

GUERNSEY STATUTORY INSTRUMENT

2024 No. 34

**The Criminal Justice (Defence Case Statements)
(Prescribed Form and Service) Regulations, 2024**

<i>Made</i>	<i>15th April, 2024</i>
<i>Coming into operation</i>	<i>22nd April, 2024</i>
<i>Laid before the States</i>	<i>, 2024</i>

THE COMMITTEE FOR HOME AFFAIRS, in exercise of the powers conferred upon it by section 10 of the Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance 2023^a, and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Prescribed form of defence case statements.

1. The prescribed form of a defence case statement for the purpose of section 3(6)(a) of the Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023 ("**the Ordinance**") is as set out in the Schedule to these Regulations.

Prescribed manner of service.

^a Ordinance No. XXVIII of 2023.

2. The prescribed manner of service for the purpose of section 3(6)(c) of the Ordinance is either –

- (a) transmitting the defence case statement to the court and the prosecution via email, or
- (b) delivering a hardcopy of the defence case statement to the court and the prosecution,

and in either case must be in accordance with the instructions for that manner of service stipulated in the form set out in the Schedule.

Application of these Regulations.

3. These Regulations apply to all defence case statements given by a defendant after the commencement of these Regulations.

Meaning of defence case statement.

4. In these Regulations "defence case statement" includes an updated defence case statement given under section 4 of the Ordinance.

Extent.

5. These Regulations shall have effect in the Bailiwick of Guernsey.

Citation.

6. These Regulations may be cited as the Criminal Justice (Defence Case Statements) (Prescribed Form and Service) Regulations, 2024.

Commencement.

7. These Regulations shall come into force on 22nd April 2024.

Dated this 15th day of April 2024

A handwritten signature in black ink, consisting of a circular scribble with a diagonal line extending upwards and to the right.

Deputy Robert Prow
President of the Committee for Home Affairs
For and on behalf of the Committee

SCHEDULE

Regulations 1 and 2

PRESCRIBED FORM OF DEFENCE CASE STATEMENTS

DEFENCE CASE STATEMENT

The Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023
("The Ordinance")

WARNING: Under section 9 of the Ordinance -

- a) a failure to provide a full and accurate defence case statement on time, or
 - b) a failure to give an updated defence case statement on time when one is required,
- can lead to the court, the prosecutor or a co-defendant (if applicable) commenting on that failure, and the court may draw such inferences as it thinks proper in deciding whether you are guilty.

Introduction

To comply with the duty under the Ordinance to provide a defence case statement, Part A of this form must be completed and served on the court and prosecution. If you require more space in any of the sections of Part A, you may attach extra sheets.

Part B of this form contains guidance notes. For guidance on –

1. the circumstances in which a defence case statement must be filed, see Note B1,
2. how to use this form, see Note B2,
3. how you must serve Part A, see Note B3, and
4. the duty to serve an updated defence case statement, see Note B4.

Part B of this form does not need to be served on the court or the prosecution.

It is your responsibility to read both Part A and Part B of this form very carefully and ensure that you comply with the duties imposed under the Ordinance.

PART A
DETAILS OF THE DEFENCE CASE

(This Part is to be completed and submitted to the court and prosecution)

Section A1: Case Details

Your name:

Case number, if known (Royal Court cases only):

Have you already given a defence case statement in this case (delete as appropriate): yes / no

Charge(s)/count(s) and your plea to each count:

Section A2: The Nature of the Defence

Set out the nature of your defence, including any particular defences on which you intend to rely.

Indicate the matters of fact on which you take issue with the prosecution, and in respect of each explain why.

Set out particulars of the matters of fact on which you intend to rely for the purpose of your defence.

Indicate any point of law (including any point as to the admissibility of evidence or an abuse of process) which you wish to take, and any authority on which you intend to rely for that purpose.

If your defence includes an alibi (meaning evidence tending to show that by reason of your presence at a particular place or in a particular area at a particular time you were not, or were unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission), give particulars of that alibi, including:

- a. the name, address and date of birth of any witness you believe is able to give evidence in support of the alibi, or as many of those details as are known to you at this time, and
- b. if any of the details mentioned in paragraph a. above are not known to you, any information in your possession which might be of material assistance in identifying or finding that witness.

Section A3: Defence Witness Notice

Do you intend to call any person, other than yourself, as a witness at your trial (delete as appropriate)? **Yes / No**

If the answer to the above question is "Yes", complete the table below to provide the relevant details for the witness(es).

Name (if known)	Date of birth (if known)	Address (if known), or any other information which might assist in identifying/finding the witness.

Section A4: Defendant Signature

Unless the court has directed otherwise, one of the two declarations below must be signed by you personally, regardless of whether or not you have instructed an advocate. Sign whichever **one** of the following paragraphs applies in your case:

I have read this form and completed this Part myself.

Signed..... Defendant

Dated.....

My advocate (or another representative) completed this Part but [I have read through this form] [the form has been read out to me] (*delete as appropriate*) and I confirm that I agree with its content.

Signed..... Defendant

Dated.....

Section A5: Advocate Signature

For defendants represented by an advocate, the advocate may also sign in the space below.

Name.....

Signed..... Advocate

Dated.....

PART B
GUIDANCE NOTES

(This Part contains important guidance that should be read when completing Part A, but this Part need not be submitted to the court and prosecution)

WARNING: Under section 9 of the Ordinance -

a) a failure to provide a full and accurate defence case statement on time, or
b) a failure to give an updated defence case statement on time when one is required,
can lead to the court, the prosecutor or a co-defendant (if applicable) commenting on that failure, and the court may draw such inferences as it thinks proper in deciding whether you are guilty.

Note B1: When to Use this Form

You must complete Part A if you are a defendant in any criminal case before any court in the Bailiwick of Guernsey and provided **all** of the following apply –

1. you have pleaded not guilty to any charge/count in circumstances where that not guilty plea is going to be the subject of a contested trial,
2. you have received from the prosecution both –
 - (a) a copy of the set of documents containing the evidence which is the basis of the contested charge(s)/count(s), and
 - (b) a statement from the prosecution confirming either –
 - i. that all unused material that passes the disclosure test has been disclosed to you, or
 - ii. that the prosecution holds no such material, and
3. the court has not, under section 3(8) of the Ordinance, dispensed with the requirement to give a defence case statement in your case.

The time limit for submitting this form is **21 days** from the date that the prosecution served the statement mentioned in paragraph 2(b) above, unless the court grants you an extension of time. If you need more time to complete these steps, you **must** apply to the court to ask for more time **before** the time limit expires. If you wish to do this, you should either instruct your advocate to make that application without delay or, if you are unrepresented, contact the Office of HM Greffier (see the contact details below) to request that this matter be listed so that you can make that application before a judge.

Note B2: How to Use this Form

Unless the court grants an extension, the following steps must be taken **before the 21 day time limit referred to above expires**:

1. Complete Part A above, attaching as many sheets as you need to give the information required if the space provided is insufficient.
2. Sign and date Part A in accordance with the instructions in section A4. If you have instructed an advocate, they may complete this form on your behalf, but you must still personally sign section A4 of Part A unless the court has directed otherwise. Your advocate may also co-sign this document in section A5.
3. Use a prescribed manner of service (see further below) to give Part A of this form to **both** the Office of HM Greffier **and** the prosecution.

Note B3: Manner of Service

The following manners of service are prescribed (approved). You may either:

1. send Part A of this form to the court at one of the following email addresses -
 - (a) if your case is before the Royal Court: Criminal@guernseyroyalcourt.gg, or
 - (b) if your case is before the Magistrate's Court: hmgreffier@guernseyroyalcourt.gg,in addition to sending Part A of this form to the prosecution at the address: law@gov.gg
2. Deliver a hardcopy of the completed form in person to **both** of the following addresses:
 - (a) The Office of HM Greffier,
Royal Court House,
St James Street,
St Peter Port,
GY1 2NZ, **and**
 - (b) The Criminal Prosecution Team,
The Law Officers of the Crown,
St James Chambers,
St James Street,
St Peter Port,
GY1 2PA.

Note B4: The Duty to Update

1. Until your case is concluded, you have a **duty to give an updated defence case statement** to the court and the prosecution whenever you, or your legal representative (if applicable), become aware of a material change in respect of any of the information that you have disclosed in Part A (including any attachments). A material change includes the following:
 - where you, or your legal representative (if applicable), become aware that information given in Part A (including any additional sheets attached) is no longer accurate in any respect,
 - where you, or your legal representative (if applicable), discover information that you would have had to include in Part A if you had been aware of that information when completing that Part,
 - where you decide to call a witness who is not mentioned in section A3 of Part A, or decide not to call a witness who is so mentioned, and
 - any other material change in respect of the information you have included in Part A (including any additional sheets attached).
2. If you are obliged to give an updated defence case statement:
 - You should complete Part A again (in full), and give it to the court and the prosecution in the same way that you would give an initial defence case statement (see in particular the service instructions above), and
 - you should do so as soon as possible, and in any event within seven days of you, or your legal representative (if applicable), becoming aware of the material change, unless the court grants you an extension of time (see below).
3. If you require more time to comply with your duty to give an updated defence case statement, you must make an application to the court as soon as possible. If you wish to do so you must either instruct your advocate to make this application without delay or, if you are unrepresented, contact the Office of HM Greffier to request that the matter be listed for this purpose and inform the prosecution that you are making that application. Contact details for both the Office of HM Greffier and the prosecution can be found in Note B3.

EXPLANATORY NOTE

These Regulations introduce a form for a defendant to complete in order to comply with an obligation to submit a defence case statement (or an updated defence case statement) under the Criminal Justice (Defence Case Statements) (Bailiwick of Guernsey) Ordinance, 2023. It also prescribes the manner of service for such forms.