

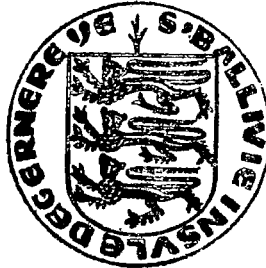
ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The European Communities (Bailiwick of Guernsey) Law, 1973

(Registered on the Records of the Island of Guernsey
on the 23rd day of August, 1973.)



1973

XI
1973

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 23rd day of August, 1973, before John Henry Loveridge, Esquire, C.B.E., Bailiff; present:— Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Esquire, Gilbert Carey de Jersey, Esquire, C.B., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Richard Alan Kinnersly, Richard Brook Sutcliffe and Richard Oliver Symons, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 16th day of July, 1973, ratifying a *Projet de Loi* entitled "The European Communities (Bailiwick of Guernsey) Law, 1973", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and 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 Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 16th day of July 1973

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 11th day of July 1973, 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 15th day of December 1971 the States of Deliberation at a meeting held on the 30th day of May 1973 approved a Bill or “Projet de Loi” entitled “The European Communities (Bailiwick of Guernsey) Law, 1973” which Bill is designed to apply to the Bailiwick of Guernsey, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto.
2. That the States of the Island of Alderney at a meeting held on the 6th day of June 1973 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Alderney.
3. That the Chief Pleas of the Island of Sark at a meeting held on the 18th day of June 1973 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the appli-

cation of the same to Sark. 4. That the said Bill or "Projet de Loi" is in the words and figures 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 European Communities (Bailiwick of Guernsey) Law, 1973" and to order that the same shall have force of law in the Bailiwick of Guernsey.'

"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, as it is hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

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.

W. G. Agnew.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The European Communities (Bailiwick of Guernsey) Law, 1973

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.
6. Community offences.
7. Repeals and amendments.
8. Savings.
9. Citation.

SCHEDULES

1. The Pre-Accession Treaties.
2. Amendments.

PROJET DE LOI

ENTITLED

The European Communities (Bailiwick of Guernsey) Law, 1973

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.

Interpreta-
tion.

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

“the Bailiwick” means the Bailiwick of Guernsey;

“the Board” means the States Board of Administration;

“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);

(a) Ordres en Conseil No. XXIX of 1972.

“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;

“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;

“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 twenty-second day of January, nineteen hundred and seventy-two; and
- (b) the decision, of the same date, of the Council of the European Communities relating to the accession of the United Kingdom to the European Coal and Steel Community;

and any other treaty entered into by any of the Communities, with or without any of the member States, or entered into, as a treaty

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

ancillary to any of the Treaties, by the United Kingdom;

“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.

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.

General
implemen-
tation of
the Treaties.

(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.

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 deter-

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

(c) Ordres en Conseil Vol. XIII, p. 355.

mination as such in accordance with the principles laid down by and any relevant decisions of the European Court).

(2) Judicial notice shall be taken of the Treaties, of the Official Journal of the Communities and of any decision of, or expression of opinion by, the European Court on any such question as aforesaid; and the Official Journal shall be admissible as evidence of any instrument or other act thereby communicated of any of the Communities or of any Community institution.

(3) Evidence of any instrument issued by a Community institution, including any judgment or order of the European Court, or of any document in the custody of a Community institution, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of that institution; and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(4) Evidence of any Community instrument may also be given in any legal proceedings by production of a copy purporting to be printed by the Queen's Printer.

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 Board 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 Board 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 Board 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 Board 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 Board 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 fifty pounds.

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

The 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 Board; and the power of the Board 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 Board 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 draw-

back 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.

6. A person who, in sworn evidence before the European Court, 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. Community offences.

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

(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.

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 Savings.

(*d*) Ordres en Conseil No. XXX of 1972.

(*e*) Ordres en Conseil Vol. XVIII, p. 174.

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.

SCHEDULES

FIRST SCHEDULE Section 1.

THE PRE-ACCESSION TREATIES

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

Section 7

AMENDMENTS

*Law**Amendment*

1. The Import Duties Act (Bailiwick of Guernsey), 1932.

Paragraph (e) of section two is repealed and the following paragraph is substituted therefor:—

“(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:—

(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 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.”.

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:

*Law**Amendment*

- (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 preference area and which, if imported into the United Kingdom, would not be chargeable therein with Customs Duties; or
 - (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
 - (d) to be articles imported by or for the use of or consigned to any Department of Her Majesty's Government;
- shall be chargeable with duty under any such Order.

6. (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 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;
- (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

*Law**Amendment*

Duties, the duty chargeable on the importation of those goods into that Island shall not exceed the amount of such relief."

2. The European Free Trade Association (Guernsey) Law, 1960. In subsection (5) of section two the words and figures "subsections (2) to (4)" are repealed and the words and figures "subsections (2) and (3)" are substituted therefor.
3. The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972. In subsection (1) of section one—
 - (a) delete the definition of the expression "Community customs duty" and substitute the following definition—

" "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;"
 - (b) immediately after the definition of the expression "master", insert the following definition—

" "member", in the expression "member States", refers to membership of the Communities;"

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".

R. H. VIDELO,

Her Majesty's Greffier.

