

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005

(Registered on the Records of the Island of Guernsey
on the 12th May, 2005.)



2005

**VII
2005**

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 12th day of May, 2005 before Geoffrey Robert Rowland, Esquire, Deputy Bailiff; present:— David Charles Lowe, Laurence Lenfestey Guille, Stephen Edward Francis Le Poidevin, Keith Bichard, Esquires, The Reverend Peter Gerald Lane, Michael Henry De La Mare, Esquires, and Susan Mowbray, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 7th day of May, 2005, approving and ratifying the *Projet de Loi* entitled “The Emergency Powers (Bailiwick of Guernsey) (Amendments) Law, 2005”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED:-

1. That the said Order in Council be registered on the records of this Island and
2. 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 SÉNÉSCHAL of Sark for registration on the records of those Islands respectively.

At the Court at Buckingham Palace

The 7th day of May, 2005

PRESENT,

The Queen's Most Excellent Majesty in Council

THE FOLLOWING report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

"IN ACCORDANCE WITH YOUR MAJESTY'S General Order of Reference of the 22nd day of February 1952 the Committee have considered a petition of the States of Guernsey:"

"That, in pursuance of their Resolution of 30th March, 2005, the States of Deliberation at a meeting on 30th March, 2005, approved a Projet de Loi entitled "The Emergency Powers (Bailiwick of Guernsey) (Amendments) Law, 2005" and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the States of the Island of Alderney at a meeting held on 20 April 2005 considered the Projet de Loi when a Resolution was passed agreeing to its application to Alderney. That the Chief Pleas of the Island of Sark at a meeting held on 30th March 2005 considered the Project de Loi when a Resolution was passed agreeing to its application to Sark. That the Project de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction The Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, and to order that it shall have force of law in the Bailiwick of Guernsey..

"THE COMMITTEE have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it."

HER MAJESTY, having taken the Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Bailiwick of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

HER MAJESTY'S Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

A. K. Galloway

PROJET DE LOI

ENTITLED

The Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005

THE STATES, in pursuance of their Resolution of the 30th March, 2005^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 Bailiwick of Guernsey.

PART I

AMENDMENT OF EMERGENCY POWERS LAW

Amendment of Emergency Powers Law.

1. In sections 1(1) and (2), 2(1) and (2) and 3(1) of the Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended^b ("**the Law**"), and in the Schedule to the Law^c, for the references to the Policy Council (however expressed)^d substitute references to the Emergency Powers Authority.

2. In section 1(1) of the Law after the words "the essentials of life,"

^a Article I of Billet d'État No. III of 2005.

^b Ordres en Conseil Vol. XX, p. 6; amended by Vol. XXXI, p. 154 and No. XIV of 2001 and by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

^c The Schedule was inserted by Vol. XXXI, p. 154.

^d References to the Policy Council were substituted for references to the Emergency Council by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

insert "or events of such a nature as to jeopardise the economic interests of the Bailiwick of Guernsey or any part thereof,".

3. After section 1(1) of the Law insert the following subsections -

"(1A) The Emergency Powers Authority may also, by order, declare that a state of emergency exists if it appears to the Authority that there is a threat to security, public order or public health within the Bailiwick of Guernsey or any part thereof arising from any act of terrorism which has occurred or is occurring or which the Authority believes is threatened or about to occur.

(1B) In this section "**terrorism**" has the meaning given by section 1 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^e."

4. In section 2(1) of the Law -

(a) after the words "for securing the essentials of life to the community," insert "or for -

(a) protecting the economic interests,

(b) maintaining security or public order, or

(c) safeguarding public health,

of or within the Bailiwick of Guernsey or any part thereof,".

^e No. XVI of 2002.

- (b) for the words "public safety" substitute "security, public order and public health", and
- (c) after the words "and the life" insert "and economic interests".

5. In section 2(3) of the Law for the words following "and any person so guilty of an offence" substitute the following -

"shall be liable -

- (a) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both, or
- (b) on summary conviction, to a fine not exceeding level 5 on the uniform scale (or such other sum as the States may by Ordinance prescribe), or to imprisonment for a term not exceeding 6 months, or to both,

together with the forfeiture of any goods or money in respect of which the offence was committed."

6. After section 2A of the Law^f insert the following section -

^f Section 2A was inserted by Vol. XXXI, p. 154.

"Oath to be taken by members of Authority."

2B. (1) An oath or affirmation must be taken by every person who -

- (a) is a member, permanent or ad hoc, of the Emergency Powers Authority,
- (b) attends any meeting of the Authority as a government representative,
- (c) is an officer of the Authority, or
- (d) performs any task in the course of which he may obtain access to the official records of the Authority.

(2) The oath or affirmation must be taken by the person concerned -

- (a) before he begins to act in the performance of his functions as a member or officer of the Authority,
- (b) before he attends any meeting of the Authority as a government representative, or (as the case may be)
- (c) before he is permitted access to the official records of the Authority.

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(3) The oath or affirmation must be taken before the Bailiff.

(4) The oath or affirmation shall be in such form as the States may prescribe by Ordinance, and any such Ordinance -

(a) may prescribe different forms of oath or affirmation for different cases and circumstances, and

(b) may be amended or repealed by a subsequent Ordinance hereunder.

(5) A person violating an oath or affirmation required by this section is guilty of an offence and liable -

(a) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both, or

(b) on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 6 months, or to both.

(6) For the purposes of this section -

"Authority" means the Emergency Powers Authority,

"Bailiff" means the Bailiff, Deputy-Bailiff, Lieutenant-Bailiff

or Juge Délégué,

"government representative" means a person who represents the States of Guernsey, the States of Alderney or the Chief Pleas of Sark,

"member of the Authority" includes its Chairman,

"officer of the Authority" means a person employed, contracted or retained by the States who is responsible to the Authority,

"official records of the Authority" means any information under the control of the Authority and acquired or compiled in the course of the performance of the Authority's functions under this Law."

7. After section 3 of the Law insert the following section -

"Extension of Law to territorial waters."

3A. The provisions of this Law and of any order and regulations made under it extend to the territorial waters adjacent to the Bailiwick of Guernsey."

PART II

PROVISIONS AS TO TRANSFER OF FUNCTIONS TO
EMERGENCY POWERS AUTHORITY

Transfer of functions.

8. The relevant functions, rights and liabilities of the Policy Council and of the Chief Minister arising under or by virtue of any enactment are transferred to and vested in, respectively, the Emergency Powers Authority and its Chairman.

Amendment of statutory references.

9. For any reference in a relevant enactment to the Policy Council or the Chief Minister (however expressed) substitute a reference to the Emergency Powers Authority or (as the case may be) its Chairman.

Savings and transitional provisions.

10. Anything done before the date of commencement of this Law or in the process of being done on that date by or in relation to the Policy Council or the Chief Minister under or by virtue of a relevant enactment shall have effect as if done or (as the case may be) may be continued by or in relation to the Emergency Powers Authority or (as the case may be) its Chairman.

Public Functions Law.

11. The provisions of this Part are without prejudice to the provisions of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^g.

PART III
GENERAL PROVISIONS

Interpretation.

12. (1) In this Law -

"**enactment**" means a provision of -

^g Order in Council No. XXI of 1991.

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- (a) any Law,
- (b) any Act of Parliament extended to the Bailiwick,
- (c) any Ordinance, and
- (d) any statutory instrument, regulation, rule, order, byelaw, scheme, code and other subordinate instrument of a legislative nature made or having effect as if made under an enactment described in paragraph (a), (b) or (c),

"**the Law**" means the Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended^h,

"**relevant enactment**" is an enactment under or by virtue of which a relevant function, right or liability arises,

"**relevant functions, rights and liabilities**" are those formerly vested in the Emergency Council and its President and transferred to and vested in, respectively, the Policy Council and the Chief Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003ⁱ.

^h Ordres en Conseil Vol. XX, p. 6; amended by Vol. XXXI, p. 154 and No. XIV of 2001 and by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

ⁱ Ordinance No. XXXIII of 2003.

(2) The Interpretation (Guernsey) Law, 1948^j applies to the interpretation of this Law throughout the Bailiwick.

Citation.

13. This Law may be cited as the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005.

^j Ordres en Conseil Vol. XIII, p. 355.