

PROJET DE LOI

ENTITLED

"The Proceedings Against Corporations (Guernsey) Law, 1951" *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XV, p. 23. See also the Magistrate's Court (Guernsey) Law, 2008 (No. XVIII of 2009).

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ARRANGEMENT OF SECTIONS

1. Committal for trial before Royal Court.
2. When certain offences triable by Magistrate.
3. Questions to be put to accused.
4. Where person jointly charged—trial before Royal Court.
5. Allotment of advocate.
6. Pleading.
7. Service of documents.
8. Representative of corporation.
9. Definitions.

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THE STATES, in pursuance of their Resolution of the 15th day of February, 1950, have approved the following provisions, which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Committal for trial before Royal Court.

1. Where a corporation is charged, whether alone or jointly with some other person, before the Magistrate with an offence, and the Magistrate would, if the corporation were a real person, deal with the matter as is provided in section (3) of Article eleven of the Law entitled "Loi ayant rapport à l'institution d'un magistrat en police correctionnelle et pour le recouvrement de menues dettes" registered on the records of the Island of Guernsey on the 28th day of March, 1925, the Magistrate shall deal with the matter as is so provided save that, instead of committing the corporation to prison, he shall make an order directing the Law Officers of the Crown to prosecute the corporation before the Royal Court, and such an order shall, for the purposes of such prosecution, be deemed to be an order committing the corporation to prison for trial before the Royal Court.

NOTES

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this section to the "Magistrate"

shall be construed as references to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

The Loi ayant rapport à l'institution d'un magistrat en police correctionnelle et pour le recouvrement de menues dettes, 1925 has since been repealed by the Magistrate's Court (Guernsey) Law, 1954, section 29, Schedule, with effect from 17th January, 1955, subject to the provisions of section 27 and section 28 of the 1954 Law. The Magistrate's Court (Guernsey) Law, 1954 has since been repealed by the Magistrate's Court (Guernsey) Law, 2008, section 46(b), with effect from 1st September, 2009, subject to the savings and transitional provisions in section 47 of the 2008 Law.

When certain offences triable by Magistrate.

2. Where a corporation is so charged with an offence which may be tried by the Magistrate only if the accused does not demand to be tried before the Royal Court, and the corporation does not appear before the Magistrate by a representative or, if it does so appear, consents that the offence should be so dealt with, the Magistrate may try the offence, and it shall not be necessary for the Magistrate to address to the accused the question set out in paragraph (6) of the Second Proviso to section (2) of Article eleven of the said Law.

NOTE

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this section to the "Magistrate" shall be construed as references to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

Questions to be put to accused.

3. If a corporation so charged appears before the Magistrate by a representative, any answers to any questions which by law must be put to an accused person as to whether he wishes to say anything in answer to the charge and whether he wishes to call evidence, may be made on behalf of the corporation by the representative, but if the corporation does not appear it shall not be necessary to

ask the questions.

NOTE

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the reference in this section to the "Magistrate" shall be construed as a reference to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

Where person jointly charged—trial before Royal Court.

4. Where any person is charged jointly with a corporation with an offence for which he has a right to demand to be tried by the Royal Court, and either that person or the corporation does so demand, the Magistrate shall not have power to try either that person or the corporation for the offence, but shall proceed as is directed in section one of this Law, and any order so made by him shall have the effect specified in that section.

NOTE

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the reference in this section to the "Magistrate" shall be construed as a reference to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

Allotment of advocate.

5. The Royal Court shall have power to allot an advocate to a corporation for its defence at the trial before it in the same manner as if the corporation were a real person, save that if the corporation does not choose an advocate, an advocate may be allotted to it.

Pleading.

6. If, on a trial before it either the corporation does not appear by a

representative or, though it does so appear, fails to plead to the indictment, the Royal Court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

Service of documents.

7. Provision may be made by rules under the Indictments (Guernsey) Law, 1950, with respect to the service on any corporation charged with an offence to be tried before the Royal Court of any documents requiring to be served in connection with the proceedings.

Representative of corporation.

8. (1) In this Law the expression "**representative**" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this Law authorised to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before the Royal Court for any other purpose.

(2) A representative for the purposes of this Law need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this Law shall be admissible without further proof as prima facie evidence that that person has been so appointed.

Definitions.

9. In this Law the following expressions have the meanings hereby respectively assigned to them –

"advocate" means an advocate of the Royal Court,

"corporation" includes a society referred to in the French language as "une société en Commandite",

"indictment" has the same meaning as in the Indictments (Guernsey) Law, 1950,

"Magistrate" means the Police Court Magistrate save that, in relation to the Island of Alderney, the expression **"Magistrate"** means the Court of Alderney acting in the exercise of its functions under section twenty of the Government of Alderney Law, 1948, and

"Royal Court" means the Royal Court of Guernsey.

NOTES

The Law received Royal Sanction on 27th February, 1951 and was registered on the Records of the Island of Guernsey and came into force on 17th March, 1951.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 1954, section 10(3) (as originally enacted), with effect from 17th January, 1955, the expression "Police Court" in this section shall be deemed to refer to the Magistrate's Court.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this section to the "Magistrate" shall be construed as references to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

The Government of Alderney Law, 1948 has since been repealed by the Government of Alderney Law, 1987, section 63(1), Schedule 3, with effect from 1st August 1987, subject to the savings and transitional provisions in section 63 and section 64 of the 1987 Law. The Government of Alderney Law, 1987 has since been repealed by the Government of Alderney Law,

2004, section 63(1), Schedule 3, with effect from 1st May, 2005, subject to the savings and transitional provisions in section 63(2) and section 64 of the 2004 Law.
