

PROJET DE LOI

ENTITLED

The European Communities (Bailiwick of Guernsey) Law, 1973 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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Ordres en Conseil Vol. XXIV, p. 87; as amended by the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1980 (Ordres en Conseil Vol. XXVII, p. 242); the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1985 (Ordres en Conseil Vol. XXIX, p. 127); the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 419); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the European Communities (Bailiwick of Guernsey) (Amendment) Law, 2002 (No. XXV of 2002, Ordres en Conseil Vol. XLII(2), p. 1320); the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016 (No. V of 2018); the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 (No. I of 2019); the European Communities (Amendment) (Bailiwick of Guernsey) Ordinance, 1994 (Recueil d'Ordonnances Tome XXVI, p. 316); the European Communities (Amendment) (Bailiwick of Guernsey) Ordinance, 1998 (No. XVII of 1998, Recueil d'Ordonnances Tome XXVIII, p. 79); the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2001 (No. XLVII of 2001, Recueil d'Ordonnances Tome XXVIII, p. 541); the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2003 (No. XVIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 362); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2006 (No. II of 2007, Recueil d'Ordonnances Tome XXXII, p. 6); the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2014 (No. XIX of 2014); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the European Union (Withdrawal Agreement) (Brexit) (Bailiwick of Guernsey) Regulations, 2020 (G.S.I. No. 6 of 2020). See also the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 (Ordres en Conseil Vol. XXIII, p. 573); the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1991 (No. XIII of 1991, Ordres en Conseil Vol. XXXIII, p. 217); the European Economic Area (Bailiwick of Guernsey) Law, 1996 (No. I of 1996). This Law has been repealed by the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 (*supra*).

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ARRANGEMENT OF SECTIONS

1. Interpretation.
2. General implementation of Treaties.
3. Decisions on, and proof of, Treaties and Community instruments.
4. Customs duties.
5. Common agricultural policy.
- 5A. Provision in respect of the Transition Period.
6. Community offences.
7. Repeals and amendments.
8. Savings.
9. Citation.

FIRST SCHEDULE

The Pre-Accession Treaties.

SECOND SCHEDULE

Amendments.

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WHEREAS it is provided by the Treaty relating to the Accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community, signed at Brussels on the twenty-second day of January, nineteen hundred and seventy-two, that the Treaty establishing the European Economic Community shall apply to the Channel Islands only to the extent necessary to ensure the arrangements for those Islands set out in the Treaty of Accession:

WHEREAS the said arrangements, which are set out in Protocol No. 3 to the Treaty of Accession, were approved by the States of Guernsey on the fifteenth day of December, nineteen hundred and seventy-one, by the States of Alderney on the fourteenth day of December, nineteen hundred and seventy-one, and by the Chief Pleas of Sark on the sixteenth day of December, nineteen hundred and seventy-one:

WHEREAS in order to implement the said arrangements it is necessary that certain measures passed by the Institutions of the Communities shall, without further enactment, have effect in the Channel Islands:

THE STATES, in pursuance of their Resolution of the fifteenth day of December, nineteen hundred and seventy-one, 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.

Interpretation.

1. (1) In this Law, unless the context otherwise requires –

"the Bailiwick" means the Bailiwick of Guernsey,

[**"the Brexit Law"** means the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018,]

"[the Committee]" means the States [Committee for Home Affairs],

"the Communities" means the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community,

"Community customs duty" means, in relation to any goods, such duty of customs as may from time to time be fixed for those goods by directly applicable Community provision as the duty chargeable on importation into member States,

"Community institution" means any institution of any of the Communities or common to the Communities; and any reference to an institution of a particular Community shall include one common to the Communities when it acts for that Community, and similarly with references to a Committee, officer or servant of a particular Community,

"Community instrument" means any instrument issued by a Community institution,

"Community obligation" means any obligation created or arising by or under the Treaties,

"the Customs Law" means the Customs and Excise (General

Provisions) (Bailiwick of Guernsey) Law, 1972^a,

"Economic Community" means the European Economic Community,

"enforceable Community right" and similar expressions shall be construed in accordance with subsection (1) of section two of this Law,

[**"the European Court"** means the Court of Justice of the European Communities or the Court of First Instance, and any reference to a court attached to the European Court shall include a reference to a judicial panel attached to the Court of First Instance,]

[**"EU Withdrawal Treaty"** has the meaning given in the Brexit Law,]

[**"exit day"** has the meaning given in the Brexit Law,]

"the Import Duties Law" means the Import Duties Act (Bailiwick of Guernsey), 1932^b,

"member", in the expression **"member State"**, refers to membership of the Communities,

"the Protocol" means Protocol No. 3 to the Treaty of Accession,

"the States" means the States of Guernsey,

[**"TP Commencement Day"** has the meaning given in the Brexit

^a Ordres en Conseil No. XXIX of 1972.

^b Ordres en Conseil Vol. IX, pp. 279, 384; Vol. XV, p. 466; Vol. XVIII, p. 182.

Law,]

["**Transition Period**" has the meaning given in the Brexit Law,]

"the Treaties" or **"the Community Treaties"** means, subject to the provisions of subsection (2) of this section, the pre-accession treaties, that is to say, those described in the First Schedule to this Law, taken with –

- [(a) the treaty relating to the accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community, signed at Brussels on the 22nd January 1972, and
- (b) the decision, of the same date, of the Council of the European Communities ("**the Council**") relating to the accession of the United Kingdom to the European Coal and Steel Community, and
- (c) the treaty relating to the accession of the Hellenic Republic to the European Economic Community and to the European Atomic Energy Community, signed at Athens on 28th May 1979, and
- (d) the decision, of 24th May 1979, of the Council relating to the accession of the Hellenic Republic to the European Coal and Steel Community, and
- (e) the decisions of the Council of 7 May 1985, 24th June 1988, 31st October 1994, 29th September 2000 and 7th June 2007 on the Communities' system of own resources, and the decision of the Council of 26th May

2014 on the EU's system of own resources, and

- (f) the treaty relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy Community, signed at Lisbon and Madrid on 12th June 1985, and
- (g) the decision, of 11th June 1985, of the Council relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Coal and Steel Community, and
- (h) the following provisions of the Single European Act signed at Luxembourg and The Hague on 17th and 28th February 1986, namely Title II (amendment of the treaties establishing the Communities) and, so far as they relate to any of the Communities or any Community institution, the preamble and Titles I (common provisions) and IV (general and final provisions), and
- (i) Titles II, III and IV of the Treaty on European Union signed at Maastricht on 7th February 1992, together with the other provisions of the Treaty so far as they relate to those Titles, and the Protocols adopted at Maastricht on that date and annexed to the Treaty establishing the European Community with the exception of the Protocol on Social Policy on page 117 of Cm 1934, and

- (j) the decision, of 1st February 1993, of the Council amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20th September 1976, and
- (k) the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 together with the Protocol adjusting that Agreement signed at Brussels on 17th March 1993, and
- (l) the treaty concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union, signed at Corfu on 24th June 1994, and
- (m) the following provisions of the Treaty signed at Amsterdam on 2nd October 1997 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts –
 - (i) Articles 2 to 9,
 - (ii) Article 12, and
 - (iii) the other provisions of the Treaty so far as they relate to those Articles,

and the Protocols adopted on that occasion other than the Protocol on Article J.7 of the Treaty on European

Union, and

- (n) the following provisions of the Treaty signed at Nice on 26th February 2001 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts –

- (i) Articles 2 to 10, and

- (ii) the other provisions of the Treaty so far as they relate to those Articles,

and the Protocols adopted on that occasion; and any other treaty entered into by the EU (except in so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy), with or without any of the member States, or entered into, as a treaty ancillary to any of the Treaties, by the United Kingdom, and

- (o) the treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, signed at Athens on 16th April 2003, and

- (p) the treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union, signed at Luxembourg on 25th April 2005, and

- (q) the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December 2007 (together with its Annex and protocols), excluding any provision that relates to, or in so far as it relates to or could be applied in relation to, the Common Foreign and Security Policy, and
- (r) the Protocol amending the Protocol (No 36) on transitional provisions annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, signed at Brussels on 23rd June 2010, and
- (s) the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9th December 2011,
- (t) the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16th May 2012, and
- (u) any other treaty specified by Ordinance of the States of Deliberation.]

"the Treaty of Accession" means the treaty referred to in paragraph (a) of the foregoing definition of the expression **"the Treaties"**.

- (2) If Her Majesty by Order in Council made in accordance with

the provisions of subsection (3) of section one of the European Communities Act 1972 declares that a treaty specified in the Order is to be regarded as one of the Community Treaties as defined in that Act, the Order shall be conclusive that it is to be regarded as one of the Community Treaties as herein defined; but a treaty entered into by the United Kingdom after the 22nd January, 1972, other than a pre-accession treaty to which the United Kingdom accedes on terms settled on or before that date, shall not be regarded as one of the Community Treaties as herein defined unless it is so specified.

(3) For the purposes of subsections (1) and (2) of this section, the expression "**treaty**" includes any international agreement, and any protocol or annex to a treaty or international agreement.

(4) Except in so far as the context otherwise requires, any reference in this Law and in any Ordinance or order made thereunder to any other enactment shall be construed as a reference to that enactment as repealed and re-enacted, amended, extended or applied by or under any other enactment including this Law.

(5) Any power in this Law to make any Ordinance or order shall be construed as including a power exercisable in the like manner to vary or repeal the Ordinance or order.

(6) The Interpretation (Guernsey) Law, 1948^c, shall apply to the interpretation of this Law throughout the Bailiwick.

NOTES

In section 1,

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

the definitions of the expressions "the Brexit Law", "EU Withdrawal Treaty", "exit day", "TP Commencement Day" and "Transition Period" in subsection (1) were inserted by the European Union (Withdrawal Agreement) (Brexit) (Bailiwick of Guernsey) Regulations, 2020, regulation 1, Schedule 1, paragraph 2, with effect from 28th January, 2020;

the words in the first and second pairs of square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 7 and section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;¹

the definition of the expression "the European Court" in subsection (1) was substituted by the European Communities (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1, with effect from 18th November, 2002;

paragraph (a) to paragraph (u) of the definition of the expression "the European Court" in subsection (1) were substituted by the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, section 13, Schedule 1, paragraph 3(2), with effect from 13th February, 2019.²

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-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.³

The following cases have referred to this Law:

States v. Jersey Fishermen's Association Limited, IF Limited, Interfish Wirons Limited, Scerene Fishing Company Limited and Lovell 2005–06 GLR 226;

Jersey Fishermen's Association Limited, IF Limited, Interfish Wirons Limited, Scerene Fishing Company Limited and Lovell v. States 2007-08 GLR 36.

In accordance with the provisions of the European Economic Area (Bailiwick of Guernsey) Law, 1996, section 1(1), with effect from 15th April, and to the extent that the operation of this Law is, first, limited (expressly or by implication) by reference to the Communities or to some connection with the Communities and, second, relates to a matter to which the Agreement on the European Economic Area signed at Oporto on 2nd May, 1992 (as adjusted by the Protocol signed at Brussels on 17th March, 1993) relates, then, unless the context otherwise requires, this Law shall have effect in relation to that matter with the substitution of a corresponding limitation relating to the European Economic Area (or, where appropriate, to both the Communities and the European Economic Area), subject to the provisions of section 1(2) of the 1996 Law.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

General implementation of Treaties.

2. (1) All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties, and all such remedies and procedures from time to time provided for by or under the Treaties, as (having regard to the provisions of Articles twenty-five, twenty-six and twenty-seven of the Act annexed to the Treaty of Accession and to the provisions of the Protocol) in accordance with the Treaties are without further enactment to be given legal effect or used in the Channel Islands shall, in the Bailiwick, be recognised and available in law, and be enforced, allowed and followed accordingly; and the expression "**enforceable Community right**" and similar expressions shall be read as referring to one to which this subsection applies.

(2) Any enactment passed or to be passed in the Bailiwick shall be construed and have effect subject to the foregoing provisions of this section.

(3) A certificate issued by or under the authority of the Secretary of State stating that any Community regulation does or does not apply to the Bailiwick shall be conclusive evidence of that fact.

Decisions on, and proof of, Treaties and Community instruments.

3. (1) For the purposes of all legal proceedings any question as to the meaning or effect of any of the provisions of the Treaties having effect in the Bailiwick, or as to the validity, meaning or effect of any Community instrument having effect in the Bailiwick, shall be treated as a question of law (and, if not referred to the European Court, be for determination as such in accordance with the principles laid down by and any relevant decisions of the European Court [or any court attached thereto under the Treaties]).

(2) ...

(3) ...

(4) ...

NOTES

In section 3,

the words in square brackets in subsection (1) were inserted by the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1986, section 1(b), with effect from 1st May, 1987;

subsection (2), subsection (3) and subsection (4) were repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(b), with effect from 1st October, 2018.⁴

Customs duties.

4. (1) Subject to the provisions of subsection (2) of this section, on and after the relevant date there shall be charged, levied, collected and paid on goods imported into the Bailiwick such Community customs duty, if any, as is for the time being applicable in accordance with the Treaties or, if the goods are not within the common customs tariff of the Economic Community and the duties chargeable are not otherwise fixed by any directly applicable Community provision, such duty of customs, if any, as [the Committee] may by order specify.

For this purpose "**the relevant date**", in relation to any goods, is the date on and after which the duties of customs that may be charged thereon are no longer affected under the Treaties by any temporary provision made on or with reference to the accession of the United Kingdom to the Communities.

(2) Where as regards goods imported into the customs territory of

the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man provision may, in accordance with the Treaties, be made in derogation of the common customs tariff or of the exclusion of customs duties as between member States, [the Committee] may by order make such provision as to the customs duties chargeable on the goods, or as to exempting the goods from any customs duty, as [the Committee] may determine.

(3) The customs duties charged in accordance with subsections (1) and (2) of this section shall be deemed for the purposes of any enactment to be import duties charged under the Import Duties Law and, subject to any amendment made by this Law, section two of that Law shall apply to orders under subsection (1) or (2) of this section as if they were orders under that Law.

(4) So long as section two or section ten of the Import Duties Law remains in force, that Law shall have effect subject to the following modifications –

- (a) the power under the said section two to impose duties shall include power to impose duties with a view to securing compliance with any Community obligation,
- (b) orders under the said section two may, in relation to goods of the same description, make different provision by reference to the use to be made of the goods or to other matters not ascertainable from an examination of the goods,
- (c) the powers exercisable by virtue of the said section ten in relation to goods qualifying for Commonwealth preference shall include power to distinguish in any respect between different parts of the Commonwealth preference area,

- (d) the powers exercisable by virtue of section twenty-one of the Customs Law shall, as regards relief provided for by or under the Treaties or for conformity with any Community obligation, extend to any customs duties or impôt duties.

(5) As regards reliefs from import duties, [the Committee] may by order make such further provision as appears to it to be expedient having regard to the practices adopted or to be adopted in member States, whether by law or administrative action and whether or not for conformity with Community obligations.

(6) For the purpose of implementing Community obligations [the Committee] shall co-operate with other customs services on matters of mutual concern, and without prejudice to the foregoing may for that purpose –

- (a) give effect, in accordance with such arrangements as it may direct or by order prescribe, to any Community requirement or practice as to the movement of goods between countries, including any rules requiring payment to be made in connection with the exportation of goods to compensate for any relief from customs duty allowed or to be allowed and may recover any such payment as a civil debt due to the States, and
- (b) give effect to any reciprocal arrangements made between member States (with or without other countries or territories) for securing, by the exchange of information or otherwise, the due administration of their customs laws and the prevention or detection of fraud or evasion.

(7) Where on the exportation of any goods from the Bailiwick there has been furnished for the purpose of any Community requirement or practice any certificate or other evidence as to the origin of those goods, or as to payments made or relief from duty allowed in any country or territory, then for the purpose of verifying or investigating that certificate or evidence, the Chief Revenue Officer may require the exporter, or any other person appearing to the Chief Revenue Officer to have been concerned in any way with the goods, or with any goods from which, directly or indirectly, they have been produced or manufactured, or to have been concerned with the obtaining or furnishing of the certificate or evidence –

- (a) to furnish such information, in such form and within such time, as the Chief Revenue Officer may specify in the requirement, or
- (b) to produce for inspection, and to allow the taking of copies or extracts from, such invoices, bills of lading, books or documents as may be so specified,

and any person who, without reasonable cause, fails to comply with a requirement under this subsection shall be guilty of an offence and liable on conviction to a fine not exceeding [level 1 on the uniform scale].

(8) Subsections (6) and (7) above shall have effect as if contained in the Customs Law.

NOTES

In section 4,

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with

effect from 1st May, 2016, with effect from the 6th May, 2004;

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

The following Orders have been made under section 4:

Customs and Excise (Aviation Fuel) (Bailiwick of Guernsey) Order, 1997;

Customs and Excise (Bailiwick of Guernsey) (Personal Reliefs) Order, 2008;

Customs and Excise (Bailiwick of Guernsey) (Personal Reliefs) (Amendment) Order, 2010.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, the references in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.

In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 1(5), with effect from 1st October, 2004, any reference in this enactment to "impôt" shall be construed as a reference to excise duty.

Common agricultural policy.

5. (1) Agricultural levies of the Economic Community, so far as they are charged on goods exported from the Bailiwick or shipped as stores, shall be paid to and recoverable by [the Committee]; and the power of [the Committee] to make orders under sections two and ten of the Import Duties Law shall include power to make such provision supplementary to any directly applicable Community provision as [the Committee] considers necessary for securing the payment of any agricultural levies so charged, including provision for the making of declarations or the giving of other information in respect of goods exported, shipped as stores, warehoused or otherwise dealt with.

(2) Except as otherwise provided by or under any enactment, agricultural levies of the Economic Community, so far as they are charged on goods

imported into the Bailiwick, shall be levied, collected and paid, and the proceeds shall be dealt with, as if they were Community customs duties, and in relation to those levies the provisions of the Customs Law and of any other enactment for the time being in force and relating to customs generally shall apply as they would apply in relation to Community customs duties and if, in connection with any Community arrangements for or related to the regulation of the market for any agricultural produce, any payment of refunds or allowances on goods exported or to be exported from the Bailiwick is to be made, then in relation to any such refund or allowance section twenty-one of the said Customs Law shall apply as it applies in relation to a drawback of customs duties, and other provisions of that Law shall have effect accordingly.

(3) In this section "**agricultural levy**" shall include any tax not being a customs duty, but of equivalent effect, that may be chargeable in accordance with any such Community arrangements as aforesaid.

NOTE

In section 5, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016, with effect from the 6th May, 2006.

[Provision in respect of the Transition Period.]

5A. (1) This Law, as it has effect throughout the Bailiwick immediately before TP Commencement Day, continues to have such effect on and after TP Commencement Day and until exit day so far as provided by subsection (2).

(2) This Law has effect on and after TP Commencement Day and until exit day as if –

(a) in section 1 (interpretation) –

- (i) the definition of "'the Treaties" or "the Community Treaties"' –
 - (A) included Part 4 (implementation period) of the EU Withdrawal Treaty, other than that Part so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy, but
 - (B) were otherwise limited to anything which falls within those definitions as at immediately before TP Commencement Day so far as it is not excluded by regulations made on or after TP Commencement Day under section 5 of the European Union (Brexit) (Bailiwick of Guernsey Law), 2018,
- (ii) in the definition of "Community customs duty", the reference to directly applicable Community provision were to such provisions so far as they are applicable to and in the Bailiwick by virtue of Part 4 of the EU Withdrawal Treaty, and
- (iii) in the definition of "member" in the expression "member State", after "Communities" there were inserted "and for the purposes of this expression the United Kingdom is to be treated as if it were a member of the Communities during the Transition Period",

- (b) in section 3 (decisions on, and proof of. Treaties and Community instruments) –
 - (i) the references to the Treaties included the EU Withdrawal Treaty, and
 - (ii) the words in brackets only applied so far as they are in accordance with Part 4 of the EU Withdrawal Treaty, and
- (c) references in sections 4 and 5 (customs duties and Common Agricultural Policy) to the common customs tariff of the Economic Community, directly applicable Community provision, the exclusion of customs duties, Community arrangements and agricultural levies of the Economic Community were to such things so far as they are applicable to and in the Bailiwick by virtue of Part 4 of the EU Withdrawal Treaty.

(3) Accordingly, and unless the context otherwise requires, any enactment, as it has effect in domestic law immediately before TP Commencement Day, continues to have effect in domestic law, on and after TP Commencement Day and until exit day, subject to subsection (4).

(4) Anything falling within subsection (3) is to be read, on and after TP Commencement Day and until exit day, and so far as the context permits or requires, as if –

- (a) any reference (however expressed) to –

- (i) Community law,
- (ii) any particular Treaty or any part of it,
- (iii) any Community instrument, or other document of a Community institution or of the Community, or any part of any such instrument or document,
- (iv) any part of Community law not falling within subparagraph (ii) or (iii),
- (v) any tax, duty, levy or interests of the Community, or
- (vi) any arrangement involving, or otherwise relating to, the Community of a kind not falling within subparagraph (i), (ii), (iii), (iv) or (v),

were a reference to any such thing so far as it is applicable to and in the Bailiwick by virtue of Part 4 of the EU Withdrawal Treaty,

- (b) unless the United Kingdom is separately provided for, any reference (however expressed) to the area of the European Community, or of the EEA, included the United Kingdom,
- (c) any reference (however expressed) to a citizen of the Community or a national of the EEA included a United Kingdom national (within the meaning given by Article

2(d) of the EU Withdrawal Treaty), and

- (d) such other modifications were made as –
 - (i) are provided for by regulations made under section 5 of the Brexit Law, or
 - (ii) so far as not so provided, are necessary for any purpose of Part 4 of the EU Withdrawal Treaty and are capable of being ascertained from any such purpose or otherwise from that Part of that Treaty.

(5) For the avoidance of doubt, references to Part 4 of the EU Withdrawal Treaty include references to any other provisions of that Treaty so far as applying to that Part.

(6) For the avoidance of doubt, any reference in an enactment to a restriction or obligation to which section 2(1) of the European Communities Act 1972 applies is to be read, on and after TP Commencement Day and until exit day, as a reference to a restriction or obligation to which section 2(1) of the European Communities Act 1972 continues to apply under section 1A of the European Union (Withdrawal) Act 2018.]

NOTE

Section 5A was inserted by the European Union (Withdrawal Agreement) (Brexit) (Bailiwick of Guernsey) Regulations, 2020, regulation 1, Schedule 1, paragraph 1, with effect from 28th January, 2020.

Community offences.

6. A person who, in sworn evidence before the European Court [or any

court attached thereto under the Treaties], makes any statement which he knows to be false or does not believe to be true shall, whether he is a British subject or not, be guilty of an offence and may be proceeded against and punished in the Islands of Guernsey, Alderney or Sark, as the case may be, as for the offence of perjury.

NOTE

In section 6, the words in square brackets were inserted by the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1986, section 1(c), with effect from 1st May, 1987.

Repeals and amendments.

7. (1) The European Communities (External Tariffs and Non-Discrimination) (Bailiwick of Guernsey) Law, 1972^d is hereby repealed.

(2) The States may by Ordinance repeal all or any of the provisions of the European Free Trade Association (Guernsey) Law, 1960^e.

(3) The Laws set out in the first column of the Second Schedule to this Law are hereby amended to the extent set out in the second column thereof.

NOTES

The following Ordinance has been made under section 7:

European Free Trade Association (Repeal) (Bailiwick of Guernsey) Ordinance, 1977.

The European Free Trade Association (Guernsey) Law, 1960 has since been repealed by the European Free Trade Association (Repeal) (Bailiwick of Guernsey) Ordinance, 1977, section 1, Schedule, with effect from 12th January, 1977.

^d Ordres en Conseil No. XXX of 1972.

^e Ordres en Conseil Vol. XVIII, p. 174.

Savings.

8. Notwithstanding the provisions of subsection (1) of section seven of this Law, any order made under the Import Duties Law as modified by subsection (1) of section two of the European Communities (External Tariffs and Non-Discrimination) (Bailiwick of Guernsey) Law, 1972, and in force at the time of coming into force of this Law shall be deemed to have been made under the Import Duties Law as modified by subsection (4) of section four of this Law and shall continue in force until repealed by order made under or by virtue of this Law.

Citation.

9. This Law may be cited as the European Communities (Bailiwick of Guernsey) Law, 1973.

NOTE

The Law received Royal Sanction on 16th July, 1973 and was registered on the Records of the Island of Guernsey and came into force on 23rd August, 1973.

FIRST SCHEDULE
THE PRE-ACCESSION TREATIES

Section 1

1. The "E.C.S.C. Treaty", that is to say, the Treaty establishing the European Coal and Steel Community, signed at Paris on the 18th April, 1951.
2. The "E.E.C. Treaty", that is to say, the Treaty establishing the European Economic Community, signed at Rome on the 25th March, 1957.
3. The "Euratom Treaty", that is to say, the Treaty establishing the European Atomic Energy Community, signed at Rome on the 25th March, 1957.
4. The Convention on certain Institutions common to the European Communities, signed at Rome on the 25th March, 1957.
5. The Treaty establishing a single Council and a single Commission of the European Communities, signed at Brussels on the 8th April, 1965.
6. The Treaty amending certain Budgetary Provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities, signed at Luxembourg on the 22nd April, 1970.
7. Any treaty entered into before the 22nd January, 1972, by any of the Communities (with or without any of the member States), or, as a treaty ancillary to any treaty included in this Schedule, by the member States (with or without any other country).

SECOND SCHEDULE
AMENDMENTS

Section 7

<i>Law</i>	<i>Amendment</i>
<p>1. The Import Duties Act (Bailiwick of Guernsey), 1932.</p>	<p>Paragraph (e) of section two is repealed and the following paragraph is substituted therefor –</p> <p style="padding-left: 40px;">"(e) any order so made, unless it be made for the purpose of giving effect to the provisions of section seven of this Law or in implementation of the obligations of the Bailiwick under the provisions of Protocol No. 3 annexed to the Treaty relating to the accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community, signed at Brussels on the twenty-second day of January, nineteen hundred and seventy-two –</p> <p style="padding-left: 40px;">(i) in the Island of Guernsey, shall be laid before a meeting of the States as soon as may be after the making thereof and, if at that meeting or at the next subsequent meeting, the States resolve that the order be annulled, the order shall cease to</p>

have effect, but without prejudice to anything done thereunder or to the making by the Board of any new order,

- (ii) in the Island of Sark, shall cease to have effect on the expiration of twenty-eight days from the date on which the Chief Pleas of Sark next sit after the making of the order unless at some time before the expiration of that period it has been approved by the Chief Pleas, but without prejudice to anything done thereunder or to the making of a new order by the Board."⁵

Sections five and six are repealed and the following sections substituted therefor –

"5. No goods which are shown to the satisfaction of the Appropriate Authority –

- (a) to have been consigned from and grown, produced or manufactured in the United Kingdom; or
- (b) to have been consigned from and grown, produced or manufactured in any part of the Commonwealth

	<p>preference area and which, if imported into the United Kingdom, would not be chargeable therein with Customs Duties, or</p> <p>(c) to have borne Customs Duties in the United Kingdom and to be goods on which relief in respect of such Customs Duties is not allowable in the United Kingdom upon the re-exportation thereof from the United Kingdom, or</p> <p>(d) to be articles imported by or for the use of or consigned to any Department of Her Majesty's Government,</p> <p>shall be chargeable with duty under any such Order.</p>
<p>6.</p>	<p>(a) Where it is shown to the satisfaction of the Appropriate Authority that in the case of any goods imported into any Island of the Bailiwick from the United Kingdom upon which goods relief of Customs Duties on re-exportation from the United Kingdom though allowable has not been allowed and cannot</p>

<p>[...]</p> <p>3. The Customs and Excise (General</p>	<p>reasonably be expected to be allowed despite all due diligence on the part of the person or persons entitled to claim such relief and that the price allowable for such goods by the importer is not reduced by the amount of such relief, the duty charged by virtue of this Law on the importation into that Island of such goods shall be refunded to the importer,</p> <p>(b) where it is shown to the satisfaction of the Appropriate Authority that the relief of Customs Duties allowable in the United Kingdom in respect of any goods imported therefrom into any Island of the Bailiwick is less than the amount of those Customs Duties, the duty chargeable on the importation of those goods into that Island shall not exceed the amount of such relief.".</p> <p>[...]</p> <p>In subsection (1) of section one –</p> <p>(a) delete the definition of the expression</p>
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<p>Provisions) (Bailiwick of Guernsey) Law, 1972.</p>	<p>"Community customs duty" and substitute the following definition –</p> <p>""Community customs duty" means, in relation to any goods, such duty of customs as may from time to time be fixed for those goods by directly applicable Community provision as the duty chargeable on importation into member States,"</p> <p>(b) immediately after the definition of the expression "master", insert the following definition –</p> <p>"member", in the expression "member States", refers to membership of the Communities;"</p> <p>In subsection (1) of section twenty-one delete the words "European Communities (External Tariffs and Non-Discrimination) (Bailiwick of Guernsey) Law, 1972" and substitute the words "European Communities (Bailiwick of Guernsey) Law, 1973".</p>
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NOTE

In the Second Schedule, the words omitted in the square brackets in the left and right hand columns were repealed by the European Free Trade Association (Repeal) (Bailiwick of Guernsey) Ordinance, 1977, section 1, Schedule, with effect from 12th January, 1977.

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

² Prior to this substitution, the definition of the expression "'the Treaties" or "the Community Treaties"' in subsection (1) was amended by the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1980, section 1, with effect from 9th December, 1980; the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1985, section 1, with effect from 18th February, 1986; the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1986, section 1(a), with effect from 1st May, 1987; the European Communities (Amendment) (Bailiwick of Guernsey) Ordinance, 1994, section 1, with effect from 28th September, 1994; the European Communities (Amendment) (Bailiwick of Guernsey) Ordinance, 1998, section 1, with effect from 29th July, 1998; the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2001, section 1, with effect from 1st November, 2001; the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2003, section 1, with effect from 31st July, 2003; the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2006, section 1, with effect from 1st January, 2007; the European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2014, section 1, with effect from 28th May, 2014.

³ The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Administration and its President by the

Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), Schedule 2, paragraph 2(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁴ Prior to their repeal, subsection (2) and subsection (3) were amended by the European Communities (Amendment) (Bailiwick of Guernsey) Law, 1986, section 1(c), with effect from 1st May, 1987.

⁵ For subsequent amendments, see the consolidated text of the Import Duties Act (Bailiwick of Guernsey), 1932.

REPEALED