

# PROJET DE LOI

ENTITLED

## **The Road Traffic (Parking Fees and Charges) (Enabling Provisions) (Guernsey) Law, 2009 \***

[CONSOLIDATED TEXT]

### *NOTE*

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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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\* No. XIII of 2009; 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. General power to make Ordinances regulating parking in and upon any designated public place.
2. Specific matters for which Ordinances may make provision.
3. General provisions as to subordinate legislation.
4. Interpretation.
5. Citation.
6. Commencement.

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## **The Road Traffic (Parking Fees and Charges) (Enabling Provisions) (Guernsey) Law, 2009**

**THE STATES**, in pursuance of their Resolutions of the 28<sup>th</sup> day of March, 2003<sup>a</sup>, the 31<sup>st</sup> day of March, 2006<sup>b</sup>, the 12<sup>th</sup> day of March, 2008<sup>c</sup> and the 25<sup>th</sup> day of February, 2009<sup>d</sup>, 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.

### **General power to make Ordinances regulating parking in and upon any designated public place.**

1. The States may by Ordinance make such provision as they think fit regulating the parking of any vehicle in, or other object or thing upon, any designated public place.

### **Specific matters for which Ordinances may make provision.**

2. An Ordinance under section 1 may, without limitation, make provision in relation to the following matters –

- (a) the prohibition of the parking of any vehicle in, or other object or thing upon, any designated public place,
- (b) exemption from any prohibition upon the parking of any vehicle in, or other object or thing upon, any designated public place, during such periods, and

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<sup>a</sup> Resolutions 5, 6 and 7 on Article XXI of Billet d'État No. IV of 2003.

<sup>b</sup> Resolution 20 (as amended) on Article VIII of Billet d'État No. VII of 2006.

<sup>c</sup> Article IX of Billet d'État No. III of 2008.

<sup>d</sup> Article I of Billet d'État No. VII of 2009.

subject to such conditions, as may be specified, including, without limitation, conditions relating to –

- (i) the payment of specified fees or charges, and
- (ii) the display –
  - (A) in such manner and during such periods,
  - (B) within, or upon, such part of the vehicle, or other object or thing,
  - (C) of such evidence of the payment of such fees or charges including, without limitation, such document, disc, symbol or other thing,as may be specified,
- (c) the levying of fees or charges,
- (d) liability for payment of fees or charges levied under this Law,
- (e) exemption from liability for payment of fees or charges levied under this Law including, without limitation, exemption for any specified category of –
  - (i) vehicle,
  - (ii) vehicle owner, or
  - (ii) person in charge of a vehicle,

from liability for payment, upon such conditions as

may be specified,

(f) the suspension of any prohibition upon the parking of any vehicle in, or other object or thing upon, any designated public place –

(i) during such period, and

(ii) upon such conditions,

as may be specified,

(g) action and measures that may be taken by any specified person, or court, to ensure compliance including, without limitation –

(i) the immobilisation,

(ii) the removal and detention, and

(iii) the making of orders relating to –

(A) the forfeiture, and

(B) the destruction, or other disposal,

of any vehicle, or other object or thing, pending, in the case of immobilisation or removal or detention, payment of any fee, charge or penalty levied or payable in respect of the vehicle, or object or thing, under this Law,

(h) subject to section 3(4), the penalties which may be imposed for breach of any Ordinance, and

(i) the courts and persons which, or who, may impose

penalties for breach of any Ordinance, including, without limitation –

- (i) police officers,
- (ii) specified departments of the States, and
- (iii) persons authorised by any specified department of the States.

**General provisions as to subordinate legislation.**

3. (1) An Ordinance under this Law –

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
- (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, provision making consequential amendments to this Law and any other enactment).

(2) Any power to make an Ordinance under this Law 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) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law –

- (a) may, subject to subsection (4), make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences,
- (b) may empower [the Committee], any other department, and any other body, to make or issue orders, rules, regulations, codes or guidance, whether as to matters in respect of which an Ordinance can be made under this Law or otherwise,
- (c) may provide that no liability shall be incurred by any specified person or body in respect of anything done or omitted to be done in the discharge or purported discharge of any of their functions under the Ordinance unless the thing is done or omitted to be done in bad faith,
- (d) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force, and
- (e) may make any such provision of any such extent as might be made by *Projet de Loi*, but may not provide that a person is to be guilty of an offence as a result of

any retrospective effect of the Ordinance.

- (4) An Ordinance under this Law may not –
- (a) provide for offences to be triable only on indictment,
  - (b) authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008,
  - (c) authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years, or
  - (d) authorise the imposition of any penalty by a person or body other than a court, except a financial penalty not exceeding £100.

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**NOTE**

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

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**Interpretation.**

**4.** In this Law, unless the context requires otherwise –

**"a department"** means any department, council or committee of the States, however styled,

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

**"designated public place"** means a public place designated under

any Ordinance or instrument under this Law,

**"enactment"** means any Law, Ordinance or subordinate legislation,

**"instrument under this Law"** includes any regulation, rule, order, code or guidance made or issued under an Ordinance under this Law,

**"motor vehicle"** means a mechanically propelled vehicle intended or adapted for use on a public highway,

**"parking"** includes placing, storing, leaving and abandoning,

**"public highway"** includes any road, street, lane or place to which the public has access whether on foot or with animals or vehicles and whether on payment or otherwise,

**"public place"** includes a public highway and any premises, place or area to which the public have access, whether on payment or otherwise,

**"specified"** means specified by any Ordinance or instrument under this Law,

**"States"** means the States of Guernsey,

**"subordinate legislation"** means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect, and

**"vehicle"** includes a motor vehicle, a trailer (whether or not attached to a motor vehicle) and a bicycle.

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## NOTES

*In section 4, the words in the first and second pairs of square brackets in the definition of the expression "the Committee" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 5 and section 2, Schedule*

*1, paragraph 4(a), with effect from 1st May, 2016.*

*The functions, rights and liabilities of the Environment Department and of its Minister or Deputy Minister arising under or by virtue of this Law 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 4(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

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**Citation.**

**5.** This Law may be cited as the Road Traffic (Parking Fees and Charges) (Enabling Provisions) (Guernsey) Law, 2009.

**Commencement.**

**6.** This Law shall come into force on the day appointed by Ordinance of the States.

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**NOTE**

*The Law is not yet in force.*

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