

# ORDRE EN CONSEIL

Ratifiant un Projet de Loi

INTITULÉ

## **"The Industrial Disputes and Conditions of Employment Law (1947)"**

(Enregistré sur les Records de l'Île de Guernesey  
le 22 février 1947)



1965.

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1947

# ORDRE EN CONSEIL



A LA COUR ROYALE DE L'ÎLE DE GUERNESEY

*Le 22 février 1947, par devant Ambrose James Sherwill, écuyer, C.B.E., M.C., Baillif; présents : Jean Allès Simon, Osmond Priaulx Gallienne, écuyers, Ernest de Garis, écuyer, O.B.E., Messire John Leale, Chevalier, James Frederick Carey, écuyer, Messire Abraham James Lainé, K.C.I.E., Arthur Falla, Pierre de Putron, Quartier Le Pelley, Walter John Sarre, écuyers, Richard Henry Johns, écuyer, O.B.E., et William Robert Freake Clark, écuyer, Jurés.*

Monsieur le Baillif ayant ce jour communiqué à la Cour un Ordre de Sa Majesté en Conseil en date du 29 janvier, 1947, ratifiant un Projet de Loi intitulé "The Industrial Disputes and Conditions of Employment Law (1947)". La Cour, après avoir eu lecture du dit Ordre en Conseil, ouïes les conclusions du Procureur du Roi, a ordonné que le dit Ordre en Conseil sera enregistré sur les Records de cette Ile, duquel Ordre en Conseil la teneur suit :—

## At the Court at Buckingham Palace

The 29th day of January, 1947.

PRESENT,

### The King's Most Excellent Majesty.

LORD PRIVY SEAL  
MR. SECRETARY BELLENGER.  
MR. BEVAN  
MR. THOMSON  
MR. DAVIS  
MR. HALL  
MR. HENDERSON

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 23rd day of January, 1947, in the words following, viz:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 18th day of December, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That in accordance with a resolution of the States of Deliberation of the 3rd day of May, 1946, the Royal Court, on the 9th day of November, 1946, adopted a Bill or “Projet de Loi” entitled “The Industrial Disputes and Conditions of Employment Law (1947),” and requested the Bailiff to submit the same to the States for approval: 2. That on the 27th day of November, 1947, the said Bill or “Projet de Loi” was duly considered by the States, when a resolution was passed approving the same, with certain amendments, and authorising the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto: 3. That the said Bill or

“Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Industrial Disputes and Conditions of Employment Law (1947),” and to order and direct that the same should have force of law in the Island of Guernsey.’

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HIS MAJESTY having taken the said Report into consideration is pleased, by and with the advice of His Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HIS MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His Majesty’s Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*E. C. E. Leadbitter.*



Projet de Loi referred to in the foregoing  
Order in Council.

## PROJET DE LOI

ENTITLED

### **"The Industrial Disputes and Conditions of Employment Law (1947)"**

*Arrangement of Articles.*

#### PART I: INDUSTRIAL DISPUTES.

- Article 1. The Industrial Disputes Officer.
- „ 2. The Industrial Disputes Tribunal.
- „ 3. } Duties of the Industrial Disputes Officer.
- „ 4. }
- „ 5. Notification of Disputes.
- „ 6. Duties of the Industrial Disputes Tribunal.
- „ 7. Powers of the Industrial Disputes Tribunal.
- „ 8. Proceedings before the Industrial Disputes Tribunal: Wrongful disclosure: Penalties.
- „ 9. Interpretation of Awards.
- „ 10. Expenses.
- „ 11. Records of the Industrial Disputes Tribunal.
- „ 12. Procedure and Costs before the Industrial Disputes Tribunal.
- „ 13. Illegal Lock-Outs and Strikes.

## PART II: CONDITIONS OF EMPLOYMENT.

Article 14. Decisions and awards of the Industrial Disputes Tribunal to be implied terms of contracts of employment.

- „ 15. } Recognised terms and conditions to be
- „ 16. } observed by employers.
- „ 17. Workmen of less than normal efficiency.
- „ 18. } Certain matters deemed to be industrial
- „ 19. } disputes.

## PART III: GENERAL PROVISIONS.

Article 20. Offences and Penalties.

- „ 21. Definition.
- „ 22. Operation and Duration.

## SCHEDULE

Constitution of Industrial Disputes Tribunal.

# PROJET DE LOI

ENTITLED

## **"The Industrial Disputes and Conditions of Employment Law (1947)"**

The States have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

### PART I.

#### INDUSTRIAL DISPUTES.

##### *1. The Industrial Disputes Officer.*

There shall be appointed by the States, from among the members of the States, to hold office during such period as the States may direct, an officer to be known as "The Industrial Disputes Officer".

Until an appointment shall be made under the provisions of this Article, a person appointed Industrial Disputes Officer by resolution of the States before the commencement of this Law shall carry out the duties assigned to, and be invested with the powers granted to, the Industrial Disputes Officer by virtue of the provisions of this Law.

The Industrial Disputes Officer shall appoint a deputy, to be known as "The Deputy Industrial Disputes Officer". Such appointment shall be subject to the approval of the States.

The Deputy Industrial Disputes Officer shall, in the event of the Industrial Disputes Officer being unable to perform the duties assigned to him by this Law, be invested with the powers granted to the



Industrial Disputes Officer by this Law, and shall carry out the said duties.

2. *The Industrial Disputes Tribunal.*

There shall be constituted as may become necessary from time to time a Tribunal to be known as "The Industrial Disputes Tribunal" (hereinafter referred to as "The Tribunal"). The Tribunal shall be constituted in the manner and for the period set out in the Schedule hereto.

3. *Duties of the Industrial Disputes Officer.*

It shall be the duty of the Industrial Disputes Officer

- (a) to try to settle notified industrial disputes, whether actual or apprehended, by conciliation;
- (b) failing settlement of a notified industrial dispute by conciliation, to try to bring about a settlement of the dispute by arbitration voluntarily submitted to by the parties concerned;
- (c) failing settlement of a notified industrial dispute by either of the methods set out in sections (a) and (b) of this article, to refer the dispute to the Tribunal;
- (d) to make such recommendations to the States as may be necessary.

4. The Industrial Disputes Officer shall, subject to the provisions of sections (a) and (b) of Article 3 within fourteen days after he has been notified of an industrial dispute, actual or apprehended, in the event of a settlement of such dispute not being arrived at, refer the dispute to the Tribunal unless:—

- (a) negotiations with a view to settlement by conciliation are in progress; or

- (b) arbitration proceedings in respect of such dispute are in progress:

PROVIDED always that the Industrial Disputes Officer shall in no case delay referring to the Tribunal a notified dispute as to which a settlement has not been arrived at beyond a period of three months after notification.

5. *Notification of Disputes.*

The decision of the Industrial Disputes Officer as to whether a dispute has been notified or not and as to the time at which a dispute has been so notified shall be conclusive for all purposes.

6. *Duties of the Industrial Disputes Tribunal.*

It shall be the duty of the Tribunal:—

- (a) to enquire into and make an award as to any dispute referred to it;
- (b) to state its award in writing to the parties concerned without delay;
- (c) to publish its award by public notice displayed in the Royal Court House for seven consecutive days within the twenty-eight days next following the making of the award.

7. *Powers of the Industrial Disputes Tribunal.*

The Tribunal shall be empowered

- (a) to compel the attendance of witnesses before it;
- (b) to administer an oath to witnesses, to examine witnesses upon oath, and to compel the production by witnesses of documents and exhibits in their possession or under their control material to the matter referred;
- (c) to order that the whole or part of the costs incurred by any party to a dispute in the

preparation or presentation of his case incidental to the hearing by the Tribunal of any matter referred to it under the provisions of this Law, (such costs being ascertained solely in accordance with the scales of fees laid down by virtue of the provision of Article 12 of this Law) shall be paid by one or more of the parties to such dispute or by the States of Guernsey in such proportions as the Tribunal may in its discretion deem just and reasonable;

- (d) to declare conclusively that its award shall take effect from any date either previous to or after the date of the making of such award, not being earlier than the date on which the question to which the award relates arose:—

PROVIDED that where the question to which the award relates is as to whether an employer is or was observing the recognized terms and conditions (as defined in Article 15) or is or was observing terms and conditions not less favourable than the recognized conditions (hereinafter referred to as “the appropriate conditions”) and the Tribunal is satisfied—

- (i) that the employer is not or was not observing the recognized terms and conditions or the appropriate conditions; and
- (ii) that at some date before the date of the reference (to be specified in the award and hereinafter referred to as “the date of knowledge”) the employer was aware or ought to have been aware that those conditions should have been observed by him;

the Tribunal shall be empowered to declare that the award shall take effect from the date of knowledge.

8. *Proceedings before the Industrial Disputes Tribunal : Wrongful Disclosure : Penalties.*

- (a) Unless the Tribunal shall declare itself to be unanimously of the opinion that the hearing, or some part of the hearing of any matter before it should be held in secret (in which case the Tribunal is empowered to exclude from its presence any person or persons during the whole or part of such hearing) the hearing of every matter before the Tribunal shall be held publicly.
- (b) No person shall disclose, save before the Tribunal or when otherwise by law compelled, to any other person or persons any matter which shall have come to his knowledge solely by reason of his being a member of the Tribunal, or by reason of his being permitted to be present during the hearing of any matter before the Tribunal in secret.
- (c) Should any person make a disclosure of the nature set out in section (b) of this article (save in the circumstances mentioned in that section) he shall be guilty of an offence, and shall on conviction
  - (i) be liable to a fine not exceeding fifty pounds; and
  - (ii) if he shall be a member of the Tribunal be forthwith disqualified from being a member of that or any other Industrial Disputes Tribunal for ever.

9. *Interpretation of Awards.*

If any question arises as to the interpretation of any award of the Tribunal, the Industrial Disputes

Officer or any party to the award may apply to the Tribunal for a decision on such question and the Tribunal shall decide the matter after hearing the parties, or without such hearing provided the consent of the parties has been previously obtained. The decision of the Tribunal shall be delivered in writing to the parties, and shall be binding in the same manner as an original award.

10. *Expenses.*

Any expenses of and incidental to the hearing and determination of any industrial dispute by the Tribunal, or incurred by the Industrial Disputes Officer, or by any person appointed by him by virtue of the provisions of paragraph 14 of the Schedule hereto, in performance of such duties as are or shall be assigned to them by virtue of the provisions of this Law, shall, subject to the provisions of section (c) of Article 7 of this Law, be borne by the States of Guernsey.

11. *Records.*

The States Supervisor shall preserve records of all proceedings before the Tribunal.

12. *Procedure and Costs before the Tribunal.*

The Royal Court shall by Ordinance lay down rules of procedure and scales of fees for enquiring into industrial disputes and for making awards and decisions by the Tribunal (including rules as to the method by and form in which references shall be made to the Tribunal under this Law).

13. *Illegal Lock-Outs and Strikes.*

An employer shall not declare or take part in a lock-out, and a worker shall not take part in a strike, in connection with any industrial dispute, and any such lock-out or strike shall be illegal, unless the dispute has been notified and fourteen days have

elapsed since the notification and the Industrial Disputes Officer shall have failed to comply with the provisions of Article 4 hereof.

Any person contravening the provisions of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten pounds or to imprisonment with or without hard labour for a term not exceeding one month, or to both such fine and imprisonment, or on conviction on indictment before the Royal Court to a fine not exceeding Two Hundred Pounds or to imprisonment with or without hard labour for a term not exceeding two years, or to both such fine and imprisonment.

## PART II.

### CONDITIONS OF EMPLOYMENT.

#### 14. *Decisions and Awards of the Industrial Disputes Tribunal to be Implied Terms of Contracts of Employment.*

Subject to the provisions of Article 17 of this Law any decision or award made by the Tribunal under the provisions of this Law shall be binding on the employers and workmen to whom the decision or award relates and, as from the date of such decision or award or as from such date as may be declared by the Tribunal to be the date from which such decision or award shall take effect, it shall be an implied term of the contract between the employers and workmen to whom the decision or award relates that the rate of wages to be paid and the conditions of employment to be observed under the contract shall be in accordance with such decision or award until varied by subsequent decision or award of the tribunal, or by an agreement, provision, order, rule or regula-

tion of the nature specified in section (a), (b) or (d) of Article 16 or in Article 17 or by provision of law.

15. *Recognized Terms and Conditions to be observed by Employers.*

Where in any trade or industry terms and conditions of employment are established which have been settled by machinery of negotiation, arbitration or award to which the parties are organizations of employers and trade unions respectively of substantial proportions of the employers and workers engaged in that trade or industry in the island of Guernsey (hereinafter referred to as "recognized terms and conditions") all employers in that trade or industry shall observe the recognized terms and conditions or such terms and conditions of employment as are not less favourable than the recognized terms and conditions.

16. For the purposes of Article 15, terms and conditions of employment shall not be deemed to be less favourable than the recognized terms and conditions if they are in accordance with the terms and conditions relating to workers engaged in similar work which are applicable under:—

- (a) any agreement to which the parties are organizations of employers and trade unions which are representative respectively of substantial proportions of the employers and workmen engaged or employed in the trade or industry in the island of Guernsey; or
- (b) in the absence of any such agreement as is mentioned in section (a) hereof, any agreement between the particular employer concerned and a trade union which is representative of a substantial proportion of workers employed in the island of

Guernsey in the trade or industry in which the employer is engaged; or

- (c) an award made by the Tribunal under the provisions of this law, or by any other body or person acting in the capacity of arbitrator relating to the terms and conditions of employment observable by an employer in the same trade or industry in the island of Guernsey; or
- (d) any provision by Order in Council, Ordinance of the Royal Court, or any order, rule or regulation made thereunder relating to remuneration, rates of wages, hours or working conditions, unless those provisions are themselves less favourable than the provisions of any such agreement, decision or award as is mentioned in the foregoing provisions of this Article, being an agreement, decision or award relating to the particular employer concerned or any employers' organization of which he is a member or to which such an employer or such an organization is a party.

17. *Workmen of Less than Normal Efficiency.*

A contract of employment entered into between an employer and a workman who by reason of age or physical or mental infirmity is unable substantially to perform such duties as are normally carried out by workers employed in similar occupation in the island of Guernsey as efficiently or for such periods as such duties are normally carried out by such workers shall not for the purposes of this Law be deemed to be a contract for employment at terms less favourable to the workman than the recognized terms and conditions nor to be a contract at variance with the implied terms of the contract referred to in Article 14.



18. *Certain Matters deemed to be Industrial Disputes.*

If any question arises as to the nature, scope or effect of the recognized terms and conditions in any trade or industry or as to whether an employer is or was observing the recognized terms and conditions or is or was observing terms and conditions which are or were not less favourable than the recognized terms and conditions, that question shall be deemed to be an industrial dispute. Should such question be referred to the Tribunal for decision or award, the Tribunal shall have regard not only to the provisions of Article 16 of this Law, but also to any collective agreements concerning the terms and conditions of similar workers in comparable trades or industries in the Island of Guernsey.

19. Upon the employment of any person contrary to the provisions of Articles 14 or 15 of this Law, as qualified by Article 17 of this Law, an industrial dispute shall be deemed to have arisen.

### PART III.

#### GENERAL PROVISIONS

20. *Offences and Penalties.*

- (a) Any person wilfully giving false information to the Tribunal or to the Industrial Disputes Officer on any matter material to the Tribunal or to the Industrial Disputes Officer in the discharge of their duties shall be guilty of an offence and shall be liable on conviction to be imprisoned with or without hard labour for a term not exceeding six months or to a fine of £200 or to both such imprisonment and fine.

- (b) Any person failing to obey any summons to appear before it given by the Tribunal in pursuance of its powers under this Law or, when appearing as a witness before the Tribunal, refusing or failing to answer any question properly put or to produce any document or exhibit properly called for by the Tribunal shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Twenty Pounds.

#### 21. *Definitions.*

In this Law the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, that is to say:—

“Island of Guernsey” means “Island of Guernsey and Island of Herm and the territorial waters of each”;

“Industrial Dispute” means any dispute or difference between an employer or employers and a workman or workmen, or between workmen and workmen, connected with the employment or non-employment, or the terms or conditions of employment of any person;

“Lock-out” means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

“Notified” means “brought to the notice of the Industrial Disputes Officer in writing”;

“Organization” means an organization representative of employers or an organization representative of workers as the case may be;

“Strike” means the cessation of work by a body of persons employed acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other workmen in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

“Trade or industry” includes the performance of its functions by a public or local authority;

“Workman” means any person who has entered into or works under a contract with an employer, whether the contract be by way of manual labour, clerical work or otherwise, be express or implied, oral or in writing, and whether it be a contract of service or apprenticeship or a contract personally to execute any work or labour.

## 22. *Operation.*

This Law shall come into force on the day on which it is registered on the records of the Island of Guernsey, and shall remain in force until the 31st December, 1948.

## THE SCHEDULE.

CONSTITUTION OF THE INDUSTRIAL  
DISPUTES TRIBUNAL.

1. The Tribunal shall be constituted anew for each industrial dispute referred under the provisions of Articles 3 and 4 of this Law; such constitution shall be deemed to be for a period ending with the making of a final award in such dispute, or with the making of a decision of the nature specified in Article 9 of this Law.
2. The Tribunal, which shall not include the Industrial Disputes Officer or the Deputy Industrial Disputes Officer, shall consist of a chairman, two members (hereinafter referred to as "the independent members") to be nominated from a panel drawn up by the States Advisory Council and four members (hereinafter referred to as "the representative members") to be nominated from panels drawn up by the Industrial Disputes Officer.
3. The Chairman shall be appointed by the said Advisory Council, and may be a member of that Council.
4. The said Advisory Council shall draw up and at all times maintain a panel (hereinafter referred to as "the independent panel") of not less than six persons. Before referring any industrial dispute to the Tribunal under the provisions of Articles 3 and 4 of this Law, the Industrial Disputes Officer shall by notice in writing request such two persons as in his opinion represent generally the interests of the parties to the dispute each to nominate after consultation with those persons whose interests they

represent a person from the said panel to be an independent member of the Tribunal, and such persons shall upon nomination be independent members of the Tribunal.

5. The Industrial Disputes Officer shall, after consultation with organizations in the Island of Guernsey of employers and workmen respectively draw up and at all times maintain two separate panels of persons who in his opinion represent generally the interests of employers and workmen respectively in the island of Guernsey.

Each of the said panels shall contain the names of not less than ten persons, and are hereinafter referred to as "the employers' panel" and "the workmen's panel" respectively.

Neither of the said panels shall contain the name of any person whose name is contained in the independent panel.

Before referring any dispute to the Tribunal under the provisions of Articles 3 and 4 of this Law, the Industrial Disputes Officer shall by notice in writing request such two persons as in his opinion represent generally the interests of the parties to the dispute each to nominate, after consultation with those persons whose interests they represent, two persons from the said panels to be representative members of the Tribunal and such persons shall upon nomination be representative members of the Tribunal.

6. Should any nomination referred to in paragraphs 4 and 5 of the schedule not have been

made within seven days from the despatch of the notices referred to in the said paragraphs, the Industrial Disputes Officer shall so notify the said Advisory Council, and thereupon such nomination shall be made by the said Advisory Council; upon such nomination the person so nominated shall be an independent or representative member of the Tribunal as the case may be.

PROVIDED that the said Advisory Council shall in nominating a representative member to represent the interest of an employer or employers in the dispute nominate some person from the employers' panel, and in nominating a representative member to represent the interests of a workman or workmen in the dispute shall nominate some person from the workmen's panel.

7. Each member of the Tribunal shall, subject to the provisions of paragraph 10 of the Schedule, be entitled to vote. The Chairman shall be entitled to vote only in the event of the votes of the members being equally divided, in which event he shall have a casting vote.
8. Should the chairman become permanently, or for a period of time which is unreasonably long, unable to preside, a new chairman shall at the request of the Industrial Disputes Officer be appointed, and the hearing shall begin anew.
9. Should any member of the Tribunal other than the Chairman be permanently, or for a period of time which is, in the opinion of the Chairman, unreasonably long, unable to sit on the Tribunal, the Industrial Disputes Officer shall at

the request of the Chairman cause the person or persons or the Advisory Council who nominated such member to nominate a substitute for such member, and such substitute shall upon such nomination be a member of the Tribunal; the hearing shall thereupon continue unless in the opinion of the Chairman it is necessary in the interests of justice that the hearing should start anew, in which case the hearing shall start anew.

10. Should an independent member be unable to vote the other independent member shall abstain from voting; should a member nominated from the employers' panel be unable to vote, a member nominated from the workmen's panel shall abstain from voting, and should a member nominated from the workmen's panel be unable to vote, a member nominated from the employers' panel shall abstain from voting. In the absence of agreement as to which of two representative members shall abstain from voting the matter shall be decided by lot.
11. The quorum necessary to constitute a sitting of the Tribunal shall consist of the Chairman, two independent members, one representative member nominated to represent the interests of employers and one representative member nominated to represent the interests of workmen.
12. The States Advisory Council and the Industrial Disputes Officer respectively shall cause copies of the panel and panels referred to in paragraphs 4 and 5 of this Schedule to be deposited

in the Greffe, where they shall be open to inspection by the public free of charge.

13. The Industrial Disputes Officer shall cause the panel and panels referred to in paragraphs 4 and 5 of this Schedule to be published in the Official Gazette on one occasion in the month of January in each year.
14. The Industrial Disputes Officer shall appoint a permanent secretary to the Tribunal, and may appoint such other officers and servants to the Tribunal as he may consider necessary.

PETER J. MAUGER,

H.M. Greffier.