

PROJET DE LOI

ENTITLED

The European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994 *

[CONSOLIDATED TEXT]

NOTE

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* No. III of 1994 (Ordres en Conseil Vol. XXXV(1), p. 65); as amended by the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 (No. I of 2019).

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ARRANGEMENT OF SECTIONS

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THE STATES, in pursuance of their Resolution of the 26th day of May, 1993^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.

Implementation of [EU provisions].

1. The States may by Ordinance make such provision as they may consider necessary or expedient for the purpose of the implementation of any [EU provision].

NOTES

In section 1, the words "EU provision" in square brackets, wherever occurring, were substituted by the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, section 13, Schedule 1, paragraph 4(2), with effect from 11 p.m. on 31st December, 2020, subject to the transitional and saving provision in paragraph 5 and paragraph 6 of Schedule 1 to the 2018 Law.

The following Ordinances have been made under section 1:

*Animal Health Ordinance, 1996;
European Communities (Euro: Miscellaneous Provisions) (Alderney)
Ordinance, 1998;
European Communities (Euro: Miscellaneous Provisions)
(Guernsey) Ordinance, 1998;
Federal Republic of Yugoslavia (Prohibition of Flights) (Alderney)
Ordinance, 1999;*

^a Article II of Billet d'État No. VIII of 1993.

European Communities (Euro: Miscellaneous Provisions) (Sark) Ordinance, 2000;
Summer Time (Alderney) Ordinance, 2001;
Summer Time (Guernsey) Ordinance, 2001;
Summer Time (Sark) Ordinance, 2002;
Animal Health (Alderney) Ordinance, 2002;
Sea Fish Licensing (Alderney) Ordinance, 2003;
Sea Fish Licensing (Sark) Ordinance, 2003;
Burma (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) (Guernsey) (Amendment) Ordinance 2004;
European Communities (Implementation of Privacy Directive) (Guernsey) Ordinance, 2004;
European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Sark) Ordinance, 2004;
Burma (Export of Goods & Freezing of Funds) (Sark) (Amendment) Ordinance, 2004;
Security of Ship and Port Facilities (Alderney) Ordinance, 2004;
Security of Ship and Port Facilities (Guernsey) Ordinance, 2004;
Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005;
Database Rights (Bailiwick of Guernsey) Ordinance, 2005;
Animal Health and Protection of Wild Birds (Alderney) (Amendment) Ordinance, 2006;
Avian Influenza and Control of Birds (Sark) Ordinance, 2006;
Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006;
Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007;
European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) Ordinance, 2009;
Avian Influenza and Control of Birds (Sark) (Amendment) Ordinance, 2010;
European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) (Amendment) Ordinance, 2010;
European Communities (Implementation of Privacy Directive) (Sark) (Amendment) Ordinance, 2010;
Transfer of Funds (Alderney) (Amendment) Ordinance, 2010;
Transfer of Funds (Sark) (Amendment) Ordinance, 2010;
Libya (Restrictive Measures) (Guernsey) (Amendment) (No. 3) Ordinance, 2011;
Iran (Restrictive Measures) (Alderney) (Amendment) Ordinance, 2013;
Iran (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2013;
Iran (Restrictive Measures) (Sark) (Amendment) Ordinance, 2013;
Libya (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2013;
North Korea (Restrictive Measures) (Alderney) (Amendment)

Ordinance, 2013;
 North Korea (Restrictive Measures) (Guernsey) (Amendment)
Ordinance, 2013;
 North Korea (Restrictive Measures) (Guernsey) (Amendment) (No.
2) Ordinance, 2013;
 North Korea (Restrictive Measures) (Sark) (Amendment) Ordinance
2013;
 Crimea and Sevastopol (Restrictive Measures) (Guernsey)
(Amendment) Ordinance, 2014;
 European Communities (Implementation of Council Regulation on
Nutrition and Health Claims) (Alderney) Ordinance, 2014;
 European Communities (Implementation of Council Regulation on
Nutrition and Health Claims) (Guernsey) Ordinance, 2014;
 European Communities (Implementation of Council Regulation on
Nutrition and Health Claims) (Sark) Ordinance, 2014;
 European Communities (Implementation of Food Supplements
Directive) (Alderney) Ordinance, 2014;
 European Communities (Implementation of Food Supplements
Directive) (Guernsey) Ordinance, 2014;
 European Communities (Implementation of Food Supplements
Directive) (Sark) Ordinance, 2014;
 North Korea (Restrictive Measures) (Alderney) (Amendment)
Ordinance, 2014;
 North Korea (Restrictive Measures) (Sark) (Amendment) Ordinance,
2014;
 Côte d'Ivoire (Restrictive Measures) (Guernsey) (Repeal) Ordinance,
2016;
 European Communities (Food and Feed Controls) (Guernsey)
Ordinance, 2016;
 Registered Plant Breeders' Rights (Bailiwick of Guernsey)
(Amendment) Ordinance, 2016;
 Sanctions Ordinances (Amendment) (Alderney) Ordinance, 2016;
 Sanctions Ordinances (Amendment) (Sark) Ordinance, 2016;
 Single Euro Payments Area (Guernsey) Ordinance, 2016;
 Côte d'Ivoire (Restrictive Measures) (Sark) (Repeal) Ordinance,
2017;
 Transfer of Funds (Alderney) Ordinance, 2017;
 Transfer of Funds (Guernsey) Ordinance, 2017;
 Transfer of Funds (Sark) Ordinance, 2017;
 Republic of Maldives (Restrictive Measures) (Alderney) Ordinance,
2018;
 Transfrontier Shipment of Waste (Alderney) Ordinance, 2018;
 Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018;
 European Communities (Food and Feed Controls) (Alderney)
Ordinance, 2019;
 European Communities (Food and Feed Controls) (Sark) Ordinance,
2019;
 European Communities (Official Controls) (Implementation and
General Provisions) (Guernsey) Ordinance, 2019;
 Transfrontier Shipment of Waste (Sark) Ordinance, 2019;

European Communities (Coronavirus Vaccine) (Immunity from Civil Liability) (Alderney) Ordinance (Alderney Ordinance No. 1 of 2021);

European Communities (Coronavirus Vaccine) (Immunity from Civil Liability) (Guernsey) Ordinance, 2020;

European Communities (Coronavirus Vaccine) (Immunity from Civil Liability) (Sark) Ordinance, 2020;

Plant Health (Implementation) (Guernsey) Ordinance, 2020.

The following cases have referred to this Law:

Jersey Fishermen's Association Limited et al v States of Guernsey (2004) (Unreported, Royal Court, 29th June) (Guernsey Judgment No. 30/2004);

States v. Jersey Fishermen's Association Limited, IF Limited, Interfish Wirons Limited, Scerene Fishing Company Limited and Lovell 2005–06 GLR 226;

Jersey Fishermen's Association Limited, IF Limited, Interfish Wirons Limited, Scerene Fishing Company Limited and Lovell v. States 2007-08 GLR 36.

Power to amend European Communities Law.

2. ...

NOTE

Section 2 was repealed by the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, section 13, Schedule 1, paragraph 4(3), with effect from 13th February, 2019.

Interpretation.

3. (1) In this Law, except where the context excludes –

["**EU provision**" has the meaning given in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, and includes an item of Preserved EU law within the meaning of that Law,]

"implementation", in relation to a [EU provision], includes the enforcement or enactment of the provision, and the securing of the

administration, execution, recognition, exercise or enjoyment of the provision,
in or under domestic law,

"the States" means –

- (a) in relation to the Bailiwick of Guernsey apart from the Islands of Alderney and Sark, the States of Deliberation,
- (b) in relation to the Island of Alderney, the States of Alderney, and
- (c) in relation to the Island of Sark, the Chief Pleas of Sark.

(2) The provisions of the Interpretation (Guernsey) Law, 1948^{cb} shall apply to the interpretation of this Law throughout the Bailiwick as they apply in Guernsey to the interpretation of an enactment.

(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.

NOTES

In section 3, first, the definition of the expression "EU provision" and, second, the words in square brackets in the definition of the expression "implementation" were substituted by the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, section 13, Schedule 1, paragraph 4(4), with effect from 11 p.m. on 31st December, 2020, subject to the transitional and saving provision in paragraph 5 and paragraph 6 of Schedule 1 to the 2018 Law.

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

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

The following cases have referred to section 3:

Jersey Fishermen's Association Limited et al v States of Guernsey (2004) (Unreported, Royal Court, 29th June) (Guernsey Judgment No. 30/2004);

States v. Jersey Fishermen's Association Limited, IF Limited, Interfish Wirons Limited, Scerene Fishing Company Limited and Lovell 2005–06 GLR 226;

Jersey Fishermen's Association Limited, IF Limited, Interfish Wirons Limited, Scerene Fishing Company Limited and Lovell v. States 2007-08 GLR 36.

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.

General provisions as to Ordinances.

4. (1) An Ordinance under this Law –
- (a) may be amended or repealed by a subsequent Ordinance hereunder,
 - (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to the States to be necessary or expedient.
- (2) Any power conferred by this Law to make an Ordinance 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.

(3) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law –

- (a) may make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences, and –
 - (i) an Ordinance of the States of Deliberation may specify a penalty which may be imposed by the Magistrate's Court which exceeds the limits of jurisdiction for the time being imposed upon that Court by section 10 of the Magistrate's Court (Guernsey) Law, 1954^{dc},

^d Ordres en Conseil Vol. XVI, p. 103; Vol. XXVII, p. 170; Vol. XXVIII, p. 5; and No. V of 1989.

- (ii) no Ordinance of the States of Alderney or the Chief Pleas of Sark may specify a penalty in respect of an offence triable summarily or on indictment which exceeds the maximum penalty specified by Ordinance of the States of Deliberation in respect of that offence when tried summarily or, as the case may be, on indictment or the limits of jurisdiction for the time being imposed upon the Court of Alderney by section 13 of the Government of Alderney Law, 1987^{ed} or the Court of the Seneschal by section 23 of the Reform (Sark) Law, 1951^{fe}, whichever is greater,
 - (iii) no Ordinance under this Law shall increase the limits of jurisdiction for the time being imposed upon the Court of Alderney by section 13 of the Government of Alderney Law, 1987 or the Court of the Seneschal by section 23 of the Reform (Sark) Law, 1951,
- (b) may direct that any Community provision, or any

^c Ordres en Conseil Vol. XVI, p. 103; Vol. XXVII, p. 170; Vol. XXVIII, p. 5; and No. V of 1989.

^e Ordres en Conseil Vol. XXX, p. 37; and No. VI of 1989.

^d Ordres en Conseil Vol. XXX, p. 37; and No. VI of 1989.

^f Ordres en Conseil Vol. XV, p. 215; Vol. XXIII, p.200; Vol. XXIX, p.27; No. VII of 1989; and No. XII of 1991.

^e Ordres en Conseil Vol. XV, p. 215; Vol. XXIII, p.200; Vol. XXIX, p.27; No. VII of 1989; and No. XII of 1991.

provision of any Order in Council, Ordinance or Act of Parliament or of any order, rule, regulation, scheme, warrant, byelaw or other instrument made under any Order in Council, Ordinance or Act of Parliament, shall extend to the part of the Bailiwick to which the Ordinance applies with such exceptions, adaptations and modifications as may be specified in the Ordinance,

- (c) without prejudice to the provisions of paragraph (b), may make provision by reference to, and may adopt or incorporate (by reference, annexation or otherwise), any provision described in paragraph (b), which provision shall (subject to any exceptions, adaptations and modifications specified in the Ordinance) thereupon have the same force and effect as an Ordinance under this Law,
- (d) may make any such provision of any such extent as might be made by *Projet de Loi* other than any provision which imposes or increases taxation or which takes effect from a date earlier than that of the making of the Ordinance.

NOTES

The following cases have referred to section 4:

Jersey Fishermen's Association Limited et al v States of Guernsey (2004) (Unreported, Royal Court, 29th June) (Guernsey Judgment No. 30/2004);

States v. Jersey Fishermen's Association Limited, IF Limited, Interfish Wirons Limited, Scerene Fishing Company Limited and Lovell 2005–06 GLR 226;

Jersey Fishermen's Association Limited, IF Limited, Interfish Wirons Limited, Scerene Fishing Company Limited and Lovell v. States 2007-08

GLR 36.

The Magistrate's Court (Guernsey) Law, 1954 has since been repealed by the Magistrate's Court (Guernsey) Law, 2008, section 46(b), with effect from 1st September, 2009, subject to the savings and transitional provisions in section 47 of the 2008 Law.

The Government of Alderney Law, 1987 has since been repealed by the Government of Alderney Law, 2004, section 63(1), Schedule 3, with effect from 1st May, 2005, subject to the savings and transitional provisions in section 63(2) and section 64 of the 2004 Law.

The Reform (Sark) Law, 1951 has since been repealed by the Reform (Sark) Law, 2008, section 66(2), Schedule 2, with effect from 1st September, 2008, subject to, first, the general savings and, second, the specific savings and transitional provisions in, respectively, section 66(3) and section 67 of the 2008 Law.

Citation.

5. This Law may be cited as the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994.

NOTE

The Law received Royal Sanction on 8th February, 1994 and was registered on the Records of the Island of Guernsey and came into force on 26th April, 1994.
