

ORDINANCE LAID BEFORE THE STATES

THE VIDEO-RECORDED EVIDENCE (BAILIWICK OF GUERNSEY) ORDINANCE, 2017

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017", made by the Policy & Resources Committee on the 16th May, 2017, is laid before the States.

EXPLANATORY MEMORANDUM

The Ordinance, made under the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, permits a court in the Bailiwick to give a direction that a video-recording of a witness's evidence may be admitted as that witness's evidence in chief during criminal proceedings. In deciding whether to give a direction, the court would be required to consider all relevant factors, including the age and vulnerability of the witness. A court in the Bailiwick may already make such a direction in respect of a witness's evidence where the criminal proceedings are in respect of certain specified sexual offences; the Ordinance effectively extends this discretionary power to criminal proceedings in respect of any offence.

The Ordinance was made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948, and shall be deemed to have come into force on the 18th May, 2017. Under the proviso to Article 66A(1) of the Reform (Guernsey) Law, 1948, the States of Deliberation have the power to annul the Ordinance.

N.B The Policy Letter regarding this Ordinance can be found here

<https://gov.gg/article/160143/Video-Recorded-Evidence-in-Criminal-Proceedings>

The full text of this legislation included in this document can be found at:

<http://www.guernseylegalresources.gg/article/90617/Ordinances>

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 28 of 2017

THE PRISON (GUERNSEY) (AMENDMENT) REGULATIONS, 2017

In pursuance of Sections 49 and 51 of the Prison (Guernsey) Ordinance 2013, The Prison (Guernsey) (Amendment) Regulations 2017, made by the Committee *for* Home Affairs on 3rd April 2017, is laid before the States.

EXPLANATORY NOTE

These Regulations amend the Prison (Guernsey) Regulations, 2013 ("**the principal Regulations**") to clearly authorise the use of body-worn video cameras, digital cameras or any overt camera system where considered appropriate, and to provide for the collection, storage, retention, destruction use and disclosure of CCTV material (derived from fixed cameras or body cameras) to be governed by Prison Orders.

Regulation 1 of these Regulations provides for the principal Regulations to be amended by these Regulations.

Regulation 2(a) of these Regulations amends regulation 120(3) of the principal Regulations to authorise the Governor to exercise his functions by the use of CCTVs used in accordance with Prison Orders, including fixed CCTVs or those carried or worn by authorised persons. Regulation 2(b) and (c) of these Regulations amend regulation 120(4) of the principal Regulations to provide for the Governor to make Prison Orders for the processing of CCTV material, and insert a new regulation 120(5) to define "**processing**" by reference to the section 1(1) of the Data Protection (Bailiwick of Guernsey) Law, 2001.

Regulation 3(a) and (b) of these Regulations amend regulation 143(1) of the principal Regulations to require periodic reviews of the retention of intercepted communication material or CCTV material at minimum intervals of 30, instead of 28, days. Regulation 3(c) of these Regulations amends regulation 143(2) of the principal Regulations to confine regulation 143(2) to intercepted communication material only. Regulation 3(d) of these Regulations inserts a new regulation 143(3) that requires review, retention, and any other processing of CCTV material to be carried out in accordance with Prison Orders.

Regulation 4 amends regulation 148(1) of the principal Regulations, to include, in the definition of "**CCTV**", any other overt camera system capable of recording video, sound, or both, including a body-worn video camera or body-worn video camera system, a digital camera or a digital camera system.

Regulation 5 is the interpretation provision.

Regulations 6 and 7 are the citation and commencement provisions respectively.

These Regulations come into force on the 1st April, 2017.

The full text of the statutory instruments included in this document can be found at:
<http://www.guernseylegalresources.gg/article/151276/2016>