know and had no reasonable cause to suspect that the arrangement related to a proscribed organisation.

(3) In this section and sections 9 and 11 “proscribed organisation” includes a proscribed organisa-

tion for the purposes of section 21 of the Northern Ireland (Emergency Provisions) Act 1978(d).

Assisting in retention or control of terrorist funds.

9. (1) A person is guilty of an offence if he enters into or is otherwise concerned in an arrangement whereby the retention or control by or on behalf of another person of terrorist funds is facilitated, whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise.

(2) In proceedings against a person for an offence under this section it is a defence to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist funds.

(3) In this section and section 10 "terrorist funds" means—

- (a) funds which may be applied or used for the commission of, or in furtherance of or in connection with, acts of terrorism to which section 7 applies;
- (b) the proceeds of the commission of such acts of terrorism or of activities engaged in furtherance of or in connection with such acts; and
- (c) the resources of a proscribed organisation.

(4) Subsection (3)(b) includes any property which in whole or in part directly or indirectly represents such proceeds as are mentioned in that subsection; and subsection (3)(c) includes any money or other property which is or is to be applied or made available for the benefit of a proscribed organisation.

(d) An Act of Parliament (1978 c.5).

10. (1) A person may, notwithstanding any restriction on the disclosure of information imposed by contract, disclose to an officer of police a suspicion or belief that any money or other property is or is derived from terrorist funds or any matter on which such a suspicion or belief is based. Disclosure of information about terrorist funds.

(2) A person who enters into or is otherwise concerned in any such transaction or arrangement as is mentioned in section 7, 8 or 9 does not commit an offence under that section if he is acting with the consent of an officer of police or if—

- (a) he discloses to an officer of police his suspicion or belief that the money or other property concerned is or is derived from terrorist funds or any matter on which such a suspicion or belief is based; and
- (b) the disclosure is made on his own initiative and as soon as it is reasonable for him to make it;

but paragraphs (a) and (b) do not apply where, having disclosed any such suspicion, belief or matter to an officer of police and having been forbidden by an officer of police to enter into or otherwise be concerned in the transaction or arrangement, he nevertheless does so.

(3) In proceedings against a person for an offence under section 7(1)(b) or (2), 8(1)(b) or (c) or 9 it is a defence to prove—

- (a) that he intended to disclose to an officer of police such a suspicion, belief or matter as is mentioned in subsection (2)(a); and
- (b) that there is a reasonable excuse for his failure to make the disclosure as mentioned in subsection (2)(b).

Penalties
and
forfeiture.

11. (1) A person guilty of an offence under section 7, 8 or 9 is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale or to both.

(2) Subject to the provisions of this section, where a person is convicted on indictment of an offence under section 7(1) or (2)(a), the Royal Court may order the forfeiture of any money or other property—

- (a) which, at the time of the offence, he had in his possession or under this control; and
- (b) which, at the time—
 - (i) in the case of an offence under section 7(1), he intended should be applied or used, or had reasonable cause to suspect might be applied or used, as mentioned in that section;
 - (ii) in the case of an offence under section 7(2)(a), he knew or had reasonable cause to suspect would or might be applied or used as mentioned in section 7(1).

(3) Subject to the provisions of this section, where a person is convicted on indictment of an offence under section 7(2)(b), 8(1)(c) or 9, the Royal Court may order the forfeiture of the money or other property to which the arrangement in question related and which, in the case of an offence under

section 7(2)(b), he knew or had reasonable cause to suspect would or might be applied or used as mentioned in section 7(1).

(4) Subject to the provisions of this section, where a person is convicted on indictment of an offence under section 8(1)(a) or (b), the Royal Court may order the forfeiture of any money or other property which, at the time of the offence, he had in his possession or under his control for the use or benefit of a proscribed organisation.

(5) The Royal Court shall not make an order under this section forfeiting any money or other property unless it considers that the money or property may, unless forfeited, be applied or used as mentioned in section 7(1); but the Royal Court may, in the absence of evidence to the contrary, assume that any money or property may be so applied or used.

(6) Where a person other than the convicted person claims to be the owner of or otherwise interested in anything which can be forfeited by an order under this section, the Royal Court shall, before making such an order in respect of it, give him an opportunity to be heard.

(7) Schedule 4 (forfeiture orders) shall have effect.

PART IV

ARREST, DETENTION AND CONTROL OF ENTRY

12. (1) An officer of police may arrest without warrant a person who he has reasonable grounds to suspect—

Arrest and detention of suspected persons.

- (a) is guilty of an offence under section 2, 6, 7, 8 or 9;
- (b) is or has been concerned in the commission, preparation or instigation of acts of terrorism to which this section applies; or
- (c) is subject to an exclusion order.

(2) The acts of terrorism to which this section applies are—

- (a) acts of terrorism connected with the affairs of Northern Ireland; and
- (b) acts of terrorism of any other description except acts connected solely with the affairs of the Bailiwick or any part of the United Kingdom other than Northern Ireland.

(3) Subject to subsection (4), a person arrested under this section shall not be detained in right of the arrest for more than 48 hours after his arrest.

(4) Her Majesty's Procureur may, in any particular case, extend the period of 48 hours mentioned in subsection (3) by a period or periods specified by him, but any such further period or periods shall not exceed 5 days in all; and if an application for such an extension is made, the person detained shall as soon as practicable be given written notice of the fact and of the time when the application was made.

(5) The powers of detention conferred by this section are subject to supervision in accordance with Schedule 3.

Provisions
supple-
mentary to
section 12.

13. (1) If the appropriate judicial officer is satisfied on information on oath that there are reasonable grounds for suspecting that a person whom an officer

of police believes to be liable to arrest under section 12(1)(b) is to be found on any premises, he may grant a search warrant authorising an officer of police to enter those premises, if necessary by force, for the purpose of searching for and arresting that person.

(2) Where an officer of police has power under section 12 to arrest a person, he may also, for the purpose of ascertaining whether that person has in his possession any document or other article which may constitute evidence that he is a person liable to arrest, stop him and search him.

(3) Where an officer of police has arrested a person under section 12 for any reason other than the commission of a criminal offence, he or any other officer of police may search him for the purpose of ascertaining whether he has in his possession any document or other article which may constitute evidence that he is a person liable to arrest.

(4) A search of a person under subsection (2) or (3) may only be carried out by a person of the same sex.

(5) A person detained under section 12 shall be deemed to be in legal custody at any time when he is so detained and may be detained in such place as Her Majesty's Procureur may from time to time direct.

(6) Where a person is detained under section 12, an officer of police, prison officer or person authorised by Her Majesty's Procureur may take all such steps as are reasonably necessary for photographing, measuring or otherwise identifying him.

(7) Section 89 of the Prison Administration (Guernsey) Ordinance, 1959(e) shall not apply to a person detained in right of an arrest under section 12.

Port and
entry
controls.

14. (1) Schedule 5 (port control) shall have effect.

(2) The examination and detention powers conferred by paragraphs 2 and 6 of Schedule 5 are subject to supervision in accordance with Schedule 3.

(3) The designated ports for the purposes of paragraph 8 of Schedule 5 are those specified in Schedule 6; but the States Emergency Council may by order add any port to, or remove any port from, that Schedule.

PART V

INFORMATION AND PROCEEDINGS

Investigation
of terrorist
activities.

15. (1) Schedule 7 (terrorist investigations) shall have effect.

(2) For the purposes of Schedule 7, terrorist investigations are—

(a) investigations into—

(i) the commission, preparation or instigation of acts of terrorism to which section 12 applies;

(ii) any other act which appears to have been done in furtherance of or in con-

(e) Recueil d'Ordonnances Tome XII, p. 232.

nection with such acts of terrorism, including any act which appears to constitute an offence under section 2, 7, 8 or 9 or section 21 of the Northern Ireland (Emergency Provisions) Act 1978; or

(iii) without prejudice to sub-paragraph (ii), the resources of a proscribed organisation within the meaning of this Law or a proscribed organisation for the purposes of the said section 21; and

(b) investigations into whether there are grounds justifying the making of an order under section 1(3)(a).

(3) Where in relation to a terrorist investigation a warrant or order under Schedule 7 has been issued or made or has been applied for and not refused, a person is guilty of an offence if, knowing or having reasonable cause to suspect that the investigation is taking place, he—

(a) makes any disclosure likely to prejudice the investigation; or

(b) falsifies, conceals or destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, material which is or is likely to be relevant to the investigation

(4) In proceedings against a person for an offence under subsection (3)(a) it is a defence to prove—

(a) that he did not know and had no reasonable cause to suspect that the disclosure was likely to prejudice the investigation; or

(b) that he had lawful authority or reasonable excuse for making the disclosure.

(5) In proceedings against a person for an offence under subsection (3)(b) it is a defence to prove that he had no intention of concealing any information contained in the material in question from the persons carrying out the investigation.

(6) A person guilty of an offence under subsection (3) is liable—

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

(b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale or to both.

**Information
about acts
of terrorism.**

16. (1) A person is guilty of an offence if he has information which he knows or believes might be of material assistance—

(a) in preventing the commission by another person of an act of terrorism connected with the affairs of Northern Ireland; or

(b) in securing the apprehension, prosecution or conviction of another person for an offence involving the commission, preparation or instigation of such an act,

and fails without reasonable excuse to disclose that information as soon as reasonably practicable to an officer of police.

(2) A person guilty of an offence under subsection (1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale or to both.
- (3) Proceedings for an offence under subsection (1) may be taken, and the offence may for the purposes of those proceedings be treated as having been committed, in any place where the person to be charged is or has at any time been since he first knew or believed that the information might be of material assistance as mentioned in subsection (1).

17. (1) A document which purports to be an order, notice or direction made or given by the Lieutenant-Governor or Her Majesty's Procureur for the purposes of any provision of this Law and which purports to be signed by him shall be received in evidence and shall, until the contrary is proved, be deemed to be made or given by him. **Evidence.**

(2) A document bearing a certificate which purports to be signed by the Lieutenant-Governor or Her Majesty's Procureur and which states that the document is a true copy of such an order, notice or direction shall in any legal proceedings be evidence of the order, notice or direction.

PART VI

GENERAL AND SUPPLEMENTARY

18. (1) In this Law, unless the context otherwise requires— **Interpretation.**

“the 1989 Act” means the Prevention of Terrorism (Temporary Provisions) Act 1989(f);

“aircraft” includes hovercraft;

“appropriate judicial officer” means the Bailiff, in relation to Guernsey, the Chairman of the Court of Alderney, in relation to Alderney, and the Seneschal, in relation to Sark;

“Bailiwick” means the Bailiwick of Guernsey and the territorial waters adjacent thereto;

“captain” means the master of a ship or commander of an aircraft;

“Chief Officer of Police” means the Chief Officer of the salaried police force of the Island of Guernsey;

“deportation order” means a deportation order under the Immigration Act 1971;

“examining officer” has the meaning given in paragraph 1 of Schedule 5;

“exclusion order” has the meaning given by section 5(1), but subject to section 23(1);

“Her Majesty’s Procureur” includes Her Majesty’s Comptroller;

“interest”, in relation to property, includes right;

“the Islands” means the Bailiwick of Jersey and the Isle of Man;

“the Lieutenant-Governor” means the person holding the office of Lieutenant-Governor and Commander in Chief of the Island of Guernsey and its dependencies;

“officer of police” means—

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police

(f) An Act of Parliament (1989 c.4).

force of the Island of Guernsey and, within the limit of his jurisdiction, a member of the special constabulary of the Island of Guernsey;

(b) in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney; and

(c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of the Island of Guernsey;

“port” includes airport and hoverport;

“premises” includes any place, vehicle, vessel, aircraft, offshore installation, tent or moveable structure;

“property” includes money and all other property, whether real or personal and wherever situated, and includes things in action and other intangible or incorporeal property and interests in property, whether vested, contingent, present or future;

“Royal Court” means the Royal Court sitting as a Full Court;

“rules of court” means rules made by order of the Royal Court;

“ship” includes every description of vessel used in navigation;

“terrorism” means the use of violence for political ends, and includes any use of violence for the purpose of putting the public or any section thereof in fear.

(2) The Interpretation (Guernsey) Law, 1948(g) applies to the interpretation of this Law throughout the Bailiwick.

(3) Unless the context requires otherwise, any reference in this Law to an enactment (including an Act of Parliament) is a reference to that enactment as amended, re-enacted, extended to the Bailiwick or applied by or under any enactment (including this Law).

(4) Any reference in this Law to a person having been concerned in the commission, preparation or instigation of acts of terrorism is a reference to his having been so concerned at any time, whether before or after the commencement of this Law.

(5) Any provision of this Law conferring power of arrest or authority to use reasonable force is without prejudice to any such power or authority arising otherwise than under that provision.

(6) Any power conferred by this Law to seize, take away or detain any material includes power to copy the material (whether by means of photocopying or any other form of reproduction).

Use of
reasonable
force.

19. An examining officer may, if necessary, use reasonable force for the purpose of exercising any power conferred on him by or under any provision of this Law other than paragraph 2 of Schedule 5 (examination on arrival or departure).

Immigration
Act 1971.

20. The powers conferred by Part II of this Law, section 14 and Schedules 2 to 5 are exercisable notwithstanding the rights conferred by section 1 of the Immigration Act 1971(h).

(g) Ordres en Conseil Vol. XIII, p. 355.

(h) An Act of Parliament (1971 c.77).

21. An Ordinance or statutory instrument made under any provision of this Law—

General provisions as to subordinate legislation.

- (a) may be amended or repealed by a further Ordinance or statutory instrument thereunder;
- (b) may contain incidental, supplemental, consequential or transitional provisions;
- (c) shall, in the case of a statutory instrument, be laid before a meeting of the States as soon as possible after being made and shall, if at that or the next meeting the States resolve to annul it, cease to have effect, but without prejudice to anything done under it or to the making of a new statutory instrument.

22. (1) The enactments mentioned in Schedule 8 are amended as therein specified.

Consequential amendments and repeals.

(2) The statutory instruments mentioned in Schedule 9 are repealed.

23. (1) An exclusion order in force under any provision of Part II of the Prevention of Terrorism (Temporary Provisions) Act 1984 ("the former Act") shall have effect as if made under the corresponding provision of Part II of this Law, and references in this Law to an exclusion order shall be construed accordingly.

Transitional provisions.

(2) A person who immediately before the commencement of this Law is being detained under any provision of the former Act or of an order of the States Emergency Council under section 13 of that Act shall be treated as lawfully detained under the corresponding provision of this Law.

(3) Paragraph 2 of Schedule 5 shall not apply to a person whose examination under a corresponding provision of an order of the States Emergency Council under section 13 of the former Act has begun but has not concluded before the commencement of that paragraph, and that provision shall continue to apply to him; but any reference in this Law to examination under that paragraph includes a reference to examination under that corresponding provision.

Expenses and receipts.

24. There shall be paid out of money provided by the States any expenses incurred under this Law by the Lieutenant-Governor, and any sums received by the Lieutenant-Governor under this Law shall be paid into the general revenues of the States.

Citation.

25. This Law may be cited as the Prevention of Terrorism (Bailiwick of Guernsey) Law, 1990.

Commencement and duration.

26. (1) This Law shall come into force on such day as the States may by Ordinance appoint, and different days may be appointed for different provisions.

(2) The operation of this Law or any provision thereof (apart from this section) may be suspended and subsequently revived by Ordinance of the States.

SCHEDULE 1

Section 1

PROSCRIBED ORGANISATIONS

Irish Republican Army
Irish National Liberation Army

EXCLUSION ORDERS

Duration

1. (1) An exclusion order may be revoked at any time by a further order made by the Lieutenant-Governor.

(2) An exclusion order shall, unless revoked earlier, expire at the end of a period of three years beginning with the day on which it is made.

(3) The fact that an exclusion order against a person has been revoked or has expired shall not prevent the making of a further exclusion order against him.

Notice of making of Order

2. (1) As soon as may be after the making of an exclusion order, notice of the making thereof shall be served on the person against whom it was made; and the notice shall—

(a) set out the rights afforded to him by paragraph 3; and

(b) specify the manner in which those rights are to be exercised.

(2) Sub-paragraph (1) does not impose an obligation to serve a notice on a person at a time when he is outside the Bailiwick.

(3) Where a person against whom an exclusion order is made is not for the time being detained by virtue of this Law, the notice may be served by posting it to him at his last known address.

Right to make representations

3. (1) If after being served with notice of the making of an exclusion order the person against whom the order was made objects to it he may—

(a) make written representations to the Lieutenant-Governor setting out the grounds of his objections; and

(b) include in those representations a request for a personal interview with the person or persons nominated by the Lieutenant-Governor under sub-paragraph (4).

(2) Subject to sub-paragraph (3), a person against whom an exclusion order has been made must exercise the rights conferred by sub-paragraph (1) within 7 days of the service of the notice.

(3) Where before the end of that period—

(a) he has consented to his removal under paragraph 5 from the Bailiwick; and

(b) he has been removed accordingly, he may exercise the rights conferred by sub-paragraph (1) within 14 days of his removal.

(4) If a person exercises those rights within the period within which they are required to be exercised by him, the matter shall be referred for the advice of one or more persons nominated by the Lieutenant-Governor.

(5) Where sub-paragraph (2) applies, the person against whom the exclusion order was made shall be granted a personal interview with the person or persons so nominated.

(6) Where sub-paragraph (3) applies, the person against whom the exclusion order was made shall be granted a personal interview with the person or persons so nominated if it appears to the Lieutenant-Governor that it is reasonably practicable to grant him such an interview in an appropriate country or territory within a reasonable period from the date on which he made his representations.

(7) Where it appears to the Lieutenant-Governor that it is reasonably practicable to grant a personal interview in more than one appropriate country or territory, he may grant the interview in whichever of them he thinks fit.

(8) In sub-paragraphs (6) and (7) "an appropriate country or territory" means Great Britain, Northern Ireland or the Republic of Ireland.

(9) It shall be for the Lieutenant-Governor to determine the place in any country or territory at which the interview under this paragraph is to be granted.

Reconsideration of exclusion order following representations

4. (1) Where under paragraph 3 the Lieutenant-Governor receives representations in respect of an exclusion order, he shall reconsider the matter as soon as reasonably practicable after receiving—

- (a) the representations; and
- (b) any report of an interview relating to the matter granted under paragraph 3.

(2) In reconsidering a matter under this paragraph the Lieutenant-Governor shall take into account everything which appears to him to be relevant and in particular—

- (a) the representations relating to the matter made to him under paragraph 3;
- (b) the advice of the person or persons to whom the matter was referred under paragraph 3(4); and
- (c) the report of any interview relating to the matter granted under paragraph 3.

(3) The Lieutenant-Governor shall thereafter, if it is reasonably practicable to do so, give written notice to the person against whom the exclusion order was made of any decision he takes as to whether or not to revoke the order.

Powers of removal

5. Where an exclusion order has been made against a person and notice of the making of the order has been served on him, the Lieutenant-Governor may have him removed from the Bailiwick—

- (a) if he consents;
- (b) if the period mentioned in paragraph 3(2) has expired and he has not made representations relating to the matter in accordance with that paragraph; or
- (c) if he has made such representations but the Lieutenant-Governor has notified him that he has decided not to revoke the order.

Removal directions

6. (1) The Lieutenant-Governor may in accordance with the following provisions of this paragraph give

directions for the removal from the Bailiwick of any person subject to an exclusion order; but a person shall not be removed in pursuance of the directions until notice of the making of the order has been served on him and one of the conditions in paragraph 5(a), (b) and (c) is fulfilled.

(2) Directions under this paragraph may be—

- (a) directions given to the captain of a ship or aircraft about to leave the Bailiwick requiring him to remove the person in question from the Bailiwick in that ship or aircraft;
- (b) directions given to the owners or agents of any ship or aircraft requiring them to make arrangements for the removal of the person in question from the Bailiwick in a ship or aircraft specified or indicated in the directions; or
- (c) directions for the removal of the person in question from the Bailiwick in accordance with arrangements to be made by the Lieutenant-Governor;

and any such directions shall specify the country or territory to which the person in question is to be removed.

(3) No directions under this paragraph shall be given for the removal of a person to any country or territory other than one—

- (a) of which he is a national or citizen;
- (b) in which he obtained a passport or other document of identity; or
- (c) to which there is reason to believe that he will be admitted;

and no such directions shall be given for the removal of a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas) to a country or territory outside the Bailiwick and the United Kingdom unless he is also a national or citizen of, or has indicated that he is willing to be removed to, that country or territory.

(4) Where—

- (a) a person is found on examination under Schedule 5 to be subject to an exclusion order; or
- (b) an exclusion order is made against a person following such an examination,

the power to give directions for his removal under any provisions of this paragraph except sub-paragraphs (2)(c) and (3)(b) are exercisable by an examining officer as well as by the Lieutenant-Governor; and where any such person has arrived in a ship or aircraft (including arrival as a transit passenger, member of the crew or other person not seeking to enter the Bailiwick) the countries or territories to which he may be directed to be removed under sub-paragraph (2) include the country or territory in which he embarked on that ship or aircraft.

(5) A person in respect of whom directions are given under this paragraph may be placed under the authority of the Lieutenant-Governor or an examining officer on board any ship or aircraft in which he is to be removed in accordance with the directions.

(6) The expenses of complying with any directions given under this paragraph shall be defrayed by the Lieutenant-Governor.

(7) Any person who without reasonable excuse fails to comply with directions given to him under this paragraph is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale or to both.

Detention pending removal

7. (1) A person in respect of whom directions for removal may be given under paragraph 6 may, pending the giving of such directions and pending removal in pursuance of the directions, be detained under the authority of the Lieutenant-Governor or, if the directions are to be or have been given by an examining officer, of such an officer.

(2) A person liable to be detained under this paragraph may be arrested without warrant by an examining officer.

(3) The captain of a ship or aircraft, if so required by an examining officer, shall prevent any person placed on board the ship or aircraft under paragraph 6 from disembarking in the Bailiwick or, before the directions for his removal have been fulfilled, elsewhere.

(4) Where under sub-paragraph (3) the captain of a ship or aircraft is required to prevent a person from disembarking, he may for that purpose detain him in custody on board that ship or aircraft.

(5) The captain of a ship or aircraft who fails to take reasonable steps to comply with a requirement imposed under sub-paragraph (3) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months, to a fine not exceeding level 5 on the uniform scale or to both.

(6) A person may be removed from a vehicle for detention under this paragraph.

Detention: supplementary provisions

8. (1) If the appropriate judicial officer is satisfied on information on oath that there are reasonable grounds for suspecting that a person liable to be arrested under paragraph 7(2) is to be found on any premises, he may grant a search warrant authorising any officer of police to enter those premises, if necessary by force, for the purpose of searching for and arresting that person.

(2) A person detained under this Schedule shall be deemed to be in legal custody at any time when he is so detained and, if detained otherwise than on board a ship or aircraft, may be detained in such place as Her Majesty's Procureur may from time to time direct.

(3) Where a person is detained under this Schedule, an examining officer, prison officer or person authorised by Her Majesty's Procureur may take all such steps as are reasonably necessary for photographing, measuring or otherwise identifying him.

(4) A person detained under this Schedule may be taken in the custody of an examining officer or other person acting under the Authority of an examining officer to and from any place where his presence is required for the purpose of establishing his nationality or citizenship or for making arrangements for his admission to a country or territory outside the Bailiwick or where he is required to be for any purpose connected with the operation of this Law.

Exemption from exclusion orders

9. (1) When any question arises under this Law as to whether a person is exempt from the provisions of section 5, it is for the person asserting that he is exempt to prove it.

(2) A person is not to be treated as ordinarily resident in the Bailiwick for the purposes of section 5(3) at a time when he is there in breach of—

- (a) an exclusion order; or
- (b) the Immigration Act 1971 or any law similar thereto in force in the Bailiwick after the commencement of this Law.

(3) In section 5(3) “the last three years” is a period amounting in total to three years exclusive of any period during which the person claiming exemption was undergoing imprisonment or detention for a term of six months or more by virtue of a sentence passed on conviction in the Bailiwick, the United Kingdom or the Islands.

(4) In sub-paragraph (3)—

- (a) “sentence” includes any order made on conviction of an offence;
- (b) two or more sentences for consecutive or partly consecutive terms shall be treated as a single sentence;
- (c) a person shall be deemed to be undergoing detention by virtue of a sentence—
 - (i) at any time when he is liable to imprisonment or detention by virtue of the sentence but is unlawfully at large; and

- (ii) during any period of custody on account of which the term to be served under the sentence is reduced.

SCHEDULE 3 Sections 4(3)
12(5) and 14(2)

SUPERVISION OF DETENTION AND
EXAMINATION POWERS

Detention pending removal

1. (1) Where a person is detained under paragraph 7 of Schedule 2 under the authority of an examining officer, his detention shall be periodically reviewed in accordance with this paragraph by a review officer and shall not continue unless that officer has authorised it to continue.

(2) The reviews shall be carried out as follows—

(a) the first review shall be as soon as practicable after the beginning of the detention; and

(b) the subsequent reviews shall be at intervals of not more than 12 hours.

(3) On any such review the review officer shall authorise the continued detention of the person in question if, and only if, he is satisfied that steps for giving directions for his removal or for removing him in pursuance of the directions are being taken diligently and expeditiously.

Examination without detention

2. (1) Where a person has been required by a notice under paragraph 2(3) of Schedule 5 to submit to

further examination but is not detained under paragraph 6 of that Schedule, his further examination shall be reviewed by a review officer not later than 12 hours after the beginning of the examination and shall not continue unless that officer has authorised it to continue.

(2) The review officer shall authorise the examination to continue if, and only if, he is satisfied that the enquiries necessary to complete the examination are being carried out diligently and expeditiously.

Detention for examination or as suspected person

3. (1) Where a person is detained under section 12 or under paragraph 6 of Schedule 5, his detention shall be periodically reviewed in accordance with this paragraph by a review officer and shall not continue unless—

(a) that officer has authorised it to continue; or

(b) an application has been made to Her Majesty's Procureur for an extension of the period of detention under section 12(4) or paragraph 6(3) of Schedule 5.

(2) The reviews shall be carried out as follows—

(a) the first review shall be carried out as soon as practicable after the beginning of the detention; and

(b) the subsequent reviews shall be carried out at intervals of not more than twelve hours;

and no review shall be carried out after an application mentioned in sub-paragraph (1)(b) has been made.

(3) Subject to sub-paragraph (4), on any such review the review officer shall authorise the continued detention of the person in question if, and only if, he is satisfied that—

- (a) his continued detention is necessary in order to obtain (whether by questioning him or otherwise) or to preserve evidence which—
 - (i) relates to an offence under section 2, 6, 7, 8 or 9 (in the case of detention under section 12) or under section 6 (in the case of detention under paragraph 6 of Schedule 5);
 - (ii) indicates that he is or has been concerned in the commission, preparation or instigation of acts of terrorism to which section 12 applies; or
 - (iii) indicates that he is subject to an exclusion order; and
- (b) the investigation in connection with which that person is detained is being conducted diligently and expeditiously.

(4) The review officer may also authorise the continued detention of the person in question—

- (a) pending consideration of the question of whether he is subject to an exclusion order;
- (b) pending consideration by the Lieutenant-Governor of whether to make an exclusion order or a deportation order against him;
- (c) pending a decision by Her Majesty's Procureur as to whether proceedings for an offence should be instituted against him; or

- (d) if he is satisfied of the matters specified in sub-paragraph (5).
- (5) The matters are—
 - (a) that the continued detention of the person in question is necessary—
 - (i) pending a decision as to whether to apply to the Lieutenant-Governor for an exclusion order or a deportation order to be made in respect of him; or
 - (ii) pending the making of such an application; and
 - (b) that consideration of that question is being undertaken, or preparation of the application is being proceeded with, diligently and expeditiously.

The review officer

4. The review officer shall be an officer of police who has not been directly involved in the matter in connection with which the person concerned is detained or examined and—

- (a) who, in the case of a review carried out within 24 hours of the beginning of that person's detention or in the case of a review under paragraph 2, is of at least the rank of inspector;
- (b) who, in the case of any other review, is of at least the rank of chief inspector.

Postponement of reviews

5. (1) A review may be postponed—

- (a) if, having regard to all the circumstances prevailing at the latest time specified in

paragraph 1(2), 2(1) or 3(2), it is not practicable to carry out the review at that time;

(b) without prejudice to the generality of paragraph (a)—

- (i) if at that time the person in detention or being examined is being questioned by an officer of police or an examining officer and the review officer is satisfied that an interruption of the questioning for the purpose of carrying out the review would prejudice the investigation in connection with which the person is being detained or examined; or
- (ii) if at that time no review officer is readily available.

(2) If a review is postponed under this paragraph it shall be carried out as soon as practicable after the latest time specified for it under the relevant provision mentioned in sub-paragraph (1)(a).

(3) If a review is carried out after postponement under this paragraph, the fact that it was so carried out shall not affect any requirement of this Schedule as to the time at which any subsequent review is to be carried out.

Representations about detention

6. (1) Before determining whether to authorise a person's continued detention the review officer shall give—

- (a) that person (unless he is asleep); or
- (b) an advocate representing him who is available at the time of the review,

an opportunity to make representations to him about the detention.

(2) Subject to sub-paragraph (3), the person whose detention is under review or his advocate may make representations under this paragraph either orally or in writing.

(3) The review officer may refuse to hear oral representations from the person whose detention is under review if he considers that he is unfit to make such representations by reason of his condition or behaviour.

Records of review

7. (1) The review officer carrying out a review under this Schedule shall make a written record of the outcome of the review, including, where the continued detention or examination of the person in question is authorised, the grounds for authorisation and, where a review is postponed, the reason for the postponement.

(2) The record required by this paragraph shall be made in the presence of the person detained or examined and, where his continued detention or examination is authorised, he shall at that time be told of the grounds for the authorisation.

(3) Sub-paragraph (2) does not apply where the person detained or examined is, at the time when the written record is made—

- (a) incapable of understanding what is said to him;
- (b) violent or likely to become violent; or
- (c) in urgent need of medical attention.

Intervention by superior officer

8. Where the review officer is of a rank lower than chief inspector and—

- (a) an officer of higher rank than the review officer gives directions relating to the person detained or examined; and
- (b) the directions are at variance with—
 - (i) any decision made or action taken by the review officer in the performance of a duty imposed on him by this Schedule; or
 - (ii) any decision or action which would, but for the directions, have been made or taken by him in the performance of that duty,

the review officer shall refer the matter at once to an officer of the rank of chief inspector or above.

SCHEDULE 4 Section 11(7)

FORFEITURE ORDERS

1. (1) Where the Royal Court makes an order under section 11(2), (3) or (4) (a “forfeiture order”) it may make an order—

- (a) requiring any money or other property to which the forfeiture order applies to be paid or handed over to Her Majesty’s Sheriff;
- (b) directing any such property other than money or land to be sold or otherwise disposed of in such manner as the Royal Court may direct and the proceeds paid to Her Majesty’s Sheriff;

- (c) appointing a receiver to take possession, subject to such conditions and exceptions as may be specified by the Royal Court, of any such property which is land, to realise it in such manner as the Royal Court may direct and to pay the proceeds to Her Majesty's Sheriff;
- (d) directing a specified part of any such money, or of the proceeds of sale, disposal or realisation of any such property, to be paid by Her Majesty's Sheriff to or for a specified person falling within section 11(6);
- (e) making such other provision as appears to the Royal Court to be necessary for giving effect to the forfeiture order or to any order made by virtue of item (a), (b), (c) or (d).

(2) A forfeiture order shall not come into force until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of the order being set aside.

(3) The balance of any sums in the hands of Her Majesty's Sheriff by virtue of an order made under sub-paragraph (1) shall, after making payment (where appropriate) under sub-paragraph (1)(d) or paragraph 2(2), be treated as if it were a fine imposed by the Royal Court.

(4) Her Majesty's Sheriff shall, on the application of Her Majesty's Procureur or the defendant in the proceedings in which the forfeiture order was made, certify in writing the extent (if any) to which, at the date of the certificate, effect has been given to the order in respect of the money or other property to which it applies.

(5) In this paragraph references to the proceeds of sale, disposal or realisation of property are references to the proceeds after deduction of the costs of sale, disposal or realisation.

2. (1) Where Her Majesty's Sheriff or a receiver appointed under paragraph 1(1)(c) takes any action—

- (a) in relation to property which is not subject to forfeiture, being action which he would be entitled to take if it were such property;
- (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) A receiver appointed under paragraph 1(1)(c) is entitled to be paid his remuneration and expenses out of the proceeds of realisation of the property or, if and so far as the proceeds are insufficient, by the States.

Restraint orders

3. (1) The Royal Court may, in accordance with this paragraph, by order (a "restraint order") prohibit any person, subject to such conditions and exceptions as may be specified therein, from dealing with any property liable to forfeiture, that is to say any property—

- (a) in respect of which a forfeiture order has been made; or

(b) in the possession or under the control of the person referred to in sub-paragraph (3) or (4).

(2) A restraint order may apply—

(a) to all property in the possession of or under the control of a specified person, whether the property is described or not;

(b) to property coming into the possession of or under the control of a specified person after the making of the order.

(3) A restraint order may be made where—

(a) proceedings have been instituted against a person for an offence under Part III of this Law;

(b) the proceedings have not been concluded; and

(c) either a forfeiture order has been made or it appears to the Royal Court that a forfeiture order may be made in the proceedings.

(4) A restraint order may also be made where—

(a) the Royal Court is satisfied, whether by the laying of an information or by the arrest or detention of any individual or otherwise, that a person is to be or may be charged with an offence under Part III of this Law; and

(b) it appears to the Royal Court that a forfeiture order may be made in proceedings for the offence.

(5) Where the Royal Court has made an order under this paragraph by virtue of sub-paragraph (4), it may discharge the order if proceedings in respect of the offence are not instituted within such time as it considers reasonable.

(6) For the purposes of this paragraph, dealing with property includes, without prejudice to the generality of that expression—

- (a) where a debt is owed to the person concerned, making a payment to any person in reduction of the amount of the debt; and
- (b) removing property from the Bailiwick.

(7) In exercising the powers conferred by this paragraph, the Royal Court shall not take account of any obligations of any person having an interest in the property subject to the restraint order which might frustrate the making of a forfeiture order.

(8) For the purposes of this paragraph proceedings for an offence are instituted—

- (a) when process in respect of the offence is issued to secure the attendance of any person before a court of the Bailiwick;
- (b) when a person is charged with the offence;
- (c) when a summons in respect of the offence is served on a person;
- (d) when a person first appears before a court of the Bailiwick in respect of the offence;

and where the application of this sub-paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to be instituted at the earliest of those times.

(9) For the purposes of this paragraph and paragraph 4(2)(b) proceedings are concluded—

- (a) when a forfeiture order has been made in those proceedings and effect has been given to it in respect of all the money or other property to which it applies; or
- (b) when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of a forfeiture order being made in the proceedings.

4. (1) A restraint order—

- (a) may be made only on an application by Her Majesty's Procureur;
- (b) may be made on an ex parte application to the Bailiff in chambers (and references in paragraphs 3 and 5 to the Royal Court shall be construed accordingly); and
- (c) shall provide for notice to be given to persons affected by the order.

(2) A restraint order—

- (a) may be discharged or varied in relation to any property; and
- (b) shall be discharged when proceedings for the offence are concluded.

(3) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(4) In exceptional circumstances or in an emergency, a restraint order may be made (without prejudice to the powers in that behalf of the Royal Court and the Bailiff)—

- (a) in relation to property in Alderney, securities of the States of Alderney, securities of an Alderney company, other securities registered in a register kept in Alderney, units of a collective investment scheme in connection with which registration is carried on in Alderney or a vessel registered in a register maintained in Alderney, by the Chairman of the Court of Alderney or, if he is absent or unable to act, by any Jurat of the Court of Alderney;
- (b) in relation to property in Sark, securities of the Chief Pleas of Sark, other securities registered in a register kept in Sark, units of a collective investment scheme in connection with which registration is carried on in Sark or a vessel registered in a register maintained in Sark, by the Seneschal of Sark,

on an ex parte application otherwise than in open court by Her Majesty's Procureur or by any person authorised by him in that behalf; and references in paragraphs 3 and 5 to the Royal Court shall include references to the said Chairman, Jurat or Seneschal (as the case may be).

5. (1) Where the Royal Court has made a restraint order, an officer of police may seize any property subject to the order for the purpose of preventing it from being removed from the Bailiwick.

(2) Property seized under this paragraph shall be dealt with in accordance with the Royal Court's directions.

6. (1) A restraint order and any application therefor in respect of real property in the Bailiwick may be registered by Her Majesty's Procureur—

- (a) if the property is in Guernsey, in the Livre des Hypothèques, Actes de Cour et Obligations at the Greffe in Guernsey;
- (b) if the property is in Alderney, by noting it against the entry relating to the property in the Alderney Land Register established under Part III of the Alderney Land and Property, etc. Law, 1949⁽ⁱ⁾ as if an application had been made under section 18(1) of that Law and concurred in by the registered owner of the property as mentioned in section 18(2) of that Law;
- (c) if the property is in Sark, at the Greffe in Sark as if it were a judgment debt ordered to be registered against the property by an act of the Court of the Seneschal.

(2) An order or application registered under sub-paragraph (1) shall have effect as a preliminary vesting order in favour of the Crown (with priority from the date of its registration); except that, notwithstanding any rule of court or customary law to the contrary, the Crown shall remain entitled to levy execution upon the defendant's personal property in respect of all or any part of any amount which has been, or which may be, ordered to be paid by the defendant under a forfeiture order.

Compensation

7. (1) If proceedings are instituted against a person for an offence under Part III of this Law and either—

(i) Ordres en Conseil Vol. XIV, p. 67; No. XXIV of 1984.

- (a) the proceedings do not result in his conviction for any such offence; or
- (b) where he is convicted of one or more such offences—
 - (i) the conviction or convictions are quashed; or
 - (ii) he is pardoned by Her Majesty in respect of the conviction or convictions concerned,

the Royal Court may, on application by a person who had an interest in any property which was subject to a forfeiture or restraint order made in or in relation to those proceedings, and subject to subparagraphs (2) and (3), order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to do so.

(2) The Royal Court shall not order compensation to be paid in any case unless it is satisfied that—

- (a) there is some serious default on the part of a person concerned in the investigation or prosecution of the offence concerned; and
- (b) the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of an order under this Part of this Schedule.

(3) The Royal Court shall not order compensation to be paid in any case where it appears to it that the proceedings would have been instituted even if the serious default had not occurred.

(4) The amount of compensation to be paid under this paragraph shall be such as the Royal Court thinks just in all the circumstances of the case.

(5) Compensation payable under this paragraph shall be paid by the States.

*Enforcement of orders made elsewhere in the
British Islands*

8. (1) In the following provisions of this Schedule—

“an English order” means—

- (a) an order made in England or Wales under section 13(2), (3) or (4) of the 1989 Act (an “English forfeiture order”);
- (b) an order made under paragraph 3 of Schedule 4 to the 1989 Act (an “English restraint order”); or
- (c) an order made under any other provision of Part I of that Schedule in relation to an English forfeiture or restraint order;

“a Scottish order” means—

- (a) an order made in Scotland under section 13(2), (3) or (4) of the 1989 Act (a “Scottish forfeiture order”);
- (b) an order made under paragraph 13 of Schedule 4 to the 1989 Act (a “Scottish restraint order”); or
- (c) an order made under any other provision of Part II of that Schedule in relation to a Scottish forfeiture or restraint order;

“ a Northern Irish order ” means—

- (a) an order made in Northern Ireland under section 13(2), (3) or (4) of the 1989 Act (a “ Northern Irish forfeiture order ”);
- (b) an order made under paragraph 23 of Schedule 4 to the 1989 Act (a “ Northern Irish restraint order ”); or
- (c) an order made under any other provision of Part III of that Schedule in relation to a Northern Irish forfeiture or restraint order;

“ an Islands order ” means—

- (a) an order made in any of the Islands under section 13(2), (3) or (4) of the 1989 Act as extended to that Island under section 28(3) of that Act (an “ Islands forfeiture order ”);
- (b) an order made under paragraph 3 of Schedule 4 to the 1989 Act as so extended (an “ Islands restraint order ”); or
- (c) an order made under any other provision of Part I of that Schedule as so extended in relation to an Islands forfeiture or restraint order.

(2) In items (a), (b) and (c) of the definition of “ an Islands order ” any reference to a provision of the 1989 Act as extended to an Island under section 28(3) of that Act includes a reference to any provision of the law of that Island which corresponds to that provision.

9. (1) An English, Scottish, Northern Irish or Islands order shall, subject to the provisions of this paragraph, have effect in the law of the Bailiwick but shall be enforced there only in accordance with the provisions of this paragraph and of any rules of court as to the manner in which and the conditions subject to which such orders are to be enforced there.

(2) The Royal Court shall, on an application made to it in accordance with rules of court for the registration of an English, Scottish, Northern Irish or Islands order, direct that the order shall, in accordance with such rules, be registered in the Royal Court.

(3) Rules of court shall also make provision—

(a) for cancelling or varying the registration of an English, Scottish, Northern Irish or Islands forfeiture order when effect has been given to it (whether in the Bailiwick or elsewhere) in respect of all or, as the case may be, part of the money or other property to which the order applies;

(b) for cancelling or varying the registration of an English, Scottish, Northern Irish or Islands restraint order which has been discharged or varied by the court by which it was made.

(4) If an English, Scottish, Northern Irish or Islands forfeiture order is registered under this paragraph, the Royal Court shall have, in relation to that order, the same powers as it has under paragraph 1(1) in relation to a forfeiture order made by it (and paragraph 2 applies accordingly).

(5) The balance of any sums received by Her Majesty's Sheriff by virtue of an order made under sub-paragraph (4) shall, after making payment (where appropriate) under paragraph 1(1)(d) or 2(2), be paid by him to the Lieutenant-Governor and section 24 shall not apply to such sums.

(6) Paragraphs 3(6), 5 and 6 apply to a registered English, Scottish, Northern Irish or Islands restraint order as they apply to a restraint order; and the Royal Court shall have the same power to make an order for or in relation to the arrest of any property in relation to proceedings brought or likely to be brought for an English, Scottish, Northern Irish or Islands restraint order as it would have if those proceedings had been brought or were likely to be brought in the Royal Court.

(7) Without prejudice to the foregoing provisions, if an English, Scottish, Northern Irish or Islands order is registered under this paragraph—

- (a) the Royal Court shall have in relation to its enforcement, the same power;
- (b) proceedings for or in respect of its enforcement may be taken; and
- (c) proceedings for or in respect of any contravention of it (whether before or after such registration) may be taken,

as if the order had originally been made in the Royal Court.

(8) The Royal Court may additionally, for the purpose of—

- (a) assisting the achievement in the Bailiwick of the purposes of an English, Scottish, Northern Irish or Islands order; or

- (b) assisting any receiver or other person directed by any such order to sell or otherwise dispose of property,

make such orders or do otherwise as seems to it appropriate.

(9) A document which purports to be a copy of an English, Scottish, Northern Irish or Islands order and which purports to be certified as such by a proper officer of the court by which it was made and a document which purports to be a certificate for purposes corresponding to those of paragraph 1(4) and which purports to be certified by a proper officer of the court concerned shall, in the Bailiwick, be received in evidence without further proof.

Enforcement of external orders

10. (1) The States may by Ordinance make such provision as appears to be appropriate for the purpose of enabling the enforcement in the Bailiwick of orders to which this paragraph applies.

(2) This paragraph applies to any order ("an external order") which is made in a country or territory designated for the purposes of this paragraph by the Ordinance and which—

- (a) provides for the forfeiture of terrorist funds within the meaning of section 9(3)(a) or (b) ("an external forfeiture order"); or
- (b) prohibits dealing with property subject to an external forfeiture order or property in respect of which such an order could be made in proceedings which have been or are to be instituted in that country or territory ("an external restraint order").

(3) Without prejudice to the generality of subparagraph (1), an Ordinance under this paragraph may make provision for matters corresponding to those for which provision is made by, or can be made by rules of court under, paragraph 9(1) to (8) in relation to the orders to which that paragraph applies and for the proof of any matter relevant for the purposes of anything falling to be done in pursuance of the Ordinance.

(4) An Ordinance under this paragraph may also make such provision as appears to the States to be appropriate with respect to anything falling to be done on behalf of the Bailiwick in a designated country or territory in relation to proceedings in that country or territory for or in connection with the making of an external order.

(5) An Ordinance under this paragraph may make different provisions for different cases.

(6) An Ordinance under this paragraph shall not designate a country or territory for the purposes of this paragraph unless the country or territory is for the time being designated for the purposes of paragraph 10 of Schedule 4 to the 1989 Act by an Order in Council of Her Majesty made under that paragraph.

SCHEDULE 5 Section 14(1)

PORT CONTROL

Examining officers

1. (1) The following are examining officers for the purposes of this Law—

- (a) officers of police;
- (b) immigration officers appointed for the purposes of the Immigration Act 1971 under paragraph 1 of Schedule 2 to that Act;
- (c) officers of Customs who are the subject of arrangements for their employment as immigration officers with the concurrence of the Lieutenant-Governor under the said paragraph 1.

(2) Examining officers shall exercise their functions under this Law in accordance with such instructions as may from time to time be given by the Lieutenant-Governor.

Examination on arrival and departure

2. (1) A person who arrives in, or is seeking to leave, the Bailiwick by ship or aircraft may be examined by an examining officer for the purpose of determining—

- (a) whether he appears to be or to have been concerned in the commission, preparation or instigation of acts of terrorism to which this paragraph applies;
- (b) whether he or any other such person is subject to an exclusion order; or

(c) whether there are grounds for suspecting that he or any other such person has committed an offence under section 8.

(2) This paragraph applies to—

- (a) acts of terrorism connected with the affairs of Northern Ireland; and
- (b) acts of terrorism of any other description except acts connected solely with the affairs of the Bailiwick or any part of the United Kingdom other than Northern Ireland.

(3) The period of a person's examination under this paragraph shall not exceed 24 hours unless he is detained under paragraph 6, and may only exceed 12 hours if an examining officer—

- (a) has reasonable grounds for suspecting that the person examined is or has been concerned in the commission, preparation or instigation of acts of terrorism to which this paragraph applies; and
- (b) gives him written notice requiring him to submit to further examination.

(4) In sub-paragraph (1) the reference to arrival by ship or aircraft includes a reference to arrival as a transit passenger, member of the crew or other person not seeking to enter the Bailiwick.

Production of information and documents

3. (1) It is the duty of any person examined under paragraph 2 to furnish to the examining officer all such information in his possession as the officer may require for the purposes of his functions under that paragraph.

(2) A person shall, on his examination under paragraph 2 by an examining officer, if so required by the officer—

- (a) produce either a valid passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship; and
- (b) declare whether or not he is carrying or conveying documents of any relevant description specified by the examining officer, and produce any documents of that description which he is carrying or conveying.

(3) In sub-paragraph (2)(b) “relevant description” means any description appearing to the examining officer to be relevant for the purposes of the examination.

Powers of search, etc.

4. (1) An examining officer may, for the purposes of satisfying himself whether there are persons he may wish to examine under paragraph 2, search any ship or aircraft and anything on board, taken off or about to be taken aboard a ship or aircraft.

(2) An examining officer who examines a person under paragraph 2 may, for the purpose of determining whether he is such a person as is mentioned in paragraph 2(1)(a), (b) or (c), search him, any baggage belonging to him, any ship or aircraft and anything on board, taken off or about to be taken aboard a ship or aircraft.

(3) An examining officer may detain for the purpose of examining it anything produced pursuant

to paragraph 3(2)(b) or found on a search under this paragraph for a period not exceeding 7 days; and if, on examination of anything so produced or found, the examining officer is of the opinion that it may be needed—

(a) in connection with the consideration by the Lieutenant-Governor of whether to make an exclusion order or a deportation order; or

(b) for use as evidence in criminal proceedings, he may detain it until he is satisfied that it will not be so needed.

(5) A search of a person under this paragraph may only be carried out by a person of the same sex.

(6) An examining officer may board any ship or aircraft or enter any vehicle for the purpose of exercising any of his functions under this Law.

(7) Where an examining officer has power to search under this paragraph, he may instead authorise the search to be carried out on his behalf by a person who is not an examining officer.

(8) Where a person who is not an examining officer carries out a search in accordance with sub-paragraph (7), he may—

(a) for that purpose, board any ship or aircraft or enter any vehicle; and

(b) exercise the power of detaining articles conferred by sub-paragraph (3).

(9) An examining officer or person authorised under sub-paragraph (7) by an examining officer

may, if necessary, use reasonable force for the purpose of carrying out his functions under this paragraph.

Landing, embarkation, entry and departure cards

5. A person who disembarks from or embarks on a ship or aircraft in the Bailiwick which has come from or is going to a place outside the Bailiwick shall, if so required by an examining officer, complete and produce to that officer a landing or (as the case may be) an embarkation card in such form as the Lieutenant-Governor may direct, which, where the ship or aircraft is employed to carry passengers for reward, shall be supplied for the purpose to that person by the owners or agents of that ship or aircraft.

Detention pending examination

6. (1) A person who is examined under this Schedule may be detained under the authority of an examining officer—

- (a) pending conclusion of his examination;
- (b) pending consideration by the Lieutenant-Governor of whether to make an exclusion order or a deportation order against him; or
- (c) pending a decision by Her Majesty's Procureur of whether proceedings for an offence should be instituted against him.

(2) Subject to sub-paragraph (3), a person shall not be detained under sub-paragraph (1) for more than 48 hours from the time when he is first examined.

(3) Her Majesty's Procureur may, in any particular case, extend the period of 48 hours mentioned in sub-paragraph (2) by a period or periods specified by him, but any such further period or periods shall not exceed 5 days in all; and if an application for such an extension is made, the person detained shall as soon as practicable be given written notice of the fact and of the time when the application was made.

(4) A person liable to be detained under this paragraph may be arrested without warrant by an examining officer.

(5) A person on board a ship or aircraft may, under the authority of an examining officer, be removed therefrom for detention under this paragraph; but the captain shall prevent any person who has arrived in the ship or aircraft from disembarking in the Bailiwick if an examining officer so requires and notifies him either that the person is the subject of an exclusion order or that consideration is being given by the Lieutenant-Governor to the making of an exclusion order against him.

(6) Where under sub-paragraph (5) the captain of a ship or aircraft is required to prevent a person from disembarking, he may for that purpose detain him in custody on board.

(7) A person may be removed from a vehicle for detention under this paragraph.

Detention: supplementary provisions

7. (1) If the appropriate judicial officer is satisfied on information on oath that there are reasonable grounds for suspecting that a person liable to be

arrested under paragraph 6(4) is to be found on any premises, he may grant a search warrant authorising an officer of police to enter those premises, if necessary by force, for the purpose of searching for and arresting that person.

(2) A person detained under this Schedule shall be deemed to be in legal custody at any time when he is so detained and, if detained otherwise than on board a ship or aircraft, may be detained in such place as Her Majesty's Procureur may from time to time direct.

(3) Where a person is detained under this Schedule, an examining officer, prison officer or person authorised by Her Majesty's Procureur may take all such steps as are reasonably necessary for photographing, measuring or otherwise identifying him.

(4) A person detained under this Schedule may be taken in the custody of an examining officer or other person acting under the authority of such an officer to and from any place where his attendance is required for the purpose of establishing his citizenship or nationality or for making arrangements for his admission to a country or territory outside the Bailiwick or where he is required to be for any purpose connected with the operation of this Law.

Designated ports

8. (1) The owners or agents of a ship or aircraft employed to carry passengers for reward and coming to or going from the Bailiwick shall not, without the approval of an examining officer, arrange for the ship or aircraft to call at a port in the Bailiwick other than a designated port for the purpose of disembarking or embarking passengers.

(2) The captain of an aircraft not employed to carry passengers for reward and coming to or going from the Bailiwick shall not, without the approval of an examining officer, permit the aircraft to call at or leave a port in the Bailiwick other than a designated port.

Control areas

9. (1) The Lieutenant-Governor may from time to time give written notice to the owners or agents of any ships or aircraft designating control areas for the disembarkation or embarkation of passengers in any port in the Bailiwick and specifying the conditions and restrictions (if any) to be observed in any control area; and where by notice given to any owners or agents a control area is for the time being so designated at any port, the owners or agents shall take all reasonable steps to ensure that, in the case of their ships or aircraft, passengers do not disembark or (as the case may be) embark at the port outside the control area and that any conditions or restrictions notified to them are observed.

(2) The Lieutenant-Governor may also from time to time give to the States Board of Administration or any other person or body concerned with the management of a port in the Bailiwick written notice designating control areas in the port and specifying facilities to be provided and conditions and restrictions to be observed there; and the said Board, person or body shall take all reasonable steps to secure that the facilities, conditions or restrictions notified to it or him are provided or observed.

Requirements with respect to embarkation and disembarkation of passengers and crew

10. (1) The captain of a ship or aircraft employed to carry passengers for reward arriving in the Bailiwick—

- (a) shall, except so far as he may be otherwise required to do so under paragraph 27(1) of Schedule 2 to the Immigration Act 1971, take such steps as may be necessary to secure that passengers and members of the crew do not disembark there unless they have been examined by an examining officer or except in accordance with arrangements approved by an examining officer; and
- (b) where any examination of persons is to be carried out on board, shall take such steps as may be necessary to secure that those to be examined are presented for the purpose in an orderly manner.

(2) The captain of a ship or aircraft employed to carry passengers for reward from the Bailiwick shall take such steps as may be necessary to secure that—

- (a) passengers and members of the crew do not embark except in accordance with arrangements approved by an examining officer; and
- (b) if persons embarking are to be examined on board, they are presented for the purpose in an orderly manner.

(3) Sub-paragraphs (1) and (2) apply also to aircraft not employed to carry passengers for reward.

(4) The captain of a ship or aircraft arriving in the Bailiwick shall, unless he is subject to the requirements of an order under paragraph 27(2) of Schedule 2 to the Immigration Act 1971, and subject to sub-paragraph (6), comply with the requirements of sub-paragraph (5).

(5) The requirements are—

(a) in the case of a ship employed to carry passengers for reward or an aircraft, to furnish to the examining officer, as soon as reasonably practicable after arrival, a list of the names and dates and places of birth of all passengers and members of the crew arriving on the ship or aircraft; and

(b) in the case of a ship not employed to carry passengers for reward, to furnish to the examining officer, within 12 hours of arrival, a list of the names, dates and places of birth and addresses of the destinations in the Bailiwick of all passengers and members of the crew arriving on the ship.

(6) An examining officer may dispense with all or any of the requirements of sub-paragraph (5) either generally or in respect of such classes of persons as he may specify.

(7) A passenger on a ship or aircraft shall furnish to the captain thereof any information required by him for the purpose of complying with the provisions of sub-paragraph (5).

Offences

11. A person who knowingly contravenes any prohibition or fails to comply with any duty or requirement imposed by or under this Schedule is guilty of an offence and liable on summary con-

viction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale or to both.

SCHEDULE 6 Section 14(3)

DESIGNATED PORTS

Seaports and Hoverports

Saint Peter Port Harbour, Guernsey.
Saint Sampson's Harbour, Guernsey.
Braye Harbour, Alderney.
Little Crabby Harbour, Alderney.
The Old Harbour, Alderney.
Maseline Harbour, Sark.
Creux Harbour, Sark.

Airports

La Villiaze Airport, Guernsey.
Alderney Airport.

SCHEDULE 7 Section 15(1)

TERRORIST INVESTIGATIONS

Interpretation

1. In this Schedule a "terrorist investigation" means any investigation described in section 15(2).

2. (1) The appropriate judicial officer may, on an application made by an officer of police, issue a warrant under this paragraph if satisfied on information on oath that a terrorist investigation is being carried out and that there are reasonable grounds for believing—

- (a) that there is material on premises specified in the application for the warrant which is likely to be of substantial value (whether by itself or together with other material) to the investigation;
- (b) that the material does not consist of or include items subject to legal professional privilege;
- (c) that any of the conditions referred to in sub-paragraph (2) are fulfilled.

(2) The conditions are—

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
- (b) that it is not practicable to communicate with any person entitled to grant access to the material;
- (c) that entry to the premises will not be granted unless a warrant is produced; or
- (d) that the purpose of a search may be frustrated or seriously prejudiced unless an officer of police arriving at the premises can secure immediate entry to them.

(3) A warrant under this paragraph shall authorise an officer of police to enter the premises specified in the warrant, to search the premises and any person there, and to seize and detain anything found there or on any such person (other than items subject to legal professional privilege) if he has reasonable grounds for believing—

- (a) that it is likely to be of substantial value (whether by itself or together with other material) to the investigation; and

- (b) that it is necessary to seize it in order to prevent it from being concealed, lost, damaged, altered or destroyed.

Order for production of material

3. (1) An officer of police may, for the purposes of a terrorist investigation, apply to the appropriate judicial officer for an order under sub-paragraph (2) in relation to particular material or material of a particular description.

(2) If on such an application the appropriate judicial officer is satisfied on information on oath that the conditions referred to in sub-paragraph (3) are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall—

- (a) produce it to an officer of police for him to take away; or

- (b) give an officer of police access to it, within such period as the order may specify or, if the material is not in that person's possession (and will not come into his possession within that period), that he shall state to the best of his knowledge and belief where it is.

(3) The conditions referred to in sub-paragraph (2) are—

- (a) that a terrorist investigation is being carried out and that there are reasonable grounds for believing that the material is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made;

(b) that there are reasonable grounds for believing that it is in the public interest, having regard—

(i) to the benefit likely to accrue to the investigation if the material is obtained; and

(ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given; and

(c) that the material does not consist of or include items subject to legal professional privilege.

(4) An order under sub-paragraph (2) may relate to material expected to come into existence or to become available to the person concerned in the period of 28 days beginning with the date of the order; and in this case the order shall require that person to notify a named officer or police as soon as possible after the material comes into existence or becomes available to that person.

(5) The period to be specified in an order under sub-paragraph (2) shall be 7 days from the date of the order or, in the case of an order made by virtue of sub-paragraph (4), from the notification to the officer of police, unless it appears in either case to the appropriate judicial officer that a longer or shorter period would be appropriate in all the circumstances.

(6) Where the appropriate judicial officer makes an order under sub-paragraph (2)(b) in relation to

material on any premises, he may, on the application of an officer of police, order any person who appears to him to be entitled to grant entry to the premises to allow an officer of police to enter the premises to obtain access to the material.

4. (1) Provision may be made by rules of court as to—

(a) the discharge and variation of orders made under paragraph 3;

(b) proceedings relating to such orders.

(2) Pending the making of such rules—

(a) an order under paragraph 3 may be discharged or varied by the appropriate judicial officer on written application by any person subject to the order to Her Majesty's Greffier, in the case of Guernsey, the Clerk of the Court of Alderney, in the case of Alderney, or the Greffier, in the case of Sark;

(b) unless the appropriate judicial officer otherwise directs on grounds of urgency, the applicant shall, not less than 48 hours before making the application, send a copy of it and a notice in writing of the time and place where it is to be made to the Chief Officer of Police.

(3) Where the material to which an application under paragraph 3 relates consists of information contained in a computer—

(a) an order under paragraph 3(2)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and

(b) an order under paragraph 3(2)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.

(4) An order under paragraph 3—

(a) confers no right to production of, or access to, items subject to legal professional privilege;

(b) has effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise.

(5) An order may be made under paragraph 3 in relation to material in the possession of a committee of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark; and any such order (which shall be served as if the proceedings were civil proceedings against the committee in question) may require any officer of the committee, whether named in the order or not, who may be in possession of the material concerned to comply with it.

Explanation of seized or produced material

5. (1) The appropriate judicial officer may, on an application made by an officer of police, order any person specified in the order to provide an explanation of any material seized in pursuance of a warrant under paragraph 2 or produced or made available to an officer of police under paragraph 3.

(2) A person shall not under this paragraph be required to disclose any information which he

would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the Royal Court, except that a lawyer may be required to furnish the name and address of his client.

(3) A statement by a person in response to a requirement imposed under this paragraph may only be used in evidence against him—

- (a) on a prosecution for an offence under subparagraph (4); or
- (b) on a prosecution for some other offence where, in giving evidence, he makes a statement inconsistent with it.

(4) A person who, in purported compliance with a requirement under this paragraph—

- (a) makes a statement which he knows to be false or misleading in a material particular; or
- (b) recklessly makes a statement which is false or misleading in a material particular,

is guilty of an offence and liable—

- (i) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine or to both;
- (ii) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale or to both.

(5) Paragraph 4(1), (2) and (5) applies to orders under this paragraph as it applies to orders under paragraph 3.

Urgent cases

6. (1) If the Chief Officer of Police or his deputy has reasonable grounds for believing that the case is one of great emergency and that in the public interest immediate action is necessary, he may by a written order signed by him give to any officer of police the authority which may be given by a search warrant under paragraph 2.

(2) Where an authority is given under this paragraph, particulars of the case shall be notified as soon as practicable to the Bailiff and Her Majesty's Procureur.

(3) An order under this paragraph may not authorise a search for items subject to legal professional privilege.

(4) If the Chief Officer of Police or his deputy has reasonable grounds for believing that the case is such as is mentioned in sub-paragraph (1), he may by written notice signed by him require any person specified in the notice to provide an explanation of any material seized in pursuance of an order under this paragraph.

(5) A person who without reasonable excuse fails to comply with a notice under sub-paragraph (4) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months, to a fine not exceeding twice level 5 on the uniform scale or to both.

(6) Paragraph 5(2), (3) and (4) applies to a requirement imposed under sub-paragraph (4) as it applies to a requirement under paragraph 5.

Supplementary

7. (1) An officer of police may, if necessary, use reasonable force for the purpose of exercising any power conferred on him by this Schedule.

(2) A search of a person under this Schedule may only be carried out by a person of the same sex.

8. No application may be made under paragraph 2(1), 3(1), 3(6) or 5(1) by an officer of police without the consent of Her Majesty's Procureur.

SCHEDULE 8 Section 22(1)

CONSEQUENTIAL AMENDMENTS

In section 5(2) of the Drug Trafficking Offences (Bailiwick of Guernsey) Law, 1988^(j) after "1974" insert "or section 11(2), (3) or (4) of the Prevention of Terrorism (Bailiwick of Guernsey) Law, 1990".

SCHEDULE 9 Section 22(2)

REPEALS

The Prevention of Terrorism (Supplemental Temporary Provisions) (Bailiwick of Guernsey) Order, 1984^(k).

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

^(j) Ordre en Conseil No. XII of 1988.

^(k) G.S.I. 1984 No. 21.