

# PROJET DE LOI

ENTITLED

## **The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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. XIII of 2006; as amended by the: Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) (Amendment) Ordinance, 2013 (No. X of 2013); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023 (No. XVII of 2023). See also the: Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); Magistrate's Court (Guernsey) Law, 2008 (No. XVIII of 2009); Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022 (No. XII of 2022).

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## **The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006**

### ARRANGEMENT OF SECTIONS

#### *Threats to kill*

1. Threats to kill.

#### *Assisting offenders*

2. Assisting offenders.
3. Concealing offences and giving false information.

#### *Offensive weapons*

4. Prohibition of carrying offensive weapon without lawful authority, etc.

#### *Articles with blades*

5. Offence of having article with blade or point in public place.
6. Offence of having article with blade or point, or offensive weapon, on school premises.
7. Power of entry to search for articles with blade or point or offensive weapons.

#### *Administration of poisons*

8. Maliciously administering poison, etc, so as to endanger life or inflict grievous bodily harm.
9. Maliciously administering poison, etc, with intent to injure, aggrieve, or annoy.

#### *Indecent photographs of children*

10. Amendment of Protection of Children Law.

#### *Corporal punishment*

*Consolidated text*

11. Abolition of judicial corporal punishment.

*Misuse of Drugs Law*

12. Amendment of Misuse of Drugs Law.

*Failure to prevent facilitation of tax evasion*

- 12A. Acting in capacity of a person associated with a relevant body.  
12B. Offence of failure to prevent facilitation of Guernsey tax evasion offences.  
12C. Offence of failure to prevent facilitation of foreign tax evasion offences.  
12D. Offences under sections 12B and 12C: extra-territorial application and jurisdiction.  
12E. Offences under sections 12B and 12C: liability of officers, etc.  
12F. Publication of Guidance.  
12G. Interpretation of sections 12A to 12F.

*Intimidation*

13. Intimidation etc. of persons concerned in administration of justice.  
14. Intimidation etc. of witnesses and others.

*Terrorism and Crime Law*

15. Amendment of Terrorism and Crime Law.

*Administration of Justice Law*

16. Amendment of Administration of Justice Law.

*Summary Offences Law*

17. Amendment of Summary Offences Law.

*Interpretation, etc*

18. Interpretation.  
19. Power to amend Law by Ordinance.  
20. Citation.  
21. Commencement.

SCHEDULE 1 List of persons for the purposes of section 13.

SCHEDULE 2 Power to amend Law by Ordinance.

# PROJET DE LOI

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## **The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006**

**THE STATES**, in pursuance of their Resolution of the 27<sup>th</sup> April 2006<sup>a</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.

### *Threats to kill*

#### **Threats to kill.**

**1.** (1) A person who without lawful excuse makes to another person a threat, intending that that other person would fear it would be carried out, to kill that other person or a third person is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable –

(a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or to both,

(b) 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.

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<sup>a</sup> Article XI of Billet d'État No. VIII of 2006.

**NOTE**

*The following case has referred to this Law:*

*Pirito v. Law Officers of the Crown 2007-08 GLR Note 21.*

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*Assisting offenders*

**Assisting offenders.**

2. (1) Where a person has committed an arrestable offence, any other person who, knowing or believing him to be guilty of the offence or of some other arrestable offence, does without lawful authority or reasonable excuse any act with intent to impede his apprehension or prosecution is guilty of an offence.

(2) An "**arrestable offence**" means –

- (a) an offence for which the sentence is fixed by law, and
- (b) an offence for which a person of 21 years of age or over (not previously convicted) may be sentenced to imprisonment.

(3) If on the trial on indictment of an arrestable offence the Jurats are satisfied that the offence charged (or some other offence of which the accused might on that charge be found guilty) was committed, but find the accused not guilty of it, they may find him guilty of any offence under subsection (1) of which they are satisfied he is guilty in relation to the offence charged (or that other offence).

(4) A person committing an offence under subsection (1) with intent to impede the apprehension or prosecution of another person is liable –

- (a) on conviction on indictment, to imprisonment

according to the gravity of the other person's offence as set out in subsection (5), or to a fine, or to both,

- (b) 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.

(5) For the purposes of subsection (4)(a), the person committing the offence under subsection (1) is liable to imprisonment as follows –

- (a) if the other person's offence is one for which the sentence is fixed by law, he is liable to imprisonment for a term not exceeding 10 years,
- (b) if it is one for which a person (not previously convicted) may be sentenced to imprisonment for a term of 14 years, he is liable to imprisonment for a term not exceeding 7 years,
- (c) if it is not one included in paragraph (a) or (b) but is one for which a person (not previously convicted) may be sentenced to imprisonment for a term of 10 years, he is liable to imprisonment for a term not exceeding 5 years,
- (d) in any other case, he is liable to imprisonment for a term not exceeding 3 years.

**Concealing offences and giving false information.**

3. (1) Where a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence

*Consolidated text*

has been committed, and that he has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable –
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
  - (b) 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 to both.

(3) The compounding of an offence other than treason is not an offence otherwise than under this section.

*Offensive weapons*

**Prohibition of carrying offensive weapon without lawful authority, etc.**

4. (1) A person who, without lawful authority or reasonable excuse, proof of which shall lie on him, has with him in a public place an offensive weapon is guilty of an offence and liable –

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

(2) Where a person is convicted of an offence under subsection (1) the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.

(3) In this Law –

**"offensive weapon"** means an article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him or by some other person, and

**"public place"** means any highway and any other premises or place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

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**NOTE**

*The following case has referred to section 4:*

*Pirito v. Law Officers of the Crown 2007-08 GLR Note 21.*

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*Articles with blades*

**Offence of having article with blade or point in public place.**

5. (1) Subject to subsections (4) and (5), a person who has an article to which this section applies with him in a public place is guilty of an offence.

(2) Subject to subsection (3), this section applies to any article which has a blade or is sharply pointed except a folding pocket-knife.

(3) This section applies to a folding pocket-knife if the cutting

edge of its blade exceeds 3 inches.

(4) It is a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.

(5) Without prejudice to the generality of subsection (4), it is a defence for a person charged with an offence under this section to prove that he had the article with him –

- (a) for use at work,
- (b) for religious reasons, or
- (c) as part of any national costume.

(6) A person guilty of an offence under subsection (1) is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
- (b) 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 to both.

**Offence of having article with blade or point, or offensive weapon, on school premises.**

6. (1) A person who has an article to which section 5 applies with him on school premises is guilty of an offence.

(2) A person who has an offensive weapon with him on school

premises is guilty of an offence.

(3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that he had good reason or lawful authority for having the article or weapon with him on the premises in question.

(4) Without prejudice to the generality of subsection (3), it is a defence for a person charged with an offence under subsection (1) or (2) to prove that he had the article or weapon in question with him –

- (a) for use at work,
- (b) for educational purposes,
- (c) for religious reasons, or
- (d) as part of any national costume.

(5) A person guilty of an offence –

- (a) under subsection (1) is liable –
  - (i) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
  - (ii) 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 to both,

- (b) under subsection (2) is liable –
  - (i) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both,
  - (ii) 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.

(6) In this Law "**school premises**" means land used for the purpose of a school excluding any land occupied solely as a dwelling by a person employed at the school, and a "**school**" means an educational establishment in the Bailiwick.

**Power of entry to search for articles with blade or point or offensive weapons.**

7. (1) A police officer may enter school premises and search those premises and any person on those premises for –

- (a) any article to which section 5 applies, or
- (b) any offensive weapon,

if he has reasonable grounds for believing that an offence under section 6 is being or has been committed.

(2) If in the course of a search under this section a police officer discovers an article or weapon which he has reasonable grounds for suspecting to be an article or weapon of a kind described in subsection (1), he may seize and retain it.

(3) The police officer may use reasonable force, if necessary, in the exercise of the power of entry conferred by this section.

*Administration of poisons*

**Maliciously administering poison, etc, so as to endanger life or inflict grievous bodily harm.**

8. (1) A person who unlawfully and maliciously administers to, or causes to be administered to or taken by, another person any poison or other destructive or noxious thing so as thereby to endanger the life of that person, or so as thereby to inflict on that person any grievous bodily harm, is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable –
- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or to both,
  - (b) 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.

**Maliciously administering poison, etc, with intent to injure, aggrieve, or annoy.**

9. (1) A person who unlawfully and maliciously administers to, or causes to be administered to or taken by, another person any poison or other destructive or noxious thing with intent to injure, aggrieve, or annoy that person is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable –
- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both,

- (b) 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 to both.

*Indecent photographs of children*

**Amendment of Protection of Children Law.**

**10.** (1) The Protection of Children (Bailiwick of Guernsey) Law, 1985<sup>b</sup> is amended as follows.

(2) For section 3A(4)<sup>c</sup> substitute the following subsection –

" (4) A person guilty of an offence under this section is liable

–

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

- (b) 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."

(3) In section 8 the words "or section 3" are repealed.

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<sup>b</sup> Ordres en Conseil Vol. XXIX, p. 103; amended by No. I of 1991 and No. I of 2003.

<sup>c</sup> Section 3A was inserted by No. I of 1991.

- (4) After section 8 insert the following section –

**"Punishment for offence under section 3.**

**8A.** A person guilty of an offence under section 3 is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or to both,
- (b) 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."

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**NOTE**

*The Protection of Children (Bailiwick of Guernsey) Law, 1985 has since been repealed by the Sexual Offences (Bailiwick of Guernsey) Law, 2020, section 111, Schedule 2, paragraph 7 ("Repeals"), with effect from 1st March, 2022, subject to the savings in section 2 of the Sexual Offences (Bailiwick of Guernsey) Law, 2020 (Commencement) Ordinance, 2022.*

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*Corporal punishment*

**Abolition of judicial corporal punishment.**

- 11.** The Corporal Punishment (Guernsey) Law, 1957<sup>d</sup> is repealed.

*Misuse of Drugs Law*

**Amendment of Misuse of Drugs Law.**

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<sup>d</sup> Ordres en Conseil Vol. XVII, p. 275.

12. (1) The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974<sup>e</sup> is amended as follows.

(2) In section 26(1) after the words "an offence under this Law" insert "or a drug trafficking offence within the meaning of section 1(3) of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000<sup>f</sup>".

(3) After section 34 insert a section 35 entitled "Amendment of Law by Ordinance" containing the provisions set out in paragraph 1 of Schedule 2 to this Law.

*[Failure to prevent facilitation of tax evasion*

**Acting in capacity of a person associated with a relevant body.**

12A. (1) For the purposes of sections 12B and 12C, a person ("P") acts in the capacity of a person associated with a relevant body ("B") if P is –

- (a) an employee of B who is acting in the capacity of an employee,
- (b) an agent of B (other than an employee) who is acting in the capacity of an agent, or
- (c) any other person who performs services for or on behalf of B who is acting in the capacity of a person performing such services.

(2) For the purposes of subsection (1)(c), the question whether or

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

<sup>f</sup> Order in Council No. VII of 2000.

not P is a person who provides services for or on behalf of B is to be determined by reference to all the relevant circumstances, and not merely by reference to the nature of the relationship between P and B.]

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**NOTE**

*Section 12A and the cross-heading thereto were inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 3(2), with effect from 26th April, 2024.*

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**[Offence of failure to prevent facilitation of Guernsey tax evasion offences.**

**12B.** (1) A relevant body ("**B**") is guilty of an offence if a person commits a Guernsey tax evasion facilitation offence when acting in the capacity of a person associated with B.

(2) It is a defence for B to prove that, when the Guernsey tax evasion facilitation offence was committed –

- (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
- (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.

(3) In this section "**prevention procedures**" means procedures designed to prevent persons acting in the capacity of a person associated with B from committing Guernsey tax evasion facilitation offences.

(4) In determining whether B had in place reasonable prevention procedures, or alternatively whether it was reasonable for B not to have any

prevention procedures in place, the court may take account of –

- (a) any relevant Code of Practice or guidance issued by the Commission that applies to B, and
- (b) any guidance published by the Committee under section 12F(1) about prevention procedures.

(5) Conduct carried out with a view to the fraudulent evasion of tax by another person is not to be regarded as a Guernsey tax evasion facilitation offence by virtue of paragraph (a) of the definition of "**Guernsey tax evasion facilitation offence**" set out in section 12G unless the other person has committed a Guernsey tax evasion offence facilitated by that conduct.

(5) For the purposes of this section and section 12G, "**tax**" means a tax imposed under the law of any part of the Bailiwick, and includes social insurance contributions.

(6) A relevant body guilty of an offence under this section is liable on conviction to a fine.]

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**NOTE**

*Section 12B was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 3(2), with effect from 26th April, 2024.*

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**[Offence of failure to prevent facilitation of foreign tax evasion offences.**

**12C.** (1) A relevant body ("**B**") is guilty of an offence if at any time –

*Consolidated text*

- (a) a person commits a foreign tax evasion facilitation offence when acting in the capacity of a person associated with B, and
  - (b) any of the conditions in subsection (2) are satisfied.
- (2) The conditions are –
- (a) that B is a body incorporated, or a partnership formed, under the law of any part of the Bailiwick,
  - (b) that B carries on business or part of a business in the Bailiwick,
  - (c) that any conduct constituting part of the foreign tax evasion facilitation offence takes place in the Bailiwick,

and for the purposes of paragraph (a) "**partnership**" means –

- (i) a partnership within the Partnership (Guernsey) Law, 1995 or the Partnership (Alderney) Law, 2021, or
- (ii) a limited partnership registered under the Limited Partnerships (Guernsey) Law 1995, or the Limited Partnerships (Alderney) Law, 2021,

or a firm or entity of a similar character formed under the law of a country or territory outside the Bailiwick.

- (3) It is a defence for B to prove that, when the foreign tax evasion

facilitation offence was committed –

- (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
- (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.

(4) In this section "**prevention procedures**" means procedures designed to prevent persons acting in the capacity of a person associated with B from committing foreign tax evasion facilitation offences under the law of the foreign country concerned.

(5) In determining whether B had in place reasonable prevention procedures, or alternatively whether it was reasonable for B not to have any prevention procedures in place, the court may take account of –

- (a) any relevant Code of Practice or guidance issued by the Commission that applies to B, and
- (b) any guidance published by the Committee under section 12F(1) about prevention procedures.

(6) A relevant body guilty of an offence under this section is liable on conviction to a fine.]

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**NOTE**

*Section 12C was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 3(2), with effect from 26th April, 2024.*

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**[Offences under sections 12B and 12C: extra-territorial application and jurisdiction.]**

**12D.** It is immaterial for the purposes of section 12B or 12C (except to the extent provided for by section 12C(2)) whether –

- (a) any relevant conduct of a relevant body, or
- (b) any conduct which constitutes part of a relevant Guernsey tax evasion facilitation offence or foreign tax evasion facilitation offence, or
- (c) any conduct which constitutes part of a relevant Guernsey tax evasion offence or foreign tax evasion offence,

takes place in the Bailiwick or elsewhere.]

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**NOTE**

*Section 12D was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 3(2), with effect from 26th April, 2024.*

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**[Offences under sections 12B and 12C: liability of officers, etc.]**

**12E.** (1) Where an offence under section 12B or 12C is committed by a body corporate or unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) any director, manager, secretary or other similar officer, or any foundation official, of the body corporate,

- (b) where the offence is committed by a partnership, any partner of the partnership, or
- (c) any person purporting to act in any capacity described in paragraph (a) to (b),

he or she as well as the body corporate or partnership is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with that member's functions of management as if he or she were a director.

(3) Where any such offence is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of the body and not in the name of any of its members.

(4) In this section, "**partnership**" has the meaning given in section 12C(2).]

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**NOTE**

*Section 12E was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 3(2), with effect from 26th April, 2024.*

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**[Publication of Guidance.**

**12F.** (1) Subject to subsection (3), the Committee shall publish guidance (in such manner as the Committee considers appropriate) about prevention procedures within the meaning of section 12B(3) and 12C(4).

(2) For the avoidance of doubt, the Committee may, from time to time, publish revisions to guidance under this section or revised guidance.

(3) The Committee must consult the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark before publishing guidance under this section.]

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**NOTE**

*Section 12F was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 3(2), with effect from 26th April, 2024.*

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**Interpretation of sections 12A to 12F.**

**12G.** For the purposes of sections 12A to 12F, the following expressions have the following meanings –

**"business"** includes an undertaking,

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

**"conduct"** includes acts and omissions,

**"employee"** means an individual who has entered into or who works under (or where the employment has ceased, who worked under) a contract of employment,

**"foreign country"** means a country or territory outside the Bailiwick,

**"foreign tax evasion facilitation offence"** means conduct which –

- (a) amounts to an offence under the law of a foreign country,
- (b) relates to the commission by another person of a foreign tax evasion offence under that law, and
- (c) would, if the foreign tax evasion offence were a Guernsey tax evasion offence, amount to a Guernsey tax evasion facilitation offence,

**"foreign tax evasion offence"** means conduct which –

- (a) amounts to an offence under the law of a foreign country,
- (b) relates to a breach of a duty relating to a tax imposed under the law of that country, and
- (c) would be regarded by the courts of any part of the Bailiwick as amounting to being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of that tax,

**"Guernsey tax evasion facilitation offence"** means an offence under the law of any part of the Bailiwick consisting of –

- (a) being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax by another person,

*Consolidated text*

- (b) aiding, abetting, counselling or procuring the commission of a Guernsey tax evasion offence, or
- (c) being involved in the commission of an offence consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax,

**"Guernsey tax evasion offence"** means –

- (a) an offence of cheating the public revenue, or
- (b) an offence under the law of any part of the Bailiwick consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax, and

**"relevant body"** means a body corporate or partnership (wherever incorporated or formed).]

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**NOTE**

*Section 12G was inserted by the Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023, section 3(2), with effect from 26th April, 2024.*

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*Intimidation*

**Intimidation etc. of persons concerned in administration of justice.**

- 13.** (1) A person who –
- (a) utters or sends threats to, or

- (b) in any way intimidates or menaces,

a person listed in Schedule 1 or any member of the family of a person so listed is guilty of an offence.

- (2) A person guilty of an offence under this section is liable –
  - (a) on conviction on indictment, to imprisonment for a period not exceeding 10 years, or to a fine, or to both;
  - (b) on summary conviction, to a period of imprisonment not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(3) A "**member of the family**" in relation to an individual means the spouse, parent, grandparent, step-parent, child (including a step-child or an adopted child), grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece of the individual or of the individual's spouse, or any person who is cohabiting or residing with the individual.

**Intimidation etc. of witnesses and others.**

- 14.** (1) A person commits an offence if –
- (a) he does an act which intimidates, and is intended to intimidate, another person ("**the victim**"),
  - (b) he does the act knowing or believing that the victim is assisting in the investigation of an offence or is a witness or potential witness in proceedings for an offence, and

- (c) he does it intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with.
- (2) A person commits an offence if –
- (a) he does an act which harms, and is intended to harm, another person or, intending to cause another person to fear harm, he threatens to do an act which would harm that other person,
  - (b) he does or threatens to do the act knowing or believing that the person harmed or threatened to be harmed ("**the victim**"), or some other person, has assisted in an investigation of an offence or has given evidence or particular evidence in proceedings for an offence, and
  - (c) he does or threatens to do it because of that knowledge or belief.
- (3) For the purposes of subsections (1) and (2) it is immaterial that the act is or would be done, or that the threat is made –
- (a) otherwise than in the presence of the victim, or
  - (b) to a person other than the victim.
- (4) The harm that may be done or threatened may be financial as well as physical (whether to the person or a person's property) and similarly as respects an intimidatory act which consists of threats.

(5) The intention required by subsection (1)(c) and the motive required by subsection (2)(c) need not be the only or the predominating intention or motive with which the act is done or, in the case of subsection (2), threatened.

(6) A person guilty of an offence under this section is liable –

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

(7) If, in proceedings against a person for an offence under subsection (1), it is proved that he did an act falling within paragraph (a) of that subsection with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the intention required by paragraph (c).

(8) If, in proceedings against a person for an offence under subsection (2), it is proved that within the relevant period –

- (a) he did an act which harmed, and was intended to harm, another person, or
- (b) intending to cause another person fear of harm, he threatened to do an act which would harm that other person,

and that he did the act, or (as the case may be) threatened to do the act, with the

knowledge or belief required by paragraph (b) of that subsection, he shall be presumed, unless the contrary is proved, to have done the act or (as the case may be) threatened to do the act with the motive required by paragraph (c).

(9) In this section –

**"investigation of an offence"** means such an investigation by the police or other person charged with the duty of investigating offences or charging offenders,

**"offence"** includes an alleged or suspected offence, and

**"relevant period"** –

- (a) in relation to a witness in any proceedings for an offence, means the period beginning with the institution of the proceedings and ending with the first anniversary of the conclusion of the trial or, if there is an appeal, of the conclusion of the appeal,
- (b) in relation to a person who has, or is believed by the accused to have, assisted in an investigation of an offence, but was not also a witness in proceedings for an offence, means the period of one year beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation, and
- (c) in relation to a person who both has, or is believed by the accused to have, assisted in the investigation of an offence and was a witness in proceedings for the offence, means the period beginning with any act of his,

or any act believed by the accused to be an act of his, assisting in the investigation and ending with the anniversary mentioned in paragraph (a).

(10) For the purposes of the definition of the relevant period in subsection (9) –

(a) proceedings for an offence are instituted at the earliest of the following times –

(i) when a summons or warrant is issued in respect of the offence, or

(ii) when a person is charged with the offence,

(b) proceedings at a trial of an offence are concluded with the occurrence of any of the following –

(i) the discontinuance of the prosecution,

(ii) the acquittal of the accused, or

(iii) the sentencing of or other dealing with the accused for the offence of which he was convicted, and

(c) proceedings on appeal are concluded on the determination or abandonment of the appeal.

(11) This section is in addition to, and not in derogation from, any offences subsisting at common law.

*Terrorism and Crime Law*

**Amendment of Terrorism and Crime Law.**

15. (1) The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002<sup>g</sup> is amended as follows.

(2) After section 81 insert the following section –

**"Amendment of Law by Ordinance.**

81A. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders, regulations or rules (and vice versa)."

(3) For paragraph 14(1) of Schedule 8 substitute the following subparagraph –

" (1) This paragraph applies to a ship or aircraft which –

(a) arrives or is expected to arrive in any place in the Bailiwick, whether from another place in the Bailiwick or from outside the Bailiwick, or

(b) leaves or is expected to leave the Bailiwick."

(4) After paragraph 14(4)(c) of Schedule 8 insert the following item –

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<sup>g</sup> Order in Council No. XVI of 2002.

"or

(d) to goods."

(5) After paragraph 14(6) of Schedule 8 insert the following subparagraph –

" (7) An examining officer may require that specified information be provided by the owners or agents of a ship or aircraft in electronic form."

*Administration of Justice Law*

**Amendment of Administration of Justice Law.**

**16.** (1) The Administration of Justice (Bailiwick of Guernsey) Law, 1991<sup>h</sup> is amended as follows.

(2) In section 1(1) for the words "other than" substitute "including".

(3) After section 19 insert a section 20 entitled "Amendment of Law by Ordinance" containing the provisions set out in paragraph 1 of Schedule 2 to this Law.

*Summary Offences Law*

**Amendment of Summary Offences Law.**

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<sup>h</sup> Order in Council No. I of 1991.

17. (1) The Summary Offences (Bailiwick of Guernsey) Law, 1982<sup>i</sup> is amended as follows.

(2) In section 1, paragraph (1)<sup>j</sup> (offensive weapons) is repealed.

(3) In section 7(1), the definition of "offensive weapon"<sup>k</sup> is repealed.

(4) After section 12 insert a section 13 entitled "Amendment of Law by Ordinance" containing the provisions set out in paragraph 1 of Schedule 2 to this Law.

*Interpretation etc.*

**Interpretation.**

18. (1) In this Law –

"**arrestable offence**": see section 2(2),

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

"**customs officer**" means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>l</sup>,

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<sup>i</sup> Ordres en Conseil Vol. XXVII, p. 397.

<sup>j</sup> Paragraph (1) was inserted by Ordres en Conseil Vol. XXVIII, p. 436.

<sup>k</sup> The definition of offensive weapon was inserted by Ordres en Conseil Vol. XXVIII, p. 436.

<sup>l</sup> Ordres en Conseil Vol. XXIII, p. 573; amended by Orders in Council No. XIII of 1991 and No. X of 2004.

**"immigration officer"** means a person appointed as such under the Immigration Act 1971<sup>m</sup>,

**"offensive weapon"**: see section 4(3),

**"police officer"** means –

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,
- (b) in relation to Alderney, a member of the salaried police force of the Island of Guernsey, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed pursuant to section 47 of the Government of Alderney Law, 2004<sup>n</sup>,
- (c) in relation to Sark, the Constable, the Vingtenier and a member of the salaried police force of the Island of Guernsey,
- (d) a customs officer,

**"prison officer"** and **"probation officer"** mean a person employed in

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<sup>m</sup> An Act of Parliament (1971 c. 77); extended to the Bailiwick by the Immigration (Guernsey) Order 1993 (No. 1796).

<sup>n</sup> Order in Council No. III of 2005.

that capacity by the States of Guernsey [Committee for Home Affairs],

**"public place"**: see section 4(3),

**"school"** and **"school premises"**: see section 6(6),

**"uniform scale"** means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>o</sup>.

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

(3) 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.

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## NOTES

*In section 18, the words in square brackets in the definition of the expressions "prison officer" and "probation officer" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016.*

*The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

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<sup>o</sup> Ordres en Conseil Vol. XXXI, p. 278.

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

*In accordance with the provisions of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022, section 8, Schedule 2, paragraph 1 and paragraph 2, with effect from 20th October, 2022, unless the contrary intention appears and subject to any regulations made under section 8(3), first, any reference to a police officer in this Law and any subordinate legislation made hereunder includes a reference to the Director of the Economic and Financial Crime Bureau and designated persons and to members of the Financial Intelligence Unit and, second, subject to the provisions of section 8(4), any power in an enactment to disclose information to a police officer or customs officer for a specified purpose includes a power to disclose that information to the Director of the Economic and Financial Crime Bureau and designated persons and to members of the Financial Intelligence Unit for the purpose of carrying out their functions.*

*In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.*

*The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.*

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**Power to amend Law by Ordinance.**

**19.** The provisions of Schedule 2 have effect for the purposes of this Law.

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**NOTE**

*The following Ordinance has been made under section 19:*

*Criminal Justice (Miscellaneous Amendments - Preventative Offences) (Bailiwick of Guernsey) Ordinance, 2023.*

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**Citation.**

**20.** This Law may be cited as the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006.

**Commencement.**

**21.** This Law shall come into force on the day appointed by Ordinance of

the States; and different days may be appointed for different provisions.

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**NOTE**

*The Law was brought into force on 28th March, 2007 by the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 (Commencement) Ordinance, 2007, section 1.*

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SCHEDULE 1

Section 13

LIST OF PERSONS FOR THE PURPOSES OF SECTION 13

*Guernsey*

1. The Bailiff, the Deputy Bailiff, a Lieutenant Bailiff or the Juge Délégué.
2. A Judge of the Court of Appeal.
3. A Jurat of the Royal Court.
- [3A. A Judge of the Royal Court.]
4. The Magistrate or an Assistant Magistrate.
5. Her Majesty's Procureur or a Procureur Délégué.
6. Her Majesty's Comptroller or a Contrôle Délégué.
7. A person employed in the Chambers of the Bailiff or Law Officers of the Crown.
8. Her Majesty's Greffier or a Deputy Greffier.
9. Her Majesty's Sheriff or a Deputy Sheriff.
10. Her Majesty's Sergeant or a Deputy Sergeant.
11. A person employed in the office of Her Majesty's Greffier, Her Majesty's Sheriff or Her Majesty's Sergeant.

*Alderney*

12. A Jurat of the Court of Alderney.
13. The Greffier of Alderney or a Deputy Greffier.

*Sark*

14. The Seneschal of Sark or the Deputy Seneschal.
15. The Greffier of Sark or the Deputy Greffier.
17. The Prevôt of Sark or the Deputy Prevôt.
18. The Constable of Sark.

17. The Vingtenier of Sark.
19. A special constable in Sark.

*Other offices*

20. A member of any tribunal created by or under any enactment of the Bailiwick or any part thereof.
21. A police officer.
22. A customs officer.
23. A prison officer.
24. A probation officer.
25. An immigration officer.

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**NOTES**

*In Schedule 1, the entry numbered 3A in square brackets was inserted by the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) (Amendment) Ordinance, 2013, section 1, with effect from 24th April, 2013.*

*In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this Schedule to the "Magistrate" and "Assistant Magistrate" shall be construed as references to, respectively, a Judge and a Deputy Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.*

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SCHEDULE 2

Section 19

POWER TO AMEND LAW BY ORDINANCE

**Amendment of Law by Ordinance.**

1. (1) The States may by Ordinance amend this Law.
  - (2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders or regulations (and vice versa).
  - (3) An Ordinance under this Law –
    - (a) may, for the avoidance of doubt –
      - (i) create new offences, and
      - (ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,
    - (b) may be amended or repealed by a subsequent Ordinance hereunder, and
    - (c) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.
  - (4) Any power conferred by this Law to make an Ordinance 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.

2. Pursuant to sections 12, 16 and 17, the provisions of paragraph 1 have effect also for the purposes of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, the Administration of Justice (Bailiwick of Guernsey) Law, 1991 and the Summary Offences (Bailiwick of Guernsey) Law, 1982.

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**NOTE**

*The following Ordinance has been made under Schedule 2:*

*Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) (Amendment) Ordinance, 2013.*

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