

PROJET DE LOI

ENTITLED

Loi Relative à la Sodomie *

[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.

© States of Guernsey

* Ordres en Conseil Vol. VIII, p. 273; as amended by the Loi de 1948 portant amendement à la Loi de 1929 relative à la Sodomie (Ordres en Conseil Vol. XIV, p. 13). See also the: Loi Étendant au Bailliage la Loi relative à la Sodomie (Ordres en Conseil Vol. XII, p. 22); Loi de 1948 portant amendement à la Loi de 1929 relative à la Sodomie (*supra*); Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); Criminal Justice (Bailiwick of Guernsey) Law, 1979 (Ordres en Conseil Vol. XXVII, p. 172); Sexual Offences (Bailiwick of Guernsey) Law, 1983 (Ordres en Conseil Vol. XXVIII, p. 316); Sexual Offences (Incitement, Jurisdiction and Protected Material) (Bailiwick of Guernsey) Law, 2009 (No. X of 2015); Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 (No. IX of 2014). This Law has been repealed by the Sexual Offences (Bailiwick of Guernsey) Law, 2020 (No. VII of 2021).

PROJET DE LOI

ENTITLED

Loi Relative à la Sodomie

ARRANGEMENT OF ARTICLES

1. Pénalité pour personne trouvée coupable de Sodomie.
2. Pénalité pour essai de commettre le crime sur personne mâle.
Assaut indécent sur un enfant.
Preuve de connaissance charnelle. Pénétration.
- 3, Pénalité pour acte d'indécence par une personne du sexe mâle avec une personne du même sexe. Loi de 1911 rappelée.

PROJET DE LOI

ENTITLED

Loi Relative à la Sodomie

Pénalité pour personne trouvée coupable de Sodomie.

1. Toute personne qui sera trouvée coupable du crime abominable de sodomie, commis soit [avec] le genre humain, soit [avec] aucun animal, sera passible à discrétion de Justice, à être envoyée à la servitude pénale pour sa vie ou pour aucun terme qui ne sera pas moindre de trois ans, ou à être emprisonnée pour aucun terme n'excédant pas deux ans avec ou sans travail forcé.

NOTES

In Article 1, the words in square brackets were substituted by the Loi de 1948 portant amendement à la Loi de 1929 relative à la Sodomie, 1949, section 1, with effect from 13th January, 1949.

The following case has referred to this Law:

Afonso v. Law Officers of the Crown [2002] GLR N-6.

In accordance with the provisions of the Loi Étendant au Bailliage la Loi relative à la Sodomie, 1940, Article 1, with effect from 8th June, 1940, this Law shall be in operation throughout the Bailiwick of the Island of Guernsey.

In accordance with the provisions of the Loi de 1948 portant amendement à la Loi de 1929 relative à la Sodomie, 1949, section 2, with effect from 13th January, 1949, this Law and that Law shall be read as one and may be cited together as the "Lois relatives à la Sodomie, 1929 et 1948".

In accordance with the provisions of the Sexual Offences (Incitement, Jurisdiction and Protected Material) (Bailiwick of Guernsey) Law, 2009, section 12(1), Schedule, paragraph (f), with effect from 18th May, 2015, an offence under this Law is a "sexual offence" for the purposes of that Law.

In accordance with the provisions of the Sexual Offences (Bailiwick of Guernsey) Law, 1983, section 1 (as amended), with effect from 5th November, 2012, and notwithstanding the provisions of this Article, a

homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of 16 years.

In accordance with the provisions of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013, section 1(1)(d), with effect from 29th April, 2015, an offence under this Article (sodomie) is a "relevant offence" for the purposes of that Law.

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(1), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to penal servitude and accordingly the power conferred under this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before that date.

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(2), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to imprisonment with hard labour and accordingly the power conferred under this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before that date.

In accordance with the provisions of the Sexual Offences (Bailiwick of Guernsey) Law, 1983, section 3 (as amended), with effect from 5th November, 2012, and notwithstanding the provisions of this Law, the maximum punishments for the offences referred to in the said section 3 shall be as set out therein.

Pénalité pour essai de commettre le crime sur personne mâle.

2. Toute personne qui essayera de commettre le crime abominable susdit, ou qui sera coupable d'aucun assaut avec l'intention de commettre le dit crime, ou d'aucun assaut indécent sur aucune personne du sexe mâle, sera passible d'un délit et étant trouvée coupable sera passible à discrétion de Justice, à être envoyée à la servitude pénale pour aucun terme qui n'excédera pas dix ans et ne sera pas moindre de trois ans ou à être emprisonnée pour aucun terme n'excédant pas deux ans avec ou sans travail forcé.

Assaut indécent sur un enfant.

Lorsqu'il s'agit d'une accusation ou d'un acte d'accusation pour un assaut indécent sur un enfant ou jeune personne au dessous de l'âge de seize ans, la preuve que tel enfant ou jeune personne a consenti à l'acte d'indécence ne sera pas reçue comme défense valable.

Preuve de connaissance charnelle. Pénétration.

Lorsque pendant le procès d'aucune offense punissable sous cette loi, il pourra être nécessaire de prouver connaissance charnelle, il ne sera pas nécessaire de prouver l'émission actuelle de substance afin de constituer une connaissance charnelle, mais la connaissance charnelle sera jugée complète sur la preuve de pénétration seulement.

NOTES

In accordance with the provisions of the Sexual Offences (Bailiwick of Guernsey) Law, 1983, section 1 (as amended), with effect from 5th November, 2012, and notwithstanding the provisions of this Article, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of 16 years.

In accordance with the provisions of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013, section 1(1)(d), with effect from 29th April, 2015, an offence under this Article (assault with intent to commit sodomie or indecent assault on a male) is a "relevant offence" for the purposes of that Law.

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(1), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to penal servitude and accordingly the power conferred under this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before that date.

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(2), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to imprisonment with hard labour and accordingly the power conferred under this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before that date.

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1), section 1(2) and section 3, with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the references in this Article to an "enfant" shall be construed as a references to a "minor", that is to say a person under the age of 18 years.

In accordance with the provisions of the Sexual Offences (Bailiwick of Guernsey) Law, 1983, section 3 (as amended), with effect from 5th November, 2012, and notwithstanding the provisions of this Law, the maximum punishments for the offences referred to in the said section 3 shall be as set out therein.

Pénalité pour acte d'indécence par une personne du sexe mâle avec une personne du même sexe. Loi de 1911 rappelée.

3. Toute personne du sexe mâle qui, dans un lieu public ou privé, commet un acte d'indécence grossier avec une autre personne du sexe mâle ou qui prend part à la commission, ou qui procure ou essaye de procurer la commission par une personne quelconque du sexe mâle d'aucun acte d'indécence grossier avec une autre personne du sexe mâle, sera coupable d'un délit et étant trouvée coupable, sera passible à la discrétion de la Cour d'être emprisonnée pour aucun terme qui n'excédera pas deux ans avec ou sans travail forcé.

Est et demeure rappelée la Loi relative à la Sodomie sanctionnée par Ordre de Sa Majesté en Conseil en date du 25 mai 1911 enregistré sur les Records de cette Île le 17 juin 1911.

NOTES

The Law received Royal Sanction on 7th May, 1929 and was registered on the Records of the Island of Guernsey and came into force in the Island of Guernsey on 1st June, 1929.

In accordance with the provisions of the Sexual Offences (Bailiwick of Guernsey) Law, 1983, section 1 (as amended), with effect from 5th November, 2012, and notwithstanding the provisions of this Article, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of 16 years.

In accordance with the provisions of the Sexual Offences (Bailiwick of Guernsey) Law, 1983, section 4(2), with effect from 15th November, 1983, it shall not be an offence under this Article for a man to procure the commission by another man of an act of gross indecency with the first-mentioned man which by reason of section one of the 1983 Law is not an offence under this Article.

In accordance with the provisions of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013, section 1(1)(d), with effect from 29th April, 2015, an offence under this Article (gross indecency with a male) is a "relevant offence" for the purposes of that Law.

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(2), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to imprisonment with hard labour and accordingly the power conferred under this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before that date.

In accordance with the provisions of the Sexual Offences (Bailiwick of Guernsey) Law, 1983, section 3, with effect from 15th November, 1983, and notwithstanding the provisions of this Article, the maximum punishments for the offences referred to in the said section 3 shall be as set out therein.
