

PROJET DE LOI

ENTITLED

The Intoxicating Liquor (Prohibition Orders) (Guernsey) Law, 1960 *

[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.

©States of Guernsey

* Ordres en Conseil Vol. XVIII, p. 247; as amended by the Decimal Currency (Bailiwick of Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 560); the Summary Offences (Bailiwick of Guernsey) Law, 1982 (Ordres en Conseil Vol. XXVII, p. 397); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); 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 Resolution of the States of Guernsey of 24th April, 1991 (Billet XI, proposition 1(4)).

PROJET DE LOI

ENTITLED

The Intoxicating Liquor (Prohibition Orders) (Guernsey) Law, 1960

ARRANGEMENT OF SECTIONS

PART I

Prohibition Orders

1. Power to make prohibition order against a person previously convicted.
2. Power for Ordinary Court to make prohibition order upon application of certain persons.
3. Power for Magistrate's Court to make prohibition order upon application of a convicted person.
4. Effect of a prohibition order.
5. Variation and revocation of prohibition order.
6. Definition of a prescribed offence.

PART II

Administration

7. Duty of H.M. Greffier to keep record.
8. H.M. Greffier to send copy of prohibition order to Chief Officer of Police.
9. Provisions relating to photographs.
10. Restriction on display of photographs.

PART III

Appeals

11. Appeals to Royal Court.

PART IV

Penalties, Savings, Repeal, Interpretation and Citation

12. Penalties.
13. Savings.
14. Law not to apply in case of intoxicating liquor supplied as medicine.
15. Repeal.
16. Interpretation.
17. Citation.

PROJET DE LOI

ENTITLED

The Intoxicating Liquor (Prohibition Orders) (Guernsey) Law, 1960

THE STATES, in pursuance of their Resolution of the twenty-second day of April, nineteen hundred and fifty-nine, 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 and Herm.

PART I

Prohibition Orders

Power to make prohibition order against a person previously convicted.

1. (1) [Upon the conviction of a person of an offence against sub-paragraph (i) of paragraph (c) of section one or paragraph (c) of section three of the Summary Offences (Bailiwick of Guernsey) Law, 1982,] the court may make a prohibition order against that person in accordance with the provisions of section four of this Law if that person has, during the twelve months immediately preceding the date of such conviction, on at least one occasion been convicted of an offence against either of those sections.

(2) Upon the conviction of a person of a prescribed offence to which this Part of this Law applies the court may make a prohibition order against that person in accordance with the provisions of section four of this Law if that person has, during the twelve months immediately preceding the date of such conviction, on at least one occasion been convicted of a prescribed offence.

NOTE

In section 1, the words in square brackets in subsection (1) were substituted by the Summary Offences (Bailiwick of Guernsey) Law, 1982, section 9,

with effect from 23rd March, 1982.

Power for Ordinary Court to make prohibition order upon application of certain persons.

2. (1) The Ordinary Court may, on application being made to it in that behalf by three of the relatives or friends of any person or by the [Committee for Home Affairs] or by the Douzaine of the Parish in which he resides and if it is satisfied that that person is addicted to drinking intoxicating liquor to excess, make a prohibition order against that person in accordance with the provisions of section four of this Law.

(2) The Ordinary Court shall not make a prohibition order in pursuance of the provisions of the last preceding subsection unless the person against whom such prohibition order is sought has been served by the person or persons making the application with notice of his or their intention to apply for a prohibition order and unless such person has had a reasonable opportunity of being heard thereon.

NOTE

In accordance with their Resolution of 24th April, 1991, concerning Billet d'État No. XI, dated 12th April, 1991, the States directed that the Island Police Committee as established under Article 2 of the Loi ayant rapport à la Police Salariée pour l'Île entière, 1920, the States Committees (Amendment) Law, 1948 and the Police Committee (Amendment) Law, 1990 should be the States Committee for Home Affairs. The functions, rights and liabilities of the States Committee for Home Affairs and of its President arising under or by virtue of this Law were subsequently transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance. The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were subsequently transferred to and vested in, respectively, the Committee for Home Affairs and its President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Power for Magistrate's Court to make prohibition order upon application of a convicted person.

3. Upon the conviction of a person of an offence by the Magistrate's Court, that Court may make a prohibition order against that person in accordance with the provisions of section four of this Law if –

- (a) an application is made by the convicted person in that behalf to the Court, and
- (b) the Court is satisfied, upon the admission of that person, that he was at the time of the commission of the offence to which the conviction relates, under the influence of drink.

Effect of a prohibition order.

4. A prohibition order made against any person in pursuance of the provisions of sections one, two or three of this Law shall prohibit that person –

- (a) from obtaining, receiving or consuming intoxicating liquor on licensed premises, and
- (b) from obtaining or receiving intoxicating liquor elsewhere than on licensed premises,

during such period specified in the order as that order shall remain in force.

Variation and revocation of prohibition order.

5. A prohibition order made in pursuance of the provisions of sections one, two or three of this Law may, from time to time, be varied or revoked by order by the court by which it was made.

Definition of a prescribed offence.

6. For the purposes of this Part of this Law the expression "**a prescribed offence**" means an offence in respect of which the prosecution, for the purposes of discharging the burden of proof as to the guilt of the accused, is required to prove that the accused was, at the time of the commission of the offence, under the influence of drink.

PART II

Administration

Duty of H.M. Greffier to keep record.

7. Her Majesty's Greffier shall keep a record, in a book kept solely for that purpose, of all prohibition orders made in pursuance of the provisions of Part I of this Law.

H.M. Greffier to send copy of prohibition order to Chief Officer of Police.

8. As soon as may be after the making of a prohibition order in pursuance of the provisions of Part I of this Law, Her Majesty's Greffier shall send a copy thereof to the Chief Officer who shall keep a record, in a book kept solely for that purpose, of all such prohibition orders.

Provisions relating to photographs.

9. (1) As soon as may be after the making of a prohibition order against any person in pursuance of the provisions of Part I of this Law, that person shall be photographed under arrangements made by the Chief Officer and that person shall be so photographed full face and holding a board in such manner as the Chief Officer may direct on which shall be written in clear legible letters the following particulars –

- (a) the name and age of that person,
- (b) the date of the making of the prohibition order,
- (c) the period specified in the prohibition order during which such order shall remain in force.

(2) A copy of every photograph taken in pursuance of the provisions of the last preceding subsection shall be sent by the Chief Officer to every licensee in this Island, either –

- (a) as soon as may be after that photograph has been taken, or

(b) as soon as may be after he has become a licensee,
as the case may require.

(3) Upon a person ceasing for any reason to be subject to a prohibition order every licensee shall, upon being so requested by the Chief Officer, return to him any copy of the photograph of that person sent to him in pursuance of the provisions of subsection (2) of this section.

(4) Upon a person ceasing to be a licensee he shall, as soon as may be thereafter, return to the Chief Officer all copies of photographs sent to him in pursuance of the provisions of subsection (2) of this section.

(5) All copies of photographs sent to licensees in pursuance of the provisions of subsection (2) of this section shall remain the property of the [Committee for Home Affairs].

(6) The [Committee for Home Affairs] shall charge the sum of [12.5 new pence] for every copy of a photograph sent to a licensee as replacement of a copy of that photograph sent in pursuance of the provisions of subsection (2) of this section and in respect of every copy of a photograph not returned in pursuance of the provisions of subsection (3) or (4) of this section.

(7) A copy of a photograph sent to a licensee as replacement of a copy of that photograph sent in pursuance of the provisions of subsection (2) of this section shall be deemed to have been sent in pursuance of the provisions of the said subsection (2).

NOTES

In section 9, the words and figures in the second pair of square brackets in subsection (6) were substituted in accordance with the provisions of the Decimal Currency (Bailiwick of Guernsey) Law, 1970, section 8, with effect from 15th February, 1971.

In accordance with their Resolution of 24th April, 1991, concerning Billet d'État No. XI, dated 12th April, 1991, the States directed that the Island

Police Committee as established under Article 2 of the Loi ayant rapport à la Police Salariée pour l'Île entière, 1920, the States Committees (Amendment) Law, 1948 and the Police Committee (Amendment) Law, 1990 should be the States Committee for Home Affairs. The functions, rights and liabilities of the States Committee for Home Affairs and of its President arising under or by virtue of this Law were subsequently transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance. The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were subsequently transferred to and vested in, respectively, the Committee for Home Affairs and its President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Restriction on display of photographs.

10. A licensee shall not cause or permit any copy of a photograph sent to him in pursuance of the provisions of subsection (2) of the last preceding section to be displayed except to his servants or agents for ensuring that the provisions of this Law are being complied with.

PART III

Appeals

Appeals to Royal Court.

11. Any person against whom a prohibition order has been made in pursuance of the provisions of Part I of this Law by the Ordinary Court or the Magistrate's Court may appeal against the making of such order to the Royal Court within such time and in such manner as shall be prescribed by Order of the Royal Court:

PROVIDED that a person shall not be entitled to appeal to the Royal Court in pursuance of the provisions of this section, against the making of a prohibition order, if that order has been made either –

- (a) by the Ordinary Court in pursuance of the provisions of subsection (1) of section two of this Law upon an application made with the assent of that person, or

- (b) by the Magistrate's Court in pursuance of the provisions of section three of this Law.

PART IV

Penalties, Savings, Repeal, Interpretation and Citation

Penalties.

- 12. (1) Any person –
 - (a) who contravenes or attempts to contravene the provisions of a prohibition order made in pursuance of the provisions of Part I of this Law, or
 - (b) who, being a licensee –
 - (i) knowingly sells or supplies or knowingly permits the sale or supply of intoxicating liquor, on any premises in respect of which he is the licensee, to any person in respect of whom a prohibition order made in pursuance of Part I of this Law is in force, or
 - (ii) knowingly permits the consumption of intoxicating liquor by any such person on such premises, or
 - (c) who knowingly supplies intoxicating liquor to any person in respect of whom a prohibition order made in pursuance of Part I of this Law is in force, or
 - (d) who knowingly aids or permits the contravention of a prohibition order made in pursuance of the provisions of Part I of this Law,

- (e) who contravenes or attempts to contravene the provisions of section ten of this Law,

shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale] or to a term of imprisonment not exceeding six months.

(2) Any person who wilfully refuses to be photographed in accordance with the provisions of section nine of this Law or who wilfully obstructs any person in the execution of his duty to photograph that person under the provisions of that section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

(3) Any person who fails to return to the Chief Officer any copy of a photograph in pursuance of the provisions of subsection (3) or subsection (4) of section nine of this Law shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

NOTES

In section 12,

the words and figure in square bracket in subsection (1) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(5), Schedule, Part I, with effect from 1st July, 1989;

the words and figures in square brackets in subsection (2) and subsection (3) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Savings.

13. Notwithstanding the repeal of the Law entitled "Loi ayant rapport à la Constitution d'une Liste d'Interdits (Black List) pour cette Île" registered on the Records of this Island on the first day of July, nineteen hundred and twenty, any Act of Court made in pursuance of the provisions of that Law shall continue in force as if this Law had not been passed and the provisions of this Law, other than Part III thereof, shall apply to any such Act as if it were a prohibition order made in pursuance of the provisions of Part I of this Law.

Law not to apply in case of intoxicating liquor supplied as medicine.

14. Nothing in this Law contained shall be taken to prohibit the supply of intoxicating liquor to, or the obtaining or receiving of intoxicating liquor by, a person against whom a prohibition order has been made in pursuance of the provisions of Part I of this Law by or under the authority of an authorised medical practitioner or authorised dentist or by an authorised pharmacist for the prevention or treatment of any ailment, infirmity or injury affecting the human body or the consumption of that liquor by that person when so supplied.

Repeal.

15. The Law entitled "Loi ayant rapport à la Constitution d'une Liste d'Interdits (Black List) pour cette Île" registered on the Records of this Island on the first day of July, nineteen hundred and twenty, is hereby repealed.

Interpretation.

16. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them –

"authorised medical practitioner", "authorised dentist" and "authorised pharmacist" mean a medical practitioner, a dentist or a pharmacist, as the case may be, authorised to practise as such in this Island according to the law for the time being in force,

"Chief Officer" means the Chief Officer of the Island Police Force,

"this Island" includes the Island of Herm,

"liquor licence" means a licence for the sale of intoxicating liquor,

"licensee" means a person responsible for the conduct of a liquor licence,

"Ordinary Court" means the Royal Court sitting as an Ordinary Court,

"relative" in connection with a person means his spouse, parent, son, daughter, brother, sister or guardian,

"Royal Court" means the Royal Court sitting as a Full Court.

(2) Any reference in this Law to a **"prohibition order"** shall be deemed to include an order made in pursuance of the provisions of section five of this Law varying or revoking a prohibition order.

Citation.

17. This Law may be cited as the Intoxicating Liquor (Prohibition Orders) (Guernsey) Law, 1960.

NOTE

The Law received Royal Sanction on 26th October, 1960 and was registered on the Records of the Island of Guernsey and came into force on 22nd November, 1960.
