

PROJET DE LOI

ENTITLED

The Terrorism and Crime (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

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No. XVI of 2002, Ordres en Conseil Vol. XLII, p. 427; as amended by the: Government of Alderney (Amendment) Law, 2000 (No. I of 2000, Ordres en Conseil Vol. XL, p. 15); Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005 (No. VII of 2005, Ordres en Conseil Vol. XLV, p. 144); Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 (No. XIII of 2006); Statements Obtained Under Compulsion (Restriction of Use) (Bailiwick of Guernsey) Law, 2009 (No. XIII of 2010); Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 (No. XI of 2011); Civil Contingencies (Bailiwick of Guernsey) Law, 2012 (No. XIV of 2012); Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022 (No. XII of 2022); Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007 (No. XLVI of 2007, Recueil d'Ordonnances Tome XXXII, p. 648); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010 (No. XIII of 2010); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010 (No. XX of 2010); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010 (No. XXXVII of 2010); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014 (No. XXIX of 2014); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2014 (No. LIV of 2014); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018 (No. XXVI of 2018); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018 (No. XLV of 2018); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2019 (No. XLVIII of 2019); Charities etc. (Guernsey and Alderney) Ordinance, 2021 (No. XXIV of 2021); Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022 (No. ** of 2022); Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023 (No. XVII of 2023); Criminal Justice (Terrorism and Disclosure) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023 (No. ** of 2023); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2024 (No. ** of 2024); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024 (No. ** of 2024); Terrorism and Crime (Bailiwick of Guernsey) Law 2002 (Proscribed Organisations) (Amendment No. 2) Regulations, 2003 (G.S.I. No. 16 of 2003); Terrorism and Crime (Bailiwick of Guernsey) Law 2002 (Proscribed Organisations) (Amendment) Regulations, 2005 (G.S.I. No. 41 of 2005); Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Proscribed Organisations) (Amendment) Regulations, 2017 (G.S.I. No. 5 of 2017); Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2022 (G.S.I. No. 107 of 2022). See also the: Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); Magistrate's Court and Miscellaneous Reforms (Guernsey) Law, 1996 (No. IX of 1996, Ordres en Conseil Vol. XXXVI, p. 639); Government of Alderney Law, 2004 (No. III of 2005, Ordres en Conseil Vol. XLV, p. 26); Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022 (*supra*); Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009 (No. XXXIII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 617); Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015 (No. XX of 2015); Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015 (No. XXII of 2015); Charities etc. (Guernsey and Alderney) Ordinance, 2021 (*supra*).

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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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The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002

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The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002

THE STATES, in pursuance of their Resolution of the 1st day of November, 2001 and the 24th day of April, 2002^a 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 INTRODUCTORY

Terrorism: interpretation.

1. [(1) In this Law "**terrorism**" means the use or threat of action which –

- (a) involves the commission of an offence, or is an act, of a type described in any of the articles of the conventions or other instruments set out in Schedule 10, or
- (b) is an action falling within subsection (2), and the use or threat is –

^a Article XXI of Billet d'État No. XXI of 2001 and Article II of Billet d'État No. VI of 2002.

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- (i) designed to influence the government or an international organisation or to intimidate the public or a section of the public, and
- (ii) made for the purpose of advancing a political, religious, racial or ideological cause.]

(2) Action falls within this subsection if it –

- (a) involves serious violence against a person,
- (b) involves serious damage to property,
- (c) endangers a person's life, other than that of the person committing the action,
- (d) creates a serious risk to the health or safety of the public or a section of the public, [...]
- (e) is designed seriously to interfere with or seriously to disrupt an electronic system[, or]
- [(f) ...]

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.

(4) In this section –

- (a) **"action"** includes action outside the Bailiwick,

- (b) a reference to any person or to property is a reference to any person, or to property, wherever situated,
- (c) a reference to the public includes a reference to the public of a country or territory other than the Bailiwick, and
- (d) **"the government"** means the States of Guernsey, the States of Alderney, the Chief Pleas of Sark or the government of a country or territory outside the Bailiwick.

(5) In this Law a reference to action taken for the purposes of terrorism includes a reference to action taken for the benefit of a proscribed organisation.

NOTES

In section 1,

subsection (1) was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 1(a), with effect from 30th July, 2014;¹

first, the word omitted in square brackets in paragraph (d) of subsection (2) was repealed and, second, the word and punctuation in square brackets after paragraph (e) thereof were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, respectively section 1(a) and section 1(b), with effect from 24th March, 2010;

paragraph (f) of subsection (2) (which was originally inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 1(c), with effect from 24th March, 2010) was repealed by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 1(b), with effect from 30th July, 2014.

In accordance with the provisions of the Charities etc. (Guernsey and

Alderney) Ordinance, 2021, section 52(3), Schedule 8, paragraph 4(1)(c) and paragraph 4(2)(a), with effect from 29th April, 2022, for any reference in this enactment, however expressed, to an organisation that is a charity or other non profit organisation, there is substituted a reference to an organisation that is a non profit organisation.

Purposes of terrorism: interpretation.

1A. (1) In this Law "**purposes of terrorism**" includes the provision of support to a person involved in terrorism as defined in subsection (2), whether or not such support is provided in relation to a specific act of terrorism.

(2) "**A person involved in terrorism**" is –

- (a) any legal or natural person, body, group, organisation or entity, whether or not proscribed under this Law, who –
 - (i) commits, or attempts to commit, acts of terrorism by any means, directly or indirectly, unlawfully and wilfully,
 - (ii) participates as an accomplice in acts of terrorism,
 - (iii) organises or directs others to commit acts of terrorism, or
 - (iv) contributes to the commission of acts of terrorism by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering an act of terrorism or with the

knowledge of the intention of the group to commit an act of terrorism,

- (b) any body or entity owned, controlled, directly or indirectly, by any party that comes within paragraph (a), or
- (c) any legal or natural person, body or entity acting on or behalf of or at the direction of any party that comes within paragraphs (a) and (b).

(3) Support for the purposes of subsection (1) includes the provision of financial support for any purpose.

[(4) Without prejudice to the generality of subsections (1) and (3), "**purposes of terrorism**" also includes travel by any individual to a state or territory (other than his or her state or territory of residence) for the purposes of participation in terrorism (including, for the avoidance of doubt, the perpetration, planning, preparation of or participation in acts of terrorism, the provision or receiving of training in or for acts of terrorism, and the provision of support of any kind to a person involved in terrorism).]]

NOTES

Section 1A was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 2, with effect from 30th July, 2014.

In section 1A, subsection (4) was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(3), with effect from 14th December, 2018.

Repeal of the 1990 Law.

2. The Prevention of Terrorism (Bailiwick of Guernsey) Law 1990^b is hereby repealed.

PART II
PROSCRIBED ORGANISATIONS

Procedure

Proscription.

3. (1) For the purposes of this Law an organisation is proscribed if –
- (a) it is listed in [Schedule 2 of the Terrorism Act 2000 ("**the UK Schedule**")], or
 - (b) it operates under the same name as an organisation listed in that Schedule.
- (2) Subsection (1)(b) shall not apply in relation to an organization listed in [the UK Schedule] if its entry is the subject of a note in that Schedule.
- (3) ...
- (4) ...
- (5) ...
- (6) The Committee shall exercise its power under subsection (3)(b) in respect of an organisation if and only if the organisation is deproscribed in the United Kingdom under the provisions of Part II of the Act of 2000.

^b Ordres en Conseil Vol. XXXII, p. 236.

NOTES

In section 3, first, the words in paragraph (a) of subsection (1) and, second, the words in subsection (2) were substituted and, third, subsection (3), subsection (4) and subsection (5) were repealed by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(4), respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 14th December, 2018.

The following Regulations have been made under section 3:

Terrorism and Crime (Bailiwick of Guernsey) Law 2002 (Proscribed Organisations) (Amendment No. 2) Regulations, 2003;

Terrorism and Crime (Bailiwick of Guernsey) Law 2002 (Proscribed Organisations) (Amendment) Regulations, 2005;

Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Proscribed Organisations) (Amendment) Regulations, 2017.

Offences

Membership.

4. (1) A person commits an offence if he belongs or professes to belong to a proscribed organisation.

(2) It is a defence for a person charged with an offence under subsection (1) to prove –

(a) that the organisation was not proscribed on the last (or only) occasion on which he became a member or began to profess to be a member, and

(b) that he has not taken part in the activities of the organisation at any time while it was proscribed.

(3) A person guilty of an offence under this section shall be liable

–

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

(4) In subsection (2) "**proscribed**" means proscribed for the purposes of this Law.

Support.

5. (1) A person commits an offence if –

- (a) he invites support for a proscribed organisation, and
- (b) the support is not, or is not restricted to, the provision of money or other property (within the meaning of section 8).

(2) A person commits an offence if he arranges, manages or assists in arranging or managing a meeting which he knows is –

- (a) to support a proscribed organisation,
- (b) to further the activities of a proscribed organisation, or
- (c) to be addressed by a person who belongs or professes to belong to a proscribed organisation.

(3) A person commits an offence if he addresses a meeting and the purpose of his address is to encourage support for a proscribed organisation or to further its activities.

(4) Where a person is charged with an offence under subsection (2)(c) in respect of a private meeting it is a defence for him to prove that he had no reasonable cause to believe that the address mentioned in subsection (2)(c) would support a proscribed organisation or further its activities.

(5) In subsection (2) to (4) –

- (a) **"meeting"** means a meeting of three or more persons, whether or not the public are admitted, and
- (b) a meeting is private if the public are not admitted.

(6) A person guilty of an offence under this section shall be liable

–

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

Uniform.

- 6. (1) A person in a public place commits an offence if he –
 - (a) wears an item of clothing, or

- (b) wears, carries or displays an article,

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

(2) A police officer may arrest a person without a warrant if he has reasonable grounds to suspect that the person is guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable on summary conviction to –

- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the uniform scale, or
- (c) both.

PART III TERRORIST PROPERTY

Interpretation

Terrorist property.

7. (1) In this Law "**terrorist property**" means –

- (a) money or other property [(including, for the avoidance of doubt, any interest, dividend or other form of income or accrued value deriving directly, or indirectly, from that money or other property)] which is likely to be used for the purposes of terrorism (including any

resources of a proscribed organisation),

- (b) proceeds of the commission of acts of terrorism, and
- (c) proceeds of acts carried out for the purposes of terrorism.

(2) In subsection (1) –

- (a) a reference to proceeds of an act includes a reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments or other rewards in connection with its commission [and, for the avoidance of doubt, any interest, dividend or other form of income or accrued value deriving directly, or indirectly, from the proceeds]), and
- (b) the reference to an organisation's resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organisation.

NOTE

In section 7, the words in square brackets in, first, paragraph (a) of subsection (1) and, second, paragraph (a) of subsection (2) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010, respectively section 2(a) and section 2(b), with effect from 28th July, 2010.

Offences

Fund raising.

8. (1) A person commits an offence if he –
- (a) invites another to provide money or other property, and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
- (2) A person commits an offence if he –
- (a) receives money or other property, and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
- (3) A person commits an offence if he –
- (a) provides money or other property, and
 - (b) knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.
- (4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

Use and possession.

9. (1) A person commits an offence if he uses money or other

property for the purposes of terrorism.

- (2) A person commits an offence if he –
 - (a) possesses money or other property, and
 - (b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

Funding arrangements.

- 10. A person commits an offence if –
 - (a) he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and
 - (b) he knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.

Money laundering.

- 11. (1) A person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property –
 - (a) by concealment,
 - (b) by removal from the jurisdiction,
 - (c) by transfer to nominees, or

(d) in any other way.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

Insurance against payments made in response to terrorist demands.

11A. (1) A person who is an insurer under an insurance contract commits an offence if –

- (a) the insurer makes a payment under the contract, or purportedly under it,
- (b) the payment is made in respect of any money or other property that has been, or is to be, transferred in response to a demand made wholly or partly for the purposes of terrorism, and
- (c) the insurer, or the person authorizing the payment on the insurer's behalf, knows or has reasonable cause to suspect that the money or other property has been, or is to be, transferred in response to such a demand.

(2) In subsection (1), "**insurance contract**" means a contract under which one party accepts significant insurance risk from another party (the "**policy holder**") by agreeing to compensate the policy holder if a specified uncertain future event affects the policy holder.

(3) This section applies to any payment made by an insurer on or after the day on which this section comes into force, even if the payment is made –

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- (a) under, or purportedly under, a contract entered into before that day, or
- (b) in respect of money or other property transferred within the period of 40 days ending on that day.

(4) Where a legal person is guilty of an offence under this section, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) any director, manager, secretary or other similar officer, or any foundation official, of the legal person, or
- (b) any person purporting to act in any such capacity,

that person as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(5) Where the affairs of a legal person are managed by its members, subsection (4) applies in relation to the acts and defaults of a member in connection with that member's functions of management as if that member were a director.

(6) Where an offence under this section is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty

whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or

- (c) any person purporting to act in any capacity described in (a) or (b),

that partner, officer, member or person, as the case may be, as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(7) Where an offence under this section is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of that body and not in the name of any of its members.

(8) A fine imposed on an unincorporated body on its conviction of an offence under this section shall be paid from the funds of that body.]

NOTE

Section 11A was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(5), with effect from 14th December, 2018.

[Obligation to disclose knowledge or suspicion etc. of terrorist financing – non financial services businesses.

12. (1) A person must make a required disclosure [as soon as possible] if the conditions in subsections (2) and (3) are satisfied.

(2) The first condition is that he –

- (a) knows or suspects, or

- (b) has reasonable grounds for knowing or suspecting,

that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property.

- (3) The second condition is that the information or other matter –

- (a) on which his knowledge or suspicion is based, or
- (b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of the business of a non financial services business.

(4) Any person who does not make a required disclosure [as soon as possible] after the information or other matter comes to him commits an offence.

(5) A required disclosure is a disclosure of the information or other matter to a prescribed police officer [or another FIU officer].

- (6) But a person does not commit an offence under this section if –

- (a) he does not know or suspect that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property and he has not been provided by his employer with any training required by regulations made under section 49A of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,

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- (b) if paragraph (a) does not apply, the person was in employment at the time in question and he disclosed the information or other matter to the appropriate person in accordance with any procedure established by his employer for the making of such disclosures,
- (c) he has some other reasonable excuse for not disclosing the information or other matter, or
- (d) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.

(7) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned –

- (a) made or issued by the Guernsey Financial Services Commission under section 15 of the Disclosure (Bailiwick of Guernsey) Law, 2007 or any other enactment, and
- (b) published in a manner it approved as appropriate in its opinion to bring the rules, guidance or instructions to the attention of persons likely to be affected by them.

(8) Information or another matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him –

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,

- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(9) But subsection (8) does not apply to information or another matter which is communicated or given with a view to furthering a criminal purpose.

(10) A disclosure made in good faith to a prescribed police officer [or another FIU officer] does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(11) In subsection (10) "**good faith**" means that the person making the disclosure –

- (a) **knows or suspects, or**
- (b) **has reasonable grounds for knowing or suspecting,**

that the person in respect of whom the disclosure is made is engaged in terrorist financing or that certain property is or is derived from terrorist property.]

NOTES

Section 12 was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 3, with effect from 30th July, 2014.²

In section 12,

the words in square brackets in, first, subsection (1) and, second, subsection (4) were, respectively, inserted and substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 1(a) and section 1(b), with effect from 26th November, 2014;

the words "or another FIU officer" in square brackets, wherever occurring, were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 3(3), with effect from 21st December, 2022.

Disclosure of information [relating to terrorist property]: permission.

13. ...

NOTE

Section 13 was repealed by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 4, with effect from 30th July, 2014.³

Co-operation with police.

14. (1) A person does not commit an offence under any of sections [8 to 11A] if he is acting with the express consent of a police officer.

(2) Subject to subsection (3) and (4), a person does not commit an offence under any of sections [8 to 11A] by involvement in a transaction or arrangement relating to money or other property if he discloses to a police officer –

(a) his suspicion or belief that the money or other property is [or is derived from] terrorist property, and

(b) the information on which his suspicion or belief is based.

(3) Subsection (2) applies only where a person makes a disclosure

–

- (a) after he becomes concerned in the transaction concerned,
 - (b) on his own initiative, and
 - (c) as soon as is reasonably practicable.
- (4) Subsection (2) does not apply to a person if –
- (a) a police officer forbids him to continue his involvement in the transaction or arrangement to which the disclosure relates, and
 - (b) he continues his involvement.
- (5) It is a defence for a person charged with an offence under any of sections 8(2) and (3) and 9 to 11 to prove that –
- (a) he intended to make a disclosure of the kind mentioned in subsections (2) and (3), and
 - (b) there is reasonable excuse for his failure to do so.
- (6) Where –
- (a) a person is in employment, and
 - (b) his employer has established a procedure for the making of disclosures of the same kind as may be made to a police officer under subsection (2),

this section shall have effect in relation to that person as if any reference to disclosure to a police officer included a reference to disclosure in accordance with the procedure.

(7) A reference in this section to a transaction or arrangement relating to money or other property includes a reference to use or possession.

NOTES

In section 14,

the words "8 to 11A" in square brackets, wherever occurring, were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(2), with effect from 14th December, 2018;

the words in square brackets in paragraph (c) of subsection (2) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 5, with effect from 30th July, 2014.

[Obligation to disclose knowledge or suspicion etc. of terrorist financing – financial services businesses.]

15. (1) A person must make a required disclosure [as soon as possible] if the conditions in subsections (2) and (3) are satisfied.

(2) The first condition is that he –

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property.

- (3) The second condition is that the information or other matter –
 - (a) on which his knowledge or suspicion is based, or
 - (b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of the business of a financial services business.

(4) A person who does not make a required disclosure [as soon as possible] after the information or other matter comes to him commits an offence.

(5) A required disclosure is a disclosure of the information or other matter –

- (a) to a nominated officer or a prescribed police officer [or another FIU officer],
- (b) in the form and manner (if any) prescribed for the purposes of this subsection by regulations under section 15C.

- (6) But a person does not commit an offence under this section if –
- (a) he has a reasonable excuse for not disclosing the information or other matter,
 - (b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances, or

(c) subsection (7) applies to him.

(7) This subsection applies to a person if –

(a) he does not know or suspect that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property, and

(b) he has not been provided by his employer with such training as is required by regulations made under section 49 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.

(8) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned –

(a) made or issued by the Guernsey Financial Services Commission under section 15 of the Disclosure (Bailiwick of Guernsey) Law, 2007 or any other enactment, and

(b) published in a manner it approved as appropriate in its opinion to bring the rules, guidance or instructions to the attention of persons likely to be affected by them.

(9) A disclosure to a nominated officer is a disclosure which –

(a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and

(b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.

(10) For the purposes of a disclosure to a nominated officer –

(a) references to a person's employer include any body, association or organisation (including a voluntary organisation) in the course of the business of which the person carries out a function (whether or not for gain or reward), and

(b) references to employment are to be construed accordingly.

(11) Information or another matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him –

(a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,

(b) by (or by a representative of) a person seeking legal advice from the adviser, or

(c) by a person in connection with legal proceedings or contemplated legal proceedings.

(12) But subsection (11) does not apply to information or another matter which is communicated or given with a view to furthering a criminal purpose.

(13) A disclosure made in good faith to a nominated officer or to a prescribed police officer [or another FIU officer] does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(14) In subsection (13) "**good faith**" means that the person making the disclosure –

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in terrorist financing or that certain property is or is derived from terrorist property.]

NOTES

Section 15 (which was previously substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(5), with effect from 15th December 2007) was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 6, with effect from 30th July, 2014.⁴

In section 15,

the words in square brackets in, first, subsection (1) and, second, subsection (4) were, respectively, inserted and substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 2(a) and section 2(b), with effect from 26th November, 2014;

the words "or another FIU officer" in square brackets, wherever occurring, were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 3(3), with effect from 21st December, 2022.

The following Handbooks containing the rules and guidance referred to in subsection (8) of this section have been issued by the Guernsey Financial Services Commission:

Handbook on Countering Financial Crime and Terrorist Financing, 2019 (March) (G.S.I. No. 75 of 2019);

Handbook on Countering Financial Crime and Terrorist Financing, 2019 (June) (G.S.I. No. 76 of 2019);

Handbook on Countering Financial Crime and Terrorist Financing (G.S.I. No. 146 of 2023);

Handbook on Countering Financial Crime (AML/CFT/CPF) (G.S.I. No. 43 of 2024).

[Obligation to disclose knowledge or suspicion etc. of terrorist financing – nominated officers in financial services businesses.]

15A. (1) A person who is a nominated officer under section 15(9)(a) must make a required disclosure [as soon as possible] if the conditions in subsections (2) and (3) are satisfied.

(2) The first condition is that he –

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in terrorist financing or that certain property is or is derived from terrorist property.

(3) The second condition is that the information or other matter –

(a) on which his knowledge or suspicion is based, or

(b) which gives reasonable grounds for such knowledge or suspicion,

came to him in consequence of a disclosure made under section 15.

(4) Any person who does not make a required disclosure [as soon as possible] after the information or other matter comes to him commits an offence.

(5) A required disclosure is a disclosure of the information or other matter –

(a) to a prescribed police officer [or another FIU officer],

(b) in the form and manner (if any) prescribed for the purposes of this subsection by regulations under section 15C.

(6) But a person does not commit an offence under this section if he has a reasonable excuse for not disclosing the information or other matter.

(7) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules, guidance or instructions which were at the time concerned –

(a) made or issued by the Guernsey Financial Services Commission under section 15 of the Disclosure (Bailiwick of Guernsey) Law, 2007 or any other enactment, and

(b) published in a manner it approved as appropriate in its opinion to bring the rules, guidance or instructions to the attention of persons likely to be affected by them.

(8) A disclosure made in good faith to a prescribed police officer [or another FIU officer] does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or

otherwise.

(9) In subsection (8) "**good faith**" means that the person making the disclosure –

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in terrorist financing or that certain property is or is derived from terrorist property.]

NOTES

Section 15A (which was previously inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(5), with effect from 15th December 2007) was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 6, with effect from 30th July, 2014.⁵

In section 15A,

the words in square brackets in, first, subsection (1) and, second, subsection (4) were, respectively, inserted and substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2014, section 3(a) and section 3(b), with effect from 26th November, 2014;

the words "or another FIU officer" in square brackets, wherever occurring, were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 3(3), with effect from 21st December, 2022.

[Disclosure under section 12(10), 15(13) or 15A(8).

15AA. (1) Disclosure under section 12(10), 15(13) or 15A(8) includes disclosure of –

(a) any information or document relating to the knowledge,

suspicion or reasonable grounds for suspicion that the person in respect of whom the disclosure is made is engaged in terrorist financing, and

- (b) any fact or matter upon which such knowledge, suspicion or reasonable grounds for suspicion is based.

(2) For the purposes of subsection (1), "**information or document**" includes any information or document relating to –

- (a) any money or property,
- (b) any transaction concerning such money or property, and
- (c) the parties to any such transaction.]

NOTE

Section 15AA was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010, section 3, with effect from 28th April, 2010.

Penalties for offences under sections 12, 15 and 15A.

15B. A person guilty of an offence under section 12, 15 or 15A is liable –

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

NOTE

Section 15B was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(5), with effect from 15th December 2007.

[Power to prescribe form and manner of, and other matters concerning, disclosures.]

15C. (1) The States of Guernsey [Committee for Home Affairs] [("Committee for Home Affairs")] may by regulations prescribe –

- (a) the form and manner in which a disclosure under section 12, 15 or 15A must be made, and
- (b) such other matters as are reasonably necessary to enable any person to whom a disclosure is made under this Law, or any other enactment, to obtain additional information [from any person].

(2) Without prejudice to the generality of the power under subsection (1), regulations made thereunder may make provision for, or concerning

–

- (a) the period of time within which any additional information must be supplied by the discloser [or any other person] following its request,
- (b) the form and manner in which any such request must be made, and
- (c) the creation, trial (summarily or on indictment) and

punishment of offences, provided that the penalties for the punishment of any such offences shall not exceed those prescribed under section 15B.

(3) A disclosure made in pursuance of a request made under regulations under subsection (1) does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(4) For the purposes of this section –

"additional information" –

(a) means information which is reasonably necessary to enable the person to whom any disclosure is made to decide –

(i) where the disclosure concerns terrorist financing, whether to start a terrorist financing investigation, or

(ii) where the disclosure concerns any other matter, whether to pass the information on so that a decision may be made as to whether to start a criminal investigation in the Bailiwick or elsewhere, and

(b) includes financial, administrative and law enforcement information,

"criminal investigation" means an investigation of any criminal

conduct including an investigation of alleged or suspected criminal conduct or an investigation of whether criminal conduct has taken place,

"discloser" means the person making a disclosure under any provision referred to in subsection (1)(a), and

"a terrorist financing investigation" is an investigation into whether a person has engaged in terrorist financing.]

NOTES

Section 15C was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(5), with effect from 15th December 2007.

In section 15C,

the words in the first pair of square brackets in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;

the words in the second pair of square brackets in subsection (1) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(6), with effect from 14th December, 2018;

the words in, first, paragraph (b) of subsection (1) and, second, paragraph (a) of subsection (2) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 7, respectively paragraph (a) and paragraph (b), with effect from 30th July, 2014.

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The following Regulations have been made under section 15C:

Terrorism and Crime (Bailiwick of Guernsey) Regulations, 2007;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2008;
Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2010;
Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2011;
Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2022.

Information following other reports.

15D. (1) The Committee for Home Affairs may by regulations prescribe such matters as are reasonably necessary or expedient for the purposes of obtaining information in respect of any report within this section.

(2) Sections 15C(2) and (3) [and section 40] shall apply to any regulations made under this section, or to any disclosure made in pursuance of a request under those regulations, in the same way as to regulations made under section 15C or a disclosure made in pursuance to a request under those regulations, as the case may be.

(3) For the purposes of this section, "**information**" means information relating to the report in question which the [Financial Intelligence Unit] has reasonable grounds to believe –

- (a) is necessary or expedient for the proper discharge of its functions, and
- (b) is within the possession or control of the person to whom the request is made (whether or not that is the person who made the report).

(4) A report is within this section if it is made to the [Financial Intelligence Unit] and is either –

- (a) a report made by any person –
 - (i) in respect of knowledge or suspicion of terrorist financing within the Bailiwick or elsewhere, whether or not the knowledge or suspicion giving rise to the report was acquired in the course of a business, or
 - (ii) under any enactment,
 - (b) a report made for any purpose, including for the purpose of requesting information, by any of the parties within subsection (5), or
 - (c) a report of the type described in subsection (7).
- (5) The parties within this subsection are –
- (a) a body outside the Bailiwick whose functions correspond to those of the [Financial Intelligence Unit],
 - (b) a police officer (other than when assigned to, or otherwise acting as a member of, the [Financial Intelligence Unit]),
 - (c) an administrative or law enforcement agency outside the Bailiwick whose functions include the combating of financial crime,

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- (d) the Guernsey Financial Services Commission or a body in another country or territory which carries out any similar function to the Guernsey Financial Services Commission,
- (e) the Alderney Gambling Control Commission,
- (f) the Director of the Revenue Service within the meaning of the Income Tax (Guernsey) Law, 1975,
- (g) Her Majesty's Procureur,
- (h) the Registrar of Beneficial Ownership of Legal Persons within the meaning of the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017,
- (i) the Registrar of Companies within the meaning of the Companies (Guernsey) Law, 2008,
- (j) the Registrar of Limited Liability Partnerships within the meaning of the Limited Liability Partnerships (Guernsey) Law, 2013,
- (k) the Registrar of Foundations within the meaning of the Foundations (Guernsey) Law, 2012,
- (l) Her Majesty's Greffier,
- (m) the Registrar within the meaning of the Companies (Alderney) Law, 1994,

- (n) the Registrar within the meaning of the Beneficial Ownership of Legal Persons (Alderney) Law, 2017,
- (o) the Registrar of Non Profit Organisations within the meaning of the [Charities etc. (Guernsey and Alderney) Ordinance, 2021],
- (p) the Registrar of Non Profit Organisations within the meaning of the Charities and Non Profit Organisations (Registration) (Sark) Law, 2010, and
- (q) a government department within the meaning of section 7 of the Disclosure (Bailiwick of Guernsey) Law, 2007.

(6) References in this section to knowledge or suspicion of terrorist financing include knowledge or suspicion that certain property is or is derived from terrorist property.

(7) The Committee for Home Affairs may by regulations prescribe any report for the purposes of this section which appears to that Committee to be reasonably necessary or expedient for the proper discharge by the [Financial Intelligence Unit] of its functions.]

NOTES

Section 15D was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(7), with effect from 14th December, 2018.

In section 15D,

the words in square brackets in subsection (2) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2019, section 1(2), with effect from 12th December, 2019;

the words "Financial Intelligence Unit" in square brackets, wherever occurring, were substituted by the Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022, section 11, with effect from 21st December, 2022;

the words in square brackets in subsection (5)(o) were substituted by the Charities etc. (Guernsey and Alderney) Ordinance, 2021, section 52(3), Schedule 8, paragraph 4(1)(a)(i) and paragraph 4(2)(a), with effect from 29th April, 2022.

The following Regulations have been made under section 15D:

Terrorism and Crime (Bailiwick of Guernsey) (Information) Regulations, 2019;
Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2022.

Protected disclosures.

16. ...

NOTE

Section 16 was repealed by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(5), with effect from 15th December 2007.

Penalties.

17. A person guilty of an offence under any of sections [8 to 11A] shall be liable –

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

NOTE

In section 17, the words in square brackets were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(2), with effect from 14th December, 2018.

Forfeiture.

18. (1) The court by or before which a person is convicted of an offence under any of sections [8 to 11A] may make a forfeiture order in accordance with the provisions of this section.

(2) Where a person is convicted of an offence under section 8(1) or (2) or 9 the 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 his control, and
- (b) which, at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.

(3) Where a person is convicted of an offence under section 8(3) the 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 his control, and
- (b) which, at that time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(4) Where a person is convicted of an offence under section 10 the

court may order the forfeiture of the money or other property –

- (a) to which the arrangement in question related, and
- (b) which, at the time of the offence, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

(5) Where a person is convicted of an offence under section 11 the court may order the forfeiture of the money or other property to which the arrangement in question related.

[(5A) Where a person is convicted of an offence under section 11A, the court may order the forfeiture of the amount paid under, or purportedly under, the insurance contract.]

(6) Where a person is convicted of an offence under any of sections [8 to 11A], the court may order the forfeiture of any money or other property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

(7) 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 court shall give him an opportunity to be heard before making an order.

(8) Schedule 2 (which makes further provision in relation to forfeiture orders under this section) shall have effect.

NOTES

In section 18, first, the words "8 to 11A" in square brackets, wherever occurring, were substituted and, second, subsection (5A) was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1, respectively subsection (2) and subsection (8), with effect from 14th December, 2018.

The following Ordinances have been made under section 18:

Terrorism and Crime (Enforcement of External Orders) (Bailiwick of Guernsey) Ordinance, 2007;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014.

Seizure of terrorist cash

Forfeiture of terrorist cash.

19. (1) Schedule 3 (which makes provision for enabling cash which –
- (a) is intended to be used for the purposes of terrorism,
 - (b) consists of resources of an organisation which is a proscribed organisation, or
 - (c) is, or represents, property obtained through terrorism,

to be forfeited in civil proceedings [...]) is to have effect.

(2) The powers conferred by Schedule 3 are exercisable in relation to any cash whether or not any proceedings have been brought for an offence in connection with the cash.

(3) Expressions used in this section have the same meanings as in Schedule 3.

NOTE

In section 19, the words omitted in square brackets in subsection (1) were repealed by the Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022, section 4(2), with effect from 21st December, 2022.

Freezing orders

Power to make order.

20. (1) The Committee may make a freezing order if the following two conditions are satisfied.

(2) The first condition is that the Committee reasonably believes that –

(a) action to the detriment of the economy of any part of the Bailiwick has been or is likely to be taken by a person or persons, or

(b) action constituting a threat to the life or property of one or more nationals of the United Kingdom or residents of the Bailiwick has been or is likely to be taken by a person or persons.

(3) If one person is believed to be taking or likely to take the action the second condition is that the person is –

(a) the government of a country or territory outside the Bailiwick, or

(b) a resident of a country or territory outside the

Bailiwick.

(4) If two or more persons are believed to be taking or likely to take the action the second condition is that each of them falls within paragraph (a) or (b) of subsection (3); and different persons may fall within different paragraphs.

Contents of order.

21. (1) A freezing order is an order which prohibits persons from making funds available to or for the benefit of a person or persons specified in the order.

(2) The order must provide that these are the persons who are prohibited –

- (a) all persons in the Bailiwick, and
- (b) all persons elsewhere who are nationals of the United Kingdom and ordinarily resident in the Bailiwick or who are bodies incorporated under the law of any part of the Bailiwick.

(3) The order may specify the following (and only the following) as the person or persons to whom or for whose benefit funds are not to be made available –

- (a) the person or persons reasonably believed by the Committee to have taken or to be likely to take the action referred to in section 20,
- (b) any person the Committee reasonably believes has provided or is likely to provide assistance (directly or

indirectly) to that person or any of those persons.

- (4) A person may be specified under subsection (3) by –
 - (a) being named in the order, or
 - (b) falling within a description of persons set out in the order.
- (5) The description must be such that a reasonable person would know whether he fell within it.
- (6) Funds are financial assets and economic benefits of any kind.

Contents: further provision.

22. Schedule 4 contains further provisions about the contents of freezing orders.

Review of order.

23. The Committee must keep a freezing order under review.

Duration of order.

24. A freezing order ceases to have effect at the end of the period of two years starting with the day on which it is made.

Nationals and residents.

- 25. (1) A national of the United Kingdom is an individual who is –
 - (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981^c is a British subject, or

(c) a British protected person within the meaning of that Act.

(2) A resident of the Bailiwick is –

(a) an individual who is ordinarily resident in the Bailiwick, or

(b) a body incorporated under the law of any part of the Bailiwick.

(3) A resident of a country or territory outside the Bailiwick is –

(a) an individual who is ordinarily resident in such a country or territory, or

(b) a body incorporated under the law of such a country or territory.

(4) For the purposes of subsection (3)(b) a branch situated in a country or territory outside the Bailiwick of a body incorporated under the law of any part of the Bailiwick is to be treated as a body incorporated under the law of the country or territory where the branch is situated.

(5) This section applies for the purposes of this Part.

^c An Act of Parliament (1981 c. 61).

Procedure for making orders.

26. (1) A power to make a freezing order is exercisable by regulations made by the Committee.

(2) A freezing order must be laid before a meeting of the States as soon as possible 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 the order or the power to make a new order.

Procedure for making certain amending orders.

27. (1) This section applies if –

- (a) a freezing order is made specifying by description (rather than by name) the person or persons to whom or for whose benefit funds are not to be made available,
- (b) it is proposed to make a further order which amends the freezing order only so as to make it specify by name the person or persons (or any of the persons) to whom or for whose benefit funds are not to be made available, and
- (c) the Committee reasonably believe that the person or persons named fall within the description contained in the freezing order and the further order contains a statement of the Committee's belief.

(2) This section also applies if –

- (a) a freezing order is made specifying by name the person

or persons to whom or for whose benefit funds are not to be made available,

(b) it is proposed to make a further order which amends the freezing order only so as to make it specify by name a further person or further persons to whom or for whose benefit funds are not to be made available, and

(c) the Committee reasonably believe that the further person or persons fall within the same description as the person or persons specified in the freezing order and the further order contains a statement of the Committee's belief.

(3) This section also applies if –

(a) a freezing order is made, and

(b) it is proposed to make a further order which amends the freezing order only so as to make it specify (whether by name or description) fewer persons to whom or for whose benefit funds are not to be made available.

(4) If this section applies, the regulations containing the further order are subject to annulment in pursuance of a resolution of the States.

Procedure for revoking orders.

28. The Committee may make regulations to revoke a freezing order.

Orders: supplementary.

29. (1) Where this Part confers a power to make provision, different

provisions may be made for different purposes.

(2) An order under this Part may include supplementary, incidental, saving or transitional provisions.

(3) Nothing in this Part affects the generality of subsection (2).

Miscellaneous

The Crown, States of Guernsey, States of Alderney and Chief Pleas of Sark.

30. (1) A freezing order binds the Crown, the States of Guernsey, the States of Alderney and the Chief Pleas of Sark subject to the following provisions of this section.

(2) No contravention by the Crown, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark of a provision of a freezing order makes them criminally liable; but the Royal Court sitting as an Ordinary Court may, on the application of a person appearing to that Court to have an interest, declare unlawful any act or omission of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark which constitutes such a contravention.

(3) Despite subsection (2), the provisions of a freezing order apply to persons in the public service of the Crown or the States of Guernsey, the States of Alderney and the Chief Pleas of Sark as they apply to other persons.

PART IV

TERRORIST INVESTIGATION

Interpretation

Terrorist investigation.

- 31.** In this Law "**terrorist investigation**" means an investigation of –
- (a) the commission, preparation or instigation of acts of terrorism,
 - (b) an act which appears to have been done for the purposes of terrorism,
 - (c) the resources of a proscribed organisation, or
 - (d) the commission, preparation or instigation of an offence under this Law.

Cordons

Cordoned areas.

- 32.** (1) An area is a cordoned area for the purposes of the Law if it is designated under this section.
- (2) A designation may be made by a police officer and only if he considers it expedient for the purposes of a terrorist investigation.
- (3) If a designation is made orally, the officer making it shall confirm it in writing as soon as is reasonably practicable.
- (4) The officer making a designation shall arrange for the demarcation of the cordoned area, so far as is reasonably practicable –
- (a) by means of tape marked with the word "police", or
 - (b) in such other manner as a police officer considers

appropriate.

Power to designate.

33. (1) A designation under section 32(1) may be made –
- (a) anywhere in the Bailiwick, by a member of the Island police force of at least the rank of Chief Inspector or a customs officer of at least the grade of Surveyor,
 - (b) in Sark, by the Constable or Vingtenier.
- (2) A police officer who is not of the rank required by subsection (1)(a) may make a designation if he considers it necessary by reasons of urgency.
- (3) Where a police officer makes a designation in reliance on subsection (2) he shall as soon as is reasonably practicable –
- (a) make a written record of the time at which the designation was made, and
 - (b) ensure that a police officer of at least the rank of Chief Inspector is informed.
- (4) An officer who is informed of a designation in accordance with subsection (3)(b) –
- (a) shall confirm the designation or cancel it with effect from such time as he may direct, and
 - (b) shall, if he cancels the designation, make a written record of the cancellation and the reason for it.

Duration.

34. (1) A designation under section 32 has effect, subject to subsections (2) to (5) of this section, during the period –

- (a) beginning at the time when it is made, and
- (b) ending with a date or at a time specified in the designation.

(2) The date or time specified under subsection (1)(b) must not occur after the end of the period of 14 days beginning with the day on which the designation is made.

(3) The period during which a designation has effect may be extended in writing from time to time by –

- (a) the person who made it, or
- (b) a person who could have made it (otherwise than by virtue of section 33(2)).

(4) An extension shall specify the additional period during which the designation is to have effect.

(5) A designation shall not have effect after the end of the period of 28 days beginning with the day on which it is made.

Police powers.

35. (1) A police officer in uniform may –

- (a) order a person in a cordoned area to leave it immediately,
- (b) order a person immediately to leave premises which are wholly or partly in or adjacent to a cordoned area,
- (c) order the driver or person in charge of a vehicle in a cordoned area to move it from the area immediately,
- (d) arrange for the removal of a vehicle from a cordoned area,
- (e) arrange for the movement of a vehicle within a cordoned area,
- (f) prohibit or restrict access to a cordoned area by pedestrians or vehicles.

(2) A person commits an offence if he fails to comply with an order, prohibition or restriction imposed by virtue of subsection (1).

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for his failure.

(4) A person guilty of an offence under subsection (2) shall be liable on summary conviction to –

- (a) imprisonment for a term not exceeding three months,
- (b) a fine not exceeding level 4 on the uniform scale, or

(c) both.

(5) The reference in subsection (1) to a police officer in uniform shall be deemed to include, in Sark, the Constable or Vingtenier.

Information and evidence

Powers.

36. Schedule 5 (power to obtain information in terrorist investigations, etc) shall have effect.

Financial information.

37. Schedule 6 (financial information) shall have effect.

Information about acts of terrorism.

38. (1) This section applies where a person 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, or
- (b) in securing the apprehension, prosecution or conviction of another person, in the Bailiwick, for an offence involving the commission, preparation or instigation of an act of terrorism.

(2) The person commits an offence if he does not disclose the information as soon as reasonably practicable in accordance with subsection (3).

(3) Disclosure is in accordance with this subsection if it is made to a police officer.

(4) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.

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

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

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

(6) Proceedings for an offence under this section 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).

Account monitoring orders.

39. Schedule 7 (Account monitoring orders) shall have effect.

[Schedule 5, 6 or 7 offences committed by bodies corporate.

39A. Schedule 7A (offences under Schedules 5, 6 or 7 committed by bodies corporate) shall have effect.]

NOTE

Section 39A was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024, section 1(2), with effect from 22nd March, 2024.

Disclosure of information, etc.

40. (1) Subsection (2) applies where a person knows [or suspects] or has reasonable cause to suspect that a police officer is conducting or proposes to conduct a terrorist investigation.

(2) The person commits an offence if he –

[(a) discloses to any other person information or any other matter about, or relating to, that knowledge or suspicion, or]

(b) interferes with material which is likely to be relevant to the investigation.

(3) Subsection (4) applies where a person knows [or suspects] or has reasonable cause to suspect that a disclosure has been or will be made under any of sections [12 to 15A] or 38.

(4) The person commits an offence if he –

[(a) discloses to any other person information or any other matter about, or relating to, that knowledge or suspicion, or]

(b) interferes with material which is likely to be relevant to an investigation resulting from the disclosure under that section.

[(5) Nothing in subsection (2) or (4) makes it an offence for any person to disclose any information or other matter, or interfere with any material, if the disclosure or interference is for any of the purposes set out in subsection (5A).

(5A) The purposes are –

(a) the prevention, detection, investigation or prosecution of criminal offences, whether in the Bailiwick or elsewhere,

(b) the prevention, detection or investigation of conduct for which penalties other than criminal penalties are provided under the law of any part of the Bailiwick or of any country or territory outside the Bailiwick,

(c) the carrying out –

(i) by the Commission, or

(ii) by a body in another country or territory which carries out any similar function to the Commission,

of its functions,

(d) the carrying out of any functions of any intelligence service, or

(e) the carrying out of any function which appears to the [Committee for Home Affairs] to be a function of a public nature and which it designates as such by order.]

(6) Subsections (2) and (4) do not apply to a disclosure which is made by a professional legal adviser –

- (a) to his client or to his client's representative in connection with the provision of legal advice by the adviser to the client and not with a view to furthering a criminal purpose, or
- (b) to any person for the purpose of actual or contemplated legal proceedings and not with a view to furthering a criminal purpose.

[(6A) Subsections (2) and (4) do not apply to a disclosure which is made, other than with a view to furthering a criminal purpose –

- (a) by a client of a professional legal adviser to that adviser in connection with the seeking of legal advice, or
- (b) to any person –
 - (i) in contemplation of legal proceedings, and
 - (ii) for the purposes of those proceedings.]

(7) A person guilty of an offence under this section shall be liable

–

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

- (8) For the purposes of this section –
- (a) a reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, or assisting, a terrorist investigation, and
 - (b) a person interferes with material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of those things.

NOTES

In section 40,

the words in, first, square brackets in subsection (1) and, second, the first pair of square brackets in subsection (3) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, respectively section 5(a) and section 5(c), with effect from 24th March, 2010;

paragraph (a) of subsection (2) and paragraph (a) of subsection (4) were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010, section 3(a), with effect from 28th July, 2010;⁶

the word, figures and letter in the second pair of square brackets in subsection (3) were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(6), with effect from 15th December 2007;

subsection (5) was substituted and subsection (5A) inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010, section 3(b), with effect from 28th July, 2010;⁷

the words in square brackets in subsection (5A) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;

subsection (6A) was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 8, with effect from 30th July, 2014.

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

[Disclosures within an undertaking or group etc.]

40A. (1) An employee, officer or partner of an undertaking does not commit an offence under section 40 if the disclosure is to an employee, officer or partner of the same undertaking.

(2) A person does not commit an offence under section 40 in respect of a disclosure by a financial services business if –

- (a) the disclosure is to a financial services business,
- (b) the financial services business to which the disclosure is made is situated in the Bailiwick or in a country or territory imposing equivalent terrorist financing requirements, and
- (c) both the financial services business making the disclosure and the financial services business to whom it is made belong to the same group.

(3) A professional legal adviser or a relevant professional adviser does not commit an offence under section 40 if –

- (a) the disclosure is to professional legal adviser or a relevant professional adviser,

- (b) both the person making the disclosure and the person to whom it is made carry on business in the Bailiwick or in a country or territory imposing equivalent terrorist financing requirements, and
- (c) those persons perform their professional activities within different undertakings that share common ownership, management or control.]

NOTE

Section 40A was inserted by the Criminal Justice (Terrorism and Disclosure) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023, section 1(2), with effect from 15th August, 2023.

[Permitted disclosures between financial services businesses etc.]

40B. (1) This section applies to a disclosure –

- (a) by a financial services business to another financial services business,
- (b) by a professional legal adviser to another professional legal adviser, or
- (c) by a relevant professional adviser of a particular kind to another relevant professional adviser of the same kind.

(2) A person does not commit an offence under section 40 in respect of a disclosure to which this section applies if –

- (a) the disclosure relates to –

Consolidated text

- (i) a client or former client of the financial services business or adviser making the disclosure and the financial services business or adviser to whom it is made,
 - (ii) a transaction involving them both, or
 - (iii) the provision of a service involving them both,
- (b) the disclosure is for the purpose of the prevention, detection, investigation or prosecution of terrorist financing, including where the person making the disclosure suspects terrorist financing,
- (c) the financial services business or adviser to whom the disclosure is made is situated in the Bailiwick or in a country or territory imposing equivalent terrorist financing requirements, and
- (d) the financial services business or adviser making the disclosure and the institution or adviser to whom it is made are subject to equivalent duties of professional confidentiality and the protection of personal data (within the meaning of the Data Protection (Bailiwick of Guernsey) Law, 2017).]

NOTE

Section 40B was inserted by the Criminal Justice (Terrorism and Disclosure) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023, section 1(2), with effect from 15th August, 2023.

[Permitted disclosures to the FIU.]

40C. A person does not commit an offence under section 40 if the disclosure is to the Financial Intelligence Unit for the purpose of the prevention, detection, investigation or prosecution of terrorist financing, including where the person making the disclosure suspects terrorist financing.]

NOTE

Section 40C was inserted by the Criminal Justice (Terrorism and Disclosure) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023, section 1(2), with effect from 15th August, 2023.

[Regulations.]

40D. (1) The Committee for Home Affairs may by regulations prescribe such matters as are reasonably necessary or expedient for the purposes of facilitating the making of disclosures under sections 40A – 40C.

(2) Without prejudice to the generality of the foregoing, regulations made under subsection (1) may make provision in relation to disclosures of, or relating to, information originating from outside the Bailiwick.]

NOTE

Section 40D was inserted by the Criminal Justice (Terrorism and Disclosure) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023, section 1(2), with effect from 15th August, 2023.

[Interpretation of sections 40A and 40B.]

40E. (1) References in sections 40A and 40B to a disclosure by or to a financial services business include disclosure by or to an employee or officer of the financial services business acting on its behalf; and for this purpose, and in section 40A(1), "**officer**" has the meaning given in paragraph 8 of Schedule 6.

(2) For the purposes of sections 40A and 40B, a country or territory imposes "**equivalent terrorist financing requirements**" if it is specified as such a country or territory in regulations made by the Committee for Home Affairs for that purpose.

(3) In sections 40A and 40B, "**relevant professional adviser**" means an accountant, auditor or tax adviser who is a member of a professional body which is established for accountants, auditors or tax advisers (as the case may be) and which makes provision for –

- (a) testing the competence of those seeking admission to membership of such a body as a condition for such admission, and
- (b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.

(4) In section 40A(2), "**group**" has the meaning given by Directive 2002/87/EC of the European Parliament and of the Council of 16th December 2002.]

NOTE

Section 40E was inserted by the Criminal Justice (Terrorism and Disclosure) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023, section 1(2), with effect from 15th August, 2023.

PART V
COUNTER-TERRORIST POWERS

Suspected terrorists

Terrorist: interpretation.

- 41.** (1) In this Part "**terrorist**" means a person who –
- (a) has committed an offence under any of sections 4, 5 and [8 to 11A],
 - (b) is or has been concerned in the commission, preparation or instigation of acts of terrorism.

(2) The reference in subsection (1)(b) to a person who has been concerned in the commission, preparation or instigation of acts of terrorism includes a reference to a person who has been, whether before or after the commencement of this Law, concerned in the commission, preparation or instigation of acts of terrorism within the meaning given by section 1.

NOTE

In section 41, the words in square brackets were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(2), with effect from 14th December, 2018.

Arrest without warrant.

42. (1) A police officer may arrest without a warrant a person whom he reasonably suspects to be a terrorist.

(2) Where a person is arrested under this section the provisions of Schedule 9 (detention: treatment, review and extension) shall apply.

(3) Subject to subsections (4) to (7), a person detained under this section shall (unless detained under any other power) be released not later than the

end of the period of 48 hours beginning –

- (a) with the time of his arrest under this section, or
- (b) if he was being detained under Schedule 8 when he was arrested under this section, with the time when his examination under that Schedule began.

(4) If on a review of a person's detention under Part II of Schedule 9 the review officer does not authorise continued detention, the person shall (unless detained in accordance with subsection (5) or (6) or under any other power) be released.

(5) Where a police officer intends to make an application for a warrant under paragraph 24 of Schedule 9 extending a person's detention, the person may be detained pending the making of the application.

(6) Where an application has been made under paragraph 24 or 31 of Schedule 9 in respect of a person's detention, he may be detained pending the conclusion of proceedings on the application.

(7) Where an application under paragraph 24 or 31 of Schedule 9 is granted in respect of a person's detention, he may be detained, subject to paragraph 32 of that Schedule, during the period specified in the warrant.

(8) The refusal of an application in respect of a person's detention under paragraph 24 or 31 of Schedule 9 shall not prevent his continued detention in accordance with this section.

(9) Any person arrested on suspicion of being a terrorist in a place in the Bailiwick outside the Island of Guernsey shall as soon as practicable be

transferred to a place of detention in the Island of Guernsey.

Search of premises.

43. (1) The Bailiff or the appropriate judicial officer may on the application of a police officer issue a warrant in relation to specified premises if he is satisfied that there are reasonable grounds for suspecting that a person whom the police officer reasonably suspects to be a person falling within section 41(1)(b) is to be found there.

(2) A warrant under this section shall authorise any police officer to enter and search the specified premises for the purpose of arresting the person referred to in subsection (1) under section 42.

(3) An officer may, if necessary, use reasonable force for the purpose of executing a warrant under this section.

NOTE

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 reference herein to the Bailiff included a reference to the Deputy Bailiff.

Search of persons.

44. (1) A police officer may stop and search a person whom he reasonably suspects to be a terrorist to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

(2) A police officer may search a person arrested under section 42

to discover whether he has in his possession anything which may constitute evidence that he is a terrorist.

(3) A search of a person under this section must be carried out by someone of the same sex.

(4) A police officer may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which he reasonably suspects may constitute evidence that the person is a terrorist.

Power to stop and search

Authorisation.

45. (1) An authorisation under this subsection authorises any police officer in uniform to stop a vehicle in an area or at a place specified in the authorisation and to search –

- (a) the vehicle,
- (b) the driver of the vehicle,
- (c) a passenger in the vehicle,
- (d) anything in or on the vehicle or carried by the driver or a passenger.

(2) An authorisation under this subsection authorises any police officer in uniform to stop a pedestrian in an area or at a place specified in the authorisation and to search –

- (a) the pedestrian,

(b) anything carried by him.

(3) An authorisation under subsection (1) or (2) may be given only if the person giving it considers it expedient for the prevention of acts of terrorism.

(4) An authorisation may be given –

(a) only to –

(i) members of the Island police force, and

(ii) customs officers, and

(b) only by –

(i) in the case of members of the Island police force, subject to subparagraph (iii), an officer of the Island police force of at least the rank of Chief Inspector,

(ii) in the case of customs officers, subject to subparagraph (iii), a customs officer of at least the grade of Surveyor,

(iii) in Sark, the Constable.

(5) If an authorisation is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

(6) The reference in subsection (1) to a police officer in uniform

shall not apply to the Constable or Vingtenier in Sark.

Exercise of power.

46. (1) The power conferred by an authorisation under section 45(1) or (2) –

- (a) may be exercised only for the purpose of searching for articles of a kind which could be used in connection with terrorism, and
- (b) may be exercised whether or not the police officer has grounds for suspecting the presence of articles of that kind.

(2) A police officer may seize and retain an article which he discovers in the course of a search by virtue of section 45(1) or (2) and which he reasonably suspects is intended to be used in connection with terrorism.

(3) A police officer exercising the power conferred by an authorisation may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(4) Where a police officer proposes to search a person or vehicle by virtue of section 45(1) or (2) he may detain the person or vehicle for such time as is reasonably required to permit the search to be carried out at or near the place where the person or vehicle is stopped.

(5) Where –

- (a) a vehicle or pedestrian is stopped by virtue of section 45(1) or (2), and

- (b) the driver of the vehicle or the pedestrian applies for a written statement that the vehicle was stopped, or that he was stopped, by virtue of section 45(1) or (2),

the written statement shall be provided.

(6) An application under subsection (5) must be made within the period of 12 months beginning with the date on which the vehicle or pedestrian was stopped.

Duration of authorisation.

47. (1) An authorisation under section 45 has effect, subject to subsections (2) to (7), during the period –

- (a) beginning at the time when the authorisation is given, and
- (b) ending with a date or at a time specified in the authorisation.

(2) The date or time specified under subsection (1)(b) must not occur after the end of the period of 28 days beginning with the day on which the authorisation is given.

(3) The person who gives an authorisation shall inform Her Majesty's Procureur as soon as is reasonably practicable.

(4) If an authorisation is not confirmed by Her Majesty's Procureur before the end of the period of 48 hours beginning with the time when it is given –

- (a) it shall cease to have effect at the end of that period, but
- (b) its ceasing to have effect shall not affect the lawfulness of anything done in reliance on it before the end of that period.

(5) Where Her Majesty's Procureur confirms an authorisation he may substitute an earlier date or time for the date or time specified under subsection (1)(b).

(6) Her Majesty's Procureur may cancel an authorisation with effect from a specified time.

(7) An authorisation may be renewed in writing by the person who gave it or by a person who could have given it; and subsections (1) to (6) shall apply as if a new authorisation were given on each occasion on which the authorisation is renewed.

Offences.

- 48.** (1) A person commits an offence if he –
- (a) fails to stop a vehicle when required to do so by a police officer in the exercise of the power conferred by an authorisation under section 45(1),
 - (b) fails to stop when required to do so by a police officer in the exercise of the power conferred by an authorisation under section 45(2),
 - (c) wilfully obstructs a police officer in the exercise of the power conferred by an authorisation under section

45(1) or (2).

(2) A person guilty of an offence under this section shall be liable on summary conviction to –

- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the uniform scale, or
- (c) both.

Parking

Authorisations.

49. (1) An authorisation under this section authorises any police officer in uniform to prohibit or restrict the parking of vehicles on a road specified in the authorisation.

(2) An authorisation may be given only if the person giving it considers it expedient for the prevention of acts of terrorism.

(3) An authorisation may be given –

- (a) anywhere in the Bailiwick, by –
 - (i) a member of the Island police force of at least the rank of Chief Inspector, or
 - (ii) a customs officer of at least the grade of Surveyor,

(b) in Sark, by the Constable or Vingtenier.

(4) If an authorisation is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

(5) The reference in subsection (1) to a police officer in uniform shall be deemed to include, in Sark, the Constable or Vingtenier.

Exercise of powers.

50. (1) The power conferred by an authorisation under section 49 shall be exercised by placing a traffic sign on the road concerned.

(2) A police officer exercising the power conferred by an authorisation under section 49 may suspend a parking place.

Duration of authorisation.

51. (1) An authorisation under section 49 has effect, subject to subsections (2) and (3), during the period specified in the authorisation.

(2) The period specified shall not exceed 28 days.

(3) An authorisation may be renewed in writing by the person who gave it or by a person who could have given it; and subsections (1) and (2) shall apply as if a new authorisation were given on each occasion on which the authorisation is renewed.

Offences.

52. (1) A person commits an offence if he parks a vehicle in contravention of a prohibition or restriction imposed by virtue of section 49.

(2) A person commits an offence if –

- (a) he is the driver or other person in charge of a vehicle which has been permitted to remain at rest in contravention of any prohibition or restriction imposed by virtue of section 49, and
- (b) he fails to move the vehicle when ordered to do so by a police officer in uniform.

(3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for the act or omission in question.

(4) Possession of a current disabled person's badge shall not itself constitute a reasonable excuse for the purposes of subsection (3).

(5) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the uniform scale.

(6) A person guilty of an offence under subsection (2) shall be liable on summary conviction to –

- (a) imprisonment for a term not exceeding three months,
- (b) a fine not exceeding level 4 on the uniform scale, or
- (c) both.

Interpretation of sections 49 to 52.

53. In sections 49 to 52 –

"disabled person's badge" means a badge issued by the States

[Committee for the Environment & Infrastructure] under the provisions of section 2 of the Road Traffic (Disabled Persons) Ordinance, 1991^d,

"driver" means, in relation to a vehicle which has been left on any road, the person who was driving it when it was left there,

"parking" means leaving a vehicle or permitting it to remain at rest,

"vehicle" means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

NOTES

In section 53, the words in square brackets in the definition of the expression "disabled person's badge" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 4(a), with effect from 1st May, 2016.⁸

The functions, rights and liabilities of the Environment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for the Environment & Infrastructure and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 4(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁹

Port and border controls

Port and border controls.

54. (1) Schedule 8 (port and border controls) shall have effect.

^d Recueil d'Ordonnances Tome XXV, p. 315.

(2) The States may by Ordinance repeal paragraph 13 of Schedule 8.

(3) The powers conferred by Schedule 8 shall be exercisable notwithstanding the rights conferred by section 1 of the Immigration Act 1971^e.

[Power of the Committee to issue directions]

Committee directions.

54A. Schedule 11 (Committee directions) has effect.]

NOTE

Section 54A and the cross-heading thereto were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2024, section 1(2), with effect from 25th January, 2024.

PART VI

TERRORIST OFFENCES ETC.

Terrorist offences

Weapons training.

55. (1) A person commits an offence if he provides instruction or training in the making or use of –

(a) firearms,

(b) radioactive material or weapons designed or adapted for

^e An Act of Parliament (1971 c. 77); extended to the Bailiwick by the Immigration (Guernsey) Order 1993 (No. 1796).

the discharge of any radioactive material,

- (c) explosives, or
- (d) chemical, biological or nuclear weapons.

(2) A person commits an offence if he receives instruction or training in the making or use of –

- (a) firearms,
- (b) radioactive material or weapons designed or adapted for the discharge of any radioactive material,
- (c) explosives, or
- (d) chemical, biological or nuclear weapons.

(3) A person commits an offence if he invites another to receive instruction or training and the receipt –

- (a) would constitute an offence under subsection (2), or
- (b) would constitute an offence under subsection (2) but for the fact that it is to take place outside the Bailiwick.

(4) For the purpose of subsections (1) to (3) –

- (a) a reference to the provision of instruction includes a reference to making it available either generally or to one or more specific persons, and

- (b) an invitation to receive instruction or training may be either general or addressed to one or more specific persons.

(5) It is a defence for a person charged with an offence under this section in relation to instruction or training to prove that his action or involvement was wholly for a purpose other than assisting, preparing for or participating in terrorism.

(6) A person guilty of an offence under this section shall be liable

—

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

(7) A court by or before which a person is convicted of an offence under this section may order the forfeiture of anything which the court considers to have been in the person's possession for purposes connected with the offence.

(8) Before making an order under subsection (7) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(9) An order under subsection (7) shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding

any power of a court to grant leave to appeal out of time).

Weapons training: interpretation.

56. In section 55 –

"**biological weapon**" means a biological agent or toxin (within the meaning of the Biological Weapons Act 1974^f) in a form capable of use for hostile purposes or anything to which section 1(1)(b) of that Act applies,

"**chemical weapon**" has the meaning given by section 1 of the Chemical Weapons Act 1996^g, and

"**radioactive material**" means radioactive material capable of endangering life or causing harm to human health.

Directing terrorist organisation.

57. (1) A person commits an offence if he directs, at any level, the activities of an organisation which is concerned in the commission of acts of terrorism.

(2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

NOTE

In accordance with the provisions of the Magistrate's Court and Miscellaneous Reforms (Guernsey) Law, 1996, section 6, with effect from 1st February, 1997, and with reference to the penalty prescribed for the offence

^f An Act of Parliament (1974 c. 6); extended to the Bailiwick by United Kingdom S.I. No. 1110 of 1974 (Ordres en Conseil Vol. XXIV, p. 258).

^g An Act of Parliament (1996 c. 6); extended to the Bailiwick by United Kingdom S.I. No. 743 of 2000.

in subsection (2), a court (in Guernsey but not in Alderney or Sark), instead of or in addition to any other punishment which may lawfully be imposed, may fine the offender for such offence.

Possession for terrorist purposes.

58. (1) A person commits an offence if he possesses an article in circumstances which give rise to a reasonable suspicion that his possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism.

(2) It is a defence for a person charged with an offence under this section to prove that his possession of the article was not for a purpose connected with the commission, preparation or instigation of an act of terrorism.

(3) In proceedings for an offence under this section, if it is proved that an article –

- (a) was on any premises at the same time as the accused, or
- (b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public,

the court may assume that the accused possessed the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.

(4) A person guilty of an offence under this section shall be liable

–

- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both, or

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

Collection of information.

59. (1) A person commits an offence if –

- (a) he collects or makes a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism, or
- (b) he possesses a document or record containing information of that kind.

(2) In this section "**record**" includes a photographic or electronic record.

(3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action or possession.

(4) A person guilty of an offence under this section shall be liable

–

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

(5) A court by or before which a person is convicted of an offence under this section may order the forfeiture of any document or record containing information of the kind mentioned in subsection (1)(a).

(6) Before making an order under subsection (5) a court must give an opportunity to be heard to any person, other than the convicted person, who claims to be the owner of or otherwise interested in anything which can be forfeited under that subsection.

(7) An order under subsection (5) shall not come into force until there is no further possibility of it being varied, or set aside, on appeal (disregarding any power of a court to grant leave to appeal out of time).

Inciting terrorism overseas

Inciting terrorism overseas.

- 60.** (1) A person commits an offence if –
- (a) he incites another person to commit an act of terrorism wholly or partly outside the Bailiwick, and
 - (b) the act would, if committed in the Bailiwick, constitute one of the offences listed in subsection (2).
- (2) Those offences are –
- (a) murder,
 - (b) wounding or causing grievous bodily harm with intent,
 - (c) an offence under section 1(2) of the Criminal Damage

(Bailiwick of Guernsey) Law, 1983^h (endangering life by damaging property).

(3) A person guilty of an offence under this section shall be liable to any penalty to which he would be liable on conviction of the offence listed in subsection (2) which corresponds to the act which he incites.

(4) For the purposes of subsection (1) it is immaterial whether or not the person incited is in the Bailiwick at the time of the incitement.

(5) Nothing in this section imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.

Terrorist bombing and finance offences

Terrorist bombing: jurisdiction.

61. (1) If –

- (a) a person does anything outside the Bailiwick as an act of terrorism or for the purposes of terrorism, and
- (b) his action would have constituted the commission of one of the offences listed in subsection (2) if it had been done in the Bailiwick,

he shall be guilty of an offence.

(2) The offences referred to in subsection (1)(b) are –

^h Ordres en Conseil Vol. XXVIII, p. 203.

- (a) an offence under section 3 or 5 of the Explosive Substances Act 1883ⁱ (attempt to cause explosion to endanger life etc.),
- (b) an offence under section 1 of the Biological Weapons Act 1974 (offences relating to biological agents and toxins), and
- (c) an offence under section 2 of the Chemical Weapons Act 1996 (offences relating to chemical weapons).

Terrorist finance: jurisdiction.

62. (1) If –

- (a) a person does anything outside the Bailiwick, and
- (b) his action would have constituted the commission of an offence under any of sections [8 to 11A] if it had been done in the Bailiwick,

he shall be guilty of the offence.

(2) For the purposes of subsection (1)(b), section 11(1)(b) shall be read as if for "the jurisdiction" there were substituted "a jurisdiction".

NOTE

In section 62, the words in square brackets were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(2), with effect from 14th December, 2018.

ⁱ An Act of Parliament (1883 c. 3).

Nuclear weapons

Use etc. of nuclear weapons.

- 63.** (1) A person who –
- (a) knowingly causes a nuclear weapon explosion,
 - (b) develops or produces, or participates in the development or production of, a nuclear weapon,
 - (c) has a nuclear weapon in his possession,
 - (d) participates in the transfer of a nuclear weapon, or
 - (e) engages in military preparations, or in preparation of a military nature, intending to use, or threaten to use, a nuclear weapon,

is guilty of an offence.

(2) Subsection (1) has effect subject to the exceptions and defences in sections 64 and 65.

(3) For the purposes of subsection (1)(b) a person participates in the development or production of a nuclear weapon if he does any act which –

- (a) facilitates the development by another of the capability to produce or use a nuclear weapon, or

(b) facilitates the making by another of a nuclear weapon,

knowing or having reason to believe that his act has (or will have) that effect.

(4) For the purposes of subsection (1)(d) a person participates in the transfer of a nuclear weapon if –

(a) he buys or otherwise acquires it or agrees with another to do so,

(b) he sells or otherwise disposes of it or agrees with another to do so, or

(c) he makes arrangements under which another person either acquires or disposes of it or agrees with a third person to do so.

(5) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

(6) In this section "**nuclear weapon**" includes a nuclear explosive device that is not intended for use as a weapon.

(7) This section applies to acts done outside the Bailiwick, but only if they are done by a Bailiwick person.

(8) Nothing in subsection (7) affects any criminal liability arising otherwise than under that subsection.

NOTE

In accordance with the provisions of the Magistrate's Court and Miscellaneous Reforms (Guernsey) Law, 1996, section 6, with effect from 1st February, 1997, and with reference to the penalty prescribed for the offence in subsection (5), a court (in Guernsey but not in Alderney or Sark), instead of or in addition to any other punishment which may lawfully be imposed, may fine the offender for such offence.

Exceptions.

64. (1) Nothing in section 63 applies –
- (a) to an act which is authorised under subsection (2), or
 - (b) to an act done in the course of an armed conflict.
- (2) The Lieutenant-Governor may –
- (a) authorise any act which would otherwise contravene section 63 in such manner and on such terms as he thinks fit, and
 - (b) withdraw or vary any authorisation given under this subsection.
- (3) Any question arising in proceedings for an offence under section 63 as to whether anything was done in the course of an armed conflict shall be determined by the Lieutenant-Governor.
- (4) A certificate purporting to set out any such determination and to be signed by the Lieutenant-Governor shall be received in evidence in any such proceedings and shall be presumed to be so signed unless the contrary is shown.

Defences.

65. (1) In proceedings for an offence under section 63(1)(c) or (d)

relating to an object it is a defence for the accused to show that he did not know and had no reason to believe that the object was a nuclear weapon.

- (2) But he shall be taken to have shown that fact if –
 - (a) sufficient evidence is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

(3) In proceedings for such an offence it is also a defence for the accused to show that he knew or believed that the object was a nuclear weapon but, as soon as reasonably practicable after he first knew or believed that fact, he took all reasonable steps to inform the Lieutenant-Governor or a police officer of his knowledge or belief.

Assisting or inducing weapons related acts overseas

Assisting or inducing certain weapons related acts outside the Bailiwick.

66. (1) A person who aids, abets, counsels or procures, or incites, a person who is not a Bailiwick person to do a relevant act outside the Bailiwick is guilty of an offence.

(2) For this purpose a relevant act is an act that, if done by a Bailiwick person, would contravene any of the following provisions –

- (a) section 1 of the Biological Weapons Act 1974 (offences relating to biological agents and toxins),
- (b) section 2 of the Chemical Weapons Act 1996 (offences

relating to chemical weapons), or

- (c) section 63 above (offences relating to use, etc, of nuclear weapons).

(3) Nothing in this section applies to an act mentioned in subsection (1) which –

- (a) relates to a relevant act which would contravene section 63, and
- (b) is authorised by the Lieutenant-Governor,

and section 64(2) applies for the purpose of authorising acts that would otherwise constitute an offence under this section.

(4) A person accused of an offence under this section in relation to a relevant act which would contravene a provision mentioned in subsection (2) may raise any defence which would be open to a person accused of the corresponding offence ancillary to an offence under that provision.

(5) A person convicted of an offence under this section is liable on conviction on indictment to imprisonment for life.

(6) This section applies to acts done outside the Bailiwick, but only if they are done by a Bailiwick person.

(7) Nothing in this section prejudices any criminal liability existing apart from this section.

NOTE

In accordance with the provisions of the Magistrate's Court and Miscellaneous Reforms (Guernsey) Law, 1996, section 6, with effect from 1st February, 1997, and with reference to the penalty prescribed for the offence in subsection (5), a court (in Guernsey but not in Alderney or Sark), instead of or in addition to any other punishment which may lawfully be imposed, may fine the offender for such offence.

Supplemental provisions relating to sections 63 and 66

Extraterritorial application.

67. Proceedings for an offence committed under section 63 and 66 outside the Bailiwick may be taken, and the offence may for incidental purposes be treated as having been committed, in any part of the Bailiwick.

Powers of entry.

68. (1) If the Bailiff or the appropriate judicial officer is satisfied on information on oath that there are reasonable grounds for suspecting that evidence of the commission of an offence under section 63 or 66 is to be found on any premises, he may issue a warrant authorising a police officer and any other person named in the warrant to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(2) The powers of a person who enters the premises under the authority of the warrant include power –

- (a) to take with him such other persons and such equipment as appear to him to be necessary,
- (b) to inspect, seize and retain any substance, equipment or document found on the premises,

- (c) to require any document or other information which is held in electronic form and is accessible from the premises to be produced in a form –
 - (i) in which he can read and copy it, or
 - (ii) from which it can readily be produced in a form in which he can read and copy it,
- (d) to copy any document which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under section 63 or 66.

(3) A police officer who enters premises under the authority of a warrant or by virtue of subsection (2)(a) may search or cause to be searched any person on the premises who the police officer has reasonable cause to believe may have in his possession any document or other thing which may be required as evidence for the purposes of proceedings in respect of an offence under section 63 or 66.

(4) No police officer shall search a person of the opposite sex.

(5) A person who –

- (a) wilfully obstructs a police officer or person named in the warrant in the exercise of a power conferred by a warrant under this section, or
- (b) fails without reasonable excuse to comply with a reasonable request made by a police officer or person

named in the warrant for the purpose of facilitating the exercise of such a power,

is guilty of an offence.

- (6) A person guilty of an offence under subsection (5) is liable –
 - (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or to both.

NOTE

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 reference herein to the Bailiff included a reference to the Deputy Bailiff.

Offences.

69. (1) A person who knowingly or recklessly makes a false or misleading statement for the purpose of obtaining (or opposing the variation or withdrawal) of authorisation for the purposes of section 63 or 66 is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable –
 - (a) on summary conviction to a fine of an amount not

exceeding level 5 on the uniform scale,

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

(3) Where an offence under section 63, 66 or subsection (1) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) a director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) In subsection (3) "**director**", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Interpretation of sections 63 to 69.

70. In this Part "**Bailiwick person**" means a person ordinarily resident in the Bailiwick who is –

- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981 is a British subject, or

- (c) a British protected person within the meaning of that Act,

or a body incorporated under the law of any part of the Bailiwick.

Dangerous substances

Use of noxious substances to cause harm and intimidate.

71. (1) A person who takes any action which –

- (a) involves the use of a noxious substance or other noxious thing,
- (b) has or is likely to have an effect falling within subsection (2), and
- (c) is designed to influence the government or to intimidate the public or a section of the public,

is guilty of an offence.

(2) Action falls within this subsection if it –

- (a) causes serious violence against a person anywhere in the world,
- (b) causes serious damage to real or personal property anywhere in the world,
- (c) endangers human life or creates a serious risk to the

health or safety of the public or a section of the public,
or

- (d) induces in members of the public the fear that the action is likely to endanger their lives or create a serious risk to their health or safety,

but any effect on the person taking the action is to be disregarded.

(3) A person who –

- (a) makes a threat that he or another will take any action falling within subsection (1), and
- (b) intends thereby to induce in any person anywhere in the world the fear that the threat is likely to be carried out,

is guilty of an offence.

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

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

(5) In this section –

"the public" includes the public of a country or territory other than

the Bailiwick, and

"the government" means the government of any part of the Bailiwick or of a country or territory other than the Bailiwick.

Hoaxes and threats involving noxious substances or things.

72. (1) A person is guilty of an offence if he –

(a) places any substance or other thing in any place, or

(b) sends any substance or other thing from one place to another (by post or any other means whatever),

with the intention of inducing in a person anywhere in the world a belief that it is likely to be (or contain) a noxious substance or other noxious thing and thereby endanger human life or create a serious risk to human health.

(2) A person is guilty of an offence if he communicates any information which he knows or believes to be false with the intention of inducing in a person anywhere in the world a belief that a noxious substance or other noxious thing is likely to be present (whether at the time the information is communicated or later) in any place and thereby endanger human life or create a serious risk to human health.

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

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

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

Sections 71 and 72: supplementary.

73. (1) For the purposes of sections 71 and 72 "**substance**" includes any biological agent and any other natural or artificial substance (whatever its form, origin or method of production).

(2) For a person to be guilty of an offence under section 71(3) or 72 it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief in question.

Bomb hoaxes.

74. (1) A person is guilty of an offence if he –

(a) places any article in any place, or

(b) sends any article (by post or any other means whatever),

with the intention of inducing in any person in the world a belief that it is likely to explode or ignite and thereby cause personal injury or damage to property.

(2) In subsection (1) "**article**" includes substance.

(3) A person is guilty of an offence if he communicates any information which he knows or believes to be false to another person with the intention of inducing in him or any other person a false belief that a bomb or other thing liable to explode or ignite is present in any place or location.

(4) For a person to be guilty of an offence under subsection (1) or (3) it is not necessary for him to have any particular person in mind as the person in whom he intends to induce the belief mentioned in that subsection.

(5) A person guilty of an offence under this section shall be liable

–

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

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

PART VII
GENERAL

[Offence of failure to prevent terrorist financing.]

74A. (1) A licensee ("**B**") is guilty of an offence if a person is engaged in terrorist financing when acting in the capacity of a person associated with B.

(2) It is a defence for B to prove that when the terrorist financing occurred, B had in place prevention procedures in relation to the activities of the person associated with B.

(3) A person is engaged in terrorist financing for the purposes of this section if the person engages in conduct which constitutes terrorist financing, whether or not the person has been convicted of an offence in relation to that conduct; and for this purpose, "**conduct**" includes acts and omissions.

(4) A person acts in the capacity of a person associated with B if that person is –

Consolidated text

- (a) an employee of B who is acting in the capacity of an employee,
- (b) an agent of B (other than an employee) who is acting in the capacity of an agent,
- (c) any other person who performs services for or on behalf of B who is acting in the capacity of a person performing such services, or
- (d) a customer of B, or an agent of a customer of B, in relation to any service performed by or on behalf of B.

(5) In determining whether B has adequately maintained and applied prevention procedures in relation to the activities of the person associated with B, the Court may take account of –

- (a) any relevant Code of Practice or guidance issued by the Commission that applies to B, and
- (b) any guidance published by the Committee under section 74C(1) about prevention procedures.

(6) For the purposes of subsection (4)(c), the question of whether or not the person is a person who performs services for or on behalf of B is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between that person and B.

(7) In this section –

- (a) **"customer"** means a person with a business relationship with another person carrying on a financial services business, and
 - (b) **"employee"** means an individual who has entered into or who works under (or where the employment has ceased, who worked under) a contract of employment,
 - (c) **"licensee"** has the meaning given in the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, and
 - (d) **"prevention procedures"** means procedures designed to prevent persons acting in the capacity of a person associated with B being engaged in terrorist financing.
- (8) A person who commits an offence under this section is liable on conviction –
- (a) if an individual, to imprisonment for a term not exceeding two years or to a fine or to both,
 - (b) otherwise, to a fine.]

NOTE

Section 74A was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 2(2), with effect from 26th April, 2024.

[Offence of failure to prevent terrorist financing: liability of officers, etc.]

74B. (1) Where an offence under section 74A is committed by a body

corporate or unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) any director, manager, secretary or other similar officer, or any foundation official, of the body corporate,
- (b) where the offence is committed by a partnership, any partner of the partnership,
- (c) where the offence is committed by any other unincorporated body, any officer of that body who is bound to fulfil any duty any breach of which is an offence or, if there is no such officer, any member of the committee or similar governing body, or
- (d) any person purporting to act in any capacity described in paragraphs (a) to (c),

he or she as well as the body corporate or unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with that member's functions of management as if he or she were a director.

(3) Where any such offence is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of the body and not in the name of any of its members.]

NOTE

Section 74B was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 2(2), with effect from 26th April, 2024.

Publication of Guidance.

74C. (1) Subject to subsection (3), and for the avoidance of doubt, the Committee shall publish guidance (in such manner as the Committee considers appropriate) about prevention procedures within the meaning of section 74A(7)(d).

(2) For the avoidance of doubt, the Committee may, from time to time, publish revisions to guidance under this section or revised guidance.

(3) The Committee must consult the States of Guernsey Committee for Home Affairs, the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark before publishing guidance under this section.]

NOTE

Section 74C was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 2(2), with effect from 26th April, 2024.

The following Handbook containing the guidance referred to in this section have been issued by the Guernsey Financial Services Commission:

Handbook on Countering Financial Crime (AML/CFT/CPF) (G.S.I. No. 43 of 2024).

Police powers.

- 75.** (1) A power conferred by virtue of this Law on a police officer –
- (a) is additional to powers which he has at common law or by virtue of any other enactment, and

(b) shall not be taken to affect those powers.

(2) A police officer may if necessary use reasonable force for the purpose of exercising a power conferred on him by virtue of this Law (apart from paragraph 2 of Schedule 8).

(3) Where anything is seized by a police officer under a power conferred by virtue of this Law, it may (unless the contrary intention appears) be retained for so long as is necessary in all the circumstances.

Powers to stop and search.

76. (1) A power to search premises conferred by virtue of this Law shall be taken to include power to search a container.

(2) A power conferred by virtue of this Law to stop a person includes power to stop a vehicle (other than an aircraft which is airborne).

(3) A person commits an offence if he fails to stop a vehicle when required to do so by virtue of this section.

(4) A person guilty of an offence under subsection (3) shall be liable on summary conviction to –

- (a) imprisonment for a term not exceeding six months,
- (b) a fine not exceeding level 5 on the uniform scale, or
- (c) both.

Defences.

77. (1) Subsection (2) applies where in accordance with a provision mentioned in subsection (5) it is a defence for a person charged with an offence to prove a particular matter.

(2) If the person adduces evidence which is sufficient to raise an issue with respect to the matter the court or Jurats shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(3) Subsection (4) applies where in accordance with a provision mentioned in subsection (5) a court –

(a) may make an assumption in relation to a person charged with an offence unless a particular matter is proved, or

(b) may accept a fact as sufficient evidence unless a particular matter is proved.

(4) If evidence is adduced which is sufficient to raise an issue with respect to the matter mentioned in subsection (3)(a) or (b) the court shall treat it as proved unless the prosecution disproves it beyond reasonable doubt.

(5) The provisions in respect of which subsections (2) and (4) apply are sections 5(4), 40(5)(a), 55, 58 and 59 of this Law.

Functions of Her Majesty's Procureur.

77A. (1) Her Majesty's Procureur may, either generally or for the purposes of a particular case or class of cases, arrange for any of his or her functions under this Law, other than this power of delegation or the powers and functions of Her Majesty's Procureur under section 47 and Schedule 5, to be exercised in his or her name by a Crown Advocate or other Advocate of the Royal Court; and references

in this Law to Her Majesty's Procureur shall be construed accordingly.

(2) A function exercised by a Crown Advocate or other Advocate pursuant to an arrangement under subsection (1) is for all purposes exercised by Her Majesty's Procureur; and every decision taken or other thing done by the Crown Advocate or other Advocate pursuant to the arrangement has the same effect as if taken or done by Her Majesty's Procureur.

(3) An arrangement under subsection (1) for the exercise of a function by a Crown Advocate or other Advocate –

(a) may be varied or terminated at any time by Her Majesty's Procureur, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement,

(b) does not prevent the exercise of the function by Her Majesty's Procureur while the arrangement subsists.

(4) Any requirement imposed by or under this Law (however expressed) to provide or produce material to Her Majesty's Procureur, or to give Her Majesty's Procureur access to any material or premises, includes a requirement to provide or produce the material, or to give access to the material or premises, to any person nominated by Her Majesty's Procureur or otherwise acting for him or her and on his or her behalf.

(5) For the purposes of subsection (4) "**material**" includes documents and information.

(6) References in this Law to a person authorised by Her Majesty's Procureur are references to a person, or a member of a class or description of persons,

authorised by him or her either generally or for the purposes of a particular case or class of cases.

(7) This section is without prejudice to any other enactment or rule of law.]

NOTE

Section 77A was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2019, section 1(3), with effect from 12th December, 2019.

Crown servants, regulators, etc.

78. (1) The Committee may make regulations providing for any of sections 8 to 14, 17, 18 and 40 to apply to persons in the public service of the Crown.

(2) The Committee may make regulations providing for section 12 not to apply to persons who are in its opinion performing or connected with the performance of regulatory, supervisory, investigative or registration functions of a public nature.

(3) Regulations –

- (a) may make different provision for different purposes,
- (b) may make provision which is to apply only in specified circumstances, and
- (c) may make provision which applies only to particular persons or to persons of a particular description.

Interpretation.

79. (1) In this Law –

"act" and **"action"** include omission,

"Act of 2000" means the Terrorism Act 2000^j,

[**"another FIU officer"** means a member of the Financial Intelligence Unit who is not a police officer,]

"appropriate judicial officer" means –

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

"article" includes substance and any other thing,

"Bailiwick" means the Bailiwick of Guernsey,

[**"business"** includes any trade, profession or economic activity,]

"Committee" means the States of Guernsey [Policy & Resources Committee],

"customs officer" means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey)

^j An Act of Parliament (2000 c. 11).

Law, 1972^k,

"dwelling" means a building or part of a building used as a dwelling, and a vehicle which is habitually stationary and which is used as a dwelling,

"explosive" means –

- (a) an article or substance manufactured for the purpose of producing a practical effect by explosion,
- (b) materials for making an article or substance within paragraph (a),
- (c) anything used or intended to be used for causing or assisting in causing an explosion, and
- (d) a part of anything within paragraph (a) or (c),

[**"Financial Intelligence Unit"** has the meaning given in Part III of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022,]

[...]

[**"financial services business"** has the same meaning as in the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,]

"firearm" includes an air gun or air pistol,

^k Ordres en Conseil Vol. XXIII, p. 573; amended by No. XIII of 1991.

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

"immigration officer" means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971,

[**"information"** includes documents,]

[**"intelligence service"** has the same meaning as in section 67 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003,]

"Island police force" means the salaried police force of the Island of Guernsey,

"Islands" means the Bailiwick, Jersey and the Isle of Man,

"Lieutenant-Governor" means the person for the time being holding the office of Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey and its dependencies,

[**"non financial services business"** is a business which is not a financial services business, including any voluntary organisation,]

"organisation" includes any association or combination of persons,

"police officer" means –

- (a) in relation to Guernsey, Herm and Jethou, a member of the Island police force and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

- (b) in relation to Alderney, a member of the Island police force, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed [or deemed to be appointed pursuant to the provisions of an Ordinance made under section 46A] of the Government of Alderney Law, 1987^m,
- (c) in relation to Sark, the Constable, the Vingtenier and a member of the Island police force,
- (d) a customs officer,

"premises" includes any place and in particular includes –

- (a) a vehicle,
- (b) an offshore installation within the meaning given in section 44 of the Petroleum Act 1998ⁿ, and
- (c) a tent or moveable structure,

[**"prescribed police officer"** means a police officer who is a member of the [Financial Intelligence Unit],]

"property" includes property wherever situated and whether real or

^m Ordres en Conseil Vol. XXX, p. 37; Vol. XXXI, pp. 83 and 306; No. XI of 1993; No. IX of 1995; No. IV of 1996; No. IV of 1998; and No. I of 2000; section 15 has been prospectively repealed and replaced by the Government of Alderney (Amendment) Law, 2000.

ⁿ An Act of Parliament (1998 c. 17).

personal, hereditary or moveable, and things in action and other intangible or incorporeal property,

"public place" means a place to which members of the public have or are permitted to have access, whether or not for payment,

[**"relevant UK sanctions regimes"** means –

- (a) the Afghanistan (Sanctions) (EU Exit) Regulations 2020,
- (b) the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019,
- (c) the Counter-Terrorism (Sanctions) (EU Exit) Regulations, 2019, and
- (d) the ISIL (Da-esh) and Al-Qaida (United Nations) (EU Exit) Regulations, 2019,]

"road" means any highway and any road to which the public has access,

"ship" includes any boat, hovercraft or other vessel whatsoever,

[**"terrorist financing"** means doing any act which –

- (a) [constitutes an offence under section 8, 9, 10, 11 or 11A, or section 9, 10, 11, 12 or 13 of the Terrorist Asset Freezing (Bailiwick of Guernsey) Law, 2011, or an offence under section 3 of the Sanctions (Bailiwick of

Guernsey) Law, 2018 in respect of the relevant UK sanctions regimes implemented by the Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) Regulations, 2020] and, for the purposes of this definition, the "**purposes of terrorism**" shall include, to the extent that they do not already do so –

- (i) any attempt, conspiracy or incitement to carry out terrorism within the meaning of section 1, or
 - (ii) aiding, abetting, counselling or procuring the carrying out of such terrorism,
- (b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a),
- (c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a), or
- (d) would, in the case of an act done otherwise than in the Bailiwick, constitute an offence specified in paragraph (a), (b) or (c) if done in the Bailiwick,

irrespective of the value of the property involved, and for the purposes of this definition having possession of any property shall be taken to be doing an act in relation to it,]

"uniform scale" means the scale of fines designated by the Uniform

Scale of Fines (Bailiwick of Guernsey) Law, 1989^o,

"**vehicle**", except in sections 49 to 52 and Schedule 8, includes an aircraft, hovercraft, train or vessel[, and references to the Terrorism Act 2000 are references to that Act as amended, re-enacted (with or without modification), extended or applied.]

(2) Unless the context otherwise requires, references in this Law to an enactment are references thereto as amended, re-enacted (with or without modification), extended or applied.

(3) The Interpretation (Guernsey) Law, 1948^p applies to the interpretation of this Law throughout the Bailiwick.

(4) In relation to offences tried before the Court of Alderney or the Court of the Seneschal, the penalties stipulated by this Law shall be applicable notwithstanding the provisions of section 13 of the Government of Alderney Law, 1987 and section 23 of the Reform (Sark) Law, 1951^q.

NOTES

In section 79,

first, the definition of the expression "another FIU officer" in subsection (1) was inserted and, second, the words omitted in square brackets immediately preceding the definition of the expression "financial services business" in that subsection were repealed by the Terrorism and

^o Ordres en Conseil Vol. XXXI, p. 279; the scale of fines was amended by Ordinance No. XXII of 1998.

^p Ordres en Conseil Vol. XIII, p. 355.

^q Ordres en Conseil Vol. XV, p. 215; section 23 was substituted by Vol. XXIII, p. 200 and amended by Vol. XXIX, p. 27 and Orders in Council No. VII of 1989 and No. XII of 1991.

*Crime (Bailiwick of Guernsey) (Amendment) Regulations, 2022, regulation 3(2), respectively paragraph (a) and paragraph (b), with effect from 21st December, 2022;*¹⁰

the definitions of the expressions "business", "information", "non financial services business" and "terrorist financing" in subsection (1) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(7)(b), with effect from 15th December 2007;

*the words in square brackets in the definition of the expression "Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;*¹¹

*the definition of the expression "Financial Intelligence Unit" in subsection (1) was substituted by the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022, section 11(1) and section 11(3)(b), with effect from 20th October, 2022;*¹²

the definition of the expression "financial services business" in subsection (1) was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(7)(a), with effect from 15th December 2007;

the definition of the expression "intelligence service" in subsection (1) was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010, section 4, with effect from 28th July, 2010;

the words in square brackets in paragraph (b) of the definition of the expression "police officer" in subsection (1) were substituted by the Government of Alderney (Amendment) Law, 2000, section 2, with effect from 19th June, 2002;

the definition of the expression "prescribed police officer" in subsection (1) was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010, section 5, with effect from 28th April, 2010;

the words "Financial Intelligence Unit" in square brackets, wherever occurring, were substituted by the Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022, section 11, with effect from 21st December, 2022;

first, the definition of the expression "relevant UK sanctions regimes" in subsection (1) was inserted and, second, the words in square brackets within paragraph (a) of the definition of the expression "terrorist financing" in that subsection were substituted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, respectively section 2(3)(a) and section 2(3)(b),

with effect from 27th October, 2023,¹³

the words in square brackets in the definition of the expression "vehicle" in subsection (1) were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(9)(b), with effect from 14th December, 2018.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁴

In accordance with the provisions of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022, section 8, Schedule 2, paragraph 1 and paragraph 2, with effect from 20th October, 2022, unless the contrary intention appears and subject to any regulations made under section 8(3), first, any reference to a police officer in this Law and any subordinate legislation made hereunder includes a reference to the Director of the Economic and Financial Crime Bureau and designated persons and to members of the Financial Intelligence Unit and, second, subject to the provisions of section 8(4), any power in an enactment to disclose information to a police officer or customs officer for a specified purpose includes a power to disclose that information to the Director of the Economic and Financial Crime Bureau and designated persons and to members of the Financial Intelligence Unit for the purpose of carrying out their functions.

In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, references in this enactment to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

The Government of Alderney Law, 1987 has since been repealed by the Government of Alderney Law, 2004, section 63(1), Schedule 3, with effect from 1st May, 2005, subject to the savings and transitional provisions in section 63(2) and section 64 of the 2004 Law.

The Reform (Sark) Law, 1951 has since been repealed by the Reform (Sark) Law, 2008, section 66(2), Schedule 2, with effect from 1st September, 2008, subject to, first, the general savings and, second, the specific savings and transitional provisions in, respectively, section 66(3) and section 67 of the 2008 Law.

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.

Index of defined expressions.

80. In this Law the expressions listed below are defined by the provisions specified.

<i>Expression</i>	<i>Interpretation provision</i>
Act	Section 79
Act of 2000	Section 79
Action	Section 79
Action taken for the purposes of terrorism	Section 1(5)
[Additional information	Section 15C(4)]
Appropriate judicial officer	Section 79
Article	Section 79
Bailiwick	Section 79
Bailiwick person	Section 70
[Business	Section 79]
Cash	Schedule 6 paragraph 1(2)
[the Commissioner	Schedule 8 paragraph 1(3)]
Committee	Section 79

Consolidated text

[Confidential material	Schedule 8 paragraph 9E(8)]
Cordoned area	Section 32
[Criminal investigation	Section 15C(4)]
Customs officer	Section 79
[Discloser	Section 15C(4)]
Dwelling	Section 79
Examining officer	Schedule 8 paragraph 1
Explosive	Section 79
Financial services business	Section 79
Firearm	Section 79
Forfeiture order	Section 18
Freezing order	Section 21 & Schedule 4
Her Majesty's Procureur	Section 79
Immigration officer	Section 79
[Information	Section 79]
[Intelligence service	Section 79]
[Intimate search	Schedule 8 paragraph 6(4)]

[Involvement in terrorism-related activity	Schedule 8 paragraph 1(3)]
Island police force	Section 79
Islands	Section 79
Lieutenant-Governor	Section 79
National of the United Kingdom	Section 25
[Nominated officer	Section 15(9)]
[Non financial services business	Section 79]
Organisation	Section 79
[Passport	Schedule 8 paragraph 1(3)]
Police officer	Section 79
Premises	Section 79
Property	Section 79
Proscribed organisation	Section 3(1)
Public place	Section 79
Resident of the Bailiwick	Section 25
Resident of a country or territory outside the Bailiwick	Section 25

Consolidated text

Restraint order	Schedule 2 paragraph 3
Road	Section 79
[Senior officer	Schedule 8 paragraphs 9B(7) and 9E(7)]
Ship	Section 79
[Strip search	Schedule 8 paragraph 6(4)]
Terrorism	Section 1
Terrorist (in Part V)	Section 41
Terrorist cash	Schedule 3 paragraph 1
[Terrorist financing	Section 79(8)]
[Terrorist financing investigation	Section 15C(4)]
Terrorist investigation	Section 31
Terrorist property	Section 7
[Travel document	Schedule 8 paragraph 1(3)]
Uniform scale	Section 79
Vehicle	Section 79
Vehicle (in sections 49 to 52)	Section 53
Vehicle (except in sections 49 to 52 &	

NOTES

In section 80,

the entries relating to the expressions "additional information", "business", "criminal investigation", "discloser", "information", "non financial services business", "terrorist financing" and "terrorist financing investigation" were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(8)(b), with effect from 15th December 2007;

the entries relating to the expressions "the Commissioner", "Confidential material", "Intimate search", "Involvement in terrorism-related activity", "Passport", "Senior officer", "Strip search" and "Travel document" were inserted by the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021, section 1(1), with effect from 3rd May, 2021;

the entry relating to the expression "intelligence service" was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010, section 5, with effect from 28th July, 2010;

the entry relating to the expression "Nominated officer" was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(8)(a), with effect from 15th December 2007.

Transitional provisions.

81. Where, immediately before the coming into force of this Law, a person is being detained by virtue of a provision of the Prevention of Terrorism (Bailiwick of Guernsey) Law, 1990, the provisions of that Law shall continue to apply to him, in place of the corresponding provisions of this Law, until his detention comes to an end.

[Amendment of Law by Ordinance.

81A. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of

this Law conferring power to enact Ordinances, orders, regulations[, rules or instructions] (and vice versa).]

NOTES

Section 81A was inserted by the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006, section 15(2), with effect from 28th March, 2007.

In section 81A, the words in square brackets in subsection (2) were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 6, with effect from 24th March, 2010.

The following Ordinances have been made under section 81A:

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2014;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018;

Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021;

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

Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023;

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

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024.

General provisions as to subordinate legislation.

82. (1) Any Ordinance, [regulations] or rule under this Law –

(a) may be amended or repealed by a subsequent

Ordinance, [regulations] or rule, as the case may be, hereunder,

- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient[, and
- (c) in the case of regulations, shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of any new regulations.]

(2) Any power conferred by this Law to make any Ordinance, [regulations] or rule 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.

(3) The Committee (and any other committee of the States) shall, before recommending the States to agree to make an Ordinance under this Law, consult the [Policy and Performance 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.

(4) Regulations made under this Law shall be made after consultation with the Policy and Finance Committee of the States of Alderney and the [Policy and Finance Committee] of the Chief Pleas of Sark.

(5) A failure to comply with [subsection (3) or (4)] shall not invalidate any Ordinance or (as the case may be) [regulations] made under this Law.

NOTES

In section 82,

the word "regulations" in square brackets, wherever occurring, was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(9)(a), with effect from 15th December 2007;

first, the punctuation immediately after paragraph (b) of subsection (1) and, second, the word immediately thereafter and paragraph (c) thereof were, respectively, substituted and inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, respectively section 1(9)(b) and section 1(9)(c), with effect from 15th December 2007;

the words "Policy and Performance Committee" in square brackets, wherever occurring, were substituted by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 2, Schedule, with effect from 24th October, 2018;¹⁵

the words in the first pair of square brackets in subsection (5) were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(9)(d), with effect from 15th December 2007.

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.¹⁶

Citation and commencement.

83. This Law may be cited as the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 and shall come into force on the day immediately following the day of its registration on the records of the Island of Guernsey.

NOTE

The Law was registered on the Records of the Island of Guernsey on 15th July, 2002.

SCHEDULE 1

Section 3

PROSCRIBED ORGANISATIONS

...

NOTE

Schedule 1 was repealed by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(10), with effect from 14th December, 2018.¹⁷

SCHEDULE 2

Section 18

FORFEITURE ORDERS

1. (1) Where a court makes an order under section 18 (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 (and in this Schedule "**Her Majesty's Sheriff**" means, in relation to Alderney, the Clerk of the Court of Alderney and, in relation to Sark, the Prévôt),
- (b) directing any such property other than money or land to be sold or otherwise disposed of in such manner as the 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 court, of any such property which is land, to realise it in such manner as the 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 18(7)],
- (e) making such other provision as appears to the court to be necessary for giving effect to the forfeiture order or

to any order made by virtue of subparagraph (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 subparagraph (1) shall, after making payment (where appropriate) under subparagraph (1)(d) or paragraph 2(2), be treated as if it were a fine imposed by the 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 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 subparagraph (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 any of sections [8 to 11A],
- (b) the proceedings have not been concluded, and
- (c) either a forfeiture order has been made or it appears to [the Court] that a forfeiture order may be made in the proceedings.

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

- (a) a criminal investigation has been started in the Bailiwick with regard to a person's involvement in an offence under any of sections [8 to 11A], and
- (b) it appears to [the Court] that a forfeiture order may be made in proceedings for the offence.

(5) Where [the Court] has made an order under this paragraph by virtue of subparagraph (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 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, or
- (d) when a person first appears before a court of the Bailiwick in respect of the offence,

and where the application of this subparagraph 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.

(10) In this paragraph "**criminal investigation**" means an investigation which police officers or other persons have a duty to conduct with a view to it being ascertained whether a person should be charged with an offence.

[(11) Subject to subparagraph (12), in this paragraph and paragraphs 4 and 5, "**the Court**" means the Royal Court.

(12) The Magistrate's Court may make a restraint order under this paragraph in any case where the property to which the order applies does not exceed £25,000 in value, and consequently, as this paragraph applies to such cases, "the Court" means the Royal Court or the Magistrate's Court.]

4. (1) A restraint order –

- (a) may be made only on an application by or on behalf of Her Majesty's Procureur,
- (b) may be made on an *ex parte* application, and
- (c) shall provide for notice to be given to persons affected by the order.

(2) A restraint order made under paragraph 3(3) –

- (a) may be discharged or varied in relation to any property, and

- (b) shall be discharged when proceedings for the offence are concluded.
- (3) A restraint order made under paragraph 3(4) may be discharged if all proceedings in respect of any offence have been concluded.
- (4) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (5) In exceptional circumstances or in an emergency, a restraint order may be made (without prejudice to the powers in that behalf of [the Court]) –
 - (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 or, if he is absent or unable to act, by his Deputy,

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 Court] shall include references to the said Chairman, Jurat, Seneschal or Deputy Seneschal (as the case may be).

5. (1) Where [the Court] has made a restraint order, a police officer 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^r 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

^r Ordres en Conseil Vol. XIV, p. 67; section 18 was amended by No. VII of 1994.

Consolidated text

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 subparagraph (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 this Law and either –

- (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 sitting as an Ordinary 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 sitting as an Ordinary 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 sitting as an Ordinary 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 sitting as an Ordinary Court thinks just in all the circumstances of the case.

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

Enforcement of orders made elsewhere in the British Islands

8. In the following provisions of this Schedule –

"an English order" means –

- (a) an order made in England or Wales under section 23 of the Act of 2000 (an **"English forfeiture order"**),

- (b) an order made under paragraph 5 of Schedule 4 to the Act of 2000 (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 23 of the Act of 2000 (a "**Scottish forfeiture order**"),
- (b) an order made under paragraph 18 of Schedule 4 to the Act of 2000 (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 23 of the Act of 2000 (a "**Northern Irish forfeiture order**"),
- (b) an order made under paragraph 30 of Schedule 4 to the Act of 2000 (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 the Isle of Man or Jersey under a provision of the law of either Island corresponding to section 18 of this Law,
- (b) a restraint order made in the Isle of Man or Jersey under a provision of the law of either Island corresponding to paragraph 3 of this Schedule.

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 (made by the Royal 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 (made by the Royal 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 (made by the Royal 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 subparagraph (4) shall, after making payment (where appropriate) under paragraph 1(1)(d) or 2(2), be paid by him to the States of Guernsey.

(6) Paragraphs 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 provision for the purpose of enabling the enforcement in the Bailiwick of external orders.

- (2) An "**external order**" means an order –
 - (a) which is made in a country or territory designated by Ordinance of the States,
 - (b) which makes relevant provision.

- (3) "**Relevant provision**" means –
 - (a) provision for the forfeiture of terrorist property ("**an external forfeiture order**"), or
 - (b) provision prohibiting dealing with property which is subject to an external forfeiture order or in respect of which such an order could be made in proceedings which have been or are to be instituted in the designated country or territory ("**an external restraint order**").

- (4) An Ordinance under this paragraph may, in particular, include provision –
 - (a) which, for the purpose of facilitating the enforcement of any external order that may be made, has effect at times before there is an external order to be enforced,
 - (b) for matters corresponding to those for which provision is made by, or can be made under, paragraph 9(1) to (9) in relation to the orders to which that paragraph applies,
 - (c) for the proof of any matter relevant for the purposes of

anything falling to be done in pursuance of the Ordinance.

(5) An Ordinance under this paragraph may also make provision 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.

(6) An Ordinance under this paragraph may make different provision for different cases.

[Designation of all countries on 28th July, 2010

10A. (1) With effect on and from the 28th July, 2010 any country or territory not already designated under paragraph 10 (including any country or territory which comes into existence after that date) is designated for the purposes of this Law and any Ordinance or subordinate legislation made under this Law.

(2) Without prejudice to the generality of subparagraph (1), a country or territory which is designated under that subparagraph is a designated country for the purposes of the Terrorism and Crime (Enforcement of External Orders) (Bailiwick of Guernsey) Ordinance, 2007.]

Constitution of Royal Court

11. (1) For the purposes of performing its functions under this Schedule (other than its functions as to the making of rules of court and its functions when sitting as an Ordinary Court) –

(a) the Royal Court shall be properly constituted if it consists of the Bailiff sitting unaccompanied by the

Jurats, and

(b) the Royal Court may, where it consists of the Bailiff so sitting, sit in chambers.

(2) A function performed under subparagraph (1) shall be considered for all purposes to have been performed by the Royal Court; and any order or finding made or other thing done pursuant to subparagraph (1) shall have effect as if made or done by the Royal Court.

(3) The provisions of this paragraph are without prejudice to any provision of this Law conferring functions upon the Bailiff or, as the case may be, permitting matters to be heard in chambers.

NOTES

In Schedule 2,

the word, figures and parentheses in square brackets in subparagraph (1)(d) of paragraph 1 were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(10), with effect from 15th December 2007;

first, the words "T/the Court" in square brackets, wherever occurring, were substituted and, second, paragraph 3(11) and paragraph 3(12) were inserted by the Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022, respectively section 4(3) and section 4(4), with effect from 21st December, 2022;

the words "8 to 11A" in square brackets, wherever occurring, were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(2), with effect from 14th December, 2018;

paragraph 10A was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2010, section 6, with effect from 28th July, 2010.

The following Ordinances have been made under Schedule 2:

Terrorism and Crime (Enforcement of External Orders) (Bailiwick of Guernsey) Ordinance, 2007;

Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014.

In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(e), with effect from that same date, the functions of the Greffier include the functions assigned by law to the Clerk of the Court.

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.

SCHEDULE 3

Section 19

FORFEITURE OF TERRORIST CASH

PART 1

INTRODUCTORY

Terrorist cash

1. (1) This Schedule applies to cash ("**terrorist cash**") which –
 - (a) is within subsection (1)(a) or (b) of section 19, or
 - (b) is property earmarked as terrorist property.

[(2) "**Cash**" has the same meaning as in the Cash Controls (Bailiwick of Guernsey) Law, 2007.]

PART 2

SEIZURE AND DETENTION

Seizure of cash

2. (1) An authorised officer may seize any cash if he has reasonable grounds for suspecting that it is terrorist cash.
 - (2) An authorised officer may also seize cash part of which he has reasonable grounds for suspecting to be terrorist cash if it is not reasonably practicable to seize only that part.

Detention of seized cash

3. (1) While the authorised officer continues to have reasonable grounds for his suspicion, cash seized under this Schedule may be detained initially for a period of 48 hours.

(2) The period for which the cash or any part of it may be detained may be extended by an order made by the Bailiff but the order may not authorise the detention of any of the cash –

- (a) beyond the end of the period of three months beginning with the date of the order, and
- (b) in the case of any further order under this paragraph, beyond the end of the period of two years beginning with the date of the first order.

(3) An order under subparagraph (2) must provide for notice to be given to persons affected by it.

(4) An application for an order under subparagraph (2) may be made by or on behalf of Her Majesty's Procureur and the Bailiff may make the order if satisfied, in relation to any cash to be further detained, that one of the following conditions is met.

(5) The first condition is that there are reasonable grounds for suspecting that the cash is intended to be used for the purposes of terrorism and that either –

- (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the Bailiwick or elsewhere) proceedings against any person for an offence with which the cash is

connected, or

- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

(6) The second condition is that there are reasonable grounds for suspecting that the cash consists of resources of an organisation which is a proscribed organisation and that either –

- (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the Bailiwick or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have not been concluded.

(7) The third condition is that there are reasonable grounds for suspecting that the cash is property earmarked as terrorist property and that either –

- (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the Bailiwick or elsewhere) proceedings against any person for an offence with which the cash is connected, or
- (b) proceedings against any person for an offence with which the cash is connected have been started and have

not been concluded.

Payment of detained cash into an account

4. (1) If cash is detained under this Schedule for more than 48 hours, it is to be held in an interest bearing account and the interest accruing on it is to be added to it on its forfeiture or release.

(2) In the case of cash seized under paragraph 2(2), the authorised officer must, on paying it into the account, release so much of the cash then held in the account as is not attributable to terrorist cash.

(3) Subparagraph (1) does not apply if the cash is required as evidence of an offence or evidence in proceedings under this Schedule.

Release of detained cash

5. (1) This paragraph applies while any cash is detained under this Schedule.

(2) The Bailiff may direct the release of the whole or any part of the cash if satisfied, on an application by the person from whom it was seized, that the conditions in paragraph 3 for the detention of cash are no longer met in relation to the cash to be released.

(3) An authorised officer with the consent of Her Majesty's Procureur may, after notifying the Bailiff under whose order cash is being detained, release the whole or any part of it if satisfied that the detention of the cash to be released is no longer justified.

(4) But cash is not to be released –

- (a) if an application for its forfeiture under paragraph 6, or for its release under paragraph 9, is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded,
- (b) if (in the Bailiwick or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until the proceedings are concluded.

PART 3
FORFEITURE

Forfeiture

6. (1) While cash is detained under this Schedule, an application for the forfeiture of the whole or any part of it may be made by or on behalf of Her Majesty's Procureur.

(2) [The Court] may order the forfeiture of the cash or any part of it if satisfied that the cash or part is terrorist cash.

(3) In the case of property earmarked as terrorist property which belongs to joint tenants one of whom is an excepted joint owner, the order may not apply to so much of it as [the Court] thinks is attributable to the excepted joint owner's share.

(4) An excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him) be earmarked, and references to his share of the earmarked property are to so much of the property as would have been his if the joint tenancy had been severed.

[(4A) Subject to subparagraphs (4B) to (7), in this paragraph "**the Court**" means the Royal Court sitting as an Ordinary Court.

(4B) The Magistrate's Court may make an order under this paragraph in any case where the property to which the order applies does not exceed £25,000 in value, and consequently, as this paragraph applies to such cases, "**the Court**" means the Royal Court sitting as an Ordinary Court or the Magistrate's Court.]

(5) For the purposes of performing its functions under this paragraph –

- (a) the Royal Court shall be properly constituted if it consists of the Bailiff sitting unaccompanied by the Jurats, and

- (b) the Royal Court may, where it consists of the Bailiff so sitting, sit in chambers.

(6) A function performed under subparagraph (5) shall be considered for all purposes to have been performed by the Royal Court; and any order or finding made or other thing done pursuant to subparagraph (5) shall have effect as if made or done by the Royal Court.

(7) The provisions of this paragraph are without prejudice to any provision of this Law conferring functions upon the Bailiff or, as the case may be, permitting matters to be heard in chambers.

Appeal against forfeiture

7. (1) Any party to proceedings in which an order is made under paragraph 6 ("**a forfeiture order**") who is aggrieved by the order may appeal to the Court of Appeal.

- (2) An appeal under subparagraph (1) must be made –
 - (a) within the period of 30 days beginning with the date on which the order is made, or
 - (b) if subparagraph (5) applies, before the end of the period of 30 days beginning with the date on which the regulations under section 3(3)(b) of this Law referred to in that subparagraph come into force.
- (3) The appeal is to be on a point of law.

(4) If the Court of Appeal upholds an appeal, it may order the release of the cash.

(5) Where a successful application for a forfeiture order under paragraph 6 relies (wholly or in part) on the fact that an organisation is proscribed, this subparagraph applies if –

- (a) a deproscription appeal under Part II of the Act of 2000 is allowed in respect of the organisation,
- (b) regulations are made under section 3(3)(b) of this Law in respect of the organisation, and
- (c) the forfeited cash was seized under this Schedule on or after the date of the refusal to deproscribe against which the appeal under Part II of the Act of 2000 was brought.

Application of forfeited cash

8. (1) Cash forfeited under this Schedule and any accrued interest on it shall be paid to the States of Guernsey.

(2) But it is not to be paid in –

- (a) before the end of the period within which an appeal under paragraph 7 may be made, or
- (b) if a person appeals under that paragraph, before the

appeal is determined or otherwise disposed of.

PART 4
MISCELLANEOUS

Victims

9. (1) A person who claims that any cash detained under this Schedule, or any part of it, belongs to him may apply to the Bailiff for the cash or part to be released to him under this paragraph.

(2) The application may be made in the course of proceedings under paragraph 3 or 6 or at any other time.

(3) If it appears to the Bailiff that –

- (a) the applicant was deprived of the cash claimed, or of property which it represents, by criminal conduct,
- (b) the property he was deprived of was not, immediately before he was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and
- (c) the cash claimed belongs to him,

the Bailiff may order the cash to be released to the applicant (instead of making a forfeiture order under paragraph 6, where the application is made in the course of proceedings under paragraph 6).

Compensation

10. (1) If no forfeiture order under paragraph 6 is made in respect of any cash detained under this Schedule, the person to whom the cash belongs or from whom it was seized may make an application to the Royal Court sitting as an Ordinary Court for compensation.

(2) If, for any period after the initial detention of the cash for 48 hours, the cash was not held in an interest bearing account while detained, the Royal Court sitting as an Ordinary Court may order an amount of compensation to be paid to the applicant.

(3) The amount of compensation to be paid under subparagraph (2) is the amount the Royal Court sitting as an Ordinary Court thinks would have been earned in interest in the period in question if the cash had been held in an interest bearing account.

(4) If the Royal Court sitting as an Ordinary Court is satisfied that, taking account of any interest to be paid under this Schedule or any amount to be paid under subparagraph (2), the applicant has suffered loss as a result of the detention of the cash and that the circumstances are exceptional, the Royal Court sitting as an Ordinary Court may order compensation (or additional compensation) to be paid to him.

(5) The amount of compensation to be paid under subparagraph (4) is the amount the Royal Court sitting as an Ordinary Court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(6) Any compensation awarded is to be paid by the States of

Guernsey.

(7) If a forfeiture order under paragraph 6 is made in respect only of a part of any cash detained under this Schedule, this paragraph has effect in relation to the other part.

(8) This paragraph does not apply if the Royal Court sitting as an Ordinary Court makes an order under paragraph 9.

PART 5

PROPERTY EARMARKED AS TERRORIST PROPERTY

Property obtained through terrorism

11. (1) A person obtains property through terrorism if he obtains property by or in return for acts of terrorism, or acts carried out for the purposes of terrorism.

(2) In deciding whether any property was obtained through terrorism –

- (a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the acts,
- (b) it is not necessary to show that the act was of a particular kind if it is shown that the property was obtained through acts of one of a number of kinds, each of which would have been an act of terrorism, or an act carried out for the purposes of terrorism.

Property earmarked as terrorist property

12. (1) Property obtained through terrorism is earmarked as terrorist property.

(2) But if property obtained through terrorism has been disposed of (since it was so obtained), it is earmarked as terrorist property only if it is held by a person into whose hands it may be followed.

(3) Property may be followed into the hands of a person obtaining it on a disposal by –

(a) the person who obtained the property through terrorism,
or

(b) a person into whose hands it may (by virtue of this subparagraph) be followed.

Tracing property

13. (1) Where property obtained through terrorism ("**the original property**") is or has been earmarked as terrorist property, property which represents the original property is also earmarked.

(2) If a person enters into a transaction by which –

(a) he disposes of the earmarked property, whether the original property or property which (by virtue of this Part) represents the original property, and

- (b) he obtains other property in place of it,

the other property represents the original property.

(3) If a person disposes of property which represents the original property, the property may be followed into the hands of the person who obtains it (and it continues to represent the original property).

Mixing property

14. (1) Subparagraph (2) applies if a person's property which is earmarked as terrorist property is mixed with other property (whether his property or another's).

(2) The portion of the mixed property which is attributable to the property earmarked as terrorist property represents the property obtained through terrorism.

(3) Property earmarked as terrorist property is mixed with other property if (for example) it is used –

- (a) to increase funds held in a bank account,
- (b) in part payment for the acquisition of an asset,
- (c) for the restoration or improvement of land,
- (d) by a person holding a leasehold interest in the property to acquire the freehold.

Consolidated text

Accruing profits

15. (1) This paragraph applies where a person who has property earmarked as terrorist property obtains further property consisting of profits accruing in respect of the earmarked property.

(2) The further property is to be treated as representing the property obtained through terrorism.

General exceptions

16. (1) If –

- (a) a person disposes of property earmarked as terrorist property, and
- (b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was earmarked,

the property may not be followed into that person's hands and, accordingly, it ceases to be earmarked.

(2) If –

- (a) in pursuance of a judgment in civil proceedings (whether in the Bailiwick or elsewhere), the defendant makes a payment to the plaintiff or the plaintiff otherwise obtains property from the defendant,

- (b) the plaintiff's claim is based on the defendant's criminal conduct, and
- (c) apart from this subparagraph, the sum received, or the property obtained, by the plaintiff would be earmarked as terrorist property,

the property ceases to be earmarked.

(3) If –

- (a) a payment is made to a person in pursuance of a compensation order under section 1 of the Criminal Justice (Compensation) (Bailiwick of Guernsey) Law, 1990^s,
- (b) apart from this subparagraph, the sum received would be earmarked as terrorist property,

the property ceases to be earmarked.

(4) If –

- (a) a payment is made under section 33 of the Theft (Bailiwick of Guernsey) Law, 1983^t or a person otherwise obtains any property in pursuance of such an

^s Ordres en Conseil Vol. XXXII, p. 77.

^t Ordres en Conseil Vol. XXVIII, p. 5.

order, and

- (b) apart from this subparagraph, the sum received, or the property obtained, would be earmarked as terrorist property,

the property ceases to be earmarked.

(5) Where –

- (a) a person enters into a transaction to which paragraph 13(2) applies, and
- (b) the disposal is one to which subparagraph (1) applies,

this paragraph does not affect the question whether (by virtue of paragraph 13(2)) any property obtained on the transaction in place of the property disposed of is earmarked.

PART 6 INTERPRETATION

Property

- 17.** (1) Property is all property wherever situated and includes –
- (a) money,
 - (b) all forms of property, real or personal, hereditary or moveable,

(c) things in action and other intangible or incorporeal property.

(2) Any reference to a person's property (whether expressed as a reference to the property he holds or otherwise) is to be read as follows.

(3) In relation to land, it is a reference to any interest which he holds in the land.

(4) In relation to property other than land, it is a reference –

(a) to the property (if it belongs to him), or

(b) to any other interest which he holds in the property.

Obtaining and disposing of property

18. (1) Reference to a person disposing of his property include a reference –

(a) to his disposing of a part of it, or

(b) to his granting an interest in it,

(or to both); and references to the property disposed of are to any property obtained on the disposal.

(2) If a person grants an interest in property of his which is earmarked as terrorist property, the question whether the interest is also earmarked

is to be determined in the same manner as it is on any other disposal of earmarked property.

(3) A person who makes a payment to another is to be treated as making a disposal of his property to the other, whatever form the payment takes.

(4) Where a person's property passes to another under a will or intestacy or by operation of law, it is to be treated as disposed of by him to the other.

(5) A person is only to be treated as having obtained his property for value in a case where he gave unexecuted consideration if the consideration has become executed consideration.

General interpretation

19. (1) In this Schedule –

"authorised officer" means a police officer or an immigration officer,

"cash" has the meaning given by paragraph 1,

"criminal conduct" means conduct which constitutes an offence in any part of the Bailiwick, or would constitute an offence in any part of the Bailiwick if it occurred there,

"forfeiture order" has the meaning given by paragraph 6,

"interest" in relation to land means any legal estate and any other interest or power in or over land,

"interest", in relation to property other than land, includes any right (including a right to possession of the property),

"part" in relation to property includes a portion,

"property obtained through terrorism" has the meaning given by paragraph 11,

"property earmarked as terrorist property" is to be read in accordance with Part 5 of this Schedule,

"terrorist cash" has the meaning given by paragraph 1,

"value" means market value.

(2) Paragraphs 16 and 17 and the following provisions apply for the purposes of this Schedule.

(3) For the purpose of deciding whether or not property was earmarked as terrorist property at any time (including times before the commencement of this Law), it is to be assumed that this Schedule was in force at that and any other relevant time.

(4) References to anything done or intended to be done for the purposes of terrorism include anything done or intended to be done for the benefit of a proscribed organisation.

(5) An organisation's resources include any cash which is applied or made available, or is to be applied or made available, for use by the

organisation.

(6) Proceedings against any person for an offence are concluded when –

- (a) the person is convicted or acquitted, or
- (b) the prosecution is discontinued.

NOTES

In Schedule 3,

paragraph 1(2) was substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(11), with effect from 14th December, 2018;

first, the words "T/the Court" in square brackets, wherever occurring, were substituted and, second, paragraph 6(4A) and paragraph 6(4B) were inserted by the Criminal Justice (Miscellaneous Amendments) (Bailiwick of Guernsey) Ordinance, 2022, respectively section 4(5) and section 4(6), with effect from 21st December, 2022.

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 reference herein to the Bailiff included a reference to the Deputy Bailiff.

SCHEDULE 4
FREEZING ORDERS

Section 22

Interpretation

1. References in this Schedule to a person specified in a freezing order as a person to whom or for whose benefit funds are not to be made available are to be read in accordance with section 21(4).

Funds

2. A freezing order may include provision that funds include gold, cash, deposits, securities (such as stocks, shares and debentures) and such other matters as the order may specify.

Making funds available

3. (1) A freezing order must include provision as to the meaning (in relation to funds) of making available to or for the benefit of a person.

(2) In particular, an order may provide that the expression includes

—

- (a) allowing a person to withdraw from an account,
- (b) honouring a cheque payable to a person,
- (c) crediting a person's account with interest,
- (d) releasing documents of title (such as share certificates)

held on a person's behalf,

- (e) making available the proceeds of realisation of a person's property,
- (f) making a payment to or for a person's benefit (for instance, under a contract or as a gift or under any enactment such as the enactments relating to social security),
- (g) such other acts as the order may specify.

Licences

- 4. (1) A freezing order must include –
 - (a) provision for the granting of licences authorising funds to be made available,
 - (b) provision that a prohibition under the order is not to apply if funds are made available in accordance with a licence.
- (2) In particular, an order may provide –
 - (a) that a licence may be granted generally or to a specified person or persons or description of persons,
 - (b) that a licence may authorise funds to be made available to or for the benefit of persons generally or a

specified person or persons or description of persons,

- (c) that a licence may authorise funds to be made available generally or for specified purposes,
- (d) that a licence may be granted in relation to funds generally or to funds of a specified description,
- (e) for a licence to be granted in pursuance of an application or without an application being made,
- (f) for the form and manner in which application for licences are to be made,
- (g) for licences to be granted by the Committee or a person authorised by the Committee,
- (h) for the form in which licences are to be granted,
- (i) for licences to be granted subject to conditions,
- (j) for licences to be of a defined or indefinite duration,
- (k) for the charging of a fee to cover the administrative costs of granting a licence,
- (l) for the variation and revocation of licences.

Information and documents

5. (1) A freezing order may include provision that a person –
- (a) must provide information if required to do so and it is reasonably needed for the purpose of ascertaining whether an offence under the order has been committed,
 - (b) must produce a document if required to do so and it is reasonably needed for that purpose.
- (2) In particular, an order may include –
- (a) provision that a requirement to provide information or to produce a document may be made by the Committee or a person authorised by the Committee,
 - (b) provision that information must be provided, and a document must be produced, within a reasonable period specified in the order and at a place specified by the person requiring it,
 - (c) provision that the provision of information is not to be taken to breach any restriction on the disclosure of information (however imposed),
 - (d) provision restricting the use to which information or a document may be put and the circumstances in which

it may be disclosed,

- (e) provision that a requirement to provide information or produce a document does not apply to privileged information or a privileged document,
- (f) provision that information is privileged if the person would be entitled to refuse to provide it on grounds of legal professional privilege in proceedings in the Royal Court,
- (g) provision that a document is privileged if the person would be entitled to refuse to produce it on grounds of legal professional privilege in proceedings in the Royal Court,
- (h) provision that information or a document held with the intention of furthering a criminal purpose is not privileged.

Disclosure of information

6. (1) A freezing order may include provision requiring a person to disclose information as mentioned below if the following three conditions are satisfied.

(2) The first condition is that the person required to disclose is specified or falls within a description specified in the order.

(3) The second condition is that the person required to disclose

knows or suspects, or has grounds for knowing or suspecting, that a person specified in the freezing order as a person to whom or for whose benefit funds are not to be made available –

(a) is a customer of his or has been a customer of his at any time since the freezing order came into force, or

(b) is a person with whom he has dealings in the course of his business or has had such dealings at any time since the freezing order came into force.

(4) The third condition is that the information –

(a) on which the knowledge or suspicion of the person required to disclose is based, or

(b) which gives grounds for his knowledge or suspicion,

came to him in the course of business carried out by a financial services business.

(5) The freezing order may require the person required to disclose to make a disclosure to the Committee of that information as soon as is practicable after it comes to him.

(6) The freezing order may include –

(a) provision that the disclosure of information is not to be taken to breach any restriction on the disclosure of information (however imposed),

- (b) provision restricting the use to which information may be put and the circumstances in which it may be disclosed by the Committee,
- (c) provision that the requirement to disclose information does not apply to privileged information,
- (d) provision that information is privileged if the person would be entitled to refuse to disclose it on grounds of legal professional privilege in proceedings in the Royal Court,
- (e) provision that information held with the intention of furthering a criminal purpose is not privileged.

Offences

7. (1) A freezing order may include any of the provisions set out in this paragraph.

(2) A person commits an offence if he fails to comply with a prohibition imposed by the order.

(3) A person commits an offence if he engages in an activity knowing or intending that it will enable or facilitate the commission by another person of an offence under a provision included under subparagraph (2).

(4) A person commits an offence if –

- (a) he fails without reasonable excuse to provide information, or to produce a document, in response to a requirement made under the order,
- (b) he provides information, or produces a document, which he knows is false in a material particular in response to such a requirement or with a view to obtaining a licence under the order,
- (c) he recklessly provides information, or produces a document, which is false in a material particular in response to such a requirement or with a view to obtaining a licence under the order,
- (d) he fails without reasonable excuse to disclose information as required by a provision included under paragraph 6.

(5) A person does not commit an offence under a provision included under subparagraph (2) or (3) if he proves that he did not know and had no reason to suppose that the person to whom or for whose benefit funds were made available, or were to be made available, was the person (or one of the persons) specified in the freezing order as a person to whom or for whose benefit funds are not to be made available.

(6) A person guilty of an offence under a provision included under subparagraph (2) or (3) is liable –

- (a) on summary conviction, to imprisonment for a term

not exceeding 6 months or to a fine not exceeding level 5 on the uniform scale or to both,

- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both.

(7) A person guilty of an offence under a provision included under subparagraph (4) is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the uniform scale or to both.

Offences by bodies corporate etc.

8. (1) A freezing order may include any of the provisions set out in this paragraph.

(2) If an offence under the order –

- (a) is committed by a body corporate, and
- (b) is proved to have been committed with the consent or connivance of an officer, or to be attributable to any neglect on his part,

he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) These are officers of a body corporate –

- (a) a director, manager, secretary or other similar officer

of the body,

(b) any person purporting to act in any such capacity.

(4) If the affairs of a body corporate are managed by its members subparagraph (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were an officer of the body.

Compensation

9. (1) A freezing order may include provision for the award of compensation to or on behalf of a person on the grounds that he has suffered loss as a result of –

(a) the order,

(b) the fact that a licence has not been granted under the order,

(c) the fact that a licence under the order has been granted on particular terms rather than others,

(d) the fact that a licence under the order has been varied or revoked.

(2) In particular, the order may include –

(a) provision about the person who may make a claim for an award,

- (b) provision about the person to whom a claim for an award is to be made,
 - (c) provision about the procedure for making and deciding a claim,
 - (d) provision that no compensation is to be awarded unless the claimant has behaved reasonably (which may include provision requiring him to mitigate his loss, for instance, by applying for a licence),
 - (e) provision that compensation must be awarded in specified circumstances or may be awarded in specified circumstances (which may include provision that the circumstances involve negligence or other fault),
 - (f) provision about the amount that may be awarded,
 - (g) provision about how compensation is to be paid (which may include provision for payment to a person other than the claimant).
- (3) Any compensation payable shall be paid by the States of Guernsey.

Committee's duty to give reasons

- 10.** A freezing order must include provision that if –

- (a) a person is specified in the order as a person to whom or for whose benefit funds are not to be made available, and
- (b) he makes a written request to the Committee to give him the reason why he is so specified,

as soon as is practicable the Committee must give the person the reason in writing.

SCHEDULE 5

Section 36

TERRORIST INVESTIGATIONS

Terrorist Investigations Information

1. (1) A police officer may apply to the Bailiff or the appropriate judicial officer for the issue of a warrant under this paragraph for the purposes of a terrorist investigation.

(2) A warrant under this paragraph shall authorise any police officer –

- (a) to enter the premises specified in the warrant,
- (b) to search the premises and any person found there, and
- (c) to seize, and retain any relevant material which is found on a search under paragraph (b).

(3) For the purpose of subparagraph (2)(c) material is relevant if the police officer has reasonable grounds for believing that –

- (a) it is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and
- (b) it must be seized in order to prevent it from being concealed, lost, damaged, altered or destroyed.

(4) A warrant under this paragraph shall not authorise –

- (a) the seizure and retention of items subject to legal privilege, or
- (b) a police officer to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(5) Subject to paragraph 2, the Bailiff or the appropriate judicial officer may grant an application under this paragraph if satisfied –

- (a) that the warrant is sought for the purposes of a terrorist investigation,
- (b) that there are reasonable grounds for believing that there is material on premises specified in the application which is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation, and
- (c) that the issue of a warrant is likely to be necessary in the circumstances of the case.

[(6) A person who obstructs a police officer acting under the authority of a warrant issued under this paragraph (whether or not paragraph 2 also applies) is guilty of an offence and liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.]

2. (1) This paragraph applies where an application is made under paragraph 1 and –

- (a) the application is made by an officer of at least the rank

of chief inspector or a customs officer of at least the grade of surveyor,

- (b) the application does not relate to residential premises, and
- (c) the Bailiff or the appropriate judicial officer to whom the application is made is not satisfied of the matter referred to in paragraph 1(5)(c).

(2) The Bailiff or the appropriate judicial officer may grant the application if satisfied of the matters referred to in paragraph 1(5)(a) and (b).

(3) Where a warrant under paragraph 1 is issued by virtue of this paragraph, the powers under paragraph 1(2)(a) and (b) are exercisable only within the period of 24 hours beginning with the time when the warrant is issued.

(4) For the purpose of subparagraph (1) "**residential premises**" means any premises which the officer making the application has reasonable grounds for believing are used wholly or mainly as a dwelling.

3. (1) Subject to subparagraph (2), an officer of the Island police force of at least the rank of chief inspector or a customs officer of at least the grade of surveyor may by a written authority signed by him authorise a search of specified premises which are wholly or partly within a cordoned area.

(2) A police officer who is not of the rank required by subparagraph (1) may give an authorisation under this paragraph if he considers it necessary by reason of urgency.

(3) An authorisation under this paragraph shall authorise any

police officer –

- (a) to enter the premises specified in the authority,
- (b) to search the premises and any person found there, and
- (c) to seize and retain any relevant material (within the meaning of paragraph 1(3) which is found on a search under paragraph (b).

(4) The powers under subparagraph (3)(a) and (b) may be exercised –

- (a) on one or more occasions, and
- (b) at any time during the period when the designation of the cordoned area under section 32 has effect.

(5) An authorisation under this paragraph shall not authorise –

- (a) the seizure and retention of items subject to legal privilege,
- (b) a police officer to require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

(6) An authorisation under this paragraph shall not be given unless the person giving it has reasonable grounds for believing that there is material to be found on the premises which is likely to be of substantial value, whether by itself or together with other material, to a terrorist investigation.

(7) A person commits an offence if he wilfully obstructs a search under this paragraph.

(8) A person guilty of an offence under subparagraph (7) shall be liable on summary conviction to –

- (a) imprisonment for a term not exceeding three months,
- (b) a fine not exceeding level 4 on the standard scale, or
- (c) both.

Order for production of material

4. (1) A police officer may, for the purposes of a terrorist investigation, apply to the Bailiff or the appropriate judicial officer for an order under subparagraph (2) in relation to particular material or material of a particular description.

(2) If on such an application the Bailiff or the appropriate judicial officer is satisfied on information on oath that the conditions referred to in subparagraph (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 a police officer for him to take away, or
- (b) give a police officer 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 subparagraph (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 subparagraph (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 police officer 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 subparagraph (2) shall be 7 days from the date of the order or, in the case of an order made by virtue of subparagraph (4), from the notification to the officer of police, unless it appears in either case to the Bailiff or the appropriate judicial officer that a longer or shorter period would be appropriate in all the circumstances.

(6) Where the Bailiff or the appropriate judicial officer makes an order under subparagraph (2)(b) in relation to material on any premises, he may, on the application of a police officer, order any person who appears to him to be entitled to grant entry to the premises to allow a police officer to enter the premises to obtain access to the material.

5. (1) Provision may be made by rules of court (made by the Royal Court, the Court of Alderney or, as the case may be, the Court of the Seneschal) as to

–

(a) the discharge and variation of orders made under paragraph 4,

(b) proceedings relating to such orders.

(2) Pending the making of such rules –

(a) an order under paragraph 4 may be discharged or varied by the Bailiff or 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 Bailiff or 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 Her Majesty's Procureur.

(3) Where the material to which an application under paragraph 4 relates consists of information contained in a computer –

- (a) an order under paragraph 4(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 4(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 4 –

- (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 (which obligation or restriction is not breached by compliance with the order).

(5) An order may be made under paragraph 4 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.

[(6) A person commits an offence if they fail to comply with a requirement imposed upon them by or under an order made under paragraph 4(2) or (6).

(7) It is a defence for a person charged with an offence under subparagraph (6) to prove, on the balance of probabilities, that they had a reasonable excuse for the failure to comply with the requirement.

(8) A person guilty of an offence under subparagraph (6) is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(9) A person commits an offence if, in purported compliance with an order made under paragraph 4(2), they –

- (a) make a statement, or provide any information or document, which they know to be false or misleading in a material particular, or
- (b) recklessly make a statement, or recklessly provide any information or document, which is false or misleading in a material particular.

(10) A person commits an offence if they obstruct any person acting under the authority of an order granted under paragraph 4(2) or 4(6).

(11) A person guilty of an offence under subparagraph (9) or (10) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.]

Explanation of seized or produced material

6. (1) The Bailiff or the appropriate judicial officer may, on an application made by a police officer, order any person specified in the order to provide an explanation of any material seized in pursuance of a warrant under paragraph 1 or produced or made available to a police officer under paragraph 4.

(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, 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 –

(a) may be used in evidence against him in proceedings other than criminal proceedings, and

(b) may not be used in evidence against him in criminal proceedings except –

(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or

(ii) in proceedings for –

- (A) an offence under subparagraph (4),
- (B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,
- (C) perjury, or
- (D) perverting the course of justice.]

[(3A) A person commits an offence if they fail to comply with a requirement imposed upon them by or under an order made under subparagraph (1).

(3B) It is a defence for a person charged with an offence under subparagraph (3A) to prove, on the balance of probabilities, that they had a reasonable excuse for the failure to comply with the requirement.

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

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

Urgent cases

7. (1) If a police officer of the Island police force of at least the rank of superintendent 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 police officer the authority which may be given by a search warrant under paragraph 1.

(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.

[(3A) A person who obstructs a police officer acting under the

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authority of an order given under subparagraph (1) is guilty of an offence and liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.]

(4) If a police officer of at least the rank of superintendent has reasonable grounds for believing that the case is such as is mentioned in subparagraph (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 subparagraph (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) Paragraphs 5(4)(b) and 6(2), (3) and (4) apply to a requirement imposed under subparagraph (4) as they apply to a requirement under paragraph 5.

Supplementary

8. (1) A police officer 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.

9. No application may be made under paragraph 1(1), 2(1), 4(1), 4(6) or 6(1) by a police officer without the consent of Her Majesty's Procureur.

NOTES

In Schedule 5,

first, paragraph 1(6), second, paragraphs 5(6), 5(7), 5(8), 5(9), 5(1) and 5(11), third, paragraphs 6(3A), 6(3B) and 6(3C) and, fourth, paragraph 7(3A) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024, respectively section 1(3), section 1(4), section 1(5) and section 1(6), with effect from 22nd March, 2024;

paragraph 6(3) was substituted by the Statements Obtained Under Compulsion (Restriction of Use) (Bailiwick of Guernsey) Law, 2009, section 1, Schedule, with effect from 5th August, 2010.

In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(e), with effect from that same date, the functions of the Greffier include the functions assigned by law to the Clerk of the Court.

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.

SCHEDULE 6
FINANCIAL INFORMATION

Section 37

Orders

1. (1) Where an order has been made under this paragraph in relation to a terrorist investigation, a police officer may require a financial services business to which the order applies to provide customer information for the purposes of the investigation.

(2) The order may provide that it applies to –

- (a) all financial services businesses,
- (b) a particular description or particular descriptions of financial services businesses, or
- (c) a particular financial services business or particular financial services businesses.

(3) The information shall be provided –

- (a) in such manner and within such time as the police officer may specify, and
- (b) notwithstanding any restriction on the disclosure of information imposed by statute or otherwise (which restriction is not breached by compliance with the requirement).

(4) A financial services business which fails to comply with a

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requirement under this paragraph shall be guilty of an offence.

(5) It is a defence for a financial services business charged with an offence under subparagraph (4) to prove –

- (a) that the information required was not in the financial services business's possession, or
- (b) that it was not reasonably practicable for the business to comply with the requirement.

(6) A financial services business guilty of an offence under subparagraph (4) shall be liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

[(7) A financial services business commits an offence if, in purported compliance with an order made under this paragraph, it –

- (a) makes a statement, or provides any information or document, which it knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement, or recklessly provides any information or document, which is false or misleading in a material particular.

(8) A person guilty of an offence under subparagraph (7) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.]

Procedure

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2. An order under paragraph 1 may be made on the application of a police officer.

3. An order under paragraph 1 may be made only by the Bailiff or the appropriate judicial officer.

4. An application for an order under paragraph 1 may only be made with the consent of Her Majesty's Procureur.

5. Rules of court (made by the Royal Court, the Court of Alderney or, as the case may be, the Court of the Seneschal) may make provision about the procedure for an application under paragraph 1.

Criteria for making order

6. An order under paragraph 1 may be made only if the person making it is satisfied that –

- (a) the order is sought for the purposes of a terrorist investigation,
- (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
- (c) the order will enhance the effectiveness of the investigation.

Customer information

7. (1) In this Schedule "**customer information**" means (subject to

subparagraph (3)) –

- (a) information as to whether a business relationship exists or existed between a financial services business and a particular person ("**a customer**"),
- (b) a customer's account number,
- (c) a customer's full name,
- (d) a customer's date of birth,
- (e) a customer's address or former address,
- (f) the date on which a business relationship between a financial services business and a customer begins or ends,
- (g) any evidence of a customer's identity obtained by a financial services business in pursuance of or for the purposes of any legislation relating to money laundering, and
- (h) the identity of a person sharing an account with a customer.

(2) For the purposes of this Schedule there is a business relationship between a financial services business and a person if (and only if) –

- (a) there is an arrangement between them designed to facilitate the carrying out of frequent or regular

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transactions between them, and

- (b) the total amount of payments to be made in the course of the arrangement is neither known nor capable of being ascertained when the arrangement is made.

(3) The Committee may by regulation provide for a class of information –

- (a) to be customer information for the purposes of this Schedule, or
- (b) to cease to be customer information for the purposes of this Schedule.

Offence by body corporate, etc.

8. ...

Self-incrimination

9. (1) Customer information provided by a financial services business under this Schedule shall not be admissible in evidence in criminal proceedings against the business or any of its officers or employees.

(2) Subparagraph (1) shall not apply in relation to proceedings for an offence under paragraph 1(4) (including proceedings brought by virtue of paragraph 8).

NOTES

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In Schedule 6, first, paragraphs 1(7) and 1(8) were inserted and, second, paragraph 8 was repealed by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024, respectively section 1(7) section 1(8), with effect from 22nd March, 2024.

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 reference herein to the Bailiff included a reference to the Deputy Bailiff.

SCHEDULE 7

Section 39

ACCOUNT MONITORING ORDERS

Account monitoring orders

1. (1) The Bailiff or the appropriate judicial officer may, on an application made to him by a police officer, make an account monitoring order if he is satisfied that –

- (a) the order is sought for the purposes of a terrorist investigation,
- (b) the tracing of terrorist property is desirable for the purposes of the investigation, and
- (c) the order will enhance the effectiveness of the investigation.

(2) The application for an account monitoring order must state that the order is sought against the financial services business specified in the application in relation to information which –

- (a) relates to an account or accounts held at the financial services business by the person specified in the application (whether solely or jointly with another), and
- (b) is of the description so specified.

(3) The application for an account monitoring order may specify

information relating to –

- (a) all accounts held by the person specified in the application for the order at the financial services business so specified,
- (b) a particular description, or particular descriptions, of accounts so held, or
- (c) a particular account, or particular accounts, so held.

(4) An account monitoring order is an order that the financial services business specified in the application for the order must –

- (a) for the period specified in the order,
- (b) in the manner so specified,
- (c) at or by the time or times so specified, and
- (d) at the place or places so specified,

provide information of the description specified in the application to a police officer.

(5) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

Applications

2. (1) An application for an account monitoring order may be made ex parte to the Bailiff or the appropriate judicial officer in chambers.

(2) The description of information specified in an application for an account monitoring order may be varied by the person who made the application.

(3) The description of information specified in it may be varied by a different police officer.

(4) An application for an account monitoring order may only be made with the consent of Her Majesty's Procureur.

Discharge or variation

3. (1) An application to discharge or vary an account monitoring order may be made to the Bailiff by –

(a) a police officer with the consent of Her Majesty's Procureur,

(b) any person affected by the order.

(2) The Bailiff –

(a) may discharge the order,

(b) may vary the order.

4. Rules of Court (made by the Royal Court, the Court of Alderney or, as the case may be, by the Court of the Seneschal) may make provision as to the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.

Effect of orders

5. (1) An account monitoring order has effect as if it were an order of the Royal Court.

(2) An account monitoring order has effect in spite of any restriction on the disclosure of information, however imposed (which restriction is not breached by compliance with the order).

[(3) A financial services business commits an offence if it fails to comply with a requirement imposed on it by or under an account monitoring order.

(4) It is a defence for a person charged with an offence under subparagraph (3) to prove, on the balance of probabilities, that they had a reasonable excuse for the failure to comply with the requirement.

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

(6) A financial services business commits an offence if, in purported compliance with an account monitoring order, it –

- (a) makes a statement, or provides any information or document, which it knows to be false or misleading in a material particular, or

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- (b) recklessly makes a statement, or recklessly provides any information or document, which is false or misleading in a material particular.

(7) A person guilty of an offence under subparagraph (6) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.]

Statements

6. (1) A statement made by a financial services business in response to an account monitoring order may not be used in evidence against it in criminal proceedings.

(2) But subparagraph (1) does not apply –

- (a) in the case of proceedings for contempt of court,
- (b) in the case of proceedings under section 18 where the financial services business has been convicted of an offence under any of sections [8 to 11A],
- (c) on a prosecution for an offence where, in giving evidence, the financial services business makes a statement inconsistent with the statement mentioned in subparagraph (1).

(3) A statement may not be used by virtue of subparagraph (2)(c) against a financial services business unless –

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked,

by or on behalf of the financial services business in the proceedings arising out of the prosecution.

NOTES

In Schedule 7,

paragraphs 5(2), 5(3), 5(4), 5(5), 5(6) and 5(7) were inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024, section 1(9), with effect from 22nd March, 2024;

the figures, word and letter in square brackets in paragraph 6(2)(b) were substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(2), with effect from 14th December, 2018.

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.

OFFENCES UNDER SCHEDULE 5, 6 OR 7 COMMITTED BY BODIES
CORPORATE OR UNINCORPORATE

1. (1) Where an offence under Schedule 5, 6 or 7 (in this paragraph "**a relevant offence**") is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subparagraph (1) applies to a member in connection with that person's functions of management as if that person were a director.

(3) Where a relevant offence is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where a relevant offence is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of the body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of any such offence shall be paid from the funds of the body.]

NOTE

Schedule 7A was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2024, section 1(10), with effect from 22nd March, 2024.

SCHEDULE 8
PORT AND BORDER CONTROLS

Section 54

Interpretation

1. (1) In this Schedule "**examining officer**" means any of the following –

- (a) a police officer, [...]
- (b) an immigration officer[, or]
- [(c) a customs officer.]

(2) In this Schedule "**port**" includes an airport.

[(3) In this Schedule –

"**the Commissioner**" means the Commissioner appointed under the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003,

"**involvement in terrorism-related activity**" means any one or more of the following –

- (a) the commission, preparation or instigation of acts of terrorism,
- (b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so,

- (c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so,
- (d) conduct that gives support or assistance to individuals who are known or believed by the person concerned to be involved in conduct falling within paragraph (a),

and it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general,

"passport" means –

- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
- (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or
- (c) a document that can be used (in some or all circumstances) instead of a passport, and

"travel document" means anything that is or appears to be –

- (a) a passport, or
- (b) a ticket or other document that permits a person to make a journey by any means from a place within the Bailiwick to a place outside the Bailiwick.]

Power to stop, question and detain

2. (1) An examining officer may question a person to whom this paragraph applies for the purpose of determining whether he appears to be[–

- (a) a person falling within section 41(1)(b), or
- (b) a person who is, or has been, engaged in hostile activity].

(2) This paragraph applies to a person if –

- (a) he is at a port or in a ship within the Bailiwick's territorial waters, and
- (b) the examining officer believes that the person's presence at the port or in the ship is connected with his entering or leaving the Bailiwick or his travelling by air or sea within the Bailiwick.

(3) This paragraph also applies to a person on –

- (a) a ship which has arrived in the Bailiwick, or
- (b) an aircraft which has arrived in any place in the Bailiwick (whether from within or outside the Bailiwick).

(4) An examining officer may exercise his powers under this paragraph whether or not he has grounds for suspecting that a person falls within section 41(1)(b) [or that a person is or has been engaged in hostile activity].

[(5) A person is or has been engaged in hostile activity for the purposes of this Schedule if the person is or has been concerned in the commission, preparation or instigation of a hostile act that is or may be –

- (a) carried out for, or on behalf of, a State other than the United Kingdom, or
- (b) otherwise in the interests of a State other than the United Kingdom.]

[(6) An act is a hostile act if it –

- (a) threatens national security,
- (b) threatens the economic well-being of any part of the British Islands in a way relevant to the interests of national security, or

(c) is an act of serious crime.]

[(7) For the purposes of this paragraph –

(a) it is immaterial –

(i) whether a person is aware that activity in which he or she is or has been engaged is hostile activity, or

(ii) whether a State for or on behalf of which, or in the interests of which, a hostile act is carried out has instigated, sanctioned, or is otherwise aware of, the carrying out of the act,

(b) "**State**" includes the government of a State and any organ of its government,

(c) references to a State other than the United Kingdom include references to any territory outside the British Islands,

(d) the reference to serious crime is to crime where –

(i) the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 3 years or more, or

- (ii) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.]

3. A person who is questioned under paragraph 2 must –

- (a) give the examining officer any information in his possession which the officer requests,
- (b) give the examining officer on request either a valid passport which includes a photograph or another document which establishes his identity,
- (c) declare whether he has with him documents of a kind specified by the examining officer,
- (d) give the examining officer on request any document which he has with him and which is of a kind specified by the officer.

4. (1) For the purposes of exercising a power under paragraph 2 an

examining officer may –

- (a) stop a person or vehicle,
- (b) detain a person.

(2) For the purpose of detaining a person under this paragraph, an examining officer may authorise the person's removal from a ship, aircraft or vehicle.

[(3) Where a person is detained under this paragraph the provisions of Part I of Schedule 9 (treatment) and Part II of Schedule 9 (review of detention under section 42) shall apply.

(4) A person may not be questioned under paragraph 2 for more than one hour unless the person is detained under this paragraph, and a person so detained must be released not later than the end of six hours after first being questioned (unless detained under another power).

(5) If a person detained under this paragraph is removed to hospital because the person needs medical treatment –

- (a) any time during which the person is being questioned under paragraph 2 in hospital or on the way there or back is to be included in calculating the six hours mentioned in subparagraph (4), but
- (b) any other time when the person is in hospital or on the way there or back is not to be included.]

[**4A.** (1) An answer or information given orally by a person in response to a question asked under paragraph 2 may not be used in evidence in criminal

proceedings.

- (2) Subparagraph (1) does not apply –
 - (a) in the case of proceedings under paragraph 15 of this Schedule,
 - (b) on a prosecution for perjury, or
 - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the answer or information mentioned in subparagraph (1).

(3) A statement may not be used by virtue of sub-paragraph (2)(c) unless –

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked, by or on behalf of the person in the proceedings arising out of the prosecution.]

Searches

5. For the purpose of satisfying himself whether there are any persons whom he may wish to question under paragraph 2 an examining officer may –

- (a) search a ship or aircraft,
- (b) search anything on a ship or aircraft,

(c) search anything which he reasonably believes has been, or is about to be, on a ship or aircraft.

6. (1) An examining officer who questions a person under paragraph

2 may, for the purpose of determining whether he falls within section 41(1)(b) [or has been engaged in hostile activity] –

- (a) search the person,
- (b) search anything which he has with him, or which belongs to him, and which is on a ship or aircraft,
- (c) search anything which he has with him, or which belongs to him, and which the examining officer reasonably believes has been, or is about to be, on a ship or aircraft,
- (d) search a ship or aircraft for anything falling within paragraph (b)[,]
- [(e) search a vehicle which is on a ship or aircraft,
- (f) search a vehicle which the officer reasonably believes has been, or is about to be, on a ship or aircraft.]

[(2) A search of a person under this paragraph –

- (a) must be carried out by somebody of the same sex,
- (b) does not extend to the carrying out of an intimate search.

(3) A strip search of a person may not be carried out under this paragraph unless –

- (a) the person is detained under paragraph 4,
- (b) the examining officer has reasonable grounds to suspect that the person is concealing something which may be evidence that the person is or has been engaged in acts of terrorism or hostile activity, and
- (c) the search is authorised by an officer of higher rank or grade than the examining officer and who has not been directly involved in the questioning of the person.

(4) In this paragraph –

"intimate search" means a search which consists of a physical examination of a person's body orifices other than the mouth,

"strip search" means a search which is not an intimate search but involves the removal of an article of clothing which –

- (a) is being worn wholly or partly on the trunk, and
- (b) is being so worn either next to the skin or next to an article of underwear.]

7. (1) An examining officer may examine goods to which this paragraph applies for the purpose of determining whether they have been used in the commission, preparation or instigation of acts of terrorism [or in connection with a person's engagement in hostile activity].

(2) This paragraph applies to –

- (a) goods which have arrived in or are about to leave the Bailiwick on a ship [or vehicle], and
- (b) goods which have arrived at or are about to leave any place in the Bailiwick on an aircraft (whether the place they have come from or are going to is within or

outside the Bailiwick).

(3) In this paragraph "**goods**" includes –

- (a) property of any description, and
- (b) containers.

(4) An examining officer may board a ship or aircraft or enter a vehicle for the purpose of determining whether to exercise his power under this paragraph.

8. (1) An examining officer may authorise a person to carry out on his behalf a search or examination under any of paragraphs 5 to 7.

(2) A person authorised under this paragraph shall be treated as an examining officer for the purposes of paragraphs 7(4) and 9 of this Schedule.

[Seizure and retention of passports and other travel documents

8A. (1) If an examining officer has reasonable grounds to suspect that a person who is at a port in the Bailiwick is there with the intention of leaving the Bailiwick for the purpose of involvement in terrorism-related activity elsewhere, or has arrived in the Bailiwick with the intention of leaving soon for that purpose, the officer may stop that person or any vehicle in which the person is, using reasonable force if necessary, and may –

- (a) require the person to hand over all travel documents in his or her possession to the officer,

- (b) search the person, anything that the person has with him or her, and any vehicle in which the person has travelled or is about to travel, for travel documents relating to the person, and take possession of any that the officer finds,
- (c) inspect any travel document relating to the person, and
- (d) retain any travel document relating to the person that is lawfully in the possession of the officer.

(2) An examining officer exercising a power conferred by subparagraph (1)(a) or (b) must tell the person concerned that he or she is suspected of intending to leave the Bailiwick for the purpose of involvement in terrorism-related activity elsewhere and that the officer is therefore entitled to exercise that power.

(3) If a travel document relating to a person described in subparagraph (1) lawfully comes into the possession of an examining officer without any exercise of a power under that subparagraph, the officer may retain it.

(4) An examining officer who has retained a travel document pursuant to subparagraph (1)(d) or (3) must as soon as possible seek authorisation for its further retention from one of the persons listed in subparagraph (5), who may grant such authorisation if satisfied that there are reasonable grounds for the suspicion referred to in subparagraph (1).

(5) The persons referred to in subparagraph (4) are –

- (a) a police officer of at least the rank of chief inspector,
- (b) the chief immigration officer, and

(c) a customs officer of at least the grade of surveyor.

(6) A travel document authorised to be retained under subparagraph (4) may be so retained while consideration is given to cancelling the person's passport, charging the person with an offence, or making the person subject to any order or measure connected with protecting members of the public from a risk of terrorism, or while steps are taken to carry out any of those actions, but, subject to subparagraphs (7), (8) and (10), not for more than 14 days.

(7) An examining officer may retain a travel document for more than 14 days if the officer believes on reasonable grounds that it may be needed as evidence in criminal proceedings or in connection with a decision by the Lieutenant Governor whether to make a deportation order under the Immigration Act 1971.

(8) The Magistrate's Court may, on the application of a police officer of at least the rank of chief inspector or the chief immigration officer or a customs officer of at least the grade of surveyor, order the extension of the period of 14 days mentioned in subparagraph (6) to a period not exceeding 30 days in total, but only if the court is satisfied that –

- (a) the matters referred to in that subparagraph have been, and are being, pursued diligently and expeditiously, and
- (b) reasonable efforts have been made to notify the person to whom the application relates of the time and place at which it is to be heard, and that that person may (subject to subparagraph (9)) make oral or written representations to the court, and be represented by an Advocate.

(9) An officer applying under subparagraph (8) may also apply to the court, *ex parte* and *in camera*, for an order –

- (a) excluding from any part of the hearing the person to whom the application relates, or anyone representing that person, or both,
- (b) that specified information on which the officer intends to rely be withheld from the person to whom the application relates, or anyone representing that person, or both,

and the court may make such an order only if satisfied that without it there are reasonable grounds for believing that –

- (i) evidence of an offence under this Law would be interfered with or harmed,
- (ii) the recovery of property obtained as a result of an offence under this Law would be hindered,
- (iii) the recovery of property in respect of which a forfeiture order could be made under this Law would be hindered,
- (iv) the apprehension, prosecution or conviction of a person who is suspected of being a terrorist would be made more difficult as a result of the person being alerted,

- (v) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,
- (vi) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with,
- (vii) a person would be interfered with or physically injured, or
- (viii) national security would be put at risk.

(10) Where a power under this paragraph to retain a document is exercised and such powers have been exercised in the same person's case on two or more occasions in the previous six months –

- (a) the Magistrate's Court may only grant an application made under subparagraph (8), if satisfied that there are exceptional circumstances justifying the further use of powers under this paragraph in relation to the same person, and
- (b) on granting such an application, the Magistrate's Court may only order the extension of the period of 14 days mentioned in subparagraph (6) to a period not exceeding 20 days in total.

(11) If a person is unable to leave the Bailiwick because any of his or her travel documents are retained under this paragraph –

- (a) the Committee for Home Affairs may make whatever arrangements it thinks appropriate in relation to that person, and
- (b) if the person does not have leave to enter or remain in the Bailiwick, the person's presence in the Bailiwick is nevertheless not unlawful for the purposes of the Immigration Act 1971.]

[**8B.** (1) A person who is required under paragraph 8A(1)(a) to hand over all travel documents in the person's possession commits an offence if he or she fails without reasonable excuse to do so.

(2) A person who intentionally obstructs, or seeks to frustrate, a search under paragraph 8A(1)(b) commits an offence.

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

Detention of property

- 9.** (1) This paragraph applies to anything which –
- (a) is given to an examining officer in accordance with paragraph 3(d),
 - (b) is searched or found on a search under paragraph 6, or
 - (c) is examined under paragraph 7.

- (2) An examining officer may detain the thing –

- (a) for the purpose of examination, for a period not exceeding seven days beginning with the day on which the detention commences,
- (b) while he believes that it may be needed for use as evidence in criminal proceedings, [...]
- (c) while he believes that it may be needed in connection with a decision by the Lieutenant-Governor whether to make a deportation order under the Immigration Act 1971[,]
- [(d) while the officer believes that it could be used in connection with the carrying out of a hostile act, or
- (e) while the officer believes it necessary to do so for the purpose of preventing death or significant injury.]

[**9A.** (1) This paragraph applies in relation to an article detained by virtue of paragraph 9(2)(d) or (e), other than an article in respect of which an authorisation is granted under paragraph 9B.

(2) The Commissioner must be informed of the article's detention as soon as is reasonably practicable.

(3) Subparagraph (4) applies where it appears to the Commissioner that there are reasonable grounds to believe –

- (a) that the article has been or could be used in connection with the carrying out of a hostile act, or

(b) that returning the article to the person from whom it was taken could result in a risk of death or significant injury to any person.

(4) The Commissioner may –

(a) direct that the article is destroyed, or

(b) authorise the detention and use of the article (subject to subparagraph (5)).

(5) The Commissioner may authorise the detention and use of an article under subparagraph (4)(b) that consists of or includes confidential material only if satisfied that –

(a) arrangements are in place that are sufficient for ensuring that the material is detained securely, and

(b) the material will be used only so far as necessary and proportionate for a relevant purpose.

(6) If the Commissioner does not proceed under sub-paragraph (4) in relation to an article, the Commissioner must (subject to sub-paragraph (7)) direct that the article is returned to the person from whom it was taken.

(7) Subparagraph (6) does not apply if the article is further detained under a power conferred by paragraph 9(2)(b) or (c).

(8) In authorising the detention and use of an article under this paragraph the Commissioner may impose whatever conditions the Commissioner

thinks appropriate in relation to its retention and use.

(9) For the purposes of subparagraph (5)(b), the use of material is necessary for a relevant purpose if it is necessary –

- (a) in the interests of national security,
- (b) in the interests of the economic well-being of any part of the British Islands so far as those interests are also relevant to the interests of national security,
- (c) for the purpose of preventing or detecting serious crime, or
- (d) for the purpose of preventing death or significant injury.]

[**9B.** (1) This paragraph applies where –

- (a) an article is detained by virtue of paragraph 9(2)(d) or (e), and
- (b) the examining officer who detained the article considers that the urgency condition is met in relation to the article.

(2) The urgency condition is met in relation to an article if –

- (a) there is an urgent need for the article to be examined or otherwise used for the purpose of preventing –

- (i) the carrying out of a hostile act, or
- (ii) death or significant injury, or for the purpose of mitigating the risk of any such act, death or injury occurring, and

- (b) the time it would take for the requirements of paragraph 9A to be complied with in relation to the article would not enable such use to take place with sufficient urgency.

(3) Where this paragraph applies, the examining officer may apply to a senior officer for authorisation to continue to detain and use the article.

(4) An application under subparagraph (3) in relation to an article may be made only to a senior officer who has not been directly involved in the exercise of any power under this Schedule to take the article or to question a person from whom the article was taken.

(5) A senior officer may grant an authorisation under this paragraph for the detention and use of the article if satisfied –

- (a) that there are reasonable grounds for considering that the urgency condition is met in relation to the article, and
- (b) in the case of an article that consists of or includes confidential material, that –

- (i) arrangements are in place that are sufficient for ensuring that the material is detained securely, and
 - (ii) the material will be used only so far as necessary and proportionate for a purpose mentioned in subparagraph (2)(a).
- (6) An authorisation under this paragraph –
- (a) must be recorded in writing,
 - (b) may be granted subject to whatever conditions the senior officer thinks appropriate.
- (7) In this paragraph, "**senior officer**" means –
- (a) where the examining officer is a police officer, another officer of at least the rank of chief inspector, and
 - (b) where the examining officer is an immigration officer or a customs officer, an immigration officer or customs officer as the case requires of a higher grade than the examining officer.]

Power to make and retain copies.

9C. (1) This paragraph applies where the examining officer is a police officer.

- (2) The officer may copy anything which –

- (a) is given to the officer in accordance with paragraph 3,
 - (b) is searched or found on a search under paragraph 6, or
 - (c) is examined under paragraph 7.
- (3) A copy made under subparagraph (2) may be retained –
- (a) for so long as it is necessary for the purpose of determining whether a person is or has been engaged in hostile activity,
 - (b) while the examining officer believes that it may be needed for use as evidence in criminal proceedings,
 - (c) while the examining officer believes that it may be needed in connection with a decision by the Lieutenant Governor whether to make a deportation order under the Immigration Act 1971,
 - (d) while the examining officer believes it necessary to retain the copy –
 - (i) in the interests of national security,
 - (ii) in the interests of the economic well-being of any part of the British Islands so far as those interests are also relevant to the interests of national security, or

- (iii) for the purpose of preventing or detecting an act of serious crime, or
- (e) while the examining officer believes it necessary to retain the copy to prevent death or significant injury.]

[**9D.** (1) This paragraph applies in relation to a copy consisting of or including confidential material that is retained by virtue of paragraph 9C(3)(d) or (e), other than a copy in respect of which an authorisation is granted under paragraph 9E.

(2) The Commissioner must be informed of the copy's retention as soon as is reasonably practicable.

(3) The Commissioner may authorise the retention and use of the copy if both of the following two conditions are met.

(4) The first condition is that it appears to the Commissioner that there are reasonable grounds to believe that it is necessary to retain the copy –

- (a) in the interests of national security,
- (b) in the interests of the economic well-being of any part of the British Islands so far as those interests are also relevant to the interests of national security,
- (c) for the purpose of preventing or detecting an act of serious crime, or
- (d) for the purpose of preventing death or significant injury.

(5) The second condition is that the Commissioner is satisfied that –

(a) arrangements are in place that are sufficient for ensuring that any confidential material contained in the copy is retained securely, and

(b) the material will be used only so far as necessary and proportionate for a relevant purpose.

(6) If the Commissioner does not proceed under sub-paragraph (3) in relation to a copy, the Commissioner must direct that the copy is destroyed.

(7) In authorising the retention and use of a copy under subparagraph (3) the Commissioner may impose whatever conditions the Commissioner thinks appropriate in relation to its retention and use.

(8) For the purposes of subparagraph (5)(b), the use of material is necessary for a relevant purpose if it is necessary –

(a) in the interests of national security,

(b) in the interests of the economic well-being of any part of the British Islands so far as those interests are also relevant to the interests of national security,

(c) for the purpose of preventing or detecting serious crime, or

(d) for the purpose of preventing death or significant injury.]

- [**9E.** (1) This paragraph applies where –
- (a) a copy consisting of or including confidential material is retained by virtue of paragraph 9C(3)(d) or (e), and
 - (b) the examining officer who retained the copy considers that the urgency condition is met in relation to the copy.
- (2) The urgency condition is met in relation to a copy if –
- (a) there is an urgent need for the copy to be examined or otherwise used for the purpose of preventing –
 - (i) the carrying out of a hostile act, or
 - (ii) death or significant injury, or for the purpose of mitigating the risk of any such act, death or injury occurring, and
 - (b) the time it would take for the requirements of paragraph 9B to be complied with in relation to the copy would not enable such use to take place with sufficient urgency.
- (3) The examining officer may apply to a senior officer for authorisation to continue to retain and use the copy.
- (4) An application under subparagraph (3) in relation to a copy may be made only to a senior officer who has not been directly involved in the exercise of any power under this Schedule to make the copy or to question a person

from whom the article was taken from which the copy was made.

(5) A senior officer may grant an authorisation under this paragraph for the retention and use of a copy if satisfied that –

- (a) there are reasonable grounds for considering that the urgency condition is met in relation to the copy,
- (b) arrangements are in place that are sufficient for ensuring that confidential material contained in the copy is retained securely, and
- (c) the material will be used only so far as necessary and proportionate for a purpose mentioned in subparagraph (2)(a).

(6) An authorisation under this paragraph –

- (a) must be recorded in writing,
- (b) may be granted subject to whatever conditions the senior officer thinks appropriate.

(7) In this paragraph "**senior officer**" means –

- (a) a police officer of at least the rank of chief inspector,
- (b) the chief immigration officer, or
- (c) a customs officer of at least the grade of surveyor.

(8) For the purposes of this paragraph and paragraphs 9A, 9B and 9D, documents, articles and items are "**confidential material**" if they are –

- (a) items subject to legal professional privilege, as defined in section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, or
- (b) special material, as defined in section 25 of that Law.]

Designated ports

10. (1) This paragraph applies to any journey to the Bailiwick.

(2) Where a ship or aircraft is employed to carry passengers for reward on a journey to which this paragraph applies the owners or agents of the ship or aircraft shall not arrange for it to call at a port in the Bailiwick for the purpose of disembarking or embarking passengers unless –

- (a) the port is a designated port, or
- (b) an examining officer approves the arrangement.

(3) Where an aircraft is employed on a journey to which this paragraph applies otherwise than to carry passengers for reward, the captain of the aircraft shall not permit it to call at or leave a port in the Bailiwick unless –

- (a) the port is a designated port, or
 - (b) he gives at least 12 hours' notice in writing to a police officer.
- (4) A designated port is a port which appears in the Table at the end of this Schedule.
- (5) The States [Civil Contingencies Authority] may by order –
- (a) add an entry to the Table,
 - (b) remove an entry from the Table.

Embarkation and disembarkation

11. (1) The Lieutenant-Governor may by notice in writing to the owners or agents of ships or aircraft –

- (a) designate control areas in any port in the Bailiwick,
- (b) specify conditions for or restrictions on the embarkation or disembarkation of passengers in a control area.

(2) Where owners or agents of a ship or aircraft receive notice under subparagraph (1) in relation to a port they shall take all reasonable steps to ensure, in respect of the ship or aircraft –

- (a) that passengers do not embark or disembark at the port outside a control area, and
- (b) that any specified conditions are met and any specified restrictions are complied with.

12. (1) This paragraph applies to a ship employed to carry passengers for reward, or an aircraft, which –

- (a) arrives in the Bailiwick, or
- (b) leaves the Bailiwick.

(2) The captain shall ensure –

- (a) that passengers and members of the crew do not disembark at a port in the Bailiwick unless either they have been examined by an examining officer or they disembark in accordance with arrangements approved by an examining officer,
- (b) that passengers and members of the crew do not embark at a port in the Bailiwick except in accordance with arrangements approved by an examining officer,
- (c) where a person is to be examined under this Schedule on board the ship or aircraft, that he is presented for examination in an orderly manner.

(3) Where paragraph 27 of Schedule 2 to the Immigration Act 1971 (disembarkation requirements on arrival in the Bailiwick) applies, the requirements of subparagraph (2)(a) above are in addition to the requirements of paragraph 27 of that Schedule.

Carding

13. (1) 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 or an examining officer.

(2) An examining officer may require the owners or agents of a ship or aircraft employed to carry passengers for reward to supply their passengers with cards in the form required by virtue of subparagraph (1).

Provision of passenger information

- 14.** [(1) This paragraph applies to a ship or aircraft which –
- (a) arrives or is expected to arrive in any place in the Bailiwick, whether from another place in the Bailiwick or from outside the Bailiwick, or
 - (b) leaves or is expected to leave the Bailiwick.]

(2) If an examining officer gives the owners or agents of a ship or aircraft to which this paragraph applies a written request to provide specified information, the owners or agents shall comply with the request as soon as is reasonably practicable.

(3) A request to an owner or agent may relate –

- (a) to a particular ship or aircraft,
- (b) to all ships or aircraft of the owner or agent to which this paragraph applies, or
- (c) to specified ships or aircraft.

(4) Information may be specified in a request only if it is of a kind which is prescribed by the Lieutenant-Governor and which relates –

- (a) to passengers,
- (b) to crew, or
- (c) to vehicles belonging to passengers or crew[, or
- (d) to goods].

(5) A passenger or member of the crew on a ship or aircraft shall give the captain any information required for the purpose of enabling the owners or agents to comply with a request under this paragraph.

(6) Subparagraphs (2) and (5) shall not require the provision of information which is required to be provided under or by virtue of paragraph 27(2) of Schedule 2 to the Immigration Act 1971.

[(7) An examining officer may require that specified information be provided by the owners or agents of a ship or aircraft in electronic form.]

Offences

- 15.** (1) A person commits an offence if he –
- (a) wilfully fails to comply with a duty imposed under or by virtue of this Schedule,
 - (b) wilfully contravenes a prohibition imposed under or by virtue of this Schedule, or
 - (c) wilfully obstructs, or seeks to frustrate, a search or examination under or by virtue of this Schedule.

(2) A person guilty of an offence under this paragraph shall be liable on summary conviction to –

- (a) imprisonment for a term not exceeding [12 months],
- (b) a fine not exceeding level 4 on the uniform scale, or
- (c) both.

Information.

- 16.** Information acquired by an examining officer may be supplied –
- (a) to the Committee for Home Affairs or the Lieutenant Governor for use in relation to immigration,
 - (b) to another examining officer,
 - (c) to a person exercising public functions specified in regulations made by the Committee for Home Affairs for use of a kind specified in the regulations.]

[Other police, customs and immigration officer powers.]

- 17.** (1) A power conferred by virtue of this Schedule on an examining officer –
- (a) is additional to powers exercisable by a police officer or an immigration officer or a customs officer under the customary law or by virtue of any other enactment, and
 - (b) is not to be taken to affect those powers.]

[General Schedule 8 Codes of Practice.]

- 18.** (1) The Committee shall issue codes of practice about –
- (a) training to be undertaken by and accreditation to be given to police, customs and immigration officers who are to act as examining officers or exercise other functions under this Schedule,
 - (b) reviews under Part II of Schedule 9, as applied by paragraph 4(3) of this Schedule, including the training

to be undertaken by persons who are to act as review officers,

- (c) the exercise by examining officers, and others of other functions conferred on them by this Schedule.

(2) An examining officer must perform the functions conferred by virtue of this Schedule in accordance with any relevant code of practice in operation under subparagraph (1)(b).

(3) The failure of an examining officer to observe a provision of a code of practice does not of itself make the officer liable to criminal or civil proceedings.

(4) A code of practice –

- (a) is admissible in evidence in criminal and civil proceedings, and

- (b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

(5) The Committee may revise a code of practice and issue the revised code.]

TABLE
DESIGNATED PORTS

Seaports

Saint Peter Port Harbour, Guernsey

Saint Sampson's Harbour, Guernsey

Beaucette Marina, 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.

NOTES

In Schedule 8,

first, paragraph 1(3) and, second, paragraph 8A and paragraph 8B and the heading thereto were inserted, third, the words in square brackets in paragraph 2(1) were substituted, fourth, the words in square brackets at the end of paragraph 2(4) and fifth, paragraph 2(5), paragraph 2(6) and paragraph 2(7) were inserted, sixth, the words in the first pair of square brackets in paragraph 6(1) were substituted, the punctuation in the second pair of square brackets were substituted and paragraph 6(1)(e) and paragraph 6(1)(f) were inserted, seventh, the words in square brackets at the end of paragraph 7(1) were inserted, eighth, the words in square brackets in paragraph 7(2)(a) were inserted, ninth, the word omitted in square brackets at the end of paragraph 9(2)(b) was repealed, the punctuation in square brackets at the end of paragraph 9(2)(c) was substituted and paragraph 9(2)(d) and paragraph 9(2)(e) were inserted and, tenth, paragraph 9A, paragraph 9B, paragraph 9C, paragraph 9D and paragraph 9E were inserted by the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021, respectively section 2(2), section 2(3), section 3(2), section 3(3), section 3(4), section 3(5), section 3(6), section 3(7), section 3(8) and section 3(9), with effect from 3rd May, 2021;

first, the word omitted in square brackets in paragraph 1(1)(a) was repealed, the punctuation and word in square brackets in paragraph 1(1)(b) were substituted and paragraph 1(1)(c) was inserted, second, paragraph 4(3) and paragraph 4(4) were substituted and paragraph 4(5) was inserted, third, paragraph 4A was inserted, fourth, paragraph 6(2) was substituted and paragraph 6(3) and paragraph 6(4) were inserted, fifth, the figures and words in square brackets in paragraph 15(2)(a) were substituted and, sixth, paragraph 16, paragraph 17 and paragraph 18 were inserted by the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021, respectively section 4(2), section 4(3), section 4(4), section 4(5), section 4(6) and section 4(7), with effect from 3rd May, 2021;

the words in square brackets in sub-paragraph (5) of paragraph 10 were substituted by the Civil Contingencies (Bailiwick of Guernsey) Law, 2012, section 26(2), Schedule 3, Part III, with effect from 4th February, 2013;¹⁸

sub-paragraph (1) of paragraph 14 was substituted by the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006, section 15(3), with effect from 28th March, 2007;

sub-paragraph (4)(d) and sub-paragraph (7) of paragraph 14 were inserted by the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006, respectively section 15(4) and section 15(5), with effect from 28th March, 2007.

SCHEDULE 9
DETENTION

Section 42

PART I
TREATMENT OF PERSONS DETAINED UNDER
SECTION 42 OR SCHEDULE 8

Place of detention

1. (1) The States [Committee for Home Affairs] shall designate places at which persons may be detained under Schedule 8 or section 42.

(2) In this Schedule a reference to a police station includes a reference to any place which the States [Committee for Home Affairs] has designated under subparagraph (1) as a place where a person may be detained under section 42.

(3) Where a person is detained under Schedule 8, he may be taken in the custody of an examining officer or of a person acting under an examining officer's authority to and from any place where his attendance is required for the purpose of –

- (a) his examination under that Schedule,
- (b) establishing his nationality or citizenship, or
- (c) making arrangements for his admission to a country or territory outside the Bailiwick.

(4) A police officer who arrests a person under section 42 shall take him as soon as is reasonably practicable to a police station which the police officer considers the most appropriate.

(5) In the event of a person being arrested [under this Law or detained under Schedule 8] in either of the Islands of Alderney or Sark a police officer shall arrange for the transfer of the person arrested to a police station in the Island of Guernsey as soon as practicable.

(6) In this paragraph "**examining officer**" has the meaning given in Schedule 8.

Identification

2. (1) An authorised person may take any steps which are reasonably necessary for –

- (a) photographing the detained person,
- (b) measuring him, or
- (c) identifying him.

(2) In subparagraph (1) "**authorised person**" means any of the following –

- (a) a police officer,
- (b) a prison officer,
- (c) a person authorised by the States [Committee for Home Affairs], and

- (d) in the case of a person detained under Schedule 8, an examining officer (within the meaning of that Schedule).

(3) This paragraph does not confer the power to take fingerprints, non-intimate samples or intimate samples (within the meaning given by paragraph 15 below).

Recording of interviews

3. (1) The States [Committee for Home Affairs] shall –

- (a) issue a code of practice about the audio recording of interviews to which this paragraph applies, and
- (b) make regulations requiring the audio recording of interviews to which this paragraph applies in accordance with any relevant code of practice under paragraph (a).

(2) The States [Committee for Home Affairs] may revise the code and issue the revised code.

(3) The States [Committee for Home Affairs] may by regulation require the video recording of interviews to which this paragraph applies.

(4) Regulations under subparagraph (3) shall specify whether the video recording which they require is to be silent or with sound.

- (5) Where regulations are made under subparagraph (3) –
- (a) the States [Committee for Home Affairs] shall issue a code of practice about the video recording of interviews to which the regulations apply, and
 - (b) the regulations shall require the interviews to be video recorded in accordance with any relevant code of practice under clause (a).

(6) Where the States [Committee for Home Affairs] has made regulations under subparagraph (3) requiring certain interviews to be video recorded with sound, it need not, but may, make an order under subparagraph (1)(b) in relation to those interviews.

(7) This paragraph applies to any interview by a police officer of a person detained under section 42 or Schedule 8 if the interview takes place in a police station.

(8) The failure by a police officer to observe a provision of the code shall not of itself make him liable to criminal or civil proceedings.

- (9) The code –
- (a) shall be admissible in evidence in criminal and civil proceedings, and
 - (b) shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to

be relevant.

Status

4. A detained person shall be deemed to be in legal custody throughout the period of his detention.

Rights of a person detained

5. (1) Subject to paragraph 7, a person detained under Schedule 8 or section 42 at a police station shall be entitled, if he so requests, to have one named person informed as soon as is reasonably practicable that he is being detained there.

(2) The person named must be –

(a) a friend of the detained person,

(b) a relative, or

(c) a person who is known to the detained person or who is likely to take an interest in his welfare.

(3) Where a detained person is transferred from one police station to another, he shall be entitled to exercise the right under this paragraph in respect of the police station to which he is transferred.

6. (1) Subject to paragraphs 7 and 8, a person detained under Schedule 8 or section 42 at a police station shall be entitled, if he so requests, to consult an Advocate as soon as is reasonably practicable, privately and at any time.

(2) Where a request is made under subparagraph (1), the request and the time at which it was made shall be recorded.

[(3) A detained person must be informed of the right under subparagraph (1) on first being detained.]

7. (1) Subject to subparagraph (2), an officer of the Island police force of at least the rank of Chief Inspector may authorise a delay –

(a) in informing the person named by a detained person under paragraph 5,

(b) in permitting a detained person to consult an Advocate under paragraph 6.

(2) But where a person is detained under section 42 he must be permitted to exercise his rights under paragraphs 5 and 6 before the end of the period mentioned in subsection (3) of that section.

(3) Subject to subparagraph (5), an officer may give an authorisation under subparagraph (1) only if he has reasonable grounds for believing –

(a) in the case of an authorisation under subparagraph (1)(a), that informing the named person of the detained person's detention will have any of the consequences specified in subparagraph (4), or

(b) in the case of an authorisation under subparagraph (1)(b), that the exercise of the right under paragraph 6

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at the time when the detained person desires to exercise
it will have any of the consequences specified

in subparagraph (4).

- (4) Those consequences are –
- (a) interferences with or harm to evidence of a serious offence,
 - (b) interference with or physical injury to any person,
 - (c) the alerting of persons who are suspected of having committed a serious offence but who have not been arrested for it,
 - (d) the hindering of the recovery of property obtained as a result of a serious offence or in respect of which a forfeiture order could be made under section 18,
 - (e) interference with the gathering of information about the commission, preparation or instigation of acts of terrorism [or acts carried out in connection with a person's engagement in hostile activity],
 - (f) the alerting of a person and thereby making it more difficult to prevent an act of terrorism, and
 - (g) the alerting of a person and thereby making it more difficult to secure a person's apprehension, prosecution or conviction in connection with the commission, preparation or instigation of an act of terrorism.

(5) An officer may also give an authorisation under subparagraph (1) if he has reasonable grounds for believing that –

- (a) the detained person has committed an offence to which the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 applies,
- (b) the detained person has benefited from the offence within the meaning of that Law, and
- (c) by informing the named person of the detained person's detention (in the case of an authorisation under subparagraph (1)(a)), or by the exercise of the right under paragraph 6 (in the case of an authorisation under subparagraph (1)(b)), the recovery of the value of that benefit will be hindered.

(6) If an authorisation under subparagraph (1) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

(7) Where an authorisation under subparagraph (1) is given –

- (a) the detained person shall be told the reason for the delay as soon as is reasonably practicable, and
- (b) the reason shall be recorded as soon as is reasonably practicable.

(8) Where the reason for authorising delay ceases to subsist there

may be no further delay in permitting the exercise of the right in the absence of a further authorisation under subparagraph (1).

Meaning of "serious offence"

8. This paragraph has effect for determining whether an offence is a serious offence for the purposes of paragraph 7.

(1) The following offences are always serious –

(a) treason,

(b) murder,

(c) manslaughter,

(d) rape,

(e) kidnapping, and

(f) any of the offences mentioned in paragraphs (a) to (f) of section 1(1) of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000.

(2) Subject to subparagraphs (3) and (4) any other offence is serious only if its commission –

(a) has led to any of the consequences specified in subparagraph (4), or

(b) is intended or is likely to lead to any of those consequences.

(3) An offence which consists of making a threat is serious if carrying out the threat would be likely to lead to any of the consequences specified in subparagraph (4).

(4) The consequences mentioned in subsections (2) and (3) are –

(a) serious harm to the security of the Bailiwick or to public order,

(b) serious interference with the administration of justice or with the investigation of offences or of a particular offence,

(c) the death of any person,

(d) serious injury to any person,

(e) substantial financial gain to any person, and

(f) serious financial loss to any person.

(5) Loss is serious for the purposes of this paragraph if, having regard to all the circumstances, it is serious for the person who suffers it.

(6) In this paragraph "**injury**" includes any disease and any impairment of a person's physical or mental condition.

9. [(1) This paragraph applies where a detained person exercises the right under paragraph 6 to consult an Advocate.

(2) A police officer of at least the rank of chief inspector or the chief immigration officer or a customs officer of at least the grade of surveyor may direct that the right –

(a) may not be exercised (or further exercised) by consulting the Advocate who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but

(b) may instead be exercised by consulting a different Advocate of the detained person's choosing.

(2A) A direction under this paragraph may be given before or after a detained person's consultation with an Advocate has started (and if given after it has started the right to further consult that Advocate ceases on the giving of the direction)]

(3) A direction under this paragraph may be given only if the officer giving it has reasonable grounds for believing that, unless the direction is given, the exercise of the right by the detained person will have any of the consequences specified in paragraph 7(4) or the consequence specified in paragraph 7(5)(c).

(4) ...

(5) ...

- 10.** (1) Fingerprints may be taken from the detained person only if

they are taken by a police officer –

- (a) with the appropriate consent given in writing, or
- (b) without that consent under subparagraph (3).

(2) A non-intimate sample may be taken from the detained person only if it is taken by a police officer –

- (a) with the appropriate consent given in writing, or
- (b) without that consent under subparagraph (3).

(3) Fingerprints or a non-intimate sample may be taken from the detained person without the appropriate consent only if he is detained at a police station and an officer of the Island police force of at least the rank of chief inspector authorises the fingerprints or sample to be taken.

(4) An intimate sample may be taken from the detained person only if –

- (a) he is detained at a police station,
- (b) the appropriate consent is given in writing,
- (c) an officer of the Island police force of at least the rank of chief inspector authorises the sample to be taken, and
- (d) subject to paragraph 13(2) and (3), the sample is taken

by a police officer.

(5) An officer may give an authorisation under subparagraph (3) or (4)(c) only if –

- (a) in the case of a person detained under section 42, the officer reasonably suspects that the person has been involved in an offence under any of the provisions mentioned in section 41(1)(a), and the officer reasonably believes that the fingerprints or sample will tend to confirm or disprove his involvement, or
- (b) in any case, the officer is satisfied that the taking of the fingerprints or sample from the person is necessary in order to assist in determining whether he falls within section 41(1)(b).

(6) An officer may also give an authorisation under subparagraph (3) for the taking of fingerprints if –

- (a) he is satisfied that the fingerprints of the detained person will facilitate the ascertainment of that person's identity, and
- (b) that person has refused to identify himself or the officer has reasonable grounds for suspecting that that person is not who he claims to be.

(7) In this paragraph references to ascertaining a person's identity include references to showing that he is not a particular person.

(8) If an authorisation under subparagraph (3) or (4)(c) is given orally, the person giving it shall confirm it in writing as soon as is reasonably practicable.

11. (1) Before fingerprints or a sample are taken from a person under paragraph 10, he shall be informed –

(a) that the fingerprints or sample may be used for the purposes of paragraph 14(3), or checked against any fingerprints or samples or the information derived from samples taken and contained in the records of –

(i) a police force in England and Wales,

(ii) a police force in Scotland,

(iii) the Police Service for Northern Ireland,

(iv) the States of Jersey Police,

(v) the Isle of Man Constabulary, and

(b) where the fingerprints or sample are to be taken under paragraph 10(1)(a) or (2)(a), of the reason for taking the fingerprints or sample.

(2) Before fingerprints or a sample are taken from a person upon an authorisation given under paragraph 10(3) or (4)(c), he shall be informed –

- (a) that the authorisation has been given,
- (b) of the grounds upon which it has been given, and
- (c) where relevant, of the nature of the offence in which it is suspected that he has been involved.

(3) After fingerprints or a sample are taken under paragraph 10, there shall be recorded as soon as is reasonably practicable any of the following which apply –

- (a) the fact that the person has been informed in accordance with subparagraphs (1) and (2),
- (b) the reason referred to in subparagraph (1)(b),
- (c) the authorisation given under paragraph 10(3) or (4)(c),
- (d) the grounds upon which that authorisation has been given, and
- (e) the fact that the appropriate consent has been given.

12. (1) This paragraph applies where –

- (a) two or more non-intimate samples suitable for the same means of analysis have been taken from a person under paragraph 10,

- (b) those samples have proved insufficient, and
 - (c) the person has been released from detention.
- (2) An intimate sample may be taken from the person if –
- (a) the appropriate consent is given in writing,
 - (b) an officer of the Island police force of at least the rank of chief inspector authorises the sample to be taken, and
 - (c) subject to paragraph 13(2) and (3), the sample is taken by a police officer.
- (3) Paragraphs 10(5) and (6) and 11 shall apply in relation to the taking of an intimate sample under this paragraph; and a reference to a person detained under section 42 shall be taken as a reference to a person who was detained under section 42 when the non-intimate samples mentioned in subparagraph (1)(a) were taken.

13. (1) Where appropriate written consent to the taking of an intimate sample from a person under paragraph 10 or 12 is refused without good cause, in any proceedings against that person for an offence –

- (a) the court, in determining whether to commit him for trial or whether there is a case to answer, may draw such inferences from the refusal as appear proper, and

(b) the court or Jurats, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper,

(2) An intimate sample other than a sample of urine or a dental impression may be taken under paragraph 10 or 12 only by a recognised medical practitioner acting on the authority of a police officer.

(3) An intimate sample which is a dental impression may be taken under paragraph 10 or 12 only by a recognised dentist acting on the authority of a police officer.

(4) Where a sample of hair other than pubic hair is to be taken under paragraph 10 the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.

14. (1) This paragraph applies to –

(a) fingerprints or samples taken under paragraph 10 or 12,
and

(b) information derived from those samples.

(2) The fingerprints, samples or information may be used only for the purpose of a terrorist investigation [or an investigation into whether a person has engaged in hostile activity].

(3) The fingerprints, samples or information may be checked, subject to subparagraph (2), against –

- (a) other fingerprints or samples taken under paragraph 10 or 12 or information derived from those samples,
- (b) any of the fingerprints, samples and information held by the police forces and constabularies mentioned in paragraph 11(1)(a).

15. In the application of paragraphs 10 to 14 –

- (a) **"appropriate consent"** means –
 - (i) in relation to a person who has attained the age of 17 years, the consent of that person,
 - (ii) in relation to a person who has not attained that age but has attained the age of 14 years, the consent of that person and his parent or guardian, and
 - (iii) in relation to a person who has not attained the age of 14 years, the consent of his parent or guardian,
- (b) **"fingerprints"** includes palm prints,
- (c) **"insufficient"** and **"sufficient"**, in relation to a sample, means sufficient or insufficient (in point of quantity or quality) for the purpose of enabling information to be produced by the means of analysis used or to be used

in relation to the sample,

- (d) **"intimate sample"** means –
 - (i) a sample of blood, semen or any other tissue fluid, urine or pubic hair,
 - (ii) a dental impression,
 - (iii) a swab taken from a person's body orifice other than the mouth,

- (e) **"non-intimate sample"** means –
 - (i) a sample of hair other than pubic hair,
 - (ii) a sample taken from a nail or from under a nail,
 - (iii) a swab taken from any part of a person's body including the mouth but not any other body orifice,
 - (iv) saliva,
 - (v) a footprint or a similar impression of any part of a person's body other than a part of his hand,

- (f) **"recognised medical practitioner"** and **"recognised**

dentist" shall be construed in accordance with the Doctors, Dentists and Pharmacists Ordinance, 1987^u.

PART II

REVIEW OF DETENTION UNDER SECTION 42 [OR SCHEDULE 8]

Requirement

16. (1) A person's detention shall be periodically reviewed by a review officer.

(2) The first review shall be carried out as soon as is reasonably practicable after the time of the person's arrest.

(3) Subsequent reviews shall, subject to paragraph 17, be carried out at intervals of not more than 12 hours.

(4) No review of a person's detention shall be carried out after a warrant extending his detention has been issued under Part III.

Postponement

17. (1) A review may be postponed if at the latest time at which it may be carried out in accordance with paragraph 16 –

(a) the detained person is being questioned by a police officer and an officer is satisfied that an interruption of the questioning to carry out the review would

^u Recueil d'Ordonnances Tome XXIV, p. 79.

prejudice the investigation in connection with which the person is being detained,

- (b) no review officer is readily available, or
- (c) it is not practicable for any other reason to carry out the review.

(2) Where a review is postponed it shall be carried out as soon as is reasonably practicable.

(3) For the purposes of ascertaining the time within which the next review is to be carried out, a postponed review shall be deemed to have been carried out at the latest time at which it could have been carried out in accordance with paragraph 16.

Grounds for continued detention

18. (1) A review officer may authorise a person's continued detention only if satisfied that it is necessary –

- (a) to obtain relevant evidence whether by questioning him or otherwise,
- (b) to preserve relevant evidence,
- (c) pending a decision whether to apply to the Lieutenant-Governor for a deportation order to be made against the detained person,

- (d) pending the making of an application to the Lieutenant-Governor for a deportation order to be made against the detained person,
- (e) pending consideration by the Lieutenant-Governor whether to make a deportation order against the detained person, or
- (f) pending a decision whether the detained person should be charged with an offence.

(2) The review officer shall not authorise continued detention by virtue of subparagraph (1)(a) or (b) unless he is satisfied that the investigation in connection with which the person is detained is being conducted diligently and expeditiously.

(3) The review officer shall not authorise continued detention by virtue of subparagraph (1)(c) to (f) unless he is satisfied that the process pending the completion of which detention is necessary is being conducted diligently and expeditiously.

(4) In subparagraph (1)(a) and (b) "**relevant evidence**" means evidence which –

- (a) relates to the commission by the detained person of an offence under any of the provisions mentioned in section 41(1)(a), or
- (b) indicates that the detained person falls within section

41(1)(b).

(5) In subparagraph (1) "**deportation order**" means a deportation order under the Immigration Act 1971.

Review officer

19. (1) The review officer shall be an officer who has not been directly involved in the investigation in connection with which the person is detained.

(2) In the case of a review carried out within the period of 24 hours beginning with the time of arrest, the review officer shall be an officer of the Island police force of at least the rank of Inspector.

(3) In the case of any other review, the review officer shall be an officer of the Island police force of at least the rank of Chief Inspector.

20. (1) This paragraph applies when –

- (a) the review officer is of a rank lower than Chief Inspector,
- (b) an officer of higher rank than the review officer gives directions relating to the detained person, and
- (c) those directions are at variance with the performance by the review officer of a duty imposed on him under this Schedule.

(2) The review officer shall refer the matter at once to an officer of the Island police force of at least the rank of Superintendent.

Representations

21. (1) Before determining whether to authorise a person's continued detention, a review officer shall give either of the following persons an opportunity to make representations about the detention –

- (a) the detained person, or
- (b) an Advocate representing him who is available at the time of the review.

(2) Representations may be oral or written.

(3) A review officer may refuse to hear oral representations from the detained person if he considers that he is unfit to make representations because of his condition or behaviour.

Rights

22. (1) Where a review officer authorises continued detention he shall inform the detained person –

- (a) of any of his rights under paragraphs 5 and 6 which he has not yet exercised, and
- (b) if the exercise of any of his rights under either of those

paragraphs is being delayed in accordance with the provisions of paragraph 7, of the fact that it is being so delayed.

(2) Where a review of a person's detention is being carried out at a time when his exercise of a right under either of those paragraphs is being delayed –

- (a) the review officer shall consider whether the reason or reasons for which the delay was authorised continue to subsist, and
- (b) if in his opinion the reason or reasons have ceased to subsist, he shall inform the officer who authorised the delay of his opinion (unless he was that officer).

Record

23. (1) A review officer carrying out a review shall make a written record of the outcome of the review and of any of the following which apply –

- (a) the grounds upon which continued detention is authorised,
- (b) the reasons for postponement of the review,
- (c) the fact that the detained person has been informed as required under paragraph 22(1),
- (d) the officer's conclusions on the matter considered

under paragraph 22(2)(a),

- (e) the fact that he has taken action under paragraph 22(2)(b), and
- (f) the fact that the detained person is being detained by virtue of section 42(5) or (6).

(2) The review officer shall –

- (a) make the record in the presence of the detained person, and
- (b) inform him at that time whether the review officer is authorising continued detention and, if he is, of his grounds.

(3) Subparagraph (2) shall not apply where, at the time when the record is made, the detained person is –

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

PART III
EXTENSION OF DETENTION UNDER SECTION 42

Warrant of further detention

24. (1) [A police officer of at least the rank of chief inspector or the chief immigration officer or a customs officer of at least the grade of surveyor] may apply to the Bailiff for the issue of a warrant of further detention under this Part.

(2) A warrant of further detention –

(a) shall authorise the further detention under section 42 of a specified person for a specified period, and

(b) shall state the time at which it is issued.

(3) The specified period in relation to a person shall end not later than the end of the period of seven days beginning –

(a) with the time of his arrest under section 42, or

(b) if he was being detained under Schedule 8 when he was arrested under section 42, with the time when his examination under that Schedule began.

Time limit

25. (1) An application for a warrant shall be made –

(a) during the period mentioned in section 42(3), or

(b) within six hours of the end of that period.

(2) The Bailiff hearing an application made by virtue of subparagraph (1)(b) shall dismiss the application if he considers that it would have been reasonably practicable to make it during the period mentioned in section 42(3).

(3) For the purposes of this Schedule, an application for a warrant is made when written or oral notice of an intention to make the application is given to Her Majesty's Greffier.

Notice

26. An application for a warrant may not be heard unless the person to whom it relates has been given a notice stating –

- (a) that the application has been made,
- (b) the time at which the application was made,
- (c) the time at which it is to be heard, and
- (d) the grounds upon which further detention is sought.

Grounds for extension

27. (1) The Bailiff may issue a warrant of further detention only if satisfied that –

- (a) there are reasonable grounds for believing that the

further detention of the person to whom the application relates is necessary to obtain relevant evidence whether by questioning him or otherwise or to preserve relevant evidence, and

- (b) the investigation in connection with which the person is detained is being conducted diligently and expeditiously.

(2) In subparagraph (1) "**relevant evidence**" means, in relation to the person to whom the application relates, evidence which –

- (a) relates to his commission of an offence under any of the provisions mentioned in section 41(1)(a), or
- (b) indicates that he is a person falling within section 41(1)(b).

Representation

28. (1) The person to whom an application relates shall –

- (a) be given an opportunity to make oral or written representations to the Bailiff about the application, and
- (b) subject to subparagraph (3), be entitled to be legally represented at the hearing.

(2) The Bailiff shall adjourn the hearing of an application to enable the person to whom the application relates to obtain legal representation

where –

- (a) he is not legally represented,
- (b) he is entitled to be legally represented, and
- (c) he wishes to be so represented.

(3) The Bailiff may exclude any of the following persons from any part of the hearing –

- (a) the person to whom the application relates,
- (b) anyone representing him.

Information

29. (1) The officer who has made an application for a warrant may apply to the Bailiff for an order that specified information upon which he intends to rely be withheld from –

- (a) the person to whom the application relates, and
- (b) anyone representing him.

(2) Subject to subparagraph (3), the Bailiff may make an order under subparagraph (1) in relation to specified information only if satisfied that there are reasonable grounds for believing that if the information were disclosed –

- (a) evidence of an offence under any of the provisions

mentioned in section 41(1)(a) would be interfered with or harmed,

- (b) the recovery of property obtained as a result of an offence under any of those provisions would be hindered,
- (c) the recovery of property in respect of which a forfeiture order could be made under section 18 would be hindered,
- (d) the apprehension, prosecution or conviction of a person who is suspected of falling within section 41(1)(a) or (b) would be made more difficult as a result of his being alerted,
- (e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,
- (f) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with, or
- (g) a person would be interfered with or physically injured.

(3) The Bailiff may also make an order under subparagraph (1) in relation to specified information if satisfied that there are reasonable grounds for believing that –

- (a) the detained person has committed an offence under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,
- (b) the detained person has benefited from the offence within the meaning of that Law, and
- (c) the recovery of the value of that benefit would be hindered if the information were disclosed.

(4) The Bailiff shall direct that the following be excluded from the hearing of the application under this paragraph –

- (a) the person to whom the application for a warrant relates, and
- (b) anyone representing him.

Adjournments

30. (1) The Bailiff may adjourn the hearing of an application for a warrant only if the hearing is adjourned to a date before the expiry of the period mentioned in section 42(3).

(2) This paragraph shall not apply to an adjournment under paragraph 28(2).

Extensions of warrants

31. (1) [A police officer of at least the rank of chief inspector or the chief immigration officer or a customs officer of at least the grade of surveyor] may apply to the Bailiff for the extension or further extension of the period specified in a warrant of further detention.

(2) Where the period specified is extended, the warrant shall be endorsed with a note stating the new specified period.

(3) The specified period shall end not later than the end of the period of [14] days beginning –

- (a) with the time of the person's arrest under section 42, or
- (b) if he was being detained under Schedule 8 when he was arrested under section 42, with the time when his examination under that Schedule began.

(4) Paragraphs 25(3) and 26 to 29 shall apply to an application under this paragraph as they apply to an application for a warrant of further detention.

(5) The Bailiff may adjourn the hearing of an application under subparagraph (1) only if the hearing is adjourned to a date before the expiry of the period specified in the warrant.

(6) Subparagraph (5) shall not apply to an adjournment under paragraph 28(2).

Detention – conditions

32. A person detained by virtue of a warrant issued under this Part shall (unless detained in accordance with section 42(5) or (6) or under any other power) be released immediately if the officer having custody of him becomes aware that any of the grounds under paragraph 27(1)(a) and (b) upon which the Bailiff authorised his further detention have ceased to apply.

[General Schedule 9 Codes of Practice.]

33. (1) In addition to the code of practice about recording of interviews under paragraph 3, the Committee may issue codes of practice –

- (a) making supplementary provision, not inconsistent with this Law, concerning the photographing, measuring or otherwise identifying of detained persons, the entitlements and requirements concerning informing another person of detention and access to an Advocate, and the taking of fingerprints, non-intimate samples and intimate samples,
- (b) making provision concerning the periods during which photographs, measurements, fingerprints, non-intimate samples, intimate samples and other identification material are to be retained, arrangements for their security, and the circumstances in which any such material must be destroyed,
- (c) imposing requirements as to the times at which, persons by whom, and manner in which the retention of any such material must be reviewed, and

- (d) otherwise governing the exercise by examining officers, authorised persons and others of any other functions conferred on them by this Schedule.

- (2) An examining officer must perform the functions conferred by virtue of this Schedule in accordance with any relevant code of practice in operation under subparagraph (1).

- (3) The failure of an examining officer to observe a provision of a code does not of itself make the officer liable to criminal or civil proceedings.

- (4) A code of practice –
 - (a) is admissible in evidence in criminal and civil proceedings, and
 - (b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

- (7) The Committee may revise a code of practice and issue the revised code.]

NOTES

In Schedule 9,

the words "Committee for Home Affairs" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;¹⁹

first, the words in square brackets in paragraph 7(4)(e) were

inserted, second, the words in square brackets at the end of paragraph 14(2) were inserted, third, the words in square brackets in paragraph 1(5) were inserted, fourth, paragraph 6(3) was inserted, fifth, paragraph 9(1) and paragraph 9(2) were substituted and paragraph 9(2A) was inserted, sixth, paragraph 9(4) and paragraph 9(5) were repealed, seventh, the words in square brackets at the end of the heading to Part II were inserted, eighth, the words in square brackets in paragraph 24(1) and paragraph 31(1) were substituted, ninth, the figures in square brackets in paragraph 31(3) were substituted and, tenth, paragraph 33 was inserted by the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021, respectively section 3(10)(a), section 3(10)(b), section 5(2), section 5(3), section 5(4)(a), section 5(4)(b), section 5(5), section 5(6), section 5(7) and section 5(8), with effect from 3rd May, 2021.

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²⁰

In accordance with the provisions of the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015, section 27(2), with effect from 3rd December, 2015, the references in this Schedule to a "recognised medical practitioner" are to be construed as a reference to a registered practitioner within the meaning of section 26(1) of the 2015 Ordinance.

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.

PROVISIONS OF INTERNATIONAL CONVENTIONS AND OTHER
INSTRUMENTS

1. **Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.**

Article 1 of the convention described in the heading to this paragraph, the text of which is as follows –

"Article 1

Any person who on board an aircraft in flight:

- (a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
- (b) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "**the offence**").".

2. **Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 and Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.**

Article 1 of the convention described in the heading to this paragraph, the text of

which is as follows –

"Article 1

1. Any person commits an offence if he unlawfully and intentionally:
 - (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
 - (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;
or
 - (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
 - (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or
 - (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.

- 1 *bis*. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:
 - (a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury

or death; or

- (b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport.

2. Any person also commits an offence if he:

- (a) attempts to commit any of the offences mentioned in paragraph 1 or paragraph 1 *bis.* of this Article; or
- (b) is an accomplice of a person who commits or attempts to commit any such offence."

3. **The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.**

Article 2 of the convention described in the heading to this paragraph, the text of which is as follows –

"Article 2

1. The intentional commission of:

- (a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

- (b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;
- (c) a threat to commit any such attack;
- (d) an attempt to commit any such attack; and
- (e) an act constituting participation as an accomplice in any such attack,

shall be made by each State Party a crime under its internal law."

4. **The International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.**

Articles 1 and 2 of the convention described in the heading to this paragraph, the text of which is as follows –

"Article 1

Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "**hostage**") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages ("**hostage-taking**") within the meaning of this Convention.

Article 2

Any person who:

- (a) attempts to commit an act of hostage-taking, or
- (b) participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking

likewise commits an offence for the purposes of this Convention."

5. **The Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979.**

Article 7 of the convention described in the heading to this paragraph, the text of which is as follows –

"Article 7

- 1. The intentional commission of:
 - (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
 - (b) a theft or robbery of nuclear material;
 - (c) an embezzlement or fraudulent obtaining of nuclear material;

- (d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (e) a threat:
 - (i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or
 - (ii) to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
- (f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and
- (g) an act which constitutes participation in any offence described in paragraphs (a) to (f)

shall be made a punishable offence by each State Party under its national law."

6. **The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.**

Article 3 of the convention described in the heading to this paragraph, the text of which is as follows –

"Article 3

- 1. Any person commits an offence if that person unlawfully and intentionally:
 - (a) seizes or exercises control over a ship by force or threat thereof or any other

form of intimidation; or

- (b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or
- (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or
- (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or
- (f) communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or
- (g) injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).

2. Any person also commits an offence if that person:

- (a) attempts to commit any of the offences set forth in paragraph 1; or
- (b) abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who

commits such an offence; or

- (c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question."

7. **The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.**

Article 2 of the protocol described in the heading to this paragraph, the text of which is as follows –

"Article 2

- 1. Any person commits an offence if that person unlawfully and intentionally:
 - (a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or
 - (b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or
 - (c) destroys a fixed platform or causes damage to it which is likely to endanger its safety; or
 - (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety; or

- (e) injures or kills any person in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (d).
2. Any person also commits an offence if that person:
- (a) attempts to commit any of the offences set forth in paragraph 1; or
 - (b) abets the commission of any such offences perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or
 - (c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b) and (c), if that threat is likely to endanger the safety of the fixed platform."

8. **The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.**

Article 2 of the convention described in the heading to this paragraph, the text of which is as follows –

"Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

- (a) with the intent to cause death or serious bodily injury; or
 - (b) with the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.
2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.
3. Any person also commits an offence if that person:
- (a) participates as an accomplice in an offence as set forth in paragraph 1 or 2; or
 - (b) organizes or directs others to commit an offence as set forth in paragraph 1 or 2; or
 - (c) in any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 of the present article by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.]

NOTE

Schedule 10 was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 7, with effect from 24th March, 2010.

COMMITTEE DIRECTIONS

Conditions for giving a direction.

1. (1) The Committee may, after consultation with the Guernsey Financial Services Commission and the Alderney Gambling Control Commission, give a direction under paragraph 2 if one or more of the following conditions is met in relation to a country or territory outside the Bailiwick.

(2) The first condition is that the international body known as the Financial Action Task Force ("**FATF**") has advised that measures should be taken in relation to the country or territory because of the risk that there is money laundering or terrorist financing –

- (a) in the country or territory,
- (b) by the government of the country or territory, or
- (c) by persons resident or incorporated in the country or territory.

(3) The second condition is that the Committee reasonably believes that there is a risk that there is money laundering or terrorist financing –

- (a) in the country or territory,
- (b) by the government of the country or territory, or
- (c) by persons resident or incorporated in the country or territory,

and that this poses a significant risk to the interests of the Bailiwick.

(4) The third condition is that FATF has advised that measures should be taken in relation to the country or territory because of the risk that there is –

- (a) the development, production or proliferation of weapons of mass destruction, or their means of delivery, in the country or territory, or
- (b) the doing in the country or territory of anything that facilitates the development, production or proliferation of such weapons,

and for the avoidance of doubt, for these purposes "proliferation" includes financing.

(5) The fourth condition is that the Committee reasonably believes that –

- (a) the development, production or proliferation of weapons of mass destruction, or their means of delivery, in the country or territory, or
- (b) the doing in the country or territory of anything that facilitates the development, production or proliferation of such weapons,

poses a significant risk to the interests of the Bailiwick; and for the avoidance of doubt, for these purposes "**proliferation**" includes financing.

(6) For the purposes of subparagraphs (3) and (5), a direction given by HM Treasury under paragraph 1(3) or (4) of Schedule 7 to the Counter-

Terrorism Act 2008 shall be sufficient for the Committee to form a reasonable belief that there is a significant risk to the interests of the Bailiwick.

Directions: general.

2. (1) The Committee may, by order, give a direction to –
 - (a) all persons who are within a description of relevant persons,
 - (b) all relevant persons, or
 - (c) a particular relevant person,

and references to "**a relevant person**" shall be construed accordingly.

(2) A direction may impose requirements in relation to transactions or business relationships with –

- (a) a person carrying on business in the relevant country or territory outside the Bailiwick,
- (b) the government of that country or territory,
- (c) a person resident or incorporated in that country or territory.

(3) Requirements referred to in subparagraph (2) may be imposed in relation to –

- (a) all persons,

- (b) all persons who are within a description of persons, or
- (c) a particular person,

within that subparagraph.

- (4) A direction may make different provision in relation to –
 - (a) different descriptions of relevant person,
 - (b) different descriptions of designated person, and
 - (c) different descriptions of transaction or business relationship.

(5) Descriptions of transactions or business relationships for the purposes of subparagraph (4)(c) may, in particular, include transactions or business relationships of a particular subsidiary, branch or representative office of a relevant person.

Directions: requirements.

3. (1) A direction may require a relevant person to undertake enhanced customer due diligence measures –

- (a) before entering into a transaction or business relationship with a designated person, and
- (b) during a business relationship with such a person.

(2) A direction may require a relevant person to undertake enhanced ongoing monitoring of any business relationship with a designated person.

(3) A direction imposing a requirement referred to in subparagraph (1) or subparagraph (2) may do either or both of the following –

- (a) impose a general obligation to undertake enhanced customer due diligence measures or enhanced ongoing monitoring (as the case may be), or
- (b) require a relevant person to undertake specific measures identified or described in the direction.

(4) A direction may require a relevant person –

- (a) not to establish a subsidiary, branch or representative office in a specified country or territory,
- (b) to impose increased external audit requirements on subsidiaries, branches or representative offices established in a specified country or territory, or
- (c) otherwise to take into account (either generally, or by way of requiring the relevant person to undertake specific measures identified or described in the direction) that subsidiaries, branches or representative offices established in a specified country or territory are established in a jurisdiction that does not have in place adequate systems to combat relevant activities.

(5) A direction may require a relevant person to provide such information and documents relating to transactions and business relationships with a designated person as may be specified in the direction.

(6) A direction may require a relevant person not to enter into or not to continue to participate in –

- (a) a specified transaction or business relationship with a designated person,
- (b) transactions or business relationships of a specified description with a designated person, or
- (c) any transaction or business relationship with a designated person.

(7) A direction may require a relevant person not to rely on a third party in a specified country or territory to undertake any, or any specified, customer due diligence measures on the relevant person's behalf.

(8) A direction imposing a requirement referred to in subparagraph (5) must specify how the direction is to be complied with, including –

- (a) the person to whom the information and documents are to be provided, and
- (b) the period within which, or intervals at which, information and documents are to be provided.

(9) The requirements imposed by a direction must be proportionate having regard to the advice mentioned in paragraph 1(2) or (4) or, as the case may be, the risk mentioned in paragraph 1(3) or (5) to the interests of the Bailiwick.

General directions under paragraph 2(1).

4. (1) This paragraph applies to a direction made under paragraph 2(1)(a) or (b).

(2) The Committee must take such steps as it considers appropriate to bring the making of the direction to the attention of the relevant persons to whom it is given.

(3) The Committee may revoke or amend such a direction by making a further order.

(4) The order containing the direction (if not previously revoked and whether or not amended) ceases to have effect at the end of the period of one year beginning with the day on which it was made.

(5) Subparagraph (4) is without prejudice to the giving of a further order.

(6) When the order is amended or ceases to have effect (whether on revocation or otherwise), the Committee must take such steps as it considers appropriate to publicise that fact.

Specific directions under paragraph 2(1).

5. (1) This paragraph applies to a direction given to a particular relevant person under paragraph 2(1)(c).

(2) The Committee must give notice of the direction to the relevant person.

(3) The Committee may revoke or amend such a direction at any time.

(4) A direction (if not previously revoked and whether or not amended) ceases to have effect at the end of the period of one year beginning with the day on which it is given.

(5) Subparagraph (4) is without prejudice to the giving of a further direction.

(6) Where a direction is amended or ceases to have effect (whether on revocation or otherwise), the Committee must give notice of that fact to the relevant person.

Directions limiting or ceasing business: exemption by licence.

6. (1) Where a direction contains requirements of a kind mentioned in paragraph 3(4) or 3(6), the Committee may grant a licence to exempt acts specified in the licence from those requirements.

(2) A licence may be –

- (a) general, or granted to all persons who are within a description of persons or to a particular person,
- (b) subject to conditions, and
- (c) of indefinite duration, or subject to an expiry date.

(3) The Committee may amend or revoke a licence at any time.

(4) On the grant, amendment or revocation of a licence, the Committee must –

- (a) in the case of a licence granted to a particular person, give notice of the grant, amendment or revocation to that person, or
- (b) in the case of a general licence or a licence granted to all persons who are within a description of persons, take such steps as the Committee considers appropriate to bring notice of the grant, amendment or revocation to the attention of the persons who are affected by it.

General right to apply to Court to set aside action, etc of the Committee.

7. (1) Without prejudice to any specific right of appeal in any enactment, but subject to paragraph 8, a person who is directly affected by any action, direction, or decision of the Committee under this Schedule may apply to the Court to set aside that action, direction, or decision.

(2) An application under subparagraph (1) shall be made in such manner (if any) as may be prescribed by order of the Court.

(3) On such an application the Court may make such order on such terms and conditions as it thinks fit.

(4) Subject to any direction given by the Court –

- (a) the applicant shall give at least seven days' notice of the application to the Committee,
- (b) where the application is made in respect of a legal person and the applicant is not the legal person in respect of which the application is made, the applicant

shall give at least seven days' notice of the application to the legal person, and

- (c) the application shall be made within 21 days after the day of the action, direction, or decision of the Committee.

(5) An appeal from an order of the Court under this paragraph lies, with leave of the Court or the Court of Appeal, to the Court of Appeal on a question of law.

(6) Section 21 of the Court of Appeal (Guernsey) Law, 1961 (powers of a single judge) applies to the powers of the Court of Appeal to give leave to appeal under this paragraph as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Committee reliance on HM Treasury direction.

8. (1) No application under paragraph 7 shall lie to set aside the Committee's decision to give a direction if the Committee certifies that, in giving the direction, the Committee formed a reasonable belief concerning a risk to the interests of the Bailiwick in reliance on a direction given by HM Treasury described in paragraph 1(6).

(2) A certificate under subparagraph (1) shall specify the direction on which the Committee relied.

(3) If the direction specified in accordance with subparagraph (2) –

- (a) is set aside (whether or not on appeal) following proceedings under section 63 of the Counter-Terrorism Act 2008,

- (b) ceases to have effect under paragraph 15(3), or is contained in an order which ceases to have effect under paragraph 16(4), of Schedule 7 to that Act, or
- (c) is revoked under paragraph 15(4) of Schedule 7 to that Act or is contained in an order which was revoked in accordance with paragraph 16(3) of Schedule 7 to that Act,

the Committee's direction given in reliance on that direction given by HM Treasury shall be deemed to be revoked on the date that the decision to set aside takes effect or the direction ceases to have effect or is revoked or the order containing the direction ceases to have effect or is revoked, as the case may be.

(4) If, to the Committee's knowledge, the direction specified in accordance with subparagraph (2) is varied in a material particular, or the order containing the direction is varied in a material particular, subparagraph (1) shall not apply unless the direction made by the Committee has been amended to achieve an equivalent effect.

Rules of court, disclosure and special counsel.

9. The provisions of any Ordinance made under section 25 of the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 shall have effect in relation to any proceedings, and any appeal relating to proceedings, under paragraph 7, as if they were proceedings under that Law.

Disclosure of information.

10. Information may be disclosed by the Committee or any other person for the purpose of –

- (a) enabling or facilitating the exercise of the Committee's functions under this Schedule, or
- (b) complying with any requirement under paragraph 3,

notwithstanding any restriction on such disclosure, whether imposed by statute or otherwise, and such disclosure shall not give rise to any cause of action in any proceedings.

Offences.

11. (1) A person who, without reasonable excuse, fails to comply with a requirement imposed by a direction shall be guilty of an offence.

(2) In deciding whether a person has committed an offence under subparagraph (1), the court may take into account whether the person followed any relevant guidance or code of practice that was at the time issued by the Guernsey Financial Services Commission or the Alderney Gambling Control Commission.

(3) A person to whom a direction is given who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent a requirement imposed by the direction shall be guilty of an offence.

(4) A person who, for the purpose of obtaining a licence under paragraph 6 –

- (a) makes a statement which the person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,

- (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (c) produces or furnishes or causes or permits to be produced or furnished any information or document which the person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

is guilty of an offence.

(5) A person guilty of an offence under this paragraph is liable on conviction to a fine, to imprisonment for a term not exceeding seven years, or to both.

(6) A person may commit an offence under this Schedule by conduct wholly or partly outside the Bailiwick.

(7) Nothing in subparagraph (6) affects any criminal liability arising otherwise than under that subparagraph.

Service of notices and documents.

12. (1) Any document other than a summons to be given or served under the provisions of or for the purposes of this Schedule may be given to or served upon –

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- (a) an individual ("A"), by being delivered to A, or by being left at, or sent by post to, A's usual or last known place of abode, or by being transmitted to A's relevant electronic address,
- (b) a company or other legal person with a registered office in the Bailiwick, by being left at, or sent by post to, that office, or by being transmitted to its relevant electronic address,
- (c) a company or other legal person without a registered office in the Bailiwick, by being left at, or sent by post to –
 - (i) its principal or last known principal place of business in the Bailiwick, or
 - (ii) if there is no such place, its registered office or principal or last known principal place of business elsewhere,or by being transmitted to its relevant electronic address,
- (d) an unincorporated body –
 - (i) by being given to or served on any partner (not being a limited partner in a limited partnership), member of the Committee or other similar governing body, director or other similar officer thereof in accordance with item (a), or

- (ii) by being left at, or sent by post to –
 - (A) the body's principal or last known principal place of business in the Bailiwick, or
 - (B) if there is no such place, its principal or last known principal place of business elsewhere,

or by being transmitted to its relevant electronic address,

and in this paragraph –

- (i) **"by post"** means by special delivery, recorded or signed for delivery or ordinary letter post,
- (ii) **"electronic address"** includes, without limitation, an e-mail address and telecommunications address,
- (iii) **"relevant electronic address"** means an electronic address –
 - (A) with which, in the opinion of the Committee, the person concerned has a personal, business or other connection, and

Consolidated text

- (B) a document transmitted to which is likely to come to the attention of the person concerned,
 - (iv) **"transmitted"** means transmitted by electronic communication (that is to say, in electronic form and by electronic means), facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication, and
 - (v) **"summons"** includes any document compelling a person's attendance before the court.
- (2) Subparagraph (1) is without prejudice to any other lawful method of service.
- (3) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Schedule to have been received –
- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,
 - (b) in the case of a document sent elsewhere, on the seventh day after the day of posting,
- excluding in each case any day which is not a business day.
- (4) Service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(5) A document shall be deemed for the purposes of this Schedule to have been –

- (a) addressed to the person concerned, and
- (b) delivered to any person, or left at or transmitted to a place or address,

if the person effecting service certifies that it was addressed, and delivered, left or transmitted (as the case may be), in accordance with the provisions of this paragraph, and the document shall, unless the contrary is shown, be deemed for those purposes to have been received when it was delivered, left or transmitted (as the case may be).

Legal professional privilege and protection from self-incrimination unaffected.

13. For the avoidance of doubt, nothing in this Schedule limits a right to decline to produce or deliver documents or other information on the ground of –

- (a) legal professional privilege, or
- (b) any rule against self-incrimination.

Interpretation: general.

14. (1) In this Schedule unless the context otherwise requires –

"beneficial owner" has the meaning given in paragraph 22 of Schedule 3 to the Proceeds of Crime Law,

"business relationship" means a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to

have an element of duration,

"the Court" means the Royal Court sitting as an Ordinary Court, which shall be properly constituted if it consists of the Bailiff sitting unaccompanied by the Jurats, and which may, where it consists of the Bailiff so sitting, sit in chambers,

"customer due diligence measures" means the steps required to be undertaken by a specified business under subparagraphs (3) to (7) of paragraph 4 of Schedule 3 to the Proceeds of Crime Law,

"designated person" means a person or government described in paragraph 2(2) in relation to whom a direction is given,

"direction" means a direction given by the Committee under paragraph 2,

"enhanced customer due diligence measures" has the meaning given in subparagraph (3)(a) of paragraph 5 of Schedule 3 to the Proceeds of Crime Law,

"FATF": see paragraph 1(2),

"HM Treasury" means the Commissioners of His Majesty's Treasury,

"nuclear weapon" includes a nuclear explosive device that is not intended for use as a weapon,

"one-off transaction" means a transaction which is not part of a business relationship,

"ongoing monitoring" of a business relationship means –

- (a) keeping up to date information and documents obtained for the purposes of customer due diligence measures, and
- (b) scrutinising transactions undertaken during the course of the relationship (and, where appropriate, the source of funds for those transactions) to ascertain whether the transactions are consistent with the relevant person's knowledge of the designated person and their business,

"the Proceeds of Crime Law" means the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,

"radiological weapon" means a device designed to cause destruction, damage or injury by means of the radiation produced by decay of radioactive material,

"relevant activities" means money laundering, terrorist financing, or the development, production or proliferation of weapons of mass destruction,

"relevant person" means a financial services business, or a specified business within the meaning of Schedule 3 to the Proceeds of Crime Law,

"transaction" means a one-off transaction or a transaction in the course of a business relationship, and for the avoidance of doubt includes the provision of advice, and

"weapons of mass destruction" include nuclear, radiological,

biological and chemical weapons.

(2) In this Schedule, a transaction or business relationship with a designated person includes any transaction or business relationship between the relevant person and –

(a) any person acting on behalf of, or at the direction of, the designated person, and

(b) any person in relation to whom the designated person is –

(i) a beneficial owner, or

(ii) a holding body,

regardless of whether or not the designated person is directly involved in such transaction or business relationship.

Interpretation: meaning of holding body.

15. (1) A body corporate is the holding body of another body corporate if the second body is a subsidiary of the first body.

(2) For the purposes of subparagraph (1), a body corporate is a subsidiary of another body corporate if the second body –

(a) holds a majority of the voting rights in the first body,

- (b) is a member of the first body and has the right to appoint or remove a majority of the board of directors of the first body, or
- (c) is a member of the first body and controls alone, or pursuant to an agreement with other shareholders or members, a majority of the voting rights in the first body,

or if the first body is a subsidiary of a body corporate which is itself a subsidiary of the second body.]

NOTES

Schedule 11 was inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2024, section 1(3), with effect from 25th January, 2024.

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 reference herein to the Bailiff included a reference to the Deputy Bailiff.

1 Prior to its substitution, subsection (1) was amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(2), with effect from 15th December 2007.

2 Section 12 was previously substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(3), with effect from 15th December 2007; and amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 1, with effect from 24th March, 2010; the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010, section 2, with effect from 28th April, 2010.

3 Prior to its repeal, section 13 and the marginal note thereto were amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 1(4), with effect from 15th December 2007.

4 Prior to this second substitution, section 15 was amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 3, with effect from 24th March, 2010; the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010, section 2, with effect from 28th April, 2010.

5 Prior to its substitution, section 15A was amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 4, with effect from 24th March, 2010; the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010, section 2, with effect from 28th April, 2010.

6 Paragraph (a) of subsection (2) and paragraph (a) of subsection (4) were previously substituted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, respectively section 5(b) and section 5(d), with effect from 24th March, 2010.

7 Prior to its substitution, subsection (5) was amended by: the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 5(e), with effect from 24th March, 2010 the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010, section 4, with effect from 28th April, 2010.

8 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 29, with effect from 6th May, 2004.

9 The functions, rights and liabilities of the Environment Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Traffic Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 29, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

10 The words omitted in square brackets immediately preceding the definition of the expression "financial services business" in subsection (1), being the definition of the expression "Economic Crime Division" (originally "Financial Investigation Unit") were previously inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010, section 5, with effect from 28th April, 2010; and amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(9)(a), with effect from 14th December, 2018.

11 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), Schedule 2, paragraph 1(a), with effect from 6th May, 2004.

12 This definition, previously of the expression "Financial Intelligence Service", was originally inserted by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2010, section 5, with effect from 28th April, 2010; and then amended by the Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018, section 1(9)(a), with effect from 14th December, 2018.

13 Paragraph (a) of the definition of the expression "terrorist financing" in subsection (1) was previously amended by the: Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011, section 36, Schedule, paragraph 2, with effect from 25th January, 2012; Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 9, with effect from 30th July, 2014.

14 The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Advisory and Finance Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 1(a), Schedule 2, paragraph 1(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

15 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.

16 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 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.

17 Prior to its repeal Schedule 1 was amended by the Terrorism and Crime (Bailiwick of Guernsey) Law 2002 (Proscribed Organisations) (Amendment No. 2) Regulations, 2003, respectively regulation 1 and regulation 2, with effect from 13th May, 2003; the Terrorism and Crime (Bailiwick of Guernsey) Law 2002 (Proscribed Organisations) (Amendment) Regulations, 2005, regulation 1, with effect from 18th October, 2005; the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Proscribed Organisations) (Amendment) Regulations, 2017, regulation 1, regulation 2 and regulation 3, with effect from 28th February, 2017.

18 These words were previously substituted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 9, with effect from 12th May, 2005; and the functions, rights and liabilities of the Emergency Powers Authority and its Chairman arising under or by virtue of this Law were transferred to and vested in them by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 8, with effect from 12th May, 2005, subject to the savings and transitional provisions in section 10 of the 2005 Law.

19 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004.

20 The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in

them, respectively, from the Committee for Home Affairs and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.