

ORDRE EN CONSEIL

Ratifiant un Projet de Loi intitulé

Loi relative au Marquage des Obstructions se trouvant aux Alentours de Terres Possédées ou Occupées par les Etats pour les besoins d'un Aérodrome.

(Enregistré sur les Records de l'Île de Guernesey le
7 mai 1938.)



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1938.

ORDRE EN CONSEIL.



A LA COUR ROYALE DE L'ILE DE GUERNESEY

*Le sept mai, mil neuf cent trente-huit, par devant
John Roussel, écuyer, Lieutenant-Baillif;
présents: Jean Allès Simon, Osmond Priaulx
Gallienne, Arthur Dorey, Ernest de Garis,
Jean Nicolas Robin, James Frederick Carey,
écuyers, et Messire Abraham James Lainé,
K.C.I.E., Jurés.*

Monsieur le Lieutenant-Baillif ayant ce jour communiqué à la Cour un Ordre de Sa Majesté en Conseil en date du premier avril, mil neuf cent trente-huit, ratifiant un Projet de Loi intitulé "Loi relative au Marquage des Obstructions se trouvant aux Alentours de Terres Possédées ou Occupées par les Etats pour les besoins d'un Aérodrome,"—La Cour, après avoir eu lecture du dit Ordre, ouïes les conclusions des Officiers du Roi, a ordonné que le dit Ordre en Conseil sera enregistré sur les Records de cette Ile, duquel Ordre la teneur suit:—

At the Court at Buckingham Palace

The 1st day of April, 1938.

Present,

The King's Most Excellent Majesty

LORD PRESIDENT

LORD PORTER

EARL OF PLYMOUTH

SIR JOHN GILMOUR

MR. BURGIN.

Whereas there was this day read at the Board a Report from the Right Honourable the Lords

LE 7 MAI 1938.

of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 29th day of March, 1938, in the words following, viz. :—

“Your Majesty having been pleased by Your General Order of Reference of the 18th day of December, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth :—

‘1. That the Royal Court at a meeting held on the 29th day of January, 1938, approved a Bill or Projet de Loi prepared by the Law Officers of the Crown intituled “Loi relative au Marquage des Obstructions se trouvant aux Alentours de Terres possédées ou occupées par les Etats pour les besoins d’un Aéro-drome” and requested the Bailiff to submit the same to the States for their approval : 2. That on the 18th day of February, 1938, the said Bill or Projet de Loi was duly considered by the States when a resolution was passed approving the same with certain modifications and authorizing the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto : 3. That the said Bill or Projet de Loi is in the words and figures set forth in the Schedule annexed to the Petition : and most humbly praying that Your Majesty might be graciously pleased to approve and ratify the Bill or Projet de Loi of the States of the Island of Guernsey intituled “Loi relative au Marquage des Obstructions se trouvant aux Alentours de Terres possédées ou occupées par les Etats pour les besoins d’un Aéro-drome” and to order and direct that the same should have the force of Law within the Island 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."

His Majesty, having taken the said Report into consideration is pleased, by and with the advice of His 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 Island of Guernsey.

And His 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 or Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His 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.

M. P. A. HANKEY.

PROJET DE LOI referred to in the foregoing Order
in Council.

PROJET DE LOI

INTITULÉ

LOI RELATIVE AU MARQUAGE DES OB-
STRUCTIONS SE TROUVANT AUX ALEN-
TOURS DE TERRES POSSÉDÉES OU
OCCUPÉES PAR LES ETATS POUR LES
BESOINS D'UN AÉRODROME.

LES ETATS ont approuvé les dispositions sui-
vantes rédigées en anglais lesquelles, moyennant la
Sanction de Sa Très Excellente Majesté en Conseil,
auront force de Loi en cette Ile.

1.—In this Law, the expression “the Board”
means the States Board of Administration and, as
regards the carrying out of any work or the installing
of any apparatus or the maintenance, operation, re-
newal, repair or alteration thereof or the right to
enter or pass over any premises, that expression
shall include every employee of the Board authorised
in that behalf who bears an evidence of that author-
ity and produces the same on the reasonable request
of any person entitled to require the production
thereof.

2.—(1) If the Board is satisfied, with respect to any
building, structure or erection in the vicinity of land
in the ownership or occupation of the States of
Guernsey in use or intended for use as an aerodrome
that, in order to avoid danger to aircraft flying in
that vicinity, provision ought to be made (whether
by lighting or otherwise) for giving to such aircraft

warning of the presence of that building, structure or erection, the Board shall send to the proprietor of the premises whereon is situate that building, structure or erection or, if the proprietor be not also the occupier thereof, to the proprietor and the occupier thereof, a written notice—

- (a) containing short particulars of the works and apparatus necessary on such premises for enabling such warning to be given and of the manner of carrying out such works and of installing such apparatus :
- (b) inviting such proprietor or such proprietor and occupier to attend at the States Office within the fifteen days next following the receipt by him or them of such notice at such time as shall be mutually appointed by him or them and the States Supervisor, for the purpose of receiving such fuller particulars of such works and apparatus and the manner of carrying out and installing the same as he or they may reasonably require :
- (c) requiring such proprietor or such proprietor and occupier to communicate in writing to the States Supervisor, within the twenty-eight days next following the receipt of such notice, the amount of compensation (if any) claimed by him or them from the States in respect of loss, damage or inconvenience which he or they may suffer in consequence of the carrying out of such works or the installation of such apparatus : and
- (d) intimating to such proprietor or to such proprietor and occupier that unless, within the twenty-eight days next following the receipt of the notice, such objections (if any) as he or they desire to make to the carrying out of such works or to the installing of such apparatus are communicated in writing to the States Supervisor, the Board will not be

bound to consider such objections and that, unless within the like period such claims (if any) for compensation as he or they desire to make are communicated in writing to the States Supervisor, the Board will not be bound to consider such claims.

(2) The provisions of subsection (1) of this section shall apply as regards any premises in such vicinity as aforesaid, being premises not in the same ownership as the premises whereon is situate any such building, structure or erection as is mentioned in that subsection, whereon the Board may deem it necessary to carry out works or instal apparatus, either separately or in connection with the carrying out of works or the installation of apparatus on such last mentioned premises, for the purpose of giving warning to aircraft of the presence of a building, structure or erection on such last mentioned premises.

3.—(1) Upon the making of any objection to the carrying out of the said works or the installation of the said apparatus or of any claim for compensation in respect of loss, damage or inconvenience which may be suffered in consequence thereof, the Board shall, if such objection or claim be made in writing within the twenty-eight days next following the receipt of any such notice as aforesaid, but not otherwise unless the Board, in its discretion, shall deem it proper in the circumstances of the particular case so to do, take into consideration such objection or such claim for compensation and—

(a) if the Board consider that any such objection or some part thereof can be allowed without materially impairing the efficacy of any such works or apparatus as aforesaid the Board may allow such objection or part thereof and shall thereupon modify the plan for the carrying out of such works or the installation of such apparatus accordingly :

- (b) if the Board consider that it is not possible, without materially affecting the efficacy of any such works or apparatus, to allow any such objection, the Board shall disallow the objection :
- (c) if the Board consider that any such claim for compensation is reasonable, the Board shall allow such claim :
- (d) if the Board consider that any such claim for compensation, or part thereof, is unreasonable, the Board shall disallow such claim or part thereof and may direct that a counter-offer of an amount to be determined by the Board shall be made to the claimant.

(2) The States Supervisor shall forthwith notify the person by whom an objection or a claim for compensation is made, of the decision of the Board regarding the objection or the claim and, in the case of the disallowance of a claim, of the amount of the counter-offer (if any) directed to be made to the claimant by the Board.

(3) An appeal shall lie to the Royal Court sitting as a Full Court from a decision of the Board disallowing in whole or in part an objection to the carrying out of any such works or the installation of any such apparatus as are hereinbefore referred to. Any such appeal shall be instituted by way of summons served on the President or Acting President of the Board within the eight days next following the date on which the notification of the Board's decision is received by the appellant and the decision of the Royal Court in the matter shall be final.

(4) In the case of the disallowance of a claim for compensation, unless the claimant, within the eight days next following the receipt by him of notification of the disallowance of the claim, intimates to the States Supervisor that he acquiesces in such disallowance and accepts the counter-offer (if any) made to him by the Board, he shall be deemed to require

that the matter at issue between himself and the Board shall be referred to arbitration and thereupon the Board shall appoint an arbitrator and shall notify the claimant of the identity of the person so appointed. Upon being so notified, the claimant shall appoint a second arbitrator and, before proceeding to the arbitration, the two arbitrators so appointed shall appoint an umpire and the award of the arbitrators, if they are in agreement, or of the umpire, should the arbitrators disagree, shall be final and binding upon the States and the claimant as regards the amount payable to the latter by the States in respect of his claim.

Provided that on any claimant failing to appoint a second arbitrator within the sixty days next succeeding the date on which he is notified by the Board of its appointment of an arbitrator, the right of the claimant to require that the matter at issue between himself and the Board shall be submitted to arbitration shall cease and determine and the decision of the Board concerning the claim of that claimant shall thenceforth be binding upon that claimant.

Provided further that where an appeal against a decision of the Board disallowing in whole or in part any such objection as aforesaid is instituted, no step with regard to arbitration proceedings in respect of any claim for compensation for the carrying out of any works or the installation of any apparatus to which such appeal has reference shall be taken until—

- (i) the proceedings in appeal have terminated ;
and
- (ii) the Board, in the light of the Court's decision on such appeal, has reviewed its previous decision with regard to such claim for compensation ; and
- (iii) the final decision of the Board with regard to such claim has been notified to the appellant :-

and thereupon, if such final decision disallows any

part of such claim, the provisions of subsection (4) of Section 3 of this Law and of the last foregoing proviso shall apply to such final decision.

(5) The costs of the arbitration shall be borne as follows—

(a) by the States—

(i) if an award is made to a claimant whose claim had been totally disallowed by the Board : or

(ii) if the award made to a claimant is in excess of the amount of the counter-offer made to that claimant :

(b) by the claimant—

(i) if no award is made to that claimant : or

(ii) if the award made in favour of that claimant does not exceed the amount of a counter-offer made to him.

(6) In all cases, the States shall defray the costs of the arbitration in the first instance and, if under this section, such costs are to be borne by a claimant, may recover the same from such claimant by process of law or by deduction of the same from any amount payable by the States to any such claimant or by process of law and deduction as aforesaid.

(7) A written report of the arbitration proceedings shall be made to the Board who shall forthwith cause a copy thereof to be sent to the claimant.

(8) An arbitration award may direct the payment of a lump sum once payable or of a periodic sum or of both a lump sum and of a periodic sum.

4.—Upon the expiry of the period within which, in relation to any premises, objections can be made to the carrying out of any such works or the installation of any such apparatus as aforesaid, if no such objection has been communicated in writing to the States Supervisor, or, where any objection has been communicated in writing to the States Supervisor upon the expiration of the period for instituting an appeal against the Board's decision concerning the

objections in relation to the premises, if no appeal is instituted against that decision, or upon the termination of the proceedings in appeal, if such appeal is instituted, it shall be lawful for the Board, unless the decision of the Board or of the Court upon any such objection is to the effect that no works shall be carried out nor apparatus installed in accordance with the particulars set out in the original notice sent by the Board to the person making such objection—

- (a) to execute and instal the works and apparatus of which particulars were set out in such original notice in the manner described in such notice subject, however, to such modifications in such works or apparatus or in the manner of carrying out or installing the same as may arise out of the decision of the Board or of the Court in regard to such objections :
- (b) to maintain, operate and, as occasion requires, to renew, repair and alter such works and apparatus, as may be necessary for enabling such warning to be given : and
- (c) to enter upon and pass over (with or without vehicles, implements and other necessary things) any premises upon and over which it may be necessary to enter and pass for the purpose of exercising any of the powers conferred by this Law.

5.—(1) The ownership of anything shall not be affected by reason only that it is placed on, or affixed to, any premises in virtue of the powers conferred by this Law and (subject to the provisions of subsection (3) of this section) so long as anything placed on or affixed to any premises in virtue of such powers remains so placed or affixed, no person shall, except with the written consent of the Board, wilfully interfere with any works or things which, to the knowledge of that person, are works or things executed or

placed in, on or over those premises in virtue of such powers.

(2) If any person contravenes the provisions of the last foregoing subsection, he shall be liable, on conviction before the Royal Court sitting as a Full Court to a fine not exceeding two hundred pounds or to imprisonment, with or without hard labour, for a term not exceeding six months or to both such fine and imprisonment ; and every person who wilfully obstructs a person in the exercise of any of the powers conferred by this Law shall be liable, on conviction as aforesaid, to a fine not exceeding fifty pounds.

(3) Nothing in this Law shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection, provided that if the doing of any such work would or might, to the knowledge of the person directing the doing of any such work or carrying out the same, have the effect of interrupting or terminating the giving of warning of the presence of the building, structure or erection in the manner determined by the Board, then until—

- (a) notice of the doing of any such work shall have been communicated to the Board in writing :
and
- (b) such other means of giving such warning as may be necessary in the circumstances shall have been carried into effect by the Board :
and
- (c) the consent of the Board, which consent shall not be unreasonably withheld, shall have been communicated to the person desiring to do such work :

the doing of any such work shall not be commenced and shall, if commenced, be deemed a contravention of the provisions of subsection (1) of this section.

6.—For the purposes of the provisions of para-

graphs (b) and (c) of Section 4 of this Law and the provisions of Section 5 thereof, anything placed on or affixed to premises in the vicinity of land in the ownership or occupation of the States of Guernsey in use or intended for use as an aerodrome, in virtue of an agreement made between the Board and the proprietor of those premises, for the purpose of giving warning to aircraft flying in that vicinity of the presence of a building, structure or erection shall be deemed to have been placed on or affixed to those premises in virtue of the powers conferred by this Law.

7.—Any notice or notification sent under this Law to a proprietor or occupier by or on behalf of the Board may be sent through the post and, unless the contrary be proved, for the purposes of this Law such notice or notification shall be deemed to have been received by such proprietor or occupier upon the first working day following the day on which the same, prepaid and addressed to such proprietor or occupier at his last known business or residential address in this Island, or in the case of his absence or incapacity, to his attorney, agent or representative in this Island, is posted.

8.—This Law may be cited as “The Aerodrome (Indication of Obstructions) Law, 1938”.

QUERTIER LE PELLEY,

Greffier du Roi.