

PROJET DE LOI

ENTITLED

The Summary Offences (Bailiwick of Guernsey) Law, 1982

*

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

* Ordres en Conseil Vol. XXVII, p. 397; as amended by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1984 (Ordres en Conseil Vol. XXVIII, p. 436); the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 345); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1990 (Ordres en Conseil Vol. XXXII, p. 380); the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1991 (No. XV of 1991, Ordres en Conseil Vol. XXXIII, p. 242); the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 (No. XIII of 2006); the Animal Welfare (Guernsey) Ordinance, 2012 (No. III of 2012). See also the Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); the Police Force (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008 (No. XX of 2008).

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ARRANGEMENT OF SECTIONS

1. Offences punishable with fine not exceeding level 3 on the uniform scale.
2. Offences in connection with animals, fireworks or disturbances, etc.
3. Offences punishable with fine not exceeding level 1 on the uniform scale.
4. Punishment of fraudulent mediums, etc.
5. Penalties in connection with straying animals.
6. Forfeiting obscene articles.
7. Interpretation.
8. Amendment to Alderney Law of 1931.
9. Amendment to Law of 1960.
10. Repeals.
11. Citation.
12. Commencement.
13. Amendment of Law by Ordinance.

SCHEDULE Enactments Repealed.

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The Summary Offences (Bailiwick of Guernsey) Law, 1982

THE STATES, in pursuance of their Resolution of the twenty-third day of July, nineteen hundred and eighty-one, 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.

Offences punishable with fine not exceeding [level 3 on the uniform scale].

1. A person who –
 - (a) wanders abroad, or places himself in any public place, for the purpose of begging or gathering alms, or causes, procures or encourages any child to do so, or
 - (b) goes about as a gatherer or collector of alms, or endeavours to collect charitable contributions of any kind, under any false or fraudulent pretence, or
 - (c) in any public place or upon premises belonging to another –
 - (i) while in a state of drunkenness, behaves in a disorderly or indecent manner, or
 - (ii) behaves in a disorderly or indecent manner, or

Consolidated text

- (d) attends any court in a state of drunkenness, or
- (e) is found in or upon any dwelling-house or any other building or in any enclosed yard, garden or area and fails to give a good account of himself, or
- (f) is found in or upon any vessel and fails to give a good account of himself, or
- (g) without lawful cause, unfastens or tampers with the moorings of any vessel, or
- (h) loiters or solicits in a public place for the purposes of prostitution, or
- (i) in any public place or at any public meeting uses threatening, abusive or insulting words [or behaviour], or distributes or displays any writing, sign or visible representation which is threatening, abusive or insulting, with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, or
- (j) wilfully exposes to view in any street, road or highway, or public place, or in the window or other part of any shop, or other building, situate in any street, road, highway or public place, any obscene print, picture or other indecent exhibition, or

- (k) being able to maintain himself and his family, by work or other means, wilfully refuses or neglects to do so and thereby causes himself or any member of his family whom he is legally bound to maintain to become chargeable to the States of Guernsey, the States of Alderney, the Chief Pleas of Sark or to any Parish, [or]

[(l) ...]

shall be guilty of an offence and liable upon summary conviction to a fine not exceeding [level 3 on the uniform scale] or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

NOTES

In section 1,

the words and figure in square brackets in the marginal note thereto were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;

the words in square brackets in paragraph (i) were originally inserted by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1986, section 1(a), with effect from 16th December, 1986, purportedly repealed by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1990, section 2, with effect from 19th February, 1991, then, for the avoidance of doubt, re-inserted by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1991, section 1, with effect from 30th September, 1991;

the word immediately after paragraph (k) thereof was inserted by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1984, section 1(a), with effect from 8th August, 1984;

paragraph (l) (which was originally inserted by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1984, section 1(a), with effect from 8th August, 1984) was repealed by the Criminal Justice

(Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006, section 17(2), with effect from 28th March, 2007;

the words and figure in the last pair of square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

The following case has referred to this Law:

Law Officers of the Crown v. Bailey (1992) 13.GLJ.15.

In accordance with the provisions of the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008, section 4, Schedule, paragraph 8, with effect from 28th October, 2008, section 2 and section 5 of this Law are included within enactments which may be repealed, etc by ordinance under the 2008 Law.

Offences in connection with animals, fireworks or disturbances, etc.

2. (1) A person who –
- (a) permits an animal dangerous to other animals or to persons (a "**dangerous animal**") to wander or to attack or chase an animal or person,
 - (b) incites an animal belonging to him or in his care to attack or chase a person or fails to restrain such an animal from attacking or chasing a person,
 - (c) incites an animal belonging to him or in his care to attack or chase, or fails to restrain such an animal from attacking or chasing, an animal belonging to another person,
 - (d) ignites or discharges a firework in a public place without the prior permission –

Consolidated text

- (i) in the Island of Guernsey, of the Constables of the parish in which that place is situated,
 - (ii) in the Island of Alderney, of the Clerk of the States,
 - (iii) in the Island of Sark, of the Constable or, in his absence, the Vingtenier,
- (e) makes or contributes to the making of a noise or disturbance to the annoyance of persons in the neighbourhood, or
 - (f) interrupts or disturbs a religious service being held in a church or other place of worship or in a cemetery or burial-ground,

shall be guilty of an offence and liable, on conviction of an offence under paragraph (a), to a fine not exceeding level 5 on the uniform scale or to imprisonment for a term not exceeding two months or to both or, on conviction of an offence under any other paragraph, to a fine not exceeding level 3 on the uniform scale or to imprisonment for a term not exceeding two months or to both.

(2) A police officer may –

- (a) enter during the hours of daylight any premises (other than a dwelling), if necessary by force, where he has reasonable suspicion that a dangerous animal is present,

Consolidated text

- (b) enter during the hours of daylight any dwelling, if necessary by force, where he has reasonable suspicion that a dangerous animal is present, if authorised by a warrant issued –
 - (i) in the Island of Guernsey, by the Bailiff,
 - (ii) in the Island of Alderney, by the Chairman of the Court of Alderney,
 - (iii) in the Island of Sark, by the Seneschal,
- (c) seize an animal reasonably suspected of being a dangerous animal, whether found in a public or private place, and detain it in such place as the Chief Officer of Police may direct pending proceedings under subsection (1) in respect of it.

(3) Upon conviction of a person of an offence under subsection (1)(a), (b) or (c), the Magistrate's Court may, if satisfied that the animal in relation to which the offence was committed is dangerous, and in addition to any other penalty it may impose, make an order for the animal to be –

- (a) kept under control by the owner or keeper, or
- (b) destroyed under the supervision of the Chief Officer of Police.

(4) An order under subsection (3)(b) shall be treated as part of the sentence for the purposes of any enactment conferring a right of appeal.

(5) Pending the disposal of an appeal brought by virtue of subsection (4), the Magistrate's Court may make such order for the detention of the animal in question as may appear appropriate.

(6) Any costs or expenses reasonably incurred in connection with the detention or destruction of an animal under subsection (2), (3) or (5) shall be recoverable from the owner or keeper of the animal as a civil debt.

(7) A person who fails to comply with an order under subsection 3(a) shall be guilty of an offence and liable on conviction to a fine not exceeding level 2 on the uniform scale.]

NOTES

Section 2 was substituted by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1990, section 1(1), with effect from 19th February, 1991.¹

In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.

Offences punishable with fine not exceeding [level 1 on the uniform scale].

3. A person who –
- (a) [(i)] having been informed by a police officer that he is required to attend the Magistrate's Court at a specified time and date to give evidence in

a criminal matter or at an inquest, fails, without good reason, so to attend, or

[(ii) having been served with a summons pursuant to Rule 1 of the Magistrate's Court (Defence Witness) Rules, 1983* to attend the Magistrate's Court at a specified time and date to give evidence in a criminal matter, fails, without good reason, so to attend, or]

(b) having been requested by a police officer to assist the police officer in the execution of his duty, fails to assist the police officer, or

(c) is found lying drunk in the open air or in a building belonging to another, [or

(d) is found drunk in a public place or on property belonging to another,]

shall be guilty of an offence and liable upon summary conviction to a fine not exceeding [level 1 on the uniform scale] or to imprisonment for a term not exceeding two weeks or to both such fine and such imprisonment.

NOTES

In section 3,

the words and figure in square brackets in the marginal note thereto

* Order of the Royal Court No. III of 1983.

were substituted by the *Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;*

paragraph (a) was re-numbered as "(a)(i)", and paragraph (a)(ii) was inserted, by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1984, respectively section 1(b) and section 1(c), with effect from 8th August, 1984;

paragraph (d), and the word immediately after paragraph (c) thereof, were inserted by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1984, section 1(d), with effect from 8th August, 1984;

the words and figure in the last pair of square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Punishment of fraudulent mediums, etc.

4. (1) Subject to the provisions of this section, any person who –
- (a) with intent to deceive purports to act as a spiritualistic medium or to exercise any powers of telepathy, clairvoyance or other similar powers, or
 - (b) in purporting to act as a spiritualistic medium or to exercise such powers as aforesaid, uses any fraudulent device,

shall be guilty of an offence.

(2) A person shall not be convicted of an offence under the foregoing subsection unless it is proved that he acted for reward; and for the purposes of this section a person shall be deemed to act for reward if any money is paid, or other valuable thing given, in respect of what he does, whether to him or to any other person.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding [level 3 on the uniform scale] or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(4) Nothing in subsection (1) of this section shall apply to anything done solely for the purpose of entertainment.

NOTE

In section 4, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Penalties in connection with straying animals.

5. (1) If any horses, ponies, asses, mules, donkeys, cattle, sheep, goats or swine are at any time found straying or lying on or at the side of any road, street or lane their keeper shall be guilty of an offence:

Provided that the provisions of this subsection shall not apply to any animal found at the side of any road, street or lane and securely tethered so that no part of the animal can reach the carriageway of such road, street or lane.

(2) A person guilty of an offence under this section shall be liable on conviction to a fine not exceeding [level 2 on the uniform scale].

(3) A person guilty of an offence under this section shall also be liable to pay the reasonable expenses of removing any animal so found straying or lying to the premises of the keeper thereof or to such other place as may have been provided for the purpose; and any person who has incurred such expenses shall be

entitled to recover them as a civil debt.

(4) In this section the expression "**keeper**", in relation to any animal, means the owner or the person in charge of the animal.

NOTES

Section 5 was repealed, insofar as it applies to the Island of Guernsey, by the Animal Welfare (Guernsey) Ordinance, 2012, section 83, Schedule 4, paragraph 7, with effect from 1st July, 2014.

In section 5, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Forfeiting obscene articles.

6. Where a person is convicted of an offence under paragraph (j) of section one of this Law, the court by or before which he is convicted may order that any obscene article to which such conviction relates shall be forfeited and destroyed or otherwise disposed of as the court may direct.

Interpretation.

7. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

[**"Chief Officer of Police"** means the Chief Officer of the salaried police force of the Island of Guernsey or his Deputy and, in relation to the Island of Sark, the Constable or the Vingtenier,]

"child" means a person under the age of fourteen years,

"the Magistrate's Court" means –

- (a) in relation to the Island of Guernsey, the Magistrate's Court,
- (b) in relation to the Island of Alderney, the Court of Alderney,
- (c) in relation to the Island of Sark, the Court of the Seneschal,
- (d) in relation to any criminal matter arising in the Island of Alderney or the Island of Sark and transferred to the Royal Court sitting as an Ordinary Court under the provisions of Part IV of the Magistrate's Court (Guernsey) Law, 1954, as amended^a, the Royal Court sitting as an Ordinary Court,

[...]

"police officer" means –

- (a) in relation to the Islands of Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limit of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

^a Ordres en Conseil Vol. XVI, p. 103; Vol. XVII, p. 218; No. VI of 1976; No. XII of 1979.

- (b) in relation to the Island of Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney,
- (c) in relation to the Island of Sark, the Constable, the Vingtenier and a member of the said police force of the Island of Guernsey,

'public place' includes any road, street or lane and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.

(2) The Interpretation (Guernsey) Law, 1948^b shall apply to the interpretation of this Law throughout the Bailiwick.

(3) Where any provision of a Law repealed by this Law has been re-enacted, with or without modification, by this Law, any reference in any other enactment to the provision so repealed shall, unless the contrary intention appears, be construed as a reference to the corresponding provision as so re-enacted.

(4) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, extended, repealed or replaced by or under any other enactment including this Law.

NOTES

^b Ordres en Conseil Vol. XIII, p. 355.

In section 7,

the definition in square brackets of the expression "Chief Officer of Police" in subsection (1) was inserted by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1990, section 1(2), with effect from 19th February, 1991;

the words omitted in square brackets in subsection (1) (which words were previously inserted by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1984, section 1(e), with effect from 8th August, 1984) were repealed by the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006, section 17(3), with effect from 28th March, 2007.

In accordance with the provisions of the Police Force (Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

The Magistrate's Court (Guernsey) Law, 1954 has since been repealed by the Magistrate's Court (Guernsey) Law, 2008, section 46(b), with effect from 1st September, 2009, subject to the savings and transitional provisions in section 47 of the 2008 Law.

Amendment to Alderney Law of 1931.

8. In Article II of the Law entitled "Loi ayant rapport à la Constitution d'une Liste d'Interdits (Black List) pour cette Île" registered on the nineteenth day of January, nineteen hundred and thirty-one^c the words "les sections trois et cinq de l'Article dix de la "Loi relative à l'application des Peines tant au Criminel qu'en Police Correctionnelle" sanctionnée par un Ordre de sa Majesté en Conseil en date du 24 juin 1856, et enregistré sur les Records de cette Île le 19 juillet 1856," are hereby repealed and the following words are hereby substituted therefor –

"le sous-alinéa (i) de l'alinéa (c) de la section un ou l'alinéa (c) de la section trois de la Loi intitulée 'The Summary Offences (Bailiwick of Guernsey) Law, 1982,'".

^c Ordres en Conseil Vol. IX, p. 1.

Amendment to Law of 1960.

9. In subsection (1) of section one of the Intoxicating Liquor (Prohibition Orders) (Guernsey) Law, 1960^d the words "Upon the conviction of a person of an offence against section three or section five of Article ten of the Law entitled "Loi relative à l'Application des Peines tant au Criminel qu'en Police Correctionnelle" registered on the Records of this Island on the fifth day of July, eighteen hundred and fifty-six," are hereby repealed and the following words are hereby substituted therefor –

"Upon the conviction of a person of an offence against sub-paragraph (i) of paragraph (c) of section one or paragraph (c) of section three of the Summary Offences (Bailiwick of Guernsey) Law, 1982,".

Repeals.

10. The enactments set out in the Schedule to this Law are hereby repealed.

Citation.

11. This Law may be cited as the Summary Offences (Bailiwick of Guernsey) Law, 1982.

Commencement.

12. This Law shall come into force on the expiration of the period of one month commencing on the date on which it is registered on the records of the Island of Guernsey.

^d Ordres en Conseil Vol. XVIII, p. 247.

NOTE

The Law was registered on the Records of the Island of Guernsey on 23rd February, 1982.

[Amendment of Law by Ordinance.

13. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders or regulations (and vice versa).

(3) 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 and transitional provision as may appear to be necessary or expedient.

(4) Any power conferred by this Law to make an Ordinance may be exercised –

Consolidated text

- (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.]

NOTE

Section 13 was inserted by the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006, section 17(4), Schedule 2, paragraph 1, with effect from 28th March, 2007.

SCHEDULE

Section 10

ENACTMENTS REPEALED

1. The Law entitled "Loi relative à l'Application des Peines, tant au Criminel qu'en Police Correctionnelle" registered on the fifth day of July, eighteen hundred and fifty-six^e.
2. The Law entitled "Loi contenant des Articles Supplémentaires à la Loi de 1856, relative à l'Application des Peines" registered on the thirteenth day of April, eighteen hundred and seventy-eight^f.
3. The Law entitled "Loi étendant les pouvoirs de la Cour Royale siégeant en Police Correctionnelle" registered on the first day of December, eighteen hundred and eighty-eight^g.
4. The Law entitled "Loi supplémentaire à la Loi relative à l'application des peines tant au Criminel qu'en Police Correctionnelle (1856)" registered on the tenth day of April, nineteen hundred and fifteen^h.

¹ Prior to its substitution, section 2 was amended by the Summary Offences (Amendment) (Bailiwick of Guernsey) Law, 1986, section 1, with effect from 16th December, 1986.

^e Ordres en Conseil Vol. I, p. 249.

^f Ordres en Conseil Vol. II, p. 187.

^g Ordres en Conseil Vol. II, p. 297.

^h Ordres en Conseil Vol. V, p. 110.