

ORDER IN COUNCIL

VII
2007

ratifying a Projet de Loi

ENTITLED

The Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006

(Registered on the Records of the Island of Guernsey
on the 3rd May, 2007.)



2007

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

3rd day of May, 2007 before John Russell Finch, Esquire, Lieutenant Bailiff; present:- David Charles Lowe, OBE, Derek Martin Le Page, David Michael Jory, Keith Bichard, OBE, Michael John Tanguy, Esquires, Susan Mowbray, and Barbara Jean Bartie, Jurats.

The Lieutenant Bailiff having this day placed before the Court an Order in Council dated 2nd May 2007 approving and ratifying the Projet de Loi entitled “The Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006”, THE COURT after the reading of said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED that the said Order be registered on the records of this Island.



At the Court at Buckingham Palace

THE 2nd DAY OF MAY 2007

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 27th October 2005, the States of Deliberation at a meeting on 29th November 2006 approved a *Projet de Loi* entitled the Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law 2006 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 Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law 2006, and to order that it shall have force of law in the Islands of Guernsey, Herm and Jethou.

"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 Islands of Guernsey, Herm and Jethou 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.

Christine Cook

PROJET DE LOI

ENTITLED

The Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th October, 2005^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 Islands of Guernsey, Herm and Jethou.

General power to make Ordinances for the purpose of prohibiting etc. the consumption etc. of intoxicating liquor and right to enter regulated place.

1. The States may by Ordinance make such provision as they think fit for the purpose of prohibiting, controlling or regulating -

- (a) the consumption, distribution, manufacture, possession, sale, storage or supply of intoxicating liquor,
- (b) any activity or practice relating to, or concerning, the consumption, distribution, manufacture, possession, sale, storage or supply of intoxicating liquor, and
- (c) the right of any person to enter, or having entered to

^a Article I of Billet d'État No. XVI of 2005.

remain upon -

- (i) any regulated place, and
- (ii) any public place in the vicinity of a regulated place.

Specific matters for which Ordinances may make provision.

2. An Ordinance under section 1 may, without limitation, make provision in relation to the following matters -

- (a) the prohibition, control and regulation of the sale or supply of intoxicating liquor -
 - (i) otherwise than under licence, and
 - (ii) subject to such conditions as may be specified,
- (b) the establishment of a licensing authority with responsibility for, and powers exercisable in relation to -
 - (i) the grant, suspension and revocation of licences to sell, or supply, intoxicating liquor,
 - (ii) the creation, and variation, of conditions upon which licences are granted,
 - (iii) the holders of such licences,

- (iv) the premises, vessels and any other places from which intoxicating liquor is sold or supplied under the authority of such licences, and
 - (v) all related and incidental matters,
- (c) the levying of fees,
- (d) the prohibition, control and regulation of the consumption, distribution, storage and possession of alcohol in any public place,
- (e) the exclusion of any individual from -
 - (i) any regulated place, and
 - (ii) any public place in the vicinity of a regulated place,
- (f) powers of entry, inspection, search, seizure, detention and arrest for the purpose of ensuring compliance with the provisions of any Ordinance or other instrument under this Law (including, without limitation, powers exercisable by police officers to remove from any person, and detain or dispose of, any intoxicating liquor, and any object used to contain or supply that liquor), and
- (g) the seizure, deprivation of ownership or possession, destruction and disposal of intoxicating liquor and any

object used to contain or supply that liquor.

General provisions as to subordinate legislation.

3. (1) An Ordinance under this Law -
- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
 - (b) may contain such transitional, consequential, incidental, supplementary and savings provisions as the States think fit.
- (2) Any power to make an Ordinance under this Law 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 may (for the avoidance of doubt) specify penalties which may be imposed by the courts,
- (b) may empower the Department, any other department, and any other body (including, without limitation, the Royal Court and any licensing authority established under this Law), to make or issue orders, rules, regulations, codes or guidance, whether as to matters in respect of which an Ordinance can be made under this Law or otherwise,
- (c) may provide that no liability shall be incurred by any specified person or body in respect of anything done or omitted to be done in the discharge or purported discharge of any of their functions under the Ordinance unless the thing is done or omitted to be done in bad faith,
- (d) may make provision under the powers conferred by this Law notwithstanding the provisions of any

enactment for the time being in force,

- (e) may repeal, replace, amend, extend, adapt, modify or disapply -
 - (i) any enactment (including, without limitation, this Law), but only to the extent that it has force of law in Guernsey, and
 - (ii) any rule of custom or law, and
- (f) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.

Interpretation.

4. (1) In this Law, unless the context requires otherwise -

"a department" means any department, council or committee of the States, however styled,

"the Department" means the States Home Department,

"enactment" means any Law, Ordinance, Act of Parliament, Order in Council, regulation, order, rule of court or other legislative instrument having effect in Guernsey, and includes any provision of this Law and any provision or portion of a Law, Ordinance, Act of Parliament, Order in Council, regulation, order, rule of court or other legislative instrument,

"Guernsey" and **"the Island of Guernsey"** include Herm and Jethou,

"instrument under this Law" includes any order, rule, regulation, code or guidance made or issued under an Ordinance under this Law,

"intoxicating liquor" means any spirituous, vinous, fermented, malt, or other liquor, or combination of liquors -

- (a) intended for human consumption, and
- (b) having an alcoholic strength in excess of 1.2 per cent of alcohol by volume at 20° Celsius,

"police officer" means a member of the salaried police force of the Island of Guernsey, or, within the limits of his jurisdiction, a member of the Special Constabulary,

"public place" includes any premises, vessel, place or area to which the public have access, whether on payment or otherwise, and

"regulated place" means -

- (a) any premises, vessel or other place in relation to which any licensing authority established under this Law may have responsibility or may exercise powers, and
- (b) such other premises, vessels or other places as are specified,

"the Royal Court" means the Royal Court of Guernsey,

"sale" includes the exposure for sale and offer or agreement for sale,

"specified" means specified under this Law, and

"States" means the States of Guernsey.

(2) 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.

Extent.

5. This Law shall have effect in the Islands of Guernsey, Herm and Jethou and the territorial waters adjacent thereto.

Citation.

6. This Law may be cited as the Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006.