

The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) (Amendment) Ordinance, 2025

THE STATES, in pursuance of their Resolutions of the 1st August, 2008^a, after consultation with the Policy and Finance Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the amendments to the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^b, and in exercise of the powers conferred on them by section 19 of the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006^c and section 93 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 and of all other powers enabling them in that behalf, hereby order:-

Amendment of 2006 Law.

1. The 2006 Law is amended as follows.
2. After section 6 (offence of having article with blade or point, or offensive weapon, on school premises) insert the following sections –

"Offence relating to sale or hire of article with blade or point to persons under eighteen.

6A. (1) A person who sells or lets on hire to a person under the age of 18 years an article to which this section applies is, subject to subsection (3), guilty of an offence.

^a Article XVIII of Billet d'État No. XI of 2008.

^b Order in Council No. XXIII of 2003; this enactment has been amended.

^c Order in Council No. XIII of 2006; this enactment has been amended.

- (2) This section applies to –
- (a) any knife, knife blade or razor blade,
 - (b) any axe,
 - (c) any sword, and
 - (d) any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person,

but does not apply to any such article described by Order of the States Committee for Home Affairs under this section.

(3) It is not an offence under subsection (1) to sell or let on hire a knife or knife blade to a person if –

- (a) the person is aged 16 or over, and
- (b) the knife or blade is designed for domestic use.

(4) It is a defence for a person charged with an offence under subsection (1) to prove that the person took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(5) A person guilty of an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding 12 months, or to a fine, or to both.

Offences relating to unlawful marketing of article with blade or point.

6B. (1) A person who markets an article to which this section applies in a way which –

- (a) indicates, or suggests, that it is suitable for combat, or
- (b) is otherwise likely to stimulate or encourage violent behaviour involving the use of the article as a weapon,

is guilty of an offence.

(2) A person who publishes any written, pictorial or other material in connection with the marketing of an article to which this section applies is guilty of an offence if that material -

- (a) indicates, or suggests, that the article is suitable for combat, or
- (b) is otherwise likely to stimulate or encourage violent behaviour involving the use of the article as a weapon.

(3) This section and section 6C apply to an article which has a blade or is sharply pointed.

(4) For the purposes of this section and section 6C, an indication or suggestion that an article is suitable for combat may, in particular, be given or made by a name or description -

- (a) applied to the article,
- (b) on the article or on any packaging in which it is contained, or
- (c) included in any advertisement which, expressly

or by implication, relates to the article.

(5) For the purposes of this section and section 6C, a person markets an article if the person -

- (a) sells or hires it,
- (b) offers, or exposes, it for sale or hire, or
- (c) possesses it for the purpose of sale or hire.

(6) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

Defences to offences under section 6B.

6C. (1) It is a defence for a person charged with an offence under section 6B(1) to prove that -

- (a) the article was marketed -
 - (i) for use by the armed forces of any country,
 - (ii) as an antique or curio, or
 - (iii) as falling within such other category (if any) as may be prescribed by Order of the States Committee for Home Affairs,
- (b) it was reasonable for the article to be marketed in that way, and

- (c) there were no reasonable grounds for suspecting that a person into whose possession the article might come in consequence of the way in which it was marketed would use it for an unlawful purpose.

(2) It is a defence for a person charged with an offence under section 6B(1) to prove that the person did not know or suspect, and had no reasonable grounds for suspecting, that the way in which the article was marketed -

- (a) amounted to an indication or suggestion that the article was suitable for combat, or
- (b) was likely to stimulate or encourage violent behaviour involving the use of the article as a weapon.

(3) It is a defence for a person charged with an offence under section 6B(2) to prove that -

- (a) the material was published in connection with the marketing of an article -
 - (i) for use by the armed force of any country,
 - (ii) as an antique or curio, or
 - (iii) as falling within such other category (if any) as may be prescribed by Order of the States Committee for Home

Affairs,

(b) it was reasonable for the knife to be marketed in that way, and

(c) there were no reasonable grounds for suspecting that a person into whose possession the knife might come in consequence of the publishing of the material would use it for an unlawful purpose.

(4) It is a defence for a person charged with an offence under section 6B(2) to prove that the person did not know or suspect, and had no reasonable grounds for suspecting, that the material –

(a) amounted to an indication or suggestion that the article was suitable for combat, or

(b) was likely to stimulate or encourage violent behaviour involving the use of the article as a weapon.

(5) It is a defence for a person charged with an offence under section 6B(1) or (2) to prove that the person took all reasonable precautions and exercised all due diligence to avoid committing the offence."

3. After section 7 (power of entry to search for articles with blade or point or offensive weapons) insert the following sections -

"Powers of Bailiff or appropriate judicial officer to authorise entry and search of premises in relation to offences under section 6B.

7A. (1) If, on an application made by a police officer, the Bailiff

or the appropriate judicial officer is satisfied that there are reasonable grounds for suspecting –

- (a) that a person ("**the suspect**") has committed an offence under section 6B(1) in relation to an article of a particular description, and
- (b) that articles of that description and in the suspect's possession or under the suspect's control are to be found on particular premises,

the Bailiff or judicial officer may issue a warrant authorising a police officer to enter those premises, search for the articles and seize and remove any that the police officer finds.

(2) If on an application made by a police officer, the Bailiff or the appropriate judicial officer is satisfied that there are reasonable grounds for suspecting -

- (a) that a person ("**the suspect**") has committed an offence under section 6B(2) in relation to particular material, and
- (b) that publications consisting of or containing that material and in the suspect's possession or under the suspect's control are to be found on particular premises,

the Bailiff or judicial officer may issue a warrant authorising a police officer to enter those premises, search for the publications and seize and remove any that the police officer finds.

(3) A police officer, in the exercise of a police officer's powers under a warrant issued under this section, may if necessary use reasonable force.

(4) Any articles or publications which have been seized and removed by a police officer under a warrant issued under this section may be retained until the conclusion of proceedings against the suspect.

(5) For the purposes of this section, proceedings in relation to a suspect are concluded if -

- (a) the suspect is found guilty and sentenced or otherwise dealt with for the offence,
- (b) the suspect is acquitted,
- (c) proceedings for the offence are discontinued, or
- (d) it is decided not to prosecute the suspect.

(6) In this section -

"appropriate judicial officer" means -

- (a) in Alderney, the Chairman of the Court of Alderney ("the Chairman") or, if the Chairman is absent or unable to act, a Jurat authorised by the Chairman to act in that capacity on the Chairman's behalf,
- (b) in Sark, the Seneschal of Sark, and

"premises" includes any place and, in particular, any vehicle, vessel, aircraft or hovercraft and any tent or movable structure.

Forfeiture of articles with blade or point or publications.

7B. (1) If a person is convicted of an offence under section 6B(1) in relation to an article of a particular description, the court by or before which the person was convicted may make an order for forfeiture in respect of any articles of that description -

- (a) seized under a warrant issued under section 7A, or
- (b) in the offender's possession or under the offender's control at the relevant time.

(2) If a person is convicted of an offence under section 6B(2) in relation to particular material, the court by or before which the person was convicted may make an order for forfeiture in respect of any publications consisting of or containing that material which -

- (a) have been seized under a warrant issued under section 7A, or
- (b) were in the offender's possession or under the offender's control at the relevant time.

(3) The court may make an order under subsection (1) or (2) -

- (a) whether or not it also deals with the offender in respect of the offence in any other way, and
- (b) without regard to any restrictions on forfeiture in any enactment.

(4) In considering whether or not to make an order, the

court must have regard –

- (a) to the value of the property, and
- (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).

(5) In this section, "**relevant time**" means the time of the offender's arrest for the offence or the issue of the summons in respect of it.

(6) This section and section 7C are without prejudice to the provisions of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006.

Effect of a forfeiture order.

7C. (1) An order under section 7B (a "**forfeiture order**") operates to deprive the offender of any rights the offender may have in the property to which it relates.

(2) The property to which a forfeiture order relates must be taken into the possession of the police (if it is not already in their possession).

(3) The court which made the forfeiture order may, on an application made by a person ("**the applicant**") who -

- (a) claims property to which a forfeiture order applies, but
- (b) is not the offender from whom it is forfeited,

make an order (a "**recovery order**") for delivery of the property to the applicant if it appears to the court that the applicant owns it.

(4) No application may be made after the end of the period of six months beginning with the date on which the forfeiture order was made.

(5) No application may succeed unless the applicant satisfies the court that the applicant -

(a) had not consented to the offender having possession of the property, or

(b) did not know, and had no reason to suspect, that the offence was likely to be committed.

(6) If a person has a right to recover property which is in the possession of another in pursuance of a recovery order, that right -

(a) is not affected by the making of the recovery order at any time before the end of the period of six months beginning with the date on which the order is made, but

(b) is lost at the end of that period.

(7) The States Committee for Home Affairs may make an Order, in relation to property forfeited under this section, for disposing of the property and dealing with the proceeds in cases where -

(a) no application has been made before the end of the period of six months beginning with the date on which the forfeiture order was made, or

(b) no such application has succeeded.

(8) The Order may also provide for investing money and auditing accounts.

(9) In this section, "**application**" means an application under subsection (3).

Criminal liability of directors etc. for offence under section 6A or 6B.

7D. (1) Where an offence under section 6A or 6B is committed by a body corporate, limited partnership with legal personality or foundation 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) in the case of a body corporate, any director, manager, secretary or other similar officer,

(b) in the case of a limited partnership with legal personality, any general partner,

(c) in the case of a foundation, any foundation official, or

(d) any person purporting to act in any capacity described in paragraphs (a) to (c),

that person as well as the body corporate, limited partnership or foundation 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 the member's functions of management as if the member were a director.

(3) In this section -

"foundation" means -

- (a) a foundation created under the Foundations (Guernsey) Law, 2012, or
- (b) an equivalent or similar body created or established under the laws of a jurisdiction outside Guernsey (however named),

"foundation official" means -

- (a) in relation to a foundation created under the Foundations (Guernsey) Law, 2012, a foundation official within the meaning of that Law, and
- (b) in relation to an equivalent or similar body created or established under the laws of a jurisdiction outside Guernsey, a person with functions corresponding to those of a foundation official described in paragraph (a) of this definition, and

"general partner" means -

- (a) in relation to a limited partnership falling within paragraph (a) of the definition in this section of **"limited partnership"**, a general partner within the meaning of the Limited Partnerships (Guernsey) Law, 1995, and

(b) in relation to a limited partnership falling within paragraph (b) of the definition in this section of "**limited partnership**", a person whose liability for, and functions in relation to, the partnership correspond to that of a general partner described in paragraph (a) of this definition.

(4) In this section and in section 7E "**limited partnership**" means -

(a) an arrangement which is registered as a limited partnership, and in respect of which there is a valid certificate of registration, under the Limited Partnerships (Guernsey) Law, 1995, or

(b) an arrangement entered into under the law of a jurisdiction outside Guernsey between two or more persons, under which -

(i) one or more of them is, or are jointly and severally, liable without limitation for all debts and obligations to third parties incurred pursuant to the arrangement, and

(ii) the others have, by whatever means, contributed or agreed to contribute specified amounts pursuant to the arrangement and are not liable for those debts and obligations (unless

they participate in controlling the business or are otherwise subjected to a greater liability by those laws in specified circumstances) beyond the amount contributed or agreed to be contributed,

whether with or without legal personality.

Criminal proceedings against unincorporated bodies under section 6A or 6B.

7E. (1) Where an offence under section 6A or 6B is committed by an 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) in the case of –
 - (i) a limited partnership without legal personality, any general partner thereof, or
 - (ii) any other partnership (not being a limited partnership with legal personality or a limited liability partnership), any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty of which the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity

described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where an offence under section 6A or 6B is alleged to have been committed by an unincorporated body, proceedings for the offence must, without prejudice to subsection (1), be brought in the name of the body and not in the name of any of its members, officers or partners.

(3) A fine imposed on an unincorporated body on its conviction for an offence under section 6A or 6B must be paid from the funds of the body.

(4) In this section "**limited liability partnership**" means -

- (a) a limited liability partnership formed in Guernsey under the Limited Liability Partnerships (Guernsey) Law, 2013, or
- (b) an entity formed under the law of a jurisdiction outside Guernsey, being an entity corresponding to a limited liability partnership described in paragraph (a)."

4. In section 18 (interpretation), insert the following definitions in the appropriate places –

“**Chief Officer of Customs and Excise**” has the meaning given by the Customs and Excise (General Provisions) (Bailiwick of

Guernsey) Law, 1972^d,”

“**Customs and Excise division**” means the Chief Officer of Customs and Excise and includes any customs officer,”

“**marketing**” is to be construed in accordance with section 6B(5),”

“**police**” means the salaried police force of the Island of Guernsey, the Customs and Excise division and also –

(a) in relation to Alderney, any police force which may be established by the States of Alderney, and

(b) in relation to Sark, the Constable and Vingtenier,”

“**publication**” includes a publication in electronic form and, in the case of a publication which is, or may be, produced from electronic data, any medium on which the data are stored,”

“**suitable for combat**” means suitable for use as a weapon for inflicting injury on a person or causing a person to fear injury,”

“**violent behaviour**” means an unlawful act inflicting injury on a person or causing a person to fear injury.”

5. After section 19 (power to amend Law by Ordinance) insert the following section -

^d Ordres en Conseil Vol. XXIII, p. 573; this enactment has been amended.

"Orders under this Law.

19A. An Order made under this Law shall be laid before a meeting of the States as soon as possible after being made; and, if at that or the next meeting the States resolve that the Order be annulled, then it shall cease to have effect, but without prejudice to anything done under it or to the making of a new Order."

Amendment of PPACE in relation to powers to stop and search in anticipation of violence.

6. The Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 is amended as follows.

7. In section 3 (powers to stop and search in anticipation of violence) -

(a) for subsection (1) substitute -

"(1) Subject to subsection (11), where a police officer of or above the rank of inspector reasonably believes that -

(a) incidents involving serious violence may take place in any part of the Bailiwick and that it is expedient to do so to prevent their occurrence,
or

(b) persons are carrying dangerous instruments or offensive weapons in any part of the Bailiwick without good reason,

the police officer may give an authorisation that the powers to stop and search persons and vehicles conferred by this section shall be exercisable at any place within that locality for a specified period not exceeding 24 hours.",

(b) in subsection (2), for "six hours" substitute "24 hours",
and

(c) after subsection (12) insert –

"(12A) For the purposes of this section, a person carries a dangerous instrument or an offensive weapon if the person has it in their possession."

Interpretation.

8. In this Ordinance, "**the 2006 Law**" means the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006.

Citation.

9. This Ordinance may be cited as the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) (Amendment) Ordinance, 2025.

Commencement.

10. This Ordinance shall come into force on the 1st September, 2025.