

PROJET DE LOI

ENTITLED

The Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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. XXIII, p. 515; as amended by the States Board of Administration (Transfer of Functions) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 250); the Harbours, Moorings and Pilotage (Fees and Dues) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 340); the Insurance Business (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 214); the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Ordres en Conseil Vol. XXX, p. 243); the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Amendment) (Guernsey) Law, 1988 (Ordres en Conseil Vol. XXXI, p. 25); the Hired Boats and Passenger Boats (Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 256); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Vessels and Speedboats (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1994 (No. XXVII of 1994, Ordres en Conseil Vol. XXXV(2), p. 634); the Harbour Dues, Harbour Charges and Mooring Charges (Guernsey) (Amendment) Law, 2001 (No. XXI of 2001, Ordres en Conseil Vol. XLI, p. 681); Insurance Business (Bailiwick of Guernsey) Law, 2002 (No. XXI of 2002, Ordres en Conseil Vol. XLII(2), p. 766); the Vessels and Speedboats (Compulsory Third-Party Insurance) (Variation of Cover) (Guernsey) Ordinance, 1981 (Recueil d'Ordonnances Tome XXII, p. 134); the Vessels and Speedboats (Variation of Insurance Cover) Ordinance, 1994 (Recueil d'Ordonnances Tome XXVI, p. 311); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Fees, Charges and Penalties (Guernsey) Law, 2007 (No. VII of 2008).

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The Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972

ARRANGEMENT OF SECTIONS

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The Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972

THE STATES, in pursuance of their Resolution of the twenty-sixth day of April, 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 Guernsey.

Third-party insurance for certain vessels and speedboats.

1. (1) A person shall not use, or cause or permit any other person to use, in the territorial waters of the Islands –

[(a) a vessel which is a licensed boat within the meaning of the Hired Boats and Passenger Boats (Guernsey) Law, [1988],]

(b) a local motor vessel within the meaning of the Passenger Vessels (Bailiwick of Guernsey) Ordinance, 1970^b,

unless there is in force in relation to the user of that vessel by that person or that other person, as the case may be, a policy of insurance issued by an authorised insurer, the policy being one which, subject to any restrictions or conditions specified therein,

^b Recueil d'Ordonnances Tome XVI, p. 516.

insures such person or classes of persons as may be specified in the policy –

- (c) in an amount of not less than [£500,000] in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any one passenger in such vessel in any one occurrence or series of occurrences arising out of any one event, and
- (d) subject to the said limit of [£500,000] in respect of any one passenger, in an amount of not less than [£2,000,000] in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to more than one passenger in such vessel in any one occurrence or series of occurrences arising out of any one event,

caused by or arising out of the use of that vessel.

(2) A person shall not use, or cause or permit any other person to use, in the territorial waters of the Islands a speedboat [or personal water craft (which expression shall, in this Law, mean any boat commonly known as a jet ski, wet bike, water scooter or fun craft or by any other like description and any other power-driven boat steered by means of a handlebar operated linkage system or by altering the relationship between the body weight of any person on the boat and the boat itself; and the States may from time to time by Ordinance amend this definition)] unless there is in force in relation to the user of that speedboat [or personal water craft] by that person or that other person, as the case may be, a policy of insurance issued by an authorised insurer, the policy being one which, subject to any restrictions or conditions specified therein, insures such person or classes of persons as may be specified in the policy in an amount of not less than [£500,000] in respect of any liability which may be incurred by him or them in respect of the death of or bodily

injury to any person or for loss of or any damage to any property in or on the water or on the foreshore in any one occurrence or series of occurrences arising out of any one event, caused by or arising out of the use of that speedboat [or personal water craft] other than when towing a person engaged in water ski-ing, aqua-planing or similar sport:

Provided that this subsection shall not apply to the use in the territorial waters of the Islands of any vessel which is not required to be registered in Guernsey under the provisions of section one of the Boats and Vessels (Registration, Speed Limits and Abatement of Noise) Ordinance, 1970^c, which is on direct passage to or from any place outside the territorial waters of the Islands, notwithstanding that the vessel may be capable of travelling on the sea at a speed in excess of seventeen knots.

(3) A person shall not use, or cause or permit any other person to use, in the territorial waters of the Islands a speedboat [or personal water craft] towing a person engaged in water ski-ing, aqua-planing or similar sport unless there is in force in relation to the user of that speedboat [or personal water craft] by that person or that other person, as the case may be, a policy of insurance issued by an authorised insurer, the policy being one which, subject to any restrictions or conditions specified therein, insures such person or classes of persons as may be specified in the policy in an amount of not less than [£500,000] in the aggregate –

- (a) in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person including any person being towed as aforesaid or for loss of or damage to any property in or on the water or on the foreshore in any one occurrence or series of occurrences arising out of any one event, caused by or arising out of the use of that speedboat [or

^c Recueil d'Ordonnances Tome XVI, p. 346.

personal water craft], and

- (b) in respect of any liability in respect of the death of or bodily injury to any person or for loss of or damage to any property which may be incurred by any person engaged in water ski-ing, aqua-planing or similar sport, in any one occurrence or series of occurrences arising out of any one event whilst so engaged, caused by or arising out of the use of that speedboat [or personal water craft].

(4) Notwithstanding anything in the last three preceding subsections such a policy of insurance as is referred to in any of those three subsections shall not be required to cover liability in respect of the death arising out of and in the course of his employment of a person in the employment of a person insured by the policy or of bodily injury sustained by such person arising out of and in the course of his employment.

(5) In this section the expression "**authorised insurer**" means an insurance company for the time being approved [by [the Guernsey Financial Services Commission, in accordance with any regulations, including regulations prescribing a fee to be paid to that Commission, which may from time to time be made by the States [Policy & Resources Committee] under this subsection]][]; and a company shall not be so approved unless it is licensed under the Insurance Business (Bailiwick of Guernsey) Law, 2002 as an insurer in respect of domestic business or is exempt from section 3 of that Law, in relation to insurance of the descriptions set out in the preceding subsections of this section, by virtue of section 5 of that Law].

[(5A) Regulations made under subsection (5) of this section shall be laid before a meeting of the States as soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations be

annulled, they shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations.]

(6) The States may, from time to time, by Ordinance vary all or any of the amounts [specified in subsections (1), (2) or (3) of this section].

[(7) A person who contravenes or attempts to contravene any provision of this section is guilty of an offence and liable, on conviction, to a fine not exceeding [level 4 on the uniform scale] or to imprisonment for a term not exceeding three months or to both.]

NOTES

In section 1,

paragraph (a) of subsection (1) was substituted by the Hired Boats and Passenger Boats (Guernsey) Law, 1989, section 21, with effect from 1st April, 1990;

the figures and symbols, first, in square brackets in paragraph (c) of subsection (1), second, in the first and second pairs of square brackets in paragraph (d) of subsection (1) and, third, in the third pairs of square brackets in subsection (2) and subsection (3) were substituted by the Vessels and Speedboats (Variation of Insurance Cover) Ordinance, 1994, respectively section 1(a), section 1(b) and section 1(c), with effect from 1st October, 1994;¹

the words in the first pair of square brackets in subsection (2) were inserted by the Vessels and Speedboats (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1994, section 1(a)(i), with effect from 16th January, 1995;

the words in the second and fourth pairs of square brackets in subsection (2) were inserted by the Vessels and Speedboats (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1994, section 1(a)(ii), with effect from 16th January, 1995;

the words in the first, second, fourth and fifth pairs of square brackets in subsection (3) were inserted by the Vessels and Speedboats (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1994, section 1(b), with effect from 16th January, 1995;

the word in the first pair of square brackets in subsection (5) was substituted by the States Board of Administration (Transfer of Functions) Law, 1974, section 4, Schedule, with effect from 1st August, 1974;

the words in square brackets within the first pair of square brackets in subsection (5) were substituted, and subsection (5A) was inserted, by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, section 3(3), Schedule 2, respectively paragraph 14 and paragraph 15, with effect from 1st February, 1988, subject to the transitional provisions and savings in section 26 of, and Schedule 3 to, the 1987 Law;²

the words in square brackets in the square brackets within the first pair of square brackets in subsection (5) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;³

the words in the second pair of square brackets in subsection (5) were substituted by the Insurance Business (Bailiwick of Guernsey) Law, 2002, section 100(2), Schedule 6, Part II, with effect from 5th November, 2002;⁴

the words in square brackets in subsection (6) were substituted, and subsection (7) was inserted, by the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Amendment) (Guernsey) Law, 1988, respectively section 1(a) and section 1(b), with effect from 7th June, 1988;

the words and figure in square brackets within subsection (7) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

The functions, rights and liabilities of the Policy Council and of its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁵

In accordance with the provisions of the Fees, Charges and Penalties (Guernsey) Law, 2007, section 1, Schedule, with effect from 19th May, 2008, the power to prescribe by Ordinance the fees therein referred to and payable under this Law may be exercised by Regulation.

The Passenger Vessels (Bailiwick of Guernsey) Ordinance, 1970 has since been repealed by the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2013, section 3, with effect from 4th February, 2013, subject to the savings in section 5 of the 2013 Ordinance.

The date in square brackets in paragraph (a) of subsection (1) shown,

incorrectly, in the printed version of this section as "1988" should read "1989".

Mooring charges.

2. (1) There shall be payable by the owners of boats in respect of moorings allocated to them by or on behalf of the Board in the Harbour of Saint Peter Port or the Harbour of Saint Sampson, as the case may be, such charges (hereinafter referred to as "**mooring charges**") as the States may, from time to time, by [Resolution] prescribe and any such [Resolution] may prescribe different mooring charges in respect of different boats or different classes of boats, in respect of different moorings, in respect of different parts of the said Harbours, or in respect of each of the said Harbours and any such [Resolution] may make provision for the exemption from the payment of mooring charges of the owners –

- (a) of such boats or classes of boats as may be specified in any such [Resolution],
- (b) of boats moored in such parts of each of the said Harbours as may be specified in any such [Resolution].

(2) Any mooring charges which become payable in pursuance of the provisions of this Law may be recovered by the Board as a civil debt.

[(3) A Resolution under subsection (1) prescribing mooring charges may, subject to such conditions as may be specified in the Resolution, authorise the Board to amend the amounts of those charges in respect of any twelve month period or periods so specified by an amount not exceeding the change in the Guernsey Retail Prices Index during such earlier twelve month period or periods as may be so specified.]

NOTES

In section 2,

the word "Resolution" in square brackets, wherever occurring, was substituted by the Harbours, Moorings and Pilotage (Fees and Dues) Law, 1986, section 3(a), with effect from 1st April, 1987;

subsection (3) was inserted by the Harbour Dues, Harbour Charges and Mooring Charges (Guernsey) (Amendment) Law, 2001, section 2, with effect from 20th November, 2001.

In accordance with the provisions of the Fees, Charges and Penalties (Guernsey) Law, 2007, section 1, Schedule, with effect from 19th May, 2008, the power to prescribe by Resolution the fees therein referred to and payable under this Law may be exercised by Regulation.

The following Regulations have been made under section 2

*Mooring Charges (Guernsey) Regulations, 2020;
Mooring Charges (Guernsey) Regulations, 2021.*

Removal of boats.

3. (1) The Board may, from time to time –
- (a) remove or cause to be removed from any part of the Harbour of Saint Peter Port or the Harbour of Saint Sampson, as the case may be, for safe custody any boat or remove or cause to be removed from one position in either of the said Harbours to another such position any boat which has been permitted to remain at rest therein –
 - (i) in contravention of any enactment or any instruction given by or on behalf of the Board, or
 - (ii) in such position or in such condition or in such

circumstances as to cause obstruction to other persons using either of the said Harbours or as to be likely to cause danger to such other persons, or

- (iii) in such position or in such condition or in such circumstances as to appear to the Board to have been abandoned,

or which has broken down,

- (b) if it appears to the Board that a boat has been abandoned in either of the said Harbours, or is so unsound as to be unlikely to be restored to a sea-worthy condition, sell or otherwise dispose of it,
- (c) apply the proceeds of sale by the Board of a boat in or towards the satisfaction of any costs incurred by the Board in connection with the removal, storage and disposal thereof,
- (d) recover as a civil debt any such costs as aforesaid so far as not satisfied by virtue of the last foregoing paragraph.

(2) Any sums received by the Board on a sale of a boat in pursuance of the provisions of paragraph (b) of the last preceding subsection, after deducting any sum applied thereout by virtue of paragraph (c) of the said subsection, shall accrue to the States and shall be credited to the account of the Harbour of Saint Peter Port or the account of the Harbour of Saint Sampson, as the case may be.

Savings.

4. Any Ordinance made under any Law repealed by this Law and in force immediately before the coming into force of this Law shall continue in force as though it were made under the provisions of this Law until repealed by an Ordinance made under this Law.

[Ordinances and Resolutions.]

5. Any power conferred by this Law to make any Ordinance or to pass any Resolution shall be construed as including a power to vary or repeal the Ordinance or, as the case may be, to vary or revoke the Resolution.]

NOTE

Section 5 was substituted by the Harbours, Moorings and Pilotage (Fees and Dues) Law, 1986, section 3(b), with effect from 1st April, 1987.

Interpretation.

6. (1) In this Law, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"insurance company" includes an underwriter or association of underwriters,

"the Board" means the States [States' Trading Supervisory Board],

"boat" means anything made for the carriage by water of human beings or of property and includes any gear therein and the hull, engine and any other part of a boat,

"foreshore" means any place lying between the lines of high water and low water at equinoctial spring tides,

"the Harbour of Saint Peter Port" and **"the Harbour of Saint Sampson"** includes the quays, jetties, slipways, hards and roads adjacent to those Harbours respectively and under the administration of the Board,

"the Islands" means the Islands of Guernsey, Herm and Jethou,

"power-driven boat" means any boat propelled by machinery and every boat under power whether under sail or not,

"speedboat" means any power driven boat capable of travelling on the sea at a speed in excess of seventeen knots.

(2) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, repealed and re-enacted or replaced, with or without modifications, by or under any other enactment including this Law.

NOTES

In section 6, the words in square brackets in the definition of the expression "the Board" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016.⁶

The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the States' Trading Supervisory Board and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁷

Repeals.

7. The Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1968^d, and the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Amendment) (Guernsey) Law, 1969^e, are hereby repealed.

Citation.

8. This Law may be cited as the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972.

Commencement.

9. This Law shall come into force on such date as the States may by Ordinance appoint.

NOTES

The Law was brought into force on 1st March, 1973 by the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972 (Commencement) Ordinance, 1973, section 1.

^d Ordres en Conseil Vol. XXI, p. 263.

^e No. VIII of 1969.

¹ Subsection (2), subsection (3) and paragraph (c) and paragraph (d) of subsection (1) were previously amended by the Vessels and Speedboats (Compulsory Third-Party Insurance) (Variation of Cover) (Guernsey) Ordinance, 1981, section 1, with effect from 1st April, 1982.

² These words were previously substituted, in part, by the States Board of Administration (Transfer of Functions) Law, 1974, section 4, Schedule, with effect from 1st August, 1974.

³ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), with effect from 6th May, 2004.

⁴ The words in the second pair of square brackets in subsection (5) were originally inserted by the Insurance Business (Guernsey) Law, 1986, section 67, Schedule 6, with effect from 1st July, 1987.

⁵ The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, the Advisory and Finance Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 1(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the powers and functions and all rights and liabilities of the Advisory and Finance Committee and of its President arising under or by virtue of section 1 of this Law were previously transferred to and vested in them from, respectively, the States Board of Administration and its President by the States Board of Administration (Transfer of

Functions) Law, 1974, section 2(4) and (5), with effect from 1st August, 1974, subject to the savings in section 3 of the 1974 Law.

⁶ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(b), Schedule 2, paragraph 2(b), with effect from 6th May, 2004.

⁷ The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them from, respectively, the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(b), Schedule 2, paragraph 2(b), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.