

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Privileges and Immunities (Bailiwick of Guernsey) Law, 2005

(Registered on the Records of the Island of Guernsey
on the 5th September, 2005.)



2005

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2005**

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 5th day of September, 2005 before Geoffrey Robert Rowland, Esquire, Bailiff; present:— David Charles Lowe, Laurence Lenfestey Guille, Stephen Edward Francis Le Poidevin, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael Henry De La Mare, Esquires, Susan Mowbray, Barbara Jean Bartie and David Osmond Le Conte, Esquire, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 19th day of July, 2005, approving and ratifying the Projet de Loi entitled “The Privileges and Immunities (Bailiwick of Guernsey) Law, 2004”, 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 19th day of July, 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 27th March, 2004, the States of Deliberation at a meeting on 29th September, 2004, approved a Projet de Loi entitled “The Privileges and Immunities (Bailiwick of Guernsey) Law, 2004” 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 17th November, 2004, 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 24th November, 2004, considered the Projet de Loi when a Resolution was passed agreeing to its application to Sark. That the Projet 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 Privileges and Immunities (Bailiwick of Guernsey) Law, 2004” 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 Islands of Guernsey and Herm 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 Privileges and Immunities (Bailiwick of Guernsey) Law, 2004

THE STATES, in pursuance of their Resolution of the 27th March, 2002^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.

Power to make Ordinances as to privileges and immunities.

1. The States may by Ordinance -
 - (a) specify any international organisation or any class or description of person,
 - (b) make such provision as they think fit for the purpose of conferring the privileges and immunities to be enjoyed by or in relation to any organisation or person specified under paragraph (a), and
 - (c) make such other provision as they think fit for the implementation of any international agreement relating to privileges and immunities or any aspect thereof.

^a Article III of Billet d'État No. IV of 2002.

Interpretation.

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

"**enactment**" includes any Law, Ordinance, Act of Parliament and Order in Council,

"**implementation**", in relation to any international agreement relating to privileges and immunities or any aspect thereof, includes the enforcement or enactment thereof, and the securing of the administration, execution, recognition, exercise or enjoyment thereof, in or under domestic law,

"**international agreement**" means -

- (a) any convention, treaty, protocol or other international instrument (including, without limitation, the Vienna Convention on Diplomatic Relations^b), or any provision thereof, and
- (b) any Community provision within the meaning of section 3(1) of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^c,

whether or not binding upon the Bailiwick or any part thereof, and includes any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under any such international agreement,

^b The Convention was signed in 1961.

^c Order in Council No. III of 1994.

"international organisation" means, subject to subsection (2), any organisation, community or body -

(a) of which the United Kingdom or any other sovereign power is a member, or

(b) which is established under any international agreement,

"privileges and immunities" includes exemptions, facilities, exclusions, rights, reliefs, refunds, waivers, status and capacity and (by way of example, and without limitation) any privileges and immunities which in the United Kingdom are accorded by or under the Diplomatic Privileges Act 1964^d, the Consular Relations Act 1968^e or the International Organisations Act 1968^f,

"property" means property and assets of every description and includes rights, benefits and powers of every description,

"States" means the States of Deliberation.

(2) The reference in section 1 to an international organisation includes a reference to its officers, members of staff, representatives, institutions, organs, missions, premises, papers and property.

^d An Act of Parliament (1964 c.81).

^e An Act of Parliament (1968 c.18).

^f An Act of Parliament (1968 c.48).

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

(4) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

General provisions as to subordinate legislation.

3. (1) An Ordinance under this Law -

(a) may be amended or repealed by a subsequent Ordinance hereunder, and

(b) may contain such transitional, consequential, incidental, supplementary and savings provisions as the States think fit, including (without limitation) provision repealing, amending or disapplying any enactment.

(2) Any power conferred by this Law to make an Ordinance may be exercised -

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to

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

which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes;
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences and may (for the avoidance of doubt) specify penalties which may be imposed by the Magistrate's Court, the Court of Alderney or the Court of the Seneschal which exceed the limits of jurisdiction for the time being imposed upon those Courts by, respectively, section 10 of the Magistrate's Court (Guernsey) Law 1954^h, section 13 of the Government

^h Ordres en Conseil Vol. XVI, p. 103; Vol. XXVII, p. 170; Vol. XXVIII, p. 5; and No. V of 1989.

of Alderney Law, 1987ⁱ and section 23 of the Reform (Sark) Law, 1951^j,

- (b) may direct that any provision of -
 - (i) any international agreement relating to privileges and immunities or any aspect thereof, or
 - (ii) any enactment or any order, rule, regulation, scheme, warrant, byelaw or other instrument made under any enactment,

shall have effect in the Bailiwick or any part thereof with such exceptions, adaptations and modifications as may be specified in the Ordinance,

- (c) without prejudice to the provisions of paragraph (b), may make provision by reference to, and may adopt or incorporate (by reference, annexation or otherwise), any provision described in paragraph (b), which provision shall (subject to any exceptions, adaptations and modifications specified in the Ordinance) thereupon have the same force and effect as an Ordinance under this Law,

ⁱ Ordres en Conseil Vol. XXX, p. 37; and No. VI of 1989.

^j Ordres en Conseil Vol. XV, p. 215; Vol. XXIII, p. 200; Vol. XXIX, p. 27; No. VII of 1989; and No. XII of 1991.

- (d) may make provision for the purpose of dealing with matters arising out of or related to any provision described in paragraph (b),
- (e) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (f) may apply to the whole of the Bailiwick or to any part thereof, and
- (g) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi (including provision amending any enactment), but may not make provision which imposes or increases taxation or which provides that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.

(4) The Policy Council (and any other department of the States)

must -

- (a) before recommending the States to agree to make an Ordinance under this Law which is to apply in Sark or Alderney, consult the General Purposes and Finance Committee of the Chief Pleas of Sark or (as the case may be) the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and

- (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon,

but a failure to comply with this subsection does not invalidate any Ordinance made under this Law.

Citation.

4. This Law may be cited as the Privileges and Immunities (Bailiwick of Guernsey) Law, 2004.