

PROJET DE LOI

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

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* No. VII of 2007; as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207).

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ARRANGEMENT OF SECTIONS

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2. Specific matters for which Ordinances may make provision.
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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 remain upon –
 - (i) any regulated place, and

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

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

NOTE

The following Ordinances have been made under section 1:

*Control of Intoxicating Liquor (Designated Public Places)
Ordinance, 2007;
Liquor Licensing (Amendment) Ordinance, 2010.*

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.

NOTE

The following Ordinance has been made under section 2:

Liquor Licensing (Amendment) Ordinance, 2010.

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 Committee], 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.

NOTE

In section 3, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

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 Committee**]" means the States of Guernsey [Committee for Home Affairs],

"**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.

NOTES

In section 4, the words, first, "the Committee" and, second, "Committee for Home Affairs" in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 7 and section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions)

Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

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.

NOTE

The Law received Royal Sanction on 2nd May, 2007 and was registered on the Records of the Island of Guernsey and came into force on 3rd May, 2007.
