

Island of



Guernsey

Ordinance of the States

XI
2013

Made 18th February, 2013
Coming into Operation 19th February, 2013
Laid before the States 24th April, 2013

The Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2013

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THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 7(4), 9(5) and 14(2) and (3) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002^a, and all other powers enabling them in that behalf, and on the Committee by article 66(3) of the Reform (Guernsey) Law, 1948^b, hereby orders:-

Amendment of the 2006 Ordinance.

1. (1) The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006^c is amended as follows.

(2) Immediately after section 7, insert the following section -

"Exceptions for certain immigration or nationality purposes.

7A. (1) Sections 7(1), (2) and (3) and 8(1) and (2) of the Law shall not apply -

^a Ordres en Conseil Vol. XLII(1), p. 389; as amended by Order in Council No. XVI of 2009; Ordinance No. XXVI of 2010. See also Ordres en Conseil Vol. XLIII(1), p. 3; Order in Council No. XIV of 2009; Recueil d'Ordonnances Tome XXXI, p. 386; as amended by Tome XXXI, p. 667; Ordres en Conseil Vol. XXIX, p. 207.

^b Ordres en Conseil Vol. XIII p. 288; to which there are amendments not material to this Ordinance.

^c Recueil d'Ordonnances Tome XXXI, p. 386; as amended by Tome XXXI, p. 667. See also Ordres en Conseil Vol. XXIX, p. 207.

- (a) in relation to any proceedings in respect of an immigration decision or a nationality decision, or
- (b) otherwise for the purposes of, or in connection with, any such decision.

(2) In this section -

"Community provision" means -

- (a) any provision contained in or arising under the Community Treaties or any Community instrument (in each case within the meaning of section 1(1) of the European Communities (Bailiwick of Guernsey) Law, 1973),
- (b) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under the Community Treaties, and
- (c) any decision or expression of opinion of the European Court or any court attached thereto under the Community Treaties,

"Immigration Acts" means the Immigration Act 1971, the Immigration Act 1988, the Asylum and Immigration Act 1996, the Immigration and Asylum Act 1999, the Immigration, Asylum and Nationality Act 2006, and any other Acts relating to immigration

control from time to time extended to (and modified for) the Bailiwick of Guernsey,

"immigration decision" means any decision, or proposed decision, of the Lieutenant-Governor, an immigration officer, or the States of Guernsey Home Department under or by virtue of the Immigration Acts or Immigration Rules, in relation to the entitlement of a person to enter or remain in the Bailiwick of Guernsey (including, in particular, the granting of a work permit, or the removal of a person from the Bailiwick of Guernsey whether by deportation or otherwise),

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

"Immigration Rules" means rules made under section 3 of the Immigration Act 1971, and

"nationality decision" means any decision, or proposed decision, of the Lieutenant-Governor under or by virtue of –

- (a) the British Nationality Act 1981,
- (b) the British Nationality (Hong Kong) Act 1990,
or
- (c) the Hong Kong (War Wives and Widows) Act 1996,

in relation to the good character of a person.

(3) The references in subsection (2) to the Immigration Acts and to the Acts listed in the definition of "**nationality decision**" include references to any Ordinance made under section 1 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994 or to any Community provision that is directly applicable in the Bailiwick of Guernsey."

(3) In section 9(1), insert in the appropriate alphabetical order the following definitions -

"**enactment**" means any Act, Law, Ordinance or subordinate legislation, ", and

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect, ".

Transitional.

2. (1) Section 1 applies in relation to -
- (a) convictions before, on or after the commencement date,
 - (b) any application (for an immigration decision or a nationality decision) made on or after the 13th December, 2012, unless the application is finally determined before the commencement date, and

- (c) any proceedings begun on or after the 13th December, 2012, unless those proceedings are completed before the commencement date.

(2) Section 1 applies as mentioned in subsection (1) above whether or not, immediately before the commencement date -

- (a) the person concerned is treated as a rehabilitated person for the purposes of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 in respect of the conviction, or
- (b) the conviction is treated for the purposes of that Law as spent.

(3) Section 1 does not affect the validity of any proceedings completed, or any immigration decision or nationality decision which is made, before the commencement date.

(4) In this section -

"**commencement date**" means the date specified for the commencement of this Ordinance in section 3,

"**immigration decision**" has the meaning given by section 7A(2) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006, and

"**nationality decision**" has the meaning given by section 7A(2) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002

(Commencement, Exclusions and Exceptions) Ordinance, 2006.

Citation and commencement.

3. This Ordinance may be cited as the Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance, 2013 and shall come into force on the 19th February, 2013.

J.TORODE,
Her Majesty's Greffier.

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