

ORDER IN COUNCIL

VIII
1990

ratifying a Projet de Loi

ENTITLED

The Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1990

(Registered on the Records of the Island of Guernsey
on the 23rd April, 1990.)



1990

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 23rd day of April, 1990 before Sir Charles Frossard, Kt., Bailiff; present:—Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Raymond Arthur Heaume, John Edward Morris, Charles Anthony Spensley, Kenneth John Rowe and Lawrence Oscar Ozanne, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 14th day of February, 1990, approving and ratifying a Projet de Loi entitled "The Housing (Control of Occupation) (Guernsey) Law, 1990", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island of which Order in Council the tenor followeth:—

At the Court of Saint James

The 14th day of February 1990

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 18th day of January 1990 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 6th day of February 1990 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) an humble Petition of the States of the Island of Guernsey, setting forth:—

“1. That, in pursuance of their Resolutions of the 30th day of June, 1988, and the 27th day of April, 1989, the States of Deliberation at a meeting held on the said 27th day of April, 1989, approved a Bill or “Projet de Loi” entitled “The Housing (Control of Occupation) (Amendment) (Guernsey) Law 1990”, 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 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 Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1990", and to order that the same shall have force of law in the Island of Guernsey."; and

(b) an humble Petition of the President and Secretary of the Guernsey Hotel and Tourism Association relating to the said Projet de Loi.

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petitions 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 of the States of Guernsey and to approve of and ratify the said Projet de Loi."

NOW THEREFORE, Her Majesty Queen Elizabeth, The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, 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, and it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

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 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 Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1990

THE STATES, in pursuance of their Resolutions of the 30th day of June 1988 and the 27th day of April 1989, 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.

1. The Housing (Control of Occupation) (Guernsey) Law, 1982(a) is amended as follows: Short-term
housing
licences.

(a) the following two subsections are inserted immediately after subsection (1) of section 3:

“ (1A) If the Authority grants a housing licence under the provisions of the last preceding subsection in order to enable a person to occupy a dwelling whilst he is employed—

(a) on a temporary or seasonal basis; or

(b) in employment which is not, in its opinion, of sufficient long-term essentiality to the community to justify the grant of a housing licence permitting that person to occupy a dwelling for more than three years,

then the licence shall state that fact and shall cease to be valid on such date as the Authority specifies in it in that regard, being a date—

- (i) in a case falling within paragraph (a) of this subsection, not more than nine months after it is expressed to come into effect; and
- (ii) in a case falling within paragraph (b) of this subsection, not more than three years after it is expressed to come into effect;

and such a housing licence is referred to in this Law as a “short-term housing licence”.

(1B) In a case falling within paragraph (a) of subsection (1A) of this section the Authority shall not grant a short-term housing licence if the person who would be permitted by it to occupy a dwelling has been physically present in Guernsey at any time during the preceding three months.

(1C) In a case falling within paragraph (b) of subsection (1A) of this section—

- (a) the Authority may grant a short-term housing licence in order to enable a person to continue to occupy staff accommodation which he is occupying at the date of his application under a short-term house licence which was granted in the circumstances specified in

paragraph (a) of subsection (1A) of this section; but in any other circumstances

(b) the Authority shall not grant a short-term housing licence if the person who would be permitted by it to occupy a dwelling has been resident in Guernsey at any time during the preceding three years.”;

(b) the following paragraph is inserted immediately after paragraph (d) of section 5(1):

“(e) where the application is for a housing licence in order to enable a person to occupy a dwelling whilst he is in employment—

(i) the number of people appearing to the Authority to be resident in Guernsey and lawfully available to undertake employment of the type concerned; and

(ii) the number of people for the time being entitled to occupy a dwelling under a housing licence of the type concerned.”;

(c) in paragraph (b) of section 20(1) and in paragraph (b) of section 20(2) immediately after “the holder of a housing licence” there is in each case inserted “, other than a short-term housing licence,”;

(d) in section 52(1) the following definitions are inserted at the appropriate places in the alphabetical order:

““housing licence” means a licence granted under the provisions of subsection (1) of section three of this Law, and includes a short-term housing licence,”;

““short-term housing licence” means a housing licence granted in the circumstances detailed in paragraph (a) or paragraph (b) of subsection (1A) of section three of this Law;”;

““staff accommodation” means any premises which are shown to the satisfaction of the Authority to have been used at all times by the person who is for the time being the owner of the premises wholly or mainly for the accommodation of persons employed by him;”.

Declarations
of lawful
residence.

2. The Housing (Control of Occupation) (Guernsey) Law, 1982 is amended as follows:

(a) the following section is inserted immediately after section 12:

12A. (1) A person who claims to be occupying a dwelling in such circumstances as not to require a housing licence, by virtue of—

(a) section fifteen, section sixteen, subsection (1) of section twenty or section forty-eight of this Law;
or

(b) section eleven of the Law of 1988,

may apply to the Authority, in such form and manner and giving such information as the Authority may from time to time require, for a declaration of lawful residence.

(2) If, upon receipt of an application made in accordance with subsection (1) of this section and any further information which the Authority may require the applicant to provide, the Authority is satisfied that the applicant is occupying a dwelling in any of the circumstances referred to in that subsection, the Authority shall issue to him a declaration of lawful residence, which shall—

(a) identify the applicant and the dwelling to which the declaration relates;

(b) state the provision of this Law, or of the Law, of 1988, by virtue of which, and the circumstances in which, the Authority is satisfied that the applicant does not require a housing licence to occupy that dwelling;

- (c) state the date on which it will expire for the purposes of the Right to Work (Limitation and Proof) (Guernsey) Law, 1990(b);
- (d) be signed by a person authorised in that behalf by the Authority;
- (e) contain such other particulars, and be in such form, as the Authority may from time to time determine.

(3) If the Authority is not satisfied as mentioned in subsection (2) of this section it shall as soon as practicable serve on the applicant a notice, signed by a person authorised in that behalf by the Authority and in such form as the Authority may from time to time determine, refusing the application and stating why it is not so satisfied.

(4) An applicant who is aggrieved by a refusal of the Authority to issue a declaration of lawful residence under this section may appeal to the Ordinary Court, on the ground that the Authority ought to have issued such a declaration, in the same time and

manner, and with the same rights of further appeal to the Court of Appeal, as a person aggrieved by a decision under section eleven of this Law.”;

(b) in subsection (1) of section 40(c), immediately after “section twelve” there is inserted “and section 12A(4)”;

(c) in paragraph (a) of section 42(d), immediately after “status declaration” there is inserted “or a declaration of lawful residence”.

3. (1) In sections 4 and 11(1) of the Housing (Control of Occupation) (Guernsey) Law, 1982 for “in writing, signed by the President or any other member of the Authority authorised in that behalf by the Authority” there is in each case substituted “, signed by a person authorised in that behalf by the Authority and in such form as the Authority may from time to time determine”. Form of documents.

(2) In section 8(1) of the Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1988(e) for “in writing, signed by the President or by a member of the Authority authorised in that behalf by the Authority” there is substituted “signed by a person authorised in that behalf by the Authority and in such form as the Authority may from time to time determine”.

(c) Section 40 was substituted by section 10(1) of the Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1988 (Order in Council No. V of 1988).

(d) Section 42(a) was amended by section 10(m) of the Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1988 (Order in Council No. V of 1988).

(e) Order in Council No. V of 1988.

Appeals.

4. (1) In sections 12(2) and 40(2) of the Housing (Control of Occupation) (Guernsey) Law, 1982(c), and in section 9(3) of the Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1988, for the words "to show cause why the decision appealed from should not be set aside or varied" there is in each case substituted "within two months of the date of the notice giving the decision of the Authority".

(2) In section 40(3) of the Housing (Control of Occupation) (Guernsey) Law, 1982(c), immediately after "the appellant shall have" there is inserted "the burden of proof and".

Citation.

5. This Law may be cited as the Housing (Control of Occupation) (Amendment) (Guernsey) Law, 1990.

Collective
title.

6. This Law and the Housing (Control of Occupation) (Guernsey) Laws, 1982 and 1988 may be cited together as the Housing (Control of Occupation) (Guernsey) Laws, 1982 to 1990.

Commence-
ment.

7. This Law shall come into force at the expiration of the period of one month commencing on the date on which it is registered on the Records of the Island of Guernsey.

D. R. DOREY,
Her Majesty's Deputy Greffier.