

ORDER IN COUNCIL

**XXV
2003**

ratifying a Projet de Loi

ENTITLED

The Public Highways (Co-ordination of Temporary Road Closures etc.) (Guernsey) Law, 2003

(Registered on the Records of the Island of Guernsey
on the 1st December, 2003.)



2003

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 1st day of December, 2003 before Geoffrey Robert Rowland, Esquire, Deputy Bailiff; present:— David Charles Lowe, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael John Wilson, Michael John Tanguy, Esquires, and Susan Mowbray, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 8th day of October, 2003, approving and ratifying a *Projet de Loi* of the States of Guernsey entitled “The Public Highways (Co-ordination of Temporary Road Closures etc.) (Guernsey) Law, 2003”, THE COURT, after the reading of the said Order in Council and having heard Her Majesty’s Comptroller thereon, ORDERED that the said Order in Council be registered on the records of this Island.

At the Court at Buckingham Palace

The 8th day of October, 2003

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:”

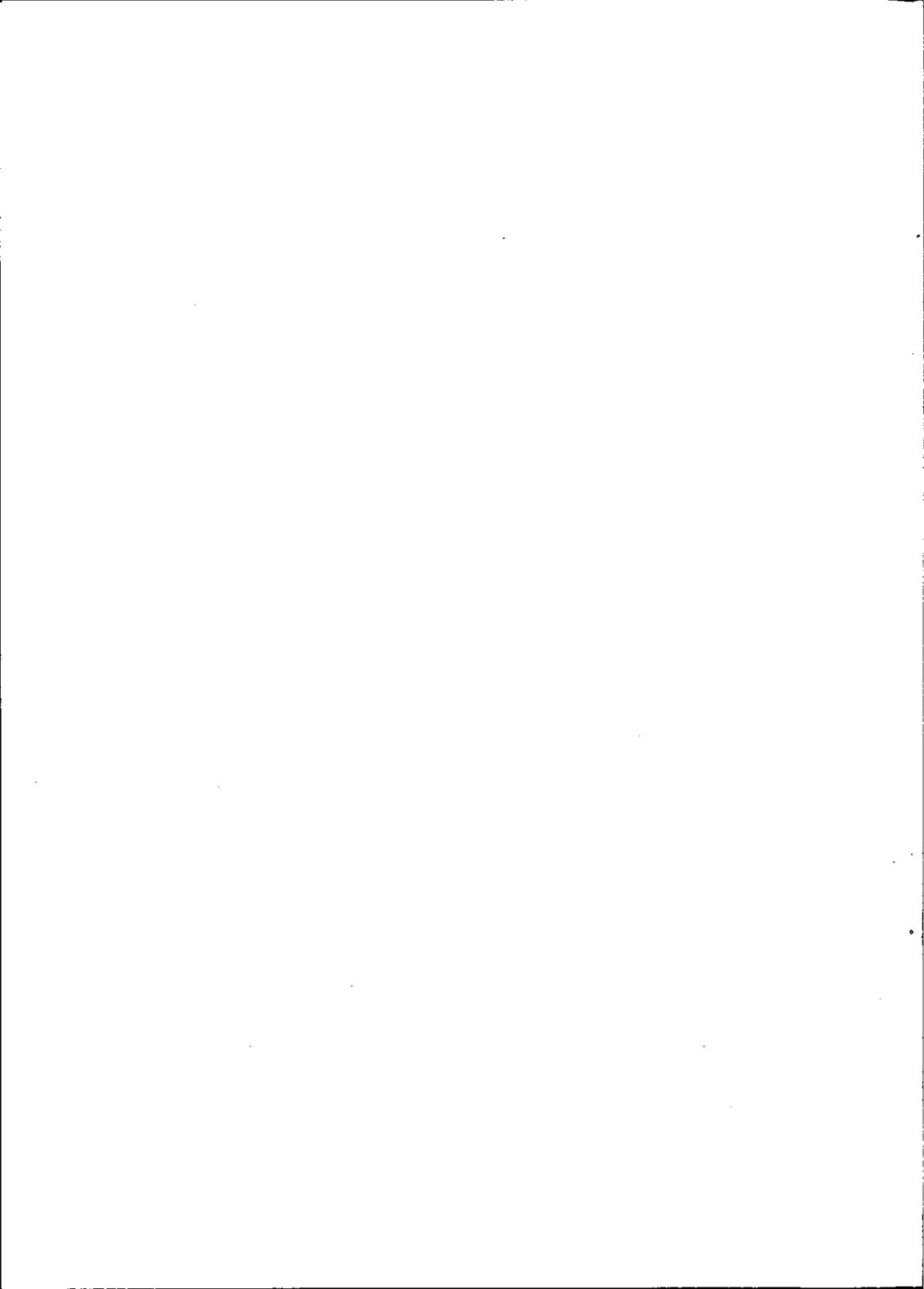
“That, in pursuance of their Resolution of the 31st of May, 2002, the States of Deliberation at a meeting on the 28th May, 2003, approved a Projet de Loi entitled “The Public Highways (Co-ordination of Temporary Road Closures etc.) (Guernsey) Law, 2003” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. 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 Public Highways (Co-ordination of Temporary Road Closures etc.) (Guernsey) Law, 2003” and to order that it shall have force of law in the Island 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 of and ratify the said 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 Island of Guernsey, 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 Public Highways (Co-ordination of Temporary Road Closures etc.) (Guernsey) Law, 2003

THE STATES, in pursuance of their Resolution of the 31st day of May 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 Island of Guernsey.

Committee to be responsible for temporary road closures etc.

1. Responsibility for the co-ordination of temporary closures of public highways and of traffic management measures therein for the purpose of carrying out any works in or on any public highway or in or on any land adjacent to any public highway is hereby vested in the States Traffic Committee ("the Committee").

Application to be made to the Committee.

2. (1) Subject to the provisions of any Order made under subsection (6), any person who wishes to carry out any works necessitating the temporary closure of a public highway, or part thereof, or the application of traffic management measures therein, shall apply to the Committee for permission, in such form and manner as the Committee may from time to time require, for such temporary closure or for the application of such traffic management measures as that person shall deem appropriate.

^a Article XI of Billet d'État No. IX of 2002.

(2) Where an application is made under subsection (1), the Committee may at its discretion -

- (a) grant the application;
- (b) refuse the application; or
- (c) grant the application subject to any conditions which the Committee may deem appropriate;

and in exercising its discretion under this subsection the Committee shall take into account *inter alia* the interests of the applicant in carrying out the works and the interests of the public in -

- (i) minimising any disruption which might result from the temporary closure or traffic management measures, as the case may be; and
- (ii) the completion of the proposed works;

and the Committee shall consult the Constables of the parish in which the relevant highway is situated and may also take into account the views of any person (including, without limitation, the Constables of the parish in which the relevant highway is situated, and any other parish which might be affected by the grant of the application, the Gas Company and the utility services, the Public Thoroughfares Committee and the emergency services) with whom the Committee has consulted, or whose views have otherwise been communicated to the Committee, in relation to the application.

(3) Where the Committee has granted an application made under subsection (1) the Committee shall have the power at its discretion to suspend or revoke such permission or to attach to that permission such further conditions, or to vary or rescind any conditions previously imposed, as it thinks fit.

(4) Where the Committee has granted an application made under subsection (1) subject to conditions and the applicant has not complied with one or more of those conditions the Committee may, at its discretion, suspend or revoke the permission and take whatever steps are necessary to re-open the public highway and remove any traffic management measures forthwith, the costs of so doing to be recoverable from the applicant as a civil debt.

(5) Where the Committee decides -

(a) to refuse to grant a permission;

(b) to suspend or revoke a permission; or

(c) to impose, vary or rescind any condition in respect of a permission;

the Committee shall serve upon the applicant notice in writing of the decision, stating the grounds of the decision, setting out (where appropriate) particulars of the condition in question and giving particulars of the right of appeal conferred by section 4.

(6) Notwithstanding the provisions of this Law, the Committee may from time to time by Order provide that a person shall not require permission in pursuance of the provisions of this section to carry out certain works of a minor nature specified in such Order in such circumstances and subject to such conditions

as may be prescribed.

Fees and penalties.

3. (1) The Committee may by Order prescribe the fees payable in relation to the temporary closure of a public highway, or part thereof, or in relation to the application of any traffic management measures in a public highway in consequence of any application made pursuant to section 2.

- (2) The fees payable under subsection (1) may vary according to-
- (a) the type or nature of the public highway which is affected by the proposed closure or traffic management measures;
 - (b) the extent of the closure or the type of traffic management measure required;
 - (c) the period of time during which the closure or traffic management measure will continue; and
 - (d) any other factor which the Committee may at its discretion consider relevant.

(3) The Committee may by Order prescribe fees to be payable by way of penalty where a person to whom permission for any temporary closure or traffic management measure has been granted pursuant to section 2 has failed to comply with one or more of the conditions attached to such permission whether such failure was in relation to a condition as to duration or otherwise.

- (4) The Committee may at its discretion waive the fees payable in

any case.

(5) An Order under this section shall be laid before a meeting of the States as soon as possible after being made; and if at that or the next meeting the States resolve that the Order be annulled, then it shall cease to have effect, but without prejudice to anything done under it or to the making of a new Order.

Appeals against decisions of Committee.

4. (1) A person aggrieved by a decision of the Committee -
- (a) to refuse an application made by him under section 2 for a permission;
 - (b) to revoke his permission;
 - (c) to impose, vary or rescind any condition in respect of his permission;

may appeal to the Court against the decision.

(2) The grounds of an appeal under this section shall be that the decision was ultra vires or was an unreasonable exercise of the Committee's powers.

- (3) An appeal under this section shall be instituted -
- (a) within a period of 28 days immediately following the date of the notice of the Committee's decision; and
 - (b) by summons served on the President of the Committee

stating the grounds and material facts on which the appellant relies.

- (4) On an appeal under this section the Court may -
- (a) set the decision of the Committee aside and, if the Court considers it appropriate to do so, remit the matter to the Committee with such directions as the Court thinks fit; or
 - (b) confirm the decision.

(5) In this section "the Court" means the Royal Court sitting as an Ordinary Court.

(6) An appeal from a decision of the Court made under this section shall lie to the Court of Appeal on a question of law.

Offences.

5. (1) A person who -
- (a) without prejudice to any other offence which may have been committed, carries out any works resulting in the closure of any public highway, or part thereof, or the application of traffic management measures therein, without having obtained permission of the Committee in accordance with section 2; or
 - (b) having obtained such permission, fails to comply with one or more of the conditions imposed by the

Committee,

is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

(2) It shall be a defence for a person charged with an offence under subsection (1) to show -

- (a) that the works carried out or traffic management measures applied were carried out or applied in consequence of an emergency in such circumstances that it was not reasonably practicable to obtain the prior permission of the Committee; and
- (b) that, where such works or measures were of a continuing nature, he had applied to the Committee for the necessary permissions as soon as reasonably practicable.

Interpretation.

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

“**applicant**” includes, where an application has been granted, the holder of any permission;

“**the Committee**” means the States Traffic Committee;

“**the Gas Company**” has the same meaning as in section 1 of the

Public Thoroughfares (Guernsey) Law, 1958^b;

“**public highway**” means any road, street, lane or public place, over which the public has, under the law of the Island, the right to pass and repass without let or hindrance, whether on foot or with animals or vehicles;

“**traffic management measures**” means any measures carried out on any public highway, other than closure of the public highway, which might interfere with the customary rights of any person to pass and repass over the public highway, whether on foot or with animals or vehicles, and shall include, without prejudice to the generality of the foregoing, any alteration to the direction of flow of traffic, the installation of temporary traffic lights, the construction of road humps and the placing of traffic signs and cones;

“**utility services**” has the same meaning as in section 22 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001^c;

“**works**” shall include, for the avoidance of doubt and without limitation, the placing of skips and the erection of scaffolding on a public highway, which said works shall be deemed for the purposes of this Law to be works necessitating the temporary closure of part of a public highway.

(2) Any reference in this Law to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or

^b Ordres en Conseil, Vol. XVII, p. 440; Vol. XXIII, p. 395.

^c Order in Council No. XI of 2001.

under any other enactment and to any subordinate enactment made thereunder.

(3) Any power conferred on the Committee by this Law to make any Order shall be construed as including a power to vary, repeal or replace such Order.

Citation.

7. This Law may be cited as the Public Highways (Co-ordination of Temporary Road Closures etc.) (Guernsey) Law, 2003.

S. M. SIMMONDS,
Her Majesty's Deputy Greffier.