

PROJET DE LOI

ENTITLED

The Wireless Telegraphy Apparatus (Bailiwick of Guernsey) Law, 1994 *

[CONSOLIDATED TEXT]

NOTE

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* No. VIII of 1994 (Ordres en Conseil Vol. XXXV, p. 210); as amended by the Telecommunications (Bailiwick of Guernsey) Law, 2001 (No. XIV of 2001, Ordres en Conseil Vol. XLI, p. 452); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Guernsey Competition and Regulatory Authority Ordinance, 2012 (No. XIII of 2012); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991 (No. XIII of 1991, Ordres en Conseil Vol. XXXIII, p. 217).

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THE STATES, in pursuance of their Resolution of the 28th day of June, 1989, 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.

Control of wireless telegraphy apparatus.

1. [The Committee] may, for the purpose of preventing or reducing the risk of interference with wireless telegraphy, by order restrict any of the following actions in relation to wireless telegraphy apparatus of any class or description specified in the order –

- (a) manufacture (whether or not for sale),
- (b) selling or offering for sale, letting on hire or offering to let on hire or indicating (whether by display of the apparatus or by any form of advertisement) one's willingness to sell or let on hire,
- (c) possession, and
- (d) importation.

NOTES

In section 1, the words in square brackets were substituted by Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

The following Order has been made under section 1:

Wireless Telegraphy Apparatus (Restriction) Order, 1996.

Actions prohibited except under licence.

2. No person shall in relation to wireless telegraphy apparatus of any class or description, take any action which is restricted in relation to apparatus of that class or description by an order under section 1 –

- (a) except under the authority of, and in accordance with the terms and conditions of, a licence of [the Authority], or
- (b) in the case of action within section 1(c) (possession) –
 - (i) except as mentioned in paragraph (a),
 - (ii) except as otherwise authorised by law apart from this section, or
 - (iii) without other reasonable excuse.

NOTE

In section 2, the words "the Authority" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(2), with effect from 1st June, 2012.¹

Licences of [the Authority].

3. A licence under section 2 may be limited to –

- (a) such of the actions restricted by order under section 1,
- (b) such subsidiary class or description of wireless telegraphy apparatus within the class or description specified in the order,

as may be specified in the licence.

NOTE

In section 3, the words "the Authority" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(2), with effect from 1st June, 2012.²

Conditions as to time etc.

4. The terms or conditions of a licence under section 2 authorising manufacture or importation may relate to a period before or after, as well as to the time of, manufacture or importation.

Form of licence.

5. A licence under section 2 may be granted, and any terms or conditions may be attached to it –

- (a) generally, by means of a notice published in La Gazette Officielle, or
- (b) individually, by means of an instrument in writing issued to the licensee.

[Committee] [and [Authority]] to respect international obligations of U.K.

6. (1) [The Committee] [or, as the case may be, [the Authority]] shall not make an order under section 1, grant a licence under section 2 or attach any term or condition to such a licence unless satisfied that to do so would be compatible with the international obligations of the United Kingdom.

(2) A written statement of [the President] of [the Committee] [or, as the case may be, [the Authority]] that [the Committee] [or, as the case may be, [the Authority]] is or was so satisfied is conclusive evidence of the fact.

NOTES

In section 6,

the words in the second pairs of square brackets in, first, the marginal note thereto and, second, subsection (1) were substituted by the

Telecommunications (Bailiwick of Guernsey) Law, 2001, section 33, Schedule 2, Part II, respectively paragraph 8(b) and paragraph 8(c), with effect from 1st October, 2001;

the words "Authority" and "the Authority" within square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(2), with effect from 1st June, 2012;

the words, first, "Committee" and "T/the Committee" and, second, "the President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 2 and section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;³

the words in the third and fifth pairs of square brackets in subsection (2) were substituted by the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 33, Schedule 2, Part II, paragraph 8(d), with effect from 1st October, 2001.

Powers of States Revenue Officers.

7. (1) Where the importation of wireless telegraphy apparatus of any class or description is restricted by an order under section 1, a States Revenue Officer may require any person in possession of any apparatus of that class or description which is being or has been imported to furnish proof that the importation is or was lawful.

(2) If such proof is not furnished to the satisfaction of the Chief Revenue Officer, the apparatus shall be deemed, unless the contrary is proved, to be liable to forfeiture under the customs or excise Laws for the purposes of the Law of 1972.

(3) A written statement of the Chief Revenue Officer that such proof has not been furnished to his satisfaction is conclusive evidence of the fact.

NOTE

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12(1), with effect from 30th September, 1991, the references in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority; and, in accordance with the provisions of section 12(2) of the 1991 Law, with effect from 30th September, 1991, the references in this section to a "States Revenue

Officer" shall, save where the context otherwise requires, be deemed to be a reference to a person authorised by the Committee for Home Affairs to act as an officer of Customs and Excise.

Offences.

8. A person who contravenes section 2 or any term or condition of a licence under section 2 is guilty of an offence under the Act of 1949.

Orders to be laid before the States.

9. Any order made by [the Committee] under section 1 shall be laid before a meeting of the States as soon as may be after the making thereof and, if at that meeting or at the next subsequent meeting, the States resolve that the order be annulled, the order shall cease to have effect but without prejudice to anything done thereunder or to the making by [the Committee] of any new order.

NOTE

In section 9, the words "the Committee" in square brackets, wherever occurring, were substituted by Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.

Interpretation.

10. (1) In this Law –

"the Act of 1949" means the Wireless Telegraphy Act 1949^a,

["Authority" means the Guernsey Competition and Regulatory Authority established by the Guernsey Competition and Regulatory Authority Ordinance, 2012,]

"[the Committee]" means the States [Committee for Economic Development] or such other Committee of the States as the States may by Resolution appoint for the purposes of this Law,

^a An Act of Parliament (1949 c. 54).

"Chief Revenue Officer" has the meaning given by section 1(1) of the Law of 1972,

"contravention" includes failure to comply, and cognate expressions shall be construed accordingly,

"customs Laws" and **"excise Laws"** have the meanings given by section 1(1) of the Law of 1972,

"the Law of 1972" means the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^b,

"manufacture" includes construction by any method and the assembly of component parts,

"possession" means having in one's custody or control,

"States Revenue Officer" has the meaning given by section 1(1) of the Law of 1972,

"wireless telegraphy apparatus" means –

- (a) wireless telegraphy apparatus within the meaning of section 19(1) of the Act of 1949, and
- (b) apparatus designed and adapted for use in connection with such apparatus.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Law throughout the Bailiwick.

(3) Any reference in this Law to another enactment (including an Act of Parliament) is a reference to that enactment as amended, applied, extended

^b Ordres en Conseil Vol. XXIII, p. 573.

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

or re-enacted by or under any enactment including this Law.

NOTES

In section 10,

the definition of the expression "Authority" in subsection (1) was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(2), with effect from 1st June, 2012;⁴

the words in the first and second pairs of square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 2 and section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;⁵

The functions, rights and liabilities of the Director General of Utility Regulation and the Office thereof arising under or by virtue of this Law were transferred to and vested in the Guernsey Competition and Regulatory Authority by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(1), with effect from 1st June, 2012, subject to the provisions of section 5(3) of, and section 6, Schedule 2 to, the 2012 Ordinance.

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁶

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12(1), with effect from 30th September, 1991, the references in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority; and, in accordance with the provisions of section 12(2) of the 1991 Law, with effect from 30th September, 1991, the references in this section to a "States Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to a person authorised by the Committee for Home Affairs to act as an officer of Customs and Excise.

Citation.

11. This Law may be cited as the Wireless Telegraphy Apparatus (Bailiwick of Guernsey) Law, 1994.

Commencement.

12. This Law shall come into force on 1st June, 1994.

¹ These words were previously substituted by the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 33(1), Schedule 2, Part II, paragraph 8(a), with effect from 1st October, 2001.

² These words were previously substituted by the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 33(1), Schedule 2, Part II, paragraph 8(a), with effect from 1st October, 2001.

³ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

⁴ Prior to its substitution, this definition was inserted by the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 33, Schedule 2, Part II, paragraph 8(e)(ii), with effect from 1st October, 2001.

⁵ These words were previously substituted by the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 33, Schedule 2, Part II, paragraph 8(e)(i), with effect from 1st October, 2001; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2000.

⁶ The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Industry and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 5, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.