

ORDER IN COUNCIL

IX
2019

ratifying a Projet de Loi

ENTITLED

The Probation (Bailiwick of Guernsey) Law, 2018

(Registered on the Records of the Island of Guernsey
on the 3rd June, 2019.)



2019

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 3rd day of June, 2019 before Sir Richard Collas, Bailiff; present:- Barbara Jean Bartie, Stephen Murray Jones, Esquire, O.B.E., David Percy Langley Hodgetts, Esquire, L.V.O., David Allan Grut, Jonathan Grenfell Hooley, Steven John Morris, Alan Stevenson Boyle, Peter Francis Gill, David John Robilliard, Stuart Michael Crisp, Esquires, and Marilyn Jasmine King, Jurats.

The Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 22nd May 2019, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Probation (Bailiwick of Guernsey) Law, 2018”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur 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.

J. TORODE
Her Majesty’s Greffier.



At the Court at Buckingham Palace

THE 22nd DAY OF MAY 2019

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

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

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

“That, in pursuance of their Resolution of 24th June 2015, the States of Deliberation at a meeting on 28th November 2018 approved a *Projet de Loi* entitled the Probation (Bailiwick of Guernsey) Law, 2018 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Probation (Bailiwick of Guernsey) Law, 2018, and to order that it shall have force of the 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

Probation (Bailiwick of Guernsey) Law, 2018

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SCHEDULE : Oath and affirmation.

PROJET DE LOI

ENTITLED

Probation (Bailiwick of Guernsey) Law, 2018

THE STATES, in pursuance of their Resolution of the 24th June 2015^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART I

THE PROBATION SERVICE

The Probation Service.

1. (1) The principal function of the Probation Service of the States of Guernsey ("**the Probation Service**") shall be to -

- (a) protect the public, and
- (b) work with offenders to -
 - (i) reduce reoffending, and
 - (ii) aid rehabilitation.

^a Article VIII of Billet d'État No. XI of 2015.

(2) The States may by Ordinance make such provision as they see fit in respect of the administration of, responsibility for and management of the Probation Service.

Probation officers.

2. (1) An oath or affirmation shall be taken before the Ordinary Court by every person who is employed by the Committee as a probation officer.

(2) The oath and affirmation shall be in such form as is laid out in the Schedule to this Law, and the States may by Ordinance amend that Schedule.

(3) For the avoidance of doubt, a probation officer has an overriding duty to the court to act with independence in the interests of justice and must assist the court in the administration of justice.

Designated persons.

3. (1) The Chief Probation Officer may designate such persons, in addition to probation officers, as the Chief Probation Officer thinks fit to -

- (a) prepare reports,
- (b) give explanations,
- (c) act in a supervisory capacity, and
- (d) otherwise carry out the duties of a probation officer.

(2) For the avoidance of doubt, a designated person has an overriding duty to the court to act with independence in the interests of justice and must assist the court in the administration of justice.

(3) A designated person shall be deemed to be a probation officer for the purposes of any enactment, unless the Chief Probation Officer states otherwise when designating that person under subsection (1).

PART II PROBATION ORDERS

Probation orders.

4. (1) Where a person is convicted of an offence punishable with imprisonment, the court by or before which the offender is convicted may make a probation order, on its own or in addition to any other sentence, for the purpose of -

- (a) the rehabilitation of, and prevention of further offending by, an offender, and
- (b) the protection of the public.

(2) A probation order may be made for a period not exceeding 3 years.

(3) Under a probation order -

- (a) the offender will be supervised by a person ("a **supervisor**"), who shall be a probation officer or

designated person assigned by the Chief Probation Officer, and

- (b) the supervisor shall promote the offender's compliance with the purposes of the order.

Making of a probation order.

5. (1) A court considering making a probation order shall obtain and consider a written or verbal report ("**a social enquiry report**") from a probation officer or a designated person with a view to assisting the court in determining the most suitable method of dealing with the offender.

(2) A social enquiry report shall include -

(a) an assessment of the -

(i) behaviour,

(ii) personal circumstances,

(iii) risk of re-offending, and

(iv) risk of harm to others,

of the offender, and

(b) an assessment of the interventions available and the suitability of the offender for the available interventions.

(3) Before making a probation order, the court shall satisfy itself that a probation officer or a designated person has explained to the offender in plain language and the offender has understood -

- (a) the purpose and effect of the order and, in particular the requirements described in section 6,
- (b) the power of the court under section 7 to vary or revoke the order on the application of either the offender or the supervisor, and
- (c) the consequences which may follow if the offender fails to comply with any of the requirements of the order, or if the offender is convicted of a further offence while the order is in force.

(4) The court shall as soon as practicable provide a copy of the order to the supervisor, who shall provide a copy to the offender as soon as practicable thereafter.

Requirements of a probation order.

6. (1) An offender in respect of whom a probation order is in force shall -

- (a) keep in contact with the supervisor in accordance with such instructions as the offender may from time to time be given by the supervisor,

- (b) notify the supervisor of any change of address or working arrangement,
- (c) comply with any requirements or prohibitions contained in the probation order in accordance with subsection (2), and
- (d) not do anything which would be likely to undermine the purposes of the order described in section 4(1).

(2) A probation order may contain such other requirements or prohibitions as the court, having regard to the particular circumstances of the case, considers necessary for the effective management and performance of the order.

(3) The Committee may by regulations provide for such matters as it deems appropriate in connection with the performance of probation orders.

Variation or revocation of probation order due to change in circumstances.

7. (1) Where a probation order is in force in respect of any offender and, on the application of the offender or the supervisor, it appears to the court which made the order that it would be in the interests of justice to do so having regard to the circumstances which have arisen since the order was made (which may include the progress of the offender whilst subject to the order), the court may -

- (a) vary the order,
- (b) revoke the order, or

- (c) revoke the order and deal with the offender for the offence in respect of which the order was made in any manner in which the offender could have been dealt with for that offence.

- (2) The court may vary the probation order under subsection

(1)(a) -

- (a) by -

- (i) inserting (either in addition to or in substitution for any requirement or prohibition), or

- (ii) removing,

a requirement or prohibition made under section 6 as the court, having regard to the particular circumstances of the case, considers necessary for the effective management and performance of the order, or

- (b) by extending the period of the order, provided that the order is not extended for a period exceeding 3 years from the date on which the original order was made.

(3) Where the court proposes to consider exercising its powers under subsection (1) otherwise than on the application of the offender, the court may either direct the offender to appear before it on a date and at a time specified or issue a warrant to arrest and bring the offender before it at a time and place specified in the warrant.

(4) The court shall obtain and consider a written or verbal report from the supervisor with a view to assisting the court in determining the most suitable method of dealing with the offender.

Breach of probation order.

8. (1) If at any time while a probation order is in force, it appears to a supervisor that the offender has failed to comply with any requirement made under section 6(1) or (2), the supervisor may inform the Magistrate's Court that a breach of the order has occurred.

(2) On receipt of information under subsection (1), the Magistrate's Court may either -

- (a) direct the offender to appear before it on a date and at a time specified, or
- (b) issue a warrant to arrest and bring the offender before it at a time and place specified in the warrant.

(3) Where an offender is arrested under subsection (2), the Magistrate's Court may remand the offender in custody or on bail subject to such conditions (if any) as are considered fit.

(4) Prior to the appearance of the offender before the Magistrate's Court, a supervisor shall, if possible, inform the offender of the facts of the alleged breach of the order.

(5) If the offender admits having breached the order, the Magistrate's Court shall obtain and consider a written or verbal report from the supervisor with a view to assisting the court in determining the most suitable method of dealing with the offender.

(6) If the offender does not admit having breached the order, the Magistrate's Court shall hear evidence to determine whether any breach has occurred.

(7) If -

(a) the offender admits having breached the order, or

(b) it is proved to the satisfaction of the Magistrate's Court that the offender has breached the order,

the Magistrate's Court shall proceed in one of the ways described in section 9.

(8) For the avoidance of doubt, the Criminal Evidence and Miscellaneous Provisions (Bailiwick of Guernsey) Law, 2002^b, applies to any proceedings under this section.

Breach - disposal by Magistrate's Court.

9. (1) If the probation order which is the subject of proceedings under section 8 was made by the Magistrate's Court, that court may -

^b Order in Council No. I of 2003; as amended by No. XVIII of 2009.

- (a) order that the order continue (with or without variation) without any fine,
- (b) order that -
 - (i) the order continue (with or without variation), and
 - (ii) the offender pay a fine not exceeding level 4 on the uniform scale,
- (c) revoke the order and deal with the offence in respect of which the order was made, in any manner in which the offender could have been dealt with for that offence, or
- (d) revoke the order.

(2) If the order which is the subject of proceedings under section 8 was made by the Royal Court, the Magistrate's Court may -

- (a) order that the order continue without any fine,
- (b) order that -
 - (i) the order continue, and
 - (ii) the offender pay a fine not exceeding level 4 on the uniform scale, or

- (c) order that the offender appear before the Royal Court on a date and at a time specified in the order.

(3) If the Magistrate's Court hears evidence and decides that the offender has breached a requirement of section 6(1) and the court makes an order under subsection (2)(c), the court shall provide the Royal Court, the offender and the relevant officer with a note of the facts found by it.

(4) If the Magistrate's Court makes an order under subsection (2)(c), it shall remand the offender in custody or on bail subject to such conditions (if any) as are considered fit.

Breach - disposal by Royal Court.

10. When an offender appears before the Royal Court as a result of an order made under section 9(2)(c) the court may -

- (a) order that the order continue (with or without variation) without any fine,
- (b) order that -
 - (i) the order continue (with or without variation), and
 - (ii) the offender pay a fine,
- (c) revoke the order and deal with the offence in respect of which the order was made, in any manner in which the offender could have been dealt with for that offence, or

- (d) revoke the order.

Powers on further conviction by Magistrate's Court when existing Magistrate's Court order.

11. (1) When an offender, in respect of whom a probation order has been made by the Magistrate's Court, is convicted of a further offence by that court, the offender may be dealt with, as far as the order is concerned, in accordance with subsection (2).

- (2) The Magistrate's Court may -

- (a) order that the order continue (with or without variation) without any fine,

- (b) order that -

- (i) the order continue (with or without variation),
and

- (ii) the offender pay a fine not exceeding level 4 on the uniform scale,

- (c) revoke the order and deal with the offence in respect of which the order was made, in any manner in which the offender could have been dealt with for that offence, or

- (d) revoke the order.

Powers on further conviction by Magistrate's Court when existing Royal Court order.

12. (1) When an offender, in respect of whom a probation order has been made by the Royal Court, is convicted of a further offence by the Magistrate's Court, he may be dealt with, as far as the order is concerned, in accordance with subsection (2).

(2) The Magistrate's Court may -

(a) order that the order continue without any fine,

(b) order that -

(i) the order continue, and

(ii) the offender pay a fine not exceeding level 4 on the uniform scale, or

(c) order that the offender appear before the Royal Court on a date and at a time specified in the order.

(3) If the Magistrate's Court makes an order under subsection (2)(c), the court shall -

(a) remand the offender in custody or on bail subject to such conditions (if any) as are considered fit, and

(b) order that the sentence for the further offence be determined by the Royal Court.

Disposal by Royal Court following order by Magistrate's Court under s. 12(2)(c) and (3)(b).

13. (1) When the offender appears before the Royal Court pursuant to an order made under section 12(2)(c), the offender may be dealt with as far as the order is concerned, in accordance with subsection (2).

(2) The Royal Court may -

(a) order that the order continue (with or without variation) without any fine,

(b) order that -

(i) the order continue (with or without variation),
and

(ii) the offender pay a fine,

(c) revoke the order and deal with the offence in respect of which the order was made, in any manner in which the offender could have been dealt with for that offence, or

(d) revoke the order.

(3) Where the Royal Court determines the sentence for the further offence pursuant to an order under section 12(3)(b), the Royal Court may not impose a greater penalty for the further offence than the maximum that may have been imposed by the Magistrate's Court.

(4) The Royal Court shall also deal with any other sentences or other orders of the Magistrate's Court of which the offender is in breach as a result of the commission of the offence for which the offender is to be sentenced pursuant to an order under section 12(3)(b).

Powers on further conviction by Royal Court when existing Magistrate's Court order.

14. (1) When an offender, in respect of whom a probation order has been made by the Magistrate's Court, is convicted of a further offence by the Royal Court, the offender may be dealt with, as far as the order is concerned, in accordance with subsection (2).

(2) The Royal Court may -

- (a) order that the order continue (with or without variation) without any fine,
- (b) order that -
 - (i) the order continue (with or without variation),
and
 - (ii) the offender pay a fine,
- (c) subject to subsection (3), revoke the order and deal with the offence in respect of which the order was made, in any manner in which the offender could have been dealt with for that offence, or

(d) revoke the order.

(3) Where the Royal Court deals with an offender under subsection (2)(c), the Court may not impose a greater penalty for the offence than the maximum that may have been imposed by the Magistrate's Court.

Powers on further conviction by Royal Court when existing Royal Court Order.

15. (1) When an offender, in respect of whom a probation order has been made by the Royal Court, is convicted of a further offence by that court, the offender may be dealt with, as far as the order is concerned, in accordance with subsection (2).

(2) The Royal Court may -

(a) order that the order continue (with or without variation) without any fine,

(b) order that -

(i) the order continue (with or without variation),
and

(ii) the offender pay a fine,

(c) revoke the order and deal with the offence in respect of which the order was made, in any manner in which the offender could have been dealt with for that offence, or

- (d) revoke the order.

Supplemental provisions.

16. (1) A fine imposed under section -

- (a) 9(1)(b)(ii) or 9(2)(b)(ii),
- (b) 10(b)(ii),
- (c) 11(2)(b)(ii),
- (d) 12(2)(b)(ii),
- (e) 13(2)(b)(ii),
- (f) 14(2)(b)(ii), or
- (g) 15(2)(b)(ii),

shall be deemed for the purposes of any enactment to be a sum adjudged to be paid on a conviction.

(2) For the purposes of this Part, where a probation order has been made on appeal, it shall be deemed -

- (a) if it was made on an appeal brought from the Magistrate's Court, to have been made by that court, or

- (b) if it was made on an appeal brought from the Royal Court or from the Criminal Division of the Court of Appeal, to have been made by the Royal Court,

and any reference in this Law to the court which made the order shall be construed accordingly.

Probation orders made under the Loi relative à la Probation des Délinquants.

17. (1) Subject to subsection (2), where an offender has been sentenced before the commencement of this Law to a probation order made under the *Loi relative à la Probation des Délinquants*, 1929^c ("the 1929 Law"), that order, and any conditions made thereunder, shall continue in force after the commencement of this Law.

(2) Notwithstanding that a probation order mentioned in subsection (1) has been made before the commencement of this Law, sections 7 to 16 of this Law shall have effect in respect of such an order.

PART III

DISCHARGES

Absolute and conditional discharge.

18. (1) Where a court by or before which an offender is convicted of an offence (not being an offence the sentence for which is fixed by law) is of the opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment, the court may make an order either -

^c Ordres en Conseil Vol. VIII, p. 363.

- (a) discharging the offender absolutely, or
- (b) if the court thinks fit, discharging the offender subject to the condition that the offender commits no offence during such period, not exceeding three years from the date of the order, as may be specified in the order.

(2) An order discharging an offender subject to such a condition as is mentioned in subsection (1)(b) is in this Part referred to as an "**order for conditional discharge**" and the period specified in any such order is in this Part referred to as "**the period of conditional discharge**".

(3) If, by virtue of section 19, an offender conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

(4) Nothing in this section shall be construed as preventing a court, on discharging an offender absolutely or conditionally in respect of any offence, from making -

- (a) an order imposing any disqualification on the offender,
- (b) a compensation order under the Criminal Justice (Compensation) (Bailiwick of Guernsey) Law, 1990^d, or

^d Ordres en Conseil Vol. XXXII, pg. 77; as amended by Orders in Council No. VI and XVI of 2009.

- (c) any other order that the court would have power to make in sentencing the offender for an offence.

Commission of further offence by person conditionally discharged.

19. (1) Where an order for conditional discharge has been made under section 18 and it appears to a court that an offender in whose case such an order has been made -

- (a) has been convicted by a relevant court of an offence committed during the period of conditional discharge,
- (b) has been dealt with in respect of that offence, and
- (c) the conduct which led to that conviction would also be an offence in the jurisdiction of the court which made the conditional discharge,

the court may direct the offender to appear at the place and time specified in it or issue a warrant for the offender's arrest.

(2) A direction or warrant issued under subsection (1) shall direct the offender to whom it relates to appear or to be brought before the court by which the order for conditional discharge was made.

(3) Where it is proved to the satisfaction of the court by which an order for conditional discharge was made that the offender in whose case the order was made has been convicted by a relevant court of an offence committed during the period of conditional discharge, the court by which the order was made may deal

with the offender, for the offence for which the order was made, in any way in which it could deal with the offender if the offender had just been convicted by or before that court of that offence.

(4) If the offender in whose case an order for conditional discharge has been made by the Royal Court is convicted by the Magistrate's Court of an offence committed during the period of conditional discharge, the Magistrate's Court may remand the offender in custody or on bail subject to such conditions (if any) as are considered fit until the offender can appear before the Royal Court.

(5) If an offender in whose case an order for conditional discharge has been made by the Magistrate's Court -

- (a) is convicted before the Royal Court of an offence committed during the period of conditional discharge, or
- (b) is dealt with by the Royal Court for any such offence in respect of which the offender was committed for sentence to the Royal Court,

the Royal Court may deal with the offender, for the offence for which the order was made, in any way in which the Magistrate's Court could deal with the offender if it had just convicted the offender of that offence.

(6) For the purposes of this section, where an order for conditional discharge has been made on appeal, it shall be deemed -

- (a) if it was made on an appeal brought from the Magistrate's Court, to have been made by that court, or
- (b) if it was made on an appeal brought from the Royal Court or from the Criminal Division of the Court of Appeal, to have been made by the Royal Court,

and any reference in this Law to the court which made the order shall be construed accordingly.

(7) In proceedings before the Royal Court under this section, any question whether any offender in whose case an order for conditional discharge has been made has been convicted of an offence committed during the period of conditional discharge shall be determined by the Bailiff sitting alone.

(8) For the purposes of this section, a "**relevant court**" means -

- (a) a court in any part of the Bailiwick, and
- (b) a court of criminal jurisdiction in a jurisdiction of the British Islands specified by an order of the Committee ("**a specified jurisdiction**").

(9) Except as provided by subsection (10), the requirement that the offender has been convicted of an offence in a specified jurisdiction is to be taken to be met unless, not later than rules of court may provide, the offender serves on Her Majesty's Procureur a notice -

- (a) stating that in the offender's opinion the requirement is not met,
- (b) showing the offender's grounds for that opinion, and
- (c) requiring Her Majesty's Procureur to prove that it is met.

(10) 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 (9).

Effect of discharge.

20. (1) Subject to subsections (3) and (4), a conviction of an offence for which an order is made under section 18 discharging the offender absolutely or conditionally shall be deemed not to be a conviction for the purpose of any criminal proceedings other than the purposes of the proceedings in which -

- (a) the order is made and of any subsequent proceedings which may be taken against the offender under section 19, or
- (b) the court makes an order to admit that conviction to the proceedings.

(2) For the avoidance of doubt, nothing in this Law shall prevent the admissibility of any conviction mentioned in subsection (1) for the purpose of any proceedings other than criminal proceedings.

(3) Where the offender had attained 18 years of age at the time of conviction of the offence in question and is subsequently sentenced under section 19 for that offence, subsection (1) shall cease to apply to the conviction.

(4) Subsections (1) and (3) shall not affect -

- (a) any right of an offender discharged absolutely or conditionally under section 18 to rely on the conviction in bar of any subsequent proceedings for the same offence, or
- (b) the restoration of any property in consequence of the conviction of any such offender.

(5) Subsection (1) shall not prevent an appeal under -

- (a) the Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988^e,
- (b) the Court of Appeal (Guernsey) Law, 1961^f, or
- (c) any other relevant enactment,

and this subsection shall not be taken to prejudice any other enactment that excludes the effect of subsection (1) for particular purposes.

^e Ordres en Conseil Vol. XXXI, p. 83.

^f Ordres en Conseil Vol. XVIII, p. 315.

- (6) In this section -
- (a) any reference to an order made under section 19 discharging an offender conditionally includes a reference to an order which was made under the 1929 Law discharging the offender conditionally, and
 - (b) any reference to an offender who is discharged conditionally under section 19 includes a reference to an offender who was discharged conditionally under any provision of that Law.

PART IV
MISCELLANEOUS

Repeal and amendments.

21. (1) The 1929 Law is hereby repealed and any reference to a probation officer appointed under the 1929 Law shall, subject to section 25, be read as a reference to a probation officer who has taken an oath or affirmation under this Law.

(2) In paragraph 4(b) of the Schedule to the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002⁸, for "an order dismissing the charge

⁸ Order in Council No. XIV of 2002; as amended by the Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008 (No. XVI of 2009).

under section 1(1)(I) of the Loi relative à la Probation des Délinquants, 1929", substitute "an absolute discharge".

(3) In the Bail (Bailiwick of Guernsey) Law, 2003^h -

(a) for section 2(4)(b), substitute the following paragraph -

"(b) section 8 of the Probation (Bailiwick of Guernsey) Law, 2018", and

(b) in section 19(6) in the definition of "**conviction**" -

(i) in paragraph (c), delete "and", and

(ii) delete paragraph (d).

(4) In the Criminal Justice (Community Service) (Bailiwick of Guernsey) Law, 2006ⁱ, in section 1(1), for the words "instead of dealing with him in any other way", substitute "without prejudice to any other way of dealing with him".

Power of court to make no order.

22. Notwithstanding the repeal of section 1(1) of the 1929 Law, a court may make no order in relation to an offence where it is in the interests of justice to

^h Order in Council No. XVII of 2003; as amended by No. VI of 2009; Ordinance No. XXXIII of 2003 and Ordinance No. IX of 2016.

ⁱ Order in Council No. XIII of 2007, as amended by Ordinance No. XXXVIII of 2007, No. XXXIII of 2009 and No. IX of 2016.

do so, having regard to -

- (a) the character, antecedents, age, health or mental condition of the defendant,
- (b) the trivial nature of the offences, or
- (c) the extenuating circumstances under which the offence was committed.

Power to enact Ordinances.

23. (1) The States may by Ordinance make such additional provision as they think fit for the purposes of carrying this Law into effect.

(2) The power conferred by subsection (1) is without prejudice to any other power conferred by this Law to enact Ordinances (and vice versa).

General provisions as to subordinate legislation.

24. (1) An Ordinance, order or regulations under this Law -

- (a) may be amended or repealed by a subsequent Ordinance, order or regulations hereunder,
- (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient, and
- (c) may, in the case of an Ordinance, and for the avoidance of doubt, repeal, replace, amend, extend,

adapt, modify or disapply any enactment or rule of customary or common law.

(2) Any power conferred by this Law to make an Ordinance, order, 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.

Rules of Court.

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

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

(2) Subsection (1) is without prejudice to any other power to make rules of court.

Transitional provisions.

26. Notwithstanding section 2(1), where any person is a probation officer on the day before the commencement of this Law, he shall continue to be a probation officer on or after that day irrespective of whether he has taken an oath or affirmation before the Ordinary Court;

Provided that any such probation officer shall take the oath or affirmation as soon as reasonably practicable after this Law has commenced.

Interpretation.

27. In this Law, unless the context requires otherwise -

"the 1929 Law" means the *Loi relative à la Probation des Délinquants*, 1929,

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

"**Bailiwick**" means the Bailiwick of Guernsey,

"**British Islands**" means the United Kingdom, the Channel Islands and the Isle of Man,

"**Chief Probation Officer**" means the person employed in that capacity by the Committee,

"**the Committee**" means the States of Guernsey Committee for Home Affairs,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**the Magistrate's Court**" includes -

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

"**order for conditional discharge**" and "**period of conditional discharge**" have the meaning given in section 18(2),

"**Ordinary Court**" means the Royal Court, sitting as an Ordinary Court, which may be constituted by the Bailiff sitting unaccompanied by Jurats,

"**probation officer**" means a person employed in that capacity by the Committee,

"**probation order**" has the meaning given in section 4(1),

"**Probation Service**" has the meaning given in section 1(1),

"**requirement**" includes a condition,

"**Royal Court**" means the Royal Court, sitting as a Full Court,

"**social enquiry report**" has the meaning given in section 5(1),

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

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

"**supervisor**" has the meaning given in section 4(3)(a), and

"**uniform scale**" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^j.

Citation.

28. This Law may be cited as the Probation (Bailiwick of Guernsey) Law, 2018.

Commencement.

29. (1) This Law shall come into force on such date as the States may by Ordinance appoint.

(2) An Ordinance under subsection (1) may appoint different dates for different provisions of this Law and for different purposes.

j Ordres en Conseil Vol. XXXI, p.278

SCHEDULE

Section 2(1)

OATH AND AFFIRMATION

1. Oath: You swear upon the faith and trust that you owe to God that well and faithfully you will perform the duties of a Probation officer.

2. Affirmation: You solemnly, sincerely and truly declare and affirm that well and faithfully you will perform the duties of a Probation officer.

Copies may be purchased from
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