

# ORDER IN COUNCIL

IX  
2014

ratifying a Projet de Loi

ENTITLED

## **The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013**

(Registered on the Records of the Island of Guernsey  
on the 15th September, 2014.)



---

2014

## ORDER IN COUNCIL



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

The 15<sup>th</sup> day of September, 2014 before John Russell Finch, Esquire, Judge of the Royal Court; present:- Stephen Edward Francis Le Poidevin, Esquire, Susan Mowbray, John Ferguson, Stephen Murray Jones, Esquires, Claire Helen Le Pelley, Peter Sean Trueman Girard, Esquire, Constance Helyar-Wilkinson, Terry George Snell, David Allan Grut, Esquires, Jurats.

Judge Finch, having this day placed before the Court an Order of Her Majesty in Council dated 16<sup>th</sup> July, 2014 approving and ratifying a Projet de Loi entitled “The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013”, 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.

J TORODE  
Her Majesty’s Greffier



*At the Court at Buckingham Palace*

THE 16th DAY OF JULY 2014

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 Resolutions of 28th July 2011 and 30th October 2013, the States of Deliberation at a meeting on 30th October 2013 approved a Projet de Loi entitled the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the States of the Island of Alderney at a meeting held on 18th December 2013 considered the Projet de Loi when a Resolution was passed agreeing to the application to Alderney. That the Chief Pleas of the Island of Sark at a meeting held on 22nd January 2014 considered the Projet de Loi when a Resolution was passed agreeing to the application to Sark. 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 Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013, 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 Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013**

### ARRANGEMENT OF SECTIONS

#### PART I RELEVANT OFFENCES

1. Relevant offences to which this Law applies.

#### PART II NOTIFICATION

2. Persons who are subject to notification requirements of this Law.
3. Notification period.
4. Notification requirements.
5. Additional requirements.
6. Travel outside the Bailiwick.
7. Parental responsibility in relation to notifiers aged under 18.
8. Powers to search.
9. Information about release or transfer.

#### PART III REVIEW OF NOTIFICATION REQUIREMENTS

10. Interpretation.
11. Application for review.
12. Determination of application for review.
13. Factors applying to a determination under s.12.
14. Determination where no application has been made.
15. Appeals.
16. Guidance.

PART IV  
COURT ORDERS

17. Interpretation of this Part.
18. Sexual offences prevention orders.
19. Sexual offences prevention orders: further provisions.
20. Foreign travel orders.
21. Foreign travel orders: further provisions.
22. Risk of sexual harm orders.
23. Risk of sexual harm orders: further provisions.
24. Miscellaneous.

PART V  
OTHER CONVICTIONS

25. Acts done by residents of the Bailiwick outside the Bailiwick.

PART VI  
APPEALS

26. Appeals – general provisions.
27. Appeals – procedure.
28. Appeals – certifications by court.
29. Appeals – length of notification period.
30. Appeals – sexual offences prevention orders.
31. Appeals – foreign travel orders.
32. Appeals – risk of sexual harm orders.

PART VII  
ROLE OF SPECIFIED PERSONS

33. Supply of information by Chief Officer of Police.
34. Arrangements for monitoring and managing risks posed by certain offenders.
35. Further provisions in relation to arrangements established under section 34.
36. Duties of Probation Service in connection with victims of certain offences.
37. Disclosure of information about convictions etc. of child sex offenders to members of the public.
38. Section 37: interpretation.

PART VIII  
EVIDENCE AND RELATED PROVISIONS

39. Interpretation of this Part.
40. Recorded evidence in chief.
41. Effect of recorded evidence direction.
42. Relevant evidence.
43. Cross-examination of complainants.
44. Defence representation for purposes of cross-examination.
45. Anonymity of complainants of relevant offences.
46. Power to displace section 45.
47. Offence.

PART IX  
MISCELLANEOUS PROVISIONS

48. Rules of court.
49. Reporting of cases.
50. Transitional provisions.
51. Commencement of proceedings for offences under this Law.
52. Convictions outside the Bailiwick.
53. Amendment.
54. Interpretation.
55. General provisions as to Ordinances and regulations.
56. Citation.
57. Commencement.

# PROJET DE LOI

ENTITLED

## **The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013**

**THE STATES**, in pursuance of their Resolution of the 28<sup>th</sup> July, 2011<sup>a</sup> and of the 30th October, 2013<sup>b</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### PART I

#### RELEVANT OFFENCES

#### **Relevant offences to which this Law applies.**

1. (1) The offences to which this Law applies ("**relevant offences**") are –

- (a) the customary law offences of rape, indecent assault, and indecent exposure,
- (b) an offence under article 1 (*inceste* committed by a man), article 3 (an attempt to commit *inceste*) or

---

<sup>a</sup> Article IX of Billet d'État No. XIII of 2011.

<sup>b</sup> Article I of Billet d'État No. XX of 2013.

article 5 (*inceste* committed by a woman) of the *Loi pour la punition d'inceste* 1909<sup>c</sup>,

- (c) an offence under article 1 (being involved in the corruption of a girl or woman), 1(2)(i) (menacing or intimidating a girl or woman to have unlawful sexual intercourse), article 1(2)(ii) (using false pretences or false representations to cause a girl or woman to have unlawful sexual intercourse), article 1(2)(iii) (applying, administering or making a girl or woman take drugs for the purpose of having unlawful sexual intercourse), article 2 (having or attempting to have sexual intercourse with a girl aged under 13 years), article 3(a) (having or attempting to have sexual intercourse with a girl aged over 13 years but under 16 years), article 3(b) (having or attempting to have sexual intercourse with a girl or woman of unsound mind), article 4 (permitting girls aged under 16 years to frequent premises for the purpose of unlawful sexual intercourse), article 5 (abducting a girl aged under 18 years for an immoral purpose), article 6 (detaining a girl or woman against her wishes), article 9(a) (living on the earnings of prostitution), article 9(b) (persistently soliciting or importuning in a public place for an immoral purpose), article 12 (controlling etc. the movements of a prostitute), or article 13 (kidnapping by impersonating the husband of a

---

<sup>c</sup> Ordres en Conseil Vol. IV, p.288.

married woman) of the *Loi relative à la Protection des Femmes et des Filles mineures* 1914<sup>d</sup>,

- (d) except as provided by subsection (2), an offence under article 1 (*sodomie*), article 2 (assault with intent to commit *sodomie* or indecent assault on a male) or article 3 (gross indecency with a male) of the *Loi relative à la Sodomie* 1929<sup>e</sup>,
- (e) an offence under section 4 (procuring a man to commit buggery), section 5 (living on the earnings of male prostitution) or article 6 (permitting the use of premises for lewd homosexual practices) contrary to the Sexual Offences (Bailiwick of Guernsey) Law, 1983<sup>f</sup>,
- (f) an offence under section 1 (gross indecency with a child) or section 3(1) (taking, distributing or possessing etc., indecent photographs of children) of the Protection of Children (Bailiwick of Guernsey) Law, 1985<sup>g</sup>,

---

<sup>d</sup> Ordres en Conseil Vol. V, p.74.

<sup>e</sup> Ordres en Conseil Vol. VII, p.273.

<sup>f</sup> Ordres en Conseil Vol. XXVIII, p. 316; Vol. XXXI, p. 278 and Vol. XL, p. 93; Order in Council No. XVII of 2012. See also Ordres en Conseil Vol. XXXVI, p. 639; and Recueil d'Ordonnances Tome XXIII, p. 472.

<sup>g</sup> Ordres en Conseil Vol. XXIX, p.103; Vol. XXXIII, p. 49 and Vol. XLIII(1), p. 3; Order in Council No. XIII of 2006.

- (g) an offence under article 3 of the Import and Export (Control) (Guernsey) Law, 1946<sup>h</sup> in so far as the offence relates to goods prohibited to be imported under article 4 of the Import and Export of Goods (Guernsey) Order, 1990<sup>i</sup> that are indecent photographs of persons who are or appear to be aged under 16 years,
- (h) an offence under section 9(1)(a) (burglary with intent to rape a woman) or section 10 (aggravated burglary where the burglary is with intent to rape a woman) of the Theft (Bailiwick of Guernsey) Law, 1983<sup>j</sup>,
- (i) an offence under section 23 (breach of risk of sexual harm order, interim risk of sexual harm order or prescribed order) of this Law, and
- (j) an offence under section 25 (conviction in the Bailiwick for an act committed outside the Bailiwick by a person ordinarily resident in the Bailiwick) of this Law.

(2) The States may by Ordinance amend subsection (1) by adding, amending or deleting any offence.

---

<sup>h</sup> Ordres en Conseil Vol. XII, p. 334.

<sup>i</sup> G.S.I. No. 24 of 1990.

<sup>j</sup> Ordres en Conseil Vol. XXVIII, p. 5; Vol. XXXI, p. 278; Vol. XXXIII, p. 49; Vol. XXXVI, p. 639; Vol. XXXIX, p. 277 and Vol. XLI, pp. 452 and 515.

PART II  
NOTIFICATION

**Persons who are subject to notification requirements of this Law.**

2. (1) A person who is convicted of a relevant offence before a court becomes subject to the notification requirements of this Law upon conviction.

(2) A person who, in a prescribed jurisdiction, is subject to prescribed notification requirements and who enters the Bailiwick -

(a) becomes subject to the notification requirements of this Law upon entering the Bailiwick, and

(b) remains subject to those requirements during the continuance of the prescribed notification requirements.

(3) Subject to subsection (4), if, when sentencing or otherwise dealing with a person in respect of an offence, a court certifies that the offence was sexually aggravated, the offender thereupon becomes subject to the notification requirements of this Law.

(4) A court must not certify that an offence was sexually aggravated unless it is satisfied, on the information available to it -

(a) that at, before or after the time of committing the offence the offender's actions included a sexual element directly connected with the commission of the offence, and

- (b) that the offender poses a risk of sexual harm to the public or any particular person or persons.

(5) A person who is cautioned for a relevant offence becomes subject to the notification requirements of this Law upon receipt of that caution.

(6) A person in respect of whom a court makes -

- (a) a sexual offences prevention order under section 18,
- (b) a foreign travel order under section 20, and
- (c) a risk of sexual harm order under section 22,

who was not a person subject to the notification requirements of this Law immediately before the making of the order becomes subject to the notification requirements of this Law upon the order being made.

(7) A person ceases to be subject to the notification requirements of this Law -

- (a) if the conviction or, as the case may be, the relevant order or action of the court is quashed or reversed on appeal,
- (b) where the person is a person to whom subsection (1), (3) or (5) applies, when in accordance with Part III, the Chief Officer of Police determines or the Magistrate's Court orders that the person should not remain subject to the notification requirements, or

- (c) where the person is a person to whom subsection (6) applies, when the sexual offences prevention order, the risk of sexual harm order or foreign travel order (as renewed from time to time) ceases to have effect.

(8) For the purposes of subsection (2), "**prescribed notification requirements**" means notification requirements imposed under the law of a prescribed jurisdiction, being notification requirements of a type prescribed that are substantially the same as the notification requirements under this Law.

(9) A person for the time being subject to the notification requirements of this Part is referred to in this Law as a "**notifier**".

**Notification period.**

3. (1) A court which sentences a person for a relevant offence must specify the minimum period during which that person is subject to the notification requirements.

(2) Where a court certifies under section 2(3) that an offence was sexually aggravated, the court must, at that time, specify the minimum period for which the person is subject to the notification requirements.

(3) Unless the court is satisfied that there is a reason why a shorter period would be appropriate, the minimum period specified under subsection (1) or (2) must be a period of at least 5 years, being a period that the court is satisfied takes into account -

- (a) the likelihood of the person re-offending, and

- (b) the seriousness of any offence likely to be committed by the person.

(4) Where a person becomes subject to the notification requirements of this Law by being cautioned, the minimum period during which that person is subject to those requirements is a period of 2 years.

(5) Where a court makes an order by which a person becomes subject to the notification requirements pursuant to section 2(6), the period during which the person shall be subject to those requirements is the period of that order.

**Notification requirements.**

4. (1) The notifier must notify an authorised officer of the following information at the time of notification -

- (a) every name the notifier uses,
- (b) the notifier's home address,
- (c) any other address in the Bailiwick -
  - (i) if the notifier intends to remain in the Bailiwick for less than 7 days, at which the notifier intends to reside or stay,
  - (ii) in any other case, at which the notifier regularly resides or stays,
- (d) any other address in the Bailiwick at which the notifier has resided or stayed for a qualifying period,

- (e) the notifier's date of birth,
  - (f) the notifier's social insurance number and, where the notifier does not reside in the Bailiwick, all other equivalent identification numbers relating to the notifier issued by a jurisdiction in the British Islands, and
  - (g) any other prescribed information.
- (2) The notification must be given -
- (a) in the case of a notifier to whom section 2(1) applies, within a period of 24 hours commencing when the court convicts the notifier,
  - (b) in the case of a notifier to whom section 2(2) applies, within a period of 24 hours commencing when the notifier enters the Bailiwick,
  - (c) in the case of a notifier to whom section 2(3) applies, within a period of 24 hours commencing when the court certifies that the offence was a sexually aggravated offence,
  - (d) in the case of a notifier to whom section 2(5) applies, within a period of 24 hours commencing when the notifier is cautioned,

- (e) in the case of a notifier to whom section 2(6) applies, within a period of 24 hours commencing when the court makes the sexual offences prevention order, a risk of sexual harm order or a foreign travel order,
- (f) in the case of a notifier to whom subsection (6) applies-
  - (i) if an authorised officer attends the place where the notifier is detained to receive the notification, at the time the authorised officer so attends, or
  - (ii) if an authorised officer does not so attend, within a period of 24 hours commencing when the notifier ceases to be detained or is discharged from the approved establishment,

and on each anniversary of the day on which the notifier first gave notification.

- (3) The notifier must also notify an authorised officer -
  - (a) if the notifier uses a name that has not been notified to an authorised officer under this section within 24 hours of the notifier's first use of the name,
  - (b) of any change in the notifier's home address or his having stayed for a qualifying period at any other residence in the Bailiwick that has not been notified to an authorised officer -

- (i) if the notifier has prior knowledge of the change, at least 24 hours before the change, if this is possible, or
- (ii) in any other case, as soon as reasonably practicable but, in any event, within the 24 hours after the change.

(4) There is to be disregarded when determining the period mentioned in subsection (3)(a) or (b) any time during which the notifier -

- (a) is in custody on remand,
- (b) is serving a sentence of imprisonment or youth detention,
- (c) is detained in an approved establishment in accordance with Part IX of the Mental Health Law, or
- (d) is outside the Bailiwick.

(5) The court before which a notifier has been convicted of a relevant offence may order that the notifier be detained following the conviction until notification under subsection (1) has been given to an authorised officer.

(6) Notwithstanding subsection (2)(a) to (e), if a notifier to whom this section applies is, on a day notification is required to be given under any of those paragraphs -

- (a) in custody on remand,
- (b) serving a sentence of imprisonment or youth detention,  
or
- (c) detained in an approved establishment in accordance with Part IX of the Mental Health Law,

the notifier must instead give notification under subsection (2)(f).

(7) If a notifier, required to give notification on an anniversary mentioned in subsection (2), is on that day -

- (a) in custody on remand,
- (b) serving a sentence of imprisonment or youth detention,
- (c) detained in an approved establishment in accordance with Part IX of the Mental Health Law, or
- (d) outside the Bailiwick,

the notifier must instead give notification within a period of 24 hours commencing when the notifier ceases to be detained, is discharged from the approved establishment or returns to the Bailiwick, as the case may be.

(8) Except as provided by subsection (2)(f)(i), a person must give notification under this Article to an authorised officer by attendance at the place designated by the Chief Officer of Police.

(9) An authorised officer must give a written acknowledgement of notification given under this section.

(10) A notifier who -

- (a) fails, without reasonable excuse, to comply with subsection (2), (3) or (7), or
- (b) in purported compliance with any of those subsections, provides information that the notifier knows to be false or misleading,

is guilty of an offence and liable -

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

(11) For the purposes of this section, a "**qualifying period**" means-

- (a) a period of at least 7 days, or

- (b) two or more periods, in any period of 12 months, which taken together amount to 7 days.

**Additional requirements.**

5. (1) A notifier giving notification must, if requested to do so by an authorised officer, allow an authorised officer to take -

- (a) the fingerprints,
- (b) photographs, and
- (c) a DNA sample (by way of a non-intimate sample),

of the person.

(2) A fingerprint or a DNA profile derived from a DNA sample taken under subsection (1)(c) may be used -

- (a) to verify the identity of the notifier, and
- (b) to check -
  - (i) the fingerprint against any other fingerprint, or
  - (ii) the DNA profile against any other DNA profile,

which is -

- (A) held in connection with or as a result of an investigation of an offence,
- (B) contained in records held by the Guernsey Police, or
- (C) contained in any similar records held by or on behalf of any relevant law enforcement agency.

(4) A notifier must also, if requested to do so by an authorised officer, provide documentary evidence of the notifier's identity.

(5) An authorised officer may submit documentary evidence supplied under subsection (4) to a relevant person for verification by the records held by the government department in which the relevant person works.

(6) The relevant person may supply an authorised officer with the verification requested.

(7) Except as provided by subsection (8), the supply of information under this section is not to be taken to breach any restriction on the disclosure of information (however arising or imposed).

(8) This section does not –

- (a) authorize the doing of anything that contravenes the Data Protection (Bailiwick of Guernsey) Law, 2001<sup>k</sup>,  
or
  - (b) affect a power to supply information that exists apart from this section.
- (9) A person who -
- (a) fails, without reasonable excuse, to comply with subsection (1) or (4),
  - (b) in purported compliance with subsection (4), supplies documentary evidence the person knows to be false or misleading, or
  - (c) hinders or obstructs an authorised officer acting under subsection (1) or (4),

is guilty of an offence and is liable -

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

---

<sup>k</sup> Orders in Council Vol. XLII(1), p.51; Ordinance No. II of 2010; No. XXXIV of 2011 and No. XLIX of 2012.

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

(10) For the purposes of this section -

**"department of the States of Guernsey"** means any department or committee (however called) of the States of Guernsey, and includes the Policy Council,

**"DNA profile"** means any information derived from a DNA sample,

**"DNA sample"** means any material that has come from a human body and consists of or includes human cells,

**"fingerprint"** and **"non-intimate sample"** have the same meanings as found in section 91(3) of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003<sup>1</sup>,

**"government department"** means -

- (a) in Guernsey, any department of the States of Guernsey,

---

<sup>1</sup> Ordres en Conseil Vol. XLIII(2), p. 617; Order in Council No. XVI of 2009; Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXXIII, p. 617 and Ordinance No. XXIX of 2011. See also Ordres en Conseil Vol. XXII, p. 122; Order in Council No. III of 2005 and Nos. XIV, XXVIII and XVIII of 2009.

- (b) in Alderney, any Committee of the States of Alderney, and
- (c) in Sark, any Committee of the Chief Pleas of Sark.

"**relevant law enforcement agency**" has the same meaning as found in section 70(2) of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, and

"**relevant person**" means -

- (a) in Guernsey, a person employed in a department of the States of Guernsey who is authorised by -
  - (i) the chief officer of the department, or
  - (ii) in the event that the department has no chief officer, the Chief Executive of the States of Guernsey,

to verify documentary evidence for the purposes of this Law,

- (b) in Alderney, the Chief Executive of the States of Alderney, and

- (c) in Sark, a person appointed by the General Purposes and Advisory Committee of the Chief Pleas of Sark to verify documentary evidence for the purposes of this Law.

**Travel outside the Bailiwick.**

6. (1) The Department may by regulations make provision requiring notifiers who leave the Bailiwick -

- (a) before they leave, to give in accordance with the regulations, a notification under subsection (2), and
  - (b) if they subsequently return to the Bailiwick, to give in accordance with the regulations a notification under subsection (3).
- (2) A notification under this subsection must disclose -
- (a) the date on which the notifier will leave the Bailiwick,
  - (b) the place (or, if there is more than one, the first place) to which the notifier will travel and the notifier's point of arrival (determined in accordance with the regulations) in the country or territory where the place is situated, and
  - (c) any other information prescribed by the regulations, including but not limited to, information in relation to-
    - (i) the notifier's departure from the Bailiwick,

- (ii) the notifier's movements while outside the Bailiwick,
  - (iii) any place to which the notifier intends to travel while outside the Bailiwick, and
  - (iv) the notifier's intended return to the Bailiwick.
- (3) A notification under this subsection must disclose -
  - (a) any information regarding any place to which the notifier travelled while outside the Bailiwick, and
  - (b) any other information prescribed by the regulations, including but not limited to, information in relation to-
    - (i) the notifier's movements while outside the Bailiwick, and
    - (ii) the notifier's return to the Bailiwick.
- (4) Regulations under subsection (1) may make different provision for different categories of notifiers.
- (5) A person who -
  - (a) fails, without reasonable excuse, to give a notification in compliance with regulations made under subsection (1) when required to do so by those regulations, or

- (b) in purported compliance with regulations made under subsection (1), provides information that the person knows to be false or misleading,

is guilty of an offence and is liable -

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

**Parental responsibility in relation to notifiers aged under 18.**

7. (1) Where a notifier -

- (a) has not attained 18 years of age, and
- (b) has become subject to the notification requirements pursuant to section 2(1), (3) or (6),

the notification requirements may take effect if the court so orders as if they had been imposed on a specified person having parental responsibility for the notifier.

(2) Where a person with parental responsibility specified under subsection (1) attends the place designated by the Chief Officer of Police in order to give notification, that person must ensure that the notifier also attends.

(3) Where subsection (1) applies and the notifier subsequently attains 18 years of age, the notification requirements will no longer take effect as if they had been imposed on the specified person.

(4) For the purposes of this section, a person having parental responsibility in respect of a notifier -

(a) in Guernsey and Alderney, is a person who has parental responsibility for the notifier in accordance with the Children (Guernsey and Alderney) Law, 2008<sup>m</sup>, and

(b) in Sark, is a person who is the parent or guardian of the notifier.

(5) Where -

(a) the court has made an order under subsection (1), and

(b) the specified person -

(i) fails to comply with , or

(ii) provides information that the person knows to be false or misleading in purported compliance with,

---

<sup>m</sup> Order in Council No. XIV of 2009; as amended by Recueil d'Ordonnances Tome XXXIII, pp. 480 and 709.

any provision of this Law with which the notifier would otherwise be required to comply,

that person may be proceeded against and sentenced as if he was the notifier.

**Powers to search.**

8. (1) Where it appears to the Bailiff on information on oath that there is reasonable cause to believe that -

- (a) the home address of a notifier is not the home address last notified by the person under section 4, and
- (b) apart from searching premises, there are no other practical means of establishing the notifier's home address,

he may issue a warrant authorizing a police officer -

- (i) to enter the premises specified in the warrant, and
- (ii) to search the premises to ascertain the home address of the notifier.

(2) Where it appears to the Bailiff on information on oath that there is reasonable cause to suspect that there is at the home address of a notifier a person who is at risk of harm from that notifier, he may issue a warrant authorizing a police officer -

- (a) to enter the premises specified in the warrant, being the home address of the notifier, and
- (b) to search those premises to ascertain if there is on the premises a person who is at risk of harm from the notifier.

(3) Where it appears to the Bailiff on information on oath that there is reasonable cause to suspect that there is at -

- (a) the home address of a notifier, or
- (b) any other address notified by him under section 4(1)(c),

any object which he is not permitted to possess in accordance with an order made under Part IV, he may issue a warrant authorizing a police officer -

- (i) to enter the premises specified in the warrant, being the home address of the notifier or any other address notified by him, and
- (ii) to search those premises to ascertain if there is on the premises any such object.

(4) A person who intentionally obstructs or hinders a police officer in the exercise of the officer's powers or duty is guilty of an offence and is liable on summary conviction to imprisonment for a term of 12 months and to a fine of level 4 on the uniform scale.

**Information about release or transfer.**

9. (1) The States may by Ordinance may make such provision as they think fit in respect of the information that must be given by the person who is responsible for a notifier -

- (a) serving a period of detention, or
- (b) who is detained in an approved establishment in accordance with Part IX of the Mental Health Law,

to persons listed in the Ordinance of any occasion when the notifier will imminently be released or discharged, or a different person becomes responsible for the notifier.

(2) An Ordinance made under subsection (1) may require the person who is responsible for the notifier to provide any information or photographs of the notifier.

- (3) For the purposes of subsection (1) -
  - (a) "**detention**" includes imprisonment and youth detention,
  - (b) "**discharged**" includes being given leave of absence under section 36 of the Mental Health Law, as modified by the Second Schedule to that Law, and
  - (c) "**released**" includes being released temporarily on an unsupervised basis.

PART III  
REVIEW OF NOTIFICATION REQUIREMENTS

**Interpretation.**

10. For the purposes of this Part -

- (a) "**an application for review**" means an application by a relevant notifier that he should not be subject to the notification requirements,
- (b) "**the qualifying date**" is the day after the end of the minimum period specified under section 3, calculated from the first day on which the relevant notifier gives the relevant notification,
- (c) "**a relevant notifier**" is a notifier who, on the relevant date, is subject to notification requirements,
- (d) "**the relevant date**" means the date on which the relevant notifier makes an application for review,
- (e) "**the relevant notification**" means the first notification which the notifier gives under section 4 when -
  - (i) he is first released after being remanded in custody in relation to the conviction for the offence giving rise to the notification requirements,

- (ii) he is first released after serving a sentence of imprisonment or youth detention in relation to that conviction,
  - (iii) he is first released after being detained in an approved establishment in accordance with Part IX of the Mental Health Law, in relation to that conviction, or
  - (iv) in any other case, he is first required to do so for the purposes of Part II, and
- (f) a "**relevant body**" means -
- (i) the Probation Service, or
  - (ii) the States Prison.

**Application for review.**

11. (1) A relevant notifier may apply to the Chief Officer of Police for a determination that he should no longer be subject to the notification requirements ("**an application for review**").

(2) An application for review must be made in the prescribed form and may be made on or after the qualifying date.

(3) The Chief Officer of Police within 14 days of receipt of an application for review -

- (a) must give an acknowledgment of receipt of the application to the relevant notifier, and
- (b) may notify a relevant body that the application has been made.

(4) Where a relevant body is notified of the application for review under subsection (3)(b) and holds information which it considers to be relevant to the application, the relevant body must give such information to the Chief Officer of Police within 28 days of receipt of the notification.

**Determination of application for review.**

12. (1) The Chief Officer of Police must, within 6 weeks of the latest date on which a relevant body to which a notification has been given under section 11(3)(b) may give information under section 11(4) -

- (a) determine the application for review, and
- (b) give notice of the determination to the relevant notifier.

(2) For the purposes of the determination of an application for review under this section, a relevant notifier must satisfy the Chief Officer of Police that it is not necessary for the purpose of protecting the public or any particular members of the public from sexual harm for the relevant notifier to remain subject to the notification requirements.

(3) If the Chief Officer of Police determines under this section that the relevant notifier should remain subject to the notification requirements, the notice of the determination must -

- (a) contain a statement of reasons for the determination, and
- (b) inform the relevant notifier that he may appeal the determination in accordance with section 15.

(4) If the Chief Officer of Police determines under this section that a relevant notifier should not remain subject to the notification requirements, the relevant notifier ceases to be subject to the notification requirements on the date of receipt of the notice of determination.

(5) The Chief Officer of Police shall have no obligation to consider an application for review where -

- (a) the application for review is a further application (that is to say, an application which relates to a relevant notifier in respect of whom a previous application has been received by the Chief Officer of Police),
- (b) in the opinion of the Chief Officer of Police, that further application discloses no significant change in any material circumstances concerning the relevant notifier, and
- (c) within the period of 12 months immediately preceding receipt of the further application a previous application has been determined by the Chief Officer of Police.

(6) The Department may by regulations amend the period in subsection (5)(c).

**Factors applying to a determination under section 12.**

13. In determining an application for review, the Chief Officer of Police must -

- (a) have regard to -
  - (i) information which is held by the Guernsey Police, and
  - (ii) information (if any) received from a relevant body, and
- (b) consider the risk of sexual harm posed by the relevant notifier and the effect of a continuation of the notification requirements on the relevant notifier,

and may consider such other matters which he considers to be appropriate.

**Determination where no application has been made.**

14. (1) At any stage on or after the qualifying date, the Chief Officer of Police may, if he sees fit, proceed to determine whether a notifier should be subject to the notification requirements in accordance with this Part, as if he had received such an application.

(2) Where the Chief Officer of Police proceeds in accordance with subsection (1) -

- (a) he shall have the powers and duties, and
- (b) any responsible body shall have the duties,

that he or it would have had if an application had been made by the relevant notifier for him to determine whether the relevant notifier should remain subject to the notification requirements.

(3) Where the Chief Officer of Police determines that a relevant notifier should remain subject to the notification requirements, the relevant notifier may appeal to the Magistrate's Court in accordance with section 15.

**Appeals.**

15. (1) A relevant notifier may appeal to the Magistrate's Court against a determination of the Chief Officer of Police -

- (a) within the period of 21 days beginning with the day of receipt of the notice of determination, and
- (b) in such manner as may be prescribed by order of the Royal Court.

(2) If the Magistrate's Court makes an order that a relevant notifier should not remain subject to the notification requirements, the relevant notifier ceases to be subject to the notification requirements on the date of the order.

**Guidance.**

16. (1) The Department may issue guidance to the Chief Officer of Police in relation to the determination by him of applications made under section 11.

(2) The Department may, from time to time, revise any guidance issued under subsection (1).

(3) The Department must arrange for any guidance issued or revised under this section to be published in such manner as the Department considers appropriate.

#### PART IV COURT ORDERS

##### **Interpretation of this Part.**

17. (1) For the purposes of this Part -

- (a) a "**child**" means a person who has not attained the age of 16,
- (b) an "**offender**" means a person who -
  - (i) has been convicted, before or after the commencement of this section, of a relevant offence,
  - (ii) outside the Bailiwick, has been convicted, before or after the commencement of this section, of an offence that would, if the offence had been committed in the Bailiwick, have

constituted a sexual offence to which this Law applies,

- (iii) has been convicted of an offence that a court has certified, under section 2(3), was sexually aggravated, or
- (iv) outside the Bailiwick, has been convicted of an offence, before or after the commencement of this section, that a court has certified under subsection (2) was sexually aggravated.

(2) A court may for the purpose of subsection (1)(b)(iv), on the application of Her Majesty's Procureur, certify that the offence was sexually aggravated if the court is satisfied -

- (a) that the offence was sexually motivated, or
- (b) that at, before or after the time of committing the offence the offender's actions included a sexual element directly connected with the commission of the offence.

**Sexual offences prevention orders.**

**18.** (1) Where a court is satisfied on the balance of probabilities, on the application of Her Majesty's Procureur, that an offender poses a threat of -

- (a) sexual harm to children in general or to a particular child or children, or

- (b) serious sexual harm to the public or any particular person or persons,

the court may make a sexual offences prevention order in respect of the offender as it is satisfied is necessary to protect -

- (i) children in general or any particular child or children from sexual harm from the offender,  
or
- (ii) the public or any particular person or class of person from serious sexual harm from the offender.

(2) An application under this section may be made -

- (a) where an order may be made by the Magistrate's Court upon conviction or sentencing for an offence pursuant to section 17(1)(b)(i) or (iii), that court, or
- (b) in any other case, the Royal Court.

(3) A sexual offences prevention order may -

- (a) prohibit the offender from doing anything described in the order, and
- (b) require the offender to do anything described in the order.

(4) Notwithstanding the generality of subsection (3)(a), a sexual offences prevention order may, in particular, prohibit the offender from undertaking any work or other activity that may require or be likely to allow the offender to come into contact or be associated with -

- (a) a specific child or children, or children in general, or
- (b) a specific person who may be vulnerable to sexual exploitation or any description of persons the court considers may be vulnerable to sexual exploitation by the offender.

(5) If an application for a sexual offences prevention order has not been determined, Her Majesty's Procureur may apply to the court for an interim sexual offences prevention order.

(6) The court may, if it considers it just to do so, make an interim sexual offences prevention order in respect of the offender, as it is satisfied is necessary to protect -

- (a) children in general or any particular child or children from sexual harm from the offender, or
- (b) the public or any particular person or class of person from serious sexual harm from the offender.

(7) An interim sexual offences order -

- (a) may prohibit the offender from doing anything described in the order,

- (b) may require the offender to do anything described in the order,
- (c) has effect only for a fixed period, specified in the order, and
- (d) ceases to have effect, if it has not already done so, on the determination of the main application.

**Sexual offences prevention orders: further provisions.**

19. (1) A sexual offences prevention order or an interim sexual offences prevention order ("**a section 18 order**") shall have effect during the period specified in it or, if that period is subsequently amended, during the amended period.

(2) Unless the court is satisfied that there is a particular reason why a shorter period would be appropriate, the first period mentioned in subsection (1) in respect of a sexual offences prevention order must be a period of at least 5 years.

(3) A court may amend a section 18 order on the application of Her Majesty's Procureur or the offender, and any amendment of an order may, in particular, extend or shorten the period specified in the order.

- (4) If the offender, without reasonable excuse -
- (a) does anything that the offender is prohibited from doing by a section 18 order, or

- (b) fails to do anything that the offender is required to do by a section 18 order,

the offender is guilty of an offence and is liable -

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

(5) If, in the Bailiwick, a person, without reasonable excuse -

- (a) does anything that the person is prohibited from doing in a prescribed jurisdiction by a prescribed order made by a court in that jurisdiction, or
- (b) fails to do anything the person is required to do in a prescribed jurisdiction by a prescribed order made by a court in that jurisdiction,

the person is guilty of an offence and is liable -

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

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

(6) In subsection (5), "**prescribed order**" means an order of a type prescribed by the Department -

- (a) that can be made by a court in a prescribed jurisdiction in the same or substantially the same circumstances, and
- (b) that has the same or substantially the same effect, as a sexual offences prevention order.

**Foreign travel orders.**

20. (1) Her Majesty's Procureur may apply to the Royal Court for a foreign travel order in respect of an offender.

(2) On an application made under subsection (1), the Court may make a foreign travel order if it is satisfied on the balance of probabilities that the offender's acts and behaviour makes it necessary to make such an order for the purpose of protecting children generally or any child from sexual harm from the offender outside the Bailiwick.

(3) A foreign travel order has effect for a fixed period specified in the order, which may not exceed 5 years.

(4) A foreign travel order may prohibit the offender from -

- (a) travelling to any place outside the Bailiwick named or described in the order,
- (b) travelling to any place outside the Bailiwick other than a place named or described in the order, and
- (c) travelling to any place outside the Bailiwick,

as is specified in the order.

(5) The only prohibitions that may be included in a foreign travel order are those necessary for the purpose of protecting children generally or any child from sexual harm from the offender outside the Bailiwick.

(6) If an application for a foreign travel order has not been determined, Her Majesty's Procureur may apply to the court for -

- (a) an interim foreign travel order, and
- (b) an order requiring the offender -
  - (i) to surrender his travel documents, and
  - (ii) not to apply for any further travel documents.

(7) The court may, if it considers it just to do so, make an interim foreign travel order in respect of the offender which -

- (a) may prohibit the offender from travelling as set out in subsection (4) as described in the order,

- (b) has effect only for a fixed period, specified in the order, and
- (c) ceases to have effect, if it has not already done so, on the determination of the main application.

(8) The court may, if it considers it just to do so, make an order under subsection (6)(b) which -

- (a) has effect only for a fixed period, specified in the order, and
- (b) ceases to have effect, if it has not already done so, on the determination of the main application.

(9) For the purposes of -

- (a) this section -
  - (i) "**children**" means persons who have not attained the age of 16 years, and
  - (ii) "**acts and behaviour**" includes acts and behaviour occurring before the commencement of this section,
- (b) subsection (6)(b), "**travel documents**" includes a passport, driving licence or other identification card or

document which is accepted in order to verify the identity of a person for the purpose of travel.

**Foreign travel orders: further provisions.**

21. (1) Her Majesty's Procureur or the offender may apply to the Royal Court for an order varying, renewing or discharging a foreign travel order or an interim foreign travel order ("**a section 20 order**").

(2) Subject to subsection (3), on an application under subsection (1), the Court may make any order varying, renewing or discharging the section 20 order that it considers appropriate.

(3) A section 20 order may be renewed or varied so as to impose additional prohibitions on the offender, only if it is necessary to do so for the purpose of protecting children generally or any child from serious sexual harm from the offender outside the Bailiwick.

(4) A person commits an offence if, without reasonable excuse, the person does anything which he is prohibited from doing by a section 20 order and is liable -

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

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

(5) A person is not in breach of a section 20 order if, while the person is on a vessel or aircraft, the journey of the vessel or aircraft takes it outside

the Bailiwick so long as the vessel or aircraft does not, in the course of the journey, land at any place outside the Bailiwick.

(6) A person commits an offence if, without reasonable excuse, he -

- (a) fails to surrender any travel document, or
- (b) applies for any travel document,

in breach of an order made under section 20(6)(b) and is liable -

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

**Risk of sexual harm orders.**

22. (1) Her Majesty's Procureur may apply to the Royal Court for a risk of sexual harm order in respect of a person aged 15 or over ("**the defendant**")-

- (a) who resides in the Bailiwick, or
- (b) who Her Majesty's Procureur believes is in, or is intending to come, to the Bailiwick.

(2) The application may be made if it appears to Her Majesty's Procureur that -

- (a) the defendant has, whether before or after the commencement of this section, done an act mentioned in subsection (3), and
- (b) as a result of the act, there is reasonable cause to believe that it is necessary for a risk of sexual harm order to be made.

(3) The acts referred to in subsection (2) are -

- (a) engaging in sexual activity involving a child or in the presence of a child,
- (b) causing or inciting a child to watch a person engaging in sexual activity or to look at a moving or still image that is sexual,
- (c) giving a child anything that relates to sexual activity or contains a reference to such activity, or
- (d) communicating with a child, where any part of the communication is sexual.

(4) On the application, the Court may make the order if it is satisfied on the balance of probabilities that -

- (a) the defendant has, whether before or after the commencement of this section, done an act mentioned in subsection (3), and
- (b) it is necessary to make the order to protect children generally or any child from sexual harm from the defendant.

(5) A risk of sexual harm order -

- (a) prohibits the defendant from doing anything described in the order, and
- (b) has effect for a fixed period, of not less than 2 years, specified in the order or until further order.

(6) If an application for a risk of sexual harm order has not been determined, Her Majesty's Procureur may apply to the Royal Court for an interim risk of sexual harm order.

(7) The Court may, if it considers it just to do so, make an interim risk of sexual harm order, which -

- (a) prohibits the defendant from doing anything described in the order,
- (b) has effect only for a fixed period, specified in the order, and

- (c) ceases to have effect, if it has not already done so, on the determination of the main application.

(8) The only prohibitions that may be imposed by a risk of sexual harm order or an interim risk of sexual harm order are those necessary to protect children generally or any child from sexual harm from the defendant and, for the avoidance of doubt, may include a prohibition from travelling to a place outside the Bailiwick.

(9) In this section, "**image**" means an image produced by any means, whether of a real or imaginary subject.

**Risk of sexual harm orders: further provisions.**

**23.** (1) Her Majesty's Procureur or the defendant may apply to the Royal Court for an order varying, renewing or discharging a risk of sexual harm order or an interim risk of sexual harm order ("**a section 22 order**").

(2) On an application under subsection (1), the Court may make any order varying, renewing or discharging a section 22 order that the Court considers appropriate.

(3) A section 22 order may be renewed, or varied so as to impose additional prohibitions on the defendant, only if it is necessary to do so to protect children generally or any child from harm from the defendant.

(4) A person commits an offence if, without reasonable excuse, the person does anything which he is prohibited from doing by a section 22 order, and is liable -

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

(5) A person commits an offence if, without reasonable excuse, the person does anything, in the Bailiwick, which he is prohibited from doing by a prescribed order made by a court in a prescribed jurisdiction, and is liable –

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

(6) In subsection (5), "**prescribed order**" means an order of a type prescribed by the Department -

- (a) that can be made by a court in a prescribed jurisdiction in the same or substantially the same circumstances as a risk of sexual harm order, and
- (b) that has the same or substantially the same effect as a risk of sexual harm order.

**Miscellaneous.**

24. (1) The States may by Ordinance amend this Part.

(2) For the avoidance of doubt, any proceedings in relation to the application, variation, renewal or discharge of an order made under this Part shall be deemed to be "criminal proceedings" for the purposes of section 9(1)(a) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002.

PART V  
OTHER CONVICTIONS

**Acts done by residents of the Bailiwick outside the Bailiwick.**

25. (1) If -

- (a) after the commencement of this section, a person ordinarily resident in the Bailiwick does an act in a jurisdiction outside the Bailiwick,
- (b) the act constitutes an offence under the law in force in that jurisdiction, and
- (c) the act, if done in the Bailiwick, would constitute a sexual offence to which this Law applies,

the person is guilty in the Bailiwick of that sexual offence.

(2) Accordingly, the person may be proceeded against in the Bailiwick in respect of the sexual offence.

PART VI  
APPEALS

**Appeals – general provisions.**

26. (1) An appeal under this Part shall be by way of a review and shall be made in accordance with section 27.

(2) On an appeal under this Part, the Royal Court or the Court of Appeal, as the case may be -

(a) may make any order it considers necessary to give effect to its determination of the appeal, and

(b) may also make any incidental or consequential order as appears to it to be just.

(3) An appeal under section 28, 29, 30 or 31 shall be taken to be an appeal in criminal proceedings while an appeal under section 32 shall be taken to be an appeal in civil proceedings.

**Appeals - procedure.**

27. (1) Where the court that made the decision appealed against is -

(a) the Magistrate's Court, the appellant may appeal to the Royal Court,

(b) the Royal Court, the appellant may appeal to the Court of Appeal.

(2) Where the appellant has appealed to the Royal Court under subsection (1)(a), he may subsequently appeal to the Court of Appeal against that decision.

(3) For the purposes of this section, "**Magistrate's Court**" includes -

- (a) the Court of Alderney, and
- (b) the Court of the Seneschal of Sark.

**Appeals – certifications by court.**

28. Where a court has -

- (a) certified that an offence was sexually aggravated under section 2(3) or 17(2), the offender may appeal against the certification, or
- (b) refused so to certify the offence, Her Majesty's Procureur may appeal against the refusal.

**Appeals – length of minimum notification period.**

29. Where a court specifies the minimum notification period under section 3(1) or (2), Her Majesty's Procureur or the notifier may appeal against the length of that period.

**Appeals – sexual offences prevention orders.**

30. (1) Where a court -

- (a) has made a section 18 order in respect of a person, or
- (b) has refused to amend such an order,

the offender in respect of whom the order is made may appeal, against -

- (i) the making of the order,
  - (ii) the terms of the order, or
  - (iii) the refusal to amend the order.
- (2) Where a court -
- (a) has refused to make a section 18 order in respect of an offender, Her Majesty's Procureur may appeal against the refusal to make the order, or
  - (b) has -
    - (i) made such an order, Her Majesty's Procureur may appeal against the terms of the order, or
    - (ii) has refused to amend such an order, Her Majesty's Procureur may appeal against the refusal.

**Appeals – foreign travel orders.**

31. (1) Where the Royal Court -
- (a) has made a section 20 order in respect of an offender,
  - (b) has made an order under section 20(6)(b) in respect of an offender, or

- (c) has refused to vary, renew or discharge such an order,

the offender may appeal against -

- (i) the making of the order, or
  - (ii) the terms of the order including the period specified in the order.
- (2) Where the Royal Court -
- (a) has refused to make a section 20 order or an order under section 20(6)(b) in respect of an offender, Her Majesty's Procureur may appeal against the decision to refuse to make the order, or
  - (b) has made such an order, Her Majesty's Procureur may appeal against the terms of the order including the period specified in the order.

**Appeals – risk of sexual harm orders.**

32. (1) Where the Royal Court -
- (a) has made a section 22 order in respect of a defendant,
  - (b) has refused to vary, renew or discharge such an order, or
  - (c) has refused to make such an order,

the defendant may appeal against -

- (i) the making of the order, or
  - (ii) the terms of the order including the period specified in the order.
- (2) Where the Royal Court -
- (a) has refused to make a section 22 order in respect of a defendant, Her Majesty's Procureur may appeal against the decision to refuse to make the order, or
  - (b) has made such an order, Her Majesty's Procureur may appeal against the terms of the order including the period specified in the order.

## PART VII

### ROLE OF SPECIFIED PERSONS

#### **Supply of information by Chief Officer of Police.**

33. (1) This section applies to information -
- (a) notified under section 4 or 6, or
  - (b) gained in respect of a person by virtue of section 5.

(2) The Chief Officer of Police may supply information to which this section applies to a person in the Bailiwick or elsewhere who in the opinion of the Chief Officer needs the information -

- (a) to prevent, detect, investigate or prosecute an offence, or
- (b) to protect a specified child or children, or children generally.

(3) Except as provided by subsection (4), the supply of information under this section is to be taken not to breach any restriction on the disclosure of information (however arising or imposed).

(4) This section does not authorize the doing of anything that contravenes the Data Protection (Bailiwick of Guernsey) Law, 2001.

(5) This section does not affect a power to supply information that exists apart from this section.

**Arrangements for monitoring and managing risks posed by certain offenders.**

34. (1) In this Part -

"**relevant sentence**" means -

- (a) in respect of a sexual offence, any sentence of imprisonment or youth detention,

- (b) in respect of a violent offence, a sentence of imprisonment or youth detention for a term of 12 months or more,
- (c) in respect of a sexual or violent offence -
  - (i) a sentence of detention during Her Majesty's pleasure, and
  - (ii) a hospital treatment order or restriction order made under the Mental Health Law,

**"responsible authority"** means -

- (a) the Chief Officer of Police,
- (b) the Chief Probation Officer, and
- (c) the Governor of the States Prison,

acting jointly, and

**"sexual offence"** and **"violent offence"** have the meanings given in section 11 of the Supervision of Offenders Law.

(2) The responsible authority may establish arrangements for the purpose of assessing and managing the risks posed by -

- (a) offenders who have been given a relevant sentence for a sexual or violent offence,
- (b) notifiers for the purposes of Part II, and
- (c) other persons who are considered by the responsible authority to be persons who may cause serious harm to the public.

(3) When carrying out a duty or performing a function under the arrangements established under subsection (2) -

- (a) the responsible authority must act in co-operation with-
  - (i) any department or committee (however titled) of -
    - (A) the States of Guernsey,
    - (B) the States of Alderney, and
    - (C) the Chief Pleas of Sark, and
  - (ii) any office or position holder, and
- (b) any -
  - (i) any department or committee (however titled) of -

(A) the States of Guernsey,

(B) the States of Alderney, and

(C) the Chief Pleas of Sark, and

(ii) office or position holder,

must act in co-operation with the responsible authority to the extent that such co-operation is compatible with the exercise by the department, committee, office holder or position holder of their statutory functions and duties.

(4) Co-operation under subsection (3) may include the exchange of information.

(5) In the performance of its functions under this section, the responsible authority may also seek the help and advice of any other person, who -

(a) may assist the responsible authority in the performance of those functions, and

(b) may be within or outwith the States.

(6) For the purposes of receiving help and advice from a person under subsection (5), the responsible authority and that person may exchange information.

(7) Except as provided by subsection (8), the supply of information by any person under this section is to be taken not to breach any restriction on the disclosure of information (however arising or imposed).

(8) This section does not authorize the doing of anything that contravenes the Data Protection (Bailiwick of Guernsey) Law, 2001.

**Further provisions in relation to arrangements established under section 34.**

35. The States may by Ordinance make such provision as they think fit in relation to any arrangements established under section 34, including but not limited to -

- (a) the definition of relevant offenders, and
- (b) the review of any such arrangements.

**Duties of Probation Service in connection with victims of certain offences.**

36. (1) This section applies in a case where a court -

- (a) convicts an offender of a sexual or violent offence,  
and
- (b) imposes a relevant sentence on him in respect of that conviction.

(2) In cases where this section applies, the Probation Service must take all reasonable steps to ascertain whether any appropriate person wishes to-

- (a) make representations about whether the offender should be subject to any conditions or requirements on his release and, if so, what conditions or requirements, or
- (b) receive information about any conditions or requirements to which the offender is to be subject on his release.

(3) In this section, "**appropriate person**", in relation to an offence, means any person who appears to the Probation Service to be, or to act for, the victim of the offence ("**the victim**").

(4) Where it is ascertained that an appropriate person wishes to make representations in accordance with subsection (2)(a), the Probation Service must forward those representations to the person responsible for determining the matters mentioned in that paragraph.

(5) Where it is ascertained that an appropriate person wishes to receive information in accordance with subsection (2)(b), the Probation Service must take all reasonable steps -

- (a) to inform that person whether or not the offender is to be subject to any conditions or requirements on his release,
- (b) if the offender is to be subject to any such conditions or requirements, to provide that person with details of

any conditions or requirements which relate to contact with the victim or his family, and

- (c) to provide that person with such other information as is considered by the Probation Service to be appropriate in all the circumstances of the case.

- (6) In this section -

**"conditions"** means conditions attached to a licence by the Parole Review Committee under -

- (i) section 1 of the Parole Review Committee Ordinance, 1991<sup>n</sup>, or
- (ii) section 3 of the Supervision of Offenders Law (in respect of extended sentence licences), and

**"requirements"** means requirements specified in writing by the Department under -

- (i) section 2 of the Supervision of Offenders Law (in respect of terms of imprisonment), or

---

<sup>n</sup> Recueil d'Ordonnances Tome XXV, p. 230; Tome XXVI, p. 150 and Tome XXIX, p. 448 and Order in Council No. IX of 2005.

- (ii) section 4 of the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990<sup>0</sup> (in respect of terms of youth detention).

(7) This section has effect in relation to cases where the relevant sentence is imposed after the section comes into force.

(8) The Department may by regulations make such provision as it thinks fit in relation to the -

- (a) the making of representations, and
- (b) the provision of information,

under this section.

**Disclosure of information about convictions of offenders to members of the public.**

37. (1) The responsible authority must, in the course of performing its functions under arrangements established under section 34, consider whether to disclose information in its possession to a particular member of the public about a person managed by it (a "**managed offender**").

(2) Where the responsible authority has reasonable cause to believe that -

---

<sup>0</sup> Orders in Council Vol. XXXII, p. 106; as amended by Recueil d'Ordonnances Tome XXIX, p. 406.

- (a) a managed offender poses a risk of causing serious harm to any specified person, or to persons of any specified description, and
- (b) the disclosure of information about the managed offender to the particular member of the public is necessary for the purpose of -
  - (i) protecting the specified person from serious harm caused by the managed offender, there is a presumption that the responsible authority shall, or
  - (ii) protecting the persons of that specified description from serious harm caused by the managed offender, the responsible authority may,

disclose information in its possession about the managed offender to the particular member of the public.

(3) The presumption or power to disclose information under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.

(4) Where the responsible authority makes a disclosure under this section -

- (a) it may disclose such information about the managed offender as it considers appropriate to disclose to the particular member of the public, and
- (b) it may impose conditions for preventing the particular member of the public from disclosing the information to any other person.

(5) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.

(6) The responsible authority must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.

(7) The record must include the following information -

- (a) the reasons for making a decision to disclose information under this section,
- (b) the reasons for making a decision not to disclose information under this section, and
- (c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.

(8) Nothing in this section requires or authorises the making of a disclosure which contravenes the Data Protection (Bailiwick of Guernsey) Law, 2001.

(9) This section is not to be taken as affecting any other power of any person to disclose any information about a managed offender.

(10) Where a person to whom information has been disclosed under this section breaches a condition imposed pursuant to subsection (4)(b), that person is guilty of an offence and 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 both.

(11) The Department may, in relation to the disclosure of information under this section -

- (a) by regulation make such provision as it thinks fit, including -
  - (i) the method of disclosure, and
  - (ii) the form that the disclosure will take, and
- (b) give such guidance to the responsible authority as it thinks fit.

**Section 37: interpretation.**

38. For the purposes of section 37 -

- (a) references to information about a managed offender are references to information about -
- (i) any convictions, cautions and findings which relate to the managed offender,
  - (ii) anything under the law of any country or territory outside the Bailiwick which in the opinion of the responsible authority corresponds to a conviction, caution or finding (however described), and
  - (iii) any other information relevant to the protection of the specified person or of persons of a specified description from serious harm caused by the managed offender, including, without prejudice to the generality of the foregoing -
    - (A) any information which has been provided for the purposes of an application for an order under Part IV, and
    - (B) any assessment of the risk of serious harm posed by the managed offender to the specified person or to persons of a specified description, and

- (b) the provisions of section 8 of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002<sup>P</sup> (protection for spent convictions and cautions) are to be disregarded.

PART VIII  
EVIDENCE AND RELATED PROVISIONS

**Interpretation of this Part.**

39. (1) For the purposes of this Part –

"**accused**" means a person accused of a relevant offence,

"**complainant**" means a person against whom a relevant offence is alleged to have been committed,

"**criminal proceedings**" is to be interpreted in accordance with section 86 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, as adapted for clarification by subsection (2), and

"**live-link evidence direction**" means a direction given under section 1 of the Live-Link Evidence (Bailiwick of Guernsey) Ordinance, 2008<sup>Q</sup>.

---

<sup>P</sup> Order in Council No. XIV of 2002 and No. XVI of 2009; Ordinance No. XXVI of 2010. See also Orders en Conseil Vol. XLIII(1), p. 3; Order in Council No. XIV of 2009 and Recueil d'Ordonnances Tome XXXI, p. 386.

<sup>Q</sup> Recueil d'Ordonnances Tome XXXIII, p. 53.

- (2) For the avoidance of doubt -
- (a) any references in sections 85 and 86 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, to "**criminal proceedings**" include every stage in criminal proceedings, from their institution until and including any appeal, in which a witness may be called upon, and
  - (b) any reference to a video recording includes a reference to a part of such a recording, and any order which can be made in respect of a video recording may be made in respect of a part of such a recording.

**Recorded evidence in chief.**

40. (1) Subject to subsection (2), in criminal proceedings in respect of a relevant offence, a court may give a direction ("**a recorded evidence direction**") that a video recording of an interview with any specified witness, other than the accused, be admitted as the evidence in chief of that witness.

(2) A recorded evidence direction may not be given in respect of a video recording if the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording should not be so admitted.

(3) Where a recorded evidence direction provides for a recording to be admitted under this section, the court may nevertheless subsequently direct that it is not to be so admitted if -

- (a) it appears to the court that -
    - (i) the witness will not be available for cross-examination (whether conducted in the ordinary way or in accordance with any other order of the court including, but not limited to, a live link evidence direction), and
    - (ii) the parties to the proceedings have not agreed that there is no need for the witness to be so available, or
  - (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court.
- (4) Where a recording is admitted under this section -
- (a) the witness must be called by the party tendering it in evidence, unless -
    - (i) a live-link evidence direction has been given,
    - (ii) any other direction has been made by a court which provides for the witness's evidence on cross-examination to be given otherwise than by testimony in court, or

- (iii) the parties to the proceedings have agreed that there is no need for the witness to be called, and
- (b) the witness may not give evidence in chief otherwise than by means of the recording -
  - (i) as to any matter which, in the opinion of the court, has been dealt with adequately in the witness's recorded testimony, or
  - (ii) without the permission of the court, as to any other matter which, in the opinion of the court, is dealt with in that testimony.

(5) The court may, in giving permission for the purposes of subsection (4)(b)(ii), give a live-link evidence direction or make such other order as it sees fit.

(6) Nothing in this section affects the admissibility of any video recording which would be admissible apart from this section.

(7) Where a recorded evidence direction provides for part only of a recording to be admitted under this section, references in subsections (4) and (5) to the witness's recorded testimony are references to the part of the testimony which is to be so admitted.

**Effect of recorded evidence direction.**

41. (1) A witness whose evidence in chief is the subject of a recorded evidence direction is deemed for all purposes to be physically present in the

accustomed place from which witnesses give evidence in the courtroom where those proceedings are being conducted.

(2) A person who is to give, or who has given, evidence in criminal proceedings but whose evidence in chief was given pursuant to a recorded evidence direction is deemed for all purposes to be a person who is to be, or who has been, physically present as described in subsection (1).

**Relevant evidence.**

42. (1) In criminal proceedings in respect of a relevant offence -

- (a) no evidence may be admitted, and
- (b) no question may be asked in cross-examination,

about -

- (i) any sexual experience or activity, or
- (ii) lack of sexual experience or activity,

of the complainant, except with leave of the court.

(2) For the purposes of subsection (1), "**sexual experience or activity**" -

- (a) means sexual experience or activity other than that which forms the subject matter of the charge, and
- (b) includes sexual experience or activity -

- (i) whether with the accused or with any other person, and
  - (ii) to which the complainant did not consent.
  
- (3) The court shall not grant leave under subsection (1) unless -
  - (a) the court is satisfied that the evidence or question has significant probative value to a fact in issue or to credit, and
  - (b) the evidence is of, or the question is in relation to, specific instances of sexual experience or activity,
  - (c) the evidence sought to be admitted or the question sought to be asked has significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice, taking into account the matters set out in subsection (5), and
  - (d) the party seeking to admit the evidence or ask the question has complied with the requirements in subsection (6).
  
- (4) Evidence of a complainant's sexual experience or activity is not admissible, or a question in relation to that sexual experience or activity shall not be asked, to support an inference that, by reason of the fact that the complainant has engaged in sexual activity or has had sexual experience, the complainant –

- (a) is the type of person who is more likely to have consented to the sexual activity that forms the subject matter of the charge, or
- (b) is less worthy of belief.

(5) In determining whether the probative value of the evidence sought to be admitted or the question sought to be asked is not substantially outweighed by any danger of prejudice to the proper administration of justice under subsection (3)(b), the court shall take into account the following matters -

- (a) the interests of justice, including the right of the accused to make a full answer and defence,
- (b) the distress, humiliation, or embarrassment which the complainant may suffer as a result of leave being granted,
- (c) the need to respect the complainant's personal dignity and privacy, and
- (d) whether there is a reasonable prospect that the evidence or question will assist in arriving at a just determination in the case,

and the court may take into account any other factor which the court considers relevant.

(6) The party seeking leave under subsection (1) must do so by application to the court in writing and must -

- (a) set out -
  - (i) detailed particulars of the evidence sought to be adduced or of the question sought to be asked,
  - (ii) how the evidence or question has significant probative value to a fact in issue or to credit, and
  - (iii) the fact in issue to which the evidence or question is relevant (where it does not go to credit), and
- (b) give a copy of the application to the other party at least 7 days before the hearing of the application, unless the court orders that it should be given at such time as it considers to be appropriate in the interests of justice in the particular case.

(7) The court shall hear an application to grant leave under subsection (1) in the absence of -

- (a) the Jurats (where the court is the Royal Court of Guernsey, whether sitting as a Full Court or an Ordinary Court),

(b) the public, and

(c) the complainant.

(8) At the conclusion of the hearing of an application for leave under subsection (1), the court must make a determination whether or not to grant leave to admit the evidence, or allow the question to be asked, and must record –

(a) the reasons for that determination, and

(b) where the court grants leave -

(i) the nature of the evidence which may be adduced, or

(ii) the question, or series of questions, that may be asked the complainant.

**Cross-examination of complainants.**

43. No person charged with a relevant offence may in any criminal proceedings cross-examine in person a complainant, either -

(a) in connection with that offence, or

(b) in connection with any other offence (of whatever nature) with which that person is charged in the proceedings.

**Defence representation for purposes of cross-examination.**

44. (1) Where an accused is prevented from cross-examining in person a complainant by virtue of section 43, the court must -

- (a) invite the accused to arrange for an Advocate to act for him for the purpose of cross-examining the complainant, and
- (b) require the accused to notify the court, by the end of such period as it may specify, whether an Advocate is to act for him for that purpose.

(2) If by the end of the period mentioned in subsection (1)(b) either -

- (a) the accused has notified the court that no Advocate is to act for him for the purpose of cross-examining the complainant, or
- (b) no notification has been received by the court and it appears to the court that no Advocate is to so act,

the court must consider whether it is necessary in the interests of justice for the complainant to be cross-examined by an Advocate appointed to represent the interests of the accused.

(3) If the court decides that it is necessary in the interests of justice for the complainant to be so cross-examined, the court must choose and

appoint an Advocate to cross-examine the complainant in the interests of the accused.

(4) An Advocate so appointed shall not be responsible to the accused and that Advocate may not be the subject of any criminal, civil or disciplinary proceedings commenced or instigated by or on behalf of the accused on the basis of the cross-examination conducted by that Advocate.

(5) An appointment made by the court under this section shall, except to such extent as the court may in any particular case determine, terminate at the conclusion of the cross-examination of the complainant whom the court has prevented the accused from cross-examining.

(6) Rules of Court may make provision -

- (a) as to the time when, and the manner in which, subsection (1) is to be complied with, and
- (b) in connection with the appointment of an Advocate under subsection (3), and in particular for securing that an Advocate so appointed is provided with evidence or other material relating to the proceedings.

**Anonymity of complainants of relevant offences.**

45. (1) Where an allegation has been made that a relevant offence has been committed against a complainant, no matter relating to that complainant shall during the complainant's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the complainant in respect of that allegation.

(2) Where a person is accused of a relevant offence, no matter likely to lead members of the public to identify the complainant against whom the offence is said to have been committed shall during the complainant's lifetime be included in any publication.

(3) This section -

- (a) does not apply in relation to a complainant by virtue of subsection (1) at any time after a person has been accused of the offence, and
- (b) in its application in relation to a complainant by virtue of subsection (2), has effect subject to any direction given under section 46.

(4) The matters relating to a complainant in relation to which the restrictions imposed by subsection (1) or (2) apply (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular -

- (a) the complainant's name,
- (b) the complainant's address,
- (c) the identity of any school or other educational establishment attended by the complainant,
- (d) the identity of any place of work, and

(e) any still or moving picture of the complainant.

(5) Nothing in this section prohibits the inclusion in a publication of a matter consisting only of a report of criminal proceedings other than proceedings at, or intended to lead to, or on an appeal arising out of, a trial at which the accused is charged with the offence.

(6) For the avoidance of doubt, the provisions of this section shall not apply or, where they do apply, shall no longer apply, where a complainant is convicted of an offence on the basis that the complaint made by that person was false.

**Powers to displace section 45.**

**46.** (1) If, before the commencement of a trial at which a person is charged with a relevant offence, he or another person against whom the complainant may be expected to give evidence at the trial, applies to the court for a direction under this subsection and satisfies the judge -

- (a) that the direction is required for the purpose of inducing persons who are likely to be needed as witnesses at the trial to come forward, and
- (b) that the conduct of the applicant's defence at the trial is likely to be substantially prejudiced if the direction is not given,

the court shall direct that section 45 shall not, by virtue of the accusation alleging the relevant offence in question, apply in relation to the complainant.

(2) If at a trial the court is satisfied -

- (a) that the effect of section 45 is to impose a substantial and unreasonable restriction upon the reporting of proceedings at the trial, and
- (b) that it is in the public interest to remove or relax the restriction,

it shall direct that section 45 shall not apply to such matter as is specified in the direction.

(3) A direction shall not be given under subsection (2) by reason only of the outcome of the trial.

(4) If a person who has been convicted of an offence and has given notice of appeal against the conviction, or notice of an application for leave so to appeal, applies to the appellate court for a direction under this subsection and satisfies the court -

- (a) that the direction is required for the purpose of obtaining evidence in support of the appeal, and
- (b) that the applicant is likely to suffer substantial injustice if the direction is not given,

the court shall direct that section 45 shall not, by virtue of an accusation which alleges a relevant offence and is specified in the direction, apply in relation to a complainant so specified.

(5) A direction given under any provision of this section does not affect the operation of section 45 at any time before the direction is given.

(6) If, after the commencement of a trial at which a person is charged with a relevant offence, a new trial of the person for that offence is ordered, the commencement of any previous trial shall be disregarded for the purposes of subsection (1).

(7) Notwithstanding the provisions of this section, where –

- (a) a complainant requests the court to direct that section 45 does not apply to him, and
- (b) the court considers that it is in the interests of justice to so direct,

the court may in accordance with rules of court prescribed by the Royal Court direct that section 45 does not apply to the complainant.

**Offence.**

47. (1) If any matter is included in a publication in contravention of section 45, the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale -

- (a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,
- (b) where the publication is a relevant programme -

- (i) any body corporate engaged in providing the programme service in which the programme is included, and
  - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper, and
- (c) in the case of any other publication, any person publishing it.

(2) Where a person is charged with an offence under this section in respect of the inclusion of any matter in a publication, it shall be a defence, subject to subsection (3), to prove that the publication in which the matter appeared was one in respect of which the person against whom the offence mentioned in section 40 is alleged to have been committed had given written consent to the appearance of matter of that description.

(3) Written consent is not a defence if it is proved that any person interfered unreasonably with the peace or comfort of the person giving the consent, with intent to obtain it, or that person was under the age of 16 at the time when it was given.

(4) Where a person is charged with an offence under this section it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication included the matter in question.

(5) Where -

- (a) a person is charged with an offence under this section, and
- (b) the offence relates to the inclusion of any matter in a publication in contravention of section 45(1),

it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the allegation in question had been made.

(6) Where an offence under this section 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) a person purporting to act in any such capacity,

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

(7) In relation to a body corporate whose affairs are managed by its members, "**director**", in subsection (6), means a member of the body corporate.

PART IX  
MISCELLANEOUS PROVISIONS

**Rules of court.**

48. (1) The Royal Court may by Order make rules of court dealing with all procedural matters arising under this Law and which -

- (a) may contain such supplementary, incidental, transitional and consequential provision as may appear to be necessary or expedient,
- (b) may be amended or repealed by subsequent Rules of Court, and
- (c) may make different provision in relation to proceedings before different courts of the Bailiwick.

(2) Without prejudice to the generality of the foregoing, rules of court may, in particular, make provision -

- (a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced),
- (b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court,

- (c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings,
  - (d) with respect to preliminary hearings,
  - (e) for the service outside the Bailiwick in such circumstances and in such manner as the Royal Court thinks fit, of any notice of proceedings in the court,
  - (f) enabling the court, in such circumstances as the Royal Court thinks fit, to proceed on any application even though the respondent has not been given notice of the proceedings,
  - (g) for a person making an application to a court or an appeal under this Law to serve prescribed documents on Her Majesty's Procureur, and
  - (h) for a court to sit in private in proceedings in which any powers under this Law may be exercised by the court with respect to any child.
- (3) In this section -
- "**given**" in relation to a summons, means "**served**",
- "**material**" includes any picture or representation,

"**notice of proceedings**" means a summons or such other notice of proceedings as is required, and

"**relevant proceedings**" means an application made, or proceedings brought, under a provision mentioned in subsection (2) and a part of such proceedings.

**Reporting of cases.**

49. (1) Subsections (2) and (3) apply in respect of any proceedings in-

- (a) the Magistrate's Court, (whether or not constituted as the Juvenile Court),
- (b) the Royal Court (however constituted),
- (c) the Court of Alderney,
- (d) the Court of the Seneschal of Sark, or
- (e) any court sitting as an appellate court from a decision made by a court listed in paragraphs (a) to (d),

where the defendant is charged with a relevant offence.

(2) Subject to an order made under section 46, where this subsection applies -

- (a) no report shall be published which -

- (i) reveals the name, address, or
- (ii) includes any particulars which are reasonably likely to lead to the identification,

of any complainant against whom the relevant offence is alleged to have been committed, and

- (b) in relation to the proceedings, no picture shall be published which is or includes a picture of any such complainant.

(3) Where this subsection applies -

- (a) no report shall be published which -

- (i) reveals the name, address or school, or
- (ii) includes any particulars which are reasonably likely to lead to the identification,

of any child concerned in those proceedings, in respect of whom the proceedings are taken or as being a witness or complainant therein, and

- (b) in relation to the proceedings, no picture shall be published which is or includes a picture of any such child.

(4) However, any court mentioned in subsection (1) may by order, having regard to the interests of justice and the welfare of the child concerned, dispense with the requirements of subsections (2) or (3) to such extent, and subject to such terms and conditions, as may be specified in the order.

(5) Any person who publishes any matter in contravention of this section is guilty of an offence and liable on -

- (a) summary conviction to imprisonment for a term not exceeding 6 months, or to a fine not exceeding twice level 5 on the uniform scale, or both, or
- (b) conviction on indictment to imprisonment for a term not exceeding 2 years, or to a fine, or both.

(6) Where a body corporate is guilty of an offence under this section and it is shown that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, subsection (6) applies in relation to the acts and defaults of a member in connection with his functions of management as it applies to a director.

(8) For the purposes of this section, "**publish**" means to distribute, publicise or disseminate by any medium, including by newspaper, by radio or television broadcast, or by the internet, and related expressions are to be construed accordingly.

**Transitional provisions.**

50. (1) Where -

- (a) before the commencement of this Law, a person has been convicted of an offence which would be a relevant offence under this Law, and
- (b) for that offence, that person at the time that the Law commences -
  - (i) has not been dealt with by a court,
  - (ii) is serving or is subject a sentence of imprisonment or youth detention (whether suspended or not),
  - (iii) is subject to a community service order or probation order,
  - (iv) is subject to a bind over, or
  - (v) is subject to post-custodial supervision, having been released from prison after serving the whole or part of a sentence of imprisonment or youth detention,

that person is subject to the notification requirements as if he had been convicted of a relevant offence by a court for the purposes of section 2(1).

(2) Subject to subsection (3), where a person is subject to the notification requirements by virtue of subsection (1) -

- (a) he shall be subject to those requirements for a minimum period of 2 years, and
- (b) he must give notification in accordance with section 4 within 24 hours of the commencement of the Law or as otherwise instructed in writing by the Chief Officer of Police.

(3) Where a person is subject to the notification requirements by virtue of subsection (1)(b)(i) -

- (a) the minimum period of notification will be that ordered in accordance with section 3 when he is dealt with by a court, and
- (b) he shall notify an authorised officer in accordance with section 4.

**Commencement of proceedings for offences under this Law.**

51. Proceedings for an offence under this Law may be commenced in any court in the Bailiwick having jurisdiction in any place where the person charged with the offence resides or is found.

**Convictions outside the Bailiwick.**

52. (1) Except as provided by subsection (2), a requirement or condition of this Law -

- (a) that a person has been convicted of an offence outside the Bailiwick, or
- (b) that a person has been convicted outside the Bailiwick of an offence which, if committed in the Bailiwick, would have been a sexual offence to which this Law applies,

is to be taken to be met unless, not later than Rules of Court may provide, the defendant serves on Her Majesty's Procureur a notice -

- (i) stating that, on the facts as alleged with respect to the act in question, the requirement or condition is not in the person's opinion met,
- (ii) showing the person's grounds for that opinion, and
- (iii) requiring Her Majesty's Procureur to prove that it is met.

(2) A court, if it thinks fit, may permit the person to require Her Majesty's Procureur to prove that the requirement is met without service of a notice under subsection (1).

**Amendment.**

53. Section 3 and Part II of the Sexual Offences (Incitement, Jurisdiction and Protected Material) (Bailiwick of Guernsey) Law, 2009 are repealed.

**Interpretation.**

54. (1) In this Law, unless the context requires otherwise –

"**application for review**" has the meaning given in section 10(a),

"**approved establishment**" means an establishment approved for the purposes of the Mental Health Law,

"**authorised officer**" means -

(a) a police officer, or

(b) an employee of the States of Guernsey,

authorised for the purposes of this Law by the Chief Officer of Police,

"**the Bailiff**" means the Bailiff, Deputy Bailiff, Judge of the Royal Court, Lieutenant-Bailiff or Juge Délégué,

"**Chief Officer of Police**" means the Chief Officer of the Guernsey Police or any officer duly authorised by him,

"**child**", except for the purposes of Part IV, means a person who has not attained the age of 18 years,

"**the Department**" means the States of Guernsey Home Department,

"**DNA profile**" and "**DNA sample**" have the meanings given in section 5(1),

**"Guernsey Police"** means the organisation also known or referred to as "the Island Police Force" including -

- (a) its Chief Officer and any other member of the salaried police force of the Island of Guernsey, and
- (b) any member of the special constabulary of the Island of Guernsey,

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

**"home address"**, in relation to a notifier, means -

- (a) the address of the person's sole or main residence in the Bailiwick, or
- (b) where the person has no such residence, the address or location of a place in the Bailiwick where the person can be found and, if there is more than one such place, such one of those places as the person may select,

and may, in either case, be a vehicle or vessel,

**"hospital treatment order"** means an order made under section 66 of the Mental Health Law,

**"imprisonment"** includes detention at Her Majesty's pleasure,

"**Magistrate's Court**" includes the Juvenile Court,

"**managed offender**" has the meaning given in section 32(1),

"**the Mental Health Law**" means the Mental Health (Bailiwick of Guernsey) Law, 2010<sup>r</sup>,

"**notifier**" has the meaning given in section 2(9),

"**prescribed**" means prescribed by regulations and cognate expressions should be interpreted accordingly,

"**prescribed notification requirements**" has the meaning given in section 2(8),

"**recorded evidence direction**" has the meaning given in section 40(1),

"**relevant body**" has the meaning given in section 10(f),

"**relevant offence**" has the meaning given in section 1(1),

"**responsible authority**" has the meaning given in section 34(1),

"**restriction order**" means an order made under section 70 of the Mental Health Law,

"**section 18 order**" has the meaning given in section 19(1),

---

<sup>r</sup> Order in Council No. XV of 2011.

"**section 20 order**" has the meaning given in section 21(1),

"**section 22 order**" has the meaning given in section 23(1),

"**sexual activity**" means an activity that a reasonable person would, in all the circumstances but regardless of any person's purpose, consider to be sexual,

"**sexual harm**" means physical harm, psychological harm or both caused by sexual activity,

"**sexual offence to which this Law applies**" means an offence to which this Law applies by virtue of section 1,

"**the Supervision of Offenders Law**" means the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004<sup>s</sup>, and

"**youth detention**" means detention under the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990.

(2) For the purposes of this Law, a person is to be taken to have been convicted of an offence if the person -

(a) was found guilty of committing the offence,

---

<sup>s</sup> Order in Council No. IX of 2005.

- (b) was found not guilty of committing the offence solely by reason of the person's insanity or infirmity of mind, or
- (c) was found to be unfit to be tried for the offence but a court has determined that the person did the act alleged,

and "**conviction**" and "**convicted**" are to be construed accordingly.

- (3) Any reference in this Law to an offence includes a reference -
  - (a) to an attempt, conspiracy or incitement to commit the offence, and
  - (b) to aiding and abetting, counselling or procuring the commission of the offence.

(4) Any reference in this Law to a court sentencing a person includes a reference to a court remitting a child defendant to the Children, Youth and Community Tribunal for consideration and determination under section 7(1)(b) of the Criminal Justice (Child and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008.

(5) An act punishable under the law in force in a jurisdiction outside the Bailiwick constitutes an offence under that law for the purposes of this Law however it is described by the law of the jurisdiction.

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

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

(8) The States may by Ordinance amend this section.

**General provisions as to Ordinances and regulations.**

55. (1) An Ordinance or regulations under this Law -
- (a) may be amended or repealed by a subsequent Ordinance or subsequent regulations, as the case may be, hereunder,
  - (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to be necessary or expedient, and
  - (c) shall, in the case of regulations, be laid before a meeting of the States of Deliberation as soon as possible after being made; and if at that or the next meeting the States of Deliberation resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done under them or to the making of new regulations.

---

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

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

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

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

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

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

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

**Citation.**

56. This Law may be cited as the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013.

**Commencement.**

57. This Law shall come into force on the day appointed by Ordinance of the States and such an Ordinance may appoint different dates for different

provisions and for different purposes.

Copies may be purchased from  
Her Majesty's Greffier, Royal Court House, Guernsey

PRICE £50.00

Printed by Colour Monster Printshop, Lowlands Building, Lowlands Industrial Estate, Guernsey GY3 5XH.