

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Employment Permits (Alderney) Law, 1975

(Registered on the Records of the Island of Guernsey
on the 7th day of April, 1975.)



1975

II
1975

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 7th day of April, 1975, before John Henry Loveridge, Esquire, C.B.E., Bailiff; present:— Stanley Walter Gavey, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Brook Sutcliffe, Albert Richard McCartney Straw, Esquires and Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Jurats.

The Bailiff having this day placed before the Court an Order dated the 26th day of February, 1975, of the Counsellors of State in Council on behalf of Her Majesty, being authorised thereto by Letters Patent dated the 10th day of February, 1975, ratifying a *Projet de Loi* of the States of Alderney entitled "The Employment Permits (Alderney) Law, 1975", the Court, after the reading of the said Order in Council and 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 by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island, of which Order in Council the tenor followeth:—

At the Court of Saint James

The 26th day of February 1975

PRESENT,

The Counsellors of State in Council

WHEREAS Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 10th day of February 1975, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

AND 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 14th day of February 1975, 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 a humble Petition of George William Baron, Esquire, President of the States of Alderney, setting forth:

“That at a meeting of the States of Alderney held on the 2nd day of December 1974, the States adopted a Resolution that a *Projet de Loi* entitled “The Employment Permits (Alderney) Law, 1975” be approved. That at the meeting of the States aforesaid Your humble Petitioner

was authorised to present to Your Majesty in Council a Petition that the said Projet de Loi be sanctioned:

That the said Projet de Loi is set forth in the words and figures of the Schedule hereunto annexed: And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Projet de Loi entitled "The Employment Permits (Alderney) Law, 1975" and to order that the same shall have the force of law within the Island of Alderney."

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition, and the Projet de Loi annexed thereto, 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".

NOW, THEREFORE, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Anne, being authorised thereto by the said Letters Patent, have taken the said Report into consideration, and do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf approve of and ratify the said Projet de Loi, and order, as it is hereby ordered, that the same shall have the force of law within the Island of Alderney.

AND do 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, of the said Island of Guernsey, and also the Jurats of the said Island of Alderney, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. E. Leigh

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Employment Permits (Alderney) Law, 1975

ARRANGEMENT OF SECTIONS

1. Restriction on employment.
2. Application for employment permit.
3. Employment permits.
4. Appeals.
5. Exempted employments.
6. Powers of inspectors.
7. Offences.
8. Interpretation.
9. Citation and commencement.

PROJET DE LOI

ENTITLED

The Employment Permits (Alderney) Law, 1975

THE STATES, in pursuance of their Resolution of the nineteenth day of July, nineteen hundred and seventy-two, 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 Alderney.

Restriction
on employ-
ment.

1.—(1) A Community national shall not undertake or be engaged in any gainful employment in the Island unless—

- (a) he was born in the Island; or
- (b) he was born outside the Island between the first day of January, nineteen hundred and forty, and the thirty-first day of December, nineteen hundred and forty-seven, and is the child of a person who at any time during the period between the first day of January, nineteen hundred and forty, and the thirtieth day of June, nineteen hundred and forty, was ordinarily resident in the Island; or
- (c) he was born outside the Island and is the child of a person who at the time of such birth was ordinarily resident in the Island; or
- (d) on such day as the States may by Ordinance appoint in that behalf, he was ordinarily resident in the Island; or

(e) he is authorised to do so by the terms of an employment permit.

(2) A person shall not knowingly engage or employ in any gainful employment any person who, under the provisions of the last foregoing subsection, is prohibited from engaging in such employment.

(3) If any person contravenes or fails to comply with any of the foregoing provisions of this section, he shall be guilty of an offence under this section, and shall be liable on conviction to a fine not exceeding one hundred pounds and, in the case of a continuing offence, to a further fine not exceeding twenty-five pounds for each day during which the offence continues after such conviction.

(4) Where a person convicted of an offence under this section is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

2. A person who wishes to obtain an employment permit shall make application in that behalf to the Committee and such application shall be in such form and accompanied by such information as the Committee may from time to time require.

Application
for employ-
ment permit.

3.—(1) The Committee may, upon application being made to it in that behalf in accordance with the provisions of section two of this Law by any person, grant an employment permit authorising the employment of that person in gainful employment in such forms as the Committee thinks proper,

Employ-
ment
permits.

and valid for such period as the Committee specifies therein.

(2) An employment permit may authorise the employment of the person named therein in the capacity specified therein.

(3) An employment permit may be renewed at any time for such period as the Committee thinks fit.

(4) The Committee may revoke an employment permit whenever it considers that the circumstances which justified the grant or renewal of the permit have changed.

(5) Where the Committee decides an application adversely to the applicant or decides to revoke a permit, the Committee shall inform the applicant or the holder of the permit as the case may be, within fourteen days in writing of the reasons for its decision and of his right to appeal to the Court.

Appeals.

4.—(1) Any person aggrieved by a decision of the Committee refusing to grant or renew an employment permit, imposing conditions upon the grant or renewal of an employment permit or revoking an employment permit may appeal from that decision to the Court, on the grounds that the decision was ultra vires or was an unreasonable exercise of the powers of the Committee, within such period and in accordance with such procedure as the States may, by Ordinance, prescribe.

(2) Any decision of the Court under the provisions of this section shall be final.

Exempted employ- ments.

5. The States may, from time to time, by Ordinance provide—

- (a) that the provisions of this Law shall not apply in relation to such class or classes of employment as may be specified in such Ordinance; and
- (b) for such incidental and supplementary matters for which the States deem it necessary or expedient to provide.

6.—(1) Any person authorised by the Committee in that behalf (hereinafter referred to as “an inspector”) shall, for the purposes of the execution of this Law, have power to do any or all of the following things, that is to say:—

Powers of inspectors.

- (a) to enter at all reasonable times any premises or place where he has reasonable cause to believe that any person is employed;
- (b) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Law or of any Ordinance made thereunder are being complied with in respect of any such person;
- (c) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Law or any Ordinance made thereunder every person whom he finds in such premises or place or whom he has reasonable cause to believe to be or to have been within the preceding two months employed, and to require every such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined;
- (d) to require any such person to produce his employment permit and to inspect, examine and copy such permit, or where the permit

has been revoked by the Committee, to retain the permit and deliver it to the Committee;

- (e) to exercise such other powers as may be necessary for carrying into effect this Law and any Ordinance made thereunder and in respect of which an inspector has been authorised by the Committee to act on its behalf.

(2) The occupier of any premises or place in which persons are employed and any other person employing persons, and the servants or agents of any such occupier or other person, and any person who is employed shall furnish to any inspector all such information and shall produce for inspection all such documents as the inspector may reasonably require.

(3) If any person wilfully delays or obstructs an inspector in the exercise of any power under this section or fails to give such information or to produce such documents as aforesaid, or conceals or attempts to conceal or prevent any person from appearing before or being examined by an inspector, he shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

(4) Every inspector shall be furnished by the Committee with a certificate of his appointment in such form as the Committee may from time to time determine and shall, if so required, produce such certificate to the occupier of any premises or place which he wishes to enter or to any person from whom he wishes to obtain information for the purposes of this section.

7. Any person who—

Offences.

- (a) for the purpose of obtaining an employment permit for himself or any other person knowingly furnishes any information which is false in any material particular; or
- (b) falsely personates any person named in an employment permit; or
- (c) wilfully misrepresents to any employer that he is a person in respect of whom no such permit is required to be granted under this Law; or
- (d) without lawful authority, alters any employment permit or uses for the purposes of this Law, or has in his possession for such use a permit which he knows or has reasonable cause to believe to be false;

shall, without prejudice to any other penalty, be guilty of an offence under this section and liable on conviction to a fine not exceeding one hundred pounds.

8.—(1) In this Law, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

“the Committee” means such Committee as the States may, from time to time, appoint for the purposes of this Law;

“the Court” means the Court of Alderney;

“Community national” means a person who is a national of a member State of the European Economic Community for the purposes of the Treaties;

“employment permit” means a permit issued by the Committee under the provisions of section three of this Law;

“gainful employment” means any employment including self-employment whether part-time or full time for which remuneration or a consideration is received directly or indirectly, but does not include any employment to which the provisions of this Law do not apply by virtue of an Ordinance made under section five thereof;

“the Island” means the Island of Alderney;

“member” in the expression “member State”, and the expression “the Treaties” have the meanings respectively assigned to them by section one of the European Communities (Bailiwick of Guernsey) Law, 1973(a);

“the States” means the States of Alderney.

(2) Except in so far as the context otherwise requires, any reference in this Law to any other enactment shall be construed as a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment including this Law.

(3) The Interpretation (Guernsey) Law, 1948(b), shall apply to the interpretation of this Law as it applies to the interpretation of an enactment in force in the Island of Guernsey.

(4) Any power conferred by this Law to make any Ordinance shall be construed as including a power exercisable in the like manner to vary or repeal the Ordinance.

(a) Ordres en Conseil No. XI of 1973.

(b) Ordres en Conseil Vol. XIII, p. 355.

9. This Law may be cited as the Employment Permits (Alderney) Law, 1975, and shall come into force on such day as the States may by Ordinance appoint. Citation and commencement.

R. H. VIDELO,
Her Majesty's Greffier.