

PROJET DE LOI

ENTITLED

The Glasshouse Control (Amendment) Law, 1960 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. 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. XVIII, p. 230; as amended by the Glasshouse Control (Guernsey) Law, 1965 (Ordres en Conseil Vol. XX, p. 84); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278). See also the Glasshouse Control Law, 1936 (Orders in Council Vol. X, p. 369); the States Committees (Amendment) Law, 1948 (Ordres en Conseil Vol. XIII, p. 245); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406).

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THE STATES, in pursuance of their Resolution of the sixteenth day of September, nineteen hundred and fifty-nine, 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 and Herm.

Interpretation.

1. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"the basic area" means an area of thirteen thousand five hundred square feet,

"owned" means beneficially owned and the expressions **"owns"** and **"owner"** shall be construed accordingly,

"a person suffering undue hardship" has the meaning assigned to it by section two of this Law,

"the principal Law" means the Glasshouse Control Law, 1936, as amended by the Glasshouse Control (Amendment) Law, 1952, and the Glasshouse Control (Amendment) Law, 1956,

"the Register" has the meaning assigned to it by section five of this Law.

(2) For the purposes of this Law a husband and wife shall be deemed to be one person unless they are judicially separated or the wife is permanently living apart from her husband.

NOTE

The Glasshouse Control Law, 1936, the Glasshouse Control (Amendment) Law, 1952 and the Glasshouse Control (Amendment) Law, 1956 have since been repealed by the Glasshouse Control (Guernsey) Law, 1965, section 8, Schedule, with effect from 29th May, 1968, subject to the savings in section 4 of the 1965 Law.

Person suffering undue hardship.

2. (1) In and for the purposes of this Law, a person suffering undue hardship is a person who was on the twenty-third day of January, nineteen hundred and fifty-seven, and since that day has been continuously both the owner and occupier of a glasshouse or glasshouses of an area not exceeding the basic area and –

- (a) the whole of which was erected or acquired or both erected and acquired during the period commencing on the seventeenth day of May, nineteen hundred and fifty, and ending on the twenty-second day of January, nineteen hundred and fifty-seven, both days inclusive; and of which an area of not less than three thousand square feet is comprised in one holding, or
- (b) such person was not at any time before the seventeenth day of May, nineteen hundred and fifty, the owner of

a glasshouse and during the period commencing on that day and ending on the twenty-second day of January, nineteen hundred and fifty-seven, both days inclusive, erected or acquired or both erected and acquired, in one holding, a glasshouse or glasshouses of an area not less than three thousand square feet; and since the said twenty-second day of January has erected or acquired or both erected and acquired a glasshouse or glasshouses.

(2) In subsection (1) of this section the expression "**person**" where that expression first occurs does not include –

- (a) a person who on the twenty-third day of January, nineteen hundred and fifty-seven, was a minor unless –
 - (i) since that day he himself has been actually working for his own benefit the glasshouse or glasshouses of which he was the owner and occupier on that day, and
 - (ii) if he is a person suffering undue hardship within the meaning of the provisions of that subsection excluding those of paragraph (a) thereof, he himself has been actually working for his own benefit the glasshouse or glasshouses erected or acquired or both erected and acquired by him since the twenty-second day of January, nineteen hundred and fifty-seven,

- (b) a body of persons corporate or unincorporate,
- (c) a person who has a financial interest whether by way of share, debenture or loan in a body of persons corporate or unincorporate which owns a glasshouse or glasshouses,
- (d) a person who, on or after the seventeenth day of May, nineteen hundred and fifty, has sold, let, transferred or otherwise disposed of any glasshouse,
- (e) a person who employs labour, other than casual labour, to work in any glasshouse owned and occupied by him or who, having an occupation other than, or in addition to, that of working any such glasshouse, employs labour, other than casual labour, to work any such glasshouse or for the purposes of such occupation.

Erection by persons suffering undue hardship.

3. (1) Subject to the provisions of this section, the Committee shall, upon application being made to it in that behalf at any time during the three years next following the commencement of this Law by a person suffering undue hardship, grant to that person a permit authorising him to erect a glasshouse or glasshouses of an area not greater than that of the difference between the area of the glasshouse or glasshouses owned and occupied by him and the basic area.

(2) Notwithstanding anything contained in subsection (1) of this section, the Committee may, in relation to any particular person suffering undue

hardship and for any reason which may seem to it good or sufficient, in its absolute discretion –

- (a) refuse to grant to that person a permit under that subsection, or
- (b) grant to that person such a permit subject to such conditions as the Committee may deem proper.

(3) The Committee may from time to time vary or revoke any conditions attached to the grant of a permit under paragraph (b) of subsection (2) of this section.

(4) A permit granted under the foregoing provisions of this section shall only authorise the erection of a glasshouse or glasshouses –

- (a) on land which was on the twenty-third day of January, nineteen hundred and fifty-seven, and since that day has been continuously owned by the grantee of that permit, and
- (b) where the glasshouse or glasshouses owned by the person in whose favour the permit is granted is or are comprised in one holding, on such part of that holding as shall be specified on the permit, or
- (c) where the glasshouses owned by such person are comprised in two or more holdings, on such holding, and on such part of such holding, as shall be specified in the permit.

(5) An appeal shall not lie from the refusal of the Committee to grant a permit under the foregoing provisions of this section or against any condition attached to the grant of a permit under those provisions.

NOTE

In accordance with the provisions of the States Committees (Amendment) Law, 1948, section 3(2), with effect from 22nd May, 1948, the powers and duties assigned to the Committee (the States Glasshouse Control Committee) under the Glasshouse (Control) Law, 1936 were assigned to the States Committee for Horticulture and any reference in the 1936 Law to "the Committee" was to be construed as a reference to the said Committee for Horticulture. In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 10, with effect from 6th May, 2004, any reference to the Committee for Horticulture was substituted with a reference to the States Commerce and Employment Department; and the functions, rights and liabilities of the Committee for Horticulture and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Commerce and Employment Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 10, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

Restriction on sale etc. of certain glasshouses.

4. (1) A person who is for the time being the owner of a glasshouse erected under the authority of a permit granted under the provisions of section three of this Law shall not sell, let, transfer or otherwise dispose of that glasshouse during the five years next following the day on which such permit was granted except under the authority of a licence in that behalf granted by the Committee in such special circumstances as may be approved by the Committee.

(2) The sale, letting, transfer or other disposal of a glasshouse to which subsection (1) of this section applies not authorised by licence of the

Committee granted under the provisions of that subsection shall be void and illegal.

(3) A person who purports to sell, let, transfer or otherwise dispose of a glasshouse to which subsection (1) of this section applies and which by virtue of the provisions of the said subsection may not be sold, let, transferred or otherwise disposed of shall be guilty of an offence and on conviction liable to a fine not exceeding [level 4 on the uniform scale].

(4) A person who purports to buy, rent, take a transfer of or otherwise acquire a glasshouse to which subsection (1) of this section applies and which may not by virtue of the provisions of that subsection be sold, let, transferred or otherwise disposed of shall be guilty of an offence and on conviction liable to a fine not exceeding [level 4 on the uniform scale].

(5) In this section –

(a) the expression "**glasshouse**" includes an uncompleted glasshouse, and

(b) the expression "**disposal of**" does not include disposition by testament and the expressions "**dispose of**" and "**disposed of**" shall be construed accordingly.

NOTE

In section 4, the words and figures in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Registration of permits and licences at the Greffe.

5. (1) On the commencement of this Law Her Majesty's Greffier shall establish and shall thereafter maintain a public register to be styled the Glasshouse (Restricted Transactions) Register (hereafter in this Law referred to as "**the Register**").

(2) The President of the Committee shall within the seven days next following the grant of a permit under section three of this Law transmit to Her Majesty's Greffier a copy of that permit which shall be certified by the said President as a true copy thereof.

(3) On receipt of a certified copy of a permit transmitted to him in accordance with the provisions of subsection (2) of this section, Her Majesty's Greffier shall forthwith enter the same in the Register and enter the name of the grantee thereof in an Index to that Register.

(4) The President of the Committee shall within the seven days next following any variation or revocation under subsection (3) of section three of this Law of any conditions attached to the grant of a permit under that section transmit to Her Majesty's Greffier a copy of that permit as amended by such variation or revocation, as the case may be, and certified by the said President as a true copy thereof and on receipt of a certified copy of that permit as amended Her Majesty's Greffier shall forthwith –

- (a) enter the same in the Register and enter the name of the grantee thereof in the Index to the Register, and
- (b) cancel any previous entry in the Register relating to that permit and any relevant entry in the Index to the Register.

(5) The President of the Committee shall within the seven days next following the grant of a licence under section four of this Law transmit to Her Majesty's Greffier a copy of that licence which shall be certified by the said President as a true copy thereof.

(6) On receipt of a certified copy of a licence transmitted to him in accordance with the provisions of the last foregoing subsection, Her Majesty's Greffier shall forthwith enter the same in the Register and enter the name of the grantee thereof in the Index to the Register.

(7) The names entered in the Index to the Register shall be in alphabetical order.

(8) The Register and the Index thereto shall be available for inspection without charge during the hours in which the Greffe is open for public business and extracts thereof may be taken without charge.

(9) A certified copy of a permit transmitted to Her Majesty's Greffier in accordance with the provisions of subsection (2) or of subsection (4) of this section and a certified copy of a licence transmitted to Her Majesty's Greffier in accordance with the provisions of subsection (5) of this section shall, in the absence of proof to the contrary, be evidence of the matters contained therein.

Amendment of section eleven of the principal Law.

6. ...

NOTE

Section 6 was repealed by the Glasshouse Control (Guernsey) Law, 1965, section 8, Schedule, with effect from 29th May, 1968, subject to the savings in section 4 of the 1965 Law.

Construction and citation.

7. ...

NOTES

Section 7 was repealed by the Glasshouse Control (Guernsey) Law, 1965, section 8, Schedule, with effect from 29th May, 1968, subject to the savings in section 4 of the 1965 Law.

The Law received Royal Sanction on 12th September, 1960 and was registered on the Records of the Island of Guernsey and came into force on 3rd October, 1960.
