

ORDER IN COUNCIL

XX
2009

ratifying a Projet de Loi

ENTITLED

The Homicide and Suicide (Bailiwick of Guernsey) Law, 2006

(Registered on the Records of the Island of Guernsey
on the 9th November, 2009.)



2009

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

9th day of November, 2009 before Sir Geoffrey Rowland, Bailiff; present:- Derek Martin Le Page, Stephen Edward Francis Le Poidevin and Alan Cecil Bisson, Esquires, The Reverend Peter Gerald Lane, Michael John Tanguy, Esquire, Susan Mowbray, Barbara Jean Bartie, Stephen Murray Jones, Esquire, Claire Helen Le Pelley, Peter Sean Trueman Girard, Esquire, Constance Helyar-Wilkinson and Terry George Snell, Esquire, Jurats

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 15th October 2009 approving and ratifying a Projet de Loi entitled “The Homicide and Suicide (Bailiwick of Guernsey) Law, 2006”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED:

1. That the said Order in Council be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order in Council be sent by Her Majesty’s Greffier to the Greffier of the Court of Alderney and to the SÉNÉSCHAL of Sark for registration on the records of those Islands respectively.



At the Court at Buckingham Palace

THE 15th DAY OF OCTOBER 2009

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

"In accordance with Your Majesty's General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

"That, in pursuance of their Resolution of 27th April 2006, the States of Deliberation at a meeting on 29th November 2006 approved a Projet de Loi entitled the Homicide and Suicide (Bailiwick of Guernsey) Law, 2006 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Homicide and Suicide (Bailiwick of Guernsey) Law, 2006, and to order that it shall have force of law in the Bailiwick of Guernsey.

"The Committee have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it".

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Bailiwick of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty's Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

Judith Simpson

PROJET DE LOI

ENTITLED

The Homicide and Suicide (Bailiwick of Guernsey) Law, 2006

ARRANGEMENT OF SECTIONS

Provisions relating to homicide

1. Abolition of "constructive malice".
2. Persons suffering from diminished responsibility.
3. Provocation.

Provisions relating to suicide

4. Suicide to cease to be a crime.
5. Criminal liability for complicity in another's suicide.
6. Suicide pacts.

General provisions

7. Power to amend Law by Ordinance.
8. Citation.

PROJET DE LOI

ENTITLED

The Homicide and Suicide (Bailiwick of Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2006^a, 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.

Provisions relating to homicide

Abolition of "constructive malice".

1. (1) Where a person kills another in the course or furtherance of some other offence, the killing does not amount to murder unless done with the same malice aforethought (express or implied) as is required for a killing to amount to murder when not done in the course or furtherance of another offence.

(2) For the purposes of subsection (1), a killing done in the course of or for the purpose of -

- (a) resisting an officer of justice,
- (b) resisting or avoiding or preventing a lawful arrest, or

^a Article XI of Billet d'État No. VIII of 2006.

- (c) effecting or assisting an escape or rescue from legal custody,

shall be treated as a killing in the course or furtherance of an offence.

Persons suffering from diminished responsibility.

2. (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being party to the killing.

(2) On a charge of murder, it is for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as a principal or as an accessory, to be convicted of murder is liable instead to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder does not affect the question of whether the killing amounted to murder in the case of any other party to it.

Provocation.

3. Where on a charge of murder there is evidence on which the Jurats can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self control, the question of whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the Jurats.

In determining that question the Jurats shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

Provisions relating to suicide

Suicide to cease to be a crime.

4. The rule of law whereby it is a crime for a person to commit suicide is abolished.

Criminal liability for complicity in another's suicide.

5. (1) A person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, is liable on conviction to imprisonment for a term not exceeding 14 years.

(2) If on the trial of an indictment for murder or manslaughter it is proved that the accused aided, abetted, counselled or procured the suicide of the person in question, the Jurats may find him guilty of that offence.

Suicide pacts.

6. (1) It is manslaughter, and not murder, for a person acting in pursuance of a suicide pact between him and another person to kill the other or be a party to the other being killed by a third person.

(2) Where it is shown that a person charged with the murder of another killed the other or was a party to his being killed, it is for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

(3) For the purposes of this section "**suicide pact**" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

General provisions

Power to amend Law by Ordinance.

7. (1) The States may by Ordinance amend this Law.
- (2) 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, transitional and savings provisions as may appear to be necessary or expedient.
- (3) 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.

Citation.

8. This Law may be cited as the Homicide and Suicide (Bailiwick of Guernsey) Law, 2006.

K.H. TOUGH,
Her Majesty's Greffier.

Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey

PRICE £2.00