

ORDER IN COUNCIL

**XII
2021**

ratifying a Projet de Loi

ENTITLED

The Abortion (Guernsey) (Amendment) Law, 2021

**(Registered on the Records of the Island of Guernsey on the 13th
December, 2021.)**



2021



In the Royal Court of the Island of Guernsey

The

13th day of December, 2021 before Richard James McMahon, Esquire, Bailiff; present:- Stephen Murray Jones, OBE, Terry John Ferbrache, David James Mortimer, Esquires, Joanne Marie Wyatt, David John Robilliard, Esquire, Tina Jane Le Poidevin, Felicity Jane Quevâtre-Malcic, Heather Reed, Simon Ernest Bodkin, James Robert Toynton, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 10th day of November, 2021, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Abortion (Guernsey) (Amendment) Law, 2021”, THE COURT, after the reading of the Order in Council and having heard from Her Majesty’s Procureur thereon, ORDERED:-

1. That the said Order in Council be registered on the records of this Island.

J. TORODE
Her Majesty’s Greffier



At the Court at Windsor Castle

THE 10th DAY OF NOVEMBER 2021

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

“That, in pursuance of their Resolution of 24th June 2020, the States of Deliberation at a meeting on 15th July 2021 approved a *Projet de Loi* entitled the Abortion (Guernsey) (Amendment) Law, 2021 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Abortion (Guernsey) (Amendment) Law, 2021, and to order that it shall have force of law in the Islands of Guernsey, Herm and Jethou.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it”.

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Islands of Guernsey, Herm and Jethou and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

Ceri King

PROJET DE LOI

ENTITLED

The Abortion (Guernsey) (Amendment) Law, 2021

THE STATES, in pursuance of their Resolution of the 24th June, 2020^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Amendments to the 1997 Law.

1. The Abortion (Guernsey) Law, 1997^b ("**the principal Law**") is amended as follows.

2. In section 1 of the principal Law –

(a) repeal paragraph (a), and

(b) in paragraph (b), immediately after "of any", insert "other person, being a".

^a Article V of Billet d'État No. XIII of 2020.

^b Ordres en Conseil Vol. XXXVII, p. 72; amended by Ordinance No. XXXIII of 2003 and No. IX of 2016.

3. In section 2 of the principal Law, immediately after "of any", insert "other person, being a".

4. In section 3 of the principal Law –

(a) in subsection (1) –

(i) For the words beginning with "Subject to" and ending with "practitioners are", substitute "An authorised person shall not be guilty of an offence under section 1 or 2 where the authorised person terminates a pregnancy in any case where a recognised medical practitioner is",

(ii) for paragraph (c), substitute the following paragraph –

"(c) that, at the time of the diagnosis, there is a substantial risk that if the child were born it would suffer from a significant physical or mental impairment that would have a seriously debilitating effect on the child, or", and

(iii) in paragraph (d), for "twelfth", substitute "twenty-fourth",

(b) for subsections (2) and (3), substitute the following subsection–

"(2) For the purposes of subsection (1)(d), whether or not a pregnancy has exceeded its twenty-fourth week is to be determined and calculated in accordance with any guidance published by the Committee in any manner it considers appropriate for this purpose."

5. In section 4 of the principal Law –

- (a) in subsection (1), for "A recognised medical practitioner", substitute "An authorised person",
- (b) in subsection (2) –
 - (i) in paragraph (a), for "practitioners", substitute "practitioner",
 - (ii) in paragraph (c), for "recognised medical practitioner", substitute "authorised person", and
- (c) in subsection (3), for "Medical Officer of Health", substitute "Director of Public Health".

6. In section 5 of the principal Law –

- (a) in subsection (1) –
 - (i) for "the provisions of subsection (3)" substitute "subsections (3) and (3A) and any regulations made under subsection (5)",

(ii) immediately after "treatment", insert "of a woman",

(b) in subsection (3), for "to save the life of a pregnant woman.", substitute –

" –

(a) to save the life of the woman concerned, or

(b) to prevent serious injury to the physical or mental health of the woman concerned.",

(c) immediately after subsection (3), insert the following subsection –

"(3A) Subsection (1) does not apply unless the person who has a conscientious objection, without delay –

(a) in any case where the woman concerned has requested the person to participate in the treatment –

(i) informs that woman that she has a right to see another person who is lawfully authorised to participate in the treatment and does not have a conscientious objection, and

(ii) ensures that that woman has sufficient information to enable her to exercise

the right mentioned in subparagraph
(i), and

(b) in any other case, makes any arrangements necessary to allow another person, who is lawfully authorised to participate in the treatment and does not have a conscientious objection, to participate in the treatment in place of the person who has a conscientious objection.", and

(d) immediately after subsection (4), insert the following subsections –

"(5) The Committee may by regulations –

(a) designate or limit the persons who may exercise the right to conscientious objection specified in subsection (1),

(b) impose any condition or requirement for the exercise of that right, and

(c) otherwise limit or restrict the exercise of the right in any manner that it thinks fit.

(6) In this section, for the avoidance of doubt, a reference to participation in any treatment includes a reference to provision of the treatment.".

7. In section 6 of the Principal Law –

- (a) immediately after "anything done", insert "by a person",
and
- (b) for "a woman", substitute "another person, being a
woman,".

8. In section 8 of the principal Law, insert the following definition immediately before the definition of "the Committee" –

""authorised person" means –

- (a) a recognised medical practitioner, or
- (b) a person who is registered as a nurse or midwife in the
register maintained by the Committee under section 3 of
the Registered Health Professionals Ordinance, 2006,".

Extent.

9. This Law shall extend to the Islands of Guernsey, Herm and Jethou.

Citation.

10. This Law may be cited as the Abortion (Guernsey) (Amendment) Law, 2021.

Commencement.

11. This Law shall come into force on a date to be specified by regulations made by the Committee for Health & Social Care; and regulations may provide for different provisions of the Law to come into force on different dates.

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