

ORDER IN COUNCIL

II
2008

ratifying a Projet de Loi

ENTITLED

The Cash Controls (Bailiwick of Guernsey) Law, 2007

(Registered on the Records of the Island of Guernsey
on the 18th February, 2008.)



2008

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

18th day of February, 2008 before Geoffrey Robert Rowland, Esquire, Bailiff; present:- David Charles Lowe, O.B.E., Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, Keith Bichard, O.B.E., Michael Henry De La Mare, Esquires, Susan Mowbray, Barbara Jean Bartie, David Osmond Le Conte and John Ferguson, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 12th February 2008 approving and ratifying a Projet de Loi entitled the Cash Controls (Bailiwick of Guernsey) Law 2007, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ORDERED: -

1. That the said Order in Council be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order in Council be sent by Her Majesty's Greffier to the Greffier of the Court of Alderney and to the Sénéchal of Sark for registration on the records of those Islands respectively.



At the Court at Buckingham Palace

THE 12th DAY OF FEBRUARY 2008

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 26th September 2007, the States of Deliberation at a meeting on 26th September 2007 approved a *Projet de Loi* entitled *The Cash Controls (Bailiwick of Guernsey) Law 2007* 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 Cash Controls (Bailiwick of Guernsey) Law 2007*, and to order that it shall have force of law in the Bailiwick of Guernsey.

"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 Bailiwick of Guernsey 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.

Judith Simpson

PROJET DE LOI

ENTITLED

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

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

by two or more individuals in order to avoid the making of a cash control declaration.

(3) The "**specified amount**" is €10,000 (ten thousand Euros) or any currency equivalent of that amount.

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

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 Department.

(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.

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 Treasury and Resources Department.

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 Department 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.

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, and
- (b) banknotes and coins that are in circulation as a medium of exchange,

"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 Department" means the States of Guernsey Home Department,

"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.

Citation.

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

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