

# **The Sexual Offences (Transitional Provisions) (Bailiwick of Guernsey) Ordinance, 2023**

THE STATES, in pursuance of their Resolutions of the 28<sup>th</sup> July, 2011<sup>a</sup> and 26<sup>th</sup> February 2020<sup>b</sup>, and in exercise of the powers conferred on them by sections 111 and 114 of the Sexual Offences (Bailiwick of Guernsey) Law, 2020<sup>c</sup>, and all other powers enabling them in that behalf, hereby order:-

## **Continuity of sexual offences law.**

1. (1) This section applies where, in any proceedings -
  - (a) a person ("**the defendant**") is charged in respect of the same conduct both with an offence under the Sexual Offences (Bailiwick of Guernsey) Law, 2020 ("**the 2020 Law offence**") and with an offence under an enactment which was repealed under that Law ("**the pre-commencement offence**"),
  - (b) the only thing preventing the defendant from being found guilty of the 2020 Law offence is the fact that it has not been proved beyond a reasonable doubt that the time when the conduct took place was after the coming into force of the enactment providing for the 2020 Law offence, and

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

<sup>b</sup> Article VII of Billet d'État No. V of 2020.

<sup>c</sup> Order in Council No. X of 2021.

(c) the only thing preventing the defendant from being found guilty of the pre-commencement offence is the fact that it has not been proved beyond a reasonable doubt that that time was before the coming into force of the repeal of the enactment providing for the offence.

(2) For the purpose of determining the guilt of the defendant, it shall be conclusively presumed that the time when the conduct took place was -

(a) if the maximum penalty for the pre-commencement offence is less than the maximum penalty for the 2020 Law offence, a time before the coming into force of the repeal of the enactment providing for the pre-commencement offence, and

(b) in any other case, a time after the coming into force of the enactment providing for the 2020 Law offence.

(3) In subsection (2) the reference, in relation an offence, to the maximum penalty is a reference to the maximum penalty by way of imprisonment or other detention that could be imposed on the defendant on conviction of the offence in the proceedings in question.

(4) A reference in this section to -

(a) an offence under the Sexual Offences (Bailiwick of Guernsey) Law, 2020, or

- (b) an offence under an enactment which was repealed by that Law,

includes a reference to -

- (i) inciting the commission of that offence,
- (ii) conspiracy to commit that offence, and
- (iii) attempting to commit that offence,

and, in relation to an offence falling within subparagraphs (i) to (iii), a reference in this section to the enactment providing for the offence so falling has effect as a reference to the enactment providing for the offence under that Law or, as the case may be, for the offence so specified.

(5) This section applies to any proceedings, whenever commenced, other than proceedings in which the defendant has been convicted or acquitted of the 2020 Law offence or the pre-commencement offence before the commencement of this section.

**Citation and commencement.**

2. (1) This Ordinance may be cited as the Sexual Offences (Transitional Provisions) (Bailiwick of Guernsey) Ordinance, 2023.

(2) This Ordinance shall come into force on the 29<sup>th</sup> September, 2023.