

GUERNSEY LAW JOURNAL

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GUERNSEY LAW JOURNAL

FIFTH ISSUE

Introduction

The Editorial Committee sincerely regret the delay in producing this Edition of the Guernsey Law Journal. It is taking active steps to expedite the production of future Editions and hopes to revert to the practice of producing an Edition within six months of the close of the half year digested as soon as possible. The problem like many in Guernsey today is one of resources.

The Editorial Committee still welcomes comments on this publication and contributions for future issues.

The original texts of legislation and judgments that are digested are available at the Greffe.

Whilst care has been taken in recording the material published herein no responsibility is accepted in law for the contents of this issue or its accuracy.

Citation:

References to this issue in future issues will be cited using the figure and letter 5.GLJ followed by the paragraph number.

Editorial Committee

H.M. Procureur (de V. G. Carey, Esq.), Advocate J. N. van Leuven, Advocate V. C. Ogier, H.M. Greffier (K. H. Tough, Esq.).

Compiled by members of the Editorial Committee and the Legislative Draftsmen at St. James Chambers from sources including all Orders in Council, Ordinances, Projets de Loi and subordinate legislation and selected cases and other relevant material which became available during the months January to June, 1987.

Corrigendum: Corporation Tax

It has been pointed out to the Editorial Committee that the entry on the Corporation Tax (Amendment) (Guernsey) Law, 1986 (4.GLJ.17) whilst not inaccurate in its terms, was misleading as to the effect of the Law. It should read:

17. Projet de Loi: The Corporation Tax (Amendment) (Guernsey) Law, 1986. - Removes the previous entitlements of corporation tax companies to claim repayment of corporation tax where in any calendar year they either
 - are found to be resident in Guernsey but liable to income tax less than the corporation tax paid; or
 - would have been liable to no income tax, or to income tax less than the corporation tax paid, if they had been resident.

Corporation tax paid by companies later found to be resident is still, however, treated as having been paid on account of income tax.

Approved by the States on 30.7.86. Awaiting Royal Sanction.

30th December, 1988.

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AGRICULTURE AND ANIMALS

States Agricultural and Milk Marketing Board

See Billet d'Etat No. II of 1987 and paragraphs 10 and 11 - CONSTITUTIONAL LAW.

Import and Export

1. Statutory Instrument: The Live Poultry Importation (Repeal) Order 1987. - Repeals 1986 Order (see 4.GLJ.2). In force 1.2.87. (No. 3 of 1987).

Veterinary Practice

2. Ordinance: The Veterinary Surgery and Animal Welfare Ordinance, 1987. - Transfers responsibility for authorising persons to practise veterinary surgery from Royal Court to Agricultural and Milk Marketing Board. Board to maintain register of "recognised veterinary surgeons". Also prohibits certain cruel operations on animals; prohibits painful operations on animals without the use of an anaesthetic; permits the carrying out by unqualified persons of specified minor operations; and enables the Board to make welfare codes as to the welfare of livestock.

In force 25.3.87. (No. X of 1987).

ANCIENT MONUMENTS

Historic Wreck

See paragraph 79 - SHIPPING.

AVIATION AND AIRPORTS

Fees and Charges

3. Ordinance: The Airport Fees Ordinance, 1987. - Clarifies the previous law in relation to airport fees and provides for them to be set by resolution of the States instead of by ordinance.

(No. V of 1987.)

BANKING, INSURANCE AND FINANCE INDUSTRIES

Insurance Business

4. Statutory Instrument: The Insurance Business (Accounts, Annual Return and Approved Eurobonds) Regulations, 1987. - (Made under the Insurance Business (Guernsey) Law, 1986.) Prescribe the manner in which the accounts required by that Law of a registered insurer are to be prepared and the persons who are to sign them; specify the information to be contained in the annual return which a registered insurer is required by the Law to furnish; and identify those Eurobonds which constitute approved assets for the purposes of the Law.

In force 25.2.87. (S.I. No. 4 of 1987.)

Investment Business

5. Projet de Loi: The Protection of Investors (Bailiwick of Guernsey) Law, 1987. - Establishes a system of licensing for people carrying on investment business in connection with collective investment schemes; prohibits people so licensed from engaging in certain activities in relation to such a scheme unless it is an authorised scheme and provides for rules to be made as to their conduct; enables the States to extend the licensing system by ordinance to other types of investment business; provides for rules and regulations to control the conduct of such business; confers powers to obtain information and to wind up companies in certain cases and provides remedies in relation to breaches of the Law and subordinate legislation.

Licensing in connection with collective investment schemes

Initially, the only type of investment subject to control will be a collective investment scheme (as defined), under which investors' contributions are pooled, or administered freely, under the day-to-day control of a third party to the intent that the resulting profits or income are shared between them. A licence will be required for the carrying on by way of business in connection with such a scheme of the activity of promotion, subscription, registration, dealing, management, administration, advising or custody, as set out and defined in schedule 2. Pending the establishment of the Financial Services Commission (see 3.GLJ.6) applications containing specified information will be made to the Advisory and Finance Committee, which must consider specified factors, and consult Alderney and/or Sark in appropriate cases, before deciding, having regard to the protection of the public and the Bailiwick's reputation as a financial centre, whether or not to issue a licence and what conditions, if any, to attach. Before refusing or imposing conditions, notice, and reasons if requested, must be given and representations considered; the same applies if the Committee decides to cancel or suspend a licence for one of the specified reasons; and in each case an appeal lies to the Ordinary Court.

Authorisation of collective investment schemes

The second limb of the Projet is the introduction of controls over collective investment schemes themselves: licensees will only be free to carry on investment business in relation to such a scheme if, and in accordance with any conditions subject to which, it is "authorised" by the Committee under Part II. Provision is made for applications for authorisation, conditions, revocation and suspension; and there will be opportunities for representations and appeals similar to those afforded to licensees and applicants for licences. Schemes will be authorised subject to the acceptability of their names, viability of their purposes, adequacy of investors' redemption rights, incorporation of their managers and trustees and compliance with the relevant rules; but the Committee is empowered to divide authorised schemes into specified classes and the rules may be different for each class. Finally, any provision of an authorised collective investment scheme purporting to exclude liability for failure to exercise due care and diligence is void to that extent.

Extension to other forms of investment business

A person carries on controlled investment businesses if, by way of business, he engages in any of the restricted activities identified and described in schedule 2 in connection with any of the investments identified and described in schedule 1. The States are, however, empowered to amend either schedule by ordinance and will, for example, be able to bring into control further categories of investment and/or different activities in relation to investments.

Rules and regulations

In addition to any conditions attached to licences and authorisations, it is envisaged that the conduct of controlled investment business will be governed by rules and regulations. Whilst both types of instrument will be made by the Committee, regulations will be subject to annulment by the States whereas rules will be subject to special provisions governing their formulation, publication, proof and effect.

The powers to make rules and regulations set out in Part III have been drafted having regard to the States' powers mentioned above to broaden the descriptions of investment controlled by and under the Projet.

Investment business rules may make provision as to

- the requirements for obtaining licences, their issue, form, renewal and publication;
- financial conduct, including accounts and audit, and the handling of clients' money;
- the conduct of the business in general, including restrictions on activities and other business carried on, requirements as to discretionary powers, requirements as to resources and employees, relationships with servants and agents, the furnishing of information, protection of investors on cessation, availability of licences, and the settlement of disputes;
- the promotion of controlled investments to the public or to specified descriptions of person, either through prospectuses or otherwise;
- indemnity or compensation (through insurance or through the maintenance of a fund) in respect of civil liability claims;
- the constitution, conduct and dissolution of different classes of authorised collective investment scheme, the functions of their managers, trustees and custodians and the rights of their investors.

The requirements of certain of these rules may be adapted by the Committee in appropriate cases.

Investment business regulations may

- prescribe fees;
- limit the validity of licences and authorisations;
- make special provision regarding unsolicited calls;
- allow investors to rescind agreements or withdraw offers in specified cases.

Exemptions

Certain persons are exempt from the requirement to obtain a licence. Included amongst these are

- servants and agents of licensees where the latter are responsible for their activities and have complied with any rules governing their relationship;
- persons who are nationals of, and duly authorised in, certain countries to be designated by the Committee as affording adequate investor protection, subject to specified conditions.

Likewise, the restrictions on activities connected with collective investment schemes will not apply to schemes duly authorised in such countries.

The States may, however, entered controls to cover otherwise exempt persons by ordinance.

Supervision and control

- Licensees, and persons employed by them or connected with them, may be required to answer questions and furnish information and to produce books and papers.
- As well as the possibility of revoking or suspending a licence or authorisation, or of imposing additional conditions, the Committee is empowered to seek injunctions restraining threatened breaches of the legislation and orders to cure breaches which have taken place (see "Remedies and sanctions", below).
- The Projet also enables the States by ordinance to empower the Committee to petition for the winding-up of a Bailiwick body involved in investment business; and generally to modify or supplement the law as to winding-up in this field.

Remedies and sanctions

- Subject to the exemptions above, carrying on controlled investment business without a licence is an offence (as is the furnishing of false information, carrying on business with fraudulent intent, the dishonest or reckless making of misleading forecasts, and the removal, destruction etc. of records to avoid detection of offences).
- An agreement entered into in consequence of a contravention of section 1 is, unless the appropriate court otherwise orders, unenforceable against the investor, who may take steps to recover his money together with compensation.
- The carrying on of a restricted activity in connection with an unauthorised collective investment scheme, and the contravention of any rules or regulations made under the Projet is actionable as a breach of statutory duty by any person adversely affected thereby.
- The Committee may apply to the Ordinary Court for an injunction restraining a threatened contravention of the Projet or any rules or regulations; or, where such a contravention has taken place, for an order requiring it to be remedied (the Court having wide powers in this instance to order the restitution of resultant profits and reimbursement for resultant losses).

Approved by the States of Guernsey on 24.6.87. Awaiting approval of the States of Alderney, the Chief Pleas of Sark and Her Majesty in Council.

CONSTITUTIONAL LAW

6. Government of Alderney

Projet de Loi: The Government of Alderney (Miscellaneous and Consequential Provisions) (Guernsey and Alderney) Law, 1987. - The Government of Alderney Law, 1987 (see paragraph 88) has effect only in Alderney but its enactment necessitates a number of consequential amendments in Laws applicable also in Guernsey. Besides achieving these amendments, the present Projet eliminates the limited role of Guernsey's Legislation Committee in relation to Alderney Projets and increases the legal aid limits in appeals from the Court of Alderney.

Approved by the States of Guernsey on 29.4.87 and by the States of Alderney on 3.6.87. Awaiting Royal Sanction.

Review Board System

7. Order in Council: The Administrative Decisions (Review) (Guernsey) Law, 1986. - See 2.GLJ.14.

Registered and in force 17.2.87. (No. XXVII of 1986).

States Committees

General

8. States Resolution of 29.4.87. - Directing preparation of legislation to provide that the constitution of 9 statutory committees shall be prescribed by Resolution of the States.
9. States Resolution of 24.6.87. - Directing preparation of legislation to provide that the constitution of 3 additional statutory committees shall be prescribed by Resolution of the States.

States Agricultural and Milk Marketing Board

10. Projet de Loi: The States Committee for Agriculture (Transfer of Functions) (Guernsey) Law, 1987. - Transfers functions of Committee for Agriculture under specified Laws to Agricultural and Milk Marketing Board.

Approved by States 25.2.87. Awaiting Royal Sanction.

11. Projet de Loi: The States Dairy Committee (Transfer of Functions) (Guernsey) Law, 1987. - Transfers functions of Dairy Committee under Milk and Milk Products (Guernsey) Law, 1955 and Ordinances made thereunder to Agricultural and Milk Marketing Board.

Approved by States 25.2.87. Awaiting Royal Sanction.

12. Ordinance: The States Committee for Agriculture (Transfer of Functions) Ordinance, 1987. - Transfers functions of Committee for Agriculture and its President under scheduled Ordinances to Agricultural and Milk Marketing Board and its President respectively.

In force 1.3.87. (No. VI of 1987).

13. Ordinance: The Rabies (Bailiwick of Guernsey) Law, 1975 (Amendment) Ordinance, 1987. - Transfers functions of Committee for Agriculture under this Law to Agricultural and Milk Marketing Board.

In force 1.3.87. (No. VII of 1987).

Fort George Development Committee

14. Projet de Loi: The States Fort George Development Committee (Transfer of Functions) (Guernsey) Law, 1987. - Transfers functions of Fort George Development Committee under various agreements and conveyances relating to Fort George to the Board of Administration.

Approved by States 27.5.87. Awaiting Royal Sanction.

States of Deliberation

15. Order in Council: The Reform (Amendment) (Guernsey) Law, 1987. - See 4.GLJ. 16.

Registered and in force 19.5.87. (No. II of 1987).

Projet de Loi: The Reform (Amendment) (No. 2) (Guernsey) Law, 1987. - Amends Article 8 of the Reform (Guernsey) Law, 1948, by making it a necessary requirement for eligibility for election to the office of Conseiller that a person shall have served as a Member of the States of Deliberation during any period of not less than 30 consecutive months or during any periods amounting in the aggregate to a period of not less than 30 months.

Approved by States Meeting 24.6.87. Awaiting Royal Sanction.

CONTRACT

16. Breach of contract - Agreement to sell realty - Repudiation by vendor - Lésion ultradimidiaire - Whether contract voidable for lack of a juste prix - Promesse de vendre vaut vendre - Contract did not include provision for liquidated damages - Judgment in favour of the purchasers in a reduced sum.

The Plaintiffs ('PP') were lessees of a house for a term of nine years commencing on the 29.9.82. By an exchange of letters in February 1986 'PP' agreed to purchase and the Vendor, Defendant in the present proceedings ('D'), 'D' purported to withdraw from the agreement, having been advised agreed to sell the said premises for the sum of £110,000, completion of the conveyance to take place in or about early April 1986 (P. de M.). By a letter dated 22.3.86, 'D' stated that he had been advised that the property should realise up to three times the price agreed with 'PP'. 'PP' brought an action against 'D' before the Royal Court, claiming the sum of £129,102 by way of damages for breach of contract. This sum was made up as follows:-

Valuation of "The Hollies as at 8.5.86	£245,000
Less price agreed by Defendant and Plaintiffs	110,000
Less legal fees on conveyance	5,898
Total	<u>£129,102</u>

In response to this action 'D' pleaded

1. that the alleged contract was 'lésion ultradimidiaire' thus entitling 'D' to rescind it;
2. that it was contrary to public policy in that the bargain was unconscionable;
3. that it was void and/or voidable for uncertainty in that no date was fixed for completion;
4. the sum claimed was excessive in that, inter alia,
 - (a) the valuation failed to take account of the unexpired five year term of the Lease;
 - (b) had the customary Conditions of Sale been executed liquidated damages would have been set at £11,000 only;
 - (c) 'D' was mistaken as to the value of the property thus entitling him to avoid the contract.

HELD

1. that the doctrine of ultradimidiaire as set out in Pothier Vol. 1, paragraphs 33 and 34, and Vol. 2, paragraphs 243, 334 and 344, and applied by the Court of Appeal in Priaulx v. Le Ray (1930), would apply only if the property had been sold at a price less than one-half of the fair price, a question of fact for the Jurats;
2. that the said doctrine replaced the offence of unconscionable bargain which has no place in Guernsey law;
3. that an agreement for the sale of land could be part oral and part written (see C. & G. Developments Limited v. Duquemin, Court of Appeal 16.10.65); and
4. the questions for the Jurats were
 - (a) whether there was an agreement at all;
 - (b) if so, whether the agreed price was less than one-half of its just price, entitling 'D' to set the agreement aside; and
 - (c) if 'D' was not so entitled, the amount of damages to be awarded to 'P'.

[Watson v. Trouteaud - 1987 Plaids de Meubles 551 (10.2.87).]

(Questions unanswered:- Question of certainty and matters in (4) above).

Commentary:

It would appear that the Court did not have to deal with the issue raised in paragraphs 3 and 4 of the Defences.

17. Dismissal of action on point of law - possibility of appeal - decision on merits notwithstanding dismissal.

'PP' actioned 'D' alleging breach of contract and/or negligence. The Deputy Bailiff directed the Jurats to dismiss the claim, 'PP' having failed to establish privity of contract and no tortious remedy being available to 'PP' in the circumstances of the case. But in view of the possibility of an appeal against his direction the Deputy Bailiff ordered a decision on the facts on the hypothesis that a duty of care existed, had been breached and that loss had resulted.

[Alkassar and Fara v. Aitken Hume (Guernsey) Limited - 1987 Plaids de Meubles 736 (2.4.87).]

CRIMINAL LAW

18. Driving under the Influence of Drink or Drugs - Failure to provide a specimen of blood or urine - Entitlement of accused person to be informed of the reason for his detention.

'A' was convicted in the Magistrate's Court of refusing without reasonable excuse to provide a specimen of blood or urine when required to do so under section 3 of the Road Traffic (Driving under the Influence of Drink or Drugs) (Guernsey) Law, 1986. 'A' appealed to the Royal Court on the ground that the Magistrate had wrongly decided that 'A' had been lawfully required to supply a specimen of blood or urine in accordance with section 3 of the Law of 1986. 'A' having been arrested and cautioned for an offence under section 1(1) of the Law, idest, of being unfit to drive, but found, pursuant to physical and mental tests, not to be so unfit. 'A' was not informed that he was suspected of an offence under section, idest, driving with a blood-alcohol concentration above the prescribed limit.

HELD by the Deputy Bailiff, allowing the appeal, that as 'A' had not been informed of the reason for the request for a sample of blood or urine he had not been required to give a specimen within the meaning of section 3(a) and the conviction was unsatisfactory.

[In Re Help, Appeal 1987 Appeals from the Magistrate's Court 14.4.87.]

Misuse of Drugs

19. Projet de Loi: The Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 1987. - Increases the penalties that may be imposed on persons convicted of offences of, inter alia, possessing, supplying or producing controlled drugs, under the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended, and the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972. - (See 4.GLJ.19).

Approved by States 24.6.87. Awaiting Royal Sanction.

Obscene Publications

20. Obscene publications - Importation definition of obscene - Definition of possession - Sentence.

At the Royal Court trial of two accused of importation and/or possession of Obscene Publications (Bailiwick of Guernsey) Law, 1985, HELD, finding the first accused guilty of two charges of importation and the second accused guilty of two charges of possession:-

- (1) the English definition of "obscene" as contained in the Obscene Publications Act 1959 was not part of the law of Guernsey: it was for the Jurats to decide whether the publications were obscene in the ordinary meaning of the word which included the words "lewd", "disgusting" and "filthy";
- (2) the word "possession", did not denote ownership but the presence of an article in the custody of a person who could physically handle and distribute it;
- (3) the first accused would be fined £3,000 on each count with an alternative of six months' imprisonment on each count, to be served consecutively; and the second accused would be fined £50 or 10 days' imprisonment on each count (the prison sentences to run consecutively).

[Law Officers of the Crown v. Malcolm John Town and Jennifer Anne Sanderson - 1987 Crimes 307 (18.2.87).]

Commentary:

In the United Kingdom Obscene Publications Act of 1959, "obscene" is defined as follows (omitting unnecessary words): "an article shall be deemed to be obscene if its effect is such as to tend to deprave and corrupt persons who are likely to see, read or hear the matter contained in it." On the other hand the Post Office Act of 1953 does not contain a definition of "obscene". In the case of R. v. Anderson in 1972, the Court of Appeal contrasted the different meanings of "obscene" in the two Acts. The Court explained that as a specific test of obscenity is provided by the 1959 Act it is that test alone which is to be applied to that Act. It directed that the meaning of "obscene" in the Post Office Act was its dictionary meaning. The Post Office Law of 1969 does not contain a definition of "obscene" nor does the Obscene Publications (Bailiwick of Guernsey) Law, 1985.

Sentence

21. Appeal to Court of Appeal - Unlawful wounding - Provocation alleged by way of mitigation - Sentencing principles.

'A' pleaded guilty to unlawful wounding which was found by the Jurats to have been unprovoked. 'A' appealed to the Court of Appeal against his sentence of 18 months' imprisonment on the ground that the sentence was grossly excessive.

HELD, dismissing the appeal, that sentencing policy in Guernsey was a matter for the Guernsey Courts and local decisions were of far greater assistance than English case law. The accused was aged 21, had no previous convictions for violence and had pleaded guilty although he had contested the issue of provocation. The sentence would not be disturbed.

[Law Officers of the Crown v. Heywood - Court of Appeal 5.1.87.]

22. Misuse of Drugs - Importation of a controlled drug - Sentence.

'A' pleaded guilty before the Royal Court to one charge alleging improper importation of cannabis resin, and was sentenced to 9 months' imprisonment and to pay a fine of £500 with the alternative of 3 months' imprisonment, such alternative prison term to be served consecutively to the sentence of 9 months. 'A' appealed to the Court of Appeal on the grounds that it was inappropriate to impose a custodial sentence for the importation of a small quantity of cannabis resin (approximately 26 grams) and that the only previous convictions recorded against 'A' related to a time before he had attained the age of majority.

THE COURT OF APPEAL HELD:-

- (i) that 'A' had not fully co-operated with customs officials; he had attempted to prevent the customs officer from taking possession of the package containing the cannabis and that he had in fact succeeded in throwing the bulk of the cannabis out of the window of the interview room; however the sentence passed by the Court must be one which was an appropriate sentence for the charge to which 'A' pleaded guilty, namely importation, and should not take account of the alleged assault or impeding of the customs officer on which no evidence had been offered by the prosecution;
- (ii) that there were many previous convictions recorded against 'A', the majority of them while he was juvenile, and that the most recent conviction was in September 1980 and that he had never previously been convicted of any drug related offence;
- (iii) that there was nothing inappropriate in a sentence of imprisonment being imposed on 'A' for the importation of a drug, albeit of a small quantity, albeit of cannabis. Equally there was nothing inappropriate in coupling a sentence of imprisonment with a fine;
- (iv) that although it was not proposed to disturb the order in respect of the fine, the sentence of 9 months' imprisonment should have been suspended;

AND ALLOWED THE APPEAL AGAINST SENTENCE to the extent that the term of 9 months' imprisonment was ordered to be suspended for the period of two years from that day and ORDERED that the fine of £500 be paid immediately.

[Law Officers of the Crown v. Le Huray - Court of Appeal 5.1.87.]

CUSTOMS

Import Control

23. Statutory Instrument: The Import and Export of Goods (Control) (Guernsey) (Amendment No. 5) Order, 1987.
In force 1.5.87. (S.I. No. 11 of 1987).
24. Statutory Instrument: The Import and Export (Control) Law, 1946. The Import and Export of Goods (Control) (Guernsey) Order, 1978 Amendment No. 9 to the Open General Import Licence of 1984. - Controls import of anti-fouling paints.
In force 18.5.87. (S.I. No. 12 of 1987).
25. Statutory Instrument: The Import and Export (Control) (Guernsey) Law, 1946. The Import and Export of Goods (Control) (Guernsey) Order, 1978 Amendment No. 10 to the Open General Import Licence of 1984.
In force 25.5.87. (S.I. No. 14 of 1987).
26. Statutory Instrument: The Import and Export of Goods (Control) (Guernsey) (Amendment No. 6) Order, 1987. - Prohibits import of indecent or obscene materials.
In force 25.5.87. (S.I. No. 15 of 1987).

EDUCATION

Special Education

27. States Resolution of 28.1.87. - Directing preparation of legislation based on the Education Act 1981 to provide for the education of children with special educational needs in Guernsey and for its extension to Alderney.
28. Projet de Loi: The Education (Amendment) (Guernsey) Law, 1987. - See paragraph 27 above.
Approved by the States on 29.4.87. Awaiting Royal Sanction.

ENVIRONMENTAL LAW

Marine pollution

29. Order in Council: The Food and Environment Protection Act 1985 (Guernsey) Order, 1987. - Extends to the Bailiwick subject to modifications and exceptions Parts II (including Schedules 1 and 2) and IV of the United Kingdom Food and Environment Protection Act 1985. The Dumping at Sea Act 1974, as extended to the Bailiwick, is repealed but the licensing system which that Act established is retained and expanded to cover inter alia incineration at sea, thus providing the necessary domestic legislation to permit ratification of the Protocol to the Oslo Convention. The Board of Administration is the licensing authority for the Bailiwick and is empowered to exempt specified operations by Order.
Registered and in force 19.5.1987. (U.K. S.I. 1987 No. 665).

EUROPEAN COMMUNITIES

Single European Act

30. Order in Council: The European Communities (Amendment) (Bailiwick of Guernsey) Law, 1986. - See 3.GLJ.31.
Registered 17.2.87. (No. XXX of 1986). In force 1.5.87.
31. Ordinance: The European Communities (Amendment) (Bailiwick of Guernsey) Law, 1986 (Commencement) Ordinance, 1987.
In force 1.5.87. (No. XII of 1987.)

FISHING

32. States Resolution of 28.1.87. - Directing preparation of legislation to empower the Sea Fisheries Committee to designate fisheries by Order, to grant fishery licences and to protect fisheries.
33. States Resolution of 11.2.87. - Directing preparation of legislation to control the use of trot lines and set nets on the foreshore and in the territorial waters.
34. Order: The Fishing (Prohibition on the Importation of Molluscan Shellfish) Order, 1987. - Prohibits the importation of molluscan shellfish from France except under licence.
In force 30.1.87. (S.I. No. 1 of 1987).
35. Ordinance: The Fishing (Licensing and Protection of Fisheries) Ordinance, 1987. - See paragraph 26 above.
In force 25.3.87. (No. IX of 1987).
36. Ordinance: The Fishing (Amendment) Ordinance, 1987. - See paragraph 29 above.
In force 27.5.87. (No. XV of 1987).
37. Statutory Instrument: The Fishing (Restrictions on Use of Trot Line and Set Net) Order, 1987.
In force 29.5.87. (S.I. No. 18 of 1987).

FOOD

Food hazard emergencies

38. Projet de Loi: The Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1987. - Empowers the States Emergency Council:
- (a) if it appears that an escaped substance may give rise to health hazards through human consumption of food, to declare by order that a food hazard emergency exists; and

- (b) whilst such an order is in force, to make regulations (overriding inconsistent enactments etc.) give directions, and take steps itself, for safeguarding human health.

Confers powers of entry and search.

Increases the maximum fine for a breach of regulations under the Emergency Powers Laws.

Approved by the States of Guernsey on 28.1.87, by the States of Alderney on 4.3.87 and by the Chief Pleas of Sark on 22.4.87. Awaiting Royal Sanction.

GUARDIANSHIP

39. Administration of oath - Representation of guardian by Attorney.

Upon an application by two persons to be sworn as joint guardians of an "incapable", one not present in person but represented by an Attorney, HELD, the Court had no power to administer the oath of guardianship to an Attorney on behalf of a guardian, and must dismiss the application in respect of the absent applicant.

[In re Carré (under guardianship) - 1987 Tutelles et Curatelles 220 (25.6.87) .]

HARBOURS AND MOORINGS

Fees, dues and charges

40. Commencement of Law: The Harbours, Moorings and Pilotage (Fees and Dues) Law, 1986 (see 4.GLJ.39).

In force: as to pilotage fees etc. 29.1.87.
as to mooring charges 1.4.87.
as to harbour dues 1.1.88.

(No. III of 1987).

41. Ordinance: The Harbour Dues and Mooring Charges (Repeals) Ordinance, 1987. - Repeals the Mooring Charges (Guernsey) Ordinances, 1976 to 1986 with effect from 1.4.87 and the Harbour Dues Ordinances, 1976 and 1986 with effect from 1.1.88.

(No. IV of 1987).

HEALTH AND MEDICINE

Food Hazard Emergencies

See FOOD (paragraph 38)

Medical and related professions

42. Ordinance: The Doctors, Dentists and Pharmacists Ordinance, 1987. - Replaces the former system whereby these professions could only be exercised in Guernsey subject to authorisation by the Royal Court with a system of registration by the Board of Health. The Board is to enter in a register the name and profession of anybody who applies in that behalf and satisfies the Board that he is registered as qualified to practise in the United Kingdom. An entry is to be deleted either at the request of the person concerned or if, to the Board's knowledge, he ceases to be registered in the United Kingdom. The information on the register is to be available for free public inspection at the Greffe. The former rules about human anaesthesia are retained and it is an offence to contravene the Ordinance or knowingly or recklessly make a false statement.

In force 1.7.87. (No. XVII of 1987).

HORTICULTURE

Plant Health

43. Ordinance: The Import and Export (Plant Health) (Amendment) Ordinance, 1987. - Adds "Western Flower Thrips" to the list of plant pests which must not be landed in Guernsey, Herm or Jethou. Imported plants must now have a certificate stating that the consignment is free from this pest.

In force 21.4.87. (No. XVI of 1987).

HUMAN RIGHTS

Data Protection

44. Order in Council: The Data Protection (Bailiwick of Guernsey) Law, 1986. - See 4.GLJ.49).

Registered 3.3.87.

In force: sections 4, 13,17(1)(a), (b) and (f), 22(1) & (2): 3.6.87.
section 19 & Schedule 2 paragraph 1(1)(b): 11.11.87.
remainder: 4.3.87.

(No. XXXII of 1986).

45. Statutory Instrument: The Data Protection (Prescribed Fee) Regulations, 1987. - Set the fee payable in respect of an application for registration under the Data Protection (Bailiwick of Guernsey) Law, 1986, at £22. (See paragraph 44 and 4.GLJ.49).

In force 5.3.87. (S.I. No. 5 of 1987).

IMMIGRATION

46. Statutory Instrument: The Immigration (Guernsey) (Amendment) Rules, 1987. - Amends the Immigration (Guernsey) Rules, 1983 by requiring Nigerian nationals to obtain visas for journeys to Guernsey.

In force 18.3.87. (S.I. No. 7 of 1987).

INCOME TAX

Settlements

47. Ordinance: The Income Tax (Guernsey) (Settlements) Ordinance, 1987. - Further implements the budget proposals approved by the States on 10.12.86 by prescribing the sum of £300 for the purposes of section 65 of the Income Tax (Guernsey) Law, 1975 (Income under certain recoverable settlements).

In force retrospectively on 1.1.87. (S.I. No. 1 of 1987).

ISLAND DEVELOPMENT

48. States Resolution of 30.4.87. - Directing preparation of legislation to provide that use classes shall be prescribed by Ordinance and that any change in the use of a building or land from any use specified in a use class to any use specified in any other class shall be deemed for the purposes of the Island Development (Guernsey) Law, 1966 to involve the making of a material change of use.

LAND LAW

Contract for sale of land

See CONTRACT (paragraph 16).

Conveyancing Procedure

See PRACTICE AND PROCEDURE (paragraph 63).

Flats

49. Projet de Loi: The Real Property (Reform) (Guernsey) Law, 1987. - Facilitates conveyancing of freehold flats by providing for "charged covenants" which will run with the land and be enforceable against successors in title of covenantor. Provides for carrying out of works if covenantor defaults, i.e. costs to be charged against land. Also empowers court to discharge onerous or obsolete covenants.

Approved by the States 29.1.87. Registered 30.6.87. (No. V of 1987).

50. Right of way - Action for trespass - Nul servitude sans titre - Terres mises à l'Amende.

On 11.7.85 'PP' were granted an order by the Royal Court whereby a driveway belonging to them was declared to be Terre mise à l'Amende. 'PP' subsequently brought an action alleging 11 breaches of the said order against 'D', a haulier and agricultural contractor, whose vehicles had used the chase to gain access to an adjoining quarry and farmland. 'D' pleaded that neither 'D' nor any employee or agent of 'D' had trespassed on the driveway to which the said order extended because 'D' had a right to use the said driveway for the purpose of travelling to and from the quarry known as La Hougue Rots, owned by 'D'.

HELD, dismissing the action, that the maxim "nul servitude sans titre" expounded by Basnage, 4th Edition, 1778, Tome II, page 559, did not imply necessity for documentary title for the existence of a servitude which could be created by operation of law such as the obligation of lower land to receive water naturally flowing from the higher land. Furthermore documentation creating such rights in the past may not have been registered. The existence of 'D's right of way over the driveway was a matter of fact for the Court.

[Fallaise and Wife v. Gaudion - 1987 Plaids de Meubles 1041 (26.6.87).]

MILK

51. Statutory Instrument: The Milk (Retail Prices) (Guernsey) Order, 1987. - Increases retail price of milk.

In force 1.7.87. (S.I. No. 16 of 1987).

52. Statutory Instrument: The Milk (Wholesale Prices) (Guernsey) Order, 1987. -

In force 1.7.87. (S.I. No. 21 of 1987).

MOTOR TAXATION

Consolidation

53. Projet de Loi: The Motor Taxation and Licensing (Guernsey) Law, 1987. - See 1.GLJ.38.

Approved by the States on 29.4.87. Awaiting Royal Sanction.

POST OFFICE

54. Statutory Instrument: The Post Office (Inland Post) (Amendment) Order, 1987. - Increases the postage rates for letters, newspapers and parcels within the Bailiwick and letters and newspapers to the United Kingdom, as well as increasing rates for certain miscellaneous services.

In force 30.3.87. (S.I. 8 of 1987).

55. Statutory Instrument: The Post Office (Overseas Parcel Post) (Amendment) Order, 1987. - Increases the postal rates for all air and surface parcels, in conjunction with the British Post Office.

In force 30.3.87. (S.I. 9 of 1987).

56. Statutory Instrument: The Post Office (Postal Order) (Amendment) Order, 1987. - Increases the Postal Order fees and introduces new denominations available.

In force 29.6.87. (S.I. 17 of 1987).

PRACTICE AND PROCEDURE

Ambiguity

57. Act of Court - Ordinary Division - Application to correct ambiguity - Procedure.

An application to the Royal Court, Ordinary Division, to vary an Order of that Court which appeared to be ambiguous was dismissed by the Bailiff who held that such an application should be made by way of Requête Civile to the Full Court (Pothier Dupin Edition, Paris 1824, Tome IX at page 145 referred to) which reads as follows:-

"10. S'il y a des dispositions contraires dans le même arrêt; car il ne peut y avoir un plus grand défaut que la contradiction."

[Westair International U.S.A. Inc. v. Little - 1987 Plaids de Meubles 967 (4.6.87).]

58. Arrêt de Biens - Whether action triable in Guernsey - Protection of the rights of third parties whose assets might be the subject of arrest - Power to arrest documents.

'P' was granted an ex parte Order permitting the arrest of assets within the jurisdiction held in the names of 'D1' and/or 'D2' whether solely or jointly with any other person or persons. Also arrested pursuant to the Order were certain documents. As a condition of the Order 'P' lodged £5,000 by way of security for costs and damages. 'D1' and 'D2' applied for the Order to be set aside on the grounds, inter alia,

- (1) that the affidavit sworn in support of the Order disclosed no cause of action triable in Guernsey;
- (2) that the Court had no power to order the arrest of assets held jointly with another person not subject to the arrest; and
- (3) that the Court had no power to order the arrest of documents.

HELD

- (a) the rights of third parties whose assets were the subject of an arrest order can be, and were, properly protected by the lodging of security for costs and damages and
- (b) the Court did have power to arrest documents.

THE DEPUTY BAILIFF:-

- (i) DISCHARGED 'D1' from the proceedings;
- (ii) HELD that the rights of third parties whose assets may be the subject of an arrest order can be, and were in this instance, secured by an undertaking by the plaintiffs to lodge with the Court a sufficient sum by the way of security for costs and damages;

(iii) HELD that the Court did have power to arrest documents which are chattels; and

(iv) ORDERED that the documents arrested in the possession of 'D3' shall remain in the custody of Her Majesty's Sheriff.

[Minories Finance Limited (formerly Johnson Mathey Bankers Limited) v. (i) Advani, (ii) Amaron International Corporation (iii) Sonesta Investments Limited - 1987 34 Plaids de Meubles 472 (12.1.87).]

Costs

59. Civil action - Dismissal for want of prosecution - Costs awarded to the Defendant.

An action for recovery of an alleged debt was placed on the witness list and a date fixed. On the date fixed 'P' failed to table a cause and did not appear. 'D' successfully applied pursuant to the "Ordonnance relative au Style de Procéder dans le cas où la partie actionnée se présente sur son Ajour" (Tome III at p.408) for the action to be dismissed and for an order for costs against 'P'.

[Jordan v. Baker - 1987 Plaids de Meubles 549.]

60. Civil appeal from the Magistrate's Court - Petty debt - Defendant failed to appear to defend action being absent from the Island - Judgment by default - Remitted to Court below for hearing on the merits.

In an action before the Magistrate's Court for the recovery of a petty debt 'D' appeared and denied liability. The action was adjourned for hearing. "D" explained to the Court that he was frequently away from the Island as a long distance lorry driver and he was informed by the Magistrate that if he was unable to attend on the date fixed he should contact the Advocate acting for the Plaintiff and with their agreement the matter could be stood over. In the event the Defendant did not appear to defend the action on 3.12.86 and judgment was entered against him by default. 'D' appealed to the Royal Court sitting as an Ordinary Court on the ground that he had been absent from the Island when the case was heard and that he would have wished to defend the action.

THE COURT ALLOWED the appeal SET ASIDE the judgment and REMITTED the action to the Magistrate's Court for hearing on the merits; and the Court further ordered that the appellants shall pay the costs incurred to date.

[O'Neil v. The Phone-In Trading Post Limited - 1987 Requête 287.]

Delay

61. Action for damages alleging breach of contract - Defences filed including Exception de Fonds and Exception de Forme - Proceedings adjourned sine die - Failure of Plaintiff to pursue proceedings - Action by Defendant for proceedings to be struck out for non-prosecution - Plaintiff ordered to furnish particulars within one month.

'P' instituted proceedings against the Defendant before the Royal Court alleging breach of contract and claiming damages. 'D' filed defences including an Exception requiring further and better particulars and the said proceedings were adjourned sine die; since that 'P' had taken no steps to pursue the said proceedings. Ten months later 'D' applied for an order striking out the said proceedings for non-prosecution and for an order for costs.

THE BAILIFF, sitting alone, ORDERED 'P' within a period of one month to furnish further and better particulars in writing to 'D' which particulars should be incorporated into the cause, and awarded costs in favour of 'D', HAVING HELD:-

- (i) that where Exceptions de Fonds or de Forme were pleaded and the Court ordered that these Exceptions be argued at a date to fixed, it was not appropriate to describe this as adjournment sine die, although that practice had been followed in the past few years;
- (ii) that the Court by its inherent jurisdiction had a power to dismiss an action for want of prosecution and that on the facts which had been put to him that it appeared that it was time that this action proceeded it having been adjourned on the pleading list for nearly one year;
- (iii) that it was not appropriate in these circumstances that the power to strike out the action should be exercised, as 'P' accepted that further and better particulars were required. He accepted the dictum of the House of Lords in *Birkett v. James* that an action should only be dismissed for want of prosecution where the Plaintiff's default had been intentional and contumelious, or where there had been an inordinate and inexcusable delay on his or his lawyers' part giving rise to a substantial risk that a fair trial would not be possible, or to seriously prejudice the defendant. Those circumstances did not arise in this case.

[*Bachmann Securities Limited (the Defendants) v. Flinzner (the Plaintiff)* - 1987 Plaids de Meubles 970 (5.6.87).]

Evidence

62. Appeal - Application to call further evidence - Principles applied.

'A' appealed to the Bailiff against the dismissal of an action in the Court of Alderney in which an issue was the authenticity of certain signatures. 'A' had been unrepresented at the hearing and, although expert evidence was available to him, had not sought to adduce such evidence except by way of documentary evidence which was rejected as inadmissible. He had earlier been advised that expert evidence of handwriting as not admissible in the Bailiwick. 'R', who was represented, called a handwriting expert. On appeal against the dismissal of his action, 'A' now represented, sought leave to call the evidence of his handwriting expert. The Bailiff dismissed the application. On appeal to the Court of Appeal, HELD, the principles which governed the admissibility of further evidence on appeal were

- (a) that the evidence could not have been obtained with reasonable diligence for use at the trial;
- (b) the evidence must be such that, if given, it would probably have an important influence on the result of the case, although it need not be decisive; and
- (c) the evidence must be apparently credible, although it need not be incontrovertible.

(Halsbury's Laws of England, 4th Edn., Vol. 37, paragraph 693, applied by the Court of Appeal in Kirk v. Blackwell - see 4.GLJ.65). Although 'A' was unrepresented he could have sought further advice as to the admissibility of expert evidence when 'R' adduced such evidence but did not, nor had it been shown that such evidence would probably have had an important influence on the influence on the result of the case.

[Murfitt v. Smethurst - Court of Appeal 9.4.87.]

Law Reform

63. Projet de Loi: The Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1987. - Empowers Royal Court to grant interlocutory injunctions; provides that interlocutory Acts of Court cannot be registered in the Livre des Obligations without the Court's leave; provides that an administrator can be appointed to hold and safeguard the personalty of a minor; prohibits the registration in the Livre des Obligations of Acts of Court on conveyancing days, and the arrest on such days of monies held by an advocate for conveyancing purposes, unless in each case a caution has previously been entered in the newly established Register of Cautions.

Approved by the States 29.4.87. Awaiting Royal Sanction.

64. Registration of Acts of Court in the Livres des Obligations - Judgment debt duly satisfied - Refusal of judgment creditor to cancel registration - Application to order cancellation - Costs.

'D' was awarded judgment with costs against 'P' which said judgment was registered in the Livre des Obligations. 'P' paid the judgment debt in full but 'D' cancel the said registration. On application by 'P' to the Royal Court, Ordinary Division, HELD (following the Court of Appeal in Birchwood Investments Limited v. Norman (1984) 31 P. de M. 866) if the Court was satisfied that 'D' had received all that was lawfully due to him then the registration should be lifted. Having granted the application with costs the Court refused a further application by P for costs in a specific sum, ruling that in the event of dispute the matter should be referred to Her Majesty's Procureur in the normal way.

[Bonner-Morgan and Wife v. Sheth - 1987 Plaids de Meubles (19.3.87).]

65. Requête Civile - Judgment by default - Fault of defendant's advocate.

Proceedings were commenced against the petitioner before the Royal Court in respect of an alleged breach of copyright. The action was placed on the pleading list and by the petitioner was summoned to appear before the Royal Court in order to file his defences; the petitioner duly instructed his advocate to appear before the Royal Court on the said day but by reason of an oversight the petitioner's said advocate failed to appear to defend such action and judgment was granted by default against the petitioner. The petitioner presented a Requête Civile to the Royal Court, stating inter alia that the said action was vigorously resisted by him, that the judgment had been granted against him through no fault of his own and requesting that the said judgment be set aside.

THE COURT, with the consent of Counsel for the respondent, GRANTED the Requête, SET ASIDE the judgment RESTORED the said action to the pleading list; and AWARDED COSTS in respect of the hearing of this Requête to the respondent.

[Johns v. Armenta - 1987 Requetes 274 (19.1.87).]

66. Requête Civile - Judgment by default - Judgment relied upon by Commissioner in désastre proceedings.

An alleged creditor in désastre proceedings 'R' successfully founded its claim upon a judgment against the company en désastre ("the company") which had been granted by default. Other judgment creditors of the company subsequently discovered that no monies were in fact due by the company to 'R' despite the judgment. On their application to the Royal Court by way of Requête,

HELD

- (1) the judgment would be set aside; and
- (2) the decision of the Commissioner, although correct when it was made, would be varied to exclude the incorrect claim.

[Spillers Milling Limited v. Jayboo Investments Limited (in re Fresh Taste Bakery Limited en désastre) - (1987) Requetes 290 (20.5.87).]

67. Service out of the jurisdiction - Defendant had never been within jurisdiction - Validity.

In proceedings to confirm an arrest 'P' purported, pursuant to an Order of the Royal Court giving him leave, to effect service on 'D' who was not, and never had been, within the jurisdiction of the Court. 'D' claimed by way of Exception de Fond that the Court had no power to order service out of the jurisdiction in those circumstances whether by virtue of the Order of the Royal Court of 1949 relating to substituted service or otherwise.

HELD, by the Deputy Bailiff, that Norman Law recognised a procedure for service of process on "non-presents" (Terrien, Book IX, Ch. III). The procedure described by Laurent Carey (page 220) formed the basis of present day absentee proceedings and, at least by the time that Gallienne wrote (page 236), "absents" and "non-présents" were regarded as the same for the purposes of service. The Exception would be dismissed.

[Shepherd v. Bowden and National Westminster Guernsey Trust Company Limited (1987) 34 Plaids de Meubles 432 (5.1.87).]

PUBLIC TRANSPORT

See ROAD TRAFFIC AND PUBLIC TRANSPORT (paragraphs 70 to 74).

REGISTRATION OF BIRTHS, MARRIAGES AND DEATHS

68. Order in Council: The Marriage (Guernsey) Law, 1987. - Amends the law relating to the period of residence required for the giving of notice of marriage where the party has on some previous occasion resided in Guernsey or Sark for at least ten years.

Registered and in force 30.6.87. (No. VI of 1987).

RENT CONTROL

69. Statutory Instrument: Rent Control (Variation) Order, 1987. - Increase variable items in recoverable rents of controlled dwellings by 8.0%.

In force 1.7.87. (S.I. No. 13 of 1987).

ROAD TRAFFIC AND PUBLIC TRANSPORT

Establishment of Island Traffic Committee

70. States Resolution of 12.3.87. - Approval in principle to the general objectives of the Island Traffic Committee's traffic and public transport policy and the transfer of powers and responsibilities to that Committee subject to the submission of specific proposals to the States in that behalf.

Parking

71. Statutory Instrument: The Parking Places (Amendment) Order, 1987. - Changes parking arrangements in St. James Street.

In force 13.3.87. (S.I. No. 6 of 1987).

Protective Helmets

72. Statutory Instrument: The Motorcyclists' Protective Helmets Order, 1987. - Prescribes helmets to be worn by motorcyclists to comply with 1962 Ordinance which made wearing of helmets mandatory.

In force 9.6.87. (S.I. No. 20 of 1987).

Public Transport - Taxis

73. States Resolution of 30.4.87. - Directing preparation of legislation to amend section 35() (iii) of the Public Transport Ordinance, 1986 by providing that taxi signs shall be of a type approved by the Public Transport Licensing Authority.

Speed Limits

74. Ordinance: The Road Traffic (Speed Limits and Trials) Ordinance, 1987. - Introduces a 25 m.p.h. speed limit on Les Ozouets (St. Peter Port) and Les Baissières (St. Peter Port, the Vale and Castel) and consolidates with minor and consequential amendments the former Road Traffic (Speed Limits and General Provisions) Ordinances, 1955 to 1985.

In force 1.3.87. (No. VIII of 1987).

SAISIE

Final stage in saisie proceedings - Whether a creditor can claim interest which has accrued subsequent to the date of the Commissioner's report.

75. At the final stage of saisie proceedings, one of the claimants sought, in addition to his original claim plus interest and costs as at the date of the Commissioner's report, to claim a further sum in respect of interest subsequently accrued. HELD interest was only payable up to the date of the Commissioner's report.

[Guernsey Savings and Loan Corporation Limited v. Wallace and Wife - (1987) 34 Plaids de Meubles 964 (4.6.87).]

SHIPPING

Passenger Boats

76. Statutory Instrument: The Boats (Guernsey) Regulations, 1987. - Re-enacts provisions of previous regulations for the summer season of 1987.

In force 1.4.87. (S.I. No. 2 of 1987).

Pilotage

77. Ordinance: The Pilotage Dues and Fees Ordinance, 1987. - Clarifies the previous law in relation to dues and fees payable in respect of pilotage and provides for them to be set by resolution of the States instead of by ordinance.

In force 1.2.87. (No. II of 1987).

Registration

78. Projet de Loi: The Merchant Shipping (Registration) (Bailiwick of Guernsey) Law, 1987. - Empowers the States of Guernsey Board of Administration to direct the registrar of British Ships to refuse the registration in Guernsey, or a transfer of registration to Guernsey, of a specified ship, or to remove a specified ship from the Guernsey register. No such direction may be given in respect of a ship having a clear economic connection with the Bailiwick if the Board is satisfied that its registration is not detrimental to the interests of the Bailiwick or to international merchant shipping. Notice must be served on the ship's owner and there is a right of appeal.

The Board is also empowered to make orders (subject to States power of annulment) prescribing classes or descriptions of ship (as opposed to specified individual vessels) which the registrar is to remove from the register or of which he is to refuse registration or transfer.

Approved by the States of Guernsey on 25.2.87, by the States of Alderney on 8.4.87 and by the Chief Pleas of Sark on 22.4.87.

Awaiting Royal Sanction.

Wreck and Salvage

79. Order in Council and Ordinance: The Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986. - See 3.GLJ.75.

Registered 17.2.87. (No. XXVIII of 1986). In force 29.4.87. (The Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986 (Commencement) Ordinance, 1987. (No. XI of 1987)).

SOCIAL SECURITY

General

80. States Resolution of 24.6.87. - Directing preparation of legislation for increased rates of benefits under the Supplementary Benefit (Guernsey) Law, 1971, the Social Insurance (Guernsey) Law, 1978 and the Attendance and Invalid Care Allowances (Guernsey) Law, 1984.

Social Insurance

81. Order in Council: The Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986. - See 4.GLJ.82.

Registered and in force 17.2.87. (No. XXXI of 1986).

TRUSTS

Variation of Charitable Trusts

82. Order in Council: The Saint Stephen's Church and School Law, 1987. - See 3.GLJ.80.

Registered and in force 19.5.87. (No. I of 1987).

VIDEO LICENSING

83. Ordinance: The Video Licensing (Guernsey) Law, 1985 (Commencement) Ordinance, 1987. - See 2.GLJ.87. - Brings the 1985 Law into force with effect from 1.6.87.

(No. XIII of 1987).

84. Ordinance: The Video Licensing (Guernsey) Ordinance, 1987. - Provides for the detailed matters of licensing the supply of video works: matters connected with the application for a licence to supply; conditions which are attached to such a licence; the renewal or revocation of licences; offences, appeals and other miscellaneous matters. - See 4.GLJ.91.

In force 1.6.87. (No. XIV of 1987.)

WATER

85. Order in Council: The States Water Supply (Amendment) (Guernsey) Law, 1987.
- See 4.GLJ.93.

Registered and in force 30.6.87. (No. VII of 1987).

86. Projet de Loi: The States Water Supply (Amendment No. 2) (Guernsey) Law, 1987. - Provides that the register of a water meter is prima facie evidence of water consumption. Provides for testing of meters for accuracy.

Approved by States 29.4.87. Awaiting Royal Sanction.

ALDERNEY

BUILDING AND DEVELOPMENT CONTROL

Self-catering tourist accommodation

87. Order in Council: The Building and Development Control (Amendment) (Alderney) Law, 1987. - See 4.GLJ.94.

Registered and in force 19.5.87. (No. III of 1987).

CONSTITUTIONAL LAW

88. Order in Council: The Government of Alderney Law, 1987. - Consolidates the existing Government of Alderney Laws, whilst modifying and simplifying their drafting; clarifies some of their provisions, and alters a number of procedures in the light of Alderney's development and experience since 1948. The new Law sets out a number of general constitutional principles and deals with the composition, jurisdiction, procedure and finances of the Court of Alderney; the Jurats and officers of the Court; the constitution, procedure, powers and finances of the States of Alderney; the election of the President and members of the States; and the appointment and functions of States' Committees and officers.

The new Law will be entrenched to a certain extent by a requirement for a higher than usual quorum for resolutions of the States necessitating a change in its provisions. Apart from areas in which existing provisions are clarified, the principal changes and new features of the Law are:-

1. The penalty powers of the Court in criminal cases are increased.
2. Special constables will be appointed and dismissed only on the recommendation of the Chief Officer of Police of Guernsey, and will be afforded the protection of the Offences against Police Officers (Bailiwick of Guernsey) Law, 1963.
3. The Court is given specific powers to deal with contempt in the face of the Court.
4. New provision is made as to the timing of elections.
5. The register of electors will be prepared on a triennial basis.
6. The rules in relation to Chief Pleas and People's meetings are revised.
7. The general powers of the States to pass Ordinances are codified, certain limitations on those powers are specifically set out and the possibility of challenge to past Ordinances within the scope of those powers is obviated.
8. The extent to which both legislative and executive functions may be delegated to Committees is prescribed, as is the manner in which those functions may be carried out.

9. Detailed amendments are made in relation to States property and contracts, and the preparation and audit of accounts.

Approved by the States of Alderney on 12.12.86 and by Her Majesty in Council on 18.3.87.

Registered on 30.6.87. (No. IV of 1987). To come into force by Ordinance.

HARBOURS AND MOORINGS

Fees, dues and charges

89. **Projet de Loi:** The Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987. - Assimilates the procedure for setting fees, dues and charges for harbours, moorings and pilotage to that newly adopted in Guernsey, i.e. to allow them to be prescribed by resolution of the States without the necessity for an ordinance. The Projet also clarifies the definition of "Braye Harbour" as used in certain Alderney Laws.

Approved by the States of Alderney on 4.3.87. Awaiting Royal Sanction.

90. **Ordinance:** The Harbour Dues Increase (Alderney) Ordinance, 1987. - Increases the harbour dues and additional harbour dues and passenger fees payable under the Harbour Dues, Fees and Charges (Alderney) Law, 1984. Passenger fees remain unchanged.

In force 1.4.87.

91. **Ordinance:** The Harbour Dues Increase (Amendment) (Alderney) Ordinance, 1987. - Sets a ceiling of £110 on the harbour dues payable in respect of visiting vessels which do not occupy a berth.

In force 3.6.87.

SARK

VARIATION OF TRUST

92. Order in Council: The Le Vieux Clos (Sark) Law, 1987. - Provides for power to sell the property known as Le Vieux Clos and for the net proceeds to be utilised in providing a new permanent residence for the Medical Officer of Health of Sark, and other purposes.

Registered and in force 30.6.87. (No. VIII of 1987).