

ORDER IN COUNCIL

**XVII
2012**

ratifying a Projet de Loi

ENTITLED

The Sexual Offences (Bailiwick of Guernsey) (Amendment) Law, 2011

(Registered on the Records of the Island of Guernsey
on the 5th November, 2012.)



2012

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

5th day of November, 2012 before John Russell Finch, Esquire, Judge of the Royal Court; present:- Susan Mowbray, Barbara Jean Bartie, David Osmond Le Conte, Stephen Murray Jones, Esquires, Claire Helen Le Pelley, Terry George Snell, David Percy Langley Hodgetts LVO, Esquires, Margaret Ann Spaargaren, Terry John Ferbrache, Esquire, Jurats.

Judge Finch having this day placed before the Court an Order of Her Majesty in Council dated 17th October, 2012 approving and ratifying a Projet de Loi entitled “The Sexual Offences (Bailiwick of Guernsey) (Amendment) Law, 2011”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:

1. That the said Order be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order be sent by Her Majesty’s Greffier to the Greffier of the Court of Alderney and to the Sénéchal of Sark for registration on the records of those Islands respectively.



At the Court at Buckingham Palace

THE 17th DAY OF OCTOBER 2012

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

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

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

“That, in pursuance of their Resolution of 25th March 2010, the States of Deliberation at a meeting on 26th January 2011 approved a *Projet de Loi* entitled the Sexual Offences (Bailiwick of Guernsey) (Amendment) Law, 2011 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Sexual Offences (Bailiwick of Guernsey) (Amendment) Law, 2011, and to order that it shall have force of law in the Bailiwick of Guernsey.

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

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

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

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Sexual Offences (Bailiwick of Guernsey) (Amendment) Law, 2011

THE STATES, in pursuance of their Resolution of the 25th March, 2010^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.

Amendments to the Law of 1983.

1. The Law of 1983 is amended as set out in the Schedule.

Homosexual acts on merchant ships.

2. (1) The repeal of section 2 of the Law of 1983 (whether by this Law or the Sexual Offences (Amendment) (Guernsey) Law, 2000^b) shall not be taken to prevent a homosexual act from constituting a ground for dismissing a member of the crew of a Guernsey ship from his ship.

- (2) In this section -

^a Article IX of Billet d'État No. VI of 2010.

^b Ordres en Conseil Vol. XL, p. 94.

"**Guernsey ship**" has the meaning given by section 1(3) of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^c, and

"**member of the crew**", in relation to a ship, includes the master of the ship and any apprentice to the sea serving in the ship.

Repeal.

3. The Sexual Offences (Amendment) (Guernsey) Law, 2000 is repealed.

Past offences and transitional provisions.

4. (1) Subject to subsection (2), the amendments made by this Law to the Law of 1983 have effect in relation to acts done before or after the commencement of this Law.

(2) The amendments made by this Law to the Law of 1983 do not have effect in relation to any act which is, or apart from this Law would be, an offence, where the defendant to an indictment for that offence has been committed for trial before the commencement of this Law.

(3) For the avoidance of doubt, a reference in this section to "**the amendments made by this Law to the Law of 1983**" includes a reference to the repeal of the Sexual Offences (Amendment) (Guernsey) Law, 2000.

Interpretation.

5. (1) In this Law, "**the Law of 1983**" means the Sexual Offences

^c Order in Council No. VIII of 2004; as amended by Order in Council No. XIII of 2010; see also Ordres en Conseil Vol. XL, p. 15 and Recueil d'Ordonnances Tome XXIX, p. 406.

(Bailiwick of Guernsey) Law, 1983^d.

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

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

Citation.

6. This Law may be cited as the Sexual Offences (Bailiwick of Guernsey) (Amendment) Law, 2011.

S. M. SIMMONDS,
Her Majesty's Deputy Greffier.

^d Ordres en Conseil Vol. XXVIII, p. 316; as amended by Vol. XXXI, p. 278 and, in respect of the Islands of Guernsey, Herm and Jethou, Vol. XL. p. 94. See also Ordres en Conseil Vol. XXXVI, p. 639 and Recueil d'Ordonnances Tome XXIII, p. 472.

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

SCHEDULE

Section 1

AMENDMENTS TO LAW OF 1983

Provision	Amendment
Section 1(1) and (2)	<p>For these subsections, substitute the following subsection -</p> <p style="text-align: center;">"(1) Notwithstanding the provisions of the Law of 1929 or any rule of customary law, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of 16 years."</p>
Section 1(4)	<p>For this subsection, substitute the following subsection -</p> <p style="text-align: center;">"(4) It is hereby declared that where in any proceedings it is charged that a homosexual act is an offence the prosecutor shall have the burden of proving that the act was done otherwise than in private or otherwise than with the consent of the parties or that any of the parties had not attained the age of 16 years."</p>
Section 2	<p>Repeal this section (to the extent that it is still in force anywhere in the Bailiwick).</p>
Section 3(1)(a)	<p>For this paragraph, substitute the following paragraph -</p> <p style="text-align: center;">"(a) the maximum punishment which may be imposed on conviction on indictment of a man for buggery, or</p>

Provision	Amendment
	<p>attempt to commit buggery, with another man, where both the defendant and the other man are of or over the age of sixteen years, shall be -</p> <p>(i) imprisonment for a term of ten years, except where that other man consented thereto, and</p> <p>(ii) in the said excepted case, imprisonment for a term of two years, " .</p>
Section 3(1)(c)(i) and (ii)	<p>For these subparagraphs, substitute the following subparagraphs -</p> <p>"(i) of committing an act of gross indecency with another man under the age of 16 years, or</p> <p>(ii) of being a party to or procuring or attempting to procure the commission by a man under the age of 16 years of such an act with another man, " .</p>
Section 9(2)	<p>At the end of paragraph (b), for the full stop substitute a semi-colon and insert the following paragraph -</p> <p>"(c) "man" means any person of the male gender. " .</p>

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