

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 16th day of January, 1995 before Sir Graham Dorey, Bailiff;
present:—Harry Wilson Bisson, Stanley Walter John Jehan, Leonard
Arthur Moss, John Edward Morris, Charles Anthony Spensley,
Lawrence Oscar Ozanne, John Richard Rowe Henry and David
Charles Lowe, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 2nd day of November, 1994, approving and ratifying a *Projet de Loi* entitled “The Conditions of Employment (Amendment) (Guernsey) Law, 1994”, 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 2nd day of November 1994

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 10th day of October 1994 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 24th day of February 1994, the States of Deliberation at a meeting held on the 25th day of May 1994 approved a Bill or “Projet de Loi” entitled “The Conditions of Employment (Amendment) (Guernsey) Law, 1994”, 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 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 Conditions of Employment (Amendment) (Guernsey) Law, 1994”, 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.

(No.XXIII - 1994)

PROJET DE LOI

ENTITLED

**The Conditions of Employment (Amendment)
(Guernsey) Law, 1994**

THE STATES, in pursuance of their Resolution of the 24th day of February, 1994(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 and Herm.

Amendment to Law of 1985.

1. In the Conditions of Employment (Guernsey) Law, 1985, as amended(b) (hereinafter called "the Law of 1985"), after section 10 insert the following section-

"Powers of enforcement.

10A. (1) Where any person authorised in writing in that behalf by the Board (whether by name, class or description) has reasonable cause to suspect that an employer has failed to comply with any provision of section 1, 2, 3A, 4 or 5, he may enter at any reasonable time any land-

(a) which is occupied by the employer; or

(b) where the employment in question is being undertaken; or

(a) Article XI of Billet d'État No. IV of 1994.

(b) Ordres en Conseil Vol. XXIX, p. 42 and No. I of 1992.

- (c) where there is believed to be any evidence relevant for determining whether or not there has been a failure to comply with any such provision;

taking with him such other persons as he may think fit, and, for the purpose of investigating the suspected failure to comply, he and any person accompanying him may-

- (i) require any person thereon to reply to such questions, to furnish such information and documents and to provide such assistance as he considers to be necessary for the purposes of investigating the suspected failure to comply;
- (ii) take copies or extracts of any such documents;
- (iii) seize any such documents, or take any other steps necessary to preserve them or protect them from interference, if he suspects that they may otherwise be destroyed, damaged, tampered with or removed;
- (iv) require any person to give an explanation of any such documents or of anything in them; and
- (v) in relation to any documents which are not furnished to him in accordance with his requirements, require any person to state to the best of his knowledge and belief their whereabouts.

(2) A person seeking to exercise any power conferred by this section in relation to any land shall, if so requested by the owner or occupier of the land, furnish evidence of his office or authority.

(3) Any documents seized pursuant to the powers conferred by this section may be retained for a period of 3 months or, if proceedings to which those documents are relevant are instituted within that period, until the conclusion of those proceedings.

(4) A person who, without reasonable excuse, proof whereof shall lie on him-

- (a) fails to produce or furnish any information or document in accordance with any requirement imposed under this section;
- (b) obstructs or fails to give all reasonable assistance to, or fails to comply in all respects with any requirement made of him by, any person exercising or purporting to exercise any power or authority conferred by or under this section;
- (c) with intent to evade the provisions of this Law relating to inquiry, investigation, search and seizure, destroys, mutilates, defaces, secretes or removes any document; or
- (d) in compliance or purported compliance with any requirement imposed under this section-
 - (i) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular;
 - (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular;

- (iii) produces or furnishes or causes or permits to be produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular; or
- (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular;

is guilty of an offence.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months or to both; and the court convicting him may, in addition to imposing any such penalty, where the offence involved a failure to produce or furnish any information or document, to give assistance to any person or to comply with any requirement made by any person, order the person convicted, within such period as may be specified, to produce or furnish the information or document, to give the assistance or to comply with the requirement in question.

(6) An appeal lies from an order of the court under subsection (5) in the same manner as if it were a penalty imposed upon conviction.

(7) No authorised person shall be obliged to divulge his reasons for belief or suspicion when exercising his powers under this section.

(8) Subject to subsection (9), no obligation or duty of secrecy or of confidence nor any other restriction on the disclosure of information to which a person is subject, whether imposed by statute, contract or otherwise, shall be regarded as being contravened by reason of the compliance by that person with a requirement imposed under this section.

(9) Nothing in this section shall compel the production by an advocate or other legal adviser of a document containing a privileged communication made by him or to him in that capacity; but an advocate or other legal adviser may be required to give the name and address of any client.

(10) A statement made by a person in compliance with a requirement imposed under this section may be used in evidence against him.

(11) In this section "the Board" means the Board of Employment, Industry and Commerce."

Power to effect minor amendments by Ordinance.

2. (1) The States may by Ordinance-

- (a) amend any provision of section 1 or 3A of the Law of 1985;
- (b) amend any of the exemptions from the provisions of the Law of 1985 (being the exemptions set out in sections 3, 5, 6, 7 and 8 thereof) or add any new exemption from those provisions.

(2) An Ordinance under subsection (1)-

- (a) may be amended or repealed by a subsequent Ordinance hereunder;
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the States to be necessary or expedient; and
- (d) may make consequential amendments to the Law of 1985.

(2) Any power conferred by this section 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.

Citation.

3. This Law may be cited as the Conditions of Employment (Amendment) (Guernsey) Law, 1994.