

ORDER IN COUNCIL

XXIV

1997

ratifying a Projet de Loi

ENTITLED

The Fire Services (Amendment) (Guernsey) Law, 1997

(Registered on the Records of the Island of Guernsey
on the 2nd December, 1997)



1997

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 2nd day of December, 1997 before Sir Graham Dorey, Bailiff;
present:- Stanley Walter John Jehan, Leonard Arthur Moss,
Charles Anthony Spensley, Lawrence Oscar Ozanne, John
Richard Rowe Henry, David Charles Lowe, Esquires, Mrs.
Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le
Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson
and David Michael Jory, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 30th day of October, 1997, approving and ratifying a Projet de Loi entitled "The Fire Services (Amendment) (Guernsey) Law, 1997". THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island of which Order in Council the tenor followeth:-

At the Court at Buckingham Palace

The 30th day of October 1997

PRESENT

The Queen's Most Excellent Majesty in Council

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 15th day of October 1997 in the words following, viz.:-

"YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:-

"1. That, in pursuance of their Resolutions of the 31st day of January 1996 and the 26th day of September 1996, the States of Deliberation at a meeting held on the 1st day of August 1997 approved a Bill or "Projet de Loi" entitled "The Fire Services (Amendment) (Guernsey) Law, 1997", and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or "Projet de Loi" is as set forth in the Schedule hercunto 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 Fire Services (Amendment) (Guernsey) Law, 1997", and to order that the same shall have force of law in the Islands of Guernsey and Herm."

"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."

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

AND HER 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 Her 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.

N. H. Nicholls

The Fire Services (Amendment) (Guernsey) Law, 1997

THE STATES, in pursuance of their Resolutions of the 31st day of January, 1996^a and the 26th September, 1996^b, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey and Herm.

Amendment of Law of 1989.

1. In the Fire Services (Guernsey) Law, 1989, as amended^c -

(a) in section 3(7) after the word "vehicle" insert "or aircraft";

(b) after section 3(7) insert the following subsection-

"(8) In this section the expression "**member of the fire brigade**" shall include any member of the States Airport Fire and Rescue Service.";

(c) after section 3 insert the following section-

"Agreements with other fire brigades.

3A. (1) The Committee may make an agreement with a fire brigade or fire authority in the United Kingdom or with the States of Jersey Fire Service whereby there will, at the request of the Committee, but subject to the authorisation of the Bailiff (which

^a Article XIV of Billet d'État No. I of 1996.

^b Article XIII of Billet d'État No. XXII of 1996.

^c Ordres en Conseil Vol. XXXI, p. 432; Ordinance No. XIV of 1992.

may, in cases of emergency, be granted after the event), be placed at the Committee's disposal members of that brigade, authority or Service for the purpose of enabling the fire brigade to meet any special demand on its resources.

(2) During their period of duty in the Islands, members of any brigade, authority or Service present in the Islands by virtue of an agreement made under subsection (1)-

- (a) shall be subject to the authority of, and under the control of, the Chief Fire Officer;
- (b) shall carry out the duties of, and possess the powers and privileges of, a member of the fire brigade; and
- (c) shall at all times be subject to the authority and jurisdiction of the Courts of Guernsey in respect of their conduct within the Islands.

(3) A reference in any enactment or subordinate legislation, howsoever expressed, to a member of the fire brigade shall include a reference to a member of any brigade, authority or Service present in the Islands by virtue of an agreement made under subsection (1).";

(d) after section 4(3) insert the following subsections-

"(4) A building shall be deemed to be put to a designated use, and shall accordingly be deemed to be controlled

premises, if, irrespective of the number of premises within the building-

(a) the building as a whole is used as, or for any purpose involving the provision of, sleeping accommodation for at least ten persons; or

(b) any part of the building below ground floor level or above first floor level is used as, or for any purpose involving the provision of, sleeping accommodation.

(5) In the case of any controlled premises in multiple occupation-

(a) the duty to ensure that the premises are provided with the means referred to in section 6(1), which duty would (apart from this subsection) be imposed by section 6(1) upon the occupier, shall instead be imposed jointly and severally upon-

(i) the persons who are the owners of the controlled premises in multiple occupation; or

(ii) where the requirement or obligation applies only to a particular part of the controlled premises in multiple occupation,

the persons who are the owners of that particular part;

whether, in either case, those persons own the whole of the controlled premises in multiple occupation or the particular part, or only a share therein or a part thereof; and

- (b) the duty to ensure that the means referred to in section 6(1) are kept free from obstruction and properly maintained so that they can be safely and effectively used at all material times, which duty would (apart from this subsection) be imposed by section 6(1) upon the occupier, shall instead be imposed jointly and severally upon-
 - (i) the persons described in paragraph (a) of this subsection; and
 - (ii) the occupier.

(6) The provisions of subsection (5) are without prejudice to any right of indemnity or contribution or other civil law right or remedy (including, without limitation, any right or remedy under section 20) which may subsist or arise in respect of the mutual dealings of the occupiers or owners of, or other persons interested in, the controlled premises in multiple occupation or the particular part thereof.

(7) In this section the expression "**controlled premises in multiple occupation**" means-

- (a) any building which is deemed by subsection (4) to be put to a designated use and to be controlled premises;
- (b) any controlled premises comprising or comprised within a building which contains more than one set of premises; or
- (c) any premises used for the purpose of obtaining access to-
 - (i) any building or controlled premises described in paragraph (a) or (b); or
 - (ii) any part of any such building or premises.";
- (e) in section 6(1)(c) the words "by persons in the premises" are repealed;
- (f) in section 7(1) for the words "the occupier of the premises" substitute "the person in default";
- (g) in paragraphs (a) and (b) of section 8(1) after the word "occupiers" insert "or owners";
- (h) in section 8(3)(a) after the word "occupiers" insert "or owners";

(i) in section 10(1) after the words "the occupier of the premises" insert "and on such other persons as he thinks fit (including, without limitation, the owner)";

(j) in section 11(1)(b)(iii) after the word "occupier" insert "or owner";

(k) after section 12(4) insert the following subsection-

"(4A) In the case of controlled premises in multiple occupation, any reference in subsection (4) to an occupier shall be construed as a reference to an owner.";

(l) in section 12(5) after the word "occupier" insert "or, in the case of controlled premises in multiple occupation, the owner";

(m) in section 13(k)(iii) for the words "Labour and Welfare Committee" substitute "Board of Industry";

(n) in section 21(2)-

(i) after the expression "subsection (1)," insert the following words-

"or cannot be so served within a reasonable time (regard being had to the circumstances of the case),";

(ii) in paragraph (b) after the expression "ascertained," insert "or where the circumstances of the case so require,";

- (o) in section 21(3) after the word "occupiers" insert "or owners";
- (p) in section 21(4) after the word "occupier" insert "or owner";
- (q) in section 24(3)(b) for the words "Labour and Welfare Committee" substitute "Board of Industry";
- (r) in section 25(b) after the word "occupier" insert "or owner";
- (s) for paragraph (a) of section 26(1) substitute the following paragraphs-
 - "(a) amend section 3(8);
 - (b) amend section 4, whether by adding any use, that use thereby becoming a designated use, or by repealing or modifying any designated use, or in any other manner whatsoever;"
- (t) re-letter the original paragraph (b) of section 26(1) as paragraph (c);
- (u) in section 26(2)(a) after the words "the Ordinance" insert "(including provisions making consequential modifications to any provision of this Law)";
- (v) in section 27(1) after the definition of "officer of police" insert the following definition-

"owner", in relation to any building or premises, or any part of any building or premises, means-

- (a) where the building, premises or part is the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour that order has been made;
- (b) where the building, premises or part is not the subject of such saisie proceedings but is the subject of a vested right of usufruct, the usufructuary;
- (c) where the building, premises or part is not the subject of such saisie proceedings or vested right of usufruct-
 - (i) where the building, premises or part is held in trust, the trustees and any person entitled to a beneficial interest under the trust;
 - (ii) otherwise, the person in whom there is vested, solely or jointly, an estate of inheritance therein;"

Citation.

2. This Law may be cited as the Fire Services (Amendment) (Guernsey) Law, 1997.