

# ORDER IN COUNCIL

**XIII**

**1988**

ratifying a Projet de Loi

ENTITLED

## **The Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988**

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(Registered on the Records of the Island of Guernsey  
on the 14th February, 1989.)

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**1988**

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 14th day of February, 1989 before Graham Martyn Dorey, Esquire, Deputy Bailiff; present: Brian Ernest Herbert Joy, Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley and Kenneth John Rowe, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 21st day of December, 1988, approving and ratifying a Projet de Loi of the States of Guernsey entitled "The Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988, 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 Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth: —

# At the Court at Buckingham Palace

The 21st day of December 1988

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 12th day of December 1988 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 Resolution of the 28th day of September 1988, the States of Deliberation at a meeting held on the said 28th day of September 1988, approved a Bill or “Projet de Loi” entitled “The Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto, 2. That the States of the Island of Alderney at a meeting held on the 2nd day of November 1988 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Alderney. 3. That the Chief Pleas of the Island of Sark at a meeting held on the 5th day of October 1988 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Sark. 4. That the said Bill

or "Projet de Loi" is 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 Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988", and to order that the same shall have force of law in the Bailiwick 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."

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 Bailiwick of Guernsey.

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.

*G. I. de Deney.*



# PROJET DE LOI

ENTITLED

## **The Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988**

THE STATES, in pursuance of their Resolutions of the 26th day of November, 1986 and the 28th day of September, 1988, 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.

1. The Emergency Powers (Bailiwick of Guernsey) Law, 1965(a) is hereby amended as follows:—

Amend-  
ments to  
Law of 1965.

- (a) in section 2(3), for "one hundred pounds" there is substituted "£500 or such other sum as the States may, from time to time, by Ordinance prescribe,";
- (b) the following additional section and marginal note are inserted immediately after section 2:

"Food  
hazard  
emergen-  
cies.

2A. The Schedule to this  
Law shall have effect.";

- (c) the following Schedule is inserted immediately after section 4:

### SCHEDULE

### Section 2A

### FOOD HAZARD EMERGENCIES

#### *Declaration of food hazard emergency*

- 1. (1) If it appears to the Emergency Council that a substance has or may have escaped in

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(a) Ordres en Conseil Vol. XX, p. 6.

such circumstances that a hazard to human health through human consumption of food exists or may arise in any part of the Bailiwick, the Emergency Council may, by order, declare that a food hazard emergency exists.

- (2) Subsection (2) of section 1 of this Law applies to an order under this paragraph as it applies to an order under that section.

*Food hazard emergency regulations*

2. (1) Whilst there remains in force an order under paragraph 1 of this Schedule, the Emergency Council may make regulations for safeguarding human health against hazards which may arise through human consumption of food.

- (2) Regulations under this paragraph may, without prejudice to the generality of the foregoing, prohibit, restrict or control any or all of the following—

- (a) agricultural, horticultural and fishing activities;
- (b) the gathering or picking of wild flowers, fruits or plants;
- (c) the slaughter of any creature;
- (d) the supply, or the preparation, processing or possession for the purpose of supply, of food and of anything from which food could be derived;
- (e) the movement of food and of anything from which food could be derived;

and such regulations may make any incidental provision which the Emergency Council considers expedient.

- (3) Subsections (2), (3), (4) and (5) of section 2 of this Law apply to regulations under this paragraph as they apply to regulations under that section.
- (4) Any enactment or rule of law which conflicts with any provision of regulations made under this paragraph shall be of no effect to the extent of such conflict.

*Food hazard emergency directions etc.*

- 3. (1) When an order under paragraph 1 of this Schedule has been made in consequence of the escape or possible escape of a substance, then, for the purpose of preventing human consumption of food which, in its opinion, may thereby be rendered unsuitable for human consumption, the Emergency Council may—
  - (a) give to any person such directions as may appear to it to be necessary or expedient;
  - (b) itself do anything which appears to it to be necessary or expedient;
 and such directions may be given and such action may be taken after the order has ceased to be in force.
- (2) A person who fails to comply with a direction under this paragraph or who causes another person to fail to comply with such a direction shall be—
  - (a) guilty of an offence and liable to be dealt with as if he had failed to comply with regulations made under section 2 of this Law; and



- (b) liable to pay to the Emergency Council (which may recover the same as a civil debt due to the States of Guernsey) any expenses reasonably incurred by it in doing anything under sub-paragraph (1)(b) of this paragraph in consequence of the action or inaction of that person.

*Powers of authorised persons etc.*

4. (1) For the purpose of determining whether and in what manner any of the powers conferred by this Schedule should be exercised, the Emergency Council may authorise any person to enter and search, subject to this paragraph, any premises on or in which he has reasonable grounds to suspect that there is present—
  - (a) any food which is or may be or may become unsuitable for human consumption; or
  - (b) anything from which food in such condition could be derived.
- (2) The Emergency Council may authorise any person, for the purpose of—
  - (a) enforcing regulations made under paragraph 2 of this Schedule;
  - (b) any direction given under paragraph 3(1)(a) of this Schedule;
  - (c) exercising its powers under paragraph 3(1)(b) of this Schedule,
 to enter and search, subject to this paragraph, any premises onto or into which he has reasonable grounds to suspect that it is necessary for him to enter for that purpose.

(3) A person acting pursuant to an authorisation under this paragraph may, for the purpose of performing his functions,—

- (a) use such reasonable force as may be necessary;
- (b) take with him any other person and any equipment and materials;
- (c) open any container, carry out searches, inspections, measurements and tests;
- (d) take samples, require the production of documents, books and records and take copies of the same;
- (e) seize such items and substances as he considers necessary;
- (f) in relation to any vessel or aircraft:
  - (i) require it to stop;
  - (ii) detain it;
  - (iii) require details of any substance or article on board or lost from it;
  - (iv) require the attendance and assistance of the person in charge and of any person on board;
  - (v) require the person in charge to take it and its crew to the port appearing to the authorised person to be the nearest convenient port or take it there himself.

(4) A person acting pursuant to an authorisation under this paragraph shall—

- (a) produce his authority if requested to do so;

- (b) state, if so requested, the function which he proposes to perform and his grounds for proposing to perform it;
  - (c) perform his functions at a reasonable hour unless it appears to him that there are grounds for suspecting that the purpose of their performance may thereby be frustrated;
  - (d) not enter any dwelling without the consent of the person entitled to grant entry unless—
    - (i) upon information laid before the Bailiff on oath, the Bailiff has issued a warrant under this subparagraph authorising him so to enter; and
    - (ii) he produces that warrant, if requested to do so, upon seeking to enter the dwelling;
  - (e) if he detains a vessel or an aircraft, serve on the person in charge a notice in writing stating that it is to be detained until the notice is withdrawn by the service on that person of a further notice in writing by a person authorised under this paragraph.
- (5) A person authorised under this paragraph may not exercise his powers in relation to a foreign vessel unless he has reasonable grounds to suspect—
- (a) that it is a fishing boat; or
  - (b) that there has been or is being landed from it in the Bailiwick something to which any regulations under paragraph

2 of this Schedule or any directions under paragraph 3 of this Schedule relate.

(6) Any person who—

- (a) intentionally obstructs an authorised person in the performance of his functions;
- (b) fails without reasonable excuse to comply with a requirement made by an authorised person in the performance of his functions;
- (c) in purporting to give information required by an authorised person for the performance of any of his functions:
  - (i) makes a statement which he knows to be false in a material particular; or
  - (ii) recklessly makes a statement which is false in a material particular; or
  - (iii) intentionally fails to disclose any material particular,

shall be guilty of an offence and liable to be dealt with as if he had failed to comply with regulations made under section 2 of this Law.

- (7) A person authorised under this paragraph shall not be liable in any criminal or civil proceedings for anything done or omitted in the purported performance of his functions if the thing is done or omitted in good faith and on reasonable grounds.

*Interpretation and construction of Schedule*

5. (1) In this Schedule, unless the context otherwise requires—

“creature” means any living organism other than a human being or a plant;

“escape”, in relation to a substance, includes its release or expulsion by human agency or by any other cause;

“fishing” includes fishing for shellfish;

“fishing boat” means any vessel for the time being employed in fishing or ancillary operations;

“food” includes chewing gum and other products of a like nature and use, any drink (including water) and any article or substance (including water) used as an ingredient in the preparation of food or drink or of such products, but does not include anything used only as a drug or other medicine;

“foreign vessel” means anything made or adapted for the conveyance by water of people or property which is not registered, or exempt from registration, under any enactment for the time being in force in the Bailiwick;

“human consumption” includes use in the preparation of food for human consumption;

“premises” means any land, building, vehicle, vessel and aircraft anywhere in the Bailiwick and the territorial waters adjacent thereto and includes also a vessel registered in Guernsey wherever she may be;

“vessel” includes anything made or adapted for the conveyance by water of people or property, and also any man-made structure at sea.

(2) For the purposes of this Schedule food derived from any creature is to be treated as also derived—

(a) from any feeding stuff which that creature has eaten; and

(b) from anything from which such feeding stuff was derived,

and references in this Schedule to anything from which food could be derived shall be construed accordingly.”.

2. This Law and the Emergency Powers (Bailiwick of Guernsey) Law, 1965 shall be construed as one. Construction.

3. This Law may be cited as the Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988. Citation.

4. This Law and the Emergency Powers (Bailiwick of Guernsey) Law, 1965 may be cited together as the Emergency Powers (Bailiwick of Guernsey) Laws, 1965 and 1988. Collective title.

D. R. DOREY,  
Her Majesty's Deputy Greffier.