

ORDER IN COUNCIL

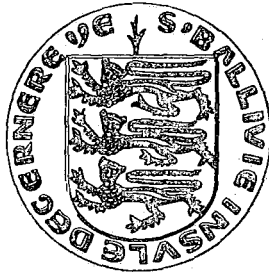
III
1994

ratifying a Projet de Loi

ENTITLED

The European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994

(Registered on the Records of the Island of Guernsey
on the 26th day of April, 1994.)



1994

The European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994

THE STATES, in pursuance of their Resolution of the 26th day of May, 1993^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.

Implementation of Community provisions.

1. The States may by Ordinance make such provision as they may consider necessary or expedient for the purpose of the implementation of any Community provision.

Power to amend European Communities Law.

2. The States of Deliberation may by Ordinance amend the definition of "the Treaties" and "the Community Treaties" set out in section 1(1) of the European Communities (Bailiwick of Guernsey) Law, 1973^b.

Interpretation.

3. (1) In this Law, except where the context excludes-

"Community provision" means-

- (a) any provision contained in or arising under the Community Treaties or any Community instrument (in

^a Article II of Billet d'État No. VIII of 1993.

^b Ordres en Conseil Vol. XXIV, p.87; Vol. XXVII, p.242; and Vol. XXIX, pp.127 and 419.

each case within the meaning of section 1(1) of the European Communities (Bailiwick of Guernsey) Law, 1973);

- (b) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under the Community Treaties; and
- (c) any decision or expression of opinion of the European Court or any court attached thereto under the Community Treaties;

whether or not directly applicable in or binding upon the Bailiwick;

"implementation", in relation to a Community provision, includes the enforcement or enactment of the provision, and the securing of the administration, execution, recognition, exercise or enjoyment of the provision, in or under domestic law;

"the States" means-

- (a) in relation to the Bailiwick of Guernsey apart from the Islands of Alderney and Sark, the States of Deliberation;
- (b) in relation to the Island of Alderney, the States of Alderney; and

(c) in relation to the Island of Sark, the Chief Pleas of Sark.

(2) The provisions of the Interpretation (Guernsey) Law, 1948^c shall apply to the interpretation of this Law throughout the Bailiwick as they apply in Guernsey to the interpretation of an enactment.

(3) 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 Ordinances.

4. (1) An Ordinance under this Law-

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

(b) may contain such consequential, incidental, supplementary and transitional provision as may appear to the States to be necessary or expedient.

(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;

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

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

(i) an Ordinance of the States of Deliberation may specify a penalty which may be imposed by the Magistrate's Court which exceeds the limits of jurisdiction for the time being imposed upon

that Court by section 10 of the Magistrate's Court (Guernsey) Law 1954^d;

- (ii) no Ordinance of the States of Alderney or the Chief Pleas of Sark may specify a penalty in respect of an offence triable summarily or on indictment which exceeds the maximum penalty specified by Ordinance of the States of Deliberation in respect of that offence when tried summarily or, as the case may be, on indictment or the limits of jurisdiction for the time being imposed upon the Court of Alderney by section 13 of the Government of Alderney Law, 1987^e or the Court of the Seneschal by section 23 of the Reform (Sark) Law, 1951^f, whichever is greater;
- (iii) no Ordinance under this Law shall increase the limits of jurisdiction for the time being imposed upon the Court of Alderney by section 13 of the Government of Alderney Law, 1987 or the Court of the Seneschal by section 23 of the Reform (Sark) Law, 1951;

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

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

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

- (b) may direct that any Community provision, or any provision of any Order in Council, Ordinance or Act of Parliament or of any order, rule, regulation, scheme, warrant, byelaw or other instrument made under any Order in Council, Ordinance or Act of Parliament, shall extend to the part of the Bailiwick to which the Ordinance applies 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;
- (d) may make any such provision of any such extent as might be made by Projet de Loi other than any provision which imposes or increases taxation or which takes effect from a date earlier than that of the making of the Ordinance.

Citation.

5. This Law may be cited as the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994.