

# PROJET DE LOI

ENTITLED

## **The Rehabilitation of Offenders (Bailiwick of Guernsey)**

**Law, 2002 \***

*[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.*

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\* No. XIV of 2002, Ordres en Conseil Vol. XLII, p. 389; as amended by the: Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008 (No. XVI of 2009); Probation (Bailiwick of Guernsey) Law, 2018 (No. IX of 2019); Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2010 (No. XXVI of 2010); Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015 (No. XXXIX of 2015). See also the: Criminal Evidence and Miscellaneous Provisions (Bailiwick of Guernsey) Law, 2002 (No. I of 2003, Ordres en Conseil Vol. XLIII(1), p. 3); Children (Guernsey and Alderney) Law, 2008 (No. XIV of 2009); Arbitration (Guernsey) Law, 2016 (No. X of 2016); Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006 (No. XVI of 2006, Recueil d'Ordonnances Tome XXXI, p. 386); Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009 (No. XXXIII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 617); Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2013 (No. XI of 2013); Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015 (No. XX of 2015); Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018 (No. XXVI of 2018).

# PROJET DE LOI

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## **The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002**

### ARRANGEMENT OF SECTIONS

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2. Sentences excluded from rehabilitation.
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4. Applicable rehabilitation period.
5. Further convictions within rehabilitation period.
6. Effect of sentence for breach of bindover or probation order after end of rehabilitation period.
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SCHEDULE Rehabilitation periods for particular sentences.

# PROJET DE LOI

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## **The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002**

**THE STATES**, in pursuance of their resolution of 11<sup>th</sup> May, 2001<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### **General rule for rehabilitation.**

1. (1) Where an individual has been convicted, whether before or after the commencement of this Law, of any offence, and the conditions specified in subsection (2) are satisfied, then –

- (a) after the end of the rehabilitation period applicable to the conviction, or
- (b) where that rehabilitation period ended before the commencement of this Law, after the commencement of this Law,

that individual shall for the purposes of this Law be treated as a rehabilitated person in respect of the conviction which shall for those purposes be treated as spent.

(2) The conditions referred to in subsection (1) are that –

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

- (a) the individual did not have imposed on him in respect of the conviction a sentence which is excluded from rehabilitation under this Law, and
- (b) he has not had imposed on him in respect of a subsequent conviction during the rehabilitation period applicable to the original conviction a sentence which is excluded from rehabilitation under this Law, and
- (c) he has served or otherwise undergone or complied with any sentence imposed on him in respect of the conviction and has complied with all conditions, requirements and orders which are applicable in respect of the decision.

(3) For the purposes of subsection (2), the individual shall be deemed to have served or otherwise undergone or complied with the sentence if he has complied with any order, condition or requirement made in substitution thereof.

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**NOTES**

*The following case has referred to this Law:*

*Sahara City Co. Limited v. Chiverton* [2019]GRC070 (Unreported, Royal Court, 18th December).

*In accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008, section 123, Schedule, paragraph 38 (shown, incorrectly, in the printed version of the 2008 Law as paragraph 37), with effect from 4th January, 2010, this Law is one of those specific enactments that the States may repeal, amend, extend, adapt, modify or disapply, and make transitional and savings provisions in relation to, by Ordinance made under the said section 123.*

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**Sentences excluded from rehabilitation.**

2. The sentences excluded from rehabilitation under this Law are –
- (a) a sentence of imprisonment for life,
  - (b) a sentence of imprisonment, youth detention, or Borstal training for a term exceeding 30 months,
  - (c) a sentence of detention during Her Majesty's pleasure passed under section 1(2) of the Homicide (Guernsey) Law 1965<sup>b</sup>,

and any other sentence is a sentence subject to rehabilitation under this Law.

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**NOTE**

*In accordance with the provisions of the Criminal Evidence and Miscellaneous Provisions (Bailiwick of Guernsey) Law, 2002, section 19, with effect from 20th January, 2003, the reference in this section to a sentence of borstal training within the meaning of the Criminal Justice (Borstal Training) (Guernsey) Law, 1963 shall be construed as a reference to a sentence of youth detention within the meaning of the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990.*

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**Rehabilitation Periods.**

3. (1) For the purposes of this Law, and subject to sections 4, 5, and 6 the rehabilitation periods shall be determined in accordance with the Schedule.
- (2) The States may by Ordinance amend the Schedule.

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**NOTES**

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<sup>b</sup> Ordres en Conseil Vol. XX, p. 59.

*The following Ordinance has been made under section 3:*

*Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2010.*

*The following case has referred to section 3:*

*Sahara City Co. Limited v. Chiverton [2019]GRC070 (Unreported, Royal Court, 18th December).*

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**Applicable Rehabilitation Period.**

4. (1) Subject to sections 5 and 6, where only one sentence is imposed in respect of a conviction (not being a sentence excluded from rehabilitation under this Law) the rehabilitation period applicable to the conviction is that which is applicable to that sentence in accordance with the Schedule.

(2) Subject to sections 5 and 6, where more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings) and none of the sentences imposed is excluded from rehabilitation under this Law, then if the periods applicable to those sentences in accordance with the Schedule differ, the rehabilitation period applicable to the conviction shall be the longer or the longest (as the case may be) of those periods.

**Further convictions within rehabilitation period.**

5. (1) Subject to subsections (2) and (3), where during the rehabilitation period applicable to a conviction –

- (a) the person is convicted of a further offence, and
- (b) a sentence other than one excluded from rehabilitation under this Law is imposed on him in respect of the later conviction,

if the rehabilitation periods applicable to the convictions would end on different

dates, the period which would end first shall be extended so as to end on the same date as the other period.

(2) The rehabilitation period applicable to a conviction shall not be extended where –

- (a) only one sentence is imposed in respect of the conviction, not being a sentence excluded from rehabilitation under this Law, and
- (b) the rehabilitation period applicable to that sentence was determined in accordance with paragraph 5 of the Schedule.

(3) For the purposes of subsection (1), in determining the rehabilitation period applicable to a conviction for which two or more sentences are imposed, there shall be disregarded any rehabilitation period applicable to a sentence determined in accordance with paragraph 5 of the Schedule.

(4) For the purposes of this section, there shall be disregarded –

- (a) any conviction by or before a court outside the Bailiwick of an offence in respect of conduct which, had it taken place within the Bailiwick, would not have constituted an offence under the laws in force in any part of the Bailiwick,
- (b) any conviction in the Bailiwick of a summary offence prescribed under subsection (5), and
- (c) any conviction in service disciplinary proceedings for

an offence prescribed under subsection (5).

(5) The States may by Ordinance prescribe offences for the purposes of subsection (4).

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**NOTE**

*The following Ordinance has been made under section 5:*

*Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002  
(Commencement, Exclusions and Exceptions) Ordinance, 2006.*

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**Effect of sentence for breach of bind over or probation order after end of rehabilitation period.**

6. (1) This section applies where a binding over order or probation order was imposed for a conviction, and after the end of the rehabilitation period applicable to the conviction in accordance with section 4, the person is dealt with, in consequence of a breach of the binding over order or probation order, for the offence for which such order was imposed.

(2) Without prejudice to section 4, if the rehabilitation period applicable to the conviction in accordance with that section, taking into account any sentence imposed when the person is dealt with for the breach, ends later than the rehabilitation period previously applicable to the conviction, he shall be treated as not having become rehabilitated in respect of the conviction, and the conviction shall be treated as not having become spent, before the end of the new rehabilitation period.

**Effect of rehabilitation – obligations to reveal spent convictions.**

7. (1) Subject to subsection (4), any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him to disclose a spent conviction or any circumstances ancillary to a spent conviction, whether the

conviction is his own or another's.

(2) Subject to subsection (4), where a question seeking information with respect to a person's previous convictions, offences, conduct or circumstances is put to him or to any other person otherwise than in proceedings before a judicial authority –

- (a) the question shall be treated as not relating to spent convictions or to any circumstances ancillary to spent convictions, and the answer may be framed accordingly, and
- (b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent conviction or any circumstances ancillary to a spent conviction in his answer to the question.

(3) A spent conviction or any circumstances ancillary thereto, or any failure to disclose a spent conviction or any such circumstance, shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment or for prejudicing him in any way in any office, profession, occupation or employment.

(4) The States may by Ordinance –

- (a) make such provision as seems to them appropriate for excluding or modifying the application of either or both of subsections (1) and (2) in relation to questions put in such circumstances as may be specified in the Ordinance, and

- (b) provide for such exceptions from the provisions of any or all of subsections (1), (2) and (3) as seems to them appropriate, in such cases or classes of case, and in relation to convictions of such a description, as may be specified in the Ordinance.

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## NOTES

*The following Ordinances have been made under section 7:*

*Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006;*

*Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2006;*

*Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2013;*

*Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022;*

*Criminal Justice (Terrorism and Disclosure) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023.*

*In accordance with the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006, section 3, with effect from 26th April, 2006, subsection (1) and subsection (2) of this section shall not apply to the questions relating to professions, employments, offices, occupations, etc., as referred to in the said section 3.*

*In accordance with the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006, section 4(2), section 4(3) and section 4(4), with effect from 26th April, 2006, subsection (1) and subsection (2) of this section shall not apply to the relating to contact with children and vulnerable persons, as referred to in the said section 4.*

*In accordance with the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006, section 5, with effect from 26th April, 2006, subsection (1) and subsection (2) of this section shall not apply to the questions relating to the provision of financial and related services, as referred to in the said section 5.*

*In accordance with the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and*

*Exceptions) Ordinance, 2006, section 6(1) and subject to the exceptions therein, with effect from 26th April, 2006, subsection (3) of this section shall not apply in relation to the professions, offices, employments, occupations or work or to the actual or proposed decisions or acts referred to in the said section 6(1); and, in accordance with section 6(2) of the 2006 Ordinance, with effect from that same date, subsection (3) of this section shall not apply in relation to any action taken for the purpose of safeguarding the security of the Bailiwick.*

*In accordance with the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2013, section 7A(1), with effect from 19th February, 2013, subsection (1), subsection (2) and subsection (3) of this section shall not apply in relation to any proceedings in respect of an immigration decision or a nationality decision, or otherwise for the purposes of, or in connection with, any such decision.*

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**Effect of rehabilitation – subsequent judicial proceedings.**

8. (1) Subject to sections 9 and 10, a person rehabilitated in respect of a conviction shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence which was the subject of that conviction.

(2) Notwithstanding any other statutory provision or rule of law to the contrary, but subject to sections 9 and 10 –

- (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in the Bailiwick to prove that any person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction, and
- (b) in any such proceedings, a person shall not be asked and, if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent

conviction or spent convictions or any circumstances ancillary to such convictions.

(3) No order made by a court with respect to any person otherwise than on a conviction shall be included in any list or statement of that person's previous convictions given or made to any court which is considering how to deal with him in respect of any offence.

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**NOTES**

*In accordance with the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006, section 7, with effect from 26th April, 2006, this section shall not apply in relation to any of the proceedings specified in Schedule 5 to the 2006 Ordinance.*

*In accordance with the provisions of the Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2013, section 7A(1), with effect from 19th February, 2013, subsection (1) and subsection (2) of this section shall not apply in relation to any proceedings in respect of an immigration decision or a nationality decision, or otherwise for the purposes of, or in connection with, any such decision.*

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**Limitations on rehabilitation – subsequent judicial proceedings.**

9. (1) Nothing in this Law shall affect the determination of any issue, or prevent the admission or requirement of any evidence, relating to a person's previous convictions or to circumstances ancillary thereto –

- (a) in any criminal proceedings before a court in the Bailiwick, including any appeal or reference in a criminal matter,
- (b) in any service disciplinary proceedings or in any proceedings on appeal from any service disciplinary proceedings,

- (c) in any proceedings relating to adoption or to the guardianship, wardship, marriage, custody, care or control of, or access to, any minor, or to the provision by any person of accommodation, care or schooling for minors,
- (d) in any proceedings under the Children and Young Persons (Guernsey) Law 1967<sup>c</sup> or on appeal from any such proceedings, or
- (e) in any proceedings relating to the variation or discharge of a fit person order supervision order or special care order under the Children and Young Persons (Guernsey) Law 1967,
- (f) in any proceedings in which he is a party or a witness, if, on the occasion when the admission or requirement of the evidence falls to be determined, he consents to the admission or requirement of the evidence.

(2) If at any stage in any proceedings before a judicial authority in the Bailiwick the judicial authority is satisfied, in the light of any considerations which appear to it to be relevant (including any evidence which has been or may thereafter be put before it), that justice cannot be done in the case except by admitting or requiring evidence relating to a person's spent convictions or to circumstances ancillary thereto, then so far as is necessary, that authority may admit or, as the case may be, require the evidence in question.

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<sup>c</sup> Ordres en Conseil Vol. XXI, p. 34; as amended by the Children and Young Persons (Amendment) (Guernsey) Law, 1971, Ordres en Conseil Vol. XXIII, p. 6.

- (3) Nothing in section 8 shall affect –
- (a) any right of Her Majesty, by virtue of Her Royal prerogative or otherwise, to grant a free pardon, to quash any conviction or sentence, or to commute any sentence,
  - (b) the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction,
  - (c) the issue of any process for the purpose of proceedings in respect of any breach of a condition or requirement applicable to a sentence imposed in respect of a spent conviction, or
  - (d) the operation of any enactment by virtue of which, in consequence of any conviction, a person is subject, otherwise than by way of sentence, to any disqualification, disability, prohibition, or other penalty the period of which extends beyond the rehabilitation period applicable to the conviction.
- (4) Subsection (2) does not apply to proceedings –
- (a) to which section 10 applies, or
  - (b) specified in any Ordinance for the time being in force made under subsection (5).

(5) The States may by Ordinance exclude the application of section 8 in relation to any proceedings specified in the Ordinance, other than proceedings to which section 10 applies, to such extent and for such purposes as may be so specified.

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**NOTE**

*The following Ordinances have been made under section 9:*

*Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002  
(Commencement, Exclusions and Exceptions) Ordinance, 2006;  
Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment)  
Ordinance, 2013.*

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**Defamation actions.**

**10.** (1) For the purposes of this section "**defamation action**" means an action for libel or slander begun after this Law comes into force by a rehabilitated person and founded upon the publication of any matter imputing that the plaintiff has committed or been charged with or prosecuted for or convicted of or sentenced for an offence which was the subject of a spent conviction.

(2) Nothing in section 8 shall affect a defamation action where the publication complained of took place before the conviction in question became spent.

(3) Subsections (4) to (8) apply to a defamation action where the publication complained of took place after the conviction in question became spent.

(4) Subject to subsections (6) and (7), nothing in section 8 shall prevent the defendant in a defamation action to which this paragraph applies from relying on any defence of justification or fair comment or of absolute or qualified privilege which is available to him or restrict the matters he may establish in support of any such defence.

(5) Without prejudice to the generality of subsection (4), where in any such action malice is alleged against a defendant who is relying on a defence of qualified privilege, nothing in section 8 shall restrict the matters he may establish in rebuttal of the allegation.

(6) A defendant in any such action shall not, by virtue of subsection (4), be entitled to rely upon the defence of justification if the publication is proved to have been made with malice.

(7) Subject to subsection (8), a defendant in any such action shall not, by virtue of subsection (4), be entitled to rely on any matter or adduce or require any evidence for the purpose of establishing the defence that the matter published constituted a fair and accurate report of judicial proceedings if it is proved that the publication contained a reference to evidence which was ruled to be inadmissible in the proceedings by virtue of section 8.

(8) Subsection (4) shall apply without the qualifications imposed by subsection (7) in relation to –

- (a) any report of judicial proceedings contained in any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law, and
- (b) any report or account of judicial proceedings published for bona fide educational, scientific or professional purposes, or given in the course of any lecture, class or discussion given or held for any of those purposes.

**Offences – unauthorised disclosure of spent convictions.**

**11.** (1) Subject to the provisions of any Ordinance made under

subsection (4), any person who, in the course of his official duties, has or at any time has had custody of or access to any official record or the information contained therein, shall be guilty of an offence if, knowing or having reasonable cause to suspect that any specified information he has obtained during the course of those duties is specified information, he discloses it, otherwise than in the course of those duties, to another person.

(2) In any proceedings for an offence under subsection (1) it shall be a defence for the defendant to show that the disclosure was made –

- (a) to the rehabilitated person or to another person at the express request of the rehabilitated person, or
- (b) to a person whom he reasonably believed to be the rehabilitated person or to another person at the express request of a person whom he reasonably believed to be the rehabilitated person.

(3) Any person who obtains any specified information from any official record by means of any fraud, dishonesty or bribe shall be guilty of an offence.

(4) The States may by Ordinance make such provision as appears to them to be appropriate for excepting from subsection (1) the disclosure of specified information derived from an official record, in such class or classes of case as may be specified in the Ordinance.

(5) A person guilty of an offence under subsection (1) shall be liable to a fine not exceeding level 3 on the uniform scale.

(6) A person guilty of an offence under subsection (3) shall be

liable to imprisonment for a term not exceeding 6 months or a fine not exceeding level 4 on the uniform scale or both.

**Offence to publish or broadcast spent convictions.**

12. (1) Subject to the following provisions of this section and to any Ordinance under subsection (8), any person who –

- (a) publishes, or causes or permits to be published, or
- (b) broadcasts, or causes or permits to be broadcast,

any matter imputing that a rehabilitated person has committed or been charged with or prosecuted for or convicted of or sentenced for an offence which was the subject of a spent conviction shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding Level 4 on the uniform scale.

(2) In proceedings against a person for an offence under subsection (1) it shall be a defence for him to satisfy the court that –

- (a) the publication or broadcast took place before the conviction in question became spent, or
- (b) the rehabilitated person, or a person whom he reasonably believed to be the rehabilitated person, had given his express consent to the publication or broadcast, or
- (c) the publication or broadcast was ordered by a court in the Bailiwick, or
- (d) the person took all reasonable steps and exercised all

due diligence to avoid committing the offence, or

- (e) the publication or broadcast took place not less than 30 years after the death of the rehabilitated person.

(3) A person shall not be entitled to rely on the defence provided by subsection (2)(d) by reason of his reliance on information given by another unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular –

- (a) to the steps which he took, and those which might reasonably have been taken, for the purposes of verifying the information, and
- (b) to whether he had any reason to disbelieve the information.

(4) Where in any proceedings for an offence under subsection (1) the defence provided by subsection (2)(d) involves an allegation that the commission of the offence was due –

- (a) to the act or default of another, or
- (b) to reliance on information given by another,

the person shall not, without the leave of the court, be entitled to rely on the defence unless he has served a notice under subsection (5) on Her Majesty's Procureur not less than seven clear days before the hearing of the proceedings.

(5) A notice under this subsection shall give such information identifying or assisting in the identification of the person who committed the act or

default, or gave the information, as is in the possession of the person serving the notice at the time he serves it.

- (6) Subsection (1) shall not apply in relation to –
  - (a) any report or account of judicial proceedings referred to in section 10(8)(a) or section 10(8)(b), and
  - (b) any person to whom section 11(1) applies, but only in respect of official records or the information contained therein which he has or at any time has had custody of or access to.

(7) In this section "**broadcast**" means the transmission by wireless telegraphy, or by a telecommunications system, or by any electronic media, of words, visual images, sounds or other information which is capable of being received by members of the public, or is transmitted for presentation to members of the public.

- (8) The States may by Ordinance –
  - (a) make such provisions as seems to them appropriate for excluding or modifying the application of this section in relation to such cases, offences, sentences, circumstances or proceedings as may be specified in the Ordinance,
  - (b) provide for such exceptions from the provisions of this section as seem to them to be appropriate.

**Interpretation.**

13. (1) In this Law –

**"Her Majesty's Procureur"** includes Her Majesty's Comptroller,

**"official record"** means –

- (a) a record kept for the purposes of its functions by any court, police force, committee of the States of Guernsey, States of Alderney or Chief Pleas of Sark or other public authority in the Bailiwick, or
- (b) a record kept, in the Bailiwick or elsewhere, for the purposes of any of Her Majesty's forces,

being in either case a record containing information about persons convicted of offences,

**"proceedings before a judicial authority"** includes, in addition to proceedings before any of the ordinary courts of law, proceedings before any tribunal, body or person having power –

- (a) by virtue of any statutory provision, law, custom or practice, or
- (b) under the rules governing any association, institution, profession, occupation or employment, or
- (c) under any provision of an agreement providing for arbitration with respect to questions arising under the agreement,

to determine any question affecting the rights, privileges, obligations or liabilities of any person, or to receive evidence affecting the determination of any such question,

**"rehabilitation period"** means the period applicable under section 3 and the Schedule,

**"service disciplinary proceedings"** means any of the following –

- (a) any proceedings under the Army Act 1955, the Air Force Act 1955, or the Naval Discipline Act 1957 (whether before a court-martial or before any other court or person authorised thereunder to award a punishment in respect of any offence),
- (b) any proceedings under any Law previously having effect in the Bailiwick corresponding to any of the Laws mentioned in paragraph (a),
- (c) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976,
- (d) any proceedings under any corresponding statutory provision or law applying to a force, other than a home force, to which section 4 of the Visiting Forces (British Commonwealth) Act 1933 applies or applied at the time of the proceedings, being proceedings in respect of a member of a home force who is or was at that time attached to the first-mentioned force under that section,

whether in any event those proceedings take place in the Bailiwick or

elsewhere,

**"the States"** means the States of Deliberation,

**"specified information"** means information imputing that a named or otherwise identifiable rehabilitated living person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which is the subject of a spent conviction,

**"spent conviction"** means a spent conviction for the purposes of this Law.

(2) In this Law **"sentence"** includes any order made by a court in dealing with a person in respect of his conviction of any offence or offences other than –

(a) an order for committal or any other order made in default of payment of any fine or other sum adjudged to be paid by or imposed on a conviction; or for want of sufficient distress to satisfy any such fine or other sum, or

(b) an order dealing with a person in respect of a suspended sentence of imprisonment.

(3) In this Law, references to a conviction, however expressed, include references –

(a) to a conviction by or before a court outside the Bailiwick,

- (b) to any finding, other than a finding linked with a finding of insanity, in any criminal proceedings that a person has committed an offence or done the act or made the omission charged, and
- (c) to any caution administered to a person in respect of a criminal offence,

and, notwithstanding anything in section 1 of the Loi relative à la probation de Délinquants, 1929<sup>d</sup>, a finding in respect of which an order is made placing the person convicted on probation or discharging him conditionally shall be treated as a conviction for the purposes of this Law and accordingly the person in question may become a rehabilitated person in respect of that conviction and the conviction a spent conviction.

(4) In this Law, any reference to circumstances ancillary to a conviction shall be construed as a reference to any of the following –

- (a) the offence or offences which were the subject of that conviction,
- (b) the conduct constituting that offence or those offences, and
- (c) any process or proceedings preliminary to that conviction, any sentence imposed in respect of that conviction, any proceedings, whether by way of appeal or otherwise, for reviewing that conviction or any such sentence, and anything done pursuant to, or undergone

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<sup>d</sup> Ordres en Conseil Vol. VIII, p. 365.

in compliance with, any such sentence.

(5) For the purposes of this Law, any finding that a person is guilty of an offence in respect of any act or omission which was the subject of service disciplinary proceedings shall be treated as a conviction, and any punishment or order made as a consequence of any such finding shall be treated as a sentence.

(6) In this Law, references to any sentence under an enactment are to be construed as including references to any sentence applicable under the law previously in force corresponding to that sentence.

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

(8) Any reference in this Law to an enactment is a reference thereto or from time to time amended, replaced, re-enacted, extended or applied.

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#### NOTES

*In accordance with the provisions of the Arbitration (Guernsey) Law, 2016, section 80(1), with effect from 12th December, 2016, the provisions of that Law apply to every arbitration under a Guernsey enactment (a "statutory arbitration"), subject to, first, the exceptions in section 80(2) and, second, the adaptations and exclusions specified in sections 81 to 83 of the 2016 Law.*

*The Loi relative à la Probation de Délinquants, 1929 has since been repealed by the Probation (Bailiwick of Guernsey) Law, 2018, section 21(1), with effect from 17th October, 2019.*

*The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.*

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#### **Enactment of Ordinances.**

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

- 14.** (1) Any committee of the States shall –
- (a) before making any recommendation to the States to agree to enact any Ordinance under this Law (other than the one under section 15(2)), consult the [Policy and Finance Committee] of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and
  - (b) inform the States of the views of those committees when making any such recommendation,

but a failure to comply with this subsection shall not invalidate any Ordinance so made.

- (2) Any Ordinance under this Law –
- (a) may be amended or repealed by a subsequent Ordinance hereunder,
  - (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.

(3) Any power conferred by this Law to make any 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 cases or classes of cases, or different provision for the same class of case for different purposes,
  - (iii) any such provision either unconditionally or subject to any prescribed conditions.

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**NOTES**

*In section 14, the words in square brackets in subsection (1) were substituted by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 2, Schedule, with effect from 24th October, 2018.<sup>1</sup>*

*The functions, rights and liabilities of the Sark Policy and Performance Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Sark Policy and Finance Committee and its Chairman by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, Schedule, with effect from 24th October, 2018, subject to the savings and transitional provisions in section 3 of the 2018 Ordinance.<sup>2</sup>*

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**Citation and commencement.**

**15.** (1) This Law may be cited as the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002.

(2) This Law shall come into operation on such day as the States

may by Ordinance appoint.

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**NOTE**

*The Law was brought into force on 1st July, 2006 by the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006, section 1.*

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SCHEDULE

Section 3

REHABILITATION PERIODS FOR PARTICULAR SENTENCES

1. The rehabilitation period applicable to a sentence specified in the first column of the table below is the period specified in the second column of that table in relation to that sentence reckoned from the date of the conviction in respect of which that sentence was imposed.

2. Where the sentence was imposed upon a person who was under 18 years of age at the date of his conviction, the applicable rehabilitation period is half the period specified in the second column reckoned from the date of the conviction in respect of which the sentence was imposed.

SENTENCE	REHABILITATION PERIOD
(i) Any sentence of imprisonment, [detention at Her Majesty's pleasure or any equivalent sentence in the British Islands (other than a sentence passed under section 1(2) of the Homicide (Guernsey) Law 1965),] youth detention or Borstal training for a term exceeding 6 months but not exceeding 30 months.	10 years

(ii) Any sentence of imprisonment, youth detention or Borstal training for a term not exceeding 6 months.	7 years
(iii) A fine, or any other sentence subject to rehabilitation under this Law, not being a sentence described elsewhere in this Schedule.	5 years

[ 3. (1) This paragraph applies to the following sentences –

- (a) Probation Order,
- (b) Conditional Discharge,
- (c) Bind Over,
- (d) Attendance Centre Order, and
- (e) Supervision Order.]

(2) Where in respect of a conviction a sentence to which this paragraph applies is imposed, the rehabilitation period applicable to the sentence shall be one year from the date of the conviction or a period beginning with that date and ending when the sentence ceases or ceased to have effect, whichever is the longer.

4. The rehabilitation period applicable to –

- (a) a decision of any court to make no order in respect of sentence for an offence, or
- (b) [ an absolute discharge], or
- (c) a caution in respect of any offence,

shall be a period of six months from the date of the conviction.

5. Where in respect of a conviction a sentence is imposed on the person convicted ordering that he shall be subject to any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending on the date on which the disqualification, disability, prohibition or penalty (as the case may be) ceases or ceased to have effect.

6. For the purposes of this Schedule –

- (a) consecutive terms of imprisonment and terms which are wholly or partly concurrent, being terms of imprisonment or detention imposed in respect of offences of which a person was convicted in the same proceedings shall be treated as a single term,
- (b) a sentence imposed by a court outside the Bailiwick shall be treated as a sentence of that one of the descriptions mentioned in this Schedule which most nearly corresponds to the sentence imposed, and
- (c) no account shall be taken of any subsequent variation,

made by a court in dealing with a person in respect of a suspended sentence of imprisonment, of the term originally imposed.

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**NOTES**

*In the Schedule,*

*the words in square brackets in box (i) of the first column of the Table were inserted by the Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 1, with effect from 26th May, 2010;*

*paragraph 3(1) was substituted by the Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008, section 23(1), Schedule 2, Part I, paragraph 2, with effect from 4th January, 2010, subject to the transitional provisions in section 23(3) of, and Part III of Schedule 2 to, the 2008 Law;*

*the words in square brackets in paragraph 4(b) were substituted by the Probation (Bailiwick of Guernsey) Law, 2018, section 21(2), with effect from 17th October, 2019.*

*In accordance with the provisions of the Criminal Evidence and Miscellaneous Provisions (Bailiwick of Guernsey) Law, 2002, section 19, with effect from 20th January, 2003, the references in this Schedule to a sentence of borstal training within the meaning of the Criminal Justice (Borstal Training) (Guernsey) Law, 1963 shall be construed as a reference to a sentence of youth detention within the meaning of the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990.*

*The numeral in square brackets shown, incorrectly, in the printed version of this Schedule as "I" should read "(i)".*

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**1** These words were previously substituted by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 3, with effect from 25th June, 2015. See also the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009; the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015.

**2** The functions, rights and liabilities of the Sark Policy and Performance Committee and its Chairman arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Sark General Purposes and Finance Committee and its Chairman by the Sark General Purposes and Finance

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Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 1, with effect from 25th June, 2015, subject to the savings and transitional provisions in section 2 of the 2015 Ordinance. Previous transfers of functions were made by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009; and the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015.