

The Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2010

THE STATES, in pursuance of their Resolution of the 24th February, 2010^a, and in exercise of the powers conferred on them by section 81A of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^b and all other powers enabling them in that behalf, hereby order:-

Amendment of section 1 of the Law.

1. Section 1(2) of the Law is amended as follows -

- (a) in paragraph (d), after "section of the public," omit "or",
- (b) in paragraph (e), for the full stop substitute ", or", and
- (c) immediately after paragraph (e), insert the following paragraph -

"(f) involves the commission of an offence, or is an act, of a type described in any of the articles of the conventions or other instruments set out in Schedule 10."

Amendment of section 12 of the Law.

2. Section 12 of the Law is amended as follows -

- (a) in subsection (7), for "rules or guidance" wherever appearing,

^a Article X of Billet d'État No. IV of 2010.

^b Order in Council No. XVI of 2002; amended by Order in Council No. XIII of 2006 and by Recueil d'Ordonnances Tome XXIX, p. 406 and Tome XXXII, p. 648.

substitute "rules, guidance or instructions",

(b) in subsection (10), immediately after "A disclosure" insert "made in good faith", and

(c) immediately after subsection (10), insert the following subsection -

"(11) In subsection (10) **"good faith"** means that the person making the disclosure -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in terrorist financing. "

Amendment of section 15 of the Law.

3. Section 15 of the Law is amended as follows -

(a) in subsection (8), for "rules or guidance" wherever appearing, substitute "rules, guidance or instructions",

(b) in subsection (13), immediately after "A disclosure" insert "made in good faith", and

(c) immediately after subsection (13), insert the following subsection -

"(14) In subsection (13) **"good faith"** means that the person making the disclosure -

- (a) knows or suspects, or
- (b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in terrorist financing. "

Amendment of section 15A of the Law.

4. Section 15A of the Law is amended as follows –

- (a) in subsection (7), for "rules or guidance" wherever appearing, substitute "rules, guidance or instructions",
- (b) in subsection (8), immediately after "A disclosure" insert "made in good faith", and
- (c) immediately after subsection (8), insert the following subsection -

"(9) In subsection (8) "**good faith**" means that the person making the disclosure -

- (a) knows or suspects, or
- (b) has reasonable grounds for knowing or suspecting,

that the person in respect of whom the disclosure is made is engaged in terrorist financing. "

Amendment of section 40 of the Law.

5. Section 40 of the Law is amended as follows -

(a) in subsection (1), immediately after "knows" insert " or suspects",

(b) in subsection (2), for paragraph (a) substitute -

"(a) discloses to another -

(i) anything which is likely to prejudice the investigation, or

(ii) anything which is not already in the public domain and which, in the circumstances of the investigation, it is unreasonable to disclose, or",

(c) in subsection (3), immediately after "knows" insert "or suspects",

(d) in subsection (4), for paragraph (a) substitute -

"(a) discloses to another -

(i) anything which is likely to prejudice an investigation resulting from the disclosure under that section, or

(ii) anything which is not already in the public domain and which, in the circumstances of an investigation, it is unreasonable to disclose, or", and

- (e) in subsection (5)(a), immediately after "know" insert "or suspect".

Amendment of section 81A of the Law.

6. In section 81A(2) of the Law for "or rules" substitute ", rules or instructions".

Amendment of Schedules to the Law.

7. After Schedule 9, insert the following Schedule -

"SCHEDULE 10

Section 1

PROVISIONS OF INTERNATIONAL CONVENTIONS AND OTHER
INSTRUMENTS

1. **Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.**

Article 1 of the convention described in the heading to this paragraph, the text of which is as follows -

"Article 1

Any person who on board an aircraft in flight:

- (a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
- (b) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "**the offence**").".

2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 and Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.

Article 1 of the convention described in the heading to this paragraph, the text of which is as follows -

"Article 1

1. Any person commits an offence if he unlawfully and intentionally:
 - (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or
 - (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or
 - (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or
 - (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or

(e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.

1 *bis*. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:

(a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

(b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport.

2. Any person also commits an offence if he:

(a) attempts to commit any of the offences mentioned in paragraph 1 or paragraph 1 *bis* of this Article; or

(b) is an accomplice of a person who commits or attempts to commit any such offence."

3. The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.

Article 2 of the convention described in the heading to this paragraph, the text of which is as follows -

"Article 2

1. The intentional commission of:
 - (a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;
 - (b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;
 - (c) a threat to commit any such attack;
 - (d) an attempt to commit any such attack; and
 - (e) an act constituting participation as an accomplice in any such attack,

shall be made by each State Party a crime under its internal law."

4. The International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.

Articles 1 and 2 of the convention described in the heading to this paragraph, the text of which is as follows -

"Article 1

Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "**hostage**") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the

offence of taking of hostages ("**hostage-taking**") within the meaning of this Convention.

Article 2

Any person who:

- (a) attempts to commit an act of hostage-taking, or
- (b) participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking

likewise commits an offence for the purposes of this Convention. "

5. The Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 26 October 1979.

Article 7 of the convention described in the heading to this paragraph, the text of which is as follows -

"Article 7

1. The intentional commission of:
 - (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
 - (b) a theft or robbery of nuclear material;
 - (c) an embezzlement or fraudulent obtaining of nuclear material;

- (d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (e) a threat:
 - (i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or
 - (ii) to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
- (f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and
- (g) an act which constitutes participation in any offence described in paragraphs (a) to (f)

shall be made a punishable offence by each State Party under its national law."

6. The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.

Article 3 of the convention described in the heading to this paragraph, the text of which is as follows –

"Article 3

- 1. Any person commits an offence if that person unlawfully and intentionally:
 - (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or

- (b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or
- (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or
- (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or
- (f) communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or
- (g) injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).

2. Any person also commits an offence if that person:

- (a) attempts to commit any of the offences set forth in paragraph 1; or
- (b) abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or

- (c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question."

7. The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.

Article 2 of the protocol described in the heading to this paragraph, the text of which is as follows -

"Article 2

- 1. Any person commits an offence if that person unlawfully and intentionally:
 - (a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or
 - (b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or
 - (c) destroys a fixed platform or causes damage to it which is likely to endanger its safety; or
 - (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety; or

(e) injures or kills any person in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (d).

2. Any person also commits an offence if that person:

(a) attempts to commit any of the offences set forth in paragraph 1; or

(b) abets the commission of any such offences perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or

(c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b) and (c), if that threat is likely to endanger the safety of the fixed platform. "

8. The International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

Article 2 of the convention described in the heading to this paragraph, the text of which is as follows –

"Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:

(a) with the intent to cause death or serious bodily injury; or

- (b) with the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss.
2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.
3. Any person also commits an offence if that person:
- (a) participates as an accomplice in an offence as set forth in paragraph 1 or 2; or
 - (b) organizes or directs others to commit an offence as set forth in paragraph 1 or 2; or
 - (c) in any other way contributes to the commission of one or more offences as set forth in paragraph 1 or 2 of the present article by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned."

Interpretation.

8. In this Ordinance, "**the Law**" means the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, as amended.

Extent.

9. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

10. This Ordinance may be cited as the Terrorism and Crime (Bailiwick of

Guernsey) (Amendment) Ordinance, 2010.

Commencement.

11. This Ordinance shall come into force on the 24th March, 2010.