

ORDER IN COUNCIL

**IX
1996**

ratifying a Projet de Loi

ENTITLED

The Magistrate's Court and Miscellaneous Reforms (Guernsey) Law, 1996

(Registered on the Records of the Island of Guernsey
on the 17th December, 1996.)



1996

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 17th day of December, 1996 before de Vic Graham Carey, Esquire, Deputy Bailiff; present:— Stanley Walter John Jehan, John Edward Morris, Charles Anthony Spensley, Lawrence Oscar Ozanne, John Richard Rowe Henry, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin and Alan Cecil Bisson, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 15th day of October, 1996, approving and ratifying a *Projet de Loi* entitled “The Magistrate’s Court and Miscellaneous Reforms (Guernsey) Law, 1996” THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur 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 S  n  schal 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 15th day of October, 1996

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 4th day of September 1996 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 1st day of February 1996, the States of Deliberation at a meeting held on the 24th day of April 1996 approved a Bill or “Projet de Loi” entitled “The Magistrate’s Court and Miscellaneous Reforms (Guernsey) Law, 1996”, 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 Magistrate’s Court and Miscellaneous Reforms (Guernsey) Law, 1996”, and to order that the same shall have force of law in the Island of Guernsey and, as regards sections 2, 3 and 4, 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 in the Island of Guernsey and, as regards sections 2, 3 and 4, in 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.

N. H. Nicholls

(No.IX - 1996)

PROJET DE LOI

ENTITLED

**The Magistrate's Court and Miscellaneous Reforms
(Guernsey) Law, 1996**

THE STATES, in pursuance of their Resolution of the 1st day of February, 1996(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 Island of Guernsey and, as regards sections 2, 3 and 4, in the Bailiwick of Guernsey.

Amendments to Law of 1954.

1. The Magistrate's Court (Guernsey) Law, 1954, as amended(b), is further amended as follows-

- (a) delete section 3 and substitute the following section-

"Qualifications for Appointment as Magistrate.

3. The qualification for the appointment of a person as Magistrate is that that person is-

- (a) an Advocate of the Royal Court of Guernsey or of the Royal Court of Jersey; or
- (b) a member of the Bar of England and Wales, or the Bar of Northern Ireland, or the Faculty of Advocates in Scotland; or
- (c) a Solicitor of the Supreme Court of England and Wales, or of the Supreme Court of Judicature of Northern Ireland, or in Scotland,

(a) Article XVI of Billet d'État No. I of 1996.

(b) Ordres en Conseil Vol. XVI, p. 103; Vol. XVII, p. 218; Vol. XXVII, p. 170; Vol. XXVIII, pp. 5 and 385; Vol. XXX, p. 224; No. V of 1989; No. III of 1992.

of not less than five years' standing.";

- (b) delete section 7 and substitute the following section-

"Appointment, qualifications, etc. of Assistant Magistrates.

7. (1) The Royal Court may, from time to time, appoint one or more persons as Assistant Magistrates and may determine any such appointment, or may make any such appointment for such period as it thinks fit.

(2) A person shall not be appointed as an Assistant Magistrate unless he is a Jurat of the Royal Court or qualified under section three for appointment as Magistrate.

(3) The provisions of section six shall apply to an Assistant Magistrate in the same way as they apply to the Magistrate.

(4) An Assistant Magistrate shall have all the powers and may perform all the duties of the Magistrate.

(5) In any enactment where there is a reference to an "Acting Magistrate", it includes a reference to an "Assistant Magistrate".;

- (c) delete section 10 and substitute the following section-

"Powers and Duties of the Court.

10. (1) The Court shall have jurisdiction to hear and determine all criminal matters other than offences of treason, homicide, rape, robbery, piracy or perjury; or incitement, conspiracy, or attempting to commit, or aiding and abetting the commission of, any of the said offences.

(2) The Court's powers of punishment for an offence shall not exceed-

(a) imprisonment for a period not exceeding twelve months or a fine not exceeding level 5 on the uniform scale, or both; or

(b) where the enactment dealing with the penalty for the offence provides a greater or lesser summary penalty than that in paragraph (a), that greater or lesser penalty.

(3) The aggregate of sentences of imprisonment that may be imposed on the same occasion on an individual found guilty of several offences shall not exceed a total of twelve months, excluding any sentence of imprisonment imposed upon him in default of payment of a fine under Article 6 of the Law entitled "Loi ayant rapport aux Procédures en Crime", registered on the 30th day of August, 1877(c).

(4) A person appearing before the Court for an offence triable under this section (other than an assault) which renders him liable to imprisonment for more than three months ("the accused") may, before he pleads to the charge but not otherwise, elect trial before the Royal Court.

(5) The Court shall, before the accused pleads to a charge referred to in subsection (4), address him with words to the following effect-

"In respect of this charge, you have the right to be tried by the Royal Court on indictment, instead of by this Court. Do you wish to be tried by the Royal Court?"

(6) Where-

(a) the accused has elected trial by the Royal Court; or

(b) the offence is only triable by the Royal Court; or

(c) Ordres en Conseil Vol. II, p. 169; Vol. III, p. 254; Vol. X, p. 355.

- (c) the Court decides that its powers of punishment are insufficient to deal with the offence, or that, by reason of its gravity, it would be more appropriate for the Royal Court to deal with it; or
- (d) the Law Officers of the Crown or either of them elect trial by the Royal Court,

the Court shall take the evidence of the witnesses in writing and shall, if satisfied that there is a prima facie case to answer, commit the accused for trial before the Royal Court."; and

- (d) in section 12, for "one thousand pounds" substitute "two thousand five hundred pounds, or such other sum as the States may, from time to time, prescribe by Ordinance".

Amendment to Law of 1983.

2. In section 31(5) of the Theft (Bailiwick of Guernsey) Law, 1983, as amended(d), immediately before the definition of "The Bailiff" insert the following definition-

"the appropriate Court" means-

- (a) in relation to Guernsey, the Magistrate's Court set up under the Magistrate's Court (Guernsey) Law, 1954;
- (b) in relation to Alderney, the Court of Alderney; and
- (c) in relation to Sark, the Court of the Seneschal."

Amendment to Law of 1991.

3. In the Administration of Justice (Bailiwick of Guernsey) Law, 1991(e), immediately after section 6(2) insert the following subsection-

(3) For the purposes of this section, the expression "the Magistrate's Court" includes the Court of Alderney and the Court of the Seneschal of Sark."

Amendment to Law of 1939.

4. In Article 4(3) of the Matrimonial Causes (Guernsey) Law, 1939, as amended(f), after the word "appoint" insert "the Magistrate or an Assistant Magistrate within the meaning of section 7 of the Magistrate's Court (Guernsey) Law, 1954, as amended, or".

Amendments to Petty Debts Ordinance.

5. The Ordonnance réglant la procédure à suivre devant la Cour supplémentaire de Police Correctionnelle et pour le recouvrement de Menues Dettes of 1932(g) is amended as follows-

- (a) in Article IV, for the words "une livre sterling" substitute "deux cents livres sterling"; and
- (b) in Articles V and VI, for the words "l'article 4 de la loi", each time they appear, substitute "section 13 de la Loi intitulée "The Magistrate's Court (Guernsey) Law, 1954, as amended",".

Penalties where no fine prescribed.

6. Where under any enactment whether passed before or after the coming into force of this Law a penalty for an offence is prescribed which does not include a reference

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- (e) Order in Council No. I of 1991.
 - (f) Ordres en Conseil Vol. XI, p. 318; Vol. XII, p. 278; Vol. XIII, p. 38; Vol. XV, p. 422; Vol. XVII, p. 249; Vol. XXII, p. 102; Vol. XXIII, p. 489; Vol. XXVII, p. 99.
 - (g) Recueil d'Ordonnances Tome VI, p. 171.

to a fine, it is hereby declared that the court, instead of or in addition to any other punishment which may be lawfully imposed, may fine the offender for any such offence.

Citation.

7. This Law may be cited as the Magistrate's Court and Miscellaneous Reforms (Guernsey) Law, 1996.

Commencement.

8. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions and different purposes.