

ORDINANCE
OF THE STATES OF DELIBERATION

ENTITLED

**The Live-Link Evidence (Bailiwick of Guernsey) Ordinance,
2008 ***

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* No. XI of 2008 (Recueil d'Ordonnances Tome XXXIII, p. 53); as amended by the Live-Link Evidence in Civil Proceedings (Guernsey and Alderney) Ordinance, 2011 (No. X of 2011).

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ARRANGEMENT OF SECTIONS

1. Making of live-link evidence direction in criminal proceedings.
2. Effect of live-link evidence direction in criminal proceedings.
3. ...
4. Interpretation.
5. Extent.
6. Citation.
7. Commencement.

(Made on 12th March, 2008.)

The Live-Link Evidence (Bailiwick of Guernsey) Ordinance, 2008

THE STATES, in pursuance of their Resolution of 27th February 2008^a, and in exercise of the powers conferred on them by sections 85 and 93(1) of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^b and sections 23 and 24 of the Evidence in Civil Proceedings (Guernsey and Alderney) Law, [2008]^c, and of all other powers enabling them in that behalf, hereby order: –

Making of live-link evidence direction in criminal proceedings.

1. (1) In criminal proceedings before any court in the Bailiwick that court may give a direction ("**a live-link evidence direction**") that any specified witness in those proceedings, other than the defendant, is to give his evidence from a location other than the courtroom ("**the remote location**") if the court is satisfied (having regard to any ancillary requirements which might be attached under subsection (5)) that the conditions set out in subsection (2) are fulfilled.

(2) Those conditions are that –

- (a) the parties have been afforded the opportunity to make representations to the court,
- (b) all necessary equipment is or will be in place, and all necessary arrangements have been or will be made, so

^a Article VIII of Billet d'État No. II of 2008.

^b Order in Council No. XXIII of 2003.

^c Approved by the States on 12th March 2008.

that –

- (i) the witness can subject to (subsection (3)) be clearly seen and heard by the court, the Greffier or clerk of the court, the defendant and counsel for each of the parties, and
- (ii) the court, the defendant, and counsel for each of the parties can (subject to subsection (3)) be clearly seen and heard by the witness,
- (c) it is in the interests of justice that a live-link evidence direction should be given.

(3) The conditions in paragraph (2)(b) do not prevent the court from making any order which it might otherwise make for the purpose of screening or obscuring a defendant from the view of, or otherwise affording protection to, a vulnerable witness.

(4) For the avoidance of doubt, any party may apply to the court to give a live-link evidence direction, but the court may also give such a direction (subject to paragraph (2)(a)) of its own motion.

(5) A court may attach ancillary requirements to a live-link evidence direction, when making the direction or subsequently, and may subsequently alter any such requirements or revoke the direction.

NOTES

The following cases have referred to this Ordinance:

Law Officers of the Crown v. Paulo Alexandre Correia (2015)

(Unreported, Royal Court, 17th August) (Guernsey Judgment No. 40/2015);
Law Officers of the Crown v H [2025]GRC084 (Unreported, Royal Court, 18th January) (section 1).

The date in square brackets in the printed version of the Preamble to this Ordinance shown, incorrectly, as "2008" should read "2009".

Effect of live-link evidence direction in criminal proceedings.

2. (1) A witness who gives evidence in criminal proceedings pursuant to a live-link 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 pursuant to a live-link 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).

(3) Accordingly, and without limiting the generality of subsections (1) and (2) but by way of example –

- (a) the court has the like powers for securing the attendance of the witness at the specified remote location (if within the court's jurisdiction) as it has for securing the attendance of a witness at the courtroom,
- (b) the court may take the evidence of the witness on oath or affirmation,
- (c) the witness may produce any document or article which is in fact present in the courtroom by identifying it from the remote location; but the court may also receive in evidence an image, transmitted to the courtroom from

the remote location, of any document or article identified there by the witness,

- (d) the witness cannot be compelled to answer any question, nor to produce any document or article, which he could not be compelled to answer or produce as a witness physically present in the courtroom,
- (e) every immunity or privilege (for example as respects the law of defamation) which would attach to statement made by a witness physically present in the courtroom similarly attaches to any statement made by a witness at the remote location (even if the remote location is beyond the court's jurisdiction); but equally
- (f) every liability (for example as respects contempt of court or perjury) which may arise out of any statement made or thing done or omitted by a witness physically present in the courtroom, may similarly arise out of any statement made or thing done or omitted by a witness at the remote location (even if the remote location is beyond the court's jurisdiction).

Making and effect of live-link evidence direction in civil proceedings, etc.

3. ...

NOTE

Section 3 was repealed by the Live-Link Evidence in Civil Proceedings (Guernsey and Alderney) Ordinance, 2011, section 4(a), with effect from 28th April, 2011.

Interpretation.

4. (1) In this Ordinance, unless the context requires otherwise –

[...]

"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) of this section,

"live-link evidence direction" means a direction given under section 1(1), or under that provision as applied by section 3(1),

"remote location" means a location other than the courtroom, which may, however, be within the same building as the courtroom, elsewhere within the Island or Bailiwick of Guernsey, or anywhere else in the world,

"specified" means individually identified in, or identifiable by reference to a description of person set out in, a live-link evidence direction, and

"witness" includes an expert witness, a witness as to fact, and any other person called upon by a party or by the court to provide any information or opinion which may be relevant to the determination of any issue before the court at any stage of proceedings.

(2) It is hereby declared for the sake of clarity that references –

(a) ...

(b) in sections 85 and 86 of the Police Powers and Criminal

Evidence (Bailiwick of Guernsey) Law, 2003, and in this Ordinance, 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.

NOTE

In section 4, paragraph (a) of subsection (2), and the words omitted in square brackets in subsection (1), were repealed by the Live-Link Evidence in Civil Proceedings (Guernsey and Alderney) Ordinance, 2011, respectively section 4(c) and section 4(b), with effect from 28th April, 2011.

Extent.

5. This Ordinance has effect throughout the Bailiwick[...].

NOTE

In section 5, the words omitted in square brackets were repealed by the Live-Link Evidence in Civil Proceedings (Guernsey and Alderney) Ordinance, 2011, section 4(d), with effect from 28th April, 2011.

Citation.

6. This Ordinance may be cited as the Live-Link Evidence (Bailiwick of Guernsey) Ordinance, 2008.

Commencement.

7. (1) Apart from section 3, this Ordinance shall come into force on 12th March 2008.

- (2) ...
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NOTE

In section 7, subsection (2) was repealed by the Live-Link Evidence in Civil Proceedings (Guernsey and Alderney) Ordinance, 2011, section 4(e), with effect from 28th April, 2011.
