

PROJET DE LOI

ENTITLED

The Tourist (Amendment) (Guernsey) Law, 1998 *

[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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* No. XI of 1998 (Ordres en Conseil Vol. XXXVIII, p. 307); as amended by 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).

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The Tourist (Amendment) (Guernsey) Law, 1998

THE STATES, in pursuance of their Resolution of 17th December, 1997^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Amendments to the Tourist Law.

1. The Tourist (Guernsey) Law, 1948^b as amended^c ("the Law") is further amended in accordance with the succeeding provisions of this Law.

Duties of the [Committee for Economic Development].

2. Apart from its specific duties under the Law, the duties of the [Committee for Economic Development] shall be such as may be approved from time to time by Resolution of the States, and in consequence section 2 of the Law is repealed.

NOTES

In section 2, and the marginal note thereto, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

^a On Article 11 of Billet d'État No. XXII of 1997.

^b Ordres en Conseil Vol. XIII, p. 329.

^c Ordres en Conseil Vol. XXI, p. 104; Recueil d'Ordonnances Tome XVIII, p. 20; Ordres en Conseil Vol. XXVIII, p. 275; Vol. XXXI, p. 278.

Unauthorised provision of accommodation.

3. In section 3 of the Law^d, for the words "for two or more persons at a time for any period, in the case of each such person, of three weeks or less" there is substituted "for any person for a period of three weeks or less".

Period of validity of boarding permits.

4. In section 4 of the Law, for paragraph (a) there is substituted –

"(a) A boarding permit shall have effect from 1st April in the year during which it is issued, or from the date of issue if later in that year or if so specified in the permit, until 31st March in the following year."

Grant, refusal etc. of boarding permits.

5. For section 5 of the Law there is substituted –

"Grant, refusal etc. of boarding permits.

5. (1) In considering whether to grant or refuse, suspend, revoke, attach conditions to, or vary any conditions of, a boarding permit the Board shall take into consideration –

- (a) the nature of the accommodation, amenities, and service provided or to be provided,
- (b) the overall nature, purpose and operation of the building or establishment in which accommodation is provided or to be provided,
- (c) the charges made or to be made for sleeping accommodation, and for meals, service and matters ancillary thereto, provided or to be provided for persons so accommodated in

^d The material part of section 3 was substituted by the Tourist (Amendment) Law, 1967 (Ordres en Conseil Vol. XXI, p. 104).

relation to what is or is to be provided for those charges,

- (d) the interests taken as a whole of visitors generally and of the inhabitants of the Islands or any one or more of them,
- (e) the breach (if any) by the applicant for or holder of a boarding permit of any duty laid upon him by this Law or any Ordinance made thereunder,
- (f) any pertinent resolutions of the States.

(2) The Board must attach to every boarding permit a condition prescribing the maximum number of persons for whom the holder may provide sleeping accommodation for reward pursuant to the permit, excluding –

- (a) children under the age of 10 years, and
- (b) other persons accommodated in such circumstances as the condition may specify."

Representations and notices.

6. For section 6 of the Law there is substituted –

"Representations and notices.

6. (1) Before taking any decision –

- (a) to refuse an application for a boarding permit,
- (b) to revoke or suspend a boarding permit, or
- (c) to vary (otherwise than by way of removal) the conditions of a boarding permit,

the Board shall notify the applicant for or holder of the boarding permit, as the case may be, in writing, that it is considering taking that decision, for the reasons stated in the notice, and of his rights under subsection (2) of this section.

(2) A person to whom notice is given under subsection (1) of this section may within 28 days make representations to the Board in writing, orally in person, or orally by a representative, as to why the decision under consideration should not be taken; but, in the case of a decision within paragraph (b) or (c) of that subsection, if the Board is of the opinion that the public interest may require the decision to be taken sooner, the period of 28 days provided for in this subsection may be reduced to such period, not being less than 2 working days, as may be specified in the notice.

(3) The Board must not, without the agreement of the applicant for or holder of the boarding permit concerned, take any decision within subsection (1) of this section before the expiration of the period allowed for making representations pursuant to subsection (2) of this section, and must have regard to any representations so made.

(4) Subject to subsection (3) of this section, a decision within subsection (1) of this section takes effect when the applicant for or holder of the boarding permit concerned is notified in writing of the decision and the reason therefor, or on such later date as may be so notified; and that notification must be given within 14 days of the date of the decision.

(5) For the purposes of this section a working day is any day other than a Saturday, a Sunday, or a day declared by Ordinance of the States to be a public holiday."

Time for appealing.

7. In section 7 of the Law, immediately after "the Royal Court sitting as an Ordinary Court" there is inserted ", which appeal must be instituted by a summons served on the President of the Board within 2 months of the date of the

decision,".

Inspectors.

8. (1) In section 11 of the Law for "appoint in writing such inspector" there is substituted "appoint in writing such persons, whether or not employees of the States, as inspectors".

(2) In section 12(1) of the Law for "a certificate of his appointment signed by a member of the Board" there is substituted "a document identifying him as such an inspector".

Classification and grading.

9. (1) Immediately after the words in section 13(a)(ii) of the Law there is inserted "in such manner, including the use of symbols and insignia, as the Board considers appropriate".

(2) In section 13(b) of the Law, immediately after "publish" there is inserted ", and to appose to the exterior of any such premises a plaque, which shall remain the property of the Board, indicative of,".

(3) For section 13(c) of the Law there is substituted –

"(c) In so grading and describing any premises the Board may take into account –

- (i) the nature and condition of the accommodation provided, of the premises overall, and of their surroundings,
- (ii) the nature and quality of the fixtures and fittings related to the accommodation,
- (iii) the nature, quality and presentation of catering associated with the accommodation,
- (iv) the nature and quality of the facilities offered in

association with the accommodation,

- (v) the nature and quality of the service provided,
- (vi) any minimum requirements and guidelines published by the Board in respect of the grading and description of premises."

Offences.

10. (1) For section 15(c) of the Law there is substituted –

"(c) Any person who by way of business exhibits or publishes a sign, notice or document which –

- (i) describes as an hotel, as a guesthouse, or as self catering accommodation, any premises in respect of which no boarding permit is for the time being in force, or
- (ii) falsely claims or implies that a boarding permit, a boarding permit without conditions, or a boarding permit on more favorable conditions than those in fact attached, is for the time being in force in respect of any premises,

is guilty of an offence and liable on conviction to a fine not exceeding level 2 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both."

(2) In section 15(d) of the Law for "wilfully obstructing" there is substituted "who without reasonable excuse fails to provide such information, in such form, as the Board may reasonably require about the operation of premises in respect of which a boarding permit has been granted, or who wilfully obstructs".

Fees.

11. For section 17 of the Law there is substituted –

"Fees.

17. (1) The Board may from time to time by Order prescribe the fees payable by applicants for, and holders of, boarding permits.

(2) An Order under this section may make different provision for different cases and circumstances and, without prejudice to the generality of the foregoing, may prescribe fees by reference to –

(a) the classification and grading of the premises concerned, and

(b) the number of persons for whom its holder is permitted to provide sleeping accommodation for reward pursuant to the boarding permit concerned.

(3) An Order made under this section must be laid as soon as possible before a meeting of the States and shall, if at that or their next meeting the States resolve to annul it, cease to have effect, but without prejudice to anything done under it or to the making of a new Order."

Lapsed provisions.

12. (1) In section 1 of the Law paragraph (c) is repealed.

(2) In section 13(a)(i) of the Law for "the Liquor Licensing (Provisional) Ordinance, 1948" there is substituted "the Liquor Licensing Ordinance, 1993".

(3) Section 14 of the Law is repealed.

(4) In section 15 of the Law the words "with or without hard labour", wherever appearing, are repealed.

(5) The Tourist Law (Fees) Ordinance, 1948^e and the Tourist Law (Fees) (Amendment) Ordinance, 1990^f are repealed.

(6) In Part I of the States Supervisor (Transfer of Functions) (No. 1) Ordinance, 1972^g the reference to section 14(a) of the Law is repealed.

NOTE

The Liquor Licensing Ordinance, 1993 has since been repealed by the Liquor Licensing Ordinance, 2006, section 102(a), with effect from 1st June, 2006, subject to the provisions of section 94 and section 95 of the 2006 Ordinance.

Citation and collective title.

13. (1) This Law may be cited as the Tourist (Amendment) (Guernsey) Law, 1998.

(2) This Law and the Tourist (Guernsey) Laws, 1948 to 1983 may be cited together as the Tourist (Guernsey) Laws, 1948 to 1998.

Commencement and transitional provisions.

14. (1) This Law shall come into force on the first day of the month following that in which it is registered on the records of the Island of Guernsey.

(2) Section 2 of this Law shall be deemed to refer to any Resolution of the States whether passed before or after its commencement.

(3) The amendment made by section 3 of this Law shall not have the effect of rendering unlawful the accommodation for reward of one person only pursuant to an agreement entered into before the commencement of this Law.

(4) Any boarding permit in force at the commencement of this

^e Recueil d'Ordonnances Tome IX, p. 279.

^f Recueil d'Ordonnances Tome XXV, p. 189.

^g Recueil d'Ordonnances Tome XVIII, p. 20.

Law shall continue to have effect, unless previously revoked or suspended, until 31st March in the following year.

(5) The amendment made by section 7 of this Law shall apply as respects any decision taken before its commencement as if the reference to the date of the decision were to the date of commencement of this Law.

(6) The repeals contained in section 12(5) of this Law shall take effect on the coming into force of the first Order made by the Board under section 17 of the Law as substituted by section 11 of this Law.

NOTE

The Law was registered on the Records of the Island of Guernsey on 17th November, 1998.

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 28, with effect from 6th May, 2004.

² The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Tourist Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 28, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.