

ORDINANCE
OF THE STATES OF DELIBERATION

ENTITLED

The Security of Ship and Port Facilities (Guernsey)
Ordinance, 2004 *

[CONSOLIDATED TEXT]

NOTE

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* No. XXVIII of 2004 (Recueil d'Ordonnances Tome XXIX, p. 515); as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

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ARRANGEMENT OF SECTIONS

1. Application of the Regulation.
2. Interpretation.
3. Orders.
4. Extent.
5. Citation.

(Made on 30th June, 2004.)

The Security of Ship and Port Facilities (Guernsey) Ordinance, 2004

THE STATES, in pursuance of their Resolution of the 30th June, 2004, and in exercise of the powers conferred on them by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and all other powers enabling them in that behalf, and for the purpose of implementing Council Regulation (EC) No. 725/2004 of the 31st March, 2004, hereby order: –

Application of the Regulation.

1. (1) Subject to such adaptations, exceptions and modifications as may be contained in an Order made under subsection (2)(b), EC Regulation No. 725/2004 of 31st March, 2004, of the European Parliament and of the Council^b on enhancing the security of ships used in international trade and domestic shipping and associated port facilities (the "**Regulation**") shall have full force and effect in Guernsey and its territorial waters.

(2) The [Committee] may by Order –

- (a) make such provision as it sees fit for the purposes of giving practical effect to the Regulation in Guernsey and its territorial waters, and
- (b) make such adaptations, exceptions and modifications to the Regulation in its application under this Ordinance, as it sees fit, including (without limitation) adaptations,

a Order in Council No. III of 1994.

b Official Journal L 129, 29/04/2004, p.6.

exceptions and modifications intended to give effect only to so much of the Regulation as may be necessary to give effect to and ensure Guernsey's compliance with Chapter XI-2 of the Annex to the SOLAS Convention (including, for the avoidance of doubt, Parts A and B of the ISPS Code).

NOTES

In section 1, the word in square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 5, with effect from 1st May, 2016.

The following Order has been made under section 1:

Security of Ship and Port Facilities (Guernsey) Order, 2004.

Interpretation.

2. (1) In this Ordinance, unless the context otherwise requires –

"Community instrument" has the meaning given by section 1(1) of the European Communities (Bailiwick of Guernsey) Law, 1973^c,

"[Committee]" means the States [Committee for the Environment & Infrastructure],

"Guernsey and its territorial waters" means –

(a) the Islands of Guernsey, Herm and Jethou which, for the avoidance of doubt, include the internal waters for

^c Ordres en Conseil Vol. XXIV, p. 87; Vol. XXVII, p. 242; Vol. XXIX, pp. 127 and 419 and No. XXV of 2002; Ordinance No. XIX of 1994; No. XVII of 1998; No. XLVII of 2001, and No. XVIII of 2003.

the time being of those islands, and

(b) the territorial waters for the time being of those islands,

"1994 Implementation Law" means the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994,

"instrument" means any order, regulations, rules or other subsidiary legislative instrument,

"ISPS Code" means the International Code for the Security of Ships and of Port Facilities as adopted by the Conference of Contracting Governments to the SOLAS Convention,

"Regulation" has the meaning given by section 1,

"the SOLAS Convention" means the International Convention for the Safety of Life at Sea 1974^d as amended in accordance with its Protocol of 1988^e, and

"States" means the States of Deliberation.

(2) Unless the context otherwise requires, expressions used in this Ordinance and any Order made under this Ordinance that are not defined in subsection (1) shall –

(a) where they are defined in the 1994 Implementation Law, have the same meaning as in that Law,

^d Cmnd. 7874.

^e Cmnd. 4420.

- (b) where they are not defined in the 1994 Implementation Law and are defined in the Regulation, have the same meaning as in the Regulation, and
- (c) where they are not defined in the 1994 Implementation Law or the Regulation and are defined in the SOLAS Convention, have the same meaning as in the SOLAS Convention.

(3) Unless the context otherwise requires, a reference in this Ordinance or in any Order made under this Ordinance to –

- (a) an enactment,
- (b) an instrument,
- (c) a Community instrument (including, for the avoidance of doubt, the Regulation),
- (d) an Act of Parliament,
- (e) the SOLAS Convention, or
- (f) subordinate legislation made under any provision of an Act of Parliament,

is a reference thereto as from time to time amended, re-enacted (with or without modification) extended or applied.

(4) Unless the context otherwise requires –

- (a) a reference in this Ordinance to a numbered or lettered section, subsection, paragraph or clause is a reference to the section, subsection, paragraph or clause of this Ordinance which is so numbered or lettered, and
- (b) a reference in a provision of this Ordinance to a numbered or lettered subsection, paragraph or clause is a reference to the Part subsection, paragraph or clause of that provision which is so numbered or lettered.

NOTES

In section 2, the words in the first and second pairs of square brackets in the definition of the expression "Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(3), Schedule 3, paragraph 5 and section 2, Schedule 1, paragraph 12(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for the Environment & Infrastructure and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 12(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The European Communities (Bailiwick of Guernsey) Law, 1973 has since been repealed by the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, section 1, with effect from 11 p.m. on 31st December, 2020, subject to the saving in section 2 of the 2018 Law.

Orders.

- 3. (1) An Order made under section 1(2) –
 - (a) may contain such provision as may appear to be necessary or expedient,

- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, including (without limitation) –
 - (i) provision as to the creation and punishment of offences in respect of contraventions of the Order,
 - (ii) provision amending or modifying any provision of this Ordinance, and
 - (iii) provision relating to the designation or appointment of any person or body,
 - (c) may be amended or repealed by a subsequent Order hereunder.
- (2) Any power conferred by this Ordinance to make any Order 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,
 - (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) Any Order made under this Ordinance shall be laid before a meeting of the States as soon as may be after being made and if at that meeting or 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 under the Order or to the making of a new Order.

Extent.

4. This Ordinance shall have effect in Guernsey and its territorial waters.

Citation.

5. This Ordinance may be cited as the Security of Ship and Port Facilities (Guernsey) Ordinance, 2004.

NOTE

The Ordinance was made and came into operation on 30th June, 2004.
