

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Public Health (Amendment) (Guernsey) Law, 1999

(Registered on the Records of the Island of Guernsey
on the 15th June, 1999.)



1999

V
1999

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 15th day of June, 1999 before de Vic Graham Carey, Esquire, Bailiff; present:- Leonard Arthur Moss, John Richard Rowe Henry, David Charles Lowe, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, O.B.E., Esquires, and The Reverend Peter Gerald Lane, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 11th day of May, 1999 approving and ratifying a Projet de Loi entitled "The Public Health (Amendment) (Guernsey) Law, 1999", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ORDERED that the said Order in Council be registered on the records of this Island of which Order in Council the tenor followeth:-

At the Court at Buckingham Palace

The 11th day of May 1999

PRESENT.

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 28th day of April 1999 in the words following, viz.:-

"YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:-

"1. That, in pursuance of their Resolution of the 26th day of February 1997, the States of Deliberation at a meeting held on the 30th day of September 1998 approved a Bill or "Projet de Loi" entitled "The Public Health (Amendment) (Guernsey) Law, 1999", and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or "Projet de Loi" is as set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Public Health (Amendment) (Guernsey) Law, 1999", and to order that the same shall have force of law in the Islands of Guernsey, Herm and Jethou."

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Herm and Jethou.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

A. K. Galloway

The Public Health (Amendment) (Guernsey) Law, 1999

THE STATES, in pursuance of their Resolution of 26th February, 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.

The definition of a "nuisance"

Matters prejudicial to health

1. (1) Immediately after section 1(2) of the Law entitled "Loi relative à la Santé Publique, 1934"^b ("the Law") there is inserted:

"(2A) References to something "prejudicial" to health (or to the health of persons of a particular description) are to be construed as including anything which is injurious, or which is likely to cause injury, to health (or, as the case requires, to the health of persons of that description).".

(2) In section 1(4) of the Law:

- (a) for " a nuisance or injurious", wherever appearing, there is substituted "either a nuisance, or prejudicial";
- (b) for "dangerous or injurious", wherever appearing, there is substituted "either dangerous, or prejudicial";

^a on Billet d'État No. II of 1997.

^b Ordres en Conseil Vol. IX, p.386; Vol. XIX, p.213; Vol. XXIX, p.329.

- (c) in paragraph (k), for "causing or likely to cause risk to health" there is substituted "being prejudicial to health".

Smoke

2. (1) Immediately after section 1(3) of the Law there is inserted:

"(3A) The expression "smoke" includes soot, ash, grit, and gritty particles emitted in smoke.".

- (2) For section 1(4)(i) of the Law there is substituted:

"(i) Smoke emitted from any premises so as to be either a nuisance, or prejudicial to health;".

Effluvia

3. For section 1(4)(h) of the Law there is substituted:

"(h) Any dust, steam, smell or other effluvia arising in or on any industrial, trade or business premises, and being either a nuisance, or prejudicial to health;".

Noise and vibration

4. For section 1(4)(j) of the Law there is substituted:

"(j) Noise or vibration emitted from any premises so as to be either a nuisance, or prejudicial to health:

Provided that this paragraph does not apply to noise caused by aircraft (other than model aircraft);".

Light

5. Immediately after paragraph (m) of section 1(4) of the Law there is inserted:

"(n) Light emitted from any premises so as to be either a nuisance, or prejudicial to health:

Inspection, abatement and enforcement

Rights of entry

6. In section 2(1) of the Law for all the words from "between the hours of ten o'clock" to "is usually carried on" inclusive there is substituted "at any reasonable hour (except that entry as of right to premises used solely for domestic purposes shall not be demanded under this subsection between 18.00 and 10.00 unless written notice of intent to do so has been served on the occupier of those premises at least 24 hours prior to the demand)".

Authorised officers

7. In section 1(1) of the Law, immediately after "duties of inspection," there is inserted "any person authorised in writing by the States Board of Health to act for the purposes of this Law either generally, in matters of specified kinds, or in any specified matter (in this Law referred to as an "authorised officer"),".

Miscellaneous and supplementary provisions

Ordinances

8. For section 4 of the Law there is substituted:

"Public health Ordinances

4. (1) The States may from time to time by Ordinance enact such measures as may be expedient in relation to public health, sanitation, and the abatement of nuisances.

(2) Without prejudice to the generality of subsection (1) of this section, but subject to subsection (3) of this section, the States may by Ordinance:

- (a) empower authorised officers to issue notices requiring the cessation of such activities and/or taking of such action and/or execution of such works as may be specified therein, within such time as may be so specified, to abate any nuisance so specified, and to prevent the recurrence of any nuisance specified therein as being in the opinion of the authorised officer otherwise likely to recur;
- (b) empower any authorised officer, where in his opinion a notice served as set out in paragraph (a) of this subsection has not been complied with and an imminent danger to public health exists, to cause to be taken any action and execute any works specified in the notice; and empower the States Board of Health to recover the cost of so doing as a civil debt due to the States from any person responsible for creating the nuisance;
- (c) empower the Sanitary Authority to require the evacuation and prohibit the subsequent re-occupation of premises which are in the opinion of that Authority unfit for occupation, and to

enforce any such requirement by bringing eviction proceedings before the Ordinary Court.

(3) An Ordinance making such provision as is mentioned in subsection (2)(a) of this section must further provide:

(a) that unless a notice issued thereunder states that in the opinion of the authorised officer issuing the notice the nuisance specified in it constitutes an imminent danger to public health
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(i) any person aggrieved by its terms may apply to the Ordinary Court in such manner and within such time as the Ordinance may provide for an order setting aside or varying the notice, and

(ii) if such an appeal is so instituted, no further proceedings or work may be taken or done pursuant to any Ordinance under this Law in relation to the nuisance until the appeal has been determined or withdrawn;

(b) that if a notice served thereunder states that in the opinion of the authorised officer issuing the notice the nuisance specified in it constitutes an imminent danger to public health the States Board of Health shall compensate any person who incurs expense or suffers financial loss as a direct result of complying with the notice, or of any action taken by the Board as mentioned in subsection (2)(b) of this section, unless

- (i) the Board applies to the Magistrate's Court, in such manner and within such time as the Ordinance may provide, for confirmation of the notice; and
- (ii) that Court declares itself satisfied, on hearing that application, that when the notice was served a nuisance involving imminent danger to public health existed on the premises concerned:

PROVIDED that such compensation shall not exceed such sum as may be prescribed by such an Ordinance.

(4) Without prejudice to the generality of subsection (1) of this section, an Ordinance made under this section may -

- (a) create offences and provide for the imposition of penalties;
- (b) determine the several liabilities of persons responsible for causing nuisances, and of owners and occupiers of premises on or from which nuisances arise;
- (c) make further provision as to inspection, as to the service of notices, detailed requirements which may be imposed thereby, appeals and applications to the Court in relation thereto, and enforcement thereof;
- (d) impose requirements in relation to the notification, containment and eradication of infectious and contagious diseases;

- (e) make provision for ensuring the safety of food;
- (f) make different provision for different cases and circumstances, including emergency circumstances;
- (g) prohibit or regulate the doing of anything within its purview without the permission of the States Board of Health or of an authorised officer;
- (h) contain incidental and transitional provisions;
- (i) be repealed or varied by a subsequent Ordinance so made."

Citation

9. This Law may be cited as the Public Health (Amendment) (Guernsey) Law, 1999.

Commencement and transitional provisions

10. (1) This Law shall come into force on such date or dates as the States may appoint by Ordinance.

(2) An Ordinance under this section may

- (a) appoint different dates as respects different provisions of this Law and for different purposes;
- (b) contain saving and transitional provisions.