

PROJET DE LOI

ENTITLED

The Protection from Harassment (Bailiwick of Guernsey) Law, 2005 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

© States of Guernsey

PROJET DE LOI

* No. VIII of 2006; as amended by the: Domestic Abuse and Related Provisions (Bailiwick of Guernsey) Law, 2024 (No. ** of 2025). This Law is applied, in part, with modifications, to the Island of Sark by the Protection from Harassment (Sark) Ordinance, 2019 (Sark Ordinance No. VIII of 2019). See also the Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122)

ENTITLED

**The Protection from Harassment (Bailiwick of Guernsey)
Law, 2005**

ARRANGEMENT OF SECTIONS

PART 1
CRIMINAL HARASSMENT

1. Prohibition of harassment.
2. Offence of harassment.
3. Putting people in fear of violence.

PART 2
RESTRAINING ORDERS AND INJUNCTIONS

4. Restraining orders.
- 4A. Restraining orders on acquittal.
5. Civil remedy.

PART 3
MISCELLANEOUS

6. Limitation.
7. Interpretation.
8. National security, etc.
9. Extension of Part 2 to Alderney and Sark.
10. Ordinances.
11. Application.
12. Citation.

PROJET DE LOI

ENTITLED

The Protection from Harassment (Bailiwick of Guernsey) Law, 2005

THE STATES, in pursuance of their Resolution of the 24th November, 2004^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have the force of law in the Bailiwick of Guernsey.

PART 1

CRIMINAL HARASSMENT

Prohibition of harassment.

1. (1) A person must not pursue a course of conduct –
 - (a) which amounts to harassment of another, and
 - (b) which he knows or ought to know amounts to harassment of the other.

(2) For the purposes of this section, the person whose course of conduct is in question ought to know that it amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.

^a Billet d'État No. XX of 2004.

(3) Subsection (1) does not apply to a course of conduct if the person who pursued it shows –

- (a) that it was pursued for the purpose of preventing or detecting crime,
- (b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person thereunder, or
- (c) that in the particular circumstances the pursuit of the course of conduct was reasonable.

Offence of harassment.

2. (1) A person who pursues a course of conduct in breach of section 1 is guilty of an offence.

(2) A person guilty of an offence under this section is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or a fine, or both, or
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine not exceeding level 5 on the uniform scale, or both.

Putting people in fear of violence.

3. (1) A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions.

(2) For the purposes of this section, the person whose course of conduct is in question ought to know that it will cause another to fear that violence will be used against him on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.

(3) It is a defence for a person charged with an offence under this section to show that –

- (a) his course of conduct was pursued for the purpose of preventing or detecting crime,
- (b) his course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person thereunder, or
- (c) the pursuit of his course of conduct was reasonable for the protection of himself or another or for the protection of his or another's property.

(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, or a fine, or both, or
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine not exceeding level 5 on the uniform scale, or both.

(5) If on the trial on indictment of a person charged with an

offence under this section the Royal Court finds him not guilty of the offence charged, it may find him guilty of an offence under section 2.

PART 2

[RESTRAINING ORDERS AND INJUNCTIONS]

Restraining orders.

4. (1) A court sentencing or otherwise dealing with a person ("**the defendant**") convicted of [any offence] may (as well as sentencing him or dealing with him in any other way) make an order under this section.

(2) The order may, for the purpose of protecting the victim of the offence, or any other person (whether identified by name or description, or as a member of a class) mentioned in the order, from further conduct which –

(a) amounts to harassment, or

(b) will cause a fear of violence,

prohibit the defendant from doing anything described in the order.

(3) The order may have effect for a specified period or until further order.

(4) Her Majesty's Procureur, the defendant or any other person mentioned in the order may apply to the court which made the order for it to be varied or discharged by a further order.

[(4A) When a court is considering whether to make, vary or discharge an order under this section, the prosecution and the defence may lead, as further evidence, any evidence that would be admissible in proceedings for an

injunction under section 5.

(4B) If the Royal Court is considering whether to make, vary or discharge an order under this section, that decision is made by a single judge sitting alone.

(4C) Where a court makes or varies an order under this section, or refuses to vary or discharge an order under this section, the defendant may appeal against that decision as though the order is a sentence imposed on the date of that decision, notwithstanding anything in any other enactment to the contrary.]

(5) If without reasonable excuse the defendant does anything which he is prohibited from doing by an order under this section, he is guilty of an offence.

(6) 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, or a fine, or both, or
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine not exceeding level 5 on the uniform scale, or both.

[(7) A court dealing with a person for an offence under this section may vary or discharge the order by a further order.]

NOTES

The words in square brackets in the heading for Part 2 were substituted by the Domestic Abuse and Related Provisions (Bailiwick of Guernsey) Law, 2024, section 63(2), with effect from 16th June, 2025.

In section 4, first, the words in square brackets in subsection (1) were substituted, second, subsection (4A), subsection (4B) and subsection (4C) and, third, subsection (7) were inserted by the Domestic Abuse and Related Provisions (Bailiwick of Guernsey) Law, 2024, respectively section 63(3), section 63(4) and section 63(5), with effect from 16th June, 2025.

Part 2 of the Law is applied to the Island of Sark by the Protection from Harassment (Sark) Ordinance, 2019, section 1, with effect from 3rd October, 2019, subject to the modifications in section 2 of 2019 Ordinance.

Restraining orders on acquittal.

4A. (1) A court before which a person ("**the defendant**") is acquitted of any offence may, if it considers it necessary to do so to protect any person from harassment by the defendant, make an order prohibiting the defendant from doing anything described in the order.

(2) Subsections (3) to (7) of section 4 apply to an order under this section as they apply to an order under that section and, in respect of the right of appeal mentioned in section 4(4C), an appeal against an order under this section proceeds as if –

- (a) the defendant had been convicted of the offence before the court which made the order, and
- (b) the order had been made under section 4.

(3) Where the Court of Appeal allows an appeal against conviction it may remit the case to the Royal Court to consider whether to proceed under this section.

(4) Where –

- (a) the Royal Court allows an appeal against conviction, or

- (b) a case is remitted to the Royal Court under subsection (3),

the reference in subsection (1) to a court before which a person is acquitted of any offence is to be read as referring to the Royal Court.]

NOTE

Section 4A was inserted by the Domestic Abuse and Related Provisions (Bailiwick of Guernsey) Law, 2024, section 63(6), with effect from 16th June, 2025.

Civil remedy.

5. (1) An actual or apprehended breach of section 1 may be the subject of a claim in civil proceedings in the Royal Court by the person who is or may be the victim of the course of conduct in question.

(2) On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment.

(3) Where –

- (a) in such proceedings the Royal Court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment, and
- (b) the plaintiff considers that the defendant has done anything which he is prohibited from doing by the injunction,

the plaintiff may apply to the Bailiff for the issue of a warrant for the arrest of the defendant.

(4) The Bailiff, on an application under subsection (3), may only issue a warrant if –

- (a) the application is substantiated on oath, and
- (b) he has reasonable grounds for believing that the defendant has done anything which he is prohibited from doing by the injunction.

(5) Where –

- (a) the Royal Court grants an injunction for the purpose mentioned in subsection (3)(a), and
- (b) without reasonable excuse the defendant does anything which he is prohibited from doing by the injunction,

he is guilty of an offence.

(6) Where a person is convicted of an offence under subsection (5) in respect of any conduct, that conduct is not punishable as a contempt of court.

(7) A person cannot be convicted of an offence under subsection (5) in respect of any conduct which has been punished as a contempt of court.

(8) A person guilty of an offence under subsection (5) is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or a fine, or both, or
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine not exceeding level 5 on the uniform scale, or both.

(9) In this section "**Royal Court**" means the Royal Court sitting as an Ordinary Court and is properly constituted by the Bailiff sitting alone.

NOTES

In its application to the Island of Sark, section 5 is modified in accordance with the provisions of the Protection from Harassment (Sark) Ordinance, 2019, section 2, with effect from 3rd October, 2019.

In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.

PART 3

MISCELLANEOUS

Limitation.

6. In section 5 of the Law Reform (Tort) (Guernsey) Law, 1979^b (time limit for personal injuries), after subsection (1) insert the following subsection –

" (1A) This section does not apply to any action brought for

^b Ordres en Conseil Vol. XXVII, p. 50.

damages under section 5 of the Protection from Harassment (Bailiwick of Guernsey) Law, 2005."

Interpretation.

7. (1) This section applies to the interpretation of sections 1 to 5.
- (2) References to harassing a person include alarming the person or causing the person distress.
- (3) A company may for the purposes of this Law be the subject of harassment, whether or not any of its officers, shareholders, members or employees (by whatever name called) are, by the same course of conduct, the subject of harassment.
- (4) A "**company**" includes a body corporate or unincorporate, and a group or association of persons whether formally constituted as such or otherwise.
- (5) A "**course of conduct**" must involve conduct on at least two occasions.
- (6) A person's conduct on any occasion shall be taken, if aided, abetted, counselled or procured by another –
- (a) to be conduct on that occasion of the other (as well as conduct of the person whose conduct it is), and
 - (b) to be conduct in relation to which the other's knowledge and purpose, and what he ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring.

(7) **"Conduct"** includes speaking, writing and any other form or manner of communicating.

National security, etc.

8. (1) If Her Majesty's Procureur certifies that in his opinion anything done by a specified person on a specified occasion related to –

- (a) national security,
- (b) the economic well-being of any part of the Bailiwick of Guernsey, or
- (c) the deterrence, prevention or detection of serious crime,

and was done on behalf of the Crown, the certificate is conclusive evidence that this Law does not apply to any conduct of that person on that occasion.

(2) In subsection (1), **"specified"** means specified in the certificate in question.

(3) A document purporting to be a certificate under subsection (1) is to be received in evidence and, unless the contrary is proved, is to be treated as being such a certificate.

Extension of Part 2 to Alderney and Sark.

9. The States of Alderney and the Chief Pleas of Sark may respectively by Ordinance provide that Part 2 shall extend to Alderney or (as the case may be) to Sark subject to such exceptions, adaptations and modifications as may be prescribed in the Ordinance.

Ordinances.

10. (1) The States of Deliberation may by Ordinance amend the provisions of this Law.

(2) An Ordinance under this section or section 9 –

(a) may be amended or repealed by a subsequent Ordinance, and

(b) may contain such transitional, consequential, incidental and supplementary provisions as the States of Deliberation, the States of Alderney or (as the case may be) the Chief Pleas of Sark think fit.

Application.

11. (1) Parts 1 and 3 apply throughout the Bailiwick.

(2) Part 2 applies, subject to the provisions of section 9, to Guernsey, Herm and Jethou.

Citation.

12. This Law may be cited as the Protection from Harassment (Bailiwick of Guernsey) Law, 2005.

NOTE

The Law received Royal Sanction on 7th June, 2006 and was registered on the Records of the Island of Guernsey and came into force on 3rd July, 2006.
