

PROJET DE LOI

ENTITLED

The Criminal Justice (Cybercrime and Miscellaneous Amendments) (Bailiwick of Guernsey) Law, 2025

THE STATES, in pursuance of their Resolutions of the 24th November, 2021^a, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amendment of Computer Misuse Law.

1. (1) The Computer Misuse (Bailiwick of Guernsey) Law, 1991^b is amended as follows.

(2) In section 1 –

- (a) at the end of subsection 1(a), insert ", or to enable any such access to be secured",
- (b) in subsection 1(b), after "secure" insert ", or to enable to be secured,", and

^a Article IV of Billet d'État No. XXIII of 2021.

^b Ordres en Conseil Vol. XXXIII, p. 140.

- (c) in subsection (3), for "six months" to the end, substitute "two years, to a fine or to both".

(3) For section 3, substitute –

"Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer."

3. (1) A person ("P") is guilty of an offence if –

- (a) P does any unauthorised act in relation to a computer,
- (b) at the time when the act is done P knows or believes that it is unauthorised, and
- (c) subsection (2) applies.

(2) This subsection applies if P intends by doing the act to do any of the following, or is reckless as to whether the act will do any of the following –

- (a) impair the operation of any computer,
- (b) prevent or hinder access to any program or data held in any computer,
- (c) impair the operation of any such program or the reliability of any such data, or

(d) enable any of the things mentioned in paragraphs (a) to (c) to be done.

(3) The intention or the recklessness referred to in subsection (2) need not relate to –

(a) any particular computer,

(b) any particular program or data, or

(c) a program or data of any particular kind.

(4) In this section –

(a) a reference to doing an act includes a reference to causing an act to be done,

(b) "act" includes a series of acts, and

(c) a reference to impairing, preventing or hindering something includes a reference to doing so temporarily.

(5) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 10 years or to a fine or both.

Making, supplying or obtaining articles for use in offence under section 1 or

3.

3A. (1) A person ("P") is guilty of an offence if P makes, adapts, supplies or offers to supply any article intending it to be used to commit, or to assist in the commission of, an offence under section 1 or section 3.

(2) A person ("P") is guilty of an offence if P supplies or offers to supply any article believing that it is likely to be used to commit, or to assist in the commission of, an offence under section 1 or section 3.

(3) A person ("P") is guilty of an offence if P obtains any article with a view to its being supplied for use to commit, or to assist in the commission of, an offence under section 1 or section 3.

(4) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine or both.

(5) In this section "article" includes any program or data held in electronic form."

(4) In section 5(2), for paragraphs (a) and (b) substitute –

"(a) that the accused ("D") was in the Bailiwick at the time D did the unauthorised act, and

(b) that the unauthorised act took place in the Bailiwick,

and in this section "act" includes a series of acts."

(5) Section 12 (extradition) and subsection (10) of section 13 (interpretation) are repealed.

(6) For section 13(11), substitute –

"(11) An act done in relation to a computer is unauthorised if the person doing the act (or causing it to be done) –

(a) is not a person with responsibility for the computer who is entitled to determine whether the act may be done, and

(b) does not have consent to the act from any such person,

and in this subsection "act" includes a series of acts."

Amendment of RIPL.

2. (1) The Regulation of Investigatory Powers (Bailiwick of Guernsey)

Law, 2003^c is amended as follows.

(2) After section 19, insert –

^c Order in Council No. XXX of 2003. This enactment has been amended.

"Offence of unauthorised disclosure by postal or telecommunications operator.

19A. (1) Where a notice is given to a postal or telecommunications operator under section 18(4) it shall be the duty of that operator to keep secret the matters mentioned in subsection (2).

(2) The matters to be kept secret are –

- (a) the existence and contents of the notice given under section 18(4),
- (b) the details of the issue of the notice and of any renewal or modification of it,
- (c) the existence and contents of any requirement to provide assistance with giving effect to the notice,
- (d) the steps taken in pursuance of the notice or of any such requirement, and
- (e) everything in the material that is the subject of the notice, together with any related communications data.

(3) A person who makes a disclosure to another person of anything that he or she is required to keep secret under this section is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 5 years or to a fine or both.

(4) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the person could not reasonably have been expected, after being given the notice or (as the case may be) first becoming aware of the matter disclosed, to take steps to prevent the disclosure.

(5) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that –

(a) the disclosure was made by or to a professional legal adviser in connection with the giving, by the adviser to any client of the adviser, of advice about the effect of provisions of this Chapter, and

(b) the person to whom or, as the case may be, by whom it was made was the client or a representative of the client.

(6) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the disclosure was made by a professional legal adviser –

(a) in contemplation of, or in connection with, any legal proceedings, and

(b) for the purposes of those proceedings.

(7) Neither subsection (5) nor subsection (6) applies in the case of a disclosure made with a view to furthering any criminal purpose.

(8) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence to show that the disclosure was confined to a disclosure made to the Commissioner or authorised –

- (a) by the Commissioner,
- (b) by the terms of the notice,
- (c) by or on behalf of the person who gave the notice, or
- (d) by or on behalf of a person who is in lawful possession of the protected information (within the meaning of the definition of "protected information" at section 52(1)) to which the notice relates."

Citation.

3. This Law may be cited as the Criminal Justice (Cybercrime and Miscellaneous Amendments) (Bailiwick of Guernsey) Law, 2025.

Commencement.

4. (1) This Law shall come into force on the day appointed for this purpose by regulations made by the Committee for Home Affairs; and different dates may be appointed for different provisions and for different

purposes.

(2) Regulations under subsection (1) 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 regulations be annulled, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.