

PROJET DE LOI

ENTITLED

The Cash Controls (Bailiwick of Guernsey) Law, 2007 *

[CONSOLIDATED TEXT]

NOTE

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* No. II of 2008; as amended by the Cash Controls Law (Definition of Cash) (Bailiwick of Guernsey) Ordinance, 2009 (No. XXVIII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 608); the Cash Controls (Bailiwick of Guernsey) Law (Amendment of Definition of Cash) Ordinance, 2010 (No. XVII of 2010); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Cash Controls (Specified Amount) (Brexit) (Bailiwick of Guernsey) Regulations, 2019 (G.S.I. No. 37 of 2019).

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ARRANGEMENT OF SECTIONS

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2. Cash control declaration.
3. Acceptance of other cash control declarations.
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The Cash Controls (Bailiwick of Guernsey) Law, 2007

THE STATES, in pursuance of their Resolution of the 26th September, 2007^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 Bailiwick of Guernsey.

Prohibition on carrying cash into or out of the Bailiwick.

1. (1) It is an offence for an individual to carry cash of an amount in excess of the specified amount into or out of the Bailiwick, unless –

- (a) the cash is carried into or out of a port or customs airport,
- (b) the individual completes a cash control declaration when he lands or leaves, and
- (c) all the information given in the cash control declaration is true.

(2) It is an offence for an individual to enter into an agreement or arrangement by which cash in excess of the specified amount is split up and carried by two or more individuals in order to avoid the making of a cash control declaration.

^a Article I of Billet d'État No. XX of 2007.

[(3) The "**specified amount**" is £10,000 (ten thousand pound sterling) or any currency equivalent to that amount.]

(4) This section may be amended by Ordinance of the States.

NOTE

In section 1, subsection (3) was substituted by the Cash Controls (Specified Amount) (Brexit) (Bailiwick of Guernsey) Regulations, 2019, regulation 1, with effect from 11 p.m. on 31st December, 2020.

Cash control declaration.

2. The cash control declaration referred to in section 1 shall be given in such form and manner as may be directed by an officer either generally or in any particular case and must include the following information –

- (a) details of the individual carrying the cash, including his full name, date and place of birth and nationality,
- (b) the full name and address of the owner of the cash,
- (c) the full name and address of any intended recipient of the cash,
- (d) the amount and nature of the cash,
- (e) the provenance and intended use of the cash,
- (f) the transport route, and
- (g) the means of transport.

Acceptance of other cash control declarations.

3. An officer may accept a copy of a cash control declaration completed in another country or territory instead of the declaration required by section 1 provided that the declaration –

- (a) was made in respect of the same cash,
- (b) relates to the same journey,
- (c) is in English, and
- (d) contains all the information required by section 2.

Recording of information.

4. The Chief Officer of Customs and Excise shall record all information received from cash control declarations and shall retain such information for not less than 6 years from the date of the declaration.

Information sharing.

5. (1) Any information recorded under section 4 shall not be disclosed to anyone other than an officer except –

- (a) to the extent necessary to enable the Chief Officer of Customs and Excise to perform his functions,
- (b) to the extent that its disclosure is expressly authorised or required by or under any enactment relating to the functions of the Chief Officer of Customs and Excise,
- (c) for the purposes of any proceedings in connection with this Law or any customs Law,

- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the investigation of, or otherwise for the purposes of, any criminal proceedings,
- (e) for the purposes of any investigation or proceedings under the Forfeiture of Money in Civil Proceedings (Bailiwick of Guernsey) Law, 2007,
- (f) where an officer has grounds to suspect that it relates to any illegal activity, in which case the information may be shared with the competent authority of another country or territory, provided that the competent authority agrees to provide the Chief Officer of Customs and Excise with cash controls information on a reciprocal basis,
- (g) with the consent of the person to whom it relates and (if different) the person from whom it was acquired,
- (h) to comply with an order of a court,
- (i) to an officer or servant of the States for the purposes of enabling that officer or servant to carry out his duties,
or
- (j) to an officer or servant of the Guernsey Financial Services Commission for the purposes of enabling him to carry out his functions,

and the expression "**competent authority**" means any person or body, or any class or description of person or body, prescribed for the purposes of this section by regulations of [the Committee].

(2) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (1) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both.

NOTE

In section 5, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

Application of the Principal Law.

6. (1) This is a customs Law for the purposes of section 1(1) of the Principal Law.

(2) For the purpose of the Principal Law cash in excess of the specified amount carried by an individual shall be deemed to be goods.

Offences.

7. If any individual commits an offence under section 1 then –

(a) he is liable –

(i) on summary conviction, to a fine not exceeding twice level 5 on the uniform scale or three times the value of the cash, whichever is the greater, or to imprisonment for a term not exceeding three months, or to both;

- (ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both, and
- (b) the cash is liable to forfeiture (in whole or in part).

Application of forfeited cash.

8. Once the forfeiture proceedings are finally disposed of, cash forfeited under this Law and any accrued interest thereon shall be credited to the General Revenues of the States of Guernsey or to a seized asset fund, as directed by the States of Guernsey [Policy & Resources Committee].

NOTES

In section 8, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 15(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Treasury and Resources Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 15(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

General provisions as to subordinate legislation.

9. (1) Any Ordinance, regulation or order under this Law –
- (a) may be amended or repealed by a subsequent Ordinance, regulation or order, as the case may be, hereunder,

- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, and
- (c) may, in the case of an Ordinance, and without limitation, contain provision –
 - (i) as to the creation of new liabilities, obligations, penalties and offences,
 - (ii) making consequential amendments to this Law and any other enactment,
 - (iii) repealing, replacing, amending, extending, adapting, modifying or disapplying any rule of customary or common law, and
 - (iv) authorising [the Committee] to make regulations in relation to any matter in relation to which the Ordinance can make provision.

(2) Any power conferred by this Law to make any Ordinance, regulation or order may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised –

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

NOTE

In section 9, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

Interpretation.

10. (1) In this Law, unless the context otherwise requires –

["**cash**" means –

- (a) bearer negotiable instruments including monetary instruments in bearer form, such as travellers' cheques, negotiable instruments (including cheques, promissory notes and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery, incomplete instruments (including cheques, promissory notes and money

orders) signed, but with the payee's name omitted, [...]

(b) banknotes, bullion (which includes gold, silver, palladium and platinum bullion whether pure or impure) ingots and coins (whether or not in circulation as a medium of exchange),][and

(c) postage stamps,]

"to carry" and **"carried"** means to carry in baggage, or on or in one's person,

"Chief Officer of Customs and Excise" has the same meaning as in the Principal Law,

"competent authority", see section 5(1)

"customs airport" has the same meaning as in the Principal Law,

"customs Law" has the same meaning as in the Principal Law,

"[the Committee]" means the States of Guernsey [Committee for Home Affairs],

"officer" has the same meaning as in the Principal Law,

"port" has the same meaning as in the Principal Law,

"the Principal Law" means the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,

"specified amount", see section 1(2).

(2) The definition of cash may be amended by Ordinance of the States.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(4) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Law throughout the Bailiwick of Guernsey.

NOTES

In section 10,

the definition of the expression "cash" in subsection (1) was substituted by the Cash Controls Law (Definition of Cash) (Bailiwick of Guernsey) Ordinance, 2009, section 1, with effect from 10th August, 2009;

first, the word omitted in square brackets within the definition of the expression "cash" in subsection (1) was repealed and, second, paragraph (c), and the word in square brackets immediately after paragraph (b), thereof were inserted, by the Cash Controls (Bailiwick of Guernsey) Law (Amendment of Definition of Cash) Ordinance, 2010, respectively section 1(2)(a) and section 1(2)(b), with effect from 24th March, 2010;

the words, first, "the Committee" and, second, "Committee for Home Affairs" in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 7 and section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st

^b Ordres en Conseil Vol. XIII, p. 355.

May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The following Ordinances have been made under section 10:

Cash Controls Law (Definition of Cash) (Bailiwick of Guernsey) Ordinance, 2009;

Cash Controls (Bailiwick of Guernsey) Law (Amendment of Definition of Cash) Ordinance, 2010.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Citation.

11. This Law may be cited as the Cash Controls (Bailiwick of Guernsey) Law, 2007.

NOTE

The Law received Royal Sanction on 12th February, 2008 and was registered on the Records of the Island of Guernsey and came into force on 18th February, 2008.
