

**STATES OF DELIBERATION**

**30<sup>th</sup> October, 2013**

**Billet d'Etat No. XX  
Article 3**

**AMENDMENT**

Proposed by: Deputy J P Le Tocq  
Seconded by: Deputy F W Quin

**Home Department  
The Prison (Guernsey) Ordinance, 2013**

In the Ordinance entitled "The Prison (Guernsey) Ordinance, 2013" –

- (a) in the table in section 56, for "Paragraph 3 of Schedule 4" in each place where it occurs, substitute "Paragraph 4 of Schedule 4", and
- (b) for Schedule 4, substitute the attached Schedule.

**Explanatory note**

It has been brought to the Home Department's attention that a disciplinary offence, "commits any assault", has been inadvertently omitted from this schedule. In addition, there is a need to renumber and slightly re-word other disciplinary offences, as well as to clarify defences, in order to align these disciplinary offences with practices in the prison.

SCHEDULE 4  
DISCIPLINARY OFFENCES

Section 43(1)

**Disciplinary offences.**

1. A prisoner commits a disciplinary offence if the prisoner –
  - (1) commits any assault,
  - (2) commits any racially aggravated assault,
  - (3) detains any person against the person's will,
  - (4) denies access to any part of the prison to any authorised person or visitor,
  - (5) fights with any person,
  - (6) intentionally endangers the health or personal safety of others or, by the prisoner's conduct, is reckless as to whether such health or personal safety is endangered,
  - (7) intentionally obstructs any authorised person in the execution of the person's duty or the performance of the person's work,
  - (8) escapes or absconds from prison or from the legal custody of the Governor,
  - (9) fails to comply with any condition of a temporary release licence upon which the prisoner is or was temporarily released,
  - (10) is found with any substance in the prisoner's urine or breath, or other bodily matter or substance taken as a sample from the prisoner, which demonstrates that –
    - (a) a controlled drug has been administered to the prisoner by that prisoner or by another person, whether in the prison or outside whilst that prisoner is on a temporary release licence (but subject to paragraph 2),
    - (b) a medicinal product has been administered to the prisoner by that prisoner or by another person, in the prison (but subject to paragraph 2), or
    - (c) the prisoner has smoked a tobacco product or any other thing at any time whilst in the prison,

- (11) is intoxicated as a consequence of consuming any intoxicating liquor (but subject to paragraph 3),
- (12) consumes any intoxicating liquor, whether or not provided to the prisoner by another person (but subject to paragraph 3),
- (13) has in the prisoner's possession –
  - (a) any thing which the prisoner is not lawfully required or authorised to possess, or
  - (b) a quantity of any thing that is greater than the quantity that that prisoner is lawfully required or authorised to possess,
- (14) supplies to any person any prohibited thing,
- (15) supplies to any person any thing which the prisoner is lawfully required or authorised to have for that prisoner's own use, unless that supply is lawfully required or authorised,
- (16) takes improperly any thing belonging to another person, the prison or the Department,
- (17) intentionally or recklessly sets fire to any part of the prison or any other property, whether or not the prisoner's own,
- (18) destroys or damages any part of the prison or any property (other than the prisoner's own),
- (19) causes racially aggravated damage to, or destruction of, any part of the prison or any other property, other than the prisoner's own,
- (20) absents the prisoner's self from any place where the prisoner is required to be, or is present at any place where the prisoner is not lawfully required or authorised to be,
- (21) is disrespectful to any authorised person or any visitor (other than a prisoner),
- (22) uses threatening, abusive or insulting words or behaviour,
- (23) uses threatening, abusive or insulting racist words or behaviour,
- (24) intentionally fails to work properly or, being required to work, refuses to do so,
- (25) disobeys any lawful order,
- (26) disobeys or fails to comply with any provision of this Ordinance, the Prison Regulations or the Prison Orders that applies to the prisoner,
- (27) receives any controlled drug, or, without the consent of an authorised officer, any other thing, during the course of a visit,

- (28) displays, attaches or draws on any part of a prison, or on any other property, threatening, abusive or insulting racist words, drawings, symbols or other material,
- (29) smokes a tobacco product or any other thing, or
- (30) (a) attempts to commit, (b) incites another prisoner to commit, or (c) assists another prisoner to commit or to attempt to commit, any of the foregoing disciplinary offences.

### **Defences.**

2. It is a defence for a prisoner charged with a disciplinary offence under paragraph 1(10)(a) or 1(10)(b) to show that –
  - (1) the administration of the controlled drug or (as the case may be) medicinal product to that prisoner had been lawfully required or authorised,
  - (2) the controlled drug or (as the case may be) medicinal product was administered by or to that prisoner in circumstances in which that prisoner did not know and had no reason to suspect that such a drug or medicinal product was being administered, or
  - (3) the controlled drug or (as the case may be) medicinal product was administered by or to that prisoner under duress, or without that prisoner's consent in circumstances where it was not reasonable for that prisoner to have resisted.
3. It is a defence for a prisoner charged with a disciplinary offence under paragraph 1(11) or 1(12) to show that –
  - (1) the intoxicating liquor was consumed by the prisoner in circumstances in which that prisoner did not know and had no reason to suspect that that prisoner was consuming intoxicating liquor, or
  - (2) the intoxicating liquor was consumed by the prisoner without that prisoner's consent in circumstances where it was not reasonable for that prisoner to have resisted.

### **Interpretation.**

4. In this Schedule –

"**administer**", in relation to a controlled drug or medicinal product, includes to consume, take, inject, inhale (or inhale the fumes or vapour from), ingest or use, the controlled drug or medicinal product in any way,

"**presumed**" means presumed by the prisoner committing, or alleged to have

committed, the disciplinary offence,

"**racial group**" means a group of persons that may be defined by reference to race, colour, nationality (including citizenship) or ethnic, national or territorial origins,

"**racist**", in relation to words, behaviour or material, means words, behaviour or material that demonstrate, or are wholly or partly motivated by, hostility to members of a racial group (whether identifiable or not) based on their actual or presumed membership of a racial group; and cognate terms are to be construed accordingly, and

"**smoke**" means to smoke orally, hold or otherwise have control over any ignited tobacco product or any other ignited thing, with a view to tasting or inhaling the smoke.