

PROJET DE LOI

ENTITLED

The Import and Export (Control) (Guernsey) Law, 1946 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XII, p. 332; as amended by the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 (Ordres en Conseil Vol. XXIII, p. 573); the Import and Export (Control) (Amendment) (Guernsey) Law, 1991 (No. XVI of 1991, Ordres en Conseil Vol. XXXIII, p. 246); the Export Control (Bailiwick of Guernsey) Law, 2006 (No. XIV of 2007); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Law is applied to the Island of Herm by the Herm Laws Ordinance, 1948 (Recueil d'Ordonnances Tome IX, p. 247). See also the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 (*supra*); the Criminal Justice (Bailiwick of Guernsey) Law, 1979 (Ordres en Conseil Vol. XXVII, p. 172); the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 (No. IX of 2014).

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The Import and Export (Control) (Guernsey) Law, 1946

ARRANGEMENT OF ARTICLES

1. Control of importation and exportation.
2. Duties of travellers.
3. Penalty for illegal importation or exportation of goods.
4. Notice of seizure to be given.
5. Power to require entry and clearance.
- 5A. Administrative provisions.
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The Import and Export (Control) (Guernsey) Law, 1946

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 this Island.

Control of importation and exportation.

1. (1) The [Committee for Home Affairs] may by order make such provisions as [the Committee] think expedient for prohibiting or regulating, in all cases or any specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order, the importation into [...] the Island [...] of all goods or goods of any specified description.

(2) An Order made under this Article may contain such provisions as appear to the [Committee for Home Affairs] to be necessary for securing the due operation and enforcement of the order.

(3) If, for the purposes of obtaining any licence, authority or permission for the importation[...] of any goods which, without such licence, authority or permission, are prohibited to be imported[...] by an order made under this Article, any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be liable to a fine not exceeding [level 5 on the uniform scale] or to imprisonment with or without hard labour, for a term not exceeding [2 years] or to both such fine and imprisonment.

(4) For the avoidance of doubt it is hereby declared that, without prejudice to the provisions of the enactments relating to customs (impôts) with respect to ships and aircraft, the taking into [...] the Island of ships or aircraft may be prohibited or regulated by an order made under this Article as an importation [...] of goods, notwithstanding that the ships or aircraft are conveying goods or passengers, and whether or not they are moving under their own power.

(5) Every order made by the [Committee for Home Affairs] under this Article –

- (a) shall come into force on the date prescribed thereby,
- (b) may be amended or revoked by a subsequent order, and
- (c) shall remain in force until revoked.

(6) [The President] of the [Committee for Home Affairs] shall, immediately on the making thereof, cause every order made under this Article to be published in La Gazette Officielle.

NOTES

In Article 1,

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

the words omitted in, first, the third and fourth pairs of square brackets in paragraph (1), second, the first and second pairs of square brackets in paragraph (3) and, third, square brackets in paragraph (4) were repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 1(2)(a), paragraph 1(2)(b) and paragraph 1(2)(c), with effect from 1st May, 2010;

the words and figures in the third and fourth pairs of square brackets in paragraph (3) were substituted by the Import and Export (Control) (Amendment) (Guernsey) Law, 1991, respectively section 1(a)(i) and section 1(a)(ii), with effect from 30th September, 1991.

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 May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

The Law is applied to the Island of Herm by the Herm Laws Ordinance, 1948, Article 1, Schedule, Part IB, with effect from 13th March, 1948.

The following Orders have been made under Article 1:

Import and Export of Goods (Control) (Revocation) (Guernsey) Order, 1958;

Import and Export of Goods (Control) (Guernsey) Order, 1959;

Import and Export of Goods (Control) (Guernsey) (Amendment No. 2) Order, 1993;

Import (Control) (Guernsey) Order, 2010;

Import (Control) (Guernsey) (Amendment) Order, 2012;

Import (Control) (Guernsey) (Amendment) Order, 2013;

Import (Control) (Guernsey) (Amendment) Order, 2014;

Import (Control) (Guernsey) (Amendment No. 2) Order, 2014;

Import (Control) (Guernsey) (Amendment) Order, 2015;

Import (Control) (Guernsey) (Amendment No. 2) Order, 2015;

Import (Control) (Guernsey) (Amendment No. 3) Order, 2015;

Import (Control) (Guernsey) (Amendment) Order, 2019;

Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (No. 2) Order, 2020;

Import (Control) (Guernsey) (Amendment) Order, 2020;

Import (Control) (Guernsey) (Amendment) (No. 2) Order, 2020;

Customs and Excise (Relief for HVO) (Guernsey) Order, 2021.

The following case has referred to this Law:

Law Officers of the Crown v. Robert Andre Le Billon (2011) (Unreported, Court of Appeal, 15th September) (Guernsey Judgment No. 28/2011).

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(2), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to imprisonment with hard labour and accordingly the power conferred under paragraph (3) of this Article shall be construed as

conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before that date.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 1(5), with effect from 1st October, 2004, any reference in this enactment to "impôt" shall be construed as a reference to excise duty.

Duties of travellers.

2. (1) Any person who, on any occasion, arrives in [...] the Island (which person is hereinafter in this Article referred to as "**the traveller**") shall, if on that occasion he is required so to do by a customs Officer of the States of Guernsey –

- (a) declare whether or not he has with him any goods prohibited to be imported [...] under this Law, and
- (b) produce any such goods as aforesaid which he has with him,

and such officer, and any person acting under his directions, may search the traveller and examine and search his luggage for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no female shall be searched in pursuance of this paragraph except by a female.

(2) If any person refuses to make a declaration or fails to produce any goods or refuses to allow himself or his luggage to be searched in accordance with the provisions of paragraph (2) of this Article, or makes a statement which is false in a material particular, he shall be liable to a fine not exceeding [level 5 on the uniform scale] or to imprisonment, with or without hard labour, for a term not exceeding [2 years], or to both such fine and imprisonment.

NOTES

In Article 2,

the words omitted in the first and second pairs of square brackets in paragraph (1) were repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 1(3)(a) and paragraph 1(3)(b), with effect from 1st May, 2010;

the words and figures in the first and second pairs of square brackets in paragraph (2) were substituted by the Import and Export (Control) (Amendment) (Guernsey) Law, 1991, respectively section 1(a)(i) and section 1(a)(ii), with effect from 30th September, 1991.

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(2), with effect from 21st January, 1980, and subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to imprisonment with hard labour and accordingly the power conferred under paragraph (2) of this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before that date.

Penalty for illegal importation or exportation of goods.

3. (1) If any goods –
- (a) are imported, [...] in contravention of an order made under this Law, [...]
- (b) ...

the goods [shall be deemed to be prohibited goods and] shall be forfeited and the importer[...] of the goods, or [his agent], shall be liable [in addition to any other penalty under any other enactment] to a fine not exceeding [level 4 on the uniform scale, to imprisonment for a term not exceeding 2 years, or to both].

[(1A) ...]

(2) If any goods are imported[...] a customs officer of the States of Guernsey may require any person possessing or having control of the goods to furnish proof that the importation [...] is not unlawful by virtue of an order made under this Law; and, if such proof is not furnished to the satisfaction of the [Committee for Home Affairs], then, unless the contrary be proved the goods shall be deemed to be [prohibited goods and be forfeited].

In any proceedings taken by virtue of this paragraph, a statement signed by [the Chief Revenue and Immigration Officer of the [Committee for Home Affairs] or by his Deputy or by such other person as may be authorised in that behalf by [the Committee]] that such proof as aforesaid has not been furnished to the satisfaction of the [Committee for Home Affairs] shall, unless the contrary be proved, be sufficient evidence that no such proof has been furnished to the satisfaction of that [Committee].

(3) Goods forfeited under any of the provisions of this Article shall

—

- (a) if the goods are found in a place within the territorial waters of the Islands of Guernsey, Herm or Jethou, become the property of the States, or
- (b) if the goods are found outside the Bailiwick of Guernsey, become the property of His Majesty.

NOTES

In Article 3,

the words omitted in, first, the first pair of square brackets, second, the second pair of square brackets, third, the fourth pair of square brackets in paragraph (1) were repealed and, fourth the words in the fifth pair of

square brackets therein were substituted by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 1(4)(a)(i), paragraph 1(4)(a)(ii), paragraph 1(4)(a)(iii) and paragraph 2(2), with effect from 1st May, 2010;

the words in the third and sixth pairs of square brackets in paragraph (1) were inserted by the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 80, Second Schedule, paragraph 1, with effect from 1st January, 1973;

the words and figures in the seventh pair of square brackets in paragraph (1) were substituted by the Import and Export (Control) (Amendment) (Guernsey) Law, 1991, section 1(b), with effect from 30th September, 1991;

subparagraph (b) of paragraph (1), and paragraph (1A) (which latter was previously inserted by the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 80, Second Schedule, paragraph 2, with effect from 1st January, 1973), were repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 1(4)(a)(ii) and paragraph 1(4)(b), with effect from 1st May, 2010;

the words omitted in the first and second pairs of square brackets in paragraph (2) were repealed by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, respectively paragraph 1(4)(c)(i) and paragraph 1(4)(c)(ii), with effect from 1st May, 2010;

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

the words in the fourth pair of square brackets in paragraph (2) were substituted by the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 80, Second Schedule, paragraph 3, with effect from 1st January, 1973;

the words in the fifth pair of square brackets in paragraph (3) were substituted by the Import and Export (Control) (Amendment) (Guernsey) Law, 1991, section 1(c), with effect from 30th September, 1991.

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 May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁴

The following case has referred to Article 3:

Law Officers of the Crown v. Robert Andre Le Billon (2011) (Unreported, Court of Appeal, 15th September) (Guernsey Judgment No. 28/2011).

In accordance with the provisions of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013, section 1(1)(g), with effect from 29th April, 2015, an offence under this Article, in so far as the offence relates to goods prohibited to be imported under article 4 of the Import and Export of Goods (Guernsey) Order, 1990 that are indecent photographs of persons who are or appear to be aged under 16 years, is a "relevant offence" for the purposes of that Law.

Notice of seizure to be given.

4. Where any seizure of goods as forfeited goods is made under this Law otherwise than out of the possession or in the presence of the owner of the goods or his agent, the seizing officer shall give notice in writing of such seizure and of the grounds thereof to the owner of the goods seized or to his agent if known, either by delivering the notice to him personally or by letter addressed to him and transmitted by post to his last known place of abode or business.

Power to require entry and clearance.

5. The [Committee for Home Affairs] may require due entry and clearance, in such manner as that [Committee] may direct, on importation [...], of all imported goods [...].

NOTES

In Article 5,

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

the words omitted in the third and fourth pairs were repealed by the

Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, paragraph 1(5), with effect from 1st May, 2010.

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 May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁶

[Administrative provisions.]

5A. The provisions of this Law are provisions relating to customs, and, therefore, "**customs Laws**" as defined in section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972.]

NOTE

Article 5A (which was originally inserted by the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 80, Second Schedule, paragraph 4, with effect from 1st January, 1973) was substituted by the Export Control (Bailiwick of Guernsey) Law, 2006, section 14, Schedule 2, paragraph 2(3), with effect from 1st May, 2010.

Short Title.

6. This Law may be cited as the Import and Export (Control) (Guernsey) Law, 1946.

NOTE

The Law received Royal Sanction on 2nd August, 1946 and was registered on the Records of the Island of Guernsey and came into force on 4th September, 1946.

¹ The words "The President" and "Committee for Home Affairs" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(a), with effect from 6th May, 2004.

² The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), Schedule 2, paragraph 2(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

³ The words "Committee for Home Affairs" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(a), with effect from 6th May, 2004.

⁴ The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), Schedule 2, paragraph 2(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁵ The words "Committee for Home Affairs" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(a), with effect from 6th May, 2004.

⁶ The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), Schedule 2, paragraph 2(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.