

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

ARMED FORCES ACT 2006 AND ARTICLE 72A OF THE REFORM (GUERNSEY) LAW 1948

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled "Armed Forces Act 2006 And Article 72A of the Reform (Guernsey) Law 1948" dated 8th June, 2026, they are of the opinion:

1. To signify their agreement to the substance of the proposed Order in Council entitled "The Armed Forces Act 2006 (Bailiwick of Guernsey) Order 2026" as set out in Appendix 1 to this Policy Letter.
2. To approve the draft Ordinance entitled "The Armed Forces (Offences and Jurisdiction) (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2026" as set out in Appendix 2 to this Policy Letter, and to direct that the same shall have effect as an Ordinance of the States.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

ARMED FORCES ACT 2006 AND ARTICLE 72A OF THE REFORM (GUERNSEY) LAW 1948

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

8th June, 2026

Dear Sir

1 Executive Summary

- 1.1 Article 72A of the Reform (Guernsey) Law, 1948, as amended, requires the Policy & Resources Committee to submit to the States of Deliberation a proposal to make an Order in Council extending to Guernsey a provision of an Act of Parliament, "in order that the States may signify their view on it" (unless the Committee considers it unnecessary). At Appendix 1 to this Policy Letter is a short draft Order in Council extending to the Bailiwick with modifications several provisions of the Armed Forces Act 2006 ("**the AFA 2006**").
- 1.2 The Committee is submitting this Policy Letter to fulfil its obligation under Article 72A in respect of the draft Order in Council.
- 1.3 At Appendix 2 to this Policy Letter is the Armed Forces (Offences and Jurisdiction) (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2026 ("**the Commencement Ordinance**"). This brings into force the Armed Forces (Offences and Jurisdiction) (Bailiwick of Guernsey) Law, 2018^a ("**the 2018 Law**") on 1st August 2026. The 2018 Law gives appropriate domestic effect to other elements of the AFA 2006; the 2018 Law and the draft Order in Council have been drafted to work consistently together.
- 1.4 The 2018 Law and the draft Order in Council give effect to Resolutions on a previously approved Policy Letter.

^a The Projet de Loi was approved by the States of Deliberation on 28th February, 2018, the States of Alderney on 10th October, 2018 and the Chief Pleas of Sark on 16th January, 2019. It was registered on the records of the Island on 3 June 2019.

2 Background

- 2.1 The AFA 2006 came into force in the UK in October 2009. It replaced the three separate Service Discipline Acts (which extended to the Bailiwick and date back to the 1950's) and harmonised service law across the three armed forces, including the creation of a single Service Prosecuting Authority and a standing Court Martial.
- 2.2 The 2018 Law was drafted following the approval by the States in September 2013 of a Policy Letter mandating its preparation^b ("**the Policy Letter**"). It ensures that any military disciplinary or criminal justice issues that arise within the Bailiwick are dealt with by the service courts and authorities under the modern statutory framework. It also ensures appropriate supporting provisions are in place regarding matters such as local judicial oversight over service police powers of entry and search.
- 2.3 It should be noted that in the absence of a permanent service presence here, it is exceptionally rare for such issues to arise in the Bailiwick.
- 2.4 The settling of the 2018 Law was significantly delayed by difficulties securing appropriate engagement from the Ministry of Defence ("**the MoD**"), and its commencement has been delayed in turn by the need to agree with the MoD the wording of a short Order in Council directly extending several provisions of the AFA 2006 in accordance with the terms of the Policy Letter. The text of the necessary Order has now been settled and is appended at Appendix 1.
- 2.5 The key parts of the letter from the then HM Procureur that formed the substantive part of the Policy Letter, which include the rationale for the preparation of a separate Order in Council, are set out below for information:

[...] the provisions of the 2006 Act need to be implemented in the Bailiwick, to ensure that appropriate modern provisions relating to Service law and Service personnel are in place here, while recognising and protecting our Bailiwick's rights and liberties. In the absence of any legislative provision, for example, the Court Martial will have no authority under Bailiwick law to detain and sentence Service personnel for Service offences. And it is not merely the jurisdiction of the Court Martial that requires to be legally underpinned: there are related issues that need to be addressed, such as the requirement to establish when a Bailiwick civilian court can or cannot try a person for an offence in respect of which he or she is being, or may already have been, tried by the Court Martial.

[...].

^b See Article III of [Billet d'Etat No. XVIII of 2013](#).

The 2006 Act has a standard modern "permissive extent" clause in respect of the Channel Islands ("Her Majesty may by Order in Council provide for all or any of the provisions of this Act to extend to any of the Channel Islands with such modifications as may be specified in the Order.") However, in the course of discussions in the run-up to the passing of the 2006 Act, representatives of the Law Officers of both Guernsey and Jersey agreed with the United Kingdom authorities that matters pertaining directly to the criminal law and the courts and civilian authorities of the Island should be the subject of insular legislation (in our case, a Projet de Loi), while those provisions of (what was then) the Bill which required legislative force in the Bailiwick, but did not pertain to the domestic authorities and local criminal law directly, could be extended by Order in Council. It was felt that this better reflected the modern constitutional relationship between the Channel Islands and the United Kingdom than direct application of the United Kingdom legislation.

3 The Order in Council and commencement Ordinance

- 3.1 The draft Order in Council gives direct effect with modifications to three substantive provisions of the AFA 2006: sections 313 (dealing with arrest by civilian police under warrant), 320 (dealing with power to use reasonable force) and 356 (dealing with avoidance of assignment of or charge on pay and pensions etc). It also gives direct effect to provisions defining "service offence" and "judge advocate". The modifications with which the provisions have effect ensure in particular that appropriate provisions are in place in respect of arresting persons suspected of having committed a service offence in the Bailiwick, for example empowering the Magistrate's Court to issue warrants.
- 3.2 The Commencement Ordinance brings the Law into force on 1st August 2026.

4 Engagement and consultation

- 4.1 Bailiwick Law Enforcement was closely consulted when the provisions were being settled, and Government House informed. Alderney and Sark have been kept informed (Sark has enacted equivalent legislation to Article 72A in section 63A of the Reform (Sark) Law, 2008 and consequently the Policy & Finance Committee of Chief Pleas shall need to consider whether to refer the matters considered in this Policy Letter to Chief Pleas). The Law Officers have advised on the proposals.

5 Resources implications

- 5.1 It is not anticipated that the commencement of the Law or the making of the Order in Council will have any significant resource implications.

6 Compliance with Rule 4

- 6.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 6.2 In accordance with Rule 4(1)(a), this Policy Letter contributes to States' objectives and policy plans aligning with the Island Resilience Area of Focus of the Government Work Plan 2026-2029 to maintain a strong international position by ensuring that military disciplinary and criminal justice issues that arise in the Bailiwick are dealt with under a modern statutory framework.
- 6.3 In accordance with Rule 4(1)(b), the Committee has consulted with other parties as outlined in section 4 above, in accordance with Rule 4(5).
- 6.4 In accordance with Rule 4(1)(c), the propositions have been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.
- 6.5 In accordance with Rule 4(1)(d), the resources required to fulfil the Propositions of this Policy Letter are set out in section 5 above.
- 6.6 In accordance with Rule 4(2)(a), the Propositions relate to the duties and powers of the Policy & Resources Committee to advise the States and develop and implement policies relating to international and constitutional affairs, which includes the Island's constitutional position and the relationship with the Crown and relations with the United Kingdom.
- 6.7 In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of the Committee.

Yours faithfully

H L de Sausmarez
President

Y Burford
Vice President

C N K Parkinson
S J Falla
A Niles

The Armed Forces Act 2006 (Bailiwick of Guernsey) Order 2026

Made

Coming into force

At the Court at Buckingham Palace, the day of 2026

Present,

The King's Most Excellent Majesty in Council

His Majesty, in pursuance of section 384(1) of the Armed Forces Act 2006, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Armed Forces Act 2006 (Bailiwick of Guernsey) Order 2026 and shall come into force on *, 2026.
2. The provisions of the Armed Forces Act 2006 listed in Part I of the Schedule to this Order shall extend to the Bailiwick of Guernsey with the modifications specified in Part II of that Schedule.

Richard Tilbrook CVO
Clerk of the Privy Council

SCHEDULE

Article 2

EXTENSION OF PROVISIONS OF THE ARMED FORCES ACT 2006 TO THE BAILIWICK OF GUERNSEY

PART I

PROVISIONS EXTENDED

Section 50(2) (definition of “service offence”)

Section 313 (arrest by civilian police under warrant of judge advocate)

Section 320 (power to use reasonable force)

Section 356 (avoidance of assignment of or charge on pay and pensions *etc.*)

Section 362 (definition of “judge advocate”)

PART II

MODIFICATIONS TO THE PROVISIONS OF THE ARMED FORCES ACT 2006 EXTENDED TO THE BAILIWICK OF GUERNSEY BY PART I OF THIS SCHEDULE

1. In section 313 (arrest by civilian police under warrant of judge advocate):
 - (a) in the heading the words “of judge advocate” shall be omitted;
 - (b) in subsection (1) for the words after “reasonable grounds for” there shall be substituted the words “the arrest of a person who is reasonably suspected of having committed a service offence, he may write to the Chief Officer of the Island Police Force, requesting that a police officer apply to a Judge of the Magistrate's Court for the issue of a warrant for the arrest of that person.”;
 - (c) after subsection (1) there shall be inserted the following subsection:

“(1A) If a Judge of the Magistrate's Court is satisfied on hearing such an application that there are reasonable grounds for doing so, he may issue a warrant for the arrest of the person to whom the request relates.”;
 - (d) in subsection (2)(a) for the words “an officer or officers of a UK police force or British overseas territory police force” there shall be substituted the words “a police officer”;
 - (e) in subsection (3), for the words “The Secretary of State” there shall be substituted “The President of the States Committee for Home Affairs”;
and
 - (f) after subsection (4) there shall be inserted the following subsection:

“(5) In this section, a "police officer" means a member of the salaried police force of the Island of Guernsey.”.
2. In section 356 (avoidance of assignment of or charge on pay and pensions *etc.*):
 - (a) in subsection (1)(a) the words “(or, in Scotland, assignation)” shall be omitted; and
 - (b) for subsections (4) and (5) there shall be substituted the following subsections:

- “(4) Nothing in this section –
- (a) applies to the making or variation of orders for the arrest of wages; or
 - (b) prejudices any enactment providing for the payment of any sum in désastre or saisie proceedings, or other insolvency proceedings, for distribution among creditors.
- (5) In this section, “enactment” means a Law, Ordinance or subordinate legislation, and “subordinate legislation” means any regulation, rule, order, rule of court, Resolution, scheme, direction, byelaw or other instrument made under any enactment and having legislative effect.”.

**The Armed Forces (Offences and Jurisdiction) (Bailiwick
of Guernsey) Law, 2018 (Commencement) Ordinance,
2026**

THE STATES, in exercise of the powers conferred on them by section 22 of the Armed Forces (Offences and Jurisdiction) (Bailiwick of Guernsey) Law, 2018^c, and all other powers enabling them in that behalf, hereby order :-

Commencement of the Law.

1. The Armed Forces (Offences and Jurisdiction) (Bailiwick of Guernsey) Law, 2018 shall come into force on 1st August, 2026.

Citation.

2. This Ordinance may be cited as the Armed Forces (Offences and Jurisdiction) (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2026.

^c Order in Council No. VIII of 2019.