

# ORDER IN COUNCIL

**XXI  
2009**

ratifying a Projet de Loi

ENTITLED

## **The Public Order (Bailiwick of Guernsey) Law, 2006**

(Registered on the Records of the Island of Guernsey  
on the 9th November, 2009.)



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2009



## ORDER IN COUNCIL



### IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

9<sup>th</sup> day of November, 2009 before Sir Geoffrey Rowland, Bailiff; present:- Derek Martin Le Page, Stephen Edward Francis Le Poidevin and Alan Cecil Bisson, Esquires, The Reverend Peter Gerald Lane, Michael John Tanguy, Esquire, Susan Mowbray, Barbara Jean Bartie, Stephen Murray Jones, Esquire, Claire Helen Le Pelley, Peter Sean Trueman Girard, Esquire, Constance Helyar-Wilkinson and Terry George Snell, Esquire, Jurats

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 15<sup>th</sup> October 2009 approving and ratifying a Projet de Loi entitled “The Public Order (Bailiwick of Guernsey) Law, 2006”, 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 Greffier of the Court of Alderney and to the SÉNÉSCHAL of Sark for registration on the records of those Islands respectively.



*At the Court at Buckingham Palace*

THE 15th DAY OF OCTOBER 2009

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY  
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

"In accordance with Your Majesty's General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

"That, in pursuance of their Resolution of 27th April 2006, the States of Deliberation at a meeting on 29th November 2006 approved a Projet de Loi entitled the Public Order (Bailiwick of Guernsey) Law, 2006 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Public Order (Bailiwick of Guernsey) Law, 2006, and to order that it shall have force of law in the Bailiwick of Guernsey.

"The Committee have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it".

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Bailiwick of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty's Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

*Judith Simpson*

# PROJET DE LOI

ENTITLED

## **The Public Order (Bailiwick of Guernsey) Law, 2006**

### ARRANGEMENT OF SECTIONS

1. Riot.
2. Violent disorder.
3. Affray.
4. Fear or provocation of violence.
5. Mental element: miscellaneous.
6. Procedure: miscellaneous.
7. Interpretation.
8. Offences abolished.
9. Power to amend Law by Ordinance.
10. Citation.

# PROJET DE LOI

ENTITLED

## **The Public Order (Bailiwick of Guernsey) Law, 2006**

**THE STATES**, in pursuance of their Resolution of the 27<sup>th</sup> April, 2006<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### **Riot.**

1. (1) Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot.

(2) It is immaterial whether or not the 12 or more use or threaten unlawful violence simultaneously.

(3) The common purpose may be inferred from conduct.

(4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

(5) Riot may be committed in private as well as in public places.

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<sup>a</sup> Article XI of Billet d'État No. VIII of 2006.

(6) A person guilty of riot is liable on conviction on indictment to imprisonment for a term not exceeding 10 years, or to a fine, or to both.

**Violent disorder.**

2. (1) Where 3 or more persons who are present together use or threaten unlawful violence and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using or threatening unlawful violence is guilty of violent disorder.

(2) It is immaterial whether or not the 3 or more persons use or threaten unlawful violence simultaneously.

(3) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

(4) Violent disorder may be committed in private as well as in public places.

(5) A person guilty of violent disorder is liable -

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

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

**Affray.**

3. (1) A person is guilty of affray if he uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.

(2) Where 2 or more persons use or threaten the unlawful violence, it is the conduct of them taken together that must be considered for the purposes of subsection (1)

(3) For the purposes of this section a threat cannot be made by the use of words alone.

(4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

(5) Affray may be committed in private as well as in public places.

(6) A person guilty of affray is liable -

(a) on conviction on indictment, to imprisonment for a term not exceeding 3 years, or to a fine, or to both,

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

**Fear or provocation of violence.**

4. (1) A person is guilty of an offence if he -

- (a) uses towards another person threatening, abusive or insulting words or behaviour, or
- (b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting,

with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

(2) An offence under this section may be committed in a public or private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is distributed or displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

(3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

**Mental element: miscellaneous.**

5. (1) A person is guilty of riot only if he intends to use violence or is aware that his conduct may be violent.

(2) A person is guilty of violent disorder or affray only if he intends to use or threaten violence or is aware that his conduct may be violent or threaten violence.

(3) A person is guilty of an offence under section 4 only if he intends his words or behaviour, or the writing, sign or other visible representation, to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting.

(4) For the purposes of this section a person whose awareness is impaired by intoxication shall be taken to be aware of that of which he would be aware if not intoxicated, unless he shows either that his intoxication was not self-induced or that it was caused solely by the taking or administration of a substance in the course of medical treatment.

(5) In subsection (4) "intoxication" means any intoxication, whether caused by drink, drugs or other means, or by a combination of means.

(6) Subsections (1) and (2) do not affect the determination for the purposes of riot or violent disorder of the number of persons who use or threaten violence.

**Procedure: miscellaneous.**

6. (1) For the purposes of the rules against charging more than one offence in the same count or information, each of sections 1 to 4 create one offence.

(2) If on the trial on indictment of a person charged with violent disorder or affray the Jurats find him not guilty of the offence charged, they may find him guilty of an offence under section 4.

(3) The Royal Court has the same powers and duties in relation to a person who, by virtue of subsection (2), is convicted before it of an offence under

section 4 as the Magistrate's Court (or, as the case may be, the Court of Alderney or the Court of the Seneschal) would have on convicting him of the offence.

**Interpretation.**

7. (1) In this Law, unless the context requires otherwise -

"**dwelling**" means any structure or part of a structure occupied as a person's home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and for this purpose "structure" includes a tent, caravan, vehicle, vessel or other temporary or movable structure,

"**uniform scale**" means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>b</sup>, and

"**violence**" means any violent conduct, so that -

- (a) except in the context of affray, it includes violent conduct towards property as well as violent conduct towards persons, and
- (b) it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct (for example, throwing at or towards a person a missile of a kind capable of causing injury which does not hit or falls short ).

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<sup>b</sup> Ordres en Conseil Vol. XXXI, p. 278.

(2) The Interpretation (Guernsey) Law, 1948<sup>c</sup> applies to the interpretation of this Law throughout the Bailiwick.

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

**Offences abolished.**

8. The common law offences of riot, rout, unlawful assembly and affray are abolished.

**Power to amend Law by Ordinance.**

9. (1) The States may by Ordinance amend this Law.
- (2) An Ordinance under this Law -
- (a) may, for the avoidance of doubt -
- (i) create new offences, and
- (ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,
- (b) may be amended or repealed by a subsequent Ordinance hereunder, and
- (c) may contain such consequential, incidental,

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

supplementary, transitional and savings provisions as may appear to be necessary or expedient.

(3) Any power conferred by this Law to make an Ordinance may be exercised -

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised -

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

(iii) any such provision either unconditionally or subject to any prescribed conditions.

**Citation.**

**10.** This Law may be cited as the Public Order (Bailiwick of Guernsey) Law, 2006.

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



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