

# ORDER IN COUNCIL

**XV**

**1972**

ratifying a Projet de Loi

ENTITLED

## **The Telecommunications (Guernsey) Law, 1972**

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(Registered on the Records of the Island of Guernsey  
on the 26th day of September, 1972.)

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1972.

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 26th day of September, 1972, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present:—Bertram Guy Blampied, Esquire, O.B.E., Stanley Walter Gavey, Esquire, Gilbert Carey de Jersey, Esquire, C.B., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Richard Alan Kinnerly, Esquires, and Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 14th day of August, 1972, ratifying a *Projet de Loi* entitled "The Telecommunications (Guernsey) Law, 1972", 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 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 and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

## At the Court at Balmoral

The 14th day of August 1972

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 10th day of August 1972, 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 31st day of January, 1968, the States of Deliberation at a meeting held on the 28th day of June, 1972, approved a Bill or “Projet de Loi” entitled “The Telecommunications (Guernsey) Law, 1972” which Bill is designed to apply to the Bailiwick of Guernsey, 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 17th day of July, 1972, 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 States of the Island of Alderney at a meeting held on the 19th day of July, 1972, considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the

same to Alderney. 4. That the said Bill or "Projet de Loi" is in the words and figures 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 Telecommunications (Guernsey) Law, 1972" and to order that the same shall have force of law in the Bailiwick of Guernsey.'

"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 Bailiwick of Guernsey.

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.

*W. G. Agnew.*

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

## PROJET DE LOI

ENTITLED

### **The Telecommunications (Guernsey) Law, 1972**

#### ARRANGEMENT OF SECTIONS

*Section*

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# PROJET DE LOI

ENTITLED

## **The Telecommunications (Guernsey) Law, 1972**

THE STATES, in pursuance of their Resolution of the thirty-first day of January, nineteen hundred and sixty-eight, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### PART I

#### *Constitution and proceedings of the Board*

Establish-  
ment of  
the Board.

1. There shall be established and constituted in accordance with the succeeding provisions of this Part of this Law a committee of the States to be styled the States Telecommunications Board (hereinafter referred to as "the Board") which shall exercise the powers and perform the duties conferred or imposed upon it by or under the provisions of this Law.

Constitu-  
tion of  
the Board.

2. (1) The Board shall consist of:—
- (a) a President who shall be a member of the States; and
  - (b) six other members (hereinafter referred to as "ordinary members")—
    - (i) four of whom shall be members of the States; and
    - (ii) two of whom shall not be required to be members of the States.

(2) The President and the four ordinary members referred to in sub-paragraph (i) of paragraph (b) of the last preceding subsection shall be elected by the States.

(3) The two ordinary members referred to in sub-paragraph (ii) of paragraph (b) of subsection (1) of this section first elected shall be elected by the States on the nomination of the States Telephone Council in office immediately before the coming into force of this Law and thereafter the said two ordinary members shall be elected by the States on the nomination of the Board.

(4) The term of office of the person first elected as President of the Board in pursuance of the provisions of subsection (2) of this section shall expire on the thirtieth day of April, nineteen hundred and seventy-five, and thereafter the President of the Board shall hold office for a period of three years.

(5) Two ordinary members of the Board shall retire from office on the thirtieth day of April, nineteen hundred and seventy-four and thereafter two ordinary members shall retire on the thirtieth day of April terminating each succeeding period of one year.

(6) The ordinary members to retire in accordance with the provisions of the last preceding subsection shall be the ordinary members who have held office longest since they were last elected or re-elected by the States save that when more than two ordinary members were elected on the same day the order of their retirement shall be determined by agreement or failing such agreement by lot.

3. (1) Each member of the Board, other than the member presiding at a meeting thereof, shall have Meetings of the Board.

one vote and the person so presiding shall in the case of an equality of votes have a casting vote.

(2) A decision of a majority of the members of the Board present and voting at a meeting shall be a decision of the Board.

(3) The quorum for a meeting of the Board shall be four members and, subject to the preceding provisions of this section, the Board shall regulate its own procedure.

## PART II

### *Exclusive privilege of the States with respect to telecommunications*

Exclusive  
privilege  
of the  
States with  
respect to  
telecom-  
munica-  
tions.

4. (1) Subject to the following provisions of this Law, the States, acting by and through the Board, shall within the Bailiwick have the exclusive privilege of running systems for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy of—

- (a) speech, music and other sounds;
- (b) visual images;
- (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sound or visual images; and
- (d) signals serving for the actuation or control of machinery or apparatus.

(2) In the case of an infringement, in relation to a system not extending beyond the Bailiwick, of the privilege conferred by the foregoing subsection, the person running the system in relation to which the infringement occurs (or, if different people run

different parts of it, each of them), shall be guilty of an offence and liable:—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment;
- (b) on summary conviction, to a fine not exceeding four hundred pounds;

and, in the case of an infringement, in relation to a system extending beyond the Bailiwick, of that privilege, the person running the portion of the system within the Bailiwick (or, if different people run different parts of it, each of them) shall be guilty of an offence and similarly liable.

(3) In any proceedings in respect of an offence under this section consisting in the running of a system in the case of which, at the time of the commission of the offence, different parts were run by different persons, it shall be a defence for the defendant to prove that a part of the system had been included without his knowledge and that, had it not been, the running of the system would not have constituted an infringement of the privilege conferred by subsection (1) of this section.

5. (1) The privilege conferred by subsection (1) of the last foregoing section is not infringed by—

- (a) the running of a system in the case of which the only agency involved in the conveyance of things thereby conveyed is light and the things thereby conveyed are so conveyed as to be capable of being received or perceived by the eye and without more;
- (b) the running by a person of a system in the case of which all the apparatus comprised therein is situate either—

General classes of acts not infringing the telecommunications privilege.

- (i) on a single set of premises occupied by him; or
- (ii) in a vehicle, vessel, aircraft or hovercraft or in two or more vehicles, vessels, aircraft or hovercraft mechanically coupled together; or
- (c) the running by a single individual of a system in the case of which—
  - (i) all the apparatus comprised therein is under his control; and
  - (ii) everything conveyed by it that falls within paragraphs (a) to (d) of the said subsection (1) is conveyed solely for domestic purposes of his.

(2) In the case of a business carried on by a person, the said privilege is not infringed by the running, for the purposes of that business, of a system with respect to which—

- (a) in a case in which all the apparatus therein comprised is situate in the Bailiwick, no person except him or the Board is concerned in the control of the apparatus;
- (b) in any other case, no person except him or the Board is concerned in the control of so much of the apparatus as is so situate:

Provided—

- (i) that nothing falling within paragraphs (a) to (d) of subsection (1) of the last foregoing section is conveyed by the system by way of rendering a service to another;
- (ii) that, in so far as sounds or visual images are conveyed by the system, they are not conveyed for the purpose of their being heard or seen by persons other than the person carrying on that business or any

servants of his engaged in the conduct thereof;

(iii) that in so far as such signals as are mentioned in paragraph (c) of that subsection are conveyed by the system, they are not conveyed for the purpose of imparting matter otherwise than to the person carrying on that business, any servants of his engaged in the conduct thereof or things used in the course of that business and controlled by him; and

(iv) that, in so far as such signals as are mentioned in paragraph (d) of that subsection are conveyed by the system, they are not conveyed for the purpose of actuating or controlling machinery or apparatus used otherwise than in the course of that business.

(3) In the case of a system in the case of which all the apparatus therein comprised is let on hire by the Board, the said privilege is not infringed by the running of the system by the person to whom the apparatus is let on hire; and in the case of a system in the case of which part of the apparatus comprised therein consists of apparatus let on hire by the Board to a person, the said privilege is not infringed by the running by him of so much of the system as comprises the last-mentioned apparatus.

(4) In this section "business" includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporate, and "vessel" means a vessel of any description used in navigation.

Acts relating to broadcasting not infringing the telecommunications privilege.

6. (1) The privilege conferred by subsection (1) of section four of this Law is not infringed by a broadcasting authority by reason only of the transmission by it, by wireless telegraphy, of sounds or visual images from a transmitting station for general reception direct from that station, nor is it infringed by the reception of sounds or visual images transmitted, by wireless telegraphy, from a transmitting station for general reception direct from that station or through the medium of a relay service licensed under the Wireless Telegraphy Act, 1949.

(2) In this section "broadcasting authority" means a person licensed under the Wireless Telegraphy Act, 1949, to broadcast programmes for general reception or to operate a broadcast service and "wireless telegraphy" has the same meaning as in that Act.

Saving for things done under licence.

7. (1) A licence may be granted by the Board, either unconditionally or subject to any conditions specified in the licence, for the running of any such system falling within subsection (1) of section four of this Law as is specified in the licence; and nothing done under, and in accordance with, a licence granted under this subsection shall constitute an infringement of the privilege conferred by that subsection.

(2) A licence granted under the foregoing subsection shall, unless previously revoked, continue in force for such period as may be specified therein.

(3) A licence granted under subsection (1) of this section may be granted either to all persons, to persons of a class or to a particular person, and may include (without prejudice to the power to impose conditions conferred by that subsection) conditions requiring the rendering to the Board of a

payment on the grant of the licence or the rendering to it of periodic payments during the currency of the licence, or both.

(4) A payment required by virtue of this section to be rendered to the Board may be recovered as a civil debt due to the States.

(5) A licence granted under subsection (1) of this section (not being one expressed to be granted to a specified person) shall be published in "La Gazette Officielle" or in such other manner as appears to the Board to be appropriate for bringing it to the attention of the persons for whose benefit it will enure, and a licence expressed to be so granted shall be in writing.

(6) For the purposes of a licence granted under subsection (1) of this section, the definition of a class of persons may be framed by reference to any circumstances whatever.

### PART III

#### *Powers and duties of the Board*

8. (1) The Board shall have power:—

Powers of  
the Board.

- (a) to provide telecommunications services;
- (b) to provide data processing services;
- (c) to perform services for Her Majesty's Government in the United Kingdom, Her Majesty's Government in Northern Ireland, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark, or the Government of a country or territory outside the Bailiwick or for the Post Office; and



- (d) to provide any body or person with assistance if, in the opinion of the Board, the consequences of doing so will enure for its benefit.

(2) The powers conferred by the last foregoing subsection on the Board include power for it:—

- (a) to construct, manufacture, produce, purchase, take on hire or hire purchase, install, maintain and repair anything required for the purposes of its business;
- (b) to construct, manufacture, produce, purchase for supply to others any articles of a kind similar to any so required and to install, maintain, repair and test for others articles of such a kind;
- (c) to provide others with the services of persons employed by it for the purpose of undertaking for them tasks of a kind which, in the course of the provision or performance by it of any service falling within the foregoing subsection, are undertaken by persons so employed;
- (d) to provide, for the benefit of others, consultancy and advisory services concerning anything that it does in exercise of its powers or has power to do and facilities for the training of persons for any purpose connected with anything that it so does or has power to do;
- (e) to enter into and carry out agreements with any person for the carrying on by him, whether as its agent or otherwise, of any of the activities which itself may carry on or for the carrying on jointly by him and it of any of those activities;

- (f) to do anything for the purpose of advancing the skill of persons employed by it or that of persons, who, though not so employed, are engaging themselves, or have it in contemplation to engage themselves, in work of a kind in the case of which it has or may have a direct or indirect concern in the products thereof;
- (g) to do all other things which in its opinion, are requisite or expedient to facilitate the proper carrying on of its business.

(3) The provisions of this section shall not be construed as limiting any power of the Board conferred by or under any other provision of this Law.

9. (1) The Board shall keep proper accounts and other records and shall prepare in respect of each accounting year a statement of accounts in a form which shall conform to the best commercial standards and shall submit that statement as soon as may be to the States.

*Duty of the Board as regards accounts and audit thereof.*

(2) The accounts of the Board shall be audited by auditors appointed by the States.

## PART IV

### *Appointment of the States Director of Telecommunications Services, officers, servants and agents*

10. A person from time to time appointed in that behalf by the States Appointments Board shall be the chief executive officer of the Board by the style of the States Director of Telecommunications Services.

*Appointment of Director of Telecommunications Services.*

11. The States Civil Service Board may appoint for the purposes of this Law such administrative,

*Appointment of other staff.*

professional and clerical officers as may, after consultation with the Board, seem to it to be necessary and the Board may for the said purposes appoint such other officers and such deputies, agents and servants as may seem to it to be necessary.

## PART V

### *Charges and other terms and conditions applicable to services and general provisions as to those services*

Charges for the provision of telecommunications services.

12. (1) The States may, from time to time, by Resolution make such provision as they may deem necessary or expedient for determining either or both of the following, namely, the charges which (save in so far as they are the subject of an agreement between the Board and a person availing himself of the services to which those charges relate) are to be made by the Board as respects the following services:—

- (i) local calls;
- (ii) the renting of exclusive exchange line connections.

(2) Subject to the provisions of the last foregoing subsection, the Board may, from time to time, determine:—

- (a) the charges for any of the services provided by it;
- (b) the other terms and conditions which are to be applicable to those services.

(3) Any Resolution of the States fixing any charges as respects any of the services provided by the States Telephone Council in office immediately before the coming into force of this Law shall, with the substitution, for references to the said States Telephone Council, of references to the Board, have effect as if it were a Resolution under subsection (1)

of this section and charges fixed under any such first-mentioned Resolution shall have effect as if fixed by a Resolution under the said subsection until replaced by charges fixed by a Resolution so made.

(4) In this section the expression "local call" means a call made to an exchange line telephone in any Island of the Bailiwick from an exchange line telephone in the same Island.

(5) A charge exigible by virtue of this section may be recovered as a civil debt due to the States.

(6) The power conferred on the States under subsection (1) of this section to pass a Resolution shall be construed as including a power exercisable in the like manner to vary or repeal the Resolution.

13. (1) No proceedings in contract or in tort shall lie against the States in respect of any loss or damage suffered by any person by reason of:—

Exclusion  
of liability  
of the  
States and  
officers of  
the Board  
in relation  
to telecom-  
munications.

- (a) failure to provide, or delay in providing, a telecommunications service, apparatus associated therewith or a service ancillary thereto;
- (b) failure, interruption, suspension or restriction of a telecommunications service or a service ancillary thereto or delay of, or fault in, communication by means of a telecommunications service; or
- (c) error in, or omission from, a directory for use in connection with a telecommunications service.

(2) No officer of the Board shall be subject, except at the suit of the States, to any civil liability for any loss or damage in the case of which liability of the States therefor is excluded by the foregoing subsection.

## PART VI.

*Powers and duties of the Board as to work*

Works  
which  
Board may  
execute.

14. (1) Subject to the succeeding provisions of this Part of this Law, the Board may place and maintain a telegraph and posts under, in, upon, over, along or across any land or building and may alter or remove the same.

(2) In the exercise of the powers vested in it by virtue of the provisions of the last foregoing subsection, the Board shall do as little damage as may be and the States shall make full compensation to all persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers by the Board.

(3) Any dispute arising between any person and the States as to the cost of making good any damage for the purposes of assessing any compensation payable under the provisions of the last preceding subsection shall be determined by arbitration in accordance with the provisions of section seventeen of this Law.

(4) Any person aggrieved by any action which the Board has taken or proposes to take under the provisions of subsection (1) of this section or of subsection (1) of section fifteen of this Law may appeal therefrom—

- (a) in the Island of Guernsey, to the Royal Court sitting as an Ordinary Court;
- (b) in the Island of Alderney, to the Court of Alderney;
- (c) in the Island of Sark, to the Court of the Seneschal,

on the grounds that the action is unreasonable and such court may make such order as it may

deem to be just in all the circumstances of the case.

(5) The decision of a court on any appeal under the provisions of subsection (4) of this section shall be final.

15. (1) The Board shall not place any work by the side of any land or building, so as to stop, hinder or interfere with ingress or egress for any purpose to or from the same, or place any work under, in, upon, over, along or across any land or building without the previous consent in every case of the owner, lessee, and occupier of such land or building:

Board not to place work interfering with access to land etc. without consent.

Provided that if the Board places any works in, upon, over, along or across any public highway, it may, without consent, place and maintain a telegraph over, along or across any land or building adjoining to or near the public highway subject to the following provisions:—

- (a) where the Board by virtue of the power conferred by this Proviso places a telegraph directly over any dwelling-house, it shall not place it at a less height above the roof thereof than six feet if the owner, lessee or occupier thereof objects to the Board placing it at a less height;
- (b) if at any time the owner, lessee or occupier of any building or land adjoining to a building, directly over which building or land the Board by virtue of the power conferred by this Proviso places a telegraph, desires to raise the building to a greater height, or to extend it over such land, the Board shall increase the height or otherwise alter the position of the telegraph, so that the same may not interfere with the raising

or extension of the building, within fourteen days after being served by the owner, lessee or occupier with a notice of his intention to raise or extend the building;

- (c) the States shall make full compensation to the owner, lessee and occupier of any land or building over, along or across which the Board by virtue of the power conferred by this Proviso places a telegraph and which may be shown to be prejudicially affected thereby:

Provided also that the consent of any person occupying as a tenant from year to year or for any term less than a year shall not be required nor shall any person so occupying be entitled to such compensation as aforesaid.

(2) Any dispute arising between any person and the States as to the extent by which any land or building is prejudicially affected for the purposes of assessing any compensation payable under the provisions of the first Proviso to the last preceding subsection shall be determined by arbitration in accordance with the provisions of section seventeen of this Law.

Restriction  
of power  
of entry  
for con-  
struction  
and main-  
tenance.

16. Before entering on land or buildings for the purposes of the construction or maintenance of any telegraphic line the Board shall, except in case of emergency, endeavour to make an arrangement with the occupier of the land as to the terms of entry for such purpose and if any difference arises between the Board and the occupier it shall be determined by arbitration in accordance with the provisions of the next succeeding section.

Arbitration.

17. (1) Any matter which is required in pursuance of the provisions of this Part of this Law to be referred to arbitration shall be determined by two

arbitrators one of whom shall be appointed by the Board and one by the other party to the dispute, difference or question save that if an arbitrator is not appointed by the said other party he shall be appointed by the Board, and any arbitrator so appointed shall be deemed to be the arbitrator appointed by the said other party.

(2) Arbitrators appointed as aforesaid shall, before commencing to determine any matter referred to them under this section, nominate an umpire who shall determine the matter if the arbitrators disagree.

(3) The decision of the arbitrators or of the umpire, as the case may be, shall be final.

18. In this Part of this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpreta-  
tion of  
Part VI.

“dwelling-house” means any premises, or any part of any premises, wholly or principally used or usable for the purposes of human habitation and includes any part of such a dwelling;

“land” means land not being a public highway and not being land by the side and forming part of a public highway;

“public highway” includes any road, street, lane or public place;

“owner” in relation to any land or building means:—

(a) where that land or building is the subject of saisie proceedings which have resulted in the making of an interim



vesting order, the person in whose favour such order has been made;

- (b) where that land or building is not the subject of saisie proceedings but is the subject of a vested right of usufruct, the usufructuary;
- (c) where that land or building is not the subject of such saisie proceedings or of such right of usufruct—
  - (i) the beneficial owner, if that dwelling is not held in trust, or
  - (ii) the trustees, if that land or building is held in trust;

“work” includes telegraphs and posts.

## PART VII

### *General Offences*

Punishment  
of officers  
of Board  
for mis-  
conduct  
respecting  
messages.

19. Any officer of the Board who:—

- (a) wilfully or negligently omits or delays to transmit or deliver any message; or
- (b) by any wilful or negligent act or omission prevents or delays the transmission or delivery of any message;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding two hundred pounds.

Punishment  
of officers  
of Board  
for disclos-  
ing or inter-  
cepting  
messages.

20. Any officer of the Board, who, contrary to his duty, discloses or in any way makes known or intercepts the contents or any part of the contents of any telegraphic message or any message entrusted to the Board for the purpose of transmission shall be guilty of an offence and liable, on conviction, to

imprisonment for a term not exceeding twelve months or to a fine or to both such imprisonment and such fine.

21. (1) Any person who forges or wilfully and without due authority alters a telegram or utters a telegram knowing the same to be forged, or wilfully and without due authority alters, or who transmits by telegraph as a telegram, or utters as a telegram, any message or communication which he knows to be not a telegram, shall, whether he had or had not an intent to defraud, be liable:—

Forgery  
and  
improper  
disclosure  
of telegrams.

(a) on conviction on indictment, to imprisonment for a term not exceeding twelve months or to a fine, or to both such imprisonment and such fine;

(b) on summary conviction, to a fine not exceeding one hundred pounds.

(2) Any officer of the Board who improperly divulges to any person the purport of any telegram shall be liable:—

(a) on conviction on indictment, to imprisonment for a term not exceeding twelve months or to a fine or to both such imprisonment and such fine;

(b) on summary conviction, to a fine not exceeding fifty pounds.

(3) In this section the expression "telegram" means a written or printed message or communication sent to or delivered at a post office nominated in that behalf by the Board for transmission by telegraph, or delivered by or on behalf of the Board as a message or communication transmitted by telegraph.

Defences in  
relation to  
certain  
offences.

22. In any proceedings against a person in respect of an offence under section nineteen of this Law consisting in the improper divulgence of a message or communication or an offence under section twenty of this Law or under the last preceding section, it shall be a defence for him to prove that the act constituting the offence was done in obedience to an express authority in writing of Her Majesty's Procureur.

Prohibition  
of placing  
injurious  
substances  
in or  
against  
telephone  
kiosks.

23. (1) A person shall not place or attempt to place in or against any telephone kiosk or cabinet any fire, match, light, explosive substance, dangerous substance, filth, noxious or deleterious substance or fluid, and shall not commit a nuisance in or against any telephone kiosk or cabinet, and shall not do or attempt to do anything likely to injure the kiosk or cabinet or its appurtenances or contents.

(2) If any person acts in contravention of this section he shall be guilty of an offence and liable, on conviction, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

Prohibition  
of affixing  
placards,  
notices etc.  
on telegraph  
posts.

24. (1) A person shall not without the authority of the Board affix or attempt to affix any placard, advertisement, notice, list, document, board or thing in or on, or paint or tar, any telegraph post or other property belonging to or used by or on behalf of the States for the purposes of this Law, and shall not in any way disfigure any such post or property.

(2) If any person acts in contravention of this section he shall be liable, on conviction, to a fine not exceeding twenty-five pounds.

25. (1) Any person who places or maintains in or on any house, wall, door, window, post, pillar or other place belonging to him or under his control any of the following words, letters or marks, that is to say:—

Prohibition of false notices as to facilities for telephone calls and requirements as to removal.

- (a) the words “postal telegraph office” or “public telephone call box”;
- (b) any words, letters or marks which signify or imply or may reasonably lead the public to believe that any house or place is a place where the public may make telephone calls;

shall, when required by a notice in writing given by the Board to remove or efface any such words, letters or marks as aforesaid, comply with the requirements within such period as may be specified in the notice.

(2) If any person fails to comply with the requirements of a notice given under this section, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds, and, if the offence is continued after a previous conviction, to a fine not exceeding one pound for every day during which the offence so continues.

26. A person who—

- (a) sends, by means of a public telecommunications service, a message or other matter that is grossly offensive, or of an indecent, obscene or menacing character; or
- (b) for the purpose of causing annoyance, inconvenience or needless anxiety to another, sends by those means a message that he knows to be false or persistently

Penalisation of improper use of telecommunications services.

makes use for that purpose of public telecommunications services;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

Obstruction  
and  
molestation  
of officers  
of Board.

27. (1) If any person wilfully obstructs or molests, or incites anyone to obstruct or molest, an officer of the Board in the execution of his duty, or whilst in any premises belonging to or used by or on behalf of the States for the purposes of this Law, obstructs the course of business of the Board he shall be liable, on conviction, to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(2) Any officer of the Board may require any person guilty of any offence under this section to leave any such premises as aforesaid and, if the person so required refuses or fails to comply with the requirement, he shall be liable, on conviction, to a further fine not exceeding twenty pounds, and may be removed by any officer of the Board, and any officer of police shall on demand remove or assist in removing any such person.

Offences  
by bodies  
corporate.

28. Where an offence under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that

offence and shall be liable to be proceeded against accordingly.

29. If any person solicits or endeavours to procure any other person to commit an offence punishable on indictment under this Law, he shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding two years or to a fine or to both such imprisonment and such fine.

Endeavouring to procure the commission of an offence.

## PART VIII

### *Legal Proceedings*

30. (1) Without prejudice to the provisions of the Indictments (Guernsey) Law, 1950(a), in any legal proceedings for any offence committed or attempted to be committed, or any malicious, injurious or fraudulent act or thing done in, upon or with respect to the Board or the revenue of the Board, or with respect to or in connection with any telecommunications service provided by the Board or in any way concerning any property under the management or control of the Board it shall be sufficient to allege the property to belong to the States and to allege any such act or thing to have been done with intent to injure or defraud the States and it shall not be necessary to allege or to prove upon the trial or otherwise that the property was of any value.

Provisions as to forms of proceedings.

(2) Without prejudice as aforesaid, in any legal proceedings against any officer of the Board for any offence committed against this Law it shall be sufficient to allege that the alleged offender was an officer of the Board at the time of the commission of the offence, without stating further the nature or particulars of his employment.

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(a) Ordres en Conseil Vol. XIV, p. 323.

## PART IX

*Miscellaneous and general*

Entry and  
search of  
premises.

31. (1) If, in Guernsey, the Bailiff, or in Alderney, the Chairman of the Court of Alderney, or in Sark, the Seneschal of Sark, is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Law has been, or is being, committed, and that evidence of the commission of the offence is to be found on any premises specified in the information, he may grant a search warrant authorising any person or persons authorised in that behalf by the Board and named in the warrant, with or without any officer of police, to enter, at any time within one month from the date of the warrant, the premises specified in the information and to search the premises and examine and test any apparatus found thereon.

(2) Where, under this section, a person has a right to examine any apparatus on any premises, it shall be the duty of any person who is on the premises to give him any such assistance as he may reasonably require in the examination or testing of the apparatus.

(3) A person who:—

(a) obstructs a person in the exercise of powers conferred on him under this section; or

(b) fails or refuses to give to a person any assistance which he is, under this section, under a duty to give to him;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding four hundred pounds, and a person who discloses, otherwise than for the purposes of this Law or of a report of proceedings thereunder, any information obtained by means of

an exercise of powers conferred by this section, being information relating to a manufacturing process or trade secret, shall be guilty of an offence and liable:—

- (i) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both such imprisonment and such fine;
- (ii) on summary conviction, to a fine not exceeding four hundred pounds.

32. Nothing in this Law contained shall be taken to preclude the Board from interrupting, suspending or restricting any service provided by it. Saving provision for services by Board.

33. (1) Any person who, by himself or his agent, destroys or injures any telegraphic line such person shall not only be liable to pay to the States such expenses, if any, as the Board may incur in making good the said destruction or injury but also, if the telegraphic communication is carelessly or wilfully interrupted, shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty pounds per day for every day during which such interruption continues. Compensation and fine for injury to telegraph line of Board.

(2) Where a person liable to pay such daily fine as aforesaid is not authorised to execute such work as may be required for remedying the interruption, the interruption shall be deemed to continue either for the time during which it actually continues or for such less time as in the opinion of the court having cognisance of the case would have been sufficient for remedying the interruption by the Board.

(3) An act done to a telegraphic line in the course of work undertaken by any person in the legal exercise of a right shall not be deemed to be



wilful destruction of or injury to such telegraphic line, if notice of the intended exercise of such right has been served on the Board at least fourteen days prior to the commencement of the exercise of such right.

(4) Any expenses required by virtue of this section to be paid to the States may be recovered as a civil debt due to the States.

(5) This section shall be deemed to be in addition to and not in derogation of any other power or means which the States may have of recovering damages in respect of any such destruction or injury as is in this section mentioned at common law or otherwise.

Obligation  
of secrecy.

34. (1) Information obtained by a person in the course of the provision for another, by virtue of Part III of this Law, of data processing services or services connected therewith shall not, without consent of that other, be disclosed by the first mentioned person except for the purpose of performing duties in relation to those services or in such cases as may be required by law.

(2) A person who discloses information in contravention of the foregoing subsection shall be liable:—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both such imprisonment and such fine;
- (b) on summary conviction, to a fine not exceeding four hundred pounds.

35. (1) A certificate of the Board that a specified sum is due to the States from a specified person under or by virtue of the provisions of section twelve of this Law with respect to telecommunications services shall, in any proceedings instituted by the States against him or his legal personal representatives or against the States by him or his legal personal representatives, be evidence of that fact. Documentary evidence as to sums due for services.

(2) A certificate of the Board that a specified sum is due to the States from a specified person under an agreement with respect to telecommunications services provided by the Board shall (subject to any term of the agreement to the contrary), in any proceedings instituted by the States against him or his legal personal representatives or against the States by him or his legal personal representatives, be evidence of that fact.

(3) In any proceedings instituted by or against the States to which the rate at which a charge was levied at any time, in respect of a service, by an authority outside the Bailiwick is material, a certificate of the Board that the charge was levied at that rate at that time in respect of that service by that authority shall be conclusive evidence of that fact.

36. (1) Any instrument or document required or authorised to be executed or signed by the Board may be executed or signed on its behalf by such officers of the Board (whether described by name or by reference to their rank or office or class of office) as may be directed by the Board either generally or as respects any class of instruments or documents, or as may be directed by the Board as respects any particular instrument or document. Exercise of powers on behalf of Board.

(2) Any instrument or document purporting to be executed or signed by an officer of the Board

shall, until the contrary is proved, be deemed to have been duly executed or signed, without proof of the authority or official character of the person purporting to have executed or signed it.

Amendment to Appointments Board Law.

37. In section eight of the Law entitled "Loi sur la Constitution d'un Conseil de Nomination (1932)" registered on the second day of July, nineteen hundred and thirty-two(b), the words "de l'Ingénieur au Conseil des Téléphones" are hereby repealed.

Amendment to Public Thoroughfares Law.

38. In section five of the Public Thoroughfares (Guernsey) Law, 1958(c), the words "States of Guernsey Telephone Council" where those words occur are hereby repealed and the words "States Telecommunications Board" are hereby substituted therefor.

General interpretation.

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

"accounting year" means the period beginning on the date of the coming into force of this Law and ending on the thirty-first day of December, nineteen hundred and seventy-three, or any subsequent period of twelve months beginning with the end of a previous year;

"the Bailiwick" means the Bailiwick of Guernsey;

"enactment" includes any enactment of the Parliament of the United Kingdom;

"Her Majesty's Procureur" includes Her Majesty's Comptroller;

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(b) Ordres en Conseil Vol. IX, p. 246 and p. 275.

(c) Ordres en Conseil Vol. XVII, p. 440.

“officer of the Board” means any officer, agent or servant for the time being appointed under and for the purpose of this Law and includes the States Director of Telecommunications Services;

“officer of police” means—

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limit of his jurisdiction, a member of the special constabulary of the Island of Guernsey;
- (b) in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney; and
- (c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of Guernsey;

“the Post Office” means the authority established by section six of the Post Office Act, 1969;

“the States” means the States of Guernsey;

“telegraph” means a wire or wires used for the purpose of telegraphic communication with any casing, coating, tube, or pipe enclosing the same, and any apparatus connected therewith for the purpose of telegraphic communication and shall include any apparatus for transmitting messages or other communications by means of electric signals;

“telegraphic line” means telegraphs, posts, and any work (within the meaning of Part VI of this Law) and also any cables, apparatus, pneumatic or other tube, pipe or thing whatsoever used for the purpose of transmitting telegraphic messages or maintaining tele-

graphic communication and includes any portion of a telegraphic line;

“telegraphic post” means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph;

“the Wireless Telegraphy Act 1949” means that Act as extended to the Bailiwick by the Wireless Telegraphy (Channel Islands) Order, 1952.

(2) Any reference in this Law to data processing shall be construed as including a reference to the storage and retrieval of information.

(3) 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.

(4) The Interpretation (Guernsey) Law, 1948(*d*), shall apply to the interpretation of this Law throughout the Bailiwick.

Citation.

40. This Law may be cited as the Telecommunications (Guernsey) Law, 1972.

Commencement.

41. This Law shall come into force on such day as the States may by Ordinance appoint and different days may be so appointed for the coming into force of different Parts of this Law.

R. H. VIDELO,

Her Majesty's Greffier.

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(*d*) Ordres en Conseil Vol. XIII, p. 355.