

ORDER IN COUNCIL

XXIII

1984

ratifying a Projet de Loi

ENTITLED

The Mental Treatment (Amendment) (Guernsey) Law, 1984

(Registered on the Records of the Island of Guernsey
on the 21st day of January, 1985.)



1984

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 21st day of January, 1985 before Sir Charles Frossard, Kt., Bailiff, present:—Albert Richard McCartney Straw, Donald Pescott Plummer, Esquires, Sydney Haydn Heard, Esquire, M.B.E., Brian Ernest Herbert Joy, Harry Wilson Bisson, Herbert Nicolle Machon, John Christopher Bulstrode, Geoffrey Ernest Le Page, Stanley Walter John Jehan and Raymond Arthur Heaume, Esquires, Jurats.

The Bailiff having this day placed before the Court a copy of an Order of Her Majesty in Council dated the 22nd November, 1984 ratifying a *Projet de Loi* entitled "The Mental Treatment (Amendment) (Guernsey) Law, 1984", the Court, after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent to the Seneschal of Sark for registration on the records of that Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 22nd day of November 1984

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 15th day of November 1984 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 29th day of February 1984 the States of Deliberation at a meeting held on the 25th day of April 1984 approved a Bill or “Projet de Loi” entitled “The Mental Treatment (Amendment) (Guernsey) Law, 1984”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the Chief Pleas of the Island of Sark at a meeting held on the 3rd day of October 1984 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Sark. 3. That the said Bill or “Projet de Loi” is 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 Mental Treatment (Amendment) (Guernsey) Law, 1984", and to order that the same shall have force of law in the Islands of Guernsey, Sark, Herm and Jethou.'

"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, as it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Sark, Herm and Jethou.

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.

G. I. de Deney.

PROJET DE LOI

ENTITLED

The Mental Treatment (Amendment) (Guernsey) Law, 1984

THE STATES, in pursuance of their Resolution of the twenty-ninth day of February, nineteen hundred and eighty-four, 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, Sark, Herm and Jethou.

1. The Mental Treatment Law (Guernsey) 1939, ^{Amend-} as amended^(a), is hereby further amended as ^{ments to} Law of 1939. follows:—

(a) in the Arrangement of Articles thereto—

(i) immediately after the entries relating to PART VII there are inserted the following additional entries—

“PART VIIA.—TRANSFER OF
PATIENTS TO
AND FROM
ENGLAND AND
WALES.

40 Transfer of patients to England
 and Wales.

40A Patients transferred from England
 and Wales.”;

(ii) immediately after the entry relating to Article 41 there is inserted the following additional entry—

(a) Ordres en Conseil Vol. XI, p. 405; Vol. XIII, p. 245; Vol. XVII, p. 64; Vol. XVIII, p. 355; Vol. XIX, p. 269; Vol. XXIII, p. 328; No. IX of 1979; No. IX of 1982.

“41A Conveyance, detention and retaking of patients in custody.”;

(b) in Article 1 thereof—

(i) immediately after the definition of the expression “Consultant Psychiatrist” there is inserted the following additional definition—

“Law Officer” means respectively Her Majesty’s Procureur and Her Majesty’s Comptroller;”;

(ii) immediately after the definition of the expression “Temporary patient” there is inserted the following additional definition—

“this Island” means the Island of Guernsey;”;

(c) in Article 28 thereof—

(i) in paragraph (4) the words “fourteen days” are repealed and the words “twenty-eight days” are substituted therefor;

(ii) in paragraph (5) the words “fourteen days” are repealed and the words “twenty-eight days” are substituted therefor;

(d) immediately after Part VII thereof there is inserted the following additional Part numbered “Part VIIA”—

“Part VIIA. —Transfer of patients to and from England and Wales.

ARTICLE 40.—TRANSFER OF
PATIENTS TO
ENGLAND AND
WALES.

(1) If it appears to a Law Officer, in the case of a patient who is for the time being liable to be detained under this Law, that it is in the interests of the patient to remove him to England and Wales, and that arrangements have been made for admitting him to a hospital in England and Wales, the Law Officer may, notwithstanding the provisions of Article 24 of this Law, by order authorise his transfer to England and Wales and may give any necessary directions for his conveyance to his destination.

(2) An order given under paragraph (1) of this Article shall be sufficient authority for any person authorised in such order, to take the patient to whom the order refers and convey him to England and Wales.

(3) An order under this Article shall be given under the hand of a Law Officer.

(4) In this Article, references to a hospital in England and Wales shall be construed as references to a hospital within the meaning of Part II of the Mental Health Act, 1983.

ARTICLE 40A. PATIENTS TRANS-
FERRED FROM
ENGLAND AND
WALES.

(1) This Article applies to any patient

who is transferred to this Island from England and Wales under a provision corresponding to paragraph (1) of the last preceding Article and who immediately before his transfer was liable to be detained in England and Wales under a provision corresponding to an enactment contained in this Law.

(2) A person to whom this Article applies shall, notwithstanding the provisions of Article 25 of this Law, be received and detained in a mental hospital in accordance with the provisions of the next succeeding paragraph.

(3) Where a patient to whom this Article applies is admitted to a mental hospital in this Island he shall be treated as if on the date of his admission he had been so admitted in pursuance of an order made on that date under the corresponding enactment contained in this Law.”;

- (e) in Article 41 thereof the words “fourteen days” are repealed and the words “twenty-eight days” are substituted therefor;
- (f) immediately after Article 41 thereof there is inserted the following additional Article numbered “ARTICLE 41A”—

“ARTICLE 41A.—CONVEYANCE,
DETENTION AND RE-
TAKING OF PATIENTS
IN CUSTODY.

(1) Any person required or authorised by or by virtue of this Law to be conveyed to any place or to be kept in custody or

detained in any place and any person who has been removed to this Island from England and Wales for admission to a mental hospital in this Island shall, while being so conveyed, kept, detained or removed, as the case may be, be deemed to be in legal custody.

(2) A police officer or any other person required or authorised by or by virtue of this Law to take any person into custody or to convey or detain any person shall, for the purposes of taking him into custody or conveying or detaining him, have all the powers, authorities, protection and privileges which a police officer has within this Island.

(3) If any person being in legal custody by virtue of paragraph (1) of this Article escapes he may be retaken as in the case of an escape under Article 41 of this Law.”.

2. This Law may be cited as the Mental Treatment (Amendment) (Guernsey) Law, 1984. Citation.

3. This Law and the Mental Treatment (Guernsey) Laws, 1939 to 1982, may be cited together as the Mental Treatment (Guernsey) Laws, 1939 to 1984. Collective title.

K. H. TOUGH,
Her Majesty's Greffier.